

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

David Heyzel

Shire President

27th April 2021

Date



SHIRE OF WYNDHAM | EAST KIMBERLEY

MINUTES ORDINARY COUNCIL MEETING

30 MARCH 2021

DISCLAIMER

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

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

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

Signed on behalf of Council

A handwritten signature in black ink, appearing to read 'V. E. Lawrence', written over a light blue horizontal line.

VERNON LAWRENCE

CHIEF EXECUTIVE OFFICER

NOTES

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

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**SHIRE OF WYNDHAM EAST KIMBERLEY
ORDINARY COUNCIL MEETING AGENDA
Kununurra Council Chambers
TO BE HELD ON TUESDAY 30 MARCH 2021 AT 5:00PM**

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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

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

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

The Shire President declared the Meeting open at 5.04 pm.

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

Cr D Menzel	Shire President	
Cr T Chafer	Deputy Shire President	
Cr N Brook	Councillor	
Cr D Pearce	Councillor	
Cr M McKittrick	Councillor	
Cr A Petherick	Councillor	
Cr G Lodge	Councillor	
Cr M Dear	Councillor	Video Conference
Cr J Farquhar	Councillor	Video Conference

V Lawrence	Chief Executive Officer
S Dyson	Director Infrastructure
N Kearns	Director Planning and Community Development
F Heading	Director Corporate Services
S Maitland	Minute Taker

S Sinclair	Kimberley Echo
T O'Connor	ABC

3. DECLARATION OF INTEREST

- Financial Interest

Councillor/Staff	Item	Title	Description of interest
Vernon Lawrence, CEO	12.2.5	CEO Recruitment, Performance and Termination	As current CEO, the content of this report may impact on my contract terms and tenure

- Impartiality Interest

Nil

- 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 23 February 2021.

Council Decision

Minute Number: 30/03/2021 - 118395

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

Moved: Cr M McKittrick

Seconded: Cr J Farquhar

Decision: 9/0

Note: The Minutes of the Ordinary Council Meeting held on 23 February 2021 are provided under separate cover via www.swek.wa.gov.au

9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

- **25 February – Geoff Haerewa, Liberal Party Candidate.** Met with the Shire President and CEO.
- **9 March – Indus Mining meeting.** Attended by the CEO and Cr Chafer for an update on their mining situation.
- **11 March – KDC Board Meeting**
- **12 March – National Drought and Flood Agency, Jane Mack.** Attended by the Shire President and the CEO.
- **16 March – Cashless Debit Card Meeting with Minderoo Foundation and Mr and Mrs Forrest.** Attended by the Shire President, the CEO and Cr Chafer.
- **16 March – Australian Citizenship Ceremony,** held in the Kununurra Council Chambers, with Cr Tony Chafer officiating and welcoming 12 new citizens.

- **17 March – Keep Plains EOI Assessment, NT Land Corp Darwin.**
Attended by the Shire President.
- **23 March – Tourism WA, CEO Tim Bray.** The Shire President as a KDC Representative attended a briefing.
- **25 March – Cotton growers and interested parties met** to analyse and discuss the building of a cotton gin. Attended by the Shire President.
- **Congratulations to Cr Brook on her secondment with Tourism WA** for 3-6 months

10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

- 16.1. Request for applications T06-20/21: Provision of Building Maintenance Services.
- 16.2. Request for applications T07-20/21: Provision of Electrical Services.
- 16.3. RFQ14-20/21: Nutwood / Rosewood Avenue Upgrade Stage 3 and Bandicoot Drive Upgrade Stage 2.
- 16.4. Request to write off interest.
- 16.5. Request to waive rates.

11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Nil

12. REPORTS

12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL

12.2. CHIEF EXECUTIVE OFFICER

12.2.1. Standing Item - Outstanding Actions from Previous Council Resolutions

DATE:	30 March 2021
AUTHOR:	Executive Officer to the CEO
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

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

Council Decision

Minute Number: 30/03/2021 - 118396

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

Moved: Cr M McKittrick

Seconded: Cr N Brook

Decision: 9/0

PURPOSE

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

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

STATUTORY IMPLICATIONS

NIL

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.2: Good decision making through engagement with the community

Strategy 4.2.2: Ensure community input informs planning and decision making

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

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

RISK IMPLICATIONS

NIL

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

An update of actions from the February 2021 Council resolutions are detailed in Attachment 1.

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

ATTACHMENTS

Attachment 1 - Council Action Register - February 2021

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

12.2.2. Standing Item - Use of the Common Seal

DATE:	30 March 2021
AUTHOR:	Executive Officer to the CEO
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 24 February 2021 to 30 March 2021.

Council Decision

Minute Number: 30/03/2021 - 118397

That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 24 February 2021 to 30 March 2021.

**Moved: Cr Debra Pearce
Seconded: Cr Grant Lodge**

Decision: 9/0

PURPOSE

For Council to receive this report on the application of the Shire of East Kimberley Common Seal for the period 24 February 2021 to 30 March 2021.

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 2017-2027

Focus Area 4: Civic Leadership

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

RISK IMPLICATIONS

NIL

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

There were two documents for the time period of 24 February 2021 to 30 March 2021 with the Shire of Wyndham East Kimberley Common Seal applied as per the table below:

Date of Use	Document
24/02/21	Lease Agreement - Booth 1, East Kimberley Regional Airport - Territory Rent-A-Car (t/a Thrifty Car Rental)
24/03/21	Lease Agreement - Ewin Centre, Reserve 28976 - Ewin Early Learning Centre

ATTACHMENTS

NIL

12.2.3. Code of Conduct for Council Members, Committee Members and Candidates

DATE:	30 March 2021
AUTHOR:	Chief Executive Officer
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
FILE NO:	GN.06.1
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council, with respect to the new Model Code of Conduct for Council Members, Committee Members and Candidates for a local government election;

- 1. Repeal the existing Code of Conduct for Council Members, Committee Members and Employees;**
- 2. Note that pursuant to section 5.51A of the Local Government Act 1995, the Chief Executive Officer will be preparing an interim Code of Conduct for all employees of the Shire, including the Chief Executive Officer, based on the repealed version, prior to any model being available from WALGA.**
- 3. Pursuant to section 5.104 of the Local Government Act 1995, adopt the new CP CNC 3145 Code of Conduct for Council Members, Committee Members and Candidates for local government elections for The Shire of Wyndham East Kimberley, listed as Attachment 2, subject to the deletion of the word 'work' in clause 5 and replacement of it with the word 'working' and request the Chief Executive Officer to ensure all Elected Members and Committee Members are aware of its content;**
- 4. Pursuant to the Local Government (Model Code of Conduct) Regulations 2021;**
 - a. Clause 11 (2), adopt the form for lodging complaints, listed as Attachment 3;**
 - b. Clause 11 (3), authorise the Chief Executive Officer to receive Division 3 complaints and withdrawals of the same, relating to**

Council Members, Committee Members and Candidates.

5. Pursuant to sections 5.551A (3) and 5.104 (7) of the Local Government Act 1995, request the Chief Executive Officer to ensure that both of the updated / adopted Codes of Conduct are published on the Shire's official website, as soon as practical.

Council Decision

Minute Number: 30/03/2021 - 118398

That Council, with respect to the new Model Code of Conduct for Council Members, Committee Members and Candidates for a local government election;

1. Repeal the existing Code of Conduct for Council Members, Committee Members and Employees;
2. Note that pursuant to section 5.51A of the Local Government Act 1995, the Chief Executive Officer will be preparing an interim Code of Conduct for all employees of the Shire, including the Chief Executive Officer, based on the repealed version, prior to any model being available from WALGA.
3. Pursuant to section 5.104 of the Local Government Act 1995, adopt the new CP CNC 3145 Code of Conduct for Council Members, Committee Members and Candidates for local government elections for The Shire of Wyndham East Kimberley, listed as Attachment 2, subject to the deletion of the word 'work' in clause 5 and replacement of it with the word 'working' and request the Chief Executive Officer to ensure all Elected Members and Committee Members are aware of its content;
4. Pursuant to the Local Government (Model Code of Conduct) Regulations 2021;
 - a. Clause 11 (2), adopt the form for lodging complaints, listed as Attachment 3;
 - b. Clause 11 (3), authorise the Chief Executive Officer to receive Division 3 complaints and withdrawals of the same, relating to Council Members, Committee Members and Candidates.
5. Pursuant to sections 5.551A (3) and 5.104 (7) of the Local Government Act 1995, request the Chief Executive Officer to ensure that both of the updated / adopted Codes of Conduct are published on the Shire's official website, as soon as practical.

Moved: Cr T Chafer
Seconded: Cr D Pearce

Decision: 9/0

PURPOSE

The government has enacted new legislation requiring all local governments to adopt a new Code of Conduct for Council Members, Committee Members and Candidates for a local government election, and to deal with ancillary matters.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices
Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The following regulations took effect on 3 February 2021, implementing the remaining parts of the Local Government Legislation Amendment Act 2019:

- Local Government (Administration) Amendment Regulations 2021
- Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021
- Local Government (Model Code of Conduct) Regulations 2021.

In regard to the Local Government (Model Code of Conduct) Regulations 2021, Local Governments are required to adopt a Code of Conduct for Council Members, Committee Members and Candidates within three (3) months of the Regulations taking effect (by 3 May 2021).

To account for any breaches occurring on and from the first day that the Regulations take effect, Local Governments must authorise at least one person to receive complaints.

STATUTORY IMPLICATIONS

Sections of the Acts, Regulations and/or Local Laws that apply to this item include:

- Local Government Act 1995
- Local Government (Administration) Amendment Regulations 2021
- Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021
- Local Government (Model Code of Conduct) Regulations 2021.

POLICY IMPLICATIONS

The Council's existing Code of Conduct must be repealed, as the Act and Regulations now stipulates there are to be at least two separate Codes, one for Council Members, Committee Members and Candidates, and another for local government employees.

FINANCIAL IMPLICATIONS

There are no known meaningful financial implications relative to this matter in excess of officer time and minor administrative cost.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

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

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

Strategy 4.3.3: Build internal capacity by attracting, developing and retaining the best people

RISK IMPLICATIONS

Risk: Failure to attract suitably qualified and experienced members of the community to act as elected members.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The Department of Local Government, Sport and Cultural Industries (DLGSC) has produced Guidelines on the Model Code of Conduct for Council Members, Committee Members and Candidates, which is an attachment to this report. It is expected that a Shire Code of Conduct based on the Model Code will be developed in coming months to meet the three (3) month (3 May 2021) deadline and its adoption will be the subject of a separate consideration / approval by Council.

In the interim, the Model Code of Conduct has been recommended and appears to be satisfactory. The Chief Executive Officer has proposed replacing the word 'work' in clause 5 of the Model, with 'working' due to Elected Members and Committee Members not considered to be 'workers' or at 'work' from an employer / employee perspective.

The guidelines also indicate that local governments must authorise at least one person to receive complaints regarding members and candidates. The Regulations state that the Local Government must, in writing, authorise one or more persons to receive complaints and withdrawals of complaints, but they do not specify who that person(s) will be. The Complaints Officer could be:

- Shire President,
- Deputy Shire President (especially for complaints about the President),
- Chief Executive Officer, or
- External Consultant

The recommendation is that the Chief Executive Officer be that person.

For clarity, it is noted that there is still a requirement for a local government to have a Complaints Officer (section 5.120 of the Local Government Act 1995), to process allegations of 'Rules of Conduct' breaches, and these alleged breaches are still to be referred to the Local Government Standards Panel (refer Division 4 of the Model Code of Conduct). The position currently designated as that officer is the Chief Executive Officer.

The DLGSC has also produced a template complaints form as the Regulations state that complaints are to be made in writing in a form approved by the Local Government. The DLGSC template form is another attachment to this item (Attachment 3).

In time, with the development of templates by industry or the Western Australian Local Government Association (WALGA), Local Governments can determine the most appropriate and effective process for dealing with complaints under Division 3 of the Code of Conduct and how they are prioritised and managed. Having such processes at the moment is not required by the law and nor considered critical.

ATTACHMENTS

Attachment 1 - Guidelines on the Model Code of Conduct for Council Members, Committee Members and Candidates

Attachment 2 - CP CNC 3145 Code of Conduct for Council Members, Committee Members and Candidates DRAFT

Attachment 3 - Draft Complaint About Alleged Breach Form Template

12.2.4. Local Government Election 2021

DATE:	30 March 2021
AUTHOR:	Executive Officer to the CEO
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
FILE NO:	GN.07.21
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Absolute Majority

OFFICER RECOMMENDATION

That Council;

1. Declare in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2021 ordinary elections together with any other elections or polls which may be required.
2. Decide, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the election will be as a postal election.

Council Decision

Minute Number: 30/03/2021 – 118399

That Council;

1. Declare in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2021 ordinary elections together with any other elections or polls which may be required.
2. Decide, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the election will be as a postal election.

Moved: Cr T Chafer

Seconded: Cr M McKittrick

Decision: 9/0

PURPOSE

For Council to appoint the Western Australian Electoral Commission (WAEC) to conduct the 2021 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 2019 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 2017 and, prior to that, in 2015.

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 2017 election was conducted by postal vote resulting in an increased participation rate from the 2015 election which was carried out as an "in person" election. In the postal election in 2017, participation was measured by the total number of electors who returned their packages. A total of 1,483 packages were returned giving a participation rate of 41.4%. The State average for local governments using the postal voting method in 2017 was 34.5%. The 2015 election, which was an "in person" election, returned only a 28.9% participation rate. The 2019 election had a participation rate of 30.6%.

At the Council meeting in March 2019 the Council resolved:

COUNCIL DECISION

Minute Number: 26/03/2019 - 115953

Moved: Cr D Pearce

Seconded: Cr M McKittrick

That Council;

- 1. Declare in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2019 ordinary elections together with any other elections or polls which may be required**
- 2. Decide, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the election will be as a postal election**

Carried:8/0

The advantages of postal voting are generally seen as promoting voter participation by making voting more convenient and accessible. For some groups in society attending a Polling Place can be difficult and certainly in a Shire the size of Wyndham East Kimberley, this should 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.

STATUTORY IMPLICATIONS

Local Government Act 1995

Part 4 — Elections and other polls

This Part deals with elections of mayors and presidents by electors, elections of councillors, and polls and referendums, and with related matters.

In particular —

- (a) Divisions 2, 3, 4, 5 and 6 describe the different kinds of elections and direct when those elections are to be held;*
- (b) Division 7 is about the officials who conduct elections;*
- (c) Division 8 sets out the qualifications for enrolment to vote at elections;*
- (d) Division 9 deals with the process of preparing for and conducting an election;*
- (e) Division 10 deals with complaints about the results of elections;*
- (f) Division 11 sets out a number of offences in relation to elections and provides for investigation and prosecution of offences;*
- (g) Division 12 deals with polls and referendums.*

POLICY IMPLICATIONS

CP/GOV 3106 - Council Elections Caretaker Period.

The purpose of this policy is to avoid the making of any major decisions by the Council, prior to an election, that would bind an incoming Council, prevent the use of public resources in ways that are seen as advantageous to, or promoting, the sitting Elected Members who are seeking re-election, or new candidates, and ensuring the Shire of Wyndham East Kimberley administration acts impartially in relation to candidates. This policy also prohibits an Elected Member from using a wide range of Council resources during their candidacy for Council, State or Federal election.

FINANCIAL IMPLICATIONS

The estimated cost for the 2021 election if conducted as a postal ballot is \$28,000 including GST which has been based on the following assumptions:

- 3,400 Electors

- Response rate of approximately 42%
- 5 Vacancies
- Count to be conducted at the offices of the Shire of Wyndham East Kimberley
- Appointment of a local Returning Officer
- Regular Australia Post Delivery Service to apply for the lodgement of election packages

An additional amount of \$680 will be incurred if the Council decides to use the priority postal service for the lodgement of election packages.

Costs not included in the estimate include:

- Any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns
- One Local Government staff member to work in the polling place on the election day
- Any additional postage rate increase by Australia Post.
- Any unanticipated costs arising from public health requirements for the COVID-19 pandemic
- Fees associated with the accommodation of a Returning Officer.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

RISK IMPLICATIONS

Risk: Failure to comply with legislation leading to financial loss and reputational damage.

Control: Appointment of the Western Australian Electoral Commission to conduct the Shire of Wyndham East Kimberley Election

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The next local government ordinary elections will be held on Saturday 16 October 2021. The Commission is required by the Local Government Act to conduct local government elections on a full cost recovery basis and it should be noted that the financial implications mentioned above are considered an estimate and may vary depending on a range of factors. This will be accounted for in the 2021/22 budget.

The current procedure required by the Act is that the written agreement of the Electoral Commissioner be obtained before the vote of Council is taken and that the agreement is taken to be the letter in Attachment 1 to this report. The letter in Attachment 1 provides that the agreement is that the ordinary council elections be conducted by postal election. As the

last two elections have been conducted as postal elections with satisfactory participation percentages the Administration considers that the elections in October 2021 be conducted by postal election as well. Council would need to resolve to both enter into this agreement with WAEC as well as agree to conduct the 2021 election by postal ballot.

ATTACHMENTS

Attachment 1 - Agreement Letter Western Australian Electoral Commission

12.2.5. Model Standards for CEO Recruitment, Performance and Termination

Vernon Lawrence, as current CEO, declared a financial interest as it relates directly to his contract terms and tenure.

DATE:	30 March 2021
AUTHOR:	Vernon Lawrence, Chief Executive Officer
RESPONSIBLE OFFICER:	Chief Executive Officer
FILE NO:	CM.11.2
DISCLOSURE OF INTERESTS:	Vernon Lawrence, Chief Executive Officer

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council, with respect to the new mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government Chief Executive Officers;

- 1. Pursuant to section 5.39B (2) of the Local Government Act 1995, adopt the new model standards CP HR 3352 Chief Executive Officer Recruitment, Performance Review and Termination as detailed in Attachment 3;**
- 2. Pursuant to section 5.39B (6) of the Local Government Act 1995, request the Chief Executive Officer to ensure that the adopted Council Policy CP HR 3352 Chief Executive Officer Recruitment, Performance Review and Termination is published on the Shire's official website, as soon as practical.**

Council Decision

Minute Number: 30/03/2021 - 118400

That Council, with respect to the new mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government Chief Executive Officers;

- 1. Pursuant to section 5.39B (2) of the Local Government Act 1995, adopt the**

new model standards CP HR 3352 Chief Executive Officer Recruitment, Performance Review and Termination as detailed in Attachment 3;

- 2. Pursuant to section 5.39B (6) of the Local Government Act 1995, request the Chief Executive Officer to ensure that the adopted Council Policy CP HR 3352 Chief Executive Officer Recruitment, Performance Review and Termination is published on the Shire's official website, as soon as practical.**

Moved: Cr G Lodge

Seconded: Cr J Farquhar

Decision: 9/0

PURPOSE

The government has enacted new legislation requiring all local governments to adopt mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government Chief Executive Officers.

The Local Government (Administration) Amendment Regulations 2021 (CEO Standards Regulations) bring into effect section 22 of the Amendment Act.

The Model CEO Standards provide a framework for local governments to select a CEO, review their performance and terminate their contract of employment early, in accordance with the principles of merit, probity, fairness, equity and transparency.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The following regulations took effect on 3 February 2021, implementing the remaining parts of the Local Government Legislation Amendment Act 2019:

- Local Government (Administration) Amendment Regulations 2021;
- Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021; and
- Local Government (Model Code of Conduct) Regulations 2021.

Key features of the regulations relating to recruitment, selection, performance review and early termination of local government Chief Executive Officers include the requirements to:

- establish a selection panel comprised of council members and at least one independent person to conduct the recruitment and selection process for the position of CEO;
- establish a performance review process by agreement between the local government and the CEO; and
- conduct a recruitment and selection process where an incumbent CEO has held the position for a period of ten or more consecutive years on expiry of the CEO's contract.

In addition, requirements for advertising vacant CEO positions have been updated to align with amendments to state-wide public notice provisions.

Local governments will be required to prepare and adopt the Model Standards within three months of these regulations coming into effect (by 3 May 2021). Until such time as a local government adopts the Model Standards (with or without minor permitted variations), the regulations apply.

Local governments that have a CEO recruitment process currently underway, or are about to commence a CEO recruitment process, are encouraged to contact the department to discuss compliance with the new Standards.

STATUTORY IMPLICATIONS

Sections of the Acts, Regulations and/or Local Laws that apply to this item include:

- Local Government Act 1995, Section 5.39B;
- Local Government (Administration) Amendment Regulations 2021; and
- Local Government (Administration) Regulations 1996.

Section 5.39B, States:

“Adoption of model standards

(1) In this section —

model standards means the model standards prescribed under section 5.39A(1).

(2) Within 3 months after the day on which regulations prescribing the model standards come into operation, a local government must prepare and adopt standards to be observed by the local government that incorporate the model standards.*

** Absolute majority required.*

(3) Within 3 months after the day on which regulations amending the model standards come into operation, the local government must amend the adopted standards to incorporate the amendments made to the model standards.*

** Absolute majority required.*

(4) A local government may include in the adopted standards provisions that are in addition to the model standards, but any additional provisions are of no effect to the extent that they are inconsistent with the model standards.

(5) The model standards are taken to be a local government's adopted standards until the local government adopts standards under this section.

(6) The CEO must publish an up-to-date version of the adopted standards on the local government's official website.

(7) Regulations may provide for —

(a) the monitoring of compliance with adopted standards; and

(b) the way in which contraventions of adopted standards are to be dealt with”.

POLICY IMPLICATIONS

There are no current policies of the Council that conflict.

FINANCIAL IMPLICATIONS

The adoption of the model standard – which is required by law, with only minor variations permitted, and only to the extent that it is not inconsistent, will, in all probability, add to the cost of recruitment of a Chief Executive Officer. This by virtue of the additional administrative requirements of a consultant, if a consultant is utilised, as well as the need for an external person (in addition to the consultant) to be on the recruitment panel – which may require remuneration. Typically, prior to these legislative changes, the recruitment of a Chief Executive Officer, for a band 2 local government, and utilising a consultant (who must be licensed) costs approximately \$40,000, plus advertising based on the current recruitment process.

It is not known what additional cost might be incurred with the adoption of the ‘minimum’ standard, however it conceivably will certainly add administrative time, due to the additional legislated components and recording requirements. It can be argued that it is unlikely that a local government can recruit, or certainly terminate, a Chief Executive Officer without a consultant, with these new regulatory measures.

It will almost certainly add time, as any variations (no matter how seemingly insignificant or minor) to the proposed contract to be offered, have to be previously permitted / agreed by resolution of the Council.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

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

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

Strategy 4.3.3: Build internal capacity by attracting, developing and retaining the best people

RISK IMPLICATIONS

Risk: Failure to attract and retain suitably qualified and experienced technical staff to meet organisational requirements.

Control: Maintaining a robust recruitment process offering a great working culture and benefits.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The Department of Local Government, Sport and Cultural Industries (DLGSC) has produced Guidelines on the Standards, which is Attachment 1 to this item. If the local government doesn't adopt the model standards, they are taken to be the Shire's Standards.

The Chief Executive Officer is of the opinion that they are satisfactory to be adopted without modification, (provided at Attachment 3), however the Council is at liberty to adjust them, as long as they are not inconsistent with the default standards in the regulations.

There is a requirement to adopt a set of Standards by a Complaints Office by the 3 May 2021.

The current Chief Executive Officer's contract doesn't expire until 10 July 2025 and on this new legislative change, is only renewable for up to one more 5 year term, if both parties are agreeable, before the Council is legally bound to advertise the position in accordance with the adopted standards of the day.

In the opinion of the author, the current process for review of the current Chief Executive Officer's performance is consistent with the model requirements and the proposed process

for early termination of a Chief Executive Officer's contract of employment appears fair and reasonable.

ATTACHMENTS

Attachment 1 - Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination.

Attachment 2 - Local Government (Administration) Amendment Regulations 2021 – Explanatory Notes.

Attachment 3 - CP HR 3352 CEO Recruitment, Selection, Performance Review and Termination Standards - DRAFT.

12.2.6. Kimberley Zone 2021 Meeting Dates

DATE:	30 March 2021
AUTHOR:	Chief Executive Officer
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council endorses the below 2021 Schedule of Meetings for the Kimberley Zone of WALGA and Regional Collaborative Group (RCG) as approved by the Kimberley Zone at the 22 February 2021 meeting.

Date	Location	Meeting aligned with
22 February 2021	Video Conference	State Council Meeting
20 April 2021	Broome	Strategic Community Planning Session
28 June 2021	Video Conference	
2 September 2021	Broome	Regional State council Meeting
22 November 2021	Kununurra	

Council Decision

Minute Number: 30/03/2021 – 118401

That Council endorses the below 2021 Schedule of Meetings for the Kimberley Zone of WALGA and Regional Collaborative Group (RCG) as approved by the Kimberley Zone at the 22 February 2021 meeting.

Date	Location	Meeting aligned with
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22 February 2021	Video Conference	State Council Meeting
20 April 2021	Broome	Strategic Community Planning Session
28 June 2021	Video Conference	
2 September 2021	Broome	Regional State council Meeting
22 November 2021	Kununurra	
Moved: Cr M McKittrick Seconded: Cr N Brook		
Decision: 9/0		

PURPOSE

For Council to endorse the 2021 Schedule of Meetings for the Kimberley Zone of WALGA and Kimberley Regional Group.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Facilitator - bring stakeholders together

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Kimberley Regional Group (KRG) meets on a regular basis throughout the year and have an annual joint forum with the Local Government Association of the Northern Territory.

At the 3 October 2014 Kimberley Zone of WALGA /Kimberley Regional Group (Zone / KRG) Meeting in Derby, a resolution was made to schedule four face-to-face Zone / KRG meetings per year, in addition to holding video conference meetings as required for consideration of the WALGA State Council Meeting Agenda.

At the 23 November 2020 Kimberley Regional Group Meeting the following dates were adopted:

22 February	Broome
26 April	Video Conference
28 June	Video Conference

2 September	Broome
22 November	Kununurra

At the 22 February 2021 Zone meeting a report presented the 2021 Schedule of Meeting dates for the Kimberley Zone of WALGA and Kimberley Regional Group which amended the meeting dates. The reasons given were due to COVID-19 the normal frequency of flights between the east and west of the Kimberley has reduced making the scheduled February meeting impracticable for members. The decision was made to change the February meeting to a video

conference. As a consequence, the strategic planning session scheduled for the 22nd February 2021 has been deferred to the 20 April 2021 with the 26 April meeting cancelled as it is a public holiday. The new schedule is as follows:

Date	Location
22 February 2021	Video Conference
20 April 2021	Broome
28 June 2021	Video Conference
2 September 2021	Broome
22 November 2021	Kununurra

WALGA Kimberley Zone

The Western Australian Local Government Association (WALGA) is the single association for Local Government, representing the political and strategic interests of Local Government at State and Federal levels. The Shire of Wyndham-East Kimberley is a member of WALGA.

Local Governments are grouped into regional bodies called Zones a geographically based subdivision containing Ordinary Members and is incorporated within a country or metropolitan constituency. The Kimberley Country Zone Membership is made up of the Shire of Wyndham/East Kimberley, Shire of Halls Creek, Shire of Broome, Shire of Derby/West Kimberley, Shire of Cocos Islands and the Shire of Christmas Island.

The roles/functions of a Zone are primarily as follows:

1. select a State Council representative;
2. consider the State Council agenda;
3. provide direction/feedback to their State Councillor;
4. develop/advocate positions on regional issues affecting Local Government;
5. progress regional Local Government initiatives;

6. identify relevant issues for action by WALGA;
7. networking and sharing information; and
8. contributing to policy development through Policy Units and Policy Forums.

Zones:

- have an integral role in shaping the political and strategic direction of Local Government as a tier of government;
- are responsible for bringing relevant local and regional issues to the State decision making table;
- are a key player in developing policy and legislative initiatives for Local Government; and
- have direct relationships with the State Council of the Association, Policy Units and Policy Forums and the Secretariat of the Association.

Every Zone has at least one representative on State Council (generally the Zone Chair and currently Cr Chris Mitchell - Shire of Broome. The Deputy Zone Chair is also the Deputy State Council Representative and is currently Cr David Menzel - Shire President SWEK). Each representative is primarily responsible for ensuring that the Association is governed in the best interests of all member Local Governments. Representatives are also required to advocate the viewpoints and interests of their Zone on issues under consideration by State Council.

Regional Collaborative Group (RCG)

In September 2010 as part of the Western Australian State Government's Local Government reform agenda, the four Kimberley Shires (Shire of Wyndham/East Kimberley, Shire of Halls Creek, Shire of Broome and the Shire of Derby/West Kimberley) formed the Kimberley Regional Collaborative Group (RCG), formalised with the signing of an agreement with the State Government. The Group was formed with a view to adopting a regional approach to strategic and community planning and facilitating the harmonisation of core functions and services across participating local governments.

The RCG was originally due to terminate on 30 June 2015. In preparation for this, the Kimberley Shires formed a Kimberley Regional Group (KRG) for the purpose of governing and undertaking shared regional initiatives. The KRG has a Kimberley Local Government Governance Agreement between the four Kimberley Shires, which provides the legal framework for the establishment, membership and operation of the Kimberley Regional Group. This agreement was signed on 24 February 2014 and expired in February 2018. A new Agreement was presented to and discussed at the following Zone/RCG meeting before being presented to individual Councils for endorsement in March 2018. The agreement governing the Kimberley Regional Collaborative Group has a finite life and is now scheduled to terminate on 30 June 2022, unless agreed otherwise by the parties.

Under the RCG, members are tasked with developing and implementing a Kimberley Strategic Community Plan and Kimberley Regional Business Plan. The Kimberley Regional Group (KRG) Regional Community Strategic Plan and Regional Business Plan [the Plans] were last reviewed at the March 2018 meeting with more detailed revisions being undertaken through workshops at the September and October 2018 Zone meetings. At the 4 December 2018 KRG Meeting it was resolved as follows;

That the Kimberley Regional Group adopts the Regional Business Plan 2018 - 2022 as contained in Attachment 1.

Moved: Shire of Derby West Kimberley Seconded: Shire of Halls Creek

Carried 4/0

The Strategic Community Planning session to update the Strategic community Plan is scheduled to take place on the 2nd and 3rd September 2021 in Broome.

STATUTORY IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The 2020/21 budget allocates \$12,500 for SWEK travel/attendance/registration to Kimberley Regional group meetings, with \$11,674 remaining in the budget at the time of preparing this report. The Shire of Wyndham East Kimberley also contributed in 2020/21 \$55,000 to the operation of the Zone, with each of the members of the Zone contributing the same.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

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

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

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

Corporate Business Plan

CBP Action:

RISK IMPLICATIONS

Nil

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

Consultation occurred between the individual Kimberley Shire Councils and WALGA to determine the dates for the 2021 schedule of meetings for the Kimberley Regional Group taking into consideration Ordinary Council Meeting dates. The dates selected do not overlap with the Shire's Briefing Sessions or Ordinary Council Meeting dates and therefore Officer's recommend Council endorse these dates.

ATTACHMENTS

Attachment 1 - Zone KRG Meeting Minutes - 2021 Kimberley Zone and Kimberley Regional Group Meeting Dates

12.3. PLANNING AND COMMUNITY DEVELOPMENT

12.3.1. Local Planning Scheme 9 - Proposed Omnibus Amendment

DATE:	30 March 2021
AUTHOR:	Senior Planning Officer
RESPONSIBLE OFFICER:	Nick Kearns, Director Planning and Community Development
FILE NO:	LP.04.61
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Pursuant to Section 75 of the *Planning and Development Act 2005*, amends the Shire of Wyndham East Kimberley Local Planning Scheme No. 9 for the purposes of public advertising by incorporating all the Scheme Text and Scheme Map modifications set out under points 1-3 inclusive contained in document "Amendment No. 1 to Local Planning Scheme No. 9 - Omnibus Amendment" and included as Attachment 1.
2. Determines that the amendment is a standard amendment under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:
 - (a) It is consistent with the Shire's Local Planning Strategy;
 - (b) It will have minimal impact on land in the scheme area, and
 - (c) It will not result in any significant environmental, social, economic or governance impacts on the land in the scheme area.
3. Requests the Chief Executive Officer to forward this resolution and the amendment documentation to the Environmental Protection Authority pursuant to Section 81 of the *Planning and Development Act 2005*.
4. Subject to the advice of the Environmental Protection Authority under Section 48A of the *Environmental Protection Act 1986* that the amendment

is not subject to formal environmental assessment, requests the Chief Executive Officer to advertise the amendment for 42 days as per the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Council Decision

Minute Number: 30/03/2021 – 118402

That Council:

- 1. Pursuant to Section 75 of the Planning and Development Act 2005, amends the Shire of Wyndham East Kimberley Local Planning Scheme No. 9 for the purposes of public advertising by incorporating all the Scheme Text and Scheme Map modifications set out under points 1-3 inclusive contained in document “Amendment No. 1 to Local Planning Scheme No. 9 - Omnibus Amendment” and included as Attachment 1.**
- 2. Determines that the amendment is a standard amendment under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:**
 - (a) It is consistent with the Shire’s Local Planning Strategy;**
 - (b) It will have minimal impact on land in the scheme area, and**
 - (c) It will not result in any significant environmental, social, economic or governance impacts on the land in the scheme area.**
- 3. Requests the Chief Executive Officer to forward this resolution and the amendment documentation to the Environmental Protection Authority pursuant to Section 81 of the *Planning and Development Act 2005*.**
- 4. Subject to the advice of the Environmental Protection Authority under Section 48A of the *Environmental Protection Act 1986* that the amendment is not subject to formal environmental assessment, requests the Chief Executive Officer to advertise the amendment for 42 days as per the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

Moved: Cr T Chafer

Seconded: Cr G Lodge

Decision: 9/0

PURPOSE

For Council to consider adoption of a proposed omnibus amendment to the Local Planning Scheme No. 9 (LPS 9) for the purposes of advertising.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE

Development within the Shire is controlled and guided by Local Planning Scheme No. 9 (LPS 9) which became operational in 2019.

It is common practice to undertake periodic, relatively minor, reviews of local planning schemes with the first usually undertaken as an 'omnibus amendment'. An omnibus amendment is the most efficient means to put into place a group of mostly unrelated, minor amendments which don't require processing separately.

The proposed amendment will be the first to LPS 9 and has been prepared with the assistance of the Department of Planning, Lands and Heritage (DPLH). The amendment proposes a number of changes to the Scheme Text and Scheme Maps, aiming to correct anomalies and ensure that the Scheme Text and Scheme Maps are appropriately updated to align with LPS 9, the adopted strategic planning framework and the applicable legislation.

The Amendment Report at Attachment 1 provides a detailed explanation of each of the proposed amendments and their justification and includes the proposed mapping changes. The intent and scope of the changes proposed in the amendment are broadly grouped into the following categories:

- Correcting minor text errors and omissions that were not identified when LPS 9 was first gazetted;
- Updating references to the *Heritage Act 1990* to the *Heritage Act 2018*;
- Updating the zoning table to review the permissibility of certain land uses, and
- Addressing a number of mapping errors that have been identified through the process of adopting LPS 9 and other minor modifications to the LPS 9 maps.

An explanation of the key changes are outlined below.

Land use - permissibility

A number of amendments are proposed to the zoning table, as described in section 4.2 of the Scheme Amendment Report. In relation to permissibilities the symbols represent the following:

'P' means that the use is permitted if it complies with all relevant development standards and the requirements of this Scheme.

'I' means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with all relevant development standards or requirements of this Scheme.

'D' means that the use is not permitted unless the local government has exercised its discretion by granting development approval.

'A' means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions.

'X' means that the use is not permitted by this Scheme.

In summary, the changes to the zoning table are as follows:

- Within the 'Agriculture - State or Regional Significance' zone the permissibilities are proposed to be changed to more accurately reflect the potential extent of, and reintroduce, some land uses as follows:
 - 'Home Business' from 'D' to 'A'
 - 'Home Occupation' from 'A' to 'D'
 - 'Industry-Cottage' from 'A' to 'D'
 - 'Workforce Accommodation' from 'X' to 'A'
- Within the 'Mixed Use' zone modify permissibilities to reflect that a Home Business is potentially a more extensive use than a Home Occupation as follows:
 - 'Home Business' from 'P' to 'D'
 - 'Home Occupation' from 'D' to 'P'
- Within the 'Rural' zone modify permissibilities to reflect that a Home Business is potentially a more extensive use than a Home Occupation as follows:
 - 'Home Business' from 'P' to 'D'
 - 'Home Occupation' from 'D' to 'P'
- Within the 'Light Industrial' zone modify permissibilities to allow a caretakers dwelling to reflect its incidental nature within the zone as follows:
 - 'Caretakers Dwelling' from 'A' to 'I'
- Within the 'Local Horticulture' zone the permissibilities are proposed to be modified to more accurately identify agriculture intensive as a permitted use and allow workforce accommodation as follows:
 - 'Agriculture Intensive' from 'D' to 'P'
 - 'Workforce Accommodation' from 'X' to 'A'
- Within the 'Residential', 'General Industry', 'Agriculture - State or Regional Significance', 'Local Horticulture', 'Rural', 'Rural Residential', and 'Rural Smallholding' zones, permissibility for 'Telecommunications Infrastructure' to be modified to 'A' to ensure consistency with State policy, namely State Planning Policy 5.4 Telecommunications Infrastructure.

Mapping modifications:

A number of changes are proposed to the Local Planning Scheme maps, as described in section 4.3 of the Scheme Amendment Report. These changes are all administrative in nature, ensuring that the zoning on the Scheme maps reflects the current on-ground use or the existing layout plans for Aboriginal settlements. **STATUTORY IMPLICATIONS**

Planning and Development Act 2005

Clause 75 Amending scheme

A local government may amend a local planning scheme with reference to any land within its district, or with reference to land within its district and other land within any adjacent district, by an amendment -

- (a) *Prepared by the local government, approved by the Minister and published in the Gazette; or*

- (b) *Proposed by all or any of the owners of any land in the scheme area, adopted, with or without modifications, by the local government, approved by the Minister and published in the Gazette.*

Clause 81 Proposed scheme or amendment to be referred to the Environmental Protection Authority (EPA)

When a local government resolves to prepare or adopt a local planning scheme, or an amendment to a local planning scheme, the local government is to forthwith refer the proposed local planning scheme or amendment to the EPA by giving to the EPA -

- (a) *Written notice of that resolution; and*
(b) *Such written information about the local planning scheme or amendment as is sufficient to enable the EPA to comply with section 48A of the EP Act in relation to the local planning scheme or amendment.*

Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regulations)

Under the LPS Regulations the amendment is considered to be a standard amendment and to progress the amendment the Council must resolve to prepare an amendment to the local planning scheme. The amendment must be referred to the EPA and then advertised to the public in accordance with the regulations.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There are no financial implications associated with this matter.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

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

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

RISK IMPLICATIONS

Risk: Failure to manage developments and projects in line with regulatory planning, building and health requirements, leading to a poorly developed region and environmental degradation.

Control: Ensure proposed amendments to the Local Planning Scheme are undertaken in accordance with LPS 9, the adopted strategic framework and the applicable regulations.

COMMUNITY ENGAGEMENT

If Council resolves to advertise the omnibus amendment, engagement will take place in accordance with the Shire's Community Engagement Guidelines and as required under the LPS Regulations and will include public advertising for a (minimum) period of 42 days and consisting of:

- Publication of a public notice in a newspaper circulating in the scheme area;
- Display of a copy of the notice in the Shire administration offices, at each library and on the Shire website (this would include Facebook);
- Display of a copy of the scheme amendment documentation for public inspection;
- Providing the notice to any public authority the Shire considers will be affected by the amendment; and
- Providing the notice to any landowners whose property is considered to be directly affected by the amendment.

Any submissions received during the public advertising period will be presented back to Council for its consideration.

Prior to advertising, the omnibus amendment is required to be referred to the EPA under section 81 of the *Planning and Development Act 2005*, for the EPA to assess under Section 48A of the *Environmental Protection Act*, and determine whether an environmental review is required. Given the nature of the proposed omnibus amendment, an environmental review is unlikely to be required, however advertising cannot be undertaken until written notification advising this has been received from the EPA to confirm this.

COMMENT

This amendment addresses matters that were not identified when LPS 9 was first gazetted, including: minor text errors and omissions; updates to the zoning table in relation to the permissibility of certain land uses; updated references to legislation, and minor modifications to the Scheme maps to reflect current land use and the existing layout plans for Aboriginal settlements.

The proposed amendment is classified as a 'standard amendment' under the LPS Regulations as it is consistent with the Local Planning Strategy. It is not considered to have any significant environmental, social or economic impacts and the proposed changes to the zoning table, maps and development standards are considered to reduce the likelihood of incompatible land uses/development being located within close proximity to one another.

The proposed amendment is largely to correct anomalies within the scheme and ensure alignment with the adopted strategic framework, whilst ensuring efficient and effective administration of the scheme.

In light of the above, it is recommended that Council decide to adopt proposed Scheme Amendment No. 1 for the purpose of public advertising.

ATTACHMENTS

Attachment 1 - Scheme Amendment Report (No.1 Omnibus amendment)

12.3.2. Local Planning Policy Review

DATE:	30 March 2021
AUTHOR:	Senior Planning Officer
RESPONSIBLE OFFICER:	Nick Kearns, Director Planning and Community Development
FILE NO:	LP.01.13
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council resolves to:

- 1. Adopt Local Planning Policy 5 (LPP 5) - Sea Containers with modifications and to authorise the Chief Executive Officer to publish notice of the policy in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

and

- 2. Revokes Local Planning Policy 1 (LPP 1) - Lakeside Residential Development Guidelines Policy; and Local Planning Policy 3 (LPP 3) - Weaber Plain LIA Design Guidelines.**

Council Decision

Minute Number: 30/03/2021 – 118403

That Council resolves to:

- 1. Adopt Local Planning Policy 5 (LPP 5) - Sea Containers with modifications and to authorise the Chief Executive Officer to publish notice of the policy in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

and

- 2. Revokes Local Planning Policy 1 (LPP 1) - Lakeside Residential**

Development Guidelines Policy; and Local Planning Policy 3 (LPP 3) - Weaber Plain LIA Design Guidelines.

Moved: Cr M Dear
Seconded: Cr T Chafer

Decision: 9/0

PURPOSE

For Council to formalise the revocation of Local Planning Policy 1 (LPP 1) - Lakeside Residential Development Guidelines Policy and Local Planning Policy 3 (LPP 3) - Weaber Plain LIA Design Guidelines; and to adopt Local Planning Policy 5 (LPP 5) - Sea Containers, as modified.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices
Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Council, at its Ordinary Meeting of 24 November 2020 (Minute no. 118345), authorised the Chief Executive Officer to advertise the revocation of Local Planning Policy 1 (LPP 1) - Lakeside Residential Development Guidelines Policy and Local Planning Policy 3 (LPP 3) - Weaber Plain LIA Design Guidelines, as well as to advertise changes to Local Planning Policy 5 (LPP 5) - Sea Containers, relating to Sea Containers.

The advertising took place between 10 December 2020 and 15 January 2021. There were no submissions received with regards to the proposed revocation of LPP 1 or LPP3, however, two submissions were received with respect to the changes proposed to LPP5, which are summarised on the table below.

Name	Summary of submission	Response
Mark Northover	Seeking detail regarding: <ul style="list-style-type: none">• Cancelling Rural, Agriculture and industry exemptions for sea containers• Cost of building permit applications;• Tie down requirements and wind loading charts	<ul style="list-style-type: none">• A building permit is required for permanent placement of a sea container where proposed for longer than 6 months in all areas.• Building permit fees are based on total cost of the development and calculated in accordance with relevant legislation and government levies.• Generic footing specifications can be purchased from the Shire in accordance with current fees and

	for the whole of the Shire	<p>charges.</p> <ul style="list-style-type: none"> • Temporary placement of a sea container (less than 6 months) in Agricultural, Industrial or Rural areas, does not require a development or building approval; however containers are required to be tied down in Wind Regions B and C. Wind Regions are defined as per the Building Code of Australia. <p><u>Response:</u> In light of the points raised in the submission, it is proposed to include an additional point in Section 3 of the Policy to address temporary placement of sea containers in Agricultural, Industrial and Rural areas.</p>
Dave Wilson	Complaint that there was not enough time to respond to the proposal.	<ul style="list-style-type: none"> • Advertising was carried out in excess of the requirements of relevant legislation as it was noted that this would be close to the Christmas/holiday period. • Submissions are able to be lodged up until a decision is made on the Policy in any case. <p><u>Response:</u> Officers did provide a response to the submitter to clarify the proposal and no additional submission, or request for further time, was received.</p>

Copies of the submissions and Officer responses are provided under separate cover.

STATUTORY IMPLICATIONS

Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Division 2

POLICY IMPLICATIONS

Council Policy CP/GOV-3112 Policy Management Policy requires that policies be reviewed at a minimum of every five years and a report presented to Council detailing any proposed changes.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this matter.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

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

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

RISK IMPLICATIONS

Risk: Failure to develop appropriate, meaningful policies which enable the administration to perform in an effective and efficient way.

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

COMMUNITY ENGAGEMENT

Engagement was undertaken in line with the Shire's Community Engagement Guidelines and the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

COMMENTS

The proposed amendment and revocation is in line with the applicable legislative requirements and the content and format of the updated local planning policy has been modified to be clearer and to conform to more up-to-date standards as provided by WALGA.

The content from the revoked policies is being included in Information Sheets, as the information is no longer required as a policy instrument. The Information Sheets will be reviewed and updated as required and in accordance with any legislative changes.

The changes to LPP 5, relating to sea containers, are considered to be minor in nature, including formatting and administrative changes. In response to submissions received, an additional point has been included in Section 3 of the Policy to address temporary placement of sea containers in Agricultural, Industrial and Rural areas (highlighted in yellow). This point clarifies that sea containers may temporarily be placed in agricultural, industrial and rural

areas without requiring a development approval or building permit, provided the container is appropriately tied down if in a Region B or C area, as defined by the Building Code of Australia and provided it remains for a maximum period of six (6) months.

ATTACHMENTS

Attachment 1 - LPP 5 - Sea Containers

12.3.3. Community Grant Program - Dam to Dam 2021

DATE:	30 March 2021
AUTHOR:	Manager Community Development
RESPONSIBLE OFFICER:	Nick Kearns, Director Planning and Community Development
FILE NO:	GS.05.44
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council approves the allocation of \$10,000 from the Community Grant Program for the 2021 Kununurra Water Ski Club Dam to Dam event, subject to the following conditions:

- **Entering into a funding agreement;**
- **Providing an acquittal at the completion of the event;**
- **Suitably acknowledging the support of the Shire of Wyndham East Kimberley, and**
- **Ensuring that all necessary approvals and insurances are obtained prior to the event.**

Council Decision

Minute Number: 30/03/2021 – 118404

That Council approves the allocation of \$10,000 from the Community Grant Program for the 2021 Kununurra Water Ski Club Dam to Dam event, subject to the following conditions:

- **Entering into a funding agreement;**
- **Providing an acquittal at the completion of the event;**
- **Suitably acknowledging the support of the Shire of Wyndham East Kimberley, and Ensuring that all necessary approvals and insurances are obtained prior to the event.**

Moved: Cr D Pearce

PURPOSE

For Council to assess an application for funding for an event lodged under the Shire's Community Grant Program.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Funder - provide funds or other resources.

Provider - provide physical infrastructure and essential services.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Shire recently received an application for funding from the Kununurra Water Ski Club for the 2021 Dam to Dam event which will be held at Ski Beach (Water Ski Club), Kununurra on 24 April 2021. The amount requested is \$10,000.

A letter from the Kununurra Water Ski Club, relating to the request, is provided at Attachment 1.

The Shire has provided funding to the Kununurra Water Ski Club under its Community Grant Program/Scheme since 2017. In 2019, \$10,000 was funded for the 2020 event, however, the event was postponed in light of the COVID-19 (event) restrictions. The club has advised that a new application hadn't been lodged for this year's event within last year's funding round as an oversight on their part and therefore it had not been included in the list of applications considered by Council at the September 2020 Ordinary Meeting (Minute No. 118322).

The application for funding provided by the club is at Attachment 2. The event, this year, includes the traditional dinghy race from Ski Beach to the Lake Argyle Dam wall, some short course (dinghy) races and now includes a champagne brunch and additional entertainment for spectators. The club has indicated that its main aim is to provide an enjoyable and social activity/event and to build awareness of the club and ultimately boost membership.

STATUTORY IMPLICATIONS

There are no statutory implications associated with this matter other than requirements arising from the State Government's Roadmap with respect to COVID-19 as they relate to conducting major events, which are provided to event organisers.

POLICY IMPLICATIONS

CP/COM-3582 Community Grant Program is applicable to the consideration of this matter and the policy does not prevent Council from considering an application for funding outside

the nominated funding round, which is done mostly for logistical and administrative purposes.

Conditions stipulated in the grant application form and guidelines include the need to:

- Enter into a funding agreement;
- Provide an acquittal at the completion of the event;
- Suitably acknowledge the support of the Shire, and
- Ensure that all necessary approvals and insurances are obtained prior to the event.

FINANCIAL IMPLICATIONS

\$169,587.62 has been allocated from the Community Grant budget to date, with \$130,412.38 remaining, so there is sufficient funding available without making any adjustment to the approved 2020/21 budget.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 1: Healthy vibrant active communities

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

Strategy 1.1.2: Support and promote an increase in the number of events and activities that encourage a sense of identity, belonging and promote cultural diversity

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

Strategy 1.2.2: Develop partnerships to support and maximise participation in a range of activities and promote the benefits of healthy lifestyles

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

Goal 1.3: Promote quality education, health, childcare, aged care and youth services

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

Corporate Business Plan

CBP Action: #372 Deliver a Community Grant Program

CBP Tasks: 2. Review Community Grant Policy (this action has been completed)

RISK IMPLICATIONS

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

Control: Community Grant Program aims to support community lead community development initiatives through financial assistance.

COMMUNITY ENGAGEMENT

There has been no community engagement in relation to this request.

COMMENTS

The application submitted by the Kununurra Water Ski Club has been assessed against relevant criteria within the policy and guidelines and a summary of that assessment is provided at Attachment 3. That assessment shows that the proposal meets all applicable eligibility criteria and scores well with regard to the event's alignment with community strategic objectives; community need; budget, and their capacity to run the event, which they have done so for a number of years. While the event may not be considered to be a 'signature event' with respect to the number of visitors expected to be attracted from outside the region and, therefore, its economic impact, as measured against the Ord Valley Muster; Rodeo or Lake Argyle Swim and Adventure Race, it could, nonetheless, be considered 'iconic'.

Shire Officers recommend that Council approve the \$10,000 request as a one off payment subject to conditions requiring the Club to:

- Enter into a funding agreement;
- Provide an acquittal at the completion of the event;
- Suitably acknowledge the support of the Shire, and
- Ensure that all necessary approvals and insurances are obtained prior to the event.

ATTACHMENTS

Attachment 1 - Kununurra Ski Club Grant Request Letter

Attachment 2 - Kununurra Water Ski Club Events Grant Application

Attachment 3 - Community Events Grant Assessment Form

12.4. CORPORATE SERVICES

12.4.1. Monthly Financial Report February 2021

DATE:	30 March 2021
AUTHOR:	Financial Accountant
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.09.25
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the Monthly Financial Report for the period ended 28 February 2021.

Council Decision

Minute Number: 30/03/2021 118405

That Council receives the Monthly Financial Report for the period ended 28 February 2021.

**Moved: Cr G Lodge
Seconded: Cr M Dear**

Decision: 9/0

PURPOSE

For Council to receive the Monthly Financial Report for the period ended 28 February 2021.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - Responsible for the enforcement of statutory requirements.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

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

At the 23 June 2020 Ordinary Council Meeting, the Council resolved the following:

Council Decision

Minute Number: 23/06/2020-118260

Moved: Cr D Menzel

Seconded: Cr M Dear

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

Carried 9/0

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

At the 15 December 2020 Ordinary Council Meeting Council resolved to accept the 2019/2020 Annual Report including the Annual Financial Statements as follows:

Council Decision

Minute No: 118361

That Council:

- 1. Accepts the 2019/2020 Annual Report (including the Annual Financial Statements and Associated Notes) as presented.***
- 2. Convenes the Annual General Meeting of Electors to be held on 2 February 2021 at the Kununurra Council Chambers (commencing at 5pm).***
- 3. Requests that the Chief Executive Officer, pursuant to sections 5.29 and 5.55 of the Local Government Act 1995, provides the requisite statutory local public notice of the acceptance of the 2019/2020 Annual Report and the time and date of the Annual General Meeting of Electors.***
- 4. Requests that the Chief Executive Officer publish the Annual Report on the Shire's website within 14 days after it has been accepted.***

Moved: Cr J Farquhar

Seconded: Cr N Brook

Decision: 6/0

At the 23 February 2021 Ordinary Council Meeting Council resolved to adopt changes to the Municipal Fund Budget for 2020/21 arising from changes to the cash position estimated at the time of the preparation of the budget and the actual cash position achieved following the finalisation of the Annual Financial Statements for the year ended 30 June 2020 as follows:

Council Decision:

Minute Number: 23/02/2021 - 118388

That Council:

- 1. Adopts the changes to the Municipal Fund Budget 2020/21 and Reserves as detailed in Attachment 1 and Attachment 2; and***
- 2. Approves the transfer of an additional amount of \$277,077 to the Drainage Reserve.***

Moved: Cr T Chafer

Seconded: Cr J Farquhar

Decision:9 /0

STATUTORY IMPLICATIONS

Local Government Act 1995, Section 6.4.

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Performance - Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

RISK IMPLICATIONS

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

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

COMMUNITY ENGAGEMENT

No community engagement is required in relation to this item.

COMMENTS

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

The Covid-19 pandemic has had an impact on the financial position of the Shire as at 30 June 2020. Revenue and debt collections have reduced significantly with this being off-set by operational savings and the receipt of 2020/21 Federal Assistance Grants in advance. The full financial implications of Covid-19 are unknown at this stage, however estimates of the longer term impact have been considered in the preparation of the 2020/21 budget. Shire Officers and the Executive Management Team continue to closely monitor the cash flow of the Shire and have modified internal processes to assist in this regard.

It should be noted that the budget figures in the Monthly Financial Report for February 2021 have been updated to include final carry forward figures and end of year adjustments for the year ended 30 June 2020. The final position for the 2019/20 financial year was reported in the 2019/20 Annual Financial Statements included in the Annual Financial Report for 2019/20 which was presented to Council at the 15 December 2020 Ordinary Council Meeting. Changes to the 2020/21 budget arising from changes in the cash position following finalisation of the 2019/20 Annual Financial Statements were adopted by Council at the 23 February 2021 Ordinary Council Meeting.

ATTACHMENTS

Attachment 1 - Monthly Financial Report February 2021

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

DATE:	30 March 2021
AUTHOR:	Creditors Officer
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.09.25
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

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

Municipal EFT 139887 - 140100 (05/02/2021-26/02/2021)	\$1,030,949.32
Municipal Cheque 52009 (26/02/2021)	\$ 15,876.50
Trust EFT 502133- 502146 (01/02/2021 - 26/02/2021)	\$ 10,215.05
Payroll (10/02/2021 - 24/02/2021)	\$ 466,102.56
Direct Bank Debits (01/02/2021-24/02/2021)	\$ 53,032.83
Total - February 2021	\$ 1,576,176.26

Council Decision

Minute Number: 30/03/2021– 118406

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

Municipal EFT 139887 - 140100 (05/02/2021-26/02/2021)	\$1,030,949.32
Municipal Cheque 52009 (26/02/2021)	\$ 15,876.50
Trust EFT 502133- 502146 (01/02/2021 - 26/02/2021)	\$ 10,215.05

Payroll (10/02/2021 - 24/02/2021)	\$ 466,102.56
Direct Bank Debits (01/02/2021-24/02/2021)	\$ 53,032.83
Total - February 2021	\$ 1,576,176.26

Moved: Cr M McKittrick
Seconded: Cr N Brook

Decision: 9/0

PURPOSE

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - Responsible for the enforcement of statutory requirements.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

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

STATUTORY IMPLICATIONS

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

Local Government (Financial Management) Regulations 1996 -

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

Regulation 11. Payments, procedures for making etc.

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

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

There are no financial implications arising out of the preparation of this report. The financial implications arising from the payments made from the Municipal and Trust funds have been

provided for in the 2020/21 Adopted Budget and any subsequent amendments thereto. This report provides for the ongoing management of the Shire's funds by providing the Council with sufficient information to monitor and review those payments made.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027.

Focus Area 4: Performance - Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

RISK IMPLICATIONS

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

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

COMMUNITY ENGAGEMENT

No community engagement is required in relation to this item.

COMMENTS

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

ATTACHMENTS

Attachment 1 - List of Accounts Paid February 2021

12.4.3. Review of CP-FIN 3211 Fees and Charges Pricing Policy.

DATE:	30 March 2021
AUTHOR:	Director Corporate Services
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.05.22
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council adopt the amended CP-FIN-3211 Fees and Charges Pricing Policy.

Council Decision

Minute Number: 30/03/2021 – 118407

That Council adopt the amended CP-FIN-3211 Fees and Charges Pricing Policy.

Moved: Cr T Chafer

Seconded: Cr N Brook

Decision: 9/0

PURPOSE

For Council to consider the amended CP-FIN 3211 Fees and Charges Pricing Policy prior to the review of the Fees and Charges Schedule for the 2021/22 financial year.

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

Fees and charges are generally established as part of the annual budget setting process. The 2014/15 financial year was the first year that the Council resolved to apply pricing principles and a pricing basis methodology to ensure fair and reasonable charging to the community for the goods and services that the Shire provides. The Policy was reviewed at the 28 April 2015 Ordinary Council meeting. The Policy was originally due for review in 2019, but Shire Officers considered that it would be prudent to review the Policy on an annual basis as part of the Fees and Charges setting process. This process has been implemented and the Policy was last reviewed in March 2020.

COUNCIL DECISION

Minute No. 24/03/2020 - 118189

Moved: Cr T Chafer

Seconded: Cr M McKittrick

That Council adopts the revised Council Policy CP-FIN 3211 Fees and Charges Pricing.

Carried
9/0

STATUTORY IMPLICATIONS

Local Government Act 1995

Part 6, Division 5

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.*

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.*

POLICY IMPLICATIONS

There are no other policy implications.

FINANCIAL IMPLICATIONS

The application of the Policy and associated financial impacts is not finalised for the 2021/22 Budget at this stage of the budget process. Any significant changes to individual fees and charges will be identified as part of the revised Fees and Charges Schedule that will be presented to Council for adoption at a later stage in the process.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

RISK IMPLICATIONS

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

Controls: Implementation of LTFP and Annual Budget.

Policies updated in accordance with schedule and operational requirements.

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

COMMUNITY ENGAGEMENT

Engagement will take place in accordance with Section 6.19 of the *Local Government Act 1995*, which outlines the requirements for the Shire to provide local public notice of fees and charges.

COMMENTS

The Policy has been reviewed to ensure legislation is referenced correctly and the goods and services pricing basis are still relevant. The Policy makes for good governance in that it provides the community with transparency as to what factors are considered when the Council reviews its annual fees and charges, and also provides guidance for officers as to what principles need to be considered when recommending fees and charges for goods or services.

There have been no substantive changes made in the attached reviewed policy with minor changes to referenced legislation highlighted.

ATTACHMENTS

Attachment 1 - Council Policy CP/FIN-3211 Fees and Charges Pricing - DRAFT

12.4.4. Policy Review - CP/CNC-3141 Elected Member Allowances and Entitlements

DATE:	30 March 2021
AUTHOR:	Director Corporate Services
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.05.22
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council adopt the amended CP/CNC-3141 Elected Member Allowances and Entitlements.

Council Decision

Minute Number: 30/03/2021- 118408

That Council adopt the revised policy CP/CNC-3141 Elected Member Allowances and Entitlements.

Moved: Cr M McKittrick

Seconded: Cr N Brook

Decision: 9/0

PURPOSE

For Council to consider amendments to Council Policy *CP/CNC-3141 Elected Member Allowances and Entitlements* to provide the Administration with the policy framework to determine Members Allowances and Entitlements in the annual budget process for the 2021/22 financial year.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - Plan and provide direction through policy and practices.

Regulator - Responsible for the enforcement of statutory requirements.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Council considers Members' Allowances and Entitlements on an annual basis. For the 2017/18 financial year the Commissioner reduced the amounts down from 100% of the maximum Salaries and Allowances Tribunal (SAT) determination to 70% of the determination.

Council in the 2018/19 and 2019/20 budget processes maintained the level at 70%.

For the 2020/21 financial year at the time of budget adoption Council set the level at 60% of the maximum Salaries and Allowances Tribunal (SAT) determination as a strategy to limit the impact of Covid-19. Council subsequently amended the President's and Deputy President's allowances and fees for 2020/21 to 70% at the November 2020 Ordinary Council Meeting to recognise the additional work that they put in as part of the Covid-19 response. Councillors' fees remained at 60%.

COUNCIL DECISION

Minute Number: 23/06/2020 - 118259

Moved: Cr N Brook

Seconded: Cr J Farquhar

That Council:

- 1. Notes that the Elected Members annual attendance fees and annual allowances have been determined with reference to the revised Council Policy CP/CNC-3141 Elected Member Allowances and Entitlements adopted at the 24 March 2020 Ordinary Meeting of Council (Minute No. 24/03/2020 - 118188) to be incorporated into the 2020/21 Municipal Fund Budget.**
- 2. Notes the revised Council Policy CP/CNC-3141 Elected Member Allowances and Entitlements adopted at the 24 March 2020 Ordinary Meeting of Council (Minute No. 24/03/2020 - 118188) provides for the maximum Salaries and Allowances Tribunal (SAT) determination levels so that:**
 - a. The President's Annual Meeting Attendance Fee is 60% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination.**
 - b. The Elected Members Annual Meeting Attendance Fee is 60% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination.**
 - c. The President's Annual Allowance is 60% 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.*
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:*
 - a. *President \$18,689.40*
 - b. *Councillors \$13,938.00*
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:*
 - a. *President \$38,012.40*
5. *Pursuant to section 5.98A(1) of the Local Government Act 1995, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:*
 - a. *Deputy President \$9,503.10*

COUNCIL DECISION

Moved: Cr D Pearce

That Council:

3. **Pursuant to section 5.99 of the Local Government Act 1995, adopt the following annual fees for payment of elected members in lieu of individual meeting attendance fees:**
 - a. **President \$21,804**
 - b. **Councillors \$13,938**
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:**
 - a. **President \$44,347**
5. **Pursuant to section 5.98A(1) of the Local Government Act 1995, adopt the following annual local government allowance to be paid in addition to the annual meeting allowance:**
 - a. **Deputy President \$11,086**

Decision

9/0

STATUTORY IMPLICATIONS

Local Government Act 1995 Division 8 — Local government payments and gifts to its 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.*

[Section 5.98 amended: No. 64 of 1998 s. 36; No. 17 of 2009 s. 33; No. 2 of 2012 s. 14.]

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.*

[Section 5.98A inserted: No. 64 of 1998 s. 37; amended: No. 2 of 2012 s. 15.]

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.*

[Section 5.99 amended: No. 2 of 2012 s. 16.]

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

- (1) *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 eligible 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.*

- (2) *For the purposes of subsection (1), a council member is eligible to be paid an annual allowance under subsection (1) for a type of expense only in the following cases —*

- (a) *in the case of an annual allowance that is paid in advance, if it is reasonably likely that the council member will incur expenses of that type during the period to which the allowance relates;*
- (b) *in the case of an annual allowance that is not paid in advance, if the council member has incurred expenses of that type during the period to which the allowance relates.*

[Section 5.99A inserted: No. 64 of 1998 s. 38; amended: No. 2 of 2012 s. 17; No. 26 of 2016 s. 13.]

POLICY IMPLICATIONS

There are no other policy implications.

FINANCIAL IMPLICATIONS

The financial implications of this policy will be contained in the 2021/22 Annual Budget. At this stage of the budget process if Council adopts the amended policy and the maximum amounts contained in the 2021 Salaries and Allowances Tribunal (SAT) determination increase by a similar amount to the previous year, the funding requirement is estimated to be \$230,000.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

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

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

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

Strategy 4.3.4: Build internal capacity by attracting, developing and retaining the best people.

RISK IMPLICATIONS

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

Control: Implementation of LTFP and Annual Budget.

Policies updated in accordance with schedule and operational requirements.

COMMUNITY ENGAGEMENT

No community engagement is required. Community engagement on the budget in general will be conducted later in the budget process.

COMMENTS

The Salaries and Allowances Tribunal (SAT) determination for 2021 has not been published as at the time of preparing this report. Shire Officers do not expect that the 2021 determination will be materially different to the 2020 determination. The 2021 determination is expected to be published in April 2021 after which the amounts for Members Allowances and Entitlements will be finalised for budget preparation purposes. The Members Allowances and Entitlements will be reported to Council as part of the 2021/22 Annual Budget at the June 2021 Ordinary Council Meeting. The attached draft Council Policy CP/CNC-3141 Elected Member Allowances and Entitlements includes an amendment to clause 2.1 to set the Elected Members Annual Meeting Attendance Fee at 70% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination. Additional minor amendments have been made to ensure continued alignment with Council's Strategic Risk Register.

ATTACHMENTS

Attachment 1 - Council Policy CP/CNC-3141 Elected Member Allowances and Entitlements - DRAFT

Attachment 2 - SAT Local Government CEO and Elected Members Determination 2020

12.4.5. Review of Covid-19 Financial Hardship Policy

DATE:	30 March 2021
AUTHOR:	Rates Officer
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	GN.10.6, FM.05.22
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council adopts the revised policy CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors.

Council Decision

Minute Number: 30/03/2021– 118409

That Council adopts the revised policy CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors.

**Moved: Cr T Chafer
Seconded: Cr M Dear**

Decision: 9/0

PURPOSE

For Council to consider the amended policy CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Funder - provide funds or other resources

Leader - plan and provide direction through policy and practices

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

As part of the Shire's Coronavirus (COVID-19) Response Plan and following the recommendation of the WALGA State Council, Council adopted Council Policy CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors at the 28 April 2020 Ordinary Council Meeting. The policy covered the 2020/21 financial year and had a review date of March 2021.

WALGA State Council Resolution 41.1/2020

That WALGA:

- 1. Notes the significant contribution of Local Governments in supporting their communities through the COVID-19 pandemic from a financial, economic, community and social perspective.*
- 2. Requests each Local Government give consideration to the following suite of actions, for Local Governments with the capacity to do so, to provide a coordinated and consistent response to the COVID-19 pandemic:*
 - a. Consider not increasing rates for the 2020-21 financial year*
 - b. Adoption of the WALGA template rates hardship policy by Local Governments that do not currently have a policy*
 - c. Consider rate relief options to support small businesses affected by the COVID-19 pandemic*
 - d. Review fees and charges considering whether fees can be reduced, waived or deferred during the COVID-19 pandemic*
 - e. Bring forward capital works and infrastructure spending with aggressive application of reserves and borrowing*
 - f. Prioritise Local Government spending with businesses and contractors located within the Local Government*
 - g. Implement business friendly payment terms to support business cash flow*
 - h. Consider supporting Community sporting and cultural groups by either establishing grant programs or waiving fees and charges*
 - i. Redeploy staff affected by facility closures to tasks that support the community*
- 3. Notes the State Government is urgently drafting legislative and regulatory amendments to support the actions outlined in point 2 above*
- 4. Notes the advocacy for the following:*
 - a. An increase in Local Government borrowing capacity beyond current Western Australian Treasury Corporation borrowing limits*
 - b. Suspension of the Western Australian Treasury Corporation's borrowing guarantee charge of 0.7 percent on top of the loan interest rate for the 2020-2021 financial year*
 - c. No increase to street lighting and utility tariffs in 2020-2021*

- d. *Deferral of revaluations for the 2020-2021 financial year*
- e. *Request the Office of the Auditor General to cease performance audits for the 2020-2021 financial year*
- f. *Freezing of the waste levy for the 2020-2021 financial year*

Council Decision

Minute Number: 28/04/2020 - 118208

Moved: Cr A Petherick

Seconded: Cr M McKittrick

That Council adopt the draft policy CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors.

**Carried:
9/0**

STATUTORY IMPLICATIONS

Local Government Act 1995

6.12. Power to defer, grant discounts, waive or write off debts

- (1) *Subject to subsection (2) and any other written law, a local government may —*
 - (a) *when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or*
 - (b) *wave or grant concessions in relation to any amount of money; or*
 - (c) *write off any amount of money,*
 - which is owed to the local government.*
 - * Absolute majority required.*
 - (2) *Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.*
 - (3) *The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.*
 - (4) *Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.*
- [Section 6.12 amended: No. 64 of 1998 s. 39.]*

6.45. Options for payment of rates or service charges

- (1) *A rate or service charge is ordinarily payable to a local government by a single payment but the person liable for the payment of a rate or service charge may elect to make that payment to a local government, subject to subsection (3), by —*
 - (a) *4 equal or nearly equal instalments; or*
 - (b) *such other method of payment by instalments as is set forth in the local government's annual budget.*

- (2) *Where, during a financial year, a rate notice is given after a reassessment of rates under section 6.40 the person to whom the notice is given may pay the rate or service charge (a) by a single payment; or*
(b) by such instalments as are remaining under subsection (1)(a) or (b) for the remainder of that financial year.
- (3) *A local government may impose an additional charge (including an amount by way of interest) where payment of a rate or service charge is made by instalments and that additional charge is, for the purpose of its recovery, taken to be a rate or service charge, as the case requires, that is due and payable.*
- (4) *Regulations may —*
 - (a) provide for the manner of making an election to pay by instalments under subsection (1) or (2); and*
 - (b) prescribe circumstances in which payments may or may not be made by instalments; and*
 - (c) prohibit or regulate any matters relating to payments by instalments; and*
 - (d) provide for the time when, and manner in which, instalments are to be paid; and*
 - (e) prescribe the maximum amount (including the maximum interest component) which may be imposed under subsection (3) by way of an additional charge; and*
 - (f) provide for any other matter relating to the payment of rates or service charges.*

[Section 6.45 modified: SL 2020/57 1M.]

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

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

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

- (1) *In this clause —*
financial hardship policy, in relation to a local government, means a policy addressing the manner in which the local government will deal with financial hardship that may be suffered by ratepayers and other persons who are required to make payments to the local government.
- (2) *Section 6.45 is modified as set out in this clause in relation to payment by instalments of a rate or service charge imposed by a local government in the 2020/21 financial year.*
- (3) *The local government cannot impose an additional charge (including an amount by way of interest) under section 6.45(3) in respect of payment by instalments made by an excluded person.*
- (4) *If the local government has not adopted a financial hardship policy, the maximum rate of interest that may be imposed by the local government under section 6.45(3) is 3%. Subclause (4) applies despite the Local Government (Financial Management) Regulations 1996 regulation 68.*

6.47. Concessions

Subject to the Rates and Charges (Rebates and Deferments) Act 1992, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.*

** Absolute majority required.*

6.51. Accrual of interest on overdue rates or service charges

- (1) *A local government may at the time of imposing a rate or service charge resolve* to impose interest (at the rate set in its annual budget) on —*
(a) *a rate or service charge (or any instalment of a rate or service charge); and*
(b) *any costs of proceedings to recover any such charge,*
that remains unpaid after becoming due and payable.

** Absolute majority required.*

- (2) *The rate of interest that may be set by the local government under this section is not to exceed the rate for the time being prescribed as the maximum rate of interest that may be set for the purposes of this section.*
- (3) *Accrued interest is, for the purpose of its recovery, taken to be a rate or service charge, as the case requires, that is due and payable.*
- (4) *If a person is entitled under the Rates and Charges (Rebates and Deferments) Act 1992 or under this Act (if the local government in a particular case so resolves) to a rebate or deferment in respect of a rate or service charge —*
(a) *no interest is to accrue in respect of that rate or service charge payable by that person; and*
(b) *no additional charge is to be imposed under section 6.45(3) on that person.*

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

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

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

- (1) *Section 6.51 is modified as set out in this clause in relation to a resolution made under section 6.51(1) by a local government at the time of imposing a rate or service charge for the 2020/21 financial year.*
- (2) *The resolution —*
(a) *cannot impose interest in respect of a rate or service charge payable by an excluded person; and*
(b) *is to specify that the imposition of interest does not apply in respect of a rate or service charge payable by an excluded person.*
- (3) *The rate of interest that may be set by the local government under section 6.51 is not to exceed 8%.*
- (4) *Subclause (3) applies despite the Local Government (Financial Management) Regulations 1996 regulation 70.*

Delegation of power

5.42. Delegation of some powers and duties to CEO

(1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —

- (a) this Act other than those referred to in section 5.43; or
- (b) the Planning and Development Act 2005 section 214(2), (3) or (5).

* Absolute majority required

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

[Section 5.42 amended: No. 1 of 1998 s. 13; No. 28 of 2010 s. 70.]

5.43. Limits on delegations to CEO - In part:

(1) A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority of the council;

POLICY IMPLICATIONS

The following Council policies are relevant to this item.

CP FIN-3212 Rates and Charges Debt Collection

CP FIN-3214 Sundry Debt Collection

CP FIN-3211 Fees and Charges Pricing Policy

CP GOV-3112 Policy Management Policy

FINANCIAL IMPLICATIONS

The adoption of policy CP/FIN3219 COVID-19 Financial Hardship - Rates and Sundry Debtors has had financial implications for the 2019/20 and 2020/21 financial years. The number of applications received has been less than anticipated and the financial impact on revenue and cash flows from reductions in interest and fees along with extended payment terms is estimated to be approximately \$7,500 to date. Whilst the number of ratepayers and sundry debtors applying for financial hardship under the policy has been less than anticipated during the 2020/21 financial year, due to the continuing uncertainty surrounding COVID-19 the ongoing financial implications are unknown at this stage.

It should be noted that rates debtors are debts against the property and all amounts deferred under the Policy will ultimately be recovered, with the exception of some pastoral leases. With respect to sundry debtors there is a real risk that amounts owed or deferred will not be recoverable at all. Appropriate provision has been made in the financial accounts for the financial year ended 30 June 2021 to reflect and will also be taken into account in the preparation of the 2021/22 Budget.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

RISK IMPLICATIONS

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

Control: Implementation of LTFP and Annual Budget.

Policies reviewed and updated in accordance with schedule and operational requirements.

Risk: Failure to develop appropriate, meaningful policies which enable the administration to perform in an effective and efficient way.

Control: New policies adopted as required.

Policies reviewed and updated in accordance with schedule and operational requirements.

The risks related to the COVID-19 pandemic will continue to be monitored through application of the Shire's COVID-19 Business Continuity Risk Framework and the ongoing review of essential functions and services as the pandemic continues to progress.

COMMUNITY ENGAGEMENT

Community engagement will include the following:

- Correspondence with ratepayers, business and other community members on a general and individual basis as required.
- Contact with individual rates and sundry debtors at the time their account falls into arrears.

COMMENTS

Shire Officers have adopted a range of options to provide financial relief and assistance to the community in line with and in support of the position adopted by the WALGA State Council, taking into consideration the circumstances unique to the Shire of Wyndham East Kimberley.

Measures to provide financial relief and assistance during the 2020/21 financial year included the adoption of a 0% increase in the Rate in the Dollar and a 0% increase in Fees and Charges. Further measures will be considered as part of the 2021/22 budget process.

The COVID-19 Financial Hardship - Rates and Sundry Debtors policy adopted in 2020 is based on the WALGA Rates Hardship Policy template revised to Council's policy format with amendments to incorporate the inclusion of sundry debtors as well as rates debtors under the policy. Following adoption of the policy Officers made some minor administrative changes to the policy to align with current Council policies and procedures.

The policy enables the Shire to provide financial relief to ratepayers and sundry debtors on a case by case basis as needed. The criteria for the assessment of financial hardship is applied in accordance with the policy's stated intention to provide fair, equitable, consistent and dignified support to the community.

In accordance with the relevant sections of the *Local Government Act 1995* outlined in the statutory implications section above, requests to waive interest will continue to be presented to Council for consideration as required. Governance oversight of the application of this policy is through the Audit (Finance and Risk) Committee which will continue to receive quarterly updates at its formal meetings.

Whilst the number of applications for financial hardship under the policy has been less than anticipated during the 2020/21 financial year, Shire officers consider that it is appropriate to continue to have a financial hardship policy in place while the Western Australian Public Health State of Emergency and the *Local Government (COVID-19 Response) Orders* remain in place. The attached draft policy has been amended to extend its application to include rates and sundry debts incurred for the 2021/22 financial year.

ATTACHMENTS

Attachment 1 - CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors - DRAFT

12.5. INFRASTRUCTURE

12.5.1. Emergency Plans

DATE:	30 March 2021
AUTHOR:	Senior Ranger and Emergency Services Coordinator
RESPONSIBLE OFFICER:	Director Infrastructure, Stuart Dyson
FILE NO:	ES.11.5
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council endorses the attached plans in compliance with legislative requirements:

- 1. Local Emergency Management Arrangements 2021;**
- 2. Recovery Plan 2021; and**
- 3. Evacuation Plan 2021.**

Council Decision

Minute Number: 30/03/2021- 118410

That Council endorses the attached plans in compliance with legislative requirements:

- 1. Local Emergency Management Arrangements 2021;**
- 2. Recovery Plan 2021; and**
- 3. Evacuation Plan 2021.**

Moved: Cr T Chafer

Seconded: Cr N Brook

Decision: 9/0

PURPOSE

To review the Local Emergency Management Arrangements (LEMA) which were last reviewed prior to 2016. The attached reviewed LEMA will ensure compliance with legislative requirements and ensure the Shire has 5 years before the next review is required.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

On 28 June 2016 Council endorsed the review of the current LEMA.

COUNCIL DECISION

Minute No: 11415

Moved: Cr E Bolto

Seconded: Cr B Robinson

That Council endorse:

- 1. The Shire of Wyndham East Kimberley Local Emergency Management Arrangements; and**
- 2. The Shire of Wyndham East Kimberley Local Recovery Plan.**

Carried 9/0

STATUTORY IMPLICATIONS

Section 42 of the Emergency Management Act 2005 - Reviewing and Renewing Local Emergency Management Arrangements.

The Shire is required to comply with the above and review the LEMA, Recovery Plan and Evacuation Plans every 5 years. Failing to do so is in breach of this Act.

POLICY IMPLICATIONS

State Emergency Management Policy 2020 Section 2.5 - Local Arrangements.

State Emergency Management Preparedness Procedures 2020 Procedure 8 - Local Emergency Management Arrangements.

The Shire is required to comply with the above and review the LEMA, Recovery Plan and Evacuation Plans every 5 years.

FINANCIAL IMPLICATIONS

Failing to have a compliant LEMA, Recovery Plan and Evacuation Plan can reduce the availability of funding, cause inconsistencies in estimating amounts of emergency funding requirements needed and cause financial risk to the Shire due to liability issues.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

- Goal 2.1: Conserve the Shire's unique natural environment for the enjoyment of current and future generations.
- Goal 2.2: Provide sustainable public infrastructure that serves the current and future needs of the community.
- Goal 2.3: Make towns safe and inviting for locals and visitors.
- Goal: 4.1: Effective representation through advocacy at a regional, state and national level.
- Goal: 4.3: Ensure a strong and progressive organisation delivering customer focused services.

Strategy 1.3.1: Advocate to State and Federal governments for improved human services (health, housing, disability access, aged care, child/youth welfare and family support) to meet current and future needs.

Strategy 2.1.1: Work in partnership to implement cooperative programs to manage land, fire, introduced animals and weeds.

Strategy 2.3.2: Maintain a partnership approach for emergency management planning, preparedness, response and recovery.

Strategy 2.3.5: Enforce effective public health and safety.

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

Corporate Business Plan

CBP Action: # 414 - Tasks to support the management of Fire and Emergency Services.

RISK IMPLICATIONS

Risk:

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

Control:

Ensure the Local Emergency Management Arrangements, Recovery Plan and Evacuation Plan are reviewed and updated as per legislative requirements.

COMMUNITY ENGAGEMENT

No community engagement is required only engagement amongst LEMC agencies.

COMMENTS

In accordance with *State EM Policy Section 2.5* the LEMA will be amended or replaced whenever the local government considers it appropriate (*s.42 of the EM Act*). However, according to *State EM Preparedness Procedure 8*, the LEMA (including recovery Plans and Evacuation Plans) are to have an entire review undertaken every five (5) years, as risks might vary due to climate, environment and population changes.

There are differing informing policies and legislation for determining when the LEMA shall be reviewed; Shire Officers default to the earlier date of every 5 years.

ATTACHMENTS

Attachment 1 - SWEK LEMA 2021

Attachment 2 - SWEK Evacuation Plan 2021

Attachment 3 - SWEK Local Recovery Plan 2021

12.5.2. Tourism House (Restaurant) Repairs

DATE:	30 March 2021
AUTHOR:	Asset Officer
RESPONSIBLE OFFICER:	Director Infrastructure, Stuart Dyson
FILE NO:	CP.07.8
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

- 1. Approves the transfer of \$80,877.22 inc GST from the Tourism House Reserve account to fund repair works to the restaurant area of Tourism House.**
- 2. Endorses the repairs outlined in this report to the restaurant area of Tourism House.**

Council Decision

Minute Number: 30/03/2021- 118411

That Council:

- 1. Approves the transfer of \$80,877.22 inc GST from the Tourism House Reserve account to fund repair works to the restaurant area of Tourism House.**
- 2. Endorses the repairs outlined in this report to the restaurant area of Tourism House.**

Moved: Cr A Petherick

Seconded: Cr J Farquhar

Decision: 9/0

PURPOSE

To seek Council approval to transfer funds from the Tourism House Reserve account to fund and undertake essential repairs at the Tourism House restaurant area.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Provider - provide physical infrastructure and essential services.

BACKGROUND

In September 2018, the Shire took over the management of Tourism House and the leases for its tenants. Prior to taking over this management an inspection of the building and the needs of each of the tenants were documented. Inspections and maintenance on the building was undertaken by the Shire to ensure the condition of the building was fit for purpose for each of the tenants and a clear record of the building condition was established. Works undertaken on the restaurant portion of the building included rectification works for water damaged walls and painting of the interior (refer to Attachment 4 - Building Condition Report 2018).

In November 2020, Shire Officers undertook further inspections at the Tourism House building as part of the asset pick-up for all Shire managed building assets. As part of this inspection, it was noticed that there were several areas of concern within the restaurant area of the Tourism House building structure which pertain to a lack of maintenance. Subsequently, further specific inspections were undertaken to obtain a full scope of works needed to rectify the damage identified.

STATUTORY IMPLICATIONS

Commercial Tenancy (Retail Shops) Agreements Act 1985.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The cost of repairing the damaged sections has been estimated at a value of \$75,612.62 for building works only and a further \$5,264.60 to replace the Exhaust Fan / Hood Assembly which has now failed due to lack of maintenance / cleaning.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 2: PLACE - Enhancing the environment

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

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

Corporate Business Plan

*CBP Action: 172 Review and maintain an Asset Management Plan and Capital Works Plan
167 Review and maintain the Long Term Financial Management Plan*

RISK IMPLICATIONS

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

Control: Regularly inspect and maintain effective Asset Management systems to ensure maintenance of Shire assets.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

On inspection it was noticed that there was some damage in the kitchen area which had occurred to the skirtings, within the bounds of the kitchen and on the western wall which has been caused by the fire hose being used to clean the floor area. On the 12th November 2020, the tenant was advised verbally and in writing to cease their use of the fire hose and Environmental Health Officers advised the tenant of appropriate cleaning practices.

Further inspections have highlighted the expedited rate of decay to some of these damaged areas, most notable are the wall structures, the bottom plates and lower level of the walls have corroded leaving the wall with no structural integrity at this lower level (refer to Attachment 2 - Tourism House - Images). Shire Officers have inspected the affected walls and although they are not structural, they require immediate repair to prevent further deterioration of the building.

The current maintenance and condition of the building is impacting environmental health concerns, a substantial increase in pests has been noted within the buildings restaurant area. Typically damp and dark areas are breeding grounds for pests and despite pest treatments assisting the control of this issue, it is not possible to spray the internal cavities to completely eradicate them, without repair of the damaged areas the pest problem will continue.

Inspections have also identified wall tiles lifting off the wall behind cooking equipment, this is most likely due to the nature of the cooking equipment used and cooking practices (refer to Attachment 2 - Tourism House - Images).

Further concerns are held where floor tiles are cracked and/or chipped allowing moisture to pool in these areas, as well as in the grout lines where grout is missing which is aiding the growth of mould.

Additional to these concerns, the tenants have reported continuing repair works that require attention including the rangehood not operating properly. On inspection, it was found that the range hood required motor replacements as they had burnt out due to a lack of routine maintenance and an excessive buildup of grease and oil preventing normal function. A deep clean of the flue as well as the range hood filters and hood is required by the tenants prior to any repairs being able to be undertaken. Cost for replacement motors is \$5,264.60.

In February 2021, a plumber attended to a roof leak and observed a substantial buildup of grease on the roof surface and works required to clean the surface and allow for repairs to be undertaken (refer to Attachment 2 - Tourism House - Images).

Shire Officers have compiled a scope of works for the required repairs and have commenced conversations with the tenant regarding the required works, including discussions regarding tenant responsibility for maintenance of the property. Shire Officers have investigated claims against the Shire's building insurance to partially fund these repair works; the insurance provider would then potentially pursue the tenant to reclaim any damage caused by them. Our insurance provider has indicated that any works undertaken to repair the building would need to meet current building standards therefore some items may not be covered as they replace like for like with the standard of original building construction prior to the damage occurring.

Tourism House Reserve

The balance held in the Tourism House Reserve as of March 2021 is \$68,800. Anticipated transfers to the reserve during this financial year (approximately \$36,000) will ensure that there are sufficient funds to meet the works required.

Maintenance Obligations

Meetings have been held with the tenants to ensure they fully understand their obligations to undertake maintenance activities as per the terms of the lease. Under clause 9 of the lease "Maintenance, Repair and Cleaning" they have an obligation to *"maintain, replace, repair, clean and keep the premises in good repair"*. There is no doubt that the practice of using a fire hose has contributed to the damage and this will be a key focus area for discussion by Officers with them. Officers will also attempt to get the tenants to make a contribution towards the cost of repairs. Officers also plan to increase the frequency of inspections to ensure maintenance activities are being carried out in an approved manner.

ATTACHMENTS

Attachment 1 - Scope of Works Tourism House Restaurant

Attachment 2 - Tourism House - Images

Attachment 3 - Floor Plan

Attachment 4 - Building Condition Report 2018

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

The Presiding member moved that Council moved in camera at 5:52 pm.

Council Decision

Minute Number: 33/03/2021 118412

That Council move in-camera 5:52pm. Shire Officers to remain.

Moved: Cr M McKittrick

Seconded: T Chafer

Decision: 9/0

16.1. REQUEST FOR APPLICATIONS T06-20/21: PROVISION OF BUILDING MAINTENANCE SERVICES

The Shire CEO advised Council that the Administration wished to withdraw this report for reassessment and would bring it to council at the 27 April 2021 Ordinary Council Meeting.

16.2. REQUEST FOR APPLICATIONS T07-20/21 PROVISION OF ELECTRICAL SERVICES

DATE:	30 March 2021
AUTHOR:	Senior Procurement and Contracts Officer
RESPONSIBLE OFFICER:	Stuart Dyson, Director Infrastructure
FILE NO:	CM.16.390
DISCLOSURE OF INTERESTS:	Nil.

This item is to be considered behind closed doors as per the *Local Government Act 1995* section 5.23(2)(c):

5.23. Meetings generally open to public

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

VOTING REQUIREMENT

Simple Majority

PURPOSE

To consider applications received for T07-20/21 and to appoint a panel of pre-qualified suppliers for the provision of electrical services.

Council Decision

Minute Number: 30/03/2021 -118412

That Council:

- 1. Accepts the appointment of the following Panel Members to Pre-Qualified Supplier Panel T07-20/21 Provision of Electrical Services, in accordance with the tendered schedule of rates and for a period of three (3) years from contract execution:**
 - a. The Jolly Family Trust T/A C&S Jolly Electrics (ABN: 28 454 701 259) of Lot 147 Whimbrel Road, Kununurra WA 6743;**
 - b. TST Electrical Pty Ltd (ABN: 74 131 054 825) of 120 Weaber Plain Road, Kununurra WA 6743;**
 - c. Vision Power Pty Ltd ATFT Vision Power Unit Trust (ABN: 17 509 929 256) of 10 Poincettia Way, Kununurra WA 6743; and**
 - d. Trimbell Joshua T/A Trimlec (ABN: 77 159 091 925) of 57 Weaber Plain Road, Kununurra WA 6743.**
- 2. Delegates the formation and execution of the contracts to the Chief Executive Officer.**
- 3. Authorises the Chief Executive Officer to approve the two (2) possible successions of twelve (12) month extension terms, following the cessation of the initial three (3) year contract term, providing appointed panel members have demonstrated satisfactory contract performance.**

Moved: Cr Grant Lodge

Seconded: Cr J Farquhar

Decision: 9/0

16.3. RFQ14-20/21: NUTWOOD / ROSEWOOD AVENUE UPGRADE STAGE 3 AND BANDICOOT DRIVE UPGRADE STAGE 2

DATE:	30 March 2021
AUTHOR:	Senior Procurement and Contracts Officer
RESPONSIBLE OFFICER:	Stuart Dyson, Director Infrastructure
FILE NO:	CM.16.395
DISCLOSURE OF INTERESTS:	Nil.

This item is to be considered behind closed doors as per the *Local Government Act 1995* section 5.23(2)(c):

5.23. Meetings generally open to public

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

VOTING REQUIREMENT

Simple Majority

PURPOSE

To consider quotations received under WALGA PSA PSP009, Quotation RFQ14 - 20/21 and to make recommendation for award of contract.

Council Decision

Minute Number: 30/03/2021 - 118413

That Council;

- 1. Accepts the quotation submitted by Roadline Contracting Pty Ltd (ABN: 31 124 402 928) of 13 McDaniel Road, Broome WA 6725 for WALGA PSA PSP009 Quotation RFQ14 - 20/21 as follows:**
 - a. Nutwood / Rosewood Avenue Upgrade Stage 3 for the fixed lump sum price of \$1,063,489.25 excluding GST; and**
 - b. Bandicoot Drive Upgrade Stage 2 for the fixed lump sum price of \$642,656.81 excluding GST.**
- 2. Delegates the formation of the Contract to the Chief Executive Officer, subject to any variations (of a minor nature) prior to entry to Contract.**

Moved: T Chafer

Seconded: Cr G Lodge

Decision: 9/0

16.4. REQUEST TO WRITE OFF INTEREST

DATE:	30 March 2021
AUTHOR:	Rates Officer
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
ASSESSMENT NO:	A2574
FILE NO:	A2574D & FM.11.156
DISCLOSURE OF INTERESTS:	Nil

This item is to be considered behind closed doors as per the *Local Government Act 1995* section 5.23(e):

5.23. Meetings generally open to public

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

- (h) *such other matters as may be prescribed.*
- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

VOTING REQUIREMENT

Absolute Majority

PURPOSE

For Council to consider a request to write off outstanding penalty interest for Rates Assessment A2574.

Council Decision

Minute Number: 30/03/21 -118413

That Council approve the write off of outstanding penalty interest of \$140,813 for Rates Assessment A2574.

**Moved: Cr Grant Lodge
Seconded: T Chafer**

Decision: 9/0

16.5. REQUEST TO WAIVE RATES

DATE:	30 March 2021
AUTHOR:	Rates Officer
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.11.56
DISCLOSURE OF INTERESTS:	Nil

This item is to be considered behind closed doors as per the *Local Government Act 1995* section 5.23(e):

5.23. Meetings generally open to public

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

VOTING REQUIREMENT

Absolute Majority

PURPOSE

For Council to consider a request from the ratepayer of assessment A1075 to waive \$9,912.69 of their 2020/21 levied Rates.

Council Decision

Minute Number: 30/03/2021 118414

That Council does not approve the request to waive Rates to the value of \$9,912.69 for assessment A1075.

Moved: Cr T Chafer

Seconded: Cr M McKittrick

Decision: 9/0

The Presiding member moved that Council moved out of camera at 6:25 pm.

Council Decision

Minute Number: 30/03/2021 118415

That Council move out of camera 6.25pm.

Moved: Cr M McKittrick

Seconded: Cr N Brook

Decision: 9/0

Members of the Gallery invited back in to Chambers. The Shire President read the Council Resolutions aloud and noted that the Shire Officers had withdrawn item 16.1.

17. CLOSURE

The Shire President declared the meeting closed at 6.29pm.



SHIRE OF WYNDHAM | EAST KIMBERLEY

MINUTES ORDINARY COUNCIL MEETING

30 MARCH 2021

DISCLAIMER

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

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

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

Signed on behalf of Council

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

VERNON LAWRENCE

CHIEF EXECUTIVE OFFICER

NOTES

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

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**SHIRE OF WYNDHAM EAST KIMBERLEY
ORDINARY COUNCIL MEETING AGENDA
Kununurra Council Chambers
TO BE HELD ON TUESDAY 30 MARCH 2021 AT 5:00PM**

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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

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

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

The Shire President declared the Meeting open at 5.04 pm.

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

Cr D Menzel	Shire President	
Cr T Chafer	Deputy Shire President	
Cr N Brook	Councillor	
Cr D Pearce	Councillor	
Cr M McKittrick	Councillor	
Cr A Petherick	Councillor	
Cr G Lodge	Councillor	
Cr M Dear	Councillor	Video Conference
Cr J Farquhar	Councillor	Video Conference

V Lawrence	Chief Executive Officer
S Dyson	Director Infrastructure
N Kearns	Director Planning and Community Development
F Heading	Director Corporate Services
S Maitland	Minute Taker

S Sinclair	Kimberley Echo
T O'Connor	ABC

3. DECLARATION OF INTEREST

- Financial Interest

Councillor/Staff	Item	Title	Description of interest
Vernon Lawrence, CEO	12.2.5	CEO Recruitment, Performance and Termination	As current CEO, the content of this report may impact on my contract terms and tenure

- Impartiality Interest

Nil

- 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 23 February 2021.

Council Decision

Minute Number: 30/03/2021 - 118395

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

Moved: Cr M McKittrick

Seconded: Cr J Farquhar

Decision: 9/0

Note: The Minutes of the Ordinary Council Meeting held on 23 February 2021 are provided under separate cover via www.swek.wa.gov.au

9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

- **25 February – Geoff Haerewa, Liberal Party Candidate.** Met with the Shire President and CEO.
- **9 March – Indus Mining meeting.** Attended by the CEO and Cr Chafer for an update on their mining situation.
- **11 March – KDC Board Meeting**
- **12 March – National Drought and Flood Agency, Jane Mack.** Attended by the Shire President and the CEO.
- **16 March – Cashless Debit Card Meeting with Minderoo Foundation and Mr and Mrs Forrest.** Attended by the Shire President, the CEO and Cr Chafer.
- **16 March – Australian Citizenship Ceremony,** held in the Kununurra Council Chambers, with Cr Tony Chafer officiating and welcoming 12 new citizens.

- **17 March – Keep Plains EOI Assessment, NT Land Corp Darwin.**
Attended by the Shire President.
- **23 March – Tourism WA, CEO Tim Bray.** The Shire President as a KDC Representative attended a briefing.
- **25 March – Cotton growers and interested parties met** to analyse and discuss the building of a cotton gin. Attended by the Shire President.
- **Congratulations to Cr Brook on her secondment with Tourism WA** for 3-6 months

10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

- 16.1. Request for applications T06-20/21: Provision of Building Maintenance Services.
- 16.2. Request for applications T07-20/21: Provision of Electrical Services.
- 16.3. RFQ14-20/21: Nutwood / Rosewood Avenue Upgrade Stage 3 and Bandicoot Drive Upgrade Stage 2.
- 16.4. Request to write off interest.
- 16.5. Request to waive rates.

11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Nil

12. REPORTS

12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL

12.2. CHIEF EXECUTIVE OFFICER

12.2.1. Standing Item - Outstanding Actions from Previous Council Resolutions

DATE:	30 March 2021
AUTHOR:	Executive Officer to the CEO
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

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

Council Decision

Minute Number: 30/03/2021 - 118396

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

Moved: Cr M McKittrick

Seconded: Cr N Brook

Decision: 9/0

PURPOSE

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

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

STATUTORY IMPLICATIONS

NIL

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.2: Good decision making through engagement with the community

Strategy 4.2.2: Ensure community input informs planning and decision making

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

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

RISK IMPLICATIONS

NIL

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

An update of actions from the February 2021 Council resolutions are detailed in Attachment 1.

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

ATTACHMENTS

Attachment 1 - Council Action Register - February 2021

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

12.2.2. Standing Item - Use of the Common Seal

DATE:	30 March 2021
AUTHOR:	Executive Officer to the CEO
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 24 February 2021 to 30 March 2021.

Council Decision

Minute Number: 30/03/2021 - 118397

That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 24 February 2021 to 30 March 2021.

Moved: Cr Debra Pearce

Seconded: Cr Grant Lodge

Decision: 9/0

PURPOSE

For Council to receive this report on the application of the Shire of East Kimberley Common Seal for the period 24 February 2021 to 30 March 2021.

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 2017-2027

Focus Area 4: Civic Leadership

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

RISK IMPLICATIONS

NIL

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

There were two documents for the time period of 24 February 2021 to 30 March 2021 with the Shire of Wyndham East Kimberley Common Seal applied as per the table below:

Date of Use	Document
24/02/21	Lease Agreement - Booth 1, East Kimberley Regional Airport - Territory Rent-A-Car (t/a Thrifty Car Rental)
24/03/21	Lease Agreement - Ewin Centre, Reserve 28976 - Ewin Early Learning Centre

ATTACHMENTS

NIL

12.2.3. Code of Conduct for Council Members, Committee Members and Candidates

DATE:	30 March 2021
AUTHOR:	Chief Executive Officer
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
FILE NO:	GN.06.1
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council, with respect to the new Model Code of Conduct for Council Members, Committee Members and Candidates for a local government election;

- 1. Repeal the existing Code of Conduct for Council Members, Committee Members and Employees;**
- 2. Note that pursuant to section 5.51A of the Local Government Act 1995, the Chief Executive Officer will be preparing an interim Code of Conduct for all employees of the Shire, including the Chief Executive Officer, based on the repealed version, prior to any model being available from WALGA.**
- 3. Pursuant to section 5.104 of the Local Government Act 1995, adopt the new CP CNC 3145 Code of Conduct for Council Members, Committee Members and Candidates for local government elections for The Shire of Wyndham East Kimberley, listed as Attachment 2, subject to the deletion of the word 'work' in clause 5 and replacement of it with the word 'working' and request the Chief Executive Officer to ensure all Elected Members and Committee Members are aware of its content;**
- 4. Pursuant to the Local Government (Model Code of Conduct) Regulations 2021;**
 - a. Clause 11 (2), adopt the form for lodging complaints, listed as Attachment 3;**
 - b. Clause 11 (3), authorise the Chief Executive Officer to receive Division 3 complaints and withdrawals of the same, relating to**

Council Members, Committee Members and Candidates.

5. Pursuant to sections 5.551A (3) and 5.104 (7) of the Local Government Act 1995, request the Chief Executive Officer to ensure that both of the updated / adopted Codes of Conduct are published on the Shire's official website, as soon as practical.

Council Decision

Minute Number: 30/03/2021 - 118398

That Council, with respect to the new Model Code of Conduct for Council Members, Committee Members and Candidates for a local government election;

1. Repeal the existing Code of Conduct for Council Members, Committee Members and Employees;
2. Note that pursuant to section 5.51A of the Local Government Act 1995, the Chief Executive Officer will be preparing an interim Code of Conduct for all employees of the Shire, including the Chief Executive Officer, based on the repealed version, prior to any model being available from WALGA.
3. Pursuant to section 5.104 of the Local Government Act 1995, adopt the new CP CNC 3145 Code of Conduct for Council Members, Committee Members and Candidates for local government elections for The Shire of Wyndham East Kimberley, listed as Attachment 2, subject to the deletion of the word 'work' in clause 5 and replacement of it with the word 'working' and request the Chief Executive Officer to ensure all Elected Members and Committee Members are aware of its content;
4. Pursuant to the Local Government (Model Code of Conduct) Regulations 2021;
 - a. Clause 11 (2), adopt the form for lodging complaints, listed as Attachment 3;
 - b. Clause 11 (3), authorise the Chief Executive Officer to receive Division 3 complaints and withdrawals of the same, relating to Council Members, Committee Members and Candidates.
5. Pursuant to sections 5.551A (3) and 5.104 (7) of the Local Government Act 1995, request the Chief Executive Officer to ensure that both of the updated / adopted Codes of Conduct are published on the Shire's official website, as soon as practical.

Moved: Cr T Chafer
Seconded: Cr D Pearce

Decision: 9/0

PURPOSE

The government has enacted new legislation requiring all local governments to adopt a new Code of Conduct for Council Members, Committee Members and Candidates for a local government election, and to deal with ancillary matters.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices
Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The following regulations took effect on 3 February 2021, implementing the remaining parts of the Local Government Legislation Amendment Act 2019:

- Local Government (Administration) Amendment Regulations 2021
- Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021
- Local Government (Model Code of Conduct) Regulations 2021.

In regard to the Local Government (Model Code of Conduct) Regulations 2021, Local Governments are required to adopt a Code of Conduct for Council Members, Committee Members and Candidates within three (3) months of the Regulations taking effect (by 3 May 2021).

To account for any breaches occurring on and from the first day that the Regulations take effect, Local Governments must authorise at least one person to receive complaints.

STATUTORY IMPLICATIONS

Sections of the Acts, Regulations and/or Local Laws that apply to this item include:

- Local Government Act 1995
- Local Government (Administration) Amendment Regulations 2021
- Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021
- Local Government (Model Code of Conduct) Regulations 2021.

POLICY IMPLICATIONS

The Council's existing Code of Conduct must be repealed, as the Act and Regulations now stipulates there are to be at least two separate Codes, one for Council Members, Committee Members and Candidates, and another for local government employees.

FINANCIAL IMPLICATIONS

There are no known meaningful financial implications relative to this matter in excess of officer time and minor administrative cost.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

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

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

Strategy 4.3.3: Build internal capacity by attracting, developing and retaining the best people

RISK IMPLICATIONS

Risk: Failure to attract suitably qualified and experienced members of the community to act as elected members.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The Department of Local Government, Sport and Cultural Industries (DLGSC) has produced Guidelines on the Model Code of Conduct for Council Members, Committee Members and Candidates, which is an attachment to this report. It is expected that a Shire Code of Conduct based on the Model Code will be developed in coming months to meet the three (3) month (3 May 2021) deadline and its adoption will be the subject of a separate consideration / approval by Council.

In the interim, the Model Code of Conduct has been recommended and appears to be satisfactory. The Chief Executive Officer has proposed replacing the word 'work' in clause 5 of the Model, with 'working' due to Elected Members and Committee Members not considered to be 'workers' or at 'work' from an employer / employee perspective.

The guidelines also indicate that local governments must authorise at least one person to receive complaints regarding members and candidates. The Regulations state that the Local Government must, in writing, authorise one or more persons to receive complaints and withdrawals of complaints, but they do not specify who that person(s) will be. The Complaints Officer could be:

- Shire President,
- Deputy Shire President (especially for complaints about the President),
- Chief Executive Officer, or
- External Consultant

The recommendation is that the Chief Executive Officer be that person.

For clarity, it is noted that there is still a requirement for a local government to have a Complaints Officer (section 5.120 of the Local Government Act 1995), to process allegations of 'Rules of Conduct' breaches, and these alleged breaches are still to be referred to the Local Government Standards Panel (refer Division 4 of the Model Code of Conduct). The position currently designated as that officer is the Chief Executive Officer.

The DLGSC has also produced a template complaints form as the Regulations state that complaints are to be made in writing in a form approved by the Local Government. The DLGSC template form is another attachment to this item (Attachment 3).

In time, with the development of templates by industry or the Western Australian Local Government Association (WALGA), Local Governments can determine the most appropriate and effective process for dealing with complaints under Division 3 of the Code of Conduct and how they are prioritised and managed. Having such processes at the moment is not required by the law and nor considered critical.

ATTACHMENTS

Attachment 1 - Guidelines on the Model Code of Conduct for Council Members, Committee Members and Candidates

Attachment 2 - CP CNC 3145 Code of Conduct for Council Members, Committee Members and Candidates DRAFT

Attachment 3 - Draft Complaint About Alleged Breach Form Template

12.2.4. Local Government Election 2021

DATE:	30 March 2021
AUTHOR:	Executive Officer to the CEO
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
FILE NO:	GN.07.21
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Absolute Majority

OFFICER RECOMMENDATION

That Council;

1. Declare in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2021 ordinary elections together with any other elections or polls which may be required.
2. Decide, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the election will be as a postal election.

Council Decision

Minute Number: 30/03/2021 – 118399

That Council;

1. Declare in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2021 ordinary elections together with any other elections or polls which may be required.
2. Decide, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the election will be as a postal election.

Moved: Cr T Chafer

Seconded: Cr M McKittrick

Decision: 9/0

PURPOSE

For Council to appoint the Western Australian Electoral Commission (WAEC) to conduct the 2021 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 2019 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 2017 and, prior to that, in 2015.

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 2017 election was conducted by postal vote resulting in an increased participation rate from the 2015 election which was carried out as an "in person" election. In the postal election in 2017, participation was measured by the total number of electors who returned their packages. A total of 1,483 packages were returned giving a participation rate of 41.4%. The State average for local governments using the postal voting method in 2017 was 34.5%. The 2015 election, which was an "in person" election, returned only a 28.9% participation rate. The 2019 election had a participation rate of 30.6%.

At the Council meeting in March 2019 the Council resolved:

COUNCIL DECISION

Minute Number: 26/03/2019 - 115953

Moved: Cr D Pearce

Seconded: Cr M McKittrick

That Council;

- 1. Declare in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2019 ordinary elections together with any other elections or polls which may be required**
- 2. Decide, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the election will be as a postal election**

Carried:8/0

The advantages of postal voting are generally seen as promoting voter participation by making voting more convenient and accessible. For some groups in society attending a Polling Place can be difficult and certainly in a Shire the size of Wyndham East Kimberley, this should 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.

STATUTORY IMPLICATIONS

Local Government Act 1995

Part 4 — Elections and other polls

This Part deals with elections of mayors and presidents by electors, elections of councillors, and polls and referendums, and with related matters.

In particular —

- (a) Divisions 2, 3, 4, 5 and 6 describe the different kinds of elections and direct when those elections are to be held;*
- (b) Division 7 is about the officials who conduct elections;*
- (c) Division 8 sets out the qualifications for enrolment to vote at elections;*
- (d) Division 9 deals with the process of preparing for and conducting an election;*
- (e) Division 10 deals with complaints about the results of elections;*
- (f) Division 11 sets out a number of offences in relation to elections and provides for investigation and prosecution of offences;*
- (g) Division 12 deals with polls and referendums.*

POLICY IMPLICATIONS

CP/GOV 3106 - Council Elections Caretaker Period.

The purpose of this policy is to avoid the making of any major decisions by the Council, prior to an election, that would bind an incoming Council, prevent the use of public resources in ways that are seen as advantageous to, or promoting, the sitting Elected Members who are seeking re-election, or new candidates, and ensuring the Shire of Wyndham East Kimberley administration acts impartially in relation to candidates. This policy also prohibits an Elected Member from using a wide range of Council resources during their candidacy for Council, State or Federal election.

FINANCIAL IMPLICATIONS

The estimated cost for the 2021 election if conducted as a postal ballot is \$28,000 including GST which has been based on the following assumptions:

- 3,400 Electors

- Response rate of approximately 42%
- 5 Vacancies
- Count to be conducted at the offices of the Shire of Wyndham East Kimberley
- Appointment of a local Returning Officer
- Regular Australia Post Delivery Service to apply for the lodgement of election packages

An additional amount of \$680 will be incurred if the Council decides to use the priority postal service for the lodgement of election packages.

Costs not included in the estimate include:

- Any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns
- One Local Government staff member to work in the polling place on the election day
- Any additional postage rate increase by Australia Post.
- Any unanticipated costs arising from public health requirements for the COVID-19 pandemic
- Fees associated with the accommodation of a Returning Officer.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

RISK IMPLICATIONS

Risk: Failure to comply with legislation leading to financial loss and reputational damage.

Control: Appointment of the Western Australian Electoral Commission to conduct the Shire of Wyndham East Kimberley Election

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The next local government ordinary elections will be held on Saturday 16 October 2021. The Commission is required by the Local Government Act to conduct local government elections on a full cost recovery basis and it should be noted that the financial implications mentioned above are considered an estimate and may vary depending on a range of factors. This will be accounted for in the 2021/22 budget.

The current procedure required by the Act is that the written agreement of the Electoral Commissioner be obtained before the vote of Council is taken and that the agreement is taken to be the letter in Attachment 1 to this report. The letter in Attachment 1 provides that the agreement is that the ordinary council elections be conducted by postal election. As the

last two elections have been conducted as postal elections with satisfactory participation percentages the Administration considers that the elections in October 2021 be conducted by postal election as well. Council would need to resolve to both enter into this agreement with WAEC as well as agree to conduct the 2021 election by postal ballot.

ATTACHMENTS

Attachment 1 - Agreement Letter Western Australian Electoral Commission

12.2.5. Model Standards for CEO Recruitment, Performance and Termination

Vernon Lawrence, as current CEO, declared a financial interest as it relates directly to his contract terms and tenure.

DATE:	30 March 2021
AUTHOR:	Vernon Lawrence, Chief Executive Officer
RESPONSIBLE OFFICER:	Chief Executive Officer
FILE NO:	CM.11.2
DISCLOSURE OF INTERESTS:	Vernon Lawrence, Chief Executive Officer

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council, with respect to the new mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government Chief Executive Officers;

- 1. Pursuant to section 5.39B (2) of the Local Government Act 1995, adopt the new model standards CP HR 3352 Chief Executive Officer Recruitment, Performance Review and Termination as detailed in Attachment 3;**
- 2. Pursuant to section 5.39B (6) of the Local Government Act 1995, request the Chief Executive Officer to ensure that the adopted Council Policy CP HR 3352 Chief Executive Officer Recruitment, Performance Review and Termination is published on the Shire's official website, as soon as practical.**

Council Decision

Minute Number: 30/03/2021 - 118400

That Council, with respect to the new mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government Chief Executive Officers;

- 1. Pursuant to section 5.39B (2) of the Local Government Act 1995, adopt the**

new model standards CP HR 3352 Chief Executive Officer Recruitment, Performance Review and Termination as detailed in Attachment 3;

- 2. Pursuant to section 5.39B (6) of the Local Government Act 1995, request the Chief Executive Officer to ensure that the adopted Council Policy CP HR 3352 Chief Executive Officer Recruitment, Performance Review and Termination is published on the Shire's official website, as soon as practical.**

Moved: Cr G Lodge

Seconded: Cr J Farquhar

Decision: 9/0

PURPOSE

The government has enacted new legislation requiring all local governments to adopt mandatory minimum standards that cover the recruitment, selection, performance review and early termination of local government Chief Executive Officers.

The Local Government (Administration) Amendment Regulations 2021 (CEO Standards Regulations) bring into effect section 22 of the Amendment Act.

The Model CEO Standards provide a framework for local governments to select a CEO, review their performance and terminate their contract of employment early, in accordance with the principles of merit, probity, fairness, equity and transparency.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The following regulations took effect on 3 February 2021, implementing the remaining parts of the Local Government Legislation Amendment Act 2019:

- Local Government (Administration) Amendment Regulations 2021;
- Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021; and
- Local Government (Model Code of Conduct) Regulations 2021.

Key features of the regulations relating to recruitment, selection, performance review and early termination of local government Chief Executive Officers include the requirements to:

- establish a selection panel comprised of council members and at least one independent person to conduct the recruitment and selection process for the position of CEO;
- establish a performance review process by agreement between the local government and the CEO; and
- conduct a recruitment and selection process where an incumbent CEO has held the position for a period of ten or more consecutive years on expiry of the CEO's contract.

In addition, requirements for advertising vacant CEO positions have been updated to align with amendments to state-wide public notice provisions.

Local governments will be required to prepare and adopt the Model Standards within three months of these regulations coming into effect (by 3 May 2021). Until such time as a local government adopts the Model Standards (with or without minor permitted variations), the regulations apply.

Local governments that have a CEO recruitment process currently underway, or are about to commence a CEO recruitment process, are encouraged to contact the department to discuss compliance with the new Standards.

STATUTORY IMPLICATIONS

Sections of the Acts, Regulations and/or Local Laws that apply to this item include:

- Local Government Act 1995, Section 5.39B;
- Local Government (Administration) Amendment Regulations 2021; and
- Local Government (Administration) Regulations 1996.

Section 5.39B, States:

“Adoption of model standards

(1) In this section —

model standards means the model standards prescribed under section 5.39A(1).

(2) Within 3 months after the day on which regulations prescribing the model standards come into operation, a local government must prepare and adopt standards to be observed by the local government that incorporate the model standards.*

** Absolute majority required.*

(3) Within 3 months after the day on which regulations amending the model standards come into operation, the local government must amend the adopted standards to incorporate the amendments made to the model standards.*

** Absolute majority required.*

(4) A local government may include in the adopted standards provisions that are in addition to the model standards, but any additional provisions are of no effect to the extent that they are inconsistent with the model standards.

(5) The model standards are taken to be a local government's adopted standards until the local government adopts standards under this section.

(6) The CEO must publish an up-to-date version of the adopted standards on the local government's official website.

(7) Regulations may provide for —

(a) the monitoring of compliance with adopted standards; and

(b) the way in which contraventions of adopted standards are to be dealt with”.

POLICY IMPLICATIONS

There are no current policies of the Council that conflict.

FINANCIAL IMPLICATIONS

The adoption of the model standard – which is required by law, with only minor variations permitted, and only to the extent that it is not inconsistent, will, in all probability, add to the cost of recruitment of a Chief Executive Officer. This by virtue of the additional administrative requirements of a consultant, if a consultant is utilised, as well as the need for an external person (in addition to the consultant) to be on the recruitment panel – which may require remuneration. Typically, prior to these legislative changes, the recruitment of a Chief Executive Officer, for a band 2 local government, and utilising a consultant (who must be licensed) costs approximately \$40,000, plus advertising based on the current recruitment process.

It is not known what additional cost might be incurred with the adoption of the ‘minimum’ standard, however it conceivably will certainly add administrative time, due to the additional legislated components and recording requirements. It can be argued that it is unlikely that a local government can recruit, or certainly terminate, a Chief Executive Officer without a consultant, with these new regulatory measures.

It will almost certainly add time, as any variations (no matter how seemingly insignificant or minor) to the proposed contract to be offered, have to be previously permitted / agreed by resolution of the Council.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

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

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

Strategy 4.3.3: Build internal capacity by attracting, developing and retaining the best people

RISK IMPLICATIONS

Risk: Failure to attract and retain suitably qualified and experienced technical staff to meet organisational requirements.

Control: Maintaining a robust recruitment process offering a great working culture and benefits.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The Department of Local Government, Sport and Cultural Industries (DLGSC) has produced Guidelines on the Standards, which is Attachment 1 to this item. If the local government doesn't adopt the model standards, they are taken to be the Shire's Standards.

The Chief Executive Officer is of the opinion that they are satisfactory to be adopted without modification, (provided at Attachment 3), however the Council is at liberty to adjust them, as long as they are not inconsistent with the default standards in the regulations.

There is a requirement to adopt a set of Standards by a Complaints Office by the 3 May 2021.

The current Chief Executive Officer's contract doesn't expire until 10 July 2025 and on this new legislative change, is only renewable for up to one more 5 year term, if both parties are agreeable, before the Council is legally bound to advertise the position in accordance with the adopted standards of the day.

In the opinion of the author, the current process for review of the current Chief Executive Officer's performance is consistent with the model requirements and the proposed process

for early termination of a Chief Executive Officer's contract of employment appears fair and reasonable.

ATTACHMENTS

Attachment 1 - Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination.

Attachment 2 - Local Government (Administration) Amendment Regulations 2021 – Explanatory Notes.

Attachment 3 - CP HR 3352 CEO Recruitment, Selection, Performance Review and Termination Standards - DRAFT.

12.2.6. Kimberley Zone 2021 Meeting Dates

DATE:	30 March 2021
AUTHOR:	Chief Executive Officer
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council endorses the below 2021 Schedule of Meetings for the Kimberley Zone of WALGA and Regional Collaborative Group (RCG) as approved by the Kimberley Zone at the 22 February 2021 meeting.

Date	Location	Meeting aligned with
22 February 2021	Video Conference	State Council Meeting
20 April 2021	Broome	Strategic Community Planning Session
28 June 2021	Video Conference	
2 September 2021	Broome	Regional State council Meeting
22 November 2021	Kununurra	

Council Decision

Minute Number: 30/03/2021 – 118401

That Council endorses the below 2021 Schedule of Meetings for the Kimberley Zone of WALGA and Regional Collaborative Group (RCG) as approved by the Kimberley Zone at the 22 February 2021 meeting.

Date	Location	Meeting aligned with
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22 February 2021	Video Conference	State Council Meeting
20 April 2021	Broome	Strategic Community Planning Session
28 June 2021	Video Conference	
2 September 2021	Broome	Regional State council Meeting
22 November 2021	Kununurra	
Moved: Cr M McKittrick Seconded: Cr N Brook		
Decision: 9/0		

PURPOSE

For Council to endorse the 2021 Schedule of Meetings for the Kimberley Zone of WALGA and Kimberley Regional Group.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Facilitator - bring stakeholders together

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Kimberley Regional Group (KRG) meets on a regular basis throughout the year and have an annual joint forum with the Local Government Association of the Northern Territory.

At the 3 October 2014 Kimberley Zone of WALGA /Kimberley Regional Group (Zone / KRG) Meeting in Derby, a resolution was made to schedule four face-to-face Zone / KRG meetings per year, in addition to holding video conference meetings as required for consideration of the WALGA State Council Meeting Agenda.

At the 23 November 2020 Kimberley Regional Group Meeting the following dates were adopted:

22 February	Broome
26 April	Video Conference
28 June	Video Conference

2 September	Broome
22 November	Kununurra

At the 22 February 2021 Zone meeting a report presented the 2021 Schedule of Meeting dates for the Kimberley Zone of WALGA and Kimberley Regional Group which amended the meeting dates. The reasons given were due to COVID-19 the normal frequency of flights between the east and west of the Kimberley has reduced making the scheduled February meeting impracticable for members. The decision was made to change the February meeting to a video conference. As a consequence, the strategic planning session scheduled for the 22nd February 2021 has been deferred to the 20 April 2021 with the 26 April meeting cancelled as it is a public holiday. The new schedule is as follows:

Date	Location
22 February 2021	Video Conference
20 April 2021	Broome
28 June 2021	Video Conference
2 September 2021	Broome
22 November 2021	Kununurra

WALGA Kimberley Zone

The Western Australian Local Government Association (WALGA) is the single association for Local Government, representing the political and strategic interests of Local Government at State and Federal levels. The Shire of Wyndham-East Kimberley is a member of WALGA.

Local Governments are grouped into regional bodies called Zones a geographically based subdivision containing Ordinary Members and is incorporated within a country or metropolitan constituency. The Kimberley Country Zone Membership is made up of the Shire of Wyndham/East Kimberley, Shire of Halls Creek, Shire of Broome, Shire of Derby/West Kimberley, Shire of Cocos Islands and the Shire of Christmas Island.

The roles/functions of a Zone are primarily as follows:

1. select a State Council representative;
2. consider the State Council agenda;
3. provide direction/feedback to their State Councillor;
4. develop/advocate positions on regional issues affecting Local Government;
5. progress regional Local Government initiatives;

6. identify relevant issues for action by WALGA;
7. networking and sharing information; and
8. contributing to policy development through Policy Units and Policy Forums.

Zones:

- have an integral role in shaping the political and strategic direction of Local Government as a tier of government;
- are responsible for bringing relevant local and regional issues to the State decision making table;
- are a key player in developing policy and legislative initiatives for Local Government; and
- have direct relationships with the State Council of the Association, Policy Units and Policy Forums and the Secretariat of the Association.

Every Zone has at least one representative on State Council (generally the Zone Chair and currently Cr Chris Mitchell - Shire of Broome. The Deputy Zone Chair is also the Deputy State Council Representative and is currently Cr David Menzel - Shire President SWEK). Each representative is primarily responsible for ensuring that the Association is governed in the best interests of all member Local Governments. Representatives are also required to advocate the viewpoints and interests of their Zone on issues under consideration by State Council.

Regional Collaborative Group (RCG)

In September 2010 as part of the Western Australian State Government's Local Government reform agenda, the four Kimberley Shires (Shire of Wyndham/East Kimberley, Shire of Halls Creek, Shire of Broome and the Shire of Derby/West Kimberley) formed the Kimberley Regional Collaborative Group (RCG), formalised with the signing of an agreement with the State Government. The Group was formed with a view to adopting a regional approach to strategic and community planning and facilitating the harmonisation of core functions and services across participating local governments.

The RCG was originally due to terminate on 30 June 2015. In preparation for this, the Kimberley Shires formed a Kimberley Regional Group (KRG) for the purpose of governing and undertaking shared regional initiatives. The KRG has a Kimberley Local Government Governance Agreement between the four Kimberley Shires, which provides the legal framework for the establishment, membership and operation of the Kimberley Regional Group. This agreement was signed on 24 February 2014 and expired in February 2018. A new Agreement was presented to and discussed at the following Zone/RCG meeting before being presented to individual Councils for endorsement in March 2018. The agreement governing the Kimberley Regional Collaborative Group has a finite life and is now scheduled to terminate on 30 June 2022, unless agreed otherwise by the parties.

Under the RCG, members are tasked with developing and implementing a Kimberley Strategic Community Plan and Kimberley Regional Business Plan. The Kimberley Regional Group (KRG) Regional Community Strategic Plan and Regional Business Plan [the Plans] were last reviewed at the March 2018 meeting with more detailed revisions being undertaken through workshops at the September and October 2018 Zone meetings. At the 4 December 2018 KRG Meeting it was resolved as follows;

That the Kimberley Regional Group adopts the Regional Business Plan 2018 - 2022 as contained in Attachment 1.

Moved: Shire of Derby West Kimberley Seconded: Shire of Halls Creek

Carried 4/0

The Strategic Community Planning session to update the Strategic community Plan is scheduled to take place on the 2nd and 3rd September 2021 in Broome.

STATUTORY IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The 2020/21 budget allocates \$12,500 for SWEK travel/attendance/registration to Kimberley Regional group meetings, with \$11,674 remaining in the budget at the time of preparing this report. The Shire of Wyndham East Kimberley also contributed in 2020/21 \$55,000 to the operation of the Zone, with each of the members of the Zone contributing the same.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

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

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

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

Corporate Business Plan

CBP Action:

RISK IMPLICATIONS

Nil

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

Consultation occurred between the individual Kimberley Shire Councils and WALGA to determine the dates for the 2021 schedule of meetings for the Kimberley Regional Group taking into consideration Ordinary Council Meeting dates. The dates selected do not overlap with the Shire's Briefing Sessions or Ordinary Council Meeting dates and therefore Officer's recommend Council endorse these dates.

ATTACHMENTS

Attachment 1 - Zone KRG Meeting Minutes - 2021 Kimberley Zone and Kimberley Regional Group Meeting Dates

12.3. PLANNING AND COMMUNITY DEVELOPMENT

12.3.1. Local Planning Scheme 9 - Proposed Omnibus Amendment

DATE:	30 March 2021
AUTHOR:	Senior Planning Officer
RESPONSIBLE OFFICER:	Nick Kearns, Director Planning and Community Development
FILE NO:	LP.04.61
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Pursuant to Section 75 of the *Planning and Development Act 2005*, amends the Shire of Wyndham East Kimberley Local Planning Scheme No. 9 for the purposes of public advertising by incorporating all the Scheme Text and Scheme Map modifications set out under points 1-3 inclusive contained in document "Amendment No. 1 to Local Planning Scheme No. 9 - Omnibus Amendment" and included as Attachment 1.
2. Determines that the amendment is a standard amendment under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:
 - (a) It is consistent with the Shire's Local Planning Strategy;
 - (b) It will have minimal impact on land in the scheme area, and
 - (c) It will not result in any significant environmental, social, economic or governance impacts on the land in the scheme area.
3. Requests the Chief Executive Officer to forward this resolution and the amendment documentation to the Environmental Protection Authority pursuant to Section 81 of the *Planning and Development Act 2005*.
4. Subject to the advice of the Environmental Protection Authority under Section 48A of the *Environmental Protection Act 1986* that the amendment

is not subject to formal environmental assessment, requests the Chief Executive Officer to advertise the amendment for 42 days as per the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Council Decision

Minute Number: 30/03/2021 – 118402

That Council:

- 1. Pursuant to Section 75 of the Planning and Development Act 2005, amends the Shire of Wyndham East Kimberley Local Planning Scheme No. 9 for the purposes of public advertising by incorporating all the Scheme Text and Scheme Map modifications set out under points 1-3 inclusive contained in document “Amendment No. 1 to Local Planning Scheme No. 9 - Omnibus Amendment” and included as Attachment 1.**
- 2. Determines that the amendment is a standard amendment under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:**
 - (a) It is consistent with the Shire’s Local Planning Strategy;**
 - (b) It will have minimal impact on land in the scheme area, and**
 - (c) It will not result in any significant environmental, social, economic or governance impacts on the land in the scheme area.**
- 3. Requests the Chief Executive Officer to forward this resolution and the amendment documentation to the Environmental Protection Authority pursuant to Section 81 of the *Planning and Development Act 2005*.**
- 4. Subject to the advice of the Environmental Protection Authority under Section 48A of the *Environmental Protection Act 1986* that the amendment is not subject to formal environmental assessment, requests the Chief Executive Officer to advertise the amendment for 42 days as per the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

**Moved: Cr T Chafer
Seconded: Cr G Lodge**

Decision: 9/0

PURPOSE

For Council to consider adoption of a proposed omnibus amendment to the Local Planning Scheme No. 9 (LPS 9) for the purposes of advertising.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE

Development within the Shire is controlled and guided by Local Planning Scheme No. 9 (LPS 9) which became operational in 2019.

It is common practice to undertake periodic, relatively minor, reviews of local planning schemes with the first usually undertaken as an 'omnibus amendment'. An omnibus amendment is the most efficient means to put into place a group of mostly unrelated, minor amendments which don't require processing separately.

The proposed amendment will be the first to LPS 9 and has been prepared with the assistance of the Department of Planning, Lands and Heritage (DPLH). The amendment proposes a number of changes to the Scheme Text and Scheme Maps, aiming to correct anomalies and ensure that the Scheme Text and Scheme Maps are appropriately updated to align with LPS 9, the adopted strategic planning framework and the applicable legislation.

The Amendment Report at Attachment 1 provides a detailed explanation of each of the proposed amendments and their justification and includes the proposed mapping changes. The intent and scope of the changes proposed in the amendment are broadly grouped into the following categories:

- Correcting minor text errors and omissions that were not identified when LPS 9 was first gazetted;
- Updating references to the *Heritage Act 1990* to the *Heritage Act 2018*;
- Updating the zoning table to review the permissibility of certain land uses, and
- Addressing a number of mapping errors that have been identified through the process of adopting LPS 9 and other minor modifications to the LPS 9 maps.

An explanation of the key changes are outlined below.

Land use - permissibility

A number of amendments are proposed to the zoning table, as described in section 4.2 of the Scheme Amendment Report. In relation to permissibilities the symbols represent the following:

'P' means that the use is permitted if it complies with all relevant development standards and the requirements of this Scheme.

'I' means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with all relevant development standards or requirements of this Scheme.

'D' means that the use is not permitted unless the local government has exercised its discretion by granting development approval.

'A' means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions.

'X' means that the use is not permitted by this Scheme.

In summary, the changes to the zoning table are as follows:

- Within the 'Agriculture - State or Regional Significance' zone the permissibilities are proposed to be changed to more accurately reflect the potential extent of, and reintroduce, some land uses as follows:
 - 'Home Business' from 'D' to 'A'
 - 'Home Occupation' from 'A' to 'D'
 - 'Industry-Cottage' from 'A' to 'D'
 - 'Workforce Accommodation' from 'X' to 'A'
- Within the 'Mixed Use' zone modify permissibilities to reflect that a Home Business is potentially a more extensive use than a Home Occupation as follows:
 - 'Home Business' from 'P' to 'D'
 - 'Home Occupation' from 'D' to 'P'
- Within the 'Rural' zone modify permissibilities to reflect that a Home Business is potentially a more extensive use than a Home Occupation as follows:
 - 'Home Business' from 'P' to 'D'
 - 'Home Occupation' from 'D' to 'P'
- Within the 'Light Industrial' zone modify permissibilities to allow a caretakers dwelling to reflect its incidental nature within the zone as follows:
 - 'Caretakers Dwelling' from 'A' to 'I'
- Within the 'Local Horticulture' zone the permissibilities are proposed to be modified to more accurately identify agriculture intensive as a permitted use and allow workforce accommodation as follows:
 - 'Agriculture Intensive' from 'D' to 'P'
 - 'Workforce Accommodation' from 'X' to 'A'
- Within the 'Residential', 'General Industry', 'Agriculture - State or Regional Significance', 'Local Horticulture', 'Rural', 'Rural Residential', and 'Rural Smallholding' zones, permissibility for 'Telecommunications Infrastructure' to be modified to 'A' to ensure consistency with State policy, namely State Planning Policy 5.4 Telecommunications Infrastructure.

Mapping modifications:

A number of changes are proposed to the Local Planning Scheme maps, as described in section 4.3 of the Scheme Amendment Report. These changes are all administrative in nature, ensuring that the zoning on the Scheme maps reflects the current on-ground use or the existing layout plans for Aboriginal settlements. **STATUTORY IMPLICATIONS**

Planning and Development Act 2005

Clause 75 Amending scheme

A local government may amend a local planning scheme with reference to any land within its district, or with reference to land within its district and other land within any adjacent district, by an amendment -

- (a) *Prepared by the local government, approved by the Minister and published in the Gazette; or*

- (b) *Proposed by all or any of the owners of any land in the scheme area, adopted, with or without modifications, by the local government, approved by the Minister and published in the Gazette.*

Clause 81 Proposed scheme or amendment to be referred to the Environmental Protection Authority (EPA)

When a local government resolves to prepare or adopt a local planning scheme, or an amendment to a local planning scheme, the local government is to forthwith refer the proposed local planning scheme or amendment to the EPA by giving to the EPA -

- (a) *Written notice of that resolution; and*
(b) *Such written information about the local planning scheme or amendment as is sufficient to enable the EPA to comply with section 48A of the EP Act in relation to the local planning scheme or amendment.*

Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regulations)

Under the LPS Regulations the amendment is considered to be a standard amendment and to progress the amendment the Council must resolve to prepare an amendment to the local planning scheme. The amendment must be referred to the EPA and then advertised to the public in accordance with the regulations.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There are no financial implications associated with this matter.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

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

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

RISK IMPLICATIONS

Risk: Failure to manage developments and projects in line with regulatory planning, building and health requirements, leading to a poorly developed region and environmental degradation.

Control: Ensure proposed amendments to the Local Planning Scheme are undertaken in accordance with LPS 9, the adopted strategic framework and the applicable regulations.

COMMUNITY ENGAGEMENT

If Council resolves to advertise the omnibus amendment, engagement will take place in accordance with the Shire's Community Engagement Guidelines and as required under the LPS Regulations and will include public advertising for a (minimum) period of 42 days and consisting of:

- Publication of a public notice in a newspaper circulating in the scheme area;
- Display of a copy of the notice in the Shire administration offices, at each library and on the Shire website (this would include Facebook);
- Display of a copy of the scheme amendment documentation for public inspection;
- Providing the notice to any public authority the Shire considers will be affected by the amendment; and
- Providing the notice to any landowners whose property is considered to be directly affected by the amendment.

Any submissions received during the public advertising period will be presented back to Council for its consideration.

Prior to advertising, the omnibus amendment is required to be referred to the EPA under section 81 of the *Planning and Development Act 2005*, for the EPA to assess under Section 48A of the *Environmental Protection Act*, and determine whether an environmental review is required. Given the nature of the proposed omnibus amendment, an environmental review is unlikely to be required, however advertising cannot be undertaken until written notification advising this has been received from the EPA to confirm this.

COMMENT

This amendment addresses matters that were not identified when LPS 9 was first gazetted, including: minor text errors and omissions; updates to the zoning table in relation to the permissibility of certain land uses; updated references to legislation, and minor modifications to the Scheme maps to reflect current land use and the existing layout plans for Aboriginal settlements.

The proposed amendment is classified as a 'standard amendment' under the LPS Regulations as it is consistent with the Local Planning Strategy. It is not considered to have any significant environmental, social or economic impacts and the proposed changes to the zoning table, maps and development standards are considered to reduce the likelihood of incompatible land uses/development being located within close proximity to one another.

The proposed amendment is largely to correct anomalies within the scheme and ensure alignment with the adopted strategic framework, whilst ensuring efficient and effective administration of the scheme.

In light of the above, it is recommended that Council decide to adopt proposed Scheme Amendment No. 1 for the purpose of public advertising.

ATTACHMENTS

Attachment 1 - Scheme Amendment Report (No.1 Omnibus amendment)

12.3.2. Local Planning Policy Review

DATE:	30 March 2021
AUTHOR:	Senior Planning Officer
RESPONSIBLE OFFICER:	Nick Kearns, Director Planning and Community Development
FILE NO:	LP.01.13
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council resolves to:

- 1. Adopt Local Planning Policy 5 (LPP 5) - Sea Containers with modifications and to authorise the Chief Executive Officer to publish notice of the policy in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

and

- 2. Revokes Local Planning Policy 1 (LPP 1) - Lakeside Residential Development Guidelines Policy; and Local Planning Policy 3 (LPP 3) - Weaber Plain LIA Design Guidelines.**

Council Decision

Minute Number: 30/03/2021 – 118403

That Council resolves to:

- 1. Adopt Local Planning Policy 5 (LPP 5) - Sea Containers with modifications and to authorise the Chief Executive Officer to publish notice of the policy in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

and

- 2. Revokes Local Planning Policy 1 (LPP 1) - Lakeside Residential**

Development Guidelines Policy; and Local Planning Policy 3 (LPP 3) - Weaber Plain LIA Design Guidelines.

Moved: Cr M Dear

Seconded: Cr T Chafer

Decision: 9/0

PURPOSE

For Council to formalise the revocation of Local Planning Policy 1 (LPP 1) - Lakeside Residential Development Guidelines Policy and Local Planning Policy 3 (LPP 3) - Weaber Plain LIA Design Guidelines; and to adopt Local Planning Policy 5 (LPP 5) - Sea Containers, as modified.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Council, at its Ordinary Meeting of 24 November 2020 (Minute no. 118345), authorised the Chief Executive Officer to advertise the revocation of Local Planning Policy 1 (LPP 1) - Lakeside Residential Development Guidelines Policy and Local Planning Policy 3 (LPP 3) - Weaber Plain LIA Design Guidelines, as well as to advertise changes to Local Planning Policy 5 (LPP 5) - Sea Containers, relating to Sea Containers.

The advertising took place between 10 December 2020 and 15 January 2021. There were no submissions received with regards to the proposed revocation of LPP 1 or LPP3, however, two submissions were received with respect to the changes proposed to LPP5, which are summarised on the table below.

Name	Summary of submission	Response
Mark Northover	Seeking detail regarding: <ul style="list-style-type: none">• Cancelling Rural, Agriculture and industry exemptions for sea containers• Cost of building permit applications;• Tie down requirements and wind loading charts	<ul style="list-style-type: none">• A building permit is required for permanent placement of a sea container where proposed for longer than 6 months in all areas.• Building permit fees are based on total cost of the development and calculated in accordance with relevant legislation and government levies.• Generic footing specifications can be purchased from the Shire in accordance with current fees and

	for the whole of the Shire	<p>charges.</p> <ul style="list-style-type: none"> • Temporary placement of a sea container (less than 6 months) in Agricultural, Industrial or Rural areas, does not require a development or building approval; however containers are required to be tied down in Wind Regions B and C. Wind Regions are defined as per the Building Code of Australia. <p><u>Response:</u> In light of the points raised in the submission, it is proposed to include an additional point in Section 3 of the Policy to address temporary placement of sea containers in Agricultural, Industrial and Rural areas.</p>
Dave Wilson	Complaint that there was not enough time to respond to the proposal.	<ul style="list-style-type: none"> • Advertising was carried out in excess of the requirements of relevant legislation as it was noted that this would be close to the Christmas/holiday period. • Submissions are able to be lodged up until a decision is made on the Policy in any case. <p><u>Response:</u> Officers did provide a response to the submitter to clarify the proposal and no additional submission, or request for further time, was received.</p>

Copies of the submissions and Officer responses are provided under separate cover.

STATUTORY IMPLICATIONS

Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Division 2

POLICY IMPLICATIONS

Council Policy CP/GOV-3112 Policy Management Policy requires that policies be reviewed at a minimum of every five years and a report presented to Council detailing any proposed changes.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this matter.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

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

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

RISK IMPLICATIONS

Risk: Failure to develop appropriate, meaningful policies which enable the administration to perform in an effective and efficient way.

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

COMMUNITY ENGAGEMENT

Engagement was undertaken in line with the Shire's Community Engagement Guidelines and the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

COMMENTS

The proposed amendment and revocation is in line with the applicable legislative requirements and the content and format of the updated local planning policy has been modified to be clearer and to conform to more up-to-date standards as provided by WALGA.

The content from the revoked policies is being included in Information Sheets, as the information is no longer required as a policy instrument. The Information Sheets will be reviewed and updated as required and in accordance with any legislative changes.

The changes to LPP 5, relating to sea containers, are considered to be minor in nature, including formatting and administrative changes. In response to submissions received, an additional point has been included in Section 3 of the Policy to address temporary placement of sea containers in Agricultural, Industrial and Rural areas (highlighted in yellow). This point clarifies that sea containers may temporarily be placed in agricultural, industrial and rural

areas without requiring a development approval or building permit, provided the container is appropriately tied down if in a Region B or C area, as defined by the Building Code of Australia and provided it remains for a maximum period of six (6) months.

ATTACHMENTS

Attachment 1 - LPP 5 - Sea Containers

12.3.3. Community Grant Program - Dam to Dam 2021

DATE:	30 March 2021
AUTHOR:	Manager Community Development
RESPONSIBLE OFFICER:	Nick Kearns, Director Planning and Community Development
FILE NO:	GS.05.44
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council approves the allocation of \$10,000 from the Community Grant Program for the 2021 Kununurra Water Ski Club Dam to Dam event, subject to the following conditions:

- **Entering into a funding agreement;**
- **Providing an acquittal at the completion of the event;**
- **Suitably acknowledging the support of the Shire of Wyndham East Kimberley, and**
- **Ensuring that all necessary approvals and insurances are obtained prior to the event.**

Council Decision

Minute Number: 30/03/2021 – 118404

That Council approves the allocation of \$10,000 from the Community Grant Program for the 2021 Kununurra Water Ski Club Dam to Dam event, subject to the following conditions:

- **Entering into a funding agreement;**
- **Providing an acquittal at the completion of the event;**
- **Suitably acknowledging the support of the Shire of Wyndham East Kimberley, and Ensuring that all necessary approvals and insurances are obtained prior to the event.**

Moved: Cr D Pearce

Seconded: Cr T Chafer

Decision: 9/0

PURPOSE

For Council to assess an application for funding for an event lodged under the Shire's Community Grant Program.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Funder - provide funds or other resources.

Provider - provide physical infrastructure and essential services.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Shire recently received an application for funding from the Kununurra Water Ski Club for the 2021 Dam to Dam event which will be held at Ski Beach (Water Ski Club), Kununurra on 24 April 2021. The amount requested is \$10,000.

A letter from the Kununurra Water Ski Club, relating to the request, is provided at Attachment 1.

The Shire has provided funding to the Kununurra Water Ski Club under its Community Grant Program/Scheme since 2017. In 2019, \$10,000 was funded for the 2020 event, however, the event was postponed in light of the COVID-19 (event) restrictions. The club has advised that a new application hadn't been lodged for this year's event within last year's funding round as an oversight on their part and therefore it had not been included in the list of applications considered by Council at the September 2020 Ordinary Meeting (Minute No. 118322).

The application for funding provided by the club is at Attachment 2. The event, this year, includes the traditional dinghy race from Ski Beach to the Lake Argyle Dam wall, some short course (dinghy) races and now includes a champagne brunch and additional entertainment for spectators. The club has indicated that its main aim is to provide an enjoyable and social activity/event and to build awareness of the club and ultimately boost membership.

STATUTORY IMPLICATIONS

There are no statutory implications associated with this matter other than requirements arising from the State Government's Roadmap with respect to COVID-19 as they relate to conducting major events, which are provided to event organisers.

POLICY IMPLICATIONS

CP/COM-3582 Community Grant Program is applicable to the consideration of this matter and the policy does not prevent Council from considering an application for funding outside

the nominated funding round, which is done mostly for logistical and administrative purposes.

Conditions stipulated in the grant application form and guidelines include the need to:

- Enter into a funding agreement;
- Provide an acquittal at the completion of the event;
- Suitably acknowledge the support of the Shire, and
- Ensure that all necessary approvals and insurances are obtained prior to the event.

FINANCIAL IMPLICATIONS

\$169,587.62 has been allocated from the Community Grant budget to date, with \$130,412.38 remaining, so there is sufficient funding available without making any adjustment to the approved 2020/21 budget.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 1: Healthy vibrant active communities

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

Strategy 1.1.2: Support and promote an increase in the number of events and activities that encourage a sense of identity, belonging and promote cultural diversity

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

Strategy 1.2.2: Develop partnerships to support and maximise participation in a range of activities and promote the benefits of healthy lifestyles

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

Goal 1.3: Promote quality education, health, childcare, aged care and youth services

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

Corporate Business Plan

CBP Action: #372 Deliver a Community Grant Program

CBP Tasks: 2. Review Community Grant Policy (this action has been completed)

RISK IMPLICATIONS

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

Control: Community Grant Program aims to support community lead community development initiatives through financial assistance.

COMMUNITY ENGAGEMENT

There has been no community engagement in relation to this request.

COMMENTS

The application submitted by the Kununurra Water Ski Club has been assessed against relevant criteria within the policy and guidelines and a summary of that assessment is provided at Attachment 3. That assessment shows that the proposal meets all applicable eligibility criteria and scores well with regard to the event's alignment with community strategic objectives; community need; budget, and their capacity to run the event, which they have done so for a number of years. While the event may not be considered to be a 'signature event' with respect to the number of visitors expected to be attracted from outside the region and, therefore, its economic impact, as measured against the Ord Valley Muster; Rodeo or Lake Argyle Swim and Adventure Race, it could, nonetheless, be considered 'iconic'.

Shire Officers recommend that Council approve the \$10,000 request as a one off payment subject to conditions requiring the Club to:

- Enter into a funding agreement;
- Provide an acquittal at the completion of the event;
- Suitably acknowledge the support of the Shire, and
- Ensure that all necessary approvals and insurances are obtained prior to the event.

ATTACHMENTS

Attachment 1 - Kununurra Ski Club Grant Request Letter

Attachment 2 - Kununurra Water Ski Club Events Grant Application

Attachment 3 - Community Events Grant Assessment Form

12.4. CORPORATE SERVICES

12.4.1. Monthly Financial Report February 2021

DATE:	30 March 2021
AUTHOR:	Financial Accountant
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.09.25
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the Monthly Financial Report for the period ended 28 February 2021.

Council Decision

Minute Number: 30/03/2021 118405

That Council receives the Monthly Financial Report for the period ended 28 February 2021.

**Moved: Cr G Lodge
Seconded: Cr M Dear**

Decision: 9/0

PURPOSE

For Council to receive the Monthly Financial Report for the period ended 28 February 2021.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - Responsible for the enforcement of statutory requirements.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

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

At the 23 June 2020 Ordinary Council Meeting, the Council resolved the following:

Council Decision

Minute Number: 23/06/2020-118260

Moved: Cr D Menzel

Seconded: Cr M Dear

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

Carried 9/0

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

At the 15 December 2020 Ordinary Council Meeting Council resolved to accept the 2019/2020 Annual Report including the Annual Financial Statements as follows:

Council Decision

Minute No: 118361

That Council:

- 1. Accepts the 2019/2020 Annual Report (including the Annual Financial Statements and Associated Notes) as presented.***
- 2. Convenes the Annual General Meeting of Electors to be held on 2 February 2021 at the Kununurra Council Chambers (commencing at 5pm).***
- 3. Requests that the Chief Executive Officer, pursuant to sections 5.29 and 5.55 of the Local Government Act 1995, provides the requisite statutory local public notice of the acceptance of the 2019/2020 Annual Report and the time and date of the Annual General Meeting of Electors.***
- 4. Requests that the Chief Executive Officer publish the Annual Report on the Shire's website within 14 days after it has been accepted.***

Moved: Cr J Farquhar

Seconded: Cr N Brook

Decision: 6/0

At the 23 February 2021 Ordinary Council Meeting Council resolved to adopt changes to the Municipal Fund Budget for 2020/21 arising from changes to the cash position estimated at the time of the preparation of the budget and the actual cash position achieved following the finalisation of the Annual Financial Statements for the year ended 30 June 2020 as follows:

Council Decision:

Minute Number: 23/02/2021 - 118388

That Council:

- 1. Adopts the changes to the Municipal Fund Budget 2020/21 and Reserves as detailed in Attachment 1 and Attachment 2; and***
- 2. Approves the transfer of an additional amount of \$277,077 to the Drainage Reserve.***

Moved: Cr T Chafer

Seconded: Cr J Farquhar

Decision:9 /0

STATUTORY IMPLICATIONS

Local Government Act 1995, Section 6.4.

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Performance - Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

RISK IMPLICATIONS

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

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

COMMUNITY ENGAGEMENT

No community engagement is required in relation to this item.

COMMENTS

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

The Covid-19 pandemic has had an impact on the financial position of the Shire as at 30 June 2020. Revenue and debt collections have reduced significantly with this being off-set by operational savings and the receipt of 2020/21 Federal Assistance Grants in advance. The full financial implications of Covid-19 are unknown at this stage, however estimates of the longer term impact have been considered in the preparation of the 2020/21 budget. Shire Officers and the Executive Management Team continue to closely monitor the cash flow of the Shire and have modified internal processes to assist in this regard.

It should be noted that the budget figures in the Monthly Financial Report for February 2021 have been updated to include final carry forward figures and end of year adjustments for the year ended 30 June 2020. The final position for the 2019/20 financial year was reported in the 2019/20 Annual Financial Statements included in the Annual Financial Report for 2019/20 which was presented to Council at the 15 December 2020 Ordinary Council Meeting. Changes to the 2020/21 budget arising from changes in the cash position following finalisation of the 2019/20 Annual Financial Statements were adopted by Council at the 23 February 2021 Ordinary Council Meeting.

ATTACHMENTS

Attachment 1 - Monthly Financial Report February 2021

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

DATE:	30 March 2021
AUTHOR:	Creditors Officer
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.09.25
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

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

Municipal EFT 139887 - 140100 (05/02/2021-26/02/2021)	\$1,030,949.32
Municipal Cheque 52009 (26/02/2021)	\$ 15,876.50
Trust EFT 502133- 502146 (01/02/2021 - 26/02/2021)	\$ 10,215.05
Payroll (10/02/2021 - 24/02/2021)	\$ 466,102.56
Direct Bank Debits (01/02/2021-24/02/2021)	\$ 53,032.83
Total - February 2021	\$ 1,576,176.26

Council Decision

Minute Number: 30/03/2021– 118406

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

Municipal EFT 139887 - 140100 (05/02/2021-26/02/2021)	\$1,030,949.32
Municipal Cheque 52009 (26/02/2021)	\$ 15,876.50
Trust EFT 502133- 502146 (01/02/2021 - 26/02/2021)	\$ 10,215.05

Payroll (10/02/2021 - 24/02/2021)	\$ 466,102.56
Direct Bank Debits (01/02/2021-24/02/2021)	\$ 53,032.83
Total - February 2021	\$ 1,576,176.26

Moved: Cr M McKittrick
Seconded: Cr N Brook

Decision: 9/0

PURPOSE

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - Responsible for the enforcement of statutory requirements.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

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

STATUTORY IMPLICATIONS

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

Local Government (Financial Management) Regulations 1996 -

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

Regulation 11. Payments, procedures for making etc.

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

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

There are no financial implications arising out of the preparation of this report. The financial implications arising from the payments made from the Municipal and Trust funds have been

provided for in the 2020/21 Adopted Budget and any subsequent amendments thereto. This report provides for the ongoing management of the Shire's funds by providing the Council with sufficient information to monitor and review those payments made.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027.

Focus Area 4: Performance - Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

RISK IMPLICATIONS

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

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

COMMUNITY ENGAGEMENT

No community engagement is required in relation to this item.

COMMENTS

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

ATTACHMENTS

Attachment 1 - List of Accounts Paid February 2021

12.4.3. Review of CP-FIN 3211 Fees and Charges Pricing Policy.

DATE:	30 March 2021
AUTHOR:	Director Corporate Services
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.05.22
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council adopt the amended CP-FIN-3211 Fees and Charges Pricing Policy.

Council Decision

Minute Number: 30/03/2021 – 118407

That Council adopt the amended CP-FIN-3211 Fees and Charges Pricing Policy.

Moved: Cr T Chafer

Seconded: Cr N Brook

Decision: 9/0

PURPOSE

For Council to consider the amended CP-FIN 3211 Fees and Charges Pricing Policy prior to the review of the Fees and Charges Schedule for the 2021/22 financial year.

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

Fees and charges are generally established as part of the annual budget setting process. The 2014/15 financial year was the first year that the Council resolved to apply pricing principles and a pricing basis methodology to ensure fair and reasonable charging to the community for the goods and services that the Shire provides. The Policy was reviewed at the 28 April 2015 Ordinary Council meeting. The Policy was originally due for review in 2019, but Shire Officers considered that it would be prudent to review the Policy on an annual basis as part of the Fees and Charges setting process. This process has been implemented and the Policy was last reviewed in March 2020.

COUNCIL DECISION

Minute No. 24/03/2020 - 118189

Moved: Cr T Chafer

Seconded: Cr M McKittrick

That Council adopts the revised Council Policy CP-FIN 3211 Fees and Charges Pricing.

Carried
9/0

STATUTORY IMPLICATIONS

Local Government Act 1995

Part 6, Division 5

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.*

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.*

POLICY IMPLICATIONS

There are no other policy implications.

FINANCIAL IMPLICATIONS

The application of the Policy and associated financial impacts is not finalised for the 2021/22 Budget at this stage of the budget process. Any significant changes to individual fees and charges will be identified as part of the revised Fees and Charges Schedule that will be presented to Council for adoption at a later stage in the process.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

RISK IMPLICATIONS

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

Controls: Implementation of LTFP and Annual Budget.

Policies updated in accordance with schedule and operational requirements.

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

COMMUNITY ENGAGEMENT

Engagement will take place in accordance with Section 6.19 of the *Local Government Act 1995*, which outlines the requirements for the Shire to provide local public notice of fees and charges.

COMMENTS

The Policy has been reviewed to ensure legislation is referenced correctly and the goods and services pricing basis are still relevant. The Policy makes for good governance in that it provides the community with transparency as to what factors are considered when the Council reviews its annual fees and charges, and also provides guidance for officers as to what principles need to be considered when recommending fees and charges for goods or services.

There have been no substantive changes made in the attached reviewed policy with minor changes to referenced legislation highlighted.

ATTACHMENTS

Attachment 1 - Council Policy CP/FIN-3211 Fees and Charges Pricing - DRAFT

12.4.4. Policy Review - CP/CNC-3141 Elected Member Allowances and Entitlements

DATE:	30 March 2021
AUTHOR:	Director Corporate Services
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.05.22
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council adopt the amended CP/CNC-3141 Elected Member Allowances and Entitlements.

Council Decision

Minute Number: 30/03/2021- 118408

That Council adopt the revised policy CP/CNC-3141 Elected Member Allowances and Entitlements.

Moved: Cr M McKittrick

Seconded: Cr N Brook

Decision: 9/0

PURPOSE

For Council to consider amendments to Council Policy *CP/CNC-3141 Elected Member Allowances and Entitlements* to provide the Administration with the policy framework to determine Members Allowances and Entitlements in the annual budget process for the 2021/22 financial year.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - Plan and provide direction through policy and practices.

Regulator - Responsible for the enforcement of statutory requirements.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Council considers Members' Allowances and Entitlements on an annual basis. For the 2017/18 financial year the Commissioner reduced the amounts down from 100% of the maximum Salaries and Allowances Tribunal (SAT) determination to 70% of the determination.

Council in the 2018/19 and 2019/20 budget processes maintained the level at 70%.

For the 2020/21 financial year at the time of budget adoption Council set the level at 60% of the maximum Salaries and Allowances Tribunal (SAT) determination as a strategy to limit the impact of Covid-19. Council subsequently amended the President's and Deputy President's allowances and fees for 2020/21 to 70% at the November 2020 Ordinary Council Meeting to recognise the additional work that they put in as part of the Covid-19 response. Councillors' fees remained at 60%.

COUNCIL DECISION

Minute Number: 23/06/2020 - 118259

Moved: Cr N Brook

Seconded: Cr J Farquhar

That Council:

- 1. Notes that the Elected Members annual attendance fees and annual allowances have been determined with reference to the revised Council Policy CP/CNC-3141 Elected Member Allowances and Entitlements adopted at the 24 March 2020 Ordinary Meeting of Council (Minute No. 24/03/2020 - 118188) to be incorporated into the 2020/21 Municipal Fund Budget.**
- 2. Notes the revised Council Policy CP/CNC-3141 Elected Member Allowances and Entitlements adopted at the 24 March 2020 Ordinary Meeting of Council (Minute No. 24/03/2020 - 118188) provides for the maximum Salaries and Allowances Tribunal (SAT) determination levels so that:**
 - a. The President's Annual Meeting Attendance Fee is 60% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination.**
 - b. The Elected Members Annual Meeting Attendance Fee is 60% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination.**
 - c. The President's Annual Allowance is 60% 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.*
- 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:*
 - a. President \$18,689.40*
 - b. Councillors \$13,938.00*
- 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:*
 - a. President \$38,012.40*
- 5. Pursuant to section 5.98A(1) of the Local Government Act 1995, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:*
 - a. Deputy President \$9,503.10*

COUNCIL DECISION

Moved: Cr D Pearce

That Council:

3. **Pursuant to section 5.99 of the Local Government Act 1995, adopt the following annual fees for payment of elected members in lieu of individual meeting attendance fees:**
 - a. **President \$21,804**
 - b. **Councillors \$13,938**
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:**
 - a. **President \$44,347**
5. **Pursuant to section 5.98A(1) of the Local Government Act 1995, adopt the following annual local government allowance to be paid in addition to the annual meeting allowance:**
 - a. **Deputy President \$11,086**

Decision

9/0

STATUTORY IMPLICATIONS

Local Government Act 1995 Division 8 — Local government payments and gifts to its 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.*

[Section 5.98 amended: No. 64 of 1998 s. 36; No. 17 of 2009 s. 33; No. 2 of 2012 s. 14.]

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.*

[Section 5.98A inserted: No. 64 of 1998 s. 37; amended: No. 2 of 2012 s. 15.]

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.*

[Section 5.99 amended: No. 2 of 2012 s. 16.]

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

- (1) *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 eligible 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.*

- (2) *For the purposes of subsection (1), a council member is eligible to be paid an annual allowance under subsection (1) for a type of expense only in the following cases —*

- (a) *in the case of an annual allowance that is paid in advance, if it is reasonably likely that the council member will incur expenses of that type during the period to which the allowance relates;*
- (b) *in the case of an annual allowance that is not paid in advance, if the council member has incurred expenses of that type during the period to which the allowance relates.*

[Section 5.99A inserted: No. 64 of 1998 s. 38; amended: No. 2 of 2012 s. 17; No. 26 of 2016 s. 13.]

POLICY IMPLICATIONS

There are no other policy implications.

FINANCIAL IMPLICATIONS

The financial implications of this policy will be contained in the 2021/22 Annual Budget. At this stage of the budget process if Council adopts the amended policy and the maximum amounts contained in the 2021 Salaries and Allowances Tribunal (SAT) determination increase by a similar amount to the previous year, the funding requirement is estimated to be \$230,000.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

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

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

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

Strategy 4.3.4: Build internal capacity by attracting, developing and retaining the best people.

RISK IMPLICATIONS

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

Control: Implementation of LTFP and Annual Budget.

Policies updated in accordance with schedule and operational requirements.

COMMUNITY ENGAGEMENT

No community engagement is required. Community engagement on the budget in general will be conducted later in the budget process.

COMMENTS

The Salaries and Allowances Tribunal (SAT) determination for 2021 has not been published as at the time of preparing this report. Shire Officers do not expect that the 2021 determination will be materially different to the 2020 determination. The 2021 determination is expected to be published in April 2021 after which the amounts for Members Allowances and Entitlements will be finalised for budget preparation purposes. The Members Allowances and Entitlements will be reported to Council as part of the 2021/22 Annual Budget at the June 2021 Ordinary Council Meeting. The attached draft Council Policy CP/CNC-3141 Elected Member Allowances and Entitlements includes an amendment to clause 2.1 to set the Elected Members Annual Meeting Attendance Fee at 70% of the yearly maximum Salaries and Allowances Tribunal (SAT) determination. Additional minor amendments have been made to ensure continued alignment with Council's Strategic Risk Register.

ATTACHMENTS

Attachment 1 - Council Policy CP/CNC-3141 Elected Member Allowances and Entitlements - DRAFT

Attachment 2 - SAT Local Government CEO and Elected Members Determination 2020

12.4.5. Review of Covid-19 Financial Hardship Policy

DATE:	30 March 2021
AUTHOR:	Rates Officer
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	GN.10.6, FM.05.22
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council adopts the revised policy CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors.

Council Decision

Minute Number: 30/03/2021– 118409

That Council adopts the revised policy CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors.

**Moved: Cr T Chafer
Seconded: Cr M Dear**

Decision: 9/0

PURPOSE

For Council to consider the amended policy CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Funder - provide funds or other resources

Leader - plan and provide direction through policy and practices

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

As part of the Shire's Coronavirus (COVID-19) Response Plan and following the recommendation of the WALGA State Council, Council adopted Council Policy CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors at the 28 April 2020 Ordinary Council Meeting. The policy covered the 2020/21 financial year and had a review date of March 2021.

WALGA State Council Resolution 41.1/2020

That WALGA:

- 1. Notes the significant contribution of Local Governments in supporting their communities through the COVID-19 pandemic from a financial, economic, community and social perspective.*
- 2. Requests each Local Government give consideration to the following suite of actions, for Local Governments with the capacity to do so, to provide a coordinated and consistent response to the COVID-19 pandemic:*
 - a. Consider not increasing rates for the 2020-21 financial year*
 - b. Adoption of the WALGA template rates hardship policy by Local Governments that do not currently have a policy*
 - c. Consider rate relief options to support small businesses affected by the COVID-19 pandemic*
 - d. Review fees and charges considering whether fees can be reduced, waived or deferred during the COVID-19 pandemic*
 - e. Bring forward capital works and infrastructure spending with aggressive application of reserves and borrowing*
 - f. Prioritise Local Government spending with businesses and contractors located within the Local Government*
 - g. Implement business friendly payment terms to support business cash flow*
 - h. Consider supporting Community sporting and cultural groups by either establishing grant programs or waiving fees and charges*
 - i. Redeploy staff affected by facility closures to tasks that support the community*
- 3. Notes the State Government is urgently drafting legislative and regulatory amendments to support the actions outlined in point 2 above*
- 4. Notes the advocacy for the following:*
 - a. An increase in Local Government borrowing capacity beyond current Western Australian Treasury Corporation borrowing limits*
 - b. Suspension of the Western Australian Treasury Corporation's borrowing guarantee charge of 0.7 percent on top of the loan interest rate for the 2020-2021 financial year*
 - c. No increase to street lighting and utility tariffs in 2020-2021*

- d. *Deferral of revaluations for the 2020-2021 financial year*
- e. *Request the Office of the Auditor General to cease performance audits for the 2020-2021 financial year*
- f. *Freezing of the waste levy for the 2020-2021 financial year*

Council Decision

Minute Number: 28/04/2020 - 118208

Moved: Cr A Petherick

Seconded: Cr M McKittrick

That Council adopt the draft policy CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors.

**Carried:
9/0**

STATUTORY IMPLICATIONS

Local Government Act 1995

6.12. Power to defer, grant discounts, waive or write off debts

- (1) *Subject to subsection (2) and any other written law, a local government may —*
 - (a) *when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or*
 - (b) *wave or grant concessions in relation to any amount of money; or*
 - (c) *write off any amount of money,*
 - which is owed to the local government.*
 - * Absolute majority required.*
 - (2) *Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.*
 - (3) *The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.*
 - (4) *Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.*
- [Section 6.12 amended: No. 64 of 1998 s. 39.]*

6.45. Options for payment of rates or service charges

- (1) *A rate or service charge is ordinarily payable to a local government by a single payment but the person liable for the payment of a rate or service charge may elect to make that payment to a local government, subject to subsection (3), by —*
 - (a) *4 equal or nearly equal instalments; or*
 - (b) *such other method of payment by instalments as is set forth in the local government's annual budget.*

- (2) *Where, during a financial year, a rate notice is given after a reassessment of rates under section 6.40 the person to whom the notice is given may pay the rate or service charge (a) by a single payment; or*
(b) by such instalments as are remaining under subsection (1)(a) or (b) for the remainder of that financial year.
- (3) *A local government may impose an additional charge (including an amount by way of interest) where payment of a rate or service charge is made by instalments and that additional charge is, for the purpose of its recovery, taken to be a rate or service charge, as the case requires, that is due and payable.*
- (4) *Regulations may —*
 - (a) provide for the manner of making an election to pay by instalments under subsection (1) or (2); and*
 - (b) prescribe circumstances in which payments may or may not be made by instalments; and*
 - (c) prohibit or regulate any matters relating to payments by instalments; and*
 - (d) provide for the time when, and manner in which, instalments are to be paid; and*
 - (e) prescribe the maximum amount (including the maximum interest component) which may be imposed under subsection (3) by way of an additional charge; and*
 - (f) provide for any other matter relating to the payment of rates or service charges.*

[Section 6.45 modified: SL 2020/57 1M.]

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

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

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

- (1) *In this clause —*
financial hardship policy, in relation to a local government, means a policy addressing the manner in which the local government will deal with financial hardship that may be suffered by ratepayers and other persons who are required to make payments to the local government.
- (2) *Section 6.45 is modified as set out in this clause in relation to payment by instalments of a rate or service charge imposed by a local government in the 2020/21 financial year.*
- (3) *The local government cannot impose an additional charge (including an amount by way of interest) under section 6.45(3) in respect of payment by instalments made by an excluded person.*
- (4) *If the local government has not adopted a financial hardship policy, the maximum rate of interest that may be imposed by the local government under section 6.45(3) is 3%. Subclause (4) applies despite the Local Government (Financial Management) Regulations 1996 regulation 68.*

6.47. Concessions

Subject to the Rates and Charges (Rebates and Deferments) Act 1992, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.*

** Absolute majority required.*

6.51. Accrual of interest on overdue rates or service charges

- (1) *A local government may at the time of imposing a rate or service charge resolve* to impose interest (at the rate set in its annual budget) on —*
(a) *a rate or service charge (or any instalment of a rate or service charge); and*
(b) *any costs of proceedings to recover any such charge,*
that remains unpaid after becoming due and payable.

** Absolute majority required.*

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

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

- (4) *If a person is entitled under the Rates and Charges (Rebates and Deferments) Act 1992 or under this Act (if the local government in a particular case so resolves) to a rebate or deferment in respect of a rate or service charge —*

(a) no interest is to accrue in respect of that rate or service charge payable by that person; and

(b) no additional charge is to be imposed under section 6.45(3) on that person.

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

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

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

- (1) *Section 6.51 is modified as set out in this clause in relation to a resolution made under section 6.51(1) by a local government at the time of imposing a rate or service charge for the 2020/21 financial year.*
- (2) *The resolution —*
(a) *cannot impose interest in respect of a rate or service charge payable by an excluded person; and*
(b) *is to specify that the imposition of interest does not apply in respect of a rate or service charge payable by an excluded person.*
- (3) *The rate of interest that may be set by the local government under section 6.51 is not to exceed 8%.*
- (4) *Subclause (3) applies despite the Local Government (Financial Management) Regulations 1996 regulation 70.*

Delegation of power

5.42. Delegation of some powers and duties to CEO

(1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —

- (a) this Act other than those referred to in section 5.43; or
- (b) the Planning and Development Act 2005 section 214(2), (3) or (5).

* Absolute majority required

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

[Section 5.42 amended: No. 1 of 1998 s. 13; No. 28 of 2010 s. 70.]

5.43. Limits on delegations to CEO - In part:

(1) A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority of the council;

POLICY IMPLICATIONS

The following Council policies are relevant to this item.

CP FIN-3212 Rates and Charges Debt Collection

CP FIN-3214 Sundry Debt Collection

CP FIN-3211 Fees and Charges Pricing Policy

CP GOV-3112 Policy Management Policy

FINANCIAL IMPLICATIONS

The adoption of policy CP/FIN3219 COVID-19 Financial Hardship - Rates and Sundry Debtors has had financial implications for the 2019/20 and 2020/21 financial years. The number of applications received has been less than anticipated and the financial impact on revenue and cash flows from reductions in interest and fees along with extended payment terms is estimated to be approximately \$7,500 to date. Whilst the number of ratepayers and sundry debtors applying for financial hardship under the policy has been less than anticipated during the 2020/21 financial year, due to the continuing uncertainty surrounding COVID-19 the ongoing financial implications are unknown at this stage.

It should be noted that rates debtors are debts against the property and all amounts deferred under the Policy will ultimately be recovered, with the exception of some pastoral leases. With respect to sundry debtors there is a real risk that amounts owed or deferred will not be recoverable at all. Appropriate provision has been made in the financial accounts for the financial year ended 30 June 2021 to reflect and will also be taken into account in the preparation of the 2021/22 Budget.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

RISK IMPLICATIONS

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

Control: Implementation of LTFP and Annual Budget.

Policies reviewed and updated in accordance with schedule and operational requirements.

Risk: Failure to develop appropriate, meaningful policies which enable the administration to perform in an effective and efficient way.

Control: New policies adopted as required.

Policies reviewed and updated in accordance with schedule and operational requirements.

The risks related to the COVID-19 pandemic will continue to be monitored through application of the Shire's COVID-19 Business Continuity Risk Framework and the ongoing review of essential functions and services as the pandemic continues to progress.

COMMUNITY ENGAGEMENT

Community engagement will include the following:

- Correspondence with ratepayers, business and other community members on a general and individual basis as required.
- Contact with individual rates and sundry debtors at the time their account falls into arrears.

COMMENTS

Shire Officers have adopted a range of options to provide financial relief and assistance to the community in line with and in support of the position adopted by the WALGA State Council, taking into consideration the circumstances unique to the Shire of Wyndham East Kimberley.

Measures to provide financial relief and assistance during the 2020/21 financial year included the adoption of a 0% increase in the Rate in the Dollar and a 0% increase in Fees and Charges. Further measures will be considered as part of the 2021/22 budget process.

The COVID-19 Financial Hardship - Rates and Sundry Debtors policy adopted in 2020 is based on the WALGA Rates Hardship Policy template revised to Council's policy format with amendments to incorporate the inclusion of sundry debtors as well as rates debtors under the policy. Following adoption of the policy Officers made some minor administrative changes to the policy to align with current Council policies and procedures.

The policy enables the Shire to provide financial relief to ratepayers and sundry debtors on a case by case basis as needed. The criteria for the assessment of financial hardship is applied in accordance with the policy's stated intention to provide fair, equitable, consistent and dignified support to the community.

In accordance with the relevant sections of the *Local Government Act 1995* outlined in the statutory implications section above, requests to waive interest will continue to be presented to Council for consideration as required. Governance oversight of the application of this policy is through the Audit (Finance and Risk) Committee which will continue to receive quarterly updates at its formal meetings.

Whilst the number of applications for financial hardship under the policy has been less than anticipated during the 2020/21 financial year, Shire officers consider that it is appropriate to continue to have a financial hardship policy in place while the Western Australian Public Health State of Emergency and the *Local Government (COVID-19 Response) Orders* remain in place. The attached draft policy has been amended to extend its application to include rates and sundry debts incurred for the 2021/22 financial year.

ATTACHMENTS

Attachment 1 - CP/FIN-3219 COVID-19 Financial Hardship - Rates and Sundry Debtors - DRAFT

12.5. INFRASTRUCTURE

12.5.1. Emergency Plans

DATE:	30 March 2021
AUTHOR:	Senior Ranger and Emergency Services Coordinator
RESPONSIBLE OFFICER:	Director Infrastructure, Stuart Dyson
FILE NO:	ES.11.5
DISCLOSURE OF INTERESTS:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council endorses the attached plans in compliance with legislative requirements:

- 1. Local Emergency Management Arrangements 2021;**
- 2. Recovery Plan 2021; and**
- 3. Evacuation Plan 2021.**

Council Decision

Minute Number: 30/03/2021- 118410

That Council endorses the attached plans in compliance with legislative requirements:

- 1. Local Emergency Management Arrangements 2021;**
- 2. Recovery Plan 2021; and**
- 3. Evacuation Plan 2021.**

Moved: Cr T Chafer

Seconded: Cr N Brook

Decision: 9/0

PURPOSE

To review the Local Emergency Management Arrangements (LEMA) which were last reviewed prior to 2016. The attached reviewed LEMA will ensure compliance with legislative requirements and ensure the Shire has 5 years before the next review is required.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

On 28 June 2016 Council endorsed the review of the current LEMA.

COUNCIL DECISION

Minute No: 11415

Moved: Cr E Bolto

Seconded: Cr B Robinson

That Council endorse:

- 1. The Shire of Wyndham East Kimberley Local Emergency Management Arrangements; and**
- 2. The Shire of Wyndham East Kimberley Local Recovery Plan.**

Carried 9/0

STATUTORY IMPLICATIONS

Section 42 of the Emergency Management Act 2005 - Reviewing and Renewing Local Emergency Management Arrangements.

The Shire is required to comply with the above and review the LEMA, Recovery Plan and Evacuation Plans every 5 years. Failing to do so is in breach of this Act.

POLICY IMPLICATIONS

State Emergency Management Policy 2020 Section 2.5 - Local Arrangements.

State Emergency Management Preparedness Procedures 2020 Procedure 8 - Local Emergency Management Arrangements.

The Shire is required to comply with the above and review the LEMA, Recovery Plan and Evacuation Plans every 5 years.

FINANCIAL IMPLICATIONS

Failing to have a compliant LEMA, Recovery Plan and Evacuation Plan can reduce the availability of funding, cause inconsistencies in estimating amounts of emergency funding requirements needed and cause financial risk to the Shire due to liability issues.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: PERFORMANCE - Civic Leadership

- Goal 2.1: Conserve the Shire's unique natural environment for the enjoyment of current and future generations.
- Goal 2.2: Provide sustainable public infrastructure that serves the current and future needs of the community.
- Goal 2.3: Make towns safe and inviting for locals and visitors.
- Goal: 4.1: Effective representation through advocacy at a regional, state and national level.
- Goal: 4.3: Ensure a strong and progressive organisation delivering customer focused services.

Strategy 1.3.1: Advocate to State and Federal governments for improved human services (health, housing, disability access, aged care, child/youth welfare and family support) to meet current and future needs.

Strategy 2.1.1: Work in partnership to implement cooperative programs to manage land, fire, introduced animals and weeds.

Strategy 2.3.2: Maintain a partnership approach for emergency management planning, preparedness, response and recovery.

Strategy 2.3.5: Enforce effective public health and safety.

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

Corporate Business Plan

CBP Action: # 414 - Tasks to support the management of Fire and Emergency Services.

RISK IMPLICATIONS

Risk:

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

Control:

Ensure the Local Emergency Management Arrangements, Recovery Plan and Evacuation Plan are reviewed and updated as per legislative requirements.

COMMUNITY ENGAGEMENT

No community engagement is required only engagement amongst LEMC agencies.

COMMENTS

In accordance with *State EM Policy Section 2.5* the LEMA will be amended or replaced whenever the local government considers it appropriate (*s.42 of the EM Act*). However, according to *State EM Preparedness Procedure 8*, the LEMA (including recovery Plans and Evacuation Plans) are to have an entire review undertaken every five (5) years, as risks might vary due to climate, environment and population changes.

There are differing informing policies and legislation for determining when the LEMA shall be reviewed; Shire Officers default to the earlier date of every 5 years.

ATTACHMENTS

Attachment 1 - SWEK LEMA 2021

Attachment 2 - SWEK Evacuation Plan 2021

Attachment 3 - SWEK Local Recovery Plan 2021

12.5.2. Tourism House (Restaurant) Repairs

DATE:	30 March 2021
AUTHOR:	Asset Officer
RESPONSIBLE OFFICER:	Director Infrastructure, Stuart Dyson
FILE NO:	CP.07.8
DISCLOSURE OF INTERESTS:	NIL

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

- 1. Approves the transfer of \$80,877.22 inc GST from the Tourism House Reserve account to fund repair works to the restaurant area of Tourism House.**
- 2. Endorses the repairs outlined in this report to the restaurant area of Tourism House.**

Council Decision

Minute Number: 30/03/2021- 118411

That Council:

- 1. Approves the transfer of \$80,877.22 inc GST from the Tourism House Reserve account to fund repair works to the restaurant area of Tourism House.**
- 2. Endorses the repairs outlined in this report to the restaurant area of Tourism House.**

Moved: Cr A Petherick

Seconded: Cr J Farquhar

Decision: 9/0

PURPOSE

To seek Council approval to transfer funds from the Tourism House Reserve account to fund and undertake essential repairs at the Tourism House restaurant area.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Provider - provide physical infrastructure and essential services.

BACKGROUND

In September 2018, the Shire took over the management of Tourism House and the leases for its tenants. Prior to taking over this management an inspection of the building and the needs of each of the tenants were documented. Inspections and maintenance on the building was undertaken by the Shire to ensure the condition of the building was fit for purpose for each of the tenants and a clear record of the building condition was established. Works undertaken on the restaurant portion of the building included rectification works for water damaged walls and painting of the interior (refer to Attachment 4 - Building Condition Report 2018).

In November 2020, Shire Officers undertook further inspections at the Tourism House building as part of the asset pick-up for all Shire managed building assets. As part of this inspection, it was noticed that there were several areas of concern within the restaurant area of the Tourism House building structure which pertain to a lack of maintenance. Subsequently, further specific inspections were undertaken to obtain a full scope of works needed to rectify the damage identified.

STATUTORY IMPLICATIONS

Commercial Tenancy (Retail Shops) Agreements Act 1985.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The cost of repairing the damaged sections has been estimated at a value of \$75,612.62 for building works only and a further \$5,264.60 to replace the Exhaust Fan / Hood Assembly which has now failed due to lack of maintenance / cleaning.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 2: PLACE - Enhancing the environment

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

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

Corporate Business Plan

*CBP Action: 172 Review and maintain an Asset Management Plan and Capital Works Plan
167 Review and maintain the Long Term Financial Management Plan*

RISK IMPLICATIONS

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

Control: Regularly inspect and maintain effective Asset Management systems to ensure maintenance of Shire assets.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

On inspection it was noticed that there was some damage in the kitchen area which had occurred to the skirtings, within the bounds of the kitchen and on the western wall which has been caused by the fire hose being used to clean the floor area. On the 12th November 2020, the tenant was advised verbally and in writing to cease their use of the fire hose and Environmental Health Officers advised the tenant of appropriate cleaning practices.

Further inspections have highlighted the expedited rate of decay to some of these damaged areas, most notable are the wall structures, the bottom plates and lower level of the walls have corroded leaving the wall with no structural integrity at this lower level (refer to Attachment 2 - Tourism House - Images). Shire Officers have inspected the affected walls and although they are not structural, they require immediate repair to prevent further deterioration of the building.

The current maintenance and condition of the building is impacting environmental health concerns, a substantial increase in pests has been noted within the buildings restaurant area. Typically damp and dark areas are breeding grounds for pests and despite pest treatments assisting the control of this issue, it is not possible to spray the internal cavities to completely eradicate them, without repair of the damaged areas the pest problem will continue.

Inspections have also identified wall tiles lifting off the wall behind cooking equipment, this is most likely due to the nature of the cooking equipment used and cooking practices (refer to Attachment 2 - Tourism House - Images).

Further concerns are held where floor tiles are cracked and/or chipped allowing moisture to pool in these areas, as well as in the grout lines where grout is missing which is aiding the growth of mould.

Additional to these concerns, the tenants have reported continuing repair works that require attention including the rangehood not operating properly. On inspection, it was found that the range hood required motor replacements as they had burnt out due to a lack of routine maintenance and an excessive buildup of grease and oil preventing normal function. A deep clean of the flue as well as the range hood filters and hood is required by the tenants prior to any repairs being able to be undertaken. Cost for replacement motors is \$5,264.60.

In February 2021, a plumber attended to a roof leak and observed a substantial buildup of grease on the roof surface and works required to clean the surface and allow for repairs to be undertaken (refer to Attachment 2 - Tourism House - Images).

Shire Officers have compiled a scope of works for the required repairs and have commenced conversations with the tenant regarding the required works, including discussions regarding tenant responsibility for maintenance of the property. Shire Officers have investigated claims against the Shire's building insurance to partially fund these repair works; the insurance provider would then potentially pursue the tenant to reclaim any damage caused by them. Our insurance provider has indicated that any works undertaken to repair the building would need to meet current building standards therefore some items may not be covered as they replace like for like with the standard of original building construction prior to the damage occurring.

Tourism House Reserve

The balance held in the Tourism House Reserve as of March 2021 is \$68,800. Anticipated transfers to the reserve during this financial year (approximately \$36,000) will ensure that there are sufficient funds to meet the works required.

Maintenance Obligations

Meetings have been held with the tenants to ensure they fully understand their obligations to undertake maintenance activities as per the terms of the lease. Under clause 9 of the lease "Maintenance, Repair and Cleaning" they have an obligation to *"maintain, replace, repair, clean and keep the premises in good repair"*. There is no doubt that the practice of using a fire hose has contributed to the damage and this will be a key focus area for discussion by Officers with them. Officers will also attempt to get the tenants to make a contribution towards the cost of repairs. Officers also plan to increase the frequency of inspections to ensure maintenance activities are being carried out in an approved manner.

ATTACHMENTS

Attachment 1 - Scope of Works Tourism House Restaurant

Attachment 2 - Tourism House - Images

Attachment 3 - Floor Plan

Attachment 4 - Building Condition Report 2018

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

The Presiding member moved that Council moved in camera at 5:52 pm.

Council Decision

Minute Number: 33/03/2021 118412

That Council move in-camera 5:52pm. Shire Officers to remain.

Moved: Cr M McKittrick

Seconded: T Chafer

Decision: 9/0

16.1. REQUEST FOR APPLICATIONS T06-20/21: PROVISION OF BUILDING MAINTENANCE SERVICES

The Shire CEO advised Council that the Administration wished to withdraw this report for reassessment and would bring it to council at the 27 April 2021 Ordinary Council Meeting.

16.2. REQUEST FOR APPLICATIONS T07-20/21 PROVISION OF ELECTRICAL SERVICES

DATE:	30 March 2021
AUTHOR:	Senior Procurement and Contracts Officer
RESPONSIBLE OFFICER:	Stuart Dyson, Director Infrastructure
FILE NO:	CM.16.390
DISCLOSURE OF INTERESTS:	Nil.

This item is to be considered behind closed doors as per the *Local Government Act 1995* section 5.23(2)(c):

5.23. Meetings generally open to public

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

VOTING REQUIREMENT

Simple Majority

PURPOSE

To consider applications received for T07-20/21 and to appoint a panel of pre-qualified suppliers for the provision of electrical services.

Council Decision

Minute Number: 30/03/2021 -118412

That Council:

- 1. Accepts the appointment of the following Panel Members to Pre-Qualified Supplier Panel T07-20/21 Provision of Electrical Services, in accordance with the tendered schedule of rates and for a period of three (3) years from contract execution:**
 - a. The Jolly Family Trust T/A C&S Jolly Electrics (ABN: 28 454 701 259) of Lot 147 Whimbrel Road, Kununurra WA 6743;**
 - b. TST Electrical Pty Ltd (ABN: 74 131 054 825) of 120 Weaber Plain Road, Kununurra WA 6743;**
 - c. Vision Power Pty Ltd ATFT Vision Power Unit Trust (ABN: 17 509 929 256) of 10 Poincettia Way, Kununurra WA 6743; and**
 - d. Trimbell Joshua T/A Trimlec (ABN: 77 159 091 925) of 57 Weaber Plain Road, Kununurra WA 6743.**
- 2. Delegates the formation and execution of the contracts to the Chief Executive Officer.**
- 3. Authorises the Chief Executive Officer to approve the two (2) possible successions of twelve (12) month extension terms, following the cessation of the initial three (3) year contract term, providing appointed panel members have demonstrated satisfactory contract performance.**

Moved: Cr Grant Lodge

Seconded: Cr J Farquhar

Decision: 9/0

16.3. RFQ14-20/21: NUTWOOD / ROSEWOOD AVENUE UPGRADE STAGE 3 AND BANDICOOT DRIVE UPGRADE STAGE 2

DATE:	30 March 2021
AUTHOR:	Senior Procurement and Contracts Officer
RESPONSIBLE OFFICER:	Stuart Dyson, Director Infrastructure
FILE NO:	CM.16.395
DISCLOSURE OF INTERESTS:	Nil.

This item is to be considered behind closed doors as per the *Local Government Act 1995* section 5.23(2)(c):

5.23. Meetings generally open to public

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

VOTING REQUIREMENT

Simple Majority

PURPOSE

To consider quotations received under WALGA PSA PSP009, Quotation RFQ14 - 20/21 and to make recommendation for award of contract.

Council Decision

Minute Number: 30/03/2021 - 118413

That Council;

- 1. Accepts the quotation submitted by Roadline Contracting Pty Ltd (ABN: 31 124 402 928) of 13 McDaniel Road, Broome WA 6725 for WALGA PSA PSP009 Quotation RFQ14 - 20/21 as follows:**
 - a. Nutwood / Rosewood Avenue Upgrade Stage 3 for the fixed lump sum price of \$1,063,489.25 excluding GST; and**
 - b. Bandicoot Drive Upgrade Stage 2 for the fixed lump sum price of \$642,656.81 excluding GST.**
- 2. Delegates the formation of the Contract to the Chief Executive Officer, subject to any variations (of a minor nature) prior to entry to Contract.**

Moved: T Chafer

Seconded: Cr G Lodge

Decision: 9/0

16.4. REQUEST TO WRITE OFF INTEREST

DATE:	30 March 2021
AUTHOR:	Rates Officer
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
ASSESSMENT NO:	A2574
FILE NO:	A2574D & FM.11.156
DISCLOSURE OF INTERESTS:	Nil

This item is to be considered behind closed doors as per the *Local Government Act 1995* section 5.23(e):

5.23. Meetings generally open to public

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

- (h) *such other matters as may be prescribed.*
- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

VOTING REQUIREMENT

Absolute Majority

PURPOSE

For Council to consider a request to write off outstanding penalty interest for Rates Assessment A2574.

Council Decision

Minute Number: 30/03/21 -118413

That Council approve the write off of outstanding penalty interest of \$140,813 for Rates Assessment A2574.

**Moved: Cr Grant Lodge
Seconded: T Chafer**

Decision: 9/0

16.5. REQUEST TO WAIVE RATES

DATE:	30 March 2021
AUTHOR:	Rates Officer
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.11.56
DISCLOSURE OF INTERESTS:	Nil

This item is to be considered behind closed doors as per the *Local Government Act 1995* section 5.23(e):

5.23. Meetings generally open to public

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

VOTING REQUIREMENT

Absolute Majority

PURPOSE

For Council to consider a request from the ratepayer of assessment A1075 to waive \$9,912.69 of their 2020/21 levied Rates.

Council Decision

Minute Number: 30/03/2021 118414

That Council does not approve the request to waive Rates to the value of \$9,912.69 for assessment A1075.

Moved: Cr T Chafer

Seconded: Cr M McKittrick

Decision: 9/0

The Presiding member moved that Council moved out of camera at 6:25 pm.

Council Decision

Minute Number: 30/03/2021 118415

That Council move out of camera 6.25pm.

Moved: Cr M McKittrick

Seconded: Cr N Brook

Decision: 9/0

Members of the Gallery invited back in to Chambers. The Shire President read the Council Resolutions aloud and noted that the Shire Officers had withdrawn item 16.1.

17. CLOSURE

The Shire President declared the meeting closed at 6.29pm.