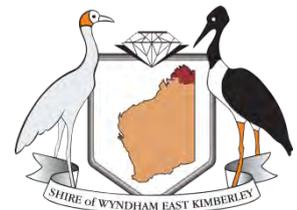


I hereby certify that the Minutes of the Ordinary Council Meeting held are a true and accurate record of the proceedings contained therein.

\_\_\_\_\_  
Shire President

\_\_\_\_\_  
Date



SHIRE OF WYNDHAM | EAST KIMBERLEY

**MINUTES  
ORDINARY COUNCIL  
MEETING**

**27 October 2015**



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

HELD ON TUESDAY, 27 OCTOBER 2015 AT 5:00 PM

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## 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)

Cr J Parker	Shire President
Cr K Wright	Deputy President
Cr B Robinson	Councillor
Cr D Spackman	Councillor
Cr S Cooke	Councillor
Cr S Rushby	Councillor
Cr N Perry	Councillor
Cr A Petherick	Councillor
Cr E Bolto	Councillor
C Askew	Chief Executive Officer
N Octoman	Director Corporate Services
D Klye	Director Infrastructure
L Gee	Director Community Development
M Tonkin	Executive Assistant (Minute Taker)

## GALLERY

Wayne Richards	SWEK Staff
Brian Garrett	SWEK Staff
Felicity Heading	SWEK Staff
Ebony Daniell	SWEK Staff
Anthea Thomson	Kununurra Ag Society
David Bird	Ratepayer
Rhonda Guerinoni	RPA
Bevan Spackman	
Laine Ellis	Guerinoni & Son
Rourke Walsh	The Kimberley Echo
Rob Storey	Ratepayer
Mark Northover	Ord River Contracting
Paul Cavanagh	Wyndham Excavations
Marty McClelland	
Jeff Rhodes	
Bernice Spackman	
Jenny Spragg	
Terry French	

## APOLOGIES

Nil

## LEAVE OF ABSENCE PREVIOUSLY APPROVED

Nil

### 3. DECLARATION OF INTEREST

- Financial Interest

Councillor/ Officer	Item	Title	Description of interest
M Tonkin	13.5.3	Recognition of Staff Policy	As an employee I have an interest in this item
M Tonkin	13.5.6	Legal Representation Policy	As an employee I could require legal representation in the future
L Gee	13.5.3	Recognition of Staff Policy	Council report and existing Council policy CP/HR9 Recognition of Staff and recommended Organisational Directive provides for a financial recognition to staff depending on years of service.
L Gee	13.5.6	Legal Representation Policy	Recommended legal representation policy outlines situations where a staff member may request financial assistance to defend a legal action
N Octoman	13.5.3	Recognition of Staff Policy	Currently employed by the Shire
N Octoman	13.5.6	Legal Representation Policy	Currently employed by the Shire
D Klye	13.5.3	Recognition of Staff Policy	I may be the recipient of a financial benefit as a result of the implementation of the proposed policy
D Klye	13.5.6	Legal Representation Policy	I may be the recipient of legal representation at cost to the Shire as a result of the proposed policy
C Askew	13.5.3	Recognition of Staff Policy	Staff member and potential beneficiary of policy
C Askew	13.5.6	Legal Representation Policy	Staff member and potential beneficiary of policy
Cr J Parker	13.5.6	Legal Representation Policy	I declare a financial interest in item 13.5.6 Legal Representation Policy
Cr N Perry	13.5.6	Legal Representation Policy	I declare a financial interest in item 13.5.6 Legal Representation Policy

Cr A Petherick	13.5.6	Legal Representation Policy	Could possibly require legal representation in the future
Cr S Rushby	13.5.6	Legal Representation Policy	My company has an existing legal matter with the Shire
Cr E Bolto	13.5.6	Legal Representation Policy	In future proceedings in my role as Councillor I may require legal representation, this policy may therefore benefit me if required in the future
Cr S Cooke	13.5.6	Legal Representation Policy	There is potential for me to financially be involved if there were a requirement
Cr B Robinson	13.5.6	Legal Representation Policy	Possible financial gain from this item

- Impartiality Interest

Councillor/ Officer	Item	Title	Description of interest
C Askew	13.4.4	Wyndham Child Care – Request for Sublease	My wife is the manager of the CSSU centres in Kununurra.

- Proximity Interest

Nil

#### 4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

##### **Question from Gavin Scott, ElQuestro – taken on notice at the 22 September 2015 Ordinary Council Meeting**

**Question** – Recent conversations with local residents and staff at SWEK landfill raise some concerns. Recyclable materials such as plastic bottles, aluminium cans, steels and aerosol cans can be disposed of at most landfill sites in Australia free of charge. Yet I have been told by SWEK staff that we will be charged \$52.50/m<sup>3</sup>. SWEK residents have weekly bin collections, covered by their rates. ElQuestro pays its SWEK rates, yet we do not receive any similar rubbish collection services, besides the vouchers (not received this year). We are proactive and have recycled 1500kg of cans in the last year and now also separate plastic bottles to recycle. In fact I believe that ELQ is the only large operator making an effort to improve waste management in the region. Can SWEK offer any incentives for us to continue doing the right thing and allow us to dispose of certain materials safely, as they should be and are elsewhere in Australia?

*The traditional recycling service seen in metropolitan and larger regional areas is a 'yellow topped' kerbside bin for the separate collection of packaging recyclables (approx. 15%-20% of the domestic waste stream). These materials are recycled via a material recovery facility, where each type of material is separated, baled and exported to markets in Asia.*

*The cost to provide this service in the Shire of Wyndham East Kimberley has been estimated to be \$1000 - \$2000 per tonne (or \$200 - \$400 per household). In 2009 the Shire surveyed the community, however only 31% of the respondents were prepared to pay this fee. The Council voted unanimously against introducing the service (17 March 2009).*

*Charges do currently apply for disposing domestic and commercial waste at SWEK landfills. These charges are \$52.50 per m3. We do not charge for clean, uncontaminated steel or used or abandoned cars or car batteries. We do not charge for a clean wool bale of aluminium cans. ElQuestro does not receive waste vouchers as these are only issued to domestic ratepayers.*

*ElQuestro are to be commended for their efforts to reduce waste through recycling. Although the Shire cannot currently offer incentives to assist with your efforts we are investigating services that will offer free collection of recycled materials which in the future would be of a great benefit to your efforts. We will communicate the outcomes of this once they are available.*

*In line with the Shire's Waste Management Strategy we are also working towards introducing options such as a drop-off facility for packaging, improving the reuse shop, crushing of concrete and bricks, ewaste recycling and composting of greenwaste.*

*Container deposit systems (CDS) have been committed to in NSW and QLD and are already operational in SA and the NT. If CDS was introduced to WA this would have a significant impact on packaging recycling in regional areas such as the Shire of Wyndham East Kimberley as this would improve the economics of recycling and it could become the responsibility of the beverage industry. It would also significantly reduce littering and thus the cost of collecting litter around the towns and roads.*

**5. PUBLIC QUESTION TIME**

Nil

**6. APPLICATIONS FOR LEAVE OF ABSENCE**

Cr K Wright requests a leave of absence for the 15 December 2015, Ordinary Council Meeting.

**COUNCIL DECISION**

**Minute No. 11141**

**Moved: Cr B Robinson  
Seconded: Cr D Spackman**

**That Council grants Cr K Wright a leave of absence for the 15 December 2015, Ordinary Council Meeting.**

**Carried Unanimously 9/0**

**7. PETITIONS**

Nil

**8. CONFIRMATION OF MINUTES**

**8.1 CONFIRMATION OF MINUTES OF ORDINARY COUNCIL MEETING OF 22/09/2015**

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Council Meeting held on 22/09/2015

**COUNCIL DECISION**

Minute No. 11142

Moved: Cr K Wright

Seconded: Cr B Robinson

That Council confirms the Minutes of the Ordinary Council Meeting held on 22/09/2015

Carried Unanimously 9/0

**8.2 CONFIRMATION OF MINUTES OF SPECIAL COUNCIL MEETING OF 20/10/2015**

**RECOMMENDATION**

That Council confirms the Minutes of the Special Council Meeting held on 20/10/2015

**COUNCIL DECISION**

Minute No. 11143

Moved: Cr S Cooke

Seconded: Cr S Rushby

That Council confirms the Minutes of the Special Council Meeting held on 20/10/2015.

Carried Unanimously 9/0

**9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

Shire President, Cr Jane Parker welcomes everyone and "hopes you all enjoy our first meeting".

**10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

Nil

**11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS**

Nil

**12. MINUTES OF COUNCIL COMMITTEE MEETINGS**

Nil

**13. REPORTS**

**13.1 MATTERS ARISING FROM COMMITTEES OF COUNCIL**

Nil

## 13.2 CORPORATE SERVICES

### 13.2.1 List of Accounts Paid from Municipal Fund and Trust Fund

<b>DATE:</b>	27/10/2015
<b>AUTHOR:</b>	Victoria Nakamya, Creditors Officer Felicity Heading, Coordinator Financial Operations
<b>RESPONSIBLE OFFICER:</b>	Natalie Octoman, Director Corporate Services
<b>FILE NO:</b>	FM.09.5
<b>DISCLOSURE OF INTERESTS:</b>	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*.

#### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

Regulator - enforce state legislation and local laws

#### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

In accordance with Council's Delegations Register 2015/16 which was adopted by the Council on the 22<sup>nd</sup> September 2015, the Council has delegated to the CEO the exercise of its power under regulations 12 and 13 of the *Local Government (Financial Management) Regulations 1996* to make payments from Municipal Fund and Trust Fund.

#### **STATUTORY IMPLICATIONS**

*Local Government Act 1995* – section 5.42

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

#### **POLICY IMPLICATIONS**

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

#### **FINANCIAL IMPLICATIONS**

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

### **RISK IMPLICATIONS**

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

Operational Risk: Non-compliance with the DLG advisory standard and regulations.

### **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**

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 12466 – 124742 (03 September – 24 September 15)	\$ 861,120.67
Municipal cheques 51128 - 51143 (03 September – 23 September 15)	\$ 90,882.76
Trust EFT 501014 – 501032 (01 September – 29 September 15)	\$ 14,006.80
Payroll (01 September – 30 September 15)	\$ 638,129.56
Direct bank debits (01 September – 30 September 15)	\$ 99,639.83
TOTAL	\$ 1,703,779.62

**COUNCIL DECISION**

**Minute No. 11144**

**Moved: Cr B Robinson  
Seconded: Cr S Cooke**

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

<b>Municipal EFT 12466 – 124742 (03 September – 24 September 15)</b>	<b>\$ 861,120.67</b>
<b>Municipal cheques 51128 - 51143 (03 September – 23 September 15)</b>	<b>\$ 90,882.76</b>
<b>Trust EFT 501014 – 501032 (01 September – 29 September 15)</b>	<b>\$ 14,006.80</b>
<b>Payroll (01 September – 30 September 15)</b>	<b>\$ 638,129.56</b>
<b>Direct bank debits (01 September – 30 September 15)</b>	<b>\$ 99,639.83</b>
<b>TOTAL</b>	<b>\$ 1,703,779.62</b>

**Carried Unanimously 9/0**

**ATTACHMENT 1**

**LIST OF ACCOUNTS SUBMITTED TO COUNCIL 27 OCTOBER 2015**

<b>CHQ/EFT</b>	<b>DATE</b>	<b>NAME</b>	<b>DESCRIPTION</b>	<b>AMOUNT</b>
EFT124566	03/09/2015	ASK WASTE MANAGEMENT	TO6 14/15- WASTE CONSULTANCY - INCL. ASBESTOS CONTAMINATION ASSESSMENT	12,666.50
EFT124567	03/09/2015	ATO CHILD SUPPORT AGENCY	PAYROLL DEDUCTIONS	1,136.45
EFT124568	03/09/2015	ALLGEAR MOTORCYCLES & SMALL ENG.	PARTS - P356	117.80
EFT124569	03/09/2015	AUSTRALIA POST	POSTAGE AND STATIONERY PURCHASES - JULY 15	404.32
EFT124570	03/09/2015	AUSTRALIAN SERVICES UNION	PAYROLL DEDUCTIONS	154.80
EFT124571	03/09/2015	AUSTRALIAN TAXATION OFFICE	PAYROLL DEDUCTIONS	73,118.00
EFT124572	03/09/2015	AUSTSWIM WA	CONFERENCE REGISTRATION - STAFF MEMBER AS PER EMPLOYMENT CONTRACT	165.00
EFT124573	03/09/2015	DRYSDALE RIVER STATION	DIESEL - P388 & ACCOM.-STAFF MEMBER - KALUMBURU ROAD INSPECTIONS	802.34
EFT124574	03/09/2015	EAST KIMBERLEY CONSTRUCTION P/L	T04 14/15 PROGRESS PAYMENT #1- CONCRETE, SHED KIT DELIVERY - WYN DEPOT	121,000.00
EFT124575	03/09/2015	EXPRESS VIRTUAL MEETINGS	TELECONFERENCE CHARGES - JULY 15	70.36
EFT124576	03/09/2015	KUNUNURRA COURIERS	DRINKING WATER SUPPLIES - KUNUNURRA ADMIN - AUG 15	20.00
EFT124577	03/09/2015	KUNUNURRA HOME & GARDEN	20 KGS OF SWAN RAPID SET CONCRETE	175.20
EFT124578	03/09/2015	LANDGATE	LAND ENQUIRY - JULY 15	24.60
EFT124579	03/09/2015	MCLEODS BARRISTERS & SOLICITORS	LEGAL ADVICE - GENERAL PROCEDURE CLAIM	1,530.49
EFT124580	03/09/2015	MAXXIA	PAYROLL DEDUCTIONS	5,685.72
EFT124581	03/09/2015	MCLEAN ENTERPRISES PTY LTD	FREIGHT - POOL EQUIPMENT - KUNUNURRA LEISURE CENTRE POOL	44.00
EFT124582	03/09/2015	MCMULLEN NOLAN GROUP PTY LTD	T02 13/14 - CONSULTANCY - KUNUNURRA WASTE MANAGEMENT FACILITY	1,870.00
EFT124583	03/09/2015	MERCURE HOTEL PERTH	ACCOMMODATION - STAFF MEMBER - ATTEND TRAINING - JULY 15	380.00
EFT124584	03/09/2015	ORD AGRICULTURAL EQUIPMENT	SERVICE - P382	1,750.84
EFT124585	03/09/2015	PIVOTEL	SATELITE PHONE COSTS - AUG 15	65.00
EFT124586	03/09/2015	ROCLA PIPELINE PRODUCTS	RFQ23 14/15 - SUPPLY & DELIVERY OF PIPES DRAINAGE UPGRADE - MINIATA ST KNX	22,960.32
EFT124587	03/09/2015	SPORTSPEOPLE	ADVERTISING - RECRUITMENT	176.00
EFT124588	03/09/2015	TNT AUSTRALIA PTY LIMITED	FREIGHT - HEALTH SAMPLES - KUNUNURRA TO PERTH	295.44
EFT124589	03/09/2015	WRITINGWA	ANNUAL MEMBERSHIP RENEWAL FOR THE YEAR ENDING 1 AUG 2016	135.00
EFT124590-124600		CANCELLED	CANCELLED	
EFT124601	10/09/2015	AUST. PERFORMING RIGHT ASSOC. LTD	LICENSE FEES FOR SWEK EVENTS PUBLIC PERFORMANCES - 01/07/2015-30/06/2015	315.51
EFT124602	10/09/2015	AUSTRALIAN AIRPORTS ASSOCIATION	ACCOMMODATION - STAFF MEMBER - ATTEND CONFERENCE SEPT 15	2,945.00
EFT124603	10/09/2015	BEST KIMBERLEY COMPUTING	PRINTING COSTS - KUNUNURRA AND WYNDHAM ADMIN - AUG 15	1,952.14
EFT124604	10/09/2015	BOB COOPER SNAKE RNR	TRAINING COURSE FEES - STAFF MEMBER	770.00
EFT124605	10/09/2015	J. CAV ELECTRICAL	REPLACEMENT OF 2 EXIT LIGHTS AT PETER REID MEMORIAL HALL	383.90

EFT124606	10/09/2015	KIMBERLEY HOTEL MANAGEMENT P/L	CATERING - COUNCIL BRIEFING -14/07/2015	228.00
EFT124607	10/09/2015	LAWRENCE & HANSON GROUP	SUPPLY OF LIGHTS AND LAMPS - KNX YOUTH CENTRE, STAFF HOUSING	375.77
EFT124608	10/09/2015	LANDGATE	LAND ENQUIRY, MINING & GROSS RENTAL VALUATION SCHEDULE -JUNE 15	259.10
EFT124609	10/09/2015	MICHAEL PAGE INTERNATIONAL P/L	PROFESSIONAL RECRUITMENT SERVICES	4,682.98
EFT124610	10/09/2015	OLLIE'S IRRIG. & PLUMBING SUPPLIES	RETICULATION FITTINGS - KUNUNURRA DEPOT	10.07
EFT124611	10/09/2015	ROCLA PIPELINE PRODUCTS	RFQ19 14/15-SUPPLY & DELIVERY OF PIPES - DRAINAGE UPGRADE - BANKSIA ST KNX	20,804.98
EFT124612	16/09/2015	AMPAC DEBT RECOVERY (WA) PTY LTD	DEBT COLLECTION COMMISSIONS AND COSTS - AUG 15	19.25
EFT124613	16/09/2015	ATO CHILD SUPPORT AGENCY	PAYROLL DEDUCTIONS	869.98
EFT124614	16/09/2015	AVIATION ID AUSTRALIA PTY LTD	ANNUAL FEE TO VISITOR PASS PROGRAM 30/06/15 - 30/06/16 - EKR AIRPORT	908.80
EFT124615	16/09/2015	ABBOTT & CO PRINTERS	STATIONERY - KUNUNURRA ADMINISTRATION	387.20
EFT124616	16/09/2015	AIRPORT LIGHTING SPECIALISTS	SUPPLY OF 2 WINDSOCKS - KNX AIRPORT	380.60
EFT124617	16/09/2015	ALLGEAR MOTORCYCLES & SMALL ENG.	PARTS - P356	89.60
EFT124618	16/09/2015	ARGYLE ENGINEERING	REPAIRS TO SHADE SAIL POST AND HIRE OF MOBILE DIESEL WELDER -KNX LANDFILL	253.00
EFT124619	16/09/2015	AUSTRALIAN SERVICES UNION	PAYROLL DEDUCTIONS	154.80
EFT124620	16/09/2015	AUSTRALIAN TAXATION OFFICE	PAYROLL DEDUCTIONS	74,059.00
EFT124621	16/09/2015	BEING THERE SOLUTIONS PTY LTD	VIDEO CONFERENCING SUBSCRIPTION - SEPTEMBER 15	715.00
EFT124622	16/09/2015	BLACKWOODS ATKINS PTY LTD	VARIOUS SUPPLIES INCL. RAGS, EMERGENCY ASSEMBLY SIGN - KNX LANDFILL	487.07
EFT124623	16/09/2015	BUDGET RENT A CAR	CAR RENTAL - STAFF MEMBER - ATTEND TRAINING - 12-15/08/2015	244.90
EFT124624	16/09/2015	BUSHCAMP SURPLUS STORE	HIGH VIS PROTECTIVE CLOTHING - STAFF MEMBER	455.75
EFT124625	16/09/2015	C & S JOLLY ELECTRICS PTY LTD	REPAIRS TO SODA ASH AGITATOR, POWER CIRCUIT - KNX LEISURE CENTRE	1,326.17
EFT124626	16/09/2015	CABCHARGE	CABCHARGES - STAFF MEMBER -ATTEND TRAINING - AUG 15	130.52
EFT124627	16/09/2015	CARPET, VINYL & TILE CENTRE	SUPPLY OF HIGH GLOSS ENAMEL SPRAY PACK	212.40
EFT124628	16/09/2015	COCA-COLA AMATIL	PURCHASE OF CONSUMABLES FOR RESALE - KUNUNURRA LEISURE CENTRE	170.00
EFT124629	16/09/2015	DOWNER EDI WORKS PTY LTD	ET02 14/15 - VARIATIONS 1, 2 & 3, RUNWAY ASHPALT OVERLAY - EKR AIRPORT	145,117.96
EFT124630	16/09/2015	DATACOM SYSTEMS WA	12 MONTHS HARDWARE MAINTENANCE 2015-2016	924.00
EFT124631	16/09/2015	DAVEY TYRE & BATTERY SERVICE	NEW TYRES, FITTING AND DISPOSAL - P124, P477	3,824.00
EFT124632	16/09/2015	DEPT. OF FIRE & EMERGENCY SERV. WA	2015/16 EMERGENCY SERVICES LEVY - 1ST QUARTER CONTRIBUTION	104,214.80
EFT124633	16/09/2015	DEPT. OF LOCAL GOVT & COMM.	LOCAL GOVT. STANDARDS PANEL MINOR BREACH PROCESSING 1/7/14-30/6/15	2,746.86
EFT124634	16/09/2015	AUTO TOW & REPAIR	SERVICE - P133	484.23
EFT124635	16/09/2015	DUFF'S GARDENING & HOME MAINT.	GARDEN MAINTENANCE - STAFF HOUSING PRIOR TO OCCUPATION	75.00
EFT124636	16/09/2015	EK ENGINEERING	FABRICATION OF 2 LADDERS AND 1 BRACKET - WYNDHAM LIONS PARK	561.00
EFT124637	16/09/2015	EAST KIMBERLEY CONSTRUCTION P/L	T07 13/14 - CONSTRUCT CROSSING FALLS BUSH FIRE SHED - VARIATION 4	638.00
EFT124638	16/09/2015	EAST KIMBERLEY HARDWARE	VARIOUS HARDWARE ITEMS - KUNUNURRA ADMIN, KNX DEPOT	773.00
EFT124639	16/09/2015	EAST KIMBERLEY PLUMBING	MONTHLY TESTING OF FIRE PUMP - EAST KIMBERLEY REGIONAL AIRPORT- AUG 15	300.65

EFT124640	16/09/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	24.40
EFT124641	16/09/2015	EXPRESS VIRTUAL MEETINGS	TELECONFERENCE CHARGES - AUGUST 15	78.51
EFT124642	16/09/2015	GLENEDA PASTORAL CO.	SUPPLY & INSTALL 35 METRES OF CHAIN MESH FENCING - KNX LANDFILL	4,305.00
EFT124643	16/09/2015	GUERINONI & SON	GRADE, WATER AND ROLL - OLD DARWIN RD, DROVERS RD	7,631.25
EFT124644	16/09/2015	IBAC PLUMBING PTY LTD	PLUMBING WORKS - KNX HISTORICAL SOCIETY, CELEBRITY TREE PARK TOILETS	323.40
EFT124645	16/09/2015	JORRITSMA H & CO	PLUMBING FITTINGS - STAFF HOUSING, KUNUNURRA LEISURE CENTRE	22.93
EFT124646	16/09/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	16.95
EFT124647	16/09/2015	KIMBERLEY AIR PTY LTD	CHARTER FLIGHT TO KALUMBURU - VISITING AUTHOR - CHILDREN'S BOOK WEEK	1,845.00
EFT124648	16/09/2015	KIMBERLEY KOOL REFRIG. & AIRCON	MAINT. - AIRCONS, HEAT EXCHANGER - KNX LEISURE CNTR, EKR AIRPORT, KYC	1,658.80
EFT124649	16/09/2015	KUNUNURRA HOME & GARDEN	VARIOUS HARDWARE ITEMS - KUNUNURRA ADMIN, KNX DEPOT	69.20
EFT124650	16/09/2015	KUNUNURRA PANEL BEATING WORKS	SUPPLY AND FIT WINDSCREEN - P122	440.00
EFT124651	16/09/2015	KUNUNURRA PEST MANAGEMENT	PEST CONTROL TREATMENT - STAFF HOUSING,	500.00
EFT124652	16/09/2015	KUNUNURRA SECURITY SERVICE	SECURITY MONITORING AND PATROL - KUNUNURRA ADMINISTRATION	160.00
EFT124653	16/09/2015	LAWRENCE & HANSON GROUP	LIGHT BATTERIES - KLC, KUNUNURRA ADMIN, OLD ADMIN BUILDING	142.59
EFT124654	16/09/2015	LANDGATE	MINING TENEMENT SCHEDULE - AUG 15	224.35
EFT124655	16/09/2015	MARKETFORCE PTY LTD	ADVERTISING - RECRUITMENT- 12/08/2015	11.34
EFT124656	16/09/2015	MAXXIA	PAYROLL DEDUCTIONS	6,288.71
EFT124657	16/09/2015	MIRIMA COUNCIL ABORIGINAL CORP.	TRAINING - STAFF MEMBER AS PER EMPLOYMENT CONTRACT	198.00
EFT124658	16/09/2015	ORD RIVER ELECTRICS	REPAIRS TO FLOOD LAMPS - WYNDHAM AIRPORT HANGAR	751.34
EFT124659	16/09/2015	OLLIE'S IRRIG. & PLUMBING SUPPLIES	RETICULATION FITTINGS - KUNUNURRA DEPOT	132.00
EFT124660	16/09/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	16.95
EFT124661	16/09/2015	RYDGES DARWIN AIRPORT HOTEL	ACCOMMODATION - STAFF MEMBERS - ATTEND TRAINING - 22/08/15 & 30/08/2015	370.00
EFT124662	16/09/2015	SJR CIVIL CONSULTING PTY LTD	CONSULT.- DRAINAGE DESIGN MINIATA ST, DESIGN EGRET CLOSE INTERSECTION	660.00
EFT124663	16/09/2015	SHIRE OF WYNDHAM EAST KIMBERLEY	PAYROLL DEDUCTIONS	140.00
EFT124664	16/09/2015	ST JOHN AMBULANCE	FIRST AID TRAINING - STAFF MEMBER 21/09/2015-22/09/2015	249.00
EFT124665	16/09/2015	STITCHED UP EMBROIDERY SERVICES	EMBROIDERY SERVICES - STAFF UNIFORMS	1,500.00
EFT124666	16/09/2015	TOLL IPEC PTY LTD	FREIGHT - PARTS - P372	622.93
EFT124667	16/09/2015	THORLEY'S STORE - WYNDHAM	GAS BOTTLE REFILLS - WYNDHAM BASTION BBQS	135.00
EFT124668	16/09/2015	TYREPLUS KUNUNURRA	PUNCTURE REPAIRS - P135 , TYRES AND TUBES FOR HAND TROLLEY - KNX ADMIN	130.00
EFT124669	16/09/2015	VANDERFIELD NORTHWEST PTY LTD	PARTS - P491	588.54
EFT124670	16/09/2015	WISE WORKPLACE INVESTIGATION	TRAINING - STAFF MEMBER	1,400.00
EFT124671	24/09/2015	ABCO PRODUCTS	CLEANING SUPPLIES - EAST KIMBERLEY REGIONAL AIRPORT	873.74
EFT124672	24/09/2015	ASK WASTE MANAGEMENT	T06-14/15 - WASTE REPORTING & COMPLIANCE & GENERAL OPERATIONAL ADVICE	1,749.00
EFT124673	24/09/2015	ALLGEAR MOTORCYCLES & SMALL ENG.	PARTS & REPAIRS - P357, P356	792.50

EFT124674	24/09/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	61.80
EFT124675	24/09/2015	PETER BRANDY	ENTERTAINMENT FEES FOR ARTIST - KIMBERLEY WRITERS' FESTIVAL 13/09/15	400.00
EFT124676	24/09/2015	BEST KIMBERLEY COMPUTING	PRINTING COSTS - KUNUNURRA AND WYNDHAM ADMIN - SEPT 15	3,133.30
EFT124677	24/09/2015	BLACKWOODS ATKINS PTY LTD	CLEANING SUPPLIES - EKR AIRPORT, KUNUNURRA DEPOT	285.40
EFT124678	24/09/2015	BUSHCAMP SURPLUS STORE	PROTECTIVE CLOTHING - OUTDOOR WORKFORCE	75.50
EFT124679	24/09/2015	CANDY ROYALLE	AUTHORS FEES FOR ATTENDING THE KIMBERLEY WRITERS' FESTIVAL 10-13/09/2015	2,541.00
EFT124680	24/09/2015	CITY OF KARRATHA	BUILDING LICENSE FEES - CERTIFICATES OF COMPLIANCE	429.00
EFT124681	24/09/2015	CIVIC LEGAL	LEGAL ADVICE - COMMUNITY LEASE	770.00
EFT124682	24/09/2015	DAIMLER TRUCKS PERTH	PARTS - P367	1,402.07
EFT124683	24/09/2015	DAVEY TYRE & BATTERY SERVICE	TUBE, FITTING AND WELDING - P382	287.00
EFT124684	24/09/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	135.10
EFT124685	24/09/2015	DELRON CLEANING PTY LTD	CONTRACT CLEANING - KNX ADMIN, KYC, KLC, CHANGE RMS & TOILETS KNX	15,430.30
EFT124686	24/09/2015	DRYSDALE RIVER STATION	MEALS & ACCOM.-STAFF MEMBERS-KALUMBURU ROAD INSPECTIONS, DIESEL -P388	638.63
EFT124687	24/09/2015	EK ENGINEERING	REPAIRS TO REAR TAIL GATE AND RAMP - P317	269.50
EFT124688	24/09/2015	EAST KIMBERLEY HARDWARE	VARIOUS HARDWARE ITEMS - KYC, KNX ADMIN, WYN DEPOT, EKRA, STAFF HSNG	745.40
EFT124689	24/09/2015	GHD PTY LTD	CONSULTANCY - EKRA RUNWAY EXTENSION & BUSINESS CASE	38,728.80
EFT124690	24/09/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	300.00
EFT124691	24/09/2015	HIGHWAYS TRAFFIC (KIMBERLEY) P/L	TRAFFIC MANAGEMENT - ASPHALTING WORKS - VAR. INCL. MESSMATE WY KNX	16,802.50
EFT124692	24/09/2015	HITACHI CONSTRUCTION MACHINERY	PARTS - P477 & P136	2,199.56
EFT124693	24/09/2015	IBIS STYLES	ACCOMMODATION & MEALS - VISITING AUTHOR - CHILDREN'S BOOK WEEK	836.00
EFT124694	24/09/2015	IXOM OPERATIONS PTY LTD	STORAGE AND HANDLING OF CHLORINE - KUNUNURRA AND WYNDHAM POOLS	512.52
EFT124695	24/09/2015	J. CAV ELECTRICAL	REPAIR LIGHTS - STAFF HOUSING	110.00
EFT124696	24/09/2015	JASON SIGNMAKERS LTD	SIGNAGE - RIVER FARM ROAD	71.50
EFT124697	24/09/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	1,428.65
EFT124698	24/09/2015	JAB INDUSTRIES	CLEAN OUT DRAIN - GREVILLA ST, GRADE PROFILING ACCESS RD-EKRA	11,473.00
EFT124699	24/09/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	20.01
EFT124700	24/09/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	61.80
EFT124701	24/09/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	18.50
EFT124702	24/09/2015	KI RECRUITMENT PTY LTD	PROFESSIONAL RECRUITMENT SERVICES	421.76
EFT124703	24/09/2015	KIMBERLEY COMMUNICATIONS	REPAIRS TO UHF RADIO, MICROPHONE HAND PIECE - WYNDHAM DEPOT, P372	1,785.00
EFT124704	24/09/2015	KIMBERLEY MOTORS	FUEL COSTS - JULY 15	3,079.99
EFT124705	24/09/2015	KIMBERLEY VET CENTRE	ANIMAL CONTROL EXPENSES	47.00
EFT124706	24/09/2015	KUNUNURRA BETTA ELECTRICAL & GAS	REPLACE DISHWASHER - WYN CHILD CARE	649.00
EFT124707	24/09/2015	KUNUNURRA COMMERCIAL LAUNDRY	LAUNDRY SERVICES - RETURNED STAFF UNIFORMS - KUNUNURRA ADMIN	264.24

EFT124708	24/09/2015	KUNUNURRA HOME & GARDEN	VARIOUS HARDWARE ITEMS - KUNUNURRA DEPOT	171.25
EFT124709	24/09/2015	KUNUNURRA MOBILE WELDING SERV.	REPAIR SIGN POSTS, INSTALLATION OF BRACKET FOR HOSE REEL- EKR AIRPORT	748.00
EFT124710	24/09/2015	KUNUNURRA SECURITY SERVICE	SECURITY PATROL & ALARM MONITORING - VARIOUS INCL. KNX ADMIN, KLC, KYC	3,226.00
EFT124711	24/09/2015	LGIS LIABILITY	PROPERTY INSURANCE PREMIUM ADJUSTMENT 2014/2015 - STAFF HOUSING	1,983.70
EFT124712	24/09/2015	LEISURE INSTITUTE OF WA AQUATICS	LIWA AQUATICS MEMBERSHIP 15/16	120.00
EFT124713	24/09/2015	MCLEODS BARRISTERS AND SOLICITORS	LEGAL ADVICE - INTEREST ON AIRPORT FEES, MINOR CASE CLAIM	6,130.08
EFT124714	24/09/2015	MARK CRUMBLIN TOWING SERVICES	REMOVAL OF ABANDONED VEHICLES - WYNDHAM TOWN TO WYN AIRPORT	297.00
EFT124715	24/09/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	61.80
EFT124716	24/09/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	142.72
EFT124717	24/09/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	58.65
EFT124718	24/09/2015	DSC CONTRACTING	SECURITY ALARM MONITORING & NEW ALARM CHARGER - WYN & KNX ADMIN, KLC	549.75
EFT124719	24/09/2015	OFFICE NATIONAL KUNUNURRA	HARD FLOOR CHAIRMAT COVERS, TILES - KNX LANDFILL	294.00
EFT124720	24/09/2015	OLLIE'S IRRIG. & PLUMBING SUPPLIES	RETIC. FITTINGS - KNX DEPOT, STAFF HOUSING, COOLIBAH DRV GARDENS	3,724.09
EFT124721	24/09/2015	ORD RIVER TEE BALL ASSOCIATION	KIDS SPORT SPONSORSHIP	160.00
EFT124722	24/09/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	28.50
EFT124723	24/09/2015	RB DESSERT SEED COMPANY	SUPPLY OF X10 BAGS OF NORTH 26 GRASS SEED - PARKS/GARDENS - KNX	319.00
EFT124724	24/09/2015	REIDMAC CONSULTING SERVICES	FEES - KIMBERLEY WRITERS FESTIVAL GUEST SPEAKER	2,310.00
EFT124725	24/09/2015	SIGMA CHEMICALS	AQUAVAC HAMMERHEAD FILTER BAG - KUNUNURRA POOL	168.00
EFT124726	24/09/2015	SIMPLY UNIFORMS	STAFF UNIFORMS AND EMBROIDERY - KUNUNURRA ADMINISTRATION	353.87
EFT124727	24/09/2015	STITCHED UP EMBROIDERY SERVICES	EMBROIDERY SERVICES - STAFF UNIFORMS	80.00
EFT124728	24/09/2015	TRIPLE J TOURS	BOAT CRUISE - KIMBERLEY WRITERS' FESTIVAL	550.00
EFT124729	24/09/2015	TST ELECTRICAL	SUPPLY & INSTALL FLURO LIGHT TO PUMP SHED - CELEBRITY TREE PARK	170.00
EFT124730	24/09/2015	THINK WATER KUNUNURRA	RETICULATION FITTINGS - KNX DEPOT, WHITEGUM PARK	291.40
EFT124731	24/09/2015	TOX FREE AUSTRALIA PTY LTD	SKIP BIN EMPTIES - KUNUNURRA LEISURE CENTRE, KUNUNURRA DEPOT	2,196.00
EFT124732	24/09/2015	TRANSTANK INTERNATIONAL	REPLACEMENT PUMP FOR SPRAY RIG - KUNUNURRA DEPOT	1,397.00
EFT124733	24/09/2015	TUCKERBOX/RETRAVISION KNX	PROVISIONS AND MATERIALS - KUNUNURRA ADMINISTRATION	319.05
EFT124734	24/09/2015	ORD FUEL SUPPLIES	FUEL COSTS - AUG 15	11,003.89
EFT124735	24/09/2015	VISIMAX	ANIMAL CONTROL POLES, ARM BADGES FOR RANGER UNIFORMS - KNX ADMIN	1,150.20
EFT124736	24/09/2015	VANDERFIELD NORTHWEST PTY LTD	PARTS - P118	163.74
EFT124737	24/09/2015	WA LOCAL GOVERNMENT ASSN	COUNCILS CONNECT SUBSCRIPTION 15/16, REGISTRATION - WALGA CONVENTION	11,605.00
EFT124738	24/09/2015	WESFARMERS KLEENHEAT GAS P/L	ANNUAL CYLINDER FACILITY FEE - STAFF HOUSING	136.40
EFT124739	24/09/2015	WESTERN AUST. TREASURY CORP.	LOAN REPAYMENT	8,837.17
EFT124740	24/09/2015	WORLEY PARSONS SERVICES P/L	ET03 14/15 ENGINEERING CONSULTANCY SERVICES - LILY CREEK BOAT RAMP	36,821.40
EFT124741	24/09/2015	WYNDHAM SUPERMARKET	PROVISIONS AND MATERIALS - WYNDHAM ADMINISTRATION	288.58

EFT124742	24/09/2015	ITALKTRAVEL KUNUNURRA	FLIGHTS FOR VISITING AUTHORS X6 - KIMBERLEY WRITERS' FESTIVAL	7,800.00
<b>TOTAL MUNICIPAL EFT PAYMENTS</b>				<b>861,120.67</b>

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
51128	03/09/2015	COMMISSIONER OF POLICE	ANNUAL FIREARMS LICENSE 2015/2016	122.00
51129	03/09/2015	HEALTH INSURANCE FUND OF AUST	PAYROLL DEDUCTIONS	42.75
51130	03/09/2015	HORIZON POWER	ELEC. INCL. KNX ADMIN, STAFF HOUSING, NICHOLSON PUMP 18/06/15-19/08/15	15,770.90
51131	03/09/2015	SHIRE OF WYNDHAM EAST KIMBERLEY	PAYROLL DEDUCTIONS	140.00
51132	03/09/2015	TELSTRA	EXECUTIVE INTERNET COSTS - 8/7/15 - 7/8/15	113.43
51133	09/09/2015	AUST. COMMUNICATIONS & MEDIA	LICENSE RENEWAL FEES - .BROADCASTING- KNX DEPOT	66.00
51134	09/09/2015	AUST. INSTITUTE OF BUILD. SURVEYORS	SUBSCRIPTION TO BULDING SURVEYOR MAGAZINE JULY 2015 - JUNE 2016	60.00
51135	09/09/2015	CASH - PETTY CASH KNX AIRPORT	PETTY CASH REIMBURSEMENT - EAST KIMBERLEY REGIONAL AIRPORT	88.65
51136	09/09/2015	HORIZON POWER	ELEC. INCL. BESSIE WYLIE PARK, WHITE GUM PARK LIGHTS - 13/06/15-17/08/15	795.75
51137	09/09/2015	TELSTRA	EXECUTIVE LANDLINES COSTS - AUGUST 2015	436.01
51138	16/09/2015	HEALTH INSURANCE FUND OF AUST	PAYROLL DEDUCTIONS	42.75
51139	16/09/2015	HORIZON POWER	ELEC. STAFF HOUSING 19/06/15-20/08/2015	163.16
51140	23/09/2015	AUST. INSTITUTE OF BUILD. SURVEYORS	PROFESSIONAL DEV. - STAFF MEMBER -ATTEND CONFERENCE 15-16 /10/15	1,665.00
51141	23/09/2015	HORIZON POWER	ELEC. INCL. STREET LIGHTING, IVANHOE PUMP, EKRA - 11/8/15-8/9/15	65,413.85
51142	23/09/2015	TELSTRA	MOBILE PHONE COSTS - SEPT 15	2,489.25
51143	23/09/2015	WATER CORPORATION	WATER USE & SERV. CHARGES - STAFF HOUSING, EWIN CENTRE 1/9/15-31/10/15	3,473.26
<b>TOTAL MUNICIPAL CHQ PAYMENTS</b>				<b>90,882.76</b>

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
501014	01/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 01/09/15	452.40
501015	02/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 02/09/15	546.30
501016	03/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 03/09/15	37.30
501017	04/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 04/09/15	182.70
501018	07/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 07/09/15	387.35
501019	08/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 08/09/15	94.80
501020	09/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 09/09/15	330.50
501021	10/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 10/09/15	717.70
501022	11/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 11/09/15	480.65
501023	14/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 14/09/15	4,475.35
501024	15/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 15/09/15	413.90

501025	16/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 16/09/15	153.60
501026	17/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 17/09/15	145.85
501027	18/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 18/09/15	1,162.00
501028	21/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 21/09/15	782.65
501029	22/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 22/09/15	1,439.75
501030	23/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 23/09/15	386.85
501031	24/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 24/09/15	1,264.60
501032	29/09/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 29/09/15	552.55

**TOTAL DIRECT DEBIT TRANSPORT PAYMENTS**

**14,006.80**

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
	1/09/2015	PAYROLL	PAYROLL	6,297.09
	2/09/2015	PAYROLL	PAYROLL	206,718.16
	8/09/2015	PAYROLL	PAYROLL	2,962.34
	11/09/2015	PAYROLL	PAYROLL	6,689.11
	16/09/2015	PAYROLL	PAYROLL	205,719.46
	30/09/2015	PAYROLL	PAYROLL	209,743.40
<b>TOTAL PAYROLL PAYMENTS</b>				<b>638,129.56</b>

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
	01/09/2015	BANKWEST	BANK FEES	128.50
	01/09/2015	BANKWEST	EFTPOS FEES	542.71
	01/09/2015	NAB	BPAY FEES	67.82
	3/09/2015	CLICKSUPER	EMPLOYEE SUPERANNUATION CONTRIBUTIONS	37,553.44
	17/09/2015	CLICKSUPER	EMPLOYEE SUPERANNUATION CONTRIBUTIONS	38,472.33
	21/09/2015	BANKWEST	PREPAYMENTS TO MASTERCARD AUGUST 15	14,786.20
	21/09/2015	BANKWEST	PERIODICAL PAYMENT TO MASTERCARD	7,038.02
	22/09/2015	WEX AUSTRALIA MOTORPASS	PUMA FUEL CARD PURCHASES AUGUST 2015	550.81
	30/09/2015	BANKWEST	LINE OF CREDIT FEE	500.00
<b>TOTAL DIRECT DEBIT PAYMENTS</b>				<b>99,639.83</b>

**\*DETAILS OF MASTERCARD TRANSACTIONS INCLUDED IN DIRECT DEBIT 21/9/15**

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
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24/08/2015	COLES KUNUNURRA	CATERING FOR CITIZENSHIP CEREMONY - 24/8/15	25.15
18/08/2015	AIRPOWER NT PTY LTD	PARTS -P331, P372	823.10
19/08/2015	DEPARTMENT OF ENVIRONMENT	CLEARING PERMIT FOR NATIVE VEGETATION - DRYSDALE RIVER	200.00
21/08/2015	DEPARTMENT OF ENVIRONMENT	CLEARING PERMIT FOR NATIVE VEGETATION - LILY CREEK BOAT RAMP	50.00
25/08/2015	DEPARTMENT OF TRANSPORT	MARITIME LICENSE APPLICATION - MODIFICATION OF LILY CREEK BOAT RAMP	86.50
13/08/2015	AVIATION ID AUSTRALIA	SECURITY IDENTIFICATION CARD - STAFF MEMBER	222.00
30/07/2015	JAYCAR PTY LTD	NETWORK RACK - WYNDHAM DEPOT	224.95
31/07/2015	CMB CORPORATE PL	USB EXTENSION - KUNUNURRA ADMINISTRATION	353.10
11/08/2015	HARRIS TECHNOLOGY PTY	UNINTERRUPTABLE POWER SUPPLIES - ICT WORK STATIONS - KNX ADMIN	370.00
11/08/2015	OFFICE NATIONAL KUNUNURRA	STATIONERY FOR MEETING ROOM AT KNX ADMIN	15.55
14/08/2015	MESSAGE MEDIA	SERVER SMS ALERT NOTIFICATION SERVICE	2.93
18/08/2015	COLES KUNUNURRA	BATTERIES FOR WORKSTATION KEYBOARDS - KUNUNURRA ADMIN	32.35
19/08/2015	KIMBERLEY COMMUNICATIONS	ASSESSMENT OF HP MONITOR - EAST KIMBERLEY REGIONAL AIRPORT	55.00
20/08/2015	APPLE ONLINE STORE	IPHONES X 3 - STAFF MEMBERS	1,587.00
21/08/2015	JB HI FI	ANDROID TABLET, CASE, HARD DISK DRIVE	616.95
28/08/2015	KEYMETRIC SOFTWARE	OFFICE STATUS SOFTWARE LICENSE	1,264.40
28/08/2015	HARRIS TECHNOLOGY PTY	USB STICKS - KUNUNURRA ADMINISTRATION	60.75
29/07/2015	TRUE BLUE MIGRATION SERVICES	REGISTRATION FEES FOR STAFF MEMBER AS PER EMPLOYMENT CONTRACT	2,200.00
31/07/2015	QANTAS AIRWAYS LTD	FLIGHTS - BRISBANE-DARWIN - STAFF MEMBER - ATTEND TRAINING 29/09/2015	275.99
31/07/2015	QANTAS AIRWAYS LTD	FLIGHTS - DARWIN-BRISBANE- STAFF MEMBER - ATTEND TRAINING 12/09/2015	118.00
05/08/2015	AIRNORTH FINANCE	FLIGHT CHANGES - PER-KNX STAFF MEMBER - ATTEND TRAINING 15/08/2015	229.50
06/08/2015	KEYNOTE CONFERENCES	CONFERENCE REGISTRATION - STAFF MEMBER AS PER EMPLOYMENT CONTRACT	1,375.00
06/08/2015	VIRGIN AIRWAYS	FLIGHTS - KNX-PER - STAFF MEMBER - ATTEND TRAINING 11/08/2015	506.70
12/08/2015	VIRGIN AIRWAYS	FLIGHTS - KNX-PER - STAFF MEMBER - ATTEND TRAINING 10/09/2015	386.70
13/08/2015	QANTAS AIRWAYS LTD	FLIGHTS - KNX-PER-KNX STAFF MEMBERS- ATTEND TRAINING 09/09/15-12/09/2015	2,178.76
14/08/2015	AGA TRAVEL	FLIGHT INSURANCE - STAFF MEMBER - RELOCATION AS PER CONTRACT	13.95
15/08/2015	VIRGIN AIRWAYS	FLIGHTS - PER-KNX-STAFF MEMBER - RELOCATION AS PER EMPLOYMENT CONTRACT	601.70
19/08/2015	QANTAS AIRWAYS LTD	FLIGHTS - KNX-PER-KNX - STAFF MEMBER - ATTEND CONTRACT 08/09/2015	521.87
19/08/2015	VIRGIN AIRWAYS	FLIGHTS - KNX-PER - STAFF MEMBER - ATTEND TRAINING 10/09/2015	765.70
19/08/2015	VIRGIN AIRWAYS	FLIGHTS - KNX-PER - STAFF MEMBER AS PER EMPLOYMENT CONTRACT	386.70
19/08/2015	WATER AGE LUXURY	FLIGHTS - KNX-PER - STAFF MEMBER - ATTEND TRAINING -20/9/15-26/09/2015	927.00
21/08/2015	QANTAS AIRWAYS LTD	FLIGHTS - KNX-PER - STAFF MEMBER - ATTEND TRAINING 26/8/15	1,100.82
21/08/2015	VIRGIN AIRWAYS	FLIGHTS - PER-KNX - STAFF MEMBER - ATTEND TRAINING 28/08/2015	386.70
25/08/2015	VIRGIN AIRWAYS	FLIGHTS - KNX-PER-KNX - STAFF MEMBERS - ATTEND TRAINING 22/9/15 - 25/9/15	1,531.40

26/08/2015	KEYNOTE CONFERENCES	CONFERENCE REGISTRATION - STAFF MEMBER AS PER EMPLOYMENT CONTRACT	1,375.00
27/08/2015	VIRGIN AIRWAYS	FLIGHTS - KNX-PER-KNX - STAFF MEMBER - ATTEND TRAINING 08/09/15-14/09/2015	765.70
27/08/2015	VIRGIN AIRWAYS	LUGGAGE CHARGES FOR RELOCATION - STAFF MEMBER AS PER CONTRACT	70.00
28/08/2015	VIRGIN AIRWAYS	FLIGHT CHANGE - KNX-PER-KNX - STAFF MEMBER - ATTEND TRAINING 22/9-28/9/15	80.00
28/08/2015	BANKWEST	FOREIGN TRANSACTION FEE	37.30

## 13.2.2 Interim Monthly Financial Report as at 30 September 2015

<b>DATE:</b>	27/10/2015
<b>AUTHOR:</b>	Natalie Octoman, Director Corporate Services
<b>RESPONSIBLE OFFICER:</b>	Natalie Octoman, Director Corporate Services
<b>FILE NO:</b>	FM.09.5
<b>DISCLOSURE OF INTERESTS:</b>	Nil

### **PURPOSE**

For Council to receive the interim monthly financial report as at 30 September 2015.

### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

Regulator - enforce state legislation and local laws

### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

Council is to prepare monthly financial reports as required by *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

### **RISK IMPLICATIONS**

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

Operational Risk: Non-compliance with the DLG advisory standard and regulations.

### **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**

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

### **ATTACHMENTS**

Attachment 1 - Interim Monthly Financial Report as at 30 September 2015

### **VOTING REQUIREMENT**

Simple Majority

### **OFFICER'S RECOMMENDATION**

That Council receives the Interim Monthly Financial Report as at 30 September 2015.

### **COUNCIL DECISION**

**Minute No. 11145**

**Moved: Cr K Wright  
Seconded: Cr S Cooke**

**That Council receives the Interim Monthly Financial Report as at 30 September 2015.**

**Carried Unanimously 9/0**



# Shire of Wyndham East Kimberley

## Interim Monthly Financial Report 2015/2016

**As at 30 September 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 (Interim Report)

Year to Date Actual v Year to Date Budget

as at 30 September 2015

	YTD Actual 2015/16 \$	YTD Budget 2015/16 \$	YTD Variance 2015/16 \$	%	
<b>Revenue</b>					
General Purpose Funding	884,932	876,635	8,297	1%	▲
Governance	7,264	15,745	(8,480)	-54%	▼
Law, Order, Public Safety	5,529	2,758	2,771	100%	▲
Health	49,493	14,482	35,010	242%	▲
Education and Welfare	2,712	3,616	(904)	-25%	▼
Housing	27,545	32,241	(4,695)	-15%	▼
Community Amenities	1,742,141	1,777,341	(35,200)	-2%	▼
Recreation and Culture	202,772	253,086	(50,314)	-20%	▼
Transport	1,074,339	1,052,804	21,535	2%	▲
Economic Services	13,698	24,411	(10,713)	-44%	▼
Other Property and Services	159,803	48,053	111,750	233%	▲
	<u>4,170,229</u>	<u>4,101,173</u>	<u>69,056</u>	<u>2%</u>	<u>▲</u>
<b>Expenses</b>					
General Purpose Funding	(116,996)	(128,923)	11,928	-9%	▼
Governance	(152,863)	(199,185)	46,323	-23%	▼
Law, Order, Public Safety	(146,678)	(121,580)	(25,098)	21%	▲
Health	(72,173)	(71,614)	(559)	1%	▲
Education and Welfare	(54,473)	(64,480)	10,007	-16%	▼
Housing	(157,358)	(151,071)	(6,287)	4%	▲
Community Amenities	(844,084)	(785,137)	(58,948)	8%	▲
Recreation & Culture	(1,694,300)	(1,598,741)	(95,558)	6%	▲
Transport	(2,434,764)	(2,076,454)	(358,310)	17%	▲
Economic Services	(96,404)	(79,383)	(17,020)	21%	▲
Other Property and Services	(95,605)	(216,814)	121,209	-56%	▲
	<u>(5,865,697)</u>	<u>(5,493,383)</u>	<u>(372,314)</u>	<u>7%</u>	<u>▲</u>
<b>Adjustments for Cash Budget Requirements:</b>					
<b>Non-Cash Expenditure and Revenue</b>					
(Profit)/Loss on Asset Disposals	(33,055)	(33,055)	0	0%	▼
Movement in Accruals and Provisions	0	0	0	0%	▼
Depreciation on Assets	1,806,294	1,529,683	276,611	18%	▲
<b>Capital Expenditure and Revenue</b>					
Purchase Land Held for Resale	0	0	0	0%	▲
Purchase Land and Buildings	(116,567)	(100,000)	(16,567)	17%	▲
Purchase Infrastructure Assets - Roads	(123,226)	(124,325)	1,100	-1%	▼
Purchase Infrastructure Assets - Footpaths	0	0	0	0%	▲
Purchase Infrastructure Assets - Drainage	(81,988)	(77,302)	(4,686)	6%	▲
Purchase Infrastructure Assets - Other	(557,800)	(717,553)	159,753	-22%	▼
Purchase Plant and Equipment	(25,727)	(25,727)	0	0%	▲
Purchase Furniture and Equipment	0	(6,100)	6,100	-100%	▼
Grants / Contributions for Development of Assets	334,878	334,878	0	0%	▼
Proceeds from Disposal of Assets	0	0	0	0%	▼
Proceeds from Sale of Land Held for Resale	0	0	0	0%	▼
Repayment of Debentures	(160,667)	(160,667)	0	0%	▼
Proceeds from New Debentures	0	0	0	0%	▼
Transfers to Reserves (Restricted Assets)	(46,296)	0	(46,296)	0%	▲
Transfers from Reserves (Restricted Assets)	4,293,954	4,049,438	244,516	6%	▲
ADD Estimated Surplus/(Deficit) July 1 B/Fwd	(1,665,875)	(1,665,875)	0	0%	▲
LESS Estimated Surplus/(Deficit) June 30 C/Fwd	11,911,763	11,562,748	349,015	3%	▲
<b>Amount Required to be Raised from Rates</b>	<u>9,983,306</u>	<u>9,951,565</u>	<u>31,741</u>	<u>0%</u>	<u>▲</u>

**Shire of Wyndham East Kimberley**  
**Note to Statement of Financial Activity (Interim Report)**

**Net Current Assets**  
**as at 30 September 2015**

**Composition of Estimated Net Current Asset Position**

	<b>YTD Actual 2015/16</b>	<b>Brought Forward 1 July 2015</b>
<b>CURRENT ASSETS</b>		
Cash - Municipal (Restricted & Unrestricted)*	3,508,132	2,861,225
Cash - Restricted Reserves	9,961,736	14,169,235
Receivables	11,204,643	3,770,714
Inventories & Other Financial Assets	11,215	17,214
	<u>24,685,727</u>	<u>20,818,388</u>
<b>LESS: CURRENT LIABILITIES</b>		
Payables and Provisions	(2,812,228)	(8,315,028)
Less:		
Restricted - Reserves	(9,961,736)	(14,169,235)
	<u>11,911,763</u>	<u>(1,665,875)</u>
<b>NET CURRENT ASSET POSITION</b>		
Less:		
Restricted - Unspent Grants	(1,415,449)	(1,415,449)
Restricted - Unspent Loans	(1,035,127)	(1,035,127)
<b>ADJUSTED NET CURRENT ASSET POSITION</b>	<u><u>9,461,187</u></u>	<u><u>(4,116,451)</u></u>

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

Cash on Hand	1,700	1,700
Cash at Bank - Municipal		
Unrestricted	1,055,856	408,949
Restricted - Unspent Grants	1,415,449	1,415,449
Restricted - Unspent Loans	1,035,127	1,035,127
	<u>3,508,132</u>	<u>2,861,225</u>

\*\* Net current asset position will remain overstated until the position of reserves are finalised for the 2014/15 financial year.

**Shire of Wyndham East Kimberley**  
**Notes to Statement of Financial Activity (Interim Report)**  
**For the Period Ended 30 September 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

32,700 ▲

Council determined not to include a budget allocation for interim rates in the first instance given their uncertainty and fluctuation throughout the financial year. This will be reviewed as part of the Mid Year Budget Review process.

**General Purpose Funding** ▲

No material variances to report

**Governance** ▼

No material variances to report

**Law, Order and Public Safety** ▲

No material variances to report

**Health** ▲

Mosquito Control Administration (CLAG)

36,100 ▲

Additional grant funding received from Department of Health. Budget to be amended at the budget review, with the funds to be held in the Contiguous Local Authority Group (CLAG) Reserve until expenditure is incurred.

**Education and Welfare** ▼

No material variances to report

**Housing** ▼

No material variances to report

**Community Amenities** ▼

Rubbish Disposal Charges

(46,900) ▼

Timing variance. Delay in invoicing processes.

**Recreation and Culture** ▼

Wyndham Community Resource Centre (CRC) - Operating Grant Income

(26,400) ▼

Timing variance. Income received in October 2015.

**Transport** ▲

No material variances to report

**Economic Services** ▼

No material variances to report

**Other Property and Services** ▲

Insurance Claim Revenue - Wyndham Depot

115,500 ▲

Timing variance. Progress claims related to Wyndham Depot construction expenses.

**Shire of Wyndham East Kimberley**  
**Notes to Statement of Financial Activity (Interim Report)**  
**For the Period Ended 30 September 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*

<b>Recurrent Expenditure</b>	▲	
<b>General Purpose Funding</b>	▼	
No material variances to report		
<b>Governance</b>	▼	
No material variances to report		
<b>Law, Order and Public Safety</b>	▲	
No material variances to report		
<b>Health</b>	▲	
No material variances to report		
<b>Education and Welfare</b>	▼	
No material variances to report		
<b>Housing</b>	▲	
No material variances to report		
<b>Community Amenities</b>	▲	
No material variances to report		
<b>Recreation and Culture</b>	▲	
Depreciation - Swimming Areas and Beaches	(60,400)	▼ Non cash item. Variance due to asset revaluation process. Budget to be amended at the budget review.
Depreciation - Kununurra Swimming Complex	28,400	▲ Non cash item. Variance due to asset revaluation process. Budget to be amended at the budget review.
Depreciation - Other Swimming Areas and Beaches	65,200	▲ Non cash item. Variance due to asset revaluation process. Budget to be amended at the budget review.
Depreciation - Kununurra Grounds	22,400	▲ Non cash item. Variance due to asset revaluation process. Budget to be amended at the budget review.
<b>Transport</b>	▲	
Admin Overheads Allocated - Streets, Roads & Bridges - Non Capital	30,400	▲ Non cash item. Variance due to asset depreciation changed between sub programme. Off sets with budget held in another account.
Admin Overheads Allocated - Streets, Roads & Bridges - Maintenance	(30,600)	▼ Non cash item. Variance due to asset depreciation changed between sub programme. Off sets with budget held in another account.
Depreciation - Streets, Roads & Bridges - Maintenance	251,200	▲ Non cash item. Variance due to asset revaluation process. Budget to be amended at the budget review.
Administration Salary and Wages Allocated - East Kimberley Regional Airport	20,500	▲ Non cash item. Timing related to year to date budget estimates.
Airport Runway Extension Assessment and Business Case	35,200	▲ Budget transfer required due change from capital to operating due to the nature of expense. Budget held in capital account.
Depreciation - Wyndham Airport	25,300	▲ Non cash item. Variance due to asset revaluation process. Budget to be amended at the budget review.
<b>Economic Services</b>	▲	
No material variances to report		
<b>Other Property and Services</b>	▲	
Indirect Salaries - Outdoor Workforce	35,400	▲ Budget transfer required due to change of methodology in allocation of outdoor workforce salaries. Budget held in different account. Timing impact only.
Direct Salaries - Outdoor Workforce	(43,800)	▼ Budget transfer required due to change of methodology in allocation of outdoor workforce salaries. Budget held in different account. Timing impact only.
Administration Salary and Wages Allocated - General Administration Overheads	(85,700)	▲ Non cash item. Timing related to year to date budget estimates.
Direct Salaries - Financial Services	(34,600)	▼ Savings due to vacant positions
Software Licencing - Information Services	(79,600)	▼ Timing variance. Awaiting supplier invoice.
Depreciation - Plant Operation	(23,300)	▼ Non cash item. Variance due to asset disposals. Budget to be amended at the budget review.

**Shire of Wyndham East Kimberley**  
**Notes to Statement of Financial Activity (Interim Report)**  
**For the Period Ended 30 September 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*

**Non Cash Expenditure and Revenue**

**Adjustments and Accruals**

Depreciation	(276,600)	▲	Non cash item. Variance due to asset revaluation process. Budget to be amended at the budget review.
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**Capital**

**Purchase Land Held for Resale**

No material variances to report		▲	
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**Purchase Land and Buildings**

No material variances to report		▲	
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**Purchase Infrastructure Assets - Roads**

No material variances to report		▼	
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**Purchase Infrastructure Assets - Footpaths**

No material variances to report		▲	
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**Purchase Infrastructure Assets - Drainage**

No material variances to report		▲	
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**Purchase Infrastructure Assets - Other**

Runway Asphalt Overlay MUN	(155,700)	▼	Timing variance. Awaiting supplier invoice
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**Purchase Plant and Equipment**

No material variances to report		▲	
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**Purchase Furniture and Equipment**

No material variances to report		▼	
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**Grants / Contributions for Development of Assets**

No material variances to report		▼	
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**Proceeds from Disposal of Assets**

No material variances to report		▼	
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**Debentures**

No material variances to report		▼	
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**Reserves**

Unspent Loans - Transfer from Reserve MUN	(208,100)	▲	Initial budget was forecast prior to works being finalised. Actual expenditure for 2014/15 has had an impact on the funds held in these reserves, however this is a timing variance only and the 2015/16 budget will be adjusted accordingly.
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Unspent Grants - Transfer from Reserve MUN	(36,500)	▲	Initial budget was forecast prior to works being finalised. Actual expenditure for 2014/15 has had an impact on the funds held in these reserves, however this is a timing variance only and the 2015/16 budget will be adjusted accordingly.
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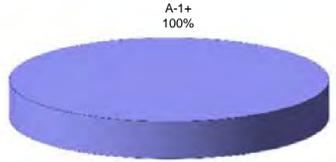
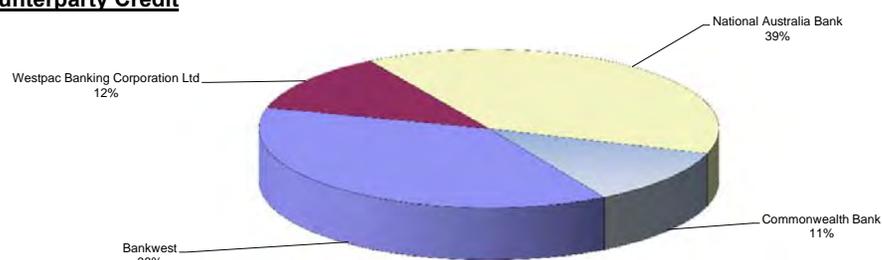
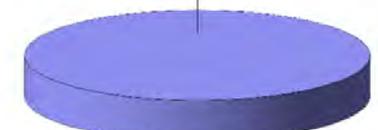
# Shire of Wyndham East Kimberley

## Statement of Financial Activity (Interim Report)

Budget Remaining to Collect/Spend  
as at 30 September 2015

	YTD Actual 2015/16 \$	Annual Budget 2015/16	Budget Remaining 2015/16 \$	%	
<b>Revenue</b>					
General Purpose Funding	884,932	2,547,115	1,662,183	65%	▼
Governance	7,264	150,872	143,608	95%	▼
Law, Order, Public Safety	5,529	58,613	53,084	91%	▼
Health	49,493	92,506	43,013	46%	▼
Education and Welfare	2,712	11,500	8,788	76%	▼
Housing	27,545	121,590	94,045	77%	▼
Community Amenities	1,742,141	2,534,733	792,592	31%	▼
Recreation and Culture	202,772	997,143	794,371	80%	▼
Transport	1,074,339	4,160,621	3,086,282	74%	▼
Economic Services	13,698	96,365	82,667	86%	▼
Other Property and Services	159,803	371,933	212,130	57%	▼
	<u>4,170,229</u>	<u>11,142,991</u>	<u>6,972,762</u>	<u>63%</u>	<u>▼</u>
<b>Expenses</b>					
General Purpose Funding	(116,996)	(573,835)	(456,839)	80%	▼
Governance	(152,863)	(930,227)	(777,365)	84%	▼
Law, Order, Public Safety	(146,678)	(592,391)	(445,713)	75%	▼
Health	(72,173)	(299,639)	(227,466)	76%	▼
Education and Welfare	(54,473)	(243,541)	(189,068)	78%	▼
Housing	(157,358)	(604,444)	(447,086)	74%	▼
Community Amenities	(844,084)	(4,144,548)	(3,300,464)	80%	▼
Recreation & Culture	(1,694,300)	(6,897,090)	(5,202,790)	75%	▼
Transport	(2,434,764)	(8,601,589)	(6,166,825)	72%	▼
Economic Services	(96,404)	(330,981)	(234,577)	71%	▼
Other Property and Services	(95,605)	(1,633,139)	(1,537,534)	94%	▼
	<u>(5,865,697)</u>	<u>(24,851,424)</u>	<u>(18,985,727)</u>	<u>76%</u>	<u>▼</u>
<b>Adjustments for Cash Budget Requirements:</b>					
<b>Non-Cash Expenditure and Revenue</b>					
(Profit)/Loss on Asset Disposals	(33,055)	(40,211)	(7,156)	18%	▼
Movement in Accruals and Provisions	0	0	0	0%	▼
Depreciation on Assets	1,806,294	5,765,188	3,958,894	69%	▼
<b>Capital Expenditure and Revenue</b>					
Purchase Land Held for Resale	0	0	0	0%	▼
Purchase Land and Buildings	(116,567)	(187,830)	(71,263)	38%	▼
Purchase Infrastructure Assets - Roads	(123,226)	(5,978,884)	(5,855,658)	98%	▼
Purchase Infrastructure Assets - Footpaths	0	(109,315)	(109,315)	100%	▼
Purchase Infrastructure Assets - Drainage	(81,988)	(552,970)	(470,982)	85%	▼
Purchase Infrastructure Assets - Other	(557,800)	(6,501,870)	(5,944,070)	91%	▼
Purchase Plant and Equipment	(25,727)	(1,501,043)	(1,475,316)	98%	▼
Purchase Furniture and Equipment	0	(191,100)	(191,100)	100%	▼
Grants / Contributions for Development of Assets	334,878	5,621,304	5,286,426	94%	▼
Proceeds from Disposal of Assets	0	363,237	363,237	100%	▼
Proceeds from Sale of Land Held for Resale	0	0	0	0%	▼
Repayment of Debentures	(160,667)	(954,447)	(793,780)	83%	▼
Proceeds from New Debentures	0	0	0	0%	▼
Transfers to Reserves (Restricted Assets)	(46,296)	(6,707,472)	(6,661,176)	99%	▼
Transfers from Reserves (Restricted Assets)	4,293,954	16,576,747	12,282,793	74%	▼
ADD Estimated Surplus/(Deficit) July 1 B/Fwd	(1,665,875)	(1,665,875)	0	0%	▼
LESS Estimated Surplus/(Deficit) June 30 C/Fwd	11,911,763	178,591	(11,733,172)	-6570%	▲
<b>Amount Required to be Raised from Rates</b>	<u>9,983,306</u>	<u>9,951,565</u>	<u>(31,741)</u>	<u>0%</u>	<u>▲</u>

## MONTHLY REPORT ON INVESTMENT PORTFOLIO (CASH)

<b>INVESTMENT POLICY - CP FIN - 3203</b>			<b>RESULTS AS AT 30 September 2015</b>	
<b>"Overall Portfolio Limits"</b>			<b>Overall Portfolio</b>	
<b>S&amp;P Long Term Rating</b>	<b>S&amp;P Short Term Rating</b>	<b>Direct Investment Maximum %</b>	 <p style="text-align: center;">A-1+ 100%</p>	
AAA	A-1+	100%		
AA	A-1	100%		
A	A-2	60%		
<small>Note: "S &amp; P" relates to Standard &amp; Poors credit rating agency</small>				
<b>"Counterparty Credit Framework"</b>			<b>Counterparty Credit</b>	
<b>S&amp;P Long Term Rating</b>	<b>S&amp;P Short Term Rating</b>	<b>Direct Investment Maximum %</b>		
AAA	A-1+	45%		
AA	A-1	35%		
A	A-2	20%		
<b>"Term to Maturity Framework"</b>			<b>Term to Maturity</b>	
<b>Overall Portfolio Term to Maturity Limits</b>			 <p style="text-align: center;">&lt; 1 YEAR 100%</p>	
Portfolio % < 1 year	100% max 40% min			
Portfolio % > 1 year	60%			
Portfolio % > 3 year	35%			
<b>Individual Investment Maturity Limits</b>				
Authorised Deposit Institution	12 Months			
State/Commonwealth Government Bonds	3 years			
<small>Note: "ADI" relates to an Authorised Deposit Institution (authorised under the Banking Act 1959)</small>				

### 13.3 INFRASTRUCTURE

Nil

### 13.4 COMMUNITY DEVELOPMENT

#### 13.4.1 Adoption of Amended Wyndham Community Resource Centre Fees and Charges 2015/16

<b>DATE:</b>	27/10/2015
<b>AUTHOR:</b>	Louise Gee, Director Community Development
<b>RESPONSIBLE OFFICER:</b>	Louise Gee, Director Community Development
<b>FILE NO:</b>	N/A
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### **PURPOSE**

For Council to consider the adoption of amended Fees and Charges for the Wyndham Community Resource Centre.

#### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

Provider - provide physical infrastructure and essential services

#### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

At the Ordinary Council Meeting held on 28 April 2015 Council adopted CP-FIN 3211 Pricing Principles and Pricing Basis Policy for Fees and Charges. The intent of this Policy was 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.

Following consideration of CP-FIN 3211 Pricing Principles and Pricing Basis Policy for Fees and Charges Council then resolved that:

1. Pursuant to section 6.16 of the Local Government Act 1995, adopts the fees and charges for 2015/16 outlined in Attachment 1 to be effective from either 1 July 2015 or 1 January 2016, whichever date is indicated in Attachment 1.

#### **STATUTORY IMPLICATIONS**

##### **Local Government Act 1995 Part 6, Division 2 – Annual Budget**

##### **6.2. Local government to prepare annual budget**

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

\* Absolute majority required.

- (4) The annual budget is to incorporate —  
(c) the fees and charges proposed to be imposed by the local government...

## **Local Government Act 1995**

### **Part 6, Division 5 – Financing local government activities**

#### 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.

(2) 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.

(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.

#### 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**

CP-FIN 3211 Pricing Principles and Pricing Basis Policy Fees and Charges.

**FINANCIAL IMPLICATIONS**

The 2015/16 budgeted income for the Wyndham Community Resource Centre from Fees and Charges is \$7,400 (\$4,900 from the community newspaper and \$2,500 from other services). It is not anticipated that the reduction of the adopted Fees and Charges and removal of some services will impact on the budgeted income. It is envisaged that the additional services and reduced fees and charges may attract an increase in the utilisation of services and correspondingly an increase in fees and charges.

**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

**RISK IMPLICATIONS**

Nil

**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:

Local public notice of the intention to impose fees and charges and the date from which the fees or charges will be imposed.

## **COMMENT**

A review of the Wyndham Community Resource Centre fees and charges has been undertaken to address the following issues:-

1. Parity of fees and charges with other community services i.e. Kununurra School and Community Library
2. Removal of fees and charges for services not provided
3. Addition of fees and charges for new services.

The following services and their corresponding fees and charges are to be removed (refer Attachment 1):-

1. All Membership fees
2. Staff Hire Per Meeting – Minutes; Minutes & Agenda; Typing Documents per page
3. Staff Assistance – Computer Assistance per Hour; emailing
4. Scanning – photos – per photo
5. Scanning – guillotining
6. Exam Supervision
7. The Bastion Advertising – Black and White.

The following services and their corresponding fees and charges are to be included (refer Attachment 2):-

1. Laminating – Business Card
2. Book Binding < 50 pages
3. Book Binding > 50 pages
4. Shredding
5. Internet usage ½ hour – banking or government related
6. Wyndham Office Meeting Room / hour – not for profit and commercial
7. Data projector hire / hour
8. Data projector hire / ½ day
9. Data projector hire / full day
10. Laptops / hour
11. Laptops / ½ day
12. Laptops – full day
13. Laptops - bank of five / day
14. Laptops - bank of five / week
15. “Thank You” colour 1 month
16. “Community Notice, colour, 1 month.

## **ATTACHMENTS**

Attachment 1 - Adopted SWEK Fees and Charges 2015-2016

Attachment 2 - Amended Wyndham Community Resource Centre Fees and Charges 2015-2016

## **VOTING REQUIREMENT**

Absolute Majority

## **OFFICER'S RECOMMENDATION**

That Council:

1. Pursuant to *section 6.16 of the Local Government Act 1995* adopts the amended fees and charges for the Wyndham Community Resource Centre as specified in Attachment 2.
2. Endorse the advertising of the amended fees and charges for the Wyndham Community Resource Centre as specified in Attachment 2 commencing 16 November 2015, as per the legislative requirement.

## **COUNCIL DECISION**

**Minute No. 11146**

**Moved: Cr S Cooke**

**Seconded: Cr B Robinson**

**That Council:**

1. Pursuant to *section 6.16 of the Local Government Act 1995* adopts the amended fees and charges for the Wyndham Community Resource Centre as specified in Attachment 2.
2. Endorse the advertising of the amended fees and charges for the Wyndham Community Resource Centre as specified in Attachment 2 commencing 16 November 2015, as per the legislative requirement.

**Carried Unanimously 9/0**

**SHIRE OF WYNDHAM EAST KIMBERLEY**

2015-16

**Fees and Charges**

GL	Charge Type Code (If Sundry Debtor Invoicing permitted to approved account holders under policy CP FIN-3207)	COUNCIL CHARGE		STATUTORY CHARGE	PRICING BASIS REFERENCE (TARGET)	LEGISLATIVE REFERENCE
		GST	GST INCLUSIVE (WHERE INDICATED ✓)			
1100710	Installation of Roadside Memorial (Refer Policy CP/INP-3600)	✓	323.20	Per regulation as at 1 July 2015	Full Cost Recovery	Cemeteries Act 1986, part VII, s53
<b>Other Community Amenities</b>						
<b>Roadside Memorial</b>						
Installation of Roadside Memorial (Refer Policy CP/INP-3600)						
<b>Wyndham Community Resource Centre</b>						
<b>Memberships</b>						
	Community Member	✓	94.50		Partial Cost Recovery	
	Corporate	✓	105.00		Partial Cost Recovery	
	Family of 4	✓	131.20		Partial Cost Recovery	
Note: Memberships include: 10% Discount on services excluding advertising + 4 hours free internet per year						
<b>Meeting Room Hire Per Day - Members</b>						
	Not for Profit, Youth Services	✓	190.30		Partial Cost Recovery	
	Government, Private	✓	275.40		Partial Cost Recovery	
<b>Meeting Room Hire Per Day - Non-Members</b>						
	Not for Profit, Youth Services	✓	211.40		Partial Cost Recovery	
	Government, Private	✓	305.90		Partial Cost Recovery	
<b>Staff Hire Per Meeting - Members</b>						
	Minutes Only	✓	25.10		Partial Cost Recovery	
	Minutes & Agenda	✓	50.10		Partial Cost Recovery	
	Typing Documents Per Hour	✓	35.10		Partial Cost Recovery	
	Typing Documents Per Page	✓	10.10		Partial Cost Recovery	
<b>Staff Hire Per Meeting - Non-Members</b>						
	Minutes Only	✓	27.90		Partial Cost Recovery	
	Minutes & Agenda	✓	55.70		Partial Cost Recovery	
	Typing Documents Per Hour	✓	39.00		Partial Cost Recovery	
	Typing Documents Per Page	✓	11.20		Partial Cost Recovery	
<b>Staff Assistance - Members</b>						
	Computer Assistance Per Hour	✓	15.20		Partial Cost Recovery	
	Emailing (Per Email)	✓	4.10		Partial Cost Recovery	
<b>Staff Assistance - Non-Members</b>						
	Computer Assistance Per Hour	✓	16.70		Partial Cost Recovery	
	Emailing (Per Email)	✓	4.60		Partial Cost Recovery	
<b>Laminating - Members</b>						
	A4 Per Page	✓	2.10		Partial Cost Recovery	
	A3 Per Page	✓	3.10		Partial Cost Recovery	
	Other Sizes - POA	✓			Partial Cost Recovery	

Local Government Act 1995, Part 6, Division 5, Sections 6.15, 6.16, 6.17, 6.18

SHIRE OF WYNDHAM EAST KIMBERLEY

2015-16

Fees and Charges

Charge Type Code  
(If Surfly Debtor Invoicing  
permitted to approved account  
holders under policy CP FN-3207)

GL

COUNCIL CHARGE GST INCLUSIVE (WHERE INDICATED ✓)	STATUTORY CHARGE	PRICING BASIS REFERENCE (TARGET)	LEGISLATIVE REFERENCE
<b>Wyndham Community Resource Centre (continued)</b>			
<b>Laminating - Non-Members</b>			
A4 Per Page	✓	2.40	Partial Cost Recovery
A3 Per Page	✓	3.40	Partial Cost Recovery
Other Sizes - POA	✓	POA	Partial Cost Recovery
<b>Faxing - Members</b>			
Local and STD Initial Page	✓	4.10	Partial Cost Recovery
Local and STD Subsequent Pages	✓	1.10	Partial Cost Recovery
International Initial Page	✓	5.10	Partial Cost Recovery
International Subsequent Pages	✓	3.10	Partial Cost Recovery
Receiving Per Page	✓	0.60	Partial Cost Recovery
<b>Faxing - Non-Members</b>			
Local and STD Initial Page	✓	4.60	Partial Cost Recovery
Local and STD Subsequent Pages	✓	1.20	Partial Cost Recovery
International Initial Page	✓	5.60	Partial Cost Recovery
International Subsequent Pages	✓	3.40	Partial Cost Recovery
Receiving Per Page	✓	0.70	Partial Cost Recovery
<b>Photocopying/Printing (Black and White) - Members</b>			
A4 Single Side	✓	0.30	Partial Cost Recovery
A4 Double Side	✓	0.50	Partial Cost Recovery
A3 Single Side	✓	0.50	Partial Cost Recovery
A3 Double Side	✓	0.90	Partial Cost Recovery
<b>Photocopying/Printing (Black and White) - Non-Members</b>			
A4 Single Side	✓	0.40	Partial Cost Recovery
A4 Double Side	✓	0.60	Partial Cost Recovery
A3 Single Side	✓	0.60	Partial Cost Recovery
A3 Double Side	✓	1.00	Partial Cost Recovery
<b>Photocopying/Printing (Full Colour) - Members</b>			
A4 Single Side	✓	1.10	Partial Cost Recovery
A4 Double Side	✓	2.10	Partial Cost Recovery
A3 Single Side	✓	2.10	Partial Cost Recovery
A3 Double Side	✓	4.10	Partial Cost Recovery

Local Government Act 1995, Part 6, Division 5,  
Sections 6.15, 6.16, 6.17, 6.18

1111902

**SHIRE OF WYNDHAM EAST KIMBERLEY**

2015-16

**Fees and Charges**

GL	Charge Type Code (If Sundry Debtor invoicing permitted to approved account holders under policy CP FIN-3207)	COUNCIL CHARGE		STATUTORY CHARGE	PRICING BASIS REFERENCE (TARGET)	LEGISLATIVE REFERENCE
		GST	GST INCLUSIVE (WHERE INDICATED ✓)			
		Effective 1 July 2015	Effective 1 January 2016	Per regulation as at 1 July 2015		
<b>Wyndham Community Resource Centre (continued)</b>						
<b>Photocopying/Printing (Full Colour) - Non-Members</b>						
	A4 Single Side	✓	1.20		Partial Cost Recovery	
	A4 Double Side	✓	2.40		Partial Cost Recovery	
	A3 Single Side	✓	2.40		Partial Cost Recovery	
	A3 Double Side	✓	4.60		Partial Cost Recovery	
<b>Scanning - Members</b>						
	First Page	✓	2.10		Partial Cost Recovery	
	Subsequent Pages	✓	0.90		Partial Cost Recovery	
	Photos - Per Photo	✓	5.10		Partial Cost Recovery	
	Gullotining Per Page	✓	2.10		Partial Cost Recovery	
<b>Scanning - Non-Members</b>						
	First Page	✓	2.40		Partial Cost Recovery	
	Subsequent Pages	✓	1.00		Partial Cost Recovery	
	Photos - Per Photo	✓	5.60		Partial Cost Recovery	
	Gullotining Per Page	✓	2.40		Partial Cost Recovery	
<b>Internet Access - Members</b>						
	Per 1/2 Hour	✓	4.10		Partial Cost Recovery	Local Government Act, 1995, Part 6, Division 5, Sections 6.15, 6.16, 6.17, 6.18
	Per Hour	✓	8.10		Partial Cost Recovery	
	Wi-Fi Per 1/2 Hour	✓	4.10		Partial Cost Recovery	
	Wi-Fi Per Hour	✓	6.70		Partial Cost Recovery	
	10 Hour Voucher	✓	60.20		Partial Cost Recovery	
<b>Internet Access - Non-Members</b>						
	Per 1/2 Hour	✓	4.60		Partial Cost Recovery	
	Per Hour	✓	9.00		Partial Cost Recovery	
	Wi-Fi Per 1/2 Hour	✓	4.60		Partial Cost Recovery	
	Wi-Fi Per Hour	✓	7.30		Partial Cost Recovery	
	10 Hour Voucher	✓	66.80		Partial Cost Recovery	
<b>CD Burning - Members</b>						
	CD Included	✓	13.20		Partial Cost Recovery	
	No CD Included	✓	10.10		Partial Cost Recovery	
<b>CD Burning - Non-Members</b>						
	CD Included	✓	14.50		Partial Cost Recovery	
	No CD Included	✓	11.20		Partial Cost Recovery	

1111902

SHIRE OF WYNDHAM EAST KIMBERLEY

2015-16

Fees and Charges

GL	Charge Type Code (If Sundry Debtor invoicing permitted to approved account holders under policy CP RN33207)	COUNCIL CHARGE		STATUTORY CHARGE	PRICING BASIS REFERENCE (TARGET)	LEGISLATIVE REFERENCE
		GST	GST INCLUSIVE (WHERE INDICATED /)			
		Effective 1 July 2015	Effective 1 January 2016	Per regulation as at 1 July 2015		
<b>Wyndham Community Resource Centre (continued)</b>						
<b>DVD Burning - Members</b>						
	DVD Included	✓	18.10		Partial Cost Recovery	
	No DVD Included	✓	15.20		Partial Cost Recovery	
<b>DVD Burning - Non-Members</b>						
	DVD Included	✓	20.10		Partial Cost Recovery	
	No DVD Included	✓	16.70		Partial Cost Recovery	
<b>Video Conferencing ISDN to Web - Members</b>						
	Price Per Hour - Includes Room Hire	✓	125.20		Partial Cost Recovery	
	<i>* Requires Bookings in Advance. Prices dependent on third party provider.</i>					
<b>Video Conferencing ISDN to Web - Non-Members</b>						
	Price Per Hour - Includes Room Hire	✓	139.10		Partial Cost Recovery	
	<i>* Requires Bookings in Advance. Prices dependent on third party provider.</i>					
<b>Web Conferencing IP Based - Members</b>						
	Multi Point (up to 8 sites)	✓	65.20		Partial Cost Recovery	
	<i>* Price Per Hour Includes Room Hire</i>					
<b>Web Conferencing IP Based - Non-Members</b>						
	Multi Point (up to 8 sites)	✓	72.30		Partial Cost Recovery	
	<i>* Price Per Hour Includes Room Hire</i>					
<b>Exam Supervision - Members</b>						
	Price Per Hour	✓	50.10		Partial Cost Recovery	
	<i>* Includes Room Set Up and Hire</i>					
<b>Exam Supervision - Non-Members</b>						
	Price Per Hour	✓	55.70		Partial Cost Recovery	
	<i>* Includes Room Set Up and Hire</i>					
<b>The Bastion Advertising - 1 Month - Black and White</b>						
	1/4 Page Advertising	✓	55.70		Partial Cost Recovery	
	1/2 Page Advertising	✓	100.20		Partial Cost Recovery	
	Full Page Advertising	✓	194.70		Partial Cost Recovery	
<b>The Bastion Advertising - 3 Months - Black and White</b>						
	1/4 Page Advertising	✓	139.10		Partial Cost Recovery	
	1/2 Page Advertising	✓	278.10		Partial Cost Recovery	
	Full Page Advertising	✓	556.20		Partial Cost Recovery	

Local Government Act 1995, Part 6, Division 5, Sections 6.15, 6.16, 6.17, 6.18

**SHIRE OF WYNDHAM EAST KIMBERLEY**

2015-16

**Fees and Charges**

GL	Charge Type Code (If Sundry Debtor invoicing permitted to approved account holders under policy CP RN3207)	COUNCIL CHARGE		STATUTORY CHARGE	PRICING BASIS REFERENCE (TARGET)	LEGISLATIVE REFERENCE
		GST	GST INCLUSIVE (WHERE INDICATED /)			
		Effective 1 July 2015	Effective 1 January 2016	Per regulation as at 1 July 2015		
<b>Wyndham Community Resource Centre (continued)</b>						
<b>The Bastion Advertising - 6 Months - Black and White</b>						
	1/4 Page Advertising	✓	267.00		Partial Cost Recovery	
	1/2 Page Advertising	✓	533.90		Partial Cost Recovery	
	Full Page Advertising	✓	1,056.70		Partial Cost Recovery	
<b>The Bastion Advertising - 12 Months - Black and White</b>						
	1/4 Page Advertising	✓	500.60		Partial Cost Recovery	
	1/2 Page Advertising	✓	1,001.10		Partial Cost Recovery	
	Full Page Advertising	✓	2,002.10		Partial Cost Recovery	
<b>The Bastion Advertising - 1 Month - Colour</b>						
	1/4 Page Advertising	✓	122.40		Partial Cost Recovery	
	1/2 Page Advertising	✓	244.70		Partial Cost Recovery	
	Full Page Advertising	✓	500.60		Partial Cost Recovery	
<b>The Bastion Advertising - 3 Months - Colour</b>						
	1/4 Page Advertising	✓	356.00		Partial Cost Recovery	Local Government Act 1995, Part 6, Division 5, Sections 6.15, 6.16, 6.17, 6.18
	1/2 Page Advertising	✓	700.80		Partial Cost Recovery	
	Full Page Advertising	✓	1,395.90		Partial Cost Recovery	
1111903						
<b>The Bastion Advertising - 6 Months - Colour</b>						
	1/4 Page Advertising	✓	661.80		Partial Cost Recovery	
	1/2 Page Advertising	✓	1,321.40		Partial Cost Recovery	
	Full Page Advertising	✓	2,647.20		Partial Cost Recovery	
<b>The Bastion Advertising - 12 Months - Colour</b>						
	1/4 Page Advertising	✓	1,256.90		Partial Cost Recovery	
	1/2 Page Advertising	✓	2,502.60		Partial Cost Recovery	
	Full Page Advertising	✓	4,994.10		Partial Cost Recovery	
<b>The Bastion Advertising - Classifieds (Per Month)</b>						
	6 x 9 (W x L) Black and White Advertising	✓	33.40		Partial Cost Recovery	
	6 x 9 (W x L) Colour Advertising	✓	72.30		Partial Cost Recovery	
<b>Libraries</b>						
<b>Photocopying/Printing/Faxing/Internet</b>						
	A4 Black & White (single sided) per copy - multiply by two for a double sided copy	✓	0.35		Full Cost Recovery	Public Library Services Framework Agreement 2010
	A4 Colour (single sided) per copy - multiply by two for a double sided copy	✓	1.15		Full Cost Recovery	
	A3 Black & White (single sided) per copy - multiply by two for double sided copy	✓	0.65		Full Cost Recovery	
	A3 Colour (single sided) per copy - multiply by two for double sided copy	✓	2.50		Full Cost Recovery	
1111512						

**SHIRE OF WYNDHAM EAST KIMBERLEY**

2015-16

**Fees and Charges**

Charge Type Code (If Sundry Debtor invoicing permitted to approved account holders under policy CP FIN-3207)	COUNCIL CHARGE GST INCLUSIVE (WHERE INDICATED ✓)	STATUTORY CHARGE	PRICING BASIS REFERENCE (TARGET)	LEGISLATIVE REFERENCE
GL				
<b>Other Community Amenities</b>				
<b>Roadside Memorial</b>				
100710	Installation of Roadside Memorial (Refer Policy CP/INP-3600)	✓ 323.20	Full Cost Recovery	Cemeteries Act 1986, part VII, s53
<b>Wyndham Community Resource Centre</b>				
<b>Meeting Room Hire</b>				
	Per day - Not for Profit, Youth Services	✓ 185.50	Partial Cost Recovery	
	Per hour - Not for Profit, Youth Services	✓ 24.00	Partial Cost Recovery	
	Per day - Government, Private	✓ 265.00	Partial Cost Recovery	
	Per hour - Government, Private	✓ 34.00	Partial Cost Recovery	
	<b>Typing Service</b>			
	Typing Documents Per Hour	✓ 39.00	Partial Cost Recovery	
	<b>Laminating</b>			
	A4 Per Page	✓ 2.70	Partial Cost Recovery	
	A3 Per Page	✓ 3.70	Partial Cost Recovery	
	Business Card	✓ 1.00	Partial Cost Recovery	
	Other Sizes - POA	✓ POA	Partial Cost Recovery	
	<b>Book Binding</b>			
	< 50 pages	✓ 5.00	Partial Cost Recovery	
	> 50 pages	✓ 10.00	Partial Cost Recovery	
	<b>Shredding</b>			
	Per Box	✓ 25.00	Partial Cost Recovery	
	<b>Faxing</b>			
	Local and STD Initial Page	✓ 4.50	Partial Cost Recovery	Local Government Act 1995, Part 6, Division 5, Sections 6.15, 6.16, 6.17, 6.18
	Local and STD Subsequent Pages	✓ 1.20	Partial Cost Recovery	
	International Initial Page	✓ 5.50	Partial Cost Recovery	
	International Subsequent Pages	✓ 3.00	Partial Cost Recovery	
	Receiving Per Page	✓ 0.50	Partial Cost Recovery	
	<b>Photocopying/Printing (Black and White)</b>			
	A4 Single Side	✓ 0.35	Partial Cost Recovery	
	A4 Double Side	✓ 0.70	Partial Cost Recovery	
	A3 Single Side	✓ 0.65	Partial Cost Recovery	
	A3 Double Side	✓ 1.30	Partial Cost Recovery	

SHIRE OF WYNDHAM EAST KIMBERLEY

2015-16

Fees and Charges

Charge Type Code  
(If Sundry Debtor invoicing  
permitted to approved account  
holders under policy CP FIN-3207)

GL

COUNCIL CHARGE  
GST INCLUSIVE  
(WHERE INDICATED ✓)

STATUTORY  
CHARGE

PRICING BASIS  
REFERENCE  
(TARGET)

LEGISLATIVE REFERENCE

Effective  
1 July 2015

Effective 1 January 2016

Per regulation as at  
1 July 2015

GST

**Photocopying/Printing (Full Colour)**

A4 Single Side	✓	1.15	Partial Cost Recovery
A4 Double Side	✓	2.30	Partial Cost Recovery
A3 Single Side	✓	2.50	Partial Cost Recovery
A3 Double Side	✓	5.00	Partial Cost Recovery

**Scanning**

First Page	✓	2.00	Partial Cost Recovery
Subsequent Pages	✓	1.00	Partial Cost Recovery

**Equipment Hire**

Data Projector Per Hour	✓	22.00	Partial Cost Recovery
Data Projector Per 1/2 Day	✓	44.00	Partial Cost Recovery
Data Projector Per Day	✓	65.00	Partial Cost Recovery
Laptops (per laptop) Per Hour	✓	22.00	Partial Cost Recovery
Laptops (per laptop) Per 1/2 Day	✓	44.00	Partial Cost Recovery
Laptops (per laptop) Per Day	✓	77.00	Partial Cost Recovery
Laptops (bank of five) Per Day	✓	150.00	Partial Cost Recovery
Laptops (bank of five) Per Week	✓	750.00	Partial Cost Recovery

**Internet Access**

Per 1/2 Hour - banking (all computers) or government related (Front Office computer only)	✓	0.00	Partial Cost Recovery
Per 10 minutes - pay as you go	✓	1.40	Partial Cost Recovery
Per 1/2 Hour	✓	4.20	Partial Cost Recovery
Per Hour	✓	7.40	Partial Cost Recovery
Wi-Fi Per 1/2 Hour	✓	4.20	Partial Cost Recovery
Wi-Fi Per Hour	✓	7.40	Partial Cost Recovery
10 Hour Voucher	✓	40.00	Partial Cost Recovery

**CD Burning**

CD Included	✓	8.80	Partial Cost Recovery
No CD Included	✓	6.80	Partial Cost Recovery

**DVD Burning**

DVD Included	✓	12.10	Partial Cost Recovery
No DVD Included	✓	10.00	Partial Cost Recovery

**Video Conferencing ISDN to Web**

111902

Local Government Act 1995, Part 6, Division 5,  
Sections 6.15, 6.16, 6.17, 6.18

**SHIRE OF WYNDHAM EAST KIMBERLEY**

2015-16

**Fees and Charges**

Charge Type Code (If Surplus/Debit invoicing permitted to approved account holders under policy CP FIN-3207)	COUNCIL CHARGE		STATUTORY CHARGE	PRICING BASIS REFERENCE (TARGET)	LEGISLATIVE REFERENCE
	GST	GST INCLUSIVE (WHERE INDICATED ✓)			
	Effective 1 July 2015	Effective 1 January 2016	Per regulation as at 1 July 2015		
Price Per Hour - Includes Room Hire	✓	62.50		Partial Cost Recovery	
* Requires Bookings in Advance. Prices dependent on third party provider.					
<b>Web Conferencing IP Based</b>					
Multi Point (up to 8 sites)	✓	33.00		Partial Cost Recovery	
* Price Per Hour Includes Room Hire					
<b>The Bastion Advertising - 1 Month - Colour</b>					
1/4 Page Advertising	✓	55.00		Partial Cost Recovery	
1/2 Page Advertising	✓	88.00		Partial Cost Recovery	
Full Page Advertising	✓	154.00		Partial Cost Recovery	
<b>The Bastion Advertising - 3 Months - Colour</b>					
1/4 Page Advertising	✓	132.00		Partial Cost Recovery	
1/2 Page Advertising	✓	231.00		Partial Cost Recovery	
Full Page Advertising	✓	429.00		Partial Cost Recovery	
<b>The Bastion Advertising - 6 Months - Colour</b>					
1/4 Page Advertising	✓	231.00		Partial Cost Recovery	
1/2 Page Advertising	✓	429.00		Partial Cost Recovery	
Full Page Advertising	✓	825.00		Partial Cost Recovery	
<b>The Bastion Advertising - 12 Months - Colour</b>					
1/4 Page Advertising	✓	429.00		Partial Cost Recovery	
1/2 Page Advertising	✓	825.00		Partial Cost Recovery	
Full Page Advertising	✓	1,617.00		Partial Cost Recovery	
<b>The Bastion Advertising - Classifieds (Per Month)</b>					
6 x 9 (W x L) Black and White Advertising	✓	33.40		Partial Cost Recovery	
6 x 9 (W x L) Colour Advertising	✓	50.00		Partial Cost Recovery	
"Thank You" - Colour	✓	10.00		Partial Cost Recovery	
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**Libraries (continued)**

### 13.4.2 Caravan Parks and Camping Grounds Legislation – Release of second consultation paper

<b>DATE:</b>	27/10/2015
<b>AUTHOR:</b>	Ebony Daniell, Environmental Health Officer
<b>RESPONSIBLE OFFICER:</b>	Louise Gee, Director Community Development
<b>FILE NO:</b>	PH.11.1
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### **PURPOSE**

For Council to consider a submission on the second consultation paper: proposal for holiday parks and camping grounds legislation produced by the Department of Local Government and Communities.

#### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

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

Council has a lead role in providing feedback regarding proposed legislation changes to ensure they will be made with the unique situation in the East Kimberley in mind.

Regulator - enforce state legislation and local laws

Council also licences and regulates Caravan Parks and needs to consider any impacts of changes to the legislation.

#### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

The Department of Local Government and Communities has released a second public consultation paper as part of the review of the Caravan Parks and Camping Grounds Act 1995 (the Act).

The review forms part of the State Government's Western Australian Caravan and Camping Action Plan 2013-2018, which aims to improve caravanning and camping across the state.

The Shire of Wyndham East Kimberley has 22 facilities licenced under the Act including six town parks in Kununurra, one in Wyndham and a number of nature based parks in more remote areas. Included in these licences are 217 long stay sites which are often used as a primary residence. Other sites include short stay, camp sites and overflow sites which are used by holiday makers.

It is proposed to develop new legislation with the intention to provide clarity in the interpretation of the legislation, consistency in the application of the legislation by local governments and state government agencies, and flexibility of prescribed requirements for existing and new developments. The proposed changes to the legislation will affect the licensing of the parks, but also the residents themselves – particularly long stay occupants.

The consultation period ends 30 November 2015; however the Kimberley Regional Group has requested copies of group members' submissions by 2 November 2015.

## **STATUTORY IMPLICATIONS**

The current legislation regarding Caravan Parks and Camping Grounds includes the *Caravan Parks and Camping Grounds Act 1995* (the Act) and the *Caravan Parks and Camping Grounds Regulations 1997* (the Regulations). The consultation paper proposes to repeal the Act and Regulations and introduce new legislation in their place.

The proposed new legislation will be titled the Holiday Parks and Camping Grounds Act and Regulations.

## **POLICY IMPLICATIONS**

Council has two policies which operate under the Act: CP/HTH-3761 Licensing of Overflow Sites in Caravan Parks and Camping Grounds and CP/HTH-3762 Licensing of Temporary Caravan Parks and Camping Grounds.

Both policies are currently under review, and will be reviewed again once the new legislation comes into force.

## **FINANCIAL IMPLICATIONS**

There are no financial implications in relation to this item.

## **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 2.4: High standard of health and community facilities and services available to all residents

Strategy 2.4.2: Ensure community compliance with Environmental Health regulations

*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 2.2.4: Enhance and expand tourism opportunities in the East Kimberley and improve access to significant tourism destinations

## **RISK IMPLICATIONS**

There are no risk implications in relation to this item.

## **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 however; the Shire has supported the Department of Local Government and Communities in their community engagement with the following:

- All SWEK licence holders have been directly advised of the release of the consultation paper and encouraged to make comment.
- Information regarding the release of the consultation paper has also been placed on the Shire facebook page, website and in Shire facilities for any other interested residents.
- Department of Local Government and Community officers held a public meeting at the Shire of Wyndham East Kimberley council chambers on Monday 19 October 2015 to discuss the legislation review with local stakeholders.

## **COMMENT**

The current Caravan Parks and Camping Grounds Act and Regulations have been administered with varying levels of success in the East Kimberley. The highly prescriptive Regulations have led to issues with overflow management and regulation of nature based parks. The Shire subsequently has had to develop policies which allow lesser services and facilities than those prescribed by the Regulations, to deal with these issues.

Therefore, the review of the legislation with a view to providing more flexibility whilst maintaining minimum health standards is welcomed. The consultation paper has been reviewed and the following issues were identified:

### **5.2 Camping at a place other than an approved facility**

Under the current legislation a person may camp for up to three nights in any 28 day period with the approval of the land owner. For periods longer than this approval must be sought: from the local government for up to three months, or from the Minister for Local Government for longer than three months.

The recommendation is for the local government to be able to issue approval for up to three months and complete a full assessment every three months for approvals more than this. It is considered that this is too short, particularly where a person may be staying on their property during construction of their home. It would be better to consider the entire duration of the proposed stay initially to ensure it is suitable. For example neighbours may have no issue with someone staying for three months, but if they know at the start that they are planning on staying for twelve months all up they may have a different response. Health and safety should also be considered for the duration of the proposed stay. It would not be appropriate to approve someone staying for three months, when their intention is to stay for twelve months and the location is not suitable for that duration.

### **5.3 State government and local government facilities**

The recommendation is to maintain the status quo that state government and local government run facilities are exempt from the requirements of the legislation. The issue this poses for the Shire is that if a facility run by a state government department is operating at a lower standard it is difficult to enforce higher standards on private operators.

If option (ii) (that all facilities be approved regardless of the operator) discussed in the paper is not possible a suggestion is for state government agencies which aren't licenced to notify the local governments in which their facilities are located. This would allow local governments to consider the standards provided in unlicensed state government agency facilities to ensure consistent standards are enforced on private operators.

### 7. Licence Categories

The recommendation is to have an event licence category which can be issued for up to seven days and no more than four approvals in a year. During 2015 the Shire has issued four temporary licences for events which ranged from six to 26 nights in length. If the recommended option were adopted it would require unnecessary administration and renewal of licences for events.

If an overflow facility were required in Kununurra in the future it may be captured under an 'event' licence. It is likely that any overflow would be required for at least a month if not more. The current recommendation would not allow for this.

### 10. Prerequisites of Accommodation Vehicles

The recommendation is for accommodation vehicles to be either licenced under the Road Traffic Act or approved under the Building Act as a class 1a building under the Building Code of Australia. However, it would be very difficult for a vehicle to comply with the Building Code. Issues that have been identified include: ceiling height less than 2400mm, structure not complying with framing standards, tie down issues, energy efficiency measures, and compliance with requirements for cyclonic areas.

The draft submission is provided at attachment 2 for Council's consideration.

### **ATTACHMENTS**

Attachment 1 - Caravan Parks and Camping Grounds Second Consultation Paper

Attachment 2 - Draft Shire of Wyndham East Kimberley Consultation Paper feedback form

### **VOTING REQUIREMENT**

Simple Majority

### **OFFICER'S RECOMMENDATION**

That Council endorse the completed feedback form provided at Attachment 2 for forwarding to the Department of Local Government and Communities as the Shire of Wyndham East Kimberley's submission on the Second Consultation Paper – Proposal for Holiday Parks and Camping Grounds Legislation.

### **COUNCIL DECISION**

**Minute No. 11147**

**Moved: Cr B Robinson**

**Seconded: Cr S Cooke**

**That Council endorse the completed feedback form provided at Attachment 2 for forwarding to the Department of Local Government and Communities as the Shire of Wyndham East Kimberley's submission on the Second Consultation Paper – Proposal for Holiday Parks and Camping Grounds Legislation.**

**Carried Unanimously 9/0**



## Consultation Paper

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### Proposal for Holiday Parks and Camping Grounds Legislation

Second Consultation – August 2015

**Consultation Paper  
Proposal for Holiday Parks and Camping Grounds Legislation – Second  
Consultation**

28 August 2015

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## Acronyms

Caravan Parks Act	<i>Caravan Parks and Camping Grounds Act 1995</i>
Caravan Parks Regulations	<i>Caravan Parks and Camping Grounds Regulations 1997</i>
Building Act	<i>Building Act 2011</i>
The Minister	Minister for Local Government
Road Traffic Act	<i>Road Traffic Act 1974</i>
Food Act	<i>Food Act 2008</i>
SAT	<i>State Administrative Tribunal</i>

## Executive Summary

The purpose of this paper is to put forward proposed options for inclusion in new caravan and camping legislation in Western Australia. The objectives to be achieved from developing new legislation are as follows:

- Clarity in the interpretation of the legislation
- Consistency in the application of the legislation by local governments and state government agencies, and
- Flexibility of prescribed requirements for existing and new developments.

The responses to the first Consultation Paper have identified that the necessary changes to the legislation are significant. Given the extent of the changes necessary, it is intended that the existing Caravan Parks Act and Regulations be repealed, and new legislation be developed in their place.

The paper proposes a raft of recommendations to achieve the objectives. These recommendations are:

1. That the current Caravan Parks Act and Regulations are repealed and a new Act and Regulations are developed in their place.
2. A facility that has designated two or more sites for short-stay accommodation vehicles and/or tents requires approval to operate. Sites predominantly for the purpose of long-term residence, such as park home parks, must provide at least 10 designated short-stay campsites for accommodation vehicles and/or tents, or a prescribed percentage of such sites, to be eligible for an approval to operate.
3. Any person making available a campsite for an accommodation vehicle and/or tent will need approval if it will be available for use for any more than three nights in any 28 day period.
4. An emphasis will be placed on the development of management plans that address the operator's target market.
5. Unless it is owned by the landowner, any building on a facility must be, and remain at all times, transportable.
6. Any permanent structure on a facility that is not registered under the Road Traffic Act is to be assessed as a building.

7. A set of minimum standards will apply to all facilities operating under the Caravan Parks Act.
8. The Caravan Parks and Camping Grounds Advisory Committee will be abolished in favour of consultation with relevant stakeholders.
9. All penalties will be increased.
10. Transitional arrangements will be put in place for existing facilities and vehicles.

The department is seeking submissions on the proposed recommendations presented in this consultation paper. A summary of the proposed recommendations, including suggested provisions and options for implementation, can be found at Appendix 1 to this paper.

**Submissions close on 30 November 2015.**

## Introduction

The state government is undertaking a review of the *Caravan Parks and Camping Grounds Act 1995* (Caravan Parks Act) with a view to developing new legislation which provides a clear framework for operators, regulating authorities and users. In 2009 the Economics and Industry Standing Committee (EISC) conducted an inquiry into the caravan park and camping ground industry in Western Australia.

The EISC reports are available on the Parliament website, which can be found at [www.parliament.wa.gov.au/parliament/commit.nsf/WebReportsByName](http://www.parliament.wa.gov.au/parliament/commit.nsf/WebReportsByName). Following that inquiry, a group of government agencies developed the Western Australian Caravan and Camping Action Plan 2013-2018, with the goal of improving the supply, delivery and promotion of caravan and camping experiences through the implementation of 11 recommendations. This review is a response to Recommendation 1 of the Action Plan, which is that the Caravan Parks Act and Regulations be reviewed. The full Action Plan can be viewed on the Tourism WA website at [www.tourism.wa.gov.au/Industry/Infrastructure\\_Growth/Caravan-Camping/Pages/Action-Plan-Strategy.aspx](http://www.tourism.wa.gov.au/Industry/Infrastructure_Growth/Caravan-Camping/Pages/Action-Plan-Strategy.aspx).

Since the introduction of the Caravan Parks Act, there have been significant changes to the industry, together with a desire for legislation that would reduce red tape and allow operators more flexibility. As one of the key objects of the legislation is to protect the health and safety of users and the environment, the review has focused on these aspects. Consideration of these factors, along with the overall objectives of the review, has guided the development of the options and proposed recommendations.

A first Consultation Paper was released by the department in May 2014 for public comment. The consultation period ended on 1 September 2014 and more than 120 submissions were received. Respondents were from a range of stakeholder groups, including caravan park and camping ground users, local governments, park operators, peak bodies and state government agencies. A breakdown of feedback received by stakeholder group can be found at Appendix 2 to this paper. The feedback received in response to the first Consultation Paper has been used to inform the development of options in this second paper. Reference is made to the general content of feedback throughout this paper. The first Consultation Paper, and submissions received in response, can be found on the department's website at [www.dlhc.wa.gov.au/CPCG-Consultation-Paper](http://www.dlhc.wa.gov.au/CPCG-Consultation-Paper).

# 1. Structure of the Paper

This paper is divided into a number of parts dealing with the key themes of proposed items for inclusion in the new Caravan Parks Act. The document outlines the relevant background information for each topic and recommends the option considered most appropriate to address the specific issue, along with other key options considered. Where possible, the benefits, potential costs and other impacts that may flow from the recommended options have been identified.

Feedback received through consultation undertaken in 2014 has been analysed and has assisted in forming the options and recommendations presented in this paper.

Please note the detailed mechanics of implementation and operation does not form part of this paper; however, feedback on these areas is welcome during the consultation period. Where possible, suggested means of implementation have been identified and included in this paper (see Appendix 1). Guidance questions at the end of each section seek comment on suggested implementation methods, as well as on general matters. This will be taken into account in the review of the regulations.

## 2. Effect of Proposed Amendments on Permanent Park Residents

Feedback received in the previous round of consultation highlighted concerns that the new Caravan Parks Act may have significant impacts on current permanent residents in caravan parks.

Sections 10 and 12 address proposed amendments to converted accommodation vehicles, including recommended transitional provisions to implement the legislation.

## 3. Rationale for Proposed Development of New Legislation

The Caravan Parks Act is the overarching legislative framework binding park operators, regulating authorities and consumers to ensure the health and safety of users of caravan parks and camping grounds.

Since the Caravan Parks Act took effect in 1997, no substantial amendments have been made. The result is that some provisions are no longer relevant to the current market or consumer expectations. In addition to being overly prescriptive, regulatory

failure has resulted in the legislation being applied inconsistently by local governments. As a result of the feedback received on the recommendations proposed in the first Consultation Paper and the significant nature of the changes required to the Act, it has been determined that the existing Caravan Parks Act should be repealed and a new Act developed to replace it.

The new legislation will aim to provide a more flexible operating environment, which will provide more opportunities for operators and greater choice for consumers. This should allow operators to more readily respond to specific market segments which drive this aspect of the tourism industry.

The intention of this review is to develop a new Caravan Parks Act which will improve the following:

- Interpretation of the legislation
- Consistency in the application of the legislation by local governments and state government agencies, and
- Flexibility of prescribed requirements for existing and new developments.

The key principles that have guided the review and development of the options for the new regulatory framework are to:

- Protect the health and safety of users and lower the environmental risk as a result of caravan parks and camping grounds
- Introduce a minimalist regulatory approach to reduce red tape while continuing to manage the risks associated with the operation of facilities
- Allow for a sustainable, market-driven approach to product mix and park design
- Provide a flexible operating environment to meet the changing needs and expectations of users of facilities, and
- Promote a consistent approach to administration and enforcement of the legislation across the state.

Consideration of the above principles has driven the recommended options presented in this paper.

Recommendation:

- That the existing *Caravan Parks and Camping Grounds Act 1995* and Regulations be repealed and a new *Holiday Parks and Camping Grounds Act and Regulations* be developed to replace them.

## 4. Terminology and Definitions

Before consideration is given to addressing the range of issues to be dealt with in the new legislation, the current terminology needs to be reviewed. It is important that the definitions and terminology are appropriate given the context of today's tourism environment, particularly since caravan parks have evolved to cater for a large variety of travellers, including the provision of cabins and chalets, not just campsites. Contemporary usage of the term 'caravan' has also evolved, with trailers, recreational vehicles and buses all being used for accommodation. The term 'caravan park' is therefore no longer reflective of modern facilities.

### Issues

The issue is that the current terminology and definitions used in the Caravan Parks Act and Regulations are not reflective of the different accommodation types and services provided for users and occupiers of caravan parks and camping grounds.

### Objective

The objective is to clarify and update terminology so it is reflective of the diverse nature of accommodation types and facilities and will remain applicable into the future.

### Consultation feedback

Previous consultation proposed a raft of changes to the terminology currently used throughout the Caravan Parks Act and Regulations. A key proposal was to change the definition of 'caravan park' to 'holiday park', with the view that this term more accurately reflected the different types of accommodation provided by a facility.

Of the submissions received, 64 per cent were supportive of the term 'holiday park'; however, concern was noted that it may imply that residential use is not allowed.

Changes to other terminology were uniformly supported.

## Options

### (i) Status quo

This option proposes that terms defined under the Caravan Parks Act and Regulations will not change.

Some of the definitions worth noting include:

**‘camp’** means any portable shed or hut, tent or tent fly, awning, blind or other portable thing used as or capable of being used for habitation and includes a vehicle of a prescribed type or in prescribed circumstances.

**‘caravan’** means a vehicle that is fitted or designed for habitation, and unless the contrary intention appears, includes an annexe.

**‘caravan park’** means an area of land on which caravans, or caravans and camps, are situated for habitation.

**‘vehicle’** means a conveyance (other than a train, vessel or aircraft) capable of being propelled or drawn on wheels.

### (ii) Update definitions to reflect current terminology

This option proposes that some definitions are changed to more appropriately reflect terminology which encompasses the range of accommodation types that may be provided under the legislation.

If this option is preferred, it is suggested that the following definitions are adopted:

- **‘Holiday park’** will mean an area of land on which accommodation vehicles and/or tents are situated for habitation, primarily by short-stay occupiers. In accordance with section 2, zoning and local planning schemes will dictate what buildings are allowed on the land.
- **‘Accommodation vehicle’** is the term used to reflect all types of vehicles used or capable of being used for habitation. This includes caravans and campervans.

- ‘Vehicle’ is any vehicle as defined under the *Road Traffic (Administration) Act 2008*. The current definition is:
  - vehicle includes —
    - (a) every conveyance, not being a train, vessel or aircraft, and every object capable of being propelled or drawn, on wheels or tracks, by any means, and
    - (b) where the context permits, an animal being driven or ridden.
- ‘Facility’ will mean a holiday park or camping ground.
- ‘Camp’ (noun) will be replaced by ‘tent’ to mean any portable tent which, apart from any rigid support frame, has walls and a roof of canvas or other flexible material.
- ‘Camp’ (verb) will mean to stay or lodge in a tent, or other accommodation vehicle. This definition will be based on the definition in the *Conservation and Land Management Regulations 2002*.
- The legislation is to be titled the *Holiday Parks and Camping Grounds Act*.

This option is not expected to have a significant impact on users, local governments or private operators.

## Discussion

Option (ii) proposes a change in a number of definitions to bring the terminology into line with current practices and recognise the mixed uses of caravan parks and camping grounds.

The reason for the proposed change in terminology from ‘caravans’ to ‘accommodation vehicles’ is because ‘caravan’ does not capture the range of vehicles that may be used for habitation, including buses, campervans, caravans and recreational vehicles (RVs).

A park home will no longer be considered to be a caravan and will instead need to be compliant with, and be regulated under, the *Building Act 2011* and associated Regulations.

It is proposed to replace the term ‘caravan park’ with ‘holiday park’. Caravan parks and camping grounds have the primary intention of being for short-stay occupiers and to encourage tourism. As part of encouraging tourism, operators should consider providing a range of accommodation types to suit a variety of tourists and budgets.

Parks today are much more than places where only caravans are located and the Caravan Parks Act and Regulations should reflect this.

Whilst the term 'holiday park' may imply that residential use is not allowed, this will not be the case. Residential use will continue to be permitted, subject to zoning and local planning schemes.

It is not expected that a change in terminology to the term 'holiday park' will affect the marketing of facilities, as operators have previously, and will continue to be able to, title their facilities as they see fit. Therefore, there will be no financial impact on operators as a result of option (ii).

As it is proposed to develop a new Act rather than amend the existing one, it is important to ensure that terminology and definitions are reviewed and updated and, as much as possible, will remain relevant into the future, which is why option (ii) is recommended.

**Where appropriate, this paper will refer to the definitions proposed in option (ii).**

#### Recommendation

- Option (ii) Update definitions to reflect current terminology.

#### Guidance questions

- Question 1: Are there any additional definitions or terms that should be updated as part of the review? What are they?
- Question 2: Do you support the proposed changes to the terminology? Why or why not?
- Question 3: Can you identify any significant costs or benefits that would result from a change in terminology? What are they?

## 5. What Will the Legislation Apply To?

### 5.1 Application of the legislation to facilities

Since the Caravan Parks Act took effect in 1997, there have been substantial changes to traditional caravan parks and what is required by users of these facilities.

Caravan parks and camping grounds have evolved in recent years towards being mixed-use, including for residential and higher tourism use. Nature based parks are also being established which offer a range of facilities, from lower level basic facilities to higher end luxury safari camps.

## Issues

The issue is that the current provisions have resulted in anomalies that do not allow the objects of the Caravan Parks Act to be met. Different planning policies, zoning, building legislation and the complexities of the Caravan Parks Act have created confusion on the legality of placing certain types of accommodation in caravan parks.

A specific example of the complexities is that the current definition of 'caravan' includes 'park homes'. This has meant that land which should be used to improve and promote caravanning and camping (in accordance with the objects of the Caravan Parks Act) has been available for the development of residential, long-stay park home parks. Long-term use will continue to be permitted in holiday parks under the new legislation.

## Objective

The objective is to ensure that the scope of the Caravan Parks Act is appropriate for the needs of the industry and provides protection to both users and the environment now and into the future.

## Consultation feedback

In the first round of consultation, it was proposed that the new legislation should focus on holiday parks and relevant holiday accommodation, rather than long-stay park home parks. It was also proposed that park homes and rigid annexes should be regulated under the Building Act rather than the Caravan Parks Act.

Approximately 68 per cent of submissions supported the proposal for park home parks to be recognised as residential developments rather than holiday parks. Most submissions also supported park homes coming under the jurisdiction of the Building Act, although it was noted that park home owners could lose their park homes if the homes were treated as fixtures if a facility goes into receivership. While these concerns are noted, the new legislation is not expected to change how park homes are treated in these circumstances. Security of tenure in long-stay parks is regulated by the *Residential Parks (Long-Stay Tenants) Act 2006*. That Act is currently being reviewed by the Department of Commerce – Consumer Protection. Documentation related to the review of that Act can be accessed on the Department of Commerce's website at [www.commerce.wa.gov.au/consumer-protection/residential-parks-review-2012](http://www.commerce.wa.gov.au/consumer-protection/residential-parks-review-2012).

Feedback received noted that it should not be the responsibility of the Caravan Parks Act to determine what buildings are allowed on land designed for caravans or camping; rather, this should be determined through the planning process. This is consistent with the objects of the Review, which include increased flexibility for operators.

## Options

### (i) Status quo

This option proposes no changes to what is covered under the existing legislation.

In accordance with the Caravan Parks Act, a facility, which means a caravan park or camping ground, cannot operate without a licence.

Under the current Caravan Park Regulations, a park home is considered a caravan, enabling park home parks to be established on caravan park land. Park homes are allowed on a licensed caravan park, but chalets and/or cottages are not.

Stopping on the road in roadside rest areas for up to 24 hours will continue to be permitted under other legislation. The management of roadside rest areas is discussed further in this paper at Section 5.

### (ii) **A facility that has designated two or more sites for short-stay accommodation vehicles and/or tents requires approval to operate. Residential parks must provide 10 such sites, or a prescribed percentage of such sites, to be eligible for an approval to operate**

This option proposes that for the purpose of simplifying when the legislation applies, if a facility has two or more sites designated for short-stay accommodation vehicles and/or tents, the facility would be considered a holiday park and an approval to operate would be required.<sup>1</sup> An approval to operate would take the place of a licence. Park home parks and other residential developments consisting mostly of park homes for the purpose of long term residential living, which do not provide at least 10 designated short-stay sites for tents and/or accommodation vehicles, will not be considered holiday parks for the purposes of the Caravan Parks Act.

Alternatively, a required percentage of sites must be designated for short-stay accommodation vehicles and/or tents for a residential park home park to qualify for an approval to operate under the Caravan Parks Act.

It is proposed that holiday parks and camping grounds would have to obtain an approval to operate (in the form of a certificate which must be publically displayed in

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<sup>1</sup> Facilities offering less than two sites are discussed in the next section.

the office – this is addressed under Section 6), and prepare a management plan (addressed under Section 8). The legislation will not specify the mix of accommodation allowed on the facility; rather, it will focus on the health and safety of users and protecting the environment. The approval of buildings provided on a facility will be determined through the planning process. The mix of accommodation will be a matter for local planning schemes and regulated at the local government level.

This option also proposes that all buildings on a facility, including transportable buildings, must be compliant with the Building Act, and would therefore be regulated under that Act rather than captured by the Caravan Parks Act. This includes accommodation vehicles which have been converted into buildings for the purposes of permanent habitation (refer to Section 10).

If this option is preferred, it is suggested that the following provisions are adopted:

- Any facility that provides two or more sites designated for accommodation vehicles and/or tents requires an approval to operate
- Any residential development consisting mostly of park homes for the purposes of long-term residential living must provide 10 designated sites for short-stay accommodation vehicles and/or tents, or a prescribed percentage of such sites, to be eligible for an approval to operate
- Residential parks already established on caravan park or tourism zoned land will continue on that land; however, proposed new residential park developments should not access caravan park or tourism zoned land in the future
- Land zoning, local planning schemes and other planning instruments will determine the types of accommodation allowed on a park, with the mix of accommodation types forming part of the approved management plan (see Section 8)
- Unless owned by the owner of the facility, any buildings and associated structures on that facility must be transportable
- All buildings, including transportable buildings, must be compliant with the Building Act, and
- Park homes are to be treated as buildings under the Building Act and must comply with the relevant provisions of that Act. Park homes will no longer be considered caravans or captured under the Caravans Act.

## Discussion

Under the current Caravan Parks Act, there are a range of provisions which do not appear to align with its objects, including to promote caravanning and camping and to protect the health and safety of users. If option (i), to maintain the status quo, is adopted, it will allow these inconsistencies to continue. This includes allowing park home parks to be built on caravan park-zoned land, which should be used for the purposes of encouraging caravanning and camping through the provision of caravan parks. Additionally, in accordance with the current legislation, park homes are required to have wheels, which are an unnecessary and costly impost to builders when there is never an intention for them to be readily moved. Nor is there an identifiable added safety benefit in making park homes transportable.

The overarching principle of option (ii) proposes an entirely different set of guidelines to support holiday parks and camping grounds. The general principle is that any facility making available two or more campsites for accommodation vehicles and/or tents requires an approval to operate. If a park home park facility, such as a development consisting predominantly of park homes for the purposes of residential living, does not provide 10 or more short-stay sites for accommodation vehicles and/or tents, then it is not classed as a holiday park under the Caravan Parks Act. It may also be an option for the legislation to prescribe a set percentage of sites be designated for short-stay accommodation vehicles and/or tents rather than a set figure. Prescribing a percentage of sites relative to the size of the facility may be more flexible for the range of different facilities provided across the state.

Alternatively, if a smaller facility, such as a farm stay, wished to provide short-stay camp sites and provided two such sites, it would be captured under the legislation and have to comply with the minimum standards. This option would create a simple framework which easily allows facilities to determine if they need to be approved under this legislation. It also ensures that people staying in temporary accommodation that is not a building have health and safety protection.

Option (ii) also proposes that anything on a facility that is not a licensed vehicle or tent must be compliant with the Building Act. The Building Act already contains provisions applicable to transportable buildings, and therefore it is appropriate for these buildings to be captured under those existing provisions rather than requiring potentially onerous and expensive retroactive changes to such buildings in order to make them compliant with the Caravan Parks Act.

As owners of buildings in a park (other than the park owner) have no rights to the land on which they are located, these buildings will be required to be transportable and remain transportable. This protects the asset and title of the owner, allowing

them to be relocated if the park closes or is redeveloped. The owner of a facility will be able to provide a flexible range of accommodation types subject to planning requirements and their approved management plan.

A significant impact as a result of option (ii) is that park home park developers will lose the ability to access land zoned for caravan parks. Although it is ultimately a decision for each local government to allow park home park developers access to caravan park and tourism zoned land (provided such use is consistent with the local planning scheme), such use of the land should be discouraged. The argument is that these parks provide a low cost accommodation solution. However, the object of the Caravan Parks Act is not to provide low cost accommodation options, but to encourage caravanning and camping. Option (ii) will address this. The availability and zoning of low cost land for these developments should be addressed by alternative means, but is not within the scope of this review. Parks intended primarily for long-stay, residential or non-tourism purposes should be accessing land zoned for Special Use – Park Home Park.

It is important to note that under option (ii), existing park home parks would remain on the land they are already established on, regardless of the zoning discrepancy. However, proposed new park home park developments should no longer be able to access caravan park or tourism zoned land in the future. If option (ii) were adopted and park home parks were no longer captured by the Caravan Parks Act, this would apply to existing and potential new developments. Given that park homes are likely to be seen to be 'buildings', subject to the removal of the current 'park home' exemption in the Building Regulations, they would require a building permit under the Building Act. It is expected that, for the purpose of ensuring compliance with the Building Code of Australia, future buildings located in park home park developments going forward could be assessed and regulated under the Building Act rather than the Caravan Parks Act.

To ensure that the Caravan Parks Act encourages and supports caravanning and camping in Western Australia, it is recommended that option (ii) is adopted. The new legislation will focus on protecting the health and safety of users and the environment, and address the interaction between these users and other accommodation types provided on a facility.

### Recommendation

- Option (ii) A facility that has designated two or more sites for short-stay accommodation vehicles and/or tents requires approval to operate. Residential parks must provide 10 such sites, or a prescribed percentage of the sites, to be eligible for an approval to operate.

### Guidance questions

- Question 4: Are there any circumstances where this recommendation will not capture facilities that should be licenced? Please provide examples.
- Question 5: Is it appropriate for residential park home park developments to be regulated under the Building Act and Code rather than the Caravan Parks Act? Why or why not?
- Question 6: Do you agree that a residential park home park must provide a set number (for example, 10) of designated short-stay sites to be eligible for an approval to operate under the Caravan Parks Act? Why or why not?
- Question 7: Should residential park home parks instead set aside a prescribed percentage of the facility for short-stay use? What should that percentage be?
- Question 8: Can you identify any additional costs or benefits arising from this option? What are they?

## 5.2 Camping at a place other than an approved facility

It is a requirement under the Caravan Parks Act that a facility making available sites for accommodation vehicles and/or tents is approved; however, there are circumstances where camping also occurs on land outside of a recognised facility (such as on private property).

Under the Caravan Parks Regulations, a person may camp for up to three nights in any period of 28 consecutive days on land with the approval of the owner. To camp for longer than this period of time, approval must be sought. Such approval can be granted by the local government for up to three months or the Minister for Local Government (the Minister) for longer than three months.

## Issues

It is important to acknowledge that people camp on private property for a range of reasons and for different lengths of time. In addition to potentially disturbing neighbours, camping of this type may have a significant impact on the environment and the health and safety of the campers may not be assured, especially if there is limited access to necessary health and hygiene facilities such as toilets, water or dump points.

One significant area of demand is the requests to camp for extended periods of time outside holiday parks due to land owners needing accommodation on their property while they are building a home. This is particularly prevalent in rural and remote areas where local accommodation options are limited and there is a need to supervise or personally undertake the building work.

## Objective

The objective is to ensure the health and safety of people who are staying in accommodation vehicles and/or tents outside of approved facilities.

## Consultation feedback

No consultation has been undertaken on this matter.

## Options

### (i) Status quo

Under this option, a person is allowed to camp on land outside of a holiday park or camping ground for three nights in any 28 day period if they have the approval of the land owner. For periods greater than this length of stay, a local government may grant an application for up to three months, or for longer periods, the Minister may grant approval.

### (ii) **Local governments can grant unlimited approvals to the landowner to offer a campsite for an accommodation vehicle and/or tent for up to three months at a time subject to appropriate consultation and risk assessment**

Under this option, it is proposed that if a person wants to camp outside of an approved holiday park or camping ground (for example, on private property) for any period greater than three nights in any 28 days, approval can be sought from the local government. Approval will also be required if a landowner intends to make their property available to campers for more than three nights in any 28 day period.

This option is not intended to allow for multiple accommodation vehicles and/or tents to camp outside of holiday parks or camping grounds. It is proposed that allowing more than one accommodation vehicle and/or tent on a site would require a different class of approval to operate – this would be known as an event approval. This is discussed further at Section 7.

A local government will be able to grant an approval for up to three months at a time, subject to consultation with any affected neighbours and a thorough risk assessment of the conditions. Consideration will also need to be given to the feasibility of staying in an approved facility rather than camping outside of one.

Applications must be submitted by the landowner, who will need to prepare a simplified management plan to address basic health and safety concerns, including access to water, waste management and reducing the environmental impact of the stay (refer to Section 8 for more information on management plans). Applications will need to be accompanied by a fee to cover the administration and inspection cost involved.

It is proposed that local governments can grant unlimited renewals; however, each renewal will require a complete review of the circumstances. If a local government refuses an application, the applicant will be able to appeal directly to the State Administrative Tribunal (SAT).

If this option is preferred, it is suggested that the following provisions are adopted:

- A person may camp for up to three nights in any 28 day period on land where the landowner has given permission
- A landowner may apply to the local government seeking approval for a person to camp longer than three nights but not more than three months. This includes if the intention is to make their property available for more than three nights in any 28 day period
- Applications will need to be accompanied by a prescribed fee
- Only one accommodation vehicle and/or tent is allowed on the property at any time without an event approval
- A local government must consult with the affected neighbours, consider the health and safety of users, impact on the environment and feasibility of staying in an approved facility before an approval can be granted
- A local government can continue to renew an approval; however, a full assessment is required with each renewal

- A management plan must be submitted with each application which addresses basic health and safety concerns, including waste management and access to water, and
- If a local government refuses an application, the applicant can appeal to the SAT.

**(iii) Local governments can grant approval to camp up to three months at a time subject to appropriate consultation and risk assessment. An extension can only be approved four times, following which a request for approval may be made to the Minister or CEO of the department**

This option is similar to option (ii); however, it provides that a local government can only approve an application four times, following which an application can be made to the Minister, or CEO of the department, for a further extension. This would effectively allow a person to camp for up to 12 months at a time before Ministerial or departmental approval is required.

It is expected that 12 months is a sufficient period of time in the majority of cases and that Ministerial or departmental approval would only be necessary in exceptional circumstances.

If this option is preferred, it is suggested that the following provisions are adopted:

- A person may camp for up to three nights in any 28 day period on land where the owner has given permission
- A landowner may apply to the local government seeking approval for a person to camp for longer than three nights but not more than three months. This includes if the intention is to make their property available for more than three nights in any 28 day period
- Applications will be accompanied by a prescribed fee
- Only one accommodation vehicle and/or tent is allowed on the property at any time without an event approval
- A local government must consult with the affected neighbours, consider the health and safety of users, impact on the environment and feasibility of staying in an approved facility before an approval can be granted

- A management plan must be submitted with each application which addresses basic health and safety concerns, including waste management and access to water
- A local government can only renew an extension three times (for a total stay of 12 months), and
- Following four approvals by the local government, an application can be made to the Minister, or the CEO of the department, for approval.

## Discussion

All three options recognise that a person may need to seek approval to camp for a period of time outside the scope of the legislation. Under option (i), the applicant is the person who wants to camp, whereas in options (ii) and (iii), the applicant is the landowner, who bears the onus of seeking that approval.

Options (ii) and (iii) reflect the emphasis placed on protecting the health and safety of users and the environment, as they propose a range of factors that must be considered before approval can be granted. Such considerations are not mandatory in option (i), which is not in line with the objectives of the review.

It is acknowledged that there are times when a person may need to camp in an accommodation vehicle or tent for an extended period of time. However, in these circumstances, it is important that the occupier's health and safety is protected and there is no significant impact on neighbours or the environment. It is appropriate that landowners who allow such camping on their property take greater responsibility for and ownership of the process.

Option (ii) gives local governments the autonomy to make decisions on whether a person should be allowed to camp on private property and for how long. The legislation will, however, provide guidelines around what a local government must consider before granting approval. This would ensure that the objectives of the new Caravan Parks Act are met. Additionally, approvals can only be granted for three months at a time, following which a full review of the circumstances is required. Even though this places an administrative burden on both applicants and local governments, it is important that the circumstances are reviewed after three months to ensure there are no significant impacts on the neighbours or environment and that there is still a genuine requirement to camp outside of a facility.

Option (iii) operates in the same manner as option (ii); however, a local government can only approve an application four times (for a total of 12 months' stay on the land), following which an application must be made to the Minister or CEO of the

department. The purpose of this is to introduce a second party to critically review applications. This process will place an administrative burden on the department to assess applications. To simplify the process and reduce the expectation that applications are automatically approved, guidance material such as a policy and application form would be prepared by the department.

Under option (ii), if a local government refuses an application, the applicant can appeal to the SAT. Under option (iii), if a local government declined any of the four allowable applications, applicants could seek review of that decision by the Minister or CEO of the department. It is important to ensure that applicants have an alternative means for their application to be reviewed; however, when considering applications to the Minister or CEO of the department for an extension of time to camp outside of an approved facility (greater than the already approved 12 month period), the department would contact the local government for background and comment. This does not necessarily allow for the independent review that the SAT provides.

There is a financial burden on local governments under options (ii) and (iii) to undertake inspections before approving an application; however, this will be addressed through the imposition of an appropriate fee. The cost to the applicant is likely to be significantly less than the cost of staying in an approved facility for the same length of time.

There has recently been an increase in landowners making their properties available to campers on both a paid and unpaid basis. To ensure that this practice does not impose undue inconvenience on neighbours, which is especially applicable in suburban areas with closer living quarters, and that the user's health and safety is protected, options (ii) and (iii) propose that if the intention is to have a property available for more than three nights in any 28 days, approval must be sought from the local government. Requiring approval is a cost to the landowner, which may not be offset if the landowner is offering free accommodation; however, it is important to protect both the users and neighbours.

It is arguable that even though there is an impact on landowners and local governments, an application process is crucial to ensure the necessary objects of the legislation are met. As option (ii) gives local governments the discretion to determine what is best for their district without Ministerial or departmental intervention, this is the recommended option.

### Recommendation

- Option (ii) Local governments can grant approval to camp for up to three months at a time subject to appropriate consultation and risk assessment.

### Guidance questions

- Question 9: Is it appropriate to ask applicants who wish to make their property available for camping to provide a management plan outlining basic health and safety requirements (refer Section 8 for more information)? Please provide reasons why or why not.
- Question 10: Is it appropriate for local governments to undertake a complete review of the circumstances every three months? Why or why not?
- Question 11: Should local governments have the autonomy to decide how long a person is allowed to camp on private property in their district? Why or why not?
- Question 12: What are the potential costs and benefits of allowing people to camp outside of approved facilities for extended periods of time?

## 5.3 State government and local government facilities

Holiday parks and camping grounds are not only owned or operated by private operators. Local governments and state government agencies, such as the Department of Parks and Wildlife (DPaW), operate their own facilities. DPaW owns approximately 300 facilities, directly operating around 260 of those facilities, and are the biggest park provider in the state. Under the current Caravans Park Act, facilities operated by public sector bodies are exempt.

This exemption applies only to a public sector body as defined in the *Public Sector Management Act 1994*, and not to local governments. This means that, if a local government operates a facility, it must ensure compliance with the prescribed standards, but a state government agency is not under this same obligation.

Caravan parks and camping grounds operated by DPaW are already managed under the *Conservation and Land Management Act 1996* (CALM Act) and associated regulations. In accordance with the CALM Act, DPaW has introduced a management regime which includes issuing lessees a lease for approximately 40 years based on a comprehensive management plan submitted by the lessee. The

development and operation of camping grounds on CALM land are governed by the Conservation Commission of Western Australia.

## Issues

The exemption of public sector bodies from the provisions of the Caravan Parks Act has resulted in a perception that different standards apply to facilities on Crown land compared to private and local government facilities, notwithstanding the significant regulation of DPaW sites under the CALM Act.

Consideration must also be given to how a local government or state government facility is licenced and how compliance could be enforced.

## Objective

The objective is to ensure that all facilities, regardless of who owns or operates them, have minimally acceptable standards for the health and safety of users and protection of the environment.

## Consultation feedback

Feedback has previously been sought on the proposal that all caravan parks, regardless of the operator, should be required to comply with the same health and safety standards.

A majority of respondents supported this approach. Concerns were raised however that it may increase red tape and reduce the ability of the state to deliver low-cost caravanning and camping options if DPaW facilities, which are predominantly nature-based parks, are required to be upgraded to achieve the health and safety standards specified in the Caravan Parks Act for holiday parks.

## Options

### (i) Status quo

This option proposes that public sector bodies would continue to be exempt from the health and safety standards prescribed under the Caravan Parks Act and Regulations. DPaW would continue to manage its lessees in accordance with its own rigorous management plan framework under the CALM Act and Regulations.

Local governments would be able to operate a facility in their district without a licence; however, they must comply with the legislation. In the event of non-compliance, the Minister could issue a direction to meet a specified standard, comply with a provision, or do any specified thing necessary for effective operation of the Caravan Parks Act.

**(ii) All providers must comply with the Caravan Parks Act and Regulations**

Under this option, all facilities providing sites for accommodation vehicles and/or tents will be required to comply with the minimum health and safety standards for users. It will be mandatory for all operators to meet the minimum standards prescribed. Public sector bodies and local governments would not be exempt.

The Minister, or CEO of the department, will be able to issue directions to local government-run facilities in the event of non-compliance. This option also proposes that the department could appoint an independent person to inspect facilities and enforce the legislation in accordance with the provisions outlined in Section 8.

If this option is preferred, it is suggested the following provisions are adopted:

- All facilities providing sites for accommodation vehicles and/or tents are required to have an approval to operate and complete a management plan
- The relevant local government or state government agency will be responsible for ensuring compliance with the prepared management plan
- The Minister or CEO of the department may give directions to the local government to undertake a particular function of the legislation, and
- The department may appoint an independent person to inspect facilities and enforce the legislation. Operators will be required to pay the costs associated with inspection and enforcement.

**(iii) Facilities leased from a public sector body are required to comply with the Caravan Parks Act and Regulations. A facility owned and operated by a public sector body is exempt. Local government facilities must comply with the standards**

Under this option, any facility which is leased from a public sector body, such as DPaW, will be required to comply with the minimum standards under the Caravan Parks Act. A facility which is operated by DPaW, however, will not be required to comply with the Caravan Parks provisions.

Local governments will have to comply with the provisions and the Minister or CEO of the department will be able to issue a directive in the event of non-compliance.

If this option is preferred, it is suggested the following provisions are adopted:

- All facilities providing sites for accommodation vehicles and/or tents are required to have an approval to operate and complete a management plan
- A facility that is operated by a public sector body as defined under the *Public Sector Management Act 1994* is exempt
- The relevant local government or state government agency will be responsible for ensuring compliance with the prepared management plan
- The Minister or CEO of the department may give directions to the local government to undertake a particular function of the legislation, and
- The department may appoint an independent person to inspect facilities and enforce the legislation. Operators will be required to pay the costs associated with inspection and enforcement.

## Discussion

Under option (ii), all facilities providing sites for accommodation vehicles and/or tents would be required to comply with the same set of minimum outcomes-based standards to be prescribed in regulations. While a benefit of this option is that all users of these facilities are afforded the same health and safety protections, it is likely to result in a duplication of regulatory framework for state government agencies and any lessees they issue a lease to, with little or no clear benefits to justify the additional costs to bodies such as DPaW, who advise they already maintain high standards for their sites. In comparison, option (i) of retaining the status quo allows for a more efficient legislative response, with no introduction of additional regulatory burden on either state government agencies or businesses that lease sites from the Crown. This would allow DPaW, the single biggest operator of low-cost caravanning and camping sites in the state, to continue to develop and deliver affordable and safe holidays in Western Australia.

Option (iii) separates out facilities that are run by or leased from a state government agency. A facility run by a state government agency would be exempt from the minimum standards, but a facility leased by that agency to a private operator would be required to comply. This could lead to difficulties in transitioning when a facility is leased or run by the state government agency. It is also more difficult to argue why a state government agency should not be required to comply with the same minimum standards as all other facilities, but any business leasing the same park should be required to be compliant.

Options (ii) and (iii) could have a significant financial impact on operators of facilities who are not compliant with the new minimum standards and need to improve them; however, there is no expectation that these standards will be higher than those currently in place, especially as they will be outcomes-based, meaning that operators will have flexibility to meet them. Outcomes-based standards would be less prescriptive than the current legislation and ensure operators have flexibility in meeting the standards in a way that would allow them to cater directly to their target markets. DPaW states that their facilities comply with their own standards, which may not be substantially different to what will be proposed under this legislation. It is also a possibility that the new minimum standards may be modelled on the DPaW provisions. If this is the case, requiring government agencies, predominantly DPaW, to comply with existing provisions may not improve standards but could still result in additional set-up and compliance costs.

Difficulties may arise under options (ii) and (iii) in relation to approving management plans and ensuring compliance through regular inspections. State and local government agencies will be responsible for preparing their own management plans and ensuring compliance, and if the facilities are found to be non-compliant, undertaking the necessary action to rectify the situation and bring the facilities into compliance. Under this option, the operator and regulator are effectively the same entity, which could risk the perception of a conflict of interest. This risk could be mitigated by including a provision that requires the approved management plan to be published, so that the conditions of approval are available for users of the facility to review. This would ensure transparency and accountability, despite the dual operator/regulator role.

Nevertheless, to address circumstances of potential operator/regulator conflict, options (ii) and (iii) provide the ability for the department to appoint an independent person to both inspect facilities and enforce the provisions of the legislation, on facilities owned or operated by local government and state government agencies. The Minister, or CEO of the department, will also be able to issue directions to require a local government or state government agency to undertake a particular function; for example, issuing a direction to inspect a particular facility.

Option (i) is recommended as it provides a streamlined no-impact approach consistent with the policy of red-tape reduction, while still providing for the health and safety of users as there are already regulatory provisions in place under other state government legislation.

### Recommendation

- Option (i) Status Quo.

### Guidance questions

- Question 13: Should local governments and state government agencies be held accountable for complying with the legislation? Why or why not?
- Question 14: Should users have the ability to lodge a complaint against a state government-run or local government-run facility with the Minister or SAT? Why or why not?
- Question 15: Can you identify any other potential costs or benefits that may result from keeping the status quo? What are they?

## 5.4 What will not be covered by the proposed legislation

In accordance with the recommendations made above, the following areas will no longer be covered under the proposed Caravan Parks Act.

**Park Home Parks:** Park home parks are currently able to be situated on land zoned for caravan parks because a park home is classified as a caravan. The proposed amendments remove the definition of park home as a caravan, but also require that the legislation does not take effect unless there are 10 or more sites designated for short-stay camping within the park home park. This means that facilities which are solely or predominantly developed for the provision of long-stay residential park homes will not be captured under this legislation or be able to access caravan park-zoned land. The same applies for other residential developments such as a collection of chalets or cottages. Without providing 10 designated short-stay campsites or a prescribed percentage of sites within their facility, these facilities would not be classed as holiday parks or eligible for an approval to operate under the Caravan Parks Act.

**Roadside rest areas:** The current regulations allow a person to camp in a roadside rest area for 24 hours in a caravan or other vehicle. The enforcement of stopping in roadside rest areas is currently undertaken in an ad hoc manner, as it is unclear which agency is responsible for inspections and enforcement. During consultation it was proposed that roadside rest areas should be dealt with under existing road and parking legislation rather than the Caravan Parks Act. Approximately 56 per cent of respondents supported this proposal. As the proposed legislation is focused on

camping, rather than stopping, and roadside rest areas are provided for fatigue management under Main Roads legislation, these areas will no longer be covered under the Caravan Parks Act.

If a person overstays at a roadside rest area, this will be treated as a traffic offence, and authorised officers will be able to enforce it similar to illegal parking. It has been raised that due to the number of overseas and interstate users, if a local government infringes a user for overstaying, it is easy for the user to give false information, and the infringement notice is never paid and cannot be tracked. However, if a roadside rest area infringement becomes enforceable as a traffic offence, the registered owner of the car could be tracked through the registration number. If the vehicle is a hire car, the hire company can identify the hirer of the car at the time of the offence. This adds an additional measure of accountability and transparency for both roadside rest area users and local governments.

## 6. Licencing of Facilities

The current provisions of the Caravan Parks Act require that a person operating a caravan park or camping ground must have an appropriate licence. Applications to licence a facility are made to the relevant local government and are accompanied by a prescribed fee.

In accordance with the Caravan Parks Regulations, the duration of a licence is one year to the day on which a licence is granted or renewed. A licence remains in force for the year unless otherwise specified in its conditions, or it is cancelled.

Before a licence can be issued or renewed, it is a local government's responsibility to ensure the Caravan Parks Act is complied with and that the applicant is the owner of the land, or has approval from the landowner, to apply for the licence in respect of the land.

### Issues

Annual licensing of caravan parks imposes a risk on operators as there is no certainty that the park will be approved to operate from year to year. In addition to possibly affecting the economic viability of the facility, it is also an administratively burdensome provision for local governments to enforce. Generally, annual licences do not align with the period a lease is granted for, which can restrict access to financing and create unnecessary red tape for all parties.

Annual inspections allow for regular checks of compliance against minimum prescribed standards; however, provided that the Caravan Parks Act states that a

licence may be cancelled for non-compliance, it would seem unnecessary to align the period of a licence with an annual inspection timeframe.

## Objective

The objective is to introduce a licensing regime which is simple to enforce, provides increased certainty for operators, provides flexibility for operators and enforcement agencies and ensures the necessary minimum standards are maintained.

## Consultation feedback

During the previous round of consultation, it was proposed that the validity of a licence be extended from one year to five years. Some submissions suggested that the licence period should be extended to 20 years. It was also questioned whether a licence was required at all.

Submissions also suggested that appropriate and proactive enforcement is more important than the period of the licence. It was proposed that, following the granting of a licence, an inspection should be carried out within 12 months, and that the frequency following that initial inspection would be no more than annually, but no less than once every three years.

The majority of respondents advised that regular inspections are necessary to ensure compliance and that the frequency of inspections should be specified in the legislation. Feedback from local governments and the Western Australian Local Government Association indicated strong support for the ability for local governments to charge inspection fees.

## Options

### (i) Status quo

Under this option, caravan parks will continue to be licensed annually, and local governments will be required to ensure compliance with the legislation before the granting or renewal of a licence.

### (ii) A once-off approval to operate is granted, followed by annual inspections

This option proposes that before a facility can operate, it must be granted an approval to operate by the relevant authority. The approval, which will be modelled on the Food Act 2008, will be once-off and accompanied by regular inspections to ensure compliance. The approval to operate would, for all intents and purposes, replace the current annually renewed licence.

A facility operator will be required to submit an application for approval to operate with a management plan (refer to Section 8 for further discussion). The management plan will be used to assess the application, set the conditions under which a facility can operate, and be used as the basis for ongoing and subsequent inspections. An initial inspection will be required before an approval to operate can be granted, and subsequent inspections must then be undertaken annually. Local governments will be able to charge inspection fees and have the discretion to extend the period between inspections to two years, if the facility is fully compliant at the previous inspection and no substantiated complaints have been received since that time.

If a new planning approval application is submitted or there are any redevelopments or substantial changes to a facility, a new application for approval to operate must be submitted to the relevant authority. A substantial change would be defined as one requiring amendments to the management plan. Such changes may include, but are not limited to, a change of owner, operator or lessee, and the removal of facilities.

If this option is preferred, it is suggested that the following provisions are adopted:

- An approval to operate is required for all facilities that provide two or more short-stay campsites for accommodation vehicles and/or tents
- An approval to operate is required for all park home park facilities that provide 10 or more short-stay campsites for accommodation vehicles and/or tents or a prescribed percentage of sites on their facility are designated for this purpose
- A temporary approval to operate can be granted by the relevant authority for specific events (refer Section 7)
- An approval to operate is to be accompanied by a management plan (refer Section 8)
- The management plan will provide the minimum conditions under which the facility must operate
- A local government must undertake inspections annually; however, the period between inspections may be extended to no more than two years under certain conditions, and
- If a new planning approval application is submitted or there are any redevelopments or substantial changes to a facility (including a change of owner), a new application for approval to operate must be submitted.

**(iii) A five year approval to operate granted by the relevant authority and inspections will be no less than three yearly**

This option proposes that rather than an annual licence, an approval to operate is granted for five years. The relevant authority will be required to complete annual inspections but, barring any areas of non-compliance, the approval will remain valid for five years.

In accordance with option (ii), operators will be required to complete a management plan which forms part of the application for approval to operate. Before an approval to operate is renewed, the management plan must be reviewed and resubmitted with the renewal application.

An initial inspection will be required before an approval to operate is granted and inspections must then be undertaken at no less than three yearly intervals. Local governments will be able to charge inspection fees.

If this option was preferred, it is suggested that the following provisions are adopted:

- An approval to operate is required for all facilities that provide two or more short-stay campsites for accommodation vehicles and/or tents
- An approval to operate is required for all park home park facilities that provide 10 or more short-stay campsites for accommodation vehicles and/or tents or a prescribed percentage of sites on their facility are designated for this purpose
- A temporary approval to operate can be granted by the relevant authority for specific events (refer Section 7)
- An approval to operate is to be accompanied by a Management Plan (refer Section 8)
- An approval to operate has effect for five years, following which a new application and reviewed management plan must be submitted
- An application for renewal must be made at least three months prior to the expiry of the approval to operate
- The management plan will provide the minimum conditions under which the facility must operate
- A local government must undertake inspections on a no less than three yearly basis, and

- If a new planning approval application is submitted or there are any redevelopments or substantial changes to a facility (including a change of owner) then application must be made to the relevant authority for a new approval to operate.

## Discussion

During the previous round of consultation, feedback was sought on extending the period of a licence to five years. Option (iii) reflects this proposal, which will give operators some certainty to their business and will also reduce the red tape of having to apply annually for a licence when it seems the sole purpose of requiring this is to undertake an inspection to ensure compliance.

As a result of the feedback received, option (ii) proposes that rather than an annual (option (i)) or five year (option (iii)) licence, a facility is granted an initial approval to operate. This is a once off approval, which reduces the financial impost on local governments and operators, as well as reducing red tape generated by repeatedly applying for the same approval.

It was noted during consultation that inspections and enforcement are more crucial than a licence. Under option (i), inspections will form part of the annual licence process, whereas under options (ii) and (iii), the inspections will be separate except for the initial application for approval to operate.

Under option (ii), inspections must be conducted annually; however, local governments will have the discretion to extend that period to two years if the facility was fully compliant at the previous inspection and there have been no substantiated complaints since. This will reward compliant operators, provide an incentive to remain compliant, and reduce the financial impost of those operators through reduced inspection fees. It also enables local governments to focus on operators who are not compliant and reduces the administrative burden imposed by conducting regular annual inspections on all facilities in the local government's district.

Under option (iii), inspections must be undertaken on a no less than three yearly basis. Compared to option (ii), this option has the benefit of reducing the financial impact on both local governments and operators; however, it does not ensure that the facilities are being maintained to protect the health and safety of users and the environment. The longer the period between inspections, the higher the cost associated with correcting non-compliance could be. Users may also be exposed to longer, and potentially greater, periods of risk. Local governments will be authorised to charge inspection fees at cost recovery, which is expected to increase the sector's

willingness to undertake inspections, which ultimately should improve compliance. As has been discussed previously in this section, proactive enforcement is just as important as ongoing compliance.

It is recommended that option (ii) is adopted. This would place the emphasis on inspections rather than licence renewals, reduce red tape and the financial impost on compliant operators, provide an incentive for remaining compliant, and ensure that operators continuously protect the health and safety of users and the environment.

#### Recommendation

- Option (ii) Initial approval to operate granted, followed by annual inspections.

#### Guidance questions

- Question 16: Do you believe this proposal is the best option for users, operators and local governments? Why or why not?
- Question 17: Do you think an annual inspection is appropriate? Do you support the option for local governments to extend the inspection period for up to two years? Why or why not?
- Question 18: Are there any other potential costs or benefits of this option that have not been addressed? What are they?

## 7. Licence Categories

The Caravan Park Regulations currently provide for seven licence categories. These are:

- Caravan park licence
- Camping ground licence
- Caravan park and camping ground licence
- Park home park licence
- Transit park licence (stay of no longer than three consecutive nights)
- Nature based park licence, and
- Temporary licence.

The legislation prescribes different health and safety standards for many of these categories. Most notably, nature based parks and transit parks can provide fewer facilities than caravan parks, due to the expected length of stay.

### **Issues**

A reported issue with the seven licence categories is that with evolving mixed-use facilities, the existing licence types may not reflect the actual accommodation being provided at each facility. It has been noted that there are difficulties in distinguishing between categories, particularly between nature based parks and transit parks, which create unnecessary confusion and inconsistency in the application of the legislation.

The different categories may also prescribe different health and safety standards. Stakeholders have proposed that there should be uniform minimum standards across all categories to ensure consistency and protect the health and safety of users.

### **Objective**

The objective is to ensure appropriate minimum standards that protect the health and safety of users and mitigate environmental risks across all different circumstances where campsites are provided for accommodation vehicles and/or tents.

### **Consultation feedback**

Feedback was sought on a proposal to reduce the current categories from seven to three (holiday park, transit park and nature based park). This reduction was generally supported; however, it was also suggested that it may be more appropriate to have no categories, as all facilities should comply with the same standards.

### **Options**

#### **(i) Status quo**

Under this option, the seven categories will remain, and operators will be required to apply for the most applicable licence for the accommodation they provide. The licence category will determine the standards an operator must comply with.

**(ii) Approval categories are reduced to three: holiday park, transit park and nature based park**

Under this option, it is proposed that there are three approval categories:

- Holiday park approval
- Transit park approval, and
- Nature based park approval.

Each approval category will have a set of minimum standards with which operators will be required to comply.

This option was also proposed in the first consultation paper.

If this option is preferred, it is suggested that the following provisions are adopted:

- An approval to operate a holiday park will include caravan parks that traditionally provide mixed-use accommodation types, but specifically sites for accommodation vehicles and tents. Sites can be provided for both long-stay and short-stay use.
- A transit park approval will be for operators of facilities where the allowable length of stay is no longer than three consecutive nights.
- A nature based park approval will be for facilities that are not in close proximity to an area that is built up with structures used for business, industry or dwelling-houses at intervals of less than 100 metres for a distance of 500 metres or more, and has been predominately formed by nature and has limited or controlled artificial light and noise intrusion.

**(iii) One set of minimum requirements for all facilities that provide campsites for accommodation vehicles and/or tents**

Under this option, all categories will be removed and there will be one set of minimum standards applying to all facilities providing sites for accommodation vehicles and/or tents. Operators will be able to provide standards above the prescribed minimum, dependent on the facility they are managing. The operator's target market will effectively determine the standard of services provided in each individual facility.

As there will be only one set of minimum requirements, it removes the need to separately address overflow and temporary areas; however, these may be specifically addressed in a management plan.

If this option was preferred, it is suggested that the following provisions be adopted:

- All existing licence categories are removed so that the same minimum health, safety and environmental standards apply to all facilities providing campsites for accommodation vehicles and/or tents, and
- Any overflow or temporary areas will be required to comply with these minimum standards unless an exemption is granted by the relevant local government.

**(iv) Three approval to operate categories: Holiday Park, Nature Based Park and Event approvals, with one set of minimum standards applying to all**

This option proposes that there are three approval categories; however, each facility must comply with the same set of minimum outcomes-based standards.

A holiday park approval will be for facilities providing a range of accommodation types, whereas a nature based park approval will be for minimal facilities in non-built up areas. Due to the minimal nature of the facilities and the potential impact on the environment, stays in nature based parks will be restricted to no more than 28 days in any three month period. There will be no restrictions on the length of stay in a holiday park.

An event approval will be available following an application to the relevant local government. A person may apply for an event approval for any reason where there will be more than one accommodation vehicle and/or tent on a property. Similar to a person applying to camp outside of a facility for a period longer than three nights (as addressed at Section 5), an event approval application must be accompanied by a prescribed fee and a management plan addressing basic health and safety concerns of the users, most importantly access to water and waste management. An event approval can only be granted for a maximum of seven days, and a local government will be required to undertake an inspection of the property and consult with any neighbours before granting approval. No more than four event approvals will be approved for a single property in the course of a year.

If this option was preferred, it is suggested that the following provisions are adopted:

- A holiday park approval will include caravan parks that traditionally provide mixed-use accommodation types, but specifically sites for accommodation vehicles and tents. Sites can be provided for both long-stay and short-stay.

- A nature based park approval will be for facilities that are not in close proximity to an area that is built up with structures used for business, industry or dwelling-houses at intervals of less than 100 metres for a distance of 500 metres or more, and has been predominately formed by nature and has limited or controlled artificial light and noise intrusion. Stays will be restricted to no more than 28 days in any three month period.
- An event approval will be for special events where there is more than one accommodation vehicle and/or tent outside of an approved facility. An approval cannot be issued for any period greater than seven days and no more than four approvals can be issued for the property in a year.
- All facilities must abide by minimum standards as prescribed. These standards will be outcomes-based, rather than prescriptive, to allow for flexibility in approach.

## Discussion

It was previously proposed that the licence categories should be reduced to more appropriately reflect the types of facilities. This proposal is reflected in option (ii), which suggests three categories, rather than seven, as proposed in option (i), status quo.

Following an assessment of the consultation feedback, two further options have been included. Option (iii) proposes that there are no categories and all facilities must comply with the same minimum standards. This approach, in addition to reducing red tape by prescribing uniform standards for different categories, also affords the same protection to all users and the environment.

A further option, option (iv), proposes that there are three approval to operate categories: holiday park, nature based park and event. All categories will be required comply with the same minimum standards.

Under option (iv), a person will be able to apply for an approval to operate specifically for an event. Requiring an event approval allows the local government to assess whether the person holding the event has considered all the necessary elements to protect the health and safety of users, and reduce environmental impact.

Options (i) and (ii) may result in confusion when applying different standards to different accommodation types, when it can be argued that all categories should ensure the health and safety of users is protected, whether it be a nature based park with minimal facilities, or a fully equipped holiday park. Although target markets may be variable, health and safety standards are constant and should not change.

While the removal of categories under option (iii) simplifies the process, and all facilities will be required to comply with the same standards, it may ultimately make it more difficult for local governments to assess applications and for operators to apply for an appropriate approval in remote areas or for short-term events. When a local government receives an application for approval to operate, the application cannot be accurately assessed if it does not clearly identify the type of facility proposed. The conditions of a nature based park management plan, where water and waste may have to be dealt with in innovative ways, will be significantly different to a holiday park application.

The benefit of option (iv) is that it categorises the key facility types (holiday parks and nature based parks), and also recognises the need for once-off event approvals.

To assist in the review of applications for approval to operate, while recognising that there are key types of facilities, option (iv) is recommended. Having the same set of minimum standards will also promote flexibility in supplying facilities to meet these standards, while ensuring consistency of health and safety protections for users of all types of facilities.

#### Recommendation

- Option (iv) Three approval to operate categories: Holiday Park, Nature Based Park and Event approvals, with one set of minimum standards applying to all.

#### Guidance questions

- Question 19: Is it appropriate for all holiday parks and camping grounds to operate under the same set of minimum standards? Why or why not?
- Question 20: Are there any other types of facilities that should be categorised separately? What are they and why?
- Question 21: Should event approvals be limited to seven days and four approvals per year? Why or why not?
- Question 22: Can you identify any additional costs or benefits to this option that have not been discussed? What are they?

## 8. Conditions for Approval to Operate

As noted previously, the current Caravan Parks Act sets very prescriptive standards for different types of accommodation. When an approval to operate is granted or renewed, a local government must assess that facility against the prescribed conditions.

If a facility is not compliant, local governments can enforce the provisions with a number of tools, including:

- (i) **Work specifications notice** – a notification advising that work is required to be undertaken to ensure compliance with the legislation. A penalty applies.
- (ii) **Prohibition notice** – a written notice prohibiting the facility from admitting new occupiers and collecting any charges from existing occupiers, due to a contravention of the Act or conditions imposed. A prohibition notice stays in force until cancelled by the local government.
- (iii) **Cancellation of licence** – a written notice advising of a cancellation of a licence as a result of the licence holder being convicted under the Caravan Parks Act or any other relevant law, the licence was obtained by fraud or misrepresentation or a licence condition was contravened.

A local government can also take legal action under the Caravan Parks Act and issue infringement notices for a prescribed offence.

### Issues

The current legislation is very prescriptive in the requirements that are placed on operators. The provisions do not allow operators the flexibility to think critically about their target market and facility, nor to develop proposals to address these and the particular risks of the location.

### Objective

The objective is to introduce outcomes-based mechanisms which allow operators the flexibility to develop their facilities to meet the needs of their users, whilst also complying with the minimum standards for health, safety and the environment.

Local governments also need to be encouraged to enforce compliance.

### Consultation feedback

Feedback has previously been sought on whether management plans would be a suitable model for licensing facilities, with the overarching legislative framework providing the minimum standards that must be incorporated in the plan.

Overall, 78 per cent of respondents were supportive of the introduction of management plans. The adverse feedback received related to the financial impact the development of the plans may have.

It was previously proposed that the current enforcement provisions continue to apply under the new legislation.

## Options

### (i) Status Quo

Under this option, facilities will continue to be assessed based on the prescribed standards under the Caravan Parks Regulations.

The Caravan Parks Regulations outline in detail the standards that all caravan parks and camping grounds need to abide by, including the distance between sites, size of annexes, parking, ablutions, waste management and laundry facilities and water supply.

A licence holder may apply to the Minister to vary, modify or grant an exemption from the prescribed standards. An exemption can be approved if the Minister is satisfied it is not detrimental to the public interest.

### (ii) Preparation of management plans for all facilities operating under the Caravan Parks Act

In accordance with the recommendation under Sections 7 and 8, it is proposed that there be three categories of approval to operate and all facilities operating under the legislation must comply with a set of minimum standards. These standards will be developed through further consultation following the development of the principal Caravan Parks Act.

In addition to the new legislation setting the minimum standards to apply across all facilities, it is proposed that operators must also complete a management plan and submit it with their initial request for an approval to operate. If the application is for an event approval, a management plan will be required; however, it may not necessarily contain the same level of detail as required for a holiday park or nature based park application.

The requirement for management plans has recently been introduced for nature based parks to enable operators to develop a proposal that is specific to their target market and the facility they wish to establish. Guidance material for nature based park management plans is available on the department's website at [www.dlg.wa.gov.au/Content/Community/CaravanParks/NatureBasedParks.aspx](http://www.dlg.wa.gov.au/Content/Community/CaravanParks/NatureBasedParks.aspx).

Similar guidance material would be provided for the preparation of holiday park and event management plans.

Management plans are documents providing essential details on how a facility is to be designed and managed and the type of facilities to be provided. The plan outlines how the operator will meet the minimum standards and address any risks specific to the facility.

Once agreed, the plan will form the basis of an approval to operate and will be the ongoing management tool for the operator and the local government. The approved plan will form the minimum standards with which the facility is required to comply, and compliance with these standards will be checked during inspections.

It is proposed that the regulations will prescribe what needs to be incorporated into the plan, including:

- The number and type of proposed sites
- The proposed maximum capacity of the facility
- Environmental impact and sustainability
- Waste management
- Traffic management, and
- Risk management.

For further information on what is required to complete a management plan, and to view a pre-existing management plan template, please visit the department's webpage on nature based parks at

[www.dlg.wa.gov.au/Content/Community/CaravanParks/NatureBasedParks.aspx](http://www.dlg.wa.gov.au/Content/Community/CaravanParks/NatureBasedParks.aspx).

The relevant authority will be required to review the management plan at the time an application is made, and will have the discretion to place conditions on the facility; for example, the authority may stipulate that a particular facility must meet standards above the legislated minimum due to the nature of the facility. If an operator does not support the conditions imposed by the approving authority, this option proposes that they can appeal that decision to the SAT.

If this option is preferred, it is suggested that the following provisions are adopted:

- A management plan must be submitted with applications for approval to operate
- Management plans must provide for the minimum standards prescribed and any particular risks associated with the facility
- A local government has the discretion to apply specific conditions to an approved management plan
- A facility operator can appeal to the SAT to oppose the conditions required by a local government
- An approval to operate is not issued unless the facility is compliant with the agreed management plan
- Local governments must keep a register of facilities granted approval to operate
- Facility operators must comply with the minimum standards as prescribed
- Facility operators must keep a register of occupiers
- Local governments to enforce the provisions through use of work specification notices, prohibition notices or cancellation of approval to operate. Court-imposed penalties and infringement notices will be prescribed, and
- The department can appoint an independent person to enforce the provisions of the legislation on local governments.

## Discussion

An overarching objective of the review is to increase flexibility and reduce red tape for operators and local governments, while continuing to ensure that the health and safety of users and the environment are protected.

If the status quo (option (i)) is maintained, operators will continue to operate under the current legislated standards, which are unnecessarily prescriptive. To ensure that operators have the flexibility to tailor their facilities to the needs and expectations of their target market, operators must have the ability to prepare a plan that delivers on those expectations. While option (i) allows an exemption from the standards to be sought, applying for an exemption is additional red tape for the operator, and also places an administrative burden on the department to review applications.

Under option (ii), operators will be able to determine the type of facility and services they want to provide, taking into consideration their target market and the risks of the site, and incorporate that proposal into a management plan. The management plan must be submitted to the relevant authority with an application for approval to operate. It is expected that this increased flexibility will remove the difficulties associated with applying the convoluted current provisions under option (i) and will remove the red tape that currently surrounds some of those provisions, such as the necessity of applying for exemptions from the existing standards.

While option (ii) gives operators increased flexibility, it also provides a necessary measure to allow the relevant authority to place conditions on the facility. An example where this may occur is in a bushfire-prone area, where a local government may require the distance between campsites to be greater than the prescribed minimum, to protect the health and safety of users in the event of a bushfire. While option (ii) has provisions for minimum standards, the standards provided under specific management plans must be appropriate for and specific to the level of facility that is being provided. There is a risk that increased flexibility and less prescriptive regulatory requirements may lead to insufficient information being provided to allow local governments and planners to make an informed decision on an application. Whilst existing facilities already have detailed planning approval documentation, that granular level of detail is unlikely to be necessary for new developments. It is suggested that for new developments, management plans and development approvals be prepared concurrently to ensure that all required information is compiled and provided to the local government at the same time.

Under both options (i) and (ii), the local government will be required to ensure compliance. It is proposed that the current enforcement tools remain, as they allow for a staged approach to compliance, from an initial notice requesting a change, to cancellation of the approval to operate in extreme circumstances. Option (ii) proposes that the department will have the ability to enforce the legislation on local government, which recognises the possibility of regulator/operator conflict and ensures that all facilities are held to the same standard, no matter the operator.

Under option (ii), when inspections are conducted, compliance will be checked in accordance with the management plan for the individual facility, rather than under prescribed standards that may not be relevant to the specific facility (option (i)).

If option (ii) is adopted, the department will prepare guidance material to assist operators in developing management plans. Guidance material would also be prepared to assist local governments in assessing management plans to ensure the plans are compliant with the Caravan Parks Act.

It is recommended that option (ii) is adopted as it allows for increased flexibility for operators to tailor their facilities to their target markets, whilst providing protection to the health and safety of users and the environment.

#### Recommendation

- Option (ii) Preparation of management plans for all facilities operating under the Caravan Parks Act.

#### Guidance questions

- Question 23: Do you think this promotes a flexible operating environment for operators? Why or why not?
- Question 24: Will less prescriptive regulatory requirements result in insufficient information being provided in support of development applications?
- Question 25: Is it feasible to prepare a management plan concurrently with a development approval? Why or why not?
- Question 26: Do you agree that local governments should have the ability to require that operators provide services at standards above the prescribed minimum? Why or why not? If yes, under what circumstances?
- Question 27: Can you identify any additional costs or benefits arising from the requirement to prepare a management plan? What are they?

## 9. Penalties

The Caravan Parks Act and Regulations contain court-imposed penalties and modified penalties for a range of offences.

### Issues

The current penalties in the legislation have not been increased for 20 years, and are therefore unlikely to act as an effective deterrent to non-compliance. It is also unlikely that such outdated penalties are above cost recovery for local governments, which may result in a lack of proactive enforcement.

## Objective

The objective is to increase penalties to a level which will both encourage compliance with the legislation and facilitate proactive enforcement by local governments.

## Consultation feedback

Feedback was previously sought on the level to which penalties should be increased. Approximately 59 per cent of submissions supported an increase in penalties; however, it was also raised that an increase in penalties should be backed by effective inspection and enforcement.

## Options

### (i) Status quo

Under this option, penalties would remain the same. The amounts of court-imposed penalties vary depending on the offence. For example, there is currently a court-imposed penalty of \$1,000 for failing to display the licence issued, and a penalty of \$5,000 for operating without a licence.

Modified penalties (on the spot fines) range from \$50 to \$200 depending on the offence.

### (ii) Increase penalties in accordance with the *Food Act 2008* and *Building Act 2011*

Under this option, it is proposed that penalties will be increased to ensure they act as an effective deterrent and are consistent with similar legislation.

This option proposes that penalties are modelled on the Food Act and Building Act, as these Acts also deal with health and safety issues. Overall, this may result in a tenfold increase. For example, court-imposed penalties may increase from \$5,000 to \$50,000 for breaching notifications and conditions.

In accordance with the Food Act, penalties for a body corporate will be five times higher than for an individual.

If this option is preferred, it is suggested that the following provisions are adopted:

- All court-imposed penalties are increased to be consistent with similar provisions under the *Food Act 2008* and *Building Act 2011*.

## Discussion

The imposition of penalties is to act as a deterrent and encourage compliance. For this reason, the penalties must be set at a level which both reflects the severity of the offence and deters non-compliance. Penalties that do not financially impact an offender will not encourage compliance, which may ultimately impact on the health and safety of users.

Option (i) would retain the existing penalties with no increase. The concern with penalties that are not increased to reflect the current financial position of society is that they may not be high enough to act as a deterrent. Such penalties may also not be enough to cover the costs to local governments to enforce compliance, which can result in a lack of proactive enforcement.

Under option (ii) it is proposed that penalties are increased in line with existing penalties under the Food Act and Building Act. Both statutes are recent and contain high penalties for non-compliance that reflect contemporary costs of living. Whilst the court-imposed penalty increase will be significant (approximately tenfold), it is crucial that the penalties effectively deter non-compliance and provide an incentive for local governments to enforce the provisions. As noted through consultation, feedback suggests that encouraging enforcement is crucial to increasing compliance. Proactive enforcement should result in increased compliance.

Introducing a penalty which is five times higher for bodies corporate (as suggested under option (ii)) also acknowledges the financial position of bodies corporate compared to individuals.

Option (ii) is recommended because the imposition of greater penalties provides an additional measure of protection for the health and safety of users and the environment. This may assure users and operators that offences against the legislation could result in a significant penalty being imposed. There is no significant impact to compliant operators or users as a result of the increase.

### Recommendation

- Option (ii) Increase penalties in accordance with the *Food Act 2008* and *Building Act 2011*.

### Guidance questions

- Question 28: Do you think increasing penalties in line with the Food Act and Building Act is appropriate? Why or why not?
- Question 29: Do you agree that higher penalties will increase enforcement and compliance? Why or why not?
- Question 30: Do you agree that bodies corporate should be liable for a higher penalty than individuals? Why or why not?
- Question 31: Can you identify any additional costs or benefits that have not been considered in the discussion of this option? What are they?

## 10. Prerequisites of Accommodation Vehicles

It is important that accommodation vehicles, including caravans and campervans, are compliant with the necessary Western Australian legislation. This includes ensuring that accommodation vehicles remain compliant with the mobility provisions of the current Caravan Parks Act.

### Issues

Accommodation vehicles are being converted for residential use, which often includes modifications and the attachment of permanent fixed structures such as annexes and carports. These modifications mean such vehicles no longer comply with the mobility provisions of the Caravan Parks Act.

These converted vehicles are currently not captured by legislation that applies to either vehicles or buildings, and some regulation is required to ensure that the health and safety of users and occupiers is maintained and is enforceable through legislation.

The risks associated with residents in structures which do not offer the protection that an approved building does is mitigated by their mobility. In the event of a cyclone or fire within the facility for example, such vehicles should be able to be quickly moved to a safer location.

## Objective

The objective is to ensure that the health and safety risks of occupiers are minimised by having accommodation vehicles and converted accommodation vehicles compliant with appropriate standards.

## Consultation feedback

It was proposed in the first consultation paper that caravans and campervans must be licensed at all times they are in a facility. Submissions received raised concerns that there are currently caravans that have been converted to become more permanent structures by long-term residents and are therefore no longer mobile. These vehicles would not be considered roadworthy and are unlikely to be licensed under the Road Traffic Act. However, most of these converted accommodation vehicles have never been assessed against the requirements of the Building Act and are unlikely to have had appropriate health and safety mechanisms installed as part of those modifications.

A distinction must be made between treatment of converted accommodation vehicles in the future and the treatment of current vehicles that are not roadworthy. The latter is dealt with under Transitional Provisions (Section 12).

## Options

### (i) Status quo

It is currently a requirement that caravans and campervans remain mobile and be maintained in such a condition that they can be moved under their own power or by being towed. It is not specifically necessary for the vehicles to be licensed under the Road Traffic Act; however, this is implied, as such vehicles are not allowed on roads without a current licence.

### (ii) **Accommodation vehicles in holiday parks are either licensed under the *Road Traffic Act 1974* or assessed under the *Building Act 2011* as a Class 1a building**

This option proposes that any accommodation vehicle in a facility must be licensed under the Road Traffic Act and must remain licensed. For a licence to be issued, it is a requirement that a vehicle is roadworthy.

If the intention is for an accommodation vehicle to become unlicensed and converted into a transportable building by the addition of a rigid annexe, patio or similar, permission must first be received from the owner of the holiday park. If supported by the park owner, an application will then need to be made to the local government in advance of the conversion to ensure it complies with the relevant local planning

scheme. The entire structure, including the original accommodation vehicle, must also be assessed as a habitable structure (a class 1a building under the Building Code of Australia). This may require an upgrade to the vehicle.

At all times, the building must remain transportable, as the occupier has no entitlement to the land. Permanent, immovable structures are only allowed if they are owned by the owner of the park.

It is important to recognise that converted accommodation vehicles are different from park homes, which are discussed at Section 5 of this paper. Converted accommodation vehicles were once roadworthy and presumably were capable of being licensed under the Road Traffic Act, whereas park homes have not previously required a vehicle licence under the Caravan Park Regulations. The two intersect in their usage as permanent residences.

If this option is preferred, it is suggested that the following provisions are adopted:

- Any accommodation vehicle in a holiday park is to be licensed at all times under the Road Traffic Act
- If the intention is to add rigid structures to an accommodation vehicle, the entire structure is to be assessed and approved under the Building Act as a habitable building. Approval must also be granted by the facility owner/operator, and
- A converted accommodation vehicle will be considered a transportable building and must remain transportable.

## Discussion

Option (ii) provides a model that captures the types of accommodation vehicles that may be found in a holiday park. This model acknowledges that holiday parks may have residents who are permanent, or wish to become permanent, and would like to convert their vehicle into a more permanent structure, such as through the addition of an annexe or carport. Park operators may also use on-site caravans as a form of accommodation for short-stay tourists. These caravans may be plumbed, have gas and electricity, and while they take the form of a caravan, they would no longer be capable of being licensed under the Road Traffic Act.

Option (ii) would ultimately protect the health and safety of users, because the accommodation types are either roadworthy and/or movable in case of an emergency, or otherwise meet the compliance standards required for a building. A person using a converted accommodation vehicle as a residence should have the

same safety standards as a person living in a building. This may require the installation of smoke alarms or insulation. The building must, however, remain transportable, as the owner has no claim to the land on which it sits. If the building were to be sold, leased or hired out, it must have smoke alarms fitted prior to the sale taking place. Under the Building Act, local governments may issue infringement notices against, or prosecute, owners who have not installed compliant smoke alarms in a building prior to selling, transferring ownership, renting or hiring.

While option (i) has the benefit of protecting the health and safety of users because all accommodation vehicles must remain moveable, there are issues with compliance and it does not specify how converted accommodation vehicles should be assessed. Option (i) also does not acknowledge that conversions do occur and that converted vehicles should not continue to be defined as accommodation vehicles.

The introduction of a provision that will allow converted accommodation vehicle users to deregister their vehicle for the purposes of conversion into a building is beneficial, particularly for long term occupants who have no intention of keeping the vehicle mobile. However, it is acknowledged that it may be extremely difficult for a converted accommodation vehicle to pass a building inspection. Whilst this may be the case, it is important to ensure that any person who wants to convert an accommodation vehicle into a permanent residence rather than a mobile home must be afforded the same protection as a person in a traditional building. It is also important to ensure that the health and safety of other users in a park is protected, especially in the case of a fire or cyclone.

While it is unlikely that a converted accommodation vehicle would precisely meet the standards of a Class 1a building under the Building Code of Australia, the Code is flexible in application, as it requires that performance requirements be met. Similarly to the outcomes-based framework suggested in discussion of management plans (see Section 8 of this paper), the Building Code provides flexibility for owners to demonstrate that the broader performance requirements of the Code are met. This may be through, for example, access to communal toilet and shower facilities (that is, facilities that are owned and maintained by the park operator for the use of residents and tourists alike) rather than the requirement to install a private toilet and shower in the converted accommodation vehicle itself. Provided it meets the performance requirements of the Building Code, a converted accommodation vehicle may be considered a Class 1a building by the relevant local government conducting an inspection.

The concern with option (ii) is that a vehicle no longer licensed will be in breach of the legislation if approval has not been granted by the local government for the change to a transportable building. Users will be required to apply for the conversion before the vehicle licence expires. This may result in a significant impact on local governments as they will be required to introduce a process for users to apply and for applications to be assessed. However, to ensure health and safety of those users, option (ii) is the recommended option. Guidance material to assist local governments to assess converted accommodation vehicles against the Building Act would be developed and made available.

For information on the transitional provisions for existing converted use accommodation vehicles refer to Section 12.

#### Recommendation

- Option (ii) Accommodation vehicles in holiday parks are either licensed under the *Road Traffic Act 1974* or assessed under the *Building Act 2011* as a transportable building.

#### Guidance questions

- Question 32: Do you agree that accommodation vehicles converted for the purpose of permanent habitation should be assessed under the Building Act rather than the Caravan Parks Act? Why or why not?
- Question 33: What are the costs and benefits of this proposal for both users and facility operators?

## 11. Advisory Committee

Under the Caravan Parks Act, the Caravan Parks and Camping Grounds Advisory Committee (Committee) is established to make recommendations to the Minister on ways to improve, promote and regulate caravanning and camping in Western Australia.

### Issues

In 2010, the Department of the Premier and Cabinet released a circular (Premier's Circular 2010/02) advising that Ministers and agencies are encouraged to utilise interdepartmental working groups and other forms of consultation in place of establishing a committee. That Circular can be found at the Department of the

Premier and Cabinet website, available from [www.dpc.wa.gov.au/GuidelinesAndPolicies/PremiersCirculars/Pages/201002StateGovernmentBoardsandCommittees.aspx](http://www.dpc.wa.gov.au/GuidelinesAndPolicies/PremiersCirculars/Pages/201002StateGovernmentBoardsandCommittees.aspx).

To comply with this directive, consideration must be given to abolishing the Committee in favour of other means of engagement.

### **Objective**

The objective is to introduce a mechanism which facilitates an effective, flexible and responsive approach to stakeholder engagement.

### **Consultation feedback**

Feedback was sought on the proposal to abolish the Committee in place of proactive consultation with relevant stakeholders.

63 per cent of respondents supported the abolition of the Committee, and 87 per cent were supportive of proactive consultation generally.

There was some support to retain the Committee due to concerns that consultation may be ad hoc or not robust.

### **Options**

#### **(i) Status quo**

Under this option, the Committee would continue to provide advice to the Minister. The Committee is comprised of a representative from each of the following stakeholder groups:

- Western Australian Local Government Association
- Caravan industry
- Consumers
- State government agency with an interest in caravanning and camping
- Any other interests as the Minister considers appropriate, and
- Employee of the department.

The functions of the Committee are to provide advice on ways to improve, promote and regulate caravanning and camping throughout the state.

**(ii) Proactive consultation with relevant stakeholders in place of an Advisory Committee**

This option proposes that proactive consultation with relevant stakeholders replaces the Committee. Consultation will be undertaken by the department as necessary and may be facilitated through workshops and other means of engagement.

If this option is preferred, it is suggested the following provision is adopted:

- The Caravan Parks and Camping Grounds Advisory Committee is abolished in favour of proactive consultation undertaken with relevant stakeholders as required.

**Discussion**

If option (i) is adopted, it would not be compliant with Premier’s Circular 2010/02. However, the retention of the Committee may allow the Minister to more readily gather information and feedback, as a list of members and their contact details are already available. While concern was raised during consultation that advisory committees contain self-interest groups, if option (i) is supported, a thorough advertising and selection process should be undertaken to ensure members are selected and appointed based on their skills and ability to provide reliable advice. Having a set Committee, however, may mean that views are only obtained from a very few people and these people may not have the necessary expertise on a particular issue or matter that arises.

Option (ii), in addition to being compliant with the government’s directive, which will mean a cost benefit, will enable direct consultation with relevant stakeholders. With the removal of the Committee, a variety of consultation methods can be used, dependent on the issue. This may include workshops with specific stakeholders or the development of email distribution lists for different topics. With a range of different methods of consultation available, abolishing the Committee in favour of proactive consultation on an as needed basis would both reduce red tape and encourage a wider range of views from stakeholders across the broader caravanning and camping industry.

While option (ii) will remove the cost associated with paying sitting fees of members and the provision of in-kind support from the department, it may still result in some cost involved with consultation. This cost could be both financial and in-kind as some engagement tools may require staff time and workshops. However, compared to an advisory committee, in times of financial constraints, information could be sought by mechanisms which do not impose a financial impact, other than in-kind, for example

the use of email distribution lists to disseminate and receive information, request feedback and provide advice on relevant issues.

Previous feedback suggested that running an advisory committee is administratively burdensome. It also does not align with Premier's Circular 2010/02, as noted above. Option (ii) will allow for targeted consultation to ensure a more appropriate outcome, dependent on the issue. For these reasons option (ii) is the recommended option.

#### Recommendation

- Option (ii) Proactive consultation with relevant stakeholders in place of an Advisory Committee.

#### Guidance questions

- Question 34: Do you support this recommendation? Why or why not?
- Question 35: What consultation methods should be used to ensure feedback from the broader industry (including operators, consumers and local governments) in the future?
- Question 36: Can you identify any particular costs or benefits associated with disbanding the Committee in favour of a more flexible direct consultation framework? What are they?

## 12. Transitional Provisions

### 12.1 Holiday parks and camping grounds

If the above recommendations are adopted, particularly the options discussed at Sections 6 (Licensing of facilities) and 10 (Prerequisites of accommodation vehicles), consideration must be given to introducing transitional provisions which would give operators sufficient time to become compliant.

#### Issues

One of the key principles of this review is to introduce flexible operating conditions so operators can respond to demand and any changes to the sector over time, as well as allowing them the freedom to tailor their facilities and services to a specific market. If different standards are introduced, it may cause difficulties for operators to become compliant. It is not, however, expected that the minimum standards in the new regulations will be higher than the current standards; therefore, the risk of the

majority of operators experiencing substantial difficulties complying with the new minimum standards is considered small.

### Objective

The objective is to ensure that operators and users have an adequate period of time to become compliant with any new legislative provisions, whilst still ensuring that facilities are compliant under the existing provisions in the meantime.

### Consultation feedback

Submissions highlighted a number of current non-compliance issues with the legislation. The submissions also raised concerns that the current transitional provisions create two sets of rules – one set for older facilities which are not currently compliant, and another set for new ones. This has led to perceptions of inequality.

### Option

- (i) All facilities must apply for an approval to operate and complete a management plan within five years of the legislation taking effect**

Under this option, it is proposed that facilities must apply for an approval to operate, which includes submitting a management plan, within five years of the legislation taking effect. Until the application for approval to operate has been submitted and approved, the annual licensing provisions will continue to apply to ensure that the facility is still being regularly monitored and remains compliant with the prior provisions of the Caravan Parks Act.

If this option is preferred, it is suggested that the following provisions are adopted:

- All facilities must apply for approval to operate within five years of the legislation taking effect, and
- Annual licencing and inspections in accordance with the current provisions will continue to apply until an approval to operate is received.

### Discussion

It is important to note that one of the key principles of this review is to reduce red tape while managing risks associated with the operation of facilities, and providing flexibility for operators. Hence it is likely that the new legislation will be less prescriptive, and as such, existing facilities which are compliant with the current requirements should not be adversely affected under the new Caravan Parks Act.

It is however acknowledged that there may be some facilities which are not compliant, and enough time needs to be provided to allow those facilities to make

the necessary modifications to become compliant with the Caravan Parks Act. Facilities must also be allowed adequate time to prepare a management plan as part of their application for an approval to operate.

As noted, prior consultation identified issues with facilities operating under different provisions as a result of the transitional provisions introduced in 1997 when the Caravan Parks Act first came into effect. For that reason, the option proposed is that all facilities will be required to comply with the same minimum standards. This removes any confusion and difficulties in enforcing the provisions as the relevant enforcement agency is clear on what provisions apply. This is particularly applicable as each facility will eventually have their own management plan which is specific to it, and local governments will assess each facility against its individual management plan.

To enable all facilities to prepare a suitable management plan, it is proposed that an application for approval to operate can be submitted to the relevant local government at any time within the first five years, provided that it is approved by the end of the fifth year. During this period, the annual licensing and inspection requirements as prescribed in the current legislation will continue to apply. The incentive is for facilities to prepare their management plans and apply for the approval to operate, to avoid the ongoing annual licence requirements. Local governments will use the existing provisions as the basis of the inspections until such time as a management plan is approved.

This approach may be burdensome on local governments in the short term during the transition period; however, it is considered to be the best approach to ensure that all facilities have adequate lead time to prepare a compliant management plan.

#### Recommendation

- Option (i) All facilities must apply for an approval to operate and complete a management plan within five years of the legislation taking effect.

#### Guidance questions

- Question 37: Are there any other options available for transitional provisions? What advantages would these bring?

- Question 38: Is five years enough time for operators to prepare management plans, apply for and be granted approvals to operate? Why or why not?

## 12.2 Converted accommodation vehicles

Consideration must also be given to transition provisions for accommodation vehicles that are no longer roadworthy and how, or whether, these will be managed under the Caravan Parks Act.

### Issues

It is recommended in this paper (at Section 12) that accommodation vehicles with rigid annexes and carports attached, and/or those that have been converted to building-like structures should be assessed under the Building Act. The issue is how this impacts on current occupiers who are in vehicles that cannot be licensed because they cannot be moved - such vehicles may be unlikely to pass a building inspection.

### Objective

The objective is to ensure that the financial impact of the new legislation on occupiers of converted accommodation vehicles is minimal, while still introducing measures to protect their health and safety.

### Consultation feedback

Feedback received on the previous proposal suggested that caravans that had been converted for permanent residence should be assessed as buildings under the Building Code. Concern was raised in the submissions that this would have a significant impact on occupiers of these vehicles, as they may be unlikely to pass a building inspection.

### Options

- (i) **All converted accommodation vehicles must be assessed under the Building Act within one year**

This option proposes that within one year of the legislation taking effect, all converted accommodation vehicles must undergo a building inspection to ensure they are fit to be occupied.

If this option is preferred, it is suggested that the following provision is adopted:

- All converted accommodation vehicles that are no longer licensed under the Road Traffic Act must be inspected under the Building Act within one year of the legislation taking effect. These will be required to become compliant habitable transportable buildings for the purposes of the Building Act.

**(ii) The legislation is not applied retrospectively to converted accommodation vehicles**

Under this option, it is proposed that any converted accommodation vehicle that has been converted to a transportable building before the legislation takes effect will not be subject to a building inspection unless there are any future substantial modifications.

If this option is preferred, it is suggested that the following provision is adopted:

- Any converted accommodation vehicles that are no longer licensed under the Road Traffic Act are exempt from the new provisions subject to any future substantial modifications.

**(iii) The legislation is not applied retrospectively to all converted accommodation vehicles; however, basic minimum standards are prescribed to protect the health and safety of the occupiers and surrounding users**

This option proposes that any converted accommodation vehicle that is not able to be licensed under the Road Traffic Act will not have to pass a building inspection; however, basic minimum standards will be necessary. These will be designed to protect the health and safety of residents, including neighbours.

It is proposed that the minimum standards will include the fitting of smoke alarms and residual-current devices (RCDs). It would be mandatory that smoke alarms and RCDs be installed prior to the converted accommodation vehicle being sold, rented, leased or hired out. This is already a requirement under the Building Act and Regulations (smoke alarms) and the *Electricity Act 1945* and Regulations (RCDs).

If this option is preferred, it is suggested that the following provisions are adopted:

- Any converted accommodation vehicles that are no longer licenced under the Road Traffic Act are exempt from the new provisions, subject to any future substantial modifications
- All converted accommodation vehicles must ensure that smoke alarms and RCDs are fitted within 12 months
- Converted accommodation vehicles must have smoke alarms and RCDs fitted prior to being sold, rented, leased or hired out, and
- Converted accommodation vehicles must be capable of assessment as a Class 1a building under the Building Code prior to being sold.

## Discussion

In considering the various options for converted accommodation vehicles, it is important to acknowledge that occupiers of permanent converted accommodation vehicles may have no other option for accommodation. Additionally, long-stay occupiers provide financial security to facility owners during off-peak times and can be a significant percentage of their market.

Option (i) proposes that all converted accommodation vehicles must be assessed within 12 months of the legislation taking effect. While this option will ensure that converted accommodation vehicles are safe for occupiers, it may also result in significant costs to users and facilities to become compliant. Another concern is that the vehicles may be condemned if they cannot be made compliant. A significant proportion of these vehicles are unlikely to be compliant with the current legislation. In this situation, occupiers will need to find alternative accommodation and the vehicle itself will need to be removed. In addition to imposing costs onto both the occupier and facility, it may remove the financial security of having the permanent occupiers on sites and depending on the location of the park, it may be extremely difficult for occupiers to secure alternative accommodation.

The benefit of option (i) is that if non-compliant vehicles are removed, it creates additional sites for short-stay tourists. It also provides the safest solution.

Options (ii) and (iii) propose that converted accommodation vehicles already in existence when the legislation takes effect do not have to comply with the new requirements to be assessed under the Building Code. This will ensure that current occupiers will not lose their home, and that operators continue to have their guaranteed rent. However, it does place a risk - not only on the occupiers as the

vehicles may be unsafe, but also on other users of the parks, especially if the converted accommodation vehicles pose a fire hazard. It does not, however, seem reasonable that a person who cannot afford more substantive accommodation, or who prefers to live a caravan park lifestyle, should be put at risk.

Under option (iii) converted accommodation vehicles will not have to comply with the Building Code; however, basic health and safety measures will be prescribed. This is likely to include the requirement to install smoke alarms and RCDs. This will result in a cost to the owner of the vehicle but the added protection it provides is considered to justify the cost. In addition, if there are any significant future changes to the vehicle, a building inspection will be required to ensure compliance with the Building Code. A change deemed significant enough to require assessment under the Building Code would include, but is not limited to, the construction of a permanent annexe or carport after the legislation has come into effect. The department, in consultation with other relevant agencies, could develop and make available guidance material to assist local governments and occupiers with the assessment process.

As discussed at Section 10 of this paper, it is already a requirement under the Building Act and Regulations that smoke alarms be fitted prior to the sale, rental, lease or hire of a building. Under that legislation, a new owner is able to recover the costs of installing smoke alarms from the previous owner/seller if they were not installed prior to the sale. The Building Regulations already provide options for installation of smoke alarms where it is not possible to connect them to the mains or have them installed by an electrician (as is likely to be the case with most converted accommodation vehicles). The alternative to a mains-connected (or hardwired) smoke alarm under the Regulations is that a smoke alarm may be fitted in an appropriate alternative location provided it has a 10 year life battery that cannot be removed. Under Regulation 61 of the Building Regulations, local governments can approve the installation of such battery powered smoke alarms. The installation of smoke alarms is therefore considered to be a reasonable requirement for all converted accommodation vehicles.

The *Electricity Regulations 1947* legislate that residential premises must have at least two RCDs installed prior to sale, leasing or hire, regardless of whether the premises are occupied by the owner. Additionally, common property relating to residential premises must have at least one RCD per switchboard. As it is already a legislated requirement that residential premises must have at least two RCDs installed, it is considered reasonable to require that they be installed in converted accommodation vehicles used for residential purposes.

Preliminary research has suggested that the cost of a compliant smoke alarm may be approximately \$50, not including installation. Installation costs may vary dependent on the type of smoke alarm (e.g. battery powered or mains-connected/hardwired). RCD costs are similarly variable, ranging anywhere from \$200 to \$500. Some suppliers may also be able to install both smoke alarms and RCDs simultaneously as a package.

Under option (iii), it would be a requirement that if a converted accommodation vehicle was to be sold, it must first be assessed against the requirements of a Class 1a building under the Building Code. As previously discussed, the Building Code allows flexibility to the extent that buildings must meet the performance standards set by the Code, and local governments have the power to approve alternative building solutions under the Building Regulations.

To provide safety to occupiers and users, with the least financial and emotional impact on users and operators, it is recommended that option (iii) be adopted.

#### Recommendation

- Option (iii) The legislation is not applied retrospectively to converted accommodation vehicles; however, basic minimum standards applying to the vehicle are prescribed to protect the health and safety of the occupiers and surrounding users.

#### Guidance questions

- Question 39: What other simple, low cost options should converted accommodation users have to comply with to ensure their health and safety?
- Question 40: Do you agree that the legislation should not be retrospectively applied to converted accommodation vehicles? Why or why not?
- Question 41: What do you think constitutes a significant change that would trigger assessment under the Building Act?
- Question 42: Can you identify any additional costs or benefits to assessing converted accommodation vehicles under the Building Act? What are they?

## 14. Regulations

The new Holiday Parks and Camping Grounds Act will be supported by regulations. While this paper discusses some of the general content that will be incorporated, the final content cannot be finalised until the framework of the legislation is determined.

Overall, it is expected that the regulations will prescribe the following:

- The minimum standards that facilities must abide by
- Modified penalties
- Prescribed form and content of the management plan, and
- Prescribed forms, including an infringement notice and approval to operate.

The existing Regulations will be reviewed at a later stage, during which time public input will be sought.

# Appendix 1

## Summary of proposed options and suggested provisions

### Definitions updated to reflect current terminology

'Holiday park' will mean an area of land on which accommodation vehicles and/or tents are situated for habitation, primarily by short-stay occupiers. In accordance with section 2, zoning and local planning schemes will dictate what buildings are allowed on the land.

'Accommodation vehicle' is the term used to reflect all types of vehicles used or capable of being used for habitation. This includes caravans and campervans.

'Vehicle' is any vehicle as defined under the *Road Traffic (Administration) Act 2008*.

The current definition is:

*vehicle includes —*

- (a) every conveyance, not being a train, vessel or aircraft, and every object capable of being propelled or drawn, on wheels or tracks, by any means; and*
- (b) where the context permits, an animal being driven or ridden;*

'Facility' will mean a holiday park or camping ground.

'Camp' (noun) will be replaced by 'tent' to mean any portable tent which, apart from any rigid support frame, has walls and a roof of canvas or other flexible material.

'Camp' (verb) will mean to stay or lodge in a tent, or other accommodation vehicle. This definition will be based on the definition in the *Conservation and Land Management Regulations 2002*.

The legislation is to be titled the Holiday Parks and Camping Grounds Act.

**Implementation of this recommendation is likely to be relatively simple, as it will not have a substantial impact on operators.**

**A facility that has designated two or more sites for short-stay accommodation vehicles and/or tents requires approval to operate. Residential parks must provide 10 such sites, or a prescribed percentage of the sites, to be eligible for an approval to operate.**

- Any facility that provides two or more sites designated for accommodation vehicles and/or tents requires an approval to operate
- Any residential development consisting mostly of park homes for the purposes of long-term residential living must provide 10 designated sites for short-stay accommodation vehicles and/or tents, or a prescribed percentage of such sites, to be eligible for an approval to operate
- Residential parks already established on caravan park or tourism zoned land will continue on that land; however, proposed new residential park developments should not access caravan park or tourism zoned land in the future
- Land zoning, local planning schemes and other planning instruments will determine the types of accommodation allowed on a park, with the mix of accommodation types forming part of the approved management plan (see Section 8)
- Unless owned by the owner of the facility, any buildings and associated structures on that facility must be transportable
- All buildings, including transportable buildings, must be compliant with the Building Act and
- Park homes are to be treated as buildings under the Building Act and must comply with the relevant provisions of that Act. They will no longer be considered caravans or captured under the Caravans Act.

**Implementation of this recommendation may include the preparation of fact sheets for local governments and park operators to assist them in determining whether they need to apply for an approval to operate. Guidance material would also be prepared to assist in the development of management plans and the assessment of park homes under the Building Act.**

**Local governments can grant unlimited approvals to the landowner to offer a campsite for an accommodation vehicle and/or tent for up to three months at a time subject to appropriate consultation and risk assessment**

- A person may camp for up to three nights in any 28 day period on land where the landowner has given permission
- A landowner may apply to the local government seeking approval for a person to camp longer than three nights but not more than three months. This includes if the intention is to make their property available for more than three nights in any 28 day period
- Applications will need to be accompanied by a prescribed fee
- Only one accommodation vehicle and/or tent is allowed on the property at any time without an event approval
- A local government must consult with the affected neighbours, consider the health and safety of users, impact on the environment and feasibility of staying in an approved facility before an approval can be granted
- A local government can continue to renew an approval; however, a full assessment is required with each renewal
- A management plan must be submitted with each application which addresses basic health and safety concerns, including waste management and access to water, and
- If a local government refuses an application, the applicant can appeal to the SAT.

**Implementation of this recommendation may include the preparation of guidance material to assist park operators to prepare management plans and assist local governments to assess those management plans against the requirements of the Caravan Parks Act.**

**Status Quo**

- All facilities providing sites for accommodation vehicles and/or tents are required to have an approval to operate and complete a management plan
- Facilities operated by public sector agencies would remain exempt

- The relevant local government will be responsible for ensuring compliance with the prepared management plan
- The Minister may give directions to the local government to undertake a particular function of the legislation, and
- The department may appoint an independent person to inspect facilities and enforce the legislation. Operators will be required to pay the costs associated with inspection and enforcement.

**Implementation of this recommendation may include the preparation of guidance material to assist park operators to prepare management plans and assist local governments to assess those management plans against the requirements of the Caravan Parks Act.**

#### **Initial approval to operate granted, followed by annual inspections**

- An approval to operate is required for all facilities that provide two or more short-stay campsites for accommodation vehicles and/or tents
- An approval to operate is required for all park home park facilities that provide 10 or more short-stay campsites for accommodation vehicles and/or tents or a prescribed percentage of sites on their facility are designated for this purpose
- A temporary approval to operate can be granted by the relevant authority for specific events (refer Section 7)
- An approval to operate is to be accompanied by a management plan (refer Section 8)
- The management plan will provide the minimum conditions under which the facility must operate
- A local government must undertake inspections annually; however, the period between inspections may be extended to no more than two years under certain conditions, and
- If a new planning approval application is submitted or there are any redevelopments or substantial changes to a facility (including a change of owner), a new application for approval to operate must be submitted.

**Implementation of this recommendation may include the preparation of guidance material to assist park operators to prepare management plans and assist local governments to assess those management plans against the requirements of the Caravan Parks Act.**

**Three approval to operate licence categories; Holiday Park, Nature Based Park and Event approval with one set of minimum standards applying to all**

- A holiday park approval will include caravan parks that traditionally provide mixed-use accommodation types, but specifically sites for accommodation vehicles and tents. Sites can be provided for both long-stay and short-stay.
- A nature based park approval will be for facilities that are not in close proximity to an area that is built up with structures used for business, industry or dwelling-houses at intervals of less than 100 metres for a distance of 500 metres or more, and has been predominately formed by nature and has limited or controlled artificial light and noise intrusion. Stays will be restricted to no more than 28 days in any three month period.
- An event approval will be for special events where there is more than one accommodation vehicle and/or tent outside of an approved facility. An approval cannot be issued for any period greater than seven days and no more than four approvals can be issued for the property in a year.
- All facilities must abide by minimum standards as prescribed. These standards will be outcomes-based, rather than prescriptive, to allow for flexibility in approach.

**Implementation of this recommendation may include the preparation of guidance material to assist park operators to determine which category of approval they would need to apply for dependent on their intended facility.**

**Preparation of management plans for all facilities operating under the Caravan Parks Act**

- A management plan must be submitted with applications for approval to operate
- Management plans must provide for the minimum standards prescribed and any particular risks associated with the facility

- A local government has the discretion to apply specific conditions to an approved management plan
- A facility operator can appeal to the SAT to oppose the conditions required by a local government
- An approval to operate is not issued unless the facility is compliant with the agreed management plan
- Local governments must keep a register of facilities granted approval to operate
- Facility operators must comply with the minimum standards as prescribed
- Facility operators must keep a register of occupiers
- Local governments to enforce the provisions through use of work specification notices, prohibition notices or cancellation of approval to operate. Court-imposed penalties and infringement notices will be prescribed, and
- The department can appoint an independent person to enforce the provisions of the legislation on local governments.

**Implementation of this recommendation may include the preparation of guidance material to assist park operators to prepare management plans and assist local governments to assess those management plans against the requirements of the Caravan Parks Act.**

**Increase penalties in accordance with the *Food Act 2008* and *Building Act 2011***

- All court-imposed penalties are increased to be consistent with similar provisions under the *Food Act 2008* and *Building Act 2011*.

**Implementation of this option may include the development of fact sheets detailing the increased penalties to assist in awareness-raising for both local governments and users.**

**Accommodation vehicles in holiday parks are either licensed under the *Road Traffic Act 1974* or assessed under the *Building Act 2011* as a transportable building**

- Any accommodation vehicle in a holiday park is to be licensed at all times under the Road Traffic Act
- If the intention is to add rigid structures to an accommodation vehicle, the entire structure is to be assessed and approved under the Building Act as a habitable building. Approval must also be granted by the facility owner/operator, and
- A converted accommodation vehicle will be considered a transportable building and must remain transportable.

**Implementation of this option may include the preparation of fact sheets detailing the new requirements for accommodation vehicles and to assist local governments in assessing them against the requirements of the Building Act.**

**Proactive consultation with relevant stakeholders in place of an Advisory Committee**

- The Caravan Parks and Camping Grounds Advisory Committee is abolished in favour of proactive consultation undertaken with relevant stakeholders as required.

**Implementation of this option may include establishing a sign-up email distribution list specifically for caravan park and camping ground updates and information, to develop a stakeholder network.**

**All facilities must apply for an approval to operate and complete a management plan within five years of the legislation taking effect**

- All facilities must apply for approval to operate within five years of the legislation taking effect, and
- Annual licencing and inspections in accordance with the current provisions will continue to apply until an approval to operate is received.

**Implementation of this recommendation may include the preparation of guidance material to assist park operators to prepare management plans and assist local governments to assess those management plans against the requirements of the Caravan Parks Act.**

**The legislation is not applied retrospectively to all converted accommodation vehicles; however, basic minimum standards applying to the vehicle are prescribed to protect the health and safety of the occupiers and surrounding users**

- Any converted accommodation vehicles that are no longer licenced under the Road Traffic Act are exempt from the new provisions, subject to any future substantial modifications
- All converted accommodation vehicles must ensure that smoke alarms and RCDs are fitted within 12 months
- Converted accommodation vehicles must have smoke alarms and RCDs fitted prior to being sold, rented, leased or hired out, and
- Converted accommodation vehicles must be capable of assessment as a Class 1a building under the Building Code prior to being sold.

**Implementation of this option may include the preparation of fact sheets detailing the new requirements for accommodation vehicles and to assist local governments in assessing them against the requirements of the Building Act. The fact sheets would also make reference to consumer protection requirements upon the sale, transfer or similar of converted accommodation vehicles.**

## Appendix 2

### Breakdown of submissions received in response to first Consultation Paper

The first consultation paper was released for an initial three month consultation period in 2014. Due to the number of submissions received, the consultation period was extended to four months.

In total, 127 submissions were received. These submissions can be categorised as follows:

<b>Stakeholder Group</b>	<b>Submissions</b>
Caravan Park users	42 submissions
Local governments	39 submissions
Caravan Park operators	22 submissions
Consumer representative groups	9 submissions
State government agencies	8 submissions
General public	4 submissions
Industry representatives	3 submissions



Department of **Local Government and Communities**  
 Department of **Regional Development**



## Second Consultation Paper - Feedback Form

### Proposal for Holiday Parks and Camping Grounds Legislation

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This form is part of an invitation for public comment on the Development of New Holiday Parks and Camping Grounds Act Consultation Regulatory Impact Statement, which can be found on the Department of Local Government and Communities' website here: [www.dlgc.wa.gov.au/CPCG-Consultation-Paper-2](http://www.dlgc.wa.gov.au/CPCG-Consultation-Paper-2)

The consultation paper is an initiative of the Western Australia Caravan and Camping Action Plan, which is supported by the State Government's Royalties for Regions program to improve caravan park and camping experiences.

This form has been developed to assist you in preparing your submission. It contains all the proposals and guidance questions from the consultation paper. Please enter your comments in the boxes provided. It is not expected that all questions are answered.

**Comments on all or part of the consultation paper are appreciated.**

#### Submissions

Comments, queries and submissions should be forwarded no later than **30 November 2015**. Please direct all comments and submissions:

By email to: [caravan@dlgc.wa.gov.au](mailto:caravan@dlgc.wa.gov.au)  
 noting 'Caravans and Camping Review' in the subject line.

By post to: Senior Legislation and Strategy Officer – Caravans and Camping Review  
 Department of Local Government and Communities  
 GPO Box R1250, Perth WA 6844

All responses to the consultation paper may be made publicly available on DLGC's website. If you would prefer your name to remain confidential, please indicate this in your submission. If you would like the entire submission to remain confidential, please mark it "**Private and Confidential**".

## More information

If you have any queries in relation to the consultation paper and this form, please contact:

Email: [caravan@dlgc.wa.gov.au](mailto:caravan@dlgc.wa.gov.au)

Telephone: (08) 6551 8700

Freecall (country only): 1800 620 511

Fax: (08) 6552 1555

For a Translating and Interpreting Service (TIS) telephone 13 14 50.

## About you

<b>Title:</b>	Mr <input type="checkbox"/>	Mrs <input checked="" type="checkbox"/>	Ms <input type="checkbox"/>	Miss <input type="checkbox"/>	Other <input type="checkbox"/>
	If other, please specify:			[Click here to enter text.]	
<b>Given names:</b>	Shire of Wyndham East Kimberley				
<b>Surname:</b>					
<b>*Street or postal address:</b>	20 Coolibah Drive, KUNUNURRA WA 6743				
<b>*Telephone:</b>	Home	[Enter text.]		Mobile	[Enter text.]
	Business	9168 4100			
<b>*Email address:</b>	mail@swek.wa.gov.au				
<b>Which best describes you?</b> (You can select more than one.)	A Camper	<input type="checkbox"/>	A Caravan User	<input type="checkbox"/>	
	A Recreational Vehicle Owner	<input type="checkbox"/>	A Long-Stay Tenant	<input type="checkbox"/>	
	A Camping Ground Operator	<input type="checkbox"/>	A Caravan Park Operator	<input type="checkbox"/>	
	A Local Government	<input checked="" type="checkbox"/>	A State Government Agency	<input type="checkbox"/>	
	An Organisation	<input type="checkbox"/>	Other	<input type="checkbox"/>	
	If Other, please state:	[Click here to enter text.]			
<b>If you are representing</b> a local government, organisation or business, please state your job title:					
Environmental Health Officer, Planning Officer, and Building Surveyor					
<b>Privacy and permissions.</b> Submissions may be made public and published on the Department's website. Would you like to:					
Allow your submission to be published – without your name and *personal contact details.					<input type="checkbox"/>
Keep your submission Private and Confidential – do not publish anything.					<input type="checkbox"/>
I agree to all of my submission being published, including my name, except for my *personal contact details. (Your personal contact details will not be published.)					<input checked="" type="checkbox"/>

## Your caravan and camping experiences (as an individual)

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**A.** How often do you stay at caravan parks?

[Click here to enter text.]

**B.** When was the last time you stayed in a caravan park?

[Click here to enter text.]

**C.** What region of Western Australia was the caravan park in (if known)?

[Click here to enter text.]

**D.** How would you rate your last stay in a caravan park?

Poor

Average

Good

Excellent

**E.** What were the best things about the caravan park?

[Click here to enter text.]

**F.** What could be improved at the caravan park?

[Click here to enter text.]

**G.** How often do you stay at camping grounds?

[Click here to enter text.]

**H.** When was the last time you stayed at a camping ground?

[Click here to enter text.]

**I.** What region of Western Australia was the camping ground in (if known)?

[Click here to enter text.]

**J.** How would you rate your last stay at a camping ground?

Poor

Average

Good

Excellent

**K.** What were the best things about the camping ground?

[Click here to enter text.]

**L.** What could be improved at the camping ground?

[Click here to enter text.]

**M.** How often do you stay or camp at place outside of a camping ground or caravan park?

[Click here to enter text.]

## General comments

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Use the space below for general comments about the consultation paper and/or caravan parks and camping grounds:

# Guidance Questions from the Consultation Paper

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This section contains all the proposals and guidance questions from Consultation Regulatory Impact Statement 'Development of new Holiday Parks and Camping Grounds Act', which can be found online at: [www.dlqc.wa.gov.au/CPCG-Consultation-Paper](http://www.dlqc.wa.gov.au/CPCG-Consultation-Paper)

It is recommended that you read the relevant section of the consultation paper before answering a question. Please note: it is not expected that all questions are answered. Comments on all or only part of the consultation paper are appreciated.

If you require more space for an answer, you can attach a separate page or pages as part of your submission.

## Definitions

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**Question 1:** Are there any additional definitions or terms that should be updated as part of the review? What are they?

None identified

**Question 2:** Do you support the proposed changes to the terminology? Why or why not?

Yes. The proposed definition for holiday park could be confusing as it says primarily for short stay occupiers. However later in the paper it says that park home parks will be required to have a minimum number of short stay sites to be eligible for an approval to operate. This will mean that home parks may be primarily for park homes with a small number of short stay and wouldn't meet the definition.

**Question 3:** Can you identify any significant costs or benefits that would result from a change in terminology? What are they?

None identified.

## Application of the legislation to facilities

**Recommendation:** A facility that has designated two or more sites for short-stay accommodation vehicles and/or tents requires approval to operate. Residential parks must provide 10 such sites, or a prescribed percentage of the sites, to be eligible for an approval to operate.

**Question 4:** Are there any circumstances where this recommendation will not capture facilities that should be licenced? Please provide examples.

If a residential park provided less than the set number (10 sites or a percentage) of short stay sites, would they not require an approval to operate? Who would regulate the 9 (for example) short stay sites? Or how would the park be prevented from providing them? Does this create confusion where a residential park could provide a small number of unlicensed short stay sites?

During the consultation it was discussed that a facility providing one site would need to be licenced if they were a business. If this is the case it should just say any facility providing any number of sites as a business must be licenced. Otherwise based on the recommendation it would be assumed that a facility providing only one site as a business would not need to be licenced.

**Question 5:** Is it appropriate for residential park home park developments to be regulated under the Building Act and Code rather than the Caravan Parks Act? Why or why not?

Yes, if they are provided for permanent habitation park homes should meet the requirements of the Building Code.

**Question 6:** Do you agree that a residential park home park must provide a set number (for example, 10) of designated short-stay sites to be eligible for an approval to operate under the Caravan Parks Act? Why or why not?

Yes, but why not make it 10 sites or a percentage, whichever is more to cater to the different sized parks, but also set a minimum. Need to also consider that some parks, particularly in the East Kimberley may not be viable if they have to rely only on visitors during the peak tourist season. The long stay residents in these parks provide a steady year-round income which allows the parks to remain open.

**Question 7:** Should residential park home parks instead set aside a prescribed percentage of the facility for short-stay use? What should that percentage be?

Yes – please see comments on questions 6.

**Question 8:** Can you identify any additional costs or benefits arising from this option? What are they?

A cost may be park home parks providing short stay as an obligation, not because they want to. This could lead to poorer standards/service for the short stay sites, where the operator tries to discourage short stay users.

## Camping at a place other than an approved facility

**Recommendation:** Local governments can grant approval to camp outside of an approved facility for up to three months at a time, subject to appropriate consultation and risk assessment.

**Question 9:** Is it appropriate to ask applicants who wish to make their property available for camping to provide a management plan outlining basic health and safety requirements? Why or why not?

Yes, however this may be difficult for the general public, and appropriate guidance material and management plan template will need to be made available. Guidance material should also be developed for local government officers to ensure the requirements are clear and adhered to.

Allowing only one accommodation vehicle and/or tent may pose problems if there is a family wanting to stay in separate vehicles/tents (one for parents and one for children).

**Question 10:** Is it appropriate for local governments to undertake a complete review of the circumstances every three months? Why or why not?

No the time limit is far too short and will place an unnecessary workload on officers and applicants.

People building homes on their property are unlikely to have a building completed within three months and may require several re-assessments during the construction of their home. The initial assessment should take into account the proposed length of the occupancy – eg. how long is the person planning on taking to construct the building, and is it suitable for them to be there that long? Approving them for three months when it is known that they will take 18 months to complete the construction will only lead to problems (especially if they are required to leave after 12 months). Similar issues would arise if approving a landowner to have their relative stay for three months when the intention is for them to live there permanently.

If the intent is to ensure that health and safety, as well as amenity for neighbours is not adversely affected this can be achieved with a much longer approval period. Health and safety will be better ensured if the entire length of the stay is considered initially. Neighbours may also have a different response to a caravan being there for three months as opposed to nine months and they should know the entire length from the start.

The maximum approval period should not be less than 12 months. If assessment/inspection is necessary it can be conducted during the approved period and the appropriate fee should be applicable. If re-assessment is required due to a complaint there should be a fee applicable.

**Question 11:** Should local governments have the authority to decide how long a person is allowed to camp on private property in their district? Why or why not?

Yes if clear considerations for approving/not approving private camping are provided in the legislation there should be no need for the Minister to be involved unless there are extraordinary circumstances.

**Question 12:** What are the potential costs and benefits of allowing people to camp outside of approved facilities for extended periods of time?

Benefits: Allowing local government to approve private camping for more than twelve months without referring to the Minister.

Costs: If re-assessment is required every three months there will be a burden on local governments and also to applicants.

## State government and local government facilities

**Recommendation:** Status Quo.

**Question 13:** How should local governments and state government agencies be held accountable for complying with the legislation?

All facilities should be required to comply with the same minimum standards regardless of who owns or operates them, particularly health and safety requirements. If the Department of Parks and Wildlife have existing management plans which meet the requirements of the new legislation there should be no issue in requiring them to comply and they can use existing documentation. Unless the CALM Act and Regulations contain exactly the same provisions as the Holiday Parks legislation the outcomes will be different and there will be inconsistency.

Also need to consider that this would exempt all state government agencies that may not have the management plan requirements which DPaW have.

As a minimum DPaW should notify the local government in which the facility is located to ensure they have a copy of the management plan and know the standard of facilities available. This would allow local governments to ensure they are enforcing the same or similar requirements on comparable nature based parks and not requiring private operators to exceed the minimum standards met by DPaW.

Option (ii) is preferred.

**Question 14:** Should users have the ability to lodge a complaint against a state government-run or local government-run facility with the Minister or the State Administrative Tribunal? Why or why not?

Yes, for accountability and transparency.

**Question 15:** Can you identify any other potential costs or benefits that may result from keeping the status quo? What are they?

**Costs:** If DPaW facilities already comply with the minimum requirements the only cost would be in licensing fees. There will be additional cost if the facilities do not provide the same minimum standards that are prescribed by the regulations and upgrades are required. There will be a cost on local government to regulate additional facilities, and there will need to be a provision for cost recovery with fees. The costs if state government agencies are exempt will mean that LGs are enforcing requirements on private operators which aren't met by the state facilities.

**Benefits:** all facilities will be subject to the same requirements which will remove and real or perceived inequalities. Benefits of exempting DPaW will be provision of low cost camping for the public in areas which otherwise would

## Licencing of facilities

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**Recommendation:** Initial approval to operate granted, followed by annual inspections.

**Question 16:** Do you believe this proposal is the best option for users, operators and local governments? Why or why not?

Yes there is no need to issue a new licence unless something in the facility changes. The only issue will be if operators make minor changes to their facility to improve it over time, rather than redeveloping all at once.

**Question 17:** Do you think an annual inspection is appropriate? Do you support the option for local governments to extend the inspection period for up to two years? Why or why not?

Yes, inspection frequency should be based on risk and previous compliance. However, inspections may also need to be more than once per year (for example there may be a need to check compliance with licenced numbers, or use of an overflow area in accordance with conditions). These may not require a full inspection, but local governments should have discretion to do more than one site visit per year – particularly where non-compliance has occurred previously.

**Question 18:** Are there any other potential costs or benefits of this option that have not been addressed? What are they?

No.

## Licence categories

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### Licence categories

**Recommendation:** Three approval to operate categories: Holiday Park, Nature Based Park and Event approvals, with one set of minimum standards applying to all.

**Question 19:** Is it appropriate for all holiday parks and camping grounds to operate under the same set of minimum standards? Why or why not?

Yes, as long as minimum health and safety standards are met it doesn't matter what type of facility it is. However, there may need to be different standards based on the length of stay. A shower may not be required for a nature based park where people stay only for a few nights, but if people are living in a park on long stay sites they need to be able to shower.

**Question 20:** Are there any other types of facilities that should be categorised separately? What are they and why?

If an overflow facility (external of existing licenced facilities) is required it will need to be included under the event licence or require an additional licence category.

**Question 21:** Should event approvals be limited to seven days and four approvals per year? Why or why not?

No. In 2015 the Shire of Wyndham East Kimberley has issued four temporary licences for events ranging from six to 26 nights in length. If the lengths of these approvals were limited to seven nights there would be multiple renewals required for events and unnecessary administration.

In addition the Shire of Wyndham East Kimberley has in the past required temporary caravan park approvals to provide for overflow sites during the peak tourist season. The peak season, while short can mean that additional sites are required anywhere from the end of May until the middle of August (variable depending on year). If event approval is required for overflow it will certainly be longer than one week and likely more than a month.

If they comply with the minimum requirements why do they need to be restricted to four approvals per year?

Additional delegation provisions are also required as currently all licences require Council approval. This poses a problem for event licences which can often be required with little notice. It is also problematic as licences currently need Council approval for renewal each year (proposal to have an approval to operate will address this).

**Question 22:** Can you identify any additional costs or benefits to this option that have not been discussed? What are they?

Cost will be unnecessary administration for both local governments and applicants.

Benefits will be less confusion regarding licence categories and clarity around minimum standards.

## Conditions for approval to operate

**Recommendation:** Preparation of management plans for all facilities

**Question 23:** Do you think this promotes a flexible operating environment for operators? Why or why not?

Yes, but it could lead to local governments needing to develop policies which should instead be covered in the regulations. For example the new nature based provisions require 2 toilets for every 20 sites and as many showers and hand basins as is approved. This leaves it up to the LG to determine. Unless it is impossible to provide water there should be a hand basin wherever a toilet is provided, as people need to wash their hands after using it. This should not be left up to the LG to justify, it is a basic hygiene requirement.

**Question 24:** Will less prescriptive regulatory requirements result in insufficient information being provided in support of development applications?

Not necessarily. The local government as part of the development application process has the ability to request any additional information reasonably required in order to assess the application and make a determination. The application would be referred to the Environmental Health Officer as part of the assessment process, and therefore is recommended that a management plan should be prepared and submitted with the development application. This is on the basis that the management plan will support the development application, and will ensure that the development approval granted will be consistent with the requirements and likely conditions imposed in relation to the holiday park or nature based park licence i.e. the development approval will not need to be substantially revised/amended in order to be licensed as a holiday park or nature based park.

**Question 25:** Is it feasible to prepare a management plan concurrently with a development approval? Why or why not?

As outlined above it is considered feasible and recommended that the management plan for a holiday park or nature based park be submitted with the development approval, to assist in:

- the assessment of the development application;
- ensuring that the development proposed will be able to achieve the appropriate health and safety requirements; and
- identifying early in the planning process if modification to the proposed development proposed is required to address the minimum (and any additional) standards.

**Question 26:** Do you agree that local governments should have the ability to require that operators provide services at standards above the prescribed minimum? Why or

why not?
Again this may mean local governments will need to develop policies to determine when higher standards are required. If it is something which should be applied state wide and is not specific to the LG area (eg. showers where there are long stay sites) it should be in the regulations not in LG policy.
<b>Question 27:</b> Can you identify any additional costs or benefits arising from the requirement to prepare a management plan? What are they?
Costs could be inconsistency in the application of the regulations both within local governments and throughout the state. There will be a cost to operators in developing the plan and to local governments in assessing them. This will be particularly problematic where the person developing the plan has a poor understanding of why it is required and what they are trying to achieve.

## Penalties

**Recommendation:** Increase penalties in accordance with the *Food Act 2008* and *Building Act 2011*.

<b>Question 28:</b> Do you think increasing penalties in line with the Food Act and Building Act is appropriate? Why or why not?
Yes, and also need to make more modified penalties. For example if someone is found to be using their overflow area outside of the approved period they currently need to be prosecuted through the courts. Modified penalties allow for a more graduated enforcement response.
<b>Question 29:</b> Do you agree that higher penalties will increase enforcement and compliance? Why or why not?
Yes, if it is cheaper for an operator to keep paying the modified penalty than to do the required work the non-compliance will continue.
<b>Question 30:</b> Do you agree that bodies corporate should be liable for a higher penalty than individuals? Why or why not?

Yes, as above if it is more affordable for the operator to pay the penalty than fix the issue they are less likely to correct the non-compliance. Bodies corporate can afford higher penalties than individuals.

**Question 31:** Can you identify any additional costs or benefits that have not been considered in the discussion of this option? What are they?

Costs will be to operators who are non-compliant and have to upgrade or pay higher penalties. Benefits will be improved compliance and making enforcement more doable for local governments who currently have to spend time and money to prosecute for minor offences with insufficient penalties.

## Prerequisites of accommodation vehicles

**Recommendation:** Accommodation vehicles in holiday parks are either licensed under the *Road Traffic Act 1974* or assessed under the *Building Act 2011* as a transportable building.

**Question 32:** Do you agree that accommodation vehicles converted for the purpose of permanent habitation should be assessed under the Building Act rather than the Caravan Parks Act? Why or why not?

No - it would be virtually impossible to assess a caravan or a vehicle under the BCA. Points that come to mind are: ceiling height less than 2400, structure not complying to framing standards, tie down issues, energy efficiency measures, and compliance with requirements for cyclonic areas.

There may also be issues with the basic principles of a habitable dwelling in provision of weatherproofing, and providing the standard somewhere to cook, ablute and launder.

Unfortunately it is not a case of stick a smoke detector in and "she'll be right "

**Question 33:** What are the costs and benefits of this proposal for both users and facility operators?

The benefit will be improved health and safety for occupants, however it if it is impossible (or cost prohibitive) to convert and approve a vehicle under the Building Act and the requirement to be movable isn't enforced it will be little different to the current situation.

## Advisory Committee

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**Recommendation:** Proactive consultation with relevant stakeholders in place of an Advisory Committee.

**Question 34:** Do you support this recommendation? Why or why not?

Yes

**Question 35:** What consultation methods should be used to ensure feedback from the broader industry (including operators, consumers and local governments) in the future?

Electronic communication is the best way to reach a wide audience quickly. Social media is important to reach the general public. For remote areas videoconferencing can be used in place of face to face meetings. The public meeting held by DLGC officers in Kununurra during the second consultation period was also very valuable both to the local community and Shire officers.

**Question 36:** Can you identify any particular costs or benefits associated with disbanding the Committee in favour of a more flexible direct consultation framework? What are they?

Benefits will be lower costs and probably more effective consultation and engagement.

## Transitional provisions

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### 1. Holiday parks and camping grounds

**Recommendation:** All facilities must apply for an approval to operate and complete a management plan within five years of the legislation taking effect.

**Question 37:** Are there any other options available for transitional provisions? What advantages would these bring?

The five year period may be too long; it should not take any more than one-three years to develop the management plan. The advantage of a shorter time-frame would be that everyone complies sooner and it will be easier for local governments to coordinate the change to licencing using management plans.

**Question 38:** Is five years enough time for operators to prepare management plans, apply for and be granted approvals to operate? Why or why not?

As above, five years should be ample.

## 2. **Converted accommodation vehicles**

**Recommendation:** The legislation is not applied retrospectively to converted accommodation vehicles; however, basic minimum standards applying to the vehicle are prescribed to protect the health and safety of the occupiers and surrounding users.

**Question 39:** What other simple, low cost options should converted accommodation users have to comply with to ensure their health and safety?

None identified.

**Question 40:** Do you agree that the legislation should not be retrospectively applied to converted accommodation vehicles? Why or why not?

Yes, it would be very difficult to apply the BCA retrospectively to converted vehicles.

**Question 41:** What do you think constitutes a significant change that would trigger assessment under the Building Act?

If improvements are proposed they should address safety issues before spending money on a car port for example. This would be very difficult for local governments to enforce, short of taking photos and keeping records of every long stay site and comparing it at the inspection each year. Sale of the structure should also trigger assessment, however this too would be very difficult to enforce as local governments are often unaware of sites/structures changing ownership.

**Question 42:** Can you identify any additional costs or benefits to assessing converted accommodation vehicles under the Building Act? What are they?

Costs will be owners of non-compliant sites having to upgrade or not being able to sell their assets.

**Thank you for participating in this consultation process.** Your comments are important to us and will be considered for the development of the new caravan parks and camping grounds legislation. For enquiries email: [caravan@dlgc.wa.gov.au](mailto:caravan@dlgc.wa.gov.au) or telephone: (08) 6551 8700 or Freecall (country only): 1800 620 511.

### 13.4.3 Delegations – Shire of Wyndham East Kimberley Town Planning Scheme No. 6 and No.7

<b>DATE:</b>	27/10/2015
<b>AUTHOR:</b>	Louise Gee, Director Community Development
<b>RESPONSIBLE OFFICER:</b>	Louise Gee, Director Community Development
<b>FILE NO:</b>	Nil
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### **PURPOSE**

For Council to adopt a new delegation to enable the CEO to exercise powers and discharge duties under the Shire of Wyndham East Kimberley Town Planning Scheme No. 6 and No. 7.

#### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

Regulator - enforce state legislation and local laws

#### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

At the 22 September 2015 Ordinary Council Meeting (OCM), Council adopted the updated Delegations Register for 2015/16. Delegation No. 33 – Local Planning Scheme No. 7 is outlined in Attachment 1.

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

A Register of delegations is kept and reviewed at least once every financial year.

#### **STATUTORY IMPLICATIONS**

***Planning and Development (Local Planning Schemes) Regulations 2015 Deemed provisions for local planning schemes Schedule 2 Enforcement and administration Part 10 Division 2 – Delegations***

#### **82. Delegations by local government**

(1) The local government may, by resolution, delegate to a committee or to the local government CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties under this Scheme other than this power of delegation.

(2) A resolution referred to in subclause (1) must be by absolute majority of the council of the local government.

(3) The delegation must be in writing and may be general or as otherwise provided in the instrument of delegation.

#### **83. Local government CEO may delegate powers**

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

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

(3) Subject to any conditions imposed by the local government on its delegation to the local government CEO under clause 82, this clause extends to a power or duty the exercise or discharge of which has been delegated by the local government to the CEO under that clause.

#### **84. Other matters relevant to delegations under this Division**

The *Local Government Act 1995* sections 5.45 and 5.46 apply to a delegation made under this Division as if the delegation were a delegation under Part 5 Division 4 of that Act.

#### ***Local Government Act 1995***

#### **5.45. Other matters relevant to delegations under this Division**

- (1) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —
  - (a) a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and
  - (b) any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.
- (2) Nothing in this Division is to be read as preventing —
  - (a) a local government from performing any of its functions by acting through a person other than the CEO; or
  - (b) a CEO from performing any of his or her functions by acting through another person.

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

- (1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.
- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.
- (3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

#### **POLICY IMPLICATIONS**

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

## **RISK IMPLICATIONS**

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

Non-compliance with the Department of Local Government advisory standard and regulations

## **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**

On the 19 October 2015 the *Planning and Development (Local Planning Schemes) Regulations 2015* came into effect. Schedule 2 of these Regulations include deemed provisions which will apply to all planning schemes throughout Western Australia. If there is any inconsistency between existing local planning scheme provisions and the deemed provisions, the deemed provisions prevail.

The deemed provisions provide that the local government (Council) may, by absolute majority delegate to a committee or to the local government CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties under its Local Planning Scheme.

The *Shire of Wyndham East Kimberley Town Planning Scheme No. 7 Kununurra and Environs* contains the following delegation provisions:-

### **Clause 12.7 Delegation**

12.7.1 The Council may delegate to an officer or to a Committee of the Council all or any part of the powers conferred on the Council by virtue of the Scheme.

12.7.2 A delegation of power pursuant to the provisions of this clause has effect and may be exercised according to its tenor but is revocable at the will of the Council and does not preclude the Council from exercising the power the subject of the delegation.

12.7.3 The performance of the function by a delegate under clause 12.7.1 shall be deemed to be the performance of the function by the Council in all circumstances where the Council is able to delegate its powers.

12.7.4 A person who is or has been a delegate of the Council is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any powers conferred, or the carrying out of any duty imposed on the Council by this Scheme.

12.7.7 A resolution to revoke or amend a delegation under this clause may be passed by a simple majority.

There were no delegation provisions contained within the *Shire of Wyndham East Kimberley Town Planning Scheme No. 6 Wyndham Townsite*, so in the past all planning applications in the Wyndham Townsite were reported to Council for determination.

It is therefore necessary that the existing Delegation Number 33 – Local Planning Scheme No. 7 (refer Attachment 1) be revoked as new deemed provisions outlined in the *Planning and Development (Local Planning Schemes) Regulations 2015* provide for Council to delegate powers directly to the CEO; who may subsequently sub delegate powers to Shire staff. These new provisions will also apply to the *Shire of Wyndham East Kimberley Town Planning Scheme No. 6 Wyndham Townsite*, so there will now be delegated powers for Shire staff to exercise powers or discharge duties under this Planning Scheme.

Attachment 2 outlines the new Delegation No. 33. Local Planning Scheme No. 6 and No. 7.

## **ATTACHMENTS**

Attachment 1 - Adopted Delegation No. 33 – Local Planning Scheme No. 7 (22 September 2015)

Attachment 2 - Delegation No. 33 – Local Planning Scheme No. 6 and No. 7

## **VOTING REQUIREMENT**

Absolute Majority

## **OFFICER'S RECOMMENDATION**

That Council:-

1. Revoke Delegation No. 33 Local Planning Scheme No. 7, Minute No. 11129, 22 September 2015 Ordinary Council Meeting.
2. Adopts Delegation No. 33 Local Planning Scheme No.6 and No. 7 as detailed in Attachment 2.

**COUNCIL DECISION**

**Minute No. 11148**

**Moved: Cr B Robinson**

**Seconded: Cr S Cooke**

**That Council:-**

- 1. Revoke Delegation No. 33 Local Planning Scheme No. 7, Minute No. 11129, 22 September 2015 Ordinary Council Meeting.**
- 2. Adopts Delegation No. 33 Local Planning Scheme No.6 and No. 7 as detailed in Attachment 2.**

**Carried Unanimously 9/0**

## STATUTORY DELEGATIONS – OTHER LEGISLATION

### 33. LOCAL PLANNING SCHEME No. 7

LEGISLATIVE POWER      *Local Planning Scheme No. 7*

DELEGATE                      Chief Executive Officer  
    Director Community Development  
    Senior Planning Officer

#### FUNCTION TO BE PERFORMED

The Council delegates its authority and power pursuant to Clause 12.7.1 and 12.7.3 to:-

1. Determine applications for planning approval, including applications, involving;
  - a. the variation of Local Planning Scheme provisions, Local Planning Policy or provisions of the Residential Design Codes; and
  - b. the exercise of discretion under the Local Planning Scheme, Local Planning Policy or the Residential Design Codes; and
  - c. unauthorised existing developments.
2. Advertise an application for planning approval.
3. Refusal of all development applications where;
  - a. the proposed use is not permitted by the Local Planning Scheme; or
  - b. the development does not comply with the non-discretionary provisions of the Residential Design Codes or;
  - c. additional information required is not provided within 21 days of the request.
4. Amend or revoke a planning approval.
5. Grant an extension of development approval for up to two (2) years.
6. Delete or modify conditions of approval, whether imposed under delegated authority or not.
7. Make recommendations to the WA Planning Commission on:
  - a. Applications for subdivision or amalgamation of land;
  - b. Minor variations to approved subdivisions;
  - c. Clearance of conditions of subdivision approval
8. At all reasonable times enter any building or land for the purpose of ascertaining whether the provisions of the Local Planning Scheme are being served.
9. Issue and serve notices, and take any other enforcement action, against a person who is suspected of committing an offence under the Local Planning Scheme.
10. Recover expenses under Section 11 (4) of the *Planning and Development Act 2005* in a court of competent jurisdiction.

DELEGATE                      Planning Officer

#### FUNCTION TO BE PERFORMED

The Council delegates its authority and power pursuant to Clause 12.7.1 and 12.7.3 to:-

1. Determine applications for planning approval where the proposed use is a 'P' or 'IP' use, including applications, involving;
  - a. the variation of Local Planning Scheme provisions, Local Planning Policy or provisions of the Residential Design Codes; and
  - b. the exercise of discretion under the Local Planning Scheme, Local Planning Policy or the Residential Design Codes.

2. Advertise an application for planning approval.
3. Grant an extension of development approval for up to two (2) years.
4. Make recommendations to the WA Planning Commission on:
  - a. Applications for subdivision or amalgamation of land;
  - b. Minor variations to approved subdivisions;
  - c. Clearance of conditions of subdivision approval.
5. At all reasonable times enter any building or land for the purpose of ascertaining whether the provisions of the Local Planning Scheme are being served.
6. Issue and serve notices, and take any other enforcement action, against a person who is suspected of committing an offence under the Local Planning Scheme.
7. Recover expenses under Section 11 (4) of the *Planning and Development Act 2005* in a court of competent jurisdiction.

## STATUTORY DELEGATIONS – OTHER LEGISLATION

### 33. LOCAL PLANNING SCHEME No. 6 and No. 7

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LEGISLATIVE POWER      *Local Planning Scheme No. 6 and No. 7*

DELEGATE                      Chief Executive Officer

#### FUNCTION TO BE PERFORMED

The Council delegates its authority and power pursuant to Clause 82.1 to:-

1. Determine applications for planning approval, including applications, involving;
  - a. the variation of Local Planning Scheme provisions, Local Planning Policy or provisions of the Residential Design Codes; and
  - b. the exercise of discretion under the Local Planning Scheme, Local Planning Policy or the Residential Design Codes; and
  - c. unauthorised existing developments.
2. Advertise an application for planning approval.
3. Refusal of all development applications where;
  - a. the proposed use is not permitted by the Local Planning Scheme; or
  - b. the development does not comply with the non-discretionary provisions of the Residential Design Codes or;
  - c. additional information required is not provided within 21 days of the request.
4. Amend or revoke a planning approval.
5. Grant an extension of development approval for up to two (2) years.
6. Delete or modify conditions of approval, whether imposed under delegated authority or not.
7. Make recommendations to the WA Planning Commission on:
  - a. Applications for subdivision or amalgamation of land;
  - b. Minor variations to approved subdivisions;
  - c. Clearance of conditions of subdivision approval
8. Issue and serve notices, and take any other enforcement action, against a person who is suspected of committing an offence under the Local Planning Scheme.
9. Recover expenses under Section 11 (4) of the *Planning and Development Act 2005* in a court of competent jurisdiction.

C Askew declares an impartiality interest in this item due to the fact his wife is the Manager of the CSSU Centres in Kununurra.

#### **13.4.4 Wyndham Child Care - Request for Sublease**

<b>DATE:</b>	27/10/2015
<b>AUTHOR:</b>	Wayne Richards, Manager Community Services
<b>RESPONSIBLE OFFICER:</b>	Louise Gee, Director Community Development
<b>FILE NO:</b>	CS.12.1
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### **PURPOSE**

For Council to consider a request from current lessee Children's Services Support Unit (CSSU) to sublease the facility to a family day care provider.

#### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

Provider - provide physical infrastructure and essential services

#### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

In the 2014/15 Annual Budget Council made the decision to cease funding for the provision of child care in Wyndham as of 31 December 2014. In the 2013/14 financial year, the Shire contributed \$166,244 to the Wyndham Child Care Centre.

Officers investigated options for the provision of child care in Wyndham with the preferred option to lease out the 44 Koolama St property (Child Care Centre) to an external provider. This was resolved at the 18 November 2014 Ordinary Council Meeting.

#### **COUNCIL DECISION**

**Minute No. 10671**

**Moved: Cr G Taylor**

**Seconded: Cr B Robinson**

**That Council:**

**1. *Seek proposals from external Organisations to provide child care services from 44 Koolama Street Wyndham, reserve 28976.***

**2. *Delegate authority to the Acting Chief Executive Officer and Shire President under section 3.58(5)(c) of the Local Government Act, to negotiate with the preferred provider for the provision of a Licence or Lease to provide Child Care at 44 Koolama Street Wyndham, reserve 28976, as per the Management Order.***

**Carried Unanimously 8/0**

One formal proposal was received from Children's Services Support Unit (CSSU) and this proposal was accepted. CSSU signed a lease agreement for the child care building for a period of 5 years and took over the operations of the Wyndham Child Care Centre in February 2015.

On Friday 2 October, Officers met with CSSU via phone to discuss the operations. CSSU informed the Shire that under the current model CSSU are continuing to accumulate a deficit and requested a change in the model of child care provided. This model, "in-venue care", is essentially a family day care model that takes place in a purpose built facility as opposed to a home. If agreed to, this model would be implemented from 1 January 2016.

### **STATUTORY IMPLICATIONS**

There are no statutory implications associated with this item.

### **POLICY IMPLICATIONS**

While the Lease will remain with the not-for-profit organisation CSSU, the family day care provider will be classified as a commercial enterprise. Council must therefore consider policy CP/PMG-3780 Leasing of Council Managed Reserve Land – Community:

#### **6. Commercial Activity**

*It is recognised that in certain circumstances it is appropriate for the leased community facility to be utilised to generate profit, where that profit is used to support the lessee.*

*Council shall determine when profit generating uses are acceptable having regard for the following:*

- *The use is ancillary and/or complementary to the main use*
- *The use is supported by the reserve purpose*
- *The use provides an additional service not otherwise provided*
- *The community benefit outweighs the competitive advantage*
- *The use does not contravene any written law*
- *The use is not considered a nuisance or an unacceptable negative impact*
- *If the use is competing with a commercial enterprise*

In addition, the existing Lease for the facility does allow for sub-leasing.

### **FINANCIAL IMPLICATIONS**

There are no budget implications associated with this request for sub lease. Council may consider alternative options that may have a financial implication.

### **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 2.4: High standard of health and community facilities and services available to all residents

Strategy 2.4.3: Support early childhood and family support services

### **RISK IMPLICATIONS**

Inability to deliver service levels expected by the community:

From the investigations into child care provision in Wyndham in late 2014, it is clear that there is a need and a strong desire from the community for the provision of child care in Wyndham. The absence of child care would make it difficult for some working families to live and work in Wyndham, and would impact on employers and their ability to recruit staff.

### **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:

It is recommended that the Shire conduct public advertising of the intent to approve this sub lease for a period of 14 days with any responses considered prior to granting approval for the sub lease.

### **COMMENT**

The proposal received, as well as historical evidence from the Shires management of the facility, show that the demand for child care is not high enough to financially sustain a long day care model. For a long day care model to continue to operate in Wyndham, the options include:

- Provide additional subsidies to cover the deficit;
- Provide the service internally as was the arrangement prior to December 2014; or
- Seek alternate organisations to operate a long day care service.

Other options exist for the provision of child care including:

- The provision of a subsidy for any family day care provider (this has been done historically); or
- The Shire directly engaging a family day care provider to operate an in-venue care model.

The outcome should the Shire take no action would highly likely be that CSSU would not continue to operate the service.

The proposed "in-venue care" model will mean a reduction of the maximum number of children that can be cared for by the service. Currently the maximum attendance is 20 (staffing dependant), this will be reduced to 7 (maximum of four 0-4 year olds). As indicated in the CSSU proposal, in rural and remote areas where there is no alternative a request can be made to increase these numbers. CSSU have also advised that if numbers were to increase on a consistent basis that the option of long day care could be revisited.

Based on this information it is the Officers recommendation that Council approve the proposed sub-lease. The proposal received would ensure that a child care service is available in Wyndham. The reduction of the maximum number of children that could be cared for may have some implications however it is believed, based on historical attendance, that this is unlikely to be significant. The proposal does not impact on the Annual budget as the existing lease arrangements with CSSU will not change.

Officers are aware that the Shire is providing some level of subsidy to the Lessee, and that the sub lessee will be classified as a "for profit". Under the lease and the Community Lease Policy this is allowable and recommended on the basis that the community benefit outweighs any commercial advantage, and that the use is not competing with a commercial enterprise

(there is no other child care provider in Wyndham). To further ensure the proposal does not disadvantage any commercial enterprise it is recommended that the intent to sub lease be advertised for a period of 14 days with any responses considered prior to approving the sub lease. In addition, it is recommended that this sub lease be reviewed after 12 months.

The current Lease with CSSU contains a clause allowing the lessee to cancel the lease should the service remain unviable, clause 28.1 states:

*“Notwithstanding any other provision of this Lease, the Parties agree that subject to (2) of this clause, either party may terminate this Lease upon (90) days written notice to the other party in the event the service provided by the lessee is no longer considered by the parties to be viable.”*

## **ATTACHMENTS**

Attachment 1 - Confidential – Wyndham Family Day Care Business Proposal (provided under separate cover)

## **VOTING REQUIREMENT**

Simple Majority

## **OFFICER’S RECOMMENDATION**

That Council:

1. Requests the Chief Executive Officer to write to the Department of Lands to seek consent on behalf of the Minister for Lands for the sub lease of Reserve 28976, 44 Koolama St, Wyndham for the purposes of providing in-venue child care services.
2. Subject to consent being granted on behalf of the Minister for Lands, advertise the intent to grant permission to Children’s Services Support Unit to sub lease 44 Koolama St, Wyndham for the purpose of providing in venue child care for a period of 12 months.  
  
and;
3. Delegate authority to the Chief Executive Officer and Shire President to;
  - a) consider any public submissions in determining approval for Children’s Services Support Unit to sublease Reserve 28976, 44 Koolama St, Wyndham for a period of 12 months, and
  - b) execute a sub-lease agreement on behalf of the Shire of Wyndham East Kimberley.

**COUNCIL DECISION**

**Minute No. 11149**

**Moved: Cr S Cooke**

**Seconded: Cr N Perry**

**That Council:**

- 1. Requests the Chief Executive Officer to write to the Department of Lands to seek consent on behalf of the Minister for Lands for the sub lease of Reserve 28976, 44 Koolama St, Wyndham for the purposes of providing in-venue child care services.**
- 2. Subject to consent being granted on behalf of the Minister for Lands, advertise the intent to grant permission to Children's Services Support Unit to sub lease 44 Koolama St, Wyndham for the purpose of providing in venue child care for a period of 12 months.**  
  
**and;**
- 3. Delegate authority to the Chief Executive Officer and Shire President to;**
  - a) consider any public submissions in determining approval for Children's Services Support Unit to sublease Reserve 28976, 44 Koolama St, Wyndham for a period of 12 months, and**
  - b) execute a sub-lease agreement on behalf of the Shire of Wyndham East Kimberley.**

**Carried Unanimously 9/0**

## 13.5 CHIEF EXECUTIVE OFFICER

### 13.5.1 2016 Council Briefing Session and Ordinary Council Meeting Dates

<b>DATE:</b>	27/10/2015
<b>AUTHOR:</b>	Monika Tonkin, Executive Assistant
<b>RESPONSIBLE OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>FILE NO:</b>	N/A
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### **PURPOSE**

For Council to consider the 2016 Council Briefing Session and Ordinary Council Meeting dates, times and locations and to replace the existing Council policy CPMC15 Councillor Briefing Sessions/Forums with a new Council Briefing Sessions Policy.

#### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

Leader - plan and provide direction through policy and practices

#### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

At the October 2014 Ordinary Council Meeting, Council resolved unanimously (Minute No. 10625) to accept the following dates, time and locations for Council Briefing Sessions and Ordinary Council Meetings:

All meetings/sessions will commence at 5.00pm. All Council Briefing Sessions are to take place at the Kununurra Council Chambers:

<b>Month</b>	<b>Briefing Session</b>	<b>Ordinary Council Meeting</b>	<b>Location of OCM (all briefings in Kununurra)</b>
January	No briefing	27 January	Kununurra
February	10 February	24 February	Wyndham
March	10 March	24 March	Kununurra
April	14 April	28 April	Kununurra
May	12 May	26 May	Wyndham
June	9 June	23 June	Kununurra
July	14 July	28 July	Kununurra
August	11 August	25 August	Wyndham
September	8 September	22 September	Kununurra

October	13 October	27 October	Kununurra
November	10 November	24 November	Wyndham
December	1 December	15 December	Kununurra

On the recommendation of the Audit (Finance & Risk) Committee, Council also accepted that meetings of the Audit (Finance & Risk) Committee were to be held on the following dates during 2015:

- 10 February
- 12 May
- 11 August
- 10 November

It was also accepted that the meetings would commence at 3.00pm and that they would all be held in the Kununurra Council Chambers. These meetings coincide to run immediately before the Council Briefing Sessions.

At the April 2015, Ordinary Council Meeting, Council were advised that a three stage review of Council policies was being undertaken. Stage two, specifically identified that a number of policies were to be provided to Council each month for consideration and adoption and that some new policies would be developed for Council consideration. This is in line with Recommendation 16 of the Department of Local Government and Communities Probity and Compliance Audit Report of the Shire which recommended a comprehensive review of the Shire's policies. Through this review process it has been identified that the existing policy CPMC15 Councillor Briefing Sessions/Forums requires an update as it was last reviewed in March 2010.

### **STATUTORY IMPLICATIONS**

In accordance with the *Local Government Act 1995*:

#### **5.3. Ordinary and special council meetings**

- (1) *A Council is to hold Ordinary Meetings and may hold special meetings*
- (2) *Ordinary meetings are to be held not more than three months apart.*

#### **5.5. Convening council meetings**

- (1) *The CEO is to convene an ordinary meeting by giving each Council member at least 72 hours notice of the date, time and place of the meeting and an agenda for the meeting*

In accordance with the *Local Government (Administration) Regulations 1996, Section 2*:

#### **12 Meetings, public notice of**

- (1) *At least once each year a local government is to give local public notice of the dates on which and the time and place at which —*
  - (a) *the ordinary council meetings;*  
*are to be held in the next 12 months.*

## **POLICY IMPLICATIONS**

Council Policy CPMC15 Council Briefing Sessions/Forums needs to be updated, with the only notable change being to point 1 of the policy. Point 1 states that "Council holds monthly Briefing Sessions between elected members and staff, on the first Tuesday of each month". Over the past 3-years Council Briefing Sessions have been held on the second Tuesday of each month so that there is a 2-week break between each meeting (Ordinary Council Meeting and Council Briefing Session).

## **FINANCIAL IMPLICATIONS**

Minor expenditure will be incurred to ensure the appropriate statutory advertising occurs. This is provided for in the 2015/16 Annual 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

## **RISK IMPLICATIONS**

Nil

## **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:

Local public notice of the proposed Ordinary Council Meeting dates, times and locations in accordance with the legislative requirements.

## **COMMENT**

The proposed schedule has taken into account the following events:

Easter 25 – 28 March

Ord Valley Muster 13 – 22 May

Local Government Week – usually first week of August (dates have not been confirmed)

WA Public Holidays

The proposed schedule has allowed reasonable time (at least two weeks) between meetings to provide Officers the opportunity to prepare Council reports.

The proposed schedule has retained the previous Council decisions of having Council Briefing Sessions on the second Tuesday of each month and Ordinary Council Meetings on the last Tuesday of each month with all meetings commencing at 5pm and with a two to

Kununurra one to Wyndham ratio for locations. The only exception is the Ordinary Council Meeting in January. As the last Tuesday of the month is a public holiday for Australia Day, it is proposed that this meeting be held on Wednesday 27 January 2016.

The proposed meeting dates/times and locations for the 2016 Audit (Finance & Risk) Committee will be considered by the Committee at the 10 November 2015 meeting and will take into consideration the adopted Council Briefing Session and Ordinary Council Meeting dates, times and locations for 2016.

The proposed meeting dates/times and locations for 2016 are:

Month	Briefing Session	Ordinary Council Meeting	Location of OCM (all briefings to be in Kununurra)
January	No briefing	27 January	Kununurra
February	9 February	23 February	Wyndham
March	8 March	29 March	Kununurra
April	12 April	26 April	Kununurra
May	10 May	31 May	Wyndham
June	14 June	28 June	Kununurra
July	12 July	26 July	Kununurra
August	9 August	30 August	Wyndham
September	13 September	27 September	Kununurra
October	11 October	25 October	Kununurra
November	8 November	29 November	Wyndham
December	13 December	20 December	Kununurra

The proposed updated Council Briefing Session Policy (attachment 1) reflects the previous decisions to hold these Sessions on the second Tuesday of each month. It has also had minor updates in line with Department of Local Government Operational Guidelines Number 05 – Council Forums (attachment 2).

## **ATTACHMENTS**

Attachment 1 – Draft Council Briefing Sessions Policy

Attachment 2 – Local Government Operational Guidelines Number 05 – Council Forums

Attachment 3 - CPMC15 Councillor Briefing Sessions/Forums

## **VOTING REQUIREMENT**

Simple Majority

## **OFFICER'S RECOMMENDATION**

1. That Council accepts the following dates and locations for 2016 Council Briefing Sessions and Ordinary Council Meetings:

<b>Month</b>	<b>Briefing Session</b>	<b>Ordinary Council Meeting</b>	<b>Location of OCM (all Briefing Sessions to be held in Kununurra)</b>
January	No briefing	27 January	Kununurra
February	9 February	23 February	Wyndham
March	8 March	29 March	Kununurra
April	12 April	26 April	Kununurra
May	10 May	31 May	Wyndham
June	14 June	28 June	Kununurra
July	12 July	26 July	Kununurra
August	9 August	30 August	Wyndham
September	13 September	27 September	Kununurra
October	11 October	25 October	Kununurra
November	8 November	29 November	Wyndham
December	13 December	20 December	Kununurra

2. That Council accepts that the above 2016 Council Briefing Sessions and Ordinary Council Meetings will all commence at 5.00pm.
3. That Council authorises the Chief Executive Officer to give public notice, by way of advertising of the accepted meeting dates, times and location of all 2016 Ordinary Council Meetings.
4. That Council repeals policy CPMC15 Councillor Briefing Sessions/Forums and adopts the Council Briefing Session Policy as per Attachment 1.

## **COUNCIL DECISION**

**Minute No. 11150**

**Moved: Cr B Robinson**

**Seconded: Cr D Spackman**

- 1. That Council accepts the following dates and locations for 2016 Council Briefing Sessions and Ordinary Council Meetings:**

<b>Month</b>	<b>Briefing Session</b>	<b>Ordinary Council Meeting</b>	<b>Location of OCM (all Briefing Sessions to be held in Kununurra)</b>
January	No briefing	27 January	Kununurra
February	9 February	23 February	Wyndham
March	8 March	29 March	Kununurra
April	12 April	26 April	Kununurra
May	10 May	31 May	Wyndham
June	14 June	28 June	Kununurra
July	12 July	26 July	Kununurra
August	9 August	30 August	Wyndham
September	13 September	27 September	Kununurra
October	11 October	25 October	Kununurra
November	8 November	29 November	Wyndham
December	13 December	20 December	Kununurra

- 2. That Council accepts that the above 2016 Council Briefing Sessions and Ordinary Council Meetings will all commence at 5.00pm.**
- 3. That Council authorises the Chief Executive Officer to give public notice, by way of advertising of the accepted meeting dates, times and location of all 2016 Ordinary Council Meetings.**
- 4. That Council repeals policy CPMC15 Councillor Briefing Sessions/Forums and adopts the Council Briefing Session Policy as per Attachment 1.**

**Carried Unanimously 9/0**



POLICY NO	*** To be supplied by Governance once adopted by Council	
POLICY	Council Briefing Sessions	
RESPONSIBLE DIRECTORATE	Governance	
RESPONSIBLE OFFICER	Chief Executive Officer	
COUNCIL ADOPTION	Date: Insert Date Adopted	Resolution No: Insert Here
REVIEWED/MODIFIED	Date:	Resolution No:
	Date:	Resolution No:
REVIEW DUE	Date: Insert Month and Year for next review – 2 years after adoption	
LEGISLATION	<i>Local Government Act 1995, Part 5</i>	
RELATED POLICIES	Nil	
RELATED ORGANISATIONAL DIRECTIVES	Councillor Induction Package	

#### **PURPOSE:**

The purpose of this policy is to provide a clear process for the operation of Council Briefing Sessions.

#### **POLICY STATEMENTS:**

1. Council holds monthly Briefing Sessions between Elected Members and staff, on the second Tuesday of each month.
2. Council Briefing Sessions are closed to the public, so as to facilitate full disclosure and build trust between the Elected Members and between Elected Members and staff.
3. Other parties may attend the meeting to make a presentation if approved by the Chief Executive Officer or Shire President and included on the agenda.
4. The purpose of Council Briefing Sessions are to:
  - a. Provide an informal exchange of information between Elected members and staff on issues.
  - b. Enable Elected Members to receive information in advance of the Council meetings, and thereby to assist Elected Members make informed decisions related to that information at subsequent Council meetings.
  - c. To enable Elected Members to inform themselves before having to make decisions on issues.
  - d. To facilitate strategic considerations of issue in advance.
5. Staff will prepare Agenda's for Council Briefing Sessions.
6. Elected Members are encouraged to submit agenda items and details related to those items to the Chief Executive Officer at least 10 working days before the Council Briefing Session for it to be included on the agenda.
7. The Shire President, Deputy Shire President and Chief Executive Officer will jointly review submitted agenda items from Elected Members and will determine if it is to be included or not on the agenda.

8. Council Briefing Session Agenda's will be distributed by close of business on the Friday before the meeting day.
9. No delegated authority from Council exists at the Council Briefing Sessions.
10. Standing Orders of Council do not apply at Briefing Sessions.
11. The Shire President, Deputy President or nominated delegate will chair Council Briefing Sessions. All discussion and questions are to be directed through the Chair.
12. No debate or vigorous discussion between Elected Members that could be interpreted as debate is to be conducted.
13. No decisions or implied decisions that bind the Local Government are to be made.
14. Elected Members and staff will be respectful of each other and not interrupt the speaker.
15. Elected Members and staff will make written declarations of interest in any matters being discussed and the Chief Executive Officer will keep records of these declarations. Where a financial interest is declared, the Elected Member will depart the Session and not take part in any discussion relating to the matter.

#### **EXPLANATORY NOTES:**

This policy ensures that Council meets the requirements of accountability, openness and transparency, probity and integrity, authority for the chair and meeting notification.

#### **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 the review schedule.



Government of **Western Australia**  
Department of **Local Government and Communities**

# Local Government Operational Guidelines

Number 05 – January 2004

## Council Forums

## 1. Introduction

Over recent years many local governments have introduced procedures that allow elected members and officers to meet and discuss matters relating to the operation and affairs of their local government outside of the formal council meeting framework. This has been done through an informal meeting process that has been given a range of titles including briefing or **information sessions, workshops and corporate discussions**. For the purposes of this guideline the term “forum” will be used to encompass such meetings.

The forum approach has allowed the ordinary meeting of council to focus on the decision-making needs of the local government. Many local governments that have adopted the forum process in preference to standing committees claim that it has led to better informed elected members and a more efficient and effective decision-making regime. This guideline is designed to assist those local governments that do conduct forums by listing appropriate procedural and behavioural controls. The adoption of such controls should reassure the community that the council decision-making mechanisms are accountable, open and transparent.

Local government forums range from one-off events discussing a particular issue through to regular, structured meetings, albeit not convened under the auspices of the *Local Government Act 1995* (the Act). This guideline is intended to address those forums that are held on a regular basis.

While acknowledging that regular forums are invaluable and legitimate, the Department advises that the conduct of such has generated complaints regarding the potential for a reduced level of transparency in the decision-making process and hence a reduction in accountability to and involvement by the community. Local governments need to make a clear distinction between forums and the formal debate and decision-making process.

It is recognised that local governments may conduct other sessions or workshops which would include items such as team building exercises, strategic planning workshops and community input forums. It is not intended that these guidelines would necessarily be applied to such sessions, but some of the suggested procedural controls may have relevance.

Issues relating to council forums that are addressed in these guidelines include:

- accountability;
- openness and transparency;
- probity and integrity;
- authority for the presiding person;
- participation by elected members and staff;
- proposals under Town Planning Schemes;
- formulating management documents; and
- forums immediately prior to an ordinary meeting of council.

## 2. Principles of the Act

Part 5 of the Act sets out the framework whereby elected members meet as the governing body for the purpose of decision-making on behalf of the local government.

It is an intention of the Act that councils conduct business and make decisions –

- openly and transparently;
- with a high level of accountability to their community;
- efficiently and effectively;
- with due probity and integrity;
- acknowledging relevant community input;
- with all available information and professional advice; and
- with the fullest possible participation of elected members.

The Act establishes ordinary, special and committee meetings. Each council must decide the meeting structure it will adopt within the legal framework for it to achieve the most efficient and effective decision-making process. It is a legal requirement that all decisions made on behalf of the local government are to be made at meetings called and convened under the provisions of the Act.

In addition to ordinary and special meetings, elected members can meet as a committee, membership of which may vary in number from three to all members of council. Committees can discuss matters and make recommendations to the council or, if given delegated authority by the council, can make decisions on its behalf. A council does not need to have committees and can have all matters presented to it directly for decision. A recent trend has been

for councils to abolish the system of standing committees or limit the number and/or range of committees and adopt a forum approach.

## 3. Council Forums

Local government forums range from a once-only event to discuss and explore a particular issue, a number of sessions to address matters such as a specific project or the compilation of a report for internal or external use, through to forums held at regular intervals with a consistent structure and objectives.

Regular forums run in local governments exhibit two broad categories which we have titled agenda and concept. They are differentiated by the stage of development of issues which are discussed by elected members and staff. The two types are described below along with the variations in procedural controls and processes suggested for each.

### Concept Forums

Concept forums involve elected members and staff meeting to propose, discuss and formulate philosophies, ideas, strategies and concepts for the development of the local government and the district. Such forums often involve projects that are in the early planning stage and are some time away from being presented to council for decision. In discussing such issues, staff are looking for guidance from the elected members as they research the matter and draft the report. Elected members and staff are also looking to present ideas and concepts for future consideration. If the response is favourable staff can proceed with their research and eventual report on the matter.

Examples of the type of issues concept forums may cover include –

- current matters of a local or regional significance;
- matters relating to the future development of the local government;
- significant revenue-raising requirements or expenditure needs;
- the development of internal strategic, planning, management and financial documents; and
- development of the selection criteria and performance objectives for the Chief Executive Officer (CEO).

Behind closed doors and in a relatively informal manner are the two notable characteristics of concept forums. Holding such meetings behind closed doors is justified in that many of the ideas and concepts are preliminary and while looking for that creative gem some may be extreme, expensive or impractical and never adopted.

Discussion on such proposals in a public forum would be counter-productive. Privacy and informality allows elected members to propose ideas, ask questions and discuss issues for the better understanding of those in attendance. Such forums assist individuals to become better informed and to clarify their views.

The privacy and informality of concept forums also has pitfalls including the risk of neglecting proper standards of probity and public accountability. Over time, participants can become too familiar, and therefore more lax, with the procedure and purpose of the meeting. Unless procedures are adopted and rigorously applied to these forums, there is a danger that collective or collaborative decisions may be made, implied and otherwise.

## Agenda Forums

For proper decision-making, elected members must have the opportunity to gain maximum knowledge and understanding of any issue presented to the council on which they must vote. It is reasonable for elected members to expect that they will be provided with all the relevant information they need to understand issues listed on the agenda for the next or following ordinary council meetings. The complexity of many items means that elected members may need to be given information additional to that in a staff report and/or they may need an opportunity to ask questions of relevant staff members. Many local governments have determined that this can be achieved by the elected members convening as a body to become better informed on issues listed for council decision. Such assemblies have been termed **agenda forums**. It is considered they are much more efficient and effective than elected members meeting staff on an individual basis for such a purpose with the added benefit that all elected members hear the same questions and answers.

To protect the integrity of the decision-making process it is essential that **agenda forums** are run with strict procedures.

## 4. Principles Governing Procedural and Behavioural Controls for Forums

Local governments that conduct forums or are considering doing so have the right to implement a forum system that best suits their needs. The principles and associated procedures set out below, if adopted by local governments when conducting

forums, will ensure that all requirements of accountability, openness and transparency are satisfied.

The identified principles and associated procedures are accountability, openness and transparency, probity and integrity, authority for the chair and meeting notification. Each of these is explained below.

### **Accountability**

The Act requires that ordinary and special council meetings and committee meetings that have delegated authority must be open to the public. Most local governments also open committee meetings even where there is no delegated authority. This openness allows the community to view the decision-making process from the time an issue is first presented to elected members through to the final decision.

There must be no opportunity for a collective council decision or implied decision that binds the local government to be made during a forum.

Agenda forums should be for staff presenting information and elected members asking questions, not opportunities to debate the issues. A council should have clearly stated rules that prohibit debate or vigorous discussion between elected members that could be interpreted as debate. Rules such as questions through the chair and no free-flowing discussion between elected members should be applied.

If there is minimum debate in the ordinary meeting because the elected member attitudes have been established through the item being thoroughly canvassed in the [agenda forum](#) then the community

is denied the opportunity to witness any debate and understand how the council reached its decision. Other concerns relate to elected members agreeing on movers, seconders and/or amendments. Such an approach must not be allowed by the council whether the [agenda forum](#) is open or closed to the public but a closed forum will almost certainly generate a perception by the community of secret meetings where the decisions are made beyond public scrutiny.

Councils, when considering conducting closed forums, need to consider their reasons for justification against the likely damage to their public standing from the perception of secrecy. A policy that the forums will generally be open to the public will make a significant contribution to the community perception of council accountability. A clearly delineated distinction between agenda and concept forums is important for these reasons.

### **Openness and Transparency**

A significant strength of local government is the openness and accessibility of its processes to the community. In conducting forums each local government should make a conscious decision to promote the community perception that it embraces the concept of openness and transparency. Therefore, whenever appropriate, forums should be open to the public.

### **Probity and Integrity**

The legislation provides that in ordinary meetings and committee meetings elected members must disclose conflicts of interest and exclude themselves from proceedings where they have a financial interest.

Disclosure in forums is a matter of ethics. The disclosure requirements only apply to meetings that are convened under the provisions of the Act. Elected members can legally participate at forums without being in breach of the legislation even where they have a clear financial interest or conflict of interest. Such participation is ethically unacceptable and is clearly at odds with the probity and accountability principles of the Act and codes of conduct. It is essential that councils adopt standards for forums that stipulate that disclosure rules applying to meetings constituted under the Act also apply at all forums. Disclosure should lead to an individual departing the forum.

### **Authority for the Chair**

Many councils have established a forum process without specifying how the forums should be chaired and what authority the chair is given to control proceedings. In some local governments, the CEO chairs the forums in certain circumstances. This latter approach is not supported because it confuses the roles and relationships established in the Act.

It is recommended that the mayor or president or, if appropriate, another elected member, chairs all forums that involve elected members. Properly managed forums rely on strength and leadership from the chair. Therefore, a forum's chair should be supported by established rules similar to the standing orders that apply to formal meetings.

### **Meeting Notification**

The provisions of the Act are designed to ensure that members are given timely notice of, and information for, council and committee meetings. Formal provisions

do not apply to forums but the principles remain the same. Adequate notice needs to be given of the time, location and content of the forum.

The forum process is most successful in those local governments where forums are held on a regular basis such as on the alternative weeks to the ordinary council meeting (where they are held fortnightly) or a week before the ordinary council meeting. By setting the dates for forums well in advance, elected members, staff and the community can plan for their attendance.

Forums that are organised without adequate notice or a proper agenda are often poorly attended and inefficiently run. This will be detrimental to the purpose of the forum.

## **5. Particular Issues of Concern in the Forum Process**

There are a number of concerns relating to the content and conduct of forums. These are set out below. Councils need to be aware of these and take action to overcome the concerns if such apply to them.

### **Dealing With Proposals Under the Town Planning Scheme**

The discretion available to council when making decisions under the Act is not always available when making decisions under town planning legislation. When a council is dealing with town planning matters, it does so under the powers conferred by the State planning legislation. Council assumes the role of a planning authority (ie Western Australian Planning Commission) and an elected member the

role of a planning commissioner. Council is not only constrained by the conditions of its Town Planning Scheme but also by the relevant State Acts.

Decision-making in town planning matters requires the decision-maker to maintain a high degree of independence from the process leading up to the decision being made. The elected member needs to be in a position of being able to make his or her decision after taking into account the relevant and material facts and circumstances as presented to all fellow elected members. These same comments apply whether councils do or do not work with specialist planning committees. Elected members need to be wary of involvement in the lead-up process to a certain decision, especially as a sole agent or member of a small group and being subjected to information from the developer or parties associated with the developer. This may be interpreted as reducing the independence of the decision-maker.

Councils will often have briefings relating to development issues and these are important in terms of the elected members becoming fully informed on the matter on which they have to vote. The nature of the decision means that briefing sessions involving planning matters should be conducted with the strictest of rules. There should be no implication of debate between elected members; the session should primarily involve information being given by the relevant officer and other parties with questions from the floor directed through the chair. In cases where an elected member has relevant information on a development matter to be conveyed to the meeting, it must be done through the chair so that all decision-makers are privy to that information.

## **Formulating Management Documents**

Many local governments prepare their management documents, such as budgets, plans for the future and policy manuals, through a forum process. In many cases this involves a number of forums to which all elected members are invited and the public are excluded. Such forums are not set up under the auspices of the Act. There are no formal decisions made as in due course the documents are adopted at a formal meeting of council. Nevertheless, as the forums proceed and the document is developed, some issues are included, some are discarded and others may need further research by staff. If records of the matters discussed at the forums are not kept, development stages of the documents will be uncertain and hence any orderly progress inhibited. Additionally, the process may lack accountability and the probity of elected members and staff could be challenged. Change of membership of the group by either staff or elected members would again place doubt on the validity of the process.

A more suitable procedural process for the development of management documents would be the formal establishment of a committee under the Act with that assigned purpose. Although the committee meetings, if no power or duty has been delegated to the committee, are not required by legislation to be open to the public, the integrity of the process is protected by the legislative requirement for the agenda and minutes to be available for public inspection. Such committees, upon completion of their assigned task(s), could be wound up or reconvened the following year when the task was again required. Examples would be a committee reviewing standing orders and a "Budget

Committee". The former would be wound up upon submission of its report to council. The "Budget Committee" would be an ongoing but occasional committee which would meet each year from (say) March to early July.

Some committees could have a select and limited membership whereas others (such as the budget committee) could include all elected members.

### **Forums Immediately Prior to an Ordinary Meeting of Council**

Some local governments hold forums immediately prior to ordinary council meetings. Anecdotal evidence suggests that in discussing the agenda of the forthcoming meeting at such forums implied decisions may be made. This familiarity with the issues and known attitudes can lead to debate at the ordinary council meeting being stifled or non-existent much to the chagrin of the public who are not privy to the earlier discussions. Forums held immediately prior to ordinary council meetings cause more complaints of secret meetings and predetermined decisions than any other type of forums.

Pre-meeting forums may be beneficial where an elected member has additional or alternative information to that contained in a staff report which may be controversial or cause problems within the ordinary meeting at the time the item is discussed. Certainly, it is an advantage for the CEO, council and particularly the presiding member to be aware of potential problems in the forthcoming ordinary meeting. While a pre-meeting forum provides the opportunity to inform others of the potential problem it would be preferable to raise the matter with likely concerned

parties such as the presiding member, CEO and reporting officer much earlier than immediately before the meeting. Early advice will give those concerned the opportunity to undertake action to address the identified problems.

It is recognised that with many local governments, especially those that are in rural locations, the timing of the pre-meeting forum is understandable in that the elected members can only get together once a month because of travel time and they need an opportunity to discuss issues with the freedom of a forum.

After consideration of these issues, it is recommended that if a council determines that the only time available for a forum is prior to an ordinary council meeting and it is to be closed to the public, then it be established as a **concept forum** and reference to the forthcoming agenda should be prohibited unless a special circumstance is conveyed to the presiding member. An example of a special circumstance would be information additional to, or contradicting the staff report which is likely to lead to non-adoption or significant variation of the recommendation and it has not been possible to convey such information at an earlier time. Adoption of the **concept forum** approach means elected members needing additional information or explanations from staff on forthcoming agenda items will have to make alternative arrangements to meet their requirements.

The adoption of such rules on pre-meeting forums should be conveyed to the public. Advice of the conducting of such a forum and its general content at the ensuing ordinary meeting will reinforce the openness and accountability of council.

## 6. Forums that Incorporate Both Concept and Agenda Items

Many local governments will run only one forum and it will cover both agenda items to be addressed at the next council meeting and wide-ranging concept issues. It is suggested that the different requirements of the two types are recognised and they be categorised as such in the forum agenda. The most important aspect is that the presiding person apply appropriate procedures regarding debate and discussion between elected members when agenda items are being covered.

Such forums should also be open to the public.

## 7. Model Procedures for Forums

Before introducing, or continuing with forums, councils have a responsibility to weigh carefully the risks as well as the benefits associated with such a process and consider if there are better, alternative ways of achieving the desired outcomes.

Councils that hold forums should adopt meeting rules and processes to ensure that proper standards of probity and public accountability are adhered to. Particular emphasis must be placed on ensuring that there is no decision-making during these forums and that this is rigidly enforced.

### Procedures Applying to Both Concept and Agenda Forums

The Department recommends that councils adopt a set of procedures for both types of forums which include the following –

- Dates and times for forums should be set well in advance where practical;
- The CEO will ensure timely written notice and the agenda for each forum is provided to all members;
- Forum papers should be distributed to members at least three days prior to the meeting;
- The mayor/president or other designated elected member is to be the presiding member at all forums;
- Elected members, employees, consultants and other participants shall disclose their financial and conflicts of interest in matters to be discussed;
- Interests are to be disclosed in accordance with the provisions of the Act as they apply to ordinary council meetings. Persons disclosing a financial interest will not participate in that part of a forum relating to their interest and leave the meeting room;
- There is to be no opportunity for a person with an interest to request that they continue in the forum; and
- A record should be kept of all forums. As no decisions will be made, the record need only be a general record of items covered but should record disclosures of interest with appropriate departures/returns.

### Procedures Specific to Concept Forums

The Department recommends that councils adopt specific procedures for [concept forums](#) which include the following –

- Concept forums may be open to the public when an issue is being discussed that council believes would benefit from public awareness and debate;

- Discussion between members is to be limited to those issues which are in the preliminary development stages. Items already listed on a council meeting agenda are not to be discussed; and
- As discussion items are not completely predictable there is to be some flexibility as to disclosures of interest. A person may disclose an interest at the time discussion commences on an issue not specifically included on the agenda.

### Procedures Specific to Agenda Forums

The Department recommends that councils adopt specific procedures for [agenda forums](#) which include the following –

- Agenda forums should be open to the public unless the forum is being briefed on a matter for which a formal council meeting may be closed;
- Items to be addressed will be limited to matters listed on the forthcoming agenda or completed and scheduled to be listed within the next two meetings (or period deemed appropriate);
- Briefings will only be given by staff or consultants for the purpose of ensuring that elected members and the public are more fully informed; and
- All questions and discussions will be directed through the chair. There will be no debate style discussion as this needs to take place in the ordinary meeting of council when the issue is set for decision.

## 8. General Discussions in Councils Without Forums

Travel and time constraints mean that many councils can convene for a limited time; for many, only one day per month. As a result, some local governments have continued with the traditional ordinary meeting format where the decision-making is combined with wide-ranging discussion on other matters. A major problem with this approach is that the wide-ranging discussions result in meetings continuing for long periods of time.

There are benefits to elected members, the public and the staff if the issues requiring decision are dealt with during one continuous stage early in the meeting.

Elected members can have more effective broad ranging discussion during the same time frame as the traditional council meeting with a revised structure. It is suggested a better format would be for the ordinary meeting to be closed as soon as the required decisions have been made. The general discussions would then be pursued in a [concept format](#) environment. The advantages of this approach are the opportunity for councillors to discuss issues of concern in an informal environment.

## 9. Summary

With most local governments, elected members need opportunities to discuss issues outside of the formal ordinary meeting process. The Department acknowledges this approach because those elected members that have the maximum opportunities for input will obtain the greatest satisfaction emanating from their time in local government.

The opportunity for input can be best gained through forums or committees of the full council.

Councils that wish to hold forums of either the concept or [agenda type](#) are encouraged to adopt rules and processes that are in line with these guidelines. This will assist with openness and accountability, minimise public criticism and lead to a more effective and efficient local government.

These guidelines are also available on the Department's website at [www.dlgc.wa.gov.au](http://www.dlgc.wa.gov.au)



### About the Guideline series

This document and others in the series are intended as a guide to good practice and should not be taken as a compliance knowledge, understanding, observation of, and appropriate consultation on contemporary good practice in local government. Guidelines may also involve the Department's views on the intent and interpretation of relevant legislation.

All guidelines are subject to review, amendment and re-publishing as required. Therefore, comments on any aspect of the guideline are welcome. Advice of methods of improvement in the area of the guideline topic that can be reported to other local governments will be especially beneficial.

For more information about this and other guidelines, contact the Local Government Regulation and Support Branch at:

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*Shire of Wyndham East Kimberley*  
**Council Policy Number: CPMC15**  
**Councillor Briefing Sessions/Forums**

**OBJECTIVE:**

To establish a process for the operation of elected member Briefing Sessions/Forums to ensure the requirements of accountability, openness and transparency are satisfied.

**POLICY:**

1. Council holds monthly Briefing Sessions between elected members and staff, on the first Tuesday of each month.
2. Briefing Session are closed to the public, so to as to facilitate full disclosure, and build trust between the elected members and between elected members and staff.
3. The purpose of Briefing Sessions are to:
  - a. Provide an informal exchange of information between elected members and staff on issues.
  - b. enable elected members to receive information in advance of the Council meetings, and thereby to assist elected members make informed decisions related to that information at subsequent Council meetings.
  - c. To enable elected members to inform themselves before having to make decisions on issues.
  - d. To facilitate strategic considerations of issue in advance.
4. Staff will prepare Agenda's for Briefing Sessions and where required produce relevant items for consideration by Council on matters discussed at Briefing Sessions.
5. Elected Members are encouraged to submit agenda items and details related to those items by the agenda submission deadline.
6. The Shire President, Deputy and Chief Executive Officer will jointly review draft Briefing Session Agendas before they are circulated to Councillors and Managers.
7. Where practical, Briefing Session Agendas will be distributed by close of business on the Thursday preceding the meeting day.
8. No delegated authority from Council exits at the Briefing Sessions.
9. Standing Orders of Council do not apply at Briefing Sessions.

10. The Shire President, Deputy President or nominated delegate will chair Briefing Sessions. All discussion and questions are to be directed through the chair.
11. No debate style discussion is to be conducted at Briefing Sessions.
12. No decisions that bind the Local Government, or decisions requiring a decision of Council or, are to be made at Briefing Sessions.
13. Elected members and staff will be respectful of each other and not interrupt the speaker.
14. Elected members and staff will make written declarations of interest in any matters being discussed and the Chief Executive Officer will keep records of these declarations. Where a financial interest is declared, the elected member will depart the forum and not take part in any discussion relating to the matter.

#### **GOVERNANCE REFERENCES**

<b>Statutory Compliance</b>	Local Government Act 1995
<b>Industry Compliance</b>	Nil.
<b>Organisational Compliance</b>	Delegations Manual
<b>Process Links</b>	Department of Local Government Operational Guidelines Number 5, January 2005, Council Forums

#### **POLICY ADMINISTRATION**

<b>Directorate</b>		<b>Officer Title</b>		<b>Contact:</b>	
Governance		Chief Executive Officer		Ext: 109	
<b>Date Effective</b>	16/03/2010				
<b>Date Adopted</b>	20/05/2008	<b>Last Reviewed</b>	16/03/2010		
<b>Risk Rating</b>	Low	<b>Review Cycle</b>	Tri-Annual	<b>Next Due</b>	03/2013

### 13.5.2 Councillor Committee Representation

<b>DATE:</b>	27/10/2015
<b>AUTHOR:</b>	Debbie McCallum, Governance Officer
<b>RESPONSIBLE OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>FILE NO:</b>	GN.07.5
<b>DISCLOSURE OF INTERESTS:</b>	N/A

#### **PURPOSE**

The purpose of this report is for Council to consider its delegates and representatives to various committees of Council as well as representation on external committees.

#### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

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

#### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

Council is involved with 17 committees, some of which are statutory requirements, others are in-house and assist with the decision-making of Council and other committees relate to external stakeholders.

In accordance with the *Local Government Act 1995*;

- The Shire President is entitled to be a member of any Council appointed committee.
- Each committee must be comprised of at least three elected members and can consist of as many as nine elected members (i.e. the Council).
- In terms of meeting efficiency and effectiveness, previous committee numbers have been 3 (CEO Review Panel) and 4 (Audit) elected members. By convention, *at least one* deputy member *should* be appointed to assist each committee so that quorums can be easily maintained.
- These arrangements can be changed at any time by absolute majority decision – subject to the requirements of the *Local Government Act 1995*.

#### **Committee Information:**

#### **LEGISLATED**

#### **Audit (Finance and Risk) Committee**

s7.1A (1) of the *Local Government Act* stipulates that a local government is to establish an audit committee of three or more persons to exercise the powers and discharge the duties conferred on it.

s7.1A (2) of the *Local Government Act* stipulates that the members of the audit committee of a local government are to be appointed by the local government and at least three of the members, and a majority of the members, are to be Council members.

S7.1A (3) and (4) stipulates that the Audit (Finance and Risk) Committee is primarily responsible for the overview of the financial and risk management of the Council.

Number of Councillors - 4  
Frequency of meetings - Quarterly

Location of meetings	-	Kununurra
Responsible officer	-	Director Corporate Services
Committee administrator	-	SWEK

### **CEO Review and Selection Panel**

The CEO is employed by the Council and the performance of the CEO is to be reviewed at least once in relation to every year of employment. Division 4 of the *Local Government Act 1995* s5.36 gives guidance to Councillors on the employment of a CEO and s5.38 indicates that an annual review must take place.

Number of Councillors	-	3
Frequency of meetings	-	As required (at least once a year)
Location of meetings	-	Kununurra
Responsible officer	-	Chief Executive Officer
Committee administrator	-	SWEK

### **Local Emergency Management Committee (LEMC)**

The LEMC is established by the respective local government and operates under the provision of the *Emergency Management Act 2005* to plan on behalf of the community. This is a representative committee to provide a network of skills, knowledge and advice to assist the local government in ensuring that the local emergency management arrangements are established for its area.

The LEMC is not an operational response committee and is often confused with the functions of an Incident Management Group or at a larger emergency, the operations Area Management Group. Members of the LEMC may well be involved with the operational management of an incident as a member of the Incident Management Group or the Local Recovery Coordinating Committee due to the roles they hold in their parent agency. Local government has an important part to play in that it has a legislative responsibility to prepare, plan and have linking arrangements with the appointed agencies.

Number of Councillors	-	1
Frequency of meetings	-	Quarterly and as required during times of emergency
Location of meetings	-	Alternates between Wyndham and Kununurra
Responsible officer	-	Director of Infrastructure (Chairperson)
Committee administrator	-	SWEK

### **Bush Fire Advisory Committee (BFAC)**

The function of the Bush Fire Advisory Committee (BFAC) is to provide support and guidance to Bush Fire Brigades in the Shire. It does this in collaboration with DFES and the Department of Parks & Wildlife. The BFAC meets to discuss operational and command and control issues, advise on matters relating to prosecutions under the *Bush Fires Act 1954*, and generally ensure coordination and cooperation between the brigades, agencies and the Shire in relation to the preparation of firebreaks and other preventative measures, and in the preparedness of each organisation to deal with bush fire incidents.

Chief Bush Fire Control Officer - DFES

Other members include Department of Parks and Wildlife and each of the Captains from the Crossing Falls, Ivanhoe and Packsaddle brigades.

Number of Councillors	-	2
Frequency of meetings	-	Bi-monthly
Location of meetings	-	Kununurra
Responsible officer	-	Director Infrastructure (Chairperson)
Committee administrator	-	SWEK

### **Development Assessment Panels (DAP's)**

Council is obliged to nominate members and alternative members for the Kimberley/Pilbara/Gascoyne (Northern) Joint Development Assessment Panel (DAP). The Northern DAP was established in line with Part 11A of the *Planning and Development Act 2005*, and administered under the Planning and Development (Development Assessment Panels) Regulations 2011. Its principal purpose is to deal with major planning proposals - all proposals valued over \$7 million, and subject to the applicant nominating (i.e. a voluntary application), optional proposals valued over \$3 million. The DAP only becomes operational once an application has been lodged. All current representatives were appointed in July 2015 by the Minister for Planning. These appointments expire on 26 April 2017, however with the results of the recent election, 1 position for proxy needs to be filled and the remaining 3 positions are to be confirmed.

Number of Councillors	-	2
Number of proxies	-	2
Frequency of meetings	-	As required
Location of meetings	-	Kununurra
Responsible officer	-	Director Community Development
Committee administrator	-	Department of Planning

### **REGIONAL REPRESENTATION**

#### **WALGA Kimberley Zone**

The WA Local Government Association (WALGA) is the voice of Local Government in Western Australia. As the peak industry body WALGA advocates on behalf of the State's 139 Local Governments and negotiates service agreements for the sector. WALGA is not a government department or agency and its mission is to *provide strong representation, strong leadership, enhance the capacity of and build a positive public profile for, Local Government*. The Shire of Wyndham East Kimberley is a member of WALGA.

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

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

- select a State Council representative;
- consider the State Council agenda;
- provide direction/feedback to their State Councillor;
- develop/advocate positions on regional issues affecting Local Government;
- progress regional Local Government initiatives;
- identify relevant issues for action by WALGA;
- networking and sharing information; and
- contributing to policy development through Policy Units and Policy Forums.

#### **Zones:**

- have an integral role in shaping the political and strategic direction of Local Government as a tier of government;
- are responsible for bringing relevant local and regional issues to the State decision making table;
- are a key player in developing policy and legislative initiatives for Local Government; and

- have direct relationships with the State Council of the Association, Policy Units and Policy Forums and the Secretariat of the Association.

Every Zone has at least one representative on State Council ( the Kimberley Zone has 2 – the Zone Chair who is also the State Council representative and the Deputy Zone Chair who is the Deputy State Council Representative). Each representative is primarily responsible for ensuring that the Association is governed in the best interests of all member Local Governments. Representatives are also required to advocate the viewpoints and interests of their Zone on issues under consideration by State Council.

### **Regional Collaborative Group (RCG)**

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

The RCG was due to terminate on the 30 June 2015. In preparation of this, the Kimberley Shires formed a Kimberley Regional Group (KRG) for the purpose of governing and undertaking shared regional initiatives. The KRG has a Kimberley Local Government Governance Agreement between the four Kimberley Shires, which provides the legal framework for the establishment, membership and operation of the Kimberley Regional Group. This agreement was signed on 24 February 2014 and will expire in 4 years. Under the RCG, the Department of Local Government and Communities tasked the group with developing and implementing a Kimberley Strategic Community Plan and Kimberley Regional Business Plan. The contents of the Kimberley Strategic Community Plan 2014-2024 and Kimberley Regional Business Plan 2014-2018 include but are not limited to the following:

#### Community and Strategic Plan:

- social economic and environmental planning processes including consultation and priority assessment
- demonstration of productivity and service improvements
- Infrastructure renewal schedule for a minimum of 4 years
- new infrastructure schedule for a minimum of 4 years
- Financial information including capital works budget, borrowings, other funding received and the rationale for using Country Local Government Fund funding
- maintenance schedule for renewal/proposed assets
- evaluation and review processes
- conduct due diligence of each participants’ financial assets and liabilities, contracts, leases and other legal agreements

#### Infrastructure System Improvements:

- IT systems
- record management systems
- archive facilities
- libraries community facilities
- depots
- financial systems
- asset management systems
- data systems
- human resources management systems

- communications

The RCG and Kimberley Zone meetings are held at the same time and the committee representatives are the same. Travel is required to each of the zones for the quarterly meetings as well as to Darwin and Perth for conferences at least once a year.

Number of Councillors	-	2
Number of proxies	-	2
Frequency of meetings	-	Quarterly
Meeting location	-	Alternates between zone locations
Responsible officer	-	Chief Executive Officer
Committee administrator	-	Zone secretariat (currently Broome Shire and will transfer to Shire of Derby/West Kimberley at the December 2015 meeting)

### **Kimberley Regional Road Group**

Is a regional grouping of the Shires of Broome, Wyndham East Kimberley, Halls Creek and Derby-West Kimberley to work on regional road issues. Funding is made from the state Government towards regionally significant projects which Councils must make submissions for funding. Funding submissions cover Black Spot funding, Aboriginal Access Roads funding, direct funding towards administrative costs and Regional Projects funding.

Councillor representation	-	1
Number of proxies	-	1
Frequency of meetings	-	Bi-annually
Meeting location	-	Rotated through Shire locations
Responsible officer	-	Director Infrastructure
Committee administrator	-	Main Roads WA

### **North Kimberley Land Care District Council (LCDC)**

Land Conservation District Committees (LCDCs) are statutory bodies formed under section 23 of the *Soil and Land Conservation Act 1945*. LCDCs operate within land conservation districts defined by an Order of the Governor in Council on the advice of the Minister for Agriculture and Food. Since LCDCs were first established in 1982, their roles and functions have evolved with some becoming incorporated groups focusing on issues wider than land degradation and soil conservation. Others have maintained their strong traditional land care focus.

Number of Councillors	-	1
Frequency of meetings	-	Bi-annually
Location of meetings	-	Kununurra
Responsible officer	-	Director Community Development
Committee administrator	-	Department of Agriculture and Food

## **LOCAL REPRESENTATION**

### **Kununurra Community Library**

The Kununurra Community Library Committee facilitates the management and control of the library in accordance with the requirements of the Minister for Education and the Shire.

Number of Councillors	-	1
Frequency of meetings	-	Quarterly
Location of meetings	-	Kununurra
Responsible officer	-	Director Community Development
Committee administrator	-	SWEK

### **Community and Civic Events**

The Community and Civic Events Committee has the role of overseeing Shire community and civic events within the municipality such as Australia Day and Australian Citizenship ceremonies. There are several other significant events that occur in the such as the Ord Valley Muster, Stars on the Bastion and Anzac Day that may require council support or may have community and civic impacts.

It is recommended that there be three Councillors on this committee, comprising of the Shire President, as well as Wyndham and Kununurra representatives.

Number of Councillors	-	3
Frequency of meetings	-	As required
Location of meetings	-	Kununurra
Responsible officer	-	Chief Executive Officer
Committee administrator	-	SWEK

### **Disability Access and Inclusion Planning**

*Under the Disability Services Act 1993* the Shire must have and maintain a Disability Access and Inclusion Plan. The objective of the Committee is to oversee and advise on the implementation, review and evaluation of this plan. The committee meets annually to conduct this internal evaluation. The Plan must be formally reviewed and revised every five years with the most recent review taking place in 2014.

Number of Councillors	-	2
Frequency of meetings	-	Annually
Location of meetings	-	Kununurra
Responsible officer	-	Director Community Development
Committee administrator	-	SWEK

### **SWEK RoadWise Committee**

The WALGA RoadWise Program supports Local Governments, community groups, private businesses and individuals to become involved in local road safety issues. RoadWise achieves this by supporting local road safety committees, providing access to resources and training, and increasing knowledge, which all contribute to building the capacity of local committees to make an effective contribution to improving road safety in their own areas.

Number of Councillors	-	2
Proxies	-	1
Frequency of meetings	-	Quarterly
Location of meetings	-	Kununurra
Responsible officer	-	Director Infrastructure
Committee administrator	-	WALGA RoadWise

### **Kununurra Visitor Centre**

Tourism is a major economic sector for the Shire and it is important that Council understands the needs and requirements of the sector that impact many areas of Councils work. SWEK is also the owner of tourism house and therefore has a financial interest in the building.

Number of Councillors	-	1
Frequency of meetings	-	Monthly
Location of meetings	-	Kununurra
Responsible officer	-	Chief Executive Officer
Committee administrator	-	Kununurra Visitor's Centre

### **Kununurra and Wyndham Alcohol Accord**

The Kununurra and Wyndham Alcohol Accord is a voluntary group comprising representatives from Industry, Local and State Government and WA Police. The Accord's aim is to address issues associated with the sale and consumption of alcohol. Over the last couple of years the Accord's primary focus has been in relation to liquor restrictions and the potential installation of a Take Away Management System (TAMS).

Number of Councillors	-	2
Frequency of meetings	-	Bi-monthly
Location of meetings	-	Kununurra
Responsible officer	-	Director Community Development
Committee administrator	-	Kununurra and Wyndham Alcohol Accord

### **Kununurra Community Resource Centre**

The Kununurra Community Resource Centre was established in 1992 to service the community of Kununurra. The Centre provides a number of services to the Kununurra community and the WA Community Resource Network (WACRN) across the state, ranging from training and support to Women's Health and Family services, to Video Conferencing and support for other not for profit and community groups in our community.

Number of Councillors	-	1
Frequency of meetings	-	Monthly
Location of meetings	-	Kununurra
Responsible officer	-	Director Community Development
Committee administrator	-	Community Resource Centre

### **Lake Kununurra Foreshore Reference Committee**

The Lake Kununurra Foreshore Reference Committee was endorsed at the 21 February 2012 Ordinary Council Meeting. The purpose of the committee is to implement the Lake Kununurra Foreshore and Aquatic Use Plan (adopted by Council on 16 August 2011) to ensure a coordinated approach to the management of Lake Kununurra and its foreshore.

Number of Councillors	-	2
Frequency of meetings	-	Quarterly
Location of meetings	-	Kununurra
Responsible officer	-	Director Community Development
Committee administrator	-	SWEK

### **East Kimberley Marketing Group**

The East Kimberley Marketing Group was formed as a result of industry forums held in Kununurra during late 2013 and early 2014 when tourism operators came together to try and work out the best way of giving tourism a boost in the region. The East Kimberley Marketing Group's focus is on delivering actions aligned with the SWEK East Kimberley Tourism Action Plan 2022 and more specifically Part B – Operational Marketing Plan.

Number of Councillors	-	1
Frequency of meetings	-	Monthly
Location of meetings	-	Kununurra
Responsible officer	-	Chief Executive Officer
Committee administrator	-	East Kimberley Marketing Group

## **OFFICER REPRESENTATION**

### **Australian Airport Association (AAA)**

The AAA is the national voice that represents the interests of over 250 airports and

aerodromes Australia wide - from the local country community landing strip to major international gateway airports. Airport members represent vital infrastructure crucial to the communities in which they operate and for the overall national economy.

The AAA facilitates co-operation among airport members and their many and varied partners in Australian aviation, whilst contributing to an air transport system that is safe, secure, environmentally responsible and efficient for the benefit of all Australians and visitors.

Officer	-	Director Infrastructure
Frequency of meetings	-	Annual
Location of meetings	-	Various locations throughout Australia
Responsible officer	-	Chief Executive Officer

### **Ord Valley Events Board**

The Ord Valley Muster highlights the East Kimberley's extraordinary cultural diversity, stunning primeval landscape and warm country hospitality. It is an all embracing community celebration of the talent found in the East Kimberley region, while showcasing some nationally and internationally acclaimed musicians and culinary personalities.

The Ord Valley Events Board is made up of 10 local members who represent the wider community and work with Mellen Events to bring this 10 day event to Kununurra. The Board aims to engage the community through sponsorship, volunteering, attendance and feedback/suggestions for over 30 events that take place throughout the Muster.

The Boards objectives are to:

- Bring the tourism season forward (extending) to May each year
- Run a community event by the community for the community
- Showcase what the area has to offer both nationally and internationally

A SWEK representative is invited to join the Ord Valley Events Board to ensure a strong relationship between the Ord Valley Muster Board and the Shire of Wyndham East Kimberley is maintained.

Officer	-	Chief Executive Officer
Frequency of meetings	-	Monthly
Location of meetings	-	Kununurra
Responsible officer	-	Chief Executive Officer
Committee administrator	-	Ord Valley Muster Board

### **CURRENT LIST OF COUNCILLOR REPRESENTATION ON COMMITTEES (before the October 2015 election)**

#### **Audit (Finance and Risk) Committee**

- 1 Keith Wright (Chairperson)
- 2 John Moulden
- 3 Beau Robinson
- 4 Darren Spackman

#### **CEO review and selection panel**

- 1 John Moulden
- 2 Keith Wright
- 3 Sophie Cooke

**Local Emergency Management Committee (LEMC) Kununurra and Wyndham**

1 Gary King

**Bush Fire Advisory Committee (BFAC)**

1 Gary King

2 Raymond (Spike) Dessert

**Development Assessment Panels**

1 Beau Robinson

2 Keith Wright

Proxy 1 Raymond (Spike) Dessert

Proxy 2 Darren Spackman

**WALGA Kimberley Zone / Regional Collaborative Group**

1 John Moulden

2 Keith Wright

Proxy 1 Beau Robinson

Proxy 2 Darren Spackman

**Kimberley Regional Road Group**

1 Raymond (Spike) Dessert

**North Kimberley Land Care District Council (LCDC)**

1 John Moulden

**Kununurra Community Library Committee**

1 Keith Wright

**Community and Civic Events**

1 Keith Wright (Kununurra)

2 Vacant

**Disability Access and Inclusion Planning**

1 Beau Robinson

2 Don Learbuch

**SWEK Roadwise Committee**

1 Don Learbuch

2 Glenn Taylor

Proxy 1 Darren Spackman

**Kununurra Visitor Centre**

1 Keith Wright

**Kununurra and Wyndham Alcohol Accord**

1 John Moulden

2 Glenn Taylor

**Community Resource Centre**

1 Don Learbuch

### **Lake Kununurra Foreshore Reference Committee**

1 Darren Spackman  
2 John Moulden

### **East Kimberley Marketing Group**

1 Cr Keith Wright  
Proxy 1 Beau Robinson

### **Australian Airport Association**

Chief Executive Officer

### **Ord Valley Events Board**

Chief Executive Officer

Since these committees were endorsed there has been an ordinary election which sees the appointment of five Councillors. A review of current committees is now necessary.

## **STATUTORY IMPLICATIONS**

### **Local Government Act 1995**

#### **5.8. Establishment of committees**

*A local government may establish\* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

*\* Absolute majority required.*

#### **5.9. Committees, types of**

(1) *In this section —*

**other person** means a person who is not a council member or an employee.

(2) *A committee is to comprise —*

- (a) *council members only; or*
- (b) *council members and employees; or*
- (c) *council members, employees and other persons; or*
- (d) *council members and other persons; or*
- (e) *employees and other persons; or*
- (f) *other persons only.*

#### **5.10. Committee members, appointment of**

(1) *A committee is to have as its members —*

- (a) *persons appointed\* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
- (b) *persons who are appointed to be members of the committee under subsection (4) or (5).*

*\* Absolute majority required.*

(2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local*

government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.

- (3) Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.
- (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.
- (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —
  - (a) to be a member of the committee; or
  - (b) that a representative of the CEO be a member of the committee,the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

#### **5.11A. Deputy committee members**

- (1) The local government may appoint\* a person to be a deputy of a member of a committee and may terminate such an appointment\* at any time.  
  
\* Absolute majority required.
- (2) A person who is appointed as a deputy of a member of a committee is to be —
  - (a) if the member of the committee is a council member — a council member; or
  - (b) if the member of the committee is an employee — an employee; or
  - (c) if the member of the committee is not a council member or an employee — a person who is not a council member or an employee; or
  - (d) if the member of the committee is a person appointed under section 5.10(5) — a person nominated by the CEO.
- (3) A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.
- (4) A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.

[Section 5.11A inserted by No. 17 of 2009 s. 20.]

#### **5.11. Committee membership, tenure of**

- (1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —
  - (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or
  - (b) the person resigns from membership of the committee; or

- (c) *the committee is disbanded; or*
- (d) *the next ordinary elections day,*

*whichever happens first.*

- (2) *Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —*

- (a) *the term of the person's appointment as a committee member expires; or*
- (b) *the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant; or*
- (c) *the committee is disbanded; or*
- (d) *the next ordinary elections day,*

*whichever happens first.*

## **5.12. Presiding members and deputies, election of**

- (1) *The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule —*

- (a) *to "office" were references to "office of presiding member"; and*
- (b) *to "council" were references to "committee"; and*
- (c) *to "councillors" were references to "committee members".*

- (2) *The members of a committee may elect a deputy presiding member from amongst themselves but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule —*

- (a) *to "office" were references to "office of deputy presiding member"; and*
- (b) *to "council" were references to "committee"; and*
- (c) *to "councillors" were references to "committee members"; and*
- (d) *to "mayor or president" were references to "presiding member".*

Membership to the Kimberley Development Assessment Panel is done in line with the *Planning and Development Act 2005*.

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **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 1.1: Strong community engagement

## **RISK IMPLICATIONS**

Nil

## **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**

The endorsement of committees is an operational function of the organisation and a requirement of the *Local Government Act 1995*.

## **ATTACHMENTS**

Attachment 1 - Call for nominations from the Zone / RCG for the positions of Zone Member and Deputy Zone Member.

Attachment 2 – Letter re DAP nominations

## **VOTING REQUIREMENT**

Absolute Majority

## **OFFICER'S RECOMMENDATION**

That Council endorses the following Councillor representation on Committees:

### **Audit (Finance and Risk) Committee**

Representative 1

Representative 2

Representative 3

Representative 4

### **CEO review and selection panel**

Representative 1

Representative 2

Representative 3

### **Local Emergency Management Committee (LEMC)**

Representative 1

Representative 1

### **Bush Fire Advisory Committee (BFAC)**

Representative 1

Representative 2

### **Development Assessment Panels**

Cr Beau Robinson

Cr Keith Wright

Proxy 1

Cr Darren Spackman

**WALGA Kimberley Zone / Regional Collaborative Group**

Representative 1  
Representative 2  
Proxy 1  
Proxy 2

**Kimberley Regional Road Group**

Representative 1  
Proxy 1

**North Kimberley Land Care District Council (LCDC)**

Representative 1  
Representative 2

**Kununurra Community Library**

Representative 1

**Community and Civic Events**

Representative 1  
Representative 2  
Representative 3

**Disability Access and Inclusion Planning**

Representative 1  
Representative 2

**SWEK Roadwise Committee**

Representative 1  
Representative 2  
Proxy 1

**Kununurra Visitor Centre**

Representative 1

**Kununurra and Wyndham Alcohol Accord**

Representative 1  
Representative 2

**Community Resource Centre**

Representative 1

**Lake Kununurra Foreshore Reference Committee**

Representative 1  
Representative 2

**East Kimberley Marketing Group**

Representative 1  
Proxy 1

**Australian Airports Association (AAA)**

Chief Executive Officer

**Ord Valley Events Board**

Chief Executive Officer

**COUNCIL DECISION**

**Minute No. 11151**

**Moved: Cr S Cooke**

**Seconded: Cr K Wright**

**That Council suspend Standing Order 7.5 Limitation of Number of Speeches.**

**Carried Unanimously 9/0**

Standing Order 7.5 Limitation of Number of Speeches suspended at 5.13pm.

Nominations for Councillor Committee representation are received.

**COUNCIL DECISION**

**Minute No. 11152**

**Moved: Cr S Cooke**

**Seconded: Cr K Wright**

**That Council resume Standing Order 7.5 Limitation of Number of Speeches.**

**Carried Unanimously 9/0**

Standing Order 7.5 Limitation of Number of Speeches resumed at 5.29pm.

**FORESHADOWED MOTION**

Cr B Robinson foreshadows a motion that Cr S Rushby be removed from the position of Representative 3 on the Audit (Finance and Risk) Committee and replaced with Cr E Bolto.

**COUNCIL DECISION**

**Minute No. 11153**

**Moved: Cr S Cooke**

**Seconded: Cr K Wright**

That Council endorses the following Councillor representation on Committees:

**Audit (Finance and Risk) Committee**

Representative 1 – Cr B Robinson

Representative 2 – Cr N Perry

Representative 3 – Cr S Rushby

Representative 4 – Cr A Petherick

**CEO review and selection panel**

Representative 1 – Cr J Parker

Representative 2 – Cr S Cooke

Representative 3 – Cr K Wright

Council appoints the Shire President as the responsible person for this Committee, in place of the Chief Executive Officer

**Local Emergency Management Committee (LEMC)**

Representative 1 – Cr D Spackman

Representative 2 – Not filled

**Bush Fire Advisory Committee (BFAC)**

Representative 1 – Cr D Spackman

Representative 2 – Not filled

**Development Assessment Panels**

Cr Beau Robinson

Cr Keith Wright

Proxy 1 – Cr N Perry

Cr Darren Spackman

**WALGA Kimberley Zone / Regional Collaborative Group**

Representative 1 – Cr J Parker

Representative 2 – Cr K Wright

Proxy 1 – Cr N Perry

Proxy 2 – Cr D Spackman

**Kimberley Regional Road Group**

Representative 1 – Cr K Wright

Proxy 1 – Cr S Rushby

**North Kimberley Land Care District Council (LCDC)**

Representative 1 – Cr E Bolto

Representative 2 – Not filled

**Kununurra Community Library**

Representative 1 – Cr S Cooke

Council appoint Cr E Bolto as the proxy.

**Community and Civic Events**

Representative 1 – Cr K Wright

Representative 2 – Cr J Parker

Representative 3 – Not filled

**Disability Access and Inclusion Planning**

Representative 1 – Cr B Robinson

Representative 2 – Cr A Petherick

**SWEK Roadwise Committee**

Representative 1 – Cr S Rushby

Representative 2 – Cr D Spackman

Proxy 1 – Cr N Perry

**Kununurra Visitor Centre**

Representative 1 – Cr N Perry

**Kununurra and Wyndham Alcohol Accord**

Representative 1 – Cr E Bolto

Representative 2 – Cr S Rushby

**Community Resource Centre**

Representative 1 – Cr J Parker

**Lake Kununurra Foreshore Reference Committee**

Representative 1 – Cr D Spackman

Representative 2 – Cr A Petherick

**East Kimberley Marketing Group**

Representative 1 – Cr N Perry

Proxy 1 – Cr B Robinson

**Australian Airports Association (AAA)**

Chief Executive Officer

**Ord Valley Events Board**

Chief Executive Officer

**Carried 5/4**

**For: Cr J Parker, Cr K Wright, Cr D Spackman, Cr S Rushby, Cr A Petherick**

**Against: Cr B Robinson, Cr S Cooke, Cr N Perry, Cr E Bolto**



## Kimberley Regional Group

PO Box 44 Broome 6725 Ph: (08) 9192 8355 Fx: (08) 9192 2451



Ref: KRG01

9 October 2015

Mr Carl Askew  
Chief Executive Officer  
Shire of Wyndham East Kimberley  
PO Box 614  
Kununurra, WA 6743



Dear Carl



### Calling for Nominations of the positions of Zone Member and Deputy Zone Member

Following the Local Government elections occurring on 17 October 2015, member Councils will elect a Zone representative and deputy representative to the WALGA Kimberley Country Zone.

In relation to the nominations and election process to be followed by each member Council in electing a representative and deputy representative to the WALGA Kimberley Country Zone, the below process is to be followed:

1. Member Councils to elect/appoint their Zone Delegates and to advise the Zone Executive Officer, as soon as possible but preferably by 27 November 2015.
2. For the purpose of electing their representatives and deputy representatives to the WALGA Kimberley Country Zone, each member Council are required to hold these elections at their first Council meeting following the Local Government elections.
3. Each member Council to advise WALGA and the Zone Executive Officer, in writing, of their elected Kimberley Country Zone representative and deputy representative immediately following their first Council meeting following the Local Government elections.
4. The position of Zone Chair and Deputy Zone Chair, will be elected at the December 2015 Zone Meeting.

If you have any questions or require further information in relation to the above mentioned process, please contact Tony Brown, Executive Manager Governance and Organisational Services on 9213 2051 or email [tbrown@walga.asn.au](mailto:tbrown@walga.asn.au).

Yours sincerely



**Rebecca Herbert**  
Project Manager – Kimberley Regional Group

09 OCT 2015



Government of **Western Australia**  
Department of **Planning**

LP.01.9  
I-31635

Our Ref: DP/13/00682  
Enquiries: DAP Secretariat  
Telephone: (08) 6551 9919

Mr Carl Askew  
Chief Executive Officer  
Shire of Wyndham-East Kimberley  
PO Box 614  
KUNUNURRA WA 6743

Dear Mr <sup>Carl</sup> Askew

## **DEVELOPMENT ASSESSMENT PANELS: LOCAL GOVERNMENT NOMINATIONS**

As you would be aware, Development Assessment Panels (DAPs) were introduced on 1 July 2011 to determine development applications that meet prescribed criteria. Each DAP comprises five members: three specialist members, including the presiding member, and two local government members. All current DAP members were appointed on 27 July 2015, for the term ending 26 April 2017.

Following the upcoming local government elections to be held on 17 October 2015, there may be a change in your local government DAP membership if the composition of your council changes. In this instance, your local government will need to nominate replacement DAP members, who will be considered by the Hon John Day MLA, Minister for Planning.

Representation of local interests is a key aspect of the DAPs system. Under regulation 24 of the *Planning and Development (Development Assessment Panels) Regulations 2011* (the Regulations), your local council is requested to nominate, as soon as possible following the elections, four elected council members to sit as DAP members for your local government. Using the attached form, nominations should be submitted via email to the DAPs Secretariat at [daps@planning.wa.gov.au](mailto:daps@planning.wa.gov.au).

All local government councils are requested to provide nominations for local government DAP members by Friday 30 October 2015, to ensure local interests are represented in future DAP determinations. I understand that a number of councils hold an extraordinary meeting shortly after the local government elections to finalise various matters. If you are unable to provide nominations by the above date, please contact the DAPs Secretariat to discuss alternative arrangements and implications.

Postal address: Locked Bag 2506 Perth WA 6001 / Street address: 140 William Street Perth WA 6000  
Tel: (08) 6551 9000 / Fax: (08) 6551 9001 / [corporate@planning.wa.gov.au](mailto:corporate@planning.wa.gov.au) / [www.planning.wa.gov.au](http://www.planning.wa.gov.au)  
ABN 79 051 750 680  
[wa.gov.au](http://wa.gov.au)

If there is no change to your local government DAP representation following the local government elections, confirmation should also be provided to the DAPs Secretariat as soon as possible.

Once nominations are received, the Minister will consider and appoint local government DAP members for the term ending 26 April 2017.

As you may be aware, changes to Joint Development Assessment Panel (JDAP) boundaries were introduced on 25 July 2015, including the creation of the amalgamated Kimberley/Pilbara/Gascoyne, Mid-West/Wheatbelt and Southern JDAPs. Further information on regional JDAP boundaries is available on the DAPs website, at <http://daps.planning.wa.gov.au>.

If you have any queries regarding the above information, please contact the DAPs Secretariat on 6551 9919, or via email at [daps@planning.wa.gov.au](mailto:daps@planning.wa.gov.au).

Yours sincerely

  
**Gail McGowan**  
**Director General**

3 October 2015

Enc.



## DEVELOPMENT ASSESSMENT PANELS LOCAL GOVERNMENT MEMBER NOMINATION

<b>Local Government</b>	
<b>DAP name</b>	

	Member 1	Member 2
<b>Name</b>		
<b>Address</b>		
<b>Phone</b>		
<b>Email</b>		
<b>Date of birth</b>		
<b>Employer name(s)</b>		
<b>Position(s)</b>		
<b>Full/part time</b>		

	Alternate Member 1	Alternate Member 2
<b>Name</b>		
<b>Address</b>		
<b>Phone</b>		
<b>Email</b>		
<b>Date of birth</b>		
<b>Employer name(s)</b>		
<b>Position(s)</b>		
<b>Full/part time</b>		

*Note: All fields are mandatory, and will assist in determining eligibility for DAPs sitting fees, in accordance with Premier's Circular 2010/02.*

LOCAL GOVERNMENT MINUTE TAKER – CONTACT DETAILS		
<b>Name</b>		
<b>Phone</b>		<b>Email</b>

DAP SECRETARIAT USE ONLY	
<b>Date received</b>	<b>Signature</b>

M Tonkin declares a financial interest in this item. As an employee I have an interest in this item.

D Klye declares a financial interest in this item. I may be the recipient of a financial benefit as a result of the implementation of the policy.

L Gee declares a financial interest in this item. Council report and existing Council Policy CP/HR9 Recognition of Staff and recommended Organisational Directive provides for a financial recognition to staff depending on years of service.

N Octoman declares a financial interest in this item. Currently employed by the Shire.

C Askew declares a financial interest in this item. Staff member and potential beneficiary of policy.

M Tonkin, D Klye, L Gee, N Octoman and C Askew leave the Chambers at 5.35pm.

### **13.5.3 Recognition of Staff Policy**

<b>DATE:</b>	27/10/2015
<b>AUTHOR:</b>	Rebecca Richards, Coordinator Organisational Development
<b>RESPONSIBLE OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>FILE NO:</b>	CM.11.2
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### **PURPOSE**

For Council to rescind the current Council Policy CP/HR9 Recognition of Staff and to acknowledge that this will be replaced with an Organisation Directive that provides guidance to the Chief Executive Officer as to the process of providing recognition to employees reaching service milestones or resigning/retiring from the organisation.

#### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

Leader - plan and provide direction through policy and practices

#### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

The existing Council Recognition of Staff Policy CP/HR9 (Attachment 1). This Policy has not been reviewed since 17 March 2009.

The Recognition of Staff should not be a policy as it is an operational matter and should be the responsibility of the Chief Executive Officer in performing his duties.

#### **STATUTORY IMPLICATIONS**

##### ***Local Government Act 1995***

##### ***2.7. Role of council***

(1) *The council —*

(a) *governs the local government's affairs; and*

- (b) *is responsible for the performance of the local government's functions.*
- (2) *Without limiting subsection (1), the council is to —*
  - (a) *oversee the allocation of the local government's finances and resources; and*
  - (b) *determine the local government's policies*

#### **5.41. Functions of CEO**

*The CEO's functions are to —*

- (a) *advise the council in relation to the functions of a local government under this Act and other written laws; and*
- (b) *ensure that advice and information is available to the council so that informed decisions can be made; and*
- (c) *cause council decisions to be implemented; and*
- (d) *manage the day to day operations of the local government; and*
- (e) *liaise with the mayor or president on the local government's affairs and the performance of the local government's functions; and*
- (f) *speak on behalf of the local government if the mayor or president agrees; and*
- (g) *be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and*
- (h) *ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- (i) *perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.*

#### **POLICY IMPLICATIONS**

It is proposed that this Council Policy be repealed.

#### **FINANCIAL IMPLICATIONS**

Budget has been set for those employees reaching service milestones within this financial year. A small provision has been included for employees resigning/retiring. This will be reviewed in the mid-year budget review 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 1.4.5: Attract and maintain a skilled, motivated and professional workforce

## **RISK IMPLICATIONS**

Nil

## **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**

As part of the Council Policy Review it was a requirement to review this outdated policy. The policy in question is being replaced with a more detailed Organisational Directive. The purpose of an Organisational Directive is a statement approved by the Chief Executive Officer that sets out the process and requirements for a particular course or mode of operation. Organisational directives clearly define how an operational process or standard is to be implemented and by whom. An organisational directive is reviewed more often than a Policy as operational processes change in line with legislative or organisational requirements. Organisational directives often elaborate on, and give effect to, a Local Law, rule, agreement, code or Policy and define the area in which the Policy is operative. Compliance with organisation directives is mandatory and non-compliance may be actionable through appropriate conduct policy documents.

## **ATTACHMENTS**

Attachment 1 - CP/HR9 Recognition of Staff

## **VOTING REQUIREMENT**

Simple Majority

## **OFFICER'S RECOMMENDATION**

That Council repeals CP/HR09 Recognition of Staff policy and acknowledges that this will be replaced with an Organisational Directive to be approved by the CEO.

### **COUNCIL DECISION**

**Minute No. 11154**

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

**That Council repeals CP/HR09 Recognition of Staff policy and acknowledges that this will be replaced with an Organisational Directive to be approved by the CEO.**

**Carried Unanimously 9/0**

M Tonkin, D Klye, L Gee, N Octoman and C Askew enter the Chambers at 5.36pm.



*Shire of Wyndham East Kimberley*  
**Council Policy**  
**CP/HR09**

<b>POLICY No:</b>	<b>HR9</b>
<b>DIVISION:</b>	<b>Human Resources</b>
<b>SUBJECT:</b>	<b>Recognition of Staff</b>
<b>REPORTING OFFICER:</b>	<b>Chief Executive Officer</b>
<b>ENABLING LEGISLATION:</b>	<b>Local Government Act 1995 Section 5.36</b>

**OBJECTIVE**

To provide guidelines for the recognition of staff service with the Shire of Wyndham East Kimberley:

- on retirement or resignation, and
- on achieving significant milestones of 10, 20 and 30 years service with the Shire.

**POLICY**

Council gifts will be provided to staff who were employed as permanent staff members as follows:

Clause 1 and 2 below apply to staff retiring or resigning:

1. Service 3- 10 years

Gift up to the value of \$50 for each year of completed service, and a small function to value of \$100.

2. Service more than 10 years

A gift up to the value of \$100 for each year of completed service over 10 years to be presented at an appropriate function (to be determined by the Shire President and Chief Executive Officer).

The following recognition applies to staff accruing significant employment milestones with the Shire of Wyndham East Kimberley and continuing employment:

All staff attaining 10 years completed service and is continuing service, shall be presented with a suitable memento to the value of \$750 to be presented at an appropriate function (to be determined by the Shire President and Chief Executive Officer).

All staff attaining 20 years completed service and is continuing service, shall be presented with a suitable memento to the value of \$1,500 to be presented at an appropriate function (to be determined by the Shire President and Chief Executive Officer).

All staff attaining 30 years completed service and is continuing service, shall be presented with a suitable memento to the value of \$2,000 to be presented at an appropriate function (to be determined by the Shire President and Chief Executive Officer).

Notes:

- Should “years of completed service” include any significant absences of leave without pay, entitlement shall be determined by the employer.
- A staff member employed as a casual employee who is subsequently offered permanent employment status, shall be considered for pro-rata entitlement of “years of completed service” as determined by the employer.

**Adopted: 24 June 2003**

**Reviewed:**

**Amended: 17 March 2009**

### 13.5.4 Elected Member Allowance & Entitlements Policy

<b>DATE:</b>	27/10/2015
<b>AUTHOR:</b>	Monika Tonkin, Executive Assistant
<b>RESPONSIBLE OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>FILE NO:</b>	N/A
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### **PURPOSE**

For Council to repeal policies CPMC6 Councillors Presentation on Retirement and CPMC18 Elected Members Training and adopt a new Elected Member Allowance & Entitlements Policy

#### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

Leader - plan and provide direction through policy and practices

#### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

At the April 2015, Ordinary Council Meeting, Council were advised that a three stage review of Council policies was being undertaken. Stage two, specifically identified that a number of policies were to be provided to Council each month for consideration and adoption and that some new policies would be developed for Council consideration. This is in line with Recommendation 16 of the Department of Local Government and Communities Probity and Compliance Audit Report of the Shire which recommended a comprehensive review of the Shire's policies. Through this review process it has been identified that the majority of Local Governments have a policy on Elected Member Allowances & Entitlements that covers the areas of provision of support to Elected Members, allowances, reimbursement of expenses, training and conference/seminar attendance and recognition of retirement. Having a comprehensive policy such as this allows for the current individual policies on training and presentation on retirement to be repealed.

#### **STATUTORY IMPLICATIONS**

##### Local Government Act 1995

##### **5.98. Fees etc. for council members**

- (1) *A council member who attends a council or committee meeting is entitled to be paid —*
  - (a) *the fee determined for attending a council or committee meeting; or*
  - (b) *where the local government has set a fee within the range determined for council or committee meeting attendance fees, that fee.*
- (2A) *A council member who attends a meeting of a prescribed type at the request of the council is entitled to be paid —*
  - (a) *the fee determined for attending a meeting of that type; or*
  - (b) *where the local government has set a fee within the range determined for meetings of that type, that fee.*
- (2) *A council member who incurs an expense of a kind prescribed as being an expense —*
  - (a) *to be reimbursed by all local governments; or*
  - (b) *which may be approved by any local government for reimbursement by the local government and which has been approved by the local government for reimbursement,*

- is entitled to be reimbursed for the expense in accordance with subsection (3).
- (3) A council member to whom subsection (2) applies is to be reimbursed for the expense —
- (a) where the extent of reimbursement for the expense has been determined, to that extent; or
  - (b) where the local government has set the extent to which the expense can be reimbursed and that extent is within the range determined for reimbursement, to that extent.

#### Local Government (Administration) Regulations 1996

### **30. Meeting attendance fees (Act s. 5.98(1) and (2A))**

- (3A) Each of the following meetings is a meeting of a prescribed type for the purposes of section 5.98(2A) —
- (a) meeting of a WALGA Zone, where the council member is representing a local government as a delegate elected or appointed by the local government;
  - (b) meeting of a Regional Road Group established by Main Roads Western Australia, where the council member is representing a local government as a delegate elected or appointed by the local government;
  - (c) council meeting of a regional local government where the council member is the deputy of a member of the regional local government and is attending in the place of the member of the regional local government;
  - (d) meeting other than a council or committee meeting where the council member is attending at the request of a Minister of the Crown who is attending the meeting;
  - (e) meeting other than a council meeting or committee meeting where the council member is representing a local government as a delegate elected or appointed by the local government.
- (3C) A council member is not entitled to be paid a fee for attending a meeting of a type referred to in subregulation (3A) if —
- (a) the person who organises the meeting pays the council member a fee for attending the meeting; or
  - (b) the council member is paid an annual fee in accordance with section 5.99; or
  - (c) if the meeting is a meeting referred to in subregulation (3A)(c), the member of the regional local government is paid an annual fee in accordance with section 5.99.

### **31. Expenses to be reimbursed (Act s. 5.98(2)(a) and (3))**

- (1) For the purposes of section 5.98(2)(a), the kinds of expenses that are to be reimbursed by all local governments are —
- (a) rental charges incurred by a council member in relation to one telephone and one facsimile machine; and
  - (b) child care and travel costs incurred by a council member because of the member's attendance at a council meeting or a meeting of a committee of which he or she is also a member.

## **POLICY IMPLICATIONS**

Repeal of policies CPMC6 Councillors Presentation on Retirement and CPMC18 Elected Members Training and a new Elected Member Allowance & Entitlements Policy to be added to the Council Policy Manual if adopted.

## **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

## **RISK IMPLICATIONS**

Nil

## **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**

The purpose of the proposed new policy is to provide a clear outline of the support and entitlements available to the Shire's Elected Members.

## **ATTACHMENTS**

Attachment 1 - Draft Elected Member Allowances & Entitlements Policy

Attachment 2 – CPMC6 Councillors Presentation on Retirement

Attachment 3 – CPMC18 Elected Members Training

Attachment 4 – Salaries and Allowances Determination June 2015

## **VOTING REQUIREMENT**

Simple Majority

## **OFFICER'S RECOMMENDATION**

That Council repeals the following policies:

- CPMC6 Councillors Presentation on Retirement
- CPMC18 Elected Members Training

That Council adopts the Elected Member Allowances & Entitlements Policy.

**COUNCIL DECISION**

**Minute No. 11155**

**Moved: Cr B Robinson**

**Seconded: Cr S Cooke**

**That Council repeals the following policies:**

- **CMPC6 Councillors Presentation on Retirement**
- **CMPC18 Elected Members Training**

**That Council adopts the Elected Member Allowances & Entitlements Policy.**

**Carried Unanimously 9/0**



POLICY NO	*** To be supplied by Governance once adopted by Council	
POLICY	Elected Member Allowances & Entitlements	
RESPONSIBLE DIRECTORATE	Governance	
RESPONSIBLE OFFICER	Chief Executive Officer	
COUNCIL ADOPTION	Date: Insert Date Adopted	Resolution No: Insert Here
REVIEWED/MODIFIED	Date:	Resolution No:
	Date:	Resolution No:
REVIEW DUE	Date: Insert Month and Year for next review – 2 years after adoption	
LEGISLATION	<i>Local Government Act 1995, Section 5.98</i> <i>Local Government (Administration) Regulations, Part 8</i> <i>Salaries and Allowances Act 1975</i> <i>Determination for Local Government – Elected Council Members Pursuant to Section 7B of the Salaries and Allowances Act 1975 (June 2015)</i>	
RELATED POLICIES	Nil	
RELATED ORGANISATIONAL DIRECTIVES	Councillor Induction Package	

#### **PURPOSE:**

The purpose of this policy is to provide a clear outline of the support and entitlements available to the Shire's Elected Members.

#### **POLICY STATEMENTS:**

##### 1. PROVISION OF SUPPORT

All Elected Members, following election to Council, are entitled to receive:

- An email address in the format of [firstname.lastname@swek.wa.gov.au](mailto:firstname.lastname@swek.wa.gov.au)
- Personalised business cards using the SWEK business card template
- Personalised SWEK name badge
- Limited IT support on a case by case basis with requests made directly to the CEO

##### 2. ATTENDANCE FEES & ANNUAL ALLOWANCES

Elected Member attendance fees and annual allowances are to be considered by the Council each year as part of the budget adoption process and in line with determination from the Salaries and Allowances Tribunal.

The payment is applicable to each financial year and is payable in arrears in October, January, April and July. Payment will be to the account nominated by the Elected Member. Payment of the allowance is made on the basis that each Elected Member regularly attends Council meetings, Briefing Sessions and meetings as set out in section 5.98(1) and (2A) of the *Local Government Act 1995* and Regulation 30(3A) of the *Local Government (Administration) Regulations 1996* and carries out other normal duties and responsibilities of the office of Councillor for the whole year.

It is acknowledged that any taxation liability arising from the payment of meeting fees is the individual responsibility of each Elected Member.

### 3. REIMBURSEMENT OF EXPENSES

As set out in section 5.98(2(a) and (3) of the *Local Government Act 1995* and Regulation 31 of the *Local Government (Administration) Regulations 1996* the following expenses are to be reimbursed subject to a statement being certified by the Elected Member concerned that the claim is in respect to costs associated in the course of Shire business. Claims for reimbursement must be submitted no later than 30 days after the financial year in which the expenses were incurred.:

- a) Rental charges for one telephone and one facsimile (receipts to be provided)
- b) Child care costs incurred by an Elected Member because of the member's attendance at a Council meeting or a meeting of a committee of which he or she is also a member. At a maximum of \$25 per hour.
- c) Mileage claims incurred by an Elected Member to attend a Council meeting or a meeting of a committee of which he or she is also a member. Calculated on a rate per kilometre payable at the same rate contained in Section 30.6 of the *Local Government Officers' (Western Australia) Interim Award 2011*. Mileage claims will only be reimbursed where a Council vehicle is not available.

### 4. TRAINING & CONFERENCE/SEMINAR ATTENDANCE

Elected Members are required to attend training that is organised specifically for them and held within the Shire.

Elected Members are encouraged to attend Western Australian Local Government Association endorsed training courses or to participate in regional based, web based or teleconference type training where possible.

Elected Members are encouraged to attend the Western Australian Local Government Annual Conference once during their term.

Elected Members who wish to attend training courses, appropriate conferences/seminars may make application to the Shire President in writing. A decision on attendance will be made jointly by the Shire President and the CEO based on need and budgeted funds being available. The CEO is to authorise all travel requests from the Shire President based on budgeted funds being available.

#### Costs

The following will be reimbursed or paid for approved training/conference/seminar attendance. Where a reimbursement is required, receipts must be provided. Costs will be reimbursed or paid to allow the Elected Member to arrive at the location one day prior to the start of the training/conference/seminar and to depart the day following the close of the training/conference/seminar. In the event that an Elected Member wishes to extend their visit for reasons not associated with approved Council business, any extended stay is to be at the cost of the Elected Member. Claims for reimbursement must be submitted within 14 days of return:

- a) Registration fees and training costs will be paid for the Elected Member. Any fees for an accompanying person are at the cost of the Elected Member.
- b) Domestic economy class air travel
- c) Actual receipted accommodation
- d) Actual receipted taxi's (to and from the airport, venues, accommodation or other approved places associated with the approved travel)
- e) Actual receipted parking (at the airport, venues, accommodation or other approved places associated with the approved travel)
- f) Actual receipted food and drink costs (alcohol not included)
- g) Mileage costs to travel to and from the training/conference/seminar venue in accordance with the current mileage allowances as established by the Public Service Award (1992) up to and including an amount equivalent to that which would have been expended had arrangements been made to travel by air.

- h) Hire car if deemed more cost effective by the Shire President or CEO

#### Booking and Reimbursement

Upon approval by the Shire President and Chief Executive Officer, all paperwork can be passed to the Executive Assistant to arrange registration and relevant bookings or the Elected Members can make their own arrangements and seek reimbursement.

#### Sharing of Knowledge

Within a reasonable time (not exceeding three months) from the conclusion of an approved conference or seminar, the Elected Member concerned shall provide a written report or presentation (including copies of conference papers) concerning the conference or seminar for the information of other Shire Elected Members and for the Shire's records.

### 5. RECOGNITION ON RETIREMENT

The following recognition is provided to retiring Elected Members to acknowledge their contribution to Council and the community:

- a) For service less than 4 years in office – Certificate of Appreciation
- b) For service more than 4 years in office – Certificate of Appreciation and an appropriate gift bearing the Shire of Wyndham East Kimberley logo to be chosen by the Shire President to a value not exceeding \$200

#### **EXPLANATORY NOTES:**

This policy ensures that Elected Members are provided with the appropriate facilities, equipment, material and information to support them in performing their duties of office.

The policy also enables Elected Members to be accessible to the community, their colleagues and the Shire's staff.

The policy also ensures Elected Members are recognised for their service to the community and the significant weight of responsibilities which Elected Members shoulder.

#### **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 the review schedule.



**Shire of Wyndham East Kimberley**  
**Council Policy Number: CPMC6**  
**Councillors Presentation on Retirement**

**OBJECTIVE:**

To provide formal recognition of service to Council and the Community of Councillors on retirement.

**POLICY:**

To formally recognise the service to the Shire of Wyndham-East Kimberley of Councillors who resign, retire or are not re-elected and who have served a minimum of one (1) term as Councillor.

Councillors on retirement will be presented with:

- Their name plaque
- An A3 framed Certificate of Service detailing term(s) of service as a Councillor, Shire President or Deputy Shire President.
- An appropriate gift bearing the Shire of Wyndham East Kimberley brand to be chosen by the Shire President to a value not exceeding \$200.

The presentation shall be made at a Council social function to be held within three weeks of an election. The function with Councillors (existing, retiring and newly elected) and senior staff is to commemorate the service of retiring Councillors and welcome newly elected Council members.

Media recognition via a Press release will be issued by the Shire President upon accepting the resignation of a Councillor or following a Councillor not being re-elected.

**GOVERNANCE REFERENCES**

<b>Statutory Compliance</b>	Local Government Act 1995
<b>Industry Compliance</b>	Nil.
<b>Organisational Compliance</b>	Nil.
<b>Process Links</b>	Nil.

**POLICY ADMINISTRATION**

<b>Directorate</b>		<b>Officer Title</b>		<b>Contact:</b>	
Governance		Chief Executive Officer		Ext: 109	
<b>Date Effective</b>	15/05/2005				
<b>Date Adopted</b>	15/05/2005	<b>Last Reviewed</b>	16/06/2009		
<b>Risk Rating</b>	Low	<b>Review Cycle</b>	Tri-Annual	<b>Next Due</b>	03/2013



*Shire of Wyndham East Kimberley*  
**Council Policy Number CPMC18**  
**Elected Members Training**

**OBJECTIVE**

To ensure that elected members have the opportunity to participate in relevant training and development opportunities in order to assist them to more effectively undertake their role as community representatives.

**POLICY**

Elected Members are encouraged to participate in training and development opportunities that are aimed at assisting them to fulfil their roles effectively.

Training may take the form of formal training such as that provided through the Municipal Training Scheme, attendance at conferences and seminars relevant to local government and specific areas of concern to the Shire or in house training developed to meet the needs of the current Council.

Where relevant and practical Council will consider delivery of training to Elected Members in the East Kimberley. Opportunities to utilise current technologies such as web based or teleconference type training should be considered. Regional training opportunities are encouraged whereby training is organised by the Shire and other local governments are invited to attend on a cost recovery basis.

Each year, as part of the annual budget development process, the Council shall incorporate in its budget a conferences and training allocation for elected members. This shall include funding for elected members to attend the annual local government week conference and additional funds for further conferences and training opportunities which may arise throughout the year.

**Reimbursement of Costs**

Costs for attendance at conferences and training where travel is involved shall include the following:

- All reasonable accommodation costs including meals, refreshments and telephone.
- If staying in accommodation other than Hotel or Motel a daily allowance, inclusive of meals, refreshments and telephone, the equivalent of the State Public Travel Allowance Regulations.
- All conference registration costs.
- Taxi vouchers for travel to and from the airport and conference venue as required.

- Where a substantial amount of travel between meetings and venues is required a hire car can be provided if deemed more cost effective by the Shire President or Chief Executive Officer.

Should members wish to use their private car to travel to conferences in the Northern Territory, Pilbara or Kimberley then reimbursement will be provided at the level prescribed in the Local Government Officers (WA) Award to the maximum value of the amount equal to a return seven (7) day advanced purchase airfare to the point of destination.

### Other Conditions

- All conference and training requests shall recorded on the application form attached to this policy.
- Attendance by members of Council to all conferences and training must be authorised in advance by the Shire President.
- All travel and registration requirements to be arranged by the Chief Executive Officer and confirmed by issue of an official Council purchase order.
- All accommodation and hire car requirements are to be arranged by the Chief Executive Officer and confirmed by an official Council purchase order.
- Accommodation and meal allowance may be paid in advanced but must be reconciled with tax invoices/receipts/dockets within 14 days of return.
- All claims to be submitted within 14 days of return together with tax invoices /receipts/dockets etc.
- Councillors are to provide a brief written report to the next Briefing Session after the conference.

### GOVERNANCE REFERENCES

<b>Statutory Compliance</b>	Local Government Act 1995
<b>Industry Compliance</b>	Nil.
<b>Organisational Compliance</b>	Nil.
<b>Process Links</b>	Elected Members Training/Conference Request Form

### POLICY ADMINISTRATION

<b>Directorate</b>		<b>Officer Title</b>		<b>Contact:</b>	
Governance		Chief Executive Officer		Ext: 109	
<b>Date Effective</b>	16/06/2009				
<b>Date Adopted</b>	16/06/2009	<b>Last Reviewed</b>			
<b>Risk Rating</b>	Low	<b>Review Cycle</b>	Tri-Annual	<b>Next Due</b>	03/2013

**DETERMINATION FOR LOCAL GOVERNMENT  
ELECTED COUNCIL MEMBERS PURSUANT TO  
SECTION 7B OF THE SALARIES AND ALLOWANCES ACT 1975**

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- 1.2 Commencement
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**Part 2: Meeting Attendance Fees**

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**Part 3: Annual Allowance for a Mayor, President, Chairman, Deputy Mayor, Deputy President and Deputy Chairman**

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**Explanatory Notes**

## PART 1: INTRODUCTORY MATTERS

*This Part deals with some matters that are relevant to the determination generally.*

### 1.1 Short title

This determination may be cited as the *Local Government Elected Council Members Determination No. 1 of 2015*.

### 1.2 Commencement

This determination comes into operation on 1 July 2015.

### 1.3 Content and intent

- (1) This determination provides for the amount of fees, expenses and allowances to be paid or reimbursed under the *Local Government Act 1995* ('the LG Act') Part 5 Division 8 to elected council members. The determination applies to elected council members who are members of the council of a local government. Under the LG Act section 3.66, it also applies to elected council members who are members of the council of a regional local government.
- (2) Where the Tribunal has determined a specific amount for a fee, expense or allowance for elected council members of a local government or regional local government, the amount determined by the Tribunal will be payable to an eligible elected council member.
- (3) Where the Tribunal has determined a minimum and maximum amount for a fee, expense or allowance for elected council members of a local government or regional local government, each local government or regional local government council will set an amount within the relevant range determined and the amount set will be payable to an eligible elected council member.
- (4) The fees, expenses and allowances determined are intended to recognise the responsibilities of elected council members, mayors and presidents of local governments and chairmen of regional local governments and to remunerate them for the performance of the duties associated with their office.

### 1.4 Terms used

In this determination, unless the contrary intention appears -

***chairman*** means a person who is elected or appointed from among the members of a council of a regional local government as its chairman;

**committee meeting** means a meeting of a committee of a council where the committee comprises –

- (a) council members only; or
- (b) council members and employees of the local government or regional local government;

**council** –

- (a) in relation to a local government, means the council of the local government;
- (b) in relation to a regional local government, means the council of the regional local government;

**council member** –

- (a) in relation to a local government –
  - (i) means a person elected under the LG Act as a member of the council of the local government; and
  - (ii) includes the mayor or president of the local government;
- (b) in relation to a regional local government –
  - (i) means a person elected under the LG Act as a member of the council of a local government and who is a member of the council of the regional local government; and
  - (ii) includes the chairman of the regional local government;

**LG Regulations** means the *Local Government (Administration) Regulations 1996*;

**mayor** means a council member holding the office of mayor, whether elected by the council from amongst its members or elected by the electors;

**operating revenue** means revenue that is operating revenue for the purposes of the Australian Accounting Standards made and amended from time to time by the Australian Accounting Standards Board;

**president** means a council member holding the office of president, whether elected by the council from amongst its members or elected by the electors.

### **1.5 Pro rata payments**

The amount of a person's entitlement to an annual attendance fee or annual allowance specified in this determination shall be apportioned on a pro rata basis according to the portion of a year that the person holds office as a council member and is eligible for the relevant annual attendance fee or annual allowance.

### **1.6 Local government band allocations**

Unless the contrary intention appears, local governments are allocated in this determination to the bands set out in Schedule 1 of this determination. Regional local governments are not allocated to bands.

## **PART 2: MEETING ATTENDANCE FEES**

*This Part deals with fees payable to council members for attendance at council meetings and meetings as set out in section 5.98(1) and (2A) of the LG Act and regulation 30(3A) of the LG Regulations.*

*In particular it deals with fees for attendance at the following meetings –*

- (a) council meetings;*
- (b) council committee meetings;*
- (c) Western Australian Local Government Association (WALGA) Zone meetings;*
- (d) Main Roads Western Australia Regional Road Group meetings*
- (e) regional local government meetings where an elected council member is deputising;*
- (f) meetings attended at the request of a Minister of the Crown;*
- (g) meetings where an elected council member is a delegate of the council.*

### **2.1 GENERAL**

- (1) Pursuant to section 5.98(1)(b) of the LG Act, a council member who attends a council meeting is entitled to be paid the fee set by the local government or the regional local government within the range determined in section 2.2 of this Part for council meeting attendance fees.
- (2) Pursuant to section 5.98(1)(b) and (2A)(b) of the LG Act, a council member who attends a committee meeting or (at the request of the local government or regional local government) a meeting of a type prescribed in regulation 30(3A) of the LG Regulations is entitled to be paid the fee set by the local government or regional local government within the range determined in section 2.3 of this Part for attending committee meetings or, as the case requires, meetings of that type.
- (3) Each of the following meetings is a type of meeting prescribed in regulation 30(3A) of the LG Regulations -
  - (a) meeting of a WALGA Zone, where the council member is representing a local government as a delegate elected or appointed by the local government;

- (b) meeting of a Regional Road Group established by Main Roads Western Australia, where the council member is representing a local government as a delegate elected or appointed by the local government;
  - (c) council meeting of a regional local government where the council member is the deputy of a member of the regional local government and is attending in the place of the member of the regional local government;
  - (d) meeting other than a council or committee meeting where the council member is attending at the request of a Minister of the Crown who is attending the meeting;
  - (e) meeting other than a council meeting or committee meeting where the council member is representing a local government as a delegate elected or appointed by the local government.
- (4) Pursuant to section 5.99 of the LG Act, a local government or regional local government may decide by an absolute majority that instead of paying council members an attendance fee referred to in section 5.98(1) of the LG Act, it will pay all council members who attend council or committee meetings a fee set within the range for annual fees determined in section 2.4 of this Part.
- (5) Regulation 30(3C) of the LG Regulations prevents the payment of a fee to a council member for attending a meeting of a type prescribed in regulation 30(3A) of those regulations if –
- (a) the person who organises the meeting pays the council member a fee for attending the meeting; or
  - (b) the council member is paid an annual fee in accordance with section 5.99 of the LG Act; or
  - (c) the council member is deputising for a council member at a meeting of a regional local government and the member of the regional local government is paid an annual fee in accordance with section 5.99 of the LG Act.
- (6) In determining the fees set out in this Part, the Tribunal has taken into account a range of factors including –
- (a) the time required to prepare adequately for the meetings including consideration of agenda papers, site visits related to agenda items and consultation with council staff and community members;

- (b) the role of the council member, mayor or president including, but not limited to, representation, advocacy, and oversight and determination of policy and local legislation;
  - (c) particular responsibilities associated with the types of meetings attended;
  - (d) responsibilities of a mayor, president or chairman to preside over meetings; and
  - (e) the relative “size” of the local government as reflected in the Tribunal’s local government banding model.
- (7) The Tribunal has not determined a specific meeting attendance fee for the purposes of section 5.98(1)(a) or (2A)(a) of the LG Act.

**2.2 COUNCIL MEETING ATTENDANCE FEES – PER MEETING**

- (1) The ranges of fees in Table 1 and Table 2 apply where a local government or regional local government decides by an absolute majority to pay a council member a fee referred to in section 5.98(1)(b) of the LG Act for attendance at a council meeting.

**Table 1: Council meeting fees per meeting – local governments**

Band	For a council member other than the mayor or president		For a council member who holds the office of mayor or president	
	Minimum	Maximum	Minimum	Maximum
1	\$600	\$773	\$600	\$1,159
2	\$363	\$567	\$363	\$760
3	\$188	\$400	\$188	\$618
4	\$88	\$232	\$88	\$477

**Table 2: Council meeting fees per meeting – regional local governments**

	For a council member other than the chairman		For a council member who holds the office of chairman	
	Minimum	Maximum	Minimum	Maximum
All regional local governments	\$88	\$232	\$88	\$477

**2.3 COMMITTEE MEETING AND PRESCRIBED MEETING ATTENDANCE FEES – PER MEETING**

- (1) The ranges of fees in Table 3 and Table 4 apply where a local government or regional local government decides to pay a council member a fee referred to in –
- (a) section 5.98(1)(b) of the LG Act for attendance at a committee meeting; or
  - (b) section 5.98(2A)(b) of the LG Act for attendance at a meeting of a type prescribed in regulation 30(3A) of the LG Regulations.

**Table 3: Committee meeting and prescribed meeting fees per meeting – local governments**

For a council member (including the mayor or president)		
Band	Minimum	Maximum
1	\$300	\$386
2	\$181	\$283
3	\$94	\$200
4	\$44	\$116

**Table 4: Committee meeting and prescribed meeting fees per meeting – regional local governments**

For a council member (including the chairman)		
	Minimum	Maximum
All regional local governments	\$44	\$116

#### **2.4 ANNUAL ATTENDANCE FEES IN LIEU OF COUNCIL MEETING, COMMITTEE MEETING AND PRESCRIBED MEETING ATTENDANCE FEES**

- (1) The ranges of fees in Table 5 and Table 6 apply where a local government or regional local government decides by an absolute majority that, instead of paying council members an attendance fee referred to in section 5.98 of the LG Act, it will pay all council members who attend council, committee or prescribed meetings an annual fee.

**Table 5: Annual attendance fees in lieu of council meeting, committee meeting and prescribed meeting attendance fees – local governments**

Band	For a council member other than the mayor or president		For a council member who holds the office of mayor or president	
	Minimum	Maximum	Minimum	Maximum
1	\$24,000	\$30,900	\$24,000	\$46,350
2	\$14,500	\$22,660	\$14,500	\$30,385
3	\$7,500	\$15,965	\$7,500	\$24,720
4	\$3,500	\$9,270	\$3,500	\$19,055

**Table 6: Annual attendance fees in lieu of council meeting, committee meeting and prescribed meeting attendance fees – regional local governments**

	For a council member other than the chairman		For a council member who holds the office of chairman	
	Minimum	Maximum	Minimum	Maximum
All regional local governments	\$1,750	\$10,300	\$1,750	\$15,450

### **PART 3: ANNUAL ALLOWANCE FOR A MAYOR, PRESIDENT, CHAIRMAN, DEPUTY MAYOR, DEPUTY PRESIDENT AND DEPUTY CHAIRMAN**

*This Part deals with annual allowances payable to mayors, presidents, chairmen and their deputies in addition to any entitlement to meeting attendance fees or the reimbursement of expenses pursuant to section 5.98 of the LG Act.*

*In particular, this Part deals with –*

- (a) the entitlement of a mayor, president or chairman to an additional allowance;  
and*
- (b) the discretion of a local government or regional local government to pay an additional allowance to a deputy mayor or deputy president or deputy chairman.*

#### **3.1 GENERAL**

- (1) Pursuant to section 5.98(5) of the LG Act, the mayor or president of a local government and the chairman of a regional local government are entitled, in addition to any fees or reimbursement of expenses payable under section 5.98(1) or (2), to be paid the annual allowance set by the local government or regional local government within the range determined in section 3.2 of this Part.
- (2) Pursuant to section 5.98A(1) of the LG Act, a local government or regional local government may decide by an absolute majority to pay the deputy mayor or deputy president of the local government, or the deputy chairman of the regional local government, an allowance of up to the percentage that is determined by the Tribunal of the annual allowance to which the mayor or president of the local government, or the chairman of the regional local government, is entitled under section 5.98(5) of the LG Act. That percentage is determined in section 3.3 of this Part. This allowance is in addition to any fees or reimbursement of expenses payable to the deputy mayor, deputy president or deputy chairman under section 5.98 of the LG Act.
- (3) In determining the allowances set out in this Part, the Tribunal has taken into account a range of factors including the following –
  - (a) the leadership role of the mayor, president or chairman;
  - (b) the statutory functions for which the mayor, president or chairman is accountable;
  - (c) the ceremonial and civic duties required of the mayor, president or chairman, including local government business related entertainment;

- (d) the responsibilities of the deputy mayor, deputy president or deputy chairman when deputising;
- (e) the relative “size” of the local government as reflected in the Tribunal’s local government banding model;
- (f) the civic, ceremonial and representation duties particular to the Lord Mayor of Western Australia’s capital city.

### **3.2 ANNUAL ALLOWANCE FOR A MAYOR, PRESIDENT OR CHAIRMAN**

- (1) The ranges of allowances in Table 7 apply where a local government sets the amount of the annual local government allowance to which a mayor or president is entitled under section 5.98(5) of the LG Act, subject to subsections (3) and (4).
- (2) The range of allowances in Table 8 apply where a regional local government sets the amount of the annual local government allowance to which a chairman is entitled under section 5.98(5) of the LG Act, subject to subsection (5).
- (3) Despite the provisions of subsection (1), the Perth City Council is to set the amount of the annual local government allowance to which the Lord Mayor is entitled within the range of \$60,000 to \$133,900.
- (4) The maximum annual local government allowance for a mayor or president of a local government shall not exceed the maximum allowance applicable to that local government in Table 7 or 0.2 per cent of the local government’s operating revenue for the 2014-15 financial year, whichever is the lesser.
- (5) The maximum annual local government allowance for a chairman of a regional local government shall not exceed the maximum allowance applicable to that regional local government in Table 8 or 0.2 per cent of the regional local government’s operating revenue for the 2014-15 financial year, whichever is the lesser.

**Table 7: Annual allowance for a mayor or president of a local government**

For a mayor or president		
Band	Minimum	Maximum
1	\$50,000	\$87,550
2	\$15,000	\$61,800
3	\$1,000	\$36,050
4	\$500	\$19,570

**Table 8: Annual allowance for a chairman of a regional local government**

For a chairman		
	Minimum	Maximum
All regional local governments	\$500	\$19,570

### **3.3 ANNUAL ALLOWANCE FOR A DEPUTY MAYOR, DEPUTY PRESIDENT OR DEPUTY CHAIRMAN**

- (1) The percentage determined for the purposes of section 5.98A(1) of the LG Act is 25 per cent.

## **PART 4: EXPENSES TO BE REIMBURSED**

*This Part deals with expenses for which council members are entitled to be reimbursed pursuant to section 5.98(2) of the LG Act.*

*In particular, this Part deals with –*

- (a) expense reimbursements prescribed specifically in regulation 31(1) of the LG Regulations that must be paid by a local government or regional local government when claimed by a council member (i.e. telephone and facsimile rental, child care and travel); and*
- (b) expense reimbursements prescribed in general terms in regulation 32(1) of the LG Regulations that may be approved by a local government or regional local government and claimed by a council member.*

### **4.1 GENERAL**

- (1) Pursuant to section 5.98(2)(a) and (3) of the LG Act, a council member who incurs an expense of a kind prescribed in regulation 31(1) of the LG Regulations is entitled to be reimbursed for the expense to the extent determined in section 4.2(1) to (5) of this Part.
- (2) Regulation 31(1) of the LG Regulations prescribes the following kinds of expenses that are to be reimbursed –
  - (a) rental charges incurred by a council member in relation to one telephone and one facsimile machine; and
  - (b) child care and travel costs incurred by a council member because of the member's attendance at a council meeting or a meeting of a committee of which he or she is also a member.
- (3) Pursuant to section 5.98(2)(a) and (3) of the LG Act, a council member who incurs an expense of a kind prescribed in regulation 31(1) of the LG Regulations is entitled to be reimbursed for the expense to the extent determined in section 4.2(6) and (7) of this Part.
- (4) Regulation 32(1) of the LG Regulations prescribes the following kinds of expenses that may be approved by a local government for reimbursement –
  - (a) an expense incurred by a council member in performing a function under the express authority of the local government;

- (b) an expense incurred by a council member to whom paragraph (a) applies by reason of the council member being accompanied by not more than one other person while performing the function if, having regard to the nature of the function, the local government considers that it is appropriate for the council member to be accompanied by that other person;
- (c) an expense incurred by a council member in performing a function in his or her capacity as a council member.

#### **4.2 EXTENT OF EXPENSES TO BE REIMBURSED**

- (1) The extent to which a council member can be reimbursed for rental charges in relation to one telephone and one facsimile machine is the actual expense incurred by the council member.
- (2) The extent to which a council member can be reimbursed for child care costs incurred because of attendance at a meeting referred to in regulation 31(1)(b) of the LG Regulations is the actual cost per hour or \$25 per hour, whichever is the lesser amount.
- (3) The extent to which a council member of a local government can be reimbursed for travel costs referred to in regulation 31(1)(b) of the LG Regulations is –
  - (a) if the person lives or works in the local government district or an adjoining local government district, the actual cost for the person to travel from the person’s place of residence or work to the meeting and back; or
  - (b) if the person does not live or work in the local government district or an adjoining local government district, the actual cost, in relation to a journey from the person’s place of residence or work and back –
    - (i) for the person to travel from the person’s place of residence or work to the meeting and back; or
    - (ii) if the distance travelled referred to in subparagraph (i) is more than 100 kilometres, for the person to travel from the outer boundary of an adjoining local government district to the meeting and back to that boundary.
- (4) The extent to which a council member of a regional local government can be reimbursed for travel costs referred to in regulation 31(1)(b) of the LG Regulations is the actual cost for the person to travel from the person’s place of residence or work to the meeting and back.

- (5) For the purposes of subsections (3) and (4), travel costs incurred while driving a privately owned or leased vehicle (rather than a commercially hired vehicle) are to be calculated at the same rate contained in Section 30.6 of the *Local Government Officers' (Western Australia) Interim Award 2011* as at the date of this determination.
- (6) The extent to which a council member can be reimbursed for child care costs incurred in any of the circumstances referred to in regulation 32(1) of the LG Regulations is the actual cost per hour or \$25 per hour, whichever is the lesser amount.
- (7) The extent to which a council member can be reimbursed for intrastate or interstate travel and accommodation costs incurred in any of the circumstances referred to in regulation 32(1) of the LG Regulations is at the same rate applicable to the reimbursement of travel and accommodation costs in the same or similar circumstances under the *Public Service Award 1992* issued by the Western Australian Industrial Relations Commission as at the date of this determination.

## **PART 5: ANNUAL ALLOWANCES IN LIEU OF REIMBURSEMENT OF EXPENSES**

*This Part deals with annual allowances that a local government or regional local government may decide to pay, pursuant to section 5.99A of the LG Act, to all council members in lieu of the reimbursement of expenses of a particular type under section 5.98(2) of the LG Act.*

*In particular, this Part deals with allowances to be paid instead of –*

*(a) expense reimbursements prescribed specifically in regulation 31(1) of the LG Regulations that must be paid by a local government or regional local government when claimed by a council member (i.e. telephone and facsimile rental, child care and travel); and*

*(b) expense reimbursements prescribed in general terms in regulation 32(1) of the LG Regulations that may be approved by a local government or regional local government and claimed by a council member.*

### **5.1 GENERAL**

- (1) Pursuant to section 5.99A of the LG Act, a local government or regional local government may decide by absolute majority that instead of reimbursing council members under the LG Act section 5.98(2) for all of a particular type of expense, it will pay all council members, for that type of expense, the annual allowance determined in section 5.2 of this Part or, as the case requires, an annual allowance within the range determined in that section.
- (2) Where a local government or regional local government has decided to pay council members an annual allowance for an expense of a particular type instead of reimbursing expenses of that type under section 5.98(2) of the LG Act, section 5.99A of the LG Act provides for reimbursement of expenses of that type in excess of the amount of the allowance.
- (3) In determining the maximum annual allowance for expenses of a particular type, the Tribunal has taken into account a range of factors including the following:
  - (a) the intent of the allowance to reflect the extent and nature of the expenses incurred and not to result in a windfall gain for council members;
  - (b) the capacity of local governments to set allowances appropriate to their varying operational needs;
  - (c) the particular practices of local governments in the use of information and communication technology (e.g. laptop computers, iPads);

(d) the varying travel requirements of council members in local governments associated with geography, isolation and other factors.

## **5.2 ANNUAL ALLOWANCES DETERMINED INSTEAD OF REIMBURSEMENT FOR PARTICULAR TYPES OF EXPENSES**

(1) In this section –

***ICT expenses*** means –

- (a) rental charges in relation to one telephone and one facsimile machine, as prescribed by regulation 31(1)(a) of the LG Regulations; or
- (b) any other expenses that relate to information and communications technology (for example, telephone call charges and internet service provider fees) and that are a kind of expense prescribed by regulation 32(1) of the LG Regulations;

***travel and accommodation expenses*** means –

- (a) travel costs, as prescribed by regulation 31(1)(b) of the LG Regulations; or
  - (b) any other expenses that relate to travel or accommodation and that are a kind of expense prescribed by regulation 32(1) of the LG Regulations.
- (2) For the purposes of section 5.99A(b) of the LG Act, the minimum annual allowance for ICT expenses is \$500 and the maximum annual allowance for ICT expenses is \$3,500.
- (3) For the purposes of section 5.99A(a) of the LG Act, the annual allowance for travel and accommodation expenses is \$50.

## SCHEDULE 1: LOCAL GOVERNMENT BAND ALLOCATIONS

LOCAL GOVERNMENT	BAND
Albany City	2
Armadale City	1
Ashburton Shire	2
Augusta-Margaret River Shire	2
Bassendean Town	3
Bayswater City	1
Belmont City	1
Beverley Shire	4
Boddington Shire	4
Boyup Brook Shire	4
Bridgetown-Greenbushes Shire	3
Brookton Shire	4
Broome Shire	2
Broomehill-Tambellup Shire	4
Bruce Rock Shire	4
Bunbury City	2
Busselton City	2
Cambridge Town	2
Canning City	1
Capel Shire	3
Carnamah Shire	4
Carnarvon Shire	2
Chapman Valley Shire	4
Chittering Shire	3
Claremont Town	3
Cockburn City	1
Collie Shire	3
Coolgardie Shire	3
Coorow Shire	4
Corrigin Shire	4
Cottesloe Town	3
Cranbrook Shire	4
Cuballing Shire	4
Cue Shire	4
Cunderdin Shire	4
Dalwallinu Shire	4
Dandaragan Shire	3
Dardanup Shire	3
Denmark Shire	3

LOCAL GOVERNMENT	BAND
Derby-West Kimberley Shire	2
Donnybrook Balingup Shire	3
Dowerin Shire	4
Dumbleyung Shire	4
Dundas Shire	4
East Fremantle Town	3
East Pilbara Shire	2
Esperance Shire	2
Exmouth Shire	3
Fremantle City	1
Gingin Shire	3
Gnowangerup Shire	4
Goomalling Shire	4
Gosnells City	1
Greater Geraldton City	1
Halls Creek Shire	3
Harvey Shire	2
Irwin Shire	3
Jerramungup Shire	4
Joondalup City	1
Kalamunda Shire	2
Kalgoorlie-Boulder City	1
Katanning Shire	3
Kellerberrin Shire	4
Kent Shire	4
Kojonup Shire	3
Kondinin Shire	4
Koorda Shire	4
Kulin Shire	4
Kwinana City	1
Lake Grace Shire	4
Laverton Shire	3
Leonora Shire	3
Mandurah City	1
Manjimup Shire	3
Meekatharra Shire	3
Melville City	1
Menzies Shire	4
Merredin Shire	3
Mingenew Shire	4
Moora Shire	3
Morawa Shire	4
Mosman Park Town	3

LOCAL GOVERNMENT	BAND
Mount Magnet Shire	4
Mount Marshall Shire	4
Mukinbudin Shire	4
Mundaring Shire	2
Murchison Shire	4
Murray Shire	3
Nannup Shire	4
Narembeen Shire	4
Narrogin Shire	4
Narrogin Town	3
Nedlands City	2
Ngaanyatjarraku Shire	4
Northam Shire	2
Northampton Shire	4
Nungarin Shire	4
Peppermint Grove Shire	4
Perenjori Shire	4
Perth City	1
Pingelly Shire	4
Plantagenet Shire	3
Port Hedland Town	1
Quairading Shire	4
Ravensthorpe Shire	3
Rockingham City	1
Roebourne Shire	1
Sandstone Shire	4
Serpentine-Jarrahdale Shire	3
Shark Bay Shire	4
South Perth City	2
Stirling City	1
Subiaco City	2
Swan City	1
Tammin Shire	4
Three Springs Shire	4
Toodyay Shire	3
Trayning Shire	4
Upper Gascoyne Shire	4
Victoria Park Town	2
Victoria Plains Shire	4
Vincent Town	2
Wagin Shire	4
Wandering Shire	4
Wanneroo City	1

LOCAL GOVERNMENT	BAND
Waroona Shire	3
West Arthur Shire	4
Westonia Shire	4
Wickepin Shire	4
Williams Shire	4
Wiluna Shire	4
Wongan Ballidu Shire	4
Woodanilling Shire	4
Wyalkatchem Shire	4
Wyndham-East Kimberley Shire	2
Yalgoo Shire	4
Yilgarn Shire	3
York Shire	3

Signed this 17th day of June 2015.

W S Coleman AM  
CHAIRMAN

C A Broadbent  
MEMBER

B J Moore  
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL

## **SCHEDULE 2: LOCAL GOVERNMENT NON-RESPONDENTS**

- Albany City;
- Bayswater City;
- Canning City;
- Capel Shire;
- Dumbleyung Shire;
- Kellerberrin Shire;
- Kondinin Shire;
- Manjimup Shire;
- Meekatharra Shire;
- Mingenew Shire;
- Morawa Shire;
- Mount Marshall Shire;
- Narembeen Shire\*;
- Ngaanyatjaraku Shire;
- Serpentine-Jarrahdale Shire;
- Southern Metropolitan Regional Council;
- Subiaco City;
- Swan City;
- Woodanilling Shire\*;
- Yalgoo Shire\*.

The asterisk (\*) indicates those local governments who did not respond to the Tribunal's 2014 inquiry into the fees, expenses and allowances of elected council members.

## EXPLANATORY NOTES

*This section does not form part of the determination*

### **1. Entitlements**

The entitlement of a council member to a fee, allowance or reimbursement of an expense established under the LG Act, the LG Regulations and this determination, cannot be proscribed, limited or waived by a local government. Any eligible claim against those entitlements is to be paid in accordance with the applicable financial procedures of the local government.

### **2. Local governments to set amounts within the range determined**

Where the Tribunal has determined a minimum and maximum amount for a fee, expense or allowance for members of the council of a local government or a regional local government, each council is to set, by absolute majority, an amount within the relevant range determined and the amount set will be payable to elected council members.

### **3. Superannuation**

Nothing in this determination establishes a liability for the payment of superannuation by local governments. Elected council members are eligible for superannuation payments if their council has resolved unanimously to become an Eligible Local Governing Body (ELGB) pursuant to section 221A and section 221B of the *Income Tax Assessment Act 1936* (Cwlth). Where the council is an ELGB, it is deemed to have an employer/employee relationship with its elected council members and this attracts the application of a number of statutory obligations. Alternative arrangements described in Australian Taxation Office (ATO) Interpretative Decision ATO ID 2007/205 allow for elected council members and councils to agree for whole or part of meeting attendance fees to be paid into a superannuation fund. Where the council is an ELGB, fees for attendance at council, committee and prescribed meetings (whether paid via a per meeting fee or annual allowance) are to be inclusive of any superannuation guarantee liability. This information is not published by way of legal or financial advice.

### 13.5.5 Kimberley Development Commission Board Nominations

<b>DATE:</b>	27/10/2015
<b>PROPONENT:</b>	Shire of Wyndham East Kimberley
<b>LOCATION:</b>	Shire of Wyndham East Kimberley
<b>AUTHOR:</b>	Monika Tonkin, Executive Assistant
<b>REPORTING OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>FILE NO:</b>	GR.03.9
<b>DECLARATION OF INTERESTS:</b>	Nil

#### **PURPOSE**

For the Council to nominate two (2) Councillors, who are willing and able to be candidates for the Board of the Kimberley Development Commission.

#### **BACKGROUND**

The Kimberley Development Commission (KDC) is a statutory authority of the government of Western Australia. Its role is to promote the economic and social development of the Kimberley region. The statutory objectives of the KDC are to:

- Maximise job creation and improve career opportunities;
- Develop and broaden the economic base of the region;
- Identify infrastructure services to promote economic and social development;
- Provide information and advice to promote business development;
- Seek to ensure that the general standard of government services and access to those services in the region is comparable to that which applies in the metropolitan area; and
- Generally take steps to encourage, promote, facilitate and monitor the economic development of the region.

The KDC Board is a Governing Board. It is there to guide and direct the organisation. It sets performance goals, ensures corporate compliance and management accountability, endorses strategic plans and approves operating budgets. The Board's role is to ensure that the organisation has the resources necessary to achieve goals, monitor progress and report on outcomes. The Board does not manage the Commission; this is the role of Management.

The KDC Board is comprised of:

- 3 members representing the regional community;
- 3 members representing Local Government;
- 3 members appointed at the Minister's discretion;
- Chief Executive

The Board is appointed by and is responsible to the Hon Terry Redman MLA, Minister for Regional Development.

Council has received notification from the KDC that they are seeking nominations for one (1) Local Government position on its Board. The four Kimberley Local Governments are each invited to nominate two (2) Councillors.

Nominees are required to complete the nomination form and submit, along with a current curriculum vitae to Hon Terry Redman MLA, Minister for Regional Development by Friday 6 November 2015.

Board meetings are currently held bi-monthly with meeting locations determined by the Board. Each meeting is held in a different town across the region.

### **STATUTORY IMPLICATIONS**

Nil

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil – all travel costs and meeting fees are covered by the KDC.

### **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 1.3: Advocacy of East Kimberley issues and opportunities at regional, state and national levels

Strategy 1.3.1: Actively provide input to decision making at the Regional, State and Federal levels on behalf of the community

### **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**

It is beneficial for the Shire to have Councillor representation on the Board to ensure active participation in planning and decision making for the region and to be an advocate for the interests of Council at a broader level.

Nominating Councillors must be able to attend meetings during business hours and travel for Board meetings.

### **ATTACHMENTS**

Attachment 1 - Notice from KDC re Nominations

### **VOTING REQUIREMENT**

Simple Majority

**OFFICER’S RECOMMENDATION**

That Council nominates:

- 1. Cr .....
- 2. Cr .....

As representatives of the Shire to nominate to be on the Kimberley Development Commission Board.

**NOMINATIONS**

Cr B Robinson nominates Cr S Cooke. Cr S Cooke accepts the nomination.

Cr K Wright nominates Cr D Spackman. Cr D Spackman accepts the nomination.

**COUNCIL DECISION**

**Minute No. 11156**

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

**That Council nominates:**

- 1. Cr S Cooke**
- 2. Cr D Spackman**

**As representatives of the Shire to nominate to be on the Kimberley Development Commission Board.**

**Carried Unanimously 9/0**



23 SEP 2015

CR.03.9  
I-31296



Ebony Street (PO Box 620)  
Kununurra, Western Australia 6743  
Telephone: (08) 9168 1044  
Facsimile: (08) 9168 1473

Cr J Moulden, President  
Mr C Askew, Chief Executive Officer  
Shire of Wyndham East Kimberley  
PO Box 614  
KUNUNURRA WA 6743

Dear Cr Moulden and Mr Askew

**KIMBERLEY DEVELOPMENT COMMISSION BOARD NOMINATIONS**

I wish to advise that the Kimberley Development Commission is seeking nominations for one (1) Local Government representative vacancy on its Board.

In accordance with the *Regional Development Commission's Act 1993*, nominees for the vacancy must be members of the Council of a Local Government in the region and are to be nominated by Local Governments in the region.

The four Kimberley Local Governments are each invited to nominate two Councilors, who are willing and able to be candidates, for appointment.

I enclose a copy of our nomination form and accompanying notes. Nominations including the nominee's details are to be submitted either by post or e-mail to Liz Kirkby (liz.kirkby@kdc.wa.gov.au) at this office, no later than 5pm Friday 6 November 2015.

Should you require further information please contact me at the Commission on (08) 91482100.

Yours sincerely

Jeff Gooding  
Chief Executive

21 September 2015



**KIMBERLEY DEVELOPMENT COMMISSION**  
 NOMINATION FOR APPOINTMENT TO THE BOARD OF THE COMMISSION  
 (LOCAL GOVERNMENT)

**SECTION 1 PERSONAL DETAILS**

<b>Nominee:</b>	.....	
<b>Residential Address</b>	.....	
	.....	
<b>Postal Address</b>	.....	
<b>Telephone No</b>	<b>Home</b> .....	<b>Work</b> .....
<b>Facsimile</b>	<b>Home</b> .....	<b>Work</b> .....
<b>Date of Birth</b>	.....	
<b>Occupation</b>	.....	

**SECTION 2 NOMINATING LOCAL GOVERNMENT**

<b>Nominated by</b>	
<b>Local Government</b>	.....
<b>Address</b>	.....
	.....
<b>Signature of Nominator:</b>	.....
<b>Signature of Nominee:</b>	.....







## KIMBERLEY DEVELOPMENT COMMISSION

### NOTES FOR NOMINEES TO THE BOARD

There are six broad types of Western Australian Government Boards and Committees:

- Trading
- Governing
- Policy / Review / Specialist
- Regulatory / Registration / Appeal
- Trustees
- Advisory

The Kimberley Development Commission Board is a Governing Board. That is, it is there to guide and direct the organization. It sets performance goals, ensures corporate compliance and management accountability, endorses strategic plans and approves operating budgets. The Board's role is to ensure that the organization has the resources necessary to achieve goals, monitor progress and report on outcomes. The Board does not manage the Commission. This is the role of Management and any request for staff involvement in Board or Board Sub-Committee affairs must be directed through the Chief Executive.

#### **Board Members - Local Government Representatives**

All Members of the Kimberley Development Commission's Board are appointed by the Minister for Regional Development in accordance with the *Regional Development Commissions Act 1993* for terms of between 1 and 3 years.

Local Government representatives become ineligible to remain on the Board if no longer a Member of Local Government.

#### **Board Meetings**

Currently, Board meetings are held bi-monthly with meeting locations being determined by the Board. Each meeting is held in a different town across the region.

Members may be required to commit up to two (2) days to a Board meeting to allow time for travel, tours and meetings.

## **Members Skills and Attributes**

For effective performance, individual members and the Board as a group, need to have a broad range of skills and personal attributes.

Some of the personal attributes, which are valued in Board members, include; flexibility, creativity, loyalty, integrity, enthusiasm, initiative, cooperation, customer awareness and community profile.

This is a list of skills and attributes that make for effective Board Performance:

- **Accountability**  
*Understanding accountability requirements and upholding ethical standards.*
- **Strategic Thinking**  
*Contributing to strategic planning and goal setting. Fostering a customer focus ethos.*
- **Monitoring**  
*Analysing, assessing and reviewing corporate performance.*
- **Policy development**  
*Establishing and reviewing policy objectives, corporate standards and resource priorities.*
- **Decision-making**  
*Adopting ethical decision-making processes.*
- **Networking**  
*Accessing networks and promoting the Board.*
- **Advising**  
*Providing information and advice, making suggestions and recommendations.*
- **Teamwork**  
*Working cooperatively with members and employees to achieve agreed goals.*

No one Member needs to exhibit all these skills and attributes.

**Nomination forms are to be completed in full and forwarded together with the nominees current Curriculum Vitae to:**

Hon Terry Redman MLA  
Minister for Regional Development  
c/- The Kimberley Development Commission  
PO Box 620  
KUNUNURRA WA 6743

Nominations may also be forwarded by e-mail via [liz.kirkby@kdc.wa.gov.au](mailto:liz.kirkby@kdc.wa.gov.au)

**Local Government Nominations close: 5pm Friday 6 November 2015**

Should you require further information please contact Liz Kirkby on (08) 91482100 or e-mail [liz.kirkby@kdc.wa.gov.au](mailto:liz.kirkby@kdc.wa.gov.au)

Cr B Robinson declares a financial interest in this item. Possible financial gain from this item.

Cr S Cooke declares a financial interest in this item. There is potential for me to financially be involved if there were a requirement.

Cr E Bolto declares a financial interest in this item. In future proceedings in my role as Councillor, I may require legal representation, this policy may therefore benefit me if required in the future.

Cr S Rushby declares a financial interest in this item. My company has an existing legal matter with the Shire.

Cr A Petherick declares a financial interest in this item. Could possible require legal representation in the future.

Cr N Perry declares a financial interest in this item. I declare a financial interest in item 13.5.6 Legal Representation Policy.

Cr J Parker declares a financial interest in this item. I declare financial interest in item 13.5.6 Legal Representation Policy.

M Tonkin declares a financial interest in this item. As an employee I could require legal representation in the future.

D Klye declares a financial interest in this item. I may be the recipient of legal representation at cost to the Shire as a result of the implementation of this proposed policy.

L Gee declares a financial interest in this item. Recommended Legal Representation Policy outline situations where a staff member may request financial assistance to defend legal action.

N Octoman declares a financial interest in this item. Currently employed by the Shire.

C Askew declares a financial interest in this item. Staff member and potential beneficiary of policy.

In accordance with the authority delegated by the Minister for Local Government, the Executive Director Sector Regulation and Support approved the Shire of Wyndham East Kimberley's application, dated 27 October 2015, under section 5.69(3) of the Local Government Act 1995 for – Councillors Robinson, Perry, Rushby, Cooke, Bolto, Petherick, Parker and Spackman to remain present and to participate in the discussion and decision making procedures relating to Item 13.5.6 – Legal Representation Policy. The approval is subject to conditions (attachment 1).

M Tonkin, D Klye, L Gee, N Octoman and C Askew leave the Chambers at 5.40pm.

Cr K Wright leaves the Chambers at 5.41pm.



Government of **Western Australia**  
Department of **Local Government and Communities**

Our Ref: WE1-7#02; E1543456

Mr Carl Askew  
Chief Executive Officer  
Shire of Wyndham East Kimberley  
20 Coolibah Drive  
KUNNUNURRA WA 6743

Dear Mr Askew

I wish to advise that, in accordance with the authority delegated by the Minister for Local Government, the Executive Director Sector Regulation and Support has approved the Shire of Wyndham East Kimberley's application, dated 27 October 2015, under section 5.69(3) of the Local Government Act 1995 for -

Councillors Robinson, Perry, Rushby, Cooke, Bolto, Petherick, Parker and Spackman of the Shire to remain present at the Ordinary Council Meeting to be held 27 October 2015 and to participate in the discussion and decision making procedures relating to Item 13.5.6 – "Legal Representation Policy".

The provided approval is subject to the following conditions:

1. The approval is valid for the 27 October 2015 Ordinary Council Meeting when item 13.5.6 is considered;
2. You, as the CEO, are to provide a copy of the Department's letter of approval to the abovementioned Councillors;
3. The disclosing Councillors must declare the nature and extent of their interest at the 27 October 2015 Ordinary Council Meeting immediately prior to the matter being considered, together with the approval given;
4. You, as the CEO, are to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the abovementioned meeting, where the item is considered;
5. You, as the A/CEO, are to provide a copy of the confirmed minutes of the abovementioned meeting to the Department, to allow the Department to verify compliance with the conditions of this approval; and

Gordon Stephenson House  
140 William Street Perth WA 6000  
GPO Box R1250 Perth WA 6844

Tel: (08) 6551 8700 Fax: (08) 6552 1555 Freecall: 1800 620 511 (Country only)  
Email: [info@dlgc.wa.gov.au](mailto:info@dlgc.wa.gov.au) Website: [www.dlgc.wa.gov.au](http://www.dlgc.wa.gov.au)

6. The approval granted is based solely on the disclosures of interest made in accordance with the application. Should other interests be identified, these interests will not be included in this approval.

Should you require further information in relation to this matter, please contact me on (08) 6552 1535 or via email at [david.morris@dlgc.wa.gov.au](mailto:david.morris@dlgc.wa.gov.au).

Yours sincerely



David Morris  
Manager Sector Governance

27 October 2015

### 13.5.6 Legal Representation Policy

<b>DATE:</b>	27/10/2015
<b>AUTHOR:</b>	Monika Tonkin, Executive Assistant
<b>RESPONSIBLE OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>FILE NO:</b>	N/A
<b>DISCLOSURE OF INTERESTS:</b>	Nil

#### **PURPOSE**

For Council to adopt a new Legal Representation Policy.

#### **NATURE OF COUNCIL'S ROLE IN THE MATTER**

Leader - plan and provide direction through policy and practices

#### **BACKGROUND/PREVIOUS CONSIDERATIONS BY COUNCIL/COMMITTEE**

At the April 2015, Ordinary Council Meeting, the Council were advised that a three stage review of Council policies was being undertaken. Stage two, specifically identified that a number of policies were to be provided to Council each month for consideration and adoption and that some new policies would be developed for Council consideration. This is in line with Recommendation 16 of the Department of Local Government and Communities Probitry and Compliance Audit Report of the Shire which recommended a comprehensive review of the Shire's policies. Through this review process it has been identified that the majority of Local Governments have a policy on legal representation for Council members and employees. It is also recommended by the Department of Local Government and Communities that Councils adopt a policy in relation to this matter as outlined in the Local Government Operational Guidelines Number 14 – Legal Representation for Council Members and Employees.

#### **STATUTORY IMPLICATIONS**

##### Local Government Act 1995

#### **9.56. Certain persons protected from liability for wrongdoing**

- (1) *A person who is —*
- (a) *a member of the council, or of a committee of the council, of a local government; or*
  - (b) *an employee of a local government; or*
  - (c) *a person appointed or engaged by a local government to perform functions of a prescribed office or functions of a prescribed class,*

*is a protected person for the purposes of this section.*

- (2) *An action in tort does not lie against a protected person for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act or under any other written law.*
- (3) *The protection given by this section applies even though the thing done in the performance or purported performance of a function under this Act or under any*

*other written law may have been capable of being done whether or not this Act or that law had been enacted.*

(4) *This section does not relieve the local government of any liability that it might have for the doing of anything by a protected person.*

(5) *In this section —*

(a) *a reference to the doing of anything includes a reference to the omission to do anything;*

(b) *a reference to the doing of anything by a protected person in the performance or purported performance of a function under any written law other than this Act is limited to a reference to the doing of anything by that person in a capacity described in subsection (1)(a), (b) or (c), as the case may be.*

### Local Government Act 1995

#### **3.1. General function**

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

### Local Government Act 1995

#### **6.7. Municipal fund**

(1) *All money and the value of all assets received or receivable by a local government are to be held and brought to account in its municipal fund unless required by this Act or any other written law to be held in the trust fund.*

(2) *Money held in the municipal fund may be applied towards the performance of the functions and the exercise of the powers conferred on the local government by this Act or any other written law.*

### **POLICY IMPLICATIONS**

The new Legal Representation Policy will be added to the Council Policy Manual if adopted.

### **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

## **RISK IMPLICATIONS**

Nil

## **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**

The purpose of this policy is to determine a clear set of principles to assist Council dealing with a situation where a Council member or employee is defending or will need to defend a legal action or requires advice or representation and is requesting financial assistance. The draft policy is adapted directly from the Model Policy supplied by the Department of Local Government and Communities.

## **ATTACHMENTS**

Attachment 1 - Draft Legal Representation for Council Members and Employees Policy  
Attachment 2 - Local Government Operational Guidelines Number 14

## **VOTING REQUIREMENT**

Simple Majority

## **OFFICER'S RECOMMENDATION**

That Council adopts the Legal Representation Policy.

### **COUNCIL DECISION**

**Minute No. 11157A**

**Moved: Cr D Spackman**

**Seconded: Cr A Petherick**

**Cr Darren Spackman moves that Council defer item 13.5.6 Legal Representation Policy to a Council Briefing Session.**

**Lost 3/5**

**COUNCIL DECISION**

**Minute No. 11157B**

**Moved: Cr S Cooke**

**Seconded: Cr B Robinson**

**That Council adopts the Legal Representation Policy.**

**Tied 4/4**

**For: Cr S Cooke, Cr B Robinson, Cr N Perry, Cr E Bolto**

**Against: Cr D Spackman, Cr S Rushby, Cr J Parker, Cr A Petherick**

**Lost**

**Shire President's Casting Vote: Against the Officer's Recommendation**

**COUNCIL DECISION**

**Minute No. 11158**

**Moved: Cr D Spackman**

**Seconded: Cr S Cooke**

**That Council defers item 13.5.6 Legal Representation Policy to a Council Briefing Session.**

**Carried Unanimously 8/0**

**REASON FOR VARYING THE OFFICER'S RECOMMENDATION**

Council require further clarification on the implications of the proposed policy.

Cr K Wright, C Askew, N Octoman, L Gee, D Klye and M Tonkin enter the Chambers at 5.53pm.



POLICY NO	*** To be supplied by Governance once adopted by Council	
POLICY	Legal Representation for Council Members and Employees	
RESPONSIBLE DIRECTORATE	Chief Executive Officer	
RESPONSIBLE OFFICER	Chief Executive Officer	
COUNCIL ADOPTION	Date: Insert Date Adopted	Resolution No: Insert Here
REVIEWED/MODIFIED	Date:	Resolution No:
	Date:	Resolution No:
REVIEW DUE	Date: 2 years post adoption **date to be inserted	
LEGISLATION	<i>Local Government Act 1995 – Sections 3.1, 6.7(2) and 9.56</i>	
RELATED POLICIES	Nil	
RELATED ORGANISATIONAL DIRECTIVES	Nil	

#### **PURPOSE:**

The purpose of this policy is to determine a clear set of principles to assist Council dealing with a situation where a Council member or employee is defending or will need to defend a legal action or requires advice or representation and is requesting financial assistance.

#### **DEFINITIONS:**

**Approved lawyer** is to be –

- (a) a ‘certified practitioner’ under the Professions Act 2008;
- (b) approved in writing by the Council or the CEO under delegated authority.

**Council member or employee** means a current or former council member, non-elected member of a council committee or employee of the Shire.

**Legal proceedings** may be civil, criminal or investigative.

**Legal representation** is the provision of legal services, to or on behalf of a council member or employee, by an approved lawyer that are in respect of –

- (a) a matter or matters arising from the performance of the functions of the council member or employee; and
- (b) legal proceedings involving the council member or employee that have been, or may be, commenced.

**Legal representation costs** are the costs, including fees and disbursements, properly incurred in providing legal representation.

**Legal services** includes advice, representation or documentation that is provided by an approved lawyer.

**Payment** by the Shire of legal representation costs may be either by –

- (a) a direct payment to the approved lawyer (or the relevant firm); or
- (b) a reimbursement to the council member or employee.

**Statutes of limitations** are laws passed by a legislative body in common law systems to set the maximum time after an event when legal proceedings may be initiated. When the period of time specified in a statute of limitations passes, a claim can no longer be filed

## **POLICY STATEMENTS:**

### **1. Payment Criteria**

1.1. There are four major criteria for determining whether the Shire will pay the legal representation costs of a council member or employee. These are –

- (a) the legal representation costs must relate to a matter that arises from the performance, by the council member or employee, of his or her functions;
- (b) the legal representation cost must be in respect of legal proceedings that have been, or may be, commenced, on the condition that it complies with the statute of limitations associated with relevant legislation;
- (c) in performing his or her functions, to which the legal representation relates, the council member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (d) the legal representation costs do not relate to a matter that is of a personal or private nature.

### **2. Examples of Legal Representation Costs that may be Approved**

2.1. If the criteria in clause 1 of this policy are satisfied, the Shire may approve the payment of legal representation costs –

- (a) where proceedings are brought against a council member or employee in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the council member or employee; or
- (b) to enable proceedings to be commenced and/or maintained by a council member or employee to permit him or her to carry out his or her functions – for example, where a council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the council member or employee; or
- (c) where exceptional circumstances are involved – for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about council members or employees.

2.2. The Shire will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a council member or employee.

### **3. Application for Payment**

3.1. A council member or employee who seeks assistance under this policy is to make an application(s), in writing, to the CEO. Where the applicant is the CEO the application is to be made to the Council.

3.2. The written application for payment of legal representation costs is to give details of –

- (i) the matter for which legal representation is sought;

(ii) how that matter relates to the functions of the council member or employee making the application;

(iii) the lawyer (or law firm) who is to be asked to provide the legal representation;

(iv) the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc);

(v) an estimated cost of the legal representation; and

(vi) why it is in the interests of the Shire for payment to be made.

3.3. The application is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates.

3.4. As far as possible, the application is to be made before commencement of the legal representation to which the application relates.

3.5. The application is to be accompanied by a signed written statement by the applicant that he or she –

(a) has read, and understands, the terms of this policy;

(b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions of clause 7 and any other conditions to which the approval is subject; and

(c) undertakes to repay to the Shire any legal representation costs in accordance with the provisions of clause 7.

3.6. In relation to clause 3.5(c), when a person is to be in receipt of such monies the person should sign a document which requires repayment of those monies to the local government as may be required by the local government and the terms of the policy.

3.7. An application is also to be accompanied by a report prepared by the CEO or, where the CEO is the applicant, by an appropriate employee. The report must include advice from the Shire's insurer as to their direction/approval on the engagement of legal representation.

#### **4. Legal Representation Costs – Limit**

4.1. The council in approving an application in accordance with this policy shall set a limit on the costs to be paid based on the estimated costs in the application.

4.2. A council member or employee may make a further application to the council in respect of the same matter.

## **5. Council's Powers**

5.1. The council may –

- (a) refuse;
- (b) grant; or
- (c) grant subject to conditions,

an application for payment of legal representation costs.

5.2. Conditions under clause 5.1 may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.

5.3. In assessing an application, the council may have regard to any insurance benefits that may be available to the applicant under the Shire's council members 'or employees' insurance policy or its equivalent.

5.4. The council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.

5.5. The council may, subject to clause 5.6, determine that a council member or employee whose application for legal representation costs has been approved has, in respect of the matter for which legal representation costs were approved –

(a) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or

(b) given false or misleading information in respect of the application

5.6. A determination under clause 5.5 may be made by the council only on the basis of, and consistent with, the findings of a court, tribunal or inquiry.

5.7. Where the council makes a determination under clause 5.5, the legal representation costs paid by the Shire are to be repaid by the council member or employee in accordance with clause 7

## **6. Delegation to Chief Executive Officer**

6.1. In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the council, any of the powers of the council under clause 5.1 and 5.2, to a maximum of \$10,000 in respect of each application.

6.2. An application approved by the CEO under clause 6.1, is to be submitted to the next ordinary meeting of the council. Council may exercise any of its powers under this policy, including its powers under clause 5.4.

## 7. Repayment of Legal Representation Costs

7.1. A council member or employee whose legal representation costs have been paid by the Shire is to repay the Shire –

(a) all or part of those costs – in accordance with a determination by the council under clause 5.7;

(b) as much of those costs as are available to be paid by way of set-off – where the council member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the Shire paid the legal representation costs.

7.2. The Shire may take action in a court of competent jurisdiction to recover any monies due to it under this policy.

### **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:** Loss of corporate knowledge with staff turnover.

**Control:** Identify and implement staff attraction and retention strategies



Government of **Western Australia**  
Department of **Local Government and Communities**

# Local Government Operational Guidelines

Number 14 – April 2006

## Legal Representation for Council Members and Employees

## 1. Introduction

In today's society there is an increased risk of legal action being taken or threatened against individual council members and employees. Council members and employees may require legal advice and representation and expect their local government to provide financial assistance to meet the cost of the advice or representation.

For example, council members or employees may be threatened with legal action when an aggrieved party believes that they will not, or have not, carried out their legislative functions or responsibilities in the correct and appropriate manner. Legal action may also be threatened where it is anticipated that such action will influence a vote or a recommendation.

Council members and employees may feel inhibited in undertaking their roles in a full, frank and impartial manner if they do not have an assurance that they are protected from threats and will be given proper legal representation if any legal action is taken against them. Local governments have a legislative duty of care to their employees to provide a safe working environment and morally have the same duty to council members. Accordingly, it is appropriate and prudent for local governments to assist council members and employees by adopting a policy to fund or partly fund the cost of providing legal representation in appropriate circumstances.

The Inquiry into the City of Joondalup criticised some council members for making uninformed and ill-advised decisions to pay personal legal expenses of the Chief Executive Officer (CEO). It is therefore important that council adopts a policy on the provision of financial

assistance so that its position is known to the council members, employees and the community in advance of applications for funding being made. Non-elected council committee members may also require assistance and should be considered in any policy adopted by council.

This guideline, and the incorporated model policy, are provided to assist councils when making decisions or developing a policy. It is important that a council devotes time to understanding the issues outlined in this guideline.

If a policy is adopted and legal representation costs are granted under the policy, it is critical that council has presented to it full and detailed accounts from the lawyer approved to provide the legal representation to ensure that the representation provided complies with the approval given. Repayment of any costs associated with matters not approved should be enforced.

This guideline does not address the situation where council members and employees are interviewed during, or are required to give evidence to, an inquiry into their local government. Determining whether financial assistance is given in these situations is a complex matter and one that will relate to the circumstances and reasons for the inquiry.

## 2. Legislation

Section 9.56 of the *Local Government Act 1995* (the Act) provides protection from actions of tort for anything a council member or employee has, in good faith, done in the performance or purported performance of a function under the Act or under any other written law. However, the legislation does not preclude people

taking action against individual council members or employees if they believe that the council member or employee has not acted in good faith.

Section 3.1 of the Act provides that the general function of a local government is to provide for the good government of persons in its district. Section 6.7(2) provides that money held in the municipal fund may be applied towards the performance of the functions and the exercise of the powers conferred on the local government by the Act or any other written law. Under these provisions, a council can expend funds to provide legal representation for council members and employees, as long as it believes that the expenditure falls within the scope of the local government's function.

### 3. Determining a Suitable Policy

The policy should have a clear set of principles or directives to help the council deal with a situation where a council member or employee is defending or will need to defend a legal action or requires advice or representation and is requesting financial assistance. The policy should set out the circumstances under which funding will be provided, the level of funding that will be provided and the processes to be followed by the applicant when making a request.

The degree of complexity of an appropriate policy may vary but generally could include the following matters –

- under what circumstances would financial assistance be provided. For example, where legal action is taken against a council member or employee in connection with the performance of their duties and they have not acted illegally, dishonestly or in bad faith;
- who would make the decision that financial support would be provided (eg council or the CEO);
- who would provide the legal services (eg the local government's lawyers, other lawyers);
- what limits, if any, would be placed on financial assistance;
- how applications would be made for assistance;
- what obligations a council member or employee receiving assistance should have (eg an obligation to disclose anything that might affect representation or to act reasonably);
- whether contingent authorisation in urgent cases would be provided for and who would exercise that authority;
- under what circumstances could financial assistance be withdrawn (eg person having acted illegally, dishonestly or otherwise in bad faith);
- provision for the recoup of money already provided under the policy where approval is withdrawn; and
- a clear statement that legal representation will not be provided for matters that relate to the personal affairs of a council member or employee (eg under investigation for a matter not related to a legislative function or an employee seeking legal advice on a contract of employment).

### 3.1 Other Circumstances where Funding Requests may be Made

Under legislation, any expenditure of a local government's funds must be justified on the basis that the expenditure will 'provide for the good government of persons in its district'. Therefore, in formulating a policy on legal representation the council must take into account the need to satisfy itself that the expenditure can be justified as providing for that good government.

Local government council members and employees will at times be subject to personal public criticism they consider to be unfair. Depending on the circumstances and the veracity of the criticism, council members or employees may seek to redress the situation by taking legal action. Legal advice received by the Department suggests that only in exceptional circumstances would a local government be able to justify, under the 'good government' provisions, funding the initiation of legal action by a council member or employee.

It is important to note that where public criticism is made about the local government, ie the City, Town, or Shire, funding could not be justified. Legal precedent dictates that it is fundamental to public scrutiny that governments be open to criticism by members of the community. The threat of civil action against any person who publicly criticises a local government will have an inhibiting effect on freedom of speech and inevitably lessen a local government's accountability to its community.

Council members, if asked to vote on such a request, should ask themselves 'would a reasonable person, given all the facts, conclude that the expenditure provides for the good government of the persons in the district'. If a majority of council members are satisfied, council could, under its general function power, resolve that the local government fund the obtaining of advice or initiation of legal action by the council member or employee.

Council members should ensure that they receive appropriate documentation that presents reasons for and against the recommendation when considering an application for such funding as they may be asked to justify the decision at a future date. Documentation provides a proper decision-making trail that can be used to support the decision.

As a condition of approval, the council may require the council member or employee to undertake to refund the costs of legal representation paid by the local government should their action be successful.

### 3.2 Support for Former Council Members and Employees

The council, when considering the scope of its policy, will need to determine if the policy extends to the funding of legal representation for former council members, commissioners and employees and under what circumstances funding would be provided.

### 3.3 Delegation

A number of councils have, in adopting a policy on this issue, delegated to their CEO the power to deal with requests for the payment of legal representation costs. Because of the sensitive nature of providing funding, some CEOs have asked council not to delegate the power. A council should discuss the matter with the CEO before making any decision to delegate any aspect of its legal representation policy.

It may be appropriate for council to seek agreement from the CEO for a delegation limited to circumstances where a delay in approving a request will be detrimental to the legal rights of the council member or employee.

## 4. Adopting a Policy

In considering the policy all relevant people are encouraged to study and thoroughly understand the implications and likely consequences of adopting the policy.

A model policy has been provided on the following pages as an example for local governments undertaking their own policy-making on legal representation of adopting the policy. The Department welcomes any comments that individuals or local governments believe will assist in the improvement of the model policy.

# Model Policy

## Legal Representation for Council Members and Employees

### Explanation of key terms

**approved lawyer** is to be –

- (a) a ‘certified practitioner’ under the *Professions Act 2008*;
- (b) from a law firm on the [City/Town/Shire’s](#) panel of legal service providers, if relevant, unless the council considers that this is not appropriate – for example where there is or may be a conflict of interest or insufficient expertise; and
- (c) approved in writing by the council or the CEO under delegated authority.

**council member or employee** means a current or former commissioner, council member, non-elected member of a council committee or employee of the [City/Town/Shire](#).

**legal proceedings** may be civil, criminal or investigative.

**legal representation** is the provision of legal services, to or on behalf of a council member or employee, by an approved lawyer that are in respect of –

- (a) a matter or matters arising from the performance of the functions of the council member or employee; and
- (b) legal proceedings involving the council member or employee that have been, or may be, commenced.

**legal representation** costs are the costs, including fees and disbursements, properly incurred in providing legal representation.

**legal services** includes advice, representation or documentation that is provided by an approved lawyer.

**payment** by the [City/Town/Shire](#) of legal representation costs may be either by –

- (a) a direct payment to the approved lawyer (or the relevant firm); or
- (b) a reimbursement to the council member or employee.

### 1. Payment Criteria

1.1 There are four major criteria for determining whether the [City/Town/Shire](#) will pay the legal representation costs of a council member or employee. These are –

- (a) the legal representation costs must relate to a matter that arises from the performance, by the council member or employee, of his or her functions;
- (b) the legal representation cost must be in respect of legal proceedings that have been, or may be, commenced;
- (c) in performing his or her functions, to which the legal representation relates, the council member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (d) the legal representation costs do not relate to a matter that is of a personal or private nature.

## 2. Examples of Legal Representation Costs that may be Approved

2.1 If the criteria in clause 1 of this policy are satisfied, the [City/Town/Shire](#) may approve the payment of legal representation costs –

- (a) where proceedings are brought against a council member or employee in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the council member or employee; or
- (b) to enable proceedings to be commenced and/or maintained by a council member or employee to permit him or her to carry out his or her functions – for example, where a council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the council member or employee; or
- (c) where exceptional circumstances are involved – for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about council members or employees.

2.2 The [City/Town/Shire](#) will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a council member or employee.

## 3. Application for Payment

3.1 A council member or employee who seeks assistance under this policy is to make an application(s), in writing, to the council or the CEO.

3.2 The written application for payment of legal representation costs is to give details of –

- (i) the matter for which legal representation is sought;
- (ii) how that matter relates to the functions of the council member or employee making the application;
- (iii) the lawyer (or law firm) who is to be asked to provide the legal representation;
- (iv) the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc);
- (v) an estimated cost of the legal representation; and
- (vi) why it is in the interests of the [City/Town/Shire](#) for payment to be made.

3.3 The application is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates.

3.4 As far as possible, the application is to be made before commencement of the legal representation to which the application relates.

3.5 The application is to be accompanied by a signed written statement by the applicant that he or she –

- (a) has read, and understands, the terms of this policy;
- (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions of clause 7 and any other conditions to which the approval is subject; and
- (c) undertakes to repay to the [City/Town/Shire](#) any legal representation costs in accordance with the provisions of clause 7.

3.6 In relation to clause 3.5(c), when a person is to be in receipt of such monies the person should sign a document which requires repayment of those monies to the local government as may be required by the local government and the terms of the policy.

3.7 An application is also to be accompanied by a report prepared by the CEO or, where the CEO is the applicant, by an appropriate employee.

## 4. Legal Representation Costs – Limit

4.1 The council in approving an application in accordance with this policy shall set a limit on the costs to be paid based on the estimated costs in the application.

4.2 A council member or employee may make a further application to the council in respect of the same matter.

## 5. Council's Powers

5.1 The council may –

- (a) refuse;
- (b) grant; or
- (c) grant subject to conditions, an application for payment of legal representation costs.

5.2 Conditions under clause 5.1 may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.

5.3 In assessing an application, the council may have regard to any insurance benefits that may be available to the applicant under the [City's/Town's/Shire's](#) council members 'or employees' insurance policy or its equivalent.

5.4 The council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.

5.5 The council may, subject to clause 5.6, determine that a council member or employee whose application for legal representation costs has been approved has, in respect of the matter for which legal representation costs were approved –

- (a) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
- (b) given false or misleading information in respect of the application.

5.6 A determination under clause 5.5 may be made by the council only on the basis of, and consistent with, the findings of a court, tribunal or inquiry.

5.7 Where the council makes a determination under clause 5.5, the legal representation costs paid by the [City/Town/Shire](#) are to be repaid by the council member or employee in accordance with clause 7.

## 6. Delegation to Chief Executive Officer

6.1 In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the council, any of the powers of the council under clause 5.1 and 5.2, to a maximum of \$10,000 in respect of each application.

6.2 An application approved by the CEO under clause 6.1, is to be submitted to the next ordinary meeting of the council. Council may exercise any of its powers under this policy, including its powers under clause 5.4.

## 7. Repayment of Legal Representation Costs

7.1 A council member or employee whose legal representation costs have been paid by the [City/Town/Shire](#) is to repay the [City/Town/Shire](#) –

- (a) all or part of those costs – in accordance with a determination by the council under clause 5.7;
- (b) as much of those costs as are available to be paid by way of set-off – where the council member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the [City/Town/Shire](#) paid the legal representation costs.

7.2 The [City/Town/Shire](#) may take action in a court of competent jurisdiction to recover any monies due to it under this policy.

These guidelines are also available on the Department's website at [www.dlgc.wa.gov.au](http://www.dlgc.wa.gov.au)



### About the Guideline series

This document and others in the series are intended as a guide to good practice and should not be taken as a compliance knowledge, understanding, observation of, and appropriate consultation on contemporary good practice in local government. Guidelines may also involve the Department's views on the intent and interpretation of relevant legislation.

All guidelines are subject to review, amendment and re-publishing as required. Therefore, comments on any aspect of the guideline are welcome. Advice of methods of improvement in the area of the guideline topic that can be reported to other local governments will be especially beneficial.

For more information about this and other guidelines, contact the Local Government Regulation and Support Branch at:

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Translating and Interpreting Service (TIS) – Tel: 13 14 50

### 13.5.7 Use of Common Seal

<b>DATE:</b>	27/10/2015
<b>PROPONENT:</b>	Shire of Wyndham East Kimberley
<b>LOCATION:</b>	Shire of Wyndham East Kimberley
<b>AUTHOR:</b>	Monika Tonkin, Executive Assistant
<b>REPORTING OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>FILE NO:</b>	N/A
<b>DECLARATION OF INTERESTS:</b>	Nil

#### **PURPOSE**

For Council to receive this report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 26 August – 22 October 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 2015/16, delegation number 2 – Authority to Sign & Certify Documents & 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:

<b>Date of Use</b>	<b>Document</b>
1/10/2015	Lease for Lot 506, Lake Kununurra to Ingle Pty Ltd
1/10/2015	Sub-Sub Lease Suite 124 Tourism House, Kununurra

## **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 26 August – 22 October 2015.

### **COUNCIL DECISION**

**Minute No. 11159**

**Moved: Cr B Robinson  
Seconded: Cr S Cooke**

**That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 26 August – 22 October 2015.**

**Carried Unanimously 9/0**

### 13.5.8 Outstanding Actions from Council Resolutions

<b>DATE:</b>	27/10/2015
<b>PROPONENT:</b>	Shire of Wyndham East Kimberley
<b>LOCATION:</b>	Shire of Wyndham East Kimberley
<b>AUTHOR:</b>	Monika Tonkin, Executive Assistant
<b>REPORTING OFFICER:</b>	Carl Askew, Chief Executive Officer
<b>FILE NO:</b>	N/A
<b>DECLARATION OF INTERESTS:</b>	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**

This report includes actions from September resolutions (Attachment 1). Attachment 2 summarises all actions that are outstanding from previous Council resolutions (before September 2015).

## **ATTACHMENTS**

Attachment 1 - Actions from September Council resolutions

Attachment 2 – Outstanding actions from previous Council resolutions

## **VOTING REQUIREMENT**

Simple Majority

## **OFFICER'S RECOMMENDATION**

That Council notes the report - Outstanding actions from Council resolutions.

### **COUNCIL DECISION**

**Minute No. 11160**

**Moved: Cr K Wright**

**Seconded: Cr S Cooke**

**That Council notes the report - Outstanding actions from Council resolutions.**

**Carried Unanimously 9/0**

### COUNCIL ACTION ITEMS

Meeting	Item	Resolution	Progress Comment	Completed
OCM 22/09/15	Review of Private Works Policy and the Maintenance of Shire Assets Policy	That Council;  1. Deletes Clause 10 "The CEO will consider, and at his discretion approve, applications from community groups and local sporting organisations for in-kind works contributions by Council on a case by case basis up to a value of \$1,000." from the policy IS005 Private Works.  2. Amends the title of the policies IS003 Maintenance of Shire Assets and IS005 Private Works, adopted at its meeting of 18 November 2014, to CP/OPS - 3649 Maintenance of Shire Assets and CP/OPS - 3650 Private Works respectively.	Policy updated in Council Policy Manual	Completed
OCM 22/09/15	Development Application for Grouped Dwellings at Lot 933 Dulverton Street, Wyndham	That Council grants planning consent for two Grouped Dwellings at Lot 933 Dulverton Street, Wyndham, subject to the following conditions:  1. Development shall be in accordance with the attached approved plan(s) and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the Shire.  2. A revised stormwater management plan shall be submitted and approved by the Shire and the Department of Lands prior to a building permit being issued, to provide details on the proposed method of control and disposal of stormwater both on site to garden areas or rainwater tanks and off site into Councils (existing or proposed) stormwater system.  3. A landscaping plan is to be submitted and approved by the Shire to show:  (a) the location and general nature of planted areas; (b) the location and nature of materials to be used on non-planted areas.	Approval issued.	Completed
OCM 22/09/15	Draft Corporate Business Plan	That Council  1. In accordance with Regulation 19DA of the Local Government (Administration) Regulations 1996 adopt the Corporate Business Plan 2015-2019 as per Attachment 1. 2. Endorse the advertising of the adopted Corporate Business Plan 2015-2019.	Plan has been advertised on Shire Website	Completed
OCM 22/09/15	Department of Sport and Recreation Community Sport and Recreation Facility Fund	That Council endorse the concept of the Kununurra Bushmen's Rodeo Association multifunction facility within the grant application for the 2015/16 Community Sport and Recreation Facilities Fund Annual Grant Round subject to the following prior to the commencement of the project:  • The Kununurra Bushmen's Rodeo Association consult with the Shire and all clubs located or soon to be located within close proximity to investigate: o Joint use options o Possible funding contributions o Preferred location and orientation to maximise joint use functionality • The whole of life cost of the building is established and considered A timeline for the project is established • A full budget, including identification of all funding sources, is completed.	Application has been forwarded to the Department of Sport and Recreation	Completed
OCM 22/09/15	Endorsement of Draft Policy CP/PMG-3781 - Leasing of Council Managed/Owned Land – Commercial	That Council adopt the policy CP/PMG-3781 Leasing of Council Managed/Owned Land – Commercial, as amended.	Policy finalised and updated in the Council policy manual	Completed

Meeting	Item	Resolution	Progress Comment	Completed
OCM 22/09/15	Development Application for Viewing Deck at Lot 2 O'Donnell Street, Wyndham	That Council approves the planning application for a Viewing Deck at Lot 2 O'Donnell Street, Wyndham subject to the following conditions:  1. Development shall be in accordance with the attached approved plan(s) and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the Shire.  2. Where practicable the structure is to be constructed and clad in compatible materials and colours to the existing dwelling on site.	Approval issued.	Completed
OCM 22/09/15	Request for Community Lease – Kununurra Bushmen's Rodeo Association	That Council request the Chief Executive Officer to enter into negotiations with the Kununurra Bushmen's Rodeo Association for a lease over a portion of Reserve 30290, Lot 707 Drovers Road Kununurra, subject to the approval of the Minister of Lands.	KBRA have been notified of the intent to commence negotiations.	In progress
OCM 22/09/15	Request for Community Lease – Ord Pistol Club	That Council request the Chief Executive Officer to enter into negotiations with the Ord Pistol Club for a lease over a portion of Reserve 31780, Lot 375 Drovers Road Kununurra, subject to the approval of the Minister of Lands.	OPC have been notified of the intent to commence negotiations.	In progress
OCM 22/09/15	Kimberley Accommodation (East) Pty Ltd (Hotel Kununurra) Application for Extended Trading Permit	That Council requests the CEO advise the Director of Liquor Licensing that it does not object to the Extended Trading Permit Application from Kimberley Accommodation (East) Pty Ltd for the 3 November 2015 commencing at 9am and finishing at 12pm for the Melbourne Cup Function.	Letter forwarded to the Director Liquor Licensing	Completed
OCM 22/09/15	Review of Council Policy CP/HTH-3761 Licensing of Overflow Sites in Caravan Parks and Camping Grounds	That Council endorse the reviewed Draft Policy CP/HTH-3761 Licensing of Overflow Sites in Caravan Parks and Camping Grounds as shown in Attachment 3 for public advertisement for a period of 28 days.	Advertising commenced with a closing date for submissions Friday 6 November.	In progress
OCM 22/09/15	Proposed Special Council Meeting	That Council 1. declare a Special Council meeting on Tuesday 20 October 2015 at 5pm in the Kununurra Council Chambers, the purpose of which is for newly elected members to make their declaration of office, elect a Shire President and Deputy Shire President and, in accordance with Standing Orders, for the CEO to determine Elected Member seating arrangements. 2. advertise the proposed meeting date in accordance with the Act.	Meeting scheduled and advertised.	Completed
OCM 22/09/15	Updated Delegations Register 2015/16	That Council adopts the updated Delegations Register 2015/16 with the amendment to delegation number 3 that is to read:  "The Council delegates its authority and power to the Chief Executive Officer to appoint one of the Shire of Wyndham East Kimberley's Directors to perform the role of Acting Chief Executive Officer during any periods of approved leave of absence or absence from the Shire for periods up to one week. For periods in excess of one week this will be referred to Council for consideration.	Register updated and shared	Completed
OCM 22/09/15	TENDER RFT01 15-16 LILY CREEK LAGOON – BOAT LAUNCHING FACILITY, KUNUNURRA	That Council accept the tender submitted by Engineered Water Systems, 26 Dellamarta Road, Wangara WA 6065, for Tender RFT01 2015-16 Lily Creek Lagoon – Boat Launching Facility, Kununurra, for the Lump Sum Price of \$694,271.80 ex GST in accordance with the tender documentation.	Successful contractor notified. Contract documents prepared	In progress

Meeting	Item	Resolution	Progress Comment	Completed
OCM 22/09/15	DISPOSAL OF SHIRE PROPERTY - LOT 1664 (6) EUGENIA ST, KUNUNURRA	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Acknowledges and thanks Denbey Moulder and Bethany Moulder for their offer on Lot 1664 (6) Eugenia St, Kununurra;</li> <li>2. Seeks public submissions on the proposed disposition of property for a minimum of two (2) weeks in accordance with section 3.58 of the Local Government Act 1995;</li> <li>3. Subject to no submissions being received within the specified advertising period: <ol style="list-style-type: none"> <li>a. Agrees to dispose of Lot 1664 (6) Eugenia St, Kununurra, by way of sale to Denbey Moulder and Bethany Moulder in accordance with section 3.58(3) of the Local Government Act 1995 (private treaty) for the price of \$350,000.00 in accordance with the Contract for Sale of Land or Strata by Offer and Acceptance documentation; and</li> <li>b. Authorises the Chief Executive Officer and the Shire President to duly execute the sale documentation with the common seal of the Shire of Wyndham East Kimberley.</li> </ol> </li> <li>4. That proceeds from the sale of Lot 1664 (6) Eugenia St, Kununurra be placed in the Asset Management Reserve for staff housing purposes.</li> </ol>	Advertising commenced with a closing date for submissions Friday 23 October.	In progress
OCM 22/09/15	TOURISM HOUSE – SUB-SUB LEASE SUITE 124	That Council endorses the Shire President and CEO to sign the Sub-Sub Lease Suite 124, Tourism House, Kununurra.	Lease signed	Completed
OCM 22/09/15	TOURISM HOUSE – ASSIGNMENT OF LEASE, SUITE 5	That Council approves the assignment of the lease for Suite 5 East Kimberley Tourism House from Jiang Food Industry Pty Ltd to Mrs Ting Huang.	Letter sent advising of Council resolution	Completed
OCM 22/09/15	Chief Executive Officer Review	<p>That the CEO Performance Review Committee recommends that Council:</p> <ol style="list-style-type: none"> <li>1. Inform the Chief Executive Officer (CEO) by letter signed by the Shire President that, having completed his six (6) month initial qualifying period, Council is satisfied with the CEO's performance to date and that he has successfully completed the probationary period.</li> <li>2. Establish with the CEO and Council mutually acceptable Key Performance indicators no later than February 2016.</li> </ol>	Letter sent to CEO	Completed

**COUNCIL ACTION ITEMS**

Meeting	Item	Resolution	Progress Comment	Completed
Aug-12	Matters arising from committees of council	That the Audit (Finance and Risk) Committee recommends to Council to require A501 to: 1. Either a. meet their outstanding rates debt on assessment A501 within 60 days; or b. enter into a suitable payment plan approved by the Chief Executive Officer; and 2. Formalise the lease of Lot 472 Great Northern Highway, Wyndham with the Shire within 90 Days	Correspondence provided to A501 and a suitable payment plan has been entered into. Lease discussions may now commence as the payment plan is in place.	In progress
Nov-14	Proposed pedestrian refuge island and associated pavement markings, Konkerberry Drive and Banksia Street Intersection following asphalt overlay	That Council approve Option 1 as shown on Concept Drawing KON-14-1 including provision of a dedicated right turn pocket for vehicles entering Coles shopping car park area and the provision of a refuge island for pedestrians/cyclists crossing Konkerberry Drive.	Pavement line markings and regulatory signage installed by MRWA contractor when in town likely late 2015.	In Progress
OCM 16/12/14	Waste and Green Waste at Crossing Falls	That Council: 1) sends a letter to Crossing Falls residents advising them that all household waste must be placed in their wheely bin or taken directly to the licenced Shire landfill facility, that green waste should not be deposited at the disused gravel pit on Crown Land at the corner of Crossing Falls Road and Cherubin Road and that residents may dump up to 1 m3 per day without charge at the licenced Shire landfill facility; 2) approaches the Crossing Falls Fire Brigade with a request to supervise the once off burning of the current pile of green waste at the site; and 3) places a rock barrier at the entrance to the disused gravel pit, using waste maintenance funds.	Letters sent to Crossing Falls residents and to the Crossing Falls Fire Brigade. Crossing Falls Brigade have requested this item not be progressed while it seeks State approval to undertake training at the site. The Department of Lands and Planning has requested further information on the location prior to consideration of any approval. No agreement has been reached to date with the brigade and Departments. Subsequently, the Shire has written to Crossing Falls brigade advising them that the site will be closed.	In Progress
OCM 24/02/15	Management of Proposed Reserve - Packsaddle Creek	That item 13.4.7 Management of Proposed Reserve – Packsaddle Creek be deferred to a briefing session.	Matter was discussed at March Briefing Session. Subsequent information to be sought from Department of Lands.	In progress
OCM 24/02/15	Minutes of Council Committee Meetings	That Council accepts the unconfirmed Minutes of the Audit (Finance and Risk) Committee Meeting held on 10/02/2015 with an amendment to: Minute AC330 – to include current ratios where available Minute AC343 – to be amended to: That the Council: 1) Directs the A/CEO, or their delegate, to legally defend the Shire in the abovementioned minor case claim; 2) Approves sufficient provision in the Mid- Year Budget Review to allow for associated legal fees; and 3) Directs the A/CEO, or their delegate, to provide a report to the next Audit (Finance and Risk) Committee meeting outlining the current status of the matter.	Update provided to the 11 August meeting of the Audit (Finance and Risk) Committee. Recommendation was considered by Council on 25 August 2015. Matter is ongoing.	In progress

Meeting	Item	Resolution	Progress Comment	Completed
OCM 24/03/15	Unnamed Creek Crossing - Victoria Highway	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.	Letter sent to MG Corporation dated 20 April to seek advice from relevant Traditional Owners. MG Corporation have acknowledged receipt of this letter and advised that the matter will be referred to the relevant MG Entity and Traditional Owner for comment, and a response will be provided in due course.	In progress
OCM 28/04/15	Tender T04 14/15 Design and Construct Storage and Amenities Shed, Depot, Wyndham	That Council accept the tender submitted from East Kimberley Constructions, 35 Poinciana Street, Kununurra WA 6743, for Tender T04 -14/15 Design and Construction of Storage and Amenities Shed, Shire Depot, Wyndham, in accordance with the tender documentation for the Lump Sum Price of \$218,033 ex GST.	Nearing practical completion	In Progress
OCM 28/04/15	Confidential - Legal Claim	That Council;  1. Notes the officer's confidential report and the progress of the General Procedure Claim,  2. Directs the CEO, or their delegate, to legally defend the matter on behalf of the Shire in the abovementioned General Procedure Claim,  3. Approves sufficient provision in the budget to allow for associated legal fees, and  4. Directs the CEO, or their delegate, to provide a report to Council on the status of the matter at the earliest opportunity.	Statement of defence lodged with the Court. Listing Conference scheduled for 6 November 2015.	In Progress
OCM 28/04/15	Confidential - Disposal of Shire Residential Property	That Council  1. Direct the Chief Executive Officer or their delegate to engage one or more real estate agents to market 6 Eugenia Street, Kununurra and 67 Koojarra Street, Wyndham and bring forward an offer to Council to dispose of the property(s) by private treaty.  2. Direct the Chief Executive Officer or their delegate to lease vacant Shire residential properties.	Offer has been made for 6 Eugenia Street, Kununurra and public notice of the disposal has been advertised with a closing date of 23 October. 67 Koojarra Street, Wyndham has been advertised for sale.	In progress
OCM 23/06/15	East Kimberley Regional Airport Proposed Runway Extension Business Case	That Council notes the Chief Executive Officer's intention to appoint GHD Consulting Engineers for the Lump Sum price of \$140,740.00 ex GST in accordance with the current budget to: 1. Prepare a Business Case to support grant opportunities including an application to a future round of the National Stronger Regions Fund; 2. Investigate the ground soil conditions for the proposed runway extension and associated taxiways and passenger terminal apron at East Kimberley Regional Airport to determine their structural adequacy to accommodate B737 and A320 aircraft.	The consultant has commenced work	In progress
OCM 23/06/15	Draft Shire of Wyndham East Kimberley Play Space Plan	That Council endorse the Draft Shire of Wyndham East Kimberley Play Space Plan for community consultation	Community Engagement Plan being developed.	In progress
OCM 23/06/15	Lakeside Resort Lease	That Council delegates the power to sign the lease to the Chief Executive Officer and Shire President, subject to receiving no objections during the advertising period.	Proposed disposition of lease has been advertised. Council to consider submissions at the August OCM.	No

Meeting	Item	Resolution	Progress Comment	Completed
OCM 23/06/15	T09 – 14/15 KALUMBURU RD – PORT WARRENDER ROAD OPENING GRADE, AND MAINTENANCE GRADE	That Council;  1. Notes the officer's comments, 2. Notes that the Tender T09 14/15 Kalumburu Road - Port Warrender Road, Opening Grade includes provision for maintenance grading works to Kalumburu Road and Port Warrender Road for the 2015 dry season, 3. Notes that maintenance grading works on Kalumburu Road and Port Warrender Road are proposed to commence late in the week of 22 June 2015.	Existing contract (T09 2014/15), works in progress.	In progress
OCM 28/07/15	Sealing Program – Ord Stage 2 Expansion Roads	That Council;  1. Endorses the Chief Executive Officer's intention to sign the Memorandum of Understanding between the Shire of Wyndham East Kimberley and Main Roads WA, with the inclusion of an upper expenditure limit of \$2,889,313 (plus interest) for the Ord East Kimberly Stage 2 Expansion Road Seal Project, 2. Endorses the Chief Executive Officer's intention to sign a Memorandum of Understanding between the Shire of Wyndham East Kimberley and Main Roads WA for the spray sealing of Mills Road (3500m2), Research Station Road (1000m2), and Egret Close (945m2), and 3. Commit from the Supplementary R2R program (\$1,245,775), additional funds of \$95,916 for Mills Road and \$23,638 for Research Station Road for inclusion in the proposed 2015/16 budget.	Contractor appointed and works commenced. Line marking scheduled shortly.	In progress
OCM 28/07/15	Tender Evaluation T10 14-15 Lease of Aircraft Hangarage at Wyndham Airpot	That Council;  1. Reject all tenders, and  2. Authorise the Chief Executive Officer to negotiate with the tenderer and to execute a lease on behalf of the Shire for all or part of the Airport Hangar at Wyndham Airport for an amount that represents a reasonable return to the Shire in accordance with the confidential tender assessment report.	Lease prepared for signing. Expected to be signed on 16 October 2015.	Completed
OCM 28/07/15	Draft East Lily Creek and Kununurra Civic Centre and Structure Plans	That Council:  1. Supports in principle the draft East Lily Creek and draft Kununurra Civic Centre Structure Plans. 2. Requests the Chief Executive Officer to facilitate meetings with major stakeholders to discuss the draft Structure Plans and provide a report back to Council on the outcomes of these meetings.	Draft Structure Plan documents have been forwarded to the MG Corporation, Department of Lands, Department of Regional Development and Kimberley Development Commission, requesting meetings to discuss these plans.	In progress
OCM 28/07/15	Request for Lease – Kimberley Action Sports Inc.	That Council request the Chief Executive Officer to commence negotiations with Kimberley Action Sports Inc. for a 10 year lease over a portion of Reserve 30290, Lot 707 Drovers Road Kununurra, subject to the approval of the Minister of Lands.	Letter has been forwarded to Kimberley Action Sports Inc. advising of Council resolution. Site requires survey and lease to be drafted.	In progress
OCM 28/07/15	Request for Lease – Kununurra Dragon Boat Club Inc.	That Council request the Chief Executive Officer to enter into negotiations with the Kununurra Dragon Boat Club Inc. for a 10 year lease over a portion of Reserve 41812, Lot 2371 Old Darwin Road Kununurra, subject to the approval of the Minister of Lands.	Letter has been forwarded to Kununurra Dragon Boat Club Inc. advising of Council resolution. Site requires survey and lease to be drafted.	In progress

Meeting	Item	Resolution	Progress Comment	Completed
OCM 28/07/15	Mediterranean Fruit Fly Eradication Program	<p>That Council consider entering into a Memorandum of Understanding with DAFWA and industry on the following basis:</p> <ol style="list-style-type: none"> <li>1. DAFWA continues to fund and maintain the current medfly surveillance program.</li> <li>2. SWEK will fund medfly eradication programs from its biosecurity reserve, with a maximum exposure being those funds available in the reserve in excess of \$200,000 i.e. currently approximately \$67,000.</li> <li>3. If an eradication program reduces the reserve balance to below \$200,000, industry will make good the difference to restore the reserve to a balance of \$200,000 (mechanism yet to be determined).</li> <li>4. The biosecurity reserve be maintained with a balance for now of a minimum \$200,000, to serve as a form of insurance against future pest or disease incursions.</li> <li>5. A reference group to be established with members from SWEK, DAFWA and industry. The role of the group would be to recommend expenditure from the reserve and to formulate policy in the event of future pest crises. SWEK Council approval would still be required before the reserve could be accessed for response to threats other than medfly.</li> </ol>	<p>Letter sent to DAFWA advising of the decision and requesting advice on how to proceed with the eradication program, including indicative cost, and an invoice. Advice also given that SWEK will be in contact shortly to commence the consideration of entering into a MOU.</p> <p>The baiting program is complete and area freedom was reinstated for the area on 5th October. Industry has been notified. Invoice not yet received. In relation to the MOU DAFWA have requested for an interim group to be formed to progress this, feedback from industry has been minimal. ORDCO are interested in assisting where possible and have volunteered to talk with growers to get some industry participation. This will also be discussed at the incident debrief. There is no date for the debrief yet.</p>	In progress
OCM 28/07/15	Management and Operation of Kununurra Youth Centre	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Request the Chief Executive Officer to write to the Department for Child Protection and Family Support to seek approval to offer a lease for the Management and Operation of the Kununurra Youth Centre, based on the proposal received.</li> <li>2. If authorisation is received from the Department for Child Protection and Family Support, request the Chief Executive Officer to enter into negotiations for a 3 year lease with 3 year option, for the Management and Operation of the Kununurra Youth Centre, Ron Hodnett Drive, Kununurra to Save the Children with terms based on the proposal received 11 June 2015 including: <ul style="list-style-type: none"> <li>• A term of 3 years, with an option of a 3 year extension.</li> <li>• Annual Lease fee of \$18,250.00 inclusive of GST, indexed for CPI annually.</li> <li>• Shire to maintain responsibility for fixtures and fittings.</li> <li>• Lessee to provide general maintenance including cleaning and gardening.</li> <li>• The primary use of the facility will be the provision of services for Young people at risk.</li> <li>• The facility will continue to be available to the community for hire.</li> </ul> </li> </ol>	<p>Approval has been received from DCPFS, Lease has been drafted and forwarded to Save The Children for their review (8/9/15)</p>	In progress
OCM 28/07/15	RFQ 1 15/16 KALUMBURU ROAD RECONSTRUCTION, RE-SHEETING, FLOOD-WAYS AND CULVERT PROGRAM	<p>That the Council:-</p> <ol style="list-style-type: none"> <li>1. Pursuant to section 6.8 of the Local Government Act 1995, authorise in advance, the budget allocation of \$1,178,468 to be allocated for the Kalumburu Road Reconstruction, Re-Sheeting, Floodways and Culvert program for 2015/16, along with the funding allocation of \$1,266,715 (being the allocation remaining to be claimed);</li> <li>2. Notes the Chief Executive Officer's intention to accept the submission from Plant Hire Services for RFQ1 15/16 Kalumburu Road Reconstruction, Re-Sheeting, Cement Stabilised Floodways and Culvert program in accordance with Section 3.3 Schedule of Rates as submitted with the proposed scope of works to be adjusted to accommodate the remaining funding allocation.</li> </ol>	<p>Works commenced in mid August. Works progressing satisfactorily.</p>	in progress

Meeting	Item	Resolution	Progress Comment	Completed
OCM 25/08/15	Proposed Gravel Reserves	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Requests the Chief Executive Officer to consult with the Darwulah Aboriginal Corporation to obtain written consent for the surrender of the proposed 'King River' gravel area from Lease 1837493, and support the realignment of the dedicated road reserve to correspond with the physical location of the constructed King River Road.</li> <li>2. Requests the Chief Executive Officer to advise the Department of Lands that the Shire of Wyndham East Kimberley: <ol style="list-style-type: none"> <li>a. agrees to proceed with a future act process to facilitate the creation of reserves for the purpose of gravel supply for road building purposes over the sites identified as 'Afghan Cemetery', 'Mount Albany' and 'Parry Creek', and proposed easement to provide legal access to the 'Afghan Cemetery'.</li> <li>b. indemnifies the Minister for Lands against any costs arising from the future act process.</li> </ol> </li> <li>3. Requests the Chief Executive Officer to advise the Department of Lands that the Shire of Wyndham East Kimberley agrees to pay survey costs associated with: <ol style="list-style-type: none"> <li>a. the creation of 'Gravel' reserves over the four areas referred to as 'King River', 'Afghan Cemetery', Mt Albany and 'Parry Creek',</li> <li>b. the creation of an easement to provide access to the area referred to as 'Afghan Cemetery'; and</li> </ol> </li> </ol>	Correspondence sent to DoL advising of Council resolution. Correspondence also sent to Darwulah Aboriginal Corporation in relation to the gravel source along King River Road and the proposed realignment of the dedicated road reserve. The Senior Planning Officer met with Darwulah representatives on 6 October 2015 to discuss the matter.	In progress
OCM 25/08/15	Review of Council Policy Number: CP/HTH-3762 Licensing of Temporary Caravan Parks and Campin	That Council endorses the reviewed Policy CP/HTH-3762 Licensing of Temporary Caravan Parks and Camping Grounds for public advertisement for a period of 28 days	Policy advertised for comment until 9th October 2015.	In progress
OCM 25/08/15	Transient Accommodation - Lot 411 Minjiljirrga Lane, Kununurra	That Council request the Chief Executive Officer to undertake further investigation as part of the Local Planning Scheme review, to consider the introduction of a new or amended use class to appropriately provide for rural workers accommodation and preparation of a subsequent Local Planning Policy.	To be commenced.	In progress

**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**

Cr K Wright moves that Council go behind closed doors to consider a legal claim item.

**COUNCIL DECISION**

**Minute No. 11161**

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

**That Council moves behind closed doors to consider a legal claim item.**

**Carried Unanimously 9/0**

Council moves behind closed doors at 6.07pm.

Cr S Rushby declares a financial interest in the matter to be discussed behind closed doors. Financial interest by way of being party to a legal claim.

Cr S Rushby submits a Disclosure of Interest form for item 13.5.8 Outstanding Actions from Council Resolutions. An impartiality interest as although item discusses a suite of resolutions there may be a impartial conflict on two legal items – requiring action. The interest is not declared verbally in Chambers.

Cr S Rushby leaves the Chambers at 6.08pm.

**COUNCIL DECISION**

**Minute No. 11162**

**Moved: Cr K Wright  
Seconded: Cr S Cooke**

**That Council moves out from behind closed doors.**

**Carried Unanimously 8/0**

Council moves out from behind closed doors and Cr S Rushby enters the Chambers at 6.21pm.

**17. MATTERS BEHIND CLOSED DOORS**

Nil

**18. CLOSURE**

The Shire President declares the meeting closed at 6.22pm.