



SHIRE OF WYNDHAM | EAST KIMBERLEY

AGENDA ORDINARY COUNCIL MEETING

21 FEBRUARY 2023

DISCLAIMER

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

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

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

Signed on behalf of Council



VERNON LAWRENCE

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
WYNDHAM COUNCIL CHAMBERS
TO BE HELD ON TUESDAY 21 FEBRUARY 2023 AT 5:00PM**

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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

3. DECLARATION OF INTEREST

- Financial Interest
- Impartiality Interest
- Proximity Interest

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5. PUBLIC QUESTION TIME

6. APPLICATIONS FOR LEAVE OF ABSENCE

Cr D Hearty has requested a leave of absence for the 21 March 2023 Ordinary Council Meeting.

OFFICER RECOMMENDATION

That Council approve a Leave of Absence for:

- 1. Cr D Hearty**
 - **Ordinary Council Meeting - 21 March 2023**

7. PETITIONS

8. CONFIRMATION OF MINUTES

OFFICER'S RECOMMENDATION

That Council confirms the Minutes of the Ordinary Council Meeting held on 13 December 2022

Note: The Minutes of the Ordinary Council Meeting held on 13 December 2022 are provided under separate cover via www.swek.wa.gov.au

9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

12. REPORTS

12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL

12.2. OFFICE OF THE CEO

12.2.1. Standing Item - Outstanding Actions from Previous Council Resolutions

DATE:	21 February 2023
AUTHOR:	Executive Officer to the CEO
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
DISCLOSURE OF INTERESTS:	NIL
COUNCIL'S ROLE IN THE MATTER:	Leader - plan and provide direction through policy and practices
VOTING REQUIREMENT:	Simple Majority

OFFICER'S RECOMMENDATION

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

PURPOSE

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

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

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

STATUTORY IMPLICATIONS

NIL

POLICY IMPLICATIONS

NIL

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.2: Good decision making through engagement with the community

Strategy 4.2.2: Ensure community input informs planning and decision making

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

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

RISK IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

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

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

An update of completed actions from previous 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 - Completed as at February 2023

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

12.2.2. Standing Item - Use of the Common Seal

DATE:	21 February 2023
AUTHOR:	Executive Officer to the CEO
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
DISCLOSURE OF INTERESTS:	NIL
COUNCIL'S ROLE IN THE MATTER:	Regulator - enforce state legislation and local laws
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 10 December 2022 to 17 February 2023.

PURPOSE

For Council to receive this report on the application of the Shire of East Kimberley Common Seal for the period 10 December 2022 to 17 February 2023.

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

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

FINANCIAL IMPLICATIONS

NIL

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

There was 1 document for the time period of 10 December 2022 to 17 February 2023 with the Shire of Wyndham East Kimberley Common Seal applied as per the table below:

Date of Use	Document
25/01/2023	Financial Assistance Agreement (FAA2) 0 Election Commitment Construction of Stage 1 - Kununurra Aquatic & Leisure Centre redevelopment

ATTACHMENTS

NIL

12.3. PLANNING AND COMMUNITY DEVELOPMENT

12.3.1. Renewal of Caravan Parks and Camping Ground Licences

DATE:	21 February 2023
AUTHOR:	Environmental Health Officer
RESPONSIBLE OFFICER:	Nick Kearns, Director Planning and Community Development
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Regulator - enforce state legislation and local laws
VOTING REQUIREMENT	Simple Majority

OFFICER'S RECOMMENDATION

That Council approves the renewal of licences under the Caravan Parks and Camping Grounds Act 1995 for:

- APT Mitchell Falls Wilderness Lodge;
- Bachsten Camp;
- Digger's Rest Station;
- Discovery Parks - Lake Kununurra;
- Doon Doon Campground;
- Drysdale River Station;
- Ellenbrae Station;
- El Questro Station Township;
- Emma Gorge Resort;
- Hidden Valley Caravan Park;
- Home Valley Station;
- Home Valley Station - Pentecost River Camping Ground;
- Ivanhoe Village Caravan Resort;
- Kalumburu Mission Camping Ground;
- Kimberleyland Waterfront Holiday Park;
- Kununurra Agricultural Society;
- Lake Argyle Resort;
- Lily Lagoon Resort;
- Mount Elizabeth Station;
- Parry Creek Farm Tourist Resort & Caravan Park;
- Reach Beyond;
- Town Caravan Park;
- Wyndham Caravan Park.

PURPOSE

For Council to approve the renewal of licences issued under the *Caravan Parks and Camping Grounds Act 1995* for camping grounds and caravan parks in the Shire.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Caravan parks and camping grounds must be licenced under the *Caravan Parks and Camping Grounds Act 1995*. Licences remain in force for one year from the day on which the licence was granted or renewed. Licence renewal requires approval by Council.

Proposed licences are at Attachment 1.

STATUTORY IMPLICATIONS

Caravan Parks and Camping Grounds Act 1995

6. Caravan park or camping ground not to be operated without a licence
 - (1) On and after the appointed day a person must not operate a facility, or a facility of a prescribed type, unless the person holds the appropriate licence under this Act in relation to that facility.

Penalty: \$5 000.
 - (2) In subsection (1) -
appointed day means such day as is fixed by the Minister by notice published in the Government Gazette to be the appointed day for the purpose of that subsection².
7. Application for the grant or renewal of a licence
 - (1) An application for the grant or renewal of a licence for a facility is to be -
 - (a) made to the local government in the appropriate prescribed form;
 - (b) accompanied by the appropriate fee prescribed; and
 - (c) accompanied by any information that the local government reasonably requires for a proper consideration of the application
 - (2) An applicant is to provide the local government with any further information that the local government by notice in writing requires the applicant to provide in respect of an application
 - (3) An applicant must, if required to do so by the local government, verify by statutory declaration any information contained in, or given in connection with, an application

- (4) Subject to this section, a local government may grant or renew a licence and at any time may impose conditions on that licence.
 - (5) Before granting a licence a local government must ensure that-
 - (a) the applicant has complied with the requirements of this Act;
 - (b) the applicant is the owner of the land on which the facility is situated, or is to be situated, or has the written approval of the owner of that land to apply for a licence.
 - (6) A local government may refuse to renew a licence if -
 - (a) the licence holder has been convicted of an offence against this Act or any other written law relating to caravanning or camping which, in the opinion of the local government, renders the licence holder an unsuitable person to hold a licence;
 - (b) a condition imposed on the licence has been contravened; or
 - (c) The licence was obtained by fraud or misrepresentation.
 - (7) Where a local government refuses to grant or renew a licence it must give notice in writing of that decision to the applicant
 - (8) Notice of a decision under this section is to state that the applicant or licence holder is entitled to apply to the State Administrative Tribunal for a review of the decision
8. Duration of licence
A licence remains in force for the prescribed period unless -
- (a) it is provided otherwise in the licence; or
 - (b) it is cancelled.

Caravan Parks and Camping Grounds Regulations 1997

52. Duration of licence
The prescribed period for the purposes of section 8 of the Act is one year from the day on which the licence was granted or renewed.

POLICY IMPLICATIONS

Overflow sites in caravan parks and camping grounds are approved in accordance with Council Policy CP/HTH-3761 Licensing of Overflow Sites in Caravan Parks and Camping Grounds. All licences have been assessed and comply with this policy.

STRATEGIC IMPLICATIONS

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

Focus Area 2: PLACE - Enhancing the environment

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

Strategy 2.3.5: Enforce effective public health and safety

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

Service Area: Regulatory Services - Environmental Health

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

FINANCIAL IMPLICATIONS

Majority of owners/operators have paid the licence renewal fees. Those whose fees are still outstanding will not be sent their licences until the fees are paid.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

There are new licences for approval. The renewals are for existing caravan parks and camping grounds. All applications have been assessed and are recommended for renewal.

Where a renewal form has not been received, or annual fees not paid, the updated licence will not be issued to them until the outstanding item has been addressed.

ATTACHMENTS

Attachment 1 - Proposed Caravan Parks and Camping Ground Licences 2023

12.4. CORPORATE SERVICES

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

DATE:	21 February 2023
AUTHOR:	Manager Finance
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.09.32
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Regulator - Responsible for the enforcement of statutory requirements
VOTING REQUIREMENT:	Simple Majority

OFFICER'S RECOMMENDATION

That Council receive the lists of accounts paid from the Municipal and Trust funds for December 2022, being:

Municipal EFT 144539 - 144744 (01/12/2022 - 22/12/2022)	\$ 2,201,710.96
Trust CHQ 52028 (21/12/2022)	\$ 132.40
Trust EFT 20221130-220211205 (02/12/2022 - 07/12/2022)	\$ 917.05
Payroll (14/12/2022 - 28/12/2022)	\$ 495,065.00
Direct Bank Debits (01/12/2022 - 28/12/2022)	\$ 585,384.65
Total	\$ 3,283,210.06

PURPOSE

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

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

In accordance with Council's Delegations Register which was adopted by Council on 27 September 2022, 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 2022/23 Adopted Budget and any subsequent amendments thereto. This report provides for the ongoing management of the Shire's funds by providing the Council with sufficient information to monitor and review those payments made.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027.

Focus Area 4: Performance - Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

RISK IMPLICATIONS

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

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

COMMUNITY ENGAGEMENT

No community engagement is required in relation to this item.

COMMENTS

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

after the list is prepared and is to be recorded in the minutes of the meeting at which it is presented.

ATTACHMENTS

Attachment 1 - List of Accounts Paid December 2022

12.4.2. Monthly Financial Reports

DATE:	21 February 2023
AUTHOR:	Manager Finance
RESPONSIBLE OFFICER:	Felicity Heading, Director Corporate Services
FILE NO:	FM.09.32
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Regulator - Responsible for the enforcement of statutory requirements
VOTING REQUIREMENT:	Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the Monthly Financial Reports for the periods ended 30 November 2022 and 31 December 2022.

PURPOSE

For Council to receive the Interim Monthly Financial Reports for the periods ended 30 November 2022 and 31 December 2022.

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 28 June 2022 Ordinary Council Meeting, the Council resolved the following:

Council Decision

Minute Number: 28/06/2022 - 118681

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

Moved: Cr M Dear

Seconded: Cr J Farquhar

Decision 7/0

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

STATUTORY IMPLICATIONS

Local Government Act 1995, Section 6.4.

6.4. Financial report

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

(2) The financial report is to —

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

(b) contain the prescribed information.

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

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

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

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

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

(1A) In this regulation —

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

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

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

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

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

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

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

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

(a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and

(b) an explanation of each of the material variances referred to in subregulation (1)(d); and

(c) such other supporting information as is considered relevant by the local government.

(3) The information in a statement of financial activity may be shown —

(a) according to nature and type classification; or

(b) by program; or

(c) by business unit.

(4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —

(a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and

(b) recorded in the minutes of the meeting at which it is presented.

(5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

Focus Area 4: Performance - Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

RISK IMPLICATIONS

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

Control: 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

The Shire has engaged Moore Australia to prepare the Monthly Financial Report on an ongoing basis. The basis of the report is the same as for previous Monthly Financial Reports but in addition to the Statements of Financial Activity by Program and by Nature or Type, the report includes summary information in the form of graphs showing budgets versus actuals, an executive summary of key financial activities, and additional explanatory notes to the financial statements.

Comments in relation to budget versus actual variances are included at note 14 in the Financial Statements.

Council should note that the report is an interim report as the audit of the 2021/22 Annual Financial Statements needs to be finalised before a final position for 30 June 2022 can be reported.

ATTACHMENTS

Attachment 1 - Monthly Financial Report November 2022

Attachment 2 - Monthly Financial Report December 2022

12.5. INFRASTRUCTURE

12.5.1. Hardcover Protection Location, Weaber and Victoria

DATE:	21 February 2023
AUTHOR:	Director Infrastructure and Strategic Projects
RESPONSIBLE OFFICER:	Paul Webb, Director Infrastructure and Strategic Projects
FILE NO:	GS.05.13
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Leader - plan and provide direction through policy and practices Provider - provide physical infrastructure and essential services
VOTING REQUIREMENT	Simple Majority

OFFICER'S RECOMMENDATION

That Council approves the construction works for the 'Kununurra Disruptive and Protective Hardcover' at the intersection of Weaber Plain Road and Victoria Highway, Kununurra, as demonstrated on the plan at Attachment 1.

PURPOSE

The administration seeks a formal decision on the installation of hardcover points in the Kununurra townsite.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Council previously considered this initiative at their August 2022 Ordinary Meeting:

Council Decision

Minute Number: 23/08/2022 - 118701

That Council approve the Administration to:

- 1. Commence with the design for construction of 'Disruptive and Protective Hardcover installations', in consultation with Local Police, the consideration of the placement being subject to appropriate engineering standards to reduce run off road impact object crash speeds to 40kmh or lower and the installation being aesthetic fit for purpose to the satisfaction of Council;**

2. Accept the receipt of grant funding in the amount of \$49,500 to be allocated to this project;

3. Determine detailed costings for the project; and

4. Seek Council approval for the final project design and costings before project commencement.

In line with points 3 and 4, a plan is provided and costed for the installation of a protective hardcover at Attachment 1.

The design has agreement from WA Police.

STATUTORY IMPLICATIONS

Local Government Act 1995, Part 3, Division 1, 3.1 (1) the general function of a local government is to provide for the good government of persons in its district.

POLICY IMPLICATIONS

CP/OPS-3661 Shire Road Network

This policy provides guidance on the extent of the Shire public road network.

STRATEGIC IMPLICATIONS

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

Focus Area 2: PLACE - Enhancing the environment

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

Strategy 2.3.1: Lead an interagency approach to address community safety concerns including crime reduction planning and programs

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

Shire Project: 212 - Implement a Community Safety and Crime Prevention Plan

Service Area: Asset Management and Capital Works
Engineering Services

RISK IMPLICATIONS

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

Control: Work with local agencies to progress warranted sustainable projects that provide tangible benefits to the community

FINANCIAL IMPLICATIONS

Estimated construction cost based on market price is \$16,045. Based on the simplicity of the project, construction will be progressed through self-performing works, and as such project delivery cost may be much lower, but fits within the current budget allocation.

COMMUNITY ENGAGEMENT

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

- Liaison with Local Police on installation type and locations.
- Further communications with Council on preliminary installation to ensure compatibility with town aesthetic
- Letter of support from MG Corporation

Additionally, property owners in the immediate area will be contacted to inform them of the project and modifications will be made to suit the occupant where they do not jeopardise the primary purpose of the project.

COMMENTS

Shire officers have over the last few months been approached by business owners seeking information on how to install substantial bollards at the perimeter of their business, in order to deter or prohibit damage to their property by stolen vehicles performing ram raids. Staff have been working with businesses in an advisory capacity to provide supporting information. In conversation with local Police, it was highlighted that bollard installation would be largely unnecessary if stolen vehicles could be disabled earlier in a 'police pursuit'.

WA Police has provided a document that proposes the installation of heavy duty gates and hardcover protection areas that would be used to corral, and then disable stolen vehicles, which has been previously agreed to by Council, subject to design, costing and order of priority.

Proposed roadside installations serve three purposes;

- Protect officers whilst deploying tyre deflating devices – 'stingers'.
- Force vehicles to use the trafficable path (the road) and onto the deployed devices.
- Keep vehicles on the trafficable path at intersections to protect pedestrians.

In an attempt to soften the visual amenity of hardcover protection locations and in consultation with Police, Shire officers are proposing installation of substantial sized boulders, embedded in ground at 1.8m spacings. Local rock would be a better fit to our local aesthetic, deny access to the verge and provide the required shelter to police officers.

The new installation at the intersection of Weaber Plain Road and Victoria Highway addresses risk associated with the placement of non-frangible objects in the road reserve by ensuring that they are sited in a low speed environment. It is furthermore agreed by WA Police as offering sufficient protection for officers in the event of them deploying tyre deflation devices - 'stingers' - and serve to protect the community from the dangers of stolen vehicles being driven within the town.

ATTACHMENTS

Attachment 1 - Proposed protective hardcover installation at the intersection of Weaber Plain Road and Victoria Highway, Kununurra

12.5.2. Carlton Hill Road - Disposal of Asset

DATE:	21 February 2023
AUTHOR:	Director Infrastructure and Strategic Projects
RESPONSIBLE OFFICER:	Paul Webb, Director Infrastructure and Strategic Projects
FILE NO:	RD.07.18
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Leader - plan and provide direction through policy and practices
VOTING REQUIREMENT	Absolute Majority

OFFICER'S RECOMMENDATION

That Council resolve to;

- 1. The disposal of the road and drainage assets on the 18.5 km section of Carlton Hill Road, as an exempt disposition in accordance with section 30(2)(c) of the Local Government (Functions and General) Regulations 1996 noting that the section of road and drainage has a written down value of \$1.12M as at 31/07/2018.***
- 2. The removal from the Shire's asset register of the 18.5 km section of Carlton Hill Road, from approximately 10.5 SLK to the existing end of road approximately 29.0 SLK.***
- 3. Erect adequate signage at the end of maintenance point, to notify users that the road is not maintained and that they should drive to conditions;***
- 4. Allow Kimberley Agricultural Investment to install a cattle gate at the terminus point of maintenance on Carlton Hill Road at their own cost inclusive of ongoing maintenance, to the satisfaction of the Shire. The Shire reserves the right of the administration to open or remove the gate without notice.***

PURPOSE

To consider removal of Carlton Hill Road from 10.5 SLK onward from the asset register.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Council have previously considered the 'Closure' at the Ordinary Council Meeting 25 September 2018, resolution 115857:

COUNCIL DECISION Minute Number: 25/09/2018 - 115857

That Council approves:

- 1. Advertising the proposed permanent closure of a 18.5 km section of Carlton Hill Road as shown on Attachment 1 – Carlton Hill Road, in accordance with section 58 of the Land Administration Act 1997.**
- 2. A Shire application to the Department of Lands to relinquish the 18.5 km section of Carlton Hill Road reserve (subject to completion of item 1 above).**
- 3. The disposal of the road reserve, road and drainage assets on the 18.5 km section of Carlton Hill Road, as an exempt disposition in accordance with section 30(2)(c) of the Local Government (Functions and General) Regulations 1996 noting that the section of road and drainage has a written down value of \$1.12M as at 31/07/2018.**
- 4. The removal from the Shire's asset register of the 18.5 km section of Carlton Hill Road, when that section of the road is permanently closed.**

Whilst point 1 and 2 of the original resolution cannot be progressed, the action being progressed (the closure of the road) is substantively being done. This will only require a change to the original resolution requiring an absolute majority. The road will still be removed from the asset register. The benefit to the community will be that the road reserve still allows legal access to the road entry points for Skull Rock and Cape Domett which had previously raised some community concern. In any case, the Department of Lands has indicated that the road reserve cannot be permanently closed.

Attachment 1 provides a plan relevant to the proposed road closure.

STATUTORY IMPLICATIONS

Local Government (Administration) Regulations 1996, Regulation 10 Revoking or changing decisions (Act s. 5.25(1)(e)) (2) *If a decision is made at a council or committee meeting, any decision to revoke or change the decision must be made by an absolute majority.*

Local Government Act 1995, Schedule 9.1 - Certain matters for which Governor may make regulations, 5. Gates across public thoroughfares, (1) *Regulations may be made under which a local government may authorise a person to have across a public thoroughfare that is under its control or management a gate or other device that enables motor traffic to pass and prevents the straying of livestock.*

Land Administration Act 1997,

28. *Subdivisions of Crown land, dedication etc. of roads in*
- (1) *When the Minister causes a parcel of Crown land within the district of a local government to be surveyed into locations or lots under section 27 and the plan of that*

survey is approved by an authorised land officer, any land delineated and shown on that plan as a new road, or an extension or widening of a road, is, subject to subsection (2) —

- (a) by force of this subsection dedicated as a road; and
 - (b) placed under the care, control and management of the local government.
- (2) To be dedicated under subsection (1), land must at the time of dedication be —
- (a) unallocated Crown land; and
 - (b) designated on the relevant plan of survey as having the purpose of a road.

Civil Liability Act 2002

Part 1A - Liability for harm caused by the fault of a person

5B. General principles

- (1) A person is not liable for harm caused by that person's fault in failing to take precautions against a risk of harm unless —
- (a) the risk was foreseeable (that is, it is a risk of which the person knew or ought to have known); and
 - (b) the risk was not insignificant; and
 - (c) in the circumstances, a reasonable person in the person's position would have taken those precautions.
- (2) In determining whether a reasonable person would have taken precautions against a risk of harm, the court is to consider the following (amongst other relevant things) —
- (a) the probability that the harm would occur if care were not taken;
 - (b) the likely seriousness of the harm;
 - (c) the burden of taking precautions to avoid the risk of harm
 - (d) the social utility of the activity that creates the risk of harm.

POLICY IMPLICATIONS

CP OPS 3659 Asset Management Policy

STRATEGIC IMPLICATIONS

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

Focus Area 4: PERFORMANCE - Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

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

Shire Project: 206 - Road Maintenance Program

Service Area: Asset Management and Capital Works
Asset Management

RISK IMPLICATIONS

Risk: Failure to manage and implement a Council wide framework for sustainable whole of life Asset management which provides the desired level of service to the community.

Control: Review asset base to verify funding toward high use roads, and disposal of assets that exceed financial capacity versus traffic loading, if any.

FINANCIAL IMPLICATIONS

Installation of signage at the terminus of the maintenance area will be from the existing signage maintenance budget.

COMMUNITY ENGAGEMENT

Nil

COMMENTS

Discussion with the Department of Lands has raised two issues that would prohibit or add significant cost and time delay to the disposal of portion of road reserve Carlton Hill Road:

- Permanent closure, or disposal of the road would trigger native title over the remnant vacant land, necessitating negotiation and financial costs.
- Permanent closure, or disposal of Carlton Hill Road reserve would eliminate legal access to lot 5000, Carlton Hill Station PTY LTD.

As a result of these hindrances, the Department of Lands will not approve the disposal of Carlton Hill Road.

It is now proposed that the Council consider a superseding recommendation to relinquish the asset of Carlton Hill Road from SLK 10.1 to 23.7. The road reserve will still exist, allowing legal connection to Lot 5000, however, the Shire will no longer maintain the remnant road construction.

Disposal of the road will require public notification, and signs will be erected at the point that maintenance will no longer occur.

Kimberley Agricultural Investments (KAI) will be approved to install a cattle gate at their cost and to meet Shire requirements and the new gate will be recorded within the relevant Shire register.

Signs will also be displayed at the new termination point of the road, to clearly state that the road is not maintained, and that people should drive to the conditions of the road.

ATTACHMENTS

Attachment 1 - Carlton Hill Road Partial Closure Map

12.5.3. Dumas Lookout Access Road - Disposal of Asset

DATE:	21 February 2023
AUTHOR:	Director Infrastructure and Strategic Projects
RESPONSIBLE OFFICER:	Paul Webb, Director Infrastructure and Strategic Projects
FILE NO:	CP.02.12
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Leader - plan and provide direction through policy and practices Provider - provide physical infrastructure and essential services
VOTING REQUIREMENT	Simple Majority

OFFICER'S RECOMMENDATION

That Council approves:

- 1. The disposal of the road and drainage assets on the 800m section of Dumas Lookout Access Road, as an exempt disposition in accordance with section 30(2)(c) of the Local Government (Functions and General) Regulations 1996 noting that the section of road and drainage has a written down value of \$31,605 as at 30 June 2022.**
- 2. The removal from the Shire's asset register of the 800m section of Dumas Lookout Access Road, from approximately 0.00 SLK to the existing end of road approximately 0.80 SLK.**

PURPOSE

To consider removal of disposal of Dumas Lookout Access Road, Kununurra and removal from the Shire's asset register.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Shire has received regular seasonal complaints about the condition of the Dumas Lookout Access Road, which is predominantly a driveway for Lot 504, operating as an airfield, and irregular farm access to Lot 267.

Failures in the condition of the road relate to poor local drainage, and a failure of the adjoining property to maintain private drains, as well as the loss of culverts into the adjacent

channel. This causes water to hold in the area and back charge the system causing the road to become submerged.

STATUTORY IMPLICATIONS

Local Government Act 1995, Part 3 - Functions of local governments

3.1, General functions,

- (1) *The general function of a local government is to provide for the good government of persons in the district.*

Land Administration Act 1997,

28. Subdivisions of Crown land, dedication etc. of roads in

- (1) *When the Minister causes a parcel of Crown land within the district of a local government to be surveyed into locations or lots under section 27 and the plan of that survey is approved by an authorised land officer, any land delineated and shown on that plan as a new road, or an extension or widening of a road, is, subject to subsection (2) —*

- (a) *by force of this subsection dedicated as a road; and*
(b) *placed under the care, control and management of the local government.*
(2) *To be dedicated under subsection (1), land must at the time of dedication be*

- (a) *unallocated Crown land; and*
(b) *designated on the relevant plan of survey as having the purpose of a road.*

Civil Liability Act 2002

Part 1A - Liability for harm caused by the fault of a person

5B. General principles

- (1) *A person is not liable for harm caused by that person's fault in failing to take precautions against a risk of harm unless —*
- (a) *the risk was foreseeable (that is, it is a risk of which the person knew or ought to have known); and*
(b) *the risk was not insignificant; and*
(c) *in the circumstances, a reasonable person in the person's position would have taken those precautions.*
- (2) *In determining whether a reasonable person would have taken precautions against a risk of harm, the court is to consider the following (amongst other relevant things) —*
- (a) *the probability that the harm would occur if care were not taken;*
(b) *the likely seriousness of the harm;*
(c) *the burden of taking precautions to avoid the risk of harm*
(d) *the social utility of the activity that creates the risk of harm.*

POLICY IMPLICATIONS

CP OPS 3659 Asset Management Policy

STRATEGIC IMPLICATIONS

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

Focus Area 4: PERFORMANCE - Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

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

Shire Project: 206 - Road Maintenance Program

Service Area: Asset Management and Capital Works
Asset Management

RISK IMPLICATIONS

Risk: Failure to manage and implement a Council wide framework for sustainable whole of life Asset management which provides the desired level of service to the community.

Control: Upgrade of, and then disposal of driveway access to the responsible agent

FINANCIAL IMPLICATIONS

Installation of signage to notify users that the asset is a private road for a period of 12 months, funded from the Signage Maintenance budget.

COMMUNITY ENGAGEMENT

Engagement has taken place in accordance with the Community Engagement Guidelines and included direct communication with the property owner, to indicate rectification of the drainage matter as best as practically possible, and then return of the asset as a driveway access to the property owner Lot 504 Dumas Lookout Access Road.

COMMENTS

The administration has been attempting to work with the current owner of the property, and has indicated that the staff would recommend to Council an upgrade of the road by lifting and clearing of drains, subject to disposal of the asset, Dumas Lookout Road becoming a private accessway at that point. This has been agreed by the property owner of Lot 504 Dumas Lookout Access Road.

Resheet works were completed on the week of 12 December 2022 under general maintenance, which can be seen in Attachment 2 - Dumas resheeted. It is also of note, that a 'NO ENTRY, UNAUTHORISED VEHICLES STRICTLY PROHIBITED', sign exists at the

entry of the road. The sign has not been installed or maintained by the Shire and very clearly demonstrates that the owner believes that the road should not be accessed by others.

ATTACHMENTS

Attachment 1 - Dumas Lookout Access Road

Attachment 2 - Dumas Resheeted

13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

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

16. MATTERS BEHIND CLOSED DOORS

17. CLOSURE