

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

Shire President

Date



SHIRE OF WYNDHAM | EAST KIMBERLEY

**MINUTES
ORDINARY COUNCIL
MEETING**

24 March 2015

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**SHIRE OF WYNDHAM EAST KIMBERLEY
MINUTES OF THE ORDINARY COUNCIL MEETING
KUNUNURRA COUNCIL CHAMBERS**

HELD ON TUESDAY, 24 MARCH 2015 AT 5:00 PM

1. DECLARATIONS OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President declared the meeting open at 5.02pm.

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

ATTENDANCE

Cr J Moulden	Shire President
Cr R Dessert	Deputy Shire President
Cr D Learbuch	Councillor
Cr K Wright	Councillor
Cr B Robinson	Councillor
Cr D Spackman	Councillor
Cr S Cooke	Councillor
Cr G Taylor	Councillor
L Gee	Acting Chief Executive Officer / Director Community Development
N Octoman	Director Corporate Services
D Klye	Director Infrastructure
M Tonkin	Executive Assistant (Minute Taker)

GALLERY

W Richards	Shire of Wyndham East Kimberley
P Kerp	Shire of Wyndham East Kimberley
J Ninnette	Shire of Wyndham East Kimberley
R Adams	Shire of Wyndham East Kimberley
Rob Storey	Rate Payer
Jenny Spragg	Rate Payer
Damon Richards	Resident
Cally Dupe	The Kimberley Echo
A Quinn	Resident
N Quinn	Resident
L Spackman	SWEK RPA

APOLOGIES

Cr G King	Councillor
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LEAVE OF ABSENCE PREVIOUSLY APPROVED

Nil

3. DECLARATION OF INTEREST

- Financial Interest

D Klye declares a financial interest in items 17.3 Confidential Ord River Sports Club Building Works and 17.4 Confidential Ord River Sports Club Lease as his partner leases a room at the Sports Club.

Cr D Spackman declares a financial interest in items 13.4.2 Lot 555 (116) Coolibah Drive, Kununurra – Proposed Liquor Store and 13.4.4 Outdoor Dining permit at Lot 614 Messmate Way, Kununurra as they are a competitor and item 17.4 Confidential Ord River Sports Club Lease as they have a liquor licence.

Cr D Spackman declares a financial interest in item 17.1 Confidential Legal Claim as he worked for previous. (Declaration of interest received later in the meeting).

- Impartiality Interest

D Klye declares a impartiality interest in items 13.2.4 Consideration of a Customer Service Policy and Complaints Management Policy for Adoption and 16.1 Code of Conduct Complaint Handling Procedure as his position is closely effected by the policies and procedure.

Cr R Dessert declares a impartiality interest in item 17.4 Confidential Ord River Sports Club Lease as he is a member of club.

Cr K Wright declares a impartiality interest in items 17.3 Confidential Ord River Sports Club Building Works and 17.4 Confidential Ord River Sports Club Lease as the D/President of ORSC works for my company.

Cr J Moulden declares a impartiality interest in items 13.2.4 Consideration of a Customer Service Policy and Complaints Management Policy for Adoption and 16.1 Code of Conduct Complaint Handling Procedure as he is currently the subject of complaints under SWEK's Code of Conduct.

N Octoman declares a impartiality interest in items 13.2.4 Consideration of a Customer Service Policy and Complaints Management Policy for Adoption and 16.1 Code of Conduct Complaint Handling Procedure as she is currently attending to matters relating to the application of the policies and procedure and items 17.3 Confidential Ord River Sports Club Building Works and 17.4 Confidential Ord River Sports Club Lease as she holds a current membership with the Club.

L Gee declares a impartiality interest in items 13.2.4 Consideration of a Customer Service Policy and Complaints Management Policy for Adoption and 16.1 Code of Conduct Complaint Handling Procedure as she is the Shire employee responsible for the administration of policies and the procedure.

Cr G Taylor declares a impartiality interest in items 13.2.4 Consideration of a Customer Service Policy and Complaints Management Policy for Adoption and 16.1 Code of Conduct Complaint Handling Procedure as he may be subject to complaints under this policy.

Cr D Learbuch declares a impartiality interest in item 13.2.4 Consideration of a Customer Service Policy and Complaints Management Policy for Adoption as he is under investigation by the DLG. (Declaration of interest received later in the meeting).

Cr K Wright declares a impartiality interest in item 13.5.4 RSL Request for Flagpoles on ANZAC Day 2015 as he is a member of the RSL. (Declaration of interest received later in the meeting).

- Proximity Interest

Nil

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Ms B Crake
24 February 2015, Ordinary Council Meeting

Who from the community was invited to the workshops that lead to the development of the Strategic Community Plan, how many workshops were held and how were they conducted?

Who from the Community was invited?

A number of methods of Community engagement were used in the development of the Shires Strategic Community Plan with effort made to ensure all members of the community and stakeholders received the opportunity to provide input into the Plan.

How many workshops were conducted and how were they conducted?

There were a variety of opportunities and methods for the community to provide feedback making it difficult to quantify the exact number of engagement opportunities.

The following consultation methods were used throughout the Community Engagement Process:

Open houses and community workshops

Open Houses were held in Kununurra and Wyndham, followed by community workshops. These events were open to all members of the community, approximately 40 members of the public attended the Wyndham workshop.

At the Wyndham Open House a "World Café" technique was used with participants split into small groups discussing a specific topic for a set period of time before moving to a new group and changing topic. The key topics discussed were:

- *Look and feel of towns*
- *Our economic future*
- *Our educational future*
- *Environmental and lifestyle*
- *Shire facilities and services*
- *Other*

YourSaySwek web forum

A specially designed web forum called 'YourSaySwek' was created to provide a one stop shop for information about the Community Strategic Plan. It gave the community the ability to have their say on-line and included a variety of on-line discussion forums, polls and surveys. Visitors to the web forum could also

download surveys and send emails to Shire staff. There were over 2000 visits to the web forum.

Facebook

The Shire Facebook page provided another forum for the community to have their say, and to find out more about the Plan's development. Regular updates about Shire activities were posted on the Facebook page.

Community Survey

The Shire distributed a survey to give community members the opportunity to provide feedback to the plan. Shire staff distributed surveys via a letter box drop, at community events, the Kununurra Markets, the Wyndham supermarket, the East Kimberley Regional Airport, on the 'yoursayswek' website and at static displays at the Kununurra library and the Kununurra and Wyndham Shire offices. The survey questions related specifically to the Community Strategic Plan. Seventy people, returned completed surveys to the Shire.

Letters

Letters were sent to each and every indigenous corporation inviting them to meet with the Shire or for the Shire to present to their board of directors. A copy of the information brochure and survey was also included.

Consultation stalls at community events

Shire staff manned stalls at the Kununurra Markets and Wyndham supermarket. They also gave out information and gathered feedback at the Five Rivers Picnic Day, the 'Pindan Kids Love Books' launch and the NAIDOC week celebrations. A group of young people participating in the East Kimberley Youth Development Program also made a video about young people's aspirations for the region. The footage was based on interviews at the Kununurra X Games.

Face to Face meetings

Shire staff members conducted several one on one interviews and meetings with a wide variety of local agencies and organisations such as police, schools, community groups, Department of Indigenous Affairs, Main Roads, Chamber of Commerce and the visitors centre. The interviews focussed on who to engage with and how and this information was used in the development of the Community Engagement Strategy for the Strategic Community Plan.

Deliberative forums

Two deliberative forums were held in Kununurra to discuss the community feedback and priorities gathered through each of the consultation tools. The first forum was with representatives from government agencies that operate in the region and the second involved representatives from the community with a range of interests and demographics.

Councillor Strategic Planning Session

The Councillors held a Strategic Planning session to discuss their plans for the community for the next ten years. The Councillors were able to consider the community suggestions and then develop a vision and mission statement that provided a holistic view of the community. The themes used in the community consultation, were then adapted to reflect the Councillors' input

Mr D Steenson
24 February 2015, Ordinary Council Meeting

Are you all aware that the fire started at the school and not the depot?

This response is made with respect to the recent fire that destroyed several buildings at the Shire Depot at Wyndham. The question presupposes the location of the ignition point of the fire as "at the school". It appears that the presupposition is incorrect. Wyndham Police and the Shire's Manager Operations both report that the fire started on unallocated Crown land adjacent to the Wyndham Depot.

Are you aware at the time of the fire that the SWEK depot firebreaks had not been completed?

This response refers to the firebreak around the Shire Depot at Wyndham. The firebreak around the Shire Depot at Wyndham was completed many years ago and according to the Shire's Manager Operations was maintained in an adequate condition at the time of the fire.

Ms J Spragg
24 February 2015, Ordinary Council Meeting

Why is it that, during the reporting period, calculations of wage payments against FTE indicate that you are paying the Senior Officers more than what was advertised during their procurement? (item 3, Reg 18F 18E. Item 5 s5.37(2). Page 161 of the audit report 10/02/15)

It is unclear as to how this statement can be deduced from the information presented to the Audit (Finance and Risk) Committee, particularly as "Employee Costs" outlined in the Annual Financial Statements includes not only salaries and wages, but superannuation, workers compensation insurance, fringe benefits tax, training, protective clothing and safety items, and recruitment and relocation costs for all staff, and not only for senior employees. It should also be noted that as per page 161 of the Minutes from the 10 February 2015 Audit (Finance and Risk) Committee meeting, that the Designation of Senior Employees Policy only came into effect from 16 December 2014 (not December 2015 as the Compliance Audit Return indicates), and the position of Chief Executive Officer was the only prior "designated senior employee" in accordance with section 5.37 of the Local Government Act 1995.

Mr M Northover
24 February 2015, Ordinary Council Meeting

Why, when on the register for tenders, (page 128 of the audit report 10/02/15 appendix D item 5.3 team in which SWEK was non-compliant under the local government act 1995 section 3.51(1) through to section 5.43 part 4 regulation 11) did you not action this, but courteously proceeded to engage WALGA?

As indicated on page 128 of the Minutes from the 10 February 2015 Audit (Finance and Risk) Committee meeting, the Shire had identified the non-compliance of the tender register and assigned the responsibility to a former employee to action. With the departure of that employee; and the time to successfully reappoint a new

employee into this position, the new employee had not yet commenced at the time the Regulation 17 Review was conducted. The tender register is currently being updated to ensure compliance with regulation 17 of the Local Government (Functions and General) Regulations 1996 and upon initial compliance; it will then be formally reviewed every three (3) months thereafter to ensure compliance is maintained. WALGA was not engaged to ensure the Shire's compliance with the tender register regulations.

5. PUBLIC QUESTION TIME

Public Question Time commenced at 5.11pm

Questions from Jenny Spragg, Kununurra

Question 1 – Was Acting CEO Ms Gee misquoted in the latest Kimberley Echo when she stated that she was not aware of any complaints that had been made to the DLGC and could not give any indication of why the questions were raised in Parliament? Given that she has been here for over 12 months and witnessed firsthand multiple complaints brought up in Shire meetings as well as holding the Complaints Officer position and complaints sent directly to her.

Cr J Moulden, Shire President provides the following response:

A complaint has already been brought up with regard to this matter and is being investigated, so I will move on and will not be answering this question tonight.

Question 2 – In support of opening up Kelly's Knob (OCM Wyndham 24/2/15) Councillor Taylor stated that grey nomads only spend \$50 during their time in Kununurra and adventure tourists spend \$1000. Where did Cr Taylor source these figures?

Cr G Taylor provides the following response:

Those numbers are totally incorrect, I have the correct numbers in my diary notes. I am bemused that you can sit at a meeting taking notes and come up with incorrect figures. That is the answer to your question.

Question 3 – How many SWEK staff members have resigned in the last 3 months?

L Gee, Acting Chief Executive Officer takes the question on notice.
As per the Shire of Wyndham East Kimberley Standing Orders Local Law 2003, 2.3(3) a response will be given to the member of the public in writing by the CEO, and a summary of the question raised and the response given are to be included in the agenda and minutes of the next meeting of the Council.

Question 4a – Why has Derrick Steenson's first question from the Ordinary Council Meeting – Wyndham 24/2/15 been excluded from the agenda?

Cr J Moulden, Shire President provided the following response:

This was an oversight.

**It should be noted that Derrick Steenson's question was answered at the 24/2/15 OCM and the question and response was in the minutes of this meeting. As the question was not taken on notice, there is no requirement for it to be in the agenda of the 24/3/15 OCM.*

Question 4b –Will all Councillors be able to review the full police report on the SWEK Wyndham depot fire?

Cr J Moulden, Shire President provided the following response:

No.

Public Question Time concludes at 5.14pm

6. APPLICATIONS FOR LEAVE OF ABSENCE

Cr S Cooke applies for a leave of absence for the April 2015 Ordinary Council Meeting.

COUNCIL DECISION

Minute No. 10829

Moved: Cr K Wright

Seconded: Cr B Robinson

That Council grants a leave of absence to Cr S Cooke for the April 2015 Ordinary Council Meeting.

Carried Unanimously 8/0

7. PETITIONS

Nil

8. CONFIRMATION OF MINUTES

8.1 CONFIRMATION OF MINUTES OF ORDINARY COUNCIL MEETING OF 24/02/2015

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Council Meeting held on 24/02/15.

AMENDMENT

Cr B Robinson moves that Council confirms the Minutes of the Ordinary Council Meeting held on 24/02/2015 with an amendment to Minute No. 10805. Point 2 in the Minute is to be 4.16 instead of 4.3 and 4.16.2 instead of 4.3.2.

COUNCIL DECISION

Minute No. 10830

**Moved: Cr B Robinson
Seconded: Cr K Wright**

That Council confirms the Minutes of the Ordinary Council Meeting held on 24/02/2015 with an amendment to Minute No. 10805. Point 2 in the Minute is to be 4.16 instead of 4.3 and 4.16.2 instead of 4.3.2.

Carried Unanimously 8/0

8.2 CONFIRMATION OF MINUTES OF SPECIAL COUNCIL MEETING OF 17/02/2015

RECOMMENDATION

That Council confirms the Minutes of the Special Council Meeting held on 17/02/15.

COUNCIL DECISION

Minute No. 10831

**Moved: Cr K Wright
Seconded: Cr D Learbuch**

That Council confirms the Minutes of the Special Council Meeting held on 17/02/2015.

Carried Unanimously 8/0

9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

Nil

10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil

11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS / NOTICES OF MOTIONS

Nil

12. MINUTES OF COUNCIL COMMITTEE MEETINGS

Nil

13. REPORTS

13.1 MATTERS ARISING FROM COMMITTEES OF COUNCIL

Nil

Acting Chief Executive Officer, L Gee withdraws item 17.2 Confidential Tender T06 14/15 Waste Services Consultancy, due to information on the tendering process being provided late this afternoon from WALGA.

13.2 CORPORATE SERVICES

13.2.1 Monthly Financial Report as at 28 February 2015

DATE:	24/03/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Natalie Octoman, Director Corporate Services
REPORTING OFFICER:	Natalie Octoman, Director Corporate Services
FILE NO:	FM.09.5
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to receive the monthly financial report for February 2015.

BACKGROUND

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

STATUTORY IMPLICATIONS

Section 6.4 Local Government Act 1995
Regulation 34, Local Government (Financial Management) Regulations 1996.

POLICY IMPLICATIONS

No policy implications apply in the preparation of the report.

FINANCIAL IMPLICATIONS

Monthly financial reporting is a primary financial management and control process, it provides the Council with the ability to oversee the Shire's financial performance against budgeted target.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

COMMUNITY CONSULTATION

Community consultation is not required in relation to this item.

COMMENT

Comments in relation to budget to actual variances are included as a note in the Financial Report.

ATTACHMENTS

Attachment 1 - Monthly Financial Report

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That the Council receives the Monthly Financial Report as at 28 February 2015.

COUNCIL DECISION

Minute No. 10832

**Moved: Cr B Robinson
Seconded: Cr K Wright**

That the Council receives the Monthly Financial Report as at 28 February 2015.

Carried Unanimously 8/0



Shire of Wyndham East Kimberley

Monthly Financial Report 2014/2015

As at 28 February 2015

Contents:

- Statement of Financial Activity
- Note to Statement of Financial Activity (Net Current Asset Position)
- Note to Statement of Financial Activity (Explanation of Material Variances)
- Note to Statement of Financial Activity (Budget Remaining to Collect/Spend)
- Monthly Report on Investment Portfolio (Cash)

Financial Activity Legend:
Above Budget Expectations: ▲
Below Budget Expectations: ▼

Shire of Wyndham East Kimberley

Statement of Financial Activity Year to Date Actual v Year to Date Budget as at 28 February 2015

	YTD Actual 2014/15 \$	YTD Budget 2014/15 \$	YTD Variance 2014/15	
			\$	%
Revenue				
General Purpose Funding	3,421,063	3,366,316	54,747	2% ▲
Governance	1,049,245	1,053,222	(3,977)	0% ▼
Law, Order, Public Safety	50,355	45,786	4,569	10% ▲
Health	52,485	61,330	(8,845)	-14% ▼
Education and Welfare	104,000	73,349	30,651	42% ▲
Housing	119,656	155,560	(35,904)	-23% ▼
Community Amenities	2,081,771	2,045,617	36,154	2% ▲
Recreation and Culture	550,190	506,631	43,559	9% ▲
Transport	5,975,085	4,189,072	1,786,013	43% ▲
Economic Services	61,650	68,052	(6,402)	-9% ▼
Other Property and Services	122,887	85,500	37,387	44% ▲
	<u>13,588,388</u>	<u>11,650,435</u>	<u>1,937,953</u>	<u>17% ▲</u>
Expenses				
General Purpose Funding	(261,803)	(378,188)	116,385	-31% ▼
Governance	(264,707)	(281,227)	16,520	-6% ▼
Law, Order, Public Safety	(361,249)	(443,865)	82,616	-19% ▼
Health	(188,697)	(213,326)	24,629	-12% ▼
Education and Welfare	(246,592)	(228,907)	(17,685)	8% ▲
Housing	(450,833)	(527,608)	76,775	-15% ▼
Community Amenities	(2,476,141)	(3,155,679)	679,538	-22% ▼
Recreation & Culture	(3,918,571)	(4,549,982)	631,411	-14% ▼
Transport	(8,254,172)	(6,423,303)	(1,830,869)	29% ▲
Economic Services	(321,982)	(359,947)	37,965	-11% ▼
Other Property and Services	(1,627,133)	(815,980)	(811,153)	99% ▲
	<u>(18,371,879)</u>	<u>(17,378,012)</u>	<u>(993,867)</u>	<u>6% ▲</u>
Adjustments for Cash Budget Requirements:				
Non-Cash Expenditure and Revenue				
(Profit)/Loss on Asset Disposals	324,416	0	324,416	0% ▲
Movement in Accruals and Provisions	(485,410)	5,000	(490,410)	-9808% ▼
Depreciation on Assets	3,840,634	4,024,568	(183,934)	-5% ▼
Capital Expenditure and Revenue				
Purchase Land Held for Resale	0	0	0	0% ▲
Purchase Land and Buildings	(464,450)	(638,000)	173,550	-27% ▼
Purchase Infrastructure Assets - Roads	(1,252,627)	(1,485,954)	233,327	-16% ▼
Purchase Infrastructure Assets - Footpaths	0	0	0	0% ▲
Purchase Infrastructure Assets - Drainage	(18,549)	(48,405)	29,856	-62% ▼
Purchase Infrastructure Assets - Other	(606,523)	(653,675)	47,152	-7% ▼
Purchase Plant and Equipment	(7,030)	(64,962)	57,932	-89% ▼
Purchase Furniture and Equipment	(16,302)	(55,027)	38,725	-70% ▼
Grants / Contributions for Development of Assets	4,789,703	5,386,089	(596,386)	-11% ▼
Proceeds from Disposal of Assets	5,031	0	5,031	0% ▲
Proceeds from Sale of Land Held for Resale	0	0	0	0% ▼
Repayment of Debentures	(1,962,356)	(1,936,594)	(25,762)	1% ▲
Proceeds from New Debentures	1,500,000	1,500,000	0	0% ▼
Transfers to Reserves (Restricted Assets)	(2,876,821)	(2,876,821)	(0)	0% ▲
Transfers from Reserves (Restricted Assets)	0	0	0	0% ▼
ADD Estimated Surplus/(Deficit) July 1 B/Fwd	(1,397,052)	(1,397,052)	0	0% ▲
LESS Estimated Surplus/(Deficit) June 30 C/Fwd	5,766,665	5,188,742	577,923	11% ▲
Amount Required to be Raised from Rates	<u>9,177,493</u>	<u>9,157,152</u>	<u>20,341</u>	<u>0% ▲</u>

Shire of Wyndham East Kimberley
Note to Statement of Financial Activity

Net Current Assets
as at 28 February 2015

Composition of Estimated Net Current Asset Position

	YTD Actual 2014/15	Brought Forward 1 July 2014
CURRENT ASSETS		
Cash - Municipal (Restricted & Unrestricted)*	3,345,125	652,355
Cash - Restricted Reserves	11,292,079	8,263,354
Receivables	2,463,093	1,727,680
Inventories & Other Financial Assets	9,099	17,037
	17,109,397	10,660,427
LESS: CURRENT LIABILITIES		
Payables and Provisions	(50,087)	(3,794,124)
Less: Cash - Restricted Reserves	(11,292,079)	(8,263,354)
NET CURRENT ASSET POSITION**	5,767,231	(1,397,052)

* **Cash - Municipal brought forward balances represented by:**

Cash on Hand	1,700
Cash at Bank - Municipal	
Unrestricted	(3,010,309)
Restricted - Unspent Grants	2,093,999
Restricted - Unspent Loans	1,566,965
	652,355

** Net current asset position will remain overstated until the position of unspent grants and loans is calculated at year end.

Shire of Wyndham East Kimberley

Notes to Statement of Financial Activity

For the Period Ended 28 February 2015

Explanation of Material Variances (between YTD Budget and YTD Actual)

Variances +/- \$50,000 at Financial Statement Level

Variances +/- \$20,000 and 10% at Account Level

Operating

Recurrent Income - Excluding Rates ▲

Rates

Rates Revenue - Interim Rates \$ 34,000 ▲ Interim rates collected to December. Interim rates were purposely not incorporated into the 2014/15 budget, therefore this will be a windfall and captured in the Mid Year Budget Review.

General Purpose Funding ▲

Recovery of Legal Expenses - Rates -\$ 24,800 ▼ Lower income due to reduced number of claims lodged which offsets expense, will be amended during the Mid Year Budget Review process.

Emergency Services Levy - Rates \$ 23,800 ▲ Increase in levies raised. Funds collected on behalf of DFES, and are offset against expenditure.

Interest Income - Municipal Fund -\$ 31,700 ▼ Lower Income due to no investments being made during the year that relate to Municipal Funds. Interest earnings are only from the balance held within our day-to-day account. Will be reviewed during the Mid Year Budget Review.

Governance ▼

No material variances to report

Law, Order and Public Safety ▲

No material variances to report

Health ▼

No material variances to report

Education and Welfare ▲

No material variances to report

Housing ▼

No material variances to report

Community Amenities ▲

Waste Receptacle Charge -\$ 20,800 ▼ Offset by additional waste receptacle charges, after correction to billing methodology

Additional Waste Management Receptacle Charge \$ 124,000 ▲ The number of additional waste receptacles higher than anticipated.

Rubbish Disposal Charges -\$ 36,900 ▼ Timing variance - reduced income during wet season given business closures around Kununurra and less storm damage. Anticipate this to Several of the co-locators no longer have a presence in Kununurra due to funding cuts. Will be amended during the Mid Year Budget Review

Kununurra Youth Services - Colocation Fees and Reimbursements -\$ 25,000 ▼

Recreation and Culture ▲

Foreshore Leases -\$ 21,700 ▼ Timing variance due to delay in finalising lease agreement.

Wyndham Community Resource Centre (CRC) - \$ 25,000 ▲ Timing variance. Income received earlier than expected.

Operating Grant MUN Grant Income - Club Development -\$ 25,000 ▼ Grant no longer anticipated to be received. Will be removed as part of the Mid Year Budget Review process.

Grant Income - KidSport \$ 25,000 ▲ Grant was not incorporated into the budget as it wasn't endorsed prior to the date of budget adoption. This has now been received. Expenditure will be included to offset this additional revenue.

Transport ▲

WANDRRA Funding - Monsoonal Trough and Associated Flooding (10 March 2011) \$ 1,855,100 ▲ The flood event has resulted in additional expenditure which will be offset through the recoupment of funds.

Passenger Head Tax - East Kimberley Regional Airport -\$ 43,600 ▼ Timing variance - invoice delayed due to reporting delays

Passenger Screening Fees - East Kimberley Regional Airport -\$ 39,200 ▼ Timing variance - invoice delayed due to reporting delays

Leases - East Kimberley Regional Airport Terminal -\$ 43,900 ▼ Offset by additional income for other leases. Requires a budget amendment which will be made in the Mid Year Budget Review.

Leases - East Kimberley Regional Airport Other \$ 49,200 ▲ Offset by a reduction in income for Airport Terminal leases. Requires a budget amendment which will be made in the Mid Year Budget Review.

Economic Services ▲

No material variances to report

Other Property and Services ▲

Private Works Income \$ 29,100 ▲ Higher income due to new private works associated with Lakeside Stage 7A. Offsets higher expenditure for private works.

Shire of Wyndham East Kimberley

Notes to Statement of Financial Activity

For the Period Ended 28 February 2015

Explanation of Material Variances (between YTD Budget and YTD Actual)

Variances +/- \$50,000 at Financial Statement Level

Variances +/- \$20,000 and 10% at Account Level

Recurrent Expenditure		▲	
General Purpose Funding		▼	
Write Offs - Rates	\$ 39,600	▼	Timing variance - currently in negotiations with the ratepayer
Debt Collection Costs - Rates	\$ 28,600	▼	Savings due to reduced number of claims lodged due to improved management of outstanding balances. Will be amended during the Mid Year Budget Review process.
Administration Salary and Wages Allocated - Rates	\$ 24,400	▼	Lower allocation based on lower admin costs to date. This is a proportionate re-allocation of costs across the organisation. Non-cash item.
Governance		▼	
No material variances to report			
Law, Order and Public Safety		▼	
Direct Salaries - Ranger Services	\$ 33,500	▼	Reduced expenditure associated with overtime and allowances. Will review as part of the Mid Year Budget Review to determine overall savings in salaries for the Shire.
Health		▼	
No material variances to report			
Education and Welfare		▲	
Direct Salaries - Wyndham Childcare Centre	-\$ 16,000	▲	Additional hours worked that were not incorporated into the initial budget calculations. This will be identified and amended as part of the Mid Year Budget Review process.
Housing		▼	
Admin Overheads Allocated - Staff Housing	\$ 23,100	▼	Lower allocation based on lower admin costs to date. This is a proportionate re-allocation of costs across the organisation. Non-cash item.
Community Amenities		▼	
Tip Maintenance	\$ 86,400	▼	Reduced costs during wet season given business closures around Kununurra and less storm damage. Anticipate this to pick-up in qtr. 4.
Refuse Collection	\$ 83,400	▼	Pending invoices for payment. Timing variation.
Administration Salary and Wages Allocated - Sanitation - Household Refuse	\$ 63,300	▼	Less allocation due to lower actual expenditure in the sub program and overall admin overheads are less than anticipated as at reporting date. Non cash item. Timing.
Admin Overheads Allocated - Sanitation - Household Refuse	\$ 70,000	▼	Less allocation due to lower actual expenditure in the sub program and overall admin overheads less than anticipated as at reporting date. Non cash item. Timing.
Depreciation - Sanitation - Household Refuse	\$ 32,100	▼	Less depreciation due to uncompleted capital projects. Non cash item. Will be amended as part of the Mid Year Budget Review process.
Litter Control	\$ 33,000	▼	Lower operational activities in Kununurra and Wyndham to date.
Street Tree Planting - Protection of Environment	\$ 40,200	▼	Project not yet commenced. The timing will be amended as part of the Mid Year Budget Review Process.
Legal Expenses - Town Planning and Regional Development	-\$ 58,900	▲	Additional legal costs that are predominately associated with the SAT hearing to date. Additional funds will be sourced from other savings as part of the Mid Year Budget Review process.
Community Amenities (continued)		▼	
Consultants - Local Planning Strategy MUN	\$ 44,000	▼	Project commencing in March 2015. Timing variance.
Direct Salaries - Development Services	\$ 33,300	▼	Savings from staff terminations
Community Grants	\$ 31,900	▼	Grant Application approved - Timing variance
Depreciation - Other Community Amenities	\$ 93,300	▼	Lower depreciation charges due to change in categories, set off against higher depreciation in other areas. Non cash item.
Cemetery Maintenance	\$ 26,100	▼	Timing variance
Direct Salaries - Wyndham Youth Services	\$ 21,700	▼	Savings due to staff turnover

Shire of Wyndham East Kimberley

Notes to Statement of Financial Activity

For the Period Ended 28 February 2015

Explanation of Material Variances (between YTD Budget and YTD Actual)

Variances +/- \$50,000 at Financial Statement Level

Variances +/- \$20,000 and 10% at Account Level

Recurrent Expenditure (Continued)

Recreation and Culture		▼	
Depreciation - Public Halls	-\$ 88,900		▲ Higher depreciation charges due to change in categories, set off against lower depreciation in other areas. Non cash item.
Pool Operating - Kununurra Swimming Complex	\$ 24,700		▼ Reduced expenses. Will be amended during the Mid Year Budget Review process.
Salary Overheads - Kununurra Swimming Complex	-\$ 26,100		▲ Higher staffing costs as a result of operational times during the dry season. The wet season will see the salaries normalise. Timing variation.
Admin Overheads Allocated - Kununurra Swimming Complex MUN	\$ 28,800		▼ Underspend in admin overheads has resulted in part for the reduced allocation to other areas of the organisation. Non-cash item.
Pool Operating - Wyndham Swimming Complex	\$ 27,600		▼ Timing variance
Building Maintenance - Wyndham Swimming Complex	\$ 20,400		▼ Timing variance
Depreciation - Land Under Control - Building & Structure MUN	-\$ 23,500		▲ Higher depreciation charges due to change in categories during re-valuation, set off against lower depreciation in other areas. Non cash item.
Kununurra Business & Structure Planning	\$ 60,000		▼ Invoices yet to be received. Timing variation.
Depreciation - Kununurra Leisure Centre	\$ 30,600		▼ Lower depreciation charges due to change in categories. Budget estimates will require review. Non-cash item.
Wyndham Sports Oval Maintenance	-\$ 21,900		▲ Treated effluent water is normally used to irrigate the sports oval. The pump failed earlier in the year and since this time scheme water has been used for the irrigation
Parks and Gardens Maintenance - Kununurra	\$ 269,800		▼ Underspend in salaries to date. This will start to pick up over the wet season with the additional hours required. Timing variation.
Administration Salary and Wages Allocated - Kununurra Parks and Gardens	\$ 51,300		▼ Underspend in salaries to date therefore less administration allocation. This will start to pick up over the wet season with the additional hours required. Timing variation.
Admin Overheads Allocated - Kununurra Parks and Gardens	\$ 54,600		▼ Underspend in salaries to date therefore less administration allocation. Also underspend in admin overheads. This will start to pick up over the wet season with the additional hours required. Timing variation.
Parks and Gardens Maintenance - Wyndham	-\$ 20,900		▲ Will be reviewed as part of the Mid Year Budget Review given water costs and salaries exceed the initial budget estimate.
Joint Use Contribution - Libraries	-\$ 46,200		▲ Overspend recognised to date. Changes in electricity tariffs for the school has increased the Shire's contribution. This will be amended as part of the Mid Year Budget Review.
Wyndham Community Resource Centre (CRC) - RIPIA Expenses	-\$ 22,500		▲ Funds that were collected in the prior year that were not carried forward. Will be amended as part of the Mid Year Budget Review process.
Transport		▲	
Administration Salary and Wages Allocated - Streets, Roads & Bridges - Non Capital	-\$ 281,900		▲ Non cash item. Timing variations.
Admin Overheads Allocated - Streets, Roads & Bridges - Non Capital	\$ 42,400		▼ Non cash item. Timing variations.
Rural Road Maintenance	\$ 211,700		▼ Underspend recognised to date. Timing variation. Will be reviewed as part of the Mid Year Budget Review Process.
Urban Road Maintenance - Kununurra	\$ 68,200		▼ Underspend recognised to date. Timing variation. Will be reviewed as part of the Mid Year Budget Review Process.
D2 Drain Rehabilitation (2120231)	\$ 30,900		▼ Design in progress. Project expected to be commenced by May 15.
Monsoonal Trough Flood Event, 6-9 Feb 2014	-\$ 2,469,700		▲ Higher flood recovery cost than anticipated. Higher expenses to be claimed from WANDRRA fund.
Depreciation - Streets, Roads & Bridges - Maintenance	-\$ 26,300		▲ Budget estimates will require review due to completed Infrastructure now depreciating. Non cash item.
Plant Operating Costs - East Kimberley Regional Airport	-\$ 30,600		▲ Airport plant costs are no longer being allocated to separate airport line-items and all costs are being consolidated in this line-item. Offset by savings distributed in other airport line-items.
Other Expenses - East Kimberley Regional Airport	\$ 22,800		▼ Underspend to date. Will be reassessed during the Mid Year Budget Review to determine the likelihood of savings.
Consultancy Fees - East Kimberley Regional Airport	\$ 23,500		▼ Timing variance
Airport Terminal Building Maintenance - East Kimberley Regional Airport	\$ 43,100		▼ No major air conditioning issues occurred, although strategies are being prepared given the high costs associated with maintenance over the last 12 months.
Airside Operations - East Kimberley Regional Airport	\$ 54,000		▼ Savings made in salaries based on lower overtime hours than anticipated; and indirect salaries and plant costs no longer being allocated to separate line-items.

Shire of Wyndham East Kimberley

Notes to Statement of Financial Activity

For the Period Ended 28 February 2015

Explanation of Material Variances (between YTD Budget and YTD Actual)

Variances +/- \$50,000 at Financial Statement Level

Variances +/- \$20,000 and 10% at Account Level

Recurrent Expenditure (Continued)

Transport (continued)

Passenger Screening Expenses - East Kimberley Regional Airport	\$ 44,100	▼	Partial savings to be returned to the Reserve as part of the Mid Year Budget Review process as there is no longer a requirement for a new explosive trace detection (ETD) machine. Remaining variation as a result of pending invoices for payment and is timing related.
Direct Salaries - Airport Reporting	\$ 26,700	▼	Savings made in salaries based on lower overtime hours than anticipated.
Administration Salary and Wages Allocated - East Kimberley Regional Airport	\$ 98,200	▼	Less allocation due to lower actual expenditure in the sub program and overall admin overhead less than anticipated as at reporting date. Non cash item. Timing.
Admin Overheads Allocated - East Kimberley Regional Airport	\$ 122,900	▼	Less allocation due to lower actual expenditure in the sub program and overall admin overhead less than anticipated as at reporting date. Non cash item. Timing.
Depreciation - East Kimberley Regional Airport	\$ 65,800	▼	Less depreciation due to incomplete capital projects as at date. Timing variation

Economic Services

No material variances to report

Other Property and Services

Private Works - Expenses	-\$ 29,600	▲	Higher expenditure due to new private works associated with Lakeside Stage 7A. Offsets higher income for private works.
Public Works Overheads Allocated - Payroll	-\$ 152,500	▼	This variation is partially offset with the variation on direct salaries - outdoor workforce below, whereby a journal needs to be completed to correct the actuals as overheads are being costed incorrectly. This is a non-cash item and a timing variance.
Grounds Maintenance - Kununurra Depot	\$ 22,400	▼	Timing variance
Direct Salaries - Operations	\$ 26,300	▼	Savings due to termination and temporary vacancies
Direct Salaries - Outdoor Workforce	-\$ 60,500	▲	This variation is partially offset with the variation on Public Works Overheads Allocated - Payroll, whereby a journal needs to be completed to correct the actuals as overheads are being costed incorrectly. This is a non-cash item and a timing variance.
Admin Overheads Allocated - Public Works Overheads	\$ 43,500	▼	Less allocation due to overall admin costs less than anticipated as at reporting date. Non cash item. Timing.
Loss on Sale of Assets - Public Works Overheads	-\$ 294,000	▲	Fire Damage at Wyndham Depot Insurance claims made. Non Cash Item.
Direct Salaries - Engineering and Technical	\$ 31,900	▼	Savings due to termination and temporary vacancies
Vehicle Expenses - Engineering and Technical MUN	-\$ 20,800	▲	Budget allocation requires re-profiling for timing variances. Will be amended as part of the Mid Year Budget Review.
Administration Salary and Wages Allocated - General Administration Overheads	-\$ 96,200	▲	Partly associated with payments for termination that were unbudgeted, along with higher costs for recruitment company. Will be identified and incorporated as part of the Mid Year Budget Review.
Direct Salaries - Executive	-\$ 41,300	▲	Partly associated with payments for termination that were unbudgeted, along with higher costs for recruitment company. Will be identified and incorporated as part of the Mid Year Budget Review.
Direct Salaries - Customer Service and Records	\$ 24,300	▼	Savings due to temporary vacancies
Direct Salaries - Financial Services	\$ 61,300	▼	Savings due to temporary vacancies
ABC Allocations	-\$ 641,200	▼	Lower allocation due to overall admin cost lower than anticipated as at reporting date. Non cash item. Timing.
Software Licencing - Information Services	\$ 34,800	▼	Underspend recognised to date. Timing variation as software licences become due.
Depreciation - Information Services	\$ 32,200	▼	Lower depreciation charges due to discontinued capital projects from 13/14. Budget estimates will require review. Non cash Item.
Vehicle Expenses - Executive	\$ 20,500	▼	Savings in part due to executive staff vacancies and transfer of one vehicle to be used as pool vehicle.
Corporate Training	\$ 35,800	▼	Potential savings in corporate training across the organisation. To be reviewed as part of the Mid Year Budget Review process.
Audit Fees	\$ 24,400	▼	Underspend recognised to date. Timing variation as invoices will be received shortly.
Plant Operating Cost Allocated	-\$ 181,600	▼	Under expenditure in parts and repairs and repair wages has resulted in an under allocation. This will be monitored and reviewed in the coming months.
POC Internal Repair wages	\$ 38,500	▼	Reduced costs to date. Will be monitored and reviewed in the coming months.
POC Parts and Repairs	\$ 39,400	▼	Reduced costs to date. Will be monitored and reviewed in the coming months.

Shire of Wyndham East Kimberley

Notes to Statement of Financial Activity

For the Period Ended 28 February 2015

Explanation of Material Variances (between YTD Budget and YTD Actual)

Variances +/- \$50,000 at Financial Statement Level

Variances +/- \$20,000 and 10% at Account Level

Recurrent Expenditure (Continued)

Other Property and Services (continued)

	▲	
Depreciation - Plant Operation	\$ 32,700	▼ Reduced costs to date. Will be monitored and reviewed in the coming months.
Loss on Sale of Assets - Plant Operation	-\$ 30,400	▲ Fire Damage at Wyndham Depot Insurance claims made. Non Cash Item.
Landcorp /SWEK Deed Agreement - Expenses	\$ 25,000	▼ Timing variation.
Insurance - Unclassified	\$ 41,400	▲ Insurance claim received for vehicles impacted by the depot fire to be allocated.

Non Cash Expenditure and Revenue

Adjustments and Accruals

Loss on Sale of Assets - Public Works Overheads	\$ 294,000	▲ Fire Damage at Wyndham Depot Insurance claims made. Non Cash Item.
Loss on Sale of Assets - Plant Operation	\$ 30,400	▲ Fire Damage at Wyndham Depot Insurance claims made. Non Cash Item.
Movement in Accruals and Provisions	-\$ 490,400	▼ Adjustments have been made to the provisions given that long service leave and other leave types are provided for, which have now been paid out.
Depreciation - Sanitation - Household Refuse	-\$ 32,100	▼ Reversal is lower given the lower depreciation charges due to change in categories, set off against higher depreciation in other areas. Non cash item.
Depreciation - Other Community Amenities	-\$ 93,300	▼ Reversal is lower given the lower depreciation charges due to change in categories, set off against higher depreciation in other areas. Non cash item.
Depreciation - Public Halls	\$ 88,900	▲ Reversal is higher due to higher depreciation charges due to change in categories, set off against lower depreciation in other areas. Non cash item.
Depreciation - Kununurra Leisure Centre	-\$ 30,600	▼ Reversal is lower due to lower depreciation charges due to change in categories, set off against higher depreciation in other areas. Non cash item.
Depreciation - Streets, Roads & Bridges - Maintenance	\$ 26,300	▲ Budget Estimates will require review due to completed Infrastructure now depreciating. Non cash Item. Budget will be amended at during the Mid Year Budget Review.
Depreciation - East Kimberley Regional Airport	-\$ 65,800	▼ Reversal is lower due to less depreciation costs as a result of uncompleted capital projects as at the reporting date. Timing and non cash item.
Depreciation - Information Services	-\$ 32,200	▼ Reversal is lower due to less depreciation costs as a result of uncompleted capital projects as at the reporting date. Timing and non cash item.
Depreciation - Land Under Control - Building & Structure MUN	\$ 23,500	▲ Timing variance and non cash item.
Depreciation - Plant Operation	-\$ 32,700	▼ Reversal is lower due to less depreciation costs as a result of uncompleted capital projects as at the reporting date. Timing and non cash item.

Shire of Wyndham East Kimberley

Notes to Statement of Financial Activity

For the Period Ended 28 February 2015

Explanation of Material Variances (between YTD Budget and YTD Actual)

Variances +/- \$50,000 at Financial Statement Level

Variances +/- \$20,000 and 10% at Account Level

Capital

Purchase Land Held for Resale		▲	
No material variances to report			
Purchase Land and Buildings		▼	
Land Subdivision Costs SES Shed Land	\$ 89,400	▼	Project is almost at the final stage. Timing variance.
Wyndham Pound	\$ 24,100	▼	This relates to work being undertaken on the Kununurra Pound, not the Wyndham Pound. Work is still underway. Timing variation.
Wyn depot fire damage reinstatement - Buildings	-\$ 36,500	▲	Costs related to the Wyndham Depot fire damage. These are offset against insurance settlements.
Partial Flooring replacement - Terminal - East Kimberley Regional Airport	\$ 24,000	▼	Project to be commenced in May 15. Timing variance.
Building Upgrade- Wyndham Administration	\$ 48,000	▼	Project work progressing. Timing variance.
Purchase Infrastructure Assets - Roads		▼	
Kalumburu Road - Re-sheet	-\$ 23,800	▲	Project work progressing. Timing variance.
Road Upgrade Carlton Hill Road	\$ 160,800	▼	Project work progressing. Timing variance.
Bridges (5116) - D4 Weaber Plain Rd	\$ 50,000	▼	Timing variation only. Relates to Main Roads funded works.
Asphalt resurfacing program (R2R) - Kununurra town site MUN	-\$ 32,200	▲	Timing variation only. Relates to Roads to Recovery funded works.
Erythrina St - Reconstruct, Seal Pavement & Footpath Re-instate MUN	\$ 20,200	▼	Project Completed, will be amended during the Mid Year Budget Review process.
Purchase Infrastructure Assets - Footpaths		▲	
No material variances to report			
Purchase Infrastructure Assets - Drainage		▼	
Drainage Strategy, Survey, Outlet Sth Hway to Lilly Lagoon MUN	\$ 24,200	▼	Project in progress. Timing variance.
Purchase Infrastructure Assets - Other		▼	
Reseal Apron - East Kimberley Regional Airport	\$ 24,800	▼	Potential savings as project completed to possibly be utilised for the asphalt overlay towards the end of the financial year.
Upgrade Maintenance Area - East Kimberley Regional Airport MUN	-\$ 86,500	▲	Originally budgeted in 13/14, carried forward to 14/15. Purchase order raised at the end of the year omitted from carried forward budget. Project funded by Airport Reserve and will be adjusted in the Mid Year Budget Review.
Landfill cover lids - Knx Landfill MUN	\$ 120,000	▲	Design in progress, project to commence by April 15.
Purchase Plant and Equipment		▼	
Light Plant - Purchase Price	\$ 55,000	▼	Savings due to non-replacement of a plant, will be adjusted in the Mid Year Budget Review.
Purchase Furniture and Equipment		▲	
No material variances to report			
Grants / Contributions for Development of Assets		▼	
FESA Capital Grant - SES Shed Relocation	-\$ 141,400	▼	Income based on completion of project however some invoices have just been raised. Timing variance.
Aboriginal Roads Funding - State Grants	-\$ 60,000	▼	Income based on progress claim for projects. Timing variance.
Regional Road Group Grants	\$ 56,700	▲	Income based on progress claim for projects. Timing variance.
Road to Recovery Grants	-\$ 574,000	▼	Income received in March 15. Timing variance.
RADS Funding (Regional Airports Development Scheme) MUN	\$ 114,900	▲	Income based on progress claim for projects. Timing variance.
Proceeds from Disposal of Assets		▲	
No material variances to report			
Debentures		▲	
Loan 120 - Kununurra Childcare Centre - Principal Repayments	-\$ 28,300	▲	Timing Variance, will be corrected next month
Reserves		▲	
No material variances to report			

Shire of Wyndham East Kimberley

Statement of Financial Activity Budget Remaining to Collect/Spend as at 28 February 2015

	YTD Actual 2014/15 \$	Annual Budget 2014/15	Budget Remaining 2014/15 \$ %	
Revenue				
General Purpose Funding	3,421,063	4,413,934	992,871	22% ▼
Governance	1,049,245	1,086,042	36,797	3% ▼
Law, Order, Public Safety	50,355	59,350	8,995	15% ▼
Health	52,485	80,500	28,015	35% ▼
Education and Welfare	104,000	77,000	(27,000)	-35% ▲
Housing	119,656	430,453	310,797	72% ▼
Community Amenities	2,081,771	2,483,863	402,092	16% ▼
Recreation and Culture	550,190	724,402	174,212	24% ▼
Transport	5,975,085	5,750,793	(224,292)	-4% ▲
Economic Services	61,650	97,923	36,273	37% ▼
Other Property and Services	122,887	103,266	(19,621)	-19% ▲
	<u>13,588,388</u>	<u>15,307,526</u>	<u>1,719,138</u>	<u>11% ▼</u>
Expenses				
General Purpose Funding	(261,803)	(559,166)	(297,363)	53% ▼
Governance	(264,707)	(1,440,658)	(1,175,950)	82% ▼
Law, Order, Public Safety	(361,249)	(700,194)	(338,945)	48% ▼
Health	(188,697)	(324,635)	(135,939)	42% ▼
Education and Welfare	(246,592)	(290,794)	(44,202)	15% ▼
Housing	(450,833)	(768,906)	(318,073)	41% ▼
Community Amenities	(2,476,141)	(5,286,793)	(2,810,652)	53% ▼
Recreation & Culture	(3,918,571)	(6,818,047)	(2,899,476)	43% ▼
Transport	(8,254,172)	(9,579,827)	(1,325,655)	14% ▼
Economic Services	(321,982)	(517,691)	(195,709)	38% ▼
Other Property and Services	(1,627,133)	(936,967)	690,166	-74% ▲
	<u>(18,371,879)</u>	<u>(27,223,677)</u>	<u>(8,851,798)</u>	<u>33% ▼</u>
Adjustments for Cash Budget Requirements:				
Non-Cash Expenditure and Revenue				
(Profit)/Loss on Asset Disposals	324,416	(210,891)	(535,307)	254% ▼
Movement in Accruals and Provisions	(485,410)	5,000	490,410	9808% ▼
Depreciation on Assets	3,840,634	6,036,820	2,196,186	36% ▼
Capital Expenditure and Revenue				
Purchase Land Held for Resale	0	0	0	0% ▼
Purchase Land and Buildings	(464,450)	(638,000)	(173,550)	27% ▼
Purchase Infrastructure Assets - Roads	(1,252,627)	(2,393,929)	(1,141,302)	48% ▼
Purchase Infrastructure Assets - Footpaths	0	(31,000)	(31,000)	100% ▼
Purchase Infrastructure Assets - Drainage	(18,549)	(358,358)	(339,809)	95% ▼
Purchase Infrastructure Assets - Other	(606,523)	(1,901,535)	(1,295,012)	68% ▼
Purchase Plant and Equipment	(7,030)	(124,962)	(117,932)	94% ▼
Purchase Furniture and Equipment	(16,302)	(116,500)	(100,198)	86% ▼
Grants / Contributions for Development of Assets	4,789,703	6,491,991	1,702,288	26% ▼
Proceeds from Disposal of Assets	5,031	394,000	388,969	99% ▼
Proceeds from Sale of Land Held for Resale	0	0	0	0% ▼
Repayment of Debentures	(1,962,356)	(2,406,937)	(444,581)	18% ▼
Proceeds from New Debentures	1,500,000	1,803,218	303,218	17% ▼
Transfers to Reserves (Restricted Assets)	(2,876,821)	(4,000,605)	(1,123,784)	28% ▼
Transfers from Reserves (Restricted Assets)	0	1,253,687	1,253,687	100% ▼
ADD Estimated Surplus/(Deficit) July 1 B/Fwd	(1,397,052)	(1,397,052)	0	0% ▼
LESS Estimated Surplus/(Deficit) June 30 C/Fwd	5,766,665	(330,591)	(6,097,256)	1844% ▲
Amount Required to be Raised from Rates	<u>9,177,493</u>	<u>9,180,615</u>	<u>3,122</u>	<u>0% ▼</u>

MONTHLY REPORT ON INVESTMENT PORTFOLIO (CASH)

INVESTMENT POLICY - CP FIN - 3203

RESULTS AS AT 28 February 2015

"Overall Portfolio Limits"

S&P Long Term Rating	S&P Short Term Rating	Direct Investment Maximum %
AAA	A-1+	100%
AA+	A-1	100%
A	A-2	60%

Note: "S & P" relates to Standard & Poor's credit rating agency

"Counterparty Credit Framework"

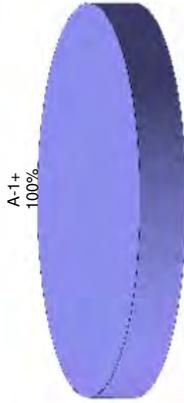
S&P Long Term Rating	S&P Short Term Rating	Direct Investment Maximum %
AAA	A-1+	45%
AA+	A-1	35%
A	A-2	20%

"Term to Maturity Framework"

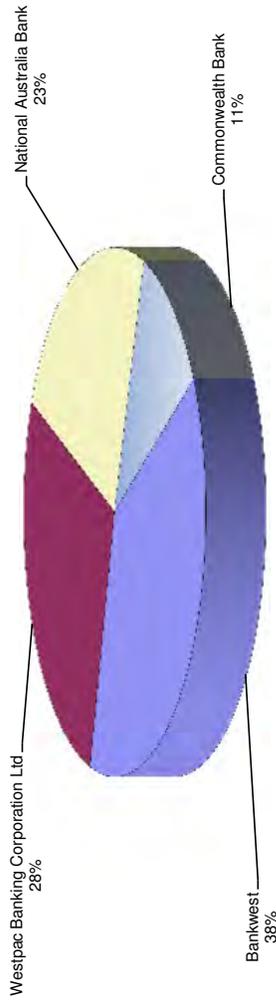
Overall Portfolio Term to Maturity Limits	Individual Investment Maturity Limits
Portfolio % < 1 year	100% max 40% min 60%
Portfolio % > 1 year	60%
Portfolio % > 3 year	35%
Authorised Deposit Institution	12 Months
State/Commonwealth Government Bonds	3 years

Note: "ADI" relates to an Authorised Deposit Institution (authorised under the Banking Act 1959)

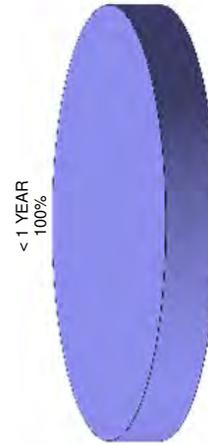
Overall Portfolio



Counterparty Credit



Term to Maturity



13.2.2 List of Accounts Paid from Municipal Fund and Trust Fund

DATE:	24 March 2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Victoria Nakamya, Creditors Officer Felicity Heading, Coordinator Financial Operations
REPORTING OFFICER:	Natalie Octoman, Director Corporate Services
FILE NO:	FM.09.5
DECLARATION OF INTERESTS:	Nil

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*.

BACKGROUND

In accordance with the Delegations Register 2014/15 adopted by the Council on the 26th of August 2014, 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 12 and 13

POLICY IMPLICATIONS

CD\GOV6113 – Payments from Municipal Fund and Trust Fund.

FINANCIAL IMPLICATIONS

Ongoing management of Council funds by providing the Council with sufficient information to monitor and review payments made.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.3: Maintain Council's long term financial viability

COMMUNITY CONSULTATION

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

COMMENT

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 from Municipal Fund and Trust Fund.

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

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

Municipal EFT 122981 – 123195 (05 February – 26 February 15)	\$ 898,030.35
Municipal cheques 50538 - 50612 (05 February – 26 February 15)	\$ 168,056.68
Trust cheques 723 – 736 (06 February – 26 February 15)	\$ 17,565.53
Trust EFT 500880 – 500898 (02 February – 27 February 15)	\$ 18,433.70
Payroll (03 February – 27 February 15)	\$ 485,925.56
Direct bank debits (02 February – 19 February 15)	\$ 8,918.03
TOTAL	\$ 1,596,929.85

COUNCIL DECISION

Minute No. 10833

Moved: Cr K Wright

Seconded: Cr B Robinson

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

Municipal EFT 122981 – 123195 (05 February – 26 February 15)	\$ 898,030.35
Municipal cheques 50538 - 50612 (05 February – 26 February 15)	\$ 168,056.68
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Payroll (03 February – 27 February 15)	\$ 485,925.56
Direct bank debits (02 February – 19 February 15)	\$ 8,918.03
TOTAL	\$ 1,596,929.85

Carried Unanimously 8/0

LIST OF ACCOUNTS SUBMITTED TO COUNCIL 24 MARCH 2015

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
EFT122981	05/02/2015	JAB INDUSTRIES	CONCRETE FOR FOOTPATH - KUNUNURRA LANDFILL	440.00
EFT122982	05/02/2015	SHIRE OF WYNDHAM EAST KIMBERLEY	PAYROLL DEDUCTIONS	11,741.31
EFT122983	05/02/2015	4D LANDSCAPING SOLUTIONS	GARDEN MAINTENANCE - TERMINATED STAFF HOUSING LEASE	77.00
EFT122984	05/02/2015	ABCO PRODUCTS	CLEANING SUPPLIES INCL. CLEANMAX, DEGREASER - KNX AIRPORT	757.12
EFT122985	05/02/2015	AMP SUPERANNUATION SAVINGS ACCT	SUPERANNUATION CONTRIBUTIONS	241.63
EFT122986	05/02/2015	ATO CHILD SUPPORT AGENCY	PAYROLL DEDUCTIONS	1,198.68
EFT122987	05/02/2015	ALCOLIZER PTY LTD	SERVICE AND RECALIBRATION OF HH2 BREATH TESTER - KNX AIRPORT	114.40
EFT122988	05/02/2015	ALLGEAR MOTORCYCLES AND SMALL ENG.	PARTS - P356	1,587.90
EFT122989	05/02/2015	AUSTRALIAN SERVICES UNION	PAYROLL DEDUCTIONS	150.60
EFT122990	05/02/2015	AUSTRALIAN TAXATION OFFICE - PAYG	PAYROLL DEDUCTIONS	80,377.00
EFT122991	05/02/2015	BEST KIMBERLEY COMPUTING	PRINTING COSTS - KUNUNURRA AND WYNDHAM ADMIN - JAN 15	1,307.35
EFT122992	05/02/2015	BLACKWOODS ATKINS PTY LTD	ROTARY FUEL PUMP -KNX AIRPORT, SAFETY SUPPLIES - KNX DEPOT	433.60
EFT122993	05/02/2015	CAM MANAGEMENT SOLUTIONS	QUARTERLY CLOUD HOSTING FEE - JANUARY TO MARCH 2015	1,980.00
EFT122994	05/02/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	4,000.00
EFT122995	05/02/2015	DSC CONTRACTING	REPLACE ADSL LINE FILTERS, MONTHLY FIRE ALARM TESTING - KNX AIRPORT	431.20
EFT122996	05/02/2015	EAST KIMBERLEY HARDWARE	VARIOUS HARDWARE ITEMS - KUNUNURRA ADMIN OFFICE	29.70
EFT122997	05/02/2015	EXPRESS VIRTUAL MEETINGS	TELECONFERENCE CHARGES -DEC 14	229.52
EFT122998	05/02/2015	FARMERS FRUIT AND VEG MART	CATERING - ORDINARY COUNCIL MEETING - DECEMBER 2014	138.50
EFT122999	05/02/2015	HITACHI CONSTRUCTION MACHINERY	PARTS AND SERVICE KIT - P477 & P479	1,167.75
EFT123000	05/02/2015	JORRITSMA H & CO	PARTS - P493	122.00
EFT123001	05/02/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	223.11
EFT123002	05/02/2015	KIMBERLEY MARKETING	CONSUMABLES FOR RESALE - KUNUNURRA LEISURE CENTRE	575.78
EFT123003	05/02/2015	KIMBERLEY MOTORS	FUEL COSTS - DECEMBER 2014	4,403.66
EFT123004	05/02/2015	KIMBERLEY TREE SERVICES PTY LTD	TREE LOOPING AND REMOVAL OF TREES - KUNUNURRA LEISURE CENTRE	2,750.00
EFT123005	05/02/2015	KUNUNURRA DISTRICT HIGH SCHOOL	SWEK CONTRIBUTION TO LIBRARY ELECTRICITY CHARGES DECEMBER 2014	6,928.47
EFT123006	05/02/2015	KUNUNURRA LOCK & KEY	SUPPLY & INSTALL X1 LOCKWOOD SLIDING DOOR LOCK-KNX AIRPORT	359.50
EFT123007	05/02/2015	KUNUNURRA PANEL BEATING WORKS WA	INSURANCE EXCESS & REPACE BATTERIES 1DBW601- P367	825.31
EFT123008	05/02/2015	LAWRENCE & HANSON GROUP	FAN CONTROLLER, SWITCH MECHANISM & SWITCH GRID PLATE - KNX LC	146.89
EFT123009	05/02/2015	LAYTON TECHNOLOGY PTY LTD	SERVICE DESK & AUDIT WIZARD RENEWAL 15 JAN 2015 -14 JAN 2016	1,639.00
EFT123010	05/02/2015	MCLEODS BARRISTERS AND SOLICITORS	LEASE PREPARATION COSTS - WYNDHAM CHILDCARE CENTRE	1,180.31
EFT123011	05/02/2015	MARTIN MCCLELLAND	INSTALL TV MONITOR IN LOUNGE & REPAIRS TO LEAKS ON ROOF-KNX AIRPORT	376.20

EFT123012	05/02/2015	MAXXIA	PAYROLL DEDUCTIONS	4,531.92
EFT123013	05/02/2015	OPTEON (NORTH WEST WA) PTY LTD	PRE SALE VALUATION OF TRANSPORTABLE - 115 COOLIBAH DRIVE KNX	880.00
EFT123014	05/02/2015	OFFICE NATIONAL KUNUNURRA	STATIONERY SUPPLIES - KNX DEPOT	115.30
EFT123015	05/02/2015	ORD FUEL SUPPLIES	HYDRAULIC OIL - P382 ,	723.88
EFT123016	05/02/2015	QUICK CORPORATE AUSTRALIA	STATIONERY - KUNUNURRA ADMIN - JANUARY 2015	183.47
EFT123017	05/02/2015	SEARLES HOLDINGS T/A AUTO PRO	ENGINE COOLANT - GENERATOR - WYNDHAM AIRPORT	110.00
EFT123018	05/02/2015	SHELF SUPPLY	SAFETY BOOTS - STAFF MEMBERS	130.00
EFT123019	05/02/2015	SJR CIVIL CONSULTING PTY LTD	TRAFFIC CALMING DEVICES, DESIGN & DRAINAGE INVESTIGATIONS - KNX	2,420.00
EFT123020	05/02/2015	SCOTT DAY - DJ/KARAOKE HIRE	DJ HIRE FOR AUSTRALIA DAY CELEBRATIONS -26/01/15 SWIM BEACH KNX	200.00
EFT123021	05/02/2015	THE WEST AUSTRALIAN NEWSPAPERS LTD	ADVERTISING - RECRUITMENT, SWEK NEWS - DECEMBER 2014	2,066.08
EFT123022	05/02/2015	WA LOCAL GOVT SUPERANNUATION	SUPERANNUATION CONTRIBUTIONS	21,671.78
EFT123023	05/02/2015	WA LOCAL GOVERNMENT ASSOCIATION	MARKET FORCE ADVERT. - WET SEASON RD CLOSURE, FLOOD RECOVERY WRKS	1,628.68
EFT123024	05/02/2015	WYNDHAM EXCAVATIONS	LOADER HIRE - WYNDHAM LANDFILL	3,920.40
EFT123025	05/02/2015	WYNDURRA PLUMBING	WATER PIPE FITTINGS -WYN OVAL TOILETS & INSTALL X3 BASIN -PETER REID	1,082.40
EFT123026		CANCELLED	CANCELLED	
EFT123027	12/02/2015	ABCO PRODUCTS	REPLACEMENT OF CLEANING SUPPLIES DESTROYED IN FIRE - WYNDHAM DEPOT	6,573.91
EFT123028	12/02/2015	ALS ENVIRONMENTAL	WA WASTE SITE CLASSIFICATION FEE, ANALYTICAL SERV. - KNX LANDFILL	5,401.00
EFT123029	12/02/2015	AMPAC DEBT RECOVERY (WA) PTY LTD	DEBT RECOVERY - COMMISSIONS AND COSTS - JANUARY 2015	5,063.40
EFT123030	12/02/2015	AIRSAFE	DANGEROUS GOODS AWARENESS - ONLINE TRAINING - KNX AIRPORT STAFF	1,360.00
EFT123031	12/02/2015	ALLGEAR MOTORCYCLES AND SMALL ENG.	PARTS & LUBE OIL - P217, P470, P357	695.20
EFT123032	12/02/2015	AUSTRALIA POST	POSTAGE AND STATIONERY PURCHASES - JANUARY 2015 KUNUNURRA ADMIN	570.59
EFT123033	12/02/2015	BEST KIMBERLEY COMPUTING	RELOCATE YOUTH CENTRE FUJI XEROX COPIER TO AIRPORT ADMIN BUILDING	108.75
EFT123034	12/02/2015	BLACKWOODS ATKINS PTY LTD	SUPPLIES - GLOVES, GREASE, FUNNEL& MOLDEX - KNX AIRPORT	139.53
EFT123035	12/02/2015	BOAB REFRIGERATION & AIRCONDITIONING	MOBILE COOLROOM HIRE FOR AUSTRALIA DAY CELEBRATIONS 2015	330.00
EFT123036	12/02/2015	BUSHCAMP SURPLUS STORE	UNIFORMS AND SAFETY BOOTS - OUTDOOR STAFF - KNX DEPOT	746.55
EFT123037	12/02/2015	C & S JOLLY ELECTRICS PTY LTD	REPAIRS TO OFFICE POWER CIRCUIT & EXTERIOR LIGHTS - KNX ADMIN	714.90
EFT123038	12/02/2015	CAM MANAGEMENT SOLUTIONS	PROFESSIONAL SERVICES - INTERPLAN REMOTE TRAINING	1,650.00
EFT123039	12/02/2015	CENTURION TRANSPORT	FREIGHT - PERTH SAFETY PRODUCTS - PALLETS -KNX DEPOT	93.50
EFT123040	12/02/2015	CARPET, VINYL & TILE CENTRE	REPAIRS & REPLACEMENT - SLIDING DOORS -WYN CHILD CARE	1,067.00
EFT123041	12/02/2015	COATES HIRE OPERATIONS PTY LTD	GENERATOR & HIRE - DEC 14 -KNX LANDFILL & KNX AIRPORT	3,444.72
EFT123042	12/02/2015	DELRON CLEANING PTY LTD	CONTRACT CLEANING - KNX ADMIN, KYC , KLC, TOILETS - KNX	16,046.30
EFT123043	12/02/2015	DARREN LONG CONSULTING	CONSULTING SERVICES - REVIEW OF DELEGATIONS REGISTER	1,188.00
EFT123044	12/02/2015	EAST KIMBERLEY HARDWARE	VARIOUS HARDWARE ITEMS - KNX ADMIN, KNX LANDFILL, KNX DEPOT & KLC	1,012.45
EFT123045	12/02/2015	EAST KIMBERLEY PLUMBING	PLUMBING WORKS -TOILET VARIOUS AREAS INCL. KONKERBERRY DRIVE	360.36

EFT123046	12/02/2015	EAST KIMBERLEY REAL ESTATE	RENT – STAFF HOUSING, WATER CONSUMPTION 14/11/2014-23/12/2014	571.36
EFT123047	12/02/2015	EXPRESS VIRTUAL MEETINGS	TELECONFERENCE CHARGES - JAN 15	111.54
EFT123048	12/02/2015	GRAPHICS'LL DOO	2015 AMENDMENTS TO STRATEGIC COMMUNITY PLAN ART WORK	275.00
EFT123049	12/02/2015	GUERINONI & SONS	CUTTING A KEYWAY IN CONCRETE DROP - CARLTON HILL RD & WHITE SAND	1,426.70
EFT123050	12/02/2015	INSTITUTE OF PUBLIC WORKS ENGINEERING	CORPORATE MEMBERSHIP SUBSCRIPTION - 2015	990.00
EFT123051	12/02/2015	INTERNATIONAL QUALITY & PROD. CNTR	REGIONAL AIRPORT WORKSHOP -23-25/03/2015	4,948.90
EFT123052	12/02/2015	JSW HOLDINGS PTY LTD	SUPPY - PRE MIXED SAND - KNX DEPOT	38.72
EFT123053	12/02/2015	KIMBERLEY MECHANICAL & TILT TRAY SERV.	SERVICE - P122 & P387	1,087.57
EFT123054	12/02/2015	KIMBERLEY COMMUNICATIONS	SUPPLY - SPK07 EXTENSION SPEAKER - P119	32.00
EFT123055	12/02/2015	KIMBERLEY EXCAVATIONS PTY LTD	LOCATE SEWER AND SERVICES - BANKISA ST KUNUNURRA	1,320.00
EFT123056	12/02/2015	KIMBERLEY MARKETING - CASH AND CARRY	CONSUMABLES FOR RESALE - KUNUNURRA LEISURE CENTRE	86.90
EFT123057	12/02/2015	KUNUNURRA DISTRICT HIGH SCHOOL	SWEK CONTRIBUTION TO LIBRARY ELECTRICITY CHARGES NOV 14	8,041.08
EFT123058	12/02/2015	KUNUNURRA SECURITY SERVICE	SECURITY PATROL & ALARM MONITORING - VARIOUS INCL. KNX ADMIN, KLC	3,508.00
EFT123059	12/02/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	53.54
EFT123060	12/02/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	102.74
EFT123061	12/02/2015	MCLEODS BARRISTERS AND SOLICITORS	LEGAL ADVICE - VARIOUS MATTERS	717.20
EFT123062	12/02/2015	MCLEAN ENTERPRISES PTY LTD	FREIGHT - PARTS - P477	66.00
EFT123063	12/02/2015	METALAND KUNUNURRA	PARTS - P127	16.83
EFT123064	12/02/2015	NJ GAFF & C YATES	NATIVE TREE SEEDLINGS FOR 2015 BABY TREE PROGRAM - KNX & WYN	197.00
EFT123065	12/02/2015	OFFICE NATIONAL KUNUNURRA	SUPPLIES - KEY CABINET & FILING CABINET- KNX DEPOT	466.00
EFT123066	12/02/2015	OLLIE'S IRRIGATION & PLUMBING SUPPLIES	RETICULATION SPRINKLERS & FITTINGS - VARIOUS LOCATIONS - KNX	189.26
EFT123067	12/02/2015	OUT OF REACH TREE SERVICES PTY LTD	TREE LOPPING AND REMOVAL OF TREES - KLC	8,387.50
EFT123068	12/02/2015	PERTH SAFETY PRODUCTS	PARKING SIGNS FOR VARIOUS STREETS KUNUNURRA	1,361.80
EFT123069	12/02/2015	QUICK CORPORATE AUSTRALIA	STATIONERY - KUNUNURRA ADMIN	38.76
EFT123070	12/02/2015	SAI GLOBAL LIMITED	MEMBERSHIP & SUBSCRIPTION - ONLINE SELECT, BUYER ADV PROGRAM	2,759.16
EFT123071	12/02/2015	TNT AUSTRALIA PTY LIMITED	FREIGHT - KNX TO PERTH - HEALTH SAMPLES	158.48
EFT123072	12/02/2015	THINK WATER KUNUNURRA	RETICULATION SPRINKLERS AND FITTINGS - VARIOUS LOCATIONS KNX	37.20
EFT123073	12/02/2015	THORLEY'S STORE - WYNDHAM	GAS BOTTLE REFILL - WYNDHAM POOL	45.00
EFT123074	12/02/2015	TOX FREE AUSTRALIA PTY LTD	REFUSE & LITTER COLLECTION - KUNUNURRA & WYNDHAM - NOV & DEC 2014	100,757.98
EFT123075	12/02/2015	UHY HAINES NORTON (WA) PTY LTD	AUDIT FEES - CLGF 11/12 & 12/13, PENSIONER DEFERRED RATES 2013/14	4,455.00
EFT123076	12/02/2015	VANDERFIELD NORTHWEST PTY LTD	PARTS - P138 , P491	1,057.99
EFT123077	12/02/2015	WASTE MANAGEMENT ASS. OF AUST.	MEMBERSHIP – STAFF - IN ACCORDANCE WITH EMPLOYMENT CONTRACT	270.00
EFT123078	12/02/2015	WALER AUSTRALIA P/L	PHOTOMETRE TABLETS - KLC	401.23
EFT123079	12/02/2015	WESTERN AUST. TREASURY CORPORATION	LOAN REPAYMENT - LOAN 113	73,567.75

EFT123080	19/02/2015	JAB INDUSTRIES	EXCAVATOR HIRE - FIRE CONTROL - KUNUNURRA LANDFILL	704.00
EFT123081	19/02/2015	AMP SUPERANNUATION SAVINGS ACCOUNT	SUPERANNUATION CONTRIBUTIONS	241.63
EFT123082	19/02/2015	ASK WASTE MANAGEMENT	CONSULTANCY - VARIOUS INCLUDE. WASTE REPORTING & COMPLIANCE	3,346.75
EFT123083	19/02/2015	ATO CHILD SUPPORT AGENCY	PAYROLL DEDUCTIONS	1,229.08
EFT123084	19/02/2015	AUSFUEL (PUMA)	7000 LITRES OF DIESEL - KUNUNURRA DEPOT	8,862.85
EFT123085	19/02/2015	ALLGEAR MOTORCYCLES AND SMALL ENG.	PARTS - P356	389.80
EFT123086	19/02/2015	ARGYLE ELECTRICAL SERVICES PTY LTD	INSTALLATION OF FAN MOTOR TO POOL WATER FOUNTAIN - WYNDHAM POOL	280.50
EFT123087	19/02/2015	ARGYLE ENGINEERING	REPAIRS TO TOW HITCH PLATE - P127	227.70
EFT123088	19/02/2015	AUSTRALIAN SERVICES UNION	PAYROLL DEDUCTIONS	150.60
EFT123089	19/02/2015	AUSTRALIAN TAXATION OFFICE - PAYG	PAYROLL DEDUCTIONS	70,140.00
EFT123090	19/02/2015	BOC GASES AUSTRALIAN LIMITED	WELDING GASES AND BOTTLE RENTAL - JANUARY 2015	286.39
EFT123091	19/02/2015	BLACKWOOD ATKINS PTY LTD	PARTS - P357	36.30
EFT123092	19/02/2015	BOAB REFRIGERATION & AIRCONDITIONING	REPAIRS TO AIRCONDITIONER - DEPARTURE LOUNGE - KNX AIRPORT	880.00
EFT123093	19/02/2015	BUSHCAMP SURPLUS STORE	UNIFORMS - OUTDOOR WORKFORCE KUNUNURRA	184.25
EFT123094	19/02/2015	C & S JOLLY ELECTRICS PTY LTD	RESTORE POWER TO THE POWER POINTS IN POOL AREA - KNX LEISURE CENTRE	4,312.00
EFT123095	19/02/2015	CABCHARGE	ACCOUNT KEEPING FEE - JANUARY 2015	8.29
EFT123096	19/02/2015	CARPET, VINYL & TILE CENTRE	PAINT FOR STAFF HOUSING ON TERMINATION OF LEASE	69.93
EFT123097	19/02/2015	COATES HIRE OPERATIONS PTY LTD	EQUIP. HIRE - VARIABLE MESSAGE BOARD FOR AUSTRALIA DAY CELEBRATIONS	247.50
EFT123098	19/02/2015	DOON DOON COMMUNITY STORE	REFUND CARAVAN PARK LICENSE FEE - APPLICATION WITHDRAWN	200.00
EFT123099	19/02/2015	DUFF'S GARDENING AND HOME MAINT.	GARDEN MAINTENANCE - TERMINATED STAFF HOUSING LEASE	425.00
EFT123100	19/02/2015	EK ENGINEERING	CUT MESH TO SAMPLE PROFILE - PAPUANA STREET	110.00
EFT123101	19/02/2015	EAST KIMBERLEY HARDWARE	VARIOUS HARDWARE ITEMS - KNX DEPOT, KNX ADMINISTRATION	229.50
EFT123102	19/02/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	72.10
EFT123103	19/02/2015	GHD PTY LTD	T02 13/14 KNX AIRPORT RUNWAY WKS APPROV. APPLIC., D2 DRAIN REDESIGN	30,154.30
EFT123104	19/02/2015	GREENFIELD TECHNICAL SERVICES	ENGINEERING CONSULTANCY - SUBWAY DRAINAGE - KUNUNURRA	1,705.00
EFT123105	19/02/2015	GREG & JANE HARMAN	REFUND OF PLANNING APPLICATION FEE DA5/15 - APPLICATION CANCELLED	147.00
EFT123106	19/02/2015	GUERINONI & SONS	T02 12/13 & T07 12/13 - CONSTRUCT CONCRETE V DRAIN - VARIATIONS 1 & 2	4,380.20
EFT123107	19/02/2015	IBAC PLUMBING PTY LTD	PLUMBING WORKS - FIX LEAK AROUND CHLORINE INJECTION POINT - KLC	1,800.11
EFT123108	19/02/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	68.35
EFT123109	19/02/2015	KIMBERLEY COMMUNICATIONS	PARTS - P391	46.00
EFT123110	19/02/2015	KUNUNURRA DISTRICT HIGH SCHOOL	SWEK CONTRIB. TO LIBRARY OPERATING COSTS – PHOTOCOPIER CHARGES	70.72
EFT123111	19/02/2015	KUNUNURRA PANEL BEATING WORKS WA	PARTS & REPAIRS - P130	1,388.04
EFT123112	19/02/2015	KUNUNURRA SECURITY SERVICE	SECURITY MONITORING AND PATROL KNX ADMIN - 6/02/2015	80.00
EFT123113	19/02/2015	L3 COMMUNICATIONS AUSTRALIA PTY LTD	EXPLOSIVES VERIFICATION KIT & SAMPLE TRAPS - KNX AIRPORT	1,104.40

EFT123114	19/02/2015	LAWRENCE & HANSON GROUP	SWITCH MECHANISM & SWITCH - STAFF HOUSING - KUNUNURRA	43.26
EFT123115	19/02/2015	LANDGATE	GROSS RENTAL VALUATIONS & MINING TENEMENTS JANUARY 2015	205.20
EFT123116	19/02/2015	MCLEODS BARRISTERS AND SOLICITORS	LEGAL ADVICE	2,372.86
EFT123117	19/02/2015	MAXXIA	PAYROLL DEDUCTIONS	4,531.92
EFT123118	19/02/2015	MCLEAN ENTERPRISES PTY LTD	FREIGHT - PER - KNX - RUNWAY MAINT. SUPPLIES - WYNDHAM AIRPORT	527.01
EFT123119	19/02/2015	MCLERNONS	KEY CABINET - KUNUNURRA DEPOT	99.00
EFT123120	19/02/2015	MCMULLEN NOLAN GROUP PTY LTD	CONSULTANCY - RUNWAY EXTENSION ASSESSMENT - KNX AIRPORT	6,215.00
EFT123121	19/02/2015	OPTEON (NORTH WEST WA) PTY LTD	VALUATION - WYNDHAM AIRPORT	1,650.00
EFT123122	19/02/2015	ORD RIVER ELECTRICS	REPAIRS TO AIRCONDITIONERS - KUNUNURRA AIRPORT TERMINAL	126.50
EFT123123	19/02/2015	ORD FUEL SUPPLIES	FUEL COSTS - P119 , P124 , P482 , P128 , P470 - JANUARY 2015	2,692.80
EFT123124	19/02/2015	OUT OF REACH TREE SERVICES PTY LTD	GARDEN MAINT. AND REMOVAL OF TREES - KUNUNURRA LEISURE CENTRE	825.00
EFT123125	19/02/2015	SEARLES HOLDINGS T/A AUTO PRO	PROJECTOR BATTERY CHARGER - KNX AIRPORT, PARTS - P477	645.00
EFT123126	19/02/2015	SETON AUSTRALIA PTY LTD	SUPPLIES - KCP WHITE ENAMEL TRIPLELINE DISPENSER - SWIM BEACH TOILETS	426.53
EFT123127	19/02/2015	SHELF SUPPLY	SAFETY BOOTS - STAFF MEMBER - KUNUNURRA DEPOT	120.00
EFT123128	19/02/2015	SHIRE OF WYNDHAM EAST KIMBERLEY	PAYROLL DEDUCTIONS	70.00
EFT123129	19/02/2015	ST JOHN AMBULANCE	FIRST AID TRAINING - STAFF - 24 & 25 FEBRUARY 2015	498.00
EFT123130	19/02/2015	TNT AUSTRALIA PTY LIMITED	FREIGHT - KNX - PER HEALTH SAMPLES	486.19
EFT123131	19/02/2015	THE WEST AUSTRALIAN NEWSPAPERS LTD	ADVERTISING - VACANT POSITIONS, SWEK NEWS - JANUARY 2015	2,328.08
EFT123132	19/02/2015	TOX FREE AUSTRALIA PTY LTD	SKIP BIN EMPTIES –VAR. LOCATIONS INCL. WYN BOAT RAMP, KLC - JAN 15	2,196.00
EFT123133	19/02/2015	TUCKERBOX / RETRAVISION KUNUNURRA	PROVISIONS AND MATERIALS – INCL. AUSTRALIA DAY SUPPLIES - KNX ADMIN	339.64
EFT123134	19/02/2015	TYREPLUS KUNUNURRA	PUNCTURE REPAIR - P138	60.00
EFT123135	19/02/2015	VANDERFIELD NORTHWEST PTY LTD	PARTS - P356	124.59
EFT123136	19/02/2015	WA LOCAL GOVT SUPERANNUATION	SUPERANNUATION CONTRIBUTIONS	22,289.23
EFT123137	19/02/2015	WA LOCAL GOVERNMENT ASSOCIATION	CONSULTANCY, FLIGHTS, ACCOM. & INCIDENTALS - PROCUREMENT REVIEW	19,476.02
EFT123138	19/02/2015	WESTERN AUST. TREASURY CORPORATION	LOAN REPAYMENT - LOAN 120	38,541.85
EFT123139	26/02/2015	JAB INDUSTRIES	MOBILISATION AND EXCAVATOR HIRE TO CLEAR KNX BOAT RAMP SITE	1,127.50
EFT123140	26/02/2015	A & R WELDING FABRICATION	JETTY MAINT. - SUPPLY OF WELDING FABRICATION SERVICE - WYN PONTOON	489.50
EFT123141	26/02/2015	ABCO PRODUCTS	CLEANING SUPPLIES - WYNDHAM DEPOT	25.97
EFT123142	26/02/2015	AUSTRALIAN FUEL DISTRIBUTORS (PUMA)	FUEL ADDITIVE - P137	83.56
EFT123143	26/02/2015	ALLGEAR MOTORCYCLES AND SMALL ENG.	SERVICE KIT - P356	346.40
EFT123144	26/02/2015	AUSTRALIAN TAXATION OFFICE - PAYG	PAYROLL DEDUCTIONS	38,028.00
EFT123145	26/02/2015	BERM BACKHOE HIRE	SLASHING OF ROAD VERGES AND DRAINS - VALENTINE FALLS AND WEERO RDS	7,700.00
EFT123146	26/02/2015	BEING THERE SOLUTIONS PTY LTD	VIDEO CONFERENCING SUBSCRIPTION - JANUARY 2015	715.00
EFT123147	26/02/2015	BUSHCAMP SURPLUS STORE	STAFF UNIFORMS - OUTDOOR WORK FORCE - KNX DEPOT	954.65

EFT123148	26/02/2015	C & S JOLLY ELECTRICS PTY LTD	REPAIRS TO LIGHTS ON EXTERIOR OF BUILDING IN POOL AREA - KLC	1,722.04
EFT123149	26/02/2015	COATES HIRE OPERATIONS PTY LTD	EXCAVATOR HIRE FOR DRAINAGE WORKS - COOLIBAH DV, MESSMATE WY KNX	991.20
EFT123150	26/02/2015	COCA-COLA AMATIL	PURCHASE OF CONSUMABLES FOR RESALE - KLC	594.27
EFT123151	26/02/2015	COMMERCIAL CLEANING & MAINTENANCE	CLEANING - STAFF HOUSING PRIOR TO OCCUPATION - KUNUNURRA	399.99
EFT123152	26/02/2015	CORE BUSINESS AUSTRALIA PTY LTD	CLAIM 5 - ASSET MGT SERVICES, CLAIM 15 - AGRN 606 WANDRRA PLACEMENT	39,016.88
EFT123153	26/02/2015	DELRON CLEANING PTY LTD	CLEANING SUPPLIES - KUNUNURRA ADMIN OFFICE	371.47
EFT123154	26/02/2015	DSC CONTRACTING	TESTING OF FIRE ALARMS & REPLACEMENT OF BATTERIES - KNX AIRPORT	132.00
EFT123155	26/02/2015	DAVEY TYRE & BATTERY SERVICE	REPLACEMENT TYRES , FITTING & DISPOSAL - P482	746.00
EFT123156	26/02/2015	DEPARTMENT OF TRANSPORT	ANNUAL JETTY LICENSE FEE - ANTHON'S LANDING WYNDHAM	37.20
EFT123157	26/02/2015	EAST KIMBERLEY CONSTRUCTION PTY LTD	T07 13/14 PROGRESS PMT- IVANHOE & CROSSING FALLS FIRE BRIGADE SHEDS	100,000.00
EFT123158	26/02/2015	EAST KIMBERLEY HARDWARE	VARIOUS HARDWARE ITEMS - KNX ADMIN, KNX DEPOT & STAFF HOUSING	47.20
EFT123159	26/02/2015	EAST KIMBERLEY PLUMBING	PLUMBING WORKS - UNBLOCK TOILETS - WHITEGUM PARK KUNUNURRA	129.36
EFT123160	26/02/2015	HITACHI CONSTRUCTION MACHINERY	PARTS - P477	128.98
EFT123161	26/02/2015	IBAC PLUMBING PTY LTD	PLUMBING WORKS - LEAKING ROOF - KUNUNURRA LEISURE CENTRE	190.72
EFT123162	26/02/2015	IT VISION AUSTRALIA PTY LTD	AMEND USER REPORT FOR BUILDING SERVICES LEVY REPORTING	268.40
EFT123163	26/02/2015	IBIS STYLES	ACCOM. 1-13/2/15 - INSTRUCTOR - SECURITY OPS COURSE - KNX AIRPORT	1,800.00
EFT123164	26/02/2015	JSW HOLDINGS PTY LTD	STABILISED SAND - MESSMATE WAY KUNUNURRA	817.52
EFT123165	26/02/2015	KUNUNURRA 4WD SPARES	SERVICE - P211	324.25
EFT123166	26/02/2015	KUNUNURRA MEDICAL	PRE EMPLOYMENT MEDICAL – STAFF - AS PER EMPLOYMENT CONTRACT	308.00
EFT123167	26/02/2015	KUNUNURRA COUNTRY CLUB RESORT	ACCOMMODATION AND MEALS - CEO INTERVIEWS 9-10 FEBRUARY 2015	843.50
EFT123168	26/02/2015	KIMBERLEY MOTORS	FUEL COSTS - JANUARY 2015	2,766.48
EFT123169	26/02/2015	KIMBERLEY TREE SERVICES PTY LTD	TREE REMOVAL- STAFF HSNG - KNX, PRUNING STREET TREES - PAPUANA ST KNX	1,410.00
EFT123170	26/02/2015	KUNUNURRA COURIERS	DRINKING WATER SUPPLIES - KUNUNURRA DEPOT, KUNUNURRA ADMIN.	355.00
EFT123171	26/02/2015	KUNUNURRA DIESEL SERVICE	SERVICE - P391	961.00
EFT123172	26/02/2015	KUNUNURRA MAINTENANCE SERVICE	REPAIRS - STAFF HOUSING - KUNUNURRA	198.00
EFT123173	26/02/2015	KUNUNURRA PANEL BEATING WORKS WA	TOWING ABANDONED VEHICLES - VARIOUS TO KUNUNURRA LANDFILL	330.00
EFT123174	26/02/2015	LAWRENCE & HANSON GROUP	LAMP PILOT, POWER POINT - STAFF HOUSING KUNUNURRA	165.37
EFT123175	26/02/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	89.71
EFT123176	26/02/2015	MCLEODS BARRISTERS AND SOLICITORS	LEGAL SERVICES - LIQUIDATION OF SUNDRY DEBTOR	4,624.56
EFT123177	26/02/2015	MCLEAN ENTERPRISES PTY LTD	FREIGHT - PARTS - P477	66.00
EFT123178	26/02/2015	METALAND KUNUNURRA	PARTS - P138, P491, REPAIRS TO POOL FRAMES - KLC, PARKING SIGNS - KNX	3,720.84
EFT123179	26/02/2015	OPTEON (NORTH WEST WA) PTY LTD	PRESALE VALUATION STAFF HOUSING - KUNUNURRA	770.00
EFT123180	26/02/2015	ORD RIVER ELECTRICS	REPAIRS - INCL. SHUTTER DOOR, ANNUAL ELEC. INSPECTION - KNX AIRPORT	6,891.88
EFT123181	26/02/2015	ORDCO	WEED CONTROL CHEMICALS - KUNUNURRA AIRPORT	1,177.00

EFT123182	26/02/2015	ORICA AUSTRALIA PTY LTD	STORAGE AND HANDLING OF CHLORINE GAS CYLINDERS - WYNDHAM POOL	470.24
EFT123183	26/02/2015	OFFICE NATIONAL KUNUNURRA	STATIONERY SUPPLIES, ANIMAL CONTROL, KUNUNURRA AIRPORT	132.25
EFT123184	26/02/2015	OLLIE'S IRRIGATION & PLUMBING SUPPLIES	RETICULATION FITTINGS - KUNUNURRA DEPOT	37.24
EFT123185	26/02/2015	SETON AUSTRALIA PTY LTD	TOILET ROLL DISPENSERS - SWIM BEACH TOILETS	155.10
EFT123186	26/02/2015	SHELF SUPPLY	DOG FOOD - KNX POUND, SAFETY BOOTS - OUTDOOR STAFF - KNX DEPOT	539.00
EFT123187	26/02/2015	SJR CIVIL CONSULTING PTY LTD	CONSULTANCY - DESIGN OPTIONS - KNX DISTRICT HIGH SCHOOL ENTRANCE	726.00
EFT123188	26/02/2015	TOLL EXPRESS	FREIGHT- PER-KNX - TERMINAL SECURITY MATERIALS - KUNUNURRA AIRPORT	164.10
EFT123189	26/02/2015	THORLEY'S STORE - WYNDHAM	GAS BOTTLE REFILLS FOR BBQS - FIVE RIVERS LOOKOUT WYNDHAM	135.00
EFT123190	26/02/2015	TROPICAL PEST CONTROL	TERMITE INSPECTION & TREATMENT - STAFF HOUSING - KUNUNURRA	230.00
EFT123191	26/02/2015	TUCKERBOX / RETRAVISION KUNUNURRA	PROVISIONS - JANUARY 2015 - KUNUNURRA ADMINISTRATION	419.45
EFT123192	26/02/2015	TURA NEW MUSIC LTD	QUICK GRANT - CONTRIBUTION TO RESONANCE TOUR 2014 WYN	550.00
EFT123193	26/02/2015	VANDERFIELD NORTHWEST PTY LTD	PARTS & REPAIRS - P135, P491 & P356	913.03
EFT123194	26/02/2015	WA LOCAL GOVT SUPERANNUATION	SUPERANNUATION CONTRIBUTIONS	676.44
EFT123195	26/02/2015	WYNDHAM SUPERMARKET	SUPPLIES FOR AUSTRALIA DAY CELEBRATIONS 26/1/15	841.38
TOTAL MUNICIPAL EFT PAYMENTS				898,030.35

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
50538	05/02/2015	AMP LIFE LTD	SUPERANNUATION CONTRIBUTIONS	642.35
50539	05/02/2015	AUSTRALIAN SUPER	SUPERANNUATION CONTRIBUTIONS	3,812.13
50540	05/02/2015	BT LIFETIME SUPER - EMPLOYER PLAN	SUPERANNUATION CONTRIBUTIONS	407.03
50541	05/02/2015	BT SUPER FOR LIFE	SUPERANNUATION CONTRIBUTIONS	249.47
50542	05/02/2015	CBUS	SUPERANNUATION CONTRIBUTIONS	313.69
50543	05/02/2015	COMMONWEALTH ESS. SUPERANNUATION	SUPERANNUATION CONTRIBUTIONS	332.38
50544	05/02/2015	COMMONWEALTH BANK GROUP SUPER	SUPERANNUATION CONTRIBUTIONS	459.55
50545	05/02/2015	COMMONWEALTH BANK SUPER SAVINGS	SUPERANNUATION CONTRIBUTIONS	124.73
50546	05/02/2015	HEALTH INSURANCE FUND OF AUST LTD	PAYROLL DEDUCTIONS	42.75
50547	05/02/2015	HORIZON POWER	ELEC. - VAR.INCL.KNX DEPOT, KNX ADMIN, EWIN CENTRE - 19/11/14-20/01/15	18,069.83
50548	05/02/2015	HOSTPLUS SUPERANNUATION FUND	SUPERANNUATION CONTRIBUTIONS	651.57
50549	05/02/2015	INTRUST SUPER	SUPERANNUATION CONTRIBUTIONS	249.47
50550	05/02/2015	LOCAL GOVERNMENT SUPER	SUPERANNUATION CONTRIBUTIONS	1,243.16
50551	05/02/2015	MLC MASTERKEY PERSONAL SUPER	SUPERANNUATION CONTRIBUTIONS	244.21
50552	05/02/2015	MLC NOMINEES PTY LTD	SUPERANNUATION CONTRIBUTIONS	240.04
50553	05/02/2015	MTAA SUPER	SUPERANNUATION CONTRIBUTIONS	204.12
50554	05/02/2015	MERLEE STOLDT	REFUND OF EQUIPMENT HIRE FEES - CANCELLED BOOKING - KLC	141.00

50555	05/02/2015	POLARIS METALS PTY LTD	RATES REFUND - NON CURRENT MINING TENEMENT	4,715.99
50556	05/02/2015	REI SUPER	SUPERANNUATION CONTRIBUTIONS	554.32
50557	05/02/2015	REST SUPER	SUPERANNUATION CONTRIBUTIONS	899.12
50558	05/02/2015	SUNSUPER	SUPERANNUATION CONTRIBUTIONS	1,020.10
50559	05/02/2015	SUPERANNUATION SAVINGS ACCT CBA	SUPERANNUATION CONTRIBUTIONS	17.58
50560	05/02/2015	TASPLAN	SUPERANNUATION CONTRIBUTIONS	271.67
50561	05/02/2015	THE TRUSTEE FOR HEADING SUPER FUND	SUPERANNUATION CONTRIBUTIONS	588.62
50562	05/02/2015	UNISUPER	SUPERANNUATION CONTRIBUTIONS	180.47
50563	05/02/2015	VICSUPER	SUPERANNUATION CONTRIBUTIONS	141.43
50564	05/02/2015	VISION SUPER	SUPERANNUATION CONTRIBUTIONS	2,049.13
50565		CANCELLED	CANCELLED	-
50566	05/02/2015	WATER CORP SUPERANNUATION	SUPERANNUATION CONTRIBUTIONS	210.14
50567	06/02/2015	VALENTINE FALLS EST. P/L (IN LIQUIDATION)	SETTLEMENT - AS AUTHORISED IN ACCORD. WITH LGA SEC. 6.8(1)(a)	11,000.00
50568	06/02/2015	WATER CORPORATION	WATER USE INCL. OVAL CHANGE RMS, STAFF HSNG 18/11/14-19/1/15	2,992.87
50569	12/02/2015	AUST. COMMUNICATIONS & MEDIA AUTH.	RENEWAL OF VHF RADIO LICENSES - KNX AIRPORT	249.00
50570	12/02/2015	CASH - PETTY CASH KNX OFFICE	PETTY CASH REIMBURSEMENT - KUNUNURRA DEPOT	170.00
50571	12/02/2015	DEPARTMENT OF TRANSPORT	REGISTRATION - P124	544.60
50572	12/02/2015	HORIZON POWER	ELEC.- VAR. INCL.STREET LIGHTING JAN 14, WYN ADMIN, 26/11/14 -29/01/2015	23,899.61
50573	12/02/2015	ROYAL OAK TRADING	INVESTIGATION AND REPORTING - INDUSTRIAL RELATIONS MATTER	8,294.00
50574	12/02/2015	TELSTRA	LANDLINE AND MOBILE PHONE COSTS - JANUARY 2015	1,783.19
50575	12/02/2015	THE RUSTY SHED CAFE	CATERING - THANK A VOLUNTEER BREAKFAST - 11/02/2015	340.12
50576	12/02/2015	WATER CORPORATION	WATER USE INCL. SPORTS OVAL, WYN POOL, STAFF HSNG 24/11/14 -27/1/15	8,713.38
50577	19/02/2015	AMP LIFE LTD	SUPERANNUATION CONTRIBUTIONS	649.36
50578	19/02/2015	AUSTRALIAN SUPER	SUPERANNUATION CONTRIBUTIONS	3,818.37
50579	19/02/2015	BT LIFETIME SUPER - EMPLOYER PLAN	SUPERANNUATION CONTRIBUTIONS	407.03
50580	19/02/2015	BT SUPER FOR LIFE	SUPERANNUATION CONTRIBUTIONS	249.47
50581	19/02/2015	CASH - PETTY CASH KNX AIRPORT	PETTY CASH REIMBURSEMENT - KUNUNURRA AIRPORT	80.15
50582	19/02/2015	CBUS	SUPERANNUATION CONTRIBUTIONS	382.35
50583	19/02/2015	COMMONWEALTH ESSENTIAL SUPER	SUPERANNUATION CONTRIBUTIONS	378.05
50584	19/02/2015	COMMONWEALTH BANK GROUP SUPER	SUPERANNUATION CONTRIBUTIONS	459.55
50585	19/02/2015	COMMONWEALTH BANK SUPER SAVINGS	SUPERANNUATION CONTRIBUTIONS	249.47
50586	19/02/2015	HEALTH INSURANCE FUND OF AUST LTD	PAYROLL DEDUCTIONS	42.75
50587	19/02/2015	HORIZON POWER	ELEC.- VARIOUS INCL. WYN AIRPOT, WYN POOL, 28/11/14-30/01/2015	8,882.41
50588	19/02/2015	HOSTPLUS SUPERANNUATION FUND	SUPERANNUATION CONTRIBUTIONS	690.23

50589	19/02/2015	INTRUST SUPER	SUPERANNUATION CONTRIBUTIONS	271.03
50590	19/02/2015	LOCAL GOVERNMENT SUPER	SUPERANNUATION CONTRIBUTIONS	1,243.16
50591	19/02/2015	MLC MASTERKEY PERSONAL SUPER	SUPERANNUATION CONTRIBUTIONS	243.15
50592	19/02/2015	MTAA SUPER	SUPERANNUATION CONTRIBUTIONS	231.84
50593	19/02/2015	REI SUPER	SUPERANNUATION CONTRIBUTIONS	425.79
50594	19/02/2015	REST SUPER	SUPERANNUATION CONTRIBUTIONS	1,138.58
50595	19/02/2015	SUNSUPER	SUPERANNUATION CONTRIBUTIONS	1,041.23
50596	19/02/2015	SUPERANNUATION SAVINGS A/C	PAYROLL DEDUCTIONS	17.58
50597	19/02/2015	TELSTRA	LANDLINE AND MOBILE PHONE COSTS - JANUARY 2015	7,058.44
50598	19/02/2015	TASPLAN	SUPERANNUATION CONTRIBUTIONS	271.67
50599	19/02/2015	THE RUSTY SHED CAFE	CATERING - IN ACCORD. WITH COUNCIL POLICY HR9 - RECOGNITION OF STAFF	99.00
50600	19/02/2015	THE TRUSTEE FOR HEADING SUPER FUND	SUPERANNUATION CONTRIBUTIONS	580.47
50601	19/02/2015	UNISUPER	SUPERANNUATION CONTRIBUTIONS	191.72
50602	19/02/2015	VICSUPER	SUPERANNUATION CONTRIBUTIONS	187.48
50603	19/02/2015	VISION SUPER	SUPERANNUATION CONTRIBUTIONS	2,049.13
50604	19/02/2015	WATER CORPORATION	WATER USE & SERVICE - WYNDHAM AIRPORT 24/11/2014-28/01/2015	279.22
50605	19/02/2015	WATER CORP SUPERANNUATION	SUPERANNUATION CONTRIBUTIONS	212.39
50606	26/02/2015	CASH - PETTY CASH KNX DEPOT	PETTY CASH REIMBURSEMENT - KUNUNURRA DEPOT	95.40
50607	26/02/2015	DEPARTMENT OF TRANSPORT	REGISTRATION - P211	272.30
50608	26/02/2015	HORIZON POWER	ELEC. – VAR. INCL. KNX AIRPORT, KLC, KNX ADMIN, 10/12/14-10/2/15	30,811.00
50609	26/02/2015	SUNSUPER	SUPERANNUATION CONTRIBUTIONS	81.41
50610	26/02/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	4,000.00
50611	26/02/2015	VISION SUPER	SUPERANNUATION CONTRIBUTIONS	1,763.13
50612	26/02/2015	WESTERN IRON ORE PTY LTD	RATES REFUND - NON CURRENT MINING TENEMENT	3,139.55
TOTAL MUNICIPAL CHEQUE PAYMENTS				168,056.68

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
723-724		CANCELLED	CANCELLED	
725	06/02/2015	MATTHEW ASHLEY CROSS	KERB BOND REFUND BP111/2014	552.00
726	06/02/2015	MERLEE STOLDT	BOND REFUND - EQUIPMENT HIRE - KUNUNURRA LEISURE CENTRE	250.00
727	10/02/2015	SHIRE OF WYNDHAM EAST KIMBERLEY	BSL COMMISSION JULY - DECEMBER 2014	345.00
728	10/02/2015	WA DEPT OF COMMERCE	BSL COLLECTIONS JULY - DECEMBER 2014	645.00
729	10/02/2015	WA DEPT OF COMMERCE	BSL COLLECTIONS JULY - DECEMBER 2014	12,775.03
730	10/02/2015	BUILDING & CONST. IND. TRAINING FUND	BCITF COLLECTIONS - JANUARY 2015	1,123.25

731	10/02/2015	SHIRE OF WYNDHAM EAST KIMBERLEY	BCITF COMMISSIONS - JANUARY 2015	24.75
732	24/02/2015	SHIRE OF WYNDHAM EAST KIMBERLEY	BSL COMMISSIONS - JANUARY 2015	35.00
733	24/02/2015	WA DEPT OF COMMERCE	BSL COLLECTIONS - JANUARY 2015	91.00
734	24/02/2015	WA DEPT OF COMMERCE	BSL COLLECTIONS - JANUARY 15	562.50
735	26/02/2015	COLIN WILKINSON DEVELOPMENTS	KERB BOND REFUND - BP 069/2014	662.00
736	26/02/2015	JULIE WADDELL	BOND REFUND - EQUIPMENT HIRE - KUNUNURRA LEISURE CENTRE	500.00
TOTAL TRUST CHEQUE PAYMENTS				17,565.53

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
500880	02/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 02/02/15	990.40
500881	03/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 03/02/15	1,497.55
500882	04/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 04/02/15	2,511.70
500883	05/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 05/02/15	149.20
500884	06/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 06/02/15	186.70
500885	09/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 09/02/15	455.80
500886	10/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 10/02/15	3,081.55
500887	11/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 11/02/15	591.60
500888	12/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 12/02/15	1,274.30
500889	16/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 16/02/15	417.60
500890	17/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 17/02/15	711.50
500891	18/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 18/02/15	314.85
500892	19/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 19/02/15	173.55
500893	20/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 20/02/15	159.50
500894	23/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 23/02/15	1,165.65
500895	24/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 24/02/15	542.60
500896	25/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 25/02/15	1,241.65
500897	26/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 26/02/15	1,390.85
500898	27/02/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 27/02/15	1,577.15
TOTAL TRANSPORT EFT PAYMENTS				18,433.70

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
	3/02/2015	PAYROLL	PAYROLL	1,183.56
	3/02/2015	PAYROLL	PAYROLL	1,601.93
	3/02/2015	PAYROLL	PAYROLL	9,908.25

4/02/2015	PAYROLL	PAYROLL	204,139.75
18/02/2015	PAYROLL	PAYROLL	210,854.37
23/02/2015	PAYROLL	PAYROLL	4,869.27
26/02/2015	PAYROLL	PAYROLL	3,003.51
26/02/2015	PAYROLL	PAYROLL	39,742.61
26/02/2015	PAYROLL	PAYROLL	2,046.60
27/02/2015	PAYROLL	PAYROLL	8,575.71
TOTAL PAYROLL PAYMENTS			485,925.56

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
	2/02/2015	DIRECT DEBIT	BANK FEES	682.49
	2/02/2015	DIRECT DEBIT	BPAY FEES	120.47
	2/02/2015	DIRECT DEBIT	LEASE COSTS - STAFF HOUSING - 11 KWINANA STREET WYNDHAM	1,520.00
	19/02/2015	DIRECT DEBIT	MASTERCARD PAYMENT (SEE TRANSACTION LISTING BELOW)*	6,595.07
TOTAL DIRECT DEBIT PAYMENTS			8,918.03	

***DETAILS OF MASTERCARD TRANSACTIONS INCLUDED IN DIRECT DEBIT 19/2/15**

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
	31/12/2014	KUNUNURRA TYREPOWER	REPLACEMENT TYRE - P115	299.00
	05/01/2015	AVIATION ID AUSTRALIA	ASIC APPLICATION - STAFF MEMBER - KUNUNURRA AIRPORT	222.00
	08/01/2015	ALLIGHT PTY LTD	REPLACEMENT PARTS FOR BAGGAGE SCREENING STANDBY GENERATOR	1,642.12
	14/01/2015	AVIATION ID AUSTRALIA	ASIC APPLICATION - STAFF MEMBER - KUNUNURRA AIRPORT	222.00
	14/01/2015	AVIATION ID AUSTRALIA	ASIC APPLICATION - STAFF MEMBER - KUNUNURRA AIRPORT	222.00
	14/01/2015	AVIATION ID AUSTRALIA	ASIC APPLICATION - STAFF MEMBER - KUNUNURRA AIRPORT	222.00
	14/01/2015	MESSAGE MEDIA	SERVER OUTAGE SMS SERVICE	4.00
	14/01/2015	HARRIS TECHNOLOGY	PC MONITOR ADAPTORS - KUNUNURRA ADMIN OFFICE	67.78
	15/01/2015	VIRGIN AIRLINES	FLIGHTS PER-KNX-PER 1/2/15, 13/2/15 SECURITY OPERATIONS TRAINER	975.70
	17/01/2015	COLES KUNUNURRA	SUPPLIES - AIRPORT SERVICES OFFICE	10.24
	19/01/2015	AIRNORTH	FLTS KNX-BME-KNX 26/2-28/2/15,ELECTED MEMBERS, CEO-ZONE MTG DERBY	1,266.54
	20/01/2015	TOYWORLD KUNUNURRA	PRIZES FOR AUSTRALIA DAY EVENT	50.00
	20/01/2015	BUSHCAMP SUPPLIES KUNUNURRA	PRIZES FOR AUSTRALIA DAY EVENT	50.00
	20/01/2015	EYELINE AUSTRALIA	PROTECTIVE CLOTHING - STAFF	231.00
	21/01/2015	ALLIGHT PTY LTD	REPLACEMENT PARTS FOR BAGGAGE SCREENING STANDBY GENERATOR	376.06
	21/01/2015	COLES EXPRESS KUNUNURRA	REPLACEMENT PHONE CHARGER - STAFF MEMBER	29.99

22/01/2015	COLES KUNUNURRA	CLEANING SUPPLIES - WYNDHAM CHILDCARE CENTRE	51.75
22/01/2015	COLES KUNUNURRA	STEAM MOP HIRE - WYNDHAM CHILDCARE CENTRE	98.04
23/01/2015	COMMERCE BUILDING COMMISSION	BUILDING REGULATIONS	423.00
27/01/2015	COLES KUNUNURRA	REFRESHMENTS - COUNCIL MEETING	62.90
28/01/2015	TUCKERBOX STORES KUNUNURRA	RADIO FOR GOVERNANCE TEAM - CORPORATE COMMUNICATIONS	110.00
28/01/2015	TUCKERBOX STORES KUNUNURRA	CREDIT ON EXCHANGED ITEM - RADIO FOR CORPORATE COMMUNICATIONS	- 80.05
29/01/2015	BANKWEST	ANNUAL CARD FEE	39.00

13.2.3 Review of CP-FIN 3211 Pricing Principles and Pricing Basis Policy for Fees and Charges

DATE:	24/03/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Natalie Octoman, Director Corporate Services
REPORTING OFFICER:	Natalie Octoman, Director Corporate Services
FILE NO:	FM.05.11
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to consider adopting the revised CP-FIN 3211 Fees and Charges Pricing Policy prior to their review for the 2015/16 financial year, noting a change in the Policy title.

BACKGROUND

Fees and charges are generally established as part of the annual budget setting process. The 2014/15 financial year was the first year that the Council resolved to apply pricing principles and a pricing basis methodology to ensure fair and reasonable charging to the community for the goods and services that the Shire provides.

STATUTORY IMPLICATIONS

Local Government Act 1995 Part 6, Division 5

6.16 Imposition of fees and charges

(1) A local government may impose and recover a fee or charge for any goods and service it provides or proposed to provide, other than a service for which a service charge is imposed.*

** Absolute majority required.*

(2) A fee or charge may be imposed for the following —

- (a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;*
- (b) supplying a service or carrying out work at the request of a person;*
- (c) subject to section 5.94, providing information from local government records;*
- (d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;*
- (e) supplying goods;*
- (f) such other service as may be prescribed.*

(3) Fees and charges are to be imposed when adopting the annual budget but may be —

- (a) imposed* during a financial year; and*
- (b) amended* from time to time during a financial year.*

** Absolute majority required.*

6.17 Setting level of fees and charges

(1) In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors —

- (a) the cost to the local government of providing the service or goods; and*

- (b) *the importance of the service or goods to the community; and*
- (c) *the price at which the service or goods could be provided by an alternative provider.*

6.18. Effect of other written laws

- (1) *If the amount of a fee or charge for a service or for goods is determined under another written law a local government may not —*
- (a) *determine an amount that is inconsistent with the amount determined under the other written law; or*
 - (b) *charge a fee or charge in addition to the amount determined by or under the other written law.*
- (2) *A local government is not to impose a fee or charge for a service or goods under this Act if the imposition of a fee or charge for the service or goods is prohibited under another written law.*

6.19. Local government to give notice of fees and charges

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) *its intention to do so; and*
- (b) *the date from which it is proposed the fees or charges will be imposed.*

POLICY IMPLICATIONS

The current CP-FIN 3211 Pricing Principles and Pricing Basis Policy for Fees and Charges will be amended to change the title into one that is easier for the community and staff to reference, along with some other minor changes.

FINANCIAL IMPLICATIONS

The application of the Policy and associated financial impacts are unclear at this stage of the budget process. Any significant changes will be identified as part of the revised fees and charges that will be presented to the Council for adoption at a later stage in the process.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

Strategy 1.4.2: Improve the efficiency and productivity of Shire services

Strategy 1.4.3: Maintain Council's long term financial viability

COMMUNITY ENGAGEMENT

- Shire of Wyndham East Kimberley Executive Management Team
- Section 6.19 of the *Local Government Act 1995* outlines the requirements for the Shire to provide local public notice of fees and charges.

COMMENT

The Policy has been revised with only minor changes to ensure correct legislation is referenced and the goods and services and their pricing basis are still relevant. There have also been 3 (three) new types of services incorporated to ensure they are clearly outlined to the community in terms of the pricing basis that will be utilised, being:

1. Professional Staff Time – Private Benefit – Full Cost Recovery
2. Site Inspections – Private Benefit – Full Cost Recovery
3. Plant Hire – Private Benefit – Full Cost Recover + Possible Mark-Up

The Policy makes for good governance in that it provides the community with some transparency as to what factors are considered when the Council reviews its annual fees and charges, and also provides some clear guidance for officers as to what principles need to be considered when recommending fees and charges for goods or services.

ATTACHMENTS

Attachment 1 - CP-FIN 3211 Fees and Charges Pricing Policy (*Reviewed*)

Attachment 2 – CP-FIN 3211 Pricing Principles and Pricing Basis Policy for Fees and Charges (*Current*)

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Adopts the revised CP-FIN 3211 Fees and Charges Pricing Policy noting the change in title from the former "Pricing Principles and Pricing Basis Policy for Fees and Charges; and
2. Notes that the Policy will be utilised in part for the review of fees and charges associated with not only the 2015/16 budget process but also the revision of the Long Term Financial Plan.

MOTION

Cr G Taylor moves that Council:

1. Adopts the revised CP-FIN 3211 Fees and Charges Pricing Policy noting the change in title from the former "Pricing Principles and Pricing Basis Policy for Fees and Charges subject to amending the following;
 - a. The gymnasium entry fees
 - b. Leisure Centre entry feesTo have the principle as a shared benefit.
2. Notes that the Policy will be utilised in part for the review of fees and charges associated with not only the 2015/16 budget process but also the revision of the Long Term Financial Plan.

AMENDMENT

Cr K Wright moves an amendment to Cr G Taylor's motion, that point 1 be amended from shared benefit to private.

COUNCIL DECISION

Minute No. 10834

Moved: Cr K Wright

Seconded: Cr D Spackman

That Council:

1. **Adopts the revised CP-FIN 3211 Fees and Charges Pricing Policy noting the change in title from the former "Pricing Principles and Pricing Basis Policy for Fees and Charges subject to amending the following;**
 - a. **The gymnasium entry fees**
 - b. **Leisure Centre entry fees****To have the principle as private.**
2. **Notes that the Policy will be utilised in part for the review of fees and charges associated with not only the 2015/16 budget process but also the revision of the Long Term Financial Plan.**

Lost 2/6

For: Cr K Wright, Cr D Spackman

**Against: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr B Robinson, Cr S Cooke,
Cr G Taylor**

FORESHADOWED MOTION

Cr K Wright foreshadows a motion that item 13.2.3 Review of CP-FIN 3211 Pricing Principles and Pricing Basis Policy for Fees and Charges be deferred to a briefing session for consideration.

COUNCIL DECISION

Minute No. 10835

Moved: Cr G Taylor

Seconded: Cr B Robinson

That Council:

- 1. Adopts the revised CP-FIN 3211 Fees and Charges Pricing Policy noting the change in title from the former "Pricing Principles and Pricing Basis Policy for Fees and Charges subject to amending the following;
a. The gymnasium entry fees
b. Leisure Centre entry fees
To have the principle as a shared benefit**
- 2. Notes that the Policy will be utilised in part for the review of fees and charges associated with not only the 2015/16 budget process but also the revision of the Long Term Financial Plan.**

Lost 2/6

For: Cr G Taylor, Cr B Robinson

**Against: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr K Wright, Cr D Spackman,
Cr S Cooke**

COUNCIL DECISION

Minute No. 10836

Moved: Cr K Wright

Seconded: Cr S Cooke

That item 13.2.3 Review of CP-FIN 3211 Pricing Principles and Pricing Basis Policy for Fees and Charges be deferred to a briefing session for consideration.

Carried Unanimously 8/0



POLICY NO	CP-FIN 3211	
POLICY	Fees and Charges Pricing Policy	
RESPONSIBLE DIRECTORATE	Corporate Services	
RESPONSIBLE OFFICER	Director Corporate Services	
COUNCIL ADOPTION	Date: 28/01/2014	Resolution No: 10293
REVIEWED/MODIFIED	Date: 23/03/2015	Resolution No:
	Date:	Resolution No:
REVIEW DUE	Date: March 2016	
LEGISLATION	<i>Local Government Act 1995 – Sections 6.16, 6.17, 6.18; A New Tax System (Goods and Services Tax) Act 1999; A New Tax System (Goods and Services Tax) (Exempt Taxes, Fees and Charges) Determination 2011 (No. 1);</i>	
RELATED POLICIES	Competition Principles Agreement – 11 April 1995 (As amended to 13 April 2007) – <i>Currently under review by the Australian Government.</i>	
RELATED PROCEDURES	Fees and Charges Review Guidelines	

PURPOSE:

The purpose of this policy is for the Council to ensure that the Shire's fees and charges are determined utilising key principles that ensure fair and reasonable charging to the community for the goods and services that the Shire provides.

DEFINITION:

All definitions are provided within the text of this document.

POLICY STATEMENTS:

The pricing principles and pricing basis are to apply to all fees and charges where possible, or unless legislation determines otherwise.

The Council will consider the following principles when imposing fees and charges:

1. Cost Reflective Pricing and Future Considerations
2. Community Expectations or Values
3. Comparison with Alternative Provider
4. Equity
5. Removal of Cross Subsidies
6. Predictability
7. Administrative Simplicity
8. Compliance with the *Trade Practices Act 1974* and the National Competition Policy requirements

1. COST REFLECTIVE PRICING AND FUTURE CONSIDERATIONS

Fees and charges have important implications for resource allocation and value for money for the community. Cost reflective pricing can help ensure the Council's resources are best utilised to meet its community needs.

Section 6.17(1)(a) of the *Local Government Act 1995* requires the Council to consider "the cost to the local government of providing the service or goods". The Council will therefore consider the income anticipated from the imposition of the charge and the anticipated expenditure of administering the service.

Full cost recovery includes those costs both directly and indirectly associated with providing the good or service including capital costs (Examples of direct and indirect cost components are outlined in Table A below). Council's view is that full cost recovery, where appropriate, also contributes to achieving allocative efficiency – where resources are optimally allocated to benefit society and where the value consumers place on a good or service equals the cost of production.

Council may also consider the future plans for the services that are being provided, particularly in relation to assets including facilities, and consider the impact of asset management costs in the future.

The *Local Government Act 1995*, section 6.17(3) states that "the basis for determining a fee or charge is not to be limited to the cost of providing the service or goods..." other than in particular circumstances, therefore allowing for fees and charges to be in excess of full cost recovery.

To this end, section 6.17(2) of the *Local Government Act 1995* also provides that "a higher fee or charge or additional fee or charge may be imposed for an expedited service or supply of goods if it is requested that the service or goods be provided urgently."

Council will consider these options in determining the fees or charges to be imposed taking into account the situation that may surround the matter (eg. Additional labour hours may be required to provide the expedited service).

Table A

COMPONENTS OF COST		
TYPE OF COST	CATEGORIES	EXAMPLES
Indirect		
Costs that are not directly attributable to an activity – often referred to as overheads	Administrative Expenses	<ul style="list-style-type: none"> • Cost of printing the annual report
	Capital	<ul style="list-style-type: none"> • Computers for corporate staff • Furniture for corporate office
	Materials and Supplies	<ul style="list-style-type: none"> • Stationery used by corporate services staff
	Labour	<ul style="list-style-type: none"> • Remuneration of corporate staff

Direct		
Costs that can be readily and unequivocally attributed to a service or activity because they are incurred exclusively for that particular product/activity	Capital	<ul style="list-style-type: none"> • Depreciation or lease costs of specific-purpose buildings, vehicles, computers, and other equipment used directly in delivering services
	Administrative Expenses	<ul style="list-style-type: none"> • Transport, accommodation and meal expenses for service delivery staff • service-related publications
	Materials and Supplies	<ul style="list-style-type: none"> • Spare parts, inventory, fuel
	Labour	<ul style="list-style-type: none"> • Salaries and wages of 'works unit' employees, payments to contractors and service providers

Source: Victorian Auditor-General's Office.

2. COMMUNITY EXPECTATIONS OR VALUES

Each community member or group clearly places a "value" or level of importance on the goods and services that the Shire provides. This "value" will be dependent upon the strength of the benefits that it provides to the community member or group.

Section 6.17(1)(b) of the *Local Government Act 1995* requires the Shire to take into consideration "*the importance of the service or goods to the community*" in determining the amount of a fee or charge for a service or goods.

Council will continue to work with the community to ascertain their views on the importance of services or goods provided to the community.

3. COMPARISON WITH EXTERNAL PROVIDER

A comparison of fees and charges that are imposed by other Council's and service providers will be undertaken where possible.

4. EQUITY

Under the 'user pays' principle, the community should pay according to the level of benefits accrued to them. The Council has considered the following four levels of benefit that will be used when determining the pricing basis.

1. Public Benefit – the service provides a broad community benefit.
2. Private Benefit – the service benefits particular users making a contribution to their individual income, welfare or profits generally without any broader benefits to the community.
3. Shared Benefit – the service provides both community benefits and a private benefit.
4. Regulatory – fee or charge that is fixed by legislation.

5. REMOVAL OF CROSS SUBSIDIES

Cross subsidies exist where the price charged for one service is set below its cost and the price charged for another service is set above its cost to the extent that the overall costs are recovered.

Cross subsidies distort pricing causing an inefficient allocation of resources, and are not considered the most efficient way to achieve equity or efficient practices.

Where possible, Council will minimise cross subsidies between services or groups of consumers.

6. PREDICTABILITY

The fees and charges will be reviewed and adopted by Council at a minimum of 3 months prior to their commencement, where possible. This will ensure that the community has knowledge and certainty of the fees and charges which will allow the community to make more informed decisions.

7. ADMINISTRATIVE SIMPLICITY

The charging of fees and charges will be simple to administer therefore minimising administrative costs, while ensuring compliance with the applicable legislation.

8. COMPLIANCE WITH THE *TRADE PRACTICES ACT 1974* AND THE NATIONAL COMPETITION POLICY

The National Competition Policy competitive neutrality reforms are focused on the significant business activities of all local governments. The *Local Government Act 1995* only requires the application of full cost pricing to council business activities having a turnover in excess of \$200,000. Even then, competitive neutrality is only to be applied to the extent it can be demonstrated the benefits of implementation outweigh the costs.

The aim of the National Competition Policy is to create a level playing field by requiring Councils to adjust their service prices to neutralise any competitive advantages when competing with the private sector.

Council will consider the requirements of the *Trade Practices Act 1974* and the National Competition Policy when determining fees and charges associated with its significant business activities.

OUTCOMES

The principles have been applied, and the benefits have been allocated a pricing basis by the Council as a guide in setting fees and charges.

Benefits and Pricing Basis Used by the Shire

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

** Note that for the Private Benefit Category, 3 additional Pricing Basis classifications may be considered by Council being:*

- 1. Full Cost Recovery + Possible Mark Up*
- 2. Full Cost Recovery + Possible Future Consideration*
- 3. Full Cost Recovery + Possible Mark Up and/or Possible Future Consideration*

Application of Pricing Basis to Good & Services

Service	Principle	Basis of Cost
Rates Enquiries	Private Benefit	Full Cost Recovery
Professional Staff Time	Private Benefit	Full Cost Recovery
Number Plates	Private Benefit	Full Cost Recovery
Photocopying	Private Benefit	Full Cost Recovery
Sale of List of Owner/Occupiers and Council Minutes/Agendas	Private Benefit	Full Cost Recovery
Other Council Publications (ie. rate books, Local Laws, Tender documents etc)	Private Benefit	Full Cost Recovery
Dog Pound	Shared Benefit	Partial Cost Recovery
Dog Tags	Shared Benefit	Partial Cost Recovery
Dog Registration and Infringements	Regulatory	100% of Regulatory Fee or Charge
Dog Seizure Fees	Private Benefit	Full Cost Recovery
Cat Pound	Shared Benefit	Partial Cost Recovery
Cat Registration and Infringements	Regulatory	100% of Regulatory Fee or Charge
Cat Seizure Fees	Private Benefit	Full Cost Recovery
Towing and Poundage Charges	Private Benefit	Full Cost Recovery
Road Closures and Traffic Management	Shared Benefit	Partial Cost Recovery
Bushfire Infringements	Regulatory	100% of Regulatory Fee or Charge
Caravan Parks & Camping Grounds	Regulatory	100% of Regulatory Fee or Charge
Building Control (applications, licences, levies etc)	Regulatory	100% of Regulatory Fee or Charge
Building Control – Private Certification	Private Benefit	Full Cost Recovery
Signage Approvals	Private Benefit	Full Cost Recovery
Deposits and Bonds	Private Benefit	Full Cost Recovery
Water Charges – Non Commercial	Shared Benefit	Partial Cost Recovery

Service	Principle	Basis of Cost
Water Charges – Commercial	Private Benefit	Full Cost Recovery
Food Registrations, Applications and Other Charges	Private Benefit	Full Cost Recovery
Development Applications	Regulatory	100% of Regulatory Fee or Charge
Subdivision Applications	Regulatory	100% of Regulatory Fee or Charge
Private Works	Private Benefit	Full Cost Recovery + Possible Mark Up
Site Inspections	Private Benefit	Full Cost Recovery + Possible Mark Up
Plant Hire	Private Benefit	Full Cost Recovery + Possible Mark Up
Rubbish Charges	Private Benefit	Full Cost Recovery
Landfill Charges	Private Benefit	Full Cost Recovery + Possible Future Consideration
Cemetery Fees	Private Benefit	Full Cost Recovery
Civic Centre	Shared Benefit	Zero to full cost recovery depending on usage
Trading in Thoroughfares and Public Places	Private Benefit	Full Cost Recovery
Sport Association Ground Hire	Shared Benefit	Partial Cost Recovery
Casual Ground Hire	Shared Benefit	Partial Cost Recovery
Library	Shared Benefit	Partial Cost Recovery
Airport	Private Benefit	Full Cost Recovery + Possible Future Consideration
Child Care	Shared Benefit	Partial Cost Recovery
Non Sporting Activity Facility Hire – Non Commercial	Shared Benefit	Partial Cost Recovery
Non Sporting Activity Facility Hire – Commercial	Private Benefit	Full Cost Recovery
Sporting Activity Facility Hire – Non Commercial	Shared Benefit	Partial Cost Recovery
Sporting Activity Facility Hire – Commercial	Private Benefit	Full Cost Recovery
Cleaning Charges	Private Benefit	Full Cost Recovery

Service	Principle	Basis of Cost
Gymnasium Entry Fees	Private Benefit	Full Cost Recovery + Possible Mark Up and/or Possible Future Consideration
Swimming Complex Entry Fees	Shared Benefit	Partial Cost Recovery
Leisure Centre Entry Fees	Private Benefit	Full Cost Recovery + Possible Mark Up and/or Possible Future Consideration
Kiosk Sales at Leisure Centre	Private Benefit	Full Cost Recovery + Possible Mark Up
Leasing – Commercial	Private Benefit	Full Cost Recovery
Leasing – Community	Shared Benefit	Partial Cost Recovery

GST Disclaimer

A goods and services tax (GST) applies to a number of goods and/or services supplied by the Shire. In accordance with the new tax legislation the prices shown for goods and/or services are the GST inclusive price.

Some goods and/or services supplied by the Shire have been declared “GST free” or excluded under Division 81 of the legislation. Those goods and /or services which are “GST free” or excluded from GST are indicated in the Schedule of Fees and Charges as GST not applying.

The Shire reviews all fees to determine if they are subject to GST. If a fee is subsequently proven not to be subject to GST, then that fee will be amended by reducing the GST to nil. Conversely if the Shire is advised that a fee which is shown as being not subjected to GST becomes subject to GST then the fee will be increased but only to the extent of the GST.

EXPLANATORY NOTES:

BACKGROUND

Fees and charges are important to ratepayers and to the users of services. From a ratepayer’s viewpoint, fee revenue supplements, and therefore ought to reduce, the rate burden. If fees and charges revenue do not keep pace with increases in the cost of service provision, or if fees are set only to partially recover costs, then the cost burden can fall back onto the ratepayer.

From the service user’s viewpoint, the fee or charge acts as a price signal about the cost and value of resources used to produce the service. It also creates a user expectation that appropriate service standards will be set and met.

The *Local Government Act 1995*, section 6.16 provides a local government with the power to impose and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.

In determining the amount of a fee or charge for a service or for goods, the Council, in accordance with section 6.17 of the *Local Government Act 1995*, must take into account:

- (a) *The cost to the local government of providing the service or goods; and*
- (b) *The importance of the service or goods to the community; and*
- (c) *The price at which the service or goods could be provided by an alternative provider.*

The additional principles contained in this Policy are to ensure that there is a reasonable approach utilised when developing the fees and charges that the Shire charges to the community. This approach is also equitable and transparent where the community can refer to these principles and better understand the reasoning behind why fees have been established the way they are.

TRANSITIONARY PERIOD

A number of the pricing principles will be difficult to achieve in their entirety and to their full extent in time for the adoption of the annual budget.

Council therefore commits to continuously working through these principles.

RISK:

Risk: Inability to fund the infrastructure gap.

Control: Develop LTFFP to ensure critical assets maintained in Annual Budgets.

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

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



PRICING PRINCIPLES AND PRICING BASIS POLICY FOR FEES AND CHARGES

OBJECTIVE:

Statement of intent

Council acknowledges that there are competing priorities of community service obligations, maintaining infrastructure and ensuring that ratepayers are not unduly burdened. However, financial resources, largely comprised of rate revenue, are limited. Therefore, the Pricing Principles and Pricing Basis Policy for Fees and Charges seeks to ensure that the Shire's fees and charges are determined utilising key principles that ensure fair and reasonable charging to the community for the goods and services that the Shire provides, therefore seeking the appropriate balance between these priorities.

POLICY:

Scope & Limitations

The pricing principles and pricing basis are to apply to all fees and charges where possible, or unless legislation determines otherwise.

The applicable legislation in reference to possible limitations includes section 6.17(3) of the Local Government Act 1995 which states that:-

- (3) The basis for determining a fee or charge is not to be limited to the cost of providing the service or goods other than a service —*
 - (a) under section 5.96; or*
 - (b) under section 6.16(2)(d); or*
 - (c) prescribed under section 6.16(2)(f), where the regulation prescribing the service also specifies that such a limit is to apply to the fee or charge for the service.*
- (4) Regulations may —*
 - (a) prohibit the imposition of a fee or charge in prescribed circumstances; or*
 - (b) limit the amount of a fee or charge in prescribed circumstances.*

Section 6.18 of the Local Government Act 1995 also states that:-

- (1) If the amount of a fee or charge for a service or for goods is determined under another written law a local government may not —*
 - (a) determine an amount that is inconsistent with the amount determined under the other written law; or*
 - (b) charge a fee or charge in addition to the amount determined by or under the other written law.*

- (2) *A local government is not to impose a fee or charge for a service or goods under this Act if the imposition of a fee or charge for the service or goods is prohibited under another written law.*

Background

Fees and charges are important to ratepayers and to the users of services. From a ratepayer's viewpoint, fee revenue supplements, and therefore ought to reduce, the rate burden. If fees and charges revenue do not keep pace with increases in the cost of service provision, or if fees are set only to partially recover costs, then the cost burden can fall back onto the ratepayer.

From the service user's viewpoint, the fee or charge acts as a price signal about the cost and value of resources used to produce the service. It also creates a user expectation that appropriate service standards will be set and met.

The Local Government Act 1995, section 6.16 provides a local government with the power to impose and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.

In determining the amount of a fee or charge for a service or for goods, the Council, in accordance with section 6.17 of the Local Government Act 1995, must take into account:

- (a) The cost to the local government of providing the service or goods; and*
- (b) The importance of the service or goods to the community; and*
- (c) The price at which the service or goods could be provided by an alternative provider.*

The additional principles contained in this Policy are to ensure that there is a reasonable approach utilised when developing the fees and charges that the Shire charges to the community. This approach is also equitable and transparent where the community can refer to these principles and better understand the reasoning behind why fees have been established the way they are.

Guiding Statement

The Council will consider the following principles when imposing fees and charges:

1. *Cost Reflective Pricing and Future Considerations*
2. *Community Expectations or Values*
3. *Comparison with Alternative Provider*
4. *Equity*
5. *Removal of Cross Subsidies*
6. *Predictability*
7. *Administrative Simplicity*
8. *Compliance with the Trade Practices Act 1975 and the National Competition Policy requirements*

1. COST REFLECTIVE PRICING AND FUTURE CONSIDERATIONS

Fees and charges have important implications for resource allocation and value for money for the community. Cost reflective pricing can help ensure the Council's resources are best utilised to meet its community needs.

Section 6.17(1)(a) of the Local Government Act 1995 requires the Council to consider "the cost to the local government of providing the service or goods". The Council will therefore consider the income anticipated from the imposition of the charge and the anticipated expenditure of administering the service.

Full cost recovery includes those costs both directly and indirectly associated with providing the good or service including capital costs (Examples of direct and indirect cost components are outlined in Table A below). Council's view is that full cost recovery, where appropriate, also contributes to achieving allocative efficiency – where resources are optimally allocated to benefit society and where the value consumers place on a good or service equals the cost of production.

Council may also consider the future plans for the services that are being provided, particularly in relation to assets including facilities, and consider the impact of asset management costs in the future.

The Local Government Act 1995, section 6.17(3) states that "the basis for determining a fee or charge is not to be limited to the cost of providing the service or goods..." other than in particular circumstances, therefore allowing for fees and charges to be in excess of full cost recovery.

To this end, section 6.17(2) of the Local Government Act 1995 also provides that "a higher fee or charge or additional fee or change may be imposed for an expedited service or supply of goods if it is requested that the service or goods be provided urgently."

Council will consider these options in determining the fees or charges to be imposed taking into account the situation that may surround the matter (eg. Additional labour hours may be required to provide the expedited service).

Table A

COMPONENTS OF COST		
TYPE OF COST	CATEGORIES	EXAMPLES
Indirect		
<i>Costs that are not directly attributable to an activity – often referred to as overheads</i>	<i>Capital</i>	<ul style="list-style-type: none"> • <i>Computers for corporate staff</i> • <i>Depreciation or lease of 'corporate' office buildings</i>
	<i>Administrative Expenses</i>	<ul style="list-style-type: none"> • <i>Cost of printing the annual report</i>
	<i>Materials and Supplies</i>	<ul style="list-style-type: none"> • <i>Stores and stationery used by corporate services staff</i>
	<i>Labour</i>	<ul style="list-style-type: none"> • <i>Chief Executive Officer and Director's remuneration</i>
Direct		
<i>Costs that can be readily and unequivocally attributed to a service or activity because they are incurred exclusively for that particular product/activity</i>	<i>Capital</i>	<ul style="list-style-type: none"> • <i>Depreciation or lease costs of specific-purpose buildings, vehicles, computers, and other equipment used directly in delivering services</i>
	<i>Administrative Expenses</i>	<ul style="list-style-type: none"> • <i>Transport, accommodation and meal expenses for service delivery staff service-related publications</i>
	<i>Materials and Supplies</i>	<ul style="list-style-type: none"> • <i>Spare parts, inventory, fuel</i>
	<i>Labour</i>	<ul style="list-style-type: none"> • <i>Salaries and wages of 'works unit' employees, payments to contractors and service providers</i>

Source: Victorian Auditor-General's Office.

2. COMMUNITY EXPECTATIONS OR VALUES

Each community member or group clearly places a “value” or level of importance on the goods and services that the Shire provides. This “value” will be dependent upon the strength of the benefits that it provides to the community member or group.

Section 6.17(1)(b) of the Local Government Act 1995 requires the Shire to take into consideration “the importance of the service or goods to the community” in determining the amount of a fee or charge for a service or goods.

Council will continue to work with the community to ascertain their views on the importance of services or goods provided to the community.

3. COMPARISON WITH EXTERNAL PROVIDER

A comparison of fees and charges that are imposed by other Council’s and service providers will be undertaken where possible.

4. EQUITY

Under the ‘user pays’ principle, the community should pay according to the level of benefits accrued to them. The Council has considered the following four levels of benefit that will be used when determining the pricing basis.

- 1. Public Benefit – the service provides a broad community benefit.*
- 2. Private Benefit – the service benefits particular users making a contribution to their individual income, welfare or profits generally without any broader benefits to the community.*
- 3. Shared Benefit – the service provides both community benefits and a private benefit.*
- 4. Regulatory – fee or charge that is fixed by legislation.*

5. REMOVAL OF CROSS SUBSIDIES

Cross subsidies exist where the price charged for one service is set below its cost and the price charged for another service is set above its cost to the extent that the overall costs are recovered.

Cross subsidies distort pricing causing an inefficient allocation of resources, and are not considered the most efficient way to achieve equity or efficient practices.

Where possible, Council will minimise cross subsidies between services or groups of consumers.

6. PREDICTABILITY

The fees and charges will be reviewed and adopted by Council at a minimum of 3 months prior to their commencement, where possible. This will ensure that the community has knowledge and certainty of the fees and charges which will allow the community to make more informed decisions.

7. ADMINISTRATIVE SIMPLICITY

The charging of fees and charges will be simple to administer therefore minimising administrative costs, while ensuring compliance with the applicable legislation.

8. COMPLIANCE WITH THE TRADE PRACTICES ACT 1974 AND THE NATIONAL COMPETITION POLICY

The National Competition Policy competitive neutrality reforms are focused on the significant business activities of all local governments. The Local Government Act 1993 only requires the application of full cost pricing to council business activities having a turnover in excess of \$200,000. Even then, competitive neutrality is only to be applied to the extent it can be demonstrated the benefits of implementation outweigh the costs.

The aim of the National Competition Policy is to create a level playing field by requiring Councils to adjust their service prices to neutralise any competitive advantages when competing with the private sector, such as the airport and landfill operations.

Council will consider the requirements of the Trade Practices Act 1974 and the National Competition Policy when determining fees and charges associated with its significant business activities.

Outcomes

The principles have been applied, and the benefits have been allocated a pricing basis by the Council as a guide in setting fees and charges.

Benefits and Pricing Basis Used by the Shire

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

** Note that for the Private Benefit Category, 3 additional Pricing Basis classifications may be considered by Council being:*

- 1. Full Cost Recovery + Possible Mark Up*
- 2. Full Cost Recovery + Possible Future Consideration*
- 3. Full Cost Recovery + Possible Mark Up and/or Possible Future Consideration*

Application of Pricing Basis to Good & Services

Service	Principle	Basis of Cost
Rates Enquiries	Private Benefit	Full Cost Recovery
Number Plates	Private Benefit	Full Cost Recovery
Photocopying	Private Benefit	Full Cost Recovery
Sale of List of Owner/Occupiers and Council Minutes/Agendas	Private Benefit	Full Cost Recovery
Other Council Publications (ie. rate books, Local Laws, Tender documents etc)	Private Benefit	Full Cost Recovery
Dog Pound	Shared Benefit	Partial Cost Recovery
Dog Tags	Shared Benefit	Partial Cost Recovery
Dog Registration and Infringements	Regulatory	100% of Regulatory Fee or Charge
Dog Seizure Fees	Private Benefit	Full Cost Recovery
Cat Pound	Shared Benefit	Partial Cost Recovery
Cat Registration and Infringements	Regulatory	100% of Regulatory Fee or Charge
Cat Seizure Fees	Private Benefit	Full Cost Recovery
Towing and Poundage Charges	Private Benefit	Full Cost Recovery
Road Closures and Traffic Management	Shared Benefit	Partial Cost Recovery
Bushfire Infringements	Regulatory	100% of Regulatory Fee or Charge
Caravan Parks & Camping Grounds	Regulatory	100% of Regulatory Fee or Charge
Building Control (applications, licences, levies etc)	Regulatory	100% of Regulatory Fee or Charge
Building Control – Private Certification	Private Benefit	Full Cost Recovery
Signage Approvals	Private Benefit	Full Cost Recovery
Deposits and Bonds	Private Benefit	Full Cost Recovery
Water Charges – Non Commercial	Shared Benefit	Partial Cost Recovery
Water Charges – Commercial	Private Benefit	Full Cost Recovery
Food Registrations, Applications and Other Charges	Private Benefit	Full Cost Recovery

Service	Principle	Basis of Cost
Development Applications	Regulatory	100% of Regulatory Fee or Charge
Subdivision Applications	Regulatory	100% of Regulatory Fee or Charge
Private Works	Private Benefit	Full Cost Recovery + Possible Mark Up
Rubbish Charges	Private Benefit	Full Cost Recovery
Landfill Charges	Private Benefit	Full Cost Recovery + Possible Future Consideration
Cemetery Fees	Private Benefit	Full Cost Recovery
Civic Centre	Shared Benefit	Zero to full cost recovery depending on usage
Trading in Thoroughfares and Public Places	Private Benefit	Full Cost Recovery
Sport Association Ground Hire	Shared Benefit	Partial Cost Recovery
Casual Ground Hire	Shared Benefit	Partial Cost Recovery
Library	Shared Benefit	Partial Cost Recovery
Airport	Private Benefit	Full Cost Recovery + Possible Future Consideration
Child Care	Shared Benefit	Partial Cost Recovery
Non Sporting Activity Facility Hire – Non Commercial	Shared Benefit	Partial Cost Recovery
Non Sporting Activity Facility Hire – Commercial	Private Benefit	Full Cost Recovery
Sporting Activity Facility Hire – Non Commercial	Shared Benefit	Partial Cost Recovery
Sporting Activity Facility Hire – Commercial	Private Benefit	Full Cost Recovery
Cleaning Charges	Private Benefit	Full Cost Recovery
Gymnasium Entry Fees	Private Benefit	Full Cost Recovery + Possible Mark Up and/or Possible Future Consideration
Swimming Complex Entry Fees	Shared Benefit	Partial Cost Recovery
Leisure Centre Entry Fees	Private Benefit	Full Cost Recovery + Possible Mark Up and/or Possible Future Consideration
Kiosk Sales at Leisure Centre	Private Benefit	Full Cost Recovery + Possible Mark Up
Leasing – Commercial	Private Benefit	Full Cost Recovery

Service	Principle	Basis of Cost
Leasing – Community	Shared Benefit	Partial Cost Recovery

GST Disclaimer

A goods and services tax (GST) applies to a number of goods and/or services supplied by the Shire. In accordance with the new tax legislation the prices shown for goods and/or services are the GST inclusive price.

Some goods and/or services supplied by the Shire have been declared “GST free” or excluded under Division 81 of the legislation. Those goods and /or services which are “GST free” or excluded from GST are indicated in the Schedule of Fees and Charges as GST not applying.

The Shire is currently reviewing all fees to determine if they are subject to GST. If a fee is subsequently proven not to be subject to GST, then that fee will be amended by reducing the GST to nil. Conversely if the Shire is advised that a fee which is shown as being not subjected to GST becomes subject to GST then the fee will be increased but only to the extent of the GST.

Transitional Period

A number of the pricing principles will be difficult to achieve in their entirety and to their full extent in time for the adoption of the 2014/15 Annual Budget.

Council therefore commits to continuously working through these principles over the coming year.

GOVERNANCE REFERENCES

Statutory Compliance	<i>Local Government Act, Part 6, Division 5, Subdivision 2 – Fees and Charges</i>
Industry Compliance	<i>N/A</i>
Organisational Compliance	<i>N/A</i>
Process Links	<i>Annual Budget Process</i>

POLICY ADMINISTRATION

Directorate		Officer Title		Contact:	
<i>Corporate Services</i>		<i>Director Corporate Services</i>		Ext: 121	
Date Effective	01/07/2014	CEO Approved			
Date Adopted	28/01/2014	Last Reviewed	08/01/2014		
Risk Rating	Low	Review Cycle	Annual	Next Due	28/01/2015
Organisational Compliance	N/A				
Process Links	Annual Budget Process				

13.2.4 Consideration of a Customer Service Policy and Complaints Management Policy for Adoption

DATE:	24/03/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Kununurra
AUTHOR:	Danielle King, Team Leader Records Management and Customer Services
REPORTING OFFICER:	Natalie Octoman, Director Corporate Services
FILE NO:	N/A
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to consider the adoption of a Customer Service Policy and a Complaints Management Policy and seek public comment on their content for the Council to subsequently consider.

BACKGROUND

At the 16 December 2014 Ordinary Council Meeting an item was presented to Council regarding statistical records of information requests received for calendar year 2013 versus 2014. At that meeting Council resolved the following:

COUNCIL DECISION

Minute No. 10741

Moved: Cr B Robinson

Seconded: Cr D Learbuch

That the Acting Chief Executive Officer develop the following for Council consideration in 2015:

- 1. Communications Policy**
- 2. Customer Service Charter**
- 3. Complaints Policy**

Carried unanimously 8/0

In January 2015 a round table discussion was held by Team Leaders to discuss the implementation of these policies and the charter. At this meeting it was determined that the proposed Communications Policy would be more appropriately separated into a Media Policy and a Customer Service Policy.

STATUTORY IMPLICATIONS

The *Local Government Act 1995* and associated regulations only provides avenues for dealing with complaints in relation to the conduct of councillors. However, the recommended policies are broader than this.

POLICY IMPLICATIONS

The Customer Service Policy and Complaints Management Policy will align directly with the Code of Conduct Policy and form new Council Policies if the officer's recommendation is accepted.

It should be noted that the *Local Government (Rules of Conduct) Regulations 2007* were introduced to provide a disciplinary framework to deal with individual misconduct by local government council members. The regulations only apply to complaints against elected members and do not apply to complaints about employees hence these policies are broader in their application.

It is also recommended that the Shire undertake community consultation in accordance with CP-GOV 3100 Community Engagement Policy and seek public comment on the proposed new policies.

FINANCIAL IMPLICATIONS

There will be a minor cost in seeking public comment through advertising, however the costs are already contained in the 2014/15 budget.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

Strategy 1.4.2: Improve the efficiency and productivity of Shire services

COMMUNITY ENGAGEMENT

Engagement will take place in accordance with CP GOV-3100 Community Engagement Policy and will include advertising in the SWEK news part of the Kimberley Echo, along with the Shire's website and Facebook page with the intention of seeking public comment. These comments will then be incorporated into a subsequent item to be presented to the Council for consideration.

COMMENT

The Shire of Wyndham East Kimberley is committed to the provision of professional and quality customer service. The purpose of these two policies is to outline the Shire's commitment to a consistent approach by providing appropriate systems to effectively deal with the complaints management process and the customer service standards. Reference has been made to the Ombudsman Western Australia publications during the development of the proposed Policies and have also been attached for the Council's reference.

Customer Service Policy

By keeping the community informed of the Shire's customer service standards and practises the Shire can develop realistic expectations around the services provided. It is important that opportunities are made available for the Shire's customers to provide feedback to ensure delivery of satisfaction is maintained and monitored at all times.

Complaints Management Policy

The purpose of the Complaints Management Policy is to recognise, promote and protect the customer's rights and to ensure the Shire has an efficient, fair and accessible framework for resolving customer complaints. These complaints can also then be monitored to assist in improving service delivery moving forward.

Implementation of the procedures within the Complaints Management Policy will generally take effect should the Shire fail, or perceive to fail in providing the services outlined in the Customer Service Policy. These 2 policies are to work in conjunction with each other and it is the Shire's aim to provide the best possible service experience and facilitate solutions at all times within the Shire's means.

It is recommended that the policies are adopted to take effect immediately; however that public comment is sought and subsequently considered by the Council, whereby the policies can be amended if required.

ATTACHMENTS

- Attachment 1 - Draft Customer Service Policy
- Attachment 2 – Draft Complaints Management Policy
- Attachment 3 – Guidelines on Complaint Handling – Ombudsman Western Australia
- Attachment 4 – Managing Unreasonable Complainant Conduct: Practice Manual – Ombudsman Western Australia

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Adopts the Customer Service Policy effective immediately;
2. Adopts the Complaints Management Policy effective immediately;
3. Directs the Acting Chief Executive Officer to seek public comment in relation to the Customer Service Policy and the Complaints Management Policy;
4. Notes that the Communications Policy resolved at the December Ordinary Meeting of Council has been separated into two policies, being the Customer Services Policy and a new Media Policy that is currently in development;
5. Notes that to ensure the appropriate implementation of a Customer Service Charter incorporating service standards, the Shire will require a significant review of procedures and systems to support its implementation and ongoing measurement against the standards set, which is not funded in 2014/15 and would need to be considered as part of the 2015/16 Budget Process.

Cr D Learbuch declares an impartiality interest in this item.

AMENDMENT

Cr K Wright moves an amendment to points 1 and 2 of the Officer's Recommendation, changing the word adopt to endorse.

COUNCIL DECISION

Minute No. 10837

Moved: Cr K Wright

Seconded: Cr D Spackman

That Council:

- 1. Endorse the Customer Service Policy effective immediately;**
- 2. Endorse the Complaints Management Policy effective immediately;**
- 3. Directs the Acting Chief Executive Officer to seek public comment in relation to the Customer Service Policy and the Complaints Management Policy;**
- 4. Notes that the Communications Policy resolved at the December Ordinary Meeting of Council has been separated into two policies, being the Customer Services Policy and a new Media Policy that is currently in development;**
- 5. Notes that to ensure the appropriate implementation of a Customer Service Charter incorporating service standards, the Shire will require a significant review of procedures and systems to support its implementation and ongoing measurement against the standards set, which is not funded in 2014/15 and would need to be considered as part of the 2015/16 Budget Process.**

Carried 6/2

**For: Cr K Wright, Cr D Spackman, Cr D Learbuch, Cr B Robinson, Cr S Cooke,
Cr G Taylor**

Against: Cr J Moulden, Cr R Dessert



POLICY NO	CP	
POLICY	Customer Service Policy	
RESPONSIBLE DIRECTORATE	Corporate Services	
RESPONSIBLE OFFICER	Director Corporate Services	
COUNCIL ADOPTION	Date: 24/03/15	Resolution No:
REVIEWED/MODIFIED	Date:	Resolution No:
	Date:	Resolution No:
REVIEW DUE	Date: June 2015	
LEGISLATION	<i>Local Government Act 1995 – Sections 2.7, 5.40, 5.41</i> <i>State Records Act 2000</i> <i>Freedom of Information Act 1992</i> <i>Occupational Safety and Health Act 1984</i>	
RELATED POLICIES	Complaint Management Policy Council's Code of Conduct Records Management Policy	
RELATED PROCEDURES		

PURPOSE:

The purpose of this policy is to establish Council's commitment to delivering professional and quality customer services within the limits of Council resources, priorities and risk management requirements.

The Policy aims to:

1. Promote consistency and fairness in the manner in which the Shire responds to customer service requests, concerns and compliments;
2. Make Council's Policies, and the limits for addressing customer service requests accessible and understandable to the customer;
3. Ensure customers receive full and appropriate level of service within the bounds of available resources, priorities and risk management requirements;
4. Promote leading practice behaviours and attitudes as the basis for effective and efficient customer service.

This Policy should be read in conjunction with Ombudsman Western Australia's "Guidelines on Complaint Handling" and "Managing Unreasonable Complainant Conduct: Practice Manual".

DEFINITION:

Complaint is an expression of dissatisfaction with Council's level of service, employees, or policies and procedures affecting an individual or group of customers.

Compliment is a statement of satisfaction regarding Council's level of service, employees, or policies and procedures affecting an individual or group of customers.

Concern is any matter of interest or importance to the customer.

Customer is any person or organisation having dealings with the Shire of Wyndham East Kimberley.

Customers Who Cannot Be Satisfied and/or Constantly Raise the Same Issue With Different Staff may include any person or groups who do not accept that the Council is unable to assist them, provide any further assistance or level of service than has been provided already and/or disagree with the action Council has taken in relation to the complaint, concern or customer service request and who continue to make representations to staff insisting, demanding action/attention/resolution to their matter.

Customers Who Make Unreasonable Demands include any person whose demands staff to significantly and unreasonable divert Council's resources away from core functions or create an unequitable allocation of resources to other customers. Such demands may result from the amount of information requested, the nature or scale of services sought or the number of approaches seeking information, assistance or service.

Customer Service Request is a request for the provision of services (including the provision of information); a report about damaged or faulty infrastructure; a report requiring action by the Shire, for example reports about noise, dogs, unauthorised building work or similar issues that fall into the regulatory aspects of the Shire's service provision. All customer service requests will be recorded as a Customer Service Request within the Records Module of SynergySoft (the Shire's software system).

Difficult Customer Behaviours includes behaviour that is rude, abusive or aggressive through expressions or gestures, verbal abuse of a personal or general nature, intimidating, threatening or offensive behaviour, physical violence or physical violence against a person.

Service Standard is a stated timeframe for the completion of customer service requests as published in the Council's Customer Service Charter (under development).

Unreasonable Behaviour includes behaviour from those who, because of their contacts with the Shire and staff, negatively impact on the ability to deal effectively with their, or other customer's concerns, requests or complaints.

Vexatious Concerns, Customer Service Requests or Requests for Information include those that are likely to cause distress, disruption, irritation or embarrassment, without any proper or justified cause.

POLICY STATEMENTS:

Scope

This Policy applies to all Councillors and staff at the Shire of Wyndham East Kimberley who deal with customers, members of the public, other agencies, service providers, community organisations or other members of staff. The policy applies to all customer compliments, concerns and customer service requests made by customers in relation to the Shire's operations.

This Policy does not apply to concerns or complaints about the conduct of Councillors or staff that are in accordance with prescribed rules of conduct as described in the *Local Government Act 1995 and Local Government (Rules of Conduct) Regulations 2007* or the Council's Code of Conduct. Please refer to Council's Complaint Management Policy and Code of Conduct.

The Shire of Wyndham East Kimberley's Commitment to Customer Service

- We are committed to the timely, efficient, and consistent delivery of a range of quality services which support the vision and mission contained within the Strategic Community Plan 2012-2022:

Vision:-

For the East Kimberley to be a thriving community with opportunities for all.

Mission:-

To enable the East Kimberley to develop in a manner that will achieve social, cultural, economic and environmental benefits for all.

- We will ensure that all customer contact is fair, courteous, respectful and professional. We subscribe to continuous improvement in service delivery to meet the changing needs of our customers and community.
- We will provide accurate information and advice about a customer's obligations and entitlements.
- We strive to provide a level of service that does not attract complaints, however in the instances where customers are dissatisfied, we will take all possible steps to achieve a resolution.

EXPLANATORY NOTES:

How You Can Contact Us

You can contact us to make an enquiry, lodge a customer service request, concern or compliment:

1. In person by visiting one of the Shire Administration Offices, or by telephone between the hours of 8:00am to 4:00pm Monday to Friday (except Public Holidays) at:

Kununurra Administration Office

20 Coolibah Drive, Kununurra

Ph: (08) 9168 4100

Fax: (08) 9168 1798

Wyndham Administration Office

Koolama Street, Wyndham

Ph: (08) 9161 1002

Fax: (08) 9161 1295

2. By post to PO Box 614, Kununurra, WA, 6743
3. By email to: mail@swek.wa.gov.au
4. Via the internet by visiting the Shire's website at: www.swek.wa.gov.au

Service Standards

- When you, as a customer, visit or telephone the Shire, we will:
 - Treat you politely and with respect;
 - Listening carefully to what you say;
 - Provide a prompt, relevant, accurate and professional service;
 - Refer you, where appropriate, to alternative places where the service may be available if the Shire is not able to provide the service you seek;
 - Treat your personal information with confidentiality;
 - Be helpful and sensitive to your needs;
 - Keep you informed if the resolution to your enquiry is being delayed.
- Where an enquiry is of a complex nature, or a meeting with a specific Officer is required, customers are requested to make a prior appointment.
- Response Times
 - The Shire undertakes a wide variety of activities which vary both in complexity and time taken to complete.
 - If you lodge a concern, request for information or a customer service request, you will be provided with an acknowledgement of receipt within 10 working days.
 - After an acknowledgement is issued, the response times will be dependent upon your request or concern, whereby Officers will endeavour to keep you informed of the progress.
 - The Shire is currently developing a schedule of processing/response times to provide a guide to the most common service requests, with target times for completion or resolution.
 - Response times extend to any online communications.

- Accessibility
 - We will make our services accessible for customers by supplementing personal contact options with a range of web and telephone-based payment, service request and information services.

Our Expectations of Our Customers

To help us to help you, we ask that you:

- Treat our staff courteously and with mutual respect.
- To respect the privacy and rights of other people.
- Provide us with your name, address and telephone number so that compliments, customer service requests and concerns can be registered and responded to.
- Provide complete and accurate details of your customer service request or concern and work with us to resolve these together.
- Provide separate communications for individual issues.
- Report any damage to, or failure of, the Shire's infrastructure or property.
- Provide us with constructive feedback.
- Phone to make an appointment for a complex enquiry or a need to see a specific Officer.

Customer Service Process

1. If a customer's dissatisfaction relates to a failure in the Shire's infrastructure or service, such as potholes in a road, or an uneven footpath, this will be treated in the first instance as a customer service request.
2. A customer service request may be lodged by telephone or in writing, at the Customer Service counter, or via the internet where an appropriate department or Officer will be allocated the task.
3. If a customer is not satisfied with the outcome of a customer service request or concern, or the matter relates to unsatisfactory conduct of an Officer(s), the matter will be treated as a complaint and dealt with by the Chief Executive Officer. All complaints are to be lodged in writing. Please refer to the Complaints Management Policy for further information.
4. We commit to a range of options for addressing unfair and incorrect decisions, or any unreasonable Policy or procedure, or any inappropriate response, action or treatment by an Officer. Appropriate remedies may include:
 - Admission of fault and apology
 - Explanation
 - Change of decision
 - Change to a policy or procedure
 - Repair / rework / replacement
 - Counselling or disciplining of staff

More than one remedy may be applied if the circumstances justify that course of action.

Dealing with Difficult Customer Behaviours

Councillors and staff aim to treat customers with respect at all times and to make every reasonable effort to address the customer's needs even if they are being difficult or demanding. However, customers are also expected to treat staff and Councillors with respect and courtesy. This expectation is also extended to any online communications.

Customers Who Cannot Be Satisfied and/or Constantly Raise the Same Issue With Different Staff

It is certain however, that whatever standard or professional and positive customer service the Shire achieves, there will always be a small percentage of customers whose issues cannot be dealt with to their satisfaction. This may be the result of a refusal by the customer to accept a decision, demands placed on the Council or staff which are not within our scope or resources to meet, or a level of rudeness or aggression shown to staff or a Councillor by the customer that makes it unsafe or unreasonable to proceed. In these situations the Shire will take steps to ensure our staff's health, safety and wellbeing is protected.

If, in the opinion of the Chief Executive Officer, a customer cannot be satisfied and all appropriate avenues of internal review or appeal have been exhausted and the customer continues to write, telephone, email and/or visit the Council the following actions may be taken:

1. Not accept any further phone calls from the customer;
2. Not grant any further interviews (meetings);
3. Continue to receive, read and file correspondence including online communications, but only acknowledge or otherwise respond to it if:
 - a. The customer provides significant new information relating to their concern, customer service request or complaint;
 - b. The customer raises new issues which, in the Chief Executive Officer's opinion, warrant fresh action.

If in the opinion of the Chief Executive Officer, a customer is constantly raising the same issues with different staff, the Chief Executive Officer may notify the customer that:

1. Only a nominated staff member will deal with them in the future;
2. They must make an appointment with that person if they wish to discuss their matter;
or
3. All future contact with the Council must be in writing.

The customer will be given the opportunity to make representations about Council's proposed course of action and will be referred to Council's Complaint Management Policy or Council's Code of Conduct for options available to them by way of formal complaint about particular staff or via submissions they might make to the Western Australian Ombudsman.

The Chief Executive Officer will advise Councillors of any correspondence issued to customers who cannot be satisfied.

Customers Who Make Unreasonable Demands

If, in the opinion of the Chief Executive Officer, a customer is making unreasonable demands on the Council or staff and the customer continues to write, telephone, email and/or visit the Council the following actions may be taken:

1. The Chief Executive Officer may write to the customer advising them of the Council's concern and requesting that they limit and focus their requests and that if the customer continues to place unreasonable demands on the organisation then the Shire may;
 - a. Not respond to any future correspondence and only take action where, in the opinion of the Chief Executive Officer, the correspondence raises specific, substantial and serious issues; or
 - b. Only respond to a certain number of requests in a given period.

The customer will be given the opportunity to make representations about Council's proposed course of action and will be referred to Council's Complaint Management Policy or Council's Code of Conduct for options available to them by way of formal complaint about particular staff or via submissions they might make to the Western Australian Ombudsman.

Customers Who Are Demonstrating Difficult Customer Behaviours

If, in the opinion of any staff member, rude, abusive or aggressive comments or statements are made in telephone conversations or meetings, the staff member may:

1. Warn the customer that if the behaviour continues, that the conversation or meeting will be terminated;
2. Terminate the conversation or meeting if the rude, abusive or aggressive behaviour continues after a warning has been given;
3. Call upon a Manager or Police, as appropriate, if there is a perceived threat.

Where a conversation or meeting has been terminated, the staff member must notify the Chief Executive Officer as soon as possible.

If, in the opinion of the Chief Executive Officer, any correspondence to Council contains personal abuse, inflammatory statements or material clearly intended to intimidate, it will be returned to the sender and not otherwise acted upon.

Vexatious Customers

If a customer continues to make representations:

- That have no basis of fact and/or are considered frivolous or mischievous;
- That are conducted in a manner to harass or annoy, to cause delay or detriment, or any other wrongful purpose;
- That have been instituted or pursued without reasonable grounds;
- Whereby the customer is unreasonable in their persistence of demands;
- Whereby the customer demonstrates an unreasonable lack of cooperation;
- Whereby any staff member's personal boundaries are made to feel threatened, stressed or ill at ease through any of the customer's behaviours;

the Chief Executive Officer may declare them to be a vexatious customer and the following actions may be taken:

1. Not accept any further phone calls from the customer;
2. Not grant any further interviews (meetings);
3. Continue to receive, read and file correspondence but only acknowledge or otherwise respond to it if:
 - a. The customer provides significant new information relating to their concern, customer service request or complaint;
 - b. The customer raises new issues which, in the Chief Executive Officer's opinion, warrant fresh action.

The customer will be given the opportunity to make representations about the Shire's proposed course of action and will be referred to Council's Complaint Management Policy or Council's Code of Conduct for options available to them by way of formal complaint about particular staff or via submissions they might make to the Western Australian Ombudsman.

The Chief Executive Officer will advise Councillors of any correspondence issued to customers that have been deemed to be vexatious.

General

In all of the situations referred to in this Policy, adequate documentary records must be made and maintained on the appropriate Shire file.

Where the Chief Executive Officer determines to limit a customer's access to the Shire in any of the ways specified in this Policy, the Chief Executive Officer must advise the Councillors as soon as possible of the relevant circumstances and the action taken.

RISK:

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

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

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

Control: Current budget and service levels.

Risk: Loss of corporate knowledge with staff turnover.

Control: Documentation of service procedures; multi-skilling where appropriate.

Risk: Wrong advice provided by CEO leading to political damage or financial loss.

Control: Seek specialist technical and legislative/legal advice from relevant agencies and organisations.

Risk: Poor communication of Council issues to the community.

Control: Media and communications policy and procedures; media training for Councillors.



POLICY NO	CP	
POLICY	Complaints Management Policy	
RESPONSIBLE DIRECTORATE	Corporate Services	
RESPONSIBLE OFFICER	Director Corporate Services	
COUNCIL ADOPTION	Date: 24/03/15	Resolution No:
REVIEWED/MODIFIED	Date:	Resolution No:
	Date:	Resolution No:
REVIEW DUE	Date: June 2015	
LEGISLATION	<i>Local Government Act 1995 – Sections 2.7, 5.40, 5.41</i> <i>State Records Act 2000</i> <i>Freedom of Information Act 1992</i>	
RELATED POLICIES	Customer Service Policy Council's Code of Conduct Records Management Policy	
RELATED PROCEDURES		

PURPOSE:

The purpose of this policy is to demonstrate the Council's commitment to provide an efficient, transparent, fair and accessible framework that will ensure the effective and timely resolution of complaints.

DEFINITIONS:

A **complaint** should not be confused with a **customer service request** or a **concern**.

Complaint is an expression of dissatisfaction with Council's level of service, employees, or policies and procedures affecting an individual or group of customers that has been received in writing.

Concern is any matter of interest or importance to the customer.

Customer is any person or organisation having dealings with the Shire of Wyndham East Kimberley.

Customer Service Request is a request for the provision of services (including the provision of information); a report about damaged or faulty infrastructure; a report requiring action by the Shire, for example reports about noise, dogs, unauthorised building work or similar issues that fall into the regulatory aspects of the Shire's service provision. All customer service requests will be recorded as a Customer Service Request within the Records Module of SynergySoft (the Shire's software system).

POLICY STATEMENTS:

Scope

This Policy applies to all Councillors and staff at the Shire of Wyndham East Kimberley who deal with customers, members of the public, other agencies, service providers, community organisations or other members of staff. The policy applies to all customer complaints made in writing, in relation to:

- Administrative actions of the Shire;
- Competitive neutrality;
- Conduct and performance of elected members;
- Staff behaviour and misconduct.

This Policy does not apply to:

- A customer service request.
- Verbal advice of unsatisfactory service or performance.
- Disagreement with a policy or the direction of the Council.
- A request for information or an explanation of a policy or procedure.
- A complaint for which statutory review processes exist, such as an appeal against a planning decision for which there are appeal provisions in the Planning and Development Act 1995.
- An expression of dissatisfaction with the behaviour or performance of a Councillor whereby the mechanism is contained in the *Local Government (Rules of Conduct) Regulations 2007* or Council's Code of Conduct.
- An expression of dissatisfaction with the behaviour or performance of a staff member whereby the mechanism is contained in the Council's Code of Conduct.
- A work-related grievance of an Officer or contractor.

The Shire of Wyndham East Kimberley's Commitment to Complaints Handling

We are committed to ensure that the following 10 key principles form the basis of our complaints handling process:

1. *Customer Focused*

The organisation is committed to effective complaint handling and values feedback through complaints.

2. *Visibility*

Information about how and where to complain is well publicised to customers, staff and other interested parties.

3. *Accessibility*

The process of making a complaint and investigating it is easy for complainants to access and understand.

4. *Responsiveness*

Complaints are acknowledged in a timely manner, addressed promptly and according to order of urgency, and the complainant is kept informed throughout the process.

5. Objectivity and Fairness

Complaints are dealt with in an equitable, objective and unbiased manner. This will help to ensure that the complaint handling process is fair and reasonable. Unreasonable complainant conduct is not allowed to become a burden.

6. Confidentiality

Personal information related to complaints is kept confidential.

7. Remedy

If a complaint is upheld, the organisation provides a remedy.

8. Review

There are opportunities for internal and external review and/or appeal about the organisation's response to the complaint, and the complainants are informed about these avenues.

9. Accountability

Accountabilities for complaint handling are clearly established, and complaints and responses to them are monitored and reported to management and other stakeholders.

10. Continuous Improvement

Complaints are a source of improvement for the Shire.

To ensure that decision making is fair and reasonable, the rules or principles of natural justice will be applied to all investigations. This includes:

- The right to a fair hearing through:
 - An absence of bias;
 - Decisions based on evidence; and
 - Proper examination of all issues.

Anonymous Complaints

Limitations will apply to the investigation of anonymous complaints.

Anonymous complaints will not be investigated unless the matter is:

1. A matter for which the Shire is obliged to act, prescribed in the *Local Government Act 1995*, the *Corruption and Crime Commission Act 2003* or under any other written law;
2. A matter which if not attended to could reasonably constitute a significant risk to the health and/or safety of persons, animals or the environment.

EXPLANATORY NOTES:

How You Can Contact Us

You can contact us to make a complaint:

1. By post to PO Box 614, Kununurra, WA, 6743
2. By email to: mail@swek.wa.gov.au
3. Via the internet by visiting the Shire's website at: www.swek.wa.gov.au

Service Standards

1. When you, as a customer, visit or telephone the Shire, we will:
 - Treat you politely and with respect;
 - Listening carefully to what you say;
 - Provide a prompt, relevant, accurate and professional service;
 - Referring you, where appropriate, to alternative places where the service may be available if the Shire is not able to provide the service you seek;
 - Treating your personal information with confidentiality;
 - Being helpful and sensitive to your needs;
 - Keep you informed if the resolution to your enquiry is being delayed.
2. Where an enquiry is of a complex nature, or a meeting with a specific Officer is required, customers are requested to make a prior appointment.
3. Response Times
 - The Shire undertakes a wide variety of activities which vary both in complexity and time taken to complete.
 - If you lodge a complaint, you will be provided with an acknowledgement of receipt within 10 working days to your nominated postal address.
 - After an acknowledgement is issued, the response times will be dependent upon your complaint and the investigations involved whereby Officers will endeavour to keep you informed of the progress.
 - Following the investigation of your complaint a response will be forwarded to your nominated postal address.
 - These response times extend to any online communications.

Our Expectations of Our Customers

To help us to help you, we ask that you:

- Treat our staff courteously and with mutual respect.
- Respect the privacy and rights of other people.
- Provide us with your name, address and telephone number so that complaints can be responded to.
- Provide complete and accurate details of your complaint and work with us to resolve these together.
- Provide separate communications for individual complaints.
- These expectations extend to any online communications.

Customer Service Process

1. If a customer is not satisfied with the outcome of a complaint, you have the right to request an internal review. The internal review will be undertaken by a staff member who:
 - is not subordinate to the staff member who conducted the initial review; and
 - Is not a staff member who was involved in dealing with the complaint.
2. If a customer is not satisfied by the internal review outcome of a complaint, you have the right to make a complaint to the Ombudsman Western Australia.

How to Lodge a Complaint to the Ombudsman Western Australia

You can lodge your complaint by post, fax or email, or deliver it directly to the Ombudsman's office using the contact details listed below:

Ombudsman Western Australia

Level 2, Albert Facey House

469 Wellington Street, Perth, WA, 6000

PO Box Z5386

St Georges Terrace, Perth, WA, 6831

Email: mail@ombudsman.wa.gov.au

Please also refer to the Ombudsman's website for assistance and guidelines relevant to lodging a complaint: www.ombudsman.wa.gov.au

General

In all of the situations referred to in this Policy, adequate documentary records must be made and maintained on the appropriate Shire file.

RISK:

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

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

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

Control: Current budget and service levels.

Risk: Loss of corporate knowledge with staff turnover.

Control: Documentation of service procedures; multi-skilling where appropriate.

Risk: Wrong advice provided by CEO leading to political damage or financial loss.

Control: Seek specialist technical and legislative/legal advice from relevant agencies and organisations.

Risk: Poor communication of Council issues to the community.

Control: Media and communications policy and procedures; media training for Councillors.

Guidelines on Complaint Handling

Ombudsman Western Australia
Serving Parliament – Serving Western Australians



Guidelines on Complaint Handling:

- Effective handling of complaints made to your organisation
- Making your complaint handling system accessible
- Complaint Handling Systems Checklist
- The principles of effective complaint handling
- Guidance for Complaint Handling Officers
- Dealing with unreasonable complainant conduct
- Investigation of complaints
- Procedural fairness (natural justice)
- Remedies and redress
- Good record keeping

A complete list of available Ombudsman Western Australia publications is available at the back of this booklet.



Benefits of good complaint handling

Complaints are an important way for the management of an organisation to be accountable to the public, as well as providing valuable prompts to review organisational performance and the conduct of people that work within and for it.

A complaint is an “expression of dissatisfaction made to an organisation, related to its products, or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected” ¹.

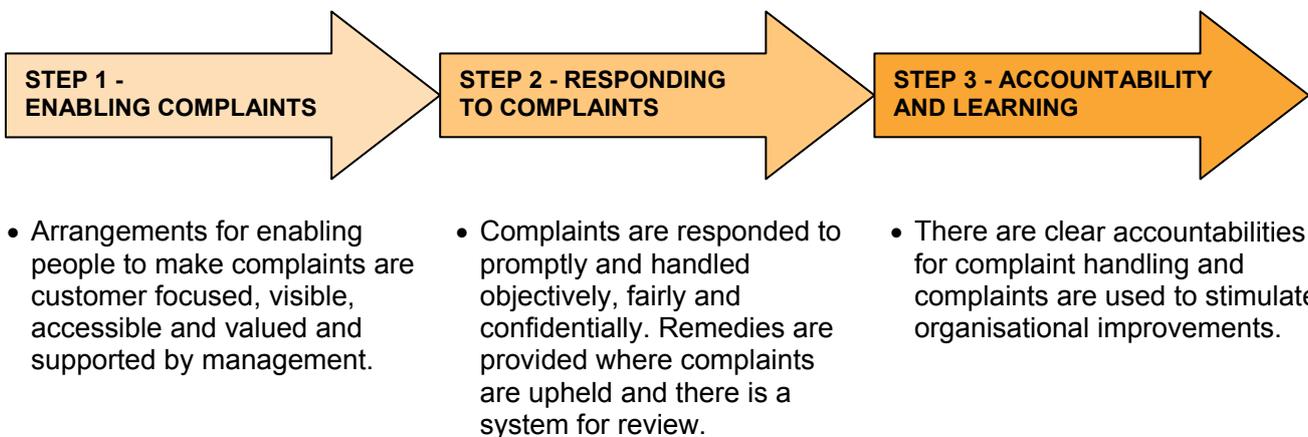
An effective complaint handling system provides three key benefits to an organisation:

- It resolves issues raised by a person who is dissatisfied in a timely and cost-effective way;
- It provides information that can lead to improvements in service delivery; and
- Where complaints are handled properly, a good system can improve the reputation of an organisation and strengthen public confidence in an organisation’s administrative processes.

Effective complaint handling is fundamental to the provision of a quality service.

The public wants:	The organisation needs:
<ul style="list-style-type: none"> • a user friendly complaint handling system • to be heard and understood • to be respected • an explanation • an apology • action as soon as possible 	<ul style="list-style-type: none"> • a user friendly system for accepting feedback • clear delegations & procedures for staff to deal with complaints and provide remedies • a recording system to capture complaint data • to use complaint data to identify problems and trends • to improve service delivery in identified areas

Effective complaint handling systems



Most Western Australian State Government organisations are required to have a complaint management system in place as required by [Public Sector Commissioner’s Circular 2009-27 - Complaints Management](#).

1. See *Australian Complaint Handling Standard ISO AS 10002-2006*, available at www.standards.com.au.

Ten Principles for an Effective Complaint Handling System

Enabling complaints

Having a customer focused system that is visible and accessible, with a demonstrated commitment from the organisation's management.

<p>Customer focused</p>	<p>Principle: The organisation is committed to effective complaint handling and values feedback through complaints.</p> <ul style="list-style-type: none"> Organisations should be open to feedback and committed to seeking appropriate resolution of complaints and addressing policy and process inadequacies highlighted by them. This commitment should be communicated to all staff, stakeholders and clients, for example through documents such as values statements or customer service standards. Organisations should have a clearly communicated complaint handling process and management that values the benefits of an effective complaint handling system and supports the process.
<p>Visibility</p>	<p>Principle: Information about how and where to complain is well publicised to customers, staff and other interested parties.</p> <ul style="list-style-type: none"> Information about how and where to complain should be well publicised through a variety of service delivery points including publications, websites, at offices and at front counters. Front-line staff should be aware of the complaint handling process and the contact details of the organisation's Complaint Handling Officer(s). The information about how to complain should identify any appropriate alternative external parties the complainant can go to with their complaint.
<p>Accessibility</p>	<p>Principle: The process of making a complaint and investigating it is easy for complainants to access and understand.</p> <ul style="list-style-type: none"> Complaints should be handled at no charge and this should be made clear in information provided about the complaint handling process. Information about the complaints process should be available in a variety of forms of communication, formats and languages appropriate to the needs of the customer. Complaints and all supporting documents provided during a complaint resolution or investigation process should be accepted in a number of different ways including in person, over the phone, and in writing via email, fax and letter, and, where appropriate, access to translating and interpreting services for non-English speaking people should be provided. Complaint handling systems should be accessible to members of the public who may require additional assistance such as Indigenous Australians, children and young people, people living in regional and remote areas, people with disabilities and people from culturally and linguistically diverse backgrounds. <p>For more information, see the Ombudsman WA Guidelines <u>Making your complaint handling system accessible</u>.</p>

Responding to complaints

Complaints are handled objectively and fairly with appropriate confidentiality, remedies are provided where complaints are upheld and there is a system for review for finalised complaints.

<p>Responsiveness</p>	<p>Principle: Complaints are acknowledged in a timely manner, addressed promptly and according to order of urgency, and the complainant is kept informed throughout the process.</p> <ul style="list-style-type: none"> • Guidance should be provided to staff on how to respond to and prioritise complaints. They should be aware of internal complaint handling processes including how to assess complaints which may be resolved quickly and those which require investigation. • Complaints should be acknowledged promptly. Complainants and, if applicable, the person who is the subject of the complaint, should be kept informed of progress and the outcome of the complaint. • Complaints should be addressed promptly in order of urgency and staff should be aware of any target timelines for resolving complaints. • Complaint Handling Officers should be empowered to either resolve complaints or be aware of, and have access to, the person who has the authority to do so. • Where appropriate, special arrangements for responding to particular client groups should be put in place, for example, Indigenous Australians, children and young people, people living in regional and remote areas, people with disabilities and people from culturally and linguistically diverse backgrounds. • Staff should be able to identify matters that may be public interest disclosures and refer them to the appropriate process, and should refer any identified misconduct and corrupt behaviour to the Corruption and Crime Commission.
<p>Objectivity and fairness</p>	<p>Principle: Complaints are dealt with in an equitable, objective and unbiased manner. This will help to ensure that the complaint handling process is fair and reasonable. Unreasonable complainant conduct is not allowed to become a burden.</p> <ul style="list-style-type: none"> • Complaint Handling Officers should deal with all complaints on their merit in an equitable, objective and unbiased manner. They must ensure that any conflicts of interest are declared. • Complaint Handling Officers should ensure the complainant and, if applicable, the person who is the subject of the complaint, is given sufficient opportunity to present their position, to comment on any adverse findings and is provided with reasons for decisions on the outcome of the complaint. • Complaint handling systems should have a review process in which the Complaint Handling Officer's decision is reviewed by a suitably experienced colleague or superior before the complaint is finalised. There should also be an independent internal review or appeal process. • Officers receiving and handling complaints should receive appropriate guidance or training, including for dealing with unreasonable conduct by the complainant or the subject of the complaint. <p>The Ombudsman WA publications <u>Conducting administrative investigations</u>, <u>Investigation of complaints</u>, <u>Procedural fairness</u> and <u>Dealing with unreasonable complainant conduct</u> may assist your staff in handling complaints with objectivity and fairness.</p>

Confidentiality	<p>Principle: Personal information related to complaints is kept confidential.</p> <ul style="list-style-type: none"> • The personal information of the complainant and any people who are the subject of a complaint should be kept confidential and only used for the purposes of addressing the complaint and any follow up actions.
Remedy	<p>Principle: If a complaint is upheld, the organisation provides a remedy.</p> <ul style="list-style-type: none"> • Mechanisms should exist for enabling appropriate remedies to be provided when complaints are upheld and staff should be familiar with them. • Staff should be empowered to provide these remedies at the appropriate level, for example some appropriate remedies may be provided by front-line staff. • Staff should be able to give the complainant reasons for decisions relating to remedies.
Review	<p>Principle: There are opportunities for internal and external review and/or appeal about the organisation’s response to the complaint, and the complainants are informed about these avenues.</p> <ul style="list-style-type: none"> • There should be an independent internal review or appeal process. • Details of external rights of review or appeal for unresolved complaints should be made available to complainants.

Accountability and Learning

There are clearly established accountabilities for complaint handling and continuous improvement opportunities are identified and implemented, as appropriate.

Accountability	<p>Principle: Accountabilities for complaint handling are clearly established, and complaints and responses to them are monitored and reported to management and other stakeholders.</p> <ul style="list-style-type: none"> • There should be clear responsibilities for handling complaints. This may include officers who are specifically assigned to deal with complaints and the names of these officers should be communicated to staff. • Organisations should have a ‘fit for purpose’ centralised system for recording and tracking complaints along with reasons for any decisions. This system should be able to provide information on the demographic make up of complainants to enable an assessment of differing service delivery needs for people from a range of backgrounds. • Remedies and proposed improvements to practices should be followed up and acted on. • Complaints and any actual or proposed improvements to practices should form part of the organisation’s internal reporting and planning process through such channels as Corporate Executive meetings and Strategic and Operational Plans. • All correspondence relating to feedback and complaints should be managed in accordance with the organisation’s record keeping plan, policies and procedures. For more information, see the Ombudsman WA Guidelines Good record keeping. • The effectiveness of the complaint handling system should be monitored, for example, through quality assurance or internal audit processes and reported to Corporate Executive along with recommendations for improvements to the system.
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Continuous Improvement

Principle: Complaints are a source of improvement for organisations.

- Organisations should analyse complaints data and feedback to identify recurrent themes that might identify systemic issues and use the information gathered through their complaint handling systems to identify service, process and information issues that need to be addressed.
- Where appropriate, analysis of feedback and complaint information should be used to identify and implement improved practices for particular customer groups including people with disabilities, people living in regional and remote areas, Indigenous Australians, children and young people, and people from linguistically and culturally diverse backgrounds.

Organisations may find the Ombudsman WA publication [Complaint handling systems Checklist](#) useful to assess their complaint handling system.

Fit for purpose complaint handling system

An effective complaint handling system should be a 'fit for purpose' system. This is a system that is varied to fit an organisation's circumstances and is proportionate to the number and type of complaints it receives. Decisions about building a 'fit for purpose' system could incorporate the following considerations:

- The number and demographics of the organisation's customers, and how they generally communicate with the organisation;
- The nature and breadth of the organisation's interactions with the public;
- The level of complaints that is considered reasonable for the organisation (by examining trends in its level of complaints over time and industry benchmarks);
- The organisation's risk management strategy – complaints are an important way of monitoring and mitigating any risks;
- The value the organisation derives, or wishes to derive, from complaints to improve its operations over time, as well as other information needs of management; and
- The cost of operating a complaint handling system.

Complaint Handling Officers

Complaint handling is an important role in an organisation and should be recognised as such by management. Complaint Handling Officers are the most important factor in ensuring that an organisation's complaint handling is responsive to complainants. Complaint Handling Officers should be empowered to make decisions, or have access to someone who can make decisions.

Complainants are more likely to be satisfied with the complaint handling system if the person dealing with their complaint is competent, objective and efficient.

An effective resolution at the earliest opportunity will enhance the complainant's view of the organisation and allow prompt improvement to practices. Complaints should be handled by people who have the appropriate skills and authority to resolve or investigate complaints and, where appropriate, provide remedies and identify improved practices.

Where possible, complaints are best handled by people at the point of service delivery. These people should be able to resolve complaints at first contact and should log complaint details for further analysis. More serious complaints, or complaints that cannot be resolved by front-line staff, should be referred to more senior staff or designated Complaint Handling Officers for investigation, resolution and any other appropriate action.

All staff should be made aware of their responsibilities in providing information to help investigate and resolve complaints, and to implement actions to provide remedies or systemic improvements arising from complaints. For more information see the Ombudsman WA Guidelines [Guidance for Complaint Handling Officers](#).

Complaints investigation and resolution process

Complaints should be dealt with promptly, courteously and in accordance with their urgency. The essential steps in investigating and resolving a complaint are:

<p>1. Assess the complaint</p>	<p>Clarify the issues of the complaint and what kind of resolution the complainant is seeking. If it is not a matter that can be handled by the complaints process, refer the complainant to a more appropriate process (e.g. an appeal process) or a more appropriate body such as the Ombudsman. For example, consider whether the matter is a public interest disclosure and should be handled under that process.</p>
<p>2. Seek resolution</p>	<p>Where appropriate and possible seek to achieve resolution. Where resolution is reached, document the agreed action. In this event it may not be necessary to continue with the investigation unless there are systemic issues that require further examination outside the complaint process.</p>
<p>3. Select the appropriate investigative approach</p>	<p>If the complaint is not resolved, determine what action is required, which may include options other than a formal investigation. This can depend on factors such as statutory requirements which may apply, the nature of the issue and the likely outcome of the investigation. Where possible, complaints should be resolved without the need for a formal investigation.</p>
<p>4. Plan the investigation</p>	<p>Define the issues to be investigated and develop an investigation plan.</p>
<p>5. Ensure proper powers and authority</p>	<p>Assess whether the Complaint Handling Officer has the necessary powers to obtain evidence from relevant witnesses and to access relevant records. Ensure they have the authority to conduct the investigation, make a decision and resolve the complaint, or have access to a person who can make decisions and offer remedies.</p>
<p>6. Obtain evidence</p>	<p>Carry out the investigation by gathering sufficient reliable information to enable the issue to be properly addressed by proving or disproving matters relevant to the issue being investigated, taking into account all relevant information and no irrelevant information. At this stage, it may be necessary to refer any matters that may be misconduct or corruption to the Corruption and Crime Commission.</p>
<p>7. Reconsider resolution</p>	<p>Consider whether resolution is now possible.</p>
<p>8. Reporting and recommendations</p>	<p>Prepare a document setting out the complaint, how the investigation was conducted, relevant facts, conclusions, findings and recommendations. Recommendations could include remedies for the complainant, action to improve the organisation's service delivery and action to address inappropriate conduct by an officer (e.g. through training, an appropriate disciplinary process or referral to an appropriate external authority).</p>
<p>9. Decide on the complaint and action to be taken</p>	<p>Refer the report to a person authorised to make a decision about the complaint and the action to be taken. After the decision is made arrange implementation of the agreed action and for follow up to confirm the action occurs.</p>
<p>10. Inform the parties</p>	<p>Upon completion of an investigation, the complainant (and, if applicable, the person who is the subject of the complaint) should be given:</p> <ul style="list-style-type: none"> • Adequate reasons for any decision made; • Any changes or action that have resulted from the complaint; • A remedy, where appropriate; and • Information on where to seek independent internal and external review (e.g. the Ombudsman).

For more information see the Ombudsman WA Guidelines [Investigation of complaints](#) and [Conducting administrative investigations](#) which provide more detailed 'step-by-step' guidance.

Providing remedies and redress

If an investigation of a complaint determines that the service provided by an organisation to an individual is unsatisfactory and the organisation has in some way contributed to this, the organisation should provide redress to remedy the situation.

Circumstances that warrant the provision of redress and remedies by an organisation to a complainant can arise in many ways, but in broad terms, are when any one, or a combination, of the following occurred:

- Poor communication resulted in misunderstandings or misapprehensions;
- An inadequate or unfair process was used to arrive at a decision or provide a service; or
- A decision or action was unfair, disproportionate or unreasonable in the circumstances.

The following principles and possible remedies may be useful in determining appropriate remedies:

Principles involved in the consideration of redress	<ul style="list-style-type: none"> • Mistakes are admitted and put right; • A sincere and meaningful apology is offered; • Redress is fair and reasonable; • As far as possible, redress restores the complainant to their original position; • Decisions about redress are procedurally sound; and • Arrangements and reasons for providing redress are made transparent.
Possible remedies that may be offered to complainants	<ul style="list-style-type: none"> • An apology; • Reconsideration of a decision; • Amending or retracting documentation (e.g. publications, media statements, web pages); • An offer of non-financial assistance, as appropriate (e.g. providing information or contact details); • Appropriate compensation for loss; • Changed policies or practices to prevent a reoccurrence; and • Action to modify the behaviour of the staff member who the complaint was about, if applicable.

For more information, see the Ombudsman WA Guidelines [Remedies and redress](#).

Dealing with unreasonable complainant conduct

Most complainants act responsibly. However, some complainants are difficult to satisfy and occasionally the conduct of some complainants can be challenging because of:

- Unreasonable persistence;
- Unreasonable demands;
- Unreasonable lack of cooperation.
- Unreasonable arguments;
- Unreasonable behaviour; or

In these circumstances, special measures to deal with this conduct may be required. It is important to remember that, even where a person’s conduct may be unreasonable, they may have a valid complaint and their complaint should be handled appropriately. Fair consideration must be given to the complaint while ensuring that there is not undue use of resources to investigate and resolve the complaint.

The subject of the complaint may also show unreasonable conduct and special measures may also be needed to handle their conduct while ensuring they are treated fairly.

For more information on how to handle unreasonable conduct, see the Ombudsman WA Guidelines [Dealing with unreasonable complainant conduct](#).

Resources

Other Ombudsman Western Australia Publications

The following Ombudsman WA publications are available on our website at www.ombudsman.wa.gov.au and provide further details that may be useful in the development of complaint handling systems and for staff involved in handling complaints:

- [Guidance for Complaint Handling Officers](#)
- [Complaint handling systems Checklist](#)
- [Making your complaint handling system accessible](#)
- [The principles of effective complaint handling](#)
- [Investigation of complaints](#)
- [Conducting administrative investigations](#)
- [Procedural fairness](#)
- [Dealing with unreasonable complainant conduct](#)
- [Remedies and redress](#)
- [Good record keeping](#)

The Ombudsman's Report [2009-10 Survey of Complaint Handling Practices in the Western Australian State and Local Government Sectors](#) also provides further information on complaint handling practices in public authorities.



Accessible complaint processes

The process for making a complaint and investigating it should be easy to access and understand. Information about the process should be available in a variety of forms of communications, formats and languages appropriate to the needs of all members of the diverse Western Australian community.

Receiving complaints

Complaints and related correspondence during an investigation should be accepted in a number of different ways including in person, over the phone, and in writing via email, fax and letter. Access should be provided to translating and interpreting services for non-English speaking people to assist them to make a complaint.

Complainants who require additional assistance

Organisations should pay particular attention to ensuring that their complaint handling system is accessible to members of the public that may require additional assistance or different approaches such as people with disabilities, people living in regional and remote areas, Indigenous Australians, children and young people, and people from linguistically and culturally diverse backgrounds. Organisations should consider taking the following actions:

Indigenous Australians	<ul style="list-style-type: none">• If your organisation has high numbers of Indigenous clients, appoint an Indigenous liaison officer to improve access to your organisation's services and complaint handling systems.• Identify people in regional and remote locations who can assist with cultural communications.• Provide training for complaint handling officers in cultural awareness and cross-cultural communications.• Adapt your complaint handling process to meet cultural requirements of Indigenous people such as less formal meeting arrangements and be aware that communication with remote areas may take longer.• Accept complaints from representatives and translation services on behalf of non-English speaking Indigenous complainants.
People with disabilities	<ul style="list-style-type: none">• Provide a text telephone (TTY) service for people with a hearing impairment.• Make websites accessible to people using screen readers and, if necessary, make publications and correspondence available in Braille, large print or audio formats for people with sight impairment.• Ensure offices are accessible to wheelchairs and to people with mobility impairment.• Ask people if they have any special requirements for access or communications.• Offer assistance to help complainants with reading or writing difficulties to formulate and lodge complaints.• Accept complaints on behalf of people with intellectual impairment from representatives.
People in regional and remote areas	<ul style="list-style-type: none">• Provide a toll-free phone number for making phone enquiries and complaints from regional areas.• Provide hard copy information such as brochures and posters in areas with limited online access.• Be aware that communication with remote areas may take longer.

<p>Children and young people</p>	<ul style="list-style-type: none"> • Make information about your organisation’s services and how to provide feedback/make complaints accessible online and in locations regularly visited by young people such as schools, colleges and libraries. • Make information about your complaints process simple and clear, provide it in an age appropriate format, and respond to complaints promptly. • Use Complaint Handling Officers who are trained and experienced to adapt their communications skills when talking to and corresponding with young people. • Ensure the young person is aware of the nature and limitations of your organisation’s services. • Accept complaints on behalf of children and young people from representatives such as parents, guardians and teachers. • Establish if the young person making the complaint requires any further assistance due to a disability, being located in a regional area, coming from a linguistically or culturally diverse background or being an Indigenous Australian, and offer appropriate assistance. • For further guidance, see the Commissioner for Children and Young People’s Complaints Guidelines.
<p>People from linguistically and culturally diverse backgrounds</p>	<ul style="list-style-type: none"> • Make information about your services and the complaint handling process available in alternative languages. • Encourage complainants to use the Translating and Interpreting Service (TIS), which provides a free, national 24 hour telephone interpreting service, publicising the contact number as part of your complaint handling process information and accept complaints through TIS. • Allow complainants to bring people with them who can translate for them in meetings. • For further guidance, see the Office of Multicultural Interest’s Language Services Policy.

Tracking complaints

An effective complaint handling system should be able to provide information on the demographic make up of complainants. This allows analysis of feedback and complaints information to be used to:

- determine whether the complaint process is accessible and appropriate for various customer groups;
- enable an assessment of differing service delivery needs for people from a range of backgrounds; and
- identify and implement improved practices for particular customer groups including people with disabilities, people living in regional and remote areas, Indigenous Australians, children and young people, and people from linguistically and culturally diverse backgrounds.

Resources

Other Ombudsman Western Australia Publications

The following Ombudsman Western Australia publications provide further details that may be useful in the development of complaint handling systems and for staff involved in handling complaints:

- | | |
|--|--|
| <ul style="list-style-type: none"> • Effective handling of complaints made to your organisation – An Overview • Complaint handling systems Checklist • Guidance for Complaint Handling Officers • The principles of effective complaint handling • Conducting administrative investigations | <ul style="list-style-type: none"> • Investigation of complaints • Procedural fairness • Dealing with unreasonable complainant conduct • Remedies and redress • Good record keeping |
|--|--|

For further information about the role of the Ombudsman and guidance for complaint handling, visit our website at www.ombudsman.wa.gov.au.



Effective complaint handling systems

An effective complaint handling system is one that provides confidence that complaints are dealt with effectively through the following three steps:



- Arrangements for enabling people to make complaints are customer focused, visible, accessible and valued, and supported by management.
- Complaints are responded to promptly, handled objectively, fairly and confidentially. Remedies are provided where complaints are upheld and there is a system for review.
- There are clear accountabilities for complaint handling and complaints are used to stimulate organisational improvements.

Fit for purpose

An effective complaint handling system should be a 'fit for purpose' system. This is a system that is varied to fit an organisation's circumstances and is proportionate to the number and type of complaints it receives. Decisions about building a 'fit for purpose' system could incorporate the following considerations:

- The number and demographics of the organisation's customers, and how they generally communicate with the organisation;
- The nature and breadth of the organisation's interactions with the public;
- The level of complaints that is considered reasonable for the organisation (by examining trends in its level of complaints over time and industry benchmarks);
- The organisation's risk management strategy – complaints are an important way of monitoring and mitigating any risks;
- The value the organisation derives, or wishes to derive, from complaints to improve its operations over time, as well as other information needs of management; and
- The cost of operating a complaint handling system.

Checklist for complaint handling systems

The following checklist sets out ten good practice principles for complaint handling. When using the checklist, consider the type of system that will meet your needs. Not all components of the checklist will apply to your organisation. They are prompts to guide your decision making in designing the right type of system for you. Some aspects of the principles may be more relevant to your organisation than others and different organisations may be able to meet the complaint handling principles in different ways.

Organisations can use this checklist in conjunction with the Ombudsman's guideline for [Effective handling of complaints made to your organisation – An overview](#) to assess their complaint handling system against the key features of an effective system. This Guideline, along with more detailed guidelines about the steps within the complaint handling process, are available on the Ombudsman WA website at www.ombudsman.wa.gov.au.

Step 1 - Enabling Complaints



Customer focus

Principle: The organisation is committed to effective complaint handling and values feedback through complaints.

- Do you have customer service standards and a complaint handling process that is valued, supported and followed by management?
- Is your organisation open to feedback from customers, including through complaints?
- Are the benefits of complaints and the complaint handling process communicated to staff, including new staff at their induction?

Visibility

Principle: Information about how and where to complain is well publicised to customers, staff and other interested parties.

- Is information about how to make a complaint and how it will be handled readily available, for example, on your website and front counter?
- Are the contact details for making complaints prominently displayed, for example, in brochures, on your website, or on posters?
- Are front-line staff aware of the complaint handling process and the contact details for your complaints officer?
- Does your complaint handling system identify alternative external parties the complainant can go to with a complaint?

Accessibility

Principle: The process for making a complaint and investigating it is easy for complainants to access and understand.

- Are complaints handled at no charge to the complainant and is this information clear in publications about how to make a complaint?
- Can complaints be made in a number of different ways verbally and in writing, for example, in person, over the phone, and in writing via email, fax, SMS and letter?
- Do you provide access to translating and interpreting services for non-English speaking people to assist them to make a complaint?
- Is the process for making a complaint accessible and easy to use by all members of the community including Indigenous Australians, children and young people, people living in regional and remote areas, people with disabilities and people from culturally and linguistically diverse backgrounds?

The Ombudsman WA publication [Making your complaint handling system accessible](#), may assist you in making your complaint handling system accessible to all members of the diverse Western Australian community.

Step 2 - Responding to Complaints



Responsiveness

Principle: Complaints are acknowledged in a timely manner, addressed promptly and according to order of urgency, and the complainant is kept informed throughout the process.

- Do you provide guidance to staff on how to respond to and prioritise complaints (for example through guidelines) and does this cover:
 - who will be responsible for handling the complaints;
 - how to assess complaints to decide what can be resolved easily and what requires investigation;
 - how and when the complainant will be kept informed during the process;
 - how to identify, handle and, if necessary, refer public interest disclosures and complaints about misconduct and corrupt behaviour?
- Is each complaint acknowledged promptly (within a specified timeframe) and is the complainant (and, if applicable, the person who is the subject of the complaint) kept informed throughout the process?
- Are complaints addressed promptly and in order of urgency and do you have performance targets which set out the timeframe for resolving complaints?
- Are front-line staff empowered to resolve certain complaints at the earliest point of contact with the complainant?
- Does your organisation have special arrangements for responding to complaints from particular client groups, for example, Indigenous Australians, children and young people, people living in regional and remote areas, people with disabilities and people from culturally and linguistically diverse backgrounds?

Objectivity and Fairness

Principle: Complaints are dealt with in an equitable, objective and unbiased manner. This will help to ensure that the complaint handling process is fair and reasonable. Unreasonable complainant conduct is not allowed to become a burden.

- Do you ensure that your staff are aware of, and given guidance on, conflict of interest requirements and how to make declarations where required?
- Are relevant staff given guidance or training in complaint resolution and evidence based investigation techniques and effective handling of unreasonable conduct by complainants or people who are the subject of a complaint?
- Is the complainant (and, if applicable, the person who is the subject of the complaint) given:
 - sufficient opportunity to present their position and is the information they provide given adequate consideration, taking into account all relevant material and factors;
 - the opportunity to comment on any adverse findings; and
 - reasons for the decisions made about the outcome of a complaint?
- Where appropriate, is there a process in place for a suitable colleague or superior to review the decision made by the person handling the complaint prior to finalisation?

The Ombudsman WA publications [Conducting administrative investigations](#), [Investigation of complaints](#), [Procedural fairness](#) and [Dealing with unreasonable complainant conduct](#) may assist your staff when handling complaints.

Step 2 - Responding to Complaints (continued)



Confidentiality

Principle: Personal information related to complaints is kept confidential.

- Do you advise staff about confidentiality requirements when handling or involved in complaints?
- Are the personal details of the complainant kept confidential and only used for the purposes of addressing the complaint?
- Are the personal details of any people who are the subject of the complaint kept confidential and only used for the purposes of addressing the complaint and any follow-up actions?

Remedy

Principle: If a complaint is upheld, the organisation provides a remedy.

- Do you support and give guidance to staff on providing remedies when complaints are upheld?
- Are responsibilities for providing remedies clearly defined and at the appropriate level in the organisation, for example, are front-line staff empowered to provide appropriate remedies?
- Do you give guidance to staff on the appropriate use of remedies?
- Are the reasons for decisions relating to remedies provided to the complainant?

The Ombudsman WA publication [Remedies and redress](#) may assist you to provide appropriate remedies when resolving complaints.

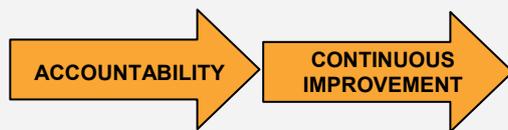
Review

Principle: There are opportunities for internal and external review and/or appeal about the organisation's response to the complaint, and complainants are informed about these avenues.

- Do you provide complainants with access to an independent internal review of the handling of their complaint by someone who was not involved in dealing with the complaint?
- Do you provide the complainant with information about external review or appeal options, such as the Ombudsman, at the conclusion of the complaint process?

The Ombudsman WA has publications on how to make a complaint to the Ombudsman on their website at www.ombudsman.wa.gov.au. You may wish to direct complainants to these publications or the website.

Step 3 - Accountability & Learning



Accountability

Principle: Accountabilities for complaint handling are clearly established, and complaints and responses to them are monitored and reported to management and other stakeholders.

- Are staff aware of their responsibilities for handling complaints and the responsibilities of specific nominated complaint handling staff, if applicable?
- Are reasons for complaint decisions and any remedies recorded and are any remedial actions and proposed improvements to practices followed up, acted on and reported to management?
- Do you have a 'fit for purpose' information system for recording and tracking complaints and can it provide information about the demographic make-up of complainants compared to the Western Australian community or your customer base?
- Do you ensure that all correspondence relating to feedback and complaints is managed in accordance with the organisation's record keeping plan, policies and procedures?
- Is standardised and consistent data from complaints reported to the Corporate Executive along with proposed or actual improvements to your organisation's practices?
- Is the effectiveness of complaint handling monitored through appropriate quality assurance or internal audit processes and reported to the Corporate Executive along with recommended improvements to the complaint handling system?

The Ombudsman WA publications [Guidance for Complaint Handling Officers](#) and [Good record keeping](#) may assist you to identify, empower and train staff in their responsibilities when handling complaints

Continuous Improvement

Principle: Complaints are a source of improvement for organisations.

- Do you use analysis of feedback and complaints data to identify:
 - Recurring themes that may highlight systemic issues;
 - Service, process and information inadequacies; and
 - Opportunities for improvements?
- Is the analysis of feedback and complaints reported to the Corporate Executive and used to identify and implement improvements to practices?
- Where appropriate, is analysis of feedback and complaint information used to identify and implement improved practices for particular customer groups including Indigenous Australians, children and young people, people living in regional and remote areas, people with disabilities and people from culturally and linguistically diverse backgrounds?

Other resources

The Ombudsman's Report [2009-10 Survey of Complaint Handling Practices in the Western Australian State and Local Government Sectors](#) along with further information about the role of the Ombudsman and guidance for organisations, is available on our website at www.ombudsman.wa.gov.au.

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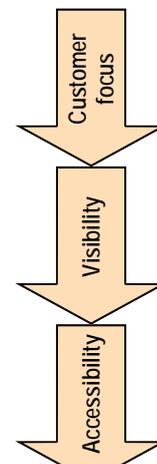
The key features of an effective complaint handling system can be organised according to ten principles for good practice. These principles form the three steps of complaint handling:

- Enabling complaints - arrangements that enable people to make complaints to organisations;
- Responding to complaints - ensuring that complaints are dealt with in a prompt, objective and confidential manner; and
- Accountability and Learning - using complaints to demonstrate accountability and stimulate organisational improvement.

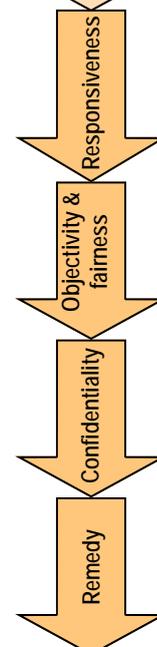
The principles of effective complaint handling

1. **Customer focus** – the organisation is committed to effective complaint handling and values feedback through complaints.
2. **Visibility** – information about how and where to complain is well publicised to customers, staff and other interested parties.
3. **Accessibility** – the process for making a complaint and investigating it is easy for complainants to access and understand.
4. **Responsiveness** – complaints are acknowledged promptly, addressed according to urgency, and the complainant is kept informed throughout the process.
5. **Objectivity and fairness** – complaints are dealt with in an equitable, objective and unbiased manner. This will help ensure that the complaint handling process is fair and reasonable. Unreasonable complainants are not allowed to become a burden.
6. **Confidentiality** – personal information related to complaints is kept confidential.
7. **Remedy** – if a complaint is upheld, the organisation provides a remedy.
8. **Review** – there are opportunities for internal and external review and/or appeal about the organisation's response to the complaint, and complainants are informed about these avenues.
9. **Accountability** – accountabilities for complaint handling are clearly established, and complaints and responses to them are monitored and reported to management and other stakeholders.
10. **Continuous Improvement** – complaints are a source of improvement for organisations.

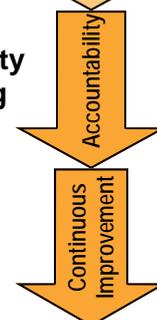
Step 1 - Enabling complaints



Step 2 - Responding to complaints



Step 3 - Accountability and Learning



GUIDELINES

Guidance for Complaint Handling Officers

Complaint Handling Officers are the most important factor in ensuring that an organisation's complaint handling system is responsive to complainants. Complainants are more likely to be satisfied with the complaint handling system if the person dealing with their complaint is competent, objective and efficient.

The role of Complaint Handling Officers

Complaint Handling Officers should:

- Have the skills to be able to act with sensitivity as well as be objective and impartial;
- Have knowledge of, and be able to advise on, all aspects of the organisation's internal complaint procedures and be trained to receive, investigate and deal with complaints about the organisation's products and services;
- Have access to rooms with adequate privacy to ensure the complainant's confidentiality is maintained and appropriate information technology equipment, with access to the organisation's complaint handling database and reference material;
- Ensure that they are not directly involved in the subject matter of the complaint, and raise the matter with a superior should such an issue arise;
- Be able to assist in the formulation of a written complaint for complainants who require additional assistance;
- Have access to staff at all levels of the organisation so that complaints can be resolved quickly; and
- Have clearly defined power to act and provide redress to complainants or to refer the matter to someone who has this power.

Empowering Complaint Handling Officers

Complaint Handling Officers should be empowered to make decisions, or have access to someone who can make decisions, in order to deal with complaints promptly, and, where possible, to achieve early resolution. All organisation staff should be made aware of their responsibilities in providing information to Complaint Handling Officers to help investigate and resolve complaints, and to implement actions to provide remedies or systemic improvements arising from complaints.

Selection of and guidance for Complaint Handling Officers

Complaint handling is an important role in an organisation and should be recognised as such by management. Staff who are responsible for responding to and/or resolving complaints should be given guidance or training in customer contact and communication skills. Management should determine the particular skills and aptitudes necessary for complaint handling and use selection and training procedures that are appropriate to recruit and retain the most suitable staff in complaint handling roles.

Guidance or training provided to staff should cover:

- The benefits of good complaint handling and the consequences of poor complaint handling;
- The policy and legal framework for complaint handling within which the organisation operates;
- The organisation's complaint handling procedures;
- Declaration of conflicts of interests;
- Evidence based investigation skills;
- Skills in alternative dispute resolution such as mediation or conciliation;

- Interpersonal skills, such as listening, questioning skills and conflict management;
- Communication skills for dealing with unreasonable complainant conduct or the unreasonable conduct of the person who is the subject of the complaint; and
- The organisation's record keeping plan, policies and procedures.

Delivering an effective complaint management system

Complaint Handling Officers play a key role in ensuring that an organisation's complaint management system meets the key features required to make the system effective.

Complaint Handling Officers should apply the ten key principles for effective complaint handling when managing complaints. Effective complaint handlers should:

- Take a customer focused approach to handling complaints;
- Ensure that information about how and where to complain is kept up to date and available at all service delivery points;
- Ensure that the process for making complaints is easy to access and understand;
- Acknowledge complaints in a timely manner, address complaints promptly and according to the order of urgency and keep the complainant informed throughout the process;
 - Manage the complainant's expectations by explaining the complaint handling process, what the organisation can and cannot do, the timeframes for dealing with the complaint and when they might expect a response;
- Deal with complaints in an equitable, objective and fair manner;
 - Declare any actual or potential conflicts of interest;
 - Clarify the key issues of the complaint with the complainant;
 - Act with courtesy, showing empathy and understanding but do not take sides;
 - Consult people within the organisation who have expertise relevant to the issue;
 - Ensure the principles of procedural fairness are maintained by providing the affected parties with an opportunity to give their side of the story and to comment on any adverse views;
 - Act without bias, reach conclusions and form views on the facts of the case, taking into account matters that are relevant and not those that are irrelevant;
 - Give reasons for any decisions made, any changes that have resulted from the complaint and details of any remedy;
- Keep personal information relating to complaints confidential;
- Ensure remedies are provided where appropriate;
 - Where possible, consider the use of alternative dispute resolution methods to resolve complaints at the earliest opportunity;
- Ensure complainants are informed of independent internal and external review or appeal processes;
- Ensure responses and outcomes of complaints are recorded, filed and reported to management and monitor implementation of remedies and actions to improve practices; and
- Analyse complaints to identify recurring themes and trends and report these to management to assist with organisational continuous improvement programs.

The Ombudsman WA publications [*The principles of effective complaint handling*](#), [*Effective handling of complaints made to your organisation - An Overview*](#), [*Making your complaint handling system accessible*](#) and [*Complaint handling system Checklist*](#) provide additional advice to assist Complaint Handling Officers.

Dealing with unreasonable complainant conduct

Most complainants act responsibly. However, some complainants are difficult to satisfy and occasionally the conduct of some complainants can be challenging because of:

- unreasonable persistence;
- unreasonable demands;
- unreasonable lack of cooperation;
- unreasonable arguments; or
- unreasonable behaviour.

In these circumstances, special measures to deal with this conduct may be required. It is important to remember that, even where a person's conduct may be unreasonable, they may have a valid complaint and their complaint should be handled appropriately.

Fair consideration must be given to the complaint while ensuring that there is not undue use of resources to investigate and resolve the complaint.

For more information on managing unreasonable complainant conduct, see the Ombudsman WA Guidelines on [Dealing with unreasonable complainant conduct](#).

Resources

Other Ombudsman Western Australia Publications

The following Ombudsman WA guidelines provide further details that may be useful in the development of complaint handling systems and for staff involved in handling complaints:

- [Effective handling of complaints made to your organisation – An Overview](#)
- [Complaint handling systems Checklist](#)
- [Making your complaint handling system accessible](#)
- [The principles of effective complaint handling](#)
- [Investigation of complaints](#)
- [Conducting administrative investigations](#)
- [Procedural fairness](#)
- [Dealing with unreasonable complainant conduct](#)
- [Remedies and redress](#)
- [Good record keeping](#)

Acknowledgement

Ombudsman Western Australia wishes to thank the NSW Ombudsman for use of their publication *Effective Complaint Handling, June 2004* in the development of these guidelines.



Dealing with unreasonable complainant conduct

Since its establishment in 1972, Ombudsman Western Australia has dealt with thousands of complaints. Over time, we have observed that some complainants are difficult to satisfy and take up a disproportionate amount of time for agencies attempting to deal with their complaints.

This fact sheet provides practical information to help agencies handle complainants whose behaviour makes them a challenge to deal with. It is intended to contribute to good public administration in complaints handling.

In cases where the complaint has arisen as a result of matters under the agency's control, such as agency error, remedial action should be taken as promptly, courteously and efficiently as possible. Where matters raise questions of law or are contentious, further professional or legal advice should be sought.

Understanding complainant behaviour

As a general rule, when a person approaches an agency with a request, application, concern or complaint they first need to be heard, understood and respected. They need to:

- have the matter dealt with quickly, fairly and properly
- be given information or an explanation
- be given an apology, if required
- have action taken to address their concern or fix their problem.

For the small percentage of individuals who are genuinely unreasonable to deal with, special measures outside the agency's standard complaint handling policies and procedures are required.

Unreasonable complainants tend to fall into three broad groupings, as follows:

- Habitual or obsessive complainants. This includes people who:
 - cannot 'let go' of their complaint
 - cannot be satisfied despite the best efforts of the agency
 - make unreasonable demands on the agency where resources are substantially and unreasonably diverted away from its other functions or unfairly allocated (compared to other customers)
- Rude, angry and harassing complainants
- Aggressive complainants

Agency options for responding to unreasonable complainants

- Let staff and customers know about expected standards of courtesy and behaviour.
- Adopt and publicise a policy stating that correspondence to the agency containing personal abuse, inflammatory statements or material clearly intended to intimidate will be returned to the sender and not acted upon.
- Where such comments or statements are made in telephone conversations or interviews, these may be terminated at the discretion of agency staff after warning callers of that intention.
- Consider limiting access to agency staff and resources.

Hints for agency staff

- Don't be rude or abusive to customers, even when provoked
- Avoid making or recording inappropriate statements or comments about complainants. Stick to objective, descriptive comments such as "he spoke rapidly, with increased volume, and shook his finger at me" rather than "he was crazy and threatening".

Administrative controls

Deciding to restrict, withhold or withdraw the provision of service to unreasonable complainants is a serious step to take. Before doing so, these threshold tests should be met:

- the agency's complaint procedure must have been correctly implemented and no material element of the complaint overlooked or inadequately addressed
- the behaviour of the complainant must have become so habitual, obsessive or intimidating that it constitutes an unreasonable demand on the agency's resources
- all internal review or appeal procedures have been exhausted.

Balance empathy with objectivity

Empathy for an individual whose complaint is motivated by tragic events or significant incidents must not compromise an agency's responsibility to uphold the public interest, which requires matters to be considered objectively.

If the agency decides to restrict the unreasonable complainant's access to its services, this decision should only be made by the CEO (or a senior delegate in large agencies). This senior officer should also approve and sign any letters to that effect. This step should only be taken in extreme situations, where a failure to do so would compromise the agency's obligations as an employer or divert resources from other complaints deserving attention.

Types of administrative controls

When the complainant makes constant calls or visits:

- only take calls at specific times on specific days
- require an appointment to meet with staff.
- Where all internal appeals have been exhausted but the complainant will not accept the agency's decision:
- notify them of their right to take the matter to the Ombudsman
- consider limiting all future dealings to writing
- advise that you will only respond to future correspondence which provides significant new information about the complaint or raises new issues which the agency believes warrant fresh action.

At all times maintain adequate documentary records.

Angry complainants

Manage the anger first. It is only possible to deal with key issues once the complainant's emotion has been diffused. Staff members confronted with an angry complainant must keep in mind that the anger is not about them personally, but about the complainant's circumstances. Their task will be to solve the problem, not get involved in responding to a highly emotive situation.

In these circumstances, it is useful to:

- obtain details about the complaint and then about the complainant
- seek to understand what the person is looking for
- be direct and clear about what can be done, how long it will take and what it will involve
- give clear and valid reasons why requests cannot be met, if this is the case.

At all times, take detailed file notes.

Aggressive behaviour

Aggressive behaviour may be at any point along the scale from verbal aggression to actual physical violence. For behaviour at the lower end of the scale, try to put aggressive people at ease and calm them down. If the behaviour continues however, they should be calmly told that such behaviour is totally unacceptable, the interview terminated and the person asked to leave the premises.

Staff should never continue or persevere with interviews when they feel distressed or threatened.

Recommended actions for agencies

Develop a policy outlining your general commitment to public access, but describe why this may be restricted in particular circumstances, such as where full access would be likely to:

- compromise the agency's obligations as an employer
- be an unreasonable invasion of a person's privacy
- be excessively wasteful of agency resources
- encourage or allow behaviour which disregards the rules of common courtesy.

Adopt a policy which defines aggression and guides staff in how to deal with it, ensuring the safety of staff and other customers is paramount. Develop and promote your approach to dealing with people who threaten, harass or intimidate staff, whether in writing or on the phone.

Nominate a senior officer to maintain a list of people whose access to the agency has been restricted, including specific directions for each person. Appropriate notations should be inserted on all relevant hard copy or computerised case records.

Resources

Managing Unreasonable Complaint Conduct Practice Manual

Ombudsman Western Australian has been involved in a national research project coordinated by the New South Wales Ombudsman to develop better strategies for managing complainants whose behaviour is challenging. The result of this project is the [Managing Unreasonable Complainant Conduct Practice Manual](#) which provides information, strategies and practical tools, including scripts, to help agencies deal with unreasonable complainant conduct.

Other Ombudsman Western Australia Publications

The following Ombudsman Western Australia publications provide further details that may be useful in the development of complaint handling systems and for staff involved in handling complaints:

- [Effective handling of complaints made to your organisation – An overview](#)
- [Making your complaint handling system accessible](#)
- [Complaint handling systems checklist](#)
- [Guidance for Complaint Handling Officers](#)
- [Investigation of complaints](#)
- [Conducting administrative investigations](#)
- [Procedural fairness](#)
- [Remedies and redress](#)
- [Good record keeping](#)

For further information about the role of the Ombudsman and guidance for complaints management, visit our website at www.ombudsman.wa.gov.au.

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What is an investigation?

A fact-finding process – a search for, gathering and examination of information in order to establish facts.

It is one step in a decision making process which starts with an issue and ends with a decision.

Its purpose is to establish and document relevant facts, reach appropriate conclusions based on the available evidence, and determine a suitable response.

The nature and scope of an investigation will depend on the circumstances of each case and any relevant statutory requirements that may apply.

More detailed information on investigation of complaints is available in the Ombudsman WA Guidelines *Conducting administrative investigations*.

Acknowledgement: We thank the Office of the NSW Ombudsman for allowing us to use their excellent publication "Public Sector Agencies Fact Sheets A-Z" in the development of this Information Sheet, and for their continuing advice and assistance.

What are the essential steps in an investigation?

STEP 1 ASSESS THE COMPLAINT

Determine what action is required, which may include options other than a formal investigation.

STEP 2 SELECT THE APPROPRIATE INVESTIGATIVE APPROACH

This can depend on factors such as statutory requirements which may apply; the nature of the issue; the likely outcome of the investigation.

STEP 3 PLAN THE INVESTIGATION

Define the subject matter and develop an investigation plan.

STEP 4 ENSURE PROPER POWERS AND AUTHORITY

Assess whether the investigation has the necessary powers to obtain evidence from relevant witnesses and to access relevant records

Ensure the investigator has the authority to conduct the investigation.

STEP 5 OBTAIN EVIDENCE

Carry out the investigation by gathering sufficient reliable information to enable the issue to be properly addressed by proving or disproving matters relevant to the issue being investigated.

STEP 6 REPORTING

Prepare your document setting out the complaint, how the investigation was conducted, relevant facts, conclusions, findings and recommendations.

TIPS

You will need to consider a range of factors, such as:

- whether the complaint involves a communication problem that can be resolved through explanation or discussion
- whether a more appropriate means of dealing with the issue is available
- whether the complaint can or must be referred or notified to a relevant government agency
- how much time has elapsed since the alleged events occurred
- the significance of the issue for the complainant and/or the organisation.

Ask yourself whether the investigation is either evidence-focused or outcome-focused. Evidence-focused inquiries seek to pursue all lines of inquiry in a way that will meet all legal and procedural requirements. Outcome-focused inquiries are primarily directed at quickly identifying and remedying problems, and so seek to obtain sufficient information for a fair and informed judgement about the issues in question.

Identify what questions need to be answered, what information is required to answer those questions, and the best way to obtain that information.

Distinguish between the right to ask and the power to demand.

If the investigation is major or sensitive, ensure you have approved terms of reference and adequate resources.

Where possible separate the investigation and decision making functions.

Procedural and evidentiary requirements

Impartiality

Investigators must be impartial, adopting an inquisitorial approach, attempting to ascertain the truth and uncover all relevant facts.

Procedural fairness

This is very important in an investigation that could result in an outcome that affects the rights, interests or reputation of an individual.

Confidentiality

This can be very important in an investigation such as an evidence-focused investigation into the alleged conduct of an individual.

Communication

As a general rule, keep both the complainants and person or bodies the subject of an investigation informed about the progress of the investigation.

Standard of proof

In administrative investigations, allegations must be proved according to the balance of probabilities, that is, it must be more probable than not that the allegations are made out.

Rules of evidence

The rules of evidence will not apply to the majority of administrative or disciplinary investigations.

Nevertheless it is useful for an investigator to understand the basic rules of evidence.

What is procedural fairness?

Procedural fairness is concerned with the procedures used by a decision-maker, rather than the actual outcome reached. It requires a fair and proper procedure be used when making a decision. The Ombudsman considers it highly likely that a decision-maker who follows a fair procedure will reach a fair and correct decision.

Is there a difference between natural justice and procedural fairness?

The term procedural fairness is thought to be preferable when talking about administrative decision-making because the term natural justice is associated with procedures used by courts of law. However, the terms have similar meaning and are commonly used interchangeably. For consistency, the term procedural fairness is used in this fact sheet.

Does procedural fairness apply to every government decision?

No. The rules of procedural fairness do not need to be followed in all government decision-making. They mainly apply to decisions that negatively affect an existing interest of a person or corporation. For instance, procedural fairness would apply to a decision to cancel a licence or benefit; to discipline an employee; to impose a penalty; or to publish a report that damages a person's reputation.

Procedural fairness also applies where a person has a legitimate expectation (for example, continuing to receive a benefit such as a travel concession). Procedural fairness protects legitimate expectations as well as legal rights. It is less likely to apply to routine administration and policy-making, or to decisions that initially give a benefit (for example, issuing a licence in the first instance).

In some rare circumstances, the requirement to provide procedural fairness is specifically excluded by Acts of Parliament (for example, section 115 of the *Sentence Administration Act 2003*).

The rules of procedural fairness require:

- a hearing appropriate to the circumstances;
- lack of bias;
- evidence to support a decision; and
- inquiry into matters in dispute.

What is "the hearing rule"?

A critical part of procedural fairness is 'the hearing rule'. Fairness demands that a person be told the case to be met and given the chance to reply before a government agency makes a decision that negatively affects a right, an existing interest or a legitimate expectation which they hold. Put simply, hearing the other side of the story is critical to good decision-making.

In line with procedural fairness, the person concerned has a right:

- to an opportunity to reply in a way that is appropriate for the circumstances;
- for their reply to be received and considered before the decision is made;
- to receive all relevant information before preparing their reply. The case to be met must include a description of the possible decision, the criteria for making that decision and information on which any such decision would be based. It is most important that any negative information the agency has about the person is disclosed to that person. A summary of the information is sufficient; original documents and the identity of confidential sources do not have to be provided;

- to a reasonable chance to consider their position and reply. However, what is reasonable can vary according to the complexity of the issue, whether an urgent decision is essential or any other relevant matter; and
- to genuine consideration of any submission. The decision-maker needs to be fully aware of everything written or said by the person, and give proper and genuine consideration to that person's case.

How does procedural fairness apply to an individual who may be negatively affected by a government decision?

If you are going to be negatively affected by a government decision, you are entitled to expect that the decision-maker will follow the rules of procedural fairness before reaching a conclusion. In particular, you are entitled to:

Be told the case to be met (for example, that an agency is considering withdrawing an existing entitlement or benefit such as a rebate or an allowance), including reasons for this proposal and any negative or prejudicial information relating to you that is to be used in the decision-making process.

The case to be met could be a letter or a draft report, or it could be a summary of the issues being considered by the decision-maker. It is not necessary for you to receive copies of all original documents or the identity of confidential sources be revealed.

A real chance to reply to the case to be met, whether that be in writing or orally. The type of hearing should be proportional to the nature of the decision. For instance, if the consequences of the proposed decision are highly significant, a formal hearing process may be warranted. In contrast, if the matter is relatively straightforward, a simple exchange of letters may be all that is needed. Generally, in any oral (or face-to-face) hearing, it is reasonable to bring a friend or lawyer as an observer, so you may wish to consider this.

In your reply, you may, amongst other things, wish to:

- deny the allegations;
- provide evidence you believe disproves the allegations;
- explain the allegations or present an innocent explanation; and
- provide details of any special circumstances you believe should be taken into account.

You must have the chance to give your response before the decision is made, but after all important information has been gathered. This is so you can be given all the information you are entitled to and be aware of the issues being considered by the decision-maker.

The decision-maker should have an open mind (be free from bias) when reading or listening to what you have to say.

How does procedural fairness apply to an investigator?

If you are investigating a matter or preparing a report for a decision-maker, it is good practice to consider the requirements of procedural fairness at every stage of your investigation.

Procedural fairness is an essential part of a professional investigation and benefits both parties. As an investigator, acting according to procedural fairness can help you by providing:

- an important means of checking facts and identifying major issues
- comments made by the subject of the complaint that can expose weaknesses in the investigation
- advance warning of areas where the investigation report may be challenged.

Depending on the circumstances, procedural fairness requires you to:

- inform those involved in the complaint of the main points of any allegations or grounds for negative comment against them. How and when this is done is up to you, depending on the circumstances
- provide people with a reasonable opportunity to put their case, whether in writing, at a hearing or otherwise. It is important to weigh all relevant circumstances for each individual case before deciding how the person should be allowed to respond to the allegations or negative comment.

- In most cases it is enough to give the person opportunity to put their case in writing. In others, however, procedural fairness requires the person to make oral representations. Your ultimate decision will often need to balance a range of considerations, including the consequences of the decision
- hear all parties to a matter and consider submissions
- make reasonable inquiries or investigations before making a decision. A decision that will negatively affect a person should not be based merely on suspicion, gossip or rumour. There must be facts or information to support all negative findings. The best way of testing the reliability or credibility of information is to disclose it to a person in advance of a decision, as required by the hearing rule
- only take into account relevant factors
- act fairly and without bias. If, in the course of a hearing, a person raises a new issue that questions or casts doubt on an issue that is central to a proper decision, it should not be ignored. Proper examination of all credible, relevant and disputed issues is important
- conduct the investigation without unnecessary delay
- ensure that a full record of the investigation has been made.

Of course, wherever there is a requirement to apply particular procedures in addition to those that ensure procedural fairness, the terms of that statutory obligation must also be followed.

The Ombudsman recommends that whenever it is proposed to make adverse comment about a person, procedural fairness should be provided to that person before the report is presented to the final decision-maker. This should be done as a matter of best practice.

There is no requirement that all the information in your possession needs to be disclosed to the person. However in rare cases, such as a serious risk to personal safety or to substantial amounts of public funds, procedural fairness requirements may need to be circumvented due to overriding public interest. If you believe this exists, make sure you seek expert advice and document it.

How does procedural fairness apply to the decision-maker?

Except in rare circumstances where procedural fairness is excluded by statute, if you are making a decision which will affect the rights, interests or legitimate expectations of a person, you must comply with the rules of procedural fairness. In other words, you must ensure:

- you allow the individual a fair hearing (or verify that the individual has been granted a fair hearing) that is neither too early or too late in the decision-making process; and
- you are unbiased. This includes ensuring that from an onlooker's perspective there is no reasonable perception of bias. For example, personal, financial or family relationships, evidence of a closed mind or participation in another role in the decision-making process (such as accuser or judge) can all give rise to a reasonable perception of bias. If this is the case, it is best to remove yourself from the process and ensure an independent person assumes the role of decision-maker.

If you are relying on a briefing paper that summarises both sides of the case and makes a proposal, it is often a good idea to disclose a draft of the briefing paper to the person, even though a hearing has earlier been held.

Acknowledgements

Ombudsman Western Australia wishes to thank the [NSW Ombudsman](#) for use of their publication *Investigating complaints - A manual for investigators* in the development of these guidelines, and their continuing advice and assistance. Thanks also to [Clayton Utz](#) for use of their publication *Good decision making for government*.



Public sector agencies deliver a vast range of services to members of the public who usually do not have the option of obtaining these services elsewhere. Under these conditions, it is important that the community has confidence that agencies will act fairly and reasonably in delivering their services.

In the Ombudsman's view it is essential that, when the service provided to an individual is unsatisfactory and the agency has in some way contributed to this, the agency should provide redress to remedy the situation.

These guidelines provide a framework to help managers make decisions about addressing a complainant's sense of grievance when they are dissatisfied with the service they have received from the agency. Ultimately, the guidelines should assist agencies to better manage their business, improve the transparency of their processes, and thus enhance public confidence in their operations.

Codes of conduct and organisational values

Public sector agencies, which include government departments, statutory authorities and local governments, have codes of conduct setting out values that include being honest and exhibiting high levels of integrity, openness and ethical behaviour.

The values in these codes should guide the way staff deal with aggrieved complainants. For example, "fairness" is demonstrated by maintaining an open mind in investigation and action; recognising the lawful rights of others to natural justice and equitable outcomes; and allowing people access to due process. The principle of "openness" requires acknowledging mistakes, explaining actions and apologising. These principles underly the redress guidelines.

In the Ombudsman's view, the ethical principles in the codes of conduct of public sector agencies are consistent with a redress framework which provides that, when people are unfairly or unreasonably affected by decisions, the agencies should take all fair and reasonable steps to make good.

Redress circumstances

Circumstances that warrant the provision of redress by an agency to a complainant can arise in many ways, but in broad terms may arise when any one of or a combination of the following occur:

- poor communication results in misunderstandings or misapprehensions;
- an inappropriate, unfair or unreasonable decision is made;
- an inadequate or unfair process was used to arrive at a decision; or
- a decision was made that was disproportionate or unreasonable in the circumstances.

Redress principles

There are six principles involved in the consideration of redress:

- All mistakes are admitted and put right.
- A sincere and meaningful apology is offered.
- Arrangements for considering redress are made public.
- Redress is fair and reasonable.
- As far as possible, redress restores the complainant to their original position.
- Redress is procedurally sound.

<p>Principle 1: Admitting mistakes</p>	<p>An organisation that values openness and accountability should be willing to admit and make good its errors. For this principle to be effective, staff must be confident that they have full support from their agency to take these actions.</p> <p>To achieve this, it is important that management provide suitable resources (including training) so that staff not only handle complaints properly but also have a good understanding of the benefits of handling a complaint well. Management should also outline the scope of employees' decision-making delegations - giving them the power to deal with complaints, and explaining the limits of redress that can be offered.</p> <p>For example, in the case of a claim made against an agency by a third party, RiskCover requires there be no admission of liability. In this instance, a 'claim' is defined as "an allegation, request, or demand for compensation". Even complaints by third parties about conduct could be regarded as a claim. For further information, see www.riskcover.wa.gov.au/liability/riskcover_claimsmanagement_liability_forms</p>
<p>Principle 2: Apologies</p>	<p>The <i>Civil Liability Act 2002</i> defines 'apology' as:</p> <p>An expression of sorrow, regret or sympathy by a person that does not contain an acknowledgment of fault by that person (see Appendix A).</p> <p>The Act provides that an apology expressed in this way does not constitute an admission of liability, and therefore should not be relevant to the determination of fault or liability in connection with civil liability of any kind, nor should it be admitted into evidence in a court hearing.</p> <p>The impact of a sincere apology, offered early in the process, should not be underestimated. Even where an apology may not appear to be warranted, it is worthwhile expressing regret or sympathy in a way that does not accept blame; for example "<i>I'm sorry that this situation has left you feeling disappointed</i>". It will often avoid the escalation of a dispute and the significant cost in time and resources that can be involved.</p> <p>Apologising should not be seen as a sign of organisational weakness. To the contrary, it is a sign of organisational strength and maturity.</p>
<p>Principle 3: Visible mechanisms</p>	<p>In order to convince the public that complaints are taken seriously, agencies should publicise their mechanisms for complaint handling. This gives the public confidence that the agency will listen to complaints and act on them, and that making a complaint is worthwhile.</p>
<p>Principle 4: Fair and reasonable</p>	<p>Redress should be fair and reasonable to both the person affected and the agency. There are a number of criteria that need to be considered.</p> <p>Decisions not based entirely on legal grounds – Technical legal questions cannot and should not be ignored. However, fairness involves considering all of the ways in which the circumstances in question have affected the complainant and the wider community. This involves both legal and non-legal issues. An approach guided solely by legal principles risks being rigid, lacking the flexibility necessary for customer-focused agencies. Appropriate weight should be given to broad questions of reasonableness, the effect of decisions and the ethical obligations of fairness and accountability.</p> <p>Equal treatment - Like cases should, as a matter of principle, be treated equally. Differences in redress between similar cases should be clearly attributable to material differences in the circumstances.</p>

<p>Principle 4: Fair and reasonable</p> <p><i>continued</i></p>	<p>Resources not used to disadvantage - Agencies are typically large, with access to resources and advice not usually afforded to most citizens. Using these to the disadvantage of complainants only exacerbates the detriment suffered.</p> <p>Proportion - Redress should be proportional to the detriment suffered. This involves weighing the problem and possible solutions to find an appropriate balance.</p>
<p>Principle 5: Restoration</p>	<p>Generally, when a person suffers a detriment wholly or partly as a result of the inappropriate actions of an agency, that person should be restored to their original position. When this is not possible, fair and reasonable alternatives should be offered.</p>
<p>Principle 6: Procedurally sound</p>	<p>A proper response by an agency to a person who has suffered a detriment involves:</p> <ul style="list-style-type: none"> • covering all of the consequences of the decision in question. Failing to do so is likely to simply generate further complaints; • providing all relevant information about what happened, why it happened, what steps are being taken to rectify the position and why those steps are being taken; • accepting that agreements made in ignorance of rights and the available information are not fair and reasonable; • taking into account the views of the people affected; • taking into account protection of the public purse; • taking into account these guidelines and previous decisions about similar complaints; • dealing with the complaint in a timely manner. Agencies are much more likely to meet the ethical principles of respect, openness and accountability if redress circumstances are dealt with quickly. Delaying redress is liable to intensify the detriment already suffered.

Limitations

There are limits to what steps might be reasonably expected to be taken in order to make good. The following issues should be explored in order to determine the limits in individual cases.

Elapsed time

As a general principle the greater the elapsed time since the decision in question the less compelling the obligation on the agency to make good.

Remoteness

People not directly affected should not expect redress, unless special circumstances exist.

Contribution

Complainants may have themselves contributed to redress circumstances. It is reasonable for the agency to take into account the extent to which its officers and the people affected have contributed to the detriment suffered.

Mitigation

People affected by activities have a responsibility to take reasonable steps to minimise the impact on them.

Unwarranted enrichment

Redress should be aimed at making good the detriment suffered. It should not lead to a person making a profit or gaining an advantage.

External considerations

Providing redress is likely to be delayed or even inappropriate when other processes have not been completed. However, as a general principle, an agency should not delay providing redress while such processes are still in train once the need to provide it has been acknowledged. Some of the more important considerations include:

Agency internal review

Where appropriate, having regard to the particular circumstances of each case, providing redress should not be delayed because the agency's internal review is incomplete.

Legal liability

In some cases the person suffering detriment will have a legal entitlement to redress, and in this situation, where possible, the agency should provide appropriate redress that obviates the need for that person to pursue their legal remedies. While concerns about legal liability are an important consideration, such concerns should not be the sole or even primary consideration in assessing whether to offer redress. Agencies have a duty to correct or rectify problems arising from maladministration for which they are responsible. Agencies should make sensible decisions to reach out of court settlements, or better still, to forestall the need for legal proceedings at all. Redress can be offered without admission of liability. The agency may wish, if offering an Act of Grace payment, to enter into a deed with the complainant by which they release the agency and the State from any liability related to the complaint.

Government expenditure

Making good a detriment suffered should be primarily based on the moral obligation of the agency to do so on a balanced assessment of the relevant circumstances. But sometimes agencies limit their responses in a bona fide attempt to limit the financial exposure of government. While it is always important to use government resources wisely, this must be accomplished in a way that does not disadvantage complainants. When considering the public interest, agencies need to take account of the improvement in public confidence in service delivery that may result from a fair and timely response to service failures. In these cases the cost of providing redress could be viewed as one of the costs of providing a reasonable standard of service.

Of course agency expenditure must have a legal foundation. The *Financial Management Act 2006* includes authorisation to request approval for Act of Grace payments (section 80(1)), which provides for the following:

If the Treasurer is satisfied that it is appropriate to do so because of special circumstances, the Treasurer may authorise an amount to be paid to a person even though the payment would not otherwise be authorised by law or required to meet a legal liability.

The procedure for making such requests is set out in [Treasurer's Instruction 319](#).

Western Australian Government policy encourages agencies to develop policies on the provision of redress (or remedies) as part of their complaints management process.³

The redress process

An agency's complaint handling system must have the capacity to identify and efficiently and effectively deal with decisions about redress. In the Ombudsman's view, a model redress mechanism incorporates the following four steps:

- Step 1.** Decide whether redress circumstances resulting in a person suffering a detriment exist.
- Step 2.** Consider the nature of the detriment.
- Step 3.** Decide what it would take to satisfy the complainant or restore the complainant to their original position.
- Step 4.** Determine what would need to be done to prevent a recurrence.

<p>Step 1: Decision resulted in a detriment</p>	<p>There are many occasions when a complainant may suffer a detriment when an agency is acting lawfully and reasonably. Depending on the circumstances, however, an apology may be appropriate.</p> <p>Similarly, redress does not need to be provided when legislation is operating as intended or to remedy major legislative deficiencies.</p>
<p>Step 2: Nature of detriment</p>	<p>Establishing the nature of the detriment that the complainant has suffered and their desired outcome should be a standard component of the complaint-handling process. In determining this, agencies should take into account:</p> <ul style="list-style-type: none"> the amount of quantifiable financial loss (such as loss or damage to property, injury or damage to health, loss of earnings, medical and legal costs, time and trouble where the person dealt with the matter without professional assistance); and any non-financial damage (such as gross inconvenience, embarrassment, humiliation, or stress). <p>Many complainants are eager to move on and merely seek acknowledgement of their grievance and a timely apology. Some are satisfied with the knowledge that remedial action has been taken and elect not to pursue civil claims.</p>
<p>Step 3: Restoring complainant to original position</p>	<p>Sometimes agencies offer only partial redress, resulting in the complainant remaining dissatisfied. This occasionally occurs when property has been damaged or lost as a result of an agency's action. The agency may offer a part payment on the basis that the damage or loss was accidental. However, if the complainant's actions did not contribute to the damage or loss, the principle of fairness indicates that the complainant should be fully reimbursed.</p>
<p>Step 4: Prevent recurrence</p>	<p>One of the principal functions of a good complaint handling system is to allow the agency to learn from its complaints and improve its services. It is expensive, inefficient and poor administrative practice to simply deal with complaints as they arise and fail to fix the cause.</p> <p>Each complaint should be assessed to determine whether the circumstances are likely to arise again and if there is a better way to deal with the matter. Often this will involve identifying training needs or making amendments to procedural manuals.</p>

Common excuses to avoid making good

The Ombudsman's experience is that agencies are often motivated to avoid making good to avoid expenditure or embarrassment or because they believe making good risks being seen as an admission of liability. In our view, such decisions are ill-conceived and inconsistent with the principles of accountability and openness.

The following common responses are unacceptable reasons to avoid making good:

Avoiding setting a precedent (or "the floodgates" argument)

If the flawed decision is demonstrably unfair and unreasonable in a specific set of circumstances, then this is what must be addressed.

Not legally required to offer redress

This confuses the issues of lawfulness and fairness. Fairness involves considering both legal and non-legal issues. Appropriate weight should be given to broad questions of reasonableness, the effect of decisions and the ethical obligations of fairness and accountability.

Fix the system but not resolve individual complaint

The original complainant may obtain little satisfaction from actions to prevent a recurrence of the incident that led to the complaint. When an agency identifies a deficiency that needs correction, fairness requires that the complaint which led to that identification be addressed in an appropriate manner.

Don't want to create a bigger problem

This approach is inconsistent with the ethical principle of openness. If making good alerts people to the fact that a bigger problem exists, then this is itself a useful outcome.

Forms of redress

When things go wrong, many complainants want no more than to be listened to, understood, respected and, where appropriate, provided with an explanation and an apology.

There are various forms that redress can take.

Explanation	It may be possible to resolve the complaint by providing information about the decision-making process or relevant policies or legislation, or by giving reasons for decisions if this has not already been done. A complainant's sense of grievance is likely to be lessened when they are satisfied that their position has been understood and taken into account.
Apology	A prompt apology can be extremely effective. Apologise promptly, sincerely, face to face, and confirm it in writing. Depending on the circumstances, it may be appropriate for the agency to acknowledge responsibility and express sympathy or regret. If legal liability may be a concern, an expression of sorrow, regret or sympathy, without acknowledging fault, can still be helpful.
Reconsidering conduct	Taking into account new information or information that may have been unintentionally ignored during the original assessment may lead to stopping action or taking alternative action or otherwise changing the consequences of a flawed decision.
Changing policy or practice	Some complainants are satisfied by the fact that changes will be made to prevent future similar incidents.
Mitigation	Mitigation reduces the impact of the detriment suffered and may involve replacing damaged property, correcting records, returning property or refunding fees.
Restitution	Compensation for loss or damage to property.
Reimbursement	Compensation for costs that were incurred as a result of the flawed decision, including medical costs, professional costs, or time and trouble involved.
Satisfaction	Compensation for loss of amenity or rights, or for inconvenience. When an agency is not under a legal liability to provide financial compensation (i.e. restitution, reimbursement and satisfaction), it may still decide that it has a moral obligation to offer this type of redress. This can be done by way of an Act of Grace payment under section 80 of the <i>Financial Management Act 2006</i> . Treasurer's Instruction 319 provides the procedure and guidelines for making such requests.

Develop agency-specific guidelines

The availability of redress is a crucial component of a fair and reasonable complaints system. When a complainant suffers a detriment and it can be established that an agency contributed to that detriment, an agency that wishes to be seen as accountable must take steps to rectify the perceived damage. If agencies lack a proactive approach to providing remedies, they risk complainants remaining aggrieved.

To ensure public confidence is safeguarded, the Ombudsman suggests that agencies develop a “menu” of remedies, including examples, to assist staff in considering what remedy to provide. This will ensure that staff provide consistent and appropriate responses. To ensure transparency, the agency’s commitment to appropriate redress (including limitations, where these apply) should also be made accessible to members of the public.

Resources

The following Ombudsman Western Australia publications provide further details that may be useful in the development of complaint handling systems and for staff involved in handling complaints:

- [Effective handling of complaints made to your organisation – An overview](#)
- [Making your complaint handling system accessible](#)
- [Complaint handling systems checklist](#)
- [Guidance for Complaint Handling Officers](#)
- [Investigation of complaints](#)
- [Conducting administrative investigations](#)
- [Procedural fairness](#)
- [Dealing with unreasonable complainant conduct](#)
- [Good record keeping](#)

For further information about the role of the Ombudsman and guidance for complaints management, visit our website at www.ombudsman.wa.gov.au.

Acknowledgement

Ombudsman Western Australia wishes to thank the [NSW Ombudsman](#) for allowing us to use their publication *The Complaint Handler's Tool Kit 2004* in the development of these guidelines.

Appendix A

CIVIL LIABILITY ACT 2002

Apologies Part 1E

s. 5AF Interpretation

In this Part — “apology” means an expression of sorrow, regret or sympathy by a person that does not contain an acknowledgment of fault by that person.

s. 5AG Application of this part

Subject to sections 3A and 4A, this Part applies to civil liability of any kind unless this section states otherwise.

This Part extends to a claim even if the damages are sought to be recovered in an action for breach of contract or any other action.

This Part does not apply unless the civil liability giving rise to the claim arises out of an incident happening on or after the commencement day.

If in a claim for damages:

- it cannot be ascertained whether or not the incident out of which the personal injury arises happened on or after the commencement day; and
- the symptoms of the injury first appeared on or after the commencement day, the incident is to be taken, for the purpose of subsection (3), to have happened on or after the commencement day.

In this section “commencement day” means the day on which the Civil Liability Amendment Act 2003 section 8 comes into operation.

s. 5AH Effect of an apology on liability

An apology made by or on behalf of a person in connection with any incident giving rise to a claim for damages:

- does not constitute an express or implied admission of fault or liability by the person in connection with that incident; and
- is not relevant to the determination of fault or liability in connection with that incident.

Evidence of an apology made by or on behalf of a person in connection with any incident alleged to have been caused by the person is not admissible in any civil proceeding as evidence of the fault or liability of the person in connection with that incident.

You can access a full copy of the *Civil Liability Act 2002* at the [WA State Law Publisher](#) website



Why are records important?

Records tell us what, where and when something was done and why a decision was made. They also tell us who was involved and under what authority. They provide evidence of government and individual activity and promote accountability and transparency.

What are the benefits of good record keeping?

Records:

- help you work more efficiently
- enable you to meet legal obligations applicable to your work
- protect the interests of the government and of your agency
- protect your rights as an employee and citizen
- demonstrate the cost and impact of your business
- enable review of processes and decisions
- retain the corporate memory of your agency and its narrative history
- help research and development activities
- enable consistency and continuity in your business.

Who is responsible?

Making and keeping your agency's records depends on the cooperation of everyone in your agency. Whilst your agency's chief executive and its corporate records section (if appropriate to your agency) are responsible for meeting the requirements of the *State Records Act 2000*, effective record keeping ultimately depends on you.

Creating and looking after records is central to your responsibilities as a public official. As an individual government employee, it is possible to be charged with an offence under the *State Records Act 2000* if you fail to keep a record in accordance with your agency's Record Keeping Plan.

What do we have to do?

Create records routinely as part of your work

Records may naturally arise in the course of your work, such as sending an email. In other cases, where the activity does not automatically result in the creation of a record, you need to create one. Examples of this include meetings, telephone conversations, informal discussions and the receipt of funds. It is important that the record accurately reflects the transaction or activity that has taken place.

File records into official records systems

Your agency has official systems for managing its records, whether they are created and received in paper or electronically. Failure to capture records into official records systems makes them difficult or impossible to locate when needed. They may even end up lost or destroyed.

Do not be tempted to hoard records in your own private store, separate from your agency's official records system. This also applies to emails: those you send or receive in the course of your employment are official records. If an email needs to be kept to document a transaction or decision, then it should be captured into your agency's official records system.

Handle records with care

For paper records to survive and be available for as long as they are needed, they must be properly cared for. Avoid storing records near known hazards and try not to damage them.

Records are a corporate asset of your agency and do not belong to you. Do not remove them from official records systems for extended periods of time or take them out of your agency. It is important they remain available to other staff.

Do not destroy records without authority

Your agency's records, whether paper or electronic, generally cannot be destroyed without proper authority from your agency's records staff. Some kinds of records have only temporary value and can be destroyed when no longer needed. Make sure you know which records are required long term and which are not. This information is part of your agency's Retention and Disposal Schedule, and records staff can provide information about this.

Failing to maintain records for the length of time they are needed puts you and your agency at risk of being unable to account for what has happened or been decided. This can result in problems for your agency's clients, monetary losses from penalties or litigation, embarrassment for your agency or the Government, or, in extreme cases, disciplinary action for you or your colleagues.

Protect sensitive records from unauthorised access

Records can contain personal and confidential information which must not be disclosed to unauthorised persons. Ensure that records storage areas are secure, protect passwords and do not leave sensitive records lying around.

Know your agency's policies and procedures for managing records

Every WA public sector body is required to establish policies and procedures for the management of their records in all forms. It is every public official's responsibility to create and keep records according to their agency's Record Keeping Plan. You can help support good record keeping in your agency by being familiar with these policies and procedures and applying them so you can better create and manage records in your daily work.

What happens to records once the business need ceases?

Most of your agency's records, whether paper or electronic, can be destroyed with proper authority from your records staff. However, some records have permanent value to the State and to the people of Western Australia as evidence of your agency's activities and the role of government in our society.

These records will become State archives to be retained permanently and transferred to the State Records Office once they are 25 years old. Subject to certain restrictions, they will be made available to the public on request and to future generations of researchers who might use these records many years from now.

Make sure you know which records you deal with have continuing value. Good record keeping includes taking proper care of records which have archival value and will be retained permanently.

Record keeping tips

Meetings

Delegate someone to make a record of the meeting, either minutes or a simple summary of decisions. Ensure decisions and dissent are clearly recorded. Circulate the minutes of the meeting to other participants and sign or confirm the accuracy of the record.

Conversations

Make a record of significant business you conduct via the telephone or face-to-face, such as:

- providing advice, instructions or recommendations
- giving permissions and consent
- making decisions, commitments or agreements.

Transcribe voicemail messages or capture the message directly into your agency's official records system.

Decisions and recommendations

Document reasons for decisions or recommendations that you make.

Correspondence

File or attach emails, letters, faxes and internal memos (sent or received) that relate to your work onto files within your agency's official records system.

Further information

[Australian Standard AS15489 Records Management](#)

[State Records Act 2000](#)

[State Records Commission Principles and Standards 2002](#)

[State Records Office of Western Australia](#)

[Record Keeping in Western Australia: Who is Responsible](#)

Your agency's Record Keeping Plan and Retention and Disposal Schedule

Acknowledgements

We acknowledge material from the [NSW State Records Office](#) and [NSW Ombudsman](#), and advice from the [State Records Office of WA](#).



Ombudsman WA Publications

The following guidelines, information sheets and forms are available in the Publications section of our website at www.ombudsman.wa.gov.au.

General Publications	
<ul style="list-style-type: none"> • Ombudsman WA DL Brochure • How We Assess Complaints • Ombudsman WA Simplified A4 Poster • Ombudsman WA Simplified Information Sheet • Ombudsman WA Simplified DL (Hard copy only on request) 	
For Complainants	
<ul style="list-style-type: none"> • How to complain to the Ombudsman (Also available in Arabic, Amharic, Croatian, Chinese Simplified, Chinese Traditional, Cocos-Malay, Dari, Indonesian, Italian, Japanese, Persian, Serbian, Somali, Spanish and Vietnamese) • Ombudsman's complaint resolution process - Information for Complainants • Making a Complaint to a State Government Agency • Assessment of Complaints Checklist • Being Interviewed by the office of the Ombudsman • Requesting the Review of a Decision • Complaints from overseas students (Also available in Chinese Simplified, Chinese Traditional, Hindi, Indonesian and Malay) 	
For Agencies	
<ul style="list-style-type: none"> • Ombudsman's complaint resolution process - Information for public authorities • About the Ombudsman - Information for public sector agencies • About the Ombudsman - Information for local governments • About the Ombudsman - Information for universities • Effective handling of complaints made to your organisation - An Overview • Complaint Handling Systems Checklist • Making your complaint handling system accessible • Guidance for Complaint Handling Officers • The principles of effective complaints handling • Management of Personal Information • Management of Personal Information Checklist • Good Practice Principles for the Management of Personal Information • Conducting administrative investigations • Investigation of Complaints • Procedural Fairness (Natural Justice) • Giving reasons for decisions • Exercise of discretion in administrative decision making • Dealing with Unreasonable Complainant Conduct • Remedies and Redress • Good Record Keeping • Information for Boards and Tribunals 	
For Prisons	
<ul style="list-style-type: none"> • Complaining to the Ombudsman - Information for Prisoners 	
Forms	
<ul style="list-style-type: none"> • Ombudsman WA Complaint Form • Ombudsman WA Authority to Act Form 	<ul style="list-style-type: none"> • Ombudsman WA Authority to Release Information • Complaint Form for overseas students

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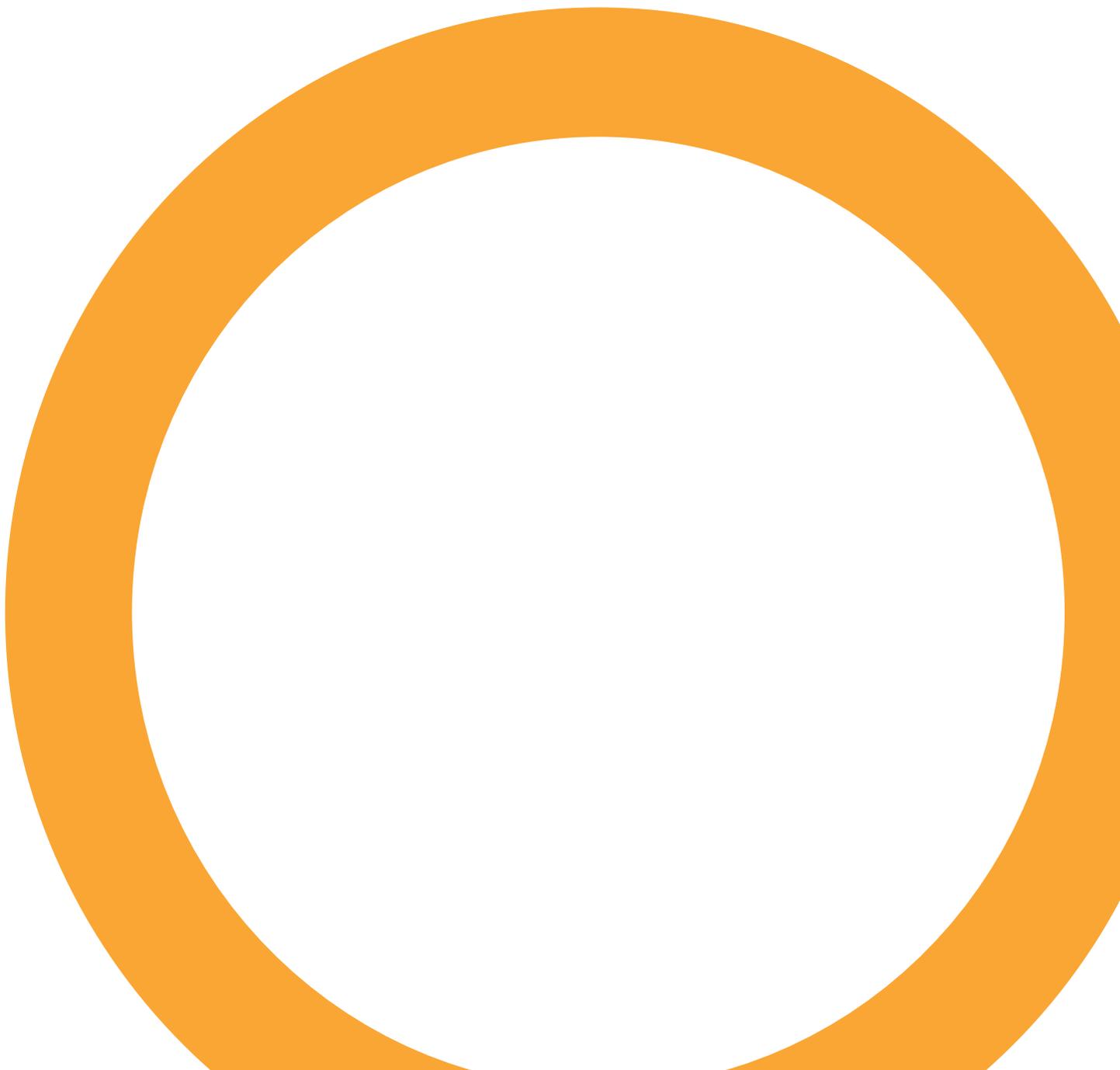
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Ombudsman Western Australia

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Managing unreasonable complainant conduct: Practice manual

Ombudsman Western Australia

Serving Parliament – Serving Western Australians

Our mission

To assist the Parliament of Western Australia to be confident that the public sector of the State is accountable for, and is improving the standard of, administrative decision-making, practices and conduct.

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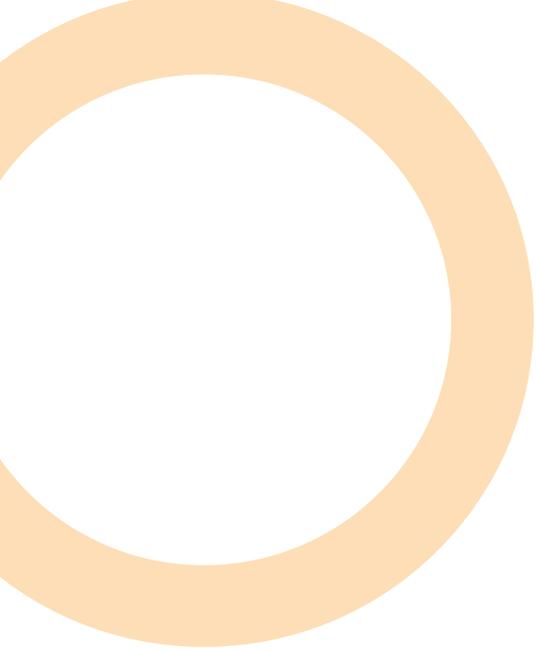
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Foreword

As a general rule, when a person approaches an agency with a request, application, concern or complaint, they first need to be heard, understood and respected. They need to:

- Have the matter dealt with quickly, fairly and properly;
- Be given information or an explanation;
- Be given an apology, if required; and/or
- Have action taken to address their concern or fix their problem.

Government agencies deal with many complainants each year. Most of these complainants act responsibly. However, occasionally the conduct of some complainants can be challenging because of:

- Unreasonable persistence;
- Unreasonable demands;
- Unreasonable lack of cooperation;
- Unreasonable arguments; or
- Unreasonable behaviour.

In these circumstances, special measures to deal with this conduct may be required. It is important to remember that, even where a person's conduct may be unreasonable, they may have a valid complaint and their complaint should be handled appropriately.

This manual has been prepared to assist the staff of government agencies in their interaction with the small proportion of complainants whose conduct is challenging. It has grown out of the unreasonable complainant conduct project, which is a joint project of all the Australian Parliamentary Ombudsman offices. The manual was initially designed for the staff of Ombudsman offices. Because of strong interest in the project from agencies within our jurisdictions, the manual has been adopted to suit the needs of those whose staff may need to interact with challenging complainants from time to time.

The manual sets out strategies to help staff respond confidently, firmly and fairly to unreasonable conduct. I recommend it to you as a tool with practical benefits for staff who provide services to members of the public.



Chris Field
Ombudsman

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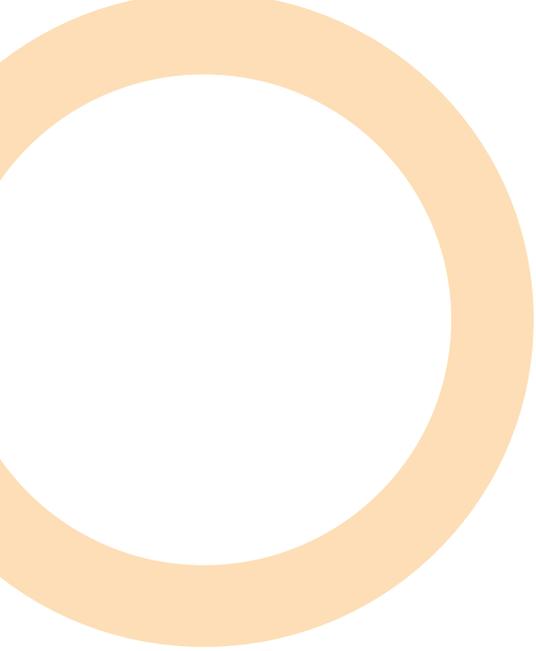
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Chapter 1. Introduction

1.1 The problem

Government agencies deal with many thousands of complainants each year, most of whom act responsibly. Agencies also deal with many complainants who have come to the end of their tether. Some are justifiably upset, angry and generally difficult because they are caught up in some outrageous wrong. Others are difficult for reasons that go beyond the circumstances of their case. These complainants often tend to be angry, aggressive and abusive to staff members. They threaten harm, they are dishonest or intentionally misleading in presenting the facts, or they deliberately withhold relevant information. They flood agency offices with unnecessary telephone calls, emails and large amounts of irrelevant printed material. These complainants tend to insist on outcomes that are clearly not possible or appropriate, or demand things they are not entitled to. At the end of the process they are often unwilling to accept decisions and continue to demand further action on their complaint. Frequently, they also take their complaint to other forums such as Ministers, local MPs or courts of law where they start up the complaint cycle again.

It is very common for these complainants to change the focus of their complaints — from the substantive issue and the organisation responsible for it to the agency's handling of their complaint. So the substantive complaint can be followed by a string of complaints about how their case is being dealt with. The same person's complaint can also often be found in a number of agencies at the same time. It can form the basis for FOI applications and ultimately may end up as a review application, or even a string of review applications, to the relevant external review body.

In summary, these are behaviours that go beyond what is acceptable from people, even when they are experiencing a wide range of situational stress about the issue of their complaint.

Anecdotal evidence from a wide range of organisations and jurisdictions indicates that this problem is widespread. What's more, the number of people who present as difficult seems to be on the increase and the nature of the difficulties that agencies have to deal with seems to be getting more complex.

Over the years, Ombudsman offices have observed a change in complainant conduct which suggests an increasing generalised failure to recognise the link between rights and responsibilities. Some complainants tend to overlook that a condition of being able to exercise one's own rights is, in most cases, an acceptance of the rights of others. They are not mindful of the need to balance their right to make a complaint with the rights of staff to safety and respect and the rights of other complainants to equal time and resources. In other words, they do not seem to recognise that there is a mutual relationship between rights and responsibilities.

Most people would prefer not to deal with those whose behaviour is difficult. In fact, most people will actively try to avoid or minimise circumstances where they have to deal with such people. This avoidance often seems to be reflected in the culture of at least those parts of an agency responsible for dealing with complaints. Challenging complainants are seen as a nuisance, an irritant and a side issue interfering with the core complaint handling business. As a result, many agencies do not have a systematic approach to dealing with their more difficult complainants. This leads to problems with resource management, inequity in case handling and staff stress.

1.2 Some words about this manual

This manual is designed to help agencies and their staff take a systematic and consistent approach to managing challenging interactions with their complainants. The information in it is the result of a joint project of all Australian Parliamentary Ombudsmen, conducted over two years between 2006 and 2008, and referred to in this manual as 'the project'.

The approaches advocated here were developed by complaint handlers for complaint handlers. The material was originally published in the project's *Interim Practice Manual* in 2007, and was trialled in Ombudsman offices around Australia over a 12 month period during 2007 and 2008. This is a new version of the 2007 manual, updated to reflect project experience and trial outcomes and findings.

The manual provides guidelines and suggestions. It is not intended to be prescriptive in any way. The strategies outlined here need to be adapted by agencies to suit their particular circumstances. They should supplement, not replace, existing operational policies and procedures.

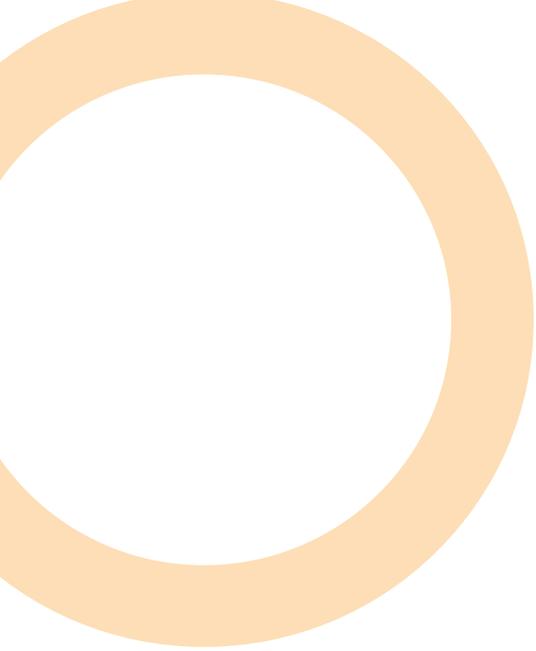
In the end, it is hoped that this manual will contribute to shaping a complaint handling approach across all complaint handling agencies that systematically discourages complainant behaviour which the project came to call 'unreasonable complainant conduct'. By consistently adopting the approach advocated in this manual, agencies will not only help themselves but all other agencies too.

1.3 The benefits

The approach outlined in this manual has a number of benefits:

- It can be easily implemented by complaint handlers using their own professional knowledge, skills and experience.
- The interests and rights of complainants are protected.
- All complainants, whether their behaviour is challenging or not, are treated with fairness and respect.
- By taking control of interactions with complainants, managing complainant behaviour can be separated from managing their issue.

- By applying management strategies in response to complainant behaviour, complainants will not be worse off - whether or not the strategies are successful in achieving their goals.
- By providing an integrated approach, staff stress is likely to be significantly reduced and this will help agencies meet their duty of care obligations.
- The impact of unreasonable conduct on agency resources is minimised.
- Equity and consistency in the handling of all complaints is maximised.



Chapter 2. Key features of the approach

The approach for dealing with unreasonable complainant conduct advocated in this manual has 20 key elements. A summary of these elements is at Appendix 7. It is intended to be used as a ready reference that can be placed within easy view. They cover the objectives of the approach, managing and preventing unreasonable complainant conduct, and the responsibilities of agencies and their staff.

Objectives

1. Ensure equity and fairness

Ensuring equity and fairness in the allocation of resources across all complaints includes also recognising that the challenging conduct of some complainants can actually hinder their ability to achieve appropriate and acceptable outcomes for themselves.

2. Improve efficiency

Improving efficiency in the use of resources reduces what can be a massive drain on the complaint handling resources of an agency.

3. Ensure health and safety

Agencies need to ensure the health and safety of their staff and comply with their OH&S and duty of care obligations as employers.

Managing unreasonable conduct

4. Focus on the conduct, not the person

The focus needs to be on the conduct of the complainant, rather than on the complainant as a 'difficult' person. The difference between the two ways of looking at the problem is, in essence, the difference between the proper and appropriate focus of mental health professionals on the one hand and the appropriate focus of complaint handlers on the other.

In a medical context, psychiatrists and psychologists have identified certain behaviours that complaint handlers often see in their day-to-day work. For example, Lester G, Wilson B, Griffin L and Mullen PE - in their 2004 study of unusually persistent complaints - observed behaviours that are consistent with the psychiatric diagnosis of querulance.¹ And Bill Eddy bases his approach to what he calls 'high conflict people' in legal disputes on personality disorders described in the Diagnostic and Statistical Manual of the American

¹ Lester G, Wilson B, Griffin L, Mullen PE, Unusually Persistent Complainants, *British Journal of Psychiatry*, 2004, 184.

Psychiatric Association.²

It is clearly appropriate for psychiatrists and psychologists to focus on the person - to assess their mental state and, based on that professional assessment, develop an approach to dealing with that person within a clinical context. Complaint handlers, however, are not competent to assess and diagnose their complainants in this way and it is not their role. Their role and expertise is complaint handling.

The approach outlined here suggests that the most effective way for case officers to manage a complainant's challenging behaviour is to manage their own response to that behaviour. For this reason, the focus is on individual instances of observable conduct. This focus allows for:

- People who are not mental health professionals, counsellors or social workers to confidently manage challenging behaviours by reference to their own knowledge, experience and expertise³.
- A more specific targeting of challenging behaviours and the implementation of a range of strategies to manage them.
- The separation of behaviour from the issue, so that the issue can be effectively addressed without it being clouded by behavioural problems.
- Transparency in interactions between complaint handlers and complainants. If the complaint handler is targeting individual instances of observable conduct, then this conduct can be cited as a reason for taking particular action.
- The possibility that a complainant's challenging behaviour is not always driven by mental health issues, but often other reasons.

The reasons complainants engage in certain behaviours to an unreasonable degree may, for complaint handling purposes, be summarised as including:

- Emotional or psychological - anger and frustration (for example, as a result of unmet expectations), unreasonably refusing to accept an unfavourable outcome, seeking vindication, retribution or revenge, holding an exaggerated sense of entitlement, needing to blame others.
- Attitudinal - dissatisfaction with a person, an agency, the government or 'life' in general.

² Eddy B, *High Conflict People in Legal Disputes*, Janis Publications, Canada 2006.

³ Even if a complaint handler is also a psychologist or social worker, in their case handling role they are unlikely to have enough face-to-face contact with, or information about, a complainant to make a valid assessment of the complainant's mental state or underlying motivations.

- Aspirational - seeking 'justice' or a 'moral outcome' in general terms, focusing rigidly on 'a matter of principle'.
- Recreational - an all-consuming hobby, deriving pleasure from the activities associated with the complaint process, social contact.

Complainants might also have ulterior motives, for example a complaint or series of complaints might be initiated to harass, intimidate, embarrass, annoy etc. or the complainant might be using the complaint system as an information gathering process for some other purpose.

Challenging behaviours can also be referable to mental health issues.

5. Use of appropriate terminology

Because the approach advocated here relies on a focus on conduct, it is important that the terminology used refers specifically to the conduct of complainants not the person.

A range of terms are used to describe complainants who pose a problem for complaint handling agencies. The most frequently used term is 'difficult complainants'. Other terms used are 'people who monopolise resources', 'resource-intensive complainants', 'high maintenance complainants', 'vexatious complainants', 'unusually persistent complainants', 'high conflict people' and 'querulous complainants'. These terms focus on the person who is being difficult or challenging and - if used by complaint handlers rather than psychiatrists or psychologists - can be seen to judge and label the person and negatively influence how they are perceived and responded to within a complaint handling system.

The term used in this manual is 'unreasonable complainant conduct', meaning the unreasonable conduct by complainants. It is derived from Ombudsman legislation which allows a finding to be made that an agency's conduct is or was unreasonable. It seems logical to apply the same reasoning to complainants. It allows us to more precisely define and then manage the problem.

For conduct to be unreasonable, it must clearly go beyond the usual situational stress commonly experienced by complainants when they bring a grievance to an agency.

See also 3.3 When is complainant conduct unreasonable?

6. Recognise that the problem is part of the core work of the agency

Agencies need to recognise that dealing with unreasonable complainant conduct is part of their core work.

Dealing with complainants whose conduct is challenging has a tendency to be pushed to the periphery of an agency's daily work. The 'difficult' person is frequently avoided, assigned to someone who is 'naturally' good at dealing with this problem, or to a senior staff member who is seen as more experienced. Complainants who are dealt with in this way can easily either feel that they are being given short shrift or that their complaint is so important that they are given preferential treatment.

As a result, they are highly likely to escalate the behaviour that others find difficult. There is a very real danger that complaint handling organisations can sometimes create a 'difficult' person, or at the very least exacerbate unreasonable conduct. The approach outlined here has the potential to facilitate the opposite - that is, with skilful action routinely and consistently applied by individual case officers, the response to a complainant's unreasonable conduct can be managed to everyone's advantage.

To appropriately and systematically deal with unreasonable complainant conduct, the conduct needs to be shifted to centre stage by recognising that:

- Dealing with unreasonable complainant conduct is an unavoidable and integral part of core complaint handling work;
- As an integral part of core work, it needs to be given proper priority and adequate resources; and
- All frontline and complaint handling staff have to be able to deal with it so they need ongoing training, guidance and support to overcome the natural tendency of most people to avoid difficult interactions.

7. Ensure ownership and control

Agencies and their staff need to exercise ownership and control over complaints. This is a crucial issue that all parties to a complaint need to recognise. No matter what may be the underlying reason for unreasonable conduct (be it psychiatric, experiential, environmental, situational or whatever), experience shows that the primary 'trigger' for most unreasonable complainant conduct is likely to be a struggle for control over how a complaint is dealt with.

This struggle for control is primarily due to ignorance, a misunderstanding, a failure to recognise, or a refusal to accept who effectively 'owns' the complaint and who decides such matters as:

- Whether the complaint will be acted on or declined;
- The staff who will be responsible for dealing with the matter;
- The priority and resources that will be given to it;
- The methodology to be used to deal with it; and
- The final assessment and outcome of the matter.

It needs to be made clear to complainants that:

- The agency and their staff 'own' the complaint - they decide whether it will be dealt with, and if so who by, how quickly, with what priority, what resources will be given to it, what the outcome will be, and so on.
- Complainants 'own' their issue - they are free to raise it through other available avenues such as courts and tribunals, the media and politicians. Of course if a complaint includes a broader or public interest component, it could be said that it is

effectively jointly 'owned' by both the complainant and the organisation concerned.

The management strategies set out in this manual are about exercising ownership and control over the handling of complaints - about pursuing an approach or reaching an outcome that a competent case officer believes to be reasonable in the circumstances, whether or not the complainant agrees and no matter how the complainant reacts. In other words, a case must be conducted and concluded to the agency's satisfaction - not the complainant's.

See also 4.1 'Ownership' of complaints.

8. Implement the management strategies

Central to the approach outlined in this manual is a framework of management strategies to deal with individual instances of observable conduct that a case officer has assessed as unreasonable. It aims to provide a 'thinking tool' for case officers once they are confronted by complainant conduct they find challenging and a systemised series of appropriate actions.

See also 3.4 Framework of strategies for managing unreasonable complainant conduct.

9. Consistent implementation

Agencies and their staff need to respond with consistency to complaints and consistently implement the management strategies suggested in this manual.

10. Good communication

Agencies and their staff need to provide clear, timely and firm communication with complainants. If complainants are not kept informed about what is happening, they are likely to make negative assumptions.

Prevent unreasonable conduct

11. Manage complainant expectations

It is vitally important that agencies and case officers manage complainant expectations from the beginning.

Complainants are often not aware of an agency's role in dealing with their complaint and can hold unrealistic expectations about what will happen. They may believe that they have the right to dictate how the agency will handle their complaint, including how the agency's inquiries should proceed and what the outcome should be. Some complainants have an unrealistic expectation that significant action will be taken as a result of their complaint — for example, that they will receive monetary compensation or that a particular staff member will be dismissed. Complainants sometimes think that their complaint is more important than any other complaint the agency is handling and they therefore expect such things as 'on demand' attention from staff, urgent consideration of their matter, the provision of significant amounts or particular types of information and so on.

Unrealistic expectations can lead to unreasonable conduct. It is essential for the good management of all complaints, and unreasonable complainant conduct in particular, to manage complainant expectations from the very beginning of the complaint handling process.

Complainants need to be made aware of:

- The agency's role;
- The complaint handling process;
- The timeframe of the complaint handling process;
- What is expected of the complainant;
- What the responsibilities of the agency are in relation to the complainant; and
- What the responsibilities of the complainant are in relation to the agency.

There are a number of ways complainant expectations can be managed:

- Clear information about the agency's role and complaint handling process should be generally available in the public domain.
- The letter acknowledging receipt of the complaint can provide detailed information about the complaint handling process, as well as the respective rights and responsibilities of the agency and the complainant. See also Appendix 1: Example acknowledgement letter.
- Some basic ground rules can be established. These can either be in a stand alone document, such as a handout to complainants, or they can be included in the acknowledgement letter. See also Appendix 2: Model ground rules.
- Complainant expectations can be tested and managed at the beginning and during the course of handling their complaints. Suggestions about how this might be done can be found in the script ideas listed in Chapter 4: Communicating with complainants.

12. Insist on respect and cooperation

Agencies and their staff should insist that complainants show respect for and cooperate with case officers as a prerequisite to further contact and communication.

Organisational responsibilities

13. Commitment to the approach

Management support for the approach outlined in this manual is critical to its success. It is not enough to send staff off for training and expect them to be able to deal with the challenges presented by unreasonable complainant conduct.

Senior managers need to:

- Actively show commitment to this approach on an ongoing basis;
- Support their staff with the necessary policies, directives and authorisation to allow strategies to be put in place confidently and consistently; and
- Provide staff with adequate and ongoing training, supervision and guidance in their dealings with unreasonable complainant conduct.

The framework of management strategies is designed to encourage case officers to respond confidently, appropriately and firmly to complainants whose conduct they have assessed as being unreasonable. Properly applied, the strategies also support consistency in dealing with unreasonable conduct as a whole within an agency and, in time, across agencies. Case officers need to clearly understand that they are not only specifically authorised, but also directed, to put in place strategies for managing unreasonable complainant conduct and that, when they do, their actions will be supported. This approach needs to be endorsed at the highest level of the agency.

14. Role of supervision

The complainant must know that the case officer has the authority, as well as the skill and knowledge, to handle the case. Agencies need to ensure that case officers are given adequate support in their handling of unreasonable conduct. Supervision, as far as the complainant is concerned, is behind the scenes. The supervisor only becomes visibly involved where the case officer's handling of the matter is complained about. A case should not be escalated solely because the complainant demands it.

See also 3.6 Supervision.

15. Adequate time and resources

Case officers need adequate time and resources to deal with unreasonable complainant conduct. Although this may require extra resources to be put into training and supervisory support, over time the benefits flowing from this approach should result in significant overall savings.

16. Adequate training and guidance

Agencies need to provide their case officers with adequate training and guidance in how to deal with unreasonable complainant conduct.

Comprehensive training on an ongoing basis is fundamental to staff developing and maintaining the confidence to appropriately deal with unreasonable conduct in their daily work.

Staff responsibilities

17. Calm demeanour

Remain calm in the face of unreasonable conduct.



18. Show respect

Show respect for all complainants, no matter what the provocation.

19. Demonstrate impartiality

It is important to always demonstrate impartiality. The case officer is not an advocate for the complainant, a social worker or a saviour.

20. Professionalism

Professionalism is necessary in all dealings with people, even when they are acting unreasonably. This includes ensuring that the strategies outlined in this manual are implemented consistently.

Chapter 3. Managing unreasonable complainant conduct

3.1. Managing all complaints well from the beginning

All complaints need to be managed as well as they possibly can be from the beginning to minimise the chances of unnecessary delays, misunderstandings and unrealistic expectations. In actual fact, this management process starts before a complaint is ever made - with the accuracy and relevance of the information available in the public domain about the agency's role, powers and complaint handling processes.

In general terms, managing a complaint well from the beginning may include:

- Managing complainant expectations to ensure they are realistic from the beginning.
- Communicating clearly and firmly both verbally and in writing.
- Communicating in a style that is appropriate to the specific complainant.
- Ensuring that complainants understand what the agency can and cannot do, and will and will not do.
- Making complainants aware of their responsibility to treat staff with respect, to provide information and to cooperate with their case officer.
- Defining the key issues that the agency is going to address and keeping the focus on them.
- Providing clear reasons for the agency's decisions.
- Avoiding unnecessary delays.

Specifically, managing a complaint well from the beginning may include:

- Declining, at the start, complaints that contain unreasonable arguments.
- Declining 'trivial' complaints - for example, on the basis of limited resources, lack of utility or no good purpose being served in taking the matter further.
- Sending out an acknowledgement letter that spells out in general terms what the agency can and cannot do, will and will not do, and what the agency's complaint handling processes are.
- Making and maintaining telephone contact where possible and appropriate.
- Where possible and appropriate, ringing complainants before taking up a complaint to clarify or confirm the issues of their complaint. 'As I understand it, you are complaining about ... is this correct?'

- Reality testing the complainant's expectations. 'What do you hope to get from this process?' 'What do you expect the outcome to be?' 'What did you hope to achieve when you decided to contact us?' - and then addressing and correcting any unrealistic expectations.
- Informing the complainant in specific terms what the agency can and cannot do, will and will not do, in relation to the particular issues raised in the complaint.
- Where appropriate, clarifying the limitations of the agency's complaint handling system rather than challenging the complainant's demands.
- Keeping complainants informed of progress on their complaint - if there is going to be a delay, ringing them and explaining why.
- If it is likely that the complainant is going to be very disappointed with the final decision, ringing and explaining the decision and the reasons for it - before sending a final letter.
- In the final letter, providing the reasons for the decision before stating the decision - rather than the other way around. This will maximise the likelihood of the complainant focusing on the argument underpinning the agency's decision.
- Showing empathy when telling the complainant that their complaint will not be taken up or has not been found sustained.
- Identifying complaints that are likely to, or do, involve unreasonable conduct as soon as possible and ensure that their case is strategically managed with appropriate supervision.

3.2. Warning signs of unreasonable complainant conduct

Data gathered during the course of the project points towards some general warning signs of unreasonable complainant conduct. Some of these can be identified early on. Others may only become apparent some way into the process - when complainants who are reasonable and cooperative at the beginning, discover that the outcome will not be as they anticipated.

It must be emphasised that none of these signs by themselves necessarily mean the case will involve unreasonable conduct. Whatever the circumstances, if the complainant is able to accept explanations designed to manage their manifestly unrealistic expectations, if they are able to moderate inappropriate behaviour once this is drawn to their attention and if, in the end, they are able to cooperate with the process, then unreasonable complainant conduct is most likely not involved.

The warning signs of unreasonable conduct may include one, but more likely a number, of the following:

Complainant history - the complainant may have:

- Made a number of previous complaints about this issue or related issues;
- Made a number of review requests, especially second review requests about the same issue;
- Made contact with other government agencies, MPs, Ministers or other oversight bodies about the current complaint;
- Sought legal advice about the current complaint or the agency's handling of the complaint;
- Made freedom of information requests about or related to the issue of complaint; and
- Raised issues about the case officer's integrity or competence in handling the case.

They may also have expanded the subject matter of their complaint to include other people or agencies - particularly those that have been involved in dealing with the complaint - or conspiracy theories.

Outcomes sought - the complainant may want:

- A manifestly inappropriate provision of services;
- Manifestly inappropriate compensation;
- A manifestly illogical or irrational solution;
- An apology where this is clearly not warranted or where the terms of the apology sought are clearly unreasonable; and/or
- What amounts to revenge or retribution.

They may also have unrealistic expectations about what the agency can achieve or keep stating and restating their desired outcomes in terms of morals, justice, principles or the public interest.

Written complaint - the complaint may:

- Display excessive and idiosyncratic emphasis;
- Show punctuation, font changes and bolding excessively;
- Show coloured highlighting excessively;
- Use legal or medical terminology inappropriately;
- Imitate an official reporting style, such as a police operational format;
- Use excessively dramatic language; and/or
- Include excessive and/or irrelevant information that may also be annotated.

Interacting with the agency - the complainant may:

- Make excessive written and telephone contact with the complaint handling agency;
- Give forceful instructions about how the complaint must be handled;
- Refuse to define issues of complaint;
- Be resistant to the case officer's explanation if this runs counter to their own views;
- Refuse to accept the case officer's advice, even if it is clearly valid and reasonable;
- Provide information in dribs and drabs, despite requests to provide all relevant information ;
- Withhold information;
- Provide false information;
- At the end of the process, provide previously withheld information in an attempt to have the case reopened;
- Make excessive demands on resources - copies, expert opinion etc;
- Be rude, confronting, angry or aggressive; and/or
- Be overly ingratiating, manipulative or make threats.

Reacting to the news that their complaint will not be taken up or will be discontinued - the complainant may:

- Refuse to accept the case officer's or agency's decision;
- Reframe their complaint in an attempt to have it taken up again;
- Raise a range of minor or technical issues, arguing that these call into question the merits of the agency's decision;
- Expect a review of the decision based merely on an expression of dissatisfaction, unsupported by any arguments or new evidence;
- Demand a second review after the first review; and/or
- Take the complaint to other forums and go on to allege bias or corruption on the part of the agency, simply because the decision went against them.

3.3. When is complainant conduct unreasonable?

Many complainants are distressed for very good reasons. They are caught up in what they see as a terrible wrong. Their challenging conduct may not be unreasonable given the circumstances. For conduct to be unreasonable, it must clearly go beyond the norm of situational stress.

What can be termed 'unreasonable' will vary depending on a number of factors. The same conduct may be unreasonable in one set of circumstances, but may not be unreasonable

in another. When deciding whether a complainant's conduct is unreasonable, the following objective and subjective factors need to be considered.

- **The merits of the case**

Is there an inherent right or wrong in the matter?

- **The circumstances of the complainant**

Does the complainant have the health, intellectual, educational, language, financial and social resources required to cooperate and meet the requirements of the complaint process? If they do, then more can be expected of them in terms of their conduct than if some or all of these resources are absent.

- **Jurisdictional issues**

Specific legislation may limit how strategies can be applied to manage agency responses to a complainant's unreasonable conduct.

- **Proportionality**

Is the complainant's distress in reasonable proportion to the loss or wrong suffered?

- **The complainant's responsiveness**

Do calming measures and explanation help to settle the complainant down?

- **The case officer's personal boundaries**

If it feels threatening, stressful or otherwise wrong to the case officer dealing with the matter, then it is.

- **Conduct that is unreasonable and unacceptable under all circumstances**

This is conduct that involves overt anger, aggression, violence and assault - this should never be tolerated.

See also Chapter 5: Managing serious anger, aggression and threats.

In this manual, we have assumed that staff assessing the reasonableness or otherwise of a complainant's conduct have the skill, ability and attitude expected of a professional complaint handler. In other words, they have the competencies required by the job they do.

3.4. Framework of strategies for managing unreasonable complainant conduct

The unreasonable complainant conduct commonly seen by many agencies can, in most cases, be grouped into five categories:

- Unreasonable persistence.
- Unreasonable demands.

- Unreasonable lack of cooperation.
- Unreasonable arguments.
- Unreasonable behaviour.

Table 1 sets out these conduct categories, the associated trigger conduct and the corresponding strategy for managing that conduct. This framework is a guide — it should be applied flexibly, bearing in mind that more than one category of conduct may need to be managed at one time.

The use of these strategies must also be based on the clear understanding that:

- Every complainant deserves to be treated with fairness and respect;
- In the absence of very good reasons to the contrary, members of the public have a right to access the agency;
- No complainant, regardless of how much time and effort is taken up in responding to their complaint, should be unconditionally deprived of having their complaint properly and appropriately considered;
- A complainant whose conduct is unreasonable may have a legitimate complaint; and
- The substance of the complaint dictates the level of resources allocated to it, not the complainant's wishes, demands or behaviour.

See also Chapter 4: Communicating with complainants.

Table 1. Management strategies

Conduct category	Unreasonable conduct (trigger)	Management strategies
<p>Unreasonable persistence</p>	<p>Unreasonable persistence includes:</p> <ul style="list-style-type: none"> • Persisting with a complaint even though it has been comprehensively considered by an agency, and all avenues of review have been exhausted. • Reframing a complaint in an attempt to get it taken up again. • Showing an inability to accept the final decision. • Insisting that a particular solution is the correct one in the face of valid contrary or alternative arguments. • Persisting in interpreting the law or policy in a way that is not in accordance with generally accepted or expert views on the issue and insisting that action be taken accordingly. • Persisting in wanting to know where to go next, when it has been explained that there is nowhere else to go. • Demanding a review because it is available, but not arguing a case for a review. • Making an issue out of anything. • Getting gratification from the process of regular contact with the case officer, possibly including inventing unnecessary reasons for having such contact. 	<p>Strategies for dealing with unreasonable persistence are about saying 'no'. They include:</p> <ul style="list-style-type: none"> • Communicating clearly and transparently — e.g. telling complainants firmly that something is 'not going to happen'. • To the 'where-do-I-go-to-now' question, telling complainants that not all problems have an institutional solution and they may have reached the end of the line, unless a realistic referral can be made. • Requiring complainants who want a review to provide an argument for one — e.g. to tell the agency how it has erred or provide new information — and, if they don't, their file will remain closed. • Providing one review only. • Maintaining a 'no means no' stance following review. • Adopting, when appropriate, a firm no-further-correspondence or contact stance and requiring any variation from this to be authorised at a high level. • Not allowing complainants to reframe the complaint to re-enter the process, unless they raise new and important issues. • Ending telephone calls that are unproductive.

Conduct category	Unreasonable conduct (trigger)	Management strategies
<p>Unreasonable persistence cont'd</p>		<ul style="list-style-type: none"> • Asserting the agency's position - e.g. 'I acknowledge that your view is, we see it differently', or 'I acknowledge that your view differs from ours, however, our job is to make a decision about ... and this is what we have decided'. • Making it clear that our decision is final and, for better or worse, we have made our decision. <p>Managing unreasonable persistence also includes:</p> <ul style="list-style-type: none"> • Managing expectations from the beginning, including ensuring initial expectations are realistic. • Adopting a firm and authoritative communication style both in writing and verbally. • Defining key issues and keeping the focus on them.
<p>Unreasonable demands</p>	<p>Unreasonable demands include:</p> <ul style="list-style-type: none"> • Insisting on outcomes that are unattainable. • Insisting on a 'moral' outcome - e.g. justice in the community interest, when really a personal interest is at stake. • Demanding an apology or compensation when no reasonable basis for expecting such outcomes exists. • Wanting revenge, retribution. • Wanting what is not possible or appropriate - e.g. copies of sensitive documents, names and contact details of staff, other complainants or whistleblowers. 	<p>Strategies for dealing with unreasonable demands are about setting limits. They include:</p> <ul style="list-style-type: none"> • Letting complainants know in advance how the agency intends to deal with the complaint - having a plan and sticking to it. • Making sure the complainant is clear that the agency decide how the complaint should be handled. • Clarifying the limitations of the particular complaint handling system.

Conduct category	Unreasonable conduct (trigger)	Management strategies
Unreasonable demands cont'd	<ul style="list-style-type: none"> • Issuing instructions and making demands about how a complaint should be handled. • Providing supporting details that are extraordinarily detailed when such detail is not relevant to the complaint. • Making unreasonable resource demands, out of proportion to the seriousness of the issue. • Wanting regular and lengthy phone contact where this is not warranted. • Showing reactions or demand for action that are out of proportion to the significance of the issue. • Moving the goal posts - changing the desired outcome. • Shopping for a sympathetic ear in the agency - demanding to talk to a supervisor or the manager personally. • Placing the agency on an extensive email copy list and expecting responses to these emails. • Consistently creating complexity where there is none. • Presenting as overly needy or dependent - e.g. wanting to transfer responsibility for their wellbeing to the complaint handler or agency. 	<ul style="list-style-type: none"> • Avoiding being drawn into hypothesising, catastrophising, conspiracy theories, unproductive argument and personal attacks more generally. • Restricting contact to defined times and staff members where necessary. • Responding only to emails and mail addressed to the agency directly - not responding to mail where the agency is copied in. • Ending telephone calls that are unproductive. • Limiting contact to writing only. • Not doing for unreasonably demanding complainants something the agency would not normally do for any other complainant, just to appease them. • As a last resort, informing the complainant that the agency finds their interactions unreasonably demanding and setting defined limits for further contact. <p>Managing unreasonable demands also includes:</p> <ul style="list-style-type: none"> • Managing expectations from the beginning, including ensuring initial expectations are realistic. • Adopting a firm and authoritative communication style both in writing and verbally. • Defining key issues and keeping the focus on them.

Conduct category	Unreasonable conduct (trigger)	Management strategies
<p>Unreasonable lack of cooperation</p>	<p>Unreasonable lack of cooperation includes:</p> <ul style="list-style-type: none"> • Presenting a large quantity of information which is not organised, sorted, classified, summarised, where the complainant is clearly capable of doing this. • Presenting information in dribs and drabs - refusing to present all information at the outset. • Refusing to define issues of complaint – ‘the attached (usually a large amount of information) speaks for itself’ - where the complainant is clearly capable of doing this. • Focusing on principles rather than substantive issues. • Changing the complaint and raising new issues while the complaint is in the process of being considered. • Displaying unhelpful behaviour - e.g. withholding information, being dishonest, misquoting others, swamping the agency with documents. 	<p>Strategies for dealing with unreasonable lack of cooperation are about setting conditions. They include:</p> <ul style="list-style-type: none"> • Requiring complainants to organise or summarise the information they have provided before the agency will look at the complaint (where they are capable of doing this). • Requiring complainants to define what their issues are or to pursue further inquiries before the agency will look at the complaint. • Telling complainants that the agency will not look at their complaint until all the information has been presented. • Ending the agency's involvement in the complaint if it is discovered that the complainant has been wilfully misleading or untruthful in a significant way. <p>Managing unreasonable lack of cooperation also includes:</p> <ul style="list-style-type: none"> • Managing expectations from the beginning, including ensuring initial expectations are realistic. • Adopting a firm and authoritative communication style both in writing and verbally. • Defining key issues and keeping the focus on them.

Conduct category	Unreasonable conduct (trigger)	Management strategies
<p>Unreasonable arguments</p>	<p>Unreasonable arguments include:</p> <ul style="list-style-type: none"> • Holding irrational beliefs - e.g. seeing cause and effect links where there are clearly none. • Holding what is clearly a conspiracy theory unsupported by any evidence. • Interpreting facts in a clearly irrational/unreasonable way and insisting this interpretation is the correct one. • Arguing the clearly bizarre. • Insisting on the importance of an issue that is clearly trivial. 	<p>The strategy for dealing with unreasonable arguments in complaints is primarily about declining or discontinuing the agency's involvement.</p> <p>These complaints need to be declined at the beginning, or discontinued as soon as it becomes clear that the complaint is groundless.</p> <p>Alternatively, if unreasonable arguments are mixed with reasonable arguments, the strategy should be to refuse to deal with the unreasonable portion.</p> <p>This category of conduct is often associated with mental illness.</p> <p>See also 4.4 Script ideas for dealing with unreasonable demands and persistence.</p>
<p>Unreasonable behaviour</p>	<p>Unreasonable behaviour includes:</p> <ul style="list-style-type: none"> • Displaying confronting behaviour - e.g. rudeness, aggression, threats or harassment. • Sending rude, confronting or threatening letters. • Making threats of self harm. • Making threats of harm to others. • Displaying manipulative behaviour - overly ingratiating, tears or veiled threats. 	<p>The strategies for dealing with unreasonable behaviour are primarily about 'saying no' to unacceptable behaviours, and setting limits and conditions for future interactions.</p> <p>Overt anger, aggression and threats in person, on the phone or in writing are never acceptable. Dealing with these includes having risk management protocols in place.</p>

Conduct category	Unreasonable conduct (trigger)	Management strategies
<p>Unreasonable behaviour cont'd</p>		<p>Also:</p> <ul style="list-style-type: none"> • Return letters framed in rude and intemperate language and request that the complainant reframe their concerns in more moderate language. • Point out that more moderate language is clearer and therefore more likely to achieve better outcomes. • End telephone calls and interviews if the complainant becomes abusive and confronting. <p>See also 4.4 Script ideas for dealing with unreasonable demands and persistence.</p>

3.5. Resistance to explanation

Project results show that the unwillingness of complainants to listen or to accept advice or decisions - resulting in unreasonable persistence - was the conduct most frequently reported as troubling to case officers. It therefore warrants separate mention.

Most case officers do not feel they have done their job properly until they have explained - to the complainant's satisfaction - their decision, their referral, or whatever other information they are trying to convey. If the complainant refuses to accept what the case officer is saying, and the case officer does not feel they have done their job until the complainant accepts what they are being told, the case officer will invariably become embroiled in an unproductive interaction which also runs the risk of ending in a heated debate.

The fact is that complainants sometimes form a view based on something other than logical reasoning or they argue logically, but start from a false premise. In these circumstances it is not possible to convince complainants of the correctness of the decisions or advice using logical reasoning.

In the case of unreasonable persistence - unreasonably not accepting the case officer's explanation - no amount of explaining and arguing is going to convince the complainant. Therefore, any discussion or debate you engage in is going to lead nowhere.

Provided that the case officer has done their job properly and is confident that the decision or advice is correct, it is not the case officer's responsibility or problem if the complainant is unable to accept the decision or advice. In these circumstances, a case officer does not have to persist in the hope that they may be able to convince a complainant of the correctness of their thinking. Once they have outlined their reasoning once or twice - and it is clear that the interaction with the complainant is becoming unproductive - it can be ended at this point, perhaps with the acknowledgement that the complainant has a different view to the one the case officer or the agency has come to.

Staff need to be secure in the knowledge that their job is well done when they have properly considered all issues, made sound decisions, and conveyed their decisions with adequate reasons to the complainant. In the end, the agency has to be satisfied that the job was done properly, not the complainant.

Based on these considerations, a complainant's inability to agree with - or at the very least to accept the validity of advice or a decision - should be one of the more straightforward unreasonable conduct types to handle rather than one of the more difficult.

3.6. Supervision

When it becomes apparent that unreasonable complainant conduct is involved, and it seems that it will be ongoing, it is essential for the matter to be discussed between the relevant case officers and immediate supervisors. At this point it is important to:

- Make a plan about how the case will be managed; and
- Stick to the plan as closely as possible without being inflexible.

When deciding on a plan, it is important to look at both the complainant's and the case officer's/agency's conduct. The case officer and supervisor have to critically and honestly ask themselves, 'Is there anything we have done to create or exacerbate the unreasonable conduct?' If there is, steps need to be taken immediately to rectify this. See also Chapter 7: Apologies.

Supervisors need to make it clear to their case officers that they have their support. This support enables the case officer to make confident, clear decisions and to act firmly in the face of unreasonable complainant conduct.

As far as the complainant is concerned, the case officer should be seen as having the authority to handle the case. It is not appropriate to allow a complaint to be escalated to a supervisor just because the complainant demands this, unless the complaint is about the case officer's handling of the matter. If this occurs, the supervisor needs to deal with the complaint against the case officer and, if there is no substance to it, leave the responsibility for handling the complaint with the case officer.

Supporting and protecting case officers should be a key priority for supervisors and management.

3.7. Limiting access

Where unreasonable complainant conduct is involved, limiting the complainant's contact with the agency may need to be considered.

This contact can be limited in terms of:

- The times a complainant may make contact;
- The staff the complainant may have contact with; and
- The form in which the contact may take place - e.g. contact may only be in writing, with a direction not to enter the agency's premises and not to contact agency staff by telephone.

Steps to limit access to an agency should only be taken with the greatest reluctance. They are only justified if there are safety concerns for staff or to ensure that other meritorious cases are not robbed of the resources to which they are entitled.

If limitations require complainants to only contact a specific officer, it is important that this role is spread among two or three people. Limiting contact by all complainants exhibiting unreasonable conduct to one member of staff can place an unacceptable burden on that person.

Decisions to place limitations on contact need to be approved by the CEO or a senior delegate, and they should sign any letters informing the complainant of those limitations.

Steps to be taken before limiting access to an agency

In the few circumstances where limits are justified, the appropriate steps to take before limiting access to an agency will depend on the circumstances of each case. For example, an individual complainant or complainant group sends a constant stream of letters to an agency on a wide range of issues. If the demands placed on the agency by this correspondence are excessive, it may be appropriate to notify the complainant or complainant group either that only significant and serious issues or complaints will be addressed by the agency - or only a certain number of issues will be addressed in any given period - so they should focus their requests accordingly.

If a complainant rings constantly, makes repeated visits to the agency or raises the same issues with different staff, it may be appropriate to notify the complainant that calls will only be taken at specific times of specific days, only a nominated staff member will deal with the calls in future, and any appointments must be made with that staff member.

In the small number of cases where it is clear that a complainant will not accept the agency's decision on a matter and all appropriate avenues of internal review or appeal have been exhausted - and the complainant continues to contact the agency - it may be appropriate to notify them that in future:

- No phone calls will be accepted or interviews granted concerning the specific matter already reviewed; and
- Correspondence will be received, read and filed but only acknowledged or responded to if they provide significant, new information about their complaint or concern or raise new issues which, in the agency's opinion, warrant fresh action.

In these cases, it is important that adequate documentary records are made and maintained.

Withdrawing services or refusing access

The only circumstances where an agency should contemplate withdrawing services or refusing access would be where the complainant concerned:

- Is consistently abusive, or makes threats to staff or other members of the public using the services or at the agency's premises;
- Causes damage to the property of the agency, or intimidates or threatens physical harm to staff or third parties;
- Is physically violent; or
- Produces a weapon.

See also Chapter 5: Managing serious anger, aggression and threats.

Depending on the importance of the service to the physical or mental wellbeing of the complainant concerned - even if they exhibit one or more of the first three behaviours - it may be preferable to modify the way a service is provided, rather than withdraw or withhold it completely. Possible strategies might include constructing special security accommodation at the agency's premises, using specially trained staff for interviewing such complainants, or delivering material to their home rather than having them collect it from the agency.

If a complainant is physically violent or produces a weapon, the matter should be immediately reported to the police.

Recording service and access restrictions

A senior officer of the agency needs to be responsible for maintaining a list of complainants whose access to the agency has been restricted, including the specific directions for each individual. They should also have copies of all the relevant correspondence advising the complainant of the limits imposed.

When complainants who are on the 'no personal contact list' contact the agency by telephone or in person, they should be reminded of the agency's decision outlined in correspondence to them and the conversation or contact should be politely brought to an end. No debate or discussion should be entered into.

If complainants have been informed that they must not contact the agency except in writing, they should also be warned that they may be escorted from the agency's premises if they do approach and that telephone calls will be ended.

Public interest considerations governing access restrictions

It is important that decisions about limiting access to an agency are made within the wider framework of public access rights and responsibilities.

These decisions must be based on a clear understanding that:

- In the absence of very good reasons to the contrary, members of the public have a right to access agencies to seek advice, help or the services the agency provides.
- In a democracy, people have a right to complain. Criticism and complaints are a legitimate and necessary part of the relationship between agencies and their customers or communities, and may be dynamic forces for improvement within agencies.
- Nobody, no matter how much time and effort is taken up in responding to their complaints or concerns, should be unconditionally deprived of the right to raise those concerns and have them addressed.

Agencies also have an obligation to use resources efficiently and effectively so, at some point, it may be necessary and reasonable for an agency to decide to limit the nature or scope of their responses to complainants whose conduct is unreasonable. However these

situations should be the exception rather than the rule.

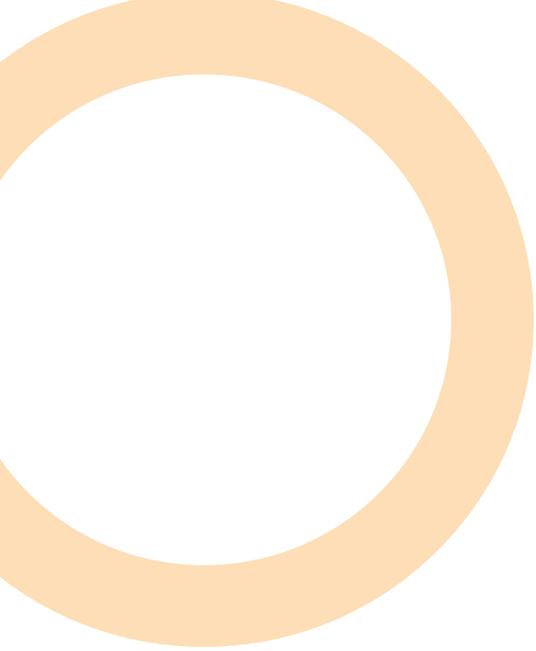
Each agency dealing with the public should develop a comprehensive policy on public access which outlines their commitment to:

- Respond to correspondence, answer telephone enquiries and deal with face-to-face enquiries from the public at the agency's offices;
- Provide services to the public, including their guarantee of service and circumstances where the provision of services may be withheld or withdrawn; and
- Provide the public with rights of review or appeal.

The policy should also outline the circumstances when the agency:

- Will not answer correspondence, such as correspondence that is abusive towards staff and does not raise any substantive issues; and
- May restrict telephone contact, such as ending calls if the caller has become abusive.

It should be noted that agencies cannot develop policies that attempt to avoid or limit statutory access and service rights.



Chapter 4. Communicating with complainants

4.1. 'Ownership' of complaints

A key consideration when communicating with a complainant is ownership. Complaint handling organisations often talk about 'our complainants'. In fact, complaint handling organisations are mostly impartial and neutral. If they 'owned' complainants, they would be acting for them. All the agency can ever 'own' is the complaint.

It is helpful to think about the agency's relationship to a complaint in terms of ownership because it is the agency, not the complainant that has all the prerogatives, discretions and responsibilities that ownership effectively entails. It is the agency that will make the key decisions about the complaint, for example whether it will be dealt with and if so how, who by, how quickly, what the outcome will be of any investigation and what will be recommended.

Complainants come to agencies with complaints about issues. The complaint is subject to the scrutiny of the agency within the context of the agency's legislation, policies and practices. At the end of the process, the complainant is given a considered decision supported by reasons. This is usually the end of the process, unless an avenue of review is also available. The decision provided by the agency, even if the finding is in favour of the complainant, may or may not resolve the complainant's issue. At the end of the complaint handling process, the issue is still the complainant's issue - not the agency's.

By keeping the principle of 'ownership' in mind, communication with the complainant can clearly delineate from the beginning what the agency can and cannot do, and what they will and will not deal with.

All the good practices that apply to communication generally apply doubly to dealing with unreasonable complainant conduct - timeliness, correctness, clarity, succinctness, minimising jargon, courtesy, respect and so on. There are also some additional considerations to do with both writing and talking to complainants.

4.2. Writing to complainants

An acknowledgement letter is an opportunity to manage complainant expectations. It can inform the complainant about the role of the agency, its processes and timeframes. It can also spell out respective responsibilities - the agency's as well as the complainant's.

See also Appendix 1: Example acknowledgement letter and Appendix 2: Model ground rules.

Complainants often attempt to start the complaint cycle up again in another agency at the end of a process they have been dissatisfied with. They may either try to take their issue to another agency or agencies, or they may shift ground and start complaining about how their complaint was handled. Sometimes they may do both. They may also try to involve a

number of agencies at the same time or take their matter to their local MP, a Minister or the media. Given all these possibilities, it is important to write the final letter giving decisions and reasons not just for the complainant - but also for the broader audience of the agencies the complainant may go to next. This letter needs to give a full history of the complaint and its consideration and comprehensive details about how decisions were reached.

It is also important that - when receiving a complaint from a complainant who appears to have a history of complaining about the same issue in other agencies - the new agency asks the complainant for copies of any final correspondence from other agencies.

When writing the final letter, consider giving the decision at the end rather than the beginning of the document. This encourages the complainant to read the reasoning underpinning decisions first. The decision is then more likely to be understood. Some complainants, when faced by an adverse decision at the beginning of the letter, do not bother to read the rest of the letter before getting on the phone to the agency to express their dissatisfaction or demand a review. This, unnecessarily, takes up more of the agency's time.

Complainants sometimes present agencies with a long (often numbered) list of issues of complaint. When making decisions and giving reasons, agencies do not have to address each and every issue raised by the complainant. Case law supports this:

- *'... it is not necessary for a decision-maker, whether judicial or administrative, to address specifically and in detail, each and every issue raised by the applicant.'* (Mentink v Albietz [1999] QSC 9)
- *'It is not necessary that reasons address every issue raised in proceedings; it is enough that they deal with the substantial issues upon which the decision turns.'* (Total Marine Services Pty. Limited v Kiely [1998] 51 ALD 635 at 640)
- *'... it is clear law that the reasons need not descend to a point-by-point account of the evidence, and all the conflicts, nor a point-by-point recitation and then analysis of every point made in submissions.'* (KO and KP v Commissioner of Police, NSW Police (GD) [2005] NSW ADTAP 56)

Agencies also do not have to respond to correspondence to which they have been added by cc. However if the cc information contains a significant issue of interest to the agency, they may be able to pursue it themselves without involving the person who has sent the information — if this is the more productive course.

Letters giving review decisions are best short and concise. Long and detailed review decisions sometimes encourage a complainant to argue about specific details while ignoring the substance of the decision.

Agencies can refuse to correspond further with complainants if they persist in their complaint after the agency's complaint process has been exhausted. In this case, a letter needs to be written to the complainant advising that any further correspondence from them

will be filed without acknowledgement, unless a substantially new issue is raised which the CEO of the agency considers warrants attention. This letter needs to be signed by the CEO. See also 3.7 Limiting access.

It is advisable not to accept angry and abusive letters from complainants, as accepting them only condones anger and abuse. Such a letter needs to be returned to the complainant (after putting a copy on file) with a request for it to be reformulated in more moderate language. The exception is if a significant and perhaps urgent issue is raised in an angry and abusive letter. The complainant's conduct should then be managed in some other way.

Letters to complainants restricting access in some way always need to be signed by the CEO.

4.3. Talking with complainants

Most staff members would prefer not to speak face-to-face or on the telephone with complainants whose conduct is challenging. When anger, aggression, threats and rudeness are involved, it is often advisable for case officers to confine their interactions to writing. However personal contact with complainants by telephone or where appropriate in interview, even if their conduct is manifestly unreasonable, can have a beneficial effect in a number of ways.

- It may be possible to establish a firm but courteous and respectful communication style with the complainant at the very beginning.
- The complainant's expectations about process and possible outcomes can be managed at an early point in the process.
- Complaint issues can be clarified.
- The possibility of unreasonable conduct that flows from misunderstanding and suspicion can be reduced by keeping the complainant up-to-date with progress or advising any delays.
- The complainant's disappointment at a negative outcome can be managed ahead of the letter advising of the outcome.

In cases of unreasonable complainant conduct, in-person communication with complainants needs to be carefully managed. The approach developed by the project is based on George Thompson's *Verbal Judo*.⁴

⁴ Thompson George J, *Verbal Judo, The Gentle Art of Persuasion*, Harper Collins New York,2004.

It is a non-confrontational, non-resistant communication approach which advocates:

- **Attentive listening** - focusing carefully on what the complainant is saying.
- **Expressing empathy** - giving the complainant some indication that their distress, disappointment and frustration is understood.
- **Acknowledging the complainant's point of view** - acknowledging that they have a certain view or belief without necessarily agreeing with it.
- Apologising appropriately, where necessary.
- Stating clearly what can and cannot be done.

This communication approach avoids:

- **Argument and debate** - it is not necessary to enter into dispute with the complainant. Only Factual information needs to be considered and a well reasoned decision given.
- **Defensiveness** - case officers do not need to react to attacks from complainants. This is essentially about keeping ego out of it.
- **Unnecessary justification** - justification needs to be limited to the facts of the case, excuses are not necessary.

Appendix 8 contains ten ground rules for talking to complainants. This sheet is intended as an easy reference to be kept near the telephone.

See also Chapter 5: Managing serious anger, aggression and threats.

4.4. Script ideas

Project experience indicates that case officers routinely struggle with certain issues when talking to complainants, or they routinely meet common challenges from complainants. What follows is a series of scripts developed during the course of the project for dealing with these challenges.

These scripts are suggestions only and need to be used flexibly within the context of the agency's policies and practices and the circumstances of the individual complainant.

Again, the basic principles need to be kept in mind when interacting with complainants. These are that:

- Complainants are treated with respect at all times;
- The public has a right to access the agency;
- Unreasonable conduct does not preclude there being a valid issue;
- The substance of the complaint dictates resources allocated to it, not the behaviour of the complainant; and
- The complaint handler 'owns' the complaint and the complainant 'owns' the issue.

The script ideas cover:

- Managing expectations (Table 2).
- Dealing with unreasonable demands and persistence (Table 3).
- Dealing with threats and abuse (Table 4).
- Responding to dissatisfaction and disappointment (Table 5).
- Testing a complainant's preparedness to consider the validity of a view other than their own (Table 6).

Table 2. Script ideas for managing expectations

Action	Script ideas
<p>Testing complainant's expectations</p>	<ul style="list-style-type: none"> • What is it you were hoping to achieve by bringing the matter to us? • What did you hope to achieve when you decided to contact us? • What do you think our agency might be able to do about this? • What is it that you think we should do that will solve your problem and be fair to both of us? • What outcome are you hoping for? • Let's have a look at your goals for this issue.
<p>Ringling the complainant to define the issue/s of complaint before taking up a complaint</p>	<ul style="list-style-type: none"> • I'm calling you because I'm the case officer responsible for dealing with your complaint. • As I understand it, you are complaining about xxx, xxx and xxx. Is this correct? (allow for clarification) • You appear to be complaining about xxx, xxx and xxx. Is this correct? (allow for clarification) xxx is an issue we can look at, but xxx and xxx are not things we can take up because ... <p>Note: At this point, make sure the complainant's expectations are realistic and get an indication from them that they understand precisely what will be taken up.</p> <p>If the complainant wants to give their life story:</p> <ul style="list-style-type: none"> • I don't need that level of detail to be able to do something about your complaint. Tell me about ... • So I don't waste your time, you could perhaps just tell me about ... • Tell me what's the key thing you're complaining about.
<p>Testing and reframing a complainant's expectations when they are unrealistic</p>	<ul style="list-style-type: none"> • Thank you for going to the trouble of explaining this to me. As I understand it you are saying ... I should make it clear right at the beginning that it is very unlikely/not possible that we will be able to do ... • Are you aware of what our agency can do? (often the answer is 'not really') Perhaps I could tell you a bit about how this agency works and what we can and can't do. • It seems to me you are hoping we can do ... I have to tell you right at the beginning that this will not be possible because ...

Action	Script ideas
<p>Ringling a complainant ahead of a letter giving a decision that will disappoint them</p>	<ul style="list-style-type: none"> • I wanted to call you and tell you about my decision before I send out my letter, because I know the outcome is not what you had hoped for (allow for discussion and clarification). • I wanted to call you and tell you in person that we will be unable to take up your complaint, before I send you a letter saying this. • I will, of course, send you my decision in writing, but speaking with you means I can also answer any questions you might have about my decision.

Table 3. Script ideas for dealing with unreasonable demands and persistence

Complainant conduct	Possible responses
<p>I want to speak/meet with the director/CEO (where this is clearly inappropriate)</p>	<ul style="list-style-type: none"> • I have delegation to deal with your matter — you can speak with me about your complaint. • For practical reasons, the director does not generally meet or speak directly with complainants, but he/she has given me a delegation to deal with complaints such as yours. • I am authorised to act on the director's behalf. You can speak to me now and we can see how we go. • I'm sure you can appreciate that the CEO, as head of the organisation, is a very busy person. That is why he/she has delegated authority to his/her staff to deal with matters like yours.
<p>I want to meet with the director/CEO in person (where this is clearly inappropriate)</p>	<ul style="list-style-type: none"> • The usual procedure in this office is for complaints to be submitted in writing, as this is the only way to lodge a formal complaint. • If it is necessary, we can arrange a meeting with the officer handling your complaint. • I have already spoken with you at length. A face-to-face meeting will not change the advice I have given you. You can send us additional information in writing and we will then decide if another meeting is necessary.
<p>I want to speak to your supervisor</p>	<ul style="list-style-type: none"> • I am happy to put you through if you wish to complain about me. But if it is to dispute my decision, you should put your concerns in writing. My supervisor does not have the time or detailed knowledge of your case to discuss it with you now. • My supervisor has reviewed your file and agrees with my decision (if this is indeed the case). • You may. Can I take your telephone number and I will arrange for her/him to call you.
<p>I want to come in and meet with you/show you documents (when this is not appropriate/necessary)</p>	<ul style="list-style-type: none"> • As a first step, acknowledge the complainants wishes — I can see that you really want to come in and show us these documents — and then go on to explain why it is not possible/appropriate. • I don't believe a meeting would help. If you have additional documents, you can send them to me with a covering letter outlining how they are relevant. If I need to, I will call you to discuss them with you. I believe this is a much better use of our time.

Complainant conduct	Possible responses
<p>I want to come in and meet with you/show you documents (when this is not appropriate/necessary) ... (cont'd)</p>	<ul style="list-style-type: none"> • Could you please send me the documents for assessment. I am not in a position to discuss the matter or to decide whether a meeting with you would be useful until I have done this. • If I need more information, I will contact you. Otherwise, the summary of issues you have provided is adequate. • It is generally better if we can have a look at the documents before we decide whether a meeting with you is useful. In the end, we have to rely on documentary evidence anyway. Say-so evidence is not enough.
<p>Demands an urgent response to their complaint when this is not warranted</p>	<ul style="list-style-type: none"> • I appreciate that what you are complaining about is distressing/causing you concern. I will not be able to look at it/call council/do my review immediately. There are other matters that I have to deal with ahead of yours because they came in before yours. • What I can tell you is that I will most likely be able to assess your complaint/call the department on ... You can call me after that date if you would like an update. • I know you feel your complaint is urgent. I have assessed the matter and I have decided I should call the officer concerned/department/council. I will be able to do this some time this week. • I'm sure you know we have competing priorities, most people feel their complaint is the most important one. • We have processes to ensure everyone's complaint gets dealt with fairly. I will be assessing the matter/contacting the agency within the next two weeks.
<p>Does not accept the case officer's advice</p>	<ul style="list-style-type: none"> • I feel I have explained to the best of my ability what your options are. You might want to choose a different path and that is absolutely your decision. • It's my role to explain your options to you, but any decision on what you do is clearly yours. • Perhaps you would like to think about what I have just explained to you. We can discuss it again next week if you would like any matter clarified. • Sometimes people have a different view on the same matter. You and I clearly have a different view on your complaint and, as I have explained, I have decided what action this office will be taking and we will not be taking this matter any further.

Complainant conduct	Possible responses
Does not accept the case officer's advice (cont'd)	<ul style="list-style-type: none"> • I accept that ... is your view. I have taken a different view. My view is ... For this reason I will be taking no further action on your complaint. • I understand that ... is your view. However, in this case the matter is quite clear. This agency is not able to deal with your matter. • I'm feeling that you want me to give you the answers. I don't have the answers to this.
Unproductive/stressful phone call or interview	<ul style="list-style-type: none"> • I feel that I have given you as much information as I possibly can about ... I can see you are expecting me to say something I cannot. This conversation is now becoming unproductive/circular. I have other matters to attend to, so I must now end this conversation/interview. • I do understand that you are dissatisfied. I have tried to explain to you how I came to make my decision and I'm not able to spend any more time on this. • I don't think this conversation is productive for either of us now and I will have to end our call/interview. You have my full reasons in the letter I sent you.
Interrupts case officer/does not allow case officer to speak	<p>Do not speak at all. Eventually complainant might say, 'hello, are you there?' at which point the response might be 'I am, and could I now have the opportunity to speak?'</p> <p>To break into a complainant monologue, repeat their name or repeat a key word or the last word they said.</p> <ul style="list-style-type: none"> • You have been speaking for ... minutes now. I wonder whether I might have the opportunity to respond to what you have been saying.
Hypothesising, catastrophising, conspiracy theories and unproductive arguments	<ul style="list-style-type: none"> • I can't do anything about an event that hasn't yet happened. • Some of the things you are asking about are hypothetical. I can only respond in detail to an actual event. • If ... happens in the future, you can ring me then. • People often feel that a certain person/agency has caused a problem for them. We need clear evidence to support what you are saying before we can follow it up. • I accept that you have that view. This office takes a different one. We cannot do what you are asking because ...

Complainant conduct	Possible responses
Hypothesising, catastrophising, conspiracy theories and unproductive arguments (cont'd)	<ul style="list-style-type: none"> I can see that you think this is the worst thing that could happen. Perhaps we could have a closer look at how it is. <p>Ask a series of questions: What would make the situation better? What are you hoping to achieve by contacting us? What did you hope we could do for you? Then manage expectations.</p>
Raises global conspiracy theories but refuses to provide specific evidence	<ul style="list-style-type: none"> There are sometimes complaints where people believe something wrong has happened, but there isn't any evidence. I can only suggest that if you do get some evidence, you send it to me. I know you will understand that we cannot act on a complaint without evidence. You are explaining your concerns well, but without any clear evidence, I can't follow this matter up.
Raises bizarre or incomprehensible issues	<p>These complaints are often by people with mental illness, though it is unlikely that you will know for a fact that the person has a mental illness unless they tell you.</p> <p>Some general principles are:</p> <ul style="list-style-type: none"> Speak to them in the same tone as you would to anyone else. Treat them with respect. Listen carefully to what they are saying. Avoid arguments. Ask questions about what they are saying and check for evidence. Sometimes a person might be delusional, but may still have a legitimate complaint. The ability to provide evidence or point to factual information will be the key. <p>'To take this further, we would need clear evidence, like photos, documents or medical certificates ... '</p> <ul style="list-style-type: none"> Reflect back to them what they are saying without agreeing <p>'So, aliens are following you'.</p> <ul style="list-style-type: none"> Acknowledge emotions, both theirs and yours. <p>'I am feeling frustrated listening to you, so I can only imagine how frustrated you must be feeling about ... '</p> <ul style="list-style-type: none"> Empathise with both lows and highs. <p>'I can see you are feeling really bad about this/you are feeling really happy about this'.</p>

Complainant conduct	Possible responses
<p>Raises bizarre or incomprehensible issues (cont'd)</p>	<ul style="list-style-type: none"> • There is unlikely to be an issue the agency can take up in these cases but see whether the person may be able to come up with a solution of their own. • 'Is there any other way you may be able to achieve this/make sure this doesn't happen again ... ?' • In these cases it is important to recognise one's own personal and professional limitations.
<p>Wants to be told where to go next when the end of the line has been reached</p>	<ul style="list-style-type: none"> • I'm not aware of another avenue of redress now available to you. • This is for you to decide. • It seems you've exhausted all avenues I can think of. • I don't want to waste your time by sending you on a wild goose chase. • I can't conjure up another body that can fix it for you. • Sometimes there are problems that can't be sorted out by any government agency. • I have no opinion about whether you should go to the media about this. This is really for you to decide.

Table 4. Script ideas for dealing with threats and abuse

See also Chapter 5: Managing serious anger, aggression and threats.

Complainant conduct	Possible responses
<p>Abusive language that is not specifically directed at the officer. This may be just their normal communication style or an expression of distress, but it makes the case officer feel uncomfortable.</p>	<ul style="list-style-type: none"> • I can hear/see that you are upset/angry, and I feel uncomfortable when you speak in that way. Could you please stop using swear words. • (After a warning) I will have to end this conversation if you do not stop using swear words. • (After a warning) Using swear words when you speak to me is making me feel uncomfortable. I will end this conversation now and you can call me back in ... hours when you feel able to talk to me without swearing. • I want to hear your side of the story. Please stick to the facts to help me understand what happened.
<p>Use of abusive language that is specifically directed at the case officer</p>	<ul style="list-style-type: none"> • I feel uncomfortable when you speak to me like that/it is inappropriate to speak to me like that. Please stop it. • (After a warning) If you don't stop talking to me like that, I will end this call and report your conduct to my supervisor. • Did you call me a #\$\$%? ... I can't talk to you while you call me names. I will end this call now and when you feel you are able to speak to me politely/in more moderate language, you can call me back. • I am feeling uncomfortable with the way you are speaking to me. I will have to end this call/interview if you continue to speak to me like this. (Do end it if the abuse continues) • I can see that you are upset and while you are upset we can't concentrate on the issues in your complaint. Let's have a breather. I will call you back/come back in ... minutes. • I did give you a warning that I would end this call/interview if you continued to speak to me in this way. I am now ending the call/interview. (Take this action decisively) • If you do not leave the office now, I will call security and they will escort you from the building. (Take this action decisively) • Did you call me a '#\$\$%'? - 'no'. Good, I would have found that very abusive and would have had to end this call/interview. - 'yes'. That's unacceptable name calling and I will end this call/interview. (Take decisive action)

Complainant conduct	Possible responses
Use of abusive language that is specifically directed at the case officer (cont'd)	<ul style="list-style-type: none"> I'm happy to talk to you about this issue, but not while you are yelling at me. I will hang up now and I invite you to call me back in ... minutes.
An alternative to 'I' statements for managing anger, abuse and threats	<ul style="list-style-type: none"> My organisation does not allow me to speak to people who yell/make threats. I have to ask you to stop or I will have to hang up/end this interview. My organisation expects complainants to treat us with courtesy and respect. I have to ask you to stop yelling ...
Covert threats of harm to the office (property threats)	<p>General principle - make the threat overt by naming it.</p> <ul style="list-style-type: none"> It seems to me that you are saying you will do something to damage our offices. Is this correct? If this is correct, I will have to report your threat to my supervisor. It may also have to be reported to the police.
Overt threats of harm to the office (property threats)	<ul style="list-style-type: none"> Did you just say you were going to throw a brick through our door? If this is what you said, I will have to end this call/interview right now and report your threat to my supervisor. We will also have to call the police (or whatever your risk management protocol directs). Go on to report the threat immediately.
Covert threats of harm to the case officer	<p>General principle - make the threat overt by naming it.</p> <ul style="list-style-type: none"> It seems to me you are saying that you are going to do something to hurt me. Is this correct? If this is correct, I will have to report your threat to my supervisor. I may also have to report it to the emergency health team. Go on to report it immediately.
Overt threats of harm to the case officer	<ul style="list-style-type: none"> Did you just say you were going to follow me home and hurt me and my family? If this is what you said, I will have to end this call/interview right now and report your threat to my supervisor. We will also have to call the police (or whatever your risk management protocol directs). Go on to report it immediately.
Covert or overt threats of suicide	<ul style="list-style-type: none"> Staff need suicide intervention training if this is a regularly encountered threat. <p>An organisation that provides such training is LivingWorks - www.livingworks.org.au</p>

Complainant conduct	Possible responses
<p>'If you do not ... then ...' threats</p> <p>Emotional manipulation to make the case officer feel sympathy or guilt or be defensive.</p> <p>'I've had such a hard time. I've just lost all my money and my wife has left me ...'</p> <p>'You're my last hope, if you don't help me I don't know what I'll do'</p> <p>'I just knew you wouldn't want to help me, you bureaucrats are useless ...'</p>	<p>General principle - you are a professional officer, not a saviour or counsellor. It is important to separate out the emotional and deal with the factual.</p> <ul style="list-style-type: none"> • I do understand that you really want our agency to solve this problem for you. As I have already explained to you, we can't. • I am aware that this problem has cost you a lot of money/caused a lot of stress for you and your family and in your position I would feel upset too. I have looked at your complaint from the point of view of this agency's powers and, as I have already explained to you, we are not able to do anything to help you. • I appreciate that you are disappointed that we won't be able to take your matter up. The ... Act governs what we can and cannot do. Your matter is one the ... Act specifically says we cannot deal with. • I appreciate that you want us to continue to deal with your complaint. In the end it is the ... Act that governs what we can and cannot do and the director of our agency who makes the decision about how a complaint will be dealt with.

Table 5. Script ideas for responding to dissatisfaction and disappointment

Complainant conduct	Possible responses
<p>So you think my complaint isn't important enough</p>	<ul style="list-style-type: none"> • We take action on complaints where there is evidence that something went wrong. Unless you can provide us with evidence to support your complaint, we can't take any action. • All complaints are carefully assessed according to our policies and procedures. Sometimes we receive complaints we cannot/do not have the powers to take up. • It may well seem that way ... (Followed by an appropriate explanation).
<p>Well, I didn't really expect you to do anything about my complaint</p>	<ul style="list-style-type: none"> • I am sorry you feel that way. If you would like, I can take a few minutes to discuss our role. • I am sorry you are disappointed with the outcome of my assessment. I have set out the reasons for my decision in my letter. You may care to read through it again. • It appears in this case you were right (Explain reasons for not doing anything). • I have considered your complaint and made enquiries. I appreciate my actions did not result in the outcome you were hoping for. • We have fully assessed your complaint and we do not consider there is evidence that ... acted wrongly/unlawfully/corruptly.
<p>They (the agency/their staff) are lying to you/manipulating you/pulling the wool over your eyes and you can't see through them</p>	<ul style="list-style-type: none"> • You may believe this. I am satisfied, though, with the agency's response. Unless you can prove they have deliberately misled or misinformed me, my decision stands. • I am very aware of the way responses are made to me. I can assure you I get copies of reports and documents to substantiate what I'm being told. • I appreciate that is your view. The evidence in this case is ... • Do you have any evidence that can support this allegation? • So far I have no reason to believe this. I certainly welcome any evidence you can give me that supports your assertion.

Complainant conduct	Possible responses
<p>They (the agency/their staff) are lying to you/manipulating you/pulling the wool over your eyes and you can't see through them (cont'd)</p>	<ul style="list-style-type: none"> I have considered your evidence as well as the evidence provided to us by the agency/their staff and I can't agree with your assertion, though I do acknowledge that this is your view.
<p>So they (the agency/their staff) are a law unto themselves</p>	<ul style="list-style-type: none"> They are required to abide by the law and policies that are relevant to them. They have had to explain their actions to us. I consider that they have reasonably explained their conduct. Well no, they are not. The issue here is about a complaint you have brought to our agency. Our role is to see whether there may be any evidence that something went wrong. Having looked at your complaint, I have formed the opinion that there simply is not the evidence here. The agency has to conduct its business and has legitimate authority to make its decisions. We haven't found evidence that it is acting unreasonably in doing this.
<p>You have made enquiries from the very person I am having trouble with</p>	<ul style="list-style-type: none"> I am aware of your views of this person. I find it helpful to contact the person most involved in the matter first, unless I consider it inappropriate. If I am not satisfied with their response, I will go further up the line until I am satisfied. You have given us your side of the story. We have also given the agency/staff member involved the opportunity to put their side of the story. If we have any concerns, we take the matter up with the agency's senior management/staff member's supervisor. In the interest of fairness, I need to hear how the other party sees the issue. I'm sure you can appreciate that I need to get both sides of the story if the matter is to be resolved. I can understand that you are concerned about that. It is usually the case that it is fair and relevant to get the versions from both sides of a complaint. You have presented your side and we need to get their side too. If the complaint is about the conduct of a member of staff, we would make enquiries at a higher level.

Complainant conduct	Possible responses
<p>He/she (the person the subject of the complaint) is incompetent/corrupt/lies</p>	<ul style="list-style-type: none"> • Do you have evidence that can support this allegation? • We rely on good documentary evidence to make our decisions. Any lies, shortcomings or other discrepancies usually become apparent during the course of our enquiries. • I need to give them a chance to explain their side of the story. If I am not satisfied, I will take it further. • The staff member has made a professional judgment and we have seen documentation in which they have given reasons for the decision. • I understand you are annoyed/sceptical/angry about ... The evidence we have gathered suggests the conduct is not unreasonable/so unreasonable as to warrant action on our part.
<p>You are colluding with the department</p>	<ul style="list-style-type: none"> • You may think that. I have to make my own assessment of the matter. After looking at your concerns/checking out the relevant policies/seeking information from the department, I consider there is nothing for us to take up. • The fact that you disagree with their decision does not mean they have been unreasonable. • What do you base this claim on? • I do not take sides. I consider the evidence available to me and make my decision impartially. • I understand you are disappointed with my decision/view and I must say I am sorry you see it this way. My role is to be impartial and, based on the evidence available to me, I cannot see that the agency has acted wrongly.
<p>You are taking their word for it</p>	<ul style="list-style-type: none"> • No, that is not correct. I have sought documentation (reports, file notes, correspondence) to assess the decision making process and reasons for the agency's/staff member's conclusions. • I am independent of both parties and I am not here to take sides. • It seems you think that, because I haven't agreed with your complaint, I am simply accepting their word. In actual fact, my job is to hear and consider both sides of a story and then to decide whether there is any/sufficient evidence that something has gone wrong.

Complainant conduct	Possible responses
You are taking their word for it (cont'd)	<ul style="list-style-type: none"> • That's not the case. I have looked at the documentation and I can't see any evidence to contradict the agency's/staff member's position. • I have asked them to explain the situation and I am satisfied with their explanation.
But you've made a decision without interviewing/getting back to me	<ul style="list-style-type: none"> • I considered that the agency's reply adequately addressed your concerns. If you are dissatisfied with it, we can talk about it now. (Point out any review option if still dissatisfied) • I have carefully considered the information you sent us with your complaint and I have made my decision based on that. If you have any further information that is relevant to this case, then you should write to us and let us know that information. • Yes, that's correct. The information you provided in your written complaint was enough for me to consider the matter and make a decision. • I have assessed all the material — your submission as well as the documents I requested from the department. If I had concluded that an investigation was required, I would have contacted you. In the end, my decision is that there appears to be no evidence that something went wrong.
I thought your agency was interested in fairness?	<ul style="list-style-type: none"> • You are correct. We are very interested in what is fair and reasonable. • We have carefully looked at your complaint and we have decided that there does not appear to have been any unfairness in your case.
What are you good for then?	<ul style="list-style-type: none"> • I appreciate your disappointment/frustration at my decision and why you may ask this question. You may wish to read our annual reports which explain what we have achieved over the years. • I'm sorry we were not able to do what you wanted us to do/had hoped we could do. The fact is ... (Explain the case details). • I appreciate that you would have liked us to take up your case. The fact is we are impartial investigators, not advocates for complainants. In this case we have decided ...
I am going to take this to the media	<ul style="list-style-type: none"> • That is for you to decide. • You are free to take your matter to any forum you choose. • That option is certainly open to you.

Table 6. Script ideas for testing a complainant's preparedness to consider the validity of a view other than their own

Complainant conduct	Possible responses
<p>Complainants who have formed a view that is illogical or inconsistent with the facts may never move from their position.</p> <p>The complainant's answers to test questions like these will give some indication whether it is possible to shift their perception towards another view, or whether no amount of explaining and reasoning will work so further engagement will be unproductive.</p>	<ul style="list-style-type: none"> • Your view is ... Is there any possibility that there could be another/different view? • You say ... is the case. Is this necessarily so? • You seem to be saying ... is the case. How is this true? • To manifestly illogical conspiracy allegations - Is it possible there might be an innocent explanation for ... ?

Chapter 5. Managing serious anger, aggression and threats

5.1. Assessing risks to frontline staff and complainants

Every organisation that deals with members of the public, and particularly organisations that deal with members of the public who have a grievance, need to regularly assess the nature and levels of risk faced by their staff. They need to be clear what, in their context, is acceptable and unacceptable in terms of risk and communicate this clearly to their staff and complainants.

The nature and levels of risk will vary depending on a range of factors, including:

- The characteristics of people likely to be complainants;
- The nature of the grievances that complainants are likely to have;
- Whether contact with the public is primarily face-to-face, over the phone or a combination of the two;
- The history of previous incidents; and
- The design of the premises to which the public has access.

See also Appendix 3: Risk assessment matrix for frontline staff.

As part of these regular risk assessments:

- The types of risks likely to be faced by complaint handlers need to be identified.

See also Appendix 4: Types of risks faced by frontline staff.

- The options for treating those risks need to be considered.

See also Appendix 5: Options for treating risks.

After the nature and levels of risk faced by complaint handlers in the particular organisation have been assessed, a plan to manage these risks can be prepared.

See also Appendix 6: Planning for risk mitigation, preparedness, response and recovery.

Agencies can then establish guidelines for their complaint handling staff, setting out the response options for various identified risks. These could be based on the model in 5.2.

See also 4.4 Script ideas.

5.2. Response options for risks to frontline staff

Table 7. Response options for risks to front line staff

Risks	Response options/strategies
<p>General considerations</p>	<p>Recognising danger signals and reviewing risk.</p> <p>Recognise the signs of client anger — whether or not the anger is directed at you — and, if so, whether this is causing you anxiety, distress or fear. Always start by asking 'Am I in danger?' If the answer is 'yes', then remove yourself from harms way as quickly as possible. Walk through the nearest door into a more secure area, and then turn and say something like:</p> <p><i>'My organisation's policy does not allow me to continue the interview while you are behaving in an angry way or making threats'.</i></p> <p>If the threat abates — that is, the client's behaviour improves — then you can re-start the interview based on clear behavioural ground rules.</p> <ul style="list-style-type: none"> • Repeating <p>Make sure threats are clarified (made overt) and the person takes ownership of the threat by repeating the statement as close to verbatim as possible - e.g. 'You have just said to me that...' Ask if this is what the person meant to say and whether it is in fact a threat to cause harm - e.g. 'Is that what you meant? Are you threatening me?'</p> <ul style="list-style-type: none"> • Reacting <p>React to all threats by explicitly acknowledging them - whether they are overt or covert threats to you, themselves or to others. Always show some reaction to a threat, even if minimal - e.g. take a 5 minute break. However, don't over-react or mirror the threatening language or the threatening behaviour.</p> <p>Continue to show respect even when the person is being rude or threatening.</p> <ul style="list-style-type: none"> • Responding <p>Ask the person to stop the behaviour - 'Mr ... stop shouting at me' - while informing them of the organisation's protocols for responding to threats. Communicate clearly and consistently what the consequences will be if the behaviour continues.</p>

Risks	Response options/strategies
<p>General considerations (cont'd)</p>	<ul style="list-style-type: none"> • Redirecting Redirect or distract the attention of the person with actions or comments that do not reward the behaviour. For example - ask questions about the substantive issue to try to move the person from the 'emotional' state back into a 'cognitive' or thinking state, take a 5 minute break or offer a cold drink. • Refocusing If you are able to help the person bring their emotions under control, refocus their attention on their issue. A question about the facts can change a person's focus from their feelings to thinking about the substance of their issue. • Raising concerns If you feel threatened, activate a silent alarm (if available) or leave the room and call for assistance from other staff. • Running If all else fails and you feel an imminent risk of harm - run (or at least move quickly) to a safe location. • Recording Always make a 'verbatim' record of all threats and put a copy on the relevant file. • Reporting and reviewing responses Report the matter to a supervisor/manager so that both of you can review your responses to the threatening behaviour and identify strategies to manage or control any future interactions with the person. You may want a formal or informal debrief after the incident.
Extreme risk	
<p>Violence - actual or reasonably apprehended</p> <p>For example - any form of body contact, clenching a fist, verbal threats.</p>	<p>The staff member should direct the complainant to stop the behaviour and leave the premises.</p> <p>Inquiries staff should exit the public area.</p> <p>The receptionist should:</p> <ul style="list-style-type: none"> • Activate any airphone or duress alarm. • Call building security and the police.

Risks	Response options/strategies
Extreme risk (cont'd)	
<p>Bomb threats</p> <p>For example - any implied or actual threat.</p>	<p>The staff member should:</p> <ul style="list-style-type: none"> • Refer to the bomb threat checklist. • Take comprehensive notes and complete the checklist afterwards. • Let the caller finish their sentences without interruption. • Try to keep the caller talking and obtain as much information as possible, including: <ul style="list-style-type: none"> - When will the bomb explode? - What does the bomb look like? - Where is the bomb located? - What kind of bomb is it? - Why was the bomb placed there? - Details of the caller (person/organisation responsible) - Exact time of call and its duration • Not replace the handset even if the caller hangs up. • Report the threat to a supervisor and the office security officer immediately. <p>The supervisor should:</p> <ul style="list-style-type: none"> • If they believe the bomb threat is genuine, inform a designated person, any security committee and the head of building security so appropriate action can be taken - for example, contacting the police or an evacuation. • Monitor the staff member, especially if no support options have been used. • Liaise with a person designated for this task about the need for an operational debrief. • Make sure the staff member has completed a bomb threat checklist as close as possible to within 24 hours of receiving the phone call.

Risks	Response options/strategies
Extreme risk (cont'd)	
<p>Threat with a weapon</p> <p>For example - producing a weapon or statements that the person is in possession of a weapon.</p>	<p>Staff members should:</p> <ul style="list-style-type: none"> • Remain calm and try to assess the situation. • Activate the duress alarm or call for help, if it is safe to do so. • Obey the aggressor's instructions, but only do what you are told and nothing more - don't volunteer any information. • Move slowly and avoid eye contact. • Advise the aggressor of any movements they may have to make which could appear sudden or unexpected, such as opening a drawer. • Not invade the aggressor's space. • Keep their hands in view. • If required, contact a first aid officer to provide first aid to staff or customers as soon as safely possible. • Once the threat is over, complete a security incident report form and email it to the security committee. <p>Senior staff responding to the duress alarm should try to isolate the incident by evacuating the area and preventing others from entering it - for example, stand by the lifts or ask building management to close off the lifts to the floor.</p> <p>The most senior staff member present, or the office security adviser, should:</p> <ul style="list-style-type: none"> • Override the duress alarm, if it has been activated. • Ring 000 for urgent assistance or check that the police have been called. • If it is safe to do so, ensure communication is maintained with the aggressor until the police arrive. <p>The relevant supervisor should - after an incident of aggression - consult with a person designated for this task and any security committee about the need for advice, counselling or an operational debrief.</p>

Risks	Response options/strategies
High risk	
<p>Aggressive or intimidating behaviour</p> <p>For example – leaning towards interviewer, moving around the room, invading interviewer's body space.</p>	<p>The staff member should:</p> <ul style="list-style-type: none"> • Continually assess the possibility of the situation becoming violent - are the signs abating or becoming worse? • Ask another staff member to be present. • Take a step back to create space if there are signs of physical aggression. • Maintain normal eye contact - deliberate eyeballing can seem very aggressive. • Provide alternatives to the aggression by making it clear to the complainant that aggression will not achieve their goal. • Be careful not to get into a fight. • Share their expert knowledge with the complainant, while not using these things to make the person feel inferior. • Maintain non-confrontational body language — nodding and turning an ear towards the speaker are appropriate signs of listening and not playing for power and keep hands in front at waist level. • Get something in between them and the complainant — a desk, a document, a list of proposed actions, something that both have agreed on previously. • Withdraw earlier rather than later and offer another time when the conversation can be resumed. • Not attempt to physically restrain anyone or physically intervene between other people who are behaving aggressively towards each other. • Not try to be a hero. <p>If it is appropriate to continue the interview with a warning, the staff member should:</p> <ul style="list-style-type: none"> • Warn the complainant that if they do not stop the behaviour, the interview will end. For example: 'I will have to end this interview if we can't keep to the issues' or 'I find the language and manner you are using unacceptable. If you continue to talk to me like this, I will end this interview'.

Risks	Response options/strategies
High risk (cont'd)	
Aggressive or intimidating behaviour (cont'd)	<ul style="list-style-type: none"> • Choose one of the following options if the complainant continues the behaviour: <ul style="list-style-type: none"> - End the interview, possibly with an offer to reschedule it to a later date. - Ask another staff member to assist or take over. - Seek backup from a more senior officer. • Complete an incident report (after the complainant has left), and email it to the person designated for this task, with a copy to any security committee and appropriate manager. <p>If it is appropriate to end an interview without using the duress alarm, the staff member should:</p> <ul style="list-style-type: none"> • Warn the complainant that if they do not stop the behaviour, the interview will end. For example: 'I will have to end this interview if we can't keep to the issues' or 'I find the language and manner you are using unacceptable. If you continue to talk to me like this, I will end this interview'. • If the complainant continues the behaviour, seek backup from a more senior officer. • End the interview. • Complete an incident report (after the complainant has left), and email it to the person designated for this task, with a copy to any security committee and appropriate manager. <p>If it is appropriate to end an interview using the duress alarm, the staff member should:</p> <ul style="list-style-type: none"> • If time permits, warn the complainant that if they do not stop the behaviour, the interview will end. For example: 'I will have to end this interview if we can't keep to the issues' or 'I find the language and manner you are using unacceptable. If you continue to talk to me like this, I will end this interview'. • Press any duress alarm. • Retreat from the interview room or public counter into a secure office area.

Risks	Response options/strategies
High risk (cont'd)	
<p>Aggressive or intimidating behaviour (cont'd)</p>	<ul style="list-style-type: none"> • If retreat is not possible, use 'reasonable force' - that is, the amount of force necessary to stop an attack or prevent personal injury - nothing more. • Seek support from a more senior officer. • Complete an incident report (after the incident), and email it to the person designated for this task, with a copy to any security committee and appropriate manager.
Medium risk	
<p>Seriously abusive or aggressive language in phone calls</p> <p>For example – language that makes the recipient feel uncomfortable or the use of racist or sexist slurs.</p>	<p>The staff member should:</p> <ul style="list-style-type: none"> • Try to calm the complainant. • If this fails, inform the complainant that assistance cannot be given while they are being aggressive. For example: 'I will have to terminate this call if we can't keep to the issues' or 'I find the language and manner you are using unacceptable. If you continue to talk to me like this, I will end this call' or 'I gave you the information you need and if you have no new questions, I'll have to end this call to deal with other people who are waiting'. • If the caller has been previously told only to contact the office in writing, they should be reminded of this and the call terminated. • If the aggression continues, warn the complainant again that the call will be ended, mute the phone and seek assistance - do not hang up. • If the abuse continues: <ul style="list-style-type: none"> - Warn the complainant that the call will be ended. - End the call, unless it should be traced - in which case the phone should not be hung up. - Fill out a security incident report form and email it to the security committee.

Risks	Response options/strategies
Medium risk (cont'd)	
<p>Seriously abusive or aggressive language in phone calls (cont'd)</p>	<ul style="list-style-type: none"> - Report the incident immediately by email to the receptionist and inquiries staff in case they ring back. • Discuss with a supervisor the options for dealing with further calls from the caller. For example: <ul style="list-style-type: none"> - Whether to take other calls from the caller and, if so, who should take them. - Have further calls automatically put through to voicemail. • Inform reception what to do with any further calls. • Make a note of the conversation. • Draft a memo and/or incident report for the appropriate supervisor recommending appropriate action, such as no further contact or other. <p>If asked, the receptionist should put the caller through to a supervisor - but only after explaining the situation to the supervisor.</p>
<p>Anger (face-to-face)</p> <p>For example - sudden body movements, sweating, twitching, clenching of teeth, flushing, making a fist with hand.</p>	<p>The staff member should:</p> <ul style="list-style-type: none"> • Remain calm and respectful (or at least appear calm and show respect), greet the person and preferably get them to sit down. • Use a low, calm tone of voice and a slow pace. • Listen - without intervening too quickly and allow them a chance to 'blow off steam'. • Show that you are open to their point of view and use active listening skills - eye contact, nodding of the head, open body position. • Acknowledge the complainant's anger without diagnosis, encouragement or criticism - feelings are real even if they appear to be inappropriate or unreasonable. • Paraphrase and summarise what the complainant is saying by picking out the key points and saying them aloud.

Risks	Response options/strategies
Medium risk (cont'd)	
Anger (face-to-face) (cont'd)	<ul style="list-style-type: none"> • Apologise or at least sympathise, without accepting blame - unless an apology is deserved for some act or omission that is our responsibility. Generally, a complainant will be talking about another authority and it would be inappropriate to give an apology on their behalf. Complainants however will still hear apologies that are given that do not apportion blame. For example: 'I'm sorry to see that you are so upset about what has happened'. • Agree with the person without assuming any blame, and listen for things you can agree with and express this. For example: 'You're right, the Act does give you a right of objection' or 'I agree it would be frustrating not to receive the information in time' or 'I accept that you are really disappointed with the service you received'. • Make sure the person understands what is being said - in particular, avoiding jargon and legal language.
Threatening phone calls For example - any implied or actual threat.	The staff member should: <ul style="list-style-type: none"> • Try to calm the complainant. • Take comprehensive notes. • Immediately after the phone call finishes, inform their supervisor, the team manager or relevant statutory officer of the call. Seek advice about any further action needed, such as whether to call the police. • With the approval of a [statutory officer/team manager/customer services manager], disclose information about the call to a relevant agency - such as the police or mental health professionals - if this will lessen or prevent harm. • Complete a security incident report form and email it to the [security committee] with a copy to the [customer services manager and/or office security manager]. The supervisor should: <ul style="list-style-type: none"> • Make sure that the team manager/statutory officer has been informed and a security incident report form completed.

Risks	Response options/strategies
Medium risk (cont'd)	
Threatening phone calls (cont'd)	<ul style="list-style-type: none"> • Inform the staff member of the various options available for support, such as debriefing and counselling through the Employee Assistance Program. • Monitor the staff member, especially if no support options have been provided. • Liaise with the [team manager/security committee] about the need for an operational debrief.
Low risk	
Refusal to leave premises For example - refusing to move when asked to leave, or moving away from the person escorting them to other parts of the building.	The staff member should: <ul style="list-style-type: none"> • Inform a supervisor if a complainant refuses or fails to leave the premises when directed. • Make a detailed record of the time and wording of the instruction to leave - including the reasons why the direction was issued - and the complainant's response.

5.3. Response options for risks to complainants

Table 8. Response options for risks to complainants

Risks	Response options/strategies
<p>Threats of suicide – overt</p> <p>For example – saying something direct like 'I'm going to kill myself'.</p>	<p>If this is a regularly encountered threat, staff need to receive training in suicide intervention. One organisation that provides this is LivingWorks www.livingworks.org.au</p> <p>Refer to police and appropriate welfare agency.</p>
<p>Threats of suicide - covert</p> <p>For example - saying something indirect like 'It's all getting too much for me' or 'I feel I can't go on any longer'.</p>	<p>Get complainant to clarify.</p> <p>If necessary, refer to police and appropriate welfare agency.</p>
<p>Complainant initiates an altercation in which they are injured.</p>	<p>See above: High Risk - Aggressive or intimidating behaviour.</p>

5.4. Testing commonly made verbal attacks on complaint handlers

Verbal attacks on complaint handlers cannot be dismissed out of hand. It is possible that the complainant could have a point, no matter how confronting their formulation of this point is.

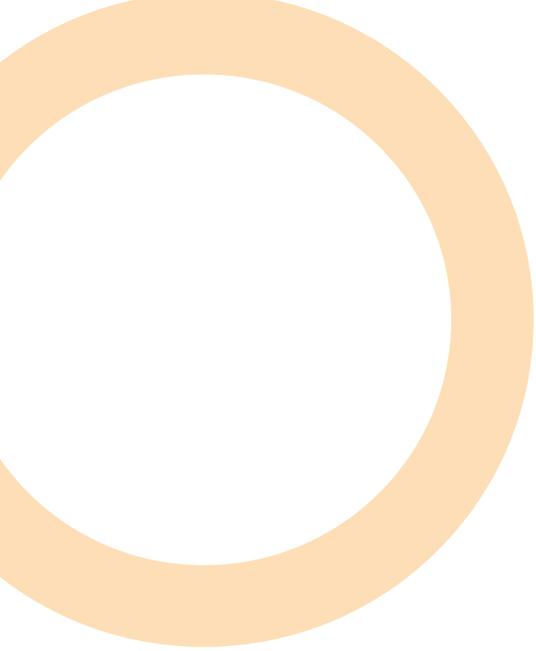
Table 9 is designed to help sort through the issues involved in commonly made verbal attacks.

Table 9. Common attacks complainants make on agencies and complaint handlers

	Basis of claim	
Focus of attack	Reasonable (examples)	Unreasonable (examples)
On the messenger:		
<ul style="list-style-type: none"> 'You are corrupt.' 	<ul style="list-style-type: none"> If based on some evidence of breach of trust. 	<ul style="list-style-type: none"> If based solely on an adverse decision or on conjecture, speculation, or a vague assertion of suspicion.
<ul style="list-style-type: none"> 'You are biased.' 	<ul style="list-style-type: none"> If based on some evidence of actual or perceived bias - e.g. conflict of interests, prejudice etc. 	<ul style="list-style-type: none"> If based solely on an adverse decision or on conjecture, speculation or a vague assertion of suspicion.
<ul style="list-style-type: none"> 'You are incompetent.' 	<ul style="list-style-type: none"> If based on some evidence of incompetence, error, misjudgement etc. 	<ul style="list-style-type: none"> If based solely on an adverse decision or disagreement about priorities, resources or approach taken etc.
<ul style="list-style-type: none"> 'You were rude, abusive' etc. 	<ul style="list-style-type: none"> If supported by some independent evidence or there is a history of such conduct by the particular complaint handler. 	<ul style="list-style-type: none"> If there is corroborating evidence to the contrary, or such conduct by the particular complaint handler would be totally out of character.
On the content:		
<ul style="list-style-type: none"> 'Your reasoning/letter is full of errors, so your decision is wrong.' 	<ul style="list-style-type: none"> If there is some substantiation for the claim and the errors had an impact on the decision/outcome. 	<ul style="list-style-type: none"> If pointing only to minor/insignificant/technical details with little impact on the outcome/decision.
<ul style="list-style-type: none"> 'Your reasoning/letter is full of errors so your investigation has no credibility.' 	<ul style="list-style-type: none"> If there is some substantiation for the claim and the errors had an impact on the decision/outcome. 	<ul style="list-style-type: none"> If pointing only to minor/insignificant/technical details with little impact on the outcome/decision.
<ul style="list-style-type: none"> 'You misunderstood what I was saying.' 	<ul style="list-style-type: none"> If there is a plausible/reasonable alternative explanation or interpretation of what the complainant alleged/stated. 	<ul style="list-style-type: none"> If no factual basis articulated or the substance of the complaint has been reframed.

	Basis of claim	
Focus of attack	Reasonable (examples)	Unreasonable (examples)
On the process: <ul style="list-style-type: none"> 'You didn't properly consult me before making your decision' or 'You didn't interview me directly.' 	<ul style="list-style-type: none"> If this was required by law or good practice or the complainant was likely to have relevant information/more detailed information than disclosed to date. 	<ul style="list-style-type: none"> If no further relevant information is provided or all relevant information was available on file.
<ul style="list-style-type: none"> 'You denied me procedural fairness.' 	<ul style="list-style-type: none"> If alleged by the subject of the investigation, or there is some substantiation for the claim. 	<ul style="list-style-type: none"> If alleged by a complainant — although entitled to have views taken into account, has no right to be given information other than as dictated by statute and good practice.
<ul style="list-style-type: none"> 'You didn't give me a full copy of the agency's response.' 	<ul style="list-style-type: none"> If this was required by law or good practice, or an undertaking was given to complainant. 	<ul style="list-style-type: none"> If the substance/relevant part of the response was provided or there was good reason to withhold the full response to protect confidentiality etc.
<ul style="list-style-type: none"> 'You believed them not me.' 	<ul style="list-style-type: none"> If there was independent or otherwise substantiating evidence. 	<ul style="list-style-type: none"> If there are conflicting versions of events and no independent or otherwise substantiating evidence is provided.
<ul style="list-style-type: none"> 'You interviewed the very person I am having trouble with.' 	<ul style="list-style-type: none"> If there was a reasonable likelihood of detrimental action being taken in reprisal for the complaint. 	<ul style="list-style-type: none"> If this was clearly required for the matter to be properly investigated, particularly if there is little or no independent or otherwise substantiating evidence available.
<ul style="list-style-type: none"> 'You didn't properly investigate my complaint.' 	<ul style="list-style-type: none"> If there is some substantiation for the claim. 	<ul style="list-style-type: none"> If based solely on an adverse decision/outcome, or a failure to substantiate the complaint.
On the outcome: <ul style="list-style-type: none"> 'You did nothing — you are useless.' 	<ul style="list-style-type: none"> If no or insufficient action was taken within a reasonable period of time. 	<ul style="list-style-type: none"> If the complainant wants action taken that is out of proportion to the seriousness of the issue, is unaware of the actions taken etc.

	Basis of claim	
Focus of attack	Reasonable (examples)	Unreasonable (examples)
On the outcome: (cont'd) <ul style="list-style-type: none"> 'You don't understand the problem.' 	<ul style="list-style-type: none"> If there was an incorrect assessment as to jurisdiction, seriousness, nature of issue etc. 	<ul style="list-style-type: none"> If no factual basis is articulated or what is perceived to be a problem is in fact reasonable.
<ul style="list-style-type: none"> 'You are wrong.' 	<ul style="list-style-type: none"> If based on reasonable arguments. 	<ul style="list-style-type: none"> If no factual basis for disagreement is articulated.
<ul style="list-style-type: none"> 'You were conned by the agency and you fell for it.' 	<ul style="list-style-type: none"> If the agency's word was taken in circumstances where this was illogical, internally contradictory, contrary to other available evidence etc. 	<ul style="list-style-type: none"> If no factual basis is articulated.
<ul style="list-style-type: none"> 'You are on the side of the agency.' 	<ul style="list-style-type: none"> If there is a reasonably perceived conflict of interests. 	<ul style="list-style-type: none"> If based solely on an adverse decision/outcome or a failure to find any or sufficient evidence to substantiate the complaint.



Chapter 6. Critical incident stress and debriefing⁵

6.1. Critical incidents

A critical incident is an event that disrupts an office's normal functions and is perceived by staff to be of significant personal or professional danger or risk. Critical incidents place demands on staff outside of their normal professional routines and they are generally not prepared for them. Staff do not necessarily have to experience a critical incident first hand to be affected by it.

Some examples of major critical incidents are:

- Threats of harm to self or others;
- Serious injury;
- Actual or threatened death;
- Deprivation of liberty;
- Severe verbal aggression; and
- Bomb or hostage threats.

Staff members in a complaint handling context are more likely to experience minor critical incidents, such as the incidents of unreasonable behaviour described in this manual. Nevertheless, anyone can experience critical incident stress if they interpret a specific event as being critical for them.

6.2. Signs of critical incident stress

Exposure to single or repeated critical incident events, whether major or minor, can have a negative effect on a staff member's physical, emotional, professional and social wellbeing. It is important to understand that a stress response to a critical incident is a normal response to an abnormal situation.

⁵ This chapter is adapted from an unpublished paper by the WA Ombudsman. The paper includes references to material used here from Queensland Health, *Complaints Coordinator's Handbook*, 2002, University of Western Australia, *Critical Incident Counselling Procedure*, 2005 [on-line], Victorian Government Department of Human Services, *Resource Guide for Critical Incident Stress and Debriefing in Human Service Agencies*, 1997.

Signs of stress responses in an individual might include:

- Chest pains;
- Headaches;
- Gastrointestinal problems;
- Elevated heart rate;
- Elevated blood pressure;
- Muscular soreness;
- Fatigue;
- Feelings of isolation;
- Social withdrawal;
- Interpersonal problems; and/or
- Substance abuse.

Staff who are experiencing stress responses may not necessarily be aware of this themselves. It is important that supervisors are alert to any stress signs in their staff.

Some common myths about critical incident stress are:

- If staff members are experiencing critical incident stress, they are not competent or not suited for the job.
- Experiencing critical incident stress is a sign of psychological weakness.
- Talking about the incident will only make the stress worse.

6.3 Effects of critical incident stress on the agency

Critical incidents may impact on the wider work environment and affect team dynamics and functioning. Work effectiveness and productivity can become impaired and there may be a higher than usual rate of absenteeism or a sudden rise in staff turnover. Levels of morale may fall and group problem solving ability may become compromised. Mistrust towards complainants may also take hold.

6.4. Dealing with critical incident stress

Agencies have duty of care and occupational health and safety obligations towards their staff, so every agency needs to have mechanisms in place to systematically deal with critical incident stress.

The approach advocated in this manual, when systematically applied, goes a long way towards reducing the stress experienced by staff in their day-to-day interaction with complainants whose conduct can be challenging. However, management also needs to have specific debriefing mechanisms in place.

6.5. Providing debriefing

There needs to be a clear commitment from management to a debriefing process with clear, formal procedures in place.

Debriefing can be provided in a number of ways:

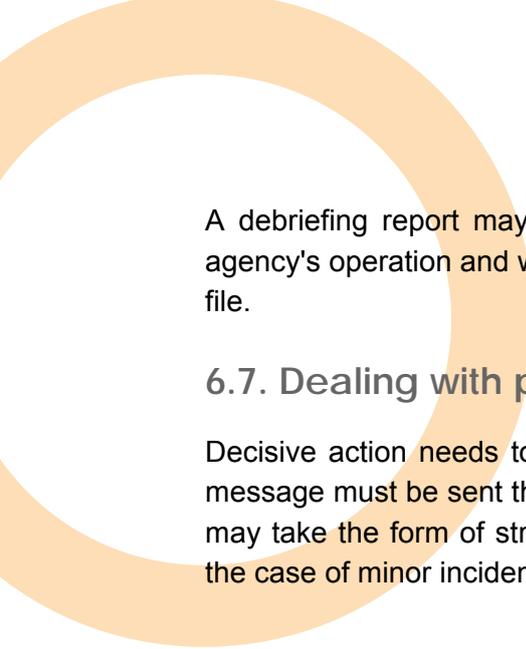
- An external professional service can be retained to provide the service on a needs basis.
- Internal debriefing can be provided by managers and supervisors. If this is the case, it is critical that the people providing the debriefing are professionally trained in debriefing techniques.
- Informal debriefing after a minor incident can be provided by peers. If this is the case, management needs to make it clear that it is a legitimate component of the work of each staff member to assist a colleague to debrief if they are asked for this assistance. Ideally, all staff likely to be called on to assist in debriefing a colleague will receive some training in debriefing techniques.

The feelings and wishes of the individual involved should dictate what form a debriefing takes.

6.6. Debriefing components

Staff likely to be involved in debriefing need to be professionally trained. It is beyond the scope of this manual to present specific debriefing techniques, but the following is a short list of some key components.

- Debriefing aims to assist recovery from critical incident stress and avoid future problems such as post traumatic stress syndrome.
- Debriefing generally needs to occur 24 to 72 hours after an incident, depending on the readiness of the individual.
- Some people may display a delayed reaction, in which case debriefing may occur weeks or even months after the event.
- Debriefing sessions are always private and discussions are confidential.
- Participation is voluntary, though staff should be encouraged to attend.
- Debriefing can involve an individual or a group.
- Follow-up sessions may be necessary.
- Debriefing should also include an educational component about stress-related symptoms that may be experienced and how to manage them.
- The individual affected may need support for a period beyond debriefing — such as a lighter workload for a while, changed duties, part-time work or leave.



A debriefing report may be prepared. This is a confidential document. It relates to the agency's operation and would be kept separate from the affected staff member's personnel file.

6.7. Dealing with perpetrators

Decisive action needs to be taken in relation to the actions of perpetrators. A very clear message must be sent that the agency views threats against their staff very seriously. This may take the form of strongly worded limits on the perpetrator's contact with the office in the case of minor incidents or criminal charges in more extreme cases.

Chapter 7. Apologies

7.1. Why apologies should be made

One of the most effective ways to diffuse a situation, or to prevent a situation from escalating to a point where a complainant's conduct becomes unreasonable, is to offer a full apology where this is warranted.

Agencies sometimes get it wrong. Mistakes, delays, omissions and misunderstandings happen, even in the most efficiently run organisations. If this occurs, action should be taken immediately to remediate the problem. Remediation on its own is generally not enough. An apology needs to be made as well.

When things go wrong, complainants generally want no more than to be listened to, understood, respected and - if appropriate - given an explanation and apology. A prompt and sincere apology for any misunderstanding is likely to stop ongoing problems from developing.

A full apology given at the right time can:

- Restore dignity, face and reputation;
- Provide an acknowledgement that the recipient was indeed right;
- Assure the recipient that they are not at fault; and
- Prevent escalation of the matter and the associated costs in terms of time, resources and stress.

When things go wrong, the problem often is not the event that caused the damage - it is the way the person was treated afterwards. If the response to the person's concerns is respectful, positive and constructive (which can include an apology if appropriate), those concerns can often be resolved satisfactorily, enabling the person to 'move on'. If the response is rude, dismissive, negative, defensive or misleading, this is likely to result in an escalation of the problem with detrimental consequences for all the parties concerned. Unreasonable complainant conduct could well become the result.

7.2. The content of an apology

The most appropriate form and method of communicating an apology will depend on the circumstances of the particular case. In general terms, the most effective apologies incorporate the following key elements:

- **Recognition**
 - Description of the wrong - the problem, act or omission to which the apology applies.

- Recognition of the wrong - an explicit recognition that the action or inaction was incorrect, wrong, inappropriate, unreasonable or harmful.
- Acknowledgement of the harm - an acknowledgement that the affected person has suffered embarrassment, hurt, pain, damage or loss.
- **Responsibility**
 - Acceptance of responsibility - taking responsibility for the wrong and harm caused.
- **Reasons**
 - Explanation of the cause - a simple, plain English explanation of the reasons for or cause of the problem.
- **Regret**
 - Apology statement - an expression of sincere sympathy, sorrow or remorse, and a statement that the action or inaction was wrong or, at the very least, an expression of regret.
 - Sincerity of communication - an important indicator of the level of regret of the person doing the apologising.
- **Redress**
 - Action taken or proposed - a statement of what has been or will be done to address the problem.
 - Promise not to repeat - an indication that the action or inaction will not happen again.
- **Release**
 - Request for forgiveness - a request to be released from blame (an optional extra to a full and complete apology).

7.3. Giving an apology

Apologies generally need to be given at the earliest practical opportunity. Although it is best to apologise as soon as a wrong is identified, it may be important to delay a full apology to allow time for inquiries or an investigation to establish the nature and cause of the problem - and to allow one or both parties time for cool reflection.

Apologies must be given by the right person, the one who is responsible for the wrong, or a person who is clearly perceived as speaking on behalf of the agency responsible for the wrong. Apologies must also be given to the right person, the one who was harmed. Apologising to a third party is generally not appropriate.

7.4. Legal implications of apologising

There are three different approaches to the statutory protection of apologies in Australia.

- NSW and the ACT have legislated to protect 'full' apologies from incurring civil liability - that is, apologies that include an admission of fault or responsibility.
- The other states and territories have legislated to protect 'partial' apologies from incurring civil liability - that is, apologies that do not include such an admission.
- All states and territories in Australia have legislated to protect 'full' apologies from incurring liability in defamation.

Case law indicates that, even if a person makes an apology that includes an acceptance or admission of fault or responsibility, this will not necessarily be regarded by the courts as an admission that creates legal liability in civil proceedings (*Dovuro Pty Ltd v Wilkins* [2003] HCA 51, 11 September 2003).

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Appendix 1. Example acknowledgement letter

Our ref: *[insert file number]*
Enquiries: *[Officer Name]* *[Officer Telephone]*

[insert date]

[insert complainant's name]

[insert complainant's address]

Dear *[insert complainant's name]*

I am writing to acknowledge receipt of your *(letter/email/facsimile)* of **** seeking an investigation by the Ombudsman into your complaint about ***.

The enclosed information sheet outlines the matters we will take into account during our assessment of your complaint. The length of time required for this assessment will vary, depending on factors such as the complexity of the issues raised, the number of documents provided and our current workload. Once your complaint has been allocated and an initial assessment has been made, we will contact you to advise if we can be of assistance.

In the meantime, thank you for bringing your concerns to the attention of the Ombudsman.

Yours sincerely

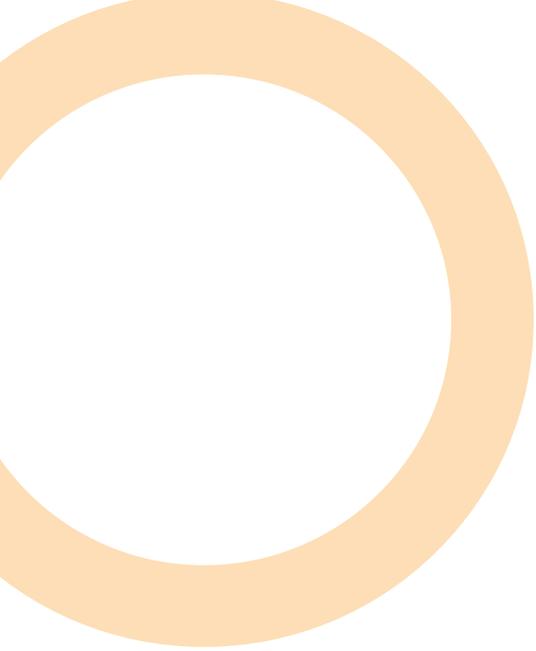
[insert officer's name]
[insert position title]

The WA Ombudsman

What the Ombudsman's office does	What the Ombudsman's office does not do
<ul style="list-style-type: none"> • The Western Australian Ombudsman is an independent officer of Parliament with responsibility to investigate the actions of State Government departments, prisons, hospitals, schools and technical colleges, local governments and public universities (public authorities). • The Ombudsman has two principal functions: <ul style="list-style-type: none"> - To investigate complaints about the decision making of public authorities; and - To improve, over time, the standard of public administration. • The Ombudsman helps agencies improve their administrative standards by: <ul style="list-style-type: none"> - Identifying causes of problems and making recommendations for changes to procedures, practices, policies or legislation to prevent similar problems occurring; and - Encouraging public sector agencies to establish their own internal complaint handling systems. • The Ombudsman provides education and guidance for public administrators. Investigations initiated by the Ombudsman relate to selected areas of public administration, training and publications 	<ul style="list-style-type: none"> • The Ombudsman does not investigate all complaints received. A range of matters are considered in determining whether to investigate complaints, including: <ul style="list-style-type: none"> - The materiality and public interest of the complaint; - The prospect of proving allegations; and - The likelihood that any recommendations made would have a practical benefit for the complainant. • The Ombudsman does not give legal advice. • The Ombudsman cannot look into complaints about private organizations and individuals such as banks, shops or trades people / disputes between private individuals such as problems between neighbours / decisions made by Government Ministers, courts of law and some other officials. • The Ombudsman does not normally investigate complaints about issues that you have known about for more than 12 months before complaining. • The Ombudsman does not normally investigate complaints about issues that can be reviewed by or appealed to a court or tribunal.

The responsibilities of the Ombudsman's office	Responsibilities of people who make a complaint
<p>The Ombudsman is responsible for:</p> <ul style="list-style-type: none"> • Handling complaints professionally, efficiently and fairly; • Keeping people informed of the progress of their complaint; • Giving reasons for decisions; and • Treating people with courtesy and respect. 	<p>People who make complaints are responsible for:</p> <ul style="list-style-type: none"> • Providing the Ombudsman with a clear idea of the problem and the solution they want; • Providing the Ombudsman with documentation to support their complaint where this is available; • Informing the Ombudsman of new facts, and when they no longer require help; • Cooperating with the Ombudsman; and • Treating the Ombudsman's staff with respect.

For more information about the role of the Ombudsman, please go to the Ombudsman's website at www.ombudsman.wa.gov.au



Appendix 2. Model ground rules*

To enable (this agency) to ensure a high standard of service to complainants and meet our occupational health and safety and duty of care obligations to our staff, the following ground rules apply to (the agency's) staff and complainants.

It is the responsibility of (the agency) to:

- Deal with complaints professionally, efficiently and impartially.
- Keep complainants informed of the progress and outcome of enquiries.
- Provide clear reasons for our decisions.
- Treat complainants with courtesy and respect.

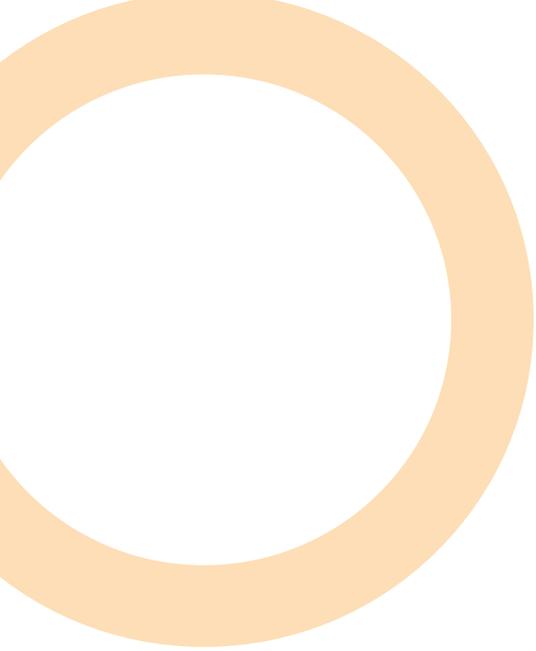
If (the agency) does not meet its responsibilities, the complainant can make a complaint to the ...

It is the responsibility of the complainant to:

- Clearly identify the issues of complaint, or ask for help from (the agency's) staff to do this.
- Give (the agency) all the available information about the complaint in an organised format at the time of making the complaint.
- Cooperate with (the agency's) enquiries or investigations.
- Treat the (the agency's) staff with courtesy and respect.

If complainants do not meet their responsibilities, (the agency) may set limits or conditions on the handling of their complaint. Any abuse, harassment or threats to the safety or welfare of staff at (the agency) will result in the immediate discontinuation of the complaint and all contact with the complainant will stop.

*The ground rules are a basis for the interaction between the agency and complainants. Agencies may choose to make these explicit through letters, printed materials and information on their website.



Appendix 3. Risk assessment matrix for frontline staff

Likelihood	Consequence			
	Minor	Moderate	Serious	Very serious
Almost certain	Medium risk	Medium risk	High risk	Extreme risk
Likely	Medium risk	Medium risk	High risk	Extreme risk
Possible	Low risk	Medium risk	High risk	Extreme risk
Unlikely	Low risk	Low risk	Medium risk	High risk

Definitions

Likelihood	Probability	Description (from AS/NZS 4360)
Almost certain	90%>	The event can be expected to occur in most conditions.
Likely	50% — 89%	The event will probably occur in most conditions.
Possible	6% — 49%	The event should happen at some time.
Unlikely	<5%	The event could happen at some time.

Consequence	Impact
Very serious	Death or serious injury.
Serious	Minor injury.
Moderate	Intimidation, threats or abuse (face-to-face) — resulting in stress/fear experienced by staff or damage to premises.
Minor	Verbal threats or abuse (over the phone), resulting in some degree of stress experienced by staff.

Level of risk	Meaning
Extreme risk	Urgent and extraordinary action required.
High risk	Urgent and direct senior management attention required.
Moderate risk	Management action required.
Low risk	Manage by routine procedures.

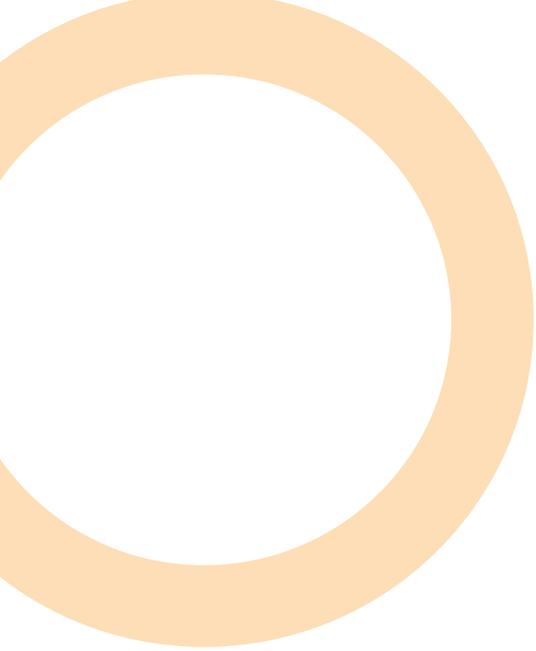
Appendix 4. Types of risks faced by frontline staff

Threats

- Specific threats are made:
 - Against staff generally;
 - Against specific staff;
 - Against self; and/or
 - To damage premises.
- The threatened action is:
 - A bomb;
 - Death;
 - Serious injury; and/or
 - Assault.
- The complainant has a history of:
 - Inappropriate behaviour;
 - Threats of violence — not implemented;
 - Aggressive behaviour; and/or
 - Violent behaviour.

Actions

- The complainant has been abusive or threatening:
 - Over the phone; and/or
 - Face-to-face.
- The complainant has a history of abusive or threatening behaviour.
- The complainant has acted violently:
 - Damaging property;
 - Injuring staff or visitors; and/or
 - Injuring self.
- The complainant has a history of violent behaviour.
- The complainant has refused to leave the premises.
- The complainant is stalking a member of staff.



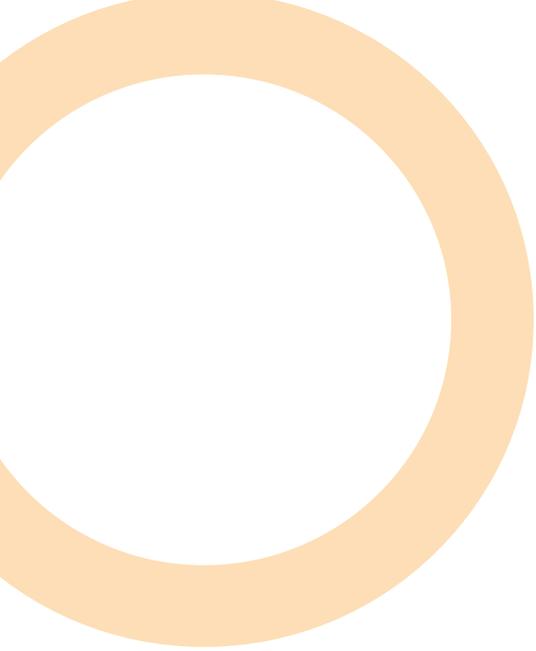
Appendix 5. Options for treating risks

Actions

- Staff only interview in pairs.
- Interviews only held in rooms with the door open or where visible to the receptionist.
- Staff have a panic button with them when interviewing.
- Appropriate training for staff in how to respond to security incidents
- Activation of:
 - Airphone; and/or
 - Duress alarm [appropriate staff to respond].
- Calls for help to:
 - Other staff;
 - Building security ; and/or
 - Police.
- Staff to exit public area and seek protection within the secure office perimeter.
- Verbal directions to complainants to:
 - Stop the behaviour or language;
 - Leave the premises; and /or
 - Leave the premises and not return.
- Written directions to complainants to:
 - Not enter premises;
 - Only communicate in writing; and/or
 - Only communicate with a named officer during identified times.

Design of public areas

- Public areas to be assessed for risks.
- Public areas to be secure.
- 'Bolt holes' for staff to quickly exit public areas.
- CCTV coverage of public areas.



Appendix 6. Planning for risk mitigation, preparedness, response and recovery

Steps that need to be considered in preparing for risk are:

Mitigation

- Policies, procedures and guidelines to deal with risk.
- Design of public areas assessed to identify security risks.
- Security of non-public office areas assessed to identify security risks. Training of staff in risk avoidance/management techniques.
- CCTV coverage of public areas.
- Posters in public areas setting out behaviours that are unacceptable.

Preparedness

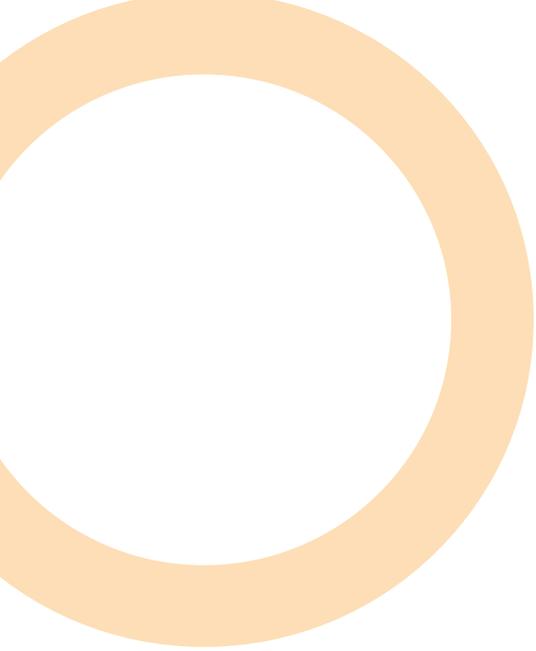
- Emergency procedures developed.
- Airphone installed.
- Duress alarms provided to frontline staff.
- Training for staff in appropriate responses/emergency procedures.

Response

- In accordance with risk management protocol.

Recovery

- Restoring normal conditions/operations.
- Recognising emotional damage.
- Debriefing.
- Refining preparations.



Appendix 7. The 20 key elements for managing unreasonable complainant conduct

Objectives

- 1 Ensure equity and fairness.
- 2 Improve efficiency in the use of resources.
- 3 Ensure staff safety and comply with OH&S and duty of care obligations.

Managing unreasonable conduct

- 4 Recognise that dealing with unreasonable complainant conduct is part of the agency's core work.
- 5 Exercise ownership and control over the complaint. The agency decides how the complaint will be dealt with, by whom, how quickly, with what priority, what resources will be given to it and what will be the outcome - not the complainant.
- 6 Focus on specific, observable conduct - the problem not the person.
- 7 Use clear terminology that focuses on the conduct of the complainant, not the person - 'unreasonable conduct' not 'difficult complainant'.
- 8 Apply the relevant management strategies:
 - Unreasonable persistence .
 - Saying 'no'.
 - Unreasonable demands.
 - Setting limits.
 - Unreasonable lack of cooperation.
 - Setting conditions.
 - Unreasonable arguments and unreasonable behaviour.
 - Saying 'no', setting limits/conditions, invoking risk management protocols.
- 9 Respond with consistency to individual complainants and across complaints.
- 10 Respond to the complainant with clear, timely and firm communication.

Preventing unreasonable conduct

- 11 Manage complainant expectations from the beginning.
- 12 Insist that the complainant shows respect. Set boundaries by not tolerating rudeness, anger or aggression.

Organisational responsibilities

- 13 Maintain commitment to this approach for dealing with unreasonable conduct.
- 14 Provide staff with adequate supervision and support in their dealings with unreasonable conduct.
- 15 Give staff sufficient time and resources to deal with unreasonable conduct.
- 16 Provide staff with adequate training and guidance in how to deal with unreasonable conduct.

Staff responsibilities

- 17 Remain calm in the face of unreasonable conduct.
- 18 Show respect for all complainants, those acting reasonably and those not.
- 19 Act impartially in all matters.
- 20 Demonstrate professionalism in dealing with all complainants, those acting reasonably and those not.

Appendix 8. Ten ground rules for talking to complainants

Use a non-confronting, non-resistant communication style.

- 1 Find something to agree with, without necessarily agreeing with the complainant's point of view:
 - 'I agree that \$2,000 is a lot of money to lose'.
 - 'I agree that not hearing back from the department would be very annoying'.
 - 'I agree that having your pension reinstated would be a great help'.
- 2 Acknowledge the complainants feelings and actions:
 - 'I can hear that you are very upset about this'.
 - 'In your position I would be pretty angry too about losing all that money'.
 - 'I can see that you've gone to a lot of trouble to get all this material together'.
- 3 Be careful about saying 'I understand'. Saying 'I understand' about the information conveyed by the complainant is ok. Saying 'I understand' about the complainant's situation or experience is probably not ok.
- 4 Listen with interest. Engage. Repeat the complainant's key words back to them. If face-to-face, make eye contact.
- 5 Clarify. Get more information. Do not interpret and do not assume.
- 6 Check understanding:
 - 'As I understand it, the situation is ... Is this correct?'
 - 'From what you tell me it seems ... Is this the case?'
- 7 Do not argue or debate. Acknowledge the complainant's position or understanding and state that your or your agency's position or understanding is different.
 - 'I can see that you believe ... We have come to a different conclusion'.
 - 'I do understand that your position is ... Our position is a little different'.
- 8 Be careful about justifying or denying. Only do this if it is necessary to clarify the agency's position or action. Do not do this simply in defence of the agency or yourself.
- 9 Apologise if there has been a mistake, omission or delay and tell the complainant how the situation will be rectified.
- 10 Remain calm, no matter how the complainant behaves. Set limits when rudeness, anger and aggression transgress your personal boundaries

13.3 INFRASTRUCTURE

13.3.1 KDHS Bus Access Parking

DATE:	24/03/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Kununurra District High School
AUTHOR:	David Klye, Director Infrastructure
REPORTING OFFICER:	David Klye, Director Infrastructure
FILE NO:	CP.06.16
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to consider traffic management arrangements at the Kununurra District High School (KDHS).

BACKGROUND

At the Special Meeting of Council on 19 December 2013 Council resolved:

COUNCIL DECISION

Minute No. 10698

Moved: Cr D Spackman

Seconded: Cr B Robinson

Part 1

That the CEO writes to the Department of Education informing that Council will not support the relocation of the KDHS buses to the proposed area on Coolibah Drive and use the following points to express our concerns;

- **There is a greater risk to the kids and parents by relocating.**
- **The long term risk and cost to the community is not justified.**
- **Relocation to reduce the risk to the Education Department is not valid reason to increase the risk to the children's safety.**
- **The Shire has a responsibility to limit the risk to our most valued asset, our children.**

Part 2

The CEO writes to the Department of Education and asks if they would be willing to excise the existing bus turn around area to the Shire as this would be far less risk to the Shire than the proposed area.

The benefits would be for the Shire and Education Department in the following;

- **Shorter distance and safer for the ECE kids in the morning drop off/afternoon pick up as they go direct into ECE area from the current location.**
- **Safer for the St Joseph school transfers.**
- **No congestion of bus children and parents collecting their kids at the same area or gate.**

- No additional staff needed for Education Department or SWEK to operate long term traffic management, ongoing funding of trained attendants for crossing and transferring children to respective buses.
- No need to have public comment to a new development proposal in public area would satisfy the KDHS P&C and St Joseph's P&F committees.

Part 3

CEO to prepare and propose a policy to be brought to Council for consideration on the Shire carrying out work on behalf of a Government department on Council controlled land.

- Including what projects have recently been finish or are underway.
- What liability is the Shire exposed to in undertaking these works?
- Does the Shire need development approval as normal or is it exempt if working on behalf of Government?
- Are there Budget implications for this type of work?
- When a project of this nature (relocation of bus area onto Council land) can potentially affect such a large sector of the community, what policies can be put in place to ensure the community has the appropriate input and is kept informed?

Carried 4/3

Against: Cr J Moulden, Cr R Dessert & Cr D Learbuch

Subsequently at the Ordinary Meeting Council meeting of 16 December 2014 Council resolved:

COUNCIL DECISION

Minute No. 10718

Moved: Cr G Taylor

Seconded: Cr B Robinson

1. Council ceases all works on the Department of Education bus bay project with exception of work carried out in dot point 2.
2. In the interest of road safety removes the bus parking signs and line marks the bay for all day vehicle parking

Carried 5/3

For: Cr G Taylor, Cr B Robinson, Cr K Wright, Cr G King, Cr Spackman

Against: Cr D Learbuch, Cr R Dessert, Cr J Moulden

STATUTORY IMPLICATIONS

Council has a statutory obligation to manage roads under its care and control. The *Road Traffic Act 1974*, Part IX, Section 111(2)(a)(iii), *Main Roads Act 1930*, Part 5, Section 16(1b) and 16(1c) and the *Local Government Act 1995*, Part 9, Section 9.46 (2) apply.

POLICY IMPLICATIONS

There are no policy implications associated with this report.

FINANCIAL IMPLICATIONS

There may be negative financial and budgetary implications associated with this item depending on the decision taken by Council. Due to the very tight nature of the current budget, there was no readily identifiable project or program that could be dropped from the budget to fund any solution should a solution requiring more than maintenance type expenditure be contemplated.

To meet the cost of any proposed works, a new loan could be considered which requires one month's local public notice of the proposal and a decision to be made by absolute majority of Council in accordance with section 6.20 of the *Local Government Act 1995*, along with approval from the Western Australia Treasury Corporation (WATC) Board. Alternatively Council could consider further cutting the budget to meet the cost of any further works that may be required.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

- | | |
|-----------------|--|
| Goal 2: | Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure. |
| Objective 2.3: | Facilities are appropriate for their intended purpose and factor in whole of life costing and maintenance. |
| Strategy 2.3.1: | Manage and maintain assets in a strategic and cost effective manner. |
| Strategy 2.3.2 | Plan, design and budget for sustainable infrastructure. |
| Goal 3: | Protection and Enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities. |
| Objective 3.4: | Protection and enhancement of community facilities. |
| Strategy 3.4.3: | Ensure Shire facilities are planned and managed to meet community needs. |

COMMUNITY CONSULTATION

Community consultation is not required in relation to this item.

COMMENT

Council's decision No 10718 at its 16 December 2014 meeting places it in a high risk position. By taking the decision to remove the bus parking bay in Coolibah Drive at the KDHS, Council has inadvertently created a situation where school busses continue to park on the school grounds forcing them to continue to exit against the flow of traffic through the one way entrance to the service lane parking area. This traffic flow situation was intended to be a short term measure to facilitate construction and cannot be allowed to continue indefinitely.

An unacceptable traffic hazard has been created by the busses exiting the one way entrance to the service lane parking area onto Coolibah Drive and breaking the law by either crossing double white lines or by mounting the traffic island. The *Road Traffic Code 2000* at Clause 116 states in part "a driver shall not permit any portion of the vehicle to travel on, over, or to the right of the dividing line except for the purpose of making a right turn or a U turn, where permissible." It is also against the law to short cut across the traffic island The *Road Traffic Code 2000* at Clause 119 states in part "A person shall not drive a vehicle on a traffic island or median strip except at a place designed and constructed, or improved, for use by

vehicular traffic." The traffic island is not designed, constructed, or improved for use by vehicular traffic.

In their email of 14 January, (Attachment 5) Main Roads Western Australia (MRWA) comment on the current situation that "*This is an unsafe practice and should not be permitted.*" Without full knowledge of Council's December decision on the matter, MRWA also recommend: "*that the driver be instructed to use the bus embayment on Coolibah Drive which was constructed for this purpose.*" Main roads go on to list a number of reasons in support of its recommendation.

MRWA has advised by phone that they would not consider removing the double lines in front of the school as they were installed to improve safety for school children and removing the lines would allow busses to cross into oncoming traffic at a bend which is dangerous. Removal of the lines will also encourage drivers on Coolibah Drive to speed up and potentially pass resulting in a more dangerous environment which is undesirable particularly in front of a school.

Having recognised this problem, work to remove the bus parking signs and line mark the bus bay for all day vehicle parking in accordance with Council's December 2014 resolution has been temporarily put on hold until the safety and legal issues regarding expected bus movements has been resolved.

Option One

One solution to this problem may be to reconstruct the recently completed entrance to the car park to improve the geometry to facilitate the busses exiting the school grounds. A preliminary concept design has been completed. The draft design layout for the proposed geometry is attached in Attachment 1. These works have been estimated at \$45,000 (\pm \$10,000).

Option Two

Preliminary work indicates that it may be possible to establish bus parking embayments on the western side of Mangaloo Street. Refer to the PDF image in Attachment 7, Proposed bus embayments Mangaloo Street. This option would necessitate a review of the three currently approved Blackspot projects for Mangaloo Street, the Intersection Channelisation, Wombat Crossing and Slow Point. This option would result in the loss of 20 car parking spaces in the the "kiss and Drop" parking area in Mangaloo Street at the school. Should further investigations be undertaken by the Shire into establishing bus parking embayments on the western side of Mangaloo Street adequate time needs to be allowed for the School and the Public Transport Authority (PTA) to consider and approve the proposal. No budget estimates have been undertaken into this option but it is expected that the overall cost would be of the order of \$3,000 - \$4,000 to provide line marking and signage.

Option Three

Council could elect to reconsider its position on the use of the parking embayments in Coolibah Drive it should be noted that the option to simply approve the use of the original bays in Coolibah Drive is not straight forward. The PTA will still require the fence to be constructed and modifications to the wombat crossing. The works are shown on the drawing in Attachment 8 - RevD_Bus Bay Handrail. The estimated cost of these works is \$55,000. The Department of Education have advised in their undated letter of 13 January 2014 to the Shire (Attachment 6) that "*...the Department has no funds to undertake any further works for bus, staff or parent parking around Kununurra District High School.*" The letter goes on to

say “It is unlikely any further capital works funds will be allocated to the school in the foreseeable future.”

Option Four

Provision could be made for the busses to park within the road verge car park in front of the high school. To provide three bus bays, this solution would result in the loss of 22 car parking spaces including a disabled parking space. Two spaces would be lost on the southern side of the car park to provide for the disabled parking space. In order to accommodate movement of the busses, the entrance and the exit to the car park would require reconstruction at an estimated cost of \$30,000.

Option Five

In telephone communications with its officers the PTA at have indicated that they were not aware of the problem with busses crossing double white lines. The PTA further advised that it is a simple matter for the PTA to alter the bus route to require the busses to turn right out of the high school to eliminate the problem. The issue of busses exiting the school property the wrong way out of a one way entrance to the car park remains and while this is not illegal it is a poor and undesirable solution with its own risks, this appears to be the most economical solution for the Shire.

Council has no statutory obligation to solve the parking issue and given the tight budgetary constraints option five is considered to be prudent at this time.

Should Council select any of the options from one to four, a new loan could be considered to cover the cost of the works. Alternatively, Council could consider further cutting the budget to meet the cost of the works, however the Council would need to identify the area to reduce. It is also possible for the Council to consider utilising of alternative Reserve Funds, however this would require public notice of the proposed change in the use of funds in accordance with the legislation.

ATTACHMENTS

- Attachment 1 - KDHS Crossover Option2-Model 140115
- Attachment 2 - Email from Public Transport Authority
- Attachment 3 - Document from DoE re KDHS Relocation of Buses December 2014
- Attachment 4 - Letter from PTA to DoE 12-1-15 KDHS – Buses
- Attachment 5 - Email from MRWA 14-1-15 Kununurra District high School - Bus Operation
- Attachment 6 - Letter from Dept. of Education 13-1-15
- Attachment 7 - Proposed bus embayments Mangaloo Street
- Attachment 8 - RevD_Bus Bay Handrail

VOTING REQUIREMENT

Simple Majority

OFFICER’S RECOMMENDATION

That Council directs the Acting Chief Executive Officer to advise the Public Transport Authority that the current Kununurra District High School bus route necessitates busses undertaking an illegal turn when they exit the school grounds and turn left to enter Coolibah Street and that a right turn by the busses into Coolibah street could be made legally.

COUNCIL DECISION

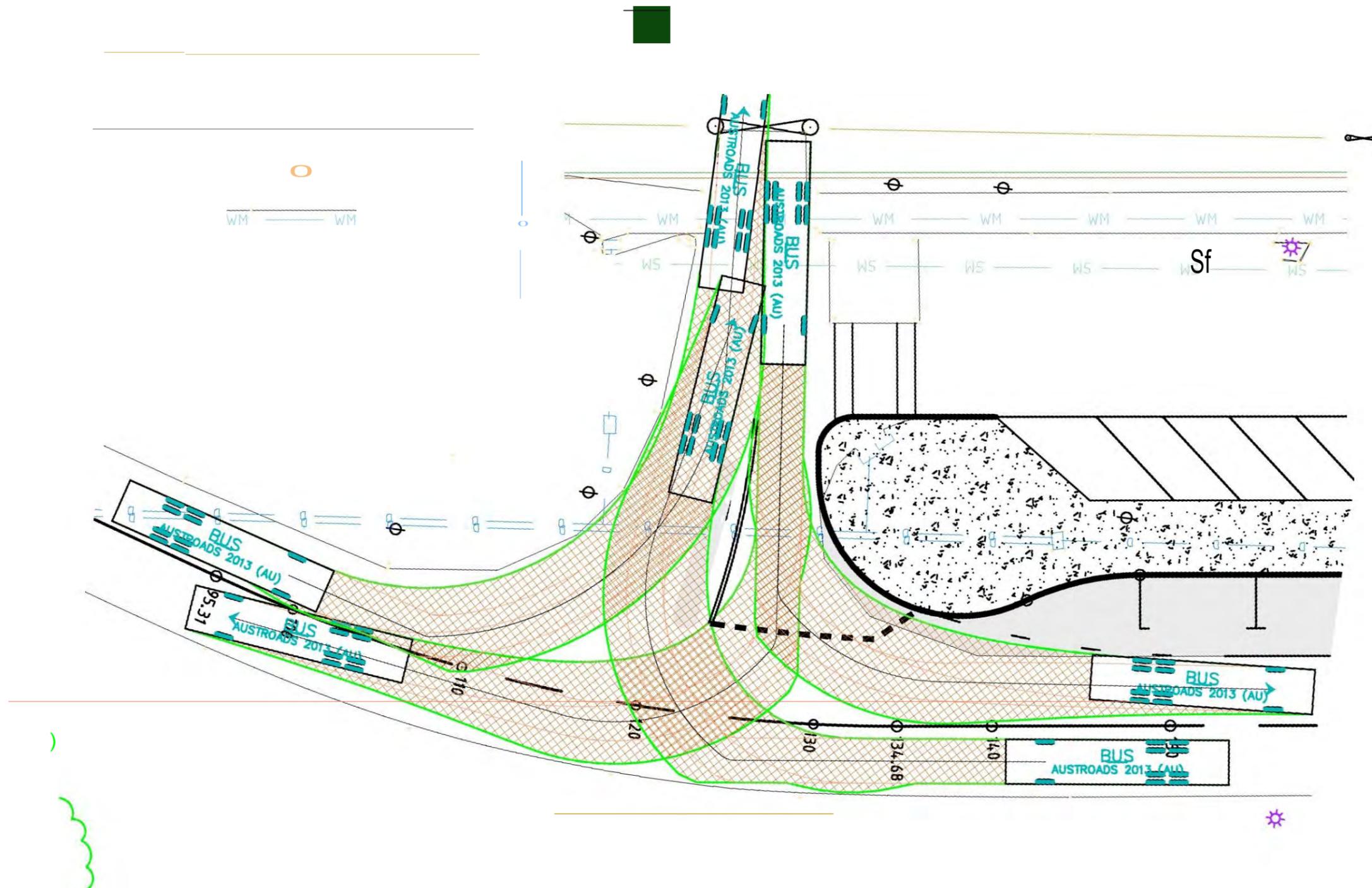
Minute No. 10838

Moved: Cr G Taylor

Seconded: Cr B Robinson

That Council directs the Acting Chief Executive Officer to advise the Public Transport Authority that the current Kununurra District High School bus route necessitates busses undertaking an illegal turn when they exit the school grounds and turn left to enter Coolibah Street and that a right turn by the busses into Coolibah street could be made legally.

Carried Unanimously 8/0



From: [Hill, Gillian](#)
To: [David Klye](#)
Cc: [Cordingley, Michael](#); [Sue Swenson \(sue.swenson@education.wa.edu.au\)](mailto:sue.swenson@education.wa.edu.au)
Subject: Kununurra DHS - Buses
Date: Monday, 12 January 2015 6:57:30 PM
Attachments: [image001.png](#)
[Kununurra Bus Embayments Modifications to Design 29April2014 \(2\).pdf](#)

Good afternoon David

Thank you for making contact regarding the bus embayment area at Kununurra District High School (DHS) and the urgent need to resolve the outstanding issues associated with the use of this facility.

As agreed I spoke with Mick Cordingley, Operations Manager, following our conversation to update him on the Council's position. Mick is very aware of the bus embayment issue as he has visited Kununurra on a number of occasions prior to and following the construction of the new facility. Mick has asked that I confirm the PTA's position and what actions the PTA may need to take to ensure the appropriate provision of 'orange' school bus services for the 2015 school year.

I did not attempt to make contact with Sue Swenson today as upon reading the document forwarded to you by DoE in December 2014 it is clear the PTA and DoE remain of the same view in regard to the modifications required to provide a safe site for the transference of students at Kununurra DHS. I have elected to copy Sue into the correspondence as a matter of expedience.

Background

The PTA attended a meeting in Kununurra with bus contractors following the completion of the work as concerns over the suitability of the new bays had been raised. Subsequent to the local meeting, Mick Cordingley and I met with Sue Swenson, Department of Education (DoE), to discuss possible solutions to the safety concerns raised by the bus contractors. I am aware Sue had also been made aware of concerns through the school administration and had already undertaken significant preliminary discussions prior to our meeting to determine the extent of DoE's capacity to resolve the concerns. It was at that meeting the list of items contained in Milan Trifunovic's document forwarded to you by Sue Swenson would have been developed.

In letter forwarded to Milan Trifunovic, DoE, the PTA confirmed what design modifications were considered necessary to significantly reduce the risks associated with the operation of the bus embayment area. A copy of this letter is attached for your information.

The main concerns that remain for the PTA are;

1. daily, ongoing management of students moving in and around the bus embayment area as they are delivered to and collected from school by direct supervision provided by the school. It is likely this has been addressed by DoE as outlined in dot point 2 of the DoE's 'Relocation of Buses' document but the PTA have yet to be provided with the management plan,
2. the separation of pedestrians and vehicles through the construction of a barrier fence that is extended to the corner of the wombat crossing;
3. the safe movement across the wombat crossing, which would require the widening and

- re-alignment of the crossing with the school gate and supervision to be provided by the school on a daily bases; and
4. DoE undertake a Risk Assessment immediately prior to the bus bays being used to determine if any additional measures are required to further reduce any residual risks.

Late in 2014, the PTA was made aware the bus turnaround that is currently in use had become increasingly dangerous. This is due to teacher and parent parking areas being created along the access road. The use of this road by private motor vehicles and subsequent pedestrian traffic between the parking area and the junior primary school classrooms is of considerable concern. The PTA is currently waiting on a report from the bus contractor to enable a better understanding of the day to day issues associated with this area. However, from our discussion earlier it is now evident the current arrangements are no longer suitable due to the removal of permission for buses to exit the existing bus turnaround onto Coolibah Drive.

Current Position

The position taken by the Shire means the PTA is faced with the possibility there will be no bus bays available for use at the commencement of the 2015 school year unless the changes are implemented as a matter of urgency. The PTA fully supports the position statement provided by the DoE in the document submitted to Shire of Wyndham East Kimberley by Sue Swenson on behalf of Milan Trifunovic.

In the event a suitable resolution to this issue is not found and the works are not completed prior to the commencement of the school year, the PTA will be left with no other alternative but to withdraw the 'orange' bus services from the current location but would be open to discussions for the use of Mangaloo Street as an alternative drop off / pick up location.

If you require clarification or anything further to the above please do not hesitate to make contact.

Regards

Gillian Hill | Team Leader Northern
School Bus Services

Public Transport Authority WA | PO Box 8125, Perth Business Centre, WA, 6000

Phone: 9326 2693|Mobile: 0427 444 198|Fax: 9326 2781|eMail : Gillian.Hill@pta.wa.gov.au



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From: David Klye [mailto:David.Klye@swek.wa.gov.au]
Sent: Monday, January 12, 2015 11:17 AM
To: Hill, Gillian
Subject: FW: Kununurra DHS - Buses

Regards

David Klye MIEAust CPEng NPER BEng(civil) Cert Civil Eng Cert Hyd Eng Cert Municipal Eng MLGMA
Director Infrastructure

S H I R E o f W Y N D H A M | E A S T K I M B E R L E Y

20 Coolibah Drive, PO BOX 614 Kununurra WA 6743 | T: (08) 9168 4100 | F: (08) 9168 1798 | www.swek.wa.gov.au

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 Please consider the environment before printing this email.

From: SWENSON Sue [Facilities Program Delivery] [mailto:Sue.Swenson@education.wa.edu.au]
Sent: Monday, 15 December 2014 1:09 PM
To: David Klye
Cc: TRIFUNOVIC Milan [Facilities Program Delivery]
Subject: FW: Kununurra DHS - Buses

Hi David

Milan Trifunovic asked me to send you the attached document with dot points regarding the relocation of the buses at Kununurra DHS.

Regards

*Sue Swenson
Principal Project Officer
Facilities Program Delivery
Department of Education
151 Royal Street
EAST PERTH WA 6004*

PH: 9264 4431 Mobile: 0417 914 134

KUNUNURRA DISTRICT HIGH SCHOOL –RELOCATION OF BUSES

- The school community indicated strongly that the buses needed to remain at the primary school end of the site to enable easy and safe access for younger students
- The school has a plan in place ready to manage the safety of students
- All movement in and out of the school to access buses will be through the “top” gate only and there will be three staff members on duty in that area to supervise arrivals and departures
- In the afternoon, students will move to their buses when directed, through the top gate which is close to the undercover area
- One of the rostered staff members will supervise the car park crossing near the top gate and stop cars exiting the car park as required
- An additional barrier fence will be constructed to protect students
- Supervision of students will be greater controlled than in the current situation where they have to negotiate swales and there are no paths leading to the buses
- In addition to the nearby covered assembly area, the new primary teaching blocks adjacent to the car park have verandahs that students will be able to shelter under while waiting for buses
- There is no shelter near the current bus turnaround
- The Department met with representatives from the Public Transport Authority (PTA) regarding the new bus embayment
- Following a number of minor modifications, PTA has provided written approval of the use of the bus embayment
- The Department of Education’s policy is to minimise vehicles on school sites due to student safety -
 - All parking areas are provided on the boundaries of schools
 - Deliveries to canteens and cafeterias are trolleyed in from external car parks
 - Industrial arts buildings are located close to external access/parking
 - Bus bays are located externally, generally within the road reserve, or a slip road
- More than 95% of Government schools do not have buses entering school sites
- The Department has offered to take responsibility for maintenance of the barrier fence, through a formal agreement with the Shire
- The provision of a traffic warden (lollypop person) is provided through the Traffic Warden State Management Unit within the Police Department. The Department will work with the School Principal to develop a case for the funding of a traffic warden. However, previous experience indicates that the traffic volume on Coolibah Drive may not meet the benchmark required for the provision of a warden
- The entire project has been fully funded by the Department at no cost to the Shire



Your ref: D14/0104859

Enquiries: Michael Cordingley
(08) 9326 2706

29 April, 2014

Milan Trifunovic
Director, Facilities Program Delivery
Department of Education
151 Royal Street
East Perth WA 6004

Dear Mr Trifunovic

KUNUNURRA DISTRICT HIGH SCHOOL – BUS EMBAYMENT

Thank you for your letter regarding the design of the bus embayment area located adjacent to the Kununurra District High School site on Coolibah Drive.

School Bus Services have reviewed the proposed modifications to the design, which now provide for a separation of pedestrian and vehicle movements and a widening of the crossing section allowing students to access the school through a gate located at the widened section of that crossing.

These measures are considered appropriate and in line with recommendations agreed to 'in principle' at a meeting held on 24 February, 2013 with Sue Swenson from the Department of Education.

The Public Transport Authority (PTA) supports these controls measures being undertaken to reduce the risk of an incident occurring at the site; however, there remains the need to undertake a risk assessment of the operation once the construction process is finalised and is scheduled to be used by the bus contractors. The PTA anticipates this assessment will be undertaken by the Department of Education through Kununurra District High School prior to the bus bays being approved for use and that the report will be forwarded to the PTA to review any measures that are deemed necessary to further reduce the associated risks.

It should be noted, there will be an ongoing responsibility on behalf of Kununurra District High School to ensure that passengers (students) are transferred to bus drivers through direct supervision provided by the school.

Should you wish to discuss this matter please do not hesitate to make contact.

Yours sincerely

A handwritten signature in black ink that reads 'M Cordingley'.

Michael Cordingley
Operations Manager

From: [PHILLIPS Arthur \(RM/A\)](#)
To: [David Klye](#)
Subject: Kununurra District high School - Bus Operation
Date: Wednesday, 14 January 2015 10:13:11 AM

Good Morning David

It has come to my attention that the School Bus Operator for the Kununurra District High School is not using the newly constructed bus embayment on Coolibah Drive. Instead the operator is turning into the school grounds to drop the children off and using the unsealed turnaround to enable exiting onto Coolibah Drive.

When the bus exits the school grounds onto Coolibah Drive it is necessary for it to cross over the barrier centreline onto the wrong side of the road. This is an unsafe practice and should not be permitted.

It is recommended that the driver be instructed to use the bus embayment on Coolibah Drive which was constructed for this purpose. Failing this it will be necessary to reconstruct the driveway to safely accommodate the bus movement. This option is not recommended.

The new bus and parking area was designed to address the safety problem of lack of separation between pedestrians (students), cars and busses. It provides

- A separation of parent/visitor vehicles from the busses;
- The busses drop off in a single file in an embayment which doesn't obstruct traffic on the Coolibah Drive;
- The students don't have to walk between the busses;
- The busses don't share the driveway to the parent/visitor parking area; and
- A designated walk path has been provided for the students.

I find it strange that the bus operator would choose not to use the bus embayment. For the safety of the school children the operator should not be given an option.

Regards
Arthur Phillips



[Are you bushfire ready?](#)



Government of **Western Australia**
Department of **Education**

Your ref :
Our ref : D15/0011953
Enquiries :

Mr David Klye
Director Infrastructure
Shire of Wyndham/East Kimberley
PO Box 614
KUNUNURRA WA 6743

Dear David

Thank you for your email dated 9 January 2015 regarding bus parking at Kununurra District High School.

The decision by Council to cease all works on the bus bay project in Coolibah Drive, remove the bus parking signs and provide line markings for all day vehicle parking is noted. The Department of Education is extremely disappointed by this decision, as the new bus bay area was planned and developed in conjunction with Shire Officers to improve safety for staff, students and parents around the school. Substantial funds and time have been invested in the project.

As a result of this decision, the current arrangement of buses using the unsealed bus turnaround on the school site will continue. As I indicated at the Council Briefing, the Department has no funds to undertake any further works for bus, staff or parent parking around Kununurra District High School. It is unlikely any further capital works funds will be allocated to the school in the foreseeable future.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Trifunovic'.

MILAN TRIFUNOVIC
DIRECTOR
FACILITIES PROGRAM DELIVERY



No.	DATE	DESCRIPTION	APPROVED
D	20.03.14	REVISIONS	RG
B	17.02.13	GENERAL AMENDMENT	RG
A	20.11.13	ISSUED FOR REVIEW	RG

CLIENT
Wyndham East Kimberley

LOCAL GOVERNMENT AUTHORITY
Wyndham - East Kimberley

SCALE
 HZ: 1:125
 VI: N/A

151 FLOOR HIGHWAY
 EAST VICTORIA PARK
 WA 6101
 P 9355 5900
 E admin@shawmcc.com.au

DATE
 10/10/12

DESIGNED
 T SHAW

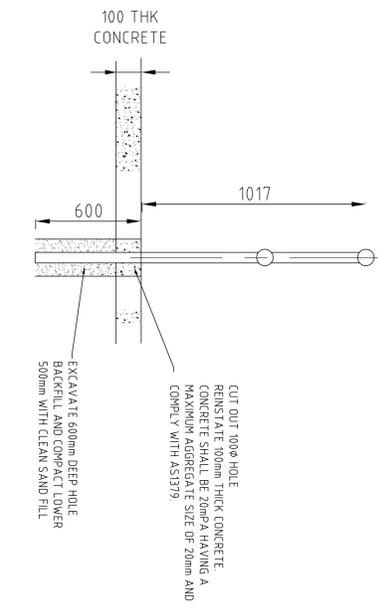
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 A SHAW

KUNUNURRA DISTRICT HIGH SCHOOL
 BUS EMBAYMENT - COOLIBAH DRIVE
 PROPOSED HANDRAIL SETOUT DETAIL

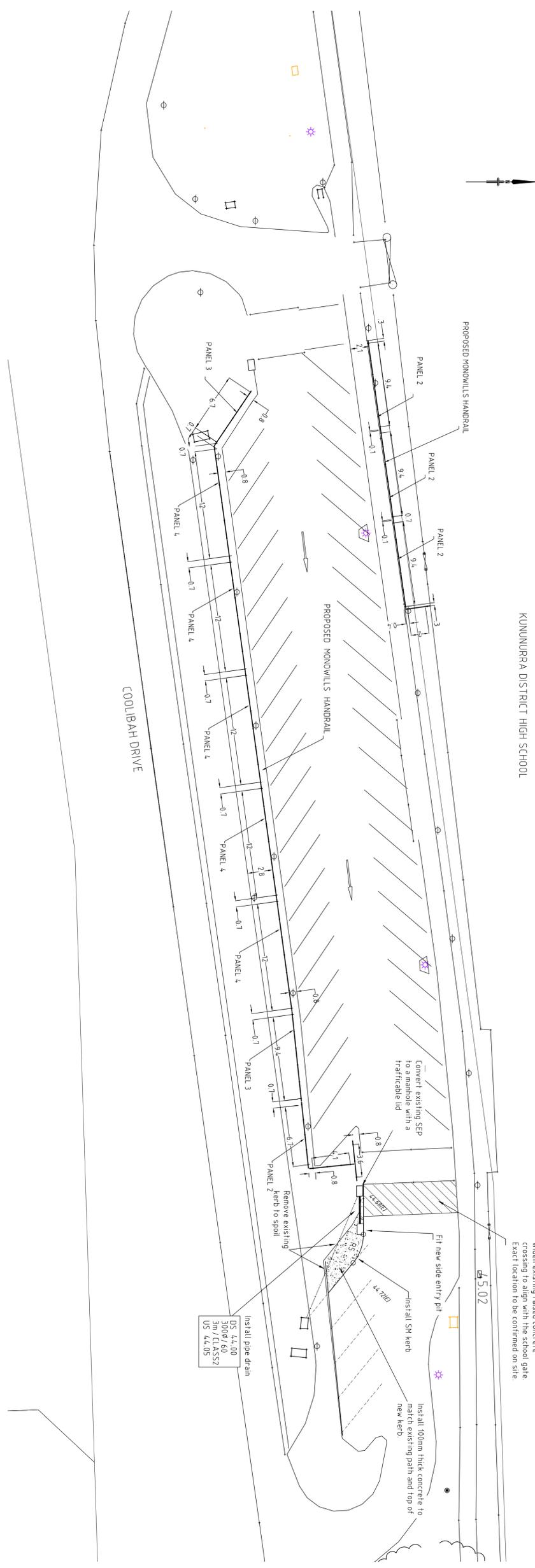
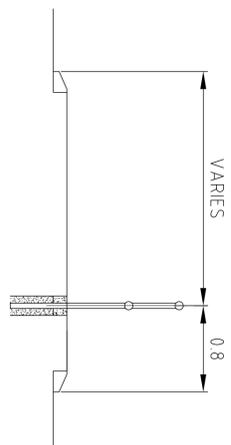
DRAWING NUMBER
 1209010-006

APPNO.
 D

TYPICAL STANCHION FOOTING DETAIL



BUS BAY HANDRAIL - SECTION A



SCALE

A
 1

13.4 COMMUNITY DEVELOPMENT

13.4.1 Caravan Park Licence Renewals

DATE:	24/03/2015
PROPONENT:	Mt Elizabeth Station, Home Valley Station River Camp, Home Valley Station Homestead Campground, McGowan Island Beach Resort, Lake Argyle Resort, Hidden Valley Caravan Park
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Ebony Daniell, Environmental Health Officer
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	PH.12.5
DECLARATION OF INTERESTS:	N/A

PURPOSE

To renew licences issued under the Caravan Parks and Camping Grounds Act 1995 for 2015 for the following parks:

- Mt Elizabeth Station
- Home Valley Station River Camp
- Home Valley Station Homestead Campground
- McGowan Island Beach Resort
- Lake Argyle Resort
- Hidden Valley Caravan Park

BACKGROUND

Caravan parks and camping grounds must be licenced under the Caravan Parks and Camping Grounds Act 1995. Licences remain in force for one year at which time an Application for Grant or Renewal of Licence must be submitted to the Local Government.

Letters were sent to all licensed caravan parks in November 2014 requesting applications for licence renewals be submitted and enclosing invoices for 2015 licencing fees.

Several licence renewals were approved by Council at the January & February 2015 OCMs. More licence renewal applications have now been received and assessed. These are now being presented to Council for approval. All applications have now been assessed and once approved by Council all parks will have received their licences for 2015.

STATUTORY IMPLICATIONS

Caravan Parks and Camping Grounds Act 1995

6. Caravan park or camping ground not to be operated without a licence
 - (1) On and after the appointed day a person must not operate a facility, or a facility of a prescribed type, unless the person holds the appropriate licence under this Act in relation to that facility.
Penalty: \$5 000.
 - (2) In subsection (1) —

appointed day means such day as is fixed by the Minister by notice published in the *Government Gazette* to be the appointed day for the purpose of that subsection ².

7. Application for the grant or renewal of a licence
- (1) An application for the grant or renewal of a licence for a facility is to be —
 - (a) made to the local government in the appropriate prescribed form;
 - (b) accompanied by the appropriate fee prescribed; and
 - (c) accompanied by any information that the local government reasonably requires for a proper consideration of the application.
 - (2) An applicant is to provide the local government with any further information that the local government by notice in writing requires the applicant to provide in respect of an application.
 - (3) An applicant must, if required to do so by the local government, verify by statutory declaration any information contained in, or given in connection with, an application.
 - (4) Subject to this section, a local government may grant or renew a licence and at any time may impose conditions on that licence.
 - (5) Before granting a licence a local government must ensure that —
 - (a) the applicant has complied with the requirements of this Act;
 - (b) the applicant is the owner of the land on which the facility is situated, or is to be situated, or has the written approval of the owner of that land to apply for a licence.
 - (6) A local government may refuse to renew a licence if —
 - (a) the licence holder has been convicted of an offence against this Act or any other written law relating to caravanning or camping which, in the opinion of the local government, renders the licence holder an unsuitable person to hold a licence;
 - (b) a condition imposed on the licence has been contravened; or
 - (c) the licence was obtained by fraud or misrepresentation.
 - (7) Where a local government refuses to grant or renew a licence it must give notice in writing of that decision to the applicant.
 - (8) Notice of a decision under this section is to state that the applicant or licence holder is entitled to apply to the State Administrative Tribunal for a review of the decision.
8. Duration of licence
- A licence remains in force for the prescribed period unless —
- (a) it is provided otherwise in the licence; or
 - (b) it is cancelled.

Caravan Parks and Camping Grounds Regulations 1997

52. Duration of licence

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

- **Schedule 3 — Fees**

1) 1. Application for grant or renewal of licence — reg. 45	2)
3) The fee for an application for the grant or renewal of a licence is —	4)
5) (a) \$200; or	6)
7) (b) the amount calculated by multiplying the relevant amount set out in column 2 by the maximum number of sites (including any sites that may be used in an overflow area) of the particular type specified in the application,	9)
8) whichever is the greater amount.	
10) Column 1	11) Column 2
12) Long stay sites	13) \$6 per site
14) Short stay sites and sites in transit parks	15) \$6 per site
16) Camp site	17) \$3 per site
18) Overflow site	19) \$1.50 per site
20) 2. Additional fee for renewal after expiry — reg. 53	21)
22) Additional fee by way of penalty for renewal after expiry	23) \$20
24) 3. Temporary licence — reg. 54	25)
26) Temporary licence	27) <i>pro rata</i> amount of the fee payable under item 1 for the period of time for which the licence is to be in force with a minimum of \$100
28) 4. Transfer of licence — reg. 55	29)
30) Transfer of licence	31) \$100

POLICY IMPLICATIONS

Overflow sites within caravan parks and camping grounds are licenced in accordance with Council Policy Number: CP/HTH-3761 Licensing of Overflow Sites in Caravan Parks and Camping Grounds

FINANCIAL IMPLICATIONS

Applicants have paid the following renewal fees:

Mt Elizabeth Station	\$200
Home Valley Station River Camp	\$300
Home Valley Station Homestead Campground	\$300
McGowan Island Beach Resort	\$200
Lake Argyle Resort	\$747
Hidden Valley Caravan Park	\$1230

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

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

Objective 2.4: High standard of health and community facilities and services available to all residents

Strategy 2.4.2: Ensure community compliance with Environmental Health regulations

COMMUNITY CONSULTATION

Community consultation is not required for this item

COMMENT

Applications for grant or renewal of caravan park licences are dealt with under the Caravan Parks and Camping Grounds Act 1995. Previously licence renewals have been approved by Shire staff. However, it has come to the Shire's attention that there are no provisions for delegated authority under the Act and applications must be approved by Council.

Licence applications for Mt Elizabeth Station, Home Valley Station River Camp, Home Valley Station Homestead Campground, McGowan Island Beach Resort, Lake Argyle Resort, Hidden Valley Caravan have been assessed and will be issued once Council approval has been received. Refer Attachment 1.

ATTACHMENTS

Attachment 1 - Caravan Park Licences 2015

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council approve the renewal of Caravan Parks and Camping Grounds licences for: Mt Elizabeth Station, Home Valley Station River Camp, Home Valley Station Homestead Campground, McGowan Island Beach Resort, Lake Argyle Resort, and Hidden Valley Caravan Park as detailed in Attachment 1.

COUNCIL DECISION

Minute No. 10839

Moved: Cr D Learbuch

Seconded: Cr B Robinson

That Council approve the renewal of Caravan Parks and Camping Grounds licences for: Mt Elizabeth Station, Home Valley Station River Camp, Home Valley Station Homestead Campground, McGowan Island Beach Resort, Lake Argyle Resort, and Hidden Valley Caravan Park as detailed in Attachment 1.

Carried Unanimously 8/0



PO BOX 614 KUNUNURRA WA 6743

T | 08 9168 4100
 F | 08 9168 1798
 E | mail@swek.wa.gov.au
 W | www.swek.wa.gov.au
 ABN | 35 647 145 756

SHIRE of WYNDHAM | EAST KIMBERLEY

This is to certify that Peter and Pat Lacey hold a licence to operate the
CARAVAN PARK AND CAMPING GROUND known as

MOUNT ELIZABETH STATION

at LOT LOC 23 GIBB RIVER/KALUMBURU ROADS MOUNT ELIZABETH STATION 9999
 from 01 January 2015 until 31 December 2015.

MOUNT ELIZABETH STATION is licensed to operate the following sites in accordance with the
Caravan Park and Camping Ground Regulations 1997

Long Stay Sites <i>a site at a caravan park which is to be occupied consecutively by the one person or group of persons for any period of time</i>	0
Short Stay Sites <i>a site at a caravan park which is to be occupied consecutively by the one person or one group of persons, for no longer than 3 consecutive months</i>	0
Camp Sites <i>includes to camp in a vehicle but not caravans</i>	40
Overflow Sites <i>may only be used with the approval of the local government, for a period of time specified in that approval, and in accordance with any conditions placed on that approval</i>	0

Expiry Date 31 December 2015

Environmental Health Officer

This permit is issued upon and subject to the following conditions -

- (a) the holder of a permit shall -
 - (i) display the licence in a position visible to the general public; and
 - (ii) upon the request of an Environmental Health Officer produce to him or her, the licence; and
- (b) if the holder of a permit changes his or her place of residence, he or she shall within 14 days notify the Chief Executive Officer in writing of the change, and of a new place, of residence; and
- (c) the holder of a permit shall notify the Chief Executive Officer in writing prior to the commencement of any alteration, addition or other work relating to the premises, giving details of the proposed works.



This is to certify that Benjamin Pratt holds a licence to operate the
CARAVAN PARK AND CAMPING GROUND known as

HOME VALLEY STATION The Pentecost River Camp Ground

at LOT 8 GIBB RIVER ROAD DURACK 6743
 from 01 January 2015 until 31 December 2015.

HOME VALLEY STATION is licensed to operate the following sites in accordance with the
Caravan Park and Camping Ground Regulations 1997

Long Stay Sites <i>a site at a caravan park which is to be occupied consecutively by the one person or group of persons for any period of time</i>	0
Short Stay Sites <i>a site at a caravan park which is to be occupied consecutively by the one person or one group of persons, for no longer than 3 consecutive months</i>	0
Camp Sites <i>includes to camp in a vehicle but not caravans</i>	100
Overflow Sites <i>may only be used with the approval of the local government, for a period of time specified in that approval, and in accordance with any conditions placed on that approval</i>	0

Expiry Date 31 December 2015

Environmental Health Officer

This permit is issued upon and subject to the following conditions -

- (a) the holder of a permit shall -
 - (i) display the licence in a position visible to the general public; and
 - (ii) upon the request of an Environmental Health Officer produce to him or her, the licence; and
- (b) if the holder of a permit changes his or her place of residence, he or she shall within 14 days notify the Chief Executive Officer in writing of the change, and of a new place, of residence; and
- (c) the holder of a permit shall notify the Chief Executive Officer in writing prior to the commencement of any alteration, addition or other work relating to the premises, giving details of the proposed works.



This is to certify that Benjamin Pratt holds a licence to operate the
CARAVAN PARK AND CAMPING GROUND known as

HOME VALLEY STATION

at LOT 8 GIBB RIVER ROAD DURACK 6743
 from 01 January 2015 until 31 December 2015.

HOME VALLEY STATION is licensed to operate the following sites in accordance with the
Caravan Park and Camping Ground Regulations 1997

Long Stay Sites <i>a site at a caravan park which is to be occupied consecutively by the one person or group of persons for any period of time</i>	0
Short Stay Sites <i>a site at a caravan park which is to be occupied consecutively by the one person or one group of persons, for no longer than 3 consecutive months</i>	0
Camp Sites <i>includes to camp in a vehicle but not caravans</i>	100
Overflow Sites <i>may only be used with the approval of the local government, for a period of time specified in that approval, and in accordance with any conditions placed on that approval</i>	0

Expiry Date 31 December 2015

Environmental Health Officer

This permit is issued upon and subject to the following conditions -

- (a) the holder of a permit shall -
 - (i) display the licence in a position visible to the general public; and
 - (ii) upon the request of an Environmental Health Officer produce to him or her, the licence; and
- (b) if the holder of a permit changes his or her place of residence, he or she shall within 14 days notify the Chief Executive Officer in writing of the change, and of a new place, of residence; and
- (c) the holder of a permit shall notify the Chief Executive Officer in writing prior to the commencement of any alteration, addition or other work relating to the premises, giving details of the proposed works.



This is to certify that Maraltadj Family Aboriginal Corporation holds a licence to operate the **CARAVAN PARK AND CAMPING GROUND** known as

MCGOWAN ISLAND BEACH RESORT

at GIBB RIVER-KALUMBURU ROAD DOONGAN LOC VIA WYNDHAM WA 6740
 from 01 January 2015 until 31 December 2015.

MCGOWAN ISLAND BEACH RESORT is licensed to operate the following sites in accordance with the *Caravan Park and Camping Ground Regulations 1997*

Long Stay Sites <i>a site at a caravan park which is to be occupied consecutively by the one person or group of persons for any period of time</i>	0
Short Stay Sites <i>a site at a caravan park which is to be occupied consecutively by the one person or one group of persons, for no longer than 3 consecutive months</i>	50
Camp Sites <i>includes to camp in a vehicle but not caravans</i>	0
Overflow Sites <i>may only be used with the approval of the local government, for a period of time specified in that approval, and in accordance with any conditions placed on that approval</i>	0

Expiry Date 31 December 2015

Environmental Health Officer

This permit is issued upon and subject to the following conditions -

- (a) the holder of a permit shall -
 - (i) display the licence in a position visible to the general public; and
 - (ii) upon the request of an Environmental Health Officer produce to him or her, the licence; and
- (b) if the holder of a permit changes his or her place of residence, he or she shall within 14 days notify the Chief Executive Officer in writing of the change, and of a new place, of residence; and
- (c) the holder of a permit shall notify the Chief Executive Officer in writing prior to the commencement of any alteration, addition or other work relating to the premises, giving details of the proposed works.



This is to certify that Charles Sharpe holds a licence to operate the
CARAVAN PARK AND CAMPING GROUND known as

LAKE ARGYLE RESORT

at LOT 3001 LAKE ARGYLE ROAD LAKE ARGYLE KUNUNURRA 6743
 from 01 January 2015 until 31 December 2015.

LAKE ARGYLE RESORT is licensed to operate the following sites in accordance with the *Caravan Park and Camping Ground Regulations 1997*

Long Stay Sites <i>a site at a caravan park which is to be occupied consecutively by the one person or group of persons for any period of time</i>	7
Short Stay Sites <i>a site at a caravan park which is to be occupied consecutively by the one person or one group of persons, for no longer than 3 consecutive months</i>	105
Camp Sites <i>includes to camp in a vehicle but not caravans</i>	20
Overflow Sites <i>may only be used with the approval of the local government, for a period of time specified in that approval, and in accordance with any conditions placed on that approval</i>	10

Expiry Date 31 December 2015

Environmental Health Officer

This permit is issued upon and subject to the following conditions -

- (a) the holder of a permit shall -
 - (i) display the licence in a position visible to the general public; and
 - (ii) upon the request of an Environmental Health Officer produce to him or her, the licence; and
- (b) if the holder of a permit changes his or her place of residence, he or she shall within 14 days notify the Chief Executive Officer in writing of the change, and of a new place, of residence; and
- (c) the holder of a permit shall notify the Chief Executive Officer in writing prior to the commencement of any alteration, addition or other work relating to the premises, giving details of the proposed works.

13.4.2 Lot 555 (116) Coolibah Drive, Kununurra - Proposed Liquor Store

DATE:	24/03/2015
PROPONENT:	Kununurra Liquor Pty Ltd
LOCATION:	Lot 555 Coolibah Drive, Kununurra
AUTHOR:	Roy Adam – Planning Officer
REPORTING OFFICER:	Louise Gee – Acting Chief Executive Officer
FILE NO:	A1147P
ASSESSMENT NO:	DA110/14
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to consider planning approval, for changing the use of part of an existing building from an Office to a Liquor Store. A Liquor Store is not permitted on the site unless the Council has exercised its discretion following a formal advertising process.

BACKGROUND

The subject lot is located on the south-eastern corner of Coolibah Drive and Papuana Street. The lot is oblong in shape, comprises an area of 235m², and has frontage to Coolibah Drive along its western boundary and Papuana Street along its northern boundary.

The site contains a two storey building, constructed in 1977 with a ground floor Shop and Residence above. The applicant intends to convert the vacant ground floor to a Liquor Store covering 193m². The upper floor is not included in this proposal however it is currently vacant, and most recently used as an Office.

No alterations are proposed to the existing building envelope. The proposed land use change would comprise internal modifications to include cold storage, amenities and some goods storage. The goods for sale will consist mainly of alcoholic drinks and also include other beverages and snacks. Nominated opening hours are noon-8pm Monday-Saturday (**Attachment 1**).

The site is surrounded by offices, restaurants and shops. The Kununurra Leisure Centre is located immediately west of the site.

The *WA Department of Racing, Gaming and Liquor* (DRGL) is the primary agency responsible for administering the *Liquor Control Act 1998* (WA). Applicants and licensees under the Act need to demonstrate to the licensing authority compliance with the DRGL's Harm Minimisation policy and may also undertake a Public Interest Assessment (PIA) which considers the number of existing liquor outlets, social criteria and nearby sensitive land uses (including residences). Further detail is provided at the attached 'Support Sheet 22: Local Government Points of Influence in the Life of a Liquor Licence' and expanded information outlining the roles of Local Government and DRGL (**Attachment 2**).

The Council's planning decision is narrower in scope (than the *Liquor Control Act*) as it based upon what is reasonably part of the planning decision-making process. It is limited to the proposal's impact on amenity, which includes built or natural features as well as certain aspects which make a particular place pleasant and enjoyable to people.

STATUTORY IMPLICATIONS

The proposal constitutes development under the *Planning and Development Act 2005* and requires planning approval according to the Shire's Town Planning Scheme No. 7 (TPS7).

Town Planning Scheme No. 7 – Kununurra and Environs

A Liquor Store use is not included in the Zoning Table. Clause 3.1.6 of the Scheme provides that the application should be advertised, and that Council is to determine the proposal by absolute majority. It has not been assessed as a Shop, which is a "permitted" use in the Town Centre zone, as a Liquor Store is specifically defined in the Scheme appendix.

The objectives of the Town Centre zone are:

- (a) to zone adequate land for the continued development of a main commercial and community facility centre for the town;
- (b) to prepare and implement an overall Town Centre Strategy to guide and promote development;
- (c) to apply appropriate development and land use controls to ensure the development is to a satisfactory standard.

Further development standards for the Town Centre zone are given at cl. 5.10.5: Council shall have general regard to:

- a) Any town centre strategy or policy as adopted by Council from time to time that provides guidelines on the manner in which development shall relate to streetscapes and general development precincts identified in such town centre strategies.
- b) The colour and texture of external building materials.
- c) Building size, height, bulk, and roof pitch.
- d) Setback and location of the building on its lot.
- e) Architectural style and design details of the building.
- f) Function of the building.
- g) Relationship to surrounding development.
- h) Parking and landscaping requirements.
- i) Other characteristics to be considered by Council to be relevant.

Clause 11.3 of the Scheme stipulates further matters Council may take into account when considering planning approval, such as: The purpose for which land in the locality is used; the orderly and proper planning of the locality and preservation of amenities of the locality.

Liquor Control Act 1988

Section 47 of the Act outlines the conditions of liquor store licences:

- "Liquor store licence, effect and conditions of*
- (1) *Subject to this Act, during permitted hours the licensee of a liquor store licence is authorised to keep open the licensed premises and to sell packaged liquor on and from the premises to any person.*
 - (2) *The licensee of a liquor store licence is authorised to supply liquor, by way of free sample —*
 - (a) *for consumption on a part of the licensed premises approved for the purpose by the Director; or*
 - (b) *for consumption off the premises."*

From this it is clear what a licensed liquor store is, and what the applicant is seeking. The Act also specifies that the licensing authority may require a certificate from the local planning authority (i.e. Council) as to whether an application complies with planning laws. Section 40 states:

*“(1) An application made to the licensing authority for the grant or removal of a licence, or for a change in the use or condition of any premises shall be accompanied by a **certificate from the authority responsible for planning matters** in the district in which the premises to which the application relates are situated, or are to be situated, unless the licensing authority otherwise determines.*

(2) A certificate referred to in subsection (1) shall state that the proposed use of the premises —

*(a) will comply with the requirements of the written laws relating to planning specified; or
(b) would comply with the requirements specified if consent were to be given by a specified authority, if it is known whether that authority will give the consent, and what specified conditions or specifications should be, or are likely to be, imposed; or*

(c) Will not comply with the requirements specified for the reasons specified.”

The present application should be considered in association with section 40 certificate requirements and issuance in mind. Although the applicant has not presently applied for this, the planning basis is common to both.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The applicant has paid the relevant application fee.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

COMMUNITY ENGAGEMENT

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

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

Notice served on surrounding landowners and occupiers, a notice in the Kimberley Echo, a sign on the site; all stating that for a period of 21 days submissions may be made to the Council.

A total of 8 submissions were received including 7 of objection and 1 of support. The objections have been consolidated into a summary table.

Submissions Summary Table

Comments	Officer's Response
Socio, economic and car parking issues already stretch the town's resources, without another liquor store. Two licences already cover the market.	It is acknowledged that alcohol-related, social issues are present in the town, and two liquor stores are in operation within 300m of the subject site. Car parking is addressed adequately in the proposal. Proximity to other liquor stores is a consideration of a liquor licence in the DRGL's application process.
A liquor store does not suit the shopping and business precinct. It will be disruptive to existing business and cause damage; affect rental longevity; increase maintenance costs.	The lot is in the town centre, and commercial uses are a primary objective in the Shire's planning documents. It is acknowledged that liquor outlets may be associated with health and social issues. Land values/rental longevity are outside the scope of the planning framework. However it is difficult to conclude that this proposal will carry adverse impacts on amenity and character in and of itself. Public impacts are assessed thoroughly in the DRGL's liquor licence application process.
A walk-in type of bottle shop is unacceptable/against alcohol restrictions.	A pedestrian entrance is physically appropriate for the building and site, as compared to a drive-in access way, which can create also other traffic issues. The Town Planning Scheme/planning assessment would not prevent walk-in customers. However liquor licence conditions can cover wider topics (e.g. ID requirements).
Increased risk to staff security at nearby stores, particularly during evenings.	The site is in the town centre, on an active frontage, and adjoins a (lighted) footpath; and public passive surveillance should therefore occur. The applicant has advised that security staff will be onsite for the initial 6 months of operations, and that they will be active members of the Kununurra Liquor Accord. Separately, a liquor licence may include conditions relating to public safety or opening hours. These conditions can be requested by a liquor accord/Director of Liquor Licensing.

COMMENT

In regards to the objectives of the Town Centre zone, the proposal is broadly consistent. It is certainly a commercial use, and as such contributes to the continued development of the town's main commercial and community facility centre. These retail and commercial objectives are further supported by strategic planning documents for the area. A liquor store, although having potentially adverse social impacts, is considered compatible with the location and with the occupation of a presently vacant space.

The form and appearance of the building itself is considered to be generally acceptable. It has functioned as a Shop and Office in the past and no reason for this to stop occurring is apparent. However a certain amount of graffiti is on the building and visual treatment may improve the appearance. A condition of an improved cosmetic appearance is considered suitable.

In regards to delivery access at the rear of the lot, a steel gate and bollards prevent full access to the rear portion of the lot. The applicant has indicated that deliveries will take place by a van rather than a truck, and that goods will be carried into the deliveries door and storage space by hand trolley.

Regarding car parking, it is noted that a Shop use requires 9 bays and a Liquor Store is considered an equivalent demand. There are no on-site parking bays available on the lot however ample bays are in the vicinity. In addition, the applicant has advised that opening hours are to be noon-8pm, which will reduce pressure on car parking demand. The applicant has also included an exterior bicycle rack on the northern side of the building, which will further assist in parking requirements.

There are a number of plants and trees on site, adjoining Papuana Street, that are worthy of retention. It is considered appropriate that a condition be attached that includes the maintenance of landscaping on site.

While the ultimate aims of the Scheme are wide, the decision of Council must be formed on a sound planning basis. The preservation of the amenities of the locality, and effects upon inhabitants of the locality, are matters to consider. However the social impact issues, as clearly pointed out in community consultation, cannot be fully addressed in the planning framework which protects amenity and character through development controls. A future liquor licence application, however, has a broader range of public-impact and harm minimisation requirements, and will include consideration of such matters.

It is recommended that Council grant planning approval for the proposed change of use.

ATTACHMENTS

Attachment 1 - Proposed plans and submission

Attachment 2 - Support Sheet 22: Local Government Points of Influence in the Life of a Liquor Licence

Attachment 3 - Adjoining landowners notification

Attachment 4 – Responses to advertising

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council, having considered all objections, grants planning approval for the proposed liquor store at Lot 555 (116) Coolibah Drive subject to the following conditions:

1. Development shall be in accordance with the approved plan(s) and subject to any modifications required as a consequence of any conditions of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
2. The building, paved areas, drainage, fencing/walls, line-marking, painted directional signage, lighting and landscaped areas associated with the approved development must be kept and maintained to the satisfaction of the Shire.
3. The amenity of the area must not be detrimentally affected by the use or development through the:
 - 3.1 Transport of materials, goods or commodities to or from the land;
 - 3.2 Appearance of the building, works, or materials;
 - 3.3 Emission of noise, artificial light, vibration;
 - 3.4 Littering of packaging or other waste materials.
4. That appropriate external lighting shall be installed across the site to ensure the safety of patrons is maintained at all times, to the reasonable satisfaction of the Shire.
5. That all external lighting of the site, including car parking areas and buildings, shall be designed and constructed to conform with Australian Standards and must be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site.
6. All existing vegetation shown on the approved plan being retained and garden areas maintained to the satisfaction of the Shire.
7. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Shire.
8. Prior to commencement of the use one bicycle rack/hanger must be provided on the land, or equivalent contribution made, to the satisfaction of the Shire.

Advisory Note:

1. Council has approved the proposed change of use on planning grounds and in light of its limitations in assessing social and health impacts. The Kununurra Wyndham Liquor Accord exists to assist in that regard, however it is a voluntary agreement. The Council strongly recommends and encourages liquor retailers to be members of the accord and participate in the identified strategies of the accord, such as the Take Away Management System (TAMS) program.

Cr D Spackman leaves the Chambers at 5.35pm

AMENDMENT

Cr R Dessert moves an amendment to point 7 of the Officer's Recommendation so that it reads 'All new pipes....'.

COUNCIL DECISION

Minute No. 10840

Moved: Cr R Dessert

Seconded: Cr K Wright

That Council, having considered all objections, grants planning approval for the proposed liquor store at Lot 555 (116) Coolibah Drive subject to the following conditions:

- 2. Development shall be in accordance with the approved plan(s) and subject to any modifications required as a consequence of any conditions of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.**
- 2. The building, paved areas, drainage, fencing/walls, line-marking, painted directional signage, lighting and landscaped areas associated with the approved development must be kept and maintained to the satisfaction of the Shire.**
- 3. The amenity of the area must not be detrimentally affected by the use or development through the:**
 - 3.1 Transport of materials, goods or commodities to or from the land;**
 - 3.2 Appearance of the building, works, or materials;**
 - 3.3 Emission of noise, artificial light, vibration;**
 - 3.4 Littering of packaging or other waste materials.**
- 4. That appropriate external lighting shall be installed across the site to ensure the safety of patrons is maintained at all times, to the reasonable satisfaction of the Shire.**
- 5. That all external lighting of the site, including car parking areas and buildings, shall be designed and constructed to conform with Australian Standards and must be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site.**
- 6. All existing vegetation shown on the approved plan being retained and garden areas maintained to the satisfaction of the Shire.**
- 7. All new pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Shire.**
- 8. Prior to commencement of the use one bicycle rack/hanger must be provided on the land, or equivalent contribution made, to the satisfaction of the Shire.**

Advisory Note:

1. Council has approved the proposed change of use on planning grounds and in light of its limitations in assessing social and health impacts. The Kununurra Wyndham Liquor Accord exists to assist in that regard, however it is a voluntary agreement. The Council strongly recommends and encourages liquor retailers to be members of the accord and participate in the identified strategies of the accord, such as the Take Away Management System (TAMS) program.

Carried 4/3

**For: Cr R Dessert, Cr K Wright, Cr B Robinson, Cr S Cooke
Against: Cr G Taylor, Cr J Moulden, Cr D Learbuch**

COUNCIL DECISION

Minute No. 10841

Moved: Cr B Robinson

Seconded: Cr D Learbuch

That Council, having considered all objections, grants planning approval for the proposed liquor store at Lot 555 (116) Coolibah Drive subject to the following conditions:

1. Development shall be in accordance with the approved plan(s) and subject to any modifications required as a consequence of any conditions of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
2. The building, paved areas, drainage, fencing/walls, line-marking, painted directional signage, lighting and landscaped areas associated with the approved development must be kept and maintained to the satisfaction of the Shire.
3. The amenity of the area must not be detrimentally affected by the use or development through the:
 - 3.1 Transport of materials, goods or commodities to or from the land;
 - 3.2 Appearance of the building, works, or materials;
 - 3.3 Emission of noise, artificial light, vibration;
 - 3.4 Littering of packaging or other waste materials.
4. That appropriate external lighting shall be installed across the site to ensure the safety of patrons is maintained at all times, to the reasonable satisfaction of the Shire.
5. That all external lighting of the site, including car parking areas and buildings, shall be designed and constructed to conform with Australian Standards and must be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site.

6. All existing vegetation shown on the approved plan being retained and garden areas maintained to the satisfaction of the Shire.
7. All new pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Shire.
8. Prior to commencement of the use one bicycle rack/hanger must be provided on the land, or equivalent contribution made, to the satisfaction of the Shire.

Advisory Note:

1. Council has approved the proposed change of use on planning grounds and in light of its limitations in assessing social and health impacts. The Kununurra Wyndham Liquor Accord exists to assist in that regard, however it is a voluntary agreement. The Council strongly recommends and encourages liquor retailers to be members of the accord and participate in the identified strategies of the accord, such as the Take Away Management System (TAMS) program.

Carried Unanimously 7/0

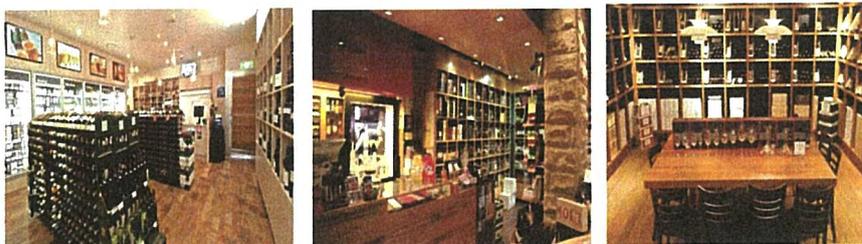
Cr D Spackman enters the Chambers at 5.40pm



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mob: 0417 976 009
postal: PO Box 389
GUILDFORD WA 6935

Kununurra Cellars

116 Coolibah Drive, Kununurra WA 6743



Application for a
Liquor Store Licence

Intended Manner of Trade

December 2014

1. Introduction

- 1.1. Kununurra Liquor Pty Ltd will be applying to the Licensing Authority for the grant of a liquor store licence for premises to be located at 116 Coolibah Drive, Kununurra WA 6743. The proposed name of the liquor store is Kununurra Cellars.
- 1.2. Kununurra Cellars will be a member of the Liquor Barons Group. The Liquor Barons Group has won 'best banner group' in Australia in 2011 and 2014, as voted by the Australian Liquor Stores Association.

2. Proposed Style of Operation

- 2.1. This liquor store is a new concept for the Kimberley region. The proposal is for a comfortable, convenient, modern browse style liquor store with a fashionable fit-out reflecting the heritage of the area.
- 2.2. The proposed Kununurra Cellars will bring unrivalled accessibility to an extensive range of premium wines, spirits and boutique beers, with guaranteed quality control, for the residents of Kununurra as well as the thousands of visitors who visit the area each year.
- 2.3. The wide range of premium wines, spirits and beers, both local and international, offered to customers is likely to bring outstanding benefits to local business and tourism alike.
- 2.4. Kununurra Cellars liquor store is designed to provide quality service to the community with improved shopping standards to enhance people's options and choices when selecting wines for their leisure time.
- 2.5. The staff members will be well presented in neat uniforms with name badges. All staff members will have completed the required courses in Responsible Service of Alcohol. Staff members will undergo training and the applicants intend to conduct regular wine tastings with the staff to further educate them.
- 2.6. The products will be well arranged and accessible, with prices clearly marked on all liquor products.
- 2.7. The layout of the proposed Kununurra Cellars store has been carefully designed to reduce the potential for petty crime, using the principles of CPTED (Crime Prevention Through Environmental Design).
- 2.8. The applicant intends to hire security staff who will be stationed at the door for an initial 6 month period from 12noon-8pm daily and then as required.
- 2.9. The applicant intends to fully comply with the Director's Policy on security at licensed premises. The proposed store will feature 7 CCTV cameras which will be installed by experienced, licensed and qualified security installers.
- 2.10. The applicants state that they are committed to trading in accordance with the liquor restrictions imposed by the Director of Liquor Licensing that are currently in place in Kununurra and they will be fully supportive and active members of the Kununurra Liquor Accord.
- 2.11. The liquor store will be approximately 174sqm, and will feature 13 cool room doors which will provide ample space for chilled liquor products for the convenience of shoppers. The cool room will be approximately 52sqm in size.
- 2.12. The store size will allow for a wide range of liquor to be displayed, this range will include;
 - 2.6.1. 386 premium local and imported white wines;

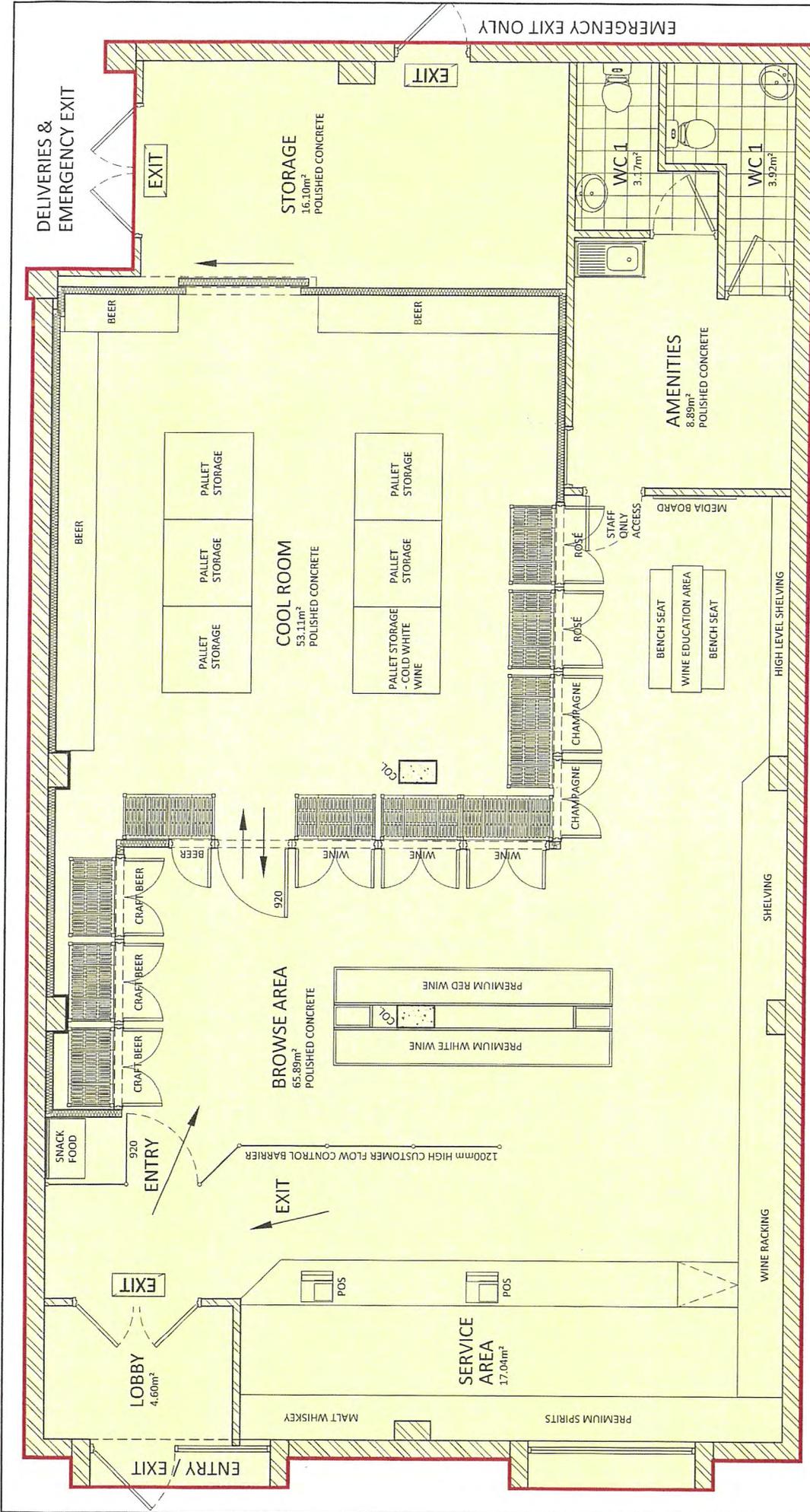
- 2.6.2. 375 premium local and imported red wines;
 - 2.6.3. A premium spirit range including 34 single malt whiskies, rums, bourbons, vodkas and gin;
 - 2.6.4. Nearly 150 premium domestic and imported beers, including boutique and craft beers;
 - 2.6.5. 58 imported liqueurs ranging from Italian Limoncello to Croatian liqueurs made from pine nuts;
 - 2.6.6. 20 quality Australian brandies and cognacs;
 - 2.6.7. 15 French champagnes;
 - 2.6.8. 69 Australian and imported sparkling wines; and
 - 2.6.9. 20 boutique & imported ciders
- 2.13. By way of ancillary products and services the liquor store will offer the following:
- 2.6.10. A range of cool drinks, water and juice;
 - 2.6.11. Ice;
 - 2.6.12. Crisps and nuts; and
 - 2.6.13. Wine stoppers and other wine accessories.
- 2.14. The proposed liquor store will offer structured wine tastings and wine education. The applicants intend to hold fortnightly seminars, and have highly qualified wine makers and their representatives host insightful evenings.
- 2.15. The applicants also intend to give back to the community through support for local sporting clubs and fundraising activities.
- 2.16. The applicant has also drafted a detailed Harm Minimisation Plan that will form an important part of the staff induction program.

3. Background and Experience of the Applicant.

- 3.1. The business will be wholly Western Australian owned and operated by Mr. Tony Martin and Mr. Adam Quinn, directors of the applicant company.
- 3.2. Tony has a long and excellent track record in liquor stores. He has had 5 liquor licences over a 27 year career and has an unblemished record with the Department of Racing, Gaming & Liquor. Tony is the current owner of Liquor Barons Melville, and is on the Board of the Liquor Barons Group.
- 3.3. Adam, who will manage the premises on a day to day basis, is a local resident and has over 25 years' experience working in the corrective services industry, including working as a senior security officer at Banksia Hill Youth Detention Centre. Adam has the knowledge and experience necessary to ensure safety and security, respond and contain incidents, as well as deal with emergency situations.

Drafted for and on behalf Kununurra Liquor Pty Ltd by;

Phil Cockman
 Canford Hospitality Consultants Pty Ltd
 Monday, December 22, 2014



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 office: Suite 17, 151, James Street, Guildford

AREA LEGEND

OVERALL TENANCY AREA	193.445qm
LICENSE AREA:	193.445qm
COVERAGE:	100%
PROPOSED LICENSE AREA:	

DRAWING NO	L01
CHECKED	PC
DATE CREATED	19.11.2014
SCALE	1:50
DATE	21.11.2014
REV No.	00
JOB No.	14401
REF.	

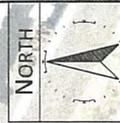
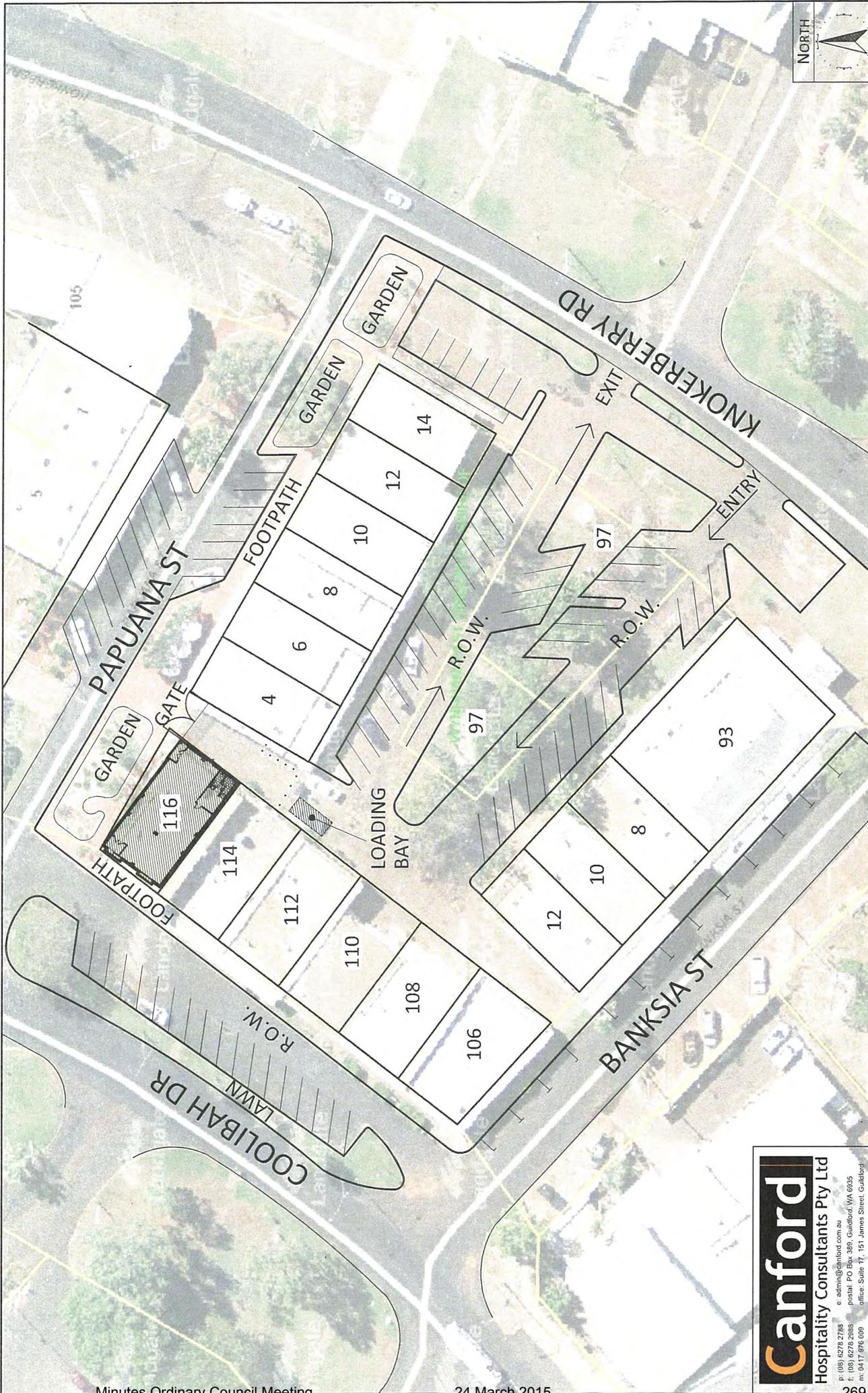
CLIENT: Mr Antony Martin & Mr Adam Quinn
 PROJECT: 116 Coolibah Dr, Kununurra
 Proposed Liquor License Application
 DRAWING TITLE: PROPOSED LICENSE AREA FLOOR PLAN

REV.	DATE	DESCRIPTION	INT.
00	21.11.2014	ISSUED FOR APPROVAL	
01		ISSUED FOR DISCUSSION	

NOTE: This is an AutoCAD generated drawing and should not be scaled from.

DOCUMENTED BY: Suite 2, 4 Sarich Way, Bentley WA 6102
 Ph: +61 8 9470 7700
 Fax: +61 8 9470 7750
 E-mail: info@perthcad.com.au

PERTH CAD CENTRE



DRAWING NO	01
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CHECKED	PC
DATE	19.11.2014
SCALE	1:500
DATE	05.02.2015
REV. No.	01
JOB No.	14401
REF.	

CLIENT	Mr Antony Martin & Mr Adam Quinn
PROJECT	116 Coolibah Dr, Kununurra Proposed Liquor License Application
DRAWING TITLE	OVERALL SITE PLAN

PERTH CADCENTRE

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REV.	DATE	DESCRIPTION	INT.
01	04.02.2015	BASE PLAN AMENDED	GR
00	21.11.2014	ISSUED FOR APPROVAL	GR
A1		ISSUED FOR DISCUSSION	GR

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Hospitality Consultants Pty Ltd

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m: 0417 876 009 office: Suite 17, 151 James Street, Guildford

NOTE: This is an AutoCAD generated drawing and should not be scaled from.

From: [Tony Martin](#)
To: [Roy Adam](#)
Subject: Fwd: Kununurra Cellars proposed stock delivery vehicle
Date: Monday, 16 February 2015 12:38:38 PM
Attachments: photo.PNG

Sent from my iPhone

Begin forwarded message:

From: Tony Martin <adm40@live.com.au>
Date: 16 February 2015 9:41:01 am AWST
To: "roy.adam@swek.wa.gov.com" <roy.adam@swek.wa.gov.com>
Subject: Kununurra Cellars proposed stock delivery vehicle



Delivery vehicle

Sent from my iPhone

Support Sheet 22: LOCAL GOVERNMENT POINTS OF INFLUENCE IN THE LIFE OF A LIQUOR LICENCE

» The following describes how the Local Government planning process is interlinked with the liquor licensing process and highlights the points of influence in that process.

The first phase involves Local Government decision-making, whereas the Liquor Licensing Authority is the decision-maker in the second phase. A flow chart detailing the points of influence for Local Government in both Phase 1 and 2 of the life of a liquor licence is shown in **Figure 1**.

FIGURE 1 – LOCAL GOVERNMENT POINTS OF INFLUENCE IN THE LIFE OF A LIQUOR LICENCE FLOW CHART



¹ Government of Western Australia, Department of Racing, Gaming and Liquor 2013.



The first phase involves Local Government decision-making, whereas the Liquor Licensing Authority is the decision-maker in the second phase.

Phase 1 – Local Government Certification and Approval

Local Development Approval of land use to allow the liquor outlet to operate is required in the first instance. See Part 3 - **Background and Processes** section of this document for detailed information on planning processes involved in Phase 1 and alcohol management opportunities within the planning framework.

Development approval can be done separately or concurrently with section 39 and 40 certificate approval (not required for conditional grant/removal of a licence). In order to gain approval in Phase 2 for a liquor licence, a section 39 and 40 certificate is required.

In accordance with Sections 39 and 40 of the *Liquor Control Act (1988)*, applicants seeking a liquor licence are required (unless the licensing authority otherwise determines) to obtain certification from the relevant Local Government demonstrating that a proposal complies with, or is capable of complying with:

- » the *Health Act (1911)*;
- » the *Local Government Act (1995)*;
- » the *Building Act (2011)*;
- » any other written law relating to sewerage and drainage; and
- » specific town planning scheme matters.

These are often referred to as Section 39 Certificates (relating to health requirements) and Section 40 Certificates (relating to planning requirements) and apply to:

- » the granting or removal of a licence;
- » the alteration or redefinition of a venue; and
- » applications for “liquor without a meal” permits.

Extracts of Sections 39 and 40 of the *Liquor Control Act (1988)* are shown in **Support Sheet 14 - Liquor Control Act (1988) Section 39 and 40 Certification.**

While the licensing authority may waive the requirement for Local Government certificates to accompany a licence application, this option is unlikely to occur. Current practice is that the Department of Racing, Gaming and Liquor will not accept a liquor licence application or begin the assessment process without an applicant first obtaining Section 39 and 40 Certificates and planning approval from the appropriate Local Government.

Regardless of whether a Local Government issues Section 39 and 40 Certificates, a development or use is still bound by building, health and planning requirements and relevant approvals must be additionally sought from Local Government under those relevant regulations prior to operations commencing. In most cases a Local Government considers planning approval concurrently with a request for Section 39 and 40 certification.

It is important to note from a Local Government planning perspective, that an application to the Licensing Authority for a liquor licence is unlikely to be formally initiated without first obtaining certified advice from the Local Government that the proposed use (including any physical land development) complies, or is capable of complying, with the local planning scheme and associated policy.

Something to Keep in Mind...

Each Local Government has a different planning scheme and other policies that are specific to their community. While Local Governments can influence whether or not a liquor licence type is permitted at a particular location, it is not always able to do so based on concerns regarding alcohol-related problems unless it has the appropriate scheme and policy provisions in place.

Section 40 Planning Implications

In order to provide the maximum influence to ensure that a liquor licence application will reflect the values of their communities, it is essential that Local Governments develop robust planning frameworks within which to guide applicants and assess proposals prior to consideration of Section 39 and 40 Certificate requests and planning applications.

Prior to assessment of an application for a Section 40 certificate, it is beneficial to have already developed a sound planning and decision framework to confidently make an assessment and decision that is less likely to be challenged.

It is important to note that Section 40 certification is a requirement under liquor control legislation and does not constitute development approval under planning legislation. Therefore, planning approval is still required for development (including use) of land or premises in addition to the issue of a liquor licence, prior to operations commencing.

There are a number of points worthy of noting in relation to Section 40 of the *Liquor Control Act (1988)* that may affect Local Government planning and are presented for consideration in the **Part 2 – Guideline** section of this document.

It is of utmost importance that a Local Government develops clear policy relating to a range of macro and micro planning matters involving alcohol provision and consumption, prior to structure planning, applications for rezoning, development approval and Section 40 certificates even reach the desk of a Local Government planner for assessment.

A Section 40 certificate assessment can include conditions. See **Part 2 – Guideline** and **Support Sheet 18 - Section 40 Certificate Conditions**.

Phase 2 – Liquor Licensing: Advertising, Assessment and Decision

Following Local Government approvals, in this phase, the applicant submits an application to the Department of Racing, Gaming and Liquor for a specific liquor licence or permit type accompanied by Section 39 and 40 Certificates received from the relevant Local Government, any relevant plans and a Public Interest Assessment (which outlines information on the premises' impact on a number of factors including harm or ill-health caused to risk groups in the area, social health indicators, impact on amenity and strategies to combat impacts).

The Director of Liquor Licensing determines advertising requirements according to the type of licence applied for and may include advertisement in the West Australian newspaper, mail drop to nearby premises and signage on the premises.

“Once an application has been accepted and advertised by Department of Racing, Gaming and Liquor, Local Government has an opportunity to revisit the proposal.”



During the advertising period, the Department of Racing, Gaming and Liquor assesses areas of statutory compliance such as probity checks on the proprietor, Local Government approvals and company structure.

Once an application has been accepted and advertised by Department of Racing, Gaming and Liquor, Local Government has an opportunity to revisit the proposal. Local Governments may intervene through submissions to the Director of Liquor Licensing or object to the application.

Local Government power to intervene in Phase 2

The Liquor Control Act (1988) enables Local Governments, Western Australia Police and the Executive Director Public Health to intervene in liquor licensing applications under particular circumstances (through submissions to the Director) or to object (oppose) to the application. This is the second point in the process whereby Local Government is given the opportunity to influence a liquor licence application.

Section 69 allows Local Government to intervene in proceedings before the licensing authority and introduce evidence or make representation to outline whether a premise is suitable for a liquor licence; whether an alteration or redefinition of a premises should be approved; or whether people who work or live in the vicinity would be negatively impacted upon. A Local Government may also intervene in proceedings to supply information relating to legislation and regulations within its jurisdiction.

Local Government power to object in Phase 2

A Local Government also has the ability to object to any application for a licence, as outlined in Sections 73(1) and 74(1) of the *Liquor Control Act (1988)*. This may be in addition to an intervention. The grounds for intervention and objection to a liquor licence application by a Local Government are detailed in **Support Sheet 23 – Grounds for Intervention and Objection**.

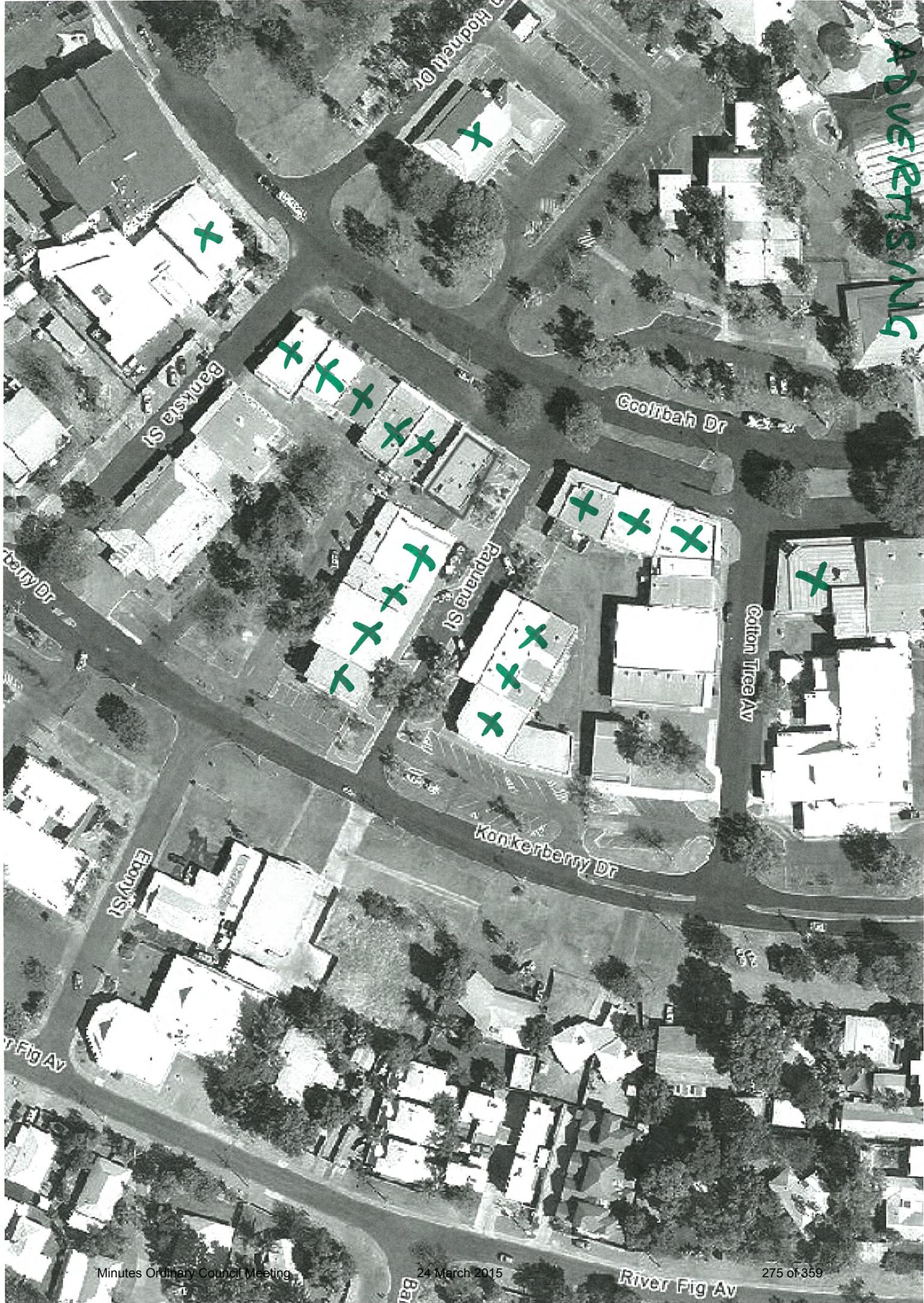
Assist community

Local governments may also assist community members during the liquor licensing advertising process through information dissemination as well as assisting in making a submission on a proposal.

Decision making and review

Decisions made to grant or refuse a licence/permit, can be appealed by involved parties to the Liquor Commission. If a Local Government has intervened or lodged an objection during the application process (and are not happy with the decision of the Director of Liquor Licensing), it may seek a review or appeal the decision (Section 69(13) of the *Liquor Control Act (1988)*). A further right of appeal is also available through the Supreme Court.

ADVERTISING



Re DA 110/14

Shire of Wyndham East Kimberley

Development Application Submission Form

TO: THE CHIEF EXECUTIVE OFFICER
(PO Box 614, Kununurra WA 6743)

(Submissions close on 7 January 2015)

SUPPORT

DISAGREE

INDIFFERENT

COMMENTS: FEEL THAT A WALK IN TYPE
BUSINESS IN THIS AREA IS
UNACCEPTABLE.

IT DOES NOT FIT WITH THE CURRENT
SHOPPING/BUSINESS PRECINCT.

NAME (Optional):

ADDRESS (Optional):

SIGNATURE:

Shire of Wyndham East Kimberley

Development Application Submission Form

TO: THE CHIEF EXECUTIVE OFFICER
(PO Box 614, Kununurra WA 6743)

(Submissions close on 7 January 2015)

SUPPORT

DISAGREE

INDIFFERENT

COMMENTS: We disagree with the submission application for the liquor store for several reasons. These are we feel there could be increased risk to safety and security for our staff particularly staff that work in the evenings and at times it is female staff only. Also we are ~~concerned~~ concerned about the parking situation which is already a problem.

NAME (Optional): _____

ADDRESS (Optional)

SIGNATURE: _____

Re: DA 110/14

Shire of Wyndham East Kimberley

Development Application Submission Form

TO: THE CHIEF EXECUTIVE OFFICER
(PO Box 614, Kununurra WA 6743)

(Submissions close on 7 January 2015)

SUPPORT

DISAGREE

INDIFFERENT

COMMENTS:

I own a shop not far from the location I am concerned that will encourage alcohol consumption in our area. Being a liquor store, people will be willing to buy alcohol, I understand that is against the present alcohol restrictions.

NAME (Optional): _

ADDRESS (Optional):

SIGNATURE:

2 February 2015

To the Shire of Wyndham & East Kimberley

Re: Lot 555 Coolibah Drive, Kununurra – Change of Use – Liquor Store

Dear Madam/Sir,

I strongly object the idea of opening another liquor store in Kununurra.

The closure of Liquorland at Coles Shopping complex was one of the best things that have happened in recent time. The positive effect of this decision was instant, and still remains blatantly obvious. Though it surely hasn't resolved the alcohol related issues in our community. But it definitely has been one of the simplest and most effective moves in combatting the ever increasing problems of anti-social behaviour, child neglect, FASD, drink-driving, safety ... (the list goes on) in Kununurra. Were before it was standard to have brawls, fights and abuse going on inside and more so outside the shopping complex, I haven't heard, read or experienced any disturbance in that vicinity since.

Coles/Liquorland decision has to be commended, as it was morally and ethically the right thing to do for the better of the community and individuals alike. (This is not to say Coles/Liquorland may have had other motives, too.) Naturally, all the alcohol related problems haven't been eliminated by simply closing one outlet. And maybe it has now just shifted to the other 2 bottle shops. Furthermore alcohol of course is not the only contributing factor to the trouble in town.

But why through away this opportunity of mitigating the problems, rather than increasing them again?!

Everyone who has lived in Kununurra for any length of time would agree of the damaging effect alcohol has on this community. Here we have a chance to take a positive step.

Really, how much do we want our population to drink? How much more damage to lives and properties are we willing to accept and sacrifice for the sake of having ample alcohol available (the current "restrictions" are obviously not working)?

Two or even just one outlet plus the licensed premises give plenty of choice to tourists and residents to get their quantity of alcohol (besides, we can mail order).

As long as we haven't got the identity card system or any effective way of controlling the alcohol distribution, the less alcohol we have in town the better (it's not really hardship to go without something that is not exactly improving our health, is it? Though, also I enjoy my wine.) I have come to the conclusion this is just one of the compromises one has to accept when choosing to live up here.

Eventually, most of us are moving away (or at least out of town) to get away from this negative side of living is this otherwise most attractive and special piece of Australia. And I assume also the person who applied for the liquor store may not be living right in town and wouldn't appreciate being troubled by the daily consequences of excessive alcohol consumption.

Another liquor store is the last thing this town needs. Instead, it might be high time to start considering some drastic measures...

Regards,

Re: DA 110/14

Shire of Wyndham East Kimberley

Development Application Submission Form

TO: THE CHIEF EXECUTIVE OFFICER
(PO Box 614, Kununurra WA 6743)

(Submissions close on 7 January 2015)

SUPPORT

DISAGREE

INDIFFERENT

COMMENTS: We own buildings next to this
and they are rented out to Kimberley Community
Legal Service, and Kimberley Cafe.
We believe an adjacent liquor outlet will
be disruptive to these business's, affecting our rental
longevity & returns, and increase the amount of damage
done to these buildings, thus increasing maintenance
costs. We also feel there are enough liquor outlets in
the vicinity.

NAME (Optional):

ADDRESS (Optional)

SIGNATURE:

Shire of Wyndham East Kimberley

Development Application Submission Form

TO: THE CHIEF EXECUTIVE OFFICER
(PO Box 614, Kununurra WA 6743)

(Submissions close on 7 January 2015)

SUPPORT

DISAGREE

INDIFFERENT

COMMENTS: *Although this venture may be aimed at the high end of the market I feel that our town has enough socio + economic issues with resources already stretched. Parking in this area is also a factor. I think the 2 current licences are covering the market that is being targeted.*

NAME (Optional)

ADDRESS (Optional)

SIGNATURE:

Shire of W
Attn: A/C
mail@sw

9th February 2015

Dear Kevin

Re: Change of Use from Office to Liquor Store – Lot 555 Coolibah Drive

As adjoining property owners we were notified about the application for a Change of Use of the above property.

We would like to make the following comments:

1. As an adjoining property owner:

At present, the area near Lot 555 Coolibah Drive is a preferred location for shops & offices. The buildings have great exposure, there is parking available, and it is a safe area. This would most likely change if the liquor store were to go ahead.

There will be an increased security risk to the shops and offices and to the staff employed there. The tenants will most likely ask us to improve the security of the building through screens and shutters. Not only will that be at our cost, it will also reduce the amenity of the shops and offices.

More importantly, however, is that we feel that there will be an increased risk to tenants and their staff, especially when they are leaving at night.

Currently, there is just enough parking available for the tenants and their customers. This will not be the case with the addition of a liquor store.

The experience from the Liquorland store in the shopping centre should be a good example of why a liquor store should not be in the vicinity of other shops and offices.

To put it in simple terms: some customers from the liquor store caused considerable trouble. Tenants and customers alike in the shopping centre clearly felt unsafe and security had to be increased. Since the closure of the Liquorland store, the problems in that area have disappeared and security could be reduced.

Liquor stores and shops & offices should not be close together.

2. As a community member:

Kununurra only has two liquor take-away outlets at present. A third liquor store could increase the variety of liquor offered and may also increase competition, which is a positive aspect.

However, is the positive aspect above enough to justify and accept the known negative social impact on the community in general due to a third alcohol outlet? Do we as community members want more violence in Kununurra? Do we want more people getting intoxicated and hurt? Do we want more people loitering around the shops and offices, increasing the risk of property damage and resulting in these shops and offices being boarded up?

As adjoining property owners and as community members, we are strongly against the application for Change of Use of Lot 555 Coolibah Drive.

Should you have any queries, please do not hesitate to phone us anytime.

Yours sincerely

Shire of Wyndham East Kimberley

Development Application Submission Form

TO: THE CHIEF EXECUTIVE OFFICER
(PO Box 614, Kununurra WA 6743)

(Submissions close on 7 January 2015)

SUPPORT

DISAGREE

INDIFFERENT

COMMENTS: HOPEFULLY THE COMPETITION
OF PRICES WILL BE ACHIEVED

A BROWSE LANE/PARKING WOULD
BENEFIT.

NAME (Optional): _____

ADDRESS (Optional): _____

SIGNATURE: _____

DATE: 19/12/14.

13.4.3 Fees and Charges addition – Outdoor Dining and Display of Goods

DATE:	24/02/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Whole of Shire
AUTHOR:	Jennifer Ninyette, Senior Planning Officer
REPORTING OFFICER:	Louise Gee, Acting Chief Executive Officer
FILE NO:	N/A
DECLARATION OF INTERESTS:	N/A

PURPOSE

To advise Council of action required to introduce fees and charges associated with Outdoor Dining (alfresco) permits, and Display of Goods (trader's) permits and to make a minor amendment to the adopted Fees and Charges for Trader's Permits.

BACKGROUND

The *Activities in Thoroughfares and Public Places and Trading Local Law 2005* specifies the need for permits for trading activities that occur in public places. These activities are described as stalls, public trading and outdoor eating facilities.

Fees and charges relating to Outdoor Dining were not adopted by Council in the 2014/15 budget. Subsequently, the Audit (Finance and Risk) Committee have recommended to Council that: *"Any fees associated with alfresco dining, such as initial application fee or annual licence permit fees, should be included in Council's Fees and Charges"* (4 November 2014).

The Shire also does not have a fee in relation to the display of goods on public places. Under the *Activities in Thoroughfares and Public Places and Trading Local Law 2005* the definition of "trading" includes displaying goods in any public place for the purpose of offering them for sale or hire, inviting offers for their sale or hire, soliciting orders for them; or carrying out any other transaction in relation to them, and therefore similar to Outdoor Dining requires a permit.

Although Council has adopted fees for Trader's Permit, these fees were drafted in regards to mobile vendors, "going from place to place", and vendors limited to selling food and drink at set locations for limited periods of time, such as Celebrity Tree Park and Swim Beach, however it is considered that a "display of goods" fee should be established separately.

Another matter of the report is to amend wording associated with the Trading in Public Places fee to ensure it is consistent with the adopted "Trading in Public Places" Policy (adopted 25 February 2014).

STATUTORY IMPLICATIONS

The legislative mechanism for local government to impose any fee or charge is provided under the *Local Government Act 1995* (WA) at Subdivision 2, cl. 6.16-6.19. Under the Act it may be noted, in particular, that:

- a) Public notice of 7 days is required of a local government's intention to impose any fees or charges;
- b) A decision of absolute majority is required to impose a fee;
- c) A fee may be charged for providing the use of or allowing admission to any property managed or maintained by the local government;
- d) In determining the amount of a fee, a local government is to consider
 - The cost to the local government of providing the service or goods;
 - The importance of the service or goods to the community; and
 - The price at which the service or good could be provided by an alternative provider.
- e) The basis for determining a fee or charge, in this instance, is limited to the cost of providing the service or goods.

The *Activities in Thoroughfares and Public Places and Trading Local Law 2005* provides for the payment of a fee as a condition on permits.

POLICY IMPLICATIONS

Pricing Principles and Pricing Basis Policy

This policy for setting Fees and Charges seeks to ensure a balance is achieved in allocating an amount for "services" provided to the community. A key consideration is the benefitting party and particularly as to whether any profit (or benefit) is likely to accrue to the broad community, or only private individuals. The policy aims to ensure fair and reasonable amounts are charged to the community, in considering; costs and recovery to the Shire, community expectations or "values", the amounts set by other local governments, and administrative simplicity.

Trading in Public Places Policy

This policy sets out guidance on the issuance of Trader's Permits, which are outlined in relation to stalls and/or vehicles operating on Shire managed land. It provides more detail than the *Activities in Thoroughfares and Public Places and Trading Local Law 2005*.

Part 2 of the policy outlines the specific timeframes during which trading may take place, which are:

- *8am – 6pm in town areas including residential areas.*
- *6am – 6pm at Celebrity Tree Park and Swim Beach.*
- *Traders operating from a mobile van shall not stop at any one location longer than 15 minutes and are to move on when all customers at a particular location have been satisfied.*

Part 3 of the policy describes the limitations and conditions that these permits are subject to, it provides that: *"Traders are not permitted to operate for more than 4 hours in any one location per day."* The policy also relates primarily to the sale of food and drink products.

FINANCIAL IMPLICATIONS

The proposed Outdoor Dining and Display of Goods fees will result in new entries to the Shire's "Trading in Public Places or Thoroughfares" account.

Presently this solely contains Trader's permits (Application Fee \$100, Daily Charge \$25, Monthly Charge \$350, and Annual Charge \$1000).

The proposed Alfresco Dining fees and charges are \$150 for an initial application fee, and an annual permit fee of \$3.50/m².

The proposed Display of Goods fees and charges are \$150 for an initial application fee, and an annual permit fee of \$10.00/m².

The variation on the two fees proposed is due to the an alfresco dining providing a shared public and private benefit as opposed to the display of goods only providing a private benefit.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

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

Strategy 2.2.6: Support local initiatives that promote entrepreneurial activities and a greater diversity of industries in the East Kimberley

COMMUNITY ENGAGEMENT

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

Engagement will take place in accordance with the Shire's Community Engagement Guidelines and will include public notice by newspaper, and by the public notice board at the Shire office and libraries, for 7 days.

COMMENT

In calculating the full cost to the Shire in providing the "goods and services" of an outdoor dining area or display of goods area and subsequent permits, both direct and indirect outlays associated with the physical area itself (e.g. construction) and the permit issuance process (e.g. staff labour) must be considered. In addition, Council may consider the impact of asset management costs into the future, such as maintenance/upkeep expenses.

To this end, the approximate costs attributable to outdoor dining - initial and renewed permit issuance are:

Staff Labour (Planning Officer)*	\$95.00
Fuel, materials, stationery	\$15
Other overheads (indirect administration costs)	\$40
Construction of a footpath and kerbing	\$69/m ²

*Permit renewals are expected to require less staff labour.

The construction of a footpath has been included as a cost, as this is a typical location for alfresco dining or display of goods, when adjacent to restaurants and shops respectively. Also, if the site requires maintenance, this would be an appropriate estimate. However it should be recognised that this “cost” is highly variable and in most instances not applicable because:

- Public places, although Shire managed, are not always constructed at a cost to the Shire;
- Restaurant/shop owners may seek to establish an outdoor dining area or display of goods on non-paved surfaces;
- The onus for upgrading to a proper state/ongoing maintenance may be a condition on a permit approval; and
- Footpaths have multiple purposes.

The Council must also take into consideration the shared “value” to the community of outdoor dining or the display of goods. From an urban planning and design perspective, it is considered that the conducting of alfresco dining areas does produce significant community benefits, as well as private business value. The display of goods on the other hand is considered to only provide a private benefit. In either instance, the fee should be carefully considered, to be conducive to the use occurring.

It is also considered that having an area-based (m²) fee or a “per furniture” fee may raise compliance issues and require additional “policing” by Shire officers, for example, by encroachment beyond a credited area. This supervision would increase labour expenses. On the other hand, it is recognised that a defined area can be useful to delineate a restaurant’s outdoor dining space. A site plan could be required as part of an application – and an appropriate area outlined by Shire officers.

In addition, it should also be noted that areas used for outdoor dining or the display of goods may not be constructed at the Shire’s actual cost or, if constructed at the Shire’s cost not for that purpose, and therefore are likely to require additional works to be undertaken at the cost of the applicant to enable it to be used in such a manner. For example, it is known that two established alfresco sites in the Kununurra town centre, at the Gateway (Konkerberry Drive/Messmate Way) shopping centre, were established at a private cost, and the portion of footpath on Papuana Street utilised by Kimberley Café was subject to the applicant removing a precast concrete planter box and reinstating the footpath to the satisfaction of the Shire.

It is further noted that the physical upkeep and maintenance of an outdoor dining area or area used for the display of goods, can be achieved by the placing of conditions on a permit approval. The “*rectification, remedying, or restoration of a situation or circumstance*”, and the “*payment of a deposit or bond*” against the damage to a public place, are provided as suggested conditions for outdoor dining facilities in the *Activities in Thoroughfares and Public Places and Trading Local Law 2005*, and the “*care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure*” is a suggested condition in relation to traders or stallholders permits. For example, a condition may be applied where a footpath requires surface treatment prior to safe use, or regular painting of balustrades to maintain the amenity of an area.

The proposed application amounts of \$150 are in keeping with the existing application fees Council has set for similar applications, and by other Councils – although a wide range occurs throughout (**Attachment 1**). The Shire’s Development Application (\$147) and Trader’s Permit application (\$100) fees are similar.

The annual permit fees recommended for the outdoor eating (\$3.50/m²) and display of goods (\$10.00/m²) annual permit propose a lower per square metre figure than most local governments (**Attachment 1**), however are considered to be consistent with the flat annual fee adopted by other local governments.

For example, an outdoor dining area of between 25m² - 45m² would result in an annual fee of \$87.50 - \$157.50, and a display of goods area of between 2m² - 5m² would result in an annual fee of \$20 - \$50. These may also be compared to the Shire's "Application for Hoarding, Road Closure & Permit to excavate/deposit materials on street", which costs \$1.00 per m² per month.

The variation on the two fees proposed is due to the an alfresco dining providing a shared public and private benefit as opposed to the display of goods only providing a private benefit.

A second matter of this report is to correct the entry for Trader's Permits in the Fees and Charges register.

Trader's Permits may include trading of various kinds: The selling of goods/services in a public place, displaying of goods in a public place; and going from place to place and offering goods/services. The Shire's fees are: Application \$100, Daily \$25, Monthly \$350, and annual \$1000.

The Trader's Permit fees were drafted in regards to mobile vendors, "*going from place to place*", and vendors limited to selling food and drink at set locations for limited periods of time, such as Celebrity Tree Park and Swim Beach. As outlined above the proposed "display of goods" fee has been proposed to be established separately.

The Trader's Permit entry in the Fees and Charges schedule has the following description: "*(up to 4 hours per day)*". This is an inaccuracy, as it does not fully reflect the adopted policy. It provides that: "Traders are not permitted to operate for more than 4 hours in any **one location** per day". Therefore, the description should be removed.

ATTACHMENTS

Attachment 1 - Alfresco Permit benchmarking table

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council resolves to:

1. Adopt new entries into the Fees and Charges register of:
"Outdoor Dining
Application Fee \$150,
Annual Permit Fee \$3.50/m²".

"Display of Goods
Application Fee \$150
Annual Permit Fee \$10/m²"

Following the public notice requirements provided in the *Local Government Act 1995* (WA).

2. Correct the Trader's Permit entry of the Fees and Charges register to delete the "(up to 4 hours per day)" wording.

AMENDMENT

Cr B Robinson moves a motion that the Annual Permit Fee in point 1 of the Officer's Recommendation be amended from \$3.50/m² to \$10/m²

FORESHADOWED MOTION

Cr D Spackman foreshadows a motion that item 13.4.3 Fees and Charges addition – Outdoor Dining and Display of Goods be deferred to a briefing session.

COUNCIL DECISION

Minute No. 10842

**Moved: Cr B Robinson
Seconded: Cr S Cooke**

That Council resolves to:

1. **Adopt new entries into the Fees and Charges register of:**
**"Outdoor Dining
Application Fee \$150,
Annual Permit Fee \$10/m²".**

**"Display of Goods
Application Fee \$150
Annual Permit Fee \$10/m²"**

Following the public notice requirements provided in the *Local Government Act 1995 (WA)*.
2. **Correct the Trader's Permit entry of the Fees and Charges register to delete the "(up to 4 hours per day)" wording.**

Carried 7/1

**For: Cr R Dessert, Cr K Wright, Cr B Robinson, Cr S Cooke, Cr J Moulden,
Cr D Learbuch, Cr G Taylor
Against: Cr D Spackman**

Alfresco Permit – Benchmarking Table

Local Govt.	Initial application fee	Annual Fee
Broome	\$702 (includes 1 st year)	\$38/m ²
Ashburton	\$150 + \$100/table	\$150 + \$100/table
East Pilbara	\$100	\$35/m ²
Exmouth	\$55 + \$25 or \$49	\$25 (<10m ²) or \$49 (10<m ²)
Kalgoorlie -Boulder	\$100 + m ² rate	\$7.5/m ²
Manjimup	\$147	\$73

Trading Permit – Benchmarking Table

Local Govt.	Initial application fee	Annual Fee
Broome	N/A	\$2,292.50
Ashburton	N/A	\$1500
Exmouth	\$55 + \$25 or \$49	\$25 (<10m ²) or \$49 (10<m ²)
Kalgoorlie -Boulder	\$100 + m ² rate	\$7.5/m ²

Street Trading/Display of Goods – Benchmarking Table

Local Govt.	Initial application fee	Annual Fee
Vincent	\$72	\$125
Cambridge	N/A	\$10/m (<5m) + \$15/m (>5m)
Subiaco	\$50	\$145

13.4.4 Outdoor Dining Permit at Lot 614 Messmate Way, Kununurra

DATE:	24/02/2015
PROPONENT:	Guillaume Tollec
LOCATION:	Lot 614 (shop 5) Messmate Way, Kununurra
AUTHOR:	Roy Adam, Planning Officer
REPORTING OFFICER:	Louise Gee, Acting Chief Executive Officer
FILE NO:	A1145P
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Councillors to consider issuing a permit for outdoor dining (alfresco) at Lot 641 Messmate Way, Kununurra.

BACKGROUND

A request was lodged on 3 December 2014 by Guillaume Tollec, in order to use the public space adjacent to shop 5 for outdoor (al fresco) dining. The applicant is presently operating a restaurant (Gigi's) in shop 5.

The subject land is located in the road reserve adjacent to the retail shopping complex on the corner of Messmate Way and Konkerberry Drive, and the area of the site is 29m². Surrounding land is zoned Town Centre. The built form consists of brick pavement with a white steel fence, enclosing an oblong shape (**Attachment 1**).

STATUTORY IMPLICATIONS

The subject land is located in the road reserve and bounded by the car parking area of the shopping centre. As it is not zoned or accorded a public reserve under Town Planning Scheme No. 7, the proposal cannot be assessed as a development application.

The proposal may be assessed according to the Shire's *Activities in Thoroughfares and Public Places and Trading Local Law 2005*, which amongst other matters provides for the issuance of outdoor dining permits by Council.

Clause 5.11 of the "Activities in Thoroughfares" local law states:

In determining an application for a permit for the purpose of clause 5.10, the local government may consider in addition to any other matter it considers relevant, whether or not

- (a) the Facility is conducted in conjunction with and as an extension of food premises which abut on the Facility, and whether the applicant is the person conducting such food premises;*
- (b) any abutting food premises are registered in accordance with the Health Act 1911 and whether the use of the premises is permitted under the town planning scheme;*
- (c) the Facility will comply with any local law made under section 172 of the Health Act 1911;*
- (d) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;*
- (e) the Facility would—*

- i. obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or*
- ii. impede pedestrian access; and*
- (f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.*

In satisfying these matters, it is provided that:

- a) The applicant is currently operating a restaurant in the abutting premises in Shop 5 (pizza, pasta and crepes).
- b) The restaurant meets the Shire's health registration requirements, is in the Town Centre zone, and is a permitted use in the Scheme Zoning Table.
- c) The outdoor dining area can be included within the Shire's Environmental Health restaurant requirements.
- d) Access to sanitary/ablution facilities meets the Shire's environmental health requirements.
- e) The dining area is bounded by a car park and is near a footpath. However it is enclosed by an open steel fence, which allows for drivers' vision as well as safety. Thus it is considered unlikely to - (i) obstruct sight lines or (ii) impede pedestrian access.
- f) The site is designed for outdoor dining and the proposal will adhere to that built purpose.

In issuing a permit, conditions may be imposed by the local government. Clause 6.3 of the "Thoroughfares" local law states:

The local government may approve an application for a permit subject to conditions relating to -

- (a) the payment of a fee;*
- (b) the duration and commencement of the permit;*
- (c) the commencement of the permit being contingent on the happening of an event.*
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;*
- (e) the approval of another application for a permit which may be required by the local government under any written law;*
- (f) the area of the district to which the permit applies;*
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;*
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and*
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.*

In addressing the points above, it is provided that:

- a) The Shire does not presently have an adopted fee for an outdoor dining permit but this shall apply when adopted.

- b) The Shire's Local Law provides that permits (including outdoor dining) are generally issued for a period of one year, and may be renewable. 12 months is considered reasonable.
- c) A restaurant has been established adjacent to the site. Other events or items (e.g. insurance certificates) may be included as conditions.
- d) A permit condition of rectification and repair is considered reasonable.
- e) Planning, building, and environmental health approvals can be determined separately from this permit. There are no outstanding issues with respect to those topics.
- f) The subject area is clearly defined, as well as the Shire boundaries.
- g) A bond is not considered necessary. The site was not constructed at the Shire's cost. In addition a permit condition of rectification and repair will achieve a similar guarantee of maintenance.
- h) Public liability insurance of \$10 million will be required by the applicant.
- i) An indemnity statement may be made a condition of a permit approval.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

A fee for this purpose has not been adopted by Council. Fees for Outdoor Dining Permits are proposed in a separate Fees and Charges report.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

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

Strategy 2.1.1: Encourage a mix of businesses that meet community needs

Local Planning Strategy

The town centre of Kununurra is pointed out in the strategy, with attention given to: Encouraging the restaurant use of the centre, enhancing physical linkages for pedestrians to Coolibah Drive, and with shortcomings in urban design matters, including legibility. It describes that workshop attendees found that the centre was not attractive or enticing to visitors and residents. *"Currently there is little sense of 'arrival' to the town - from either approach - and finding the core and getting a sense of the functionality of the locality is very difficult"*.

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.

COMMENT

At present there is not an adopted fee for outdoor dining permits. However in past planning approvals in the Shire, a planning application fee and \$25/table has been required. The adoption of fees and charges for outdoor dining permits is the subject of a separate report, requiring determination from Council. Once adopted (after public advertising) a fee may be paid on this permit.

As to wider planning matters, the proposal is considered to have reasonable merit. The outdoor dining use is likely to improve the passive surveillance on the street corner, add to the commercial vibrancy of the town centre, and therefore encourage shared (public/private) benefits. In addition to these points, it is well-suited to the town centre vision as detailed in the Shire's adopted strategic planning documents.

Regarding car parking, it is noted that previous outdoor dining approvals on the site (and for neighbouring shops), have not imposed additional car bay requirements for a dining use. Car parking requirements were considered as part of the shopping complex and dining area when it was constructed (at the owner's cost).

ATTACHMENTS

Attachment 1 - Site photo
Attachment 2 – Site diagram

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:-

APPROVES the request submitted by Guillaume Tollec for an outdoor dining permit at Lot 641 (shop 5) Messmate Way, subject to compliance with the following conditions, to the satisfaction of Shire officers:

1. The permit is valid for 12 months.
2. The applicant shall make payment of an Outdoor Dining permit fee, upon completion of the local public notice process and imposition of the fee into the Shire's Fees and Charges schedule.
3. The applicant shall be responsible for:
 - i. Indemnifying the Shire in writing with regard to any claims that may arise in this public place. As such, the onus remains with the applicant to ensure that adequate Public Liability Insurance Cover is provided to a minimum of \$10 million. A copy of the trader's public liability insurance must be provided to the Shire of Wyndham East Kimberley prior to the trading date;
 - ii. Ensuring that the dining use is conducted at all times in accordance with the provisions of the Shire's local laws;
 - iii. Maintaining the furniture in the public place in a good, clean and serviceable condition at all times;
 - iv. Removing all waste after trading hours conclude; and

- v. All costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the dining area.
4. The outdoor dining area use shall not obstruct pedestrian access to any footpath, road or building.

Cr D Spackman leaves the chambers at 5.58pm

COUNCIL DECISION

Minute No. 10843

Moved: Cr S Cooke

Seconded: Cr R Dessert

That Council:-

APPROVES the request submitted by Guillaume Tollec for an outdoor dining permit at Lot 641 (shop 5) Messmate Way, subject to compliance with the following conditions, to the satisfaction of Shire officers:

1. The permit is valid for 12 months.
2. The applicant shall make payment of an Outdoor Dining permit fee, upon completion of the local public notice process and imposition of the fee into the Shire's Fees and Charges schedule.
3. The applicant shall be responsible for:
 - i. Indemnifying the Shire in writing with regard to any claims that may arise in this public place. As such, the onus remains with the applicant to ensure that adequate Public Liability Insurance Cover is provided to a minimum of \$10 million. A copy of the trader's public liability insurance must be provided to the Shire of Wyndham East Kimberley prior to the trading date;
 - ii. Ensuring that the dining use is conducted at all times in accordance with the provisions of the Shire's local laws;
 - iii. Maintaining the furniture in the public place in a good, clean and serviceable condition at all times;
 - iv. Removing all waste after trading hours conclude; and
 - v. All costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the dining area.
4. The outdoor dining area use shall not obstruct pedestrian access to any footpath, road or building.

Carried 6/1

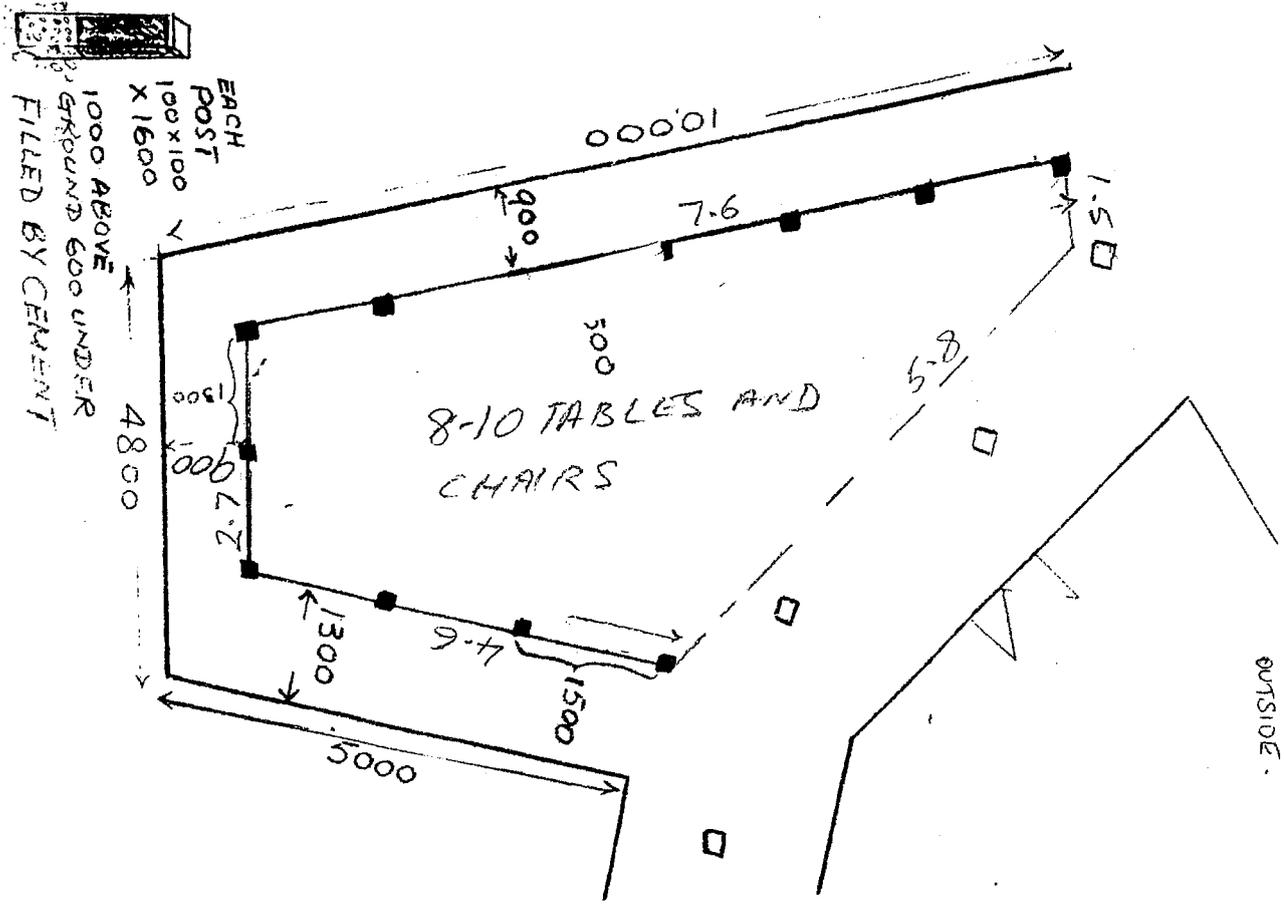
**For: Cr R Dessert, Cr B Robinson, Cr S Cooke, Cr J Moulden, Cr D Learbuch,
Cr G Taylor**

Against: Cr K Wright

Cr D Spackman enters the Chambers at 6.05pm.



Shop 5 Lot 641 Messmate Way



13.4.5 Unnamed Creek Crossing – Victoria Highway

DATE:	24/03/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Victoria Highway, East of Kununurra
AUTHOR:	Jennifer Ninnette, Senior Planning Officer
REPORTING OFFICER:	Louise Gee, Acting Chief Executive Officer
FILE NO:	LP.03.2
DECLARATION OF INTERESTS:	N/A

PURPOSE

For Council to consider undertaking the process to formally name an unnamed creek crossing, located approximately 25km east on the Victoria Highway in-between Kununurra and the Northern Territory border, to “Philchowskis Crossing”.

BACKGROUND

The Shire has received email correspondence from Tom Stephens in relation to the formal naming of an unnamed creek crossing, located approximately 25km east of Kununurra and historically signposted “Philchowskis Crossing”, after noticing that a new sign has recently been placed in this location with the name “Phil Okowski’s Ck”.

The proponent has stated that the crossing has had the informal name “Philchowskis Crossing” since January 1977, named to reflect the historical connection to a man who was killed around this location in June 1913.

A copy of an email is provided as Attachment 1 which provides a brief summary of Philchowski’s death, as well as photographs provided by the proponent which were taken in 1977 and 2014 respectively.

Aerial photographs showing the location of the crossing are provided at Attachment 2.

The proponent has contacted the Geographic Names Committee (GNC) to rectify this matter; however, according to GNC records the crossing has no official name. Therefore, the proponent has formally requested the Shire of Wyndham East Kimberley to initiate the process to support the crossing name that reflects the history of the area.

Mr Stephens has also recommended that the site may have an Indigenous name used by the Mirriuwung Gajerrong people, thus detailed research will be required to support the informal name being retained for the crossing, as well as the potential for dual naming.

It is understood that the current incorrectly named sign was put in place following road works undertaken at the crossing by Main Roads WA.

STATUTORY IMPLICATIONS

New geographic names require endorsement by the local authority followed by the State Geographic Names Committee, which is governed by Section 26A of the Land Administration Act 1997. The GNC has produced a document titled *Policies and Standards for Geographical Naming in Western Australia* which provides a guide for nomenclature and road naming. Generally, the document prescribes that names should be sourced from Aboriginal Languages currently or formerly identified with the general area, pioneers of the

State or area, citizens who have made a significant community contribution, war casualty lists or thematic names. Unsuitable names are those of given/first name basis, hard to pronounce names, names of living persons, and duplication of names within local governments or adjoining local governments.

POLICY IMPLICATIONS

Policies and Standards for Geographical Naming in Western Australia

The GNC Policies and Standards outline that dual naming shall be considered when a feature already has a name of non-Indigenous origin which is widely accepted within the community. They may occur where a topographical feature has been given an official name which includes both the Indigenous name and the introduced European (or English) name.

Dual naming is not considered preferable to one name, and in each case the proposal should be investigated to establish if the Indigenous name would have enough community support to replace the existing name.

A dual name must be Indigenous to the local area, and will only be assigned where there is definite evidence, preferably historic, in the form of written or oral tradition that the feature has two names.

The Policies and Standards document also outlines that proposals to assign a name to commemorate an individual shall only be considered if:

- Such application is in the public interest;
- There is evidence of broad community support for the proposal;
- The person has been deceased for at least two (2) years;
- Where the applicant requesting the new name is not an immediate relative, written permission of the family is obtained;
- The person being honoured by the naming has had either some direct and long-term association twenty (20) or more years, with the feature or has made a significant contribution to the area in which it is located.
- The proposal commemorating an individual with an outstanding national or international reputation has had a direct association with the area in which it is located. If the person has not been directly associated with the area the name shall not be considered.

The GNC recognises the significance of historic commemorative naming and encourages the continued recognition of outstanding achievements and events within the community.

The following policies apply to all commemorative naming proposals:

- All commemorative name proposals shall meet the same criteria required of any other name proposal;
- A proposed commemorative name must be supported by the wider community and reach beyond a single local government, person or special interest group;
- A commemorative name shall not be used to commemorate victims of, or mark the location of, accidents or tragedies;
- Prior or current ownership of land does not confer the right or entitlement to apply a commemorative name;
- The use of unofficial commemorative names used in publications, or in landscape dedications or markers, is no assurance that they will be adopted into official names records; and
- A commemorative name shall not be considered for adoption if a well-established and acceptable name already exists for the feature.

FINANCIAL IMPLICATIONS

There is likely to be some minor costs associated with any required consultation.

STRATEGIC IMPLICATIONS

There are no Strategic Implications in relation to this report.

COMMUNITY ENGAGEMENT

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

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

Consultation with the relevant traditional owners, Kununurra Historical Society and other people and organisations that can assist with garnering required historical information.

The GNC Policies and Standards outline that all dual naming proposals require the support of the native title representative body and, where relevant, tribal elders of the area. If the topographical feature covers more than one Indigenous land council area e.g. a river, mountain range etc., approval must be sought from each relevant council. A written proposal should be sent to the local Indigenous land council with details of the topographical or cultural site for which a dual name is being proposed.

The allowance of ample time for a reply may be required due to the local Indigenous land council needing an unanticipated meeting to consider the proposal. If there is no response from the local or regional Indigenous land council within three months, the GNC can submit the proposal to the Department of Indigenous Affairs for consideration and support for its approval.

COMMENT

It is acknowledged that the naming of the site as 'Philchowskis Crossing' is commonly known within the community, and has been referred to as such for a significant number of years, however that there also may be a local indigenous name associated with the area.

In discussions with Shire Officers' the Geographic Names Committee has advised that dual naming is generally not supported, however have advised that if an indigenous name is proposed it should be for the topographical feature itself, i.e. the creek, rather than the crossing.

The GNC has also advised that as the crossing has been known locally for a significant number of years (understood to be at least 40 years) as Philchowski's Crossing, that a resolution of Council will be required along with adequate supporting documentation to outline Philchowski's 'contribution' to the community or historical significance, however that evidence of community support for the proposal is not required.

Therefore, Officers are seeking Council's direction as to whether they wish to initiate the process to formally name the feature using the historic name for the site, and investigation for potential naming of the creek in consultation with the traditional owners.

If initiated, Officers will be required to undertake a research, referral and assessment process, to compile sufficient information and evidence to support the proposed crossing name and potential creek names, and to ensure compliance with the guidelines set out by the Geographic Naming Committee. It is expected that this process will require significant staff time.

In the interim Shire Officers have written to Main Roads to correct the name on the sign to 'Philchowskis Crossing', and Main Roads WA have acknowledged the error and advised that the sign is in the process of being replaced.

ATTACHMENTS

Attachment 1 - Correspondence from Tom Stephens

Attachment 2 - Location plans

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Directs the Acting Chief Executive Officer to write to the MG Corporation to seek advice from the relevant Traditional Owners on the proposed formal naming of 'Philchowskis Crossing', and potential indigenous naming of the creek.
2. Directs the Acting Chief Executive Officer to undertake research and compile supporting documentation to demonstrate Philchowski's contribution to the community or historical significance.
3. Endorses the proposed formal naming of 'Philchowskis Crossing', and advises the Geographic Names Committee of its endorsement, subject to adequate supporting documentation being compiled and no objection being received from Traditional Owners.

AMENDMENT

Cr K Wright moves to amend point 3 of the Officers Recommendation to read 'Philchowski Crossing' instead of 'Philchowskis Crossing'.

COUNCIL DECISION

Minute No. 10843A

Moved: Cr K Wright

Seconded: Cr D Spackman

That Council:

- 1. Directs the Acting Chief Executive Officer to write to the MG Corporation to seek advice from the relevant Traditional Owners on the proposed formal naming of 'Philchowski Crossing', and potential indigenous naming of the creek.**
- 2. Directs the Acting Chief Executive Officer to undertake research and compile supporting documentation to demonstrate Philchowski's contribution to the community or historical significance.**
- 3. Endorses the proposed formal naming of 'Philchowski Crossing', and advises the Geographic Names Committee of its endorsement, subject to adequate supporting documentation being compiled and no objection being received from Traditional Owners.**

Carried Unanimously 8/0



Existing Sign – 2014



Previous Sign - 1977

Jennifer Ninyette

From: Family Stephens <familystephens@hotmail.com>
Sent: Monday, 29 December 2014 3:00 PM
To: Jennifer Ninyette
Cc: josie.farrer@mp.wa.gov.au; stephen.dawson@mp.wa.gov.au; admin@kununurra.org.au; The Kimberley Echo; Cathie Clement; Tom 05 Stephens
Subject: Philchowski Crossing
Attachments: Philchowski.docx

To: Ms Jennifer.Ninyette@swek.wa.gov.au

Senior Planner – Shire of Wyndham East Kimberley

RE: Philchowski Crossing – Duncan Highway - EAST OF KUNUNURRA

Dear Jennifer

I write to you on the advice of Ms Jan Lonsdale from the WA Geographic Names Committee at Landgate.

The name “Philchowski Crossing” had stood for many years as a road sign on the low-level crossing (at a spot that I was also given to understand was also called “the 8mile”). I first saw this sign on site in January 1977.

Recently I noticed the sign has been replaced by a new sign: “Phil Okowski’s Ck”.

This crossing was originally named to refer to the association of the location with Rudolph Philchowski (a business partner with Joe Fegan in Spring Creek Station), who was for a number of years the mailman between Wyndham and Ord River Station. There are a number of references to this man amongst the Durack Papers held at Battye Library; as well as a detailed reference at p.287 of Mary Durack’s “Sons in the Saddle” (1983. Constable & Co London).

It would appear from the telephone communication I have just had with the team at the Geographic Names Committee office that this crossing does not in fact have any name officially recorded. I write to formally request that the Shire of Wyndham-East Kimberley initiate the process available to it to formally support the naming of the Crossing as “Philchowski Crossing” to reflect this historical connection to a man who was killed around this location in June 1913.

It could well be that there is a local Mirriurwung Aboriginal name for the location or the creek crossing that could be included alongside this “European” name that dates from early pastoral settlement. Perhaps the local Kununurra Aboriginal language centre can help in that regard or Mr Ben Ward of Cockatoo Springs could advise.

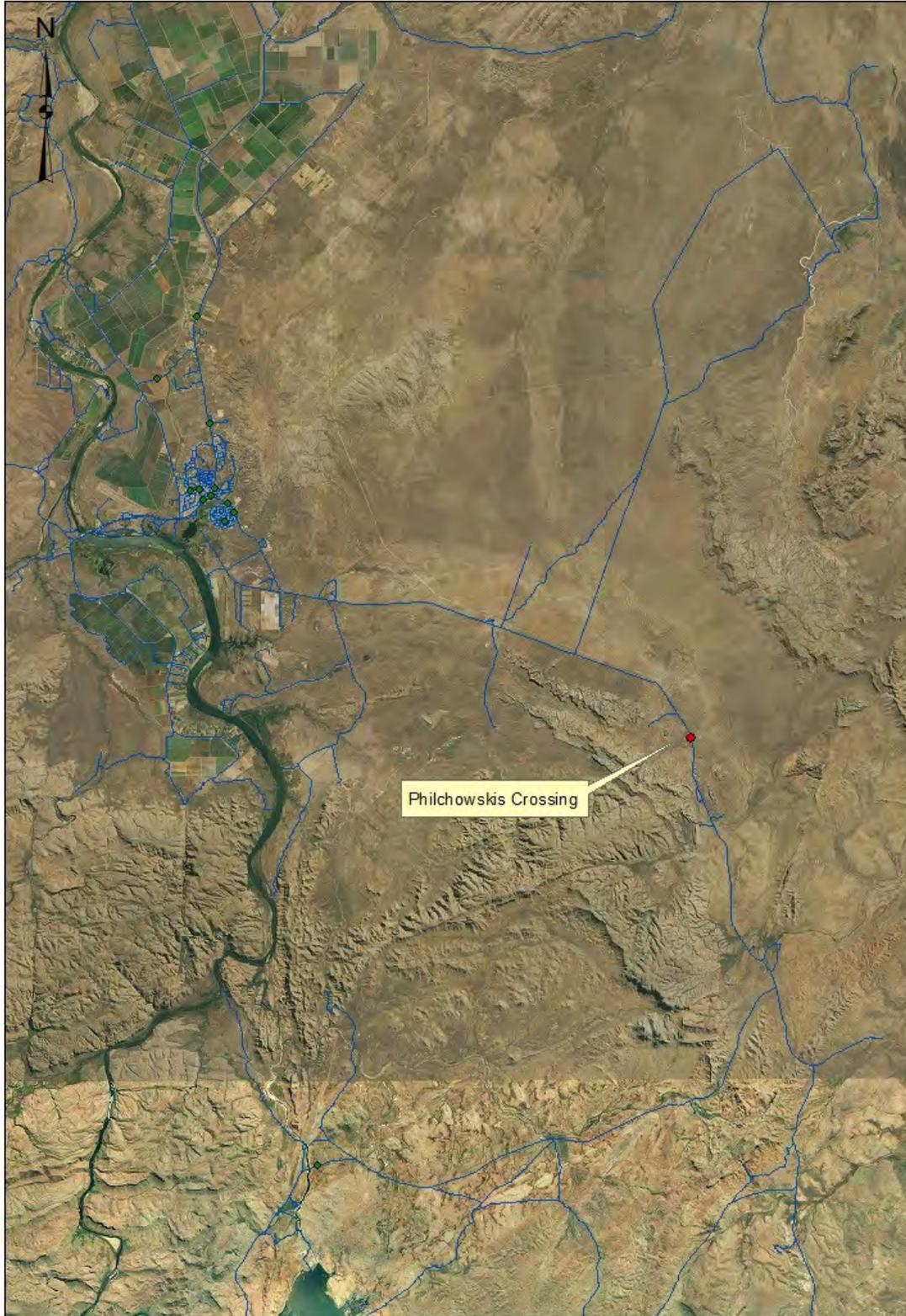
The pages 287ff of “Sons in the Saddle” dovetail somewhat what I know from my own discussions with Aboriginal people from 1977 when I was resident in Kununurra; specifically I was told by Alfie Deakin and Bulla Billinking that the killing of Philchowski led to the conviction and sentencing to death of an innocent Aboriginal man whose name was Jillambin. The man who had in fact killed Philchowski was Woolambine, who was wounded in the violent reprisals that were taken against Aboriginal people in the area following the discovery of Philchowski’s corpse; I was given to understand that Philchowski was killed by Woolambine in response to a serious grievance that developed between the two men. Woolambine lived on into his old age, living largely in his homeland country in the area that became the Newry Station pastoral

lease holding. For the remainder of Woolambine's life he wore, tied around his neck, the bullet that had wounded him during these reprisals.

Meanwhile, I write to formally request that the Shire of Wyndham-East Kimberley initiate the process available to it to formally support the naming of the Crossing as "Philchowski Crossing" to reflect this historical connection to a man who was killed around this location in June 1913. And that in the meantime the Shire ask Main Roads to replace the inaccurate place name sign that was recently installed at this location.

Honourable Tom Stephens, OAM JP
Former Member for Central Kimberley-Pilbara
4 Cullen Street
Shenton Park
WA 6008
Mobile: 0419937344

Attachment 2 – Location Plans





13.5 CHIEF EXECUTIVE OFFICER

13.5.1 Use of Common Seal

DATE:	24/03/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Monika Tonkin, Executive Assistant
REPORTING OFFICER:	Louise Gee, Acting CEO
FILE NO:	N/A
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to receive this report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 20 February– 18 March 2015.

STATUTORY IMPLICATIONS

Shire of Wyndham East Kimberley, Standing Orders Local Law 2003

16. PART 16 – COMMON SEAL

16.1 The Council's Common Seal

- (1) The CEO is to have charge of the common seal of the Local Government, and is responsible for the safe custody and proper use of it.
- (2) The common seal of the Local Government may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the President and the CEO or a senior employee authorised by him or her.
- (3) The common seal of the local government is to be affixed to any local law which is made by the local government.
- (4) Any person who uses the common seal of the Local Government or a replica thereof without authority commits an offence.
Penalty \$1,000

POLICY IMPLICATIONS

Delegations Register 2014/15, delegation number 4 – Authority to Affix the Shire's Common Seal.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this item.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best principles in planning and service delivery.

COMMENT

The following documents have had the Shire of Wyndham East Kimberley Common Seal applied:

Date of Use	Document
23/02/2015	Deed of Release and Discharge – Vicky Biorac and Robert Storey and SWEK
23/02/2015	Lease Portion of Foreshore Reserve 50467 Lot 509 Lake Kununurra. SWEK and Amanda Moncrieff and Daryl Moncrieff trading as Ord River Houseboats
09/03/2015	SWEK/Bradleigh Trading Pty Ltd – Lease for Booth 5 at EKRA
16/03/2015	SWEK/Kununurra Resorts Pty Ltd – Assignment of Lease, Lot 508 – Portion of Foreshore Reserve 50467

ATTACHMENTS

There are no attachments associated with this report.

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 20 February – 18 March 2015.

COUNCIL DECISION

Minute No. 10844

Moved: Cr B Robinson

Seconded: Cr D Learbuch

That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 20 February – 18 March 2015.

Carried Unanimously 8/0

13.5.2 Delegated Authority Report (Building and Planning)

DATE:	24/03/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Chiquita dos Reis, Community Development Support Officer
REPORTING OFFICER:	Louise Gee, Acting Chief Executive Officer
FILE NO:	N/A
DECLARATION OF INTERESTS:	Nil

PURPOSE

To report to the Council on the use of Delegated Authority (Building and Planning) by Officers for the period 1 February to 28 February 2015.

BACKGROUND

The use of Council approved Delegated Authority by Officers is reported to the Council on a monthly basis.

The attached tables outline use of Delegated Authority by relevant Officers for the above period.

STATUTORY IMPLICATIONS

Local Government Act 1995 - Sect 5.46

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

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

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

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

No policy implications apply in the preparation of this report.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this item.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

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

Objective 3.3: Towns are safe and inviting for locals and tourists

Strategy Ensure quality, consistent and responsive development and building assessment approval processes and enforcement

COMMUNITY CONSULTATION

Community consultation is not required in relation to this item

COMMENT

The attached reports outline the use of Delegated Authority by relevant Council Officers for endorsement by Council

ATTACHMENTS

Attachment 1 – Delegated Authority Report (Building) February 2015

Attachment 2 – Delegated Authority Report (Planning) February 2015

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the Delegated Authority Reports (Building and Planning) for the period 1 February to 28 February 2015.

COUNCIL DECISION

Minute No. 10845

Moved: Cr K Wright

Seconded: Cr B Robinson

That Council receives the Delegated Authority Reports (Building and Planning) for the period 1 February to 28 February 2015.

Carried Unanimously 8/0

Attachment: Delegated Authority Report**CERTIFICATE OF DESIGN COMPLIANCE (Form BA03) ISSUED AS THE CERTIFIER FOR THE PERMIT ISSUING AUTHORITY – 01 to 28 February 2015**

APPLIC NO	DATE APPLIC RECVD	DATE ISSUED	ASSESS NO.	CERT No	LOCATION	DESCRIPTION
101577	15/01/2015	10/02/2015	A1091P	BA7436	Lot 1519 - Site 440 Kimberleyland Holiday Park Victoria Highway Kununurra	Class 10A Annexe to caravan
101578	15/01/2015	10/02/2015	A1091P	BA7440	Lot 1519 - Site 443 Kimberleyland Holiday Park Victoria Highway Kununurra	Class 10A Carport to caravan
101585	9/02/2015	24/02/2015	A24P	BA7478	Lot 382 "Ultimate Adventures Fishing Camp" Parry Creek Road, Kununurra	Class 10A Storage Shed (Relocated)
101594	23/02/2015	26/02/2015	A6033P	BA7490	Lot 147 Whimbrel Road Kununurra	Class 1a - Single Dwelling with attached Class 10A Deck, Verandah and Carport
101598	24/02/2015	27/02/2015	A1048P	BA7508	Lot 1271 (15) Beefwood Street Kununurra WA 6743	Class 10A Non-habitable Garage
101595	20/02/2015	27/02/2015	A6033P	BA7510	Lot 147 Whimbrel Road Kununurra	Class 10A Non-habitable, Non- Airconditioned Shed with ablution and enclosed storage & mezzanine level

BUILDING PERMITS (Form BA04) ISSUED AS THE PERMIT ISSUING AUTHORITY – 01 to 28 February 2015

LIC#	DATE RECEIVED	DATE LICENCED	OWNER	BUILDER	LOCATION	DESCRIPTION	NEW/ADD	EST. VALUE	COMMENT / PROCESSING TIME – WORKING DAYS
003/2015	15/01/2015	10/02/2015	Kimberleyland Holiday Park	Kimberleyland Holiday Park	Lot 1519 - Site 440 Kimberleyland Holiday Park Victoria Highway Kununurra	Class 10A Annexe to caravan	New	\$8,000.00	16/25 assess days
004/2015	15/01/2015	10/02/2015	Kimberleyland Holiday Park	Kimberleyland Holiday Park	Lot 1519 - Site 443 Kimberleyland Holiday Park Victoria Highway Kununurra	Class 10A Carport to caravan	New	\$7,000.00	16/25 assess days
BAC05/2015	9/02/2015	24/02/2015	Friedrich & Andrea Bolten	Friedrich & Andrea Bolten	Lot 238 Research Station Road Kununurra	Class 1A - Extension to transient workers accommodation (retrospective)	EXIST	\$38,000.00	10/10 assess days
006/2015	9/02/2015	24/02/2015	Gregory & Jane Harman and Parsram Ishwar Dass and James Courtice	Gregory Harman	Lot 382 "Ultimate Adventures Fishing Camp" Parry Creek Road, Kununurra	Class 10A Storage Shed (Relocated)	New	\$20,000.00	10/25 assess days
007/2015	23/02/2015	26/02/2015	Craig & Samantha Jolly	DE Carpenters Pty Ltd	Lot 147 Whimbrel Road Kununurra	Class 1a - Single Dwelling with attached Class 10A Deck, Verandahs and Carport	New	\$560,000.00	2/25 assess days
008/2015	24/02/2015	27/02/2015	Colin & Leanne Cardell	Colin & Leanne Cardell	Lot 1271 (15) Beefwood Street Kununurra WA 6743	Class 10A Non-habitable Garage	New	\$ 10,000.00	2/25 assess days

DEMOLITION PERMITS (Form BA06) ISSUED AS THE PERMIT ISSUING AUTHORITY – 01 to 28 February 2015

DEMO LIC#	DATE APPLIC RECVD	DATE LICENCED	ASSESS NO.	BA RECORD	OWNER	BUILDER/ DEMOLITION CONTRACTOR	DEMO CLASS (1, 2 or 3)	WAD CLASS/ LIC NO	LOCATION	DESCRIPTION
DP004/ 2015	23/02/2015	24/02/2015	A1507P	BA7473	Aboriginal Lands Trust	Franmor Construction Pty Ltd	WR Builder	WR 456 10803	Lot 2229 Speargrass Road Kununurra	Full Demolition - Removal of Class 10A Ablution block

PLANNING DELEGATED AUTHORITY APPROVALS - 1 - 28 February 2015

Application / Delegation Number	Approval Type	Date Received	Owner	Address	Proposed Development	Assess't Number	Approval Date	Approved By
DA48/14	HOCC	30/06/2014	Jennifer Kroeger	Lot 1048 Woollybutt Place, Kununurra	Renewal Home Occupation - Baby Boabs day care	847	2/02/2015	Approved Roy Adam
DA7/15	P	17/02/2015	Jason Lerch	Lot 104 Kentia Way, Kununurra	Proposed Workshop Awning	7093	20/02/2015	Approved Roy Adam
DA1/15	P	10/02/2015	Department Of Lands	Lot 693 Leichardt Street Kununurra	Proposed Grouped Dwellings	1299	26/02/2015	Approved Roy Adam

13.5.3 Outstanding Actions from Council Resolutions

DATE:	24/03/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Monika Tonkin, Executive Assistant
REPORTING OFFICER:	Louise Gee, Acting Chief Executive Officer
FILE NO:	N/A
DECLARATION OF INTERESTS:	Nil

PURPOSE

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

BACKGROUND

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

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

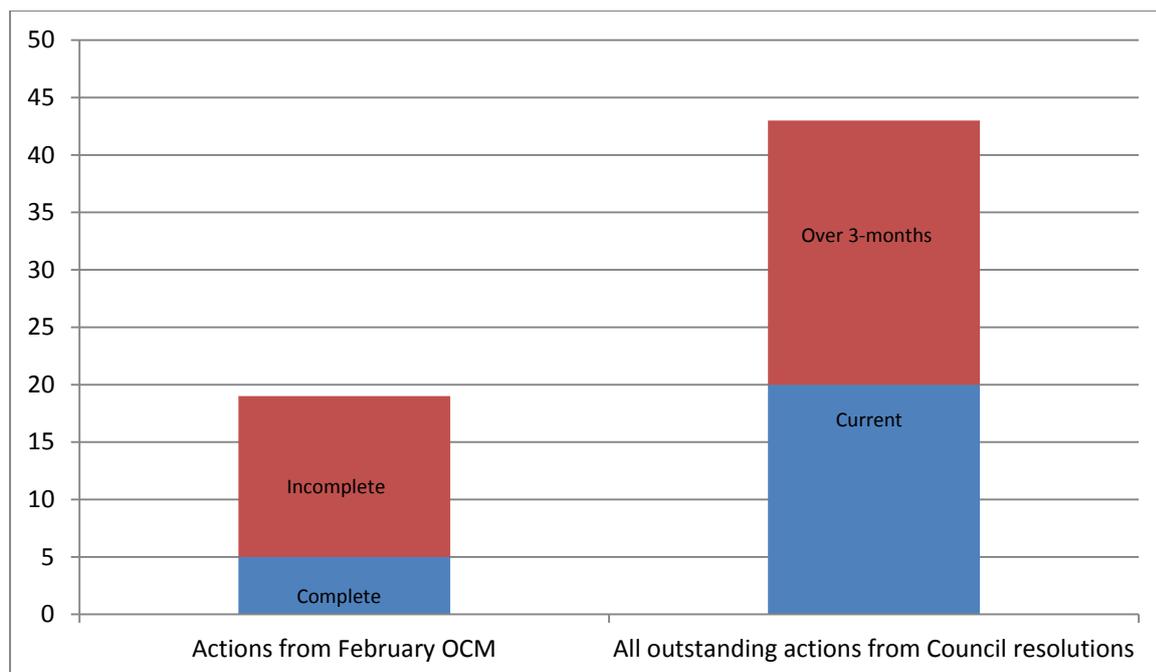
Strategy 1.4.2: Improve the efficiency and productivity of Shire services

COMMUNITY CONSULTATION

None required.

COMMENT

The following chart identifies the number of complete and incomplete actions from February OCM resolutions. It also identifies 'to date' the total number of Council resolutions that have not been completed.



Council resolutions that have not been completed and are over 3 months:

Meeting	Item	Progress
Aug-12	Matters arising from committees of council	Audit (Finance and Risk) Committee resolution on 10 February 2015 to be considered by the Council on 24 February 2015 resolving a way forward to be put to rates debtor A501. Ratepayer to be advised of outcome of meeting.
May-13	Lease of portion of Reserve 41812 – Ingle Pty Ltd (Lakeside Resort)	Final lease document provided for signing. Lessee has requested clarification on the lease commencement date and survey area.
Aug-13	Road Closure, Long Michael Plain Road	Now with RDL for closure. RDL undertaking survey for closure. Now awaiting RDL to complete.
Jun-14	Ord East Kimberley Expansion Project - Dedication of Public Roads	August Council Briefing Session decided to list as Cabinet Agenda item when they visit in October. Meeting with Minister for LG undertaken, no real outcome. Council to consider Rating Strategy response as part of 2015/16 budget process.
Jun-14	Development Application for Change of Use - Shop at Lot 11, Pruinosa Street, Kununurra	Approval letter sent 27 June 2014. Ongoing discussions with applicant regarding the outstanding disabled parking bay.
Jun-14	Lot 509 on Deposited Plan 66529, Portion of Reserve 50467, Kununurra – Expressions of Interest Received	Final copies of lease forwarded for acceptance and signing by 26 February 2015. Awaiting ratification by Department of Lands on behalf of Minister for Lands

Jul-14	Speed Limit Review - Lake Argyle Road	Main Roads WA have recommended to the minister that the speed limit be changed to 90 kmh from SLK 0.00 to 22.85 and 80 kmh from SLK 22.85 to 33.63 and to 60 KMH from 33.63 to 34.67. the 80 kmh section is from Spillway Creek almost to Lake Argyle Resort. Awaiting approval from the minister then MRWA can erect the signs.
Aug-14	Motion from Cr Glenn Taylor – Kelly’s Knob Walking Track	Communications commenced with Broadcast Australia and Ord Irrigation Cooperative to formalise proposed changes to access and gates. It is anticipated that OIC will object to the proposal which may delay the project.
Sep-14	Adoption 2014/15 Budget	Master Lending Agreement has been returned to WATC. Further quotes will be sourced from WATC when the funds are required.
Sep-14	Adoption 2014/15 Budget	Variations have been approved by the Department of Regional Development and appropriate variation letters or revised funding agreements have been executed. Invoice has now been received and the funds will be returned to the Shire of Broome within the next week.
Sep-14	Adoption 2014/15 Budget	Staff have been advised of Council's direction and requirements of this decision. Probity audit requested and approved (intended to be on-site on another matter). DLG were on-site on 23 September with a report yet to be provided.
Sep-14	T01 14/15 Flood Recovery Works - Drainage Channel Works	Works completed. Acquittal paperwork being completed.
Sep-14	T01 14/15 Flood Recovery Works - Lake Argyle Road, Design and Construct Drainage Culvert Repairs	Works completed. Final completion date (off maintenance) 17th December 2015. Acquittal paperwork being completed.
Sep-14	Forward Capital Works Program Update	Variations have been approved by the Department of Regional Development and appropriate variation letters or revised funding agreements have been executed. Invoice has now been received and the funds will be returned to the Shire of Broome within the next week.
Oct-14	Proposed Transfer of Part Lot 3004, Portion of Reserve 50425, Adjoining Kimberleyland Holiday Park, Lake Kununurra	Letter and copy of the minutes sent to Department of Water, and the Department of Lands.

Oct-14	Reserve 24857 - Wyndham Turf Club - Encroachment of Racecourse onto Unallocated Crown Land	Letter and copy of the minutes sent to both Department of Lands and Wyndham Turf Club. Department of Lands has advised that the Shire is the proponent and seeking the Shires agreement to pay survey costs and to commence discussions with the Balangarra #3 PBC.
Oct-14	East Kimberley Marketing Group Funding Request	EKMG have been notified and awaiting invoices
Oct-14	Request for a Special Payment Arrangement - Rates Assessments A7866-A7876	Ratepayer was advised of this outcome. Further correspondence has since been received and was considered by the Audit (Finance and Risk) Committee at the February 2015 meeting which is to be considered by the Council on 24 February 2015 to determine an appropriate outcome. Ratepayer was advised of outcome of February 2015 meeting and has not complied with conditions required. Debt collection process commenced as allowed under Council Policy CP FIN-3212 Rates and Charges Debt Collection Policy.
Nov-14	Proposed pedestrian refuge island and associated pavement markings, Konkerberry Drive and Banksia Street Intersection following asphalt overlay	Works scheduled over January – March 2015 subject to suitable weather conditions for placement of in-situ concrete and MRWA approval granted. Pavement line markings and regulatory signage installed by MRWA contractor when in town likely mid 2015
Nov-14	Proposed Drainage Upgrade Konkerberry Car Park Back of Sub-Way	Works currently in progress.
Nov-14	Ivanhoe Road to Lily Lagoon Drainage	Department of Water have indicated that they will not support or approve the application for easements. Further report to be provided to Council on this matter.
Nov-14	Cumbungi Management Lily Creek Lagoon	Initial letter has been sent to the minister raising the issue and requesting further guidance on what further action should be taken to progress the issue. A follow up letter has been sent. Work has commenced on establishing a case to be sent to the minister.
Nov-14	Results of Tender T3 14/15 – Airport Terminal Vehicle Hire Booths and Parking Bay	Lease completed, with Car Hire companies for signature..

ATTACHMENTS

There are no attachments associated with the report.

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council notes the report - Outstanding actions from Council resolutions.

COUNCIL DECISION

Minute No. 10846

Moved: Cr B Robinson

Seconded: Cr S Cooke

That Council notes the report - Outstanding actions from Council resolutions.

Carried Unanimously 8/0

13.5.4 RSL Request for Flagpoles on ANZAC Day 2015

DATE:	24/03/2015
PROPONENT:	RSL
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Monika Tonkin, Executive Assistant
REPORTING OFFICER:	Louise Gee, Acting Chief Executive Officer
FILE NO:	N/A
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to consider a request from the RSL for the use of flagpoles and the installation of new flagpole footings at the Cenotaph area on Coolibah Drive for ANZAC Day 2015.

BACKGROUND

The Cenotaph is on Shire owned land, in front of the old Shire administration building on Coolibah Drive.

Previously there were three (3) flagpole footings situated in a line, all to the right of the Cenotaph.

When the Shire moved to the new administration building two of the flag poles were removed from the land at the old administration building, along with the metal plates that attach to the footings (Attachment 1) and taken to the new building. Leaving one flagpole footing and flagpole in place (Attachment 2). The remaining two footings are no longer evident as the grass has grown over them.

In preparation for ANZAC Day 2015 (25/04/2015), the RSL have requested (Attachment 3) that the Shire:

- a) Relocate the existing footing and flagpole so that it sits directly behind the Cenotaph (rather than to the right of the Cenotaph) and that two new footings are added, one on either side of the Cenotaph.
- b) Lends one (1) flagpole to the RSL for use at ANZAC Hill. This has occurred in previous years. The depot have a spare flagpole for this purpose which they deliver, install pre event and remove post event at ANZAC Hill for use on ANZAC Day.
- c) Lends two (2) flagpoles to the RSL for use in the new footings that they have requested for the Cenotaph area. These flagpoles would need to be removed from the administration building where they currently sit, installed at the Cenotaph and then returned post event.

STATUTORY IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The costs associated with this request are as follows:

3 x new flagpoles =	\$2,000 (approx. including freight)
1 x days' work for 2 staff =	\$1,620
Concrete for new footings =	\$325 (cubic min)
Building permit =	\$132.50
Auxiliary costs =	\$500 (approx.)
 Approx Total =	 \$4,577.50

This is an unbudgeted expense and would need to be sourced from the existing 2014-2015 budget at the expense of other works.

New flagpoles would require 2-weeks lead time from order to delivery.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

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

Objective 3.4: Protection and enhancement of community facilities

Strategy 3.4.3: Ensure Shire facilities are planned and managed to meet community needs

COMMUNITY ENGAGEMENT

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

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

Informing the RSL and the wider community of the outcome and the reasons behind the resolution by Council in relation to this request.

COMMENT

Rather than relocate the existing flagpole and footing at the Cenotaph it would be more cost effective and safer to install three new footings in the positions requested by the RSL.

The Shire currently has fibreglass flagpoles, these can be easily damaged when they are moved in and out of footings, and therefore it would also be necessary to place three new flagpoles in the footings requested by the RSL, where they would remain until the Cenotaph moves location. These flagpoles would need to be purchased. Keeping the flagpoles in the footings would also negate the trip hazard issue that needs to be addressed if a flagpole is removed but the footing remains. A building application and permit will be required for the installation of three new flagpoles. This work and cost would only be for the benefit of ANZAC Day 2015 as the RSL have advised that it is likely they will move the Cenotaph to a new location in the near future.

Lending one flagpole to the RSL for use at ANZAC Hill has been done previously and the only cost is the time it takes to deliver, install and remove.

In the past the Shire has offered in-kind services to many events and organisations for services such as photocopying, furniture hire, signage, flagpole hire etc. Providing these services comes at a cost to the Shire and the Shire must ensure that it is fair and transparent in provision of in-kind services. As such the Shire has now moved to managing these types of requests via sponsorship or grant arrangements that are recorded.

The in-kind services that have been requested by the RSL for ANZAC Day will come at a significant cost that has not been budgeted for. Timing is also an issue with the request from the RSL only being received 6-weeks before ANZAC Day.

ATTACHMENTS

Attachment 1 - Photo of footing and metal plate attachment
Attachment 2 – Photo of remaining flagpole at the Cenotaph
Attachment 3 – Request from the RSL

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That the Council authorises the Acting Chief Executive Officer to write to the RSL advising that:

- a) the Shire will install one (1) flagpole at ANZAC Hill for ANZAC Day 2015;
- b) the Shire is not able to assist with the movement of the flagpole footings or supply additional flagpole footings or flagpoles at the Cenotaph for ANZAC Day 2015;
- c) the Shire requests that the RSL put in an application for a Quick Grant to support the ANZAC Day 2015 event;
- d) the Shire recommends that the RSL consider putting in an application under Council's Annual Grant Program for assistance with the future relocation of the cenotaph.

Cr K Wright declares an impartiality interest in this item.

COUNCIL DECISION

Minute No. 10847

Moved: Cr R Dessert

Seconded: Cr B Robinson

That the Council authorises the Acting Chief Executive Officer to write to the RSL advising that:

- a) the Shire will install one (1) flagpole at ANZAC Hill for ANZAC Day 2015;**
- b) the Shire is not able to assist with the movement of the flagpole footings or supply additional flagpole footings or flagpoles at the Cenotaph for ANZAC Day 2015;**
- c) the Shire requests that the RSL put in an application for a Quick Grant to support the ANZAC Day 2015 event;**
- d) the Shire recommends that the RSL consider putting in an application under Council's Annual Grant Program for assistance with the future relocation of the cenotaph.**

Carried Unanimously 8/0





Monika Tonkin

From: Ord River Sports Club <ordriversportsclub@bigpond.com>
Sent: Monday, 16 March 2015 12:04 PM
To: Monika Tonkin
Cc: kevin.dianea@bigpond.com; ayjayb@hotmail.com
Subject: FLAG POLES OF R 2015 ANZAC DAY CEROMONIES

Monika

As previously discussed.

We the Kununurra RSL would like to request the following from the shire to help celebrate our 100th Year of the ANZAC.

To relocate the current flag pole from its position to the side of the Centretarf and pass it 5 - 10 m immediately behind the Monument Rock (centre of the centretarf) - creating the effect of the direct compass bearing line. Second we would like to have 2 additional footings place - one either side of the central flagpole. Again 5 - 10m behind the monument, but to mirror the extremities of the centretarf concrete base.

In doing this we would be able to fit all visitors and Norforce Detachment, whom will be invoking their right to the Freedom of the City march on ANZAC Day.

The Flagpole - as with previous year, I am told, are borrowed from the SWEK offices and 1 is passed at ANZAC Hill for the Dawn Service, the other 2 we are requesting to borrow and place at the Centretarf, so that we may be able to display our National Flag, NZ flag and our State Flag / RSL Flag.

It is understood that these footings will only be there for the ANZAC Day parade, as we (RSL and SWEK) will be relocating the Centretarf to another location a couple of months after this event. But the importance and significant of this ANZAC Day should be the weight for the SWEK support in this action, to ensure the best display of community spirit, and coming together to celebrate and remember those whom have sacrificed the most, for this community to join together on this day of importance ANZAC DAY.

The footings

300 x 300 x 600mm would ensure the structural integrity of each flagpole.
I estimate this to be the equivalent of 2-3 premixed bags of cement each.

Safety of the footings after use

Protective kick plates can be built and bolted to the flagpole base bolts.

Ultimately we will be looking for a minimum of 3 flagpole to be located with the Centretarf at its future location. This is something that SWEK could be a part of as a show of Community Spirit and strong unity with the Kununurra RSL in supporting our past and present servicemen and women.

Kind Regards

Greg Chamberlain
Vice President
Kununurra RSL
0467 482 414
liveringa@gmail.com

13.5.5 Annual Report 2013- 2014

DATE:	24/03/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Monika Tonkin, Executive Assistant
REPORTING OFFICER:	Louise Gee, Acting Chief Executive Officer
FILE NO:	CM.13.4
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to accept the Annual Report for 2013 – 2014.

BACKGROUND

The Annual Report is a statutory obligation and is required to be prepared for the year ending 30 June each year.

The annual report is to be accepted by the local government no later than 31 December after that financial year or no later than 2 months after the auditor's report becomes available. The Shire's auditors report was made available on the 2 February 2015.

A general meeting of the electors is to be held once every financial year no later than 56 days after accepting the annual report. The meeting is to be convened by the CEO giving at least 14 days local public notice.

STATUTORY IMPLICATIONS

Local Government Act 1995

5.27. Electors' general meetings

- 1) A general meeting of the electors of a district is to be held once every financial year.
- 2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.
- 3) The matters to be discussed at general electors' meetings are to be those prescribed

5.53. Annual reports

- 1) The local government is to prepare an annual report for each financial year.
- 2) The annual report is to contain —
 - a report from the mayor or president;
 - a report from the CEO;
 - e) an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year;
 - f) the financial report for the financial year;
 - g) such information as may be prescribed in relation to the payments made to employees;
 - h) the auditor's report for the financial year;
 - h a) a matter on which a report must be made under section 29(2) of the Disability Services Act 1993;

- h b) details of entries made under section 5.121 during the financial year in the register of complaints, including —
 - (i) the number of complaints recorded in the register of complaints;
 - (ii) how the recorded complaints were dealt with; and
 - (iii) any other details that the regulations may require; and
- (i) such other information as may be prescribed.

5.54. Acceptance of annual reports

- 1) Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.

* *Absolute majority required.*

- 2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.

5.55. Notice of annual reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

6.4. Financial report

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

- 4) The financial report is to —

- a) be prepared and presented in the manner and form prescribed; and
- contain the prescribed information.

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

- a) the accounts of the local government, balanced up to the last day of the preceding financial year; and
- b) the annual financial report of the local government for the preceding financial year.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

COMMUNITY ENGAGEMENT

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

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

- Informing the community that the Annual Report is available and making the Annual Report accessible for viewing.
- Informing the community of the date and time of the Annual General Electors meeting.

COMMENT

The Annual Report 2013-2014 includes all items as outlined in 5.53 of the *Local Government Act 1995*.

It is proposed that the Annual General Electors meeting be held at 4pm on 28 April 2015.

ATTACHMENTS

Attachment 1 - Annual Report 2013-2014 (provided under separate cover)

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council:

- a) Accepts the Annual Report for the year ended June 2014.
- b) Directs the Acting Chief Executive Officer to advertise that the Annual General Electors meeting will be held at 4pm on the 28 April 2015.

AMENDMENT

Cr K Wright moves the Officer's Recommendation with an amendment to point b) that the meeting will be held at 6pm instead of 4pm.

COUNCIL DECISION

Minute No. 10848

Moved: Cr K Wright

Seconded: Cr D Spackman

That Council:

- a) Accepts the Annual Report for the year ended June 2014.**
- b) Directs the Acting Chief Executive Officer to advertise that the Annual General Electors meeting will be held at 6pm on the 28 April 2015.**

Carried 7/1

**For: Cr R Dessert, Cr D Learbuch, Cr K Wright, Cr B Robinson, Cr D Spackman,
Cr S Cooke, Cr G Taylor**

Against: Cr J Moulden

13.6 ELECTED MEMBER REPORTS

Cr Don Learbuch

- 16 March Cemetery visit with Rotary to view road improvements and tree planting
- 17 March Meeting with Ord River Sports Club regarding lease agreement and the future of the club

Cr Glenn Taylor

- 24 February President's breakfast at Sporties
- 4 March Swim Stars Breakfast (DSR event)
- 12 March Launch for Outback Advance

Cr Beau Robinson

- 17 March Meeting with Ord River Sports Club regarding lease agreement and the future of the club

COUNCIL DECISION

Minute No. 10849

Moved: Cr S Cooke

Seconded: Cr B Robinson

That Council accepts the Elected Member reports for the period 20 February to 18 March 2015

Carried Unanimously 8/0

13.7 ACTING CHIEF EXECUTIVE OFFICER REPORTS

The Acting Chief Executive Officer attended the following meetings on behalf of Council:

24 February Wyndham Port Tour with Cambridge Gulf

17 March Meeting with MG Corporation re Municipal Services and Shared Projects

17 March Meeting with Seafarm Operations re Prawn Farming

18 March Meeting with the Responsible Jewellery Council and Argyle Diamonds

COUNCIL DECISION

Minute No. 10850

Moved: Cr B Robinson

Seconded: Cr D Learbuch

That Council accepts the Acting Chief Executive Officer reports for the period 20 February to 18 March 2015

Carried Unanimously 8/0

14. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Nil

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

MOTION

The Shire President moves that Council accepts Item 16.1 Code of Conduct Complaint Handling Procedure as urgent business.

COUNCIL DECISION

Minute No. 10851

Moved: Cr B Robinson

Seconded: Cr S Cooke

That Council accepts Item 16.1 Code of Conduct Complaint Handling Procedure as urgent business.

Carried Unanimously 8/0

16.1 CODE OF CONDUCT COMPLAINT HANDLING PROCEDURE

DATE:	24/03/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Louise Gee, Acting Chief Executive Officer
REPORTING OFFICER:	Louise Gee, Acting Chief Executive Officer
FILE NO:	GN.06.1
DECLARATION OF INTERESTS:	Impartiality Interest – as the Complaints Officer and an employee there is an interest in the matter to be discussed; as this matter outlines the procedure for dealing with complaints regarding alleged breaches of the Code of Conduct.

PURPOSE

For Council to consider the endorsement of the proposed Code of Conduct Complaint Handling Procedure.

BACKGROUND

In accordance with the provisions of the Local Government Act (LGA) 1995 each local government is required to designate a senior employee as the Complaints Officer.

In the event that the local government does not have any other person as its Complaints Officer, the Chief Executive Officer is designated as the Complaints Officer.

Following recent discussions with the Department of Local Government and Communities and in accordance with the Shire of Wyndham East Kimberley *Code of Conduct for Council Members, Committee Members and Employees* (2015), there is scope to appoint someone external to the Council to undertake the investigation of complaints about breaches of the Shire's Code of Conduct.

STATUTORY IMPLICATIONS

In accordance with Section 5.120 of the *Local Government Act 1995*, each local government is to designate a senior employee (as defined under section 5.37) to be its Complaints Officer. The appointment of an external 'Assessment Officer' is outside of this legislative provision.

POLICY IMPLICATIONS

There is no Council Policy applicable to this proposal.

FINANCIAL IMPLICATIONS

Funding for the engagement of an external 'Assessment Officer' will be through the CEO's legal budget. Additional funds will need to be allocated in the mid-year budget review. Funding required will depend on the number of reported complaints about breaches of the Code of Conduct, and the depth of detail required assessing and investigating these complaints.

STRATEGIC IMPLICATIONS

There are no Strategic Implications in relation to this report.

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

COMMENT

Attachment 1 provides a copy of the proposed Code of Conduct Complaints Handling Procedure. The purpose of this Procedure is to set out the process for complaints handling to ensure that complaints covered by this procedure are treated seriously and are addressed promptly and fairly.

It is proposed that Code of Conduct complaints will be referred to an externally appointed 'Assessment Officer'. It is suggested that the position be referred to as 'Assessment Officer' as this will remove any confusion with the Complaints Officer position under the LGA. The appointment of an 'Assessment Officer' will be undertaken in accordance with Council's CP/FIN-3204 Purchasing Policy.

This procedure only concerns the reporting and investigation of breaches of the Shire's *Code of Conduct by Council Members, Committee Members and Employees*; it does not deal with complaints about the Shire's service delivery. Requests and complaints regarding the Shire's service delivery are proposed to be managed as outlined in the draft Customer Service Policy and Complaints Management Policy (Item 13.2.4).

ATTACHMENTS

Attachment 1 - Code of Conduct Complaint Handling Procedure

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council endorse Attachment 1 - Code of Conduct Complaint Handling Procedure.

The Shire President adjourns the meeting at 6.33pm for 10 minutes so that the item can be read by Councillors.

The Shire President resumes the meeting at 6.45pm.

COUNCIL DECISION

Minute No. 10852

Moved: Cr B Robinson

Seconded: Cr S Cooke

That Council accepts suspends Standing Orders 7.5 Limitation of Number of Speeches

Carried 7/1

**For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr K Wright, Cr B Robinson,
Cr D Spackman, Cr S Cooke**

Against: Cr G Taylor

Standing Orders 7.5 Limitation of Number of Speeches suspended at 6.58pm

COUNCIL DECISION

Minute No. 10853

Moved: Cr S Cooke

Seconded: Cr B Robinson

That Council resumes Standing Orders 7.5 Limitation of Number of Speeches

Carried Unanimously 8/0

Standing Orders 7.5 Limitation of Number of Speeches resumes at 7.03pm

Cr K Wright states that "the President is clearly wrong"

Words are recorded as per Standing Orders 6.4(3).

FORESHADOWED MOTION

Cr S Cooke foreshadows a motion that item 16.1 Code of Conduct Complaint Handling Procedure be deferred to a briefing session for further consideration.

COUNCIL DECISION

Minute No. 10854

**Moved: Cr J Moulden
Seconded: Cr G Taylor**

That Council endorse Attachment 1 - Code of Conduct Complaint Handling Procedure.

Tied 4/4

Casting Vote: Shire President, Cr J Moulden against the motion.

Lost on a casting vote

COUNCIL DECISION

Minute No. 10855

**Moved: Cr S Cooke
Seconded: Cr K Wright**

That item 16.1 Code of Conduct Complaint Handling Procedure be deferred to a briefing session for further consideration.

Carried Unanimously 8/0



PROCEDURE	Code of Conduct Complaint Handling Procedure
RESPONSIBLE DIRECTORATE	Governance
RESPONSIBLE OFFICER/S	Chief Executive Officer Senior Employees
EMT APPROVAL	Date:
REVIEWED/MODIFIED	Date:
	Date:
REVIEW DUE	Date:
LEGISLATION	<i>Local Government Act 1995</i> <i>Local Government (Administration) Regulations 1996</i> <i>Local Government (Rules of Conduct) Regulations 2007</i>
RELATED POLICIES	Shire of Wyndham East Kimberley Code of Conduct for Council Members, Committee Members and Employees Customer Service Policy Complaints Management Policy
RELATED PROCEDURES	

PURPOSE:

The Code of Conduct Complaint Handling Procedure clearly sets out the procedural system of complaints handling to ensure that concerns covered by this procedure are treated seriously and that these concerns are addressed promptly and fairly.

This procedure only concerns the reporting and investigation of breaches of the Shire's Code of Conduct by Council Members, Committee Members and Employees.

This procedure does not deal with complaints about the Shire's service delivery.

The Chief Executive Officer has a responsibility to notify the Corruption and Crime Commission (CCC) of suspected misconduct under Section 28 Corruption and Crime Commission Act. This procedure does not override this obligation.

DEFINITION:

LGA refers to the Local Government Act 1995.

Assessment Officer is the person appointed or authorised by the CEO to provide investigative services under the provisions of this Code of Conduct Complaint Handling Procedure

CCC refers to the Corruption and Crime Commission

DLGC refers to the Department of Local Government and Communities

Complaint means allegation(s) about breaches of the Shire of Wyndham East Kimberley Code of Conduct for Council Members, Committee Members and Employees by Council Members, Committee Members and Employees

Code of Conduct refers to Shire of Wyndham East Kimberley Code of Conduct for Council Members, Committee Members and Employees (2015)

Senior Employee is an employee designated by Council and includes the Shire's Chief Executive Officer; Director Community Development; Director Corporate Services; Director Infrastructure

TRAINING REQUIRED:

Nil

PROCEDURE:

Making Complaints

The Complaints procedure does not prevent a complainant making a complaint directly to the Local Government Standards Panel or DLGC. However, complainants are encouraged to utilise this local option before escalating their complaint to the Standards Panel or the DLGC.

The benefit of this process is that minor matters can be dealt with locally and will allow complaints to be dealt with quickly and provide an opportunity for the Shire to develop procedures to rectify issues and complaints about conduct at a local level.

Any person may make a complaint alleging a breach of the Shire's Code of Conduct.

The appointed 'Assessment Officer' will act in an investigative capacity under the provisions of this procedure.

Conflicts by Assessment Officer

The Assessment Officer should ensure before dealing with a complaint that there is no personal relationship with either the complainant or person the subject of the complaint. The Assessment Officer should excuse themselves from participating in matters where these conflicts exist.

If the Assessment Officer declares a conflict the CEO is to arrange an alternative suitable person to deal with the complaint.

Action on Receiving a Complaint

Complaints about the conduct of Council Members, Committee Members or Employees should be addressed in writing to the CEO in the first instance, for the attention of the Assessment Officer. In the case of a complaint against the CEO this should be addressed in writing in the first instance, to another senior employee, for the attention of the Assessment Officer.

An anonymous complaint may be dealt with if there appears to be sufficient evidence to institute inquiries into the complaint.

In order to determine what is the appropriate action to take in relation to a complaint referred to the Assessment Offer, the Assessment Officer will determine in accordance with the following assessment criteria and decide either to:

- a) take no further action and give the complainant the reason/s in writing, and those reasons may include, but are not limited to, the complaint is outside the

- jurisdiction of the Assessment Officer, or that in the opinion of the Assessment Officer there is insufficient evidence to sustain the complaint, or
- b) resolve the complaint by use of alternative and appropriate strategies such as, but not limited to, mediation, informal discussion or negotiation and give the complainant advice on the resolution of the matter in writing, or
 - c) discontinue the assessment in the circumstances where it becomes evident that the matter should be referred to another body or person, and refer the matter to that body or person as well as advising the complainant in writing, or
 - d) deal with the matter by conducting an investigation and reporting the outcome to Council in regard to complaints concerning Council Members or Committee Members; or the CEO in regard to complaints concerning Employees, as well as advising the complainant in writing.

Despite any other provision of this procedure, this will constitute finalisation of the matter and no further action is required by the Shire.

All persons who are the subject of complaints that are referred to the Assessment Officer will receive written information about the process being undertaken to deal with the matter.

The Assessment Officer will only deal with matters that are referred by the CEO or if the complaint is against the CEO, a senior employee.

Where the Assessment Officer is tasked to make enquiries into the matter, such enquiries should be made without undue delay.

The Assessment Officer will ensure proper records of investigations are kept.

Role of the Assessment Officer in Reporting to Council

The Assessment Officer, will undertake the following functions in relation to reporting the outcome of Council Member and Committee Member investigations to Council:-

- a) provide advice on complaints when requested,
- b) attend meetings of the Council if so requested in an advisory capacity only,
- c) provide advice only about investigative processes if requested to do so but not to take part in the deliberative process of the Council.

Assessment Officer Complaint Assessment Criteria

The Assessment Officer in assessing the complaint will have regard to the following grounds:

- a) whether there is any prima facie evidence of a breach of the Code of Conduct by a Council Member, Committee Member or Employee
- b) whether the subject matter of the complaint relates to conduct that is associated with the carrying out of the functions of civic office or duties
- c) whether the conduct the subject of the complaint could reasonably constitute a breach of the Code of Conduct

- d) whether the complaint raises issues that require investigation by another person or body, such as referring the matter to the DLGC, the Corruption and Crime Commission or the WA Police
- e) whether there is an alternative and satisfactory means of redress
- f) how much time has elapsed since the events, the subject of the complaint, took place
- g) how serious the complaint is and the significance it has for Council,
- h) whether the complaint is one of a series indicating a pattern of conduct.

Dealing With Trivial Complaints

If a complaint is considered trivial, frivolous or vexatious, the Assessment Officer should have particular regard to the *Vexatious Proceedings Restriction Act 2002*, this Act provides a useful definition that the Assessment Officer may use as a guide to determine when complaints are vexatious.

Section 3 of this Act defines vexatious proceedings as:

- a) *an abuse of the process of a court or a tribunal;*
- b) *instituted to harass or annoy, to cause delay or detriment, or any other wrongful purpose;*
- c) *instituted or pursued without reasonable ground; or*
- d) *conducted in a manner so as to harass or annoy, cause delay or detriment, or achieve any other wrongful purpose.*

In considering whether a complaint is trivial, frivolous or vexatious the Assessment Officer should recognise the right of people to make a complaint, that right should not be inappropriately curtailed.

Procedural Fairness

In conducting enquiries, the Assessment Officer should follow the rules of procedural fairness and must -

- a) provide the person the subject of the complaint with a reasonable opportunity to respond to the substance of the allegation
- b) provide the person the subject of the complaint with an opportunity to place before the Assessment Officer or other person undertaking the enquiry any information the person considers relevant to the enquiry
- c) act fairly and without prejudice or bias
- d) ensure that no person decides a case in which they have a conflict of interest.
- e) conduct the enquiries without undue delay.

Where the person the subject of the complaint declines or fails to take the opportunity provided to respond to the substance of the allegation against them, the Assessment Officer should proceed to finalise the matter taking into consideration all available information that has been put before him or her.

Recommendations of Assessment Officer After Finding of Breach

Where the Assessment Officer determines, in his or her view that the conduct referred to comprises a breach he or she may, in the report to the Council or CEO (as applicable), make recommendations that the Council or CEO (as applicable) take any of the following actions against the person committing the breach:

- a) dismiss the complaint and recommend no further action
- b) censure the Council Member or Committee Member for misbehaviour
- c) require the Council Member, Committee Member or Employee to apologise to any person adversely affected by the breach
- d) require training
- e) require mediation
- f) counsel the Council Member, Committee Member or Employee
- g) revise any of Council's policies, procedures or the Code of Conduct.

Before making any such recommendations, the Assessment Officer shall have regard to the following:

- a) the seriousness of the breach
- b) whether the breach can be easily remedied or rectified
- c) whether the subject person has remedied or rectified their conduct
- d) whether the subject person has expressed contrition
- e) whether the breach is technical or trivial only
- f) whether the breach represents repeated conduct
- g) the degree of reckless intention or negligence of the subject person
- h) the extent to which the breach has affected other parties or the Council as a whole
- i) the harm or potential harm to the reputation of local government and of the Council arising from the conduct
- j) whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny
- k) whether an educative approach would be more appropriate than a punitive approach
- l) the relative costs and benefits of taking formal enforcement action as opposed to taking no action or taking informal action
- m) what action or remedy would be in the public interest

Where the Assessment Officer considers it appropriate they may make a recommendation to Council or CEO (as applicable), without making a finding on whether the breach alleged in the complaint occurred or not.

Where the Assessment Officer makes findings, they will report those findings, and the reasons for those findings, in writing to the Council or CEO (as applicable), the complainant and the person subject of the complaint.

The Council may deliberate over the recommendation(s) in the Assessment Officer's report in deciding on the appropriateness of any sanctions to be applied, but should not conduct a re-hearing of the evidence already considered by the Assessment Officer.

The recommendations of the Assessment Officer must be shown in the Council minutes. Should Council decide not to follow the recommendation of the Assessment Officer, Council must provide reasons for Council's alternative recommendation and these reasons are to be provided to the DLGC for review.

A Council Member or Committee Member who is the subject of the complaint should disclose an impartiality interest when the matter comes before Council.

Local Government Standards Panel Matters

The Local Government Standards Panel has jurisdiction over elected members only. Allegations concerning breaches of the Code of Conduct by non-elected members of committees and employees cannot be referred to the Local Government Standards Panel.

If the Local Government receives a complaint that is intended to be made to the Standards Panel, the Local Government should ensure it is referred to the Standards Panel and not dealt with by the Assessment Officer or Council. However, if the complainant is agreeable and has not yet formally submitted the complaint to the Local Government Complaints Officer (as defined by s. 5.120 of the LGA), it may be dealt with by referring it to the Assessment Officer for investigation and report to Council.

Matters that can be dealt with by the Standards Panel are minor breaches under Part 2 of the *Local Government (Rules of Conduct) Regulation 2007*, and include:

- Contravention of certain local laws (Regulation 4)
- Improper use of Information (Regulation 6)
- Securing personal advantage or disadvantaging others (Regulation 7)
- Misuse of local government resources (Regulation 8)
- Prohibition against involvement in administration (Regulation 9)
- Directions given to or attempts to influence a local government employee (Regulation 10)
- Improper statements or use of improper expression about a local government employee (Regulation 10)
- Non-disclosure of interest adverse to impartiality (Regulation 11)
- Acceptance of a prohibited gift (Regulation 12)
- Failure to notify CEO of a notifiable gift within 10 days of acceptance of the gift (Regulation 12)

Corruption and Crime Commission (CCC)

Serious misconduct matters are not to be dealt with by the Assessment Officer. The Assessment Officer will deal only with matters that involve minor behavioural breaches identified in the Code of Conduct.

Reports from the Assessment Officer

Any report concluding a breach has occurred should be a summary of the enquiries undertaken while providing sufficient information for the Council or CEO (as applicable) to be satisfied the Council Member, Committee Member or Employee has breached the Code of Conduct. As a minimum the report should contain:

- The nature of the complaint and the standard of conduct that is alleged to have been breached.
- The process undertaken by the Assessment Officer in assessing and enquiring into the complaint.
- Reference to any submission(s) received
- The facts of the matter.
- Any findings and the reasons for those findings.

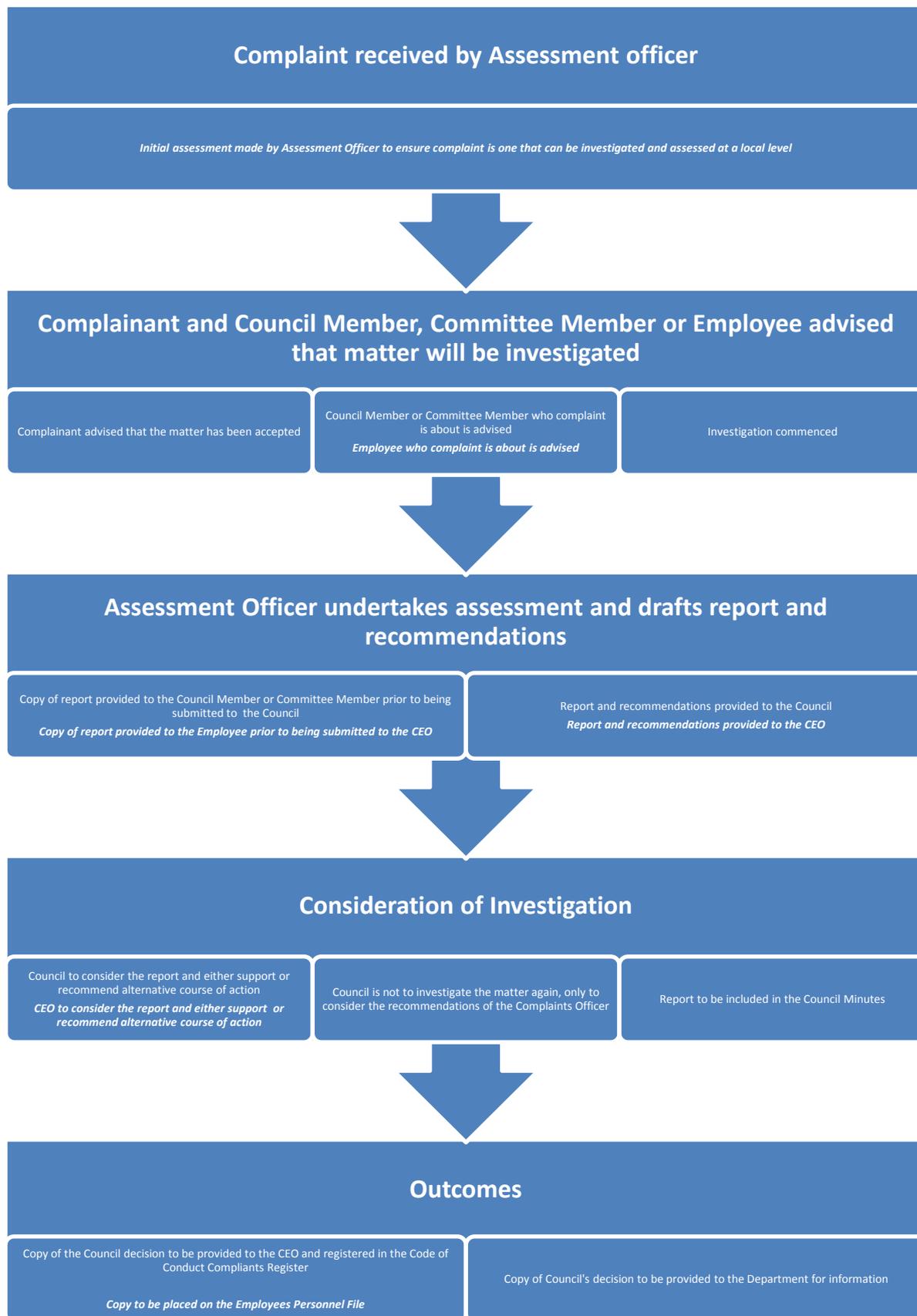
- Any recommendations to Council or the CEO (as applicable).

The report will be dealt with in open session of Council in regard to Council Members and Committee Members. Council can only close a meeting to the public if the matter is one that meets the requirements of section 5.23 (2) of the LGA. In most cases, a report from the Assessment Officer will not meet these requirements.

Notwithstanding how the matter is dealt with by Council the Assessment Officers recommendation(s) and Council's decision should appear in the Minutes of the meeting. Should Council decide not to follow the recommendation of the Assessment Officer, Council must provide reasons for Council's alternative recommendation which should appear in the Minutes of the meeting.

The primary role of the Assessment Officer is to establish the facts of the allegation and make findings of fact and may make recommendations that Council or CEO (as applicable) takes any action that the Assessment Officer considers appropriate to the circumstances.

COMPLAINT HANDLING FLOW CHART * flow chart for Employees in bold and italics



RISK:

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

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

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

Control: Current budget and service levels.

Risk: Loss of corporate knowledge with staff turnover.

Control: Documentation of service procedures; multi-skilling where appropriate.

Risk: Wrong advice provided by CEO leading to political damage or financial loss.

Control: Seek specialist technical and legislative/legal advice from relevant agencies and organisations.

Risk: Poor communication of Council issues to the community.

Control: Media and communications policy and procedures; media training for Councillors.

17. MATTERS BEHIND CLOSED DOORS

COUNCIL DECISION

Minute No. 10856

Moved: Cr S Cooke

Seconded: Cr B Robinson

That Council moves behind closed doors.

Carried Unanimously 8/0

Council moves behind closed doors at 7.07pm

17.1 CONFIDENTIAL LEGAL CLAIM

DATE:	24/03/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	David Klye Director Infrastructure
REPORTING OFFICER:	David Klye Director Infrastructure
FILE NO:	N/A
DECLARATION OF INTERESTS:	Nil

The item will be discussed Behind Closed Doors under Section 5.23(2) of the *Local Government Act 1995* as this is a matter that deals with:

- (b) *the personal affairs of any person; 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;*

PURPOSE

To formally advise Council of the background to a current legal claim against the Shire and to provide an update on the status of the matter.

ATTACHMENTS

The report and all associated attachments are provided under separate cover.

VOTING REQUIREMENT

Simple Majority

Cr D Spackman declares a financial interest in this item and leaves the Chambers at 7.09pm after the item has been introduced and the motion has been moved and seconded.

COUNCIL DECISION

Minute No. 10857

Moved: Cr G Taylor

Seconded: Cr B Robinson

That Council notes the current status of the legal matter against the Shire

Carried Unanimously 7/0

Cr D Spackman enters the Chambers at 7.11pm.

**17.2 CONFIDENTIAL TENDER T06 14/15 WASTE SERVICES CONSULTANCY
(ITEM WITHDRAWN)**

DATE:	24/03/2015
PROPONENT:	Shire Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Peter Kerp, Manager Engineering Services
REPORTING OFFICER:	David Klye, Director Infrastructure
FILE NO:	CM16.117
DECLARATION OF INTERESTS:	Nil

The item will be discussed Behind Closed Doors under Section 5.23(2) of the *Local Government Act 1995* as this is a matter that deals with:

- (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;*

PURPOSE

To provide Council with details of the Confidential Tenders received for T06 14 /15 Waste Services Consultancy and to document the results of the tender assessment and provide recommendations regarding the award of the Tender

ATTACHMENTS

The report and all associated attachments are provided under separate cover.

VOTING REQUIREMENT

Simple Majority

D Klye, Director Infrastructure leaves the Chambers at 7.11pm.

17.3 CONFIDENTIAL ORD RIVER SPORTS CLUB BUILDING WORKS

DATE:	24/03/2015
PROPONENT:	Ord River Sports Club
LOCATION:	Reserve 33112, 34 Chestnut Ave, Kununurra
AUTHOR:	Wayne Richards, Manager Community Services
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	CP.07.3
ASSESSMENT NO:	A1160
DECLARATION OF INTERESTS:	Nil

The item will be discussed Behind Closed Doors under Section 5.23(2) of the *Local Government Act 1995* as this is a matter that deals with:

- (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;*

PURPOSE

For Council to consider unbudgeted expense for repairs to the Ord River Sports Club building.

ATTACHMENTS

The report and all associated attachments are provided under separate cover.

VOTING REQUIREMENT

Simple Majority

COUNCIL DECISION

Minute No. 10858

Moved: Cr D Learbuch

Seconded: Cr B Robinson

That Council direct the Acting Chief Executive Officer to:

- 1. Seek quotations, as per Council Policy CP FIN-3204 Purchasing Policy, for the first three items listed in section 3.2 of the Structural Inspection Report dated 9 February 2015. These being:**
 - a. Remove roof ridge flashing and ensure end of sheets are adequately turned up at end of the sheets and seal between the ridge capping and roof sheeting.**
 - b. Clean out all gutters and provide additional outlets and overflows to ensure water does not enter building in the event that the gutters reach their capacity.**
 - c. Remove redundant penetrations in roof sheeting and ensure positive drainage around all penetrations and roof fixtures.**
- 2. Allocate expenditure for the works listed in item 1, in the mid-year budget based on the quotes received.**

Carried Unanimously 8/0

17.4 CONFIDENTIAL ORD RIVER SPORTS CLUB LEASE

DATE:	24/03/2015
PROPONENT:	Ord River Sports Club
LOCATION:	Reserve 33112, 34 Chestnut Ave, Kununurra
AUTHOR:	Wayne Richards, Manager Community Services
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	CP.07.3
ASSESSMENT NO:	A1160
DECLARATION OF INTERESTS:	Nil

The item will be discussed Behind Closed Doors under Section 5.23(2) of the *Local Government Act 1995* as this is a matter that deals with:

- (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;*
- (e) *a matter that if disclosed, would reveal —*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person,*

PURPOSE

For Council to consider the recommencement of negotiations with the Ord River Sports Club regarding the lease for Reserve 33112.

ATTACHMENTS

The report and all associated attachments are provided under separate cover.

Cr D Spackman leaves the Chambers at 7.15pm after the item had been introduced and the motion had been moved and seconded.

VOTING REQUIREMENT

Absolute Majority

The Shire President, Cr J Moulden calls for a show of hands in favour to consider the revoking of Council decisions relating to Minute No. 8839 resolution 1(b) and (d), and resolution 2 of the Ordinary Council Meeting held on 15 September 2009.

In favour 6/1.

COUNCIL DECISION

Minute No. 10859

Moved: Cr S Cooke

Seconded: Cr D Learbuch

That Council:

1. Revokes Minute No. 8839 resolution 1(b) and (d), of the Ordinary Council Meeting held on 15 September 2009.

“b) agreement to a 21 year lease will only be possible upon completion of the Master Planning Exercise, and the amendment of the Constitution for the addition of a Councillor of the Shire of Wyndham East Kimberley and a member of the Board of the MG Corporation, and

d) the 21 year lease will include compensation to the ORSC Incorporated for the improvements made based on a methodology to be agreed so as to value the improvements at the expiration of the lease period.”

2. Revokes Minute No. 8839, resolution 2 of the Ordinary Council Meeting held on 15 September 2009.

“That Council authorise the Acting Chief Executive Officer and Cr Keith Wright to undertake negotiations of a draft lease based on the provisions set out in recommendation 1.”

Carried Unanimously 7/0

VOTING REQUIREMENT

Simple Majority

COUNCIL DECISION

Minute No. 10860

Moved: Cr D Learbuch

Seconded: Cr S Cooke

That Council directs the Acting CEO or their delegate to offer a special payment arrangement with Ord River Sports Club Inc. for a period which does not extend beyond July 2020, being approximately 5 years, for the payment of outstanding rates and charges (\$19,799.71), if requested by the Club.

Carried Unanimously 7/0

VOTING REQUIREMENT

Simple Majority

COUNCIL DECISION

Minute No. 10861

Moved: Cr S Cooke
Seconded: Cr B Robinson

That Council subject to the payment in full of the invoice (\$19,799.71) by Ord River Sports Club Inc. or a signed special payment arrangement with Ord River Sports Club Inc. for the above invoice (\$19,799.71) offers the Sports River Sports Club Inc. a Lease over portion of Reserve 33112, Lot 2313, 34 Chestnut Avenue, subject to the approval of the Minister of Lands.

Carried Unanimously 7/0

COUNCIL DECISION

Minute No. 10862

Moved: Cr K Wright
Seconded: Cr R Dessert

That the Officer's Recommendation 4 be changed from a 10 year lease to a 21 year lease.

Carried 6/1

For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr K Wright, Cr S Cooke, Cr G Taylor
Against: Cr B Robinson

VOTING REQUIREMENT

Simple Majority

COUNCIL DECISION

Minute No. 10863

Moved: Cr S Cooke
Seconded: Cr B Robinson

That Council offer the Ord River Sports Club Inc. a 21 year lease, subject to the approval of the Minister of Lands over portion of Reserve 33112, Lot 2313, 34 Chestnut Avenue.

Carried 6/1

For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr K Wright, Cr S Cooke, Cr G Taylor
Against: Cr B Robinson

COUNCIL DECISION

Minute No. 10864

Moved: Cr S Cooke

Seconded: Cr K Wright

That the Officer's Recommendation 5 be changed to:

That Council directs the Acting Chief Executive Officer to:

1. Include in the lease terms that the lease rental fee should be set at \$500.00 plus GST for the first 12 months of the lease; and that the subsequent lease rental fee will be in accordance with an independent valuation in line with like or similar clubs and associations within the Shire.
2. Include in the Lease terms that the lease rental will be reviewed after a 12 month period and then subsequently every 3 years.

Lost 2/5

For: Cr K Wright, Cr S Cooke

Against: Cr B Robinson, Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr G Taylor

VOTING REQUIREMENT

Simple Majority

COUNCIL DECISION

Minute No. 10865

Moved: Cr B Robinson

Seconded: Cr R Dessert

That Council directs the Acting Chief Executive Officer to:

1. Include in the lease terms that the lease rental fee should be set at \$500.00 plus GST for the first 12 months of the lease; and that the subsequent lease rental fee will be in accordance with an independent valuation.
2. Include in the Lease terms that the lease rental will be reviewed after a 12 month period and then subsequently every 3 years.

Carried Unanimously 7/0

D Klye, Director Infrastructure and Cr D Spackman enter the Chambers at 7.34pm.

COUNCIL DECISION

Minute No. 10866

Moved: Cr S Cooke

Seconded: Cr D Learbuch

That Council move out from behind closed doors.

Carried Unanimously 8/0

Council moves out from behind closed doors at 7.35pm.

18. CLOSURE

The Shire President declares the meeting closed at 7.35pm.