

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

28 June 2016



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**SHIRE OF WYNDHAM EAST KIMBERLEY  
ORDINARY COUNCIL MEETING AGENDA  
KUNUNURRA COUNCIL CHAMBERS  
TO BE HELD ON 28 JUNE 2016 AT 5:00PM**

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**01. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

The Shire President declared the meeting open at 5:00pm.

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

**ATTENDANCE**

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

**GALLERY**

|                  |                |
|------------------|----------------|
| Lisa Hannagan    | SWEK           |
| Paul Wilson      | SWEK           |
| Vivienne McEvoy  | KVC            |
| Warren Shaw      | Resident       |
| Donna Aladin     | Resident       |
| Jenny Spragg     | Rate Payer     |
| Lisa Spackman    | Resident       |
| Steven McEvoy    | SWEK           |
| Silke Becke      | Resident       |
| Heather Bishop   | SWEK           |
| Cally Dupe       | Kimberley Echo |
| Rob Storey       | Rate Payer     |
| Navneet Raheja   | SWEK           |
| Jennifer Kroeger | Rate Payer     |
| Sharon McLachlan | SWEK           |

## APOLOGIES

Nil

## LEAVE OF ABSENCE PREVIOUSLY APPROVED

Nil

## 03. DECLARATION OF INTEREST

- Financial Interest

| Councillor/Officer | Item | Title      | Description of Interest                                                                                               |
|--------------------|------|------------|-----------------------------------------------------------------------------------------------------------------------|
| L Gee              | 16.1 | Acting CEO | Increase in salary in recognition of additional duties and responsibilities if required to act in the position of CEO |

- Impartiality Interest

| Councillor/Officer | Item    | Title                                                                | Description of Interest                                  |
|--------------------|---------|----------------------------------------------------------------------|----------------------------------------------------------|
| Cr K Wright        | 12.03.3 | Kununurra Agricultural Society Temporary Caravan Park Licence        | Member of KAS                                            |
| Cr E Bolto         | 12.03.3 | Kununurra Agricultural Society Temporary Caravan Park Licence        | I am a life member of the Kununurra Agricultural Society |
| Cr S Cooke         | 12.03.4 | Kununurra Bushmen's Rodeo Association Temporary Caravan Park Licence | I am the treasure of the Association                     |
| C Askew            | 16.1    | Acting CEO                                                           | This item is regarding a person acting in my role        |
| C Askew            | 16.2    | CEO Performance Review                                               | This item is regarding my performance review             |

- Proximity Interest

Nil

#### **04. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

##### **Questions from Mr Mark Northover, Kununurra - submitted after the 31 May 2016 Ordinary Council Meeting with the approval of the Shire President.**

**Question** - Is council concerned that the SWEK administration's guiding statements regarding defaults, may not adhere to the consumer code of credit, and the policy under the local government act 1995 could be constitutionally invalid if challenged in the courts, with particular reference to the rates default period?

*The WA Consumer Credit Code was repealed in 2010 by the Credit (Commonwealth Powers) (Transitional and Consequential Provisions) Act 2010 which deals with the transition from the regime provided in the old Credit Code to the new consumer credit regime in the National Consumer Credit Protection Act 2009.*

*The National Consumer Credit Protection Regulations 2010 provides an exemption for local governments from the need to have a licence (Regulation 20(7)) and is only applicable to all credit contracts entered into on or after 1 July 2010, where each of the following elements are met:*

- the debtor (also called the borrower) is a natural person or a strata corporation;*
- the credit is, or is intended to be, provided wholly or predominantly:
  - for personal, domestic or household purposes (including buying residential property); or*
  - to purchase, renovate or improve residential property for investment purposes; or*
  - to refinance credit that has been provided for such purposes;**
- a charge is or may be made for providing the credit; and*
- the credit provider provides the credit in the course of a business of providing credit or as part of, or incidental to, any other business of the credit provider.*

*As a local government, the Shire is therefore not a credit provider as the Shire does not provide credit that meets the above elements, and is therefore exempt from holding a licence. The National Consumer Credit Protection Act therefore does not apply.*

*It is assumed that when the member of the public has referred to the "guiding statements regarding defaults" that they are referring to the Council's Policy CP/FIN-3212 Rates and Charges Debt Collection. If this is the case, then the Local Government Act 1995 and the associated Regulations were utilised in the development of this particular Policy as the Shire is heavily governed by the Act in relation to collection of rates. It is therefore unclear as to how the Policy could be constitutionally invalid on the basis that the provisions of the Western Australia Constitution Act 1889 (Part IIIB), being those that relate to local government, are valid and have the force of the law, where the State Parliament has conferred upon the local government the power to levy and collect property tax in the form of rates through the Local Government Act 1995.*

**Question** - How have the audit committee councillors and the administration addressed some of the confusion surrounding the reports (supplied to the DLGC) tabled on page 7 of the audit committee meeting on the 10/05/2016 (This page shows the cumulative rates over time. Variations in correlations. Rates defaults up 100%. It all there!)?

*Page 7 of the Audit (Finance and Risk) Committee meeting does not contain any numbers and has not been supplied to the DLGC by the Shire. The members of the Committee have not raised any areas of confusion to officers in relation to the reports, and there is no reference to rates defaults being up 100%. Page 9 however refers to the total rates notices issued (inclusive of all charges such as waste management, waste receptacle and ESL) and demonstrates the %age of rates and charges actually received throughout the financial year.*

**Question** - Was the final total cost of an operational, serviceable long term boat ramp at Lily Creek within the public accepted tender documents and budgeted figures, including costings to delays, changed plans, surveys, nuts bolts, and any other variations delaying the acceptance of this low maintenance asset?

*The Lily Creek Lagoon Ramp, Jetty and Lighting project is currently progressing well with the boat ramp now temporarily open to the public for use, with the remainder of the work due to be completed by the end of December 2016. The final cost of the project will be known following completion of all works. It is expected that the project will be completed within the budgeted amount.*

**Question** - Why is the FTE reporting being manipulated with vacant and advertised positions, resulting in significant discrepancies between the yearly reports and media releases?

*The Shire is not attempting to manipulate FTE reporting, and is providing information that is not legislatively required in order to provide additional information to the community in an attempt to be more open and transparent. While you have not indicated the media releases that are referred to in the question, it is assumed that the ones referred to are those that were provided in a budget context.*

*A Budget and approved FTE numbers are always going to differ from the actual position as at 30 June where vacancies do generally exist. It is intended to review the reporting of FTEs in the Annual Report to include the budgeted FTE numbers, along with the actual FTEs as at 30 June in order to provide further clarity.*

## **05. PUBLIC QUESTION TIME**

### **Jenny Spragg, Kununurra**

*On 31 May I attended the OCM in Wyndham. Following the OCM three Councillors contacted my employer on behalf of SWEK asking if I was speaking at the OCM on their behalf because I had attended in my work shirt.*

- a) Did the Councillors contact my employer on behalf of SWEK and fellow Councillors?*
- b) Is it common practice for Councillors to contact attending rate payer's employers?*
- c) What was the intended outcome from contacting my employer?*
- d) Cr Parker, as president of SWEK do you view this as a breach of: Local Government (Rules of Conduct) Regulations 2007, Regulations 7 – Securing personal advantage or disadvantaging others?*

Cr J Parker, Shire President responded to the questions and advised that she did not consider her actions to be a breach of the Rules of Conduct. She stated that she had received queries from three Wyndham residents asking who you were and if you were representing East Kimberley Job Pathways as that organisation is well known and respected in Wyndham. The Shire President advised that she had written to Ms Spragg's employer to advise them that several members of the public asked after the meeting if Ms Spragg was representing her own views or that of her employer when disrupting the Council meeting as

she was wearing a uniform with logos of Wunan/East Kimberley Job Pathways. Her attendance in uniform led some in the gallery to consider that she was representing her employer. So the intention of the letter was to seek clarification. The Shire is being encouraged by the Department of Local Government to better use the Standing Orders Local Laws in relation to managing disruptive behaviour at Council meetings.

## **06. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

## **07. PETITIONS**

Nil

## **08. CONFIRMATION OF MINUTES**

### **OFFICER'S RECOMMENDATION 1**

**That Council confirms the Minutes of the Ordinary Council Meeting held on 31 May 2016.**

Cr Rushby moved an amendment to minutes – To remove Ms Spraggs name from the item where referenced. Seconded by Cr Wright

The mover and seconder of the motion agreed to the amendment.

The Shire President requested that it be noted that from this point on all incidents of disruption will be recorded in the minutes.

*Note: Cr Wright initially seconded the motion for Minute number 11389 and subsequently withdrew his name. Cr Perry then seconded the Officer's Recommendation.*

### **COUNCIL DECISION**

**Minute No: 11389**

**Moved: Cr B Robinson**

**Seconded: Cr N Perry**

**That Council confirms the Minutes of the Ordinary Council Meeting held on 31 May 2016 with the removal of Ms Spragg's name from the item where referenced.**

**Carried 9/0**

### **REASON FOR VARYING OFFICER'S RECOMMENDATION**

There was no request on the night for the documenting of disruptions which took place.

*Note: The Minutes of the Ordinary Council Meeting held on 31 May 2016 are provided under separate cover via [www.swek.wa.gov.au](http://www.swek.wa.gov.au)*

**OFFICER'S RECOMMENDATION 2**

**That Council confirms the Minutes of the Special Council Meeting held on 31 May 2016.**

**COUNCIL DECISION**

**Minute No: 11390**

**Moved: Cr B Robinson**

**Seconded: Cr S Cooke**

**That Council confirms the Minutes of the Special Council Meeting held on 31 May 2016.**

**Carried 9/0**

*Note: The Minutes of the Special Council Meeting held on 31 May 2016 are provided under separate cover via [www.swek.wa.gov.au](http://www.swek.wa.gov.au)*

**OFFICER'S RECOMMENDATION 3**

**That Council confirms the Minutes of the Special Council Meeting held on 5 April 2016.**

**COUNCIL DECISION**

**Minute No: 11391**

**Moved: Cr B Robinson**

**Seconded: Cr K Wright**

**That Council confirms the Minutes of the Special Council Meeting held on 5 April 2016.**

**Carried 9/0**

*Note: The Minutes of the Special Council Meeting held on 5 April 2016 are provided under separate cover via [www.swek.wa.gov.au](http://www.swek.wa.gov.au)*

## **OFFICER'S COMMENT**

Further to Cr Spackman's query at the Ordinary Council Meeting of 31 May 2016, on whether his return to Chambers for the closure of the SCM held 5 April 2016 should be included in the minutes, discussions with DLGC have confirmed that the current version of the minutes accurately records what took place and there is no requirement to make any changes.

## **09. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

Nil

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

Item 16.1  
Item 16.2  
Item 16.3

## **11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS**

Nil

## 12. REPORTS

### 12.01. MATTERS ARISING FROM COMMITTEES OF COUNCIL

Nil

### 12.02. CHIEF EXECUTIVE OFFICER

#### 12.02.1. Review of WALGA Membership

|                                 |                                                 |
|---------------------------------|-------------------------------------------------|
| <b>DATE:</b>                    | 28 June 2016                                    |
| <b>AUTHOR:</b>                  | Lisa Hannagan, Senior Governance & Risk Officer |
| <b>RESPONSIBLE OFFICER:</b>     | Carl Askew, Chief Executive Officer             |
| <b>DISCLOSURE OF INTERESTS:</b> | Nil                                             |

#### VOTING REQUIREMENT

Simple Majority

#### OFFICER'S RECOMMENDATION

**That Council acknowledge the significant financial savings and service benefits of WALGA Membership and agree to continuation of the Shire's current membership arrangements.**

#### COUNCIL DECISION

**Minute No: 11392**

**Moved: Cr B Robinson**

**Seconded: Cr N Perry**

**That Council acknowledge the significant financial savings and service benefits of WALGA Membership and agree to continuation of the Shire's current membership arrangements.**

**Carried 5/4**

**For: Cr B Robinson, Cr N Perry, Cr J Parker, Cr E Bolto, Cr S Cooke  
Against: Cr K Wright, Cr S Rushby, Cr A Petherick, Cr D Spackman**

## **PURPOSE**

For Council to consider the WALGA Membership in respect to costs, benefits, advantages and disadvantages.

## **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 Ordinary Council Meeting held 29 March 2016 a Motion of which Previous Notice has been Given from Cr Rushby was considered by Council and it was subsequently resolved;

*Minute # 11319*

*That Council requests the Chief Executive Officer to provide a report to Council by June 2016 reviewing the costs, benefits, advantages and disadvantages of the Shire continuing to be a member of the Western Australian Local Government Association (WALGA).*

The reason for review of the membership was due to Councillor perception that WALGA membership was somehow hindering local content (in procurement) and not providing efficiency or value for money.

The Officer Comment in respect to original Notice of Motion provided information to Councillors that demonstrated that Procurement was just one area of the WALGA Membership. The Shire's WALGA subscription also provides a broad range of services in relation to Asset Management, Council Connect, Local Laws, Tax Services and Employment Relations support and advice that are used extensively by Shire staff.

## **STATUTORY IMPLICATIONS**

Nil

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Annual WALGA Membership for the 2014/15 financial year cost the Shire of Wyndham East Kimberley \$32,345. WALGA have provided information which demonstrates that there would be substantial additional financial costs if the Shire had to source the numerous services that are provided in a "one stop shop" with WALGA from individual suppliers. WALGA have advised that the Shire currently reaps savings of \$712,034 (2014/15) due to use of preferred suppliers (\$656,732) and LGIS dividends received (55,302).

A schedule is attached to this item that details the 2014/15 Expenditure and Savings.

Additionally it is worth noting that WALGA and Local Government Insurance Services (LGIS) are in partnership and that the Shire's WALGA membership provides a 30% discount on the annual insurance premium. The 2014/15 actual cost of insurance for the Shire was \$632,797. If the Shire was not a WALGA member, the cost would have been 30% higher, therefore additional cost of \$189,830 for a total insurance cost of \$822,636.

Total savings from the WALGA Membership in the 2014/15 financial year were \$901,864.

## **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 services

Strategy 1.4.2: Improve the efficiency and productivity of Shire services

## **RISK IMPLICATIONS**

There are substantial risks for the Shire of Wyndham East Kimberley in relation to discontinuation of the WALGA membership across several critical operational areas including procurement, governance, employment and taxation services.

While the financial risk - loss of a \$900k per annum cost saving is substantial - the risk in exposure to non-compliance and governance failures by not utilising specialised, Local Government expert services is also critical.

While some of the WALGA services can be purchased through other alternative or generic providers, the benefit of WALGA providers are that they are local government specialists and Western Australian Local Governments are provided significant discounts with the WALGA suppliers due to the model that sees 138 Councils across the state included in the scheme.

## **COMMUNITY ENGAGEMENT**

No community engagement is required.

## **COMMENTS**

The Shire receives excellent value from the WALGA subscription, not only in considerable savings - Preferred Supplier Contracts (2014/15 - \$656,732) and LGIS Insurance premium savings (2014/15 - \$189,830) plus a dividend from LGIS (2014/15 - \$55,302) but in the valuable services that support both elected members and staff.

Total savings from the WALGA Membership in the 2014/15 financial year were \$901,864.

Services from local government experts in areas such as taxation advice, employment advice, compliance and governance, training and support are provided in a timely and cost effective manner.

It has not been possible to find any area where the WALGA membership disadvantages the Shire or for that matter, any local businesses.

In relation to the Preferred Supplier program, several quality local suppliers such as JAB Industries, JSW Holdings Pty Ltd and Martell Road Maintenance have registered as WALGA Preferred Suppliers. The WALGA Preferred Supplier program provides numerous benefits to the Shire, including streamlined procurement, access to "E" Quotes and full compliance in relation to Local Government purchasing regulations and probity requirements.

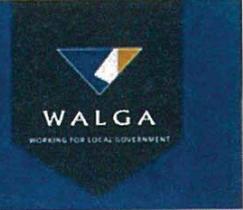
There is no doubt that Preferred Suppliers are required to offer greater value to Local Governments who use the program, but the program is also of considerable benefit to the individual suppliers in that they receive access to significant markets (entire WA Local Government Sector), marketing and promotional support from WALGA, increased brand recognition, streamlined procurement processes from the supply end that save both time and money to name but a few. The system is seen as a win/win for both Local Governments and Suppliers.

#### **ATTACHMENTS - Item 12.02.1**

Attachment 1 - 2014/15 Expenditure & Savings Statement for SWEK from WALGA

# 2014/15 Expenditure & Savings

PREFERRED SUPPLY CONTRACTS & BUSINESS SERVICES



## Shire of Wyndham-East Kimberley

This information is accurate as at: 15/09/2015

### SUMMARY

|                                         |                 |
|-----------------------------------------|-----------------|
| Total Savings                           | \$712,035       |
| Savings from Preferred Supply Contracts | \$656,732       |
| LGIS Dividends                          | \$55,302        |
| <b>Total Subscription</b>               | <b>\$32,245</b> |

### WALGA SUBSCRIPTIONS

| Business Service                 | Subscriber | Business Service                   | Subscriber |
|----------------------------------|------------|------------------------------------|------------|
| <u>Asset management ROMAN II</u> | YES        | <u>Environmental Planning Tool</u> | NO         |
| <u>Council Connect</u>           | YES        | <u>Procurement Consultancy</u>     | YES        |
| Councils Online                  | NO         | <u>Tax Service</u>                 | YES        |
| Local Laws                       | YES        | <u>Employee Relations</u>          | YES        |
| Local Government Act Guide       | NO         |                                    |            |

### PREFERRED SUPPLY CONTRACTS & BUSINESS SERVICES

| Contract                                    | Expected Savings 2014/15                        | Expenditure 2013/14 | Est. Savings 2013/14 | Expenditure 2014/15 | Est. Savings 2014/15 |
|---------------------------------------------|-------------------------------------------------|---------------------|----------------------|---------------------|----------------------|
| Advertising Placement & Media Buying        | Up to 25% below market rates                    | \$ -                | \$ -                 | \$ 11,962           | \$ 2,991             |
| Ag & Turf Machinery & General Power Eqpt    | An average discount of 12% against market rates | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Asset Management                            | Discounted hourly rates                         | \$ 53,450           | \$ 2,673             | \$ -                | \$ -                 |
| Audit Services                              | Up to 10% discount against market rates         | \$ 13,000           | \$ 1,300             | \$ -                | \$ -                 |
| Bill Payment                                | Up to 60% below market rates                    | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Building Consultants                        | Discounted hourly rates                         | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Bulk Fuel, Fuel Cards & Oils & Lubricant    | Up to 50% below market prices                   | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Call Centre Management Services             | Up to 30% below market rates                    | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Contestable Energy                          | Up to 30% off retail prices                     | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Corporate Wardrobe, Workwear & Footwear     | An average discount of 25% against market rates | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Debt Management                             | An average discount of 25% against market rates | \$ 45,911           | \$ 13,650            | \$ 9,102            | \$ 4,640             |
| Engineering Consulting Services             | Up to 40% below market rates                    | \$ 113,015          | \$ 22,603            | \$ 113,853          | \$ 25,617            |
| Environment & Sustainability Services       | Up to 20% below market prices                   | \$ -                | \$ -                 | \$ 76,944           | \$ 9,618             |
| Fuel Tax Rebates                            | Recovery of diesel fuel rebate revenue          | \$ -                | \$ -                 | \$ -                | \$ -                 |
| General Hardware                            | Up to 44% below retail, 3% below wholesale      | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Heritage Advisory Services                  | Procurement benefits                            | \$ -                | \$ -                 | \$ -                | \$ -                 |
| IT and Related Services                     | Between 10% and 31% below market rates          | \$ 28,596           | \$ 4,003             | \$ 11,795           | \$ 1,769             |
| Landscape Infrastructure                    | Between 5% and 20% below market rates           | \$ 2,182            | \$ 273               | \$ -                | \$ -                 |
| LED Luminaires                              | Up to 20% off retail, up to 10% off wholesale   | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Legal Services                              | Up to 50% below market rates                    | \$ -                | \$ -                 | \$ -                | \$ -                 |
| LGIS - Insurance Services & Risk Management | Member dividend provided by LGIS                | \$ -                | \$ 22,093            | \$ -                | \$ 55,302            |
| Library Stocks and Related Services         | Between 10% and 35% below RRP                   | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Marketing & Communication Services          | Up to 25% below market rates                    | \$ 20,499           | \$ 8,200             | \$ 10,747           | \$ 2,687             |
| Office and Workplace Supplies               | Up to 70% below market rates                    | \$ 19,106           | \$ 7,642             | \$ 17,347           | \$ 6,939             |
| Office and Workplace Furniture and Fitout   | An average discount of 20% against market rates | \$ 1,860            | \$ 372               | \$ 1,005            | \$ 221               |
| Operating Lease and Finance Solutions       | Procurement benefits, investment opportunities  | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Organic Composting Services                 | Between 3% and 40% below market rates           | \$ -                | \$ -                 | \$ -                | \$ -                 |
| OSH Legal                                   | Up to 20% below market rates                    | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Parking                                     | Up to 15% off market rates based on volume      | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Plant and Equipment                         | Up to 20% off market rates                      | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Playground Goods and Services               | Up to 20% of market rates                       | \$ -                | \$ -                 | \$ -                | \$ -                 |
| RFID Technology                             | Hardware priced below market rates              | \$ -                | \$ -                 | \$ -                | \$ -                 |

continued on page 2...

# 2014/15 Expenditure & Savings

PREFERRED SUPPLY CONTRACTS & BUSINESS SERVICES

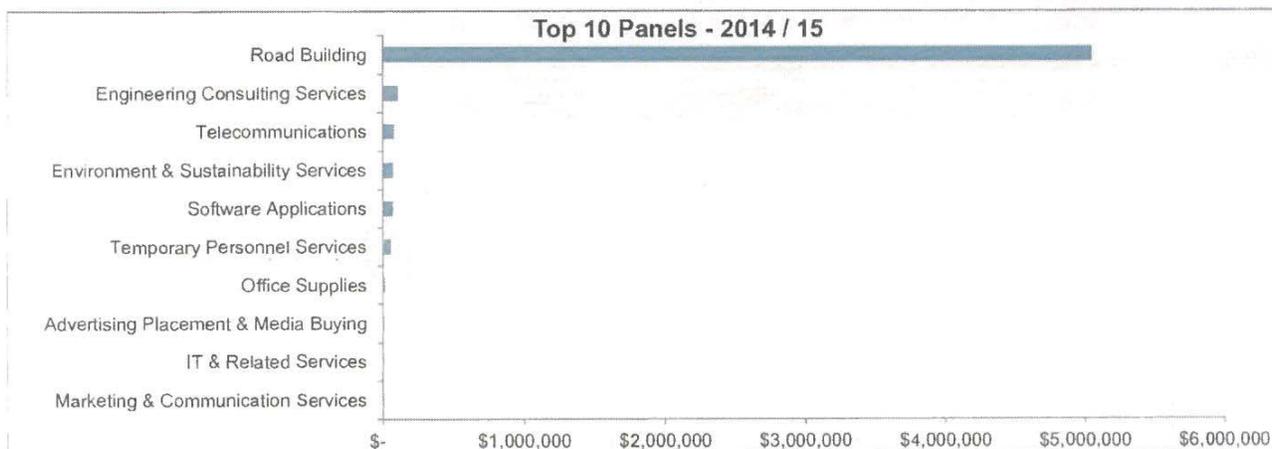


## Shire of Wyndham-East Kimberley

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### PREFERRED SUPPLY CONTRACTS & BUSINESS SERVICES

| Contract                                     | Expected Savings                                | Expenditure 2013/14 | Est. Savings 2013/14 | Expenditure 2014/15 | Est. Savings 2014/15 |
|----------------------------------------------|-------------------------------------------------|---------------------|----------------------|---------------------|----------------------|
| Road Building Materials & Related Services   | Up to 16% savings plus mobilisation benefits    | \$ -                | \$ -                 | \$ 5,054,693        | \$ 530,743           |
| Security Systems and Services                | Between 8% and 20% off services and hardware    | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Signage, Road Traffic and Other              | An average discount of 15% below market rates   | \$ 17,398           | \$ 2,610             | \$ 3,780            | \$ 567               |
| Software Applications                        | Up to 60% below market rates                    | \$ 92,203           | \$ 13,830            | \$ 75,548           | \$ 13,221            |
| Sustainable Energy Infrastructure            | Between 2% and 40% off parts and hardware       | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Sweeping Equipment                           | An average discount of 10% against market rates | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Telecommunications                           | Up to 70% below market rates                    | \$ 109,310          | \$ 65,586            | \$ 82,012           | \$ 49,207            |
| Temporary Personnel Services                 | An average discount of 20% against market rates | \$ -                | \$ -                 | \$ 56,751           | \$ 8,513             |
| Town Planning                                | Discounted hourly rates                         | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Trucks                                       | Up to 30% below market rates                    | \$ 144,877          | \$ 33,322            | \$ -                | \$ -                 |
| Tyres, Tubes & Automotive & Marine Batteries | Up to 42% for tyres and 60% for batteries       | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Used Oil                                     | Up to 23% below market rates                    | \$ -                | \$ -                 | \$ -                | \$ -                 |
| Waste, Recycling & MGB's                     | Up to 20% off Collection, up to 32% off MGBs    | \$ -                | \$ -                 | \$ -                | \$ -                 |
| <b>TOTAL</b>                                 |                                                 | <b>\$ 657,044</b>   | <b>\$ 197,611</b>    | <b>\$ 5,525,540</b> | <b>\$ 712,035</b>    |



#### Assumptions and Notes

- Savings are determined by requiring Preferred Suppliers to confirm in their Tender Response the discount off normal market rates provided exclusively to WALGA Members.
- Pricing and discounts will vary between Preferred Suppliers.
- Preferred Supplier pricing (where available) can be obtained as commercial in confidence information by logging into eQuotes.
- While volume based purchasing by a Local Government could generate better than normal market prices, such an approach should not be able to deliver better pricing than WALGA rates. This is because WALGA pricing is based on whole-of-sector expenditure and the fact that all Preferred Suppliers are contractually required to provide their best pricing exclusively through the WALGA Panel.
- Local Governments can use the tender exempt nature of Preferred Supply Panels to negotiate optimal value for money from Preferred Suppliers.
- The Bill Payments contract expired on 1 March 2015 without a continuation into a new contract.
- Savings are in addition to efficiency savings generated from the reduction in tendering and streamlined quotation processes.

#### ADVERTISING PLACEMENT AND MEDIA BUYING

Advertising and Media Services spend is broken down as stated below:

| Total Advertising Spend | West Australian Spend | Community News Spend | Other Spend |
|-------------------------|-----------------------|----------------------|-------------|
| \$11,962                | \$8,826               | \$0                  | \$3,136     |

## 12.02.2. Bush Fire Brigade Local Law

|                                 |                                                 |
|---------------------------------|-------------------------------------------------|
| <b>DATE:</b>                    | 28 June 2016                                    |
| <b>AUTHOR:</b>                  | Lisa Hannagan, Senior Governance & Risk Officer |
| <b>RESPONSIBLE OFFICER:</b>     | Carl Askew, Chief Executive Officer             |
| <b>DISCLOSURE OF INTERESTS:</b> | Nil                                             |

### VOTING REQUIREMENT

Simple Majority

### OFFICER'S RECOMMENDATION

That Council, pursuant to Section 3.12 of the Local Government Act 1995, give state-wide public notice that it intends to make the Shire of Wyndham East Kimberley Bush Fire Brigade Local Law 2016 as contained in the attachment to this item, the purpose of which is to make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades. The effect of this Local Law is to align existing local laws with changes in law and operational processes.

### COUNCIL DECISION

Minute No: 11393

Moved: Cr K Wright

Seconded: Cr S Cooke

That Council, pursuant to Section 3.12 of the Local Government Act 1995, give state-wide public notice that it intends to make the Shire of Wyndham East Kimberley Bush Fire Brigade Local Law 2016 as contained in the attachment to this item, the purpose of which is to make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades. The effect of this Local Law is to align existing local laws with changes in law and operational processes.

Carried 9/0

### PURPOSE

Section 3.5 of the *Local Government Act 1995* (LGA) provides the power for local governments to make local laws and prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient for it to perform any of its functions.

The Shire of Wyndham East Kimberley Bush Fire Brigade Local Law requires review.

The purpose of this local law is to:

- To make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.

The effect of this local law is to:

- To align existing local laws with changes in law and operational practices.

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

Leader - plan and provide direction through policy and practices

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

The Bush Fire Brigade Local Law 2003 was gazetted on 3 December 2003. The purpose of the local law is to make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.

The proposed Bush Fire Brigade Local Law 2016 is based on a WALGA model and therefore ensures that there will be no inconsistencies with any other legislation.

### **STATUTORY IMPLICATIONS**

Section 3.12 of the *Local Government Act 1995* specified the procedures to be followed when making a Local Law. Section 3.12 states:

#### **3.12 Procedure for making a Local Law**

- (1) *In making a Local Law a local government is to follow the procedure described in this section, in sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed Local Law in the prescribed manner.*
- (3) *The local government is to:*
  - (a) *give statewide public notice stating that -*
    - (i) *the local government proposes to make a Local Law, the purpose and effect of which is summarised in the notice;*
    - (ii) *a copy of the proposed Local Law may be inspected or obtained at any place specified in the notice; and*
    - (iii) *submissions about the proposed Local Law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is being given.*
  - (b) *As soon as the notice is given, give a copy of the proposed Local Law and a copy of the notice to the Minister and, if another Minister administers the Act under which a Local Law is proposed to be made, to that other Minister; and*
  - (c) *provide a copy of the proposed Local Law, in accordance with the notice, to any person requesting it.*

(3a) A notice under sub-section (3) is also to be published and exhibited as if it were a local public notice.

### **POLICY IMPLICATIONS**

There are no identified policy implications in relation to this matter.

### **FINANCIAL IMPLICATIONS**

Statutory advertising of the proposed Local Law will incur costs estimated at \$1,000.

### **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 services

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.

### **COMMUNITY ENGAGEMENT**

Engagement will take place in accordance with the Shire's Community Engagement Guidelines and will include:

- Local and statewide notice of the proposed Local Law;
- A submission period of 42 days allowed, not including the first day of advertising or the last day of advertising;
- Consideration of any submissions made during the period; and
- The Shire has developed a page on its website with information about Local Laws, access to the proposed Local Law and additional information on how to make a submission.

### **COMMENTS**

Council have reviewed the proposed Bush Fire Brigade Local Law 2016 at a briefing held 14 June 2016.

No changes were suggested to the proposed Bush Fire Brigade Local Law 2016 and the attached document is there proposed as the Local Law.

A copy of the proposed Local Law is required to be sent to the Minister for Local Government and Communities and the Minister for Emergency Services.

**ATTACHMENTS - Item 12.02.2**

Attachment 1 - Proposed Bush Fire Brigade Local Law 2016

Attachment 2 - Notice for proposed Bush Fire Brigade Local Law 2016.

# **BUSH FIRE BRIGADES LOCAL LAW**

**BUSH FIRES ACT 1954**

**LOCAL GOVERNMENT ACT 1995**

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**BUSH FIRES ACT 1954**  
**LOCAL GOVERNMENT ACT 1995**

*SHIRE OF WYNDHAM EAST KIMBERLEY*

**BUSH FIRE BRIGADES LOCAL LAW**

Under the powers conferred by the *Bush Fires Act 1954* and under all other powers enabling it, the Council of the *Shire of Wyndham East Kimberley* resolved on *[insert date]* to make the following local law.

**PART 1 - PRELIMINARY**

**1.1 Citation**

This local law may be cited as the Shire of Wyndham East Kimberley Bush Fire Brigades Local Law.

**1.2 Definitions**

(1) In this local law unless the context otherwise requires –

“**Act**” means the *Bush Fires Act 1954*;

“**Authority**” **has been removed**

“**brigade area**” is defined in clause 2.2(1)(b);

“**brigade member**” means a fire fighting member, associate member or a cadet member of a bush fire brigade;

“**brigade officer**” means a person holding a position referred to in clause 2.2 (1)(c), whether or not he or she was appointed by the local government or elected at an annual general meeting of a bush fire brigade or otherwise appointed to the position;

“**bush fire brigade**” is defined in section 7 of the Act;

“**Bush Fire Operating Procedures**” means the Bush Fire Operating Procedures adopted by the local government as amended from time to time;

“**CEO**” means the chief executive officer of the Shire of Wyndham East Kimberley;

“**Council**” means the Council of the local government;

“**Department**” means the Department of Fire and Emergency Services of Western Australia;

“**fire fighting member**” is defined in clause 4.2;

“**local government**” means the *Shire of Wyndham East Kimberley* ;

“**Regulations**” means Regulations made under the Act; and

**“Rules”** means the Rules Governing the Operation of Bush Fire Brigades set out in the First Schedule as varied from time to time under clause 2.5 .

- (2) In this local law, unless the context otherwise requires, a reference to –
- (a) a Captain;
  - (b) a First Lieutenant;
  - (c) a Second Lieutenant;
  - (d) any additional Lieutenants;
  - (e) an Equipment Officer;
  - (f) a Secretary.
  - (g) a Treasurer; or
  - (h) a Secretary / Treasurer combined,

means a person holding that position in a bush fire brigade.

### **1.3 Repeal**

The Local Laws relating to \_\_\_\_\_ are repealed.

### **1.4 Application**

This local law applies throughout the district.

## **PART 2 – ESTABLISHMENT OF BUSH FIRE BRIGADES**

### *Division 1 – Establishment of a bush fire brigade*

#### **2.1 Establishment of a bush fire brigade**

- (1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.
- (2) A bush fire brigade is established on the date of the local government’s decision under subclause (1).

#### **2.2 Name and officers of bush fire brigade**

- (1) On establishing a bush fire brigade under clause 2.1(1) the local government is to –
  - (a) give a name to the bush fire brigade;
  - (b) specify the area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities (the **“brigade area”**); and
  - (c) appoint –
    - (i) a Captain;
    - (ii) a First Lieutenant;
    - (iii) a Second Lieutenant;
    - (iv) additional Lieutenants if the local government considers it necessary;
    - (v) an Equipment Officer;
    - (vi) a Secretary; and
    - (vii) a Treasurer; or
    - (viii) a Secretary/Treasurer combined.
    - (ix) **has been removed**

- (2) When considering the appointment of persons to the positions in subclause (1)(c), the local government is to have regard to the qualifications and experience which may be required to fill each position.
- (3) A person appointed to a position in subclause (1)(c) is to be taken to be a brigade member.
- (4) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade.
- (5) If a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting, then the local government is to appoint a person to fill the vacancy in accordance with subclause (2)

### ***Division 2 – Command at a fire***

#### **2.3 Ranks within the bush fire brigade**

- (1) Where under the Act and Bush Fire Operating Procedures members of the bush fire brigade have command of a fire, unless a bushfire control officer is in attendance at the fire, the Captain has full control over other persons fighting the fire, and is to issue instructions as to the methods to be adopted by the firefighters. In the absence of the Captain, the first Lieutenant, and in the absence of the first, the second Lieutenant and so on, in the order of seniority determined, is to exercise all the powers and duties of the Captain.
- (2) Where a bushfire control officer is in attendance at a fire which the members of the bush fire brigade have command of under the Act and the Bush Fire Operating Procedures, the most senior bushfire control officer has full control over other persons fighting the fire and is to issue instructions as to the methods to be adopted by the fire fighters.

### ***Division 3 – Application of Rules to a bush fire brigade***

#### **2.4 Rules**

- (1) The Rules govern the operation of a bush fire brigade.
- (2) A bush fire brigade and each brigade member is to comply with the Rules.

#### ***2.5 Variation of Rules has been removed***

### ***Division 4 – Transitional***

#### **2.5 Existing Bush Fire Brigades**

- (1) Where a local government has established a bush fire brigade prior to the commencement date, then on and from the commencement day –
  - (a) the bush fire brigade is to be taken to be a bush fire brigade established under and in accordance with this local law;
  - (b) the provisions of this local law apply to the bush fire brigade save for clause 2.2; and
  - (c) any rules governing the operation of the bush fire brigade are to be taken to have been repealed and substituted with the Rules.
- (2) In this clause –  
    **“commencement day”** means the day on which this local law comes into operation.



## ***Division 5 – Dissolution of bush fire brigade***

### **2.6 Dissolution of bush fire brigade**

In accordance with section 41(3) of the Act, the local government may cancel the registration of a bush fire brigade if it is of the opinion that the bush fire brigade is not complying with the Act, this local law, the Bush Fire Operating Procedures or the Rules, or is not achieving the objectives for which it was established.

### **2.7 New arrangement after dissolution**

If a local government cancels the registration of a bush fire brigade, alternative fire control arrangements are to be made in respect of the brigade area.

## **PART 3 - ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES**

### ***Division 1 – Local government responsibility***

#### **3.1 Local government responsible for structure**

The Council is to ensure that there is an appropriate structure through which the organisation of bush fire brigades is maintained.

#### **3.2 Officers to be supplied with Act**

The local government is to supply each brigade officer with a copy of the Act, the Regulations, the Bush Fire Operating Procedures, this local law and any other written laws which may be relevant to the performance of the brigade officers' functions, and any amendments which are made thereto from time to time.

### ***Division 2 – Chief Bush Fire Control Officer***

#### **3.3 Managerial role of Chief Bush Fire Control Officer**

Subject to any directions by the local government the Chief Bush Fire Control Officer has primary managerial responsibility for the organisation and maintenance of bush fire brigades.

#### **3.4 Chief Bush Fire Control Officer may attend meetings**

The Chief Bush Fire Control Officer or her or his nominee (who is to be a bush fire control officer) may attend as a non-voting representative of the local government at any meeting of a bush fire brigade.

### **3.5 Duties of Chief Bush Fire Control Officer**

The duties of the Chief Bush Fire Control Officer include –

- (a) provide leadership to volunteer bush fire brigades;
- (b) monitor bush fire brigades' resourcing, equipment (including protective clothing) and training levels and report thereon with recommendations at least once a year to the local government;
- (c) liaise with the local government concerning fire prevention / suppression matters generally and directions to be issued by the local government to bush fire control officers (including those who issue permits to burn) bush fire brigades or brigade officers;
- (d) ensure that bush fire brigades are registered with the local government and that lists of brigade members are maintained.

### ***Division 3 – Annual general meetings of bush fire brigades***

#### **3.6 Holding of annual general meeting**

A bush fire brigade is to hold its annual general meeting during the month of March each year.

#### **3.7 Nomination of bush fire control officers to Bush Fire Advisory Committee**

At the annual general meeting of a bush fire brigade, one brigade member is to be nominated to the Bush Fire Advisory Committee to serve as the bush fire control officer for the brigade area until the next general meeting.

#### **3.8 Nomination of bush fire control officer to the local government**

If the local government has not established a Bush Fire Advisory Committee, then at the annual general meeting of a bush fire brigade, the bush fire brigade is to nominate one brigade member to the local government to serve as the bush fire control officer for the brigade area until the next annual general meeting.

#### **3.9 Minutes to be tabled before the Bush Fire Advisory Committee**

- (1) The Secretary is to forward a copy of the minutes of the annual general meeting of a bush fire brigade to the Chief Bush Fire Control Officer within one month after the meeting.
- (2) The Chief Bush Fire Control Officer is to table the minutes of a bush fire brigade's annual general meeting at the next meeting of the –
  - (a) Bush Fire Advisory Committee; or
  - (b) Council, if there is no Bush Fire Advisory Committee, following their receipt under subclause (1).

### ***Division 4 – Bush Fire Advisory Committee***

#### **3.10 Functions of Advisory Committee**

The Bush Fire Advisory Committee is to have the functions set out in section 67 of the Act and is to include such number of nominees of the bush fire brigades as is determined by the local government.

### **3.11 Advisory Committee to nominate bush fire control officers**

As soon as practicable after the annual general meeting of each bush fire brigade in the district, the Bush Fire Advisory Committee is to nominate to the local government from the persons nominated by each bush fire brigade a person for the position of a bush fire control officer for the brigade area.

### **3.12 Local government to have regard to nominees**

When considering persons for the position of a bush fire control officer, the local government is to have regard to those persons nominated by the Bush Fire Advisory Committee, but is not bound to appoint the persons nominated.

### **3.13 Advisory Committee to consider bush fire brigade motions**

The Bush Fire Advisory Committee is to make recommendations to the local government on all motions received by the Bush Fire Advisory Committee from bush fire brigades.

## **PART 4 – TYPES OF BUSH FIRE BRIGADE MEMBERSHIP**

### **4.1. Types of membership of bush fire brigade**

The membership of a bush fire brigade consists of the following –

- (a) fire fighting members;
- (b) associate members;
- (c) cadet members; and
- (d) honorary life members.

### **4.2 Fire fighting members**

Fire fighting members are those persons being at least 16 years of age who undertake all normal bush fire brigade activities.

### **4.3 Associate members**

Associate members are those persons who are willing to supply free vehicular transport for fire fighting members or fire fighting equipment, or who are prepared to render other assistance required by the bush fire brigade.

### **4.4 Cadet members**

Cadet members are –

- (a) to be aged 11 to 15 years;
- (b) to be admitted to membership only with the consent of their parent or guardian;
- (c) admitted for the purpose of training and are not to attend or be in attendance at an uncontrolled fire or other emergency incident;
- (d) to be supervised by a fire fighting member when undertaking normal brigade activities as defined by paragraphs (c), (d), (e), (f) and (g) of section 35A of the Act;
- (e) ineligible to vote at bush fire brigade meetings;
- (f) not to be assigned ranks under the Department's rank structure.

#### **4.5 Honorary life member**

- (1) The bush fire brigade may by a simple majority resolution appoint a person as an honorary life member in recognition of services by that person to the bush fire brigade.
- (2) No membership fees are to be payable by an honorary life member.

#### **4.6 Notification of membership**

No later than 31 May in each year, the bush fire brigade is to report to the Chief Fire Control Officer the name, contact details and type of membership of each brigade member.

### **PART 5 – APPOINTMENT DISMISSAL AND MANAGEMENT OF MEMBERS**

#### **5.1 Rules to govern**

The appointment, dismissal and management of brigade members by the bush fire brigade are governed by the Rules.

### **PART 6 – EQUIPMENT OF BUSH FIRES BRIGADES**

#### **6.1 Policies of local government**

The local government may make policies under which it –

- (a) provides funding to bush fire brigades for the purchase of protective clothing, equipment and appliances; and
- (b) keeps bush fire brigades informed of opportunities for funding from other bodies.

#### **6.2 Equipment in brigade area**

Not later than 31 May in each year, the bush fire brigade is to report to the local government the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the brigade area (or at a station of the bush fire brigade).

#### **6.3 Funding from local government budget**

A request to the local government from the bush fire brigade for funding of protective clothing, equipment or appliance needs is to be received by the local government by 31 March in order to be considered in the next following local government budget, and is to be accompanied by the last audited financial statement and a current statement of assets and liabilities of the bush fire brigade.

#### **6.4 Consideration in the local government budget**

The local government may approve or refuse an application for funding depending upon the assessment of budget priorities for the year in question.

## FIRST SCHEDULE

### RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES

#### PART 1 - PRELIMINARY

##### 1.1 Interpretation

- (1) In these Rules, unless the context otherwise requires, where a term is used in these Rules and is defined in the local law, the Act or the Regulations, then the term is to be taken to have the meaning assigned to it in the local law, the Act or the Regulations, as the case may be.
- (2) In these Rules, unless the context otherwise requires –  
“**absolute majority**” means a majority of more than 50% of the number of:
  - (a) brigade members of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the bush fire brigade; or
  - (b) brigade officers of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the Committee.“**Committee**” means the Committee of the bush fire brigade;  
“**local law**” means the *Shire of Wyndham East Kimberley Bush Fire Brigades Local Law*; and  
“**normal brigade activities**” is defined by section 35A of the Act
- (3) Subject to these Rules, where a decision is to be made by the bush fire brigade, then the decision may be made by a resolution passed by a simple majority of the brigade members who are present in person or by proxy at the meeting.
- (4) Subject to these Rules, where a decision is to be made by the Committee, then the decision may be made by a resolution passed by a simple majority of the brigade officers who are present in person or by proxy at the meeting.

#### PART 2 – OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE

##### 2.1 Objects of bush fire brigade

The objects of the bush fire brigade are to carry out –

- (a) the normal brigade activities; and
- (b) the functions of the bush fire brigade which are specified in the Act, the Regulations and the local law.

##### 2.2 Committee to determine applications

Applications for membership are to be determined by the Committee.

##### 2.3 Conditions of membership

In relation to any type of membership, as described in Part 4 of the local law, the bush fire brigade may establish policies pertaining to –

- (a) the qualifications required;
- (b) fees payable, if any;
- (c) a requirement to serve a probationary period;

- (d) procedures to be employed by the Committee prior to approval of an application for membership,  
and the Committee is to act within the parameters of any such policy in determining applications for membership.

#### **2.4 Applications for membership**

An application for membership is to be in writing and is to be submitted to the Secretary and in the case of –

- (a) an application for firefighting membership is to be accompanied by a completed form in the form of that in Appendix I.
- (b) an application for associate membership is to be accompanied by a completed form in the form of that in Appendix II.
- (c) an application for cadet membership is to be accompanied by a completed form in the form of that in Appendix III.

#### **2.5 Decision on application for membership**

- (1) The Committee may –
  - (a) approve an application for membership unconditionally or subject to any conditions; or
  - (b) refuse to approve an application for membership.
- (2) If the Committee refuses to approve an application for membership, it is to give written reasons for the refusal, as soon as practicable after the decision is made, to the applicant and the advice that the applicant has the right to object to the local government.

#### **2.6 DFES to be notified of registrations**

If any application for membership is approved, the Secretary of the bush fire brigade is to supply registration details to the Department of Fire and Emergency Services within 14 days of a person being admitted to membership in the form required by the Department from time to time.

#### **2.7 Termination of membership**

- (1) Membership of the bush fire brigade terminates if the member –
  - (a) dies;
  - (b) gives written notice of resignation to the Secretary;
  - (c) is, in the opinion of the Committee, permanently incapacitated by mental or physical ill-health;
  - (d) is dismissed by the Committee; or
  - (e) ceases to be a member or is taken to have resigned under subclause (2)
- (2) A brigade member whose membership fees are more than one year in arrears is to be taken to have resigned from the bush fire brigade.

#### **2.8 Suspension of membership**

- (1) Membership of the bush fire brigade may be suspended at any time if, in the opinion of the Committee, circumstances warrant suspending the member.
- (2) The period of suspension shall be at the discretion of the Committee.
- (3) Upon the expiry of the period of suspension the Committee may:
  - (a) extend the period of suspension;

- (b) terminate the membership; or
- (c) reinstate the membership.

## **2.9 Existing liabilities to continue**

- (1) The resignation, or dismissal of a member under clause 2.7 does not affect any liability of the brigade member arising prior to the date of resignation or dismissal.

## **2.10 Member has right of defence**

A brigade member is not to be dismissed under clause 2.7(1)(d) without being given the opportunity to meet with the Committee and answer any charges which might give grounds for dismissal.

## **2.11 Objection Rights**

A person whose -

- (a) application for membership is refused under clause 2.5(1)(b);
- (b) membership is terminated under clause 2.7(1)(c), clause 2.7(1)(d) or clause 2.8(3)(b); or
- (c) membership is suspended under clause 2.8(1) or clause 2.8(3)(a),

has the right of objection to the local government which may dispose of the objection by –

- (a) dismissing the objection;
- (b) varying the decision objected to; or
- (c) revoking the decision objected to, with or without –
  - (i) substituting for it another decision; or
  - (ii) referring the matter, with or without directions, for another decision by the Committee.

# **PART 3 – FUNCTIONS OF BRIGADE OFFICERS**

## **3.1 Chain of command during fire fighting activities**

Subject to the Act and the local law, the command procedures to apply during fire fighting activities are as detailed in the local government's Bush Fire Operating Procedures.

## **3.2 Duties Of Captain**

- (1) Subject to subclause (2) below, the Captain is to preside at all meetings.
- (2) In the absence of the Captain, the meeting may elect another person to preside at the meeting.

## **3.3 Secretary**

- (1) The Secretary is to –
  - (a) be in attendance at all meetings and keep a correct minute and account of the proceedings of the bush fire brigade in a book which shall be open for inspection by brigade members at any reasonable time;
  - (b) answer all correspondence or direct it appropriately, and keep a record of the same;
  - (c) prepare and send out all necessary notices of meetings;
  - (d) receive membership fees, donations and other monies on behalf of the bush fire brigade, and remit them to the Treasurer upon receipt;

- (e) complete and forward an incident report form in the form required by the Department to the Chief Bush Fire Control Officer and the Department within 14 days after attendance by the bush fire brigade at an incident.
  - (f) maintain a register of all current brigade members which includes each brigade member's contact details and type of membership.
  - (g) provide no later than 31 May in each year, a report to the Chief Bush Fire Control Officer detailing the name, contact details and type of membership of each brigade member.
- (2) Where a bush fire brigade attends an incident on more than one day, the incident report form is to be completed and forwarded under subclause (1)(e) within 14 days after the last day of attendance.

### **3.4 Treasurer**

The Treasurer is to –

- (a) receive donations and deposits from the Secretary, and deposit all monies to the credit of the bush fire brigade's bank account;
- (b) pay accounts as authorized by the Committee;
- (c) keep a record of all monies received and payments made, maintain the accounts and prepare the balance sheet for each financial year;
- (d) be the custodian of all monies of the bush fire brigade; and
- (e) regularly inform the Secretary of the names of those brigade members who have paid their membership fees.
- (f) report on the financial position at meetings of the bush fire brigade or Committee.

### **3.5 Equipment Officer**

The Equipment Officer is responsible for the custody and maintenance in good order and condition of all protective clothing, equipment and appliances provided by the local government to the bush fire brigade (or of the bush fire brigade).

### **3.6 Storage of equipment**

- (1) The Equipment Officer may store all of the equipment of the bush fire brigade at a place approved by the Captain (the "station").
- (2) If there is to be more than one station in the brigade area, the Equipment Officer is to appoint in respect of each station a person who is responsible for the custody and maintenance in good order and condition of all equipment and appliances at the station, subject to any direction of the Equipment Officer.

### **3.7 Equipment Officer to report**

The Equipment Officer is to provide, no later than 31 May of each year, a report to the local government and bush fire brigade captain describing the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the bush fire brigade area (or at a station of the bush fire brigade).

## **PART 4 – COMMITTEE**

### **4.1 Management of bush fire brigade**

- (1) Subject to the provisions of these Rules, the administration and management of the affairs of the bush fire brigade are vested in the Committee.
- (2) Without limiting the generality of subclause (1), the Committee is to have the following functions –
  - (a) to recommend to the local government amendments to these Rules;
  - (b) to draft the annual budget for the bush fire brigade and present it at the annual general meeting of the bush fire brigade;
  - (c) to propose a motion for consideration at any meeting of the bush fire brigade;
  - (d) to recommend to the local government equipment which needs to be supplied by the local government to the bush fire brigade;
  - (e) to invest or place on deposit any of the funds of the bush fire brigade not immediately required to perform the normal brigade activities;
  - (f) to delegate to a person, as from time to time thought fit, any functions (being less than the total functions of the Committee) on any conditions it thinks fit;
  - (g) to do all things necessary or convenient in order to perform any of its functions and to secure the performance of the normal brigade activities by the bush fire brigade; and
  - (h) deal with membership applications, grievances, disputes and disciplinary matters.

### **4.2 Constitution of Committee**

- (1) The Committee of the bush fire brigade is to consist of the brigade officers being the Captain, Secretary, Treasurer, Equipment Officer and the Lieutenants of the bush fire brigade.
- (2) The brigade officers are to -
  - (a) be elected at the annual general meeting of the bush fire brigade;
  - (b) hold office until the next annual general meeting; and
  - (c) be eligible for re-election at the next annual general meeting.
- (3) Any brigade officer may be removed from office by an absolute majority decision of the brigade members present in person or by proxy at a special meeting called for such a purpose.
- (4) The Committee may appoint a brigade member to fill a vacancy in any office arising from a resolution under subclause (3) or which has arisen for any other reason.

## **PART 5 – MEETINGS OF BUSH FIRE BRIGADE**

### **5.1 Ordinary meetings**

- (1) Ordinary meetings may be called at any time by the Secretary by giving at least 7 days notice to all brigade members and to the Chief Fire Control Officer, for the purpose of –
  - (a) organising and checking equipment;
  - (b) requisitioning new or replacement equipment;
  - (c) organising field excursions, training sessions, hazard reduction programs, and the preparation of fire-breaks;
  - (d) establishing new procedures in respect of any of the normal brigade activities; and
  - (e) dealing with any general business.

- (2) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (3) Business may be conducted at an ordinary meeting of the bush fire brigade notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

## **5.2 Special meetings**

- (1) The Secretary is to call a special meeting when 5 or more brigade members request one in writing.
- (2) At least 2 days notice of a special meeting is to be given by the Secretary, to all brigade members and to the Chief Bush Fire Control Officer.
- (3) In a notice given under subclause (2) the Secretary is to specify the business which is to be conducted at the meeting.
- (4) No business is to be conducted at a special meeting beyond that specified in a notice given under subclause (2) in relation to that meeting.

## **5.3 Annual general meeting**

- (1) At least 7 days notice of the annual general meeting is to be given by the Secretary to all brigade members and to the Chief Bush Fire Control Officer.
- (2) At the annual general meeting the bush fire brigade is to –
  - (a) elect the brigade officers from among the brigade members;
  - (b) consider the Captain's report on the year's activities;
  - (c) adopt the annual financial statements;
  - (d) appoint an Auditor for the ensuing financial year in accordance with clause 5.6; and
  - (e) deal with any general business.
- (3) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (4) Business may be conducted at an annual general meeting notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

## **5.4 Quorum**

- (1) The quorum for a meeting of the bush fire brigade is at least 50% of the number of offices (whether vacant or not) of member of the bush fire brigade.
- (2) No business is to be transacted at a meeting of the bush fire brigade unless a quorum of brigade members is present in person or by proxy.

## **5.5 Voting**

Each brigade member is to have one vote, however in the event of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

## **5.6 Auditor**

- (1) At the annual general meeting a person, not being a brigade member, is to be appointed as the Auditor of the bush fire brigade for the ensuing financial year.
- (2) The Auditor is to audit the accounts of the bush fire brigade not less than 7 days before the annual general meeting and is to certify to their correctness or otherwise and present a report at the annual general meeting.

## **PART 6 – MEETINGS OF COMMITTEE**

### **6.1 Meetings Of Committee**

- (1) The Committee is to meet for the despatch of business, adjourn and otherwise regulate its meeting as it thinks fit.
- (2) The Captain or Secretary may convene a meeting of the Committee at any time.

### **6.2 Quorum**

No business is to be transacted at a meeting of the Committee unless a quorum of 3 brigade officers are present in person.

### **6.3 Voting**

Each brigade officer is to have one vote, however in the case of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

## **PART 7 – GENERAL ADMINISTRATION MATTERS**

### **7.1 Fees**

- (1) The membership fees, if any, for each type of member for the ensuing 12 months are to be determined by the bush fire brigade at the annual general meeting.
- (2) Subject to subclause (3), a member is to pay the membership fees for her or his type of membership on or before 1 May.
- (3) The bush fire brigade may exempt a brigade member, or a class of membership, from the payment of membership fees, for such period and on such conditions as the bush fire brigade may determine.

### **7.2 Funds**

The funds of the bush fire brigade are to be used solely for the purpose of promoting the objects of the bush fire brigade.

### **7.3 Financial year**

The financial year of the bush fire brigade is to commence on 1 July and is to end on 30 June of the following year.

### **7.4 Banking**

- (1) The funds of the bush fire brigade are to be placed in a bank account and are to be drawn on only by cheques signed jointly by any 2 of the Captain, Secretary or Treasurer.
- (2) If the Secretary/Treasurer is a combined position, the Captain and Secretary/Treasurer are to sign the cheques referred to in subclause (1).

## **7.5 Disclosure of interests**

- (1) A brigade member shall disclose to the bush fire brigade or Committee any financial interest (whether direct or indirect) he or she may have in any matter being considered by the bush fire brigade or Committee, as appropriate.
- (2) If a financial interest has been disclosed under subclause (1), then the bush fire brigade or Committee, as appropriate, is to decide, in the absence of the brigade member who disclosed that interest, whether or not the brigade member is to be permitted to vote on that matter.
- (3) Where the bush fire brigade or Committee, as appropriate, decides under subclause (2), that a brigade member is not to be permitted to vote on a matter, and the brigade member votes on the matter, then her or his vote is to be taken to have no effect and is not to be counted.

## **7.6 Disagreements**

- (1) Any disagreement between brigade members may be referred to either the Captain or to the Committee.
- (2) Where a disagreement in subclause (1) is considered by the Captain or the Committee to be of importance to the interests of the bush fire brigade, then the Captain or the Committee, as the case may be, is to refer the disagreement to the annual general meeting, an ordinary meeting or a special meeting of the bush fire brigade.
- (3) The local government is the final authority on matters affecting the bush fire brigade, and may resolve any disagreement which is not resolved under subclause (1) or (2).

# **PART 8 – NOTICES AND PROXIES**

## **8.1 Notices**

- (1) Notices of meetings of the bush fire brigade are to be in writing and sent by ordinary post to the registered address of each brigade member.
- (2) Notices of meetings of the Committee may be given in writing in accordance with subclause (1) or by such other means as the Committee may decide (by an absolute majority) at a meeting of the Committee.
- (3) Any accidental omission to give notice of a meeting to, or non-receipt by a person entitled to receive such notice, is not to invalidate the meeting the subject of the notice or any resolutions passed at the meeting.
- (4) Where any notice other than a notice of meeting is to be given under these Rules, the notice is to be –
  - (a) in writing;
  - (b) unless otherwise specified, given to or by the Secretary;
  - (c) given by –
    - (i) personal delivery;
    - (ii) post; or
    - (iii) facsimile transmission;
  - (d) taken to have been received, as the case may be –
    - (i) at the time of personal delivery;
    - (ii) 2 business days after posting; or
    - (iii) on the printing of the sender's transmission report.

## **8.2 Proxies**

- (1) Where under these Rules a brigade member may vote by proxy, in order for the proxy to so vote, the brigade member or the proxy shall give a notice in the form of that appearing in this clause, to the Secretary or the person presiding at the meeting before the start of the meeting at which the proxy is to be used.
- (2) A proxy is to be valid for the meeting for which it is given and for any adjournments of that meeting.
- (3) A proxy shall be valid for the number of votes to which the brigade member is entitled.
- (4) If the donor of the proxy does not give any indication of the manner in which the proxy is to vote, the proxy shall be entitled to vote or not vote as he or she thinks fit.
- (5) A proxy shall be entitled to speak on behalf of the donor of the proxy.
- (6) All forms appointing proxies deposited under subclause (1) are to be retained by the Secretary for not less than 28 days after the conclusion of the meeting to which they relate but if there is any objection to the validity of any vote at the meeting, they are to be retained until the determination of that objection.
- (7) The form appointing a proxy shall be in writing and signed by the brigade member appointing the proxy and shall be in or substantially in the form set out below -

**“PROXY**

**[INSERT NAME] BUSH FIRE BRIGADE**

**[ANNUAL] [EXTRAORDINARY] GENERAL MEETING  
TO BE HELD ON [DATE]**

I, \_\_\_\_\_,  
Being a brigade member appoint \_\_\_\_\_  
to be my proxy and vote on my behalf at the meeting of  
the bush fire brigade to be held on [insert date] and at any  
adjournment of it. The proxy shall vote as follows:

MOTION           FOR   AGAINST   ABSTAIN

1. ....
2. ....

If there is no instruction to the proxy as to the way to vote,  
the proxy shall exercise her or his discretion as to how to  
vote or whether to vote at all. In respect of any vote taken  
at the meeting on a matter which does not appear on the  
agenda, the proxy shall exercise her or his discretion as to  
the way he or she casts the vote or whether it is cast at all.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

NOTE: To be valid this proxy must be completed and  
returned to the Secretary of the bush fire brigade (or the  
presiding member) prior to the commencement of the  
meeting for which the proxy is valid.

Dated this     day of                    200 .....

APPENDIX I

APPLICATION FOR MEMBERSHIP - FIRE FIGHTING MEMBER

I make application to be a fire fighting member of the Bush Fire Brigade.

Applicant's Name .....

My private address is .....

My business address is .....

Usual Occupation .....

I can be contacted on:

Telephone No: (Home).....(Work)..... Mobile .....

Fax No: ..... (Home)..... (Work) .....

CB Radio..... Channel..... Call Sign.....

If needed, I can provide my own transport to the scene of any outbreak. (This line to be struck out if not applicable)

I hold a current driver's licence No ..... Classes

I declare that I am at least 16 years of age and in good health with no known medical conditions which might limit my capacity to fight fires.

I give these undertakings –

- (1) to promote the objects of the bush fire brigade as far as is in my power;
(2) to be governed by the provisions of the Bush Fires Act 1954 and the Regulations made under that Act, and the local law and policies of the [insert name of local government]relevant to fire control and bush fire brigades;
(3) to use my best endeavours to give assistance in fire fighting measures when called upon and on such occasions to obey all orders and instructions issued by duly authorized officers of the bush fire brigade or the local government;
(4) to comply with the Rules of the bush fire brigade.

Date .....

Applicant's signature

Please list here any fire fighting equipment owned by you.

- 1. ....
2. ....
3. ....

BUSH FIRE BRIGADE USE ONLY:
APPROVED / DECLINED
Signed: .....
Brigade Captain

**APPENDIX II  
APPLICATION FOR MEMBERSHIP - ASSOCIATE MEMBER**

I make application to be an associate member of the ..... Bush Fire Brigade.

- (a) I am prepared to offer to transport fire fighting members and/or equipment to the scene of any outbreak when called upon. I have a motor vehicle of the following type ..... available for such purpose.

MDL No: ..... Classes: .....

- (b) I am prepared to offer my services in the following capacity:-

.....  
 .....  
 (paragraph (a) or (b) above may be struck out if not applicable)

Applicant's Name .....

My private address is .....

My business address is .....

I can be contacted on:

Telephone No: .....(Home) ..... (Work).....Mobile

Fax No: .....(Home) .....(Work).....

CB Radio: ..... Channel ..... Call Sign.....

I give these undertakings –

- (1) to promote the objects of the bush fire brigade as far as is in my power;
- (2) to be governed by the provisions of the *Bush Fires Act 1954* and any Regulations made under the Act and the local law and policies of the *[insert name of local government]* relevant to fire control and bush fire brigades;
- (3) to use my best endeavours to assist in normal bush fire brigade activities as an associate member when called upon;
- (4) to comply with the Rules of the bush fire brigade.

Date .....  
 .....  
 Applicant's signature

|                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>BUSH FIRE BRIGADE USE ONLY:</b></p> <p style="font-size: 1.2em; margin: 20px 0;">APPROVED / DECLINED</p> <p>Signed: .....</p> |
|-------------------------------------------------------------------------------------------------------------------------------------|

**APPENDIX III  
APPLICATION FOR MEMBERSHIP - CADET MEMBER**

I make application to be a cadet member of the ..... Bush Fire Brigade.

Applicant's Name .....

My private address is .....

I can be contacted on:

Telephone No: ..... (Home) .....(Work)

Fax No: ..... (Home)

CB Radio: .....Channel ..... Call Sign .....

I declare that I am ..... years of age and in good health.

Date of Birth: .....

I give these undertakings –

- (1) to promote the objects of the bush fire brigade as far as is in my power;
- (2) to be governed by the provisions of the *Bush Fires Act 1954* and the Regulations made under that Act, and the local law and policies of the *[insert name of local government]* relevant to the activities of cadet members;
- (3) to obey all orders and instructions issued by duly authorized officers of the bush fire brigade or the local government;
- (4) to comply with the Rules of the bush fire brigade.

Date .....

Applicant's signature

**PARENT / GUARDIAN CONSENT:**

I ..... being the parent/guardian of the above applicant, consent to him/her being a cadet member of the ..... Bush Fire Brigade, in accordance with the rules applicable to cadet membership.

Signed .....

|                                    |
|------------------------------------|
| <b>BUSH FIRE BRIGADE USE ONLY:</b> |
| APPROVED / DECLINED                |
| Signed: .....                      |
| Brigade Captain                    |

### 12.02.3. Fencing Local Law 2016

|                                 |                                                 |
|---------------------------------|-------------------------------------------------|
| <b>DATE:</b>                    | 28 June 2016                                    |
| <b>AUTHOR:</b>                  | Lisa Hannagan, Senior Governance & Risk Officer |
| <b>RESPONSIBLE OFFICER:</b>     | Carl Askew, Chief Executive Officer             |
| <b>DISCLOSURE OF INTERESTS:</b> | Nil                                             |

#### VOTING REQUIREMENT

Simple Majority

#### OFFICER'S RECOMMENDATION

That Council, pursuant to Section 3.12 of the *Local Government Act 1995*, give state-wide public notice that intends to make the Shire of Wyndham East Kimberley Fencing Local Law 2016 as contained in the attachment to this item, the purpose of which is to prescribe a sufficient fence and the standard for the construction of fences throughout the district. The effect of this Local Law is to establish the minimum requirements for fencing within the district.

#### COUNCIL DECISION

Minute No: 11394

Moved: Cr K Wright

Seconded: Cr S Cooke

That Council, pursuant to Section 3.12 of the *Local Government Act 1995*, give state-wide public notice that intends to make the Shire of Wyndham East Kimberley Fencing Local Law 2016 as contained in the attachment to this item, the purpose of which is to prescribe a sufficient fence and the standard for the construction of fences throughout the district. The effect of this Local Law is to establish the minimum requirements for fencing within the district.

Carried 9/0

#### PURPOSE

Section 3.5 of the *Local Government Act 1995 (LGA)* provides the power for local government to make Local Laws and prescribing all matters that are required or permitted to be prescribed by a Local Law, or are necessary or convenient for it to perform any of its functions.

The purpose of the Fencing Local Law 2016 is to prescribe a sufficient fence and the

standard for the construction of fences throughout the district. The effect of this Local Law is to establish the minimum requirements for fencing within the district.

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

Leader - plan and provide direction through policy and practices

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

The Fencing Local Law 2003 was gazetted on 3 December 2003. The purpose of the local law is to make provisions about fencing in the district.

The proposed Fencing Local Law 2016 is based on a WALGA model and therefore ensures that there will be no inconsistencies with any other legislation.

### **STATUTORY IMPLICATIONS**

Section 3.12 of the *Local Government Act 1995* specified the procedures to be followed when making a Local Law. Section 3.12 states:

#### **3.12 Procedure for making a Local Law**

- (1) *In making a Local Law a local government is to follow the procedure described in this section, in sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed Local Law in the prescribed manner.*
- (3) *The local government is to:*
  - (a) *give statewide public notice stating that -*
    - (i) *the local government proposes to make a Local Law, the purpose and effect of which is summarised in the notice;*
    - (ii) *a copy of the proposed Local Law may be inspected or obtained at any place specified in the notice; and*
    - (iii) *submissions about the proposed Local Law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is being given.*
  - (b) *As soon as the notice is given, give a copy of the proposed Local Law and a copy of the notice to the Minister and, if another Minister administers the Act under which a Local Law is proposed to be made, to that other Minister; and*
  - (c) *provide a copy of the proposed Local Law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under sub-section (3) is also to be published and exhibited as if it were a local public notice.*

### **POLICY IMPLICATIONS**

There are no identified policy implications in relation to this matter.

## **FINANCIAL IMPLICATIONS**

Statutory advertising of the proposed Local Law will incur costs estimated at \$1,000.

## **STRATEGIC IMPLICATIONS**

*Strategic Community Plan 2012-2022*

Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities.

Objective 1.4: Business innovation, efficiency and improved services

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.

## **COMMUNITY ENGAGEMENT**

Engagement will take place in accordance with the Shire's Community Engagement Guidelines and will include:

- Local and state-wide notice of the Proposed Local Law;
- A submission period of 42 days allowed, not including the first day of advertising or the last day of advertising;
- Consideration of any submissions made during the period; and
- The Shire has developed a page on its website with information about Local Laws, access to the proposed Local Law and additional information on how to make a submission.

## **COMMENTS**

Council have reviewed the proposed Fencing Local Law 2016 at the briefing held 14 June 2016.

No changes were suggested to the proposed Fencing Local Law 2016 and the attached document is the proposed Local Law.

## **ATTACHMENTS - Item 12.02.3**

Attachment 1 - Proposed Fencing Local Law 2016

Attachment 2 - Notice for proposed Fencing Local Law 2016

## LOCAL GOVERNMENT ACT 1995

[SHIRE OF WYNDHAM EAST KIMBERLEY]

### FENCING LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the *Shire of Wyndham East Kimberley* resolved on [insert date] to make the following local law.

#### PART 1—PRELIMINARY

##### 1.1 Citation

This local law is the *Shire of Wyndham East Kimberley Fencing Local Law 2016*.

**1.2 Application of Local Laws has been moved to 1.4 in this model**

##### 1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

**1.3 Interpretation has been removed and is covered in “1.6 Definitions” of this model**

##### 1.3 Purpose and effect

- (1) The purpose of this local law is to prescribe a sufficient fence and the standard for the construction of fences throughout the district.
- (2) The effect of this local law is to establish the minimum requirements for fencing within the district.

**1.4 Objectives has been removed**

##### 1.4 Application

This local law applies throughout the district.

**1.5 Licence fees and charges has been moved to 1.7 in this model**

##### 1.5 Repeal

The *Shire of Wyndham East Kimberley Local Laws relating to Fencing 2003* published in the *Government Gazette* on [insert date] is repealed.

##### 1.6 Definitions

In this local law —

*Act* means the *Dividing Fences Act 1961*;

*applicant* means a person who makes an application for approval under this local law;

*AS or AS/NZS* means an Australian or Australian/New Zealand Standard as published by Standards Australia and as amended from time to time.

*Barbed wire fence* means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

*boundary fence* has the meaning given to it by the Act;

**“Boundary” has been removed**

**Building Surveyor** means a Building Surveyor of the local government;

**CEO** means the Chief Executive Officer of the local government;

**Commercial Lot** means a lot where a commercial use—

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

**dangerous** in relation to any fence means—

- (a) an electrified fence other than a fence approved by the local government under this local law;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

**district** means the district of the local government;

**district planning scheme** means a local planning scheme of the local government made under the *Planning and Development Act 2005*;

**dividing fence** has the meaning given to it by the Act;

**electrified fence** means a fence carrying or designed to carry an electric charge;

**fence** means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

**front boundary** means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare, the boundary line between the lot and the primary thoroughfare;

**front fence** means a fence erected on the front boundary of a lot or on a line adjacent to the front boundary;

**front setback area** means the area between the building line of a lot and the front boundary of that lot;

**height** in relation to a fence means the vertical distance between—

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

**“Industrial and Commercial Zone” has been removed**

**Industrial Lot** means a lot where an industrial use—

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

**licence** means an electrified fence licence or a razor wire fence licence;

**local government** means the *Shire of Wyndham East Kimberley*;

**local government property** means anything except a thoroughfare—

- (a) which belongs to the local government;

- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an “otherwise unvested facility” under section 3.53 of the *Local Government Act 1995*;

**lot** has the meaning given to it in and for the purposes of the *Planning and Development Act 2005*;

**notice of breach** means a notice referred to in clause 5.1;

**occupier** has the meaning given to it in the *Local Government Act 1995*;

**owner** has the meaning given to it in the *Local Government Act 1995*;

**razor wire fence** means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;

**“Residential Zone” has been removed**

**Residential Lot** means a lot where a residential use—

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

**retaining wall** means any structure which prevents the movement of soil or retains soil or structures in order to allow ground levels of different elevations to exist adjacent to one another;

**Rural Lot** means a lot where a rural use—

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

**“Rural Zone” has been removed**

**Schedule** means a Schedule to this local law;

**“Sheet” has been removed**

**Special Rural Lot** means a lot where a special rural use—

- (a) is or may be permitted under the district planning scheme; and
- (b) is or will be the predominant use of the lot;

**sufficient fence** means a fence described in clause 2.1

**thoroughfare** has the meaning given to it by the *Local Government Act 1995*, but does not include a private thoroughfare which is not under the management or control of the local government.

**“Thoroughfare Alignment” has been removed**

**Town Planning Scheme” has been removed**

## 1.7 Licence fees and charges

All licence fees and charges applicable under this local law shall be determined by the local government from time to time in accordance with section 6.16 of the *Local Government Act 1995*.

### PART 2—FENCES

#### *Division 1—Sufficient fences*

## **2.1 Sufficient fences**

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to subclauses (3) and (4), a sufficient fence—
  - (a) on a Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;
  - (b) on a Commercial Lot and on an Industrial Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3; and
  - (c) on a Rural Lot and on a Special Rural Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 4.
- (3) Where a fence is erected on or near the boundary between—
  - (a) a Residential Lot and an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;
  - (b) a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 3;
  - (c) a Residential Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4;
  - (d) a Residential Lot and a Special Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4; and
  - (e) a Special Rural Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4.
- (4) An application must be made to the local government for grant of consent to any variation to the specifications in Schedules 2, 3 and 4.
- (5) Unless an authorised person determines otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of Schedule 2.
- (6) Notwithstanding any other provision in this local law, a dividing fence or boundary fence constructed of masonry, stone or concrete shall be a sufficient fence only if it is designed by a suitably qualified structural engineer and constructed in accordance with that design where—
  - (a) it is greater than 1 800 millimetres in height; or
  - (b) the Building Surveyor so requires.
- (7) Notwithstanding any other provision in this local law, a dividing fence or boundary fence shall not exceed 1 800 millimetres in height unless the approval of the local government has been obtained for such a fence.

### *Division 2—General*

## **2.2 Fences within front setback areas**

- (1) A person shall not, without the written consent of the Building Surveyor, erect a free-standing fence greater than 1 200 millimetres in height, within the front set-back area of a Residential Lot within the district.
- (2) The Building Surveyor may approve the erection of a fence of a height greater than 1 200 millimetres in the front setback area of a Residential Lot only if the fence on each side of the driveway into the lot across the front boundary is to be angled into the lot for a distance of not less than 1 500 millimetres along the frontage to a distance of not less than 1 500 millimetres from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.
- (3) The provision of subclause (2) shall not apply to a fence—
  - (a) of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare; or

### **2.3 Gates in fences**

- (1) A person shall not erect a gate in a fence which does not—
  - (a) open into the lot; or
  - (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed.

### **2.4 Depositing fencing material on public place**

A person shall not deposit or permit the deposit of any materials whatsoever used in the construction or maintenance of any fence, on any thoroughfare, public place or local government property unless the approval of the local government has been obtained.

### **2.5 Fences on a Rural Lot**

A person shall not, without the written consent of the Building Surveyor, erect a fence on a Rural Lot of a height exceeding 1 500 millimetres.

### **2.6 Maintenance of fences**

An owner of a lot on which a fence is erected shall maintain the fence in good condition so as to prevent it from becoming dangerous, dilapidated, or unsightly to the amenity of the locality.

### **2.7 Fences across rights-of-way, public access ways or thoroughfares**

A person must not, without the approval of the local government, erect or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or thoroughfare so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.

## **2.8 General discretion of the local government**

- (1) Notwithstanding the provisions of clause 2.1, the local government may approve the erection or repair of a dividing fence which is not a sufficient fence where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose.
- (2) In determining whether to grant its approval under subclause (1), the local government may consider whether the erection or retention of the fence would have an adverse effect on—
  - (a) the safe or convenient use of any land;
  - (b) the safety or convenience of any person; or
  - (c) the visual amenity of the locality.

### *Division 3—Fencing materials*

Where required by the Building Surveyor, fencing designs are to be certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions - General principles.

## **2.9 Pre-used fencing materials**

- (1) Notwithstanding clause 2.1, a person shall not construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from pre-used materials without the approval of the local government.
- (2) Where the local government approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant painting or treating the pre-used material as directed by the Building Surveyor.

## **2.10 Barbed wire fences and spiked or jagged materials**

- (1) This clause does not apply to a fence constructed wholly or partly of razor wire.
- (2) An owner or occupier of a Residential Lot or a Commercial Lot shall not erect, affix or allow to remain on any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the local government has been obtained.
- (3) An owner or occupier of an Industrial Lot shall not erect, affix or allow to remain on any fence bounding that lot any barbed wire or other materials with spiked or jagged projections unless the wire or other materials are carried on posts at an angle of 45 degrees, and unless the bottom row of wire or other materials is setback 150mm from the face of the fence and is not nearer than 2000mm from the ground level.
- (4) If the posts which carry the barbed wire or other materials referred to in subclause (3) are angled towards the outside of the lot bounded by the fence, the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.
- (5) An owner or occupier of a lot shall not erect, affix or allow to remain as part of any fence or wall, whether internal or external, on that lot any broken glass.
  - (6) An owner or occupier of a Rural Lot shall not erect, affix or allow to remain any barbed wire upon a fence on that lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

## **2.11 Electrified and razor wire fences**

- (1) An owner or occupier of a lot shall not—
  - (a) construct or use an electrified fence on that lot without obtaining the approval of the local government in the form prescribed in Schedule 5; or
  - (b) construct a fence wholly or partly of razor wire on that lot without obtaining the approval of the local government in the form prescribed in Schedule 6.
- (2) The local government shall not approve an application for the purpose of subclause (1)(a)—
  - (a) in respect of a lot which is or which abuts a Residential Lot;
  - (b) unless the prohibited fence complies with “AS/NZS 3016:2002 Electrical installations—Electricity security fences”; and
  - (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.
- (3) The local government shall not approve an application for the purpose of subclause (1)(b)—
  - (a) if the fence is within 3 000 millimetres of the boundary of the lot; or
  - (b) where any razor wire used in the construction of the fence is less than 2 000 millimetres or more than 2 400 millimetres above the ground level.
- (4) An application for approval for the purpose of subclauses (1)(a) or (1)(b) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

## **2.12 Prohibited fencing materials**

A person shall not affix or use broken glass in the construction of any fence.

## **PART 3—APPROVALS**

### **3.1 Application for approval**

- (1) Where a person is required to obtain the approval of the local government under this local law, that person shall apply for approval in accordance with subclause (2).
- (2) An application for approval under this local law shall—
  - (a) be in the form determined by the local government;
  - (b) be signed by the applicant and the owner of the lot;
  - (c) provide the information required by the form; and
  - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.19 of the *Local Government Act 1995*.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

### **3.2 Decision on application for approval**

- (1) The local government may—
  - (a) approve an application for approval unconditionally or subject to any conditions; or
  - (b) refuse to approve an application for approval.
- (2) If the local government approves an application for approval, it is to issue to the applicant an approval in the form determined by the local government.
- (3) If the local government refuses to approve an application for approval, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on an approval or which are to be taken to be imposed on an approval, the clause does not limit the power of the local government to impose other conditions on the approval under subclause (1)(a).

### **3.3 Compliance with approval**

Where an application for approval has been approved, the applicant and the owner or occupier of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.

### **3.4 Duration of approval**

Unless otherwise stated in the form of approval, an approval granted under this local law—

- (a) runs with the lot to which it relates;
- (b) may be relied upon by any subsequent occupier or owner of the lot; and
- (c) may be enforced by the local government against a subsequent occupier or owner of the lot.

## **PART 4—MISCELLANEOUS**

### **4.1 False or misleading statement**

A person shall not make a false or misleading statement in connection with any application, requirement or request under this local law.

## **PART 5—NOTICES OF BREACH**

### **5.1 Notices of breach**

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner of that lot.
- (2) A notice of breach shall—
  - (a) specify the provision of this local law which has been breached;
  - (b) specify the particulars of the breach; and
  - (c) state that the owner is required to remedy the breach within the time specified in the notice.

- (3) Should an owner fail to comply with a notice of breach, the local government may, by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner of the lot in a court of competent jurisdiction.
- (4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any entry on to land will be in accordance with Part 3, Division 3 of that Act.

## **PART 6—OFFENCES**

### **6.1 Offences and penalties**

- (1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.
- (2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a penalty of not less than \$250 and not exceeding \$5 000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

### **6.2 Modified penalties**

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.
- (2) The amount appearing in the final column of Schedule 1, directly opposite a prescribed offence in that Schedule, is the modified penalty for that prescribed offence.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—
  - (a) commission of the prescribed offence is a relatively minor matter; and
  - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

### **6.3 Form of notices**

For the purposes of this local law—

- (a) the form of the infringement notice referred to in sections 9.16 and 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

## **PART 7—OBJECTIONS AND REVIEW**

### **7.1 Objections and review**

When the local government makes a decision under clause 3.2, the provision of Part 9 Division 1 of the *Local Government Act 1995*, and regulation 33 of the *Local Government (Functions and General) Regulations 1996*, apply to that decision.

---

*Schedule 1*  
**OFFENCES AND MODIFIED PENALTIES**  
 [clause 6.2(2)]

| <b>Item No</b> | <b>Clause No.</b> | <b>Nature of offence</b>                                                                                                                            | <b>Modified penalties<br/>\$</b> |
|----------------|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| <b>1</b>       | 2.1(1)            | Erect a fence which is not a sufficient fence                                                                                                       | <b>250</b>                       |
| <b>2</b>       | 2.2               | Erect a fence greater than 1 200mm in height within a front setback area without the written consent of the Building Surveyor                       | <b>250</b>                       |
| <b>3</b>       | 2.3(a)            | Erect a gate in a fence not opening into the lot                                                                                                    | <b>200</b>                       |
| <b>4</b>       | 2.3(b)            | Erect a gate in a fence not sliding parallel and inside a fence                                                                                     | <b>200</b>                       |
| <b>5</b>       | 2.6               | Failure to maintain a fence in good condition to prevent the fence becoming dangerous, dilapidated or unsightly                                     | <b>250</b>                       |
| <b>6</b>       | 2.7               | Erect or maintain a fence or obstruction of temporary or permanent nature across a right-of way, public access way or thoroughfare without approval | <b>250</b>                       |
| <b>7</b>       | 2.9(1)            | Construct a dividing fence on a Residential, Commercial or Industrial Lot from pre-used materials without written approval                          | <b>250</b>                       |
| <b>8</b>       | 2.10(2)           | Erect a fence using barbed wire or material with spiked or jagged projections in the fence construction without approval                            | <b>250</b>                       |
| <b>9</b>       | 2.11(1)           | Construct, erect or use razor wire in a fence or electrify a fence without approval                                                                 | <b>250</b>                       |
| <b>10</b>      | 2.12              | Affix, or use, any broken glass in a fence                                                                                                          | <b>250</b>                       |
| <b>11</b>      | 3.3               | Failure to comply with terms or conditions of approval                                                                                              | <b>250</b>                       |
| <b>12</b>      | 6.1               | Failure to comply with notice of breach                                                                                                             | <b>250</b>                       |

## *Schedule 2*

### **SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT**

[clause 2.1(2)(a)]

Each of the identified categories in this Schedule is a sufficient fence on a Residential Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with AS/NZS 1170.0:2002 Structural design actions - General principles.

#### **Timber fence**

- (a) corner posts to be 125mm x 125mm x 2 400mm and intermediate posts to be 125mm x 75mm x 2 400mm spaced at 2 400mm centres;
- (b) corner posts to be struted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
- (c) intermediate posts to be doubled yankee struted with 150mm x 25mm x 450mm struts; (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
- (d) rails to be 75mm x 50mm with each rail spanning 2 bays of fencing double railed or bolted to each post with joints staggered;
- (e) the fence to be covered with 75mm x 20mm sawn pickets, 1 800mm in height placed 75mm apart and affixed securely to each rail; and
- (f) the height of the fence to be 1 800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.

#### **Corrugated fence**

A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting constructed to manufacturer's specifications or which satisfies the following specifications—

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
- (c) the sheets to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be 1 800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.

#### **Brick, stone or concrete fence**

A fence constructed of brick, stone or concrete, which satisfies the following requirements and specifications—

- (a) a site classification is to be provided by a professional engineer in accordance with AS 2870-2011 Residential slabs and footings as amended;
- (b) the footing is to be designed in accordance with AS 2870-2011 Residential slabs and footings as amended;
- (c) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
- (d) fences to be offset a minimum of 200mm at maximum 3 000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3 000mm centres;
- (e) expansion joints in accordance with the manufacturer's written instructions; and
- (f) the height of the fence to be 1 800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

### **Composite fence**

A composite fence which satisfies the following specifications for the brick construction—

- (1)
    - (a) brick piers of minimum 345mm x 345mm at 1 800mm centres bonded to a minimum height base wall of 514mm;
    - (b) each pier shall be reinforced with one R10 galvanised starting rod 1 500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
    - (c) the minimum ultimate strength of brickwork shall be 20MPa. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
    - (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer; and
    - (e) control joints in brickwork shall be provided with double piers at a maximum of 6-metre centres;

or

  - (2)
    - (a) brick piers of a minimum 345mm x 345mm x 2 700mm centres bonded to the base wall; and
    - (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified.
-

### *Schedule 3*

## **SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT OR AN INDUSTRIAL LOT**

[clause 2.1(2)(b)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated, is a sufficient fence on a Commercial Lot or an Industrial Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions - General principles.

### **Galvanised or PVC fence and gate**

A fence constructed of galvanised or PVC coated non-rail link mesh, chain mesh or steel mesh which satisfies the following specifications—

- (a) corner posts to be minimum 50mm nominal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
- (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres and with footings of a 225mm diameter x 600mm;
- (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and 2 at each corner post and with footings 225mm x 600mm;
- (d) cables to be affixed to the top, centre and bottom of all posts and to consist of 2 or more 3.15mm wires twisted together or single 4mm wire;
- (e) non-rail link, chain or steel mesh is to be to a height of 2 000mm on top of which are to be 3 strands of barbed wire carrying the fence to a height of 2 400mm in accordance with the requirements and standards of the local planning schemes; and
- (f) galvanised link mesh wire to be 2 000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with 1 horizontal and 1 vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.

### **Other fences**

- (a) a fence of cement sheet or steel sheeting constructed to the minimum specifications referred to in Schedule 2;
- (b) a fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1 800mm but no greater than 2 400mm; or
- (c) a fence of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 2.

#### *Schedule 4*

### **SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT OR SPECIAL RURAL LOT**

[clause 2.1(2)(c)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated is a sufficient fence on a Rural Lot or a Special Rural Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions - General principles.

#### **Non-electrified fence**

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of 5 wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases.
- (b) posts shall be of indigenous timber or other suitable material including—
  - (i) timber impregnated with a termite and fungicidal preservative;
  - (ii) standard iron star pickets; or
  - (iii) concrete;
- (c) cut not less than 1 800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn.
- (d) posts to be set minimum 600mm in the ground and 1 200mm above the ground; and
- (e) strainer posts shall be not less than 2 250mm long and 150mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1 000mm in the ground.

#### **Electrified fence**

An electrified fence having 4 wires is a sufficient fence if constructed generally in accordance with a non-electrified fence.

*Schedule 5*

**LICENCE FOR APPROVED ELECTRIFIED FENCE**

[clause 2.11(1)(a)]

This is to certify that

(1) \_\_\_\_\_

of (2)

\_\_\_\_\_ is licensed, subject to the conditions set out below, to have and use an electrified fence on

\_\_\_\_\_

(address)

from \_\_\_\_\_ 20 \_\_\_\_\_ and until this licence is transferred or cancelled.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Chief Executive Officer,  
*[insert name of local government]*.

**Conditions of Licence—**

The holder of the licence must—

- (a) display the licence in a prominent position on the land or premises on which the electrified fence has been erected;
- (b) upon the request of a Building Surveyor produce to him or her the licence;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes;
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence; and
- (e) comply with AS/NZS 3016:2002 Electrical installations - Electric security fences.

**Transfer by Endorsement**

This licence is transferred to (3)

\_\_\_\_\_ of (4)

\_\_\_\_\_

\_\_\_\_\_ from and including the date of this endorsement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Chief Executive Officer,  
*[insert name of local government]*.

- \_\_\_\_\_  
(1) Name  
(2) Address  
(3) Name  
(4) Address

*Schedule 6*

**LICENCE FOR APPROVED RAZOR WIRE FENCE**

[clause 2.11(1)(b)]

This is to certify that (1)

\_\_\_\_\_

of (2)

\_\_\_\_\_ is licensed, subject to the conditions set out below, to have a fence constructed wholly or partially of razor wire at

\_\_\_\_\_ (address)

From \_\_\_\_\_ 20\_\_ and until this licence is transferred or cancelled.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Chief Executive Officer,

*[insert name of local government]*

**Conditions of licence—**

- (a) display the licence in a prominent position on the land or premises on which the fence has been erected;
- (b) upon the request of a Building Surveyor produce to him or her the licence;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes; and
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

**Transfer by Endorsement**

This licence is transferred to (3)

\_\_\_\_\_

of (4)

\_\_\_\_\_

from and including the date of this endorsement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
Chief Executive Officer,  
*[insert name of local government]*

- (1) Name
- (2) Address
- (3) Name
- (4) Address

Dated: *[insert date]*

The Common Seal of the *Shire of Wyndham East Kimberley* was affixed by authority of a resolution of the Council in the presence of —

Mayor/President

Chief Executive Officer

#### 12.02.4. Standing Item - Outstanding Actions from Council Resolutions

|                                 |                                      |
|---------------------------------|--------------------------------------|
| <b>DATE:</b>                    | 28 June 2016                         |
| <b>AUTHOR:</b>                  | Meagan Le Riche, Executive Assistant |
| <b>RESPONSIBLE OFFICER:</b>     | Carl Askew, Chief Executive Officer  |
| <b>DISCLOSURE OF INTERESTS:</b> | Nil                                  |

#### **VOTING REQUIREMENT**

Simple Majority

#### **OFFICER'S RECOMMENDATION**

**That Council Notes the report - Outstanding actions from Council Resolutions.**

#### **COUNCIL DECISION**

**Minute No: 11395**

**Moved: Cr N Perry**

**Seconded: Cr B Robinson**

**That Council Notes the report - Outstanding actions from Council Resolutions.**

**Carried 9/0**

#### **PURPOSE**

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

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

Leader - plan and provide direction through policy and practices

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

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

#### **STATUTORY IMPLICATIONS**

NIL

## **POLICY IMPLICATIONS**

NIL

## **FINANCIAL IMPLICATIONS**

Not applicable as referenced in individual reports presented.

## **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 services

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

## **RISK IMPLICATIONS**

NIL

## **COMMUNITY ENGAGEMENT**

No community engagement is required.

## **COMMENTS**

This report includes actions from May resolutions (Attachment 1). Attachment 2 summarises all actions that are outstanding from previous Council resolutions (before June 2016).

## **ATTACHMENTS - Item 12.02.4**

Attachment 1 - Actions from May Resolutions

Attachment 2 - Outstanding Actions from Previous Council Resolutions

| Meeting      | Responsible Officer | Item                                                                       | Resolution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Progress Comment                                                                                               | Date Actioned | Completed   |
|--------------|---------------------|----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|---------------|-------------|
| OCM 31/05/16 | Carl Askew          | Minutes of Special Council Meeting 5/04/2016                               | That Council defer the confirmation of the Minutes of the Special Council Meeting held on 5 April 2016 until clarification has been sought from the Department of Local Government and Communities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Email sent to DLGC 9/06/2016. Response received 9/06/2016                                                      | 10-Jun-16     | completed   |
| OCM 31/05/16 | Carl Askew          | Show Cause notice                                                          | That Council instruct the CEO to respond to the Minister for Local Government acknowledging the issues raised in the Show Cause Notice and accepting the proposed intervention. (mandatory)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Letter of response sent 1/06/2016                                                                              | 01-Jun-16     | Completed   |
| OCM 31/05/16 | Natalie Octoman     | Our Town Television Show                                                   | That Council refer for consideration in the 2016/17 Budget an allocation of \$20,000 as a contribution towards the production of an episode of Our Town, subject to financial support from other organisations within the Shire of Wyndham East Kimberley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Will be presented to Council as part of the budget when considering the feedback from the community in July.   | 21-Jun-16     | In progress |
| OCM 31/05/16 | Carl Askew          | Delegation 7 - Expressions of Interest and Tenders                         | That Council amend Delegation 7 "Expressions of Interest and Tenders" to reflect changes at part 2 and 6 and new parts 7 and 8 in accordance with Regulation 18 and 20 of the Local Government Act (Functions and General) Regulations 1996                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Delegation has been approved and updated                                                                       | 20-Jun-16     | Complete    |
| OCM 31/05/16 | Louise Gee          | Application for Temporary Licence - Kununurra Race Club                    | That Council grant a temporary caravan park licence to the Kununurra Race Club for 10 short stay sites and 11 campsites from 3 August to 30 August 2016 subject to the following conditions:<br><ol style="list-style-type: none"> <li>1. Only event participants and staff associated with the Kununurra Race Club events are to be accommodated in the park.</li> <li>2. The following minimum ablution facilities are to be available for the duration of the licence: 2 toilets 1 hand basin and 1 shower.</li> <li>3. All wastewater (including sullage water) is to be collected and disposed of at an approved wastewater dump point.</li> <li>4. Rubbish bins are to be sealed and provided within 90 metres of every site. All rubbish to be removed from site.</li> <li>5. Fire extinguisher/s are to be located within 90 metres of every site.</li> </ol>                             | Temporary Caravan Park Licence issued.                                                                         | 10-Jun-16     | Complete    |
| OCM 31/05/16 | Louise Gee          | Mosquito Management Plan                                                   | That Council endorse the draft Mosquito Management Plan provided in Attachment 2 for public comment for a period of 28 days.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Plan has been advertised for comment                                                                           |               | In progress |
| OCM 31/05/16 | Louise Gee          | Policy Review - CP/PMG 3780 Leasing of Council Managed Reserve - Community | That Council endorse the reviewed CP/PMG 3780 Leasing of Council Managed Reserve Land Community for public advertising for a period of 28 days.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Policy has been advertised and forwarded to all community lessees and potential community lessees for comment. |               | In progress |
| OCM 31/05/16 | Louise Gee          | Request for Approval to Sublease - Ord River Sports Club                   | That Council grants approval for the Ord River Sports Club Inc. Sublease of the caretaker dwelling at Lot 2313 Chestnut Avenue, Kununurra with the following conditions:<br><ol style="list-style-type: none"> <li>1. The execution of the Lease between the Shire of Wyndham East Kimberley and the Ord River Sports Club Inc.</li> <li>2. All terms of the relevant sublease clause within the executed lease are to be met.</li> <li>3. Approval from the Minister of Lands.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                        | Awaiting execution of the lease.                                                                               |               | In progress |
| OCM 31/05/16 | Louise Gee          | Wild West Entertainment Fun Fair Temporary Caravan park Licence            | That Council grant a temporary caravan park licence to Wild West Entertainment for 8 short stay sites in Kununurra and Wyndham from 31 May to 4 June 2016 and 5 June to 9 June 2016 respectively, subject to the following conditions:<br><ol style="list-style-type: none"> <li>1. Only event participants and staff associated with the Carnival are to be accommodated in the park.</li> <li>2. Participants and staff are to utilise the existing ablution facilities at the Kununurra and Wyndham Town Ovals.</li> <li>3. All wastewater (including sullage water) is to be collected and removed from site to be disposed of at an approved wastewater dump point.</li> <li>4. Rubbish bins are to be sealed and provided within 90 metres of every site. All rubbish to be removed from site.</li> <li>5. Fire extinguisher/s are to be located within 90 metres of every site.</li> </ol> | Temporary Caravan Park Licence issued.                                                                         | 10-Jun-16     | Completed   |
| OCM 31/05/16 | Louise Gee          | Community Service Policy Review                                            | That Council:<br><ol style="list-style-type: none"> <li>1. Adopts the reviewed CP/COM 3580 Community Development Policy as detailed in Attachment 1.</li> <li>2. Revokes Council Policy CP/COM 3581 Council Community Facilities Policy.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Policy has been adopted.                                                                                       | 10-Jun-16     | Complete    |

| Meeting      | Responsible Officer | Item                                                                                                    | Resolution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Progress Comment                                                                       | Date Actioned | Completed   |
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| OCM 31/05/16 | Louise Gee          | Unify Gathering - Temporary Caravan Park Licence                                                        | That Council grant a temporary caravan park licence to the Unify Event Group for 50 short stay sites from 17 June to 21 June 2016, subject to the following conditions:<br>1. Only participants and staff associated with the event are to be accommodated in the park.<br>2. The following minimum ablution facilities are to be available for the duration of the licence: 3 toilets, 3 hand basins and 3 showers.<br>3. All wastewater (including sullage water) is to be collected and removed from site to be disposed of at an approved wastewater dump point.<br>4. Rubbish bins are to be sealed and provided within 90 metres of every site. All rubbish to be removed from site.<br>5. Fire extinguisher/s are to be located within 90 metres of every site.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Temporary Caravan Park Licence issued.                                                 | 10-Jun-16     | Completed   |
| OCM 31/05/16 | Louise Gee          | Proposed North Kimberley Marine Park - written submission to public comment period                      | That Council endorses the written submission on the proposed North Kimberley Marine Park - indicative joint management plan 2016 as outlined in Attachment 1.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Response sent.                                                                         | 07-Jun-16     | Completed   |
| OCM 31/05/16 | Louise Gee          | Reduction/waiver of regulated charges for approval of long-life battery smoke detectors in communities. | That Council request the CEO to advise the Department of Housing that the Shire Fee for the approval service of long-life battery smoke detectors will be \$174.40 per building and not as requested per property identity (per community).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Department of Housing advised of Council's resolution.                                 | 10-Jun-16     | Completed   |
| OCM 31/05/16 | Louise Gee          | Request to Sublease Wyndham Childcare Centre                                                            | That Council:<br>1. Authorises an amendment to the Lease for Reserve 28976, 44 Koolama St, Wyndham. This amendment is to remove "for non-profit making community purposes" from clause 24.3 (a), subject to approval from One Tree Community Services and the Minister for Lands.<br>2. 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 long day care child care services.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | All parties notified of the outcome. Amended lease sent to One Tree for authorisation. | 20-Jun-16     | In progress |
| OCM 31/05/16 | Natalie Octoman     | Draft Council Policy CP/FIN-3217 Regional Price Preference for Community Engagement                     | That the Council:<br>1. Endorses the Draft CP/FIN 3217 Regional Price Preference Policy for public comment;<br>2. Endorses statewide public notice of the Shire's intention to adopt a regional price preference policy and invite comment on the draft policy for a four (4) week public comment period; and<br>3. Endorses public consultation in accordance with the community engagement plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Draft Policy is currently out for public comment.                                      | 20-Jun-16     | In progress |
| OCM 31/05/16 | Natalie Octoman     | Revised Council Policy CP/FIN-3204 Purchasing                                                           | That Council adopts the revised Council Policy CP/FIN-3204 Purchasing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Purchasing Policy has been updated and distributed internally.                         | 10-Jun-16     | Completed   |
| OCM 31/05/16 | Natalie Octoman     | Rates Exemptions and Concessions for 2016/17 and 2017/18                                                | That Council:-<br>1. Approves the following rates concessions for the 2016/17 financial year, therefore waiving rates of approximately \$55,894.89 in accordance with the following table:<br><br>Assessment Number Name Concession Applied Estimated Concession Based on 2015/16 Rates<br>A4993 Lake Kununurra Golf Club Inc 100% Concession \$9,406.60<br>A7561 Ord River Sailing Club Inc. 100% Concession \$2,183.68<br>A2859 Kununurra Race Club Inc. 100% Concession \$3,359.50<br>A7620 Kununurra Agricultural Society 100% Concession \$3,487.68<br>A1160 Ord River Sports Club 100% Concession \$9,676.04<br>A1072 Kununurra Progress Association 100% Concession \$20,067.74<br>A502 Wyndham Gardens Inc. 100% Concession \$1,948.75<br>A2866 Ord Pistol Club Inc. 100% Concession \$2,203.83<br>A5621 Kununurra Speedway Inc. 100% Concession \$1,767.10<br>A5616 Kununurra Motorcross Club Inc. 100% Concession \$1,793.97<br>TOTAL \$55,894.89<br><br>2. Notes that the amounts above will be adjusted once the 2016/17 rates are finalised, whereby it is likely that the rates concessions may vary.<br><br>3. Notes that the application for rates concession from Kununurra Water Ski Club was received after the closing date of 31 March 2016 and therefore has not been considered for a rates concession for the 2016/17 year in accordance with Council's Policy.<br><br>4. Notes that eligible organisations that commence a lease with the Shire during the 2016/17 financial year will be considered for a rates concession or exemption for the period from the commencement date of the lease through to 30 June 2018, and that these organisations will be required to submit an | Correspondence is being drafted and will be distributed shortly.                       | 20-Jun-16     | In progress |

| Meeting      | Responsible Officer | Item                                                                                                                                                                                   | Resolution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Progress Comment                                                                                                                                                                                                                                              | Date Actioned | Completed   |
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| OCM 31/05/16 | Natalie Octoman     | Endorsement of the Draft Corporate Business Plan 2016/17 to 2019/20 and the Proposed 2016/17 Annual Budget Including Rates in the Dollar and Minimum Payments for Community Engagement | That Council endorses the Community Engagement Plan (Attachment 1) for the Draft Corporate Business Plan 2016/17 to 2019/20 and the Draft 2016/17 Annual Budget.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Community Engagement Plan is being actioned accordingly.                                                                                                                                                                                                      | 20-Jun-16     | In progress |
| OCM 31/05/16 | Natalie Octoman     | Endorsement of the Draft Corporate Business Plan 2016/17 to 2019/20 and the Proposed 2016/17 Annual Budget Including Rates in the Dollar and Minimum Payments for Community Engagement | <p>That Council endorses for advertising and community engagement for a minimum of twenty-one (21) days and seeks public submissions on:</p> <p>a. The Draft Corporate Business Plan 2016/17 to 2019/20 (Attachment 2);</p> <p>b. Council Policy CP/FIN-3200 Strategic Rating (Attachment 5) that outlines the principles which underpin the proposed 2016/17 rating model, including the Object of and Reasons for Differential Rates;</p> <p>c. The Draft 2016/17 Annual Budget (Attachment 6) which incorporates the Object of and Reasons for Differential Rates, along with the following proposed differential rates and minimum payments to be applied from 1 July 2016 for the 2016/17 financial year in accordance with section 6.36 of the Local Government Act 1995:</p> <p>Differential Rating Category Rate in the Dollar (cents) Minimum Payment</p> <p>GRV Residential 9.5363 \$1,113</p> <p>GRV Other Vacant 14.3045 \$1,113</p> <p>GRV Commercial 12.3972 \$1,113</p> <p>GRV Industrial 11.4436 \$1,113</p> <p>UV Rural Residential 1.0045 \$1,113</p> <p>UV Pastoral 5.4410 \$1,113</p> <p>UV Commercial/Industrial 0.6890 \$1,113</p> <p>UV Rural Agriculture 1 0.9744 \$1,113</p> <p>UV Rural Agriculture 2 0.6890 \$1,113</p> <p>UV Mining 28.2265 \$1,113</p> <p>UV Mining Vacant 14.1132 \$557</p> <p>UV Other 0.6463 \$1,113</p> | <p>Post Box drop undertaken, letters were distributed, public notice complete, online forms complete, public forums held in both Wyndham and Kununurra. Feedback and submissions is still open until 4pm 1 July 2016 to be incorporated into the process.</p> | 20-Jun-16     | In progress |
| OCM 31/05/16 | Natalie Octoman     | Endorsement of the Draft Corporate Business Plan 2016/17 to 2019/20 and the Proposed 2016/17 Annual Budget Including Rates in the Dollar and Minimum Payments for Community Engagement | <p>That Council notes:</p> <p>1. That subsequent to Council consideration of public submissions, approval from the Minister for Local Government and Communities will need to be sought for:</p> <p>a. Imposing a minimum payment on the GRV Other Vacant rating category which results in more than 50% of the properties in this category being subject to minimum payments, in accordance with section 6.35(5) of the Local Government Act 1995; and</p> <p>b. Imposing a rate in the dollar for UV Mining, UV Mining Vacant and UV Pastoral which will result in it being more than twice the lowest differential general rate imposed, in accordance with section 6.33(3) of the Local Government Act 1995.</p> <p>2. That the 2016/17 rate in the dollar and minimum payments proposed, cannot be adopted by the Council for incorporation into the 2016/17 Budget until after Ministerial approval has been provided in accordance with section 6.35(5) and 6.33(3) respectively.</p>                                                                                                                                                                                                                                                                                                                                                             | Note only - no action required at this stage.                                                                                                                                                                                                                 | 20-Jun-16     | Complete    |
| OCM 31/05/16 | David Klye          | Weero Road Speed Limit Review                                                                                                                                                          | <p>That Council request the CEO to contact Main Roads Western Australia seeking a change in road speed limits as follows:</p> <p>1) Change the speed limit to 60 km/h for approximately the first 850 m of Weero Road from Victoria Highway;</p> <p>2) Change the speed limit to 80 km/h for the remainder of the sealed section of Weero Road;</p> <p>3) The unsealed section of Weero Road to remain unchanged at 110 km/h (drive as per the conditions of the road);</p> <p>4) Change the speed limit to 80 km/h for Chamberlain Drive from Weero Road almost to the intersection of Berkeley Court; and</p> <p>5) Change the speed limit to 60 km/h for the remainder of Chamberlain Drive, Pentecost Elbow, Berkeley Crescent and Dysdale Approach.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Letter sent to Main Roads Western Australia                                                                                                                                                                                                                   | 08-Jun-16     | In progress |
| OCM 31/05/16 | David Klye          | Budget Amendment - Vehicle Replacement                                                                                                                                                 | That Council, in accordance with section 6.8 of the Local Government Act, approve the transfer, of \$45,000 from the Airport General Reserve and a transfer to the Airport General Reserve of the insurance value received to a maximum net transfer of \$15,000, for the purpose of replacing WY25767 (a Dual Cab Toyota Hilux 4x4)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Purchase of vehicle in progress.                                                                                                                                                                                                                              |               | In progress |

| Meeting      | Responsible Officer | Item                                                                   | Resolution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Progress Comment                                                                  | Date Actioned | Completed   |
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| OCM 31/05/16 | David Klye          | Extension of Waste Services                                            | <p>That Council request the CEO to continue negotiations with the Shire's waste contractor, ToxFree, and vary the current contract to expand the current waste receptacle pick-up areas to include:</p> <ol style="list-style-type: none"> <li>1) The sealed roads in the areas around Packsaddle, Crossing Falls, Valentines Falls Estates,</li> <li>2) The sealed roads that join Egret Close, Ivanhoe Road, Bull Run Road and Weaber Plain Road; and</li> <li>3) Invite residents who reside on gravel roads near these expanded areas to indicate their interest in receiving this service; to commence from 1 July 2016</li> </ol>                                                                                                                                                                                                           | Contract variation issued. Arrangements being made to extend the collection area. | 01-May-16     | In progress |
| OCM 31/05/16 | Louise Gee          | Application for Temporary Licence - Kununurra Agricultural Showgrounds | <p>That Council grant a temporary caravan park licence to the Kununurra Agricultural Society Incorporated for 14 short stay sites from 13 June - 20 June 2016 subject to the following conditions:</p> <ol style="list-style-type: none"> <li>1. Only event staff associated with the Loritz Circus are to be accommodated in the park.</li> <li>2. The following minimum ablution facilities are to be available for the duration of the licence: 2 toilets 1 hand basin and 1 shower.</li> <li>3. All wastewater (including sullage water) is to be collected and disposed of at an approved wastewater dump point.</li> <li>4. Rubbish bins are to be sealed and provided within 90 metres of every site. All rubbish is to be removed from site.</li> <li>5. Fire extinguisher/s are to be located within 90 metres of every site.</li> </ol> | Temporary Caravan Park Licence issued.                                            | 10-Jun-16     | Completed   |

Attachment 2 - Outstanding Actions from previous Council Meetings

| Meeting      | Responsible Officer | Item                                                                    | Resolution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Progress Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Date Actioned | Completed   |
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| Aug-12       | Louise Gee          | Matters arising from committees of council                              | That the Audit (Finance and Risk) Committee recommends to Council to require A501 to:<br>1. Either<br>a. meet their outstanding rates debt on assessment A501 within 60 days; or<br>b. enter into a suitable payment plan approved by the Chief Executive Officer, and<br>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, with payments commenced. Lease discussions may now commence as the payment plan is in place.                                                                                                                                                                                                                                                                                                                                                                                                                              | Ongoing       | In progress |
| OCM 24/02/15 | Louise Gee          | 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 has been sought from Department of Lands and Department of Parks and Wildlife (DPAW). Further information to be presented to Council at a future 2016 briefing session.                                                                                                                                                                                                                                                                                                                                                               | 20-Nov-15     | In progress |
| OCM 24/03/15 | Louise Gee          | Unnamed Creek Crossing - Victoria Highway                               | That Council:<br>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.<br>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.<br>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. Correspondence received from MG Corporation dated 1 March 2016 advising that the board does not support the formal naming of "Philchowski Crossing", and have nominated an alternative name. Officers are undertaking further research, prior to the matter being considered at a future OCM. | 19-Apr-16     | In progress |
| OCM 28/04/15 | David Klye          | Confidential - Legal Claim                                              | That Council;<br>1. Notes the officer's confidential report and the progress of the General Procedure Claim,<br>2. Directs the CEO, or their delegate, to legally defend the matter on behalf of the Shire in the abovementioned General Procedure Claim,<br>3. Approves sufficient provision in the budget to allow for associated legal fees, and<br>4. Directs the CEO, or their delegate, to provide a report to Council on the status of the matter at the earliest opportunity.                                                                                                                                                                                                                                | Point 2 is still in progress. Issue listed for Hearing on 1 & 2 November 2016.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 26-Jun-15     | In Progress |
| OCM 23/06/15 | David Klye          | 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:<br>1. Prepare a Business Case to support grant opportunities including an application to a future round of the National Stronger Regions Fund;<br>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.                                                                                                                           | Latest revised report was received 13 May 2016. Item to go to Council Briefing Session in July.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 25-Jun-15     | In progress |

| Meeting      | Responsible Officer | Item                                                                 | Resolution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Progress Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Date Actioned | Completed   |
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| OCM 28/07/15 | Louise Gee          | Draft East Lily Creek and Kununurra Civic Centre and Structure Plans | That Council:<br>1. Supports in principle the draft East Lily Creek and draft Kununurra Civic Centre Structure Plans.<br>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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Meeting has been held with Department of Lands, Department of Regional Development, Kimberley Development Commission, Landcorp and Kununurra Chamber of Commerce. Separate discussion with MG Corporation also held. Aquatic and Leisure Facility Preliminary Business Plan discussed at 22 March briefing. Draft Kununurra Civic and East Lily Creek Precinct Structure Plans discussed at 10 May briefing. Report to Council in June 2016 recommending advertising                                                                                                                                                                                                                                                                                                                                | 27-Jan-16     | In progress |
| OCM 28/07/15 | Louise Gee          | 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 Drivers Road Kununurra, subject to the approval of the Minister of Lands.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Letter has been forwarded to Kimberley Action Sports Inc. advising of Council resolution. Draft Lease sent to Kimberley Action Sports 10/2/16                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 17-Aug-15     | In progress |
| OCM 28/07/15 | Louise Gee          | 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. Draft Lease sent to Dragon Boat Club 10/2/16                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 17-Aug-15     | In progress |
| OCM 28/07/15 | Carl Askew          | Mediterranean Fruit Fly Eradication Program                          | That Council consider entering into a Memorandum of Understanding with DAFWA and industry on the following basis:<br>1. DAFWA continues to fund and maintain the current medfly surveillance program.<br>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.<br>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).<br>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.<br>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. | 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.<br>The baiting program is complete and area freedom was reinstated for the area on 5th October. Industry has been notified. Invoice has been paid. 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. | 12-Oct-15     | In progress |

| Meeting      | Responsible Officer | Item                                                                | Resolution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Progress Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Date Actioned | Completed   |
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| OCM 25/08/15 | Louise Gee          | Proposed Gravel Reserves                                            | That Council:<br>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 I837493, and support the realignment of the dedicated road reserve to correspond with the physical location of the constructed King River Road.<br>2. Requests the Chief Executive Officer to advise the Department of Lands that the Shire of Wyndham East Kimberley:<br>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'.<br>b. indemnifies the Minister for Lands against any costs arising from the future act process.<br>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:<br>a. the creation of 'Gravel' reserves over the four areas referred to as 'King River', 'Afghan Cemetery', 'Mt Albany and 'Parry Creek',<br>b. the creation of an easement to provide access to the area referred to as 'Afghan Cemetery'; and<br>c. the realignment of the dedicated road reserve to correspond with the physical location of the constructed King River Road.<br>d. that the estimated total survey costs be acknowledged as \$19,600. | 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. The Senior Planning Officer and Director Infrastructure met again with representatives of the Darwulah Aboriginal Corporation on 18 March 2016. Darwulah Aboriginal Corporation have requested another meeting with the Senior Planning Officer and Shire President. | 01-Jun-16     | In progress |
| OCM 25/08/15 | Louise Gee          | Transient Accommodation - Lot 411 Minjijirra 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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Officers have commenced desktop audit of accommodation on rural properties.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 15-Jan-16     | In progress |
| OCM 22/09/15 | Louise Gee          | 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 Drivers Road Kununurra, subject to the approval of the Minister of Lands.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | KBRA have been notified of the intent to commence negotiations. Draft Lease sent to KBRA 10/2/16                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 01-Oct-15     | In progress |
| OCM 22/09/15 | Louise Gee          | 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 Drivers Road Kununurra, subject to the approval of the Minister of Lands                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | OPC have been notified of the intent to commence negotiations. Draft Lease has been sent to the Pistol Club (18/7/16).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 01-Oct-15     | In progress |

| Meeting      | Responsible Officer | Item                                                                                                                                                                                                                                                                                                                                                                                                      | Resolution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Progress Comment                                                                                       | Date Actioned | Completed    |
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| OCM 15/12/15 | Carl Askew          | Notice of Motion from Cr D Spackman:<br><br>That every Shire vehicle display a standard design, Shire Council approved decal of approximate size 400mm x 300mm (or other council approved size) of which clearly illustrates the Shire logo. Decals are to be on both left and right hand doors or panels where it is appropriate for that type of machinery. Decals are not to be magnetic or removable. | That Council defers the motion from Cr D Spackman to 2016, to be considered prior to budget considerations.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Deferred until budget considerations                                                                   |               | Not Complete |
| OCM 27/01/16 | Louise Gee          | Western Australian Housing Authority Utilisation of Wyndham Administration Centre                                                                                                                                                                                                                                                                                                                         | That Council:-<br>1. Requests the Chief Executive Officer to advise the Western Australia Housing Authority that it accepts its offer of \$5,000.00 per annum to utilise the Wyndham Administration Centre as outlined in Attachment 1.<br>2. Requests the Chief Executive Officer to advise the Western Australia Housing Authority that the Shire will not contribute any direct costs towards the placement of the Authority's officer and service within the Wyndham Administration Centre i.e. additional furniture, technology and communication equipment, display stands, signage. | Draft MoU forwarded to WA Housing Authority. Letter and MoU forwarded to WA Housing for execution.     | 12-Feb-16     | In progress  |
| OCM 23/02/16 | Louise Gee          | Wyndham CRC                                                                                                                                                                                                                                                                                                                                                                                               | That Council:<br><br>1. Continue to provide Community Resource Network services in accordance with its agreement with the Department of Regional Development. This agreement is for the provision of Community Resource Network services for a period of three years from 1 July 2014 to 30 June 2017.<br>2. Request the CEO to call for Expressions Of Interest from the Wyndham community for the production of the Community Newsletter - The Bastion Bulletin.                                                                                                                         | Expression of Interest being drafted.                                                                  | 21-Apr-16     | In progress  |
| OCM 23/02/16 | David Klye          | Directional Signage Policy                                                                                                                                                                                                                                                                                                                                                                                | That Council<br>1. Repeal Council Policy E9 - Traffic Signs - Directional Signage<br>2. Adopt draft Policy CP/OPS-3655 - Directional Signage<br>3. Request the CEO to investigate options for the Shire to charge an annual fee for the provision of Business Directional signage.                                                                                                                                                                                                                                                                                                         | Item expected to be presented at a Councillor briefing in July.                                        | 24-Feb-16     | In progress  |
| OCM 23/02/16 | Louise Gee          | Dual Naming - Barnett River Gorge                                                                                                                                                                                                                                                                                                                                                                         | That Council resolve to undertake community consultation in relation to the proposal for dual naming or renaming of the Barnett River Gorge.                                                                                                                                                                                                                                                                                                                                                                                                                                               | Community Consultation commenced 22 April 2016. Comment from relevant organisations also being sought. | 19-Apr-16     | In progress  |

| Meeting      | Responsible Officer | Item                                                                                                                                          | Resolution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Progress Comment                                                                                                                                | Date Actioned | Completed   |
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| OCM 23/02/16 | David Klye          | Wyndham Retiulation                                                                                                                           | That Council request the Chief Executive Officer to provide a report to Council on the Wyndham reticulation system for inclusion in the 2016/17 budget considerations. The report shall include details on the cost to replace the aging public open space reticulation system with an integrated, automatic system. The report should provide budget estimates for the project to be undertaken in stages of between approximately \$100,000 and \$150,000 per annum for consideration in the forthcoming budget deliberations.                                                                                                                                    | Report in progress for future consideration                                                                                                     | 24-Feb-16     | In progress |
| OCM 29/03/16 | David Klye          | Airport Sculpture                                                                                                                             | That Council:<br>1. That the sculpture be placed airside at a site determined by the CEO in accordance with the discussion at Council on 29 March 2016.<br>2. Note that on completion of the associated signage the sculpture be installed and a formal unveiling organised that includes representatives from Wairingarri Aboriginal Arts and local Aboriginal groups.                                                                                                                                                                                                                                                                                             | The sculpture has been installed airside. The artist has been contacted with a request to supply the sign                                       | 26-May-16     | In progress |
| OCM 29/03/16 | David Klye          | Fees and Charges 5                                                                                                                            | That Council request the CEO to commence negotiations with the Shire's waste contractor, ToxFree, to expand the current waste receptacle pick-up areas to include Packsaddle Road, Weaber Plain Road, Valentines Falls, Crossing Falls, River Farm Road, Bull Run Road and Egret Close / Curlew Court, to commence from 1 July 2016.                                                                                                                                                                                                                                                                                                                                | Contract variation issued. Arrangements being made to extend the collection area.                                                               | 30-Mar-16     | In progress |
| OCM 29/03/16 | Louise Gee          | Request for Lease - Ord River Magpies                                                                                                         | That Council request the Chief Executive Officer to enter into negotiations with the Ord River Magpies for a lease over a portion of Lot 504 on Reserve 29799, Kununurra, subject to approval of the Minister of Lands                                                                                                                                                                                                                                                                                                                                                                                                                                              | Awaiting outcomes of lease policy review                                                                                                        | 21-Apr-16     | In progress |
| OCM 29/03/16 | Louise Gee          | Request for extension of Development Approval - Lot 507 Chestnut Ave - 1                                                                      | That Council:<br>1. Extend the Kununurra Neighbourhood House Development Approval (DA) 6/14 at Lot 507, Chestnut Drive Kununurra for a further two years.<br>2. Request the Chief Executive Officer to enter into lease negotiations with Kununurra Neighbourhood House; the lease to include agreed development milestones and timeframes.                                                                                                                                                                                                                                                                                                                         | 1) DA06/14 extension sent. 2) Letter drafted 20/04/16. Draft Lease developed and forwarded to Neighbourhood House.                              | 21-Apr-16     | In progress |
| OCM 29/03/16 | Louise Gee          | Request for extension of Development Approval - Lot 507 Chestnut Ave - 2                                                                      | That Council:<br>3. Request the Chief Executive Officer to investigate alternate options for expansion of the Child Care facility on lot 506, Chestnut Drive; and<br>4. Request the Chief Executive Officer to investigate alternate options for the construction of a new Kununurra Neighbourhood House facility.<br>5. Request the Chief Executive Officer to bring the report on future expansion of child care facilities to Council at a future Briefing Session.                                                                                                                                                                                              | Priority focus has been given to the finalisation of lease negotiations with Kununurra Neighbourhood House                                      | 21-Apr-16     | In progress |
| OCM 29/03/16 | Carl Askew          | Annual General Electors Motions 1                                                                                                             | That Council:<br>1. Notes that the WA Department of Health will be scheduling a public information session for Kununurra prior to the proposed implementation of fluoridation of the town's water supply.<br>2. Request that Chief Executive Officer write to the Minister for Health requesting that public consultation sessions be conducted in Kununurra to determine community support for the fluoridation of the water supply. These sessions must be conducted prior to a determined implementation date to ensure there is sufficient time for the community to make an informed decision about the fluoridation otherwise of their drinking water supply. | Letter sent 26/04/2016. Response received 31/05/2016. Department of Health to hold a community information forum tentatively set for September. | 20-Apr-16     | In progress |
| OCM 29/03/16 | Carl Askew          | Annual General Electors Motions 2                                                                                                             | That Council note that a Regional Price Preference Policy is currently being prepared for consideration by Council.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Policy being advertised                                                                                                                         | 21-Apr-16     | In progress |
| OCM 29/03/16 | Carl Askew          | Annual General Electors Motions 3                                                                                                             | That Council request the development of a Community Facilities Strategy to assess the use of existing community facilities and the opportunities for collocated facilities to meet the needs of existing and future community groups, and this be included in the Shire's 2016/17 Corporate Business Plan.                                                                                                                                                                                                                                                                                                                                                          | Development of a Community Facilities Strategy has been included in draft Corporate Business Plan.                                              | 19-Apr-16     | In progress |
| OCM 29/03/16 | Carl Askew          | Annual General Electors Motions 4                                                                                                             | That Council note that an Indigenous Employment Organisational Directive will be drafted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Organisational Directive under draft                                                                                                            | 21-Apr-16     | In progress |
| OCM 29/03/16 | Carl Askew          | Notice of Motion from C1 S Rushby:<br>Request Review of Shire of Wyndham East Kimberley Membership to WA Local Government Association (WALGA) | That Council requests the Chief Executive Officer to provide a report to Council by June 2016 reviewing the costs, benefits, advantages and disadvantages of the Shire continuing to be a member of the Western Australian Local Government Association (WALGA).                                                                                                                                                                                                                                                                                                                                                                                                    | Report is to Council June 2016                                                                                                                  | 21-Apr-16     | In progress |

| Meeting      | Responsible Officer | Item                                                                                | Resolution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Progress Comment                                                                                                                                                                 | Date Actioned | Completed   |
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| OCM 26/04/16 | Carl Askew          | Intent to Review Local Laws                                                         | That Council undertake a review of all of its Local Laws in accordance with the <i>Local Government Act 1995</i> s.3.16 and give statewide and local public notice of its intent to undertake a review.                                                                                                                                                                                                                                                                                                                                                                                                          | Advertising has taken place and review is under way                                                                                                                              | 26-May-16     | In progress |
| OCM 26/04/16 | Carl Askew          | Meeting Procedures Local Law 2016                                                   | That Council, pursuant to Section 3.12 of the Local Government Act 1995, give statewide public notice that it intends to make the Shire of Wyndham East Kimberley Meeting Procedures Local Law 2016 as contained in the attachment to this item, with the amendment to section 17.1 (3) (b) replacing the words "Absolute Majority" to "Simple Majority", the purpose of which is to provide procedures which apply to the conduct of meetings of Council, its committees and to meetings of electors. The effect of the Local Law is to control the operation of Council, its committees and electors meetings. | Advertising has taken place and review is under way<br>Email received from DLGC advising that the Dept are reviewing the local law and comments will be provided by 22 July 2016 | 26-May-16     | In progress |
| OCM 26/04/16 | Louise Gee          | Council Policy Review - Trading in Public Places - Mobile Food Vehicle              | That Council endorse the draft Trading in Public Places - Mobile Food Vehicle Policy for public advertising for a period of 28 days.                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Public advertising has been completed.                                                                                                                                           | 27-Apr-16     | In progress |
| OCM 31/05/16 | Natalie Octoman     | Our Town Television Show                                                            | That Council refer for consideration in the 2016/17 Budget an allocation of \$20,000 as a contribution towards the production of an episode of Our Town, subject to financial support from other organisations within the Shire of Wyndham East Kimberley                                                                                                                                                                                                                                                                                                                                                        | Will be presented to Council as part of the budget when considering the feedback from the community in July.                                                                     | 21-Jun-16     | In progress |
| OCM 31/05/16 | Louise Gee          | Mosquito Management Plan                                                            | That Council endorse the draft Mosquito Management Plan provided in Attachment 2 for public comment for a period of 28 days.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Plan has been advertised for comment                                                                                                                                             |               | In progress |
| OCM 31/05/16 | Louise Gee          | Policy Review - CP/PMG 3780 Leasing of Council Managed Reserve Land                 | That Council endorses the reviewed CP/PMG 3780 Leasing of Council Managed Reserve Land Community for public advertising for a period of 28 days.                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Policy has been advertised and forwarded to all community lessees and potential community lessees for comment.                                                                   |               | In progress |
| OCM 31/05/16 | Louise Gee          | Request for Approval to Sublease - Ord River Sports Club                            | That Council grants approval for the Ord River Sports Club Inc. Sublease of the caretaker dwelling at Lot 2313 Chestnut Avenue, Kununurra with the following conditions:<br>1. The execution of the Lease between the Shire of Wyndham East Kimberley and the Ord River Sports Club Inc.<br>2. All terms of the relevant sublease clause within the executed lease are to be met.<br>3. Approval from the Minister of Lands.                                                                                                                                                                                     | Awaiting execution of the lease.                                                                                                                                                 |               | In progress |
| OCM 31/05/16 | Louise Gee          | Request to Sublease Wyndham Childcare Centre                                        | That Council:<br>1. Authorises an amendment to the Lease for Reserve 28976, 44 Koolama St, Wyndham. This amendment is to remove "for non-profit making community purposes" from clause 24.3 (a), subject to approval from One Tree Community Services and the Minister for Lands.<br>2. 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 long day care child care services.                                                                 | All parties notified of the outcome. Amended lease sent to OneTree for authorisation.                                                                                            | 20-Jun-16     | In progress |
| OCM 31/05/16 | Natalie Octoman     | Draft Council Policy CP/FIN-3217 Regional Price Preference for Community Engagement | That the Council:<br>1. Endorses the Draft CP/FIN 3217 Regional Price Preference Policy for public comment;<br>2. Endorses statewide public notice of the Shire's intention to adopt a regional price preference policy and invite comment on the draft policy for a four (4) week public comment period; and<br>3. Endorses public consultation in accordance with the community engagement plan.                                                                                                                                                                                                               | Draft Policy is currently out for public comment.                                                                                                                                | 20-Jun-16     | In progress |

| Meeting      | Responsible Officer | Item                                                                                                                                                                                   | Resolution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Progress Comment                                                                                                                                                                                                                                       | Date Actioned | Completed   |
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| OCM 31/05/16 | Natalie Octoman     | Rates Exemptions and Concessions for 2016/17 and 2017/18                                                                                                                               | <p>That Council:-</p> <p>1. Approves the following rates concessions for the 2016/17 financial year, therefore waiving rates of approximately \$55,894.89 in accordance with the following table:</p> <p>Assessment Number Name Concession Applied Estimated Concession Based on 2015/16 Rates</p> <p>A4993 Lake Kununurra Golf Club Inc 100% Concession \$9,406.60</p> <p>A7561 Ord River Sailing Club Inc. 100% Concession \$2,183.68</p> <p>A2859 Kununurra Race Club Inc. 100% Concession \$3,359.50</p> <p>A7620 Kununurra Agricultural Society 100% Concession \$3,487.68</p> <p>A1160 Ord River Sports Club 100% Concession \$9,676.04</p> <p>A1072 Kununurra Progress Association 100% Concession \$20,067.74</p> <p>A502 Wyndham Gardens Inc. 100% Concession \$1,948.75</p> <p>A2866 Ord Pistol Club Inc. 100% Concession \$2,203.83</p> <p>A5621 Kununurra Speedway Inc. 100% Concession \$1,767.10</p> <p>A5616 Kununurra Motocross Club Inc. 100% Concession \$1,793.97</p> <p>TOTAL \$55,894.89</p> <p>2. Notes that the amounts above will be adjusted once the 2016/17 rates are finalised, whereby it is likely that the rates concessions may vary.</p> <p>3. Notes that the application for rates concession from Kununurra Water Ski Club was received after the closing date of 31 March 2016 and therefore has not been considered for a rates concession for the 2016/17 year in accordance with Council's Policy.</p> <p>4. Notes that eligible organisations that commence a lease with the Shire during the 2016/17 financial year will be considered for a rates concession or exemption for the period from the commencement date of the lease through to 30 June 2018, and that these organisations will be required to submit an application for a rates concession to the Shire during the 2016/17 financial year.</p> <p>That Council endorses the Community Engagement Plan (Attachment 1) for the Draft Corporate Business Plan 2016/17 to 2019/20 and the Draft 2016/17 Annual Budget.</p> | Correspondence is being drafted and will be distributed shortly.                                                                                                                                                                                       | 20-Jun-16     | In progress |
| OCM 31/05/16 | Natalie Octoman     | Endorsement of the Draft Corporate Business Plan 2016/17 to 2019/20 and the Proposed 2016/17 Annual Budget Including Rates in the Dollar and Minimum Payments for Community Engagement | <p>That Council endorses for advertising and community engagement for a minimum of twenty-one (21) days and seeks public submissions on:</p> <p>a. The Draft Corporate Business Plan 2016/17 to 2019/20 (Attachment 2);</p> <p>b. Council Policy CP/FIN-3200 Strategic Rating (Attachment 5) that outlines the principles which underpin the proposed 2016/17 rating model, including the Object of and Reasons for Differential Rates;</p> <p>c. The Draft 2016/17 Annual Budget (Attachment 6) which incorporates the Object of and Reasons for Differential Rates, along with the following proposed differential rates and minimum payments to be applied from 1 July 2016 for the 2016/17 financial year in accordance with section 6.36 of the Local Government Act 1995:</p> <p>Differential Rating Category Rate in the Dollar (cents) Minimum Payment</p> <p>GRV Residential 9.5363 \$1,113</p> <p>GRV Other Vacant 14.3045 \$1,113</p> <p>GRV Commercial 12.3972 \$1,113</p> <p>GRV Industrial 11.4436 \$1,113</p> <p>UV Rural Residential 1.0045 \$1,113</p> <p>UV Pastoral 5.4410 \$1,113</p> <p>UV Commercial/Industrial 0.6890 \$1,113</p> <p>UV Rural Agriculture 1 0.9744 \$1,113</p> <p>UV Rural Agriculture 2 0.6890 \$1,113</p> <p>UV Mining 28.2265 \$1,113</p> <p>UV Mining Vacant 14.1132 \$557</p> <p>UV Other 0.6463 \$1,113</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Community Engagement Plan is being actioned accordingly.                                                                                                                                                                                               | 20-Jun-16     | In progress |
| OCM 31/05/16 | Natalie Octoman     | Endorsement of the Draft Corporate Business Plan 2016/17 to 2019/20 and the Proposed 2016/17 Annual Budget Including Rates in the Dollar and Minimum Payments for Community Engagement | <p>That Council endorses for advertising and community engagement for a minimum of twenty-one (21) days and seeks public submissions on:</p> <p>a. The Draft Corporate Business Plan 2016/17 to 2019/20 (Attachment 2);</p> <p>b. Council Policy CP/FIN-3200 Strategic Rating (Attachment 5) that outlines the principles which underpin the proposed 2016/17 rating model, including the Object of and Reasons for Differential Rates;</p> <p>c. The Draft 2016/17 Annual Budget (Attachment 6) which incorporates the Object of and Reasons for Differential Rates, along with the following proposed differential rates and minimum payments to be applied from 1 July 2016 for the 2016/17 financial year in accordance with section 6.36 of the Local Government Act 1995:</p> <p>Differential Rating Category Rate in the Dollar (cents) Minimum Payment</p> <p>GRV Residential 9.5363 \$1,113</p> <p>GRV Other Vacant 14.3045 \$1,113</p> <p>GRV Commercial 12.3972 \$1,113</p> <p>GRV Industrial 11.4436 \$1,113</p> <p>UV Rural Residential 1.0045 \$1,113</p> <p>UV Pastoral 5.4410 \$1,113</p> <p>UV Commercial/Industrial 0.6890 \$1,113</p> <p>UV Rural Agriculture 1 0.9744 \$1,113</p> <p>UV Rural Agriculture 2 0.6890 \$1,113</p> <p>UV Mining 28.2265 \$1,113</p> <p>UV Mining Vacant 14.1132 \$557</p> <p>UV Other 0.6463 \$1,113</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Post Box drop undertaken, letters were distributed, public notice complete, online forms complete, public forums held in both Wyndham and Kununurra. Feedback and submissions is still open until 4pm 1 July 2016 to be incorporated into the process. | 20-Jun-16     | In progress |

| Meeting      | Responsible Officer | Item                                   | Resolution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Progress Comment                                                                  | Date Actioned | Completed   |
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| OCM 31/05/16 | David Kljue         | Weero Road Speed Limit Review          | That Council request the CEO to contact Main Roads Western Australia seeking a change in road speed limits as follows:<br>1) Change the speed limit to 60 km/h for approximately the first 850 m of Weero Road from Victoria Highway;<br>2) Change the speed limit to 80 km/h for the remainder of the sealed section of Weero Road;<br>3) The unsealed section of Weero Road to remain unchanged at 110 km/h (drive as per the conditions of the road);<br>4) Change the speed limit to 80 km/h for Chamberlain Drive from Weero Road almost to the intersection of Berkeley Court; and<br>5) Change the speed limit to 60 km/h for the remainder of Chamberlain Drive, Pentecost Elbow, Berkeley Crescent and Dysdale Approach. | Letter sent to Main Roads Western Australia                                       | 08-Jun-16     | In progress |
| OCM 31/05/16 | David Kljue         | Budget Amendment - Vehicle Replacement | That Council, in accordance with section 6.8 of the Local Government Act, approve the transfer, of \$45,000 from the Airport General Reserve and a transfer to the Airport General Reserve of the insurance value received to a maximum net transfer of \$15,000, for the purpose of replacing WY25767 (a Dual Cab Toyota Hilux 4x4)                                                                                                                                                                                                                                                                                                                                                                                              | Purchase of vehicle in progress.                                                  |               | In progress |
| OCM 31/05/16 | David Kljue         | Extension of Waste Services            | That Council request the CEO to continue negotiations with the Shire's waste contractor, ToxFree, and vary the current contract to expand the current waste receptacle pick-up areas to include:<br>1) The sealed roads in the areas around Packsaddle, Crossing Falls, Valentines Falls Estates,<br>2) The sealed roads that join Egret Close, Ivanhoe Road, Bull Run Road and Weaber Plain Road; and<br>3) Invite residents who reside on gravel roads near these expanded areas to indicate their interest in receiving this service;<br>to commence from 1 July 2016                                                                                                                                                          | Contract variation issued. Arrangements being made to extend the collection area. | 01-May-16     | In progress |

### 12.02.5. Recording of Council, Committee and Elector Meetings

|                                  |                                                 |
|----------------------------------|-------------------------------------------------|
| <b>DATE:</b>                     | 28 June 2016                                    |
| <b>AUTHOR:</b>                   | Lisa Hannagan, Senior Governance & Risk Officer |
| <b>REPORTING OFFICER:</b>        | Carl Askew, Chief Executive Office              |
| <b>DECLARATION OF INTERESTS:</b> | Nil                                             |

#### VOTING REQUIREMENT

Absolute Majority

#### OFFICER'S RECOMMENDATION

**That Council:**

- 1. Adopt the draft policy (as per Attachment 1) for Recording of Council, Committee and Electors Meetings;**
- 2. Accept that recording will be a wireless audio system at a cost of approximately \$20,000 with the capacity to add video recording in the future; and**
- 3. Approve the budget allocation of \$20,000 in the 2015/16 financial year in order to progress with the installation now, recognising that these funds would then be carried forward into 2016/17 and effectively reduce any anticipated surplus by \$20,000.**

Cr Cooke foreshadowed a motion to defer the item until after the completion of mediation so that Council can evaluate the recommendations of the mediator as to the need for recording meetings.

#### COUNCIL DECISION

**Minute No: 11396**

**Moved: Cr S Cooke**

**Seconded: Cr B Robinson**

**That Council suspend Standing Order 7.5.**

**Carried 9/0**

Standing Order 7.5 suspended at 5:44pm.

Cr Perry left the Council Chambers at 5:59pm.

Cr Perry returned to Council Chambers 6:00pm.

**COUNCIL DECISION**

**Minute No: 11397**

**Moved: Cr B Robinson**

**Seconded: Cr N Perry**

**That Council resume Standing Order 7.5.**

**Carried 9/0**

Standing Order 7.5 resumed at 6:02pm.

Cr Cooke moved an amendment to the motion:

That Council:

1. Adopt the draft policy (as per Attachment 1) for Recording of Council, Committee and Electors Meetings for public advertising for a period of 28 days;
2. Subject to the feedback received in the public advertising period proceed with the acquisition of a wireless audio recording system at a cost of approximately \$35,000 with the inclusion video recording.

The mover and seconded accepted the amendment to the motion.

Cr Robinson foreshadowed a motion to defer the amended item.

**COUNCIL DECISION**

**Minute No: 11398**

**Moved: Cr K Wright**

**Seconded: Cr S Rushby**

**That Council:**

3. **Adopt the draft policy (as per Attachment 1) for Recording of Council, Committee and Electors Meetings for public advertising for a period of 28 days;**
4. **Subject to the feedback received in the public advertising period proceed with the acquisition of a wireless audio recording system at a cost of approximately \$35,000 with the inclusion video recording**

**Carried 5/4**

**For: Cr J Parker, Cr K Wright, Cr S Rushby, Cr S Cooke, Cr D Spackman**

**Against: Cr N Perry, Cr E Bolto, Cr B Robinson, Cr A Petherick**

## **PURPOSE**

The purpose of this policy is to provide for the recording (audio or combined audio and visual) of the proceedings of Council, Committee and Elector meetings to ensure the accurate preparation of minutes.

The minutes will continue to be taken in the normal manner ie. the record will not become verbatim.

The proposed policy also ensures that there is a clear process in place for the provision of strictly controlled access to the recordings.

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

Leader - plan and provide direction through policy and practices

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

Several WA Local Governments are moving toward recording their Council meetings. Examples of Local Governments currently audio recording meetings include: Town of Bassendean, City of Fremantle, City of Gosnells, City of Wanneroo, City of Vincent, Shire of Mundaring and the City of Bayswater.

The primary purpose of audio recording meetings is **for accuracy in minute taking**. In other policies reviewed to help prepare this report, it was noted that when recording Councils "close the meeting" to the public, recording also stops. The draft policy provided suggests otherwise and that recording should continue for the entirety of the proceedings. This is because the suggested policy includes strict management of access to the recordings.

There are currently no legal requirements to audio-record the proceedings of a meeting of Council under the *Local Government Act 1995* and the *Local Government (Administrative) Regulations 1996*. The current practice of electronic capture (Word document) where visual screens are used at Council meetings to exhibit to Councillors and the public gallery the resolutions determined for the minutes of these meetings satisfies the Shire's legislative requirements.

That beings said, it is noteworthy that in the Consultation Paper for the Rules of Conduct Review - November 2015, at pages 81 and 82, the issue of Records of meetings was presented and comment was invited in relation to *the mandatory recording of council and committee meetings*.

Recording of meetings is generally considered good practice and it is suggested that the above invitation for comment may see all Local Governments being directed to record meetings at some point in the future.

The Shire's current Standing Orders Local Law 2003 (currently under review) allows for the recording of meetings at Section 6.5

**STATUTORY IMPLICATIONS**

Local Government Act 1995

**6.8. Expenditure from municipal fund not included in annual budget**

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
  - (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
  - (b) is authorised in advance by resolution\*; or
  - (c) is authorised in advance by the mayor or president in an emergency.

*\* Absolute majority required.*

- (1a) In subsection (1) —
  - additional purpose means a purpose for which no expenditure estimate is included in the local government’s annual budget.
- (2) Where expenditure has been incurred by a local government —
  - (a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and
  - (b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.

*[Section 6.8 amended by No. 1 of 1998 s. 19.]*

Freedom of Information Act 1992

State Records Act 2000

**POLICY IMPLICATIONS**

The current Shire of Wyndham Standing Orders Local Law 2003 allows for the recording of meetings at 6.5, and this policy has been prepared to ensure that there is an appropriate level of detail around this activity.

**FINANCIAL IMPLICATIONS**

*Kununurra and Wyndham Council Chambers – Audio and Video options.*

| Audio Only             |                                                                                |           |                  |
|------------------------|--------------------------------------------------------------------------------|-----------|------------------|
| <b>Option 1</b>        | Gallery: wireless lectern gooseneck microphone                                 | \$ 1,000  | <b>\$ 19,000</b> |
|                        | Chambers: individual wireless desk gooseneck microphones (13)                  | \$ 13,000 |                  |
|                        | <i>Recording equipment</i>                                                     | \$ 5,000  |                  |
| Combined Audio & Video |                                                                                |           |                  |
| <b>Option 2</b>        | Single video camera<br><i>NB. Limitations – circular room design prohibits</i> | \$ 2,500  | <b>\$24,500</b>  |

|                    |                                                                                                                                 |                                  |                  |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------|----------------------------------|------------------|
|                    | <i>coverage of all faces and gallery in this option.<br/>Audio per #1 above.<br/>Additional recording equipment and cabling</i> | \$ 19,000<br><br>\$ 3,000        |                  |
| <b>Option 3 **</b> | Multiple video cameras - 4<br><i>Audio per #1 above.<br/>Additional recording equipment and cabling</i>                         | \$ 10,000<br>\$19,000<br>\$5,000 | <b>\$ 34,000</b> |

Mobile equipment would be transportable between Kununurra and Wyndham in travel cases.

Note: The above solution does not allow for electronic voting via the gooseneck microphone system, but that option will be available via the audio only system being proposed.

### **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 services

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

### **COMMUNITY ENGAGEMENT**

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

No community engagement is required in relation to this matter, however the public gallery will need to be advised at each meeting that they may be audio recorded.

### **COMMENT**

It is worth noting that in the Consultation Paper for the Rule of Conduct Review - November 2015, at pages 81 and 82, the issue of Records of meetings was presented. Comment was invited in relation to the mandatory recording of council and committee meetings.

It was acknowledged in that report that a number of minor breach complaints relate to incidents that occur at council meetings and that the availability of recordings can be invaluable to establish facts when there are parties in dispute about what was said or the manner in which it was said.

According to the Consultation Paper “the existence of an electronic recording ... has been of significant value to the Panel in determining the precise nature of incidents in council meetings, which many not be captured in the formal minutes of the meeting. Such records have also been of value in other fora, including investigations conducted by the Corruption and Crime Commission.” (p 81).

### **Issues and Risks associated with recording meetings**

There can be limitations with the recording of meetings, for example, audio recordings may not capture all conversations in council chambers – some systems only record the person speaking into the microphone, so there can be inconsistencies.

In considering whether to record Council meetings, Council needs to be aware of the risks and possible consequences - .

- Councillors are personally responsible for comments made at a Council, Committee and Elector meeting. Councillors do not enjoy the absolute privilege enjoyed by members of parliament.
- LGIS (the Shires) has indicated the Shire’s Liability Protection Policy (under libel and slander) does not cover claims arising from the publication or utterance of libel or slander made by or at the direction of the member. This has the potential to increase claims if meetings are recorded.
- The Shire of Wyndham East Kimberley would not be responsible for the resources and costs associated with any claim made against an individual Councillors for comments made at council meetings.
- The recordings may and can be used as evidence in legal proceedings against the Shire, Council or individual Councillors.
- There may be instances where members of the public make ill-advised or defamatory statements at Council meetings. These statements would become a permanent record accessible under FOI requests, and may result in the Shire being liable in defamation in the republication of defamatory remarks, or being otherwise responsible for insulting or malicious comments.
- Personal details of those members of the public who participate in public question time will be included in the recordings.
- Recording may result in reduced comment and debate during council meetings which would not be a desirable outcome.
- Depending on the method of recording, there could be an impact to the way meetings need to be conducted eg. if audio recording only, the details of councillors voting for and against a resolution would need to be read out loud for the benefit of the recording. This could cause delays and increase the length of time taken to conduct a meeting.

Attachment 2 outlines a range of risks associated the recording of meetings from a legal perspective. Some of these risks are highlighted above.

### **Suggested risk treatments**

To reduce the risks associated with recording of Council meetings, the following treatments are suggested:

1. Engage WALGA to provide an information session for Councillors to discuss the implications of recording council and committee meetings and methods of managing them.
2. Ensure access to the recordings are strictly limited and closely managed - as per the suggested policy.

**ATTACHMENT - Item 12.02.5**

Attachment 1 - A draft policy has been included as an attachment to this item.

Attachment 2 - Article written by Denis McLeod from McLeods Barristers & Solicitors providing advice on the recording of meetings.



|                                          |                                                                                                                                                           |                            |
|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| <b>POLICY NO</b>                         | <b>*** To be supplied by Governance once adopted by Council</b>                                                                                           |                            |
| <b>POLICY</b>                            | <b>Recording of Council and Committee Meetings</b>                                                                                                        |                            |
| <b>RESPONSIBLE DIRECTORATE</b>           | Governance                                                                                                                                                |                            |
| <b>RESPONSIBLE OFFICER</b>               | Chief Executive Officer                                                                                                                                   |                            |
| <b>COUNCIL ADOPTION</b>                  | Date: Insert Date Adopted                                                                                                                                 | Resolution No: Insert Here |
| <b>REVIEWED/MODIFIED</b>                 | Date:                                                                                                                                                     | Resolution No:             |
|                                          | Date:                                                                                                                                                     | Resolution No:             |
| <b>REVIEW DUE</b>                        | Date: Insert Month and Year for next review – 4 years maximum, only make yearly review if deemed absolutely necessary, best practice is 2 years           |                            |
| <b>LEGISLATION</b>                       | <i>Local Government Act 1995</i><br><i>SWEK Standing Orders Local Law 2003</i><br><i>Freedom of Information Act 1992</i><br><i>State Records Act 2000</i> |                            |
| <b>RELATED POLICIES</b>                  | N/A                                                                                                                                                       |                            |
| <b>RELATED ORGANISATIONAL DIRECTIVES</b> | N/A                                                                                                                                                       |                            |

#### **PURPOSE:**

The purpose of this policy is to provide for the recording (audio and/or visual) of the proceedings of Council and Committee meetings to ensure the accurate preparation of minutes. This recording of proceedings is in line with *Local Government Act 1995* section 1.3(2) which promotes greater accountability of local governments to their communities.

Further, it is critical to ensure that there is a process in place to provide access to the recorded proceedings of Council and Committee meetings. The minutes will continue to be prepared in accordance with the requirements of the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996*.

The recordings of minutes will not be transcribed or prepared as a verbatim record.

It is important to recognise that the published minutes are the formal record of the meeting. Any audio or audio visual recording, while certainly a record, is not considered the formal record of meeting.

#### **DEFINITIONS:**

**Act:** means *Local Government Act 1995*

**Disclosure of Policy:** This policy shall be included in the distribution of Meeting Agendas to advise the public that the proceedings of a meeting are being recorded.

**Policy Scope:** This policy applies to all Ordinary, Special, Annual General and Audit Committee Meetings of Council.

**Proceedings:** Includes the entire meeting from the Declaration of Opening through to Closure.

**Recording:** Recording may be either audio or audio and visual.

**Signage:** Clear signage is to be placed at the entrances to the Council Chamber advising members of the public that the meeting is being recorded.

## **POLICY STATEMENTS:**

1. Proceedings of the meetings, as defined above, shall be recorded by the Shire of Wyndham East Kimberley unless the Council resolves otherwise.

Advice that Council and Committee meetings will be recorded will be included in:

- The notice of agenda for meetings of Council, Electors and Committees;
  - On paperwork associated with Public Question Time;
  - On the Shire of Wyndham East Kimberley website;
  - Verbally by the Chairperson at the commencement of the Ordinary, Special etc... (see below)
2. The proceedings of a meeting that is closed to the public (Confidential) shall be recorded but the recording will not be made available other than to Elected Members and Administrative staff while the information or report remains confidential as per the *Local Government Act (1995)* Section 4.23(2).
  3. At the commencement each meeting that is to be recorded, the Presiding Member shall advise the members of the public attending meetings that an audio recording of the meeting will be made and that their voice and details may be released to a third party other than people in the room. The wording of the advice will be as follows:

*"This meeting is being recorded on audio tape as an additional record of the meeting and to assist with minute-taking purposes which may be released upon request to third parties. If you do not give permission for recording your participation, please indicate this at the meeting. The public is reminded that in accordance with Section 6.5 of the Shire of Wyndham East Kimberley Standing Orders Local Law 2003, no person shall use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council without the written permission of the Council.*

4. Signage is to be placed at the entrances to the Council Chamber advising members of the public that the meeting is being recorded.
5. The meetings that will be recorded include Ordinary and Special Meetings of Council, Audit (Finance and Risk) Committee Meetings and the Annual General Meeting of Electors.
6. Recordings will be published to the Shire's website in a downloadable format within 10 working days of the relevant Council or Committee meeting.
7. Retention of recordings shall be in accordance with the *State Records Act 2000* and the General Disposal Authority for Local Government Records.
8. This Policy does not impinge on any person's access to public records under the *Freedom of Information Act 1992*.



# Local Government Update

## Proposed recording and live streaming of local government council and committee meetings

By Denis McLeod, Partner, McLeods

### The issue: proposed recording of council meetings

In Western Australia there has been a long running debate on the question of whether Council meetings should be streamed live online, with the recordings being made available to electors by uploading to the local government's website as soon as practical, and maintained online as an archive.

After more than 40 years as a lawyer acting for and against local governments, I have formed the firm view that any recording of Council and committee meetings should be used for the purpose of confirming the correctness of the Minutes of meetings, but should not be otherwise published. The Minutes should then remain available as the public record of the meetings.

The article that follows provides an explanation of that view. As a starting point, my view is premised on acceptance of the proposition that local government is a worthwhile institution that should be preserved and encouraged, and not presented with obstacles calculated to discourage the participation of well intentioned men and women of good sense. Perhaps not all Council members are in that category, but my proposition is that the significant majority who are, should not be discouraged from participating.

### The Westminster System of Government

Discussion of the meeting recording and live streaming issue should start with recognition of the basic principles of the Westminster System of government, which apply to the WA State Government, and which focus principally on the three distinct branches of government, being:

- 1 **Parliament:** which makes laws to facilitate government. Under s.2(2) of the *Constitution Act 1889 (WA)* (**Constitution Act**), the Parliament in WA consists of the Monarchy, Legislative Assembly and Legislative Council.
- 2 **Executive:** which administers the government in accordance with the laws. (The Cabinet is the effective part of the Executive, which is subject to the strict conventions of Cabinet confidentiality and solidarity).
- 3 **The Courts and Tribunals:** which interpret the laws and apply them to resolve disputes. (S.54 of the Constitution Act ensures the independence of Supreme Court judges, which generalises to all the States' judicial persons and tribunals).

Not only are those three branches of government intended in principle to function separately, but they are in fact administered separately.

*There has been a long running debate on the question of whether Council meetings should be streamed live online, with the recordings being made available to electors*

## Local Government within the Westminster System

Although Local Government operates within the Westminster System, there are critical features and differences, including the following, that go some way to explain why Council meetings should not be streamed live online, etc, as some critics propose:

- 1 The Council of a local government may perform in any given meeting the role of all three branches of government:
  - (a) Legislative function of Council:

Council makes and amends the local government's laws including:

    - local laws; and
    - planning schemes.
  - (b) Executive functions of Council:

Council performs the same function for its district as State Cabinet performs for the State.
  - (c) Judicial functions of Council:

Council makes quasi-judicial decisions, such as determining applications for planning approval. In doing that a Council is expected to act like a Court or tribunal by complying as far as possible with principles of judicial fairness. A difference here is that unlike Courts and tribunals, a Council's deliberations are required to be in public, and determined by majority vote, which requirements impose special rigors on Council members who are:

    - part-time in their Council role;
    - essentially untrained in legal and judicial process and principles; and
    - subject to popular election and re-election (unlike judges and tribunal members).
- 2 Council acting as the Executive branch of local government makes decisions on policies and strategies of government and on contract and financial issues like the Cabinet in the State Government, but in stark contrast its deliberations are required to be in public, and Councils do not have the protection of Cabinet confidentiality and solidarity.
- 3 So far as Councils' quasi-judicial functions are concerned, Council members are expected to explain, discuss and debate their opinions as they evolve, in public meetings, and their decisions are made by majority vote in open ballot. This is in stark contrast to the privacy and confidentiality of judicial and tribunal members' deliberations towards reaching a decision.
- 4 Unlike all members of the judiciary in Australia, Council members are popularly elected, and must be prepared to defend their public decisions to their electors at the four-yearly Council elections. A decision properly made consistent with planning and legal principle may nevertheless be very unpopular with the electors. Council members who act properly, but contrary to the wishes of the electors, have a burden of explanation to electors going beyond the requirement of judges and Tribunal members to give reasons for their decisions, and they don't have to be concerned about electoral consequences of their decisions.



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- 5 Council members are subject to very strict laws on financial interest, and impartiality interest, which by comparison are only very loosely and weakly applied to members of Parliament. State political parties can receive very substantial and regular donations from lobby and pressure groups which would result in serious penalties in the case of local government Council members.
- 6 Council members do not enjoy the protection of absolute privilege from actions for defamation for what is said in their meetings, in stark contrast with the protection of absolute privilege enjoyed by members of Parliament for what is said in their sessions.

The above comments demonstrate that the fundamental features of the local government system necessarily expose it already to a high level of public scrutiny that makes it a very difficult process to participate in, and to function effectively.

### **Comparison of Council Executive functions with State Government Executive functions**

The Council in its role as the Executive must discuss matters critical to good government, in open Council, where similar issues dealt with by the State Government Executive would be discussed and decided strictly behind closed doors, and the proceedings would be protected by the conventions of Cabinet confidentiality and solidarity. For a Council to have those essentially confidential discussions streamed online, etc as the critics propose, would make the process all the more onerous and complex for the Council. Consider what the reaction of the Premier and Cabinet Ministers would be if the public insisted Cabinet meetings be open to the public, much less streamed online.

The professional politicians in State Government are not required to cope with that. Yet the current debate would expose the part-time, non-professional, essentially unpaid Council members, to that rigour. That doesn't seem reasonable or fair.

### **Comparison of Council quasi-judicial functions with Courts and tribunals**

The unreasonableness and unfairness is even clearer when it comes to Council's quasi-judicial functions, which apply whenever the Council is deciding on planning and building applications, and applications for a wide range of other licences, permits and approvals. Council members are expected then to perform their functions in a judicially correct way. Yet unlike all Courts and tribunals, Council members are required to discuss their thinking in public, which goes a long way beyond the normal requirement that judges give reasons for their decisions. Of course Councils must give reasons for their decisions, as judges must, but consider what the reaction of judges and tribunal members would be if the public insisted that judges and tribunals conduct in public their deliberations and the steps in their consideration of a case, much less produce a transcript of their confidential deliberations.

The highly trained lawyers and other professionals who serve as judges and tribunal members are not required to cope with that. Yet the current debate would expose the part-time, non-professional, essentially unpaid Council members to that rigour. That doesn't seem reasonable or fair.

### **Council's legislative function**

There may presently be some argument for a Council's legislative function to be held in public, and perhaps, unlike Parliament, streamed online, etc. The fact that Council members are not protected from defamation action by absolute privilege is probably a strong enough argument against that, and it is certainly an adequate argument against streaming of debate online, etc.



Consider then the contrast with the position of members of Parliament. Many of them do not speak on any issue in Parliament from month to month. And when they do wish to speak on legislation, they generally have much time to prepare their speeches, and they generally have research assistants available, and can prepare speeches for weeks in advance. By comparison, Council members attend ordinary Council meetings once or twice each month, and also special meetings and committee meetings, and from time to time electors and public meetings. At any of those meetings many issues could arise calling for discussion and debate by the Council members. At an ordinary Council meeting, there may be dozens of matters before the Council which call for debate and a vote by Council members.

Is it reasonable to suggest then to the Council members that every word they utter in the process of deliberations will be recorded and streamed online, and recordings made available to any member of the public who might decide to put their every word under microscopic scrutiny. Not even well prepared professionals or legal experts could reasonably be expected to withstand that kind of scrutiny, without the potential for regular embarrassment, and criticism and perhaps recrimination and Court action.

### **Likely consequences of recording or live streaming of Council meetings**

A possible effect of introducing that kind of scrutiny would be that the detailed thinking and reasoning of Council members would go underground. Rather than giving the benefit of their deliberations to the members of the public who care to attend a meeting, they may make their decisions for their own private reasons, and not attempt to explain or discuss those reasons in the public forum. That would be dramatically bad for the system of open local government. Another consequence would be to force Councils to do all their effective work, and to carry on their real debate, in non-formal Council briefing sessions or the like, which are not required to be open to the public. That could also be quite adverse for the system of open local government. More significantly, exposure to that level of scrutiny and risk is likely to function as a significant disincentive to persons interested in election to the office of councillor, which would undermine community participation in local government.

### **Other considerations**

There are other considerations worthy of brief mention including:

- Members of the public, at Council meetings are able to speak in question time and on deputations or representations on issues arising at Council meetings. The Council has no control over their comments, but the recording and live streaming of the proceedings could result in the local government being liable in defamation for the republication of defamatory remarks, or being otherwise responsible for insulting or malicious comments.
- On listening to a recording of a Council meeting, it is often difficult to identify the person responsible for a particular comment. That is likely to lead to confusion and complications, with the local government being required to identify speakers in order to deal with complaints.
- To expect a local government to edit the recordings of meetings to guard against defamatory or otherwise hurtful comments, and to identify speakers, would place an unreasonable burden on the local government administration. There would be a further burden of work and expense in obtaining legal advice on possible defamation.
- A Council acts as a collegiate body. The views of individual Council members are for practical purposes irrelevant. The only view that counts is that expressed in a resolution of the Council. To record and stream live



the comments of individual Council members during debate has the potential to deflect attention away from the most important statement on the topic, which is the resolution passed by the Council and any reasons it identifies for its decision.

- Even newspapers would not contemplate allowing its reporters to present their views on a topic in a direct recording of their thinking processes, without the opportunity for careful independent editing and the possibility of scrutiny by the newspaper's lawyers. That applies no matter how well the reporter may have researched the topic.
- The threat of Court action for defamation can be a very disturbing prospect for a Council member whose personal and family assets may be at risk. A wealthy/powerful or vexatious complainant may press even a bad action through lengthy and expensive litigation processes, and the fact that the action may ultimately fail is little consolation to a Council member whose life for months or years may be dominated by the presence and risks of the action.
- Any member of the public interested in an issue to be considered at a Council meeting can and generally will attend the meeting. Many of those who press for recording and live streaming of the proceedings online may be more interested in targeting Council members whose views they wish to criticise, than to inform themselves on the issues.
- Those concerned about the standard of debate at Council meetings are presumably intelligent and sensitive persons. They are the very people who should offer themselves for election to that important public service. That should improve the standard of debate far more effectively than recording and live streaming of meeting proceedings, and will be of more benefit to the public.

## Conclusion

Those are some of the reasons for my view that Council meetings should not be streamed live online, with recordings made available to electors by uploading to the local government's website as soon as practical and maintained online as an archive. For the reasons I have discussed above, in my opinion the minutes of Council meetings should remain as the basic public record of meetings, without the additional processes of exposure and scrutiny which are being proposed by the local government critics.

I know that some local governments do record their meetings and then make the recordings available to the public on their website. That is a decision any Council can legitimately make, but it is another matter for Councils to have that regime imposed on them.

For further information in regard to the above, contact Denis McLeod on 9424 6201 or [dmcleod@mcleods.com.au](mailto:dmcleod@mcleods.com.au). The information contained in this update should not be relied upon without obtaining further detailed legal advice in the circumstances of each case.

