

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

David Mezel

Shire President

24/09/2019

Date



SHIRE OF WYNDHAM | EAST KIMBERLEY

MINUTES ORDINARY COUNCIL MEETING

27 August 2019

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



CARL ASKEW

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 27 AUGUST 2019 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 5:00pm.

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

ATTENDANCE

| | |
|-----------------|---|
| Cr D Menzel | Shire President |
| Cr T Chafer | Deputy Shire President |
| Cr N Brook | Councillor |
| Cr M Dear | Councillor |
| Cr G Lodge | Councillor |
| Cr J Farquhar | Councillor |
| Cr M McKittrick | Councillor |
| Cr A Petherick | Councillor |
| C Askew | Chief Executive Officer |
| S Dyson | Director Infrastructure |
| N Kearns | Director Planning and Community Development |
| V Lawrence | Director Corporate Services |
| C Cane | Minute Taker |
| Chris McLachlan | Resident |
| Keith Wright | Resident |
| Darren Spackman | Resident |
| Rebecca Nadge | Reporter – ABC Kimberley |

LEAVE OF ABSENCE

| | | |
|-------------|------------|---|
| Cr D Pearce | Councillor | (Previously approved by Council, Minute Number 30/04/19 – 118001) |
|-------------|------------|---|

3. DECLARATION OF INTEREST

- Financial Interest

| Councillor/Staff | Item | Title | Description of interest |
|------------------|------|-----------------------------|--|
| CEO Askew | 16.1 | CEO Performance Review 2019 | As CEO this matter relates to my performance, remuneration and contract of employment. |

- Impartiality Interest

NIL

- Proximity Interest

| Councillor/Staff | Item | Title | Description of interest |
|------------------|--------|----------------------------------|--|
| Cr Grant Lodge | 12.3.2 | Lot 509 Commercial Boat Facility | I am a Director of Hayley & Lodge who lease the adjoining property and reside on site. |

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Question 1 - Allan Wedderburn, Resident

Can Council please confirm what actions are being taken to ensure the caravan parks adjoining Lilly Creek and the Ord River are complying with the requirements of their leases regarding public access? What are you doing to enforce the lease conditions?

The Director Planning and Community Development provided the following response:

The Shire has written to the owner of the Lakeside Resort for the purpose of enforcing conditions attached to the lease which would allow public access to the foreshore.

The foreshore adjoining the Kimberleyland Holiday Park (Kimberleyland) is being surveyed for the purpose of determining the extent of the lease and licence areas and areas that the public will be able to access.

The reserve adjoining Discovery Holiday Park (Reserve 50425) is managed by the Department of Water and Environmental Regulation (DWER), and as such the lease agreement is between DWER and the adjoining landowner, and it is the responsibility of DWER to monitor and enforce lease or licence requirements or conditions.

Question 2 - Allan Wedderburn, Resident

Will Council accept the donation of several 10 year old Boab trees? I live in Lakeside and directly opposite my property there is some unallocated crown land which the Shire occasionally cuts down for fire breaks etc. For the last ten years there has been an area of bush on that land that hasn't been cut down, and these trees have been nurtured and cleared around. However, last week a clearing was carried out and the Boab trees were mowed down. They are significant trees, not just little sucklings. The

other 1,200 trees you plant around town are of similar size, so I'm just wondering if they will get mowed down as well.

The Director Infrastructure provided the following response:

The block of land in question is Lot 381 on Plan number P054527 which is owned by the Shire and adjacent to your property. There is a firebreak that runs through Lot 381 which is maintained by the Shire.

One of the recommendations from last year's fires in Lakeside was to address the amount of vegetation in Lakeside on open blocks and vacant lots. In March this year, the Rangers completed maintenance works on the firebreak within Lot 381.

The Depot recently undertook slashing activities along the firebreak only, which unfortunately resulted in the Boab trees being slashed. The Operator on the slasher was simply instructed to clear the firebreak hence the Boab trees were slashed within the break. This process will need to be reviewed by the Shire in conjunction with Policy number CP/OPS 3651 – Private Works & Developments on Road Verges and Shire Managed Land.

Furthermore, there is clear evidence that someone is undertaking maintenance works on Lot 381 as Boab trees have been planted, star pickets are present and mulching is being undertaken. The aforementioned policy addresses amongst other things Shire managed Land, and as the block of land in question is owned by the Shire the individual has breached the policy in that no Permit to undertake works on Shire owned land was obtained. The Shire does however encourage residents to look after road verges and nature strips.

5. PUBLIC QUESTION TIME

Question 1 - Chris McLachlan, Resident

What were the results of the Wyndham Landfill/Transfer Station questionnaire survey conducted by SWEK in June 2019?

The Director Infrastructure provided the following response:

On 4 June 2019, the Shire of Wyndham East Kimberley undertook community engagement in the form of an information session at the Peter Reid Memorial Hall in which 14 people attended. During the information session, nine attendees were against a Transfer Station, four attendees were in support of a Transfer Station and one attendee declined to vote.

In addition, the Shire placed paperwork in strategic locations in Wyndham, which included the post office, the bakery and the supermarket, for approximately one week. In total 120 residents provided comments in response, in which 83% were not supportive of a Wyndham Transfer Station and 17% were in support a Transfer Station. Of those who provided submissions, 57% were ratepayers and 43% were non-ratepayers.

Question 2 – Darren Spackman, Resident

My question is in relation to the Ivanhoe Road – Lilly Creek Lagoon drain where half has been dedicated and the other half has not. It has been an ongoing battle for years and I would like to know how the issue is progressing?

Shire President D Menzel took the question on notice and a response will be provided to Mr Spackman.

6. APPLICATIONS FOR LEAVE OF ABSENCE

NIL

7. PETITIONS

NIL

8. CONFIRMATION OF MINUTES

OFFICER'S RECOMMENDATION

That Council confirms the Minutes of the Ordinary Council Meeting held on 23 July 2019.

Note: The Minutes of the Ordinary Council Meeting held on 23 July 2019 are provided under separate cover via www.swek.wa.gov.au

Minute Number: 27/08/2019 - 118067

Moved: Cr M McKittrick

Seconded: Cr T Chafer

That Council confirms the Minutes of the Ordinary Council Meeting held on 23 July 2019.

Carried: 8/0

9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

The Shire President acknowledged a series of visits, meetings and briefings that took place over the month:

25 July 2019 – PCYC Meeting with WA Police Deputy Commissioner Gary Dreiberger; CEO David van Oran; Julia Gorman; Director Planning Community Development to discuss future intentions of PCYC.

6 August 2019 – Tour of Banksia Hill Detention Centre with Kimberley Regional Group as part of the Shire's attendance at the WALGA Convention.

6 August 2019 – Kimberley Regional Group meeting in Perth; Shire President D Menzel, Deputy Shire President T Chafer, Cr N Brook and CEO Askew.

6 August 2019 – Hon. Paul Papalia MLA to discuss alcohol restrictions and banned drinkers' register (BDR) as well as Melbourne flights with Broome Shire President Harold Tracey.

7 August 2019 – Department of Water and Environmental Regulation (DoWER); Director General Mike Rowe, to discuss water matters, the M1 channel and licensing.

7 August 2019 – Hon. Alannah MacTiernan MLC to discuss the Ord Cotton Industry.

7 August 2019 – Hexagon Resources regarding involving our Shire and having a local processing facility if that fits in with their plans in the future.

7 August 2019 – Buru Energy meeting regarding continued use of Wyndham Port.

7-9 August 2019 – WALGA Convention, Perth; Shire President D Menzel, Deputy Shire President T Chafer, Cr N Brook and CEO Askew.

8 August 2019 –Tourism WA meeting and lunch to celebrate direct Melbourne flights going on GDS and discuss marketing and strategy going forward, with Shire President D Menzel, Deputy Shire President T Chafer, Cr N Brook and CEO Askew and Michael McConachy (HeliSpirit/Aviar/EKMG).

8 August 2019 – Kimberley/Pilbara Councils meeting with Defence to work on strategy to access their budget and work more closely with the Shire.

9 August 2019 – Department of Transport (DoT) meeting, Peter Ryan, Director Aviation Policy; Shire President D Menzel; Cr N Brook; and CEO Askew.

12 August 2019 – Audit (Finance and Risk) Committee Meeting

13 August 2019 – Council Briefing Session

14 August 2019 – Office of the Inspector of Custodial Services, Jim Bryden regarding the Wyndham Work Camp and a small discussion regarding moving forward with custodial services.

14 August 2019 – Airbus Meeting; updates including the Zephyr program.

15 August 2019 – Better Homes and Gardens, Celebrity Tree Park. Councillor N Brook awarded Better Homes and Gardens with a Boab Tree in Celebrity Tree Park. The popular TV program's presenter 'Fast Ed' was in Kununurra to receive and plant the tree. This was a valuable piece of time and I look forward to seeing how it highlights our region. I hope watchers are entertained and exposed to the many offerings of the East Kimberley.

18 August 2019 – Tourism WA meeting and dinner regarding the MEL-KNX direct flights with Brodie Carr, Managing Director; Mollie Hill, Executive Director; Anthony Hayes, Executive Director for Markets & Partnerships; EKMG; and Shire Councillors.

19 August 2019 – Minderoo Foundation meeting; Ann Mills, Policy Analyst; Shire President D Menzel, Shire Deputy President T Chafer, and Jean O'Reeri, BBY Director; to discuss Cashless Debit Card and matters around social issues

20 August 2019 – ABC live to air with Ed Cowlshaw for the Kimberley Shire President's Chat.

22 August 2019 – Meeting with EKMG and KDC meeting; Michael McConaghy and Jeff Gooding, to progress flight trial term sheet and agreements between SWEK, EKMG.

22 August 2019 – Hon. Melissa Price MP to update on SWEK matters.

27 August 2019 – Department of Planning, Lands and Heritage (DPHL) meet and greet; David Saunders, Assistant Director General; Sean Collingwood, Director Regional North; Kat Neve, Planning Manager; and Ryan Carvell, Principal Planning Officer who provided an update following the machinery of Government changes.

The Shire President also noted an upcoming event of interest:

2 September 2019 – Local Government Ordinary Election Information Session; The Shire of Wyndham East Kimberley welcomes perspective candidates for the up and coming Local Government Ordinary Election 2019 to attend an information session hosted by Shire President D Menzel on the role of being a Councillor. The session will cover topics such as eligibility, nominations, building a profile, induction processes and Councillor training, voting, electoral offences and disclosures. The session will be held on Monday 2 September at 5.00pm in the Kununurra Council Chambers, 20 Coolibah Drive, Kununurra. Light refreshments will be provided.

10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

- 16.1. CEO PERFORMANCE REVIEW 2019
- 16.2. APPLICATION FOR LEGAL REPRESENTATION FOR COUNCIL MEMBERS AND EMPLOYEES

11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

NIL

12. REPORTS

12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL

12.1.1. Consideration of Recommendations Contained within the Minutes of the Audit (Finance and Risk) Committee Meeting of 12 August 2019

| | |
|---------------------------------|---|
| DATE: | 27 August 2019 |
| AUTHOR: | Director Corporate Services |
| RESPONSIBLE OFFICER: | Carl Askew, Chief Executive Officer |
| ASSESSMENT NO: | Various - As Detailed in the Minutes of the 12 August 2019 Audit (Finance and Risk) Committee meeting |
| FILE NO: | Various - As Detailed in the Minutes of the 12 August 2019 Audit (Finance and Risk) Committee meeting |
| DISCLOSURE OF INTERESTS: | NIL |

VOTING REQUIREMENT

Simple Majority

COMMITTEE RECOMMENDATION 1

That Council, with reference to Item 7.1 “Standing Item - Insurance Claims” as detailed in the 12 August 2019 Audit (Finance and Risk) Committee Agenda/Minutes, note the Insurance Claims Report and associated attachments attached to the Agenda of the 12 August 2019 Audit (Finance and Risk) Committee Meeting.

Council Decision

Minute Number: 27/08/2019 - 118068

Moved: Cr T Chafer

Seconded: Cr M McKittrick

That Council, with reference to Item 7.1 “Standing Item - Insurance Claims” as detailed in the 12 August 2019 Audit (Finance and Risk) Committee Agenda/Minutes, note the Insurance Claims Report and associated attachments attached to the Agenda of the 12 August 2019 Audit (Finance and Risk) Committee Meeting.

Carried: 8/0

VOTING REQUIREMENT

Simple Majority

COMMITTEE RECOMMENDATION 2

That Council, with reference to Item 7.2 “Standing Item - Sundry Debtors” as detailed in the 12 August 2019 Audit (Finance and Risk) Committee Agenda/Minutes, accept that the actions being undertaken by the administration in regard to sundry debtors including sundry debts in legal process are sufficient and appropriate.

Council Decision

Minute Number: 27/08/2019 - 118069

Moved: Cr T Chafer

Seconded: Cr N Brook

That Council, with reference to Item 7.2 “Standing Item - Sundry Debtors” as detailed in the 12 August 2019 Audit (Finance and Risk) Committee Agenda/Minutes, accept that the actions being undertaken by the administration in regard to sundry debtors including sundry debts in legal process are sufficient and appropriate.

Carried: 8/0

VOTING REQUIREMENT

Simple Majority

COMMITTEE RECOMMENDATION 3

That Council, with reference to Item 7.3 “Standing Item - Leases” as detailed in the 12 August 2019 Audit (Finance and Risk) Committee Agenda/Minutes, note the Confidential Lease Schedule and the New and Renewal Lease Schedule attached to the Agenda of the 12 August 2019 Audit (Finance and Risk) Committee Meeting.

Council Decision

Minute Number: 27/08/2019 - 118070

Moved: Cr T Chafer

Seconded: Cr J Farquhar

That Council, with reference to Item 7.3 “Standing Item - Leases” as detailed in the 12 August 2019 Audit (Finance and Risk) Committee Agenda/Minutes, note the

Confidential Lease Schedule and the New and Renewal Lease Schedule attached to the Agenda of the 12 August 2019 Audit (Finance and Risk) Committee Meeting.

Carried: 8/0

VOTING REQUIREMENT

Simple Majority

COMMITTEE RECOMMENDATION 4

That Council, with reference to Item 7.4 “Standing Item - Rates Debtors” as detailed in the 12 August 2019 Audit (Finance and Risk) Committee Agenda/Minutes, accept the report that the actions being undertaken by the administration in regard to rates debtors, including rates debts in legal process are sufficient and appropriate.

Council Decision

Minute Number: 27/08/2019 - 118071

Moved: Cr T Chafer

Seconded: Cr M Dear

That Council, with reference to Item 7.4 “Standing Item - Rates Debtors” as detailed in the 12 August 2019 Audit (Finance and Risk) Committee Agenda/Minutes, accept the report that the actions being undertaken by the administration in regard to rates debtors, including rates debts in legal process are sufficient and appropriate.

Carried: 8/0

PURPOSE

To consider the recommendations from the Audit (Finance and Risk) Committee made at its meeting held on 12 August 2019.

PURPOSE

To consider the recommendations from the Audit (Finance and Risk) Committee made at its meeting held on 12 August 2019.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

Regulator - enforce state legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The background and details supporting the recommendations are contained in the Audit (Finance and Risk) Committee meeting minutes of 12 August 2019.

STATUTORY IMPLICATIONS

Various - detailed within the Minutes of the 12 August 2019 Audit (Finance and Risk) Committee meeting.

POLICY IMPLICATIONS

Various - detailed within the Minutes of the 12 August 2019 Audit (Finance and Risk) Committee meeting.

FINANCIAL IMPLICATIONS

Various - detailed within the Minutes of the 12 August 2019 Audit (Finance and Risk) Committee meeting.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

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

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

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

Various - detailed within the Minutes of the 12 August 2019 Audit (Finance and Risk) Committee meeting.

COMMUNITY ENGAGEMENT

Various - detailed within the Minutes of the 12 August 2019 Audit (Finance and Risk) Committee meeting.

COMMENTS

Various - detailed within the Minutes of the 12 August 2019 Audit (Finance and Risk) Committee meeting.

ATTACHMENTS

NIL

12.2. CHIEF EXECUTIVE OFFICER

12.2.1. Standing Item - Outstanding Actions from Previous Council Resolutions

| | |
|---------------------------------|-------------------------------------|
| DATE: | 27 August 2019 |
| AUTHOR: | Executive Officer to the CEO |
| RESPONSIBLE OFFICER: | Carl Askew, Chief Executive Officer |
| DISCLOSURE OF INTERESTS: | NIL |

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

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

Council Decision

Minute Number: 27/08/2019 - 118072

Moved: Cr N Brook

Seconded: Cr M Dear

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

Carried: 8/0

PURPOSE

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

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

STATUTORY IMPLICATIONS

NIL

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

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

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.2: Good decision making through engagement with the community

Strategy 4.2.2: Ensure community input informs planning and decision making

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

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

RISK IMPLICATIONS

NIL

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

An update of actions from the July 2019 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 - July 2019

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

12.2.2. Standing Item - Use of the Common Seal

| | |
|---------------------------------|-------------------------------------|
| DATE: | 27 August 2019 |
| AUTHOR: | Executive Officer to the CEO |
| RESPONSIBLE OFFICER: | Carl Askew, Chief Executive Officer |
| DISCLOSURE OF INTERESTS: | NIL |

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 19 July 2019 to 23 August 2019.

Council Decision

Minute Number: 27/08/2019 - 118073

Moved: Cr G Lodge

Seconded: Cr N Brook

That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 19 July 2019 to 23 August 2019.

Carried: 8/0

PURPOSE

For Council to receive this report on the application of the Shire of East Kimberley Common Seal for the period 19 July 2019 to 23 August 2019.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - enforce state legislation and local laws

STATUTORY IMPLICATIONS

Local Government Act 1995

9.49A. Execution of documents

(1) A document is duly executed by a local government if —

(a) the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or

(b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.

- (2) *The common seal of a local government is not to be affixed to any document except as authorised by the local government.*
- (3) *The common seal of the local government is to be affixed to a document in the presence of —*
 - (a) *the mayor or president; and*
 - (b) *the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.*
- (4) *A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.*
- (5) *A document executed by a person under an authority under subsection (4) is not to be regarded as a deed unless the person executes it as a deed and is permitted to do so by the authorisation.*
- (6) *A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary is shown.*
- (7) *When a document is produced bearing a seal purporting to be the common seal of the local government, it is to be presumed that the seal is the common seal of the local government unless the contrary is shown.*

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

NIL

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

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

RISK IMPLICATIONS

NIL

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

There was one document for the time period of 19 July 2019 to 23 August 2019 with the Shire of Wyndham East Kimberley Common Seal applied as per the table below:

| Date of Use | Document |
|--------------------|--|
| 13/07/2019 | Lease over Reserve 51156, Lot 500 on DP 73840, Foreshore Road Wyndham – East Kimberley Volunteer Marine Rescue |

ATTACHMENTS

NIL

12.2.3. Council Delegations Register 2019/20

| | |
|---------------------------------|-------------------------------------|
| DATE: | 27 August 2019 |
| AUTHOR: | Senior Governance and Risk Officer |
| RESPONSIBLE OFFICER: | Chief Executive Officer |
| DISCLOSURE OF INTERESTS: | Carl Askew, Chief Executive Officer |

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council adopt the revised Delegations Register for the 2019/2020 financial year.

Cr A Petherick foreshadowed, and Cr M McKittrick seconded, a motion that the Delegations Register for the 2019/2020 financial year be referred back to the November Council Briefing Session and after the next Ordinary Council Elections, prior to consideration at a subsequent Ordinary Council Meeting.

Shire President D Menzel moved an amendment to the original motion that Council amend Condition (a) Limited to individual Debts not exceeding \$1000 in Policy DA-11 Waive, Grant Concessions or Write off Debts and increase the value to \$2,000.

Council Decision

Minute Number: 27/08/2019 - 118074

**Moved: Cr D Menzel
Seconded: Cr G Lodge**

That Council make an amendment to Condition (a) Limited to individual Debts not exceeding \$1000 in Policy DA-11 Waive, Grant Concessions or Write off Debts and increase the value to \$2,000.

**Carried: 7/1
Against: Cr A Petherick**

Cr G Lodge moved the amended substantive motion that Council adopt the revised Delegations Register for the 2019/2020 financial year.

Council Decision

Minute Number: 27/08/2019 - 118075

**Moved: Cr G Lodge
Seconded: Cr J Farquhar**

That Council adopt the revised Delegations Register for the 2019/2020 financial year.

**Carried: 6/2
Against: Cr M McKittrick, Cr A Petherick**

PURPOSE

The aim of delegated authority is to assist with improving the time taken to make decisions within the constraints allowed by the relevant legislation.

A register of delegations is to be kept and reviewed at least once every financial year.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The *Local Government Act 1995* provides for Council to delegate to the Chief Executive Officer the exercise of certain powers or the discharge of any of its duties under the Act.

The *Local Government Act 1995* further provides that the Chief Executive Officer may delegate any of their powers to another employee; this is to occur once the delegations to the CEO are adopted. These sub-delegations will be in writing and included in the final Delegations Register.

In accordance with other legislation, Council may not be able to delegate the responsibility for appointing authorised persons to the Chief Executive Officer. In these instances, appointment of authorised persons must be approved directly by Council. Although these authorisations do not have delegated authority, they are included in this Register for ease of reference and review.

The Delegations Register was last reviewed by Council on 28 August 2018.

COUNCIL DECISION

Minute Number: 28/08/2018 - 115839

Moved: Cr T Chafer

Seconded: Cr M Dear

That Council adopt the revised Delegations Register for the 2018/2019 financial year

Decision: 8/0

STATUTORY IMPLICATIONS

5.42. Delegation of some powers and duties to CEO

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

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

* Absolute majority required.

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

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

5.43. Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;
- (h) any power or duty that requires the approval of the Minister or the Governor;
- (i) such other powers or duties as may be prescribed.

[Section 5.43 amended by No. 49 of 2004 s. 16(3) and 47; No. 17 of 2009 s. 23.]

5.44. CEO may delegate powers and duties to other employees

(1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.

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

(3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —

(a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and

(b) the exercise of that power or the discharge of that duty by the CEO's delegate,

are subject to any conditions imposed by the local government on its delegation to the CEO.

(4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.

(5) In subsections (3) and (4) —

conditions includes qualifications, limitations or exceptions.

[Section 5.44 amended by No. 1 of 1998 s. 14(1).]

5.45. Other matters relevant to delegations under this Division

(1) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —

(a) a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and

(b) any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.

(2) Nothing in this Division is to be read as preventing —

(a) a local government from performing any of its functions by acting through a person other than the CEO; or

(b) a CEO from performing any of his or her functions by acting through another person.

5.46. Register of, and records relevant to, delegations to CEO and employees

(1) The CEO is to keep a register of delegations made under this Division to the CEO and to employees.

(2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.

(3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

POLICY IMPLICATIONS

The Delegations Register will link with and guide some Council Policies and Internal Directives. Reference to a relevant Council Policy are listed in the delegations register.

FINANCIAL IMPLICATIONS

The Administration has transferred lower spending delegations (\$1000) to Managers and senior officers responsible for business area budgets. Removing smaller financial delegations of \$5000 and less is hoped to improve accountability, with the senior officers and Managers having direct authority over smaller purchases.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

RISK IMPLICATIONS

Risk: Failure to manage a governance framework which transparently governs and embraces good governance practices

Control: Review of the Delegations Register against legislation and organisational requirements annually.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The Administration has recently transferred Delegations from a manual entry system to an online system. This system allows for increased accountability and compliance, allows officers to record their exercise of duties and delegations, submit statutory returns and view their current delegations all in the same place. Given the new system, the register will appear in a different format for 2019/20, which is consistent with multiple other Local Governments who are using the same system. The new system allows for the on-boarding of new employees to a streamlined statutory process ensuring all staff who have delegation are able to be actively monitored in their compliance obligations.

ATTACHMENTS

Attachment 1 - Council Delegations Register

12.3. PLANNING AND COMMUNITY DEVELOPMENT

12.3.1. Lease of Reserve 50120 - Ewin Early Learning Centre

| | |
|---------------------------------|--|
| DATE: | 27 August 2019 |
| AUTHOR: | Manager Planning and Regulatory Services |
| RESPONSIBLE OFFICER: | Nick Kearns, Director Planning and Community Development |
| ASSESSMENT NO: | A2529 |
| FILE NO: | CP.16.48 |
| DISCLOSURE OF INTERESTS: | NIL |

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

- 1. Offers the Ewin Early Learning Centre a three year lease, with a two year option, on a commercial lease basis, over Reserve 50120, Lot 506 on Deposited Plan 61898, Chestnut Avenue Kununurra, effective from 1 July 2019, subject to:
 - a. The commencing rent being as per the previous annual rent with rent review applied, and**
 - b. The consent of the Minister for Lands.****
- 2. Delegates to the Chief Executive Officer the responsibility for undertaking and finalising lease arrangements directly with the Ewin Early Learning Centre Lease.**

Council Decision

Minute Number: 27/08/2019 - 118076

Moved: Cr T Chafer

Seconded: Cr A Petherick

That Council:

1. Offers the Ewin Early Learning Centre a three year lease, with a two year option, on a commercial lease basis, over Reserve 50120, Lot 506 on Deposited Plan 61898, Chestnut Avenue Kununurra, effective from 1 July 2019, subject to:
 - a. The commencing rent being as per the previous annual rent with rent review applied, and
 - b. The consent of the Minister for Lands.
2. Delegates to the Chief Executive Officer the responsibility for undertaking and finalising lease arrangements directly with the Ewin Early Learning Centre Lease.

Carried: 8/0

PURPOSE

For Council to consider entering into a short-term lease over Reserve 50120 with the Ewin Early Learning Centre.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Provider - provide physical infrastructure and essential services

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Ewin Early Learning Centre (Ewin ELC) is located on Lot 506 (1) Chestnut Avenue, Kununurra, being Reserve 50120 for the purpose of 'Child Care Centre'. Prior to this reserve being created, the centre was established on a portion of former Lot 77, being Reserve 29799.

The organisation's original 10 (5 plus 5) year lease expired on 17 July 2017, and in June 2017 the Commissioner considered a request from the Ewin ELC to defer the existing lease expiry date by granting an extension for 12 months plus a further 12 month option to the existing lease. This extension was requested to provide the Ewin ELC with surety while they undertook further investigation and planning for proposed extension(s) to the centre to increase the capacity of the service, as well as to provide time to develop a new lease or ownership structure with the Shire - should the expansion eventuate. This is shown in the decision below:

COUNCIL DECISION

Minute No: 13/06/2017-11700

Commissioner resolved:

That Council authorise the Chief Executive Officer to defer the existing lease expiry date of 17 July 2017 for a period of 1 year and consider a further optional 1 year extension if required after this date, to the lease currently held by the Ewin Centre for

**Lot 506 on Deposited Plan 61898, Reserve 50120, 1 Chestnut Avenue, Kununurra,
subject to the approval of the Minister of Lands.**

Carried 1/0

In September 2018, the Ewin ELC wrote to the Shire to confirm that they wished to activate the further optional 1 year extension until 30 June 2019.

Since the initial request for extension, an application for a development approval for extension to the child care centre was approved by Council at the Ordinary Council Meeting held on 28 August 2018 (**Minute No. 115844**). The development approval was issued in accordance with this decision on 5 September 2018, giving until 5 September 2020 for the development to be substantially commenced.

The development approval is subject to fully dimensioned revised plans being submitted prior to a building permit application being made, and was principally obtained to allow the Ewin ELC to actively apply for funding to help finance the expansion.

As the 2 year extension has since expired, Officers wrote to the Ewin ELC in June 2019 to ascertain what they would like to do in the short term, as well as to initiate discussions in relation to future medium to long term leasing arrangements in light of the proposed expansion of the facility, being either entering into:

1. another short term extension of the existing lease i.e. 1 or 2 year extension; or
2. a new short term lease i.e. 3 years with a 2 year option.

However, the Ewin ELC were advised that in any instance either of these options will need to be considered by Council and would require written confirmation from the Ewin ELC advising how they would like to proceed i.e. with either of the options above or any alternative suggestion they may have.

The Ewin ELC responded on 8 July 2019 advising that they wish to request a new lease for a term of 2 years, with the option to extend for a further term, however length to be determined at that time. A copy of this letter is provided at Attachment 1.

STATUTORY IMPLICATIONS

Land Administration Act 1997

The land is reserved for the purpose of "Child Care Centre" and the Shire holds the Management Order for the land which includes the power to lease up to a maximum term of 21 years, subject to the consent of the Minister for Lands.

Local Government Act 1995

Under section 3.58 of the Local Government Act 1995 (LGA), the leasing of land is included as a form of disposal of property and is required to be undertaken in accordance with this section of the LGA.

However, there are exemptions from the requirements outlined in regulation 30 of the *Local Government (Functions & General) Regulations 1996*, which cites that a disposition of land is an exempt disposition if –

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

As such, the proposed new lease to the Ewin ELC would be considered an exempt disposition and the Shire can directly enter into a lease negotiation.

POLICY IMPLICATIONS

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

Although the Ewin Early Learning Centre is a non-profit organisation, the current lease is more in line with the Shire's Commercial leasing policy on the basis that:

1. The building belongs to the Shire and the Shire is therefore responsible for major structural maintenance or replacement of buildings, and the repairs, maintenance or replacements are not required as a result of any inappropriate actions, or inactions, of the Lessee.
2. The Shire is responsible for major structural maintenance or replacement of buildings belonging to the Shire on the proviso that the repairs, maintenance or replacements are not required as a result of any inappropriate actions, or inactions, of the Lessee.

The commercial leasing policy outlines that a minimum lease term should be 5 years in accordance with the *Commercial Tenancy (Retail Shops) Agreement Act 1985*, and that the initial lease rent will be based on a valuation of fair market rent with a CPI rent review conducted annually.

FINANCIAL IMPLICATIONS

The Ewin Centre currently pays \$12,678.12 per annum (inc GST) in monthly instalments. The initial rent when the lease commenced in 2007 was \$10,500 (ex GST) per annum, which has been subject to annual rent reviews.

The original lease was also subject to a 'viability payment' to come into effect after the first two years of the lease (in 2009), which was proposed to be an annual payment of 20% (ex GST) of the Lessees net profit. The lease was amended by a resolution of Council (**Minute No. 10634**) at the OCM held 21 October 2014 which removed the viability payment from the lease and it is believed that no viability payment was paid prior to this.

A current market valuation in accordance with the commercial leasing policy should be obtained, which is likely to cost between \$1,000 - \$2,500. However, as Council does not have to advertise the proposed disposal of land in this instance, it is an option for Council to set the commencing rent in accordance with the amount currently paid, with annual rent reviews to be undertaken.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 1: Healthy vibrant active communities

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

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

Focus Area 2: Enhancing the environment

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

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

RISK IMPLICATIONS

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

Control: Ensure compliance with legislative requirements prior to entering into lease.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The existing child care facility was constructed by the Shire with a combination of grant funding and Shire funds, including the sale of the previous child care centre site in Konkerberry Drive.

The Ewin ELC are in the process of working out funding options to finance the extension to the facility. However, as the existing building is owned by the Shire, if the Ewin ELC is to fund the proposed extensions to the facility this may require a review of the ownership structure and/or leasing arrangement as indicated by the original extension sought to the current lease. A copy of the current lease agreement is provided at Attachment 2.

In the interim, it is considered appropriate that the Shire enter a new short term lease with the Ewin ELC, while funding for the proposed expansion is being sought. Although it is anticipated that it would not take 5 years for the proposed expansion works to be commenced and at least partially completed, it is recommended that a 3 year lease with a 2 year option be entered into. This will provide sufficient time for funding for the proposed expansion to be obtained and within which development may be commenced. However, when required, the lease can be terminated by written agreement by both parties once a new lease agreement has been negotiated. It is also recommended that the commencing

rent for the new lease be sent at \$12,885.20 (inc GST), which is the previous annual rent paid with a rent review applied.

A draft lease, consistent with the Shire's commercial leasing policy, is provided at Attachment 3.

ATTACHMENTS

Attachment 1 - Letter from Ewin Early Learning Centre

Attachment 2 - Original Lease

Attachment 3 - Draft Lease - Ewin Centre - August 2019

12.3.2. Lot 509 Commercial Boat Facility

Cr G Lodge declared a proximity interest as a Director of Hayley & Lodge Pty Ltd who lease the adjoining property and reside on site.

Cr G Lodge departed Chambers at 5.52pm.

| | |
|---------------------------------|---|
| DATE: | 27 August 2019 |
| AUTHOR: | Manager Planning and Regulatory Services |
| RESPONSIBLE OFFICER: | Nick Kearns, Director Planning and Community Development |
| ASSESSMENT NO: | A7564 |
| FILE NO: | CP.07.10 |
| DISCLOSURE OF INTERESTS: | Cr G Lodge declared a proximity interest as a Director of Hayley & Lodge Pty Ltd who lease the adjoining property and reside on site. |

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

- 1. Obtains a current market valuation for Lot 509 of the Commercial Boating Facility in Kununurra with a view to leasing for a term of 10 years.**
- 2. Advertises for Expressions of Interest for a suitable business or community group to lease Lot 509 of the Commercial Boating Facility, Kununurra for a term of 10 years.**

Council Decision

Minute Number: 27/08/2019 - 118077

Moved: Cr M Dear

Seconded: Cr T Chafer

That Council:

- 1. Obtains a current market valuation for Lot 509 of the Commercial Boating Facility in Kununurra with a view to leasing for a term of 10 years.**
- 2. Advertises for Expressions of Interest for a suitable business or community group to lease Lot 509 of the Commercial Boating Facility, Kununurra for a term of 10 years.**

Carried: 7/0

Cr G Lodge returned to Chambers at 5.54pm. The Shire President informed Cr G Lodge of Council's decision.

PURPOSE

To present options to Council in regards to future leasing of Lot 509 of the Commercial Boating Facility, Millington Drive, Kununurra, portion of Reserve 50467, which is currently vacant.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Provider - provide physical infrastructure and essential services

BACKGROUND

Lot 509 on Deposited Plan 66529, is one of the lots created as part of the 'Commercial Boating Facility' established on Millington Drive Kununurra to provide suitable sites for marine based tourist operators and forms part of Reserve 50467 for the purpose of "Tourist facility".

Lot 509 has an area of 2,134m² and adjoins another lot (Lot 514), located between Lot 509 and the Ord River (Lake Kununurra), which is licenced in conjunction with Lot 509 to provide access to the foreshore.

Lot 514 has an area of 446m² and on average is a 10m wide strip of foreshore, and is part of Reserve 50468 for the purpose of "Foreshore Protection, Tourist Facility and Public Access". The dimensions of both lots are also shown on the deposited plan attached.

There are no reticulated sewerage or water services to the site, however electricity is available. There is an existing water tank, and powerboard on the site. It is also fenced to the side and road frontage. A boat ramp and inlet have also been established at the site, as shown on the aerial photograph attached.

An Aerobic Treatment Unit (ATU) was installed on the site by the original occupant, however has not been approved for use and may need to be decommissioned. This means other alternative wastewater management options will need to be considered to allow development of anything more than a storage shed on the site. Shire Officers are in the process of investigating options in relation to future wastewater management for the site which will need to be determined prior to entering into a new lease.

The land was previously leased on a commercial basis to Ord River Houseboats via a 15 year lease which commenced 30 January 2015, with the Lessee's Business required to be "only those activities and operations that are necessary for the conduct of a tourism and recreation enterprise which enterprise operates waterborne craft on Lake Kununurra".

The Ord River Houseboats (ORH) business was placed up for sale in 2018 and the owners enquired as to whether potential purchasers could continue with the lease over Lot 509 or be given the option to undertake a new lease over the site. ORH vacated the site in October 2018 and since then the site has remained vacant.

The Shire did receive several enquiries from prospective purchasers of the ORH business in relation to Lot 509, however there was no formal request to assign the lease prior to it being terminated.

The Shire has also been approached by the East Kimberley Volunteer Marine Rescue (EKVMR) in relation to the opportunity to lease Lot 509 for the purposes of storing a marine rescue boat and related equipment and also to use the site to develop a volunteer group base (to enable meeting and training spaces). However, more recent correspondence received from the EKVMR has clarified that the priority and immediate purpose would be for the storage of a vessel to have on standby for immediate response to emergencies in the Kununurra area, with use for meetings or training events at the site to be considered at a later stage.

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 50467 is reserved under the *Land Administration Act 1997* (LAA) for the purpose of for the purpose of "Tourist facility". The Shire holds the management order for the reserve with power to lease for a maximum of 21 years, subject to consent from the Minister for Lands.

Local Government Act 1995

Under section 3.58 of the *Local Government Act 1995* (LGA), the leasing of land is included as a form of disposal of property and is required to be undertaken in accordance with this section of the Act, which states that a 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.

However, there are exemptions from the requirements outlined in regulation 30 of the *Local Government (Functions & General) Regulations 1996*, which states that a disposition of land is an exempt disposition if:

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

POLICY IMPLICATIONS

Lake Kununurra Foreshore and Aquatic Use Plan

Lot 509 is recognised in the reviewed Lake Kununurra Foreshore and Aquatic Use Plan as within the commercial Boating Facility.

Any leasing arrangement will be required to include provisions for the maintenance and management of foreshore areas as outlined in the Lake Kununurra Foreshore and Aquatic Use Plan.

FINANCIAL IMPLICATIONS

If the Council was to pursue a community lease option there would be a lower rental return (\$500 per annum commencing rental), however there would also be less costs, as no advertising or valuation would be required to be undertaken.

If the Council wishes to enter into a commercial lease this will generate a higher rental return, however will require the Shire to obtain a land valuation (likely to cost between \$1,500 - \$3,000) and advertise the proposed disposition of land (likely to cost between \$350 - \$700).

A valuation of the land was last undertaken in March 2014, and based on a lease with a maximum term of 15 years, was valued to be between \$8 - \$10 per square metre per annum (ex GST). Therefore the commencing lease rental for the previous lease to the Ord River Houseboats was \$19,200 per annum plus GST, which equated to \$9 per square metre.

It should be noted that in any instance, rental received from the leasing of this foreshore area is required to be set aside in a reserve to manage and maintain the foreshore and implement actions from the Lake Kununurra Foreshore and Aquatic Use Plan.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

Strategy 4.4.1: Diversifying and strengthening funding streams and pursue non-rates revenue opportunities

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

COMMUNITY ENGAGEMENT

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

COMMENTS

Lot 509 was reserved to allow it to be leased for commercial marine based tourism and recreation purposes, however the Shire has been approached by both an emergency services group and an individual tour operator in relation to the use of the site. For this reason, it is recommended that Council call for expressions of interest that enable responses from both commercial operators and community groups.

The ten year rental option is recommended as this will bring it in line with the lease time frames of the properties adjoining. In any case, the proposal, once the expression of interest process has concluded, will be reported back to Council for decision at which point Council may choose to change the lease term and impose other conditions.

ATTACHMENTS

Attachment 1 - Deposited Plan 66529

Attachment 2 - Aerial Photograph

12.3.3. Closed Circuit Television (CCTV) Management and Operation Policy

| | |
|---------------------------------|--|
| DATE: | 27 August 2019 |
| AUTHOR: | Director Planning and Community Development |
| RESPONSIBLE OFFICER: | Nick Kearns, Director Planning and Community Development |
| ASSESSMENT NO: | N/A |
| FILE NO: | IT.07.2 |
| DISCLOSURE OF INTERESTS: | NIL |

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council adopts the Closed Circuit Television (CCTV) Management and Operation Policy at Attachment 1.

Council Decision

Minute Number: 27/08/2019 - 118078

**Moved: Cr J Farquhar
Seconded: Cr G Lodge**

That Council adopts the Closed Circuit Television (CCTV) Management and Operation Policy at Attachment 1.

Carried: 8/0

PURPOSE

To adopt a new policy for the management of the Shire's newly installed CCTV system.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

In August 2018, the Shire was successful in obtaining \$800,000 funding under the Commonwealth Government's Safer Communities Fund for the provision and installation of CCTV in both Kununurra and Wyndham, titled 'Taking it to the Streets'. This funding has since been supplemented directly by the Shire to a project cost of just over \$960,000.

The Safer Communities Project and installation of CCTV forms a key component of the Shire's Community Safety and Crime Prevention Plan, which is still in draft. It includes the installation of 57 fixed and pan tilt cameras within Kununurra and Wyndham - installed in line with engagement with WA Police and after extensive site inspections and reviews by Shire Officers, particularly in the evening.

Prior to operating the CCTV system, it is critical for the Shire to put in place relevant policies and procedures for the purpose of guiding its operation and potential expandability and application. The first document, being the Closed Circuit Television (CCTV) Management and Operation Manual document has been prepared for adoption as a Policy and is provided at Attachment 1.

The CCTV Management and Operation Manual captures the technical and functional requirements to ensure that the Shire's CCTV system is applied and managed consistently. The manual has been drafted in line with the WA CCTV Guidelines, legislation and relevant standards and includes:

1. Relevant policy statements
2. Code of Conduct
3. Code of Practice
4. Standard Operating Procedures

Policy Statements

The Policy Statements include the overall responsibility of nominated or authorised Officers. These include the Director Corporate Services and ICT Manager, both of which have operational responsibility for the system, as well as the Director Planning and Community Development and the Manager Community Development who are responsible for further planning and strategy development - particularly in relation to expansion of the system. These are bound within the legislative and broader operational documents already established by the State and Commonwealth Governments and in line with adopted Australian Standards.

The role and purpose of the Shire's CCTV system is described as to:

1. Deter, detect and respond to criminal offences against person or property;
2. Facilitate and support an effective response by Authorised Officers, WA Police Officers or other emergency services personnel to situations of concern or interest (noting that WA Police have their own access to the new system), and
3. Manage and maintain community safety for residents, traders, retailers, workers, visitors and Shire staff.

A detailed organisational policy is also included for the purpose of describing operational limitations so that it is not misused, data retrieval and storage (particularly to preserve privacy) and who may be authorised to access recorded or live vision.

Strict rules are proposed around the retrieval and use of recorded images which is in line with established legislation and standards and penalties are described in the document. Operational objectives are also outlined for the purpose of monitoring the system's performance, including key performance indicators (KPI's). These KPI's will need to be gathered in consultation with WA Police. The manual also outlines the Shire's roles and responsibilities towards the system.

Code of conduct

A key component of the CCTV Management and Operations Manual is with respect to Code of Conduct. This covers the use of the system, the need to respect confidentiality, and for dealing with any breaches. For the purpose of ensuring probity of the system, it is proposed that a limited number of Authorised Officers are able to view images or retrieve captured data and that the system may only be viewed in a restricted or closed environment.

Access to the equipment for monitoring and the retrieval of data must also be logged in an official register - a Visitors Record Sheet and CCTV Management Spreadsheet. The spreadsheet will log:

- Requests to access recorded material
- Recording of incidents, by location
- Any faults and remedy measures undertaken

Unauthorised access to the system or abuse of the system including to obtain images with no purpose will be a serious breach of the code of conduct within the document and may result in dismissal.

Code of Practice

The Code of Practice establishes the operational objectives and performance indicators for the system. It references relevant legislation and standards and reinforces the need to ensure that the system is not abused or which would breach the specified Code of Conduct. It also describes the roles of nominated Authorised (Shire) Offices and WA Police and a range of management responsibilities.

The Code of Practice discusses the need to provide appropriate signage to ensure that people are aware of the surveillance areas and these signs are currently being manufactured and will be displayed once the system is operational. It also provides detailed information with respect to the application of both fixed and Pan Tilt Zoom Cameras.

With respect to the recorded material, it is proposed that this will only be retained for 31 days and then erased. Otherwise, strict rules are described for the retention of recorded images and for their use as evidence. In most cases, moreover, the cameras will be rarely used to monitor live images, although that may be allowed for the purpose of monitoring public events and likely by the Manager Community Development, who is authorised in the document to do so.

Standard Operating Procedures

The Standard Operating Procedures (SOP's) provide a framework for the management of the system, in particular in relation to keeping a CCTV Management Spreadsheet;

complaints handling; the recruitment and selection of authorised Officers, and a range of matters that relate to the storage and handling of recorded material.

STATUTORY IMPLICATIONS

The following documents are relevant:

- Surveillance Devices Act 1998
- State CCTV Strategy
- WA State CCTV Guidelines
- State CCTV Register
- Relevant Australian and New Zealand Standards

POLICY IMPLICATIONS

CP/GOV 3112 Policy Management Policy is relevant and has been used for the preparation of the document.

FINANCIAL IMPLICATIONS

Council's budget and Corporate Business Plan for the 2018/19 and 2019/20 financial years include a total of \$964,425 for the purpose of completing the stage 1 installation of the CCTV system. Additional forward funding proposals are included in the Corporate Business Plan for the purpose of expanding the system, subject to obtaining appropriate (external) funding. Some of the preliminary work, nonetheless, for the purpose of identifying additional camera locations has already been undertaken by Officers. This work will be complemented by community and stakeholder engagement (particularly WA Police) for the purpose of adopting a strategy moving forward and which will assist the Shire to obtain additional (external) funding and in line with the proposed document, which requires also consideration for appropriate resourcing.

STRATEGIC IMPLICATIONS

The CCTV operations and the proposed document are relevant to Goal 2 of the Strategic Community Plan and Action 401 of the Corporate Business Plan which deals specifically with the establishment and eventual expansion of the CCTV system. It also influences Action 399 relating to the Shire's Community Safety and Crime Prevention Plan which is in development.

Strategic Community Plan 2017-2027

Focus Area 2: 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

Strategy 2.3.5: Enforce effective public health and safety

RISK IMPLICATIONS

Risk implications include privacy, safety and sustainability - all of which are managed by the proposed Management and Operation Manual.

COMMUNITY ENGAGEMENT

No community engagement is required for this matter as it is procedural in nature although the subsequent Community Safety and Crime Prevention Plan and CCTV Strategy will.

Media releases are being prepared once the equipment is operative. Additional information will also be added to the Shire's webpage.

COMMENTS

The proposed Management and Operation Manual meets the requirements of CP/GOV 3112 Policy Management Policy as that applies to the drafting of the document. It also meets relevant legislative requirements relevant to maintaining privacy and meeting evidentiary rules for obtaining evidence by electronic (CCTV) surveillance.

The document will back up the new system when it comes on line by providing Officers with a detailed framework which incorporates a Code of Practice and Standard Operating Procedures, although it is envisaged that some minor 'tweaking' of the document may be required once the system becomes operational.

ATTACHMENTS

Attachment 1 - Closed Circuit Television (CCTV) Management and Operation Manual

12.3.4. CBP Quarterly Progress Report - April to June 2019

| | |
|---------------------------------|--|
| DATE: | 27 August 2019 |
| AUTHOR: | Senior Projects Officer |
| RESPONSIBLE OFFICER: | Nick Kearns, Director Planning and Community Development |
| ASSESSMENT NO: | N/A |
| FILE NO: | CM.10.7 |
| DISCLOSURE OF INTERESTS: | NIL |

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the Corporate Business Plan Quarterly Progress Report for April to June 2019.

Council Decision

Minute Number: 27/08/2019 - 118079

**Moved: Cr A Petherick
Seconded: Cr J Farquhar**

That Council receives the Corporate Business Plan Quarterly Progress Report for April to June 2019.

Carried: 8/0

PURPOSE

For the Council to receive the April to June 2019 Quarterly progress review (quarter four) of the Corporate Business Plan 2018/19 - 2021/22.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Advocator - advocate and support initiatives on behalf of the community and the Kimberley

Facilitator - bring stakeholders together

Funder - provide funds or other resources

Leader - plan and provide direction through policy and practices

Provider - provide physical infrastructure and essential services

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

The Corporate Business Plan (CBP) is the 4-year service and project delivery program for the Shire. It is aligned to the strategic direction and priorities set within the 10-year Strategic Community Plan.

The purpose of the CBP is to demonstrate the operational capacity of the Shire to achieve its aspirational outcomes and objectives over the medium-term and is reviewed annually to ensure priorities are achievable and effectively timed.

The Corporate Business Plan Year 2018/19 - 2021/22 was adopted by Council at the 26 June 2018 Ordinary Council Meeting (**Minute No: 115783**).

The Quarterly Progress Report is generated from the Shire's integrated planning process. The report reflects the progress of individual actions of the Corporate Business Plan, which are linked to the Strategic Community Plan. This ensures each staff member is working towards achieving the strategic direction of the Shire.

The Officer responsible for an action or task in the Corporate Business Plan is required to provide an update each quarter, giving an indication of how the action is progressing. This information is collated to provide an overview of how the organisation is performing to the CEO, Directors and Council to ensure that performance is being appropriately monitored and managed.

A copy of the Corporate Business Plan Quarterly Progress Report (Q4) for April to June 2019 is at Attachment 1.

STATUTORY IMPLICATIONS

The *Local Government Act 1995* provides a framework for the operations of Local Governments in Western Australia. Section 1.3 (2) states:

This Act is intended to result in:

- a) Better decision making by local governments;
- b) Greater community participation in the decisions and affairs of local governments;
- c) Greater accountability of local governments to their communities; and
- d) More efficient and effective government.

The Shire's Corporate Business Plan and quarterly progress reports are in line with the Western Australian Government's Integrated Planning and Reporting Framework which requires planning and reporting on local government activities.

POLICY IMPLICATIONS

CP/COM-3100 - Community Engagement Policy

The Community Engagement Policy aims to improve the outcomes and benefits of effective community engagement including:

- Increased community awareness about services, planning and program delivery;

- Increased awareness of the needs, priorities and diversity of the community, which in turn ensures that service provision and planning functions are aligned appropriately;
- Council and the community working together to address local issues where appropriate.

FINANCIAL IMPLICATIONS

The attached report provides a quarterly financial summary.

STRATEGIC IMPLICATIONS

The Corporate Business Plan Quarterly Progress Report serves to monitor the implementation of operational priorities and activities and report on the achievement of the Strategic Community Plan goals.

Strategic Community Plan

Focus Area 1: Civic Leadership

Goal 4.2: Good decision making through engagement with the community

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

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

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

Strategy 4.3.1: Be adaptive, responsive with a strong customer focus

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

Corporate Business Plan

CBP Action: #53 - Ensure compliance with the Integrated Planning and Reporting Framework

CBP Task: Provide quarterly CBP progress reports

RISK IMPLICATIONS

Risk: The Shire fails to carry out the actions set out in the Corporate Business Plan.

Control: Regular reporting of progress to CEO, Directors and Council to ensure that performance is monitored and managed.

Risk: Community unaware of Shire activities and progress and become disengaged

Control: Provide quarterly and annual reports to the community on the Shire's activities and progress

COMMUNITY ENGAGEMENT

Engagement will take place in accordance with Policy CP/COM-3100 and relevant guidelines and will include information on the Shire's web page.

COMMENTS

Summary of the progress by quarter is provided in the table below. It shows a general upward trend in achievement throughout the reporting period and reflects significant completion of capital works projects in the last quarter.

| Action status by Quarter | Q1 | Q2 | Q3 | Q4 |
|------------------------------------|-----------|-----------|-----------|-----------|
| Percentage on target (as reported) | 82% | 83% | 83% | 90% |
| Complete | 6 | 14 | 22 | 34 |
| Not started | 19 | 15 | 15 | 10 |
| Target progress | 24% | 52% | 55% | 78% |

Progress against the Strategic Community Plan 2017-2027 is summarised below. This shows good progress towards the achievement of the Plan, noting that the Shire is only two years in.

| Strategic Community Plan 2017-2027 Focus Areas | Percentage of actions completed | Percentage of actions in progress/ ongoing | Percentage of actions not started/ deferred |
|--|--|---|--|
| 1 Healthy vibrant active communities (People) <i>Improving liveability through social and recreational opportunities, a range of inclusive community services and activities, and valuing our diversity.</i> | 30% | 45% | 25% |
| 2 Enhancing the environment (Place) <i>We value our Kimberley lifestyle and natural environment. We will work to improve the liveability of our towns and their connection to our surrounding environment.</i> | 29% | 57% | 14% |
| 3 Economic prosperity (prosperity) <i>For the Shire to be open for business with a growing and successful economy and jobs for all.</i> | 0% | 77% | 23% |
| 4 Civic leadership (Governance) <i>We will deliver services to the community efficiently, provide leadership and governance that is future thinking, transparent and accountable.</i> | 43% | 37% | 20% |

ATTACHMENTS

Attachment 1 - Corporate Business Plan Quarterly Progress Report - Q4 April to June 2019

12.3.5. Kununurra PCYC

| | |
|---------------------------------|--|
| DATE: | 27 August 2019 |
| AUTHOR: | Director Planning and Community Development |
| RESPONSIBLE OFFICER: | Nick Kearns, Director Planning and Community Development |
| ASSESSMENT NO: | A2148 |
| FILE NO: | CP.07.28 |
| DISCLOSURE OF INTERESTS: | NIL |

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council delegates to the Chief Executive Officer the responsibility of negotiating and finalising lease arrangements and initiating works for the purpose of assisting with the establishment of a PCYC and for offices for the WA Police at the former Shire administrative building in Kununurra, subject to:

- 1. Any refurbishment works being externally funded.**
- 2. Agreement on design and scope of works.**
- 3. A peppercorn community lease being entered into within a lease term of 5 years (3 plus 2) and subject to future redevelopment of the building.**

Council Decision

Minute Number: 27/08/2019 - 118080

Moved: Cr M Dear

Seconded: Cr M McKittrick

That Council delegates to the Chief Executive Officer the responsibility of negotiating and finalising lease arrangements and initiating works for the purpose of assisting with the establishment of a PCYC and for offices for the WA Police at the former Shire administrative building in Kununurra, subject to:

- 1. Any refurbishment works being externally funded.**
- 2. Agreement on design and scope of works.**
- 3. A peppercorn community lease being entered into within a lease term of 5 years (3 plus 2) and subject to future redevelopment of the building.**

PURPOSE

For Council to consider entering into a short term lease of portions of the former Shire administrative building to assist with the establishment of a PCYC in Kununurra and to provide offices for WA Police assigned to the PCYC program.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Provider - provide physical infrastructure and essential services

Advocator - advocate and support initiatives on behalf of the community and the Kimberley

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Representatives of the Police and Community Youth Centre (PCYC) and WA Police met with Shire Officers in late July 2019. The purpose of the meeting was to discuss the establishment of a new centre in Kununurra. This comes on the back of a 3 year \$2 million funding commitment from the State Government.

The new Kununurra PCYC is proposed to deliver a range of structured programs and intervention activities to at-risk youth and they are hopeful of commencing the service later in 2019.

Since the original meeting, the PCYC has indicated an interest in establishing the new youth centre within part/s of the Shire's former Administrative building adjacent to the Kununurra Leisure Centre – principally the original Kununurra Shire hall - because of its central location and close proximity to sporting facilities. WA Police, in order to complement the PCYC, have also indicated an interest in occupying the former child and maternal health clinic, which would be used to accommodate four Officers. These areas are highlighted on the plan at Attachment 1.

Shire Officers have initiated an audit of utility services to the building and started to gather information related to cost estimates to undertake a 'basic' level of refurbishment. Sampling is soon to be initiated to identify any asbestos internally and externally. Preliminary estimates are that a basic refurbishment, excluding asbestos removal (and recladding or walling), of the former Shire hall will cost in the vicinity of \$200,000 and around \$100,000 for the former child and maternal health clinic.

All procurement for refurbishment works would be undertaken by the Department of Finance, in consultation with the Asset Management Directorate of WA Police.

Councillors will be aware that the former hall section of the building is included in the redevelopment concept for the Kununurra Leisure Centre – to be refurbished and repurposed to its former use as a community hall, meeting place and sport program area. The use of this area for a PCYC would accordingly be an interim use until the leisure centre

is rebuilt, but with the potential addition of a new purpose-built youth centre added to the facility, which once completed, PCYC would relocate to.

It should be noted that this proposal is preliminary, in the sense that the PCYC and WA Police are investigating alternative locations, however as the facility is operationally funded (since 1 July 2019) it is likely that these organisations will move with some urgency once they have agreed on their location. Therefore this proposal is being reported to Council to enable the CEO to negotiate on its behalf to put in place a short term peppercorn lease and to agree to the extent of works required to bring the building into a fit-for-purpose state for either one or both of these organisations.

STATUTORY IMPLICATIONS

Local Government Act 1995

Under section 3.58 of the Local Government Act 1995 (LGA), the leasing of land is included as a form of disposal of property and is required to be undertaken in accordance with this section of the LGA. However, there are exemptions from the requirements outlined in regulation 30 of the *Local Government (Functions & General) Regulations 1996*, which cites that a disposition of land is an exempt disposition if:

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

As such, the proposed new lease to the PCYC and WA Police would be considered an exempt disposition and the Shire can directly enter into a lease negotiation.

The use of the building for a youth centre and for offices is permitted within the Shire's Planning Scheme.

POLICY IMPLICATIONS

CP/PMG-3781 Leasing of Council Managed/Owned Land – Commercial is relevant to the proposal as it is a Shire owned building.

FINANCIAL IMPLICATIONS

No budget has been allowed for any new/capital works associated with this property, so any refurbishment would need to be funded by PCYC.

Some operational funding is available for the purpose of undertaking an assessment of the building for its suitability and for design, all of which will be necessary for the Shire to do for the purpose of eventually upgrading the building.

Officers are liaising with the Department of Local Government, Sport and Cultural Industries to make current funding available for the drafting of detailed plans for the leisure centre aquatics and building refurbishment. The revised concept proposal will also be updated once the current business case is endorsed, which will be reported to Council beforehand.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 1: Healthy vibrant active communities

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

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

Focus Area 2: Enhancing the environment

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

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

The proposal supports Actions #347 and #349 of the Corporate Business Plan to provide youth friendly environments and programs, and to manage and promote youth services and program delivery. It also supports Action #448 related to the renewal of the leisure centre.

RISK IMPLICATIONS

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

Control: Ensure compliance with legislative requirements prior to entering into lease.

COMMUNITY ENGAGEMENT

Whilst there has been no community engagement, PCYC have engaged with key stakeholders and government agencies.

COMMENTS

The use of the former Shire hall for the purpose of establishing the PCYC is logical given the central location and close proximity to sporting facilities including the Kununurra Leisure Centre and other sporting facilities adjoining the town oval. The proposal to re-establish this part of the former Shire administrative building was also strongly supported by the community in the engagement following the release of the Kununurra Leisure Centre concept plan. Similarly, the creation of some interim office space for WA Police will assist

with the delivery of PCYC youth programs and is adjacent to the main Kununurra Police Station.

The current concept plan for the refurbishment of the Kununurra Leisure Centre includes the original Kununurra Shire hall in the plan which is proposed to be converted back to its original use and made available to community members and users of the adjacent leisure centre. This proposal therefore assists in realising this part of the plan earlier than originally anticipated and supports current actions within the Shire's Corporate Business Plan. Nevertheless, the Shire would review the Leisure Centre redevelopment concept, currently subject to the development of a business case, to identify if it can incorporate a new youth space that would accommodate PCYC in line with the redevelopment of the centre. More detailed plans are also proposed to be drafted this year and therefore operational funds will be available for this purpose.

The Shire is able to lease the property to the PCYC as an exempt disposition so that it can directly enter into a lease negotiation, which would be a three year with two year extension and subject to a 'redevelopment clause' which would be included in the lease agreement.

The proposal is premised upon the refurbishment works being externally funded, however, some operational expenditure can be used for the purpose of undertaking appropriate assessments of the building and for the purpose of design, which is budgeted for.

ATTACHMENTS

Attachment 1 - Plan of former Shire administrative building indicating areas for PCYC and WA Police

12.4. CORPORATE SERVICES

12.4.1. CP/FIN-3204 Purchasing Policy Amendments

| | |
|---------------------------------|--|
| DATE: | 27 August 2019 |
| AUTHOR: | Senior Procurement and Contracts Officer |
| RESPONSIBLE OFFICER: | Vernon Lawrence, Director Corporate Services |
| DISCLOSURE OF INTERESTS: | NIL |

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council adopt the amended Policy: *CP/FIN-3204 Purchasing* as attached to this report.

Council Decision

Minute Number: 27/08/2019 - 118081

Moved: Cr J Farquhar
Seconded: Cr G Lodge

That Council adopt the amended Policy: *CP/FIN-3204 Purchasing* as attached to this report.

Carried: 8/0

PURPOSE

To consider amendments to *CP/FIN-3204 Purchasing*.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

CP/FIN-3204 Purchasing was last reviewed in August 2017.

STATUTORY IMPLICATIONS

A local government is to adopt a purchasing policy in accordance Regulation 11A, *Local Government (Functions and General) Regulations 1996*

POLICY IMPLICATIONS

CP/FIN-3204 Purchasing will be amended as displayed following a simple majority vote.

FINANCIAL IMPLICATIONS

NIL

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

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

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

RISK IMPLICATIONS

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

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

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

CP/FIN-3204 Purchasing is scheduled for review as part of the policy review schedule. Proposed amendments have been made to *CP/FIN-3204 Purchasing* to include additional purchasing exemptions as listed under Section 3.5.

Purchasing Policy exemptions enable Shire officers to seek goods and services direct from a nominated supplier without undergoing a competitive quotation process.

Such exemptions create internal efficiencies where it is justified that the completion of the internal process requirements for competitive quotations is not beneficial and an inefficient use of time, particularly when regularly sought.

The purchasing exemption additions and the associated justifications are as follows:

| Addition | Justification |
|--|--|
| Utilities: Addition of chlorine gas to 'Gas' category | Only one chlorine gas provider in Australia. Comparable quotes are unobtainable. |
| Australia Standards Licencing with SAI Global | The only licencing provider for Australian Standard reference material. Comparable quotes are unobtainable. |
| Staff training | Specific training course formats are often only offered by a single provider (for example; lifeguard training by Royal Life Saving WA) or are only offered by a single supplier in town (e.g. Kununurra TAFE). |
| Flights | Limit on supplier numbers or suppliers offering direct routes. Comparable quotes often unobtainable. |
| Pre-employment medicals and staff medical programs (example; annual flu vaccination program); | There is only one medical provide currently in Kununurra. Comparable quotes are unobtainable. |
| Legal Services | The Shire has an established term contract for legal services under the WALGA Preferred Supplier Arrangement. The exemption is required when the contracted legal provider has a conflict of interest and an alternative provider is required. |
| Talent and expenses associated with Shire events (for example; Kimberley Writers Festival, Australia Day); | The booking of talent and associated expenses are unique to the event being hosted (for example; writers and associated costs for the Kimberley Writers Festival). Comparable quotes are unobtainable. |
| Goods and Services provided by Local Government Insurance Scheme (LGIS); | Goods and Services provided by LGIS are unique to LGIS and are provided at discounted membership rates. Comparable quotes are unobtainable. |

No further amendments are recommended as part of this review.

ATTACHMENTS

Attachment 1 - CP/FIN-3204 Purchasing - amended

12.4.2. Interim Monthly Financial Report July 2019

| | |
|---------------------------------|--|
| DATE: | 27 August 2019 |
| AUTHOR: | Coordinator Financial Operations |
| RESPONSIBLE OFFICER: | Vernon Lawrence, Director Corporate Services |
| FILE NO: | FM.09.22 |
| DISCLOSURE OF INTERESTS: | NIL |

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the Interim Monthly Financial Report for the period ended 31 July 2019.

Council Decision

Minute Number: 27/08/2019 - 118082

Moved: Cr N Brook

Seconded: Cr M Dear

That Council receives the Interim Monthly Financial Report for the period ended 31 July 2019.

Carried: 8/0

PURPOSE

For Council to receive the Interim Monthly Financial Report for the period ended 31 July 2019.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - enforce State legislation and local laws

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

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

At the 26 June 2018 Ordinary Council Meeting, the Council resolved the following:

COUNCIL DECISION

Minute Number: 26/06/2018-115800

Moved: Cr M McKittrick

Seconded: Cr M Dear

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

Carried 9/0

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

STATUTORY IMPLICATIONS

Local Government Act 1995, Section 6.4.

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

POLICY IMPLICATIONS

CP/FIN-3201 Significant Accounting Policies has been applied in the preparation of this 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 the Council with the ability to oversee the Shire's financial performance against budgeted targets.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

RISK IMPLICATIONS

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

Control: Annual audit performed.

COMMUNITY ENGAGEMENT

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

No community engagement is required.

COMMENTS

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

ATTACHMENTS

Attachment 1 - Interim Monthly Financial Report for the period ended 31 July 2019

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

| | |
|---------------------------------|--|
| DATE: | 27 August 2019 |
| AUTHOR: | Creditors Officer |
| RESPONSIBLE OFFICER: | Vernon Lawrence, Director Corporate Services |
| FILE NO: | FM.09.25 |
| DISCLOSURE OF INTERESTS: | NIL |

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

| | | |
|--|-----------|---------------------|
| That Council receives the listing of accounts paid from the Municipal and Trust funds, being: | | |
| Municipal EFT 135408 - 135732 (03/07/2019 - 24/07/2019) | \$ | 1,784,429.59 |
| Municipal Cheques 51972 - 51974 (04/07/2019 - 24/07/2019) | \$ | 600.85 |
| Trust Cheque 1215 - 1233 (04/07/19- 24/07/19) | \$ | 4,370.00 |
| Trust EFT 501838 - 501855 (02/07/2019 - 29/07/2019) | \$ | 7,524.55 |
| Payroll - (03/07/2019 - 31/07/2019) | \$ | 756,460.22 |
| Direct bank debits (01/07/2019 - 22/07/2019) | \$ | 106,542.17 |
| Total | \$ | 2,659,927.38 |

| | | |
|--|-----------|---------------------|
| <u>Council Decision</u> | | |
| Minute Number: 27/08/2019 - 118083 | | |
| Moved: Cr T Chafer | | |
| Seconded: Cr M McKittrick | | |
| That Council receives the listing of accounts paid from the Municipal and Trust funds, being: | | |
| Municipal EFT 135408 - 135732 (03/07/2019 - 24/07/2019) | \$ | 1,784,429.59 |
| Municipal Cheques 51972 - 51974 (04/07/2019 - 24/07/2019) | \$ | 600.85 |

| | | |
|---|----|---------------------|
| Trust Cheque 1215 - 1233 (04/07/19- 24/07/19) | \$ | 4,370.00 |
| Trust EFT 501838 - 501855 (02/07/2019 - 29/07/2019) | \$ | 7,524.55 |
| Payroll - (03/07/2019 - 31/07/2019) | \$ | 756,460.22 |
| Direct bank debits (01/07/2019 - 22/07/2019) | \$ | 106,542.17 |
| Total | \$ | 2,659,927.38 |
| | | Carried: 8/0 |

PURPOSE

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

NATURE OF COUNCIL'S ROLE IN THE MATTER

Regulator - enforce state legislation and local laws.

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

In accordance with Council's Delegations Register 2018/19 which was adopted by Council on 28 August 2018, the Council has delegated to the CEO the exercise of its power under Regulations 12 and 13 of the *Local Government (Financial Management) Regulations 1996* to make payments from Municipal Fund and Trust Fund.

STATUTORY IMPLICATIONS

Local Government Act 1995 – Section 5.42

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

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

There are no financial implications arising out of the preparation of this report. The financial implications arising from the payments made from the Municipal and Trust funds have been provided for in the 2019/20 Adopted Budget and any subsequent amendments thereto. This

report provides for the ongoing management of the Shire's funds by providing the Council with sufficient information to monitor and review those payments made.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027.

Focus Area 4: Civic Leadership

Goal 4.4: Sustainably maintain the Shire's financial viability

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

RISK IMPLICATIONS

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

Controls: Annual Financial Audit. Annual Compliance Return to Department of Local Government, Sport and Cultural Industries.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

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

ATTACHMENTS

Attachment 1 - List of Accounts Paid July 2019

12.5. INFRASTRUCTURE

12.5.1. Funeral Directors Licence - Affordable Funerals

| | |
|---------------------------------|---------------------------------------|
| DATE: | 27 August 2019 |
| AUTHOR: | Infrastructure Support Officer |
| RESPONSIBLE OFFICER: | Stuart Dyson, Director Infrastructure |
| FILE NO: | PH.12.11 |
| DISCLOSURE OF INTERESTS: | NIL |

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council approves the issuing of an annual Funeral Director's licence to Affordable Funerals Katherine for a period of one year from 1 July 2019 to 30 June 2020 in accordance with the Cemeteries Act 1986.

Council Decision

Minute Number: 27/08/2019 - 118084

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

That Council approves the issuing of an annual Funeral Director's licence to Affordable Funerals Katherine for a period of one year from 1 July 2019 to 30 June 2020 in accordance with the Cemeteries Act 1986.

Carried: 8/0

PURPOSE

To consider Affordable Funerals Katherine's application for a funeral director's licence renewal

NATURE OF COUNCIL'S ROLE IN THE MATTER

Provider - provide physical infrastructure and essential services

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Timothy McClintock and Susanne Davis are the Directors of Affordable Funerals Katherine, Susanne has operated Tennant Creek Funeral Service since 1998. In December 2017, they purchased property and established their head office in Katherine NT and now service Katherine, the Barkley region and remote communities.

They have established working relationships with relevant services including the Kununurra Morgue and have sufficient vehicles such as hearses, bush hearses and a refrigerated van to provide full funeral services to the Katherine and Barkley region and remote communities including deceased person transport Australia wide.

Affordable Funerals have been licences to operate with the Shire since May 2018.

STATUTORY IMPLICATIONS

Cemeteries Act 1986.

Division 3 - Licensing of funeral directors.

16. *Licences*

A funeral director's licence:

- (a) is valid for the conduct of funerals at the cemetery or cemeteries specified in the licence;*
- (b) is valid for such period not exceeding one year from the day on which the licence is issued as the Board determines, unless the licence is sooner suspended or cancelled; and*
- (c) is not transferable.*

17. *Applications for licences*

- (1) An application for a funeral director's licence in respect of a cemetery shall be made to the Board responsible for the care, control and management of the cemetery in the manner required by the Board and shall be lodged with the Board together with the appropriate fee.*
- (2) An applicant who satisfies the Board that the applicant:*
 - (a) is of good repute and is fit to hold a funeral director's licence; and*
 - (b) has suitable facilities and equipment for handling and storing dead bodies and conducting funerals, shall be entitled to be issued with a funeral director's licence.*

POLICY IMPLICATIONS

NIL

FINANCIAL IMPLICATIONS

The Undertakers (Funeral Directors) Annual Licence Fee is \$350.00 from 1 July 2019

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 2: Enhancing the environment

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

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

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

Affordable Funerals Katherine wish to renew their licence to operate Funeral Directors Licence from the Shire so they can service the Kimberley in addition to Katherine, the Barkley region and remote communities.

Through their current business operations, they have established working relationships with relevant parties such as the Kununurra morgue to provide a complete service.

An application for a Funeral Director's Licence has been received and the Shire has been provided with their relevant insurances.

ATTACHMENTS

Attachment 1 - Application - Affordable Funerals

12.5.2. East Kimberley Regional Airport RPT Apron Lighting Upgrade

| | |
|---------------------------------|---------------------------------------|
| DATE: | 27 August 2019 |
| AUTHOR: | Manager Airports |
| RESPONSIBLE OFFICER: | Stuart Dyson, Director Infrastructure |
| FILE NO: | TT.07.3 |
| DISCLOSURE OF INTERESTS: | NIL |

OFFICER'S RECOMMENDATION

That Council:

- 1. Accept Department of Transport Grant Funding for EKRA Apron lighting upgrades.**
- 2. Approve withdrawing \$120,000.00 from the Airport Reserve to facilitate the project delivery.**

Council Decision

Minute Number: 27/08/2019 - 118085

Moved: Cr M McKittrick

Seconded: Cr T Chafer

That Council:

- 1. Accept Department of Transport Grant Funding for EKRA Apron lighting upgrades.**
- 2. Approve withdrawing \$120,000.00 from the Airport Reserve to facilitate the project delivery.**

Carried: 8/0

PURPOSE

For Council to accept the Department of Transport (DoT) funding allocation and allow the drawing down of \$120,000.00 from the Airport Reserve account to commence the project to improve lighting on the RPT apron for safety purposes.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Provider - provide physical infrastructure and essential services

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

In 2018, a Civil Aviation Authority regulatory electrical inspection was undertaken to check the airside lighting systems required to operate the EKRA Aerodrome were in a compliant and safe condition.

During the inspection, the RPT apron lighting was identified as having non-compliant low lux lighting which is required for the safe arrival and movement of passengers and service vehicles around aircraft arriving at the airport.

Following the inspection, Shire officers undertook investigations surrounding the lighting to identify alternative options. As there is an intent to increase the runway length in the future, officers have selected a lighting option that can accommodate an increased airfield pavement capacity to accommodate larger aircraft. Due to the high financial costs, this project will be implemented in two stages. Monies requested in this report are for Stage 1, with Stage 2 to be implemented in the 20/21 financial year. Indicative costs for Stage 2 are \$85,000.00 which will be an internal capital works project, wholly funded by the Shire. Cabling works for Stage 2 are included in Stage 1 works.

The Shire applied for grant funding through the DoT and were successful with the application. The funding is based on a 50/50 contribution from each of the parties (SWEK and DoT). DoT approached the Shire at the beginning of 2019 to request that we give consideration to delaying the funding until the 2020/21 financial year due to budget constraints. This was accepted by the Shire and the 2019/20 budget was amended accordingly to reflect that funds would be available for the 2020/21 budget.

Subsequently, DoT has come back to the Shire with the funds being available via a funding deed which was received on the 02 August 2019, stating commencement of Works in September 2019 with completion required by the 11th of May 2020.

STATUTORY IMPLICATIONS

Lux rating is not compliant with current CASA aerodrome standards

POLICY IMPLICATIONS

There are no policy implications noted for this report

FINANCIAL IMPLICATIONS

The Department of Transport funding allocation totals \$65,749.00 with the Airport Reserve to match it with at least the same amount.

Based on current market prices the project cost is estimated to be \$155,000. This is based on a previous project estimate of \$131,498 with an approximate 15% contingency built in. The current budget has provided for \$35,000 for lighting that can be used for this project. The Shire will therefore require an additional \$120,000 above what is currently available in the 2019/20

Budget. Officers are seeking Council approval that the balance of funds can be drawn from the Airport Reserve account.

Any savings that may arise in the delivery of the project will be returned to the Airport Reserve account.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 3: Economic Prosperity

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

Strategy 3.1.2: Improve access and transport links to the East Kimberley (air, road and sea)

RISK IMPLICATIONS

Risk: Loss of funding and safety compliance.

Control: The Shire to make adequate financial contributions via the Airport Reserve

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The timeline provided by the DoT to decide on the acceptance of this funding, and the signing and return of the Funding Deed is 14 days commencing from the 2 August 2019.

Technical specification documents have previously been received and are ready to be added into RFQ documentation and go out to the market for quotation purposes

If approved by Council, documentation for an RFQ can be issued in early September 2019 as per the Funding Deed start date requirements.

ATTACHMENTS

Attachment 1 - 2019-21 RADS Funding DEED for East Kimberley Regional Airport (Kununurra)
Airport

12.5.3. Wyndham Boat Launching Facility Update

| | |
|---------------------------------|--|
| DATE: | 27 August 2019 |
| AUTHOR: | Manager Assets and Capital Works, Infrastructure |
| RESPONSIBLE OFFICER: | Stuart Dyson, Director Infrastructure |
| FILE NO: | LP.02.53 |
| DISCLOSURE OF INTERESTS: | NIL |

OFFICER'S RECOMMENDATION

That Council:

- 1. Endorse Shire Officers to proceed with the process to plan for the replacement of the floating pontoon jetty and boat ramp facilities at the existing Wyndham location.**
- 2. Endorse continued future applications to the Recreational Boating Facility Scheme in subsequent financial years with co-contributions from the Shire to progressively redevelop the Wyndham Boat Launching Facilities.**

Council Decision

Minute Number: 27/08/2019 - 118086

Moved: Cr A Petherick

Seconded: Cr G Lodge

That Council:

- 1. Endorse Shire Officers to proceed with the process to plan for the replacement of the floating pontoon jetty and boat ramp facilities at the existing Wyndham location.**
- 2. Endorse continued future applications to the Recreational Boating Facility Scheme in subsequent financial years with co-contributions from the Shire to progressively redevelop the Wyndham Boat Launching Facilities.**

Carried: 8/0

PURPOSE

For Council to consider to proceed with replacement of the Wyndham Boat Ramp Jetty, by seeking funding through the Department of Transport Recreational Boating Facility Scheme, or any other grants that are available for such works.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Provider - provide physical infrastructure and essential services

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

Minute No: 26/09/2017-117805

Commissioner resolved:

That Council;

1. *Receive the Wyndham Boat Launching Facility Planning and Concept Design Report;*
2. *Acknowledge the Community engagement highest voted concept is Option 1: Floating Pontoon Option; or the Wyndham Boat Launching Facility subject to confirmation of whole of life costs over required 25 design life and associated maintenance costs;*
4. *Endorse continued future application submissions to the Recreational Boating Facility Scheme in subsequent financial years with co-contributions from the Shire to progressively redevelop the Wyndham Boat Launching Facility;*
5. *Clarify the Department of Transport requirements in relation to a management plan for Option 1.*

STATUTORY IMPLICATIONS

AS 4997-2005: Guidelines for the design of maritime structures

POLICY IMPLICATIONS

CP OPS-3649 Maintenance of Shire Assets

FINANCIAL IMPLICATIONS

Future budget consideration of \$72,325, being the Shire's 25% contribution as its share of project expenses for a possible grant from the Department of Transport under the Recreational Boating Facility Scheme for the "Data collection, consultation, design and tender" on the construction of a floating jetty.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 2: Enhancing the environment

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

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

RISK IMPLICATIONS

Risk: Failure to obtain funding, resulting in boat ramp jetty end of life.

Consequences; Moderate, Demonstrated public outrage, unsubstantiated public embarrassment, moderate impact, moderate news profile. Example State wide paper, tv news story, moderate Facebook item taken up by people outside of Kununurra.

Likelihood; Rare, the event may only occur in exceptional circumstances, Less than once in 15 years.

Risk Matrix; Classification - LOW

COMMUNITY ENGAGEMENT

Engagement has taken place in accordance with the Shire's Community Engagement Guidelines and has been included in previous reports to Council:

COMMENTS

The Shire of Wyndham East Kimberley (SWEK) received a report dated 22 August 2017 titled **Wyndham Boat Launching Facility, Planning & Concept Design Report** from Advisian. The report which details options for the type of jetty construction options, being fixed or floating, and the possible locations of the jetty. This report was provided to Council as an attachment at the Ordinary Council Meeting 22 August 2017, and at Ordinary Council Meeting 26 September 2017.

At the August Ordinary Council Meeting, the Shire Director Infrastructure, Mr David Klye, recommended to Council, and in line with the recommendation of the report to;

Officer's recommendation;

- 1. Receive the Wyndham Boat Launching Facility Planning and Concept Design Report;***
- 2. Acknowledge the Community engagement highest voted concept is Option 1: Floating Pontoon option;***
- 3. Adopt Option 2: Fixed Sloping Jetty option as the preferred redevelopment option for the Wyndham Boat Launching Facility; and***

- 4. Endorse continued future application submissions to the Recreational Boating Facility Scheme in subsequent financial years with co-contributions from the Shire to progressively redevelop the Wyndham Boat Launching Facility.**

The officer's recommendation was required to conform with the findings of the study, which made reference to appropriate guidelines and standards.

The commissioner resolved;

Minute No: 22/08/2017-11777

Commissioner resolved:

That Council defer the report to the Ordinary Council Meeting 22 August 2017, with further information to be provided.

As a result, the matter was tabled until the 26 September 2017, where the Commissioner resolved;

Minute No: 26/09/2017-117805

Commissioner resolved:

That Council;

- 1. Receive the Wyndham Boat Launching Facility Planning and Concept Design Report;***
- 2. Acknowledge the Community engagement highest voted concept is Option 1: Floating Pontoon Option;***
- 3. Adopt Option 1: Floating Pontoon Option as the preferred redevelopment option for the Wyndham Boat Launching Facility subject to confirmation of whole of life costs over required 25 design life and associated maintenance costs.***
- 4. Endorse continued future application submissions to the Recreational Boating Facility Scheme in subsequent financial years with co-contributions from the Shire to progressively redevelop the Wyndham Boat Launching Facility.***
- 5. Clarify the Department of Transport's requirements in relation to a management plan for Option 1.***

Review of Maintenance recently undertaken

The most recent work conducted on the Wyndham Boat Ramp Jetty, was undertaken by Indianic Group Pty Ltd, invoiced 17 January 2019. These works were (sic);

- *2 x leaking pontoons at end of jetty require removal, repair and reinstatement.*
- *Throughout the facility, replace missing fenders, pile guides and repair steel work (like for like).*
- *Replace rubber jointing pads at pontoon connectors throughout.*

- Secure hand rails.
- Secure pontoon decking mech.
- Test pylon steel thickness and strengthen/repair where possible.
- Re-coat/paint affected area

The work conducted on the boat ramp jetty was valued at \$33,700.

On 13 April 2011, an inspection of the Wyndham Boat Ramp Jetty was undertaken by Worley Parsons. This inspection is also listed as a reference document in the Advisory Wyndham Boat Launching Facility, Planning and Concept Report 22 August 2017, Table 2-1.

Some key elements of this earlier report indicate that;

“Many of the pontoon units are leaning (not sitting horizontal in the water), due to the light nature of construction. It is noted that the pontoon units and system would not comply with stability requirements of AS 3962 - Guideline for the design of Marinas.”

“The pontoon system is connected to piles via pontoon guides which are fabricated out of small diameter aluminium bar and plate. Most of the pile guides are bent and flimsy, indicating over stressing of the structural components, and not fit for purpose.

There are 12 pontoon restraint piles on the structure, which are constructed from galvanised steel water pipe, ranging from approximately 200mm to 300mm in outside diameter. The top of pile level has been surveyed at RL +9.854m Chart Datum (CD) (Where Lowest Astronomical Tide Level (LAT) = -0.260m CD, and Highest Astronomical Tide Level (HAT) = +8.700m CD). There is a risk that at a very high tide level with increased water level from rain events or wind wave, that some of the pontoon units will lift off the top of the piles. Any new piles should be constructed at a higher cut off level.”

It is understood from SWEK that the original wall thickness of the galvanised steel piles was 6mm. Six of the piles are missing a top cap which decreases durability by allowing the piles to corrode from the inside and outside, thus doubling rate of corrosion. Typical corrosion rates for steel in a salt water splash zone are approximately 0.1mm per annum. For corrosion on the inside and outside, this could equate to a loss of 2.4mm of wall thickness since construction.

The existing piling is under designed (not fit for purpose) and does not comply with AS 4997 – Guidelines for the Design of Maritime Structures in terms of durability in the marine environment.”

“Given the number of pile failures over the past 7 years due to debris loading and corrosion, it is highly likely that further, more frequent failures will continue to occur, particularly given the poor welding observed in the 15 December 2010 pile failure and the presence of holes in the steel piles allowing corrosion to accelerate.”

The report concluded by stating;

“A number of issues were identified where individual components of the pontoon system are in non-compliance with Australian Standards.

Failure of the existing piles and pile guides will continue to occur on the Wyndham Boat Ramp Floating Jetty due to inappropriate existing piles, which are under designed for strength and have a

short design life due to poor corrosion protection, poor welding during splicing and holes located within the tidal zone.

It is recommended that a design for new pile guides and piles be undertaken and the existing piles be replaced with new steel piles with adequate corrosion protection detailing”.

Whilst the conclusion recommends replacement of existing pile guides with a minimum Australian Standards pole, it does not take into consideration the failure of the pontoons or pontoon restraints. The report in total indicates non-compliance in piles, pontoon floats and system, hand railing and pontoon restraints. It would appear therefore that the structure in its entirety is non-compliant. (Ref; *WorleyParsons resources & energy, WYNDHAM BOAT RAMP FLOATING JETTY OPTIONS FOR MAINTENANCE AND REPLACEMENT, 13 April 2011, Simon Batt, Coastal & Marine Operations Manager*)

From an in house maintenance program, it is proposed that staff undertake an annual inspection of the jetty structures, and that a 5 year detailed inspection be undertaken by an appropriately qualified reputable contractor, to progress identified maintenance issues as budget and Council allow.

Floating vs fixed structure arguments

The matter of fixed vs floating pontoon is one of the key items of the Advisory, Wyndham Boat Launching Facility, Planning & Concept Design Report, 20 June 2017. It is identified that a fixed jetty (Option 2) with higher standard piers is preferred by the Department of Transport. Public consultation undertaken as part of information for this document, identified that the preferred option (Option 1) is a floating pontoon. Please see the attached document for full details on this matter.

It should be noted that the Department of Transport document, Guidelines for the Design of boat launching facilities in Western Australia below the 25th Parallel, is the reference document for funding. The reporting officer has contacted the Department of Transport for Comment, and it was advised that due to being *above* the 25th parallel, options designed by a suitably qualified engineering firm, in compliance with *A.S. 3962 Guidelines for design of marinas*, would be considered for possible grant funding.

Review of where we are, and what is required to be shovel ready.

Research of current information indicates that the Shires previous Manager of Assets and Capital Works, Mr Mark Davidson, has liaised with the WorleyParsons Group to create an indicative costing for works moving forward.

The project has been broken into seven parts, being;

- | | |
|--|--------------------|
| - <i>Data collection, consultation, design and tender</i> | <i>\$263,000</i> |
| - <i>Construction Stage 1, 1st boat ramp</i> | <i>\$500,000</i> |
| - <i>Construction Stage 2, Floating pontoon jetty</i> | <i>\$1,240,000</i> |
| - <i>Construction Stage 3, 2nd boat ramp</i> | <i>\$500,000</i> |
| - <i>Construction Stage 4, Improved trailer rigging area</i> | <i>\$117,000</i> |

| | |
|-----------------------------|--------------------|
| - Upgrade of Ablution block | \$130,000 |
| - Boardwalk and Landings | \$1,060,862 |
| - Contingency | \$610,000 |
| TOTAL | \$4,420,862 |

Records indicate that submission was made to the Department of Transport for Stage 1 of the project (Data collection, consultation, design and tendering), before the closing date of 2pm Tuesday 7 February 2017. The Shire was unsuccessful in obtaining grant funding primarily due to uncertainty in the nature of construction, being fixed or a floating pontoon.

Options to progress forward to 'shovel ready', would be for the Council to consider finding the planning stage of the project at \$263,000, or to continue seeking grant funding through the Department of Transport.

The reporting officer has made contact with the Department of Transport 26 June 2019, and has been advised that the next round of funding will be open in the coming days, closing 3 September 2019. Projects that start with detailed planning and design will be considered favourably. Funding will be considered up to 75% of total project cost (per stage), to a maximum of \$750,000 per project stage, with council funding any excess or over expenditure in project stages.

Officers will recommend, in line with community consultation and council resolution **Minute No: 26/09/2017-117805**, that an application be made to the Department of Transport for a floating pontoon Jetty, for funding of data collection, consultation, design and tendering. Project cost stage 1 is now estimated at \$289,300, broken down as follows:

| | |
|--------------------|------------------|
| 75% funding D.O.T. | \$216,975 |
| 25% S.W.E.K. | \$72,325 |
| TOTAL | \$289,300 |

ATTACHMENTS

Attachment 1 - Wyndham Boat Launching Facility, Planning & Concept Design Report, 20 June 2017, Advisian, WorleyParson Group

Attachment 2 - Wyndham Boat Ramp Floating Jetty Options for Maintenance and Replacement, 13 April 2011, WorleyParsons Group

12.5.4. Landfill Management

| | |
|---------------------------------|---------------------------------------|
| DATE: | 27 August 2019 |
| AUTHOR: | Manager Operations |
| RESPONSIBLE OFFICER: | Stuart Dyson, Director Infrastructure |
| ASSESSMENT NO: | NIL |
| FILE NO: | WM.09.4 |
| DISCLOSURE OF INTERESTS: | NIL |

OFFICER'S RECOMMENDATION

That Council:

- 1. Approves the following option for Wyndham Landfill:**

Option 1a - New landfill on the existing site in Wyndham (by diverting the surface water running through the existing site)

- 2. Authorises Shire Officers to action the preferred option.**

Council Decision

Minute Number: 27/08/2019 - 118087

Moved: Cr A Petherick

Seconded: Cr G Lodge

That Council:

- 1. Approves the following option for Wyndham Landfill:**

Option 1a - New landfill on the existing site in Wyndham (by diverting the surface water running through the existing site)

- 2. Authorises Shire Officers to action the preferred option.**

Carried: 8/0

PURPOSE

For Council to approve the type of long term waste management facility for the town of Wyndham and authorise Shire officers to commence work on the establishment the preferred waste management facility in Wyndham that is capable of catering for current and future waste needs of the community.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Funder - provide funds or other resources

Leader - plan and provide direction through policy and practices

Provider - provide physical infrastructure and essential services

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

In June 2017, Ask Waste Management were engaged to develop a Concept Design Report for the establishment of a waste Transfer Station in Wyndham as the current facility is reaching the end of its life.

In August 2018, the Shire made an application to DWER to increase the height of the landfill to buy more time whilst other options were reviewed. The application was subsequently approved thus allowing officers to undertake further investigations including community engagement.

In November 2018, Council were briefed on the estimated capital costs for the establishment of both a new and extended landfill site and that of a Transfer Station.

In March 2019, Council advised there were a number of questions that require additional information to enable a decision to be made. Over recent months officers have established a list of all of the available options and undertaken financial modelling for each option over a 20 year period.

STATUTORY IMPLICATIONS

The Local Government Act 1995 provides for future planning under section 5.56 Planning for the future.

Section 5.56 (1) A local government is to plan for the future of the district.

Section 6.2 (1) During the period from 1 June in a financial year to 31 August in the next financial year, or such extended time as the Minister allows, each local government is to prepare and adopt, in the form and manner prescribed, a budget for its municipal fund for the financial year ending on 30 June next following that 31 August. —*

An Absolute Majority is required to adopt the annual budget in accordance with this section of the LGA.

POLICY IMPLICATIONS

The officer's recommendation does not raise any policy implications for Council.

FINANCIAL IMPLICATIONS

Financial modelling has been completed up to and including the financial year 2038/39. The modelling includes forecast estimates for all opening and closing costs of each of the 5 options listed below, with costs amortised to an annual capital cost.

Annual operational costs are not incorporated in the below table, due to the similar operational costs associated with operating a transfer station or a rural landfill facility.

Description of Options

| | |
|-----------|---|
| Option 1 | Opening up a new greenfield landfill site in Wyndham. |
| Option 1a | A new landfill but on the existing site. This would need additional opening capital works to divert the water course but would have savings on fencing and Native title costs. |
| Option 2 | A Transfer Station option. Included as a cost is the approximate cost of the reduction in the life of the Kununurra landfill site. This included both opening and closing costs. |
| Option 3 | A hybrid solution where a small scale transfer station is constructed to extend the life of the current landfill site. This cash flow assumes that Council would want a landfill site, so after 3 years of a hybrid situation a landfill option is implemented. The model amortises all the capital costs over the life of the new Wyndham landfill site. |
| Option 3a | A hybrid model but assumes that after three years Council has a preference for a transfer station. |

Summary Financial Modelling to 2018/2019

| | Option 1 | Option 1a | Option 2 | Option 3 | Option 3a |
|---|----------------|----------------|----------------|----------------|----------------|
| Capital cost of opening | 1,034,000 | 995,500 | 306,000 | 1,210,000 | 306,000 |
| Capital cost of closing | 1,200,000 | 1,200,000 | - | 1,200,000 | - |
| Amortised capital cost of opening | 439,450 | 423,088 | 130,050 | 514,250 | 130,050 |
| Amortised capital cost of closing | 937,565 | 937,565 | - | 766,434 | - |
| Estimated Kununurra costs | - | - | 669,301 | 113,490 | 669,301 |
| Estimated total costs | 3,557,265 | 3,540,902 | 3,152,559 | 3,593,860 | 3,245,773 |
| Total average costs for the period | 209,251 | 208,288 | 185,445 | 211,404 | 190,928 |

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 2: Enhancing the Environment

Goal 2.1: Conserve the Shire' unique natural environment for the enjoyment of current and future generations

Strategy 2.1.3: Manage waste sustainably and provide an integrated approach to waste management that includes waste minimisation

Corporate Business Plan 19/2022

RISK IMPLICATIONS

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

Control: Implementation, review policies and procedures in accordance with the review schedule.

COMMUNITY ENGAGEMENT

The Shire undertook initial community engagement by way of a community forum, delivered in Wyndham on Tuesday 20th February 2018. Six (6) community members were in attendance.

The benefits of a waste transfer station to the community were explained, as were the financial implications of delivering a waste transfer station service over a traditional landfill facility.

Based on Council's desire to look at greater representation within the community, further engagement took place on 4 June 2019. Shire officers presented themselves at the Peter Reid Memorial Hall, 14 members of the community attended, 4 voted in favour of a Transfer Station, 9 voted against and 1 person did not vote. Questionnaires were left at key locations in Wyndham and collected a week later.

During the community consultation the Shire reiterated that no decision has been made regarding the preferred option and that further community feedback was being sought for officers to take back to the Council.

COMMENTS

Since the August 2019 Briefing Session, officers have undertaken further investigations on the options available at the current Wyndham landfill site. Officers were asked by Council to investigate all potential options including a combination of options.

Officers were requested to contact the Department of Water and Environmental Regulation (DWER) regarding the surface water area which flows through the site during wet season events to establish whether or not it can be diverted. DWER provided the following feedback:

"This area is not a proclaimed surface water area under the RIWI Act 1914 therefore a 5C licence to take (including diversion) water is not required, although the flow (downstream of the diversion) should not be sensibly diminished".

"An Interference with Bed and Banks Permit (S21A) would not be required if the access to the creek is via the vested landfill reserve, rather than the surrounding UCL".

Based on the above information the Shire can divert the surface water to free up additional land for landfill, thus providing an alternative option for consideration.

As part of the options investigated, one of the key considerations was around time and to not let this dictate the option chosen by Council, some of the options available will in fact provide ample time to implement the preferred option.

A comprehensive model has been built in excel which has multiple tabs within it, rather than providing all of the details (which is available upon request) officers have summarised the

options below, costs are covered under financial implications above. The modelling was undertaken for each of the options in the table below.

The options are:

| Option | Title | Officer Comments on implementation |
|---------------|--|---|
| Option 1 | New greenfield landfill site in Wyndham | Prolonged timing for environmental approvals, heritage and native title approvals, high costs, extensive monitoring requirements, low government appetite for a new landfill facility. |
| Option 1a | New landfill on the existing site (by diverting the surface water running through the existing site) | Preferred option as it is on the existing site, requires minimum approvals, adds many more years to the life of the facility, minimum establishment costs, likely to be supported by the community. |
| Option 2 | A transfer station | Potential for strong community backlash, potential high future transport costs, estimated total costs are similar to some of the other options. |
| Option 3 | A hybrid whereby a small scale transfer station is constructed to extend the life of the current landfill site | Community may feel that the Shire is imposing a Transfer Station on them and that the intent would be to phase out the landfill component. |
| Option 3a | A hybrid where after three years Council has a preference for a transfer station | Community may feel that the Shire is imposing a Transfer Station on them and that the intent would be to phase out the landfill component. |

Based on the information received from DWER that we are able to divert the surface water, coupled with community feedback, Officers are recommending to Council that Option 1a is the preferred options to pursue.

ATTACHMENTS

NIL

13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

NIL

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

NIL

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

NIL

16. MATTERS BEHIND CLOSED DOORS

| |
|---|
| <p><u>Council Decision</u></p> <p>Minute Number: 27/08/2019 - 118088</p> <p>Moved: Cr T Chafer Seconded: Cr M McKittrick</p> <p>That Council move in-camera at 6:23pm and for all Officers to depart Chambers for item 16.1.</p> <p style="text-align: right;">Carried: 8/0</p> |
|---|

16.1. CEO PERFORMANCE REVIEW 2019

| | |
|---------------------------------|--|
| DATE: | 27 August 2019 |
| AUTHOR: | Executive Officer to the CEO |
| RESPONSIBLE OFFICER: | Carl Askew, Chief Executive Officer |
| FILE NO: | PL.1907 |
| DISCLOSURE OF INTERESTS: | Carl Askew declares a financial interest as the item is regarding his performance, remuneration review and contract of employment. |

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

5.23. Meetings generally open to public

(2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*

- (a) *a matter affecting an employee or employees; and*
- (b) *the personal affairs of any person; and*
- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
- (e) *a matter that if disclosed, would reveal —*
 - (i) *a trade secret; or*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and*

- (f) a matter that if disclosed, could be reasonably expected to —
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety; and
 - (g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

VOTING REQUIREMENT

Simple Majority

PURPOSE

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.

Council Decision

Minute Number: 27/08/2019 – 118089

That Council endorse the recommendations of the CEO Performance Review Panel in relation to CEO's annual performance and remuneration review as per the Confidential Attachment 1 to this report.

**Moved: Cr M McKittrick
Seconded: Cr A Petherick**

Decision: 8/0

Officers returned to Chambers at 6.35pm.

ATTACHMENTS

Attachment 1 – CEO Key Performance Indicators 2019 - 20

16.2. APPLICATION FOR LEGAL REPRESENTATION FOR COUNCIL MEMBERS AND EMPLOYEES

| | |
|---------------------------------|------------------------------------|
| DATE: | 27 August 2019 |
| AUTHOR: | Senior Governance and Risk Officer |
| RESPONSIBLE OFFICER: | Director Infrastructure |
| FILE NO: | PL.11.26 |
| DISCLOSURE OF INTERESTS: | NIL |

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

5.23. **Meetings generally open to public**

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

VOTING REQUIREMENT

Simple Majority

PURPOSE

The purpose of this report is for Council to consider an application for representation for a Council Member or Employee in accordance with CP/GOV-3103 Legal Representation for Council Members and Employees.

Council Decision

Minute Number: 27/08/2019 - 118090

Moved: Cr T Chafer

Seconded: Cr N Brook

That Council support the application for Legal Representation by a Shire of Wyndham East Kimberley Council Member or Employee in Accordance with CP/GOV-3103 Legal Representation for Council Members and Employees.

Carried: 8/0

Council Decision

Minute Number: 27/08/2019 - 118091

Moved: Cr M Dear

Seconded: Cr J Farquhar

That Council move out of camera at 6:48pm.

Carried: 8/0

Members of the Gallery were invited back in to Chambers. The Shire President read the Council Resolutions aloud for all members of the public to hear.

Shire President D Menzel called for a five-minute recess to clarify process for announcing the resolution in regards to item 16.1.

Council Decision

Minute Number: 27/08/2019 - 118092

Moved: Cr T Chafer

Seconded: Cr M Dear

That Council break for a five-minute recess at 6.51pm.

Carried: 8/0

At the conclusion of the five-minute recess, Cr N Brook moved that Council move-in camera in order to clarify and confirm the Council resolution in relation to item 16.1.

Council Decision

Minute Number: 27/08/2019 - 118093

Moved: Cr N Brook

Seconded: Cr T Chafer

That Council move in-camera at 6:56pm and, with the exception of the Minute Taker, for all Officers to depart Chambers.

Carried: 8/0

Council Decision

Minute Number: 27/08/2019 – 118094

Moved: Cr N Brook

Seconded: C M Dear

That Council:

- 1. NOTES that a review of the Chief Executive Officer's performance has been undertaken.**
- 2. ENDORSES the finding that Mr. Askew's performance has met performance requirements as the CEO of the Shire of Wyndham East Kimberley.**
- 3. ENDORSES the key result areas and actions for 2019/20 (KPIs within Attachment 1 to be published with the minutes)**
- 4. SCHEDULES the next appraisal to be completed by 31 July 2020.**
- 5. NOTES that Mr. Askew has elected not to seek an increase in his Total Reward Package.**
- 6. VARIES the following terms of the contract of employment, effective from 1 May 2019:**
Annual Leave
The Chief Executive Officer is entitled to seven (7) weeks' paid annual leave each year to be taken during agreed periods. The Council may also direct the Chief Executive Officer to take annual leave if they have accrued over thirty (30) days' entitlement.
- 7. NOTES that discussions between Mr. Askew and Council in relation to a further contract will commence in May 2020 in accordance with the terms of the contract between the parties.**

Decision: 8/0

Council Decision

Minute Number: 27/08/2019 - 118095

Moved: Cr M McKittrick

Seconded: Cr J Farquhar

That Council move out of camera at 7:03pm.

Carried: 8/0

Officers and Members of the Gallery were invited back in to Chambers. The Shire President read the Council Resolutions aloud for all members of the public to hear.

17. CLOSURE

The Shire President declared the meeting closed at 7:05pm.