

SHIRE OF WYNDHAM EAST KIMBERLEY

Ordinary Council Meeting: Minutes

22 August 2023



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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
MINUTES
WYNDHAM COUNCIL CHAMBERS
TO BE HELD ON TUESDAY 22 AUGUST 2023 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 5:01 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 M Dear	Councillor
Cr J Farquhar	Councillor
Cr D Hearty	Councillor
Cr B Kyne	Councillor
V Lawrence	Chief Executive Officer
N Kearns	Director Planning & Community Development
F Heading	Director Corporate Services
P Webb	Director Infrastructure
N Bray	Minute Taker

Apology

Cr M McKittrick	Councillor
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Leave of Absence

Cr C McNeil	Councillor
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3. DECLARATION OF INTEREST

- Financial Interest

Councillor/Officer	Item	Description of Interest
Vernon Lawrence	16.3	This item directly relates to my remuneration

- 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 25 July 2023.

COUNCIL DECISION

Minute Number: 22/08/2023 - 118886

Moved: Cr J Farquhar

Seconded: Cr M Dear

That Council confirms the Minutes of the Ordinary Council Meeting held on 25 July 2023.

Carried: 7 / 0

**For: Cr D Menzel, Cr T Chafer, Cr N Brook, Cr M Dear, Cr J Farquhar, Cr D Hearty,
Cr B Kyne**

Against: Nil

Note: The Minutes of the Ordinary Council Meeting held on 25 July 2023 are provided under separate cover via www.swek.wa.gov.au

9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

28 June 2023 Tim Fraser, Executive Director - Local Government - Attended by the CEO to discuss Local Government reform and sustainability

3 July 2023 - RareX Fertiliser and Rare Earth Mining Project – Attended by the CEO to discuss progress on the project

7 July 2023 – Yajany yarrowoo ngoondebtha Group / Friday Reference Group - Attended by the Shire President and CEO.

12 July 2023 - WALGA Meeting with Wyndham-East Kimberley President & CEO – Attended by the Shire President and the CEO to discuss our Shire's goals and challenges, and how WALGA can assist.

13 July 2023 - Neil Thomson MLC & Libby Mettam MLA - Kununurra Visit - Attended by the Shire President and the CEO to discuss the region and the Shire's concerns and priorities.

18 July 2023 – EKCCI Board Meeting – Attended by the CEO as an observer and to provide updates on Shire projects and initiatives.

21 July 2023 – Yajany yarrowoo ngoondebtha Group / Friday Reference Group - Attended by the Shire President and the CEO.

24-26 July 2023 – Developing Northern Australia Conference – Attended by the Shire President and Senior Economic Development Officer to network and advocate for Shire matters.

27 July 2023 – Careers Expo – CEO and Shire Officers attended the careers expo held at the Kununurra Leisure Centre.

2 August 2023 - Air Commander Australia, Royal Australian Air Force – The WA Police (Kununurra), Shire President and CEO met to discuss future activities that may be conducted in the area and discuss the impact they may have.

2 August 2023 – WA Planning Commission – Kimberley Regional Planning Workshop – Attended by CEO, Deputy Shire President and planning staff.

3 August 2023 – Infrastructure WA – Shire President and CEO hosted Beth Beere to discuss the infrastructure requirements of the Shire.

4 August 2023 – Yajany yarrowoo ngoondebtha Group / Friday Reference Group - Attended by the Shire President and the CEO.

11 August 2023 - Kimberley Development Commission Board Meeting – Attended by the Shire President.

14 August 2023 - 2023 Local Government Elections Webinar – Presented by the Department of Local Government, Sport and Cultural Industries to give information to prospective candidates, attended by the Shire President, Director Corporate Services and the Returning Officer.

18 August 2023 – Yajany yarrowoo ngoondebtha Group / Friday Reference Group -
Attended by the Shire President.

21 August 2023 – Minister David Michael MLA (Ports, Local Government & Road Safety
– Shire President, Deputy Shire President and CEO attended via Teams and general discussion of Kimberley Regional Group priorities together with representatives of the Kimberley Regional Group.

21 August 2023 – Minister Simone McGurk MLA (Training, Water & Youth) – Shire President and CEO attended the opening of new TAFE facilities for training local residents to fill hospitality and NDIS positions.

22 August 2023 – Minister Jackie Jarvis MLC (Agriculture and Food, Forestry & Small Business) - Shire President and CEO attended via Teams a general discussion of Kimberley Regional Group priorities together with representatives of the Kimberley Regional Group.

10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

- 16.1. Request For Quote: RFQ21-22/23 Bandicoot Dr. Stage 3B & Weaber Plains Rd./Ironwood Dr. Roadworks
- 16.2. Request for Waiver of Fees
- 16.3. Chief Executive Officer - Annual Review and Key Performance Indicators

11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Nil

12. REPORTS

12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL

Nil

12.2. OFFICE OF THE CEO

12.2.1. Standing Item - Outstanding Actions from Previous Council Resolutions

DATE:	22 August 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.

COUNCIL DECISION

Minute Number: 22/08/2023 - 118887

Moved: Cr B Kyne

Seconded: Cr M Dear

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

Carried 7 / 0

**For: Cr D Menzel, Cr T Chafer, Cr N Brook, Cr M Dear, Cr J Farquhar, Cr D Hearty,
Cr B Kyne**

Against: Nil

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

Various, as referenced in individual reports presented to the Council.

FINANCIAL IMPLICATIONS

Various, as referenced in individual reports presented to the Council.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

An update of actions from the August 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 - As at August 2023

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

12.2.2. Standing Item - Use of the Common Seal

DATE:	22 August 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 22 July 2023 to 18 August 2023.

COUNCIL DECISION

Minute Number: 22/08/2023 - 118888

**Moved: Cr J Farquhar
Seconded: Cr T Chafer**

That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 22 July 2023 to 18 August 2023.

Carried: 7 / 0

**For: Cr D Menzel, Cr T Chafer, Cr N Brook, Cr M Dear, Cr J Farquhar, Cr D Hearty,
Cr B Kyne**

Against: Nil

PURPOSE

For Council to receive this report on the application of the Shire of East Kimberley Common Seal for the period 22 July 2023 to 18 August 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

This matter relates to the following sections of the *Strategic Community Plan 2023-2033*:

GOAL 10: Community-driven Leadership - Leaders work with the community to develop and implement change in delivering positive outcomes

GOAL OUTCOME 10.4: Innovation - Embrace technology, creativity and innovation to solve complex problems

STRATEGY 10.4: Integrate all planning and resource management to drive continuous improvement and innovation

RISK IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

COMMUNITY ENGAGEMENT

No community engagement is required

COMMENTS

There was one document for the time period of 22 July 2023 to 18 August 2023 with the Shire of Wyndham East Kimberley Common Seal applied as per the table below:

Date of Use	Document
27/07/2023	Deed of Settlement - Airbus Transfer of Facility and Assets

ATTACHMENTS

Nil

12.3. PLANNING AND COMMUNITY DEVELOPMENT

12.3.1. Proposal to Lease portion of Lot 707 Drovers Road, Kununurra

DATE:	22 August 2023
AUTHOR:	Senior Planning Officer
RESPONSIBLE OFFICER:	Nick Kearns, Director Planning and Community Development
ASSESSMENT NO:	A2859
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:

1. Offers the Gourmet Camp Oven Experience a 10 year lease over a portion of Reserve 30290, Lot 707 Drovers Road, Kununurra to the Gourmet Camp Oven Experience subject to:
 - (a) consent from the Minister for Lands;
 - (b) local public notice of the proposed disposition being given in accordance with the Local Government Act 1995; and
 - (c) lease rent to be in accordance with a current market rental valuation.
2. Authorises the Chief Executive Officer to negotiate the lease agreement, finalise and affix the common seal.

COUNCIL DECISION

Minute Number: 22/08/2023 – 118889

Moved: Cr T Chafer

Seconded: Cr N Brook

That Council:

1. Offers the Gourmet Camp Oven Experience a 10 year lease over a portion of Reserve 30290, Lot 707 Drovers Road, Kununurra to the Gourmet Camp Oven Experience subject to:
 - (a) consent from the Minister for Lands;
 - (b) local public notice of the proposed disposition being given in accordance with the Local Government Act 1995; and
 - (c) lease rent to be in accordance with a current market rental valuation.

2. Authorises the Chief Executive Officer to negotiate the lease agreement, finalise and affix the common seal.

Carried: 7 / 0

**For: Cr D Menzel, Cr T Chafer, Cr N Brook, Cr M Dear, Cr J Farquhar, Cr D Hearty,
Cr B Kyne**

Against: Nil

PURPOSE

For Council to consider a proposal to lease a portion of Reserve 30290, Lot 707 on Deposited Plan 217504, Drovers Road, Kununurra.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The subject site is part of Reserve 30290 which is for 'racecourse, recreation and sporting clubs' and the Shire holds the management order with power to lease for a maximum of 21 years, subject to consent from the Minister for Lands.

The Shire was approached by Josh Melville, who operates the Gourmet Camp Oven Experience, early in 2022 seeking a 'quintessential' Kimberley location from which to operate from the 2023 tourist season and beyond. Due to legislative restrictions in relation to the Reserve, the Shire was not able to issue a commercial lease or licence at that time. The operator sought assistance from the Department of Planning, Lands and Heritage, who subsequently issued a section 91 licence, with Shire and existing lease holders consent, over a portion of Reserve 30290, Lot 707 Drovers Road allowing the business to operate from the site for twelve months.

Early in 2023, the operator contacted the Shire querying whether a permanent lease/licence could be negotiated over the area where he currently has the section 91 licence. The Department of Planning, Lands and Heritage have advised the Shire, that the Minister for Lands may consider the Shire leasing or licensing the site to the operator without a change of reserve purpose, on the provision that:

- (a) the lease or licence is for a limited term to allow the Department to review the operation over time;
- (b) the Shire submits;
 - (i) a draft/lease licence to the Department for prior approval (prior to sending through to the Minister for Lands)
 - (ii) a proposal demonstrating how use of the Crown land for complementary commercial purposes will provide community benefit.

Consent from both the Race Club and the Kununurra Campdraft and Rodeo Association (KCRA) has been provided, with a condition from the KCRA that the operator should be aware that during the annual campdraft events, animals will be located within the existing fenced area and that the operator of the Gourmet Camp Oven Experience should also fence the proposed lease area with stock proof fencing to reduce property damage. The operator has raised no concerns with this requirement.

The Gourmet Camp Oven Experience currently operates between 4 and 7pm, 6 days per week during the dry season, typically between mid-April to mid-September, catering to a maximum of 13 guests per dinner. This includes a pick and drop off service for guests either from their accommodation or a selected meeting point in Kununurra.

The Gourmet Camp Oven Experience consists of mainly temporary structures, camp oven and fire pit as well as a portable toilet and hand basin.

The proposed lease will be for 'complementary commercial purposes', which is reflective of the low scale and low impact of the experience on the surrounding area.

Rental income received from the lease of this area, will be set aside in a reserve for the management of, and improvements to, Reserve 30290. Additionally, it is relatively low impact, occupying minimal land area, with limited permanent infrastructure, and operating during the 'dry season' only. It is considered that a 10 year lease is reasonable for the business to get established and for the Department and the Shire to monitor the operation.

STATUTORY IMPLICATIONS

Land Administration Act 1997

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

Reserve 30290 is reserved under the *Land Administration Act 1997* for the purpose of "racecourse, recreation and sporting clubs". The Shire holds the management order for this reserve with power to lease for a maximum of 21 years, subject to consent from the Minister for Lands.

Both the Kununurra Race Club and Kununurra Campdraft and Rodeo Association (KCRA) have community leases, with a shared licence area. The proposed lease area is within the shared licenced area.

Local Government Act 1995

Under section 3.58 of the *Local Government Act 1995 (LGA)*, the local government can only dispose of property via the following methods:

- to the highest bidder at public auction; or
- to the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender; or
- by first giving local public notice (2 weeks) of a proposed disposition, and considering any submissions made.

Local public notice of the proposed disposition will need to be undertaken and include:

- (a) the names of all other parties concerned; and
- (b) the consideration to be received by the local government for the disposition; and
- (c) the market value of the disposition -

- (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
- (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.

Council is required to consider any submissions received during the public notice period, make a decision, and record the reasons for the decision in the Council meeting minutes.

POLICY IMPLICATIONS

CP/PMG-3781 - Leasing of Council Managed/Owned Land - Commercial

This policy applies to all leases between the Shire and a private individual or enterprise where the property will be used for a commercial activity.

STRATEGIC IMPLICATIONS

The proposal supports the *Strategic Community Plan 2023-2033* in relation to:

- inspiring growth and prosperity within the Shire
- promoting and supporting ecotourism which conserves country and promotes our culture

RISK IMPLICATIONS

Risk: Failure to make Council decisions which allow for efficient and effective use of operational resources to deliver services which meet the needs of the community and region, comply with statutory requirements and promote economic and social development.

Control: Ensure council decisions consider efficient and effective use of resources, including the disposal of excess resources, and comply with statutory requirements.

FINANCIAL IMPLICATIONS

A market rental valuation will be required to be undertaken.

It is recommended that rental received from the leasing of this area be set aside in a reserve for the management of and improvements to Reserve 30290.

COMMUNITY ENGAGEMENT

Public advertising to dispose (lease) of the land, with the opportunity to appeal the decision, will be undertaken in accordance with the Shire's Community Engagement Guidelines and legislative requirements, once a lease has been negotiated.

COMMENTS

A decision to lease a portion of Reserve 30290, Lot 707 will require public notice to be given of the proposed disposition. During that advertising period of two weeks, submissions may be lodged and these must then be considered by Council before a final determination is made. If no submissions are received during the advertising process, the determination will stand and the disposition process may proceed, noting that the Minister for Lands must also approve the lease.

The subject site is identified as a preferred location due to its distinctive scenic value, offering a uniquely East Kimberley location with boab trees, rugged landscape and views of Elephant Rock. It is proposed to use the landscape as a backdrop to a unique dining experience, enabling both locals and tourists to view Elephant Rock and its surrounds from a different perspective.

The proposal is to operate only during the dry season, typically between mid-April and mid-September, six days per week. Each dinner will run over a 3 hour period, catering for a maximum of 13 guests per dinner with guests transported to and from the site by the operator. The impact of the operation on the area is mitigated by the operating period and times and likewise the vehicular impact is reduced due to the operator providing transport to and from the site.

Both the Kununurra Race Club and Kununurra Campdraft and Rodeo Association (KCRA) have provided written support for the issue of a permanent lease to the Gourmet Camp Oven Dinner in this location. The KCRA did note however that the operator was to be aware that during the annual campdraft (late July/early August), the fenced area will be heavily stocked with cattle and that it is recommended that the Gourmet Camp Oven Experience area should be fenced by the operator with stock proof fencing to reduce property damage. The operator has raised no concerns with this requirement.

It is proposed that any rental income received from the proposed lease would be used to maintain and provide improvements to Reserve 30290.

The proposal will promote the uniqueness of the East Kimberley by utilising and promoting local produce, supporting and fostering local businesses and operations. Similarly, the experience will respect the landscape and conservation value of the area by being a relatively low impact operation, requiring minimal land area (footprint), clearing and infrastructure to establish the experience, further ensuring the sustainability and protection of this area.

ATTACHMENTS

Attachment 1 – Proposal

12.4. CORPORATE SERVICES

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

DATE:	22 August 2023
AUTHOR:	Creditors Officer
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 lists of accounts paid from the Municipal and Trust funds for July 2023 being:

July 2023

Municipal EFT 145990 - 146188 (03/07/23 - 28/07/23)	\$3,093,038.09
Trust EFT 52133 - 52144 (03/07/23 - 28/07/23)	\$ 3,587.80
Payroll (03/07/23 - 26/07/23)	\$ 513,834.59
Direct Bank Debits (03/07/23 - 24/07/23)	\$ 120,951.93
Total	\$3,731,412.41

COUNCIL DECISION

Minute Number: 22/08/2023 - 118890

Moved: Cr D Hearty
Seconded: Cr T Chafer

That Council receives the lists of accounts paid from the Municipal and Trust funds for July 2023 being:

July 2023

Municipal EFT 145990 - 146188 (03/07/23 - 28/07/23)	\$3,093,038.09
Trust EFT 52133 - 52144 (03/07/23 - 28/07/23)	\$ 3,587.80
Payroll (03/07/23 - 26/07/23)	\$ 513,834.59

Direct Bank Debits (03/07/23 - 24/07/23)	\$ 120,951.93
Total	\$3,731,412.41

Carried: 7 / 0

**For: Cr D Menzel, Cr T Chafer, Cr N Brook, Cr M Dear, Cr J Farquhar, Cr D Hearty,
Cr B Kyne**

Against: Nil

PURPOSE

For Council to receive the list of accounts paid from the Municipal Fund and Trust Fund in order to meet 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 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, as well as to comply with legislative requirements.

STRATEGIC IMPLICATIONS

This matter relates to the following sections of the *Strategic Community Plan 2023-2033*:

FOCUS AREA: Sustainability

GOAL 10: Community-driven Leadership - Leaders work with the community to develop and implement change in delivering positive outcomes

GOAL OUTCOME 10.4: Innovation - Embrace technology, creativity and innovation to solve complex problems

STRATEGY 10.4: Integrate all planning and resource management to drive continuous improvement and innovation

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 Council after the list is prepared and is to be recorded in the minutes of the meeting at which it is presented as required by the applicable regulations.

ATTACHMENTS

Attachment 1 - List of Accounts Paid July 2023

12.5. INFRASTRUCTURE

12.5.1. Intersection of Weaber Plain Road and Mulligans Lagoon Road

DATE:	22 August 2023
AUTHOR:	Director Infrastructure and Strategic Projects
RESPONSIBLE OFFICER:	Director Infrastructure and Strategic Projects
ASSESSMENT NO:	NA
FILE NO:	RD.07.7
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 requests the Chief Executive Officer to initiate discussions with relevant landholders, to procure land for the purpose of relocating a 'T' junction at the intersection of Weaber Plain Road and Mulligans Lagoon Road, approximately 550m North of the existing 'T' junction, noting:

- The exact location of the proposed 'T' junction will be determined subject to land access agreements with landholders
- All costs and claims are to be reported to Council prior to any land exchange process
- Land negotiation includes the Closure of the redundant section of Mulligans Lagoon Road, which may form part of a land exchange process.

COUNCIL DECISION

Minute Number: 22/08/2023 - 118891

Moved: Cr D Hearty

Seconded: Cr T Chafer

That Council requests the Chief Executive Officer to initiate discussions with relevant landholders, to procure land for the purpose of relocating a 'T' junction at the intersection of Weaber Plain Road and Mulligans Lagoon Road, approximately 550m North of the existing 'T' junction, noting:

- The exact location of the proposed 'T' junction will be determined subject to land access agreements with landholders

- All costs and claims are to be reported to Council prior to any land exchange process
- Land negotiation includes the Closure of the redundant section of Mulligans Lagoon Road, which may form part of a land exchange process.

Carried: 7 / 0

For: Cr D Menzel, Cr T Chafer, Cr N Brook, Cr M Dear, Cr J Farquhar, Cr D Hearty,
Cr B Kyne

Against: Nil

PURPOSE

The Council provides direction to the administration in progressing discussion with landholders on the development of a direct 'T' intersection of Weaber Plain Road and Mulligan Lagoon Road.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

This matter has previously been discussed by Council 07 February 2023, and 08 August Briefing. Staff require an acknowledgement (via formal approval of Council) in order to proceed into negotiations with landholders. This item seeks that formal direction of Council.

The current intersection is located 10.526 SLK on Weaber Plain Road. There have been ongoing user complaints about site distances at this location, resultant in a Safety Audit 2019 by Donald Veal Consultants (DVC), the outcomes of which suggested application for blackspot funding for rectification measures. A blackspot application was made for corrective measures and was successful pending construction, at the existing location.

It is also understood that there is local interest in development of a cotton gin that may require the development of Mulligans Lagoon Road to a Restricted Access Vehicle (RAV) standard or extraordinary use. This may require, in conjunction with community safety concerns, the relocation of the Mulligans Lagoon intersection to a more favourable location for large turning vehicles, at unknown volume.

It should be noted that this preliminary request is to seek a road corridor only, not construction the intersection.

STATUTORY IMPLICATIONS

*Road Traffic Act 1974, Local Government Act 1995
Land Administration Act 1997*

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

This matter relates to the following sections of the *Strategic Community Plan 2023-2033*:

Focus Area: SUSTAINABILITY

GOAL OUTCOME 7.1: Transport connections - People and goods are able to move freely in and out of the East Kimberley

STRATEGY 7.1: Advocate for the planning and funding of future transport infrastructure connecting to East Kimberley

RISK IMPLICATIONS

RISK: Failure to make Council decisions which allow for efficient and effective use of operational resources to deliver services which meet the needs of the community and region, comply with statutory requirements and promote economic and social development.

CONTROL: Forward plan development with a view to future development and funding capabilities.

FINANCIAL IMPLICATIONS

Discussions will not require any funding. Discussion will formulate a basis for constant development for the process of land swap, survey, legal agreement, heritage, environmental costs, and any matters raised by existing land holders.

COMMUNITY ENGAGEMENT

No wider community engagement is required. Engagement will be directly with the existing landholders.

COMMENTS

A concept plan has been provided that demonstrates an 800m radius to a perpendicular approach to Weaber Plain Road. This is based on a 7.2m seal, 1m sealed shoulders and a 3m batter slope. Passing lane, approach and departure lanes have been added, although traffic volume will dictate lengths and needs, as will time of use and potential lighting requirements.

Concept alignment has been selected primarily on site line and braking approach for large vehicles. Locations to the north would require removal of the existing molasses pond and possibly existing industrial infrastructure. Locations to the south would require removal of existing residences and also place the intersection in proximity to the existing curve whilst adding additional turning movements to the approach creating a more complex set of curves that currently exist. The current concept attempts to reduce land complexity, removes 50% of an existing shed and provides the best road alignment fit.

From briefing discussion, it is understood that Council prefers an option for construction further to the North of the Concept location, however, *any* location will be totally subject to the existing landholders.

It is understood that multiple options may avail during discussion with landholders, the final outcome(s) to be approved by Council. The intent of this item is to obtain a formal direction from Council to proceed (or not).

ATTACHMENTS

Attachment 1 – Weaber Mulligan Concept

12.5.2. Playground Strategy

DATE:	22 August 2023
AUTHOR:	Director Infrastructure and Strategic Projects
RESPONSIBLE OFFICER:	Director Infrastructure and Strategic Projects
ASSESSMENT NO:	NIL
FILE NO:	PR.10.4
DISCLOSURE OF INTERESTS:	NIL
COUNCIL'S ROLE IN THE MATTER:	Provider - provide physical infrastructure and essential services
VOTING REQUIREMENT:	Simple Majority

OFFICER'S RECOMMENDATION

That Council endorses the 'Shire of Wyndham East Kimberley, Playground Strategy, 2023 - 2028'

COUNCIL DECISION

Minute Number: 22/08/2023 - 118892

Moved: Cr B Kyne
Seconded: Cr M Dear

That Council endorses the 'Shire of Wyndham East Kimberley, Playground Strategy, 2023 - 2028'

Carried: 7 / 0
For: Cr D Menzel, Cr T Chafer, Cr N Brook, Cr M Dear, Cr J Farquhar, Cr D Hearty,
Cr B Kyne
Against: Nil

PURPOSE

For Council to endorse a strategy.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

This item, with public consultation, was presented to Council Briefing 08 March 2022, and 08 August 2023.

STATUTORY IMPLICATIONS

Local Government Act 1995, Part 3, Division 1, s.3.1. General function

- (1) *The general function of a local government is to provide for the good government of persons in its district.*
- (2) *The scope of the general function of a local government is to be construed in the context of its other functions under this Act or any other written law and any constraints imposed by this Act or any other written law on the performance of its functions.*
- (3) *A liberal approach is to be taken to the construction of the scope of the general function of a local government.*

POLICY IMPLICATIONS

Policy 4010 Asset Management Policy

STRATEGIC IMPLICATIONS

This matter relates to the following sections of the *Strategic Community Plan 2023-2033*:

Focus Area: LIVEABILITY

GOAL OUTCOME 2.2: Access to sport and recreation facilities and services - Sport and recreation facilities and services are accessible and well maintained

STRATEGY 2.2: The Shire will collaborate with a wide range of stakeholders to advocate and provide accessible facilities that support a range of sporting and recreational activities

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: Develop strategies that set foundation for development of asset management plans, and development of long term financial plan.

FINANCIAL IMPLICATIONS

If the Playground Strategy is endorsed, a 10 year plan will be developed, including new asset, asset replacement and asset removal. Any future development will be required to comply with the Playground Strategy.

COMMUNITY ENGAGEMENT

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

- Advertising of the Strategy was placed on the Shires Web Page and on Facebook.

- The Strategy was developed with consultation of the Executive Management Team
- The Draft Playground Strategy was delivered to Briefing prior to seeking public comments
- Public Notice was given on the proposed draft document, and upcoming meetings
- A media release (via Shire digital release) was provided
- Direct mail drops were provided for the public consultation phase (Attachment 4)
- Fact Sheet Q & A developed and distributed with mail drop (Attachment 3)
- Survey of comments undertaken and collected for this presentation to briefing (Attachment 2)
- Public meetings held in Kununurra 07 November 2022, Wyndham 08 November 2022, and again in Wyndham 28 July 2023 (one on one meetings)

COMMENTS

It is important to note that the Playground Strategy *is not* a playground design document. The Strategy describes what the Local Government will look at when developing the asset plan, and when designing a playground. When design of a playground is undertaken it will need to consider the components of the Strategy, and how the recommendations of the plan are implemented. It also describes what needs to be done when removing a playground. This is effectively the Councils (and communities) forward planning dictate to the administration.

The Draft Playground Strategy 2022 - 2027 has previously been presented to briefing of Council 08 March 2022 and 08 August 2023, and as a result put to community consultation, the results of which have been compiled and presented at the August Briefing.

Comments received from Council have been included, or modified in the Strategy document.

ATTACHMENTS

Attachment 1 – Playground Strategy

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

Cr D Menzel moved that Council go in-camera at 5:18pm to discuss items listed in 16. "Matters Behind Closed Doors".

Council Decision:

Minute Number: 22/08/2023 - 118893

Moved: Cr D Menzel

Seconded: Cr N Brook

That Council move-in camera at 5:18 pm to discuss items in 16. Matters Behind Closed Doors.

Carried: 7 / 0

**For: Cr D Menzel, Cr T Chafer, Cr N Brook, Cr M Dear, Cr J Farquhar, Cr D Hearty,
Cr B Kyne**

Against: Nil

The gallery left the room.

16.1. REQUEST FOR QUOTE: RFQ21-22/23 BANDICOOT DR. STAGE 3B & WEABER PLAINS RD./IRONWOOD DR. ROADWORKS

DATE:	22 August 2023
AUTHOR:	Director Corporate Services
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
FILE NO:	CM.16.469
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Provider - provide physical infrastructure and essential services
VOTING REQUIREMENT:	Simple Majority

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

Section 5.23(2)(c) applies to this report

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.

PURPOSE

To consider the recommendation for award of the Request for Quotation for RFQ21-22/23 Bandicoot Drive Roadworks Stage 3B and Weaber Plain Road and Ironwood Drive, Kununurra Intersection Roadworks.

OFFICER'S RECOMMENDATION

That Council:

- 1. Accepts the quotation submitted by Roadline Civil Contractors (ABN: 31 124 402 928) of 13 McDaniel Road, Broome WA 6725 for WALGA PSP009 Quotation RFQ21-22/23 Bandicoot Drive Roadworks Stage 3B and Weaber Plain Road and Ironwood Drive Intersection Roadworks, for the fixed lump sum of \$3,263,500.34 excluding GST; and**
- 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.**

Council Decision:

Minute Number: 22/08/2023 - 118894

Moved: Cr B Kyne

Seconded: Cr T Chafer

That Council:

- 1. Accepts the quotation submitted by Roadline Civil Contractors (ABN: 31 124 402 928) of 13 McDaniel Road, Broome WA 6725 for WALGA PSP009 Quotation RFQ21-22/23 Bandicoot Drive Roadworks Stage 3B and Weaber Plain Road and Ironwood Drive Intersection Roadworks, for the fixed lump sum of \$3,263,500.34 excluding GST; and**
- 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.**

Carried: 7 / 0

**For: Cr D Menzel, Cr T Chafer, Cr N Brook, Cr M Dear, Cr J Farquhar, Cr D Hearty,
Cr B Kyne**

Against: Nil

16.2. REQUEST FOR WAIVER OF FEES

DATE:	22 August 2023
AUTHOR:	Chief Executive Officer
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
FILE NO:	FM.07.6
DISCLOSURE OF INTERESTS:	Nil
COUNCIL'S ROLE IN THE MATTER:	Funder - provide funds or other resources Provider - provide physical infrastructure and essential services
VOTING REQUIREMENT:	Absolute Majority

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

Section 5.23(2)(e) applies to this report

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.

PURPOSE

For Council to endorse the execution of an agreement relevant to the waiver of certain fees and charges.

OFFICER'S RECOMMENDATION

That Council endorses the agreement with Aviair Pty Limited at Attachment 1 to provide a waiver of a portion of the East Kimberley Regional Airport charges and authorises the Chief Executive Officer and the Shire President to execute the agreement.

There being no objections words "as amended" were added into the Officer Recommendation on advice from the Chief Executive Officer to address a change to a clause in the agreement at Attachment 1.

Council Decision:

Minute Number: 22/08/2023 – 118895

Moved: Cr D Menzel

Seconded: Cr D Hearty

That Council endorses the agreement as amended with Aviair Pty Limited at Attachment 1 to provide a waiver of a portion of the East Kimberley Regional Airport charges and authorises the Chief Executive Officer and the Shire President to execute the agreement.

Carried: 7 / 0

**For: Cr D Menzel, Cr T Chafer, Cr N Brook, Cr M Dear, Cr J Farquhar, Cr D Hearty,
Cr B Kyne**

Against: Nil

CEO Lawrence, Director Webb, Director Heading and Director Kearns and the Minute Taker
Left room 5:24pm.

16.3. CHIEF EXECUTIVE OFFICER - ANNUAL REVIEW AND KEY PERFORMANCE INDICATORS

DATE:	22 August 2023
AUTHOR:	Chief Executive Officer
RESPONSIBLE OFFICER:	Vernon Lawrence, Chief Executive Officer
FILE NO:	PL1907
DISCLOSURE OF INTERESTS:	Vernon Lawrence declares a financial interest as the item is regarding his performance, remuneration review and contract of employment.
COUNCIL'S ROLE IN THE MATTER:	Leader - plan and provide direction through policy and practices
VOTING REQUIREMENT:	Absolute Majority

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

Section 5.23(2)(a) applies to this report

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.

PURPOSE

For Council to note and endorse the recommendations of the CEO Performance Review Panel in relation to the CEO's annual performance and remuneration review.

OFFICER'S RECOMMENDATION

That Council:

- 1. Notes the Salaries and Allowances Tribunal Determination of 6 April 2023 effective 1 July 2023;**
- 2. Notes an increase in the Superannuation Guarantee Levy from 10.5% to 11% effective 1 July 2023;**
- 3. Notes the outcomes of the Elected Member Performance Survey undertaken in July 2023 with the Chief Executive Officer being assessed as “Exceeds Expectations” in this year’s performance appraisal;**
- 4. Adopts the modified performance criteria metrics for the 2023-2024 performance period outlined in Section 7.6 of the Confidential Report;**
- 5. Approves a variation to the Chief Executive Officers contact Total Remuneration Package as per Option 4 set out within the Confidential Report at Section 6.5 and authorises the Shire President to sign a contract variation;**
- 6. Notes the Chief Executive Officers requests, and requirement, in Section 5 and supports the request for professional development;**
- 7. Reviews the contract to ensure compliance with the Local Government Act, 1995 and Regulations, as amended, and authorises the Shire President to sign a contract variation;**
- 8. Schedules the next review of the Chief Executive Officers performance and Total Remuneration Package for consideration by Council in July 2024;**
- 9. Comply as per Division 3 of the Local government (Administration) Regulations, Schedule 2, clause 19, by notifying the Chief Executive Officer of the results of his performance review.**

Council Decision:

Minute Number: 22/08/2023 – 118896

Moved: Cr B Kyne

Seconded: Cr T Chafer

That Council:

- 1. Notes the Salaries and Allowances Tribunal Determination of 6 April 2023 effective 1 July 2023;**
- 2. Notes an increase in the Superannuation Guarantee Levy from 10.5% to 11% effective 1 July 2023;**
- 3. Notes the outcomes of the Elected Member Performance Survey undertaken in July 2023 with the Chief Executive Officer being assessed as “Exceeds Expectations” in this year’s performance appraisal;**

4. Adopts the modified performance criteria metrics for the 2023-2024 performance period outlined in Section 7.6 of the Confidential Report;
5. Approves a variation to the Chief Executive Officers contact Total Remuneration Package as per Option 4 set out within the Confidential Report at Section 6.5 and authorises the Shire President to sign a contract variation;
6. Notes the Chief Executive Officers requests, and requirement, in Section 5 and supports the request for professional development;
7. Reviews the contract to ensure compliance with the Local Government Act, 1995 and Regulations, as amended, and authorises the Shire President to sign a contract variation;
8. Schedules the next review of the Chief Executive Officers performance and Total Remuneration Package for consideration by Council in July 2024;
9. Comply as per Division 3 of the Local government (Administration) Regulations, Schedule 2, clause 19, by notifying the Chief Executive Officer of the results of his performance review.

Carried: 7 / 0

**For: Cr D Menzel, Cr T Chafer, Cr N Brook, Cr M Dear, Cr J Farquhar, Cr D Hearty,
Cr B Kyne**

Against: Nil

Cr D Menzel moved that Council move out of camera at 5:34pm to discuss items listed in 16. "Matters Behind Closed Doors".

Council Decision:

Minute Number: 22/08/2023 - 118897

Moved: Cr D Menzel

Seconded: Cr T Chafer

That Council move-out of camera at 5:34 pm.

Carried: 7 / 0

**For: Cr D Menzel, Cr T Chafer, Cr N Brook, Cr M Dear, Cr J Farquhar, Cr D Hearty,
Cr B Kyne**

Against: Nil

CEO Lawrence, Director Webb, Director Heading and Director Kearns and the Minute Taker and the Gallery was invited to return to the room at 5:34pm

Council Decisions made were read out to gallery.

17. CLOSURE

Cr D Menzel declared the meeting closed at 5:38pm