

SHIRE OF WYNDHAM EAST KIMBERLEY

# Ordinary Council Meeting: Confirmed Minutes

27 February 2024



I hereby certify that these Minutes are a true and accurate record of the proceedings contained therein.

A handwritten signature in black ink that reads 'David Meisel'.

Shire President

26/03/2024

Date

## **DISCLAIMER**

Members of the Public are advised that recommendations to Council contained within this Agenda and decisions arising from the Council meeting can be subject to alteration.

Applicants and other interested parties should refrain from taking any action until such time as written advice is received confirming Council's decision with respect to any particular issue.

An audio and/or video record will be made of these proceedings to assist in the taking of minutes.

Signed on behalf of Council



**VERNON LAWRENCE**

**CHIEF EXECUTIVE OFFICER**

### **NOTES**

- 1. Councillors wishing to make alternate motions to officer recommendations are requested to provide notice of such motions electronically to the minute taker prior to the Council Meeting.**
- 2. Councillors needing clarification on reports to Council are requested to seek this from relevant Officers prior to the Council meetings.**

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS .....	4
2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED) .....	4
3. DECLARATION OF INTEREST .....	4
4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....	4
5. PUBLIC QUESTION TIME .....	5
6. APPLICATIONS FOR LEAVE OF ABSENCE .....	5
7. PETITIONS.....	5
8. CONFIRMATION OF MINUTES .....	5
9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION .....	5
10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED.....	6
11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS.....	6
12. REPORTS .....	6
12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL .....	6
12.2. OFFICE OF THE CEO .....	7
12.2.1. Standing Item - Outstanding Actions from Previous Council Resolutions .	7
12.2.2. Standing Item - Use of the Common Seal.....	9
12.2.3. Communication Strategy .....	11
12.2.4. Annual General Meeting of Electors - 1 February 2024 .....	14
12.2.5. REG-1001 Delegations Register - Review .....	18
12.2.6. Minutes and Recommendations from the North West Defence Alliance - 13 February 2024 .....	22
12.2.7. Memorandum of Understanding – Wyndham Work Camp .....	22
12.3. PLANNING AND COMMUNITY DEVELOPMENT .....	27
12.3.1. Renewal of Caravan Parks and Camping Ground Licences.....	27
12.3.2. Ewin Centre Request for Funding .....	31
12.4. CORPORATE SERVICES .....	36
12.4.1. List of Accounts Paid From Municipal Fund and Trust Fund.....	36
12.4.2. Monthly Financial Report.....	40
12.4.3. POL-2004 Purchasing, POL-2012 Pre-Qualified Supplier Panel & POL-2011 Regional Price Preference - Policy Review.....	44
12.5. INFRASTRUCTURE .....	48
12.5.1. Anthons Landing Fees and MOU .....	48
12.5.2. Rubber Tyre Roller .....	52
12.5.3. Gibb River - Kalumburu Road, disposal .....	56
12.5.4. Invitation to register as a Roadwise Council.....	60
12.5.5. POL-4016 Street Tree Removal - New Policy .....	63
13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....	67
14. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN .....	67
15. URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION .....	67
16. MATTERS BEHIND CLOSED DOORS .....	67
16.1. APPOINTMENT OF DIRECTOR PLANNING AND COMMUNITY DEVELOPMENT .....	68
17. CLOSURE .....	69

**SHIRE OF WYNDHAM EAST KIMBERLEY  
ORDINARY COUNCIL MEETING MINUTES  
WYNDHAM COUNCIL CHAMBERS  
TO BE HELD ON TUESDAY 27 FEBRUARY 2024 AT 5:00PM**

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

Members of the Public are advised that recommendations to Council contained within this Agenda and decisions arising from the Council meeting can be subject to alteration.

Applicants and other interested parties should refrain from taking any action until such time as written advice is received confirming Council's decision with respect to any particular issue.

An audio and/or video record will be made of these proceedings to assist in the taking of minutes.

The Shire President declared the Meeting open at 5:02 pm.

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

Cr D Menzel	Shire President	
Cr D Hearty	Councillor	
Cr C McNeil	Councillor	
Cr B Kyne	Councillor	Attend via Teams
Cr B Robinson	Councillor	

V Lawrence Chief	Executive Officer
F Heading	Director Corporate Services
N Kearns	Director Planning & Community Development
N Allen	Manager
S Tasi	Minute Taking

T O'Connor	ABC Kimberley
S Timms	Member of the Public

**Apology**

Cr T Chafer	Councillor
Cr M Dear	Councillor
P Webb	Director Infrastructure

**3. DECLARATION OF INTEREST**

- Financial Interest - Nil
- Impartiality Interest - Nil
- Proximity Interest - Nil

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

Nil

## 5. PUBLIC QUESTION TIME

Nil

## 6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

## 7. PETITIONS

Nil

## 8. CONFIRMATION OF MINUTES

### OFFICER'S RECOMMENDATION

**That Council confirms the Minutes of the Ordinary Council Meeting held on 12 December 2023.**

### COUNCIL DECISION

**Minute Number: 27/02/2024 – 118961**

**Moved: Cr B Robinson**

**Seconded: Cr D Hearty**

**That Council confirms the Minutes of the Ordinary Council Meeting held on 12 December 2023.**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

Note: The Minutes of the Ordinary Council Meeting held on 12 December 2023 are provided under separate cover via [www.swek.wa.gov.au](http://www.swek.wa.gov.au)

## 9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

**1 February 2024 – Annual General Meeting of Electors** – Attended by the Deputy Shire President Tony Chafer, Cr Dear, Cr Hearty, Cr Kyne, Cr McNeil, Cr Robinson, the CEO, Director Planning and Community Development, the Director Infrastructure and other staff.

**7 February 2024 – Aboriginal clean Energy Corporation & Pollination** – CEO met with Carl Carcione to discuss progress on the green hydrogen project.

**15 February 2024 – Kimberley Regional Group** – the CEO attended on behalf of the Shire – meetings with the Premier Hon Roger Cook MLA, Hon Don Punch MLA, Minister for Regional Development; Disability Services; Fisheries; Seniors and Ageing; Volunteering; Hon Paul Papalia MLA, Minister for Police; Corrective Services; Racing and Gaming; Defence Industry; Veterans Issues; Hon Hannah Beazley MLA, Minister for Local Government; Youth; Minister Assisting the Minister for Training and Workforce Development and Ms Divina D'Anna MLA to discuss matters of significance for the Kimberley.

**16 February 2024 – Kimberley Regional Group and Kimberley Zone Meetings –** Attended by the CEO

**20 February 2024 – Kimberley Development Commission –** CEO attended a meeting to brief the Commission on capital works projects the Shire was pursuing.

**20 February 2024 – Office of Northern Australia –** Attended by the Shire President and the CEO to discuss the focus areas for the Developing Northern Australia Action Plan.

**22 February 2024 – East Kimberley Chamber of Commerce and Industry Board Meeting –** Attended by the Deputy Shire President and the CEO.

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

16.1 Appointment of Director Planning and Community Development

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

Nil

## **12. REPORTS**

### **12.1. MATTERS ARISING FROM COMMITTEES OF COUNCIL**

Nil

## 12.2. OFFICE OF THE CEO

### 12.2.1. Standing Item - Outstanding Actions from Previous Council Resolutions

<b>DATE</b>	27 February 2024
<b>AUTHOR</b>	Executive Officer to the CEO
<b>RESPONSIBLE OFFICER</b>	Vernon Lawrence, Chief Executive Officer
<b>DISCLOSURE OF INTERESTS</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER</b>	Leader - plan and provide direction through policy and practices
<b>VOTING REQUIREMENT</b>	Simple Majority

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

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

#### **COUNCIL DECISION**

**Minute Number: 27/02/2024 – 118962**

**Moved: Cr C McNeil**

**Seconded: Cr D Hearty**

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

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

#### **PURPOSE**

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

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

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

#### **STATUTORY IMPLICATIONS**

Nil

#### **POLICY IMPLICATIONS**

Nil

### **STRATEGIC IMPLICATIONS**

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

### **FINANCIAL IMPLICATIONS**

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

### **COMMUNITY ENGAGEMENT**

No community engagement is required.

### **COMMENTS**

An update of completed actions from the 12 December 2023 Council resolutions are detailed in Attachment 1.

Attachment 2 summarises all other actions that are outstanding from previous Council resolutions.

### **ATTACHMENTS**

Attachment 1 - Council Action Register - January 2024

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



## 12.2.2. Standing Item - Use of the Common Seal

<b>DATE:</b>	27 February 2024
<b>AUTHOR:</b>	Executive Officer to the CEO
<b>RESPONSIBLE OFFICER:</b>	Vernon Lawrence, Chief Executive Officer
<b>DISCLOSURE OF INTERESTS:</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER:</b>	Regulator - enforce state legislation and local laws
<b>VOTING REQUIREMENT:</b>	Simple Majority

### **OFFICER'S RECOMMENDATION**

**That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 20 October 2023 to 23 February 2024.**

### **COUNCIL DECISION**

**Minute Number: 27/02/2024 – 118963**

**Moved: Cr B Robinson**

**Seconded: Cr C McNeil**

**That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 20 October 2023 to 23 February 2024.**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

### **PURPOSE**

For Council to receive this report on the application of the Shire of East Kimberley Common Seal for the period 20 October 2023 to 23 February 2024.

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

#### ***9.49A. Execution of documents***

- (1) A document is duly executed by a local government if—
  - (a) the common seal of the local government is affixed to it in accordance with subsections (2) and (3);*  
*or*
  - (b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.**
- (2) The common seal of a local government is not to be affixed to any document except as authorised by the local government.*
- (3) The common seal of the local government is to be affixed to a document in the presence of—
  - (a) the mayor or president; and*
  - (b) the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.**

- (4) A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.
- (5) A document executed by a person under an authority under subsection (4) is not to be regarded as a deed unless the person executes it as a deed and is permitted to do so by the authorisation.
- (6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary is shown.
- (7) When a document is produced bearing a seal purporting to be the common seal of the local government, it is to be presumed that the seal is the common seal of the local government unless the contrary is shown.

## **POLICY IMPLICATIONS**

Nil

## **STRATEGIC IMPLICATIONS**

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

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

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

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

## **RISK IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **COMMUNITY ENGAGEMENT**

No community engagement is required

## **COMMENTS**

There were 4 documents for the time period of 20 October 2023 to 23 February 2024 with the Shire of Wyndham East Kimberley Common Seal applied as per the table below:

<b>Date of Use</b>	<b>Document</b>
01-Feb-24	Recreational Boating Facilities Scheme Funding Agreement for Works Project
01-Feb-24	Formal Instrument of Agreement - Kununurra Leisure Centre Aquatic Redevelopment Stage 1
13-Feb-24	Subdivision Clearance Application - Lot 144 Whimbrel Road, Kununurra
13-Feb-24	Subdivision Application - Proposed Lots 322-324 on Deposited Plan 426850 Peter Reid Drive

## **ATTACHMENTS**

Nil

### 12.2.3. Communication Strategy

<b>DATE</b>	27 February 2024
<b>AUTHOR</b>	Marketing and Communications Officer
<b>RESPONSIBLE OFFICER</b>	Vernon Lawrence, Chief Executive Officer
<b>DISCLOSURE OF INTERESTS</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER</b>	Advocator - advocate and support initiatives on behalf of the community Leader - plan and provide direction through policy and practices Partner - Collaboration with external stakeholders to deliver service and projects. Provider - provide physical infrastructure and essential services
<b>VOTING REQUIREMENT</b>	Simple Majority

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

**That Council adopts the Communications Strategy as set out in Attachment 1**

#### **COUNCIL DECISION**

**Minute Number: 27/02/2024 – 118964**

**Moved: Cr D Hearty**

**Seconded: Cr B Robinson**

**That Council adopts the Communications Strategy as set out in Attachment 1.**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

#### **PURPOSE**

For Council to consider and adopt an internal strategy.

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

A Communication Strategy has been prepared for the purpose of describing the Shire's use of various communication mediums to external stakeholders. It was prepared in conjunction with an internal working group and identifies key markets along with the various forms that communication may take place.

More importantly, the Strategy describes a range of actions to improve those communication forms to improve transparency, clarity and relevance and to ensure appropriate feedback mechanisms are put in place against some defined goals. It is the first Strategy of its kind to

be adopted by this municipality and Officers are also preparing strategies that relate to internal communications as well as those to elected members.

The Communication Strategy is informed by previous surveys conducted by Markyt (Community Scorecards and other related surveys), providing valuable insights into the community's perceptions of our communication efforts and overall performance. Additionally, the Shire conducted its own survey. Based on this, five key goals have been formalised as the bedrock for the Communication Strategy, outlined below:

- **Goal 1:** Cultivate an Authentic, Trustworthy, Relatable, and Humanised Brand Image.
- **Goal 2:** Provide Customised Communication and Engagement to Address Diverse Community Requirements and Concerns.
- **Goal 3:** Foster a Culture of Ingenuity and Originality.
- **Goal 4:** Establish Sturdy Protocols and Systems to Bolster Our Communication and Engagement Endeavours.
- **Goal 5:** Cultivate a Proactive Communication Culture Within the Organisation.

The Communication Strategy was introduced to Council during the October 2023 Council Briefing session, where it was proposed that the document be open to public feedback.

Following this recommendation, the strategy underwent public advertising through paid social media channels, the Shire's engagement website, and print advertisement in the Kimberley Echo and Kununurra Sun. Despite these efforts, no additional comments or suggestions were provided from the community.

For reference, a copy of the Communication Strategy is included as Attachment 1.

### **STATUTORY IMPLICATIONS**

Nil

### **POLICY IMPLICATIONS**

POL-1007 Media and Corporate Communications  
POL-1013 Social Media Policy

### **STRATEGIC IMPLICATIONS**

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

**Focus Area:** CONNECTION

**Focus Area:** LIVEABILITY

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

**GOAL OUTCOME 10.1:** Community engagement - Community is engaged in decision making with opportunities to share their views on things that affect them

**GOAL OUTCOME 10.2:** Collaborative partnerships - Collaborative partnerships that build capacity and increase opportunities

**GOAL OUTCOME 10.3:** Advocacy - Strong and consistent advocacy for local needs and priorities

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

**STRATEGY 10.1:** The Shire will regularly inform the community about Shire projects, programs and services, and seek community input into decision making

**STRATEGY 10.2:** Support collaboration and partnerships to deliver key outcomes for our community

**STRATEGY 10.3:** The Shire will influence decisions of others in a way that recognises and prioritises the needs of our local community

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

### **RISK IMPLICATIONS**

**RISK:** Failure to undertake effective community engagement strategies which develop the Shire's understanding of the needs and aspirations of the community, grow community capacity and ensure supportable outcomes are reached with stakeholders.

**CONTROL:** User friendly communication strategy that clearly defines use of policy and procedures.

### **FINANCIAL IMPLICATIONS**

There were no additional costs in producing the Strategy and this report other than Officers time. All costs were provided for in the Annual Budget of the Shire.

### **COMMUNITY ENGAGEMENT**

The Strategy was promoted for a duration of three months. It was showcased on the Shire's engagement website ([www.shapeyourshire.com](http://www.shapeyourshire.com)), advertised through social media with paid promotions, and featured in print ads in the Kimberley Echo and Kununurra Sun.

However, there has been no feedback or further input from the community regarding the strategy.

### **COMMENTS**

Recognising that effective communication is fundamental to transparent governance, building public trust, and accomplishing policy objectives, the implementation of a well-organised strategy is paramount.

This strategy will guarantee that the Council's messages are consistently, promptly, and precisely conveyed, benefiting both the Council and the community.

### **ATTACHMENTS**

Attachment 1 – Communication Strategy

#### 12.2.4. Annual General Meeting of Electors - 1 February 2024

<b>DATE</b>	27 February 2024
<b>AUTHOR</b>	Chief Executive Officer
<b>RESPONSIBLE OFFICER</b>	Vernon Lawrence, Chief Executive Officer
<b>FILE NO</b>	GN.05.18
<b>DISCLOSURE OF INTERESTS</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER</b>	Leader - plan and provide direction through policy and practices
<b>VOTING REQUIREMENT</b>	Simple Majority

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

##### **Electors Motion**

**That Council investigate the opportunities and options to reduce the amount of vegetation in Lily Lagoon**

##### **COUNCIL DECISION**

**Minute Number: 27/02/2024 – 118965**

**Moved: Cr D Menzel**

**Seconded: Cr B Robinson**

**That Council investigate the opportunities and options to reduce the amount of vegetation in Lily Lagoon.**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

#### **PURPOSE**

To present for Council discussion and consideration the motions carried at the Annual General Electors' Meeting held on 1 February 2024. Council is only required to make a decision in response to a motion made at an electors' meeting, if it is moved, seconded, put to the vote and carried by a majority of Electors.

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

The Annual General Meeting of Electors takes place annually. At the 2023 Meeting there were no electors motions passed and so no report was brought to Council at an Ordinary Council Meeting to consider Electors Motions. In previous years Council considered a number of motions arising from the Annual General Meeting of Electors.

## **STATUTORY IMPLICATIONS**

Local Government Act, 1995

5.32. *Minutes of electors' meetings*

*The CEO is to —*

- (a) cause minutes of the proceedings at an electors' meeting to be kept and preserved; and*
- (b) ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors' meeting are first considered.*

5.33. *Decisions made at electors' meetings*

- (1) All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable —*
  - (a) at the first ordinary council meeting after that meeting; or*
  - (b) at a special meeting called for that purpose,**whichever happens first.*
- (2) If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting*

## **POLICY IMPLICATIONS**

POL-4010 Asset Management

## **STRATEGIC IMPLICATIONS**

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

**Focus Area:** CONNECTION

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

**Goal Outcome 10.1:** Community engagement - Community is engaged in decision making with opportunities to share their views on things that affect them

**Strategy 10.1:** The Shire will regularly inform the community about Shire projects, programs and services, and seek community input into decision making

## **RISK IMPLICATIONS**

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

**RISK:** Failure to undertake effective community engagement strategies which develop the Shire's understanding of the needs and aspirations of the community, grow community capacity and ensure supportable outcomes are reached with stakeholders.

**CONTROL:** Consideration of relevant legislation, Council Policy and Organisational Directives and processes in drafting officer recommendations to Electors' motions.

**CONTROL:** The Shire uses risk management practices to ensure community expectations are prioritised and met.

## **FINANCIAL IMPLICATIONS**

Financial implications are contingent upon Council's consideration of the motion as presented. Given the time until the financial year end it is not considered that a material impact will be made on the budget during the current financial year. Any financial implications for the next financial year will be considered during the budget process.

## **Asset Considerations**

At this stage there are no asset management considerations as no Shire assets are involved in this process at this time. Should specific assets be required to give effect to the motion the asset management implications will be made known to Council at the time.

## **COMMUNITY ENGAGEMENT**

Engagement has taken place in accordance with the Community Engagement Guidelines. The Annual General Meeting of Electors was advertised on the Shire's website, Facebook page and local public notice and all electors were invited to attend. Six (6) Elected Members and three (3) community members plus a number of Shire staff were in attendance.

## **COMMENTS**

A question from a member of the public was put to the meeting about the drainage along Jabiru Road. The Director Infrastructure has the following response:

The subdivided land to the North-East and South-East of Jabiru Road is semi rural, with natural surface flows contoured through the location, being private properties and then to the East to the river. The road has been constructed to be 'above' the natural surface, principally to get the road higher than the existing surface, with table drain installation on each side, and culverts at regular intervals. There are a number of low lying areas where water ponds in rainfall events.

There is no formal drainage system provided in this area, other than the installation of culverts and table drains to allow for the natural flow of water. There are a number of properties that have low lying areas inside their boundaries, which hold water.

The area in question of this enquiry, is certainly a low point, with natural flows likely running through the property to the river, although formal survey would be required to confirm this statement of natural lay of the land.

The statements on Facebook about the culvert being blocked reads, "The Colvert(sic) on the west side is currently blocked to limit the water coming under the road and into our block 446". Recent inspection has verified that the culverts are now unobstructed and clear.

Advice to the owner, would be, that if they have a low laying block that is subject to flooding, they should seek advice from a suitably qualified contractor to advise in the best course of action to drain the property to the river, to the satisfaction of the owner.

A second question relating to the excessive amount of Cumbungi and water lilies in Lily Lagoon. The matter was discussed and the CEO provided an answer which is detailed in the minutes of the meeting. It was suggested that this matter be the subject of an Electors Motion and the following motion was put to the floor:



### **Elector Motion 1**

**Moved: M Coventry**  
**Seconded: Cr T Chafer**

**That Council investigate the opportunities and options to reduce the amount of vegetation in Lily Lagoon**

**Carried / Lost: 9 / 0**

**For: Cr T Chafer, Cr M Dear, Cr D Hearty, Cr B Kyne, Cr C McNeil Cr B Robinson, L Heading, M Coventry, S Lawrence**  
**Against: Nil**

The Administration would like to provide the following advice to Council in relation to this matter.

It appears widely known that Lily Lagoon is not owned by the Shire. Historically, the area would have been managed by the Waters and Rivers Commission, who over time have divested all of those assets, with the usual expectation that Local Government would take over management of areas in decline. With the overall development of the town being considered, Council have expressed an interest in investing in this area.

Historically, it appears that past Councils have considered and applied mechanical clearing in the area, in an attempt to control lilies and cumbungie. Other options that have been suggested include removal when water levels are low, mechanical on pontoon with barges, aeration and/or chemical control. There have also been suggestions of use of cumbungie for stock feed or composting.

As Council now appear formally invested in progressing this matter, it would be prudent, that rather than the administration guessing the best solution, that advice from a suitably qualified profession be sought, to ensure that the most cost effective solution is invested in, first time. Should this be the case, the administration will start to liaise with relevant state agencies on any inhibiting (or otherwise) factors, and then search further afield to locations that have already implemented effective processes in similar circumstances.

This process *may* be considered as a part solution in the Regional Precincts and Partnerships Program (rPPP). or progressed as an independent area of research.

### **ATTACHMENTS**

Attachment 1 – Unconfirmed Minutes - Annual General Meeting of Electors - 1 February 2024.

### 12.2.5. REG-1001 Delegations Register - Review

<b>DATE</b>	27 February 2023
<b>AUTHOR</b>	Executive Officer to the CEO
<b>RESPONSIBLE OFFICER</b>	Vernon Lawrence, Chief Executive Officer
<b>FILE NO</b>	PL.02.6
<b>DISCLOSURE OF INTERESTS</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER</b>	Leader - plan and provide direction through policy and practices
<b>VOTING REQUIREMENT</b>	Simple Majority

### **OFFICER'S RECOMMENDATION**

**That Council:**

- 1. adopts REG-1001 Delegation Register (version 12.0), at Attachment 2.**
- 2. delegates the functions and responsibilities in REG-1001 Delegation Register (version 12.0).**

### **COUNCIL DECISION**

**Minute Number: 27/02/2024 – 118966**

**Moved: Cr D Hearty**

**Seconded: Cr B Kyne**

**That Council:**

- 1. adopts REG-1001 Delegation Register (version 12.0), at Attachment 2.**
- 2. delegates the functions and responsibilities in REG-1001 Delegation Register (version 12.0).**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

### **PURPOSE**

To consider amendments to the Shire's Delegation Register, following a review as required under the *Local Government Act 1995* (the Act).

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

The *Local Government Act 1995* provides for Council to delegate to the Chief Executive Officer (CEO) the exercise of certain powers or the discharge of any of its duties under the Act. It also provides that the CEO may sub-delegate any of their powers to another employee. This is to occur once the delegations to the CEO are adopted. These sub-delegations are in writing and included in the final Delegations Register.

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

The Regulation 17 Audit (including Regulation 5(2)(c) - Financial Management) included a comprehensive review of the Delegation Register and identified a number of delegations that required amendment or removal. To assist with this, in 2022, Officers engaged legal advisors to review and redraft the document to make the changes recommended in the Regulation 17 and Financial Management review as well as to better align with the template prepared by WA Local Government Association (WALGA) which is considered to be best practice.

The Delegations Register was last adopted by Council at the 27 September 2022 Ordinary Council Meeting:

*Council Decision*

*Minute Number: 27/09/2022 - 118726*

*That Council:*

- 1. adopts the Register of Delegations 2022/23, at Attachment 2*
- 2. delegates the functions and responsibilities in the Delegations Register 2022/23.*

*Moved: Cr Chafer*

*Seconded: Cr Dear*

*Decision: 6/0*

## **STATUTORY IMPLICATIONS**

### **5.42. Delegation of some powers and duties to CEO**

- (1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under —
- (a) this Act other than those referred to in section 5.43; or
  - (b) the Planning and Development Act 2005 section 214(2), (3) or (5).

\* Absolute majority required.

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

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

### **5.43. Limits on delegations to CEO**

- A local government cannot delegate to a CEO any of the following powers or duties —
- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
  - (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
  - (c) appointing an auditor;
  - (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
  - (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
  - (f) borrowing money on behalf of the local government;
  - (g) hearing or determining an objection of a kind referred to in section 9.5;
  - (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;
  - (h) any power or duty that requires the approval of the Minister or the Governor;
  - (i) such other powers or duties as may be prescribed.

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

### **5.44. CEO may delegate powers and duties to other employees**

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —
  - (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and
  - (b) the exercise of that power or the discharge of that duty by the CEO's delegate are subject to any conditions imposed by the local government on its delegation to the CEO.
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.
- (5) In subsections (3) and (4) — conditions includes qualifications, limitations or exceptions.  
[Section 5.44 amended by No. 1 of 1998 s. 14(1).]

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

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

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

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

**POLICY IMPLICATIONS**

The Delegations Register links to Council Policies and internal Organisational Directives and references to relevant policies are documented in each delegation.

**STRATEGIC IMPLICATIONS**

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

**Focus Area:** CONNECTION

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

**Goal Outcome 10.4:** Innovation - Embrace technology, creativity and innovation to solve complex problems

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

**RISK IMPLICATIONS**

**RISK:** Failure to develop appropriate, meaningful policies which enable the administration to perform in an effective and efficient way.

**CONTROL:** Maintain effective document control and registers of delegations including process for review of policy and procedures.

### **FINANCIAL IMPLICATIONS**

There are no financial implications associated with this matter

### **Asset Considerations**

Not applicable to this item

### **COMMUNITY ENGAGEMENT**

No community engagement is required.

### **COMMENTS**

The aim of delegated authority is to improve Council's decision-making and provide efficiency within the constraints allowed by relevant legislation. Without delegated authority, there would be a significant increase in items presented to Council for decision at its ordinary meetings.

By having appropriate delegations in place, it allows day to day decisions to be made by the CEO, who in turn can sub-delegate these duties to the appropriate staff.

In line with the Shire's continuing documentation review, the format and look of the Delegation Register has been updated in line with current style requirements, the structure has largely remained unchanged to remain aligned with WA Local Government Associations (WALGA's) template which is considered best practice.

### **ATTACHMENTS**

Attachment 1 - REG-1001 Delegation Register Tracked Changes

Attachment 2 - REG-1001 Delegation Register Clean Copy

### 12.2.6. Minutes and Recommendations from the North West Defence Alliance - 13 February 2024

<b>DATE:</b>	27 February 2024
<b>AUTHOR:</b>	Chief Executive Officer
<b>RESPONSIBLE OFFICER:</b>	Vernon Lawrence, Chief Executive Officer
<b>DISCLOSURE OF INTERESTS:</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER:</b>	Advocator, Facilitator and Leader
<b>VOTING REQUIREMENT:</b>	Simple Majority

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

**That Council receives and endorses the minutes and resolutions of the North West Defence Alliance meeting Minutes of 13 February 2024 as provided at Confidential Attachments 1 to 9 to this report.**

#### **COUNCIL DECISION**

**Minute Number: 27/02/2024 – 118967**

**Moved: Cr B Robinson**

**Seconded: Cr C McNeil**

**That Council receives and endorses the minutes and resolutions of the North West Defence Alliance meeting Minutes of 13 February 2024 as provided at Confidential Attachments 1 to 9 to this report.**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

#### **PURPOSE**

This report, presents for Council's endorsement, the Minutes from the last joint meeting of the North West Defence Alliance (NWDA).

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

The NWDA Zone is a group of nine local governments from the Kimberley and the Pilbara that are advocating for a greater defence presence in the north of Western Australia. This group includes the four Kimberley Shires in addition to the Shires of Ashburton, Exmouth, East Pilbara, Town of Port Hedland and City of Karratha.

The NWDA is a group established and operating within Terms of Reference. The objectives of the group are:

- To promote the case for increased defence infrastructure and personnel expenditure across local governments in the North West;
- To act as a point of liaison for the Department of Defence and associated authorities;

- To communicate key defence priorities to all levels of government, relevant stakeholders and to the public, and
- To maintain effective communication and collaboration between the Alliance members and to promote one another's strategic objectives.

Council considered the Minutes and Resolutions from the North West Defence Alliance Meeting Minutes of 18 September 2023 at the 24 October 2023 Ordinary Council Meeting.

### **COUNCIL DECISION**

Minute Number: 24/10/2023 - 118918

Moved: Cr D Hearty

Seconded: Cr T Chafer

That Council receives and endorses the minutes and resolutions of the North West Defence Alliance meeting Minutes of 18 September 2023 as provided at Attachment 1 to this report.

Carried: 5 / 0

For: Cr D Menzel, Cr T Chafer, Cr D Hearty, Cr B Kyne, Cr C McNeil

Against: Nil

### **STATUTORY IMPLICATIONS**

Nil

### **POLICY IMPLICATIONS**

Nil

### **STRATEGIC IMPLICATIONS**

The NWDA is aligned with the strategy of the Shire for better cooperation between the Federal Government and the Shire for investment in and upgrading of infrastructure that promote economic investment across the North of Western Australia.

### **RISK IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Financial information is provided in the minutes of the meeting. The Shire has been requested to provide a contribution of \$5,000 for the 2024 calendar year. This can be met out of existing budget allocations if required during this financial year. As part of the budget deliberations for the 2024/25 financial year a separate line item for this amount will be budgeted.

### **COMMUNITY ENGAGEMENT**

Nil

### **COMMENTS**

The Minutes of the NDWA and the associated attachments give a comprehensive view of the activities since the last meeting of the NWDA. Attached are Minutes of the 13 February 2024 meeting, the Chairs report and update and a presentation of an update by the NDWA consultant. There are a number of other documents attached that were provided as part of the agenda for the 13 February meeting.

Detailed information has not been provided in the report as aspects of the information could be regarded as sensitive. There is a lot of detail, nonetheless, in the attachments which have been made confidential for Councillors.

### **CONFIDENTIAL ATTACHMENTS**

- Confidential Attachment 1 - Minutes - North West Defence Alliance Meeting 7 - 2024 02 13
- Confidential Attachment 2 - NDWA Activity Update and Chair's Report - February 2024
- Confidential Attachment 3 - Update for NDWA
- Confidential Attachment 4 - 2023-11-03 Marles - NWDA
- Confidential Attachment 5 - MC23-004041 - Response to Mr Peter Long
- Confidential Attachment 6 - Premier Cook 2023 12 05 Signed
- Confidential Attachment 7 - US Force Posture Team EO Survey
- Confidential Attachment 8 - NWDA Advocacy at Indo-Pacific International Maritime Exposition - Sydney 2023
- Confidential Attachment 9 - Letter of Support - SWEK Airport Expansion – Signed



### 12.2.7. Memorandum of Understanding – Wyndham Work Camp

<b>DATE:</b>	27 February 2024
<b>AUTHOR:</b>	Chief Executive Officer
<b>RESPONSIBLE OFFICER:</b>	Vernon Lawrence, Chief Executive Officer
<b>DISCLOSURE OF INTERESTS:</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER:</b>	Advocator, Facilitator and Leader
<b>VOTING REQUIREMENT:</b>	Simple Majority

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

**That Council authorises the Chief Executive Office to sign, on behalf of the Shire, the Memorandum of Understanding between the Shire and Wyndham Work Camp.**

#### **COUNCIL DECISION**

**Minute Number: 27/02/2024 – 118968**

**Moved: Cr D Menzel**

**Seconded: Cr D Hearty**

**That Council authorises the Chief Executive Office to sign, on behalf of the Shire, the Memorandum of Understanding between the Shire and Wyndham Work Camp.**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

#### **PURPOSE**

To seek Council approval for the execution of the MOU between the Shire and Wyndham Work Camp that will allow for a collaborative approach to utilising the resources in manpower at the Wyndham Work Camp to the mutual benefit of both parties to the MOU.

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

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

Facilitator – bring stakeholders together

Funder – provide funds or other resources

Leader – plan and provide direction through policy and practices

Regulator – enforce state legislation and local laws

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

This matter has not been considered by Council previously although Council currently have MOU's with MG Corporation and Gelganyem Aboriginal Corporation. The attached Memorandum of Understanding (MOU) is the product of negotiations between SWEK and Wyndham Work Camp for a number of years.

## **STATUTORY IMPLICATIONS**

Nil

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil at this stage. There will be some costs related to consumables and the purchase of light equipment but these are estimated to be minor and will fall within the current budget allocations.

## **STRATEGIC IMPLICATIONS**

Strategic Community Plan 2017-2027

**Focus Area 4:** PERFORMANCE – Civic Leadership

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

**Strategic 3.3.3:** Support greater participation of local Aboriginal people in the workforce and to undertake business ventures.

**Strategy 4.1.2:** Foster relationships and partnerships with key stakeholders to achieve community outcomes.

## **COMMUNITY ENGAGEMENT**

No community engagement is required.

## **COMMENTS**

This MOU is the overarching document that will drive the collaborative working relationship between SWEK and Wyndham Work Camp. Individual work projects that will result from the implementation of this MOU are summarised in the document.

Should Council endorse the signing of this MOU, the management of the MOU (Section 8.0: Management) and any projects that arise from this MOU, will be through dialog between the Director of Infrastructure and the management of the Wyndham Work Camp. The expectation from this MOU will be that both the towns of Wyndham and Kununurra will have assistance for projects that our outdoor workforce needs to progress. This will allow for greater levels of services for our community without the additional staffing costs while providing the Work Camp residents the opportunity to gain skills and work experience that will aid them to assimilate back into society once their time has been served.

## **CONFIDENTIAL ATTACHMENTS**

Confidential Attachment 1 – Memorandum of Understanding – Wyndham Work Camp

## 12.3. PLANNING AND COMMUNITY DEVELOPMENT

### 12.3.1. Renewal of Caravan Parks and Camping Ground Licences

<b>DATE</b>	27 February 2024
<b>AUTHOR</b>	Senior Environmental Health Officer
<b>RESPONSIBLE OFFICER</b>	Nick Kearns, Director Planning and Community Development
<b>DISCLOSURE OF INTERESTS</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER</b>	Regulator - enforce state legislation and local laws
<b>VOTING REQUIREMENT</b>	Simple Majority

### OFFICER'S RECOMMENDATION

**That Council approves the renewal of licences under the Caravan Parks and Camping Grounds Act 1995 for:**

- **APT Mitchell Falls Wilderness Lodge;**
- **Bachsten Camp;**
- **Digger's Rest Station;**
- **Discovery Parks - Lake Kununurra;**
- **Discovery Resort - Lake Argyle**
- **Doon Doon Campground;**
- **Drysdale River Station;**
- **Ellenbrae Station;**
- **El Questro Station;**
- **Emma Gorge Resort;**
- **Hidden Valley Caravan Park;**
- **Home Valley Station - Homestead;**
- **Home Valley Station - Pentecost River Campground;**
- **Ivanhoe Village Caravan Resort;**
- **Kalumburu Mission Camping Ground;**
- **Kimberleyland Waterfront Holiday Park;**
- **Kununurra Agricultural Society;**
- **Lily Lagoon Resort;**
- **McGowan Island;**
- **Mount Elizabeth Station;**
- **Parry Creek Farm;**
- **Reach Beyond;**
- **Town Caravan Park;**
- **Wyndham Caravan Park.**

## **COUNCIL DECISION**

Minute Number: 27/02/2024 – 118969

Moved: Cr C McNeil

Seconded: Cr D Hearty

That Council approves the renewal of licences under the Caravan Parks and Camping Grounds Act 1995 for:

- APT Mitchell Falls Wilderness Lodge;
- Bachsten Camp;
- Digger's Rest Station;
- Discovery Parks - Lake Kununurra;
- Discovery Resort - Lake Argyle
- Doon Doon Campground;
- Drysdale River Station;
- Ellenbrae Station;
- El Questro Station;
- Emma Gorge Resort;
- Hidden Valley Caravan Park;
- Home Valley Station - Homestead;
- Home Valley Station - Pentecost River Campground;
- Ivanhoe Village Caravan Resort;
- Kalumburu Mission Camping Ground;
- Kimberleyland Waterfront Holiday Park;
- Kununurra Agricultural Society;
- Lily Lagoon Resort;
- McGowan Island;
- Mount Elizabeth Station;
- Parry Creek Farm;
- Reach Beyond;
- Town Caravan Park;
- Wyndham Caravan Park.

Carried / Lost : 5/0

For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson

Against: Nil

## **PURPOSE**

For Council to approve the renewal of licences issued under the *Caravan Parks and Camping Grounds Act 1995* for camping grounds and caravan parks in the Shire.

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

Caravan parks and camping grounds must be licenced under the *Caravan Parks and Camping Grounds Act 1995*. Licences remain in force for one year from the day on which the licence was granted or renewed. Licence renewal requires approval by Council.

Proposed licences are at Attachment 1.

## **STATUTORY IMPLICATIONS**

### *Caravan Parks and Camping Grounds Act 1995*

6. *Caravan park or camping ground not to be operated without a licence*  
(1) *On and after the appointed day a person must not operate a facility, or a facility of a prescribed type, unless the person holds the appropriate licence under this Act in relation to that facility.*

*Penalty: \$5 000.*

- (2) *In subsection (1) -  
appointed day means such day as is fixed by the Minister by notice published in the Government Gazette to be the appointed day for the purpose of that subsection<sup>2</sup>.*

7. *Application for the grant or renewal of a licence*

- (1) *An application for the grant or renewal of a licence for a facility is to be -*  
(a) *made to the local government in the appropriate prescribed form;*  
(b) *accompanied by the appropriate fee prescribed; and*  
(c) *accompanied by any information that the local government reasonably requires for a proper consideration of the application*
- (2) *An applicant is to provide the local government with any further information that the local government by notice in writing requires the applicant to provide in respect of an application*
- (3) *An applicant must, if required to do so by the local government, verify by statutory declaration any information contained in, or given in connection with, an application*
- (4) *Subject to this section, a local government may grant or renew a licence and at any time may impose conditions on that licence.*
- (5) *Before granting a licence a local government must ensure that-*  
(a) *the applicant has complied with the requirements of this Act;*  
(b) *the applicant is the owner of the land on which the facility is situated, or is to be situated, or has the written approval of the owner of that land to apply for a licence.*
- (6) *A local government may refuse to renew a licence if -*  
(a) *the licence holder has been convicted of an offence against this Act or any other written law relating to caravanning or camping which, in the opinion of the local government, renders the licence holder an unsuitable person to hold a licence;*  
(b) *a condition imposed on the licence has been contravened; or*  
(c) *The licence was obtained by fraud or misrepresentation.*
- (7) *Where a local government refuses to grant or renew a licence it must give notice in writing of that decision to the applicant*
- (8) *Notice of a decision under this section is to state that the applicant or licence holder is entitled to apply to the State Administrative Tribunal for a review of the decision*

8. *Duration of licence*

*A licence remains in force for the prescribed period unless -*

- (a) *it is provided otherwise in the licence; or*  
(b) *it is cancelled.*

### *Caravan Parks and Camping Grounds Regulations 1997*

52. *Duration of licence*

*The prescribed period for the purposes of section 8 of the Act is one year from the day on which the licence was granted or renewed.*

## **POLICY IMPLICATIONS**

Overflow sites in caravan parks and camping grounds are approved in accordance with Council Policy POL-3006 *Licensing of Overflow Sites in Caravan Parks and Camping Grounds*.

All licences have been assessed and comply with this policy.

## **STRATEGIC IMPLICATIONS**

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

**Focus Area:** LIVEABILITY

**Goal 9:** Conserving Country - Protect and enhance our unique natural environment for generations to come

**Goal Outcome 9.1:** Protect and enhance our natural environment - We care for and enjoy our unique natural environment

**Strategy 9.1:** Work in partnership to implement cooperative programs to manage waste, land, fire, pathogens, introduced animals and weeds

## **RISK IMPLICATIONS**

**RISK:** Failure to manage the appropriateness and effectiveness of the Shire's systems and procedures in relation to risk management, internal control and legislative compliance.

**CONTROL:** Inspection by Shire officers and compliance with minimum requirements based on legislative requirements for Caravan Parks and Nature Based Parks.

## **FINANCIAL IMPLICATIONS**

Majority of owners/operators have paid the licence renewal fees.

Those whose fees are still outstanding will not be sent their licences until the fees are paid.

## **Asset Considerations**

Nil

## **COMMUNITY ENGAGEMENT**

No community engagement is required.

## **COMMENTS**

The renewals are for existing caravan parks and camping grounds. All applications have been assessed and are recommended for renewal.

Where a renewal form has not been received, or annual fees not paid, the updated licence will not be issued to them until the outstanding item has been addressed.

## **ATTACHMENTS**

Attachment 1 - Proposed Caravan Parks and Camping Ground Licences 2024

### 12.3.2. Ewin Centre Request for Funding

<b>DATE</b>	27 February 2024
<b>AUTHOR</b>	Manager Community Development
<b>RESPONSIBLE OFFICER</b>	Director Planning and Community Development
<b>ASSESSMENT NO</b>	A2529
<b>FILE NO</b>	I-94507
<b>DISCLOSURE OF INTERESTS</b>	Chief Executive Officer - Impartiality interest
<b>COUNCIL'S ROLE IN THE MATTER</b>	Funder - provide funds or other resources
<b>VOTING REQUIREMENT</b>	Simple Majority

### OFFICER'S RECOMMENDATION

#### That Council

1. Endorses the allocation of:
  - \$6,900 from the Childcare Reserve for the relocation of the air conditioning condensers at the Ewin Centre to make room for the funded sensory garden;
  - Waiver of 10 Gold Membership fees valued at \$6,400 for the Ewin Centre to offer staff as part of their Employment Assistance Program;
2. Notes that the Ewin Centre will receive \$12,000 from the \$36,000 the Shire received from Round One funding for the Attraction and Retention Packages for Regional Child Care Workers.

### COUNCIL DECISION

Minute Number: 27/02/2024 – 118970

Moved: Cr D Hearty

Seconded: Cr C McNeil

#### That Council

1. Endorses the allocation of:
  - \$6,900 from the Childcare Reserve for the relocation of the air conditioning condensers at the Ewin Centre to make room for the funded sensory garden;
  - Waiver of 10 Gold Membership fees valued at \$6,400 for the Ewin Centre to offer staff as part of their Employment Assistance Program;
2. Notes that the Ewin Centre will receive \$12,000 from the \$36,000 the Shire received from Round One funding for the Attraction and Retention Packages for Regional Child Care Workers.

Carried / Lost : 5/0

For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson

Against: Nil

## **PURPOSE**

For Council to consider the Ewin Centre's request for support and funding for the relocation of air conditioning condensers, development of a new Centre website, and for the waiver of fees associated with 10 Gold Memberships to the Kununurra Leisure Centre as part of the Ewin Centre's Employment Assistance Program

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

The Ewin Early Learning Centre (EELC) has reached out to the Shire with a funding request to enhance the Centre's infrastructure, promote the Centre, and further support staff attraction and retention.

The specific requests included:

- Relocation of ground-level air conditioning (condenser) units situated in the children's play area is essential to make space for new rainwater tanks and a sensory garden. The sensory garden is a funded project; however, its completion is contingent upon the successful relocation of the air conditioning condensers. This is imperative to ensure that the associated rainwater tanks, integral components of the garden, can be accommodated effectively.  
Regrettably, during the grant application process, the current EELC management team faced challenges due to key staff turnover. Consequently, the associated cost of relocating the air conditioning condensers was inadvertently overlooked. Shire officers have raised questions regarding this omission, prompting clarification from the EELC management team.  
In response to this oversight, the EELC is now seeking \$6,900 (EX GST) in funding from the Shire to cover the expenses associated with the relocation of the air conditioning condensers.
- EELC is seeking funding in the amount of \$14,800 (EX GST) for the design and development of a new website for the Centre. The current EELC website has become outdated and no longer fulfils the evolving needs of the Centre. Its limitations include a lack of editable or customisable content, a disconnect from the region, and insufficient information for individuals exploring child care placement or employment opportunities within child care in Kununurra.  
EELC recent review of the Centre's recruitment process has highlighted the impact of the outdated website, revealing that potential qualified employees are being deterred. The Centre is keenly aware of this challenge and is committed to enhancing its online presence and marketing strategies, as well as refining its recruitment processes to effectively showcase the best aspects of the Centre.  
The proposed project encompasses engaging professional services for website design and development, logo redesign, and online social media marketing. The envisioned new website aims to address these shortcomings by offering clearer links to recruitment, thereby alleviating the burden on Centre staff who currently handle numerous inquiries over the phone. Additionally, the website will feature a recruitment marketing campaign similar to the recent initiative undertaken by the Shire to attract skilled staff to relocate to Kununurra.  
The EELC believes that the implementation of this project will not only modernise its digital presence but also contribute significantly to the attraction and retention of qualified staff.
- Ten annual Gold Corporate Memberships to the Kununurra Leisure Centre facilities. These memberships are intended to bolster the EELC Employee Assistance Program, a program specifically designed to enhance employee attraction and retention. The Employee Assistance Program encompasses crucial benefits such as access to employee skin checks, flu vaccinations, and participation in an Employee Assistance Program (EAP).



The requested ten Gold Memberships, valued at \$6,400, Council will be asked to consider a waiver of this fee to contribute toward boosting the Centres EAP.

A copy of the email from the General Manager of the EELC is provided at Attachment 1. A number of quotes to support the request are also attached to this report to support their request.

A new board was appointed in August 2023, a priority for the Board and EELC Management Team was to secure several grants to ensure the Centre remained solvent, including \$1 million of Child Care Centre Funding and several smaller grants.

A breakdown of all the grant funding and its allocation is below:

**CCCF**

\$730,000 for recruitment agency staff;  
\$40,000 for 'temporary premises if usual premises is uninhabitable';  
\$100,000 for wages and on-costs for management, educators, kitchen staff and cleaners and other staff incentives;  
\$20,000 for professional development and training (First Aid, Supervisory Training, Workshops etc.);  
\$50,000 DAMA/Sponsorship; and  
\$80,000 for Sustainability infrastructure – Solar and Rainwater tanks.

**Child Australia**

\$59,455 Playground upgrades;  
\$29,470 for professional development (Child Australia Consultancy – 12 month Calendar);  
and  
\$7,536 for additional resources.

**Kimberley Development Commission**

\$130,000 Mentor recruitment (FTE over 2 years).

**Apex**

\$3,000 – Sustainable Garden.

**Horizon Power**

\$5,500 – Sustainable Garden.

The centre had not applied for funding under the Shire's Annual Community Grants program, even though they were contacted directly.

**STATUTORY IMPLICATIONS**

NIL

**POLICY IMPLICATIONS**

NIL

**STRATEGIC IMPLICATIONS**

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

**Focus Area:** LIVEABILITY

**Goal 1:** Safe communities - A community where we all feel safe

- Access to education - Education and training opportunities for everyone
- Childcare and preschool programs - Increase participation in early childhood educational development including quality childcare
- Inclusive education pathways - Residents can access a broad range of educational opportunities, including alternative education pathways

### **RISK IMPLICATIONS**

**RISK:** Failure to facilitate community development initiatives which support positive social outcomes for community members, including; education, health, aged care, youth services and Indigenous services

**CONTROL:** Support from the Shire to complement community development initiatives through financial assistance.

### **FINANCIAL IMPLICATIONS**

EELC has requested \$28,100 from the Shire to complete the projects and assist the EAP. Typically, this type of funding request would normally be presented to Council as part of the assessment of the Annual Community Grants program, however, funds under that program were allocated in November last year and the fund is mostly expended.

The \$6,900 of funding required to relocate the air conditioning condensers can be funded from the Childcare Reserve. This reserve is specifically for major maintenance repairs or capital works projects.

The ten Gold Corporate Memberships valued at \$6,400 Council could consider a waiver of Fees and Charges.

The Shire was successful in receiving \$36,000 last year from the State Governments Attraction and Retention Packages for Regional Child Care Workers. This funding will be shared equally among the three major childcare centres in Wyndham and Kununurra. It is recommended that EELC utilise the \$12,000 allocation toward the website development.

### **Asset Considerations**

The EELC facility is owned by the Shire and the Shire is responsible for building/property maintenance.

### **COMMUNITY ENGAGEMENT**

No community engagement is required.

### **COMMENTS**

The EELC plays a crucial role as a contributor to livability and economic growth. The importance of quality early childhood education, however, cannot be understated.

Officers recognise the difficulties currently facing the centre, which are generally attributed to difficulties in attracting and retaining key staff; offering a quality educational experience in an ageing complex, and a lack of promotion. The initiatives proposed by the EELC, and which they need support, go to addressing these. In any case, support for early childhood education underpins a number of goals of Council's strategies.

Shire officers recommend that Council endorse the expenditure of \$6,900 for the relocation of the air conditioning condensers from the Childcare Reserve. Waive the \$6,400 fee associated with the purchase of 12 Month Gold Corporate Membership at the Kununurra Leisure Centre.

As noted within the Financial Implications of this report, Shire officers intend to allocate one-third (\$12,000) from the Attraction and Retention Packages for Regional Child Care Workers, Round One allocation so EELC can use the funds for the creation of a new website which will improve staff attraction and retention.

### **ATTACHMENTS**

Attachment 1 – Ewin Centre

Attachment 2 – Harby Studios Proposal

Attachment 3 – Abney Air Quote

Attachment 4 – Kimberley Kool Refrigeration & Air-conditioning

Attachment 5 – Quick Clicks Proposal

**12.4. CORPORATE SERVICES**

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

<b>DATE</b>	27 February 2024
<b>AUTHOR</b>	Accountant - Assets, Creditors and Tax
<b>RESPONSIBLE OFFICER</b>	Felicity Heading, Director Corporate Services
<b>FILE NO</b>	FM.09.36
<b>DISCLOSURE OF INTERESTS</b>	Nil
<b>COUNCIL’S ROLE IN THE MATTER</b>	Regulator - Responsible for the enforcement of statutory requirements
<b>VOTING REQUIREMENT</b>	Simple Majority

**OFFICER’S RECOMMENDATION**

That Council receives the lists of accounts paid from the Municipal and Trust funds for December 2023 and January 2024 being:

<b>December 2023</b>	
Municipal EFT 147225 - 147733 (05/12/23 - 22/12/23)	\$ 2,783,607.43
Payroll (13/12/23 - 27/12/23)	\$ 542,202.25
Direct Bank Debits (01/12/23 - 29/12/23)	\$ 19,734.48
<b>Total</b>	<b>\$ 3,345,544.16</b>
<b>January 2024</b>	
Municipal EFT 147780 - 147982 (08/01/24 - 25/01/24)	\$ 3,958,310.63
Payroll (10/01/24 - 25/01/24)	\$ 537,338.31
Direct Bank Debits (02/01/24 - 23/01/24)	\$ 115,378.75
<b>Total</b>	<b>\$ 4,611,027.69</b>

**COUNCIL DECISION**

Minute Number: 27/02/2024 – 118970  
 Moved: Cr B Robinson  
 Seconded: Cr C McNeil

That Council receives the lists of accounts paid from the Municipal and Trust funds for December 2023 and January 2024 being:

<b>December 2023</b>	
Municipal EFT 147225 - 147733 (05/12/23 - 22/12/23)	\$ 2,783,607.43
Payroll (13/12/23 - 27/12/23)	\$ 542,202.25
Direct Bank Debits (01/12/23 - 29/12/23)	\$ 19,734.48
<b>Total</b>	<b>\$ 3,345,544.16</b>
<b>January 2024</b>	

<b>Municipal EFT 147780 - 147982 (08/01/24 - 25/01/24)</b>	<b>\$ 3,958,310.63</b>
<b>Payroll (10/01/24 - 25/01/24)</b>	<b>\$ 537,338.31</b>
<b>Direct Bank Debits (02/01/24 - 23/01/24)</b>	<b>\$ 115,378.75</b>
<b>Total</b>	<b>\$ 4,611,027.69</b>

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

## **PURPOSE**

For Council to receive the list of accounts paid from the Municipal Fund and Trust Fund in order to meet the requirements of the *Local Government (Financial Management) Regulations 1996*.

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

In accordance with Council's Delegations Register, which was adopted by Council on 27 September 2022, the Council has delegated to the CEO the exercise of its power under Regulations 12 and 13 of the *Local Government (Financial Management) Regulations 1996* to make payments from Municipal Fund and Trust Fund.

## **STATUTORY IMPLICATIONS**

Amendments to the *Local Government (Financial Management) Regulations 1996 (Regulation 13A)* now require the List of Accounts Paid to include payments by employees via purchasing cards. The attached report includes these payments.

### **Local Government Act 1995 - Section 5.42 Delegation of some power and duties to CEO**

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

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

\* Absolute majority required.

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

### **Local Government (Financial Management) Regulations 1996 - Regulation 5. CEO's duties as to financial management (in part)**

(1) Efficient systems and procedures are to be established by the CEO of a local government —

- (e) to ensure proper authorisation for the incurring of liabilities and the making of payments; and

### **Regulation 11. Payments, procedures for making etc.**

(1) A local government is to develop procedures for the authorisation of, and the payment of, accounts to ensure that there is effective security for, and properly authorised use of —

- (a) cheques, credit cards, computer encryption devices and passwords, purchasing cards and any other devices or methods by which goods, services, money or other benefits may be obtained; and
- (b) petty cash systems.

(2) A local government is to develop procedures for the approval of accounts to ensure that before payment of an account a determination is made that the relevant debt was incurred by a person who was properly authorised to do so.

(3) Payments made by a local government —

- (a) subject to subregulation (4), are not to be made in cash;
- and

(b) are to be made in a manner which allows identification of —

- (i) the method of payment; and

- (ii) the authority for the payment; and
- (iii) the identity of the person who authorised the payment.
- (4) Nothing in subregulation (3)(a) prevents a local government from making payments in cash from a petty cash system.

**Regulation 12. Payments from municipal fund or trust fund, restrictions on making.**

- (1) A payment may only be made from the municipal fund or the trust fund —
- (a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or
- (b) otherwise, if the payment is authorised in advance by resolution of the council.

**Regulation 13. Payments from municipal fund or trust fund by CEO, CEO's duties etc.**

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —
- (a) the payee's name; and
- (b) the amount of the payment; and
- (c) the date of the payment; and
- (d) sufficient information to identify the transaction.
- (2) A list of accounts for approval to be paid is to be prepared each month showing —
- (a) for each account which requires council authorisation in that month —
- (i) the payee's name; and
- (ii) the amount of the payment; and
- (iii) sufficient information to identify the transaction; and
- (b) the date of the meeting of the council to which the list is to be presented.
- (3) A list prepared under subregulation (1) or (2) is to be —
- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
- (b) recorded in the minutes of that meeting.

**13A. Payments by employees via purchasing cards**

- (1) If a local government has authorised an employee to use a credit, debit or other purchasing card, a list of payments made using the card must be prepared each month showing the following for each payment made since the last such list was prepared —
  - (a) the payee's name;
  - (b) the amount of the payment;
  - (c) the date of the payment;
  - (d) sufficient information to identify the payment.
  - (2) A list prepared under subregulation (1) must be —
  - (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
  - (b) recorded in the minutes of that meeting.
- [Regulation 13A inserted: SL 2023/106 r. 6.]

**POLICY IMPLICATIONS**

Shire of Wyndham East Kimberley Delegation Register 2022-2023 Sub-delegation 6 "Payments from the Municipal Fund and Trust Fund" applies subject to compliance with Council Policy POL-2004 Purchasing.

**FINANCIAL IMPLICATIONS**

There are no financial implications arising out of the preparation of this report. The financial implications arising from the payments made from the Municipal and Trust funds have been provided for in the Adopted Budget and any subsequent amendments thereto. This report provides for the ongoing management of the Shire's funds by providing the Council with sufficient information to monitor and review those payments made, as well as to comply with legislative requirements.

## **STRATEGIC IMPLICATIONS**

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

**FOCUS AREA:** Sustainability

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

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

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

## **RISK IMPLICATIONS**

**Risk:** Failure to manage the disbursement of funds to meet the needs of the Shires forward planning requirements, including the Strategic Community Plan, Corporate Business Plan, Long Term Financial Plan and Annual Budget.

**Controls:** Monthly Financial Report and List of Accounts Paid reported to Council on a monthly basis as required by Legislation and Regulations.

## **COMMUNITY ENGAGEMENT**

No community engagement is required in relation to this item.

## **COMMENTS**

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

Amendments to the *Local Government (Financial Management) Regulations 1996 (Regulation 13A)* now require the List of Accounts Paid to include payments by employees via purchasing cards. The attached Lists of Accounts Paid include these payments.

## **ATTACHMENTS**

Attachment 1 - List of Accounts Paid December 2023

Attachment 2 - List of Accounts Paid January 2024

## 12.4.2. Monthly Financial Report

<b>DATE</b>	27 February 2024
<b>AUTHOR</b>	Manager Finance
<b>RESPONSIBLE OFFICER</b>	Felicity Heading, Director Corporate Services
<b>FILE NO</b>	FM.09.36
<b>DISCLOSURE OF INTERESTS</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER</b>	Regulator - Responsible for the enforcement of statutory requirements
<b>VOTING REQUIREMENT</b>	Simple Majority

### **OFFICER'S RECOMMENDATION**

**That Council receives the Monthly Financial Reports for the periods ended 31 December 2023 and 31 January 2024.**

### **COUNCIL DECISION**

**Minute Number: 27/02/2024 – 118971**

**Moved: Cr B Robinson**

**Seconded: Cr D Hearty**

**That Council receives the Monthly Financial Reports for the periods ended 31 December 2023 and 31 January 2024.**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

### **PURPOSE**

For Council to receive the Monthly Financial Reports for the periods ended 31 December 2023 and 31 January 2024.

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

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

At the 27 June 2023 Ordinary Council Meeting, the Council resolved the following:

#### Council Decision

Minute Number: 27/06/2023 - 118865



That Council, pursuant to Regulation 34(5) of the Local Government (Financial Management) Regulations 1996, approves the materiality level for monthly reporting to be set at +/- 10% and +/- \$50,000 at financial statement level.

Moved: Cr D Menzel  
Seconded: Cr T Chafer

Decision 8/0

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

## **STATUTORY IMPLICATIONS**

### ***Local Government Act 1995, Section 6.4.***

#### **6.4. Financial report**

(1) A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.

(2) The financial report is to —

(a) be prepared and presented in the manner and form prescribed; and

(b) contain the prescribed information.

(3) By 30 September following each financial year or such extended time as the Minister allows, a local government is to submit to its auditor —

(a) the accounts of the local government, balanced up to the last day of the preceding financial year; and

(b) the annual financial report of the local government for the preceding financial year.

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

#### **34. Financial activity statement required each month (Act s. 6.4)**

(1A) In this regulation —

*committed assets means revenue unspent but set aside under the annual budget for a specific purpose.*

(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for the previous month (the **relevant month**) in the following detail —

(a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and

(b) budget estimates to the end of the relevant month; and

(c) actual amounts of expenditure, revenue and income to the end of the relevant month; and

(d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and

(e) the net current assets at the end of the relevant month and a note containing a summary explaining the composition of the net current assets.

(1B) The detail included under subregulation (1)(e) must be structured in the same way as the detail included in the annual budget under regulation 31(1) and (3)(a).

(1C) Any information relating to exclusions from the calculation of a budget deficiency that is included as part of the budget estimates referred to in subregulation (1)(a) or (b) must be structured in the same way as the corresponding information included in the annual budget.

(2) Each statement of financial activity is to be accompanied by documents containing —

(b) an explanation of each of the material variances referred to in subregulation (1)(d); and

(c) such other supporting information as is considered relevant by the local government.

(3) The information in a statement of financial activity must be shown according to nature classification.

(4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —

(a) presented at an ordinary meeting of the council within 2 months after the end of the relevant month; and

(b) recorded in the minutes of the meeting at which it is presented.

(5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

[Regulation 34 inserted: Gazette 31 Mar 2005 p. 1049-50; amended: Gazette 20 Jun 2008 p. 2724; SL 2022/88 r. 8; SL 2023/106 r. 19.]

#### **35. Financial position statement required each month**

(1) A local government must prepare each month a statement of financial position showing the financial position of the local government as at the last day of the previous month (the previous month) and —

(a) the financial position of the local government as at the last day of the previous financial year; or

(b) if the previous month is June, the financial position of the local government as at the last day of the financial year before the previous financial year.

(2) A statement of financial position must be —

(a) presented at an ordinary meeting of the council within 2 months after the end of the previous month; and

(b) recorded in the minutes of the meeting at which it is presented.

[Regulation 35 inserted: SL 2023/106 r. 20.]

## **POLICY IMPLICATIONS**

The Significant Accounting Policies incorporated within the 2023/24 annual budget have been applied in the preparation of the report.

## **FINANCIAL IMPLICATIONS**

There are no additional costs associated with the preparation of this report. Monthly financial reporting is a primary financial management and control process. This report provides Council with the ability to oversee the Shire's financial performance against budgeted targets.

## **STRATEGIC IMPLICATIONS**

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

**FOCUS AREA:** Sustainability

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

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

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

## **RISK IMPLICATIONS**

**Risk:** Failure to manage the disbursement of funds to meet the needs of the Shire's forward planning requirements, including the Strategic Community Plan, Corporate Business Plan, Long Term Financial Plans and Annual Budget.

**Controls:** Monthly Financial Report and List of Accounts Paid reported to Council on a monthly basis as required by Legislation and Regulations.

## **COMMUNITY ENGAGEMENT**

The Shire of Wyndham East Kimberley's *POL-3000 Community Engagement Policy* has been considered in relation to this item.

No community engagement is required in relation to this item.

## **COMMENTS**

Changes to the *Local Government (Financial Management) Regulations 1996* effective for the 2023/24 financial year mean the reporting requirements for the Monthly Financial Reports have changed with additional information required to be reported including a Statement of Financial Position (Balance Sheet) and an explanation of Net Current Assets.

Moore Australia has prepared the attached Monthly Financial Report in accordance with the amended regulations.

**ATTACHMENTS**

Attachment 1 - Monthly Financial Report December 2023

Attachment 2 - Monthly Financial Report January 2024

**12.4.3. POL-2004 Purchasing, POL-2012 Pre-Qualified Supplier Panel & POL-2011 Regional Price Preference - Policy Review**

<b>DATE</b>	27 February 2024
<b>AUTHOR</b>	Senior Procurement and Contracts Officer
<b>RESPONSIBLE OFFICER</b>	Felicity Heading, Director Corporate Services
<b>FILE NO</b>	CM.11.2
<b>DISCLOSURE OF INTERESTS</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER</b>	Funder - provide funds or other resources Leader - plan and provide direction through policy and practices Provider - provide physical infrastructure and essential services
<b>VOTING REQUIREMENT</b>	Simple Majority

**OFFICER'S RECOMMENDATION**

**That Council:**

**Adopts the following reviewed policies with amendments as provided in the attachments:**

- 1. POL-2004 Purchasing;**
- 2. POL-2011 Regional Price Preference; and**
- 3. POL-2012 Pre-Qualified Supplier Panels**

**COUNCIL DECISION**

**Minute Number: 27/02/2024 – 118972**

**Moved: Cr B Kyne**

**Seconded: Cr C McNeil**

**Adopts the following reviewed policies with amendments as provided in the attachments:**

- 1. POL-2004 Purchasing;**
- 2. POL-2011 Regional Price Preference; and**
- 3. POL-2012 Pre-Qualified Supplier Panels**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

## **PURPOSE**

For Council to consider adoption of the reviewed policies *POL-2004 Purchasing*, *POL-2011 Regional Price Preference* and *POL-2012 Pre-Qualified Supplier Panels*.

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

A comprehensive review of the Shire's procurement policies was undertaken in 2022 with changes made to align the policies with the most recent WALGA Industry Standard Templates and to improve operational efficiencies. The policies have been further reviewed and details of proposed amendments are provided in the comments section below.

At the 25 October 2022, Ordinary Council Meeting, Council Resolved to:

### *Council Decision*

*Minute Number: 25/10/2022 - 118740*

*That Council:*

1. *Adopts the following revised policies with amendments as provided in attachments 1 to 5:*
  - a. *CP/FIN-3204 Purchasing;*
  - b. *CP/FIN-3213 Corporate Credit Cards;*
  - c. *CP/FIN-3217 Regional Price Preference;*
  - d. *CP/FIN-3218 Pre-Qualified Supplier Panel; and*
2. *Note that the Shire has reviewed procurement processes as per Electors Motion 5 and Council Resolution 118625.*

*Moved: Cr J Farquhar*

*Seconded: Cr N Brook*

*Decision: 8/0*

## **STATUTORY IMPLICATIONS**

A local government is to adopt a purchasing policy in accordance with Regulation 11A, *Local Government (Functions and General) Regulations 1996*. Sections 2.7 and 2.8 of the *Local Government Act 1995* are also relevant.

A local government may adopt a regional price preference policy and a pre-qualified supplier panel policy as per Division 3 and Part 4A of the *Local Government (Functions and General) Regulations 1996*.

*Local Government (Functions and General) Regulations 1996*

*11A. Purchasing policies for local governments (in part)*

*(1) A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250 000 or less or worth \$250 000 or less.*

*Regulation 11 When tenders have to be publicly invited (in part)*

*(1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250,000 unless subregulation (2) states otherwise.*

*(2) Tenders do not have to be publicly invited according to the requirements of this Division if —*

*(d) the contract is to be entered into by auction after being expressly authorised by a resolution of the council of the local government;*

## **POLICY IMPLICATIONS**

Council Policy *POL-1014 Policy Management* requires that policies be presented to Council detailing any proposed changes where the change is beyond administrative in nature.

## **STRATEGIC IMPLICATIONS**

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

**Focus Area:** SUSTAINABILITY

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

**Goal Outcome 10.3:** Advocacy - Strong and consistent advocacy for local needs and priorities

**Strategy 10.3:** The Shire will influence decisions of others in a way that recognises and prioritises the needs of our local community

## **RISK IMPLICATIONS**

**Risk:** Failure to develop appropriate, meaningful policies which enable the administration to perform in an effective and efficient way.

**Control:** Policies updated in accordance with schedule and operational requirements.

**Risk:** Failure to adequately resource and manage funding requirements which meet the needs of the Shire's service delivery requirements and strategic objectives.

**Control:** Relevant policies updated in accordance with schedule and operational requirements ensuring that the Shire's financial management framework, internal control procedures and restrictions over investments continue to be maintained and adhered to, and meet all statutory requirements.

## **FINANCIAL IMPLICATIONS**

There are no financial implications associated with the review of these policies

## **ASSET CONSIDERATIONS**

Nil

## **COMMUNITY ENGAGEMENT**

No community engagement is required.

## **COMMENTS**

### **POL-2004 Purchasing**

As detailed in the Statutory implications above, the *Local Government (Functions and General) Regulations 1996* provide for a tender exemption for purchases at auction with a value more than \$250,000 after the purchase has been expressly approved by a resolution of Council. The regulations are silent regarding purchases at auction with a value less than \$250,000 with any specific requirements to be included in Council Policy.

It is the officer's recommendation that policy POL-2004 Purchasing be amended to provide for the following:

1. Purchases up to the value of \$100,000 can be made at auction by the CEO without the express approval by a resolution of Council subject to meeting all of the following conditions:
  - a. The purchase must be for an individual item of Plant or Equipment;
  - b. The item must not exceed \$100,000 in value;
  - c. There must be funds allocated within the current budget for the purchase; and
  - d. The details of the purchase must be reported to Council at the next Ordinary Council Meeting or as soon as practicable.
2. All purchases at auction with a value of more than \$100,000 require the express prior approval by a resolution of Council. This places a limit on purchases in line with what officers consider to be the likely value of items of plant and equipment that may be required, and is consistent with the existing requirements of the *Local Government (Functions and General) Regulations 1996* for purchases at auction worth more than \$250,000. This provides operational simplicity with one set of requirements for purchases up to the \$100,000 threshold and one set of requirements for purchases above the \$100,000 threshold.

All purchasing objectives and principles outlined in the policy remain applicable to purchases undertaken at auction.

The following policies have been reviewed with one minor amendment to each policy:

POL-2011 Regional Price Preference  
POL-2012 Pre-Qualified Supplier Panels

The attached policies have all been updated into the new policy format as part of the Shire's document review that is currently being undertaken.

## **ATTACHMENTS**

Attachment 1 - POL-2004 Purchasing N-50071 - Tracked Changes  
Attachment 2 - POL-2004 Purchasing N-50071 - Clean Copy  
Attachment 3 - POL-2011 Regional Price Preference N-50329 - Tracked Changes  
Attachment 4 - POL-2011 Regional Price Preference - Clean Copy  
Attachment 5 - POL-2012 Pre-Qualified Supplier Panels N-50123 - Tracked Changes  
Attachment 6 - POL-2012 Pre-Qualified Supplier Panels N-50123 - Clean Copy

## 12.5. INFRASTRUCTURE

### 12.5.1. Anthon's Landing Fees and MOU

<b>DATE</b>	27 February 2024
<b>AUTHOR</b>	Director Infrastructure and Strategic Projects
<b>RESPONSIBLE OFFICER</b>	Director Infrastructure and Strategic Projects
<b>FILE NO</b>	CP.06.4
<b>DISCLOSURE OF INTERESTS</b>	NIL
<b>COUNCIL'S ROLE IN THE MATTER</b>	Partner - Collaboration with external stakeholders to deliver service and projects.
<b>VOTING REQUIREMENT</b>	Simple Majority

### OFFICER'S RECOMMENDATION

**That Council:**

- 1. Authorises the Chief Executive Officer to enter into a Memorandum of Understanding with a suitable third party for the purpose of the levy and collection of any fees and charges for the use of the infrastructure at Anthon's Landing, Wyndham on behalf of the Shire of Wyndham East Kimberley; and**
- 2. Pursuant to section 6.16 of the *Local Government Act 1995*, adopt the following fees for the use of Shire infrastructure at Anthon's Landing by commercial vessels to apply effective from 8 March 2024:**
  - a. Berthage Fee \$150.00 minimum per day or part thereof**
  - b. Passenger Fee \$25.00 per head; and**
- 3. Requests the Chief Executive Officer to give local public notice of Council's intention to impose the above fees, to apply from 8 March 2024, in accordance with section 6.19 of the *Local Government Act 1995*.**

*Cr B Robinson move to made an amendment and was seconded by Cr B Kyne.*

*Carried/Lost: 5/0.*

*For: Cr D Menzel, Cr M Dear, Cr D Hearty, Cr B Kyne, Cr B Robinson*

*Against: Nil*

### COUNCIL DECISION

**Minute Number: 27/02/2024 – 118973**

**Moved: Cr B Robinson**

**Seconded: Cr B Kyne**

**That Council:**

- 1. Authorises the Chief Executive Officer to enter into a Memorandum of Understanding with a suitable third party for the purpose of the levy and collection of any fees and charges for the use of the infrastructure at Anthon's Landing, Wyndham on behalf of the Shire of Wyndham East Kimberley; and**
- 2. Pursuant to section 6.16 of the Local Government Act 1995, adopt the following**



**fees for the use of Shire infrastructure at Anthon's Landing by commercial vessels to apply effective from 8 March 2024:**

- a. Berthage Fee \$150.00 minimum per day or part thereof
  - b. Passenger Fee \$25.00 per head;
3. Requests the Chief Executive Officer to give local public notice of Council's intention to impose the above fees, to apply from 8 March 2024, in accordance with section 6.19 of the Local Government Act 1995.
  4. Recieve a report from CEO within 18 months on the implementation of the fees structure.

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

## **PURPOSE**

For council to authorise the Chief Executive Officer enter into a Memorandum of Understanding (MOU) to engage a third party to levy and collect a 'fee and charge' for the use of Shire owned infrastructure located at Anthon's Landing, Wyndham.

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

Briefing of Council, October 2022, on the condition and funding of ongoing works, Anthon's Landing.

## **STATUTORY IMPLICATIONS**

### ***The Local Government Act 1995, Part 9, Division 3, 9.49***

*A document, is, unless this Act requires otherwise, sufficiently authenticated by a local government without its common seal if signed by the CEO or an employee of the local government who purports to be authorised by the CEO to so sign.*

### ***The Local Government Act 1995, Part 6, Division 5, Subdivision 2 - Fees and charges***

#### ***6.16. Imposition of fees and charges (in part)***

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

*\* Absolute majority required.*

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

*(a) imposed\* during a financial year; and*

*(b) amended\* from time to time during a financial year.*

*\* Absolute majority required.*

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

*(a) its intention to do so; and*

*(b) the date from which it is proposed the fees or charges will be imposed.*

## **POLICY IMPLICATIONS**

The following policies are relevant to this item:

POL-4010 Asset Management

POL-2006 Fees and Charges Pricing

## **STRATEGIC IMPLICATIONS**

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

**Focus Area:** SUSTAINABILITY

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

**Goal Outcome 10.2:** Collaborative partnerships - Collaborative partnerships that build capacity and increase opportunities

**Strategy 10.2:** Support collaboration and partnerships to deliver key outcomes for our community

## **RISK IMPLICATIONS**

**RISK:** Failure to adequately resource and manage funding requirements which meet the needs of the Shire's service delivery requirements and strategic objectives.

**CONTROL:** Form an agreement to provide seed funding for future maintenance and replacement.

## **FINANCIAL IMPLICATIONS**

The levy of the fee and charge will result in an income stream to the Shire which is yet to be determined. It is envisaged that at the financial year end these fees will be quarantined in a Reserve for the management of that asset.

## **ASSET CONSIDERATIONS**

Implementation of this MOU will facilitate the taking of fees for commercial vessels, forming a budget for future maintenance and seed funding for future replacement.

## **COMMUNITY ENGAGEMENT**

No community engagement is required.

## **COMMENTS**

At 10 years of age, Anthon's Landing is now subject to major maintenance, in order to provide a continuance of service. Salt water structures are difficult and expensive to maintain. Unfortunately, due to the nature of the original grant for construction of Anthon's Landing, no fee for use could be implemented in the first 10 year period, in effect, negating the ability of our small Local Government to build a reserve through the taking of fees, so that at the 10 year refurbishment period there are no fees for that expensive work.

As that initial 10 year period has now ended, Council *may* implement a fee for use of Anthon's Landing. The proposed fees have been calculated on a full cost recovery basis in accordance with Council Policy POL-2006 Fees and Charges Pricing for services associated with providing the service of permitting the use of the facility. It should be noted that the fees and charges will not cover the total costs of ownership but will contribute towards them.

The Shire has no staff allocation for the permanent supervision and taking of fees for Anthon's Landing. A suitable third party located in Wyndham will need to be engaged that has the ability to levy and collect the fee or charge on behalf of the Shire. The commercial arrangements of

this are intended to be governed under a MOU which the Chief Executive Officer will sign under delegation on behalf of the Shire as it forms part of normal operations.

The attached MOU is a sample of what the formal instrument of agreement is likely to contain. Whilst the taking of fees will not immediately assist the Shire in maintenance of Anthon's Landing, it is a positive legacy outcome that will assist the Shire in seeking grant funding toward refurbishment works in the next 10 years.

### **ATTACHMENTS**

Attachment 1 - Draft MOU Anthon's Landing

### 12.5.2. Rubber Tyre Roller

<b>DATE</b>	27 February 2024
<b>AUTHOR</b>	Paul Webb, Director Infrastructure and Strategic Projects
<b>RESPONSIBLE OFFICER</b>	Paul Webb, Director Infrastructure and Strategic Projects
<b>ASSESSMENT NO</b>	NA
<b>FILE NO</b>	PS.10.4
<b>DISCLOSURE OF INTERESTS</b>	NIL
<b>COUNCIL'S ROLE IN THE MATTER</b>	Funder - provide funds or other resources Provider - provide physical infrastructure and essential services
<b>VOTING REQUIREMENT</b>	Absolute Majority

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

**That Council:**

**Approve the purchase of a rubber tyre roller through public auction to a maximum price of \$40,000, from plant replacement fund 1041408100 Heavy Plant - Purchase Price MUN**

#### **COUNCIL DECISION**

**Minute Number: 27/02/2024 – 118974**

**Moved: Cr D Menzel**

**Seconded: Cr D Hearty**

**That Council:**

**Approve the purchase of a rubber tyre roller through public auction to a maximum price of \$40,000, from plant replacement fund 1041408100 Heavy Plant - Purchase Price MUN**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

#### **PURPOSE**

The administration seeks permission to purchase a second hand 22.5 tonne multi tyre roller, in order to progress self performing light maintenance, shoulder works and minor road repair works

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

Nil

## **STATUTORY IMPLICATIONS**

*Local Government Act 1995, Expenditure from municipal fund not included in annual budget, 6.8. (1) A local government is not to incur expenditure from its municipal fund which is not included in its annual budget except where the expenditure - (b) is authorized in advance by resolution*

*\* Absolute majority required*

## **POLICY IMPLICATIONS**

POL-4000 Maintenance of Shire Assets  
POL-4010 Asset Management

## **STRATEGIC IMPLICATIONS**

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

**Focus Area:** CONNECTION

**Focus Area:** SUSTAINABILITY

**Goal 6:** Accessible places - Places that are connected, accessible and well maintained

**Goal Outcome 6.1:** Towns are easy to get around safely and sustainably - Places are connected by safe, accessible, well maintained roads, footpaths, cycle ways and trails

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

## **RISK IMPLICATIONS**

**RISK:** Failure to adequately resource and manage funding requirements which meet the needs of the Shire's service delivery requirements and strategic objectives.

**CONTROL:** Continually monitor cost and utilisation, in order to efficiently provide services to Council and the Community.

## **FINANCIAL IMPLICATIONS**

Expenditure through public auction of \$40,000 for a multi tyre rubber roller, 1041408100 Heavy Plant - Purchase Price MUN

## **Asset Considerations**

Progress unaddressed maintenance for minor sheeting and shoulder work.  
Directly addresses road deterioration report, minor works

## **COMMUNITY ENGAGEMENT**

No community engagement is required.

## **COMMENTS**

High costs of contract construction works *far* exceeds the Council financial capacity to manage the growing burden of maintenance on the Shires road network.

The Shire currently owns a grader that undertakes smoothing operations on gravel road network. This involves chopping rutting off of gravel roads, moving loose material into holes and pushing excess material into the drains during dry season. There is no compaction, watering or addition of material in this process.

It is intended to expand the capability of the Shires existing team, by adding a second hand multi tyre rubber roller. This would allow operations to expand into minor maintenance, such as shoulder maintenance works (not shoulder reconstruction) on sealed roads, minor resheets on gravel roads (spot repairs) and minor seal repair works (patches less than 5m in length). This would require utilisation of the existing three man road crew, six wheel truck, grader and (new) roller. A utilisation plan will be developed that allows for, say, three days of programmed works, one day of seal patching and signage, and one half day of customer requests and then plant maintenance.

The Shire has access to gravel at Carlton Hill, Afghan Pit (Wyndham) and Weero Road. Gravel will be pushed at the beginning at the dry, calculated at the beginning at the season for 12 months work period. Winnable material has a general push and rehab rate of \$5m<sup>3</sup>. Direct purchase from local contractors is \$75m<sup>3</sup>, and recent supply costs to third party contractor have been observed at \$200m<sup>3</sup>.

To offer some parity to these price differences, 1km of resheet at 100mm will take around 1,000m<sup>3</sup> of gravel. At \$5m<sup>3</sup> pit value is \$5,000. At \$75m<sup>3</sup> it is \$75,000 and at \$200m<sup>3</sup> it is \$200,000. This is placing an untenable strain on the Shires ability to deliver cost effective services to residents, business and visitors to our region.

The transition to minor maintenance (shoulder maintenance works, minor resheet and minor seal repair works) with the addition of a second hand Multi Tyre Roller will allow for upskill experience to our small team.

A loader will need to be hired to load our single truck during minor construction or shoulder works, the cost of which can be recorded to verify if utilisation and cost will support purchase of own plant (it will if we are fully utilised). Most plant can reliability be purchased second hand, other than a loader. Due to the nature of work (pushing stockpiled material) the constant heavy load and reversing movements place significant load on the power plant, drive train and bushes. A new unit, Cat with 2.5m bucket will be around \$200,000, with an 8 year replacement cycle.

The main purposes of the proposed three man team will be to rip, water and roll to rehabilitate gravel roads and shoulders with *minor* addition of gravel. This will be limited in application by use of a six wheel truck, and the need to slip a water tank on and off. However, forward programming for a 12 month period will provide the most efficient use of this plant, and provide a quick increase in quality to shoulder and gravel road shape and adhesion.

ITEM	PURCHASE COST	LICENCING	FUELS AND OILS	TYRES AND TUBES	PARTS AND REPAIRS	TOTAL	YEARS OF OWNERSHIP
Roller 2nd hand	\$ 40,000.00	\$ 200.00	\$ 20,000.00	\$ 2,500.00	\$ 10,000.00	\$ 72,700.00	5
Roller	\$ 240,000.00	\$ 200.00	\$ 15,000.00	\$ 2,500.00	\$ 6,000.00	\$ 263,700.00	12
	Annual cost of ownership	Monthly	Weekly	Daily	Hourly	Labour	Wet/hr
Roller 2nd hand	\$ 14,540.00	\$ 1,211.67	\$ 302.92	\$ 60.58	\$ 10.10	\$ 66.00	\$ 76.10
Roller	\$ 21,975.00	\$ 1,831.25	\$ 457.81	\$ 91.56	\$ 15.26	\$ 66.00	\$ 81.26

There is risk with the purchase of second hand plant, with high mileage/hour wear and tear, greater risk of mechanical breakdown, larger component failure, higher oil and fuel use, and offset cost of hire equipment during breakdown period to ensure ongoing productivity (no down time). *However* a rubber tyre roller is a simple four cylinder, slow revving hydraulic drive machine. Maintenance *will* be higher than a new machine, but due to the slow speed nature of operation, wear and tear will be low, and less susceptible to mechanical breakdown.

This document requests that Council approve the purchase of a multi rubber tyre roller for light maintenance works.

### **ATTACHMENTS**

Nil

### 12.5.3. Gibb River - Kalumburu Road, disposal

<b>DATE</b>	27 February 2024
<b>AUTHOR</b>	Director Infrastructure and Strategic Projects
<b>RESPONSIBLE OFFICER</b>	Director Infrastructure and Strategic Projects
<b>ASSESSMENT NO</b>	N/A
<b>FILE NO</b>	RD.07.9
<b>DISCLOSURE OF INTERESTS</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER</b>	Advocator - advocate and support initiatives on behalf of the community Partner - Collaboration with external stakeholders to deliver service and projects.
<b>VOTING REQUIREMENT</b>	Simple Majority

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

**That Council withdraw the request to remove the Gibb River - Kalumburu Road from the Roads 2030 document, to Main Roads Department Western Australia.**

#### **COUNCIL DECISION**

**Minute Number: 27/02/2024 – 118975**

**Moved: Cr B Robinson**

**Seconded: Cr D Hearty**

**That Council withdraw the request to remove the Gibb River - Kalumburu Road from the Roads 2030 document, to Main Roads Department Western Australia.**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

#### **PURPOSE**

To progress vesting change of the Gibb River - Kalumburu Road to Main Roads Department, Western Australia, from the Shire of Wyndham East Kimberley.

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

Ordinary Council Meeting 27 July 2021

*Council Decision*

*Minute Number: 27/07/2021 - 118500*

*That Council resolve, subject to Main Roads Western Australia approval:*

- Remove the following roads from the proposed Roads 2030 document:*
  - Duncan Road*



- *Gibb River Kalumburu Road*
  - *Glen Hill Road*
  - *King River Road*
  - *Mount Elizabeth Road*
  - *Ningbing Road*
  - *Port Warrender Road*
2. *Add the following roads to the proposed Roads 2030 document:*
- *Moonamang Road*
  - *Barytes Road*
  - *Carlton Hill Road*

*Ordinary Council Meeting 23 November 2021*

*Council Decision*

*Minute Number: 23/11/2021 – 118553*

*That Council approves the disposal of the following roads to Main Roads Western Australia and authorises the Chief Executive Officer to write to Main Roads WA and other advocacy with relevant State Government Ministers to give effect to this resolution:*

1. *Gibb River - Kalumburu*
2. *Port Warrender Road*

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995, Subdivision 5 - Certain provisions about thoroughfares, 3.52. Public access to be maintained and plans kept, (2) Except to the extent that it is authorised by law to close them or restrict their use, a local government is to ensure that public thoroughfares are kept open for public use.*

*Local Government Act 1995, Part 3 Functions of local governments, Division 1 General, 3.1 General function, (1) The general function of a local government is to provide for the good government of persons in its district.*

### **POLICY IMPLICATIONS**

POL-4000 Maintenance of Shire Assets  
 POL-4006 Road Development  
 POL-4010 Asset Management  
 POL-4012 Shire Road Network

### **STRATEGIC IMPLICATIONS**

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

**Focus Area:** CONNECTION

**Goal 7:** Connecting to the world - Creating access and turning our remoteness into a positive experience

**Goal Outcome 7.1:** Transport connections - People and goods are able to move freely in and out of the East Kimberley

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

## **RISK IMPLICATIONS**

**RISK:** Failure to adequately resource and manage funding requirements which meet the needs of the Shire's service delivery requirements and strategic objectives.

**CONTROL:** Manage road assets to reduce financial burden on ratepayers whilst increasing service levels to the community.

## **FINANCIAL IMPLICATIONS**

- Disposal of the Gibb River - Kalumburu Road will see a reduction in direct funding of approximately \$550,000 per annum, from the Shire of Wyndham East Kimberley. These funds were in the main used on Kalumburu Road.
- Road maintenance and future improvement will be progressed by Main Roads Department, Kimberley Region.
- There will be a corresponding reduction in administrative time spent on this location in relation to maintenance, proportional to the extent of damage in any given year
- When disposal is completed, there will be elimination of initial unrecoverable cost of \$150,000 per declared event from the Shire. There have been four declared events in the last four year period, being AGRN 907, 951, 1024 and 1044, requiring Shire contribution of \$600,000 unrecoverable over that period.

## **Asset Considerations**

Whilst there will be a reduction in Federal and State funding (Remote Access Roads and Aboriginal Access Roads), this funding will likely be redistributed to Main Roads Department in order to progress regular maintenance works on the Gibb River - Kalumburu Road.

The Shire will gain a minimum 0.25 FTE hours by disposal of this asset, hours which can be directed into existing workload. The Shire will also now not bear the cost of procurement and contractor costs to perform maintenance works on Kalumburu Road. Additionally, the minimum Shire contribution of \$150k per declared emergency event toward the Disaster Recovery Funding Arrangements Western Australia, will no longer be required. There will no longer be defaults on payment by the Department of Fire and Emergency Service in relation to requested claims for works on ground.

Overall, this rapidly depreciating, high risk and high cost asset, will no longer appear in the Shires Asset Register, allowing focus on more relevant, rate payer based, asset infrastructure.

## **COMMUNITY ENGAGEMENT**

No community engagement is required.

## **COMMENTS**

On Thursday 28 December 2023, an email was received from Mr Gerry Zoetelief, Director Kimberley Region, Main Roads Western Australia, that a conditional change of vesting will be progressed, subject to a number of conditions (please see attachment 1), one of which;

- 2. For Main Roads to consider reclassification of the road to a Main Road, then a prerequisite is that the road is included in the Roads 2030. Therefore the Shire should withdraw its intention to remove this road from Roads 2030.***

Additionally, a correspondence has been received, addressed to the Shire President, from the Hon. Minister Rita Saffioti MLA, Minister for Transport (Attachment 2) highlighting the commitment of Main Roads Department Western Australia to progress through to MOU, and

that contact will be made to the Department of Biodiversity, Conservation and Attractions to seek support funding, Port Warrender Road being access to the Mitchell River National Park.

The majority of the previous resolution **Minute Number: 27/07/2021 - 118500** has been progressed, and as such, the standing item does not need to be rescinded.

Subject to resolution **Minute Number: 23/11/2021 – 118553**, Council has resolved to dispose of the Gibb River - Kalumburu Road *and* Port Warrender Road. Council and the Administration have strongly advocated for the disposal of both road assets, however, the Gibb River - Kalumburu Road is most certainly the largest drain on the Shire in both financial deficit and staff time. With Main Roads extending the offer to undertake maintenance and DRFAWA works under MOU, it is very likely to mitigate both issues (financial and staff hours). There *may* be future instances where the Port Warrender Road is severely damaged in a declared event, requiring the Shire to cover payment for works whilst Main Roads manage damage repair.

Council *may* take a long term advocacy role to strategically dispose of the asset (Port Warrender Road) to Main Roads over the longer term. Alternatively, there may be an amendment to **Minute Number: 23/11/2021 – 118553**, to remove Port Warrender Road from the disposal process.

The removal of the Port Warrender Road from Roads 2030 can still be progressed, and *if* Main Roads, or an alternate department, later do consider ownership of this asset, application to have Port Warrender Road into a future edition of the Roads 2030 document can be progressed.

The Airport on the Port Warrender Road is a vital link to remote stations and communities which requires road access as soon as is practicable after the wet season. The road is also a high priority for tourism. Main Roads Department has extended the offer of MOU maintenance over this road asset, which will provide much better value for dollar outcomes in general maintenance, declared events and in staff hours required on this asset.

The Roads 2030 document identifies which roads can have Regional Road Group (RRG) funding applied to them. RRG is a  $\frac{1}{3}$   $\frac{2}{3}$  funding program managed through Main Roads, and has in the last year been applied to Lake Argyle Road and Weaber Plain Road funding which will be used on the approved Weaber Plains/Ironwood intersection project. Council has considered this as part of previous resolution removing and adding roads to the 2030 document, with a focus on commodity generators over the longer strategic term.

Summary;

- retract the request to remove the Gibb River - Kalumburu Road from the 'Roads 2030' document.
- Continue to advocate for the disposal of the Port Warrender Road, at a strategic level to Main Roads Department or other State agency.

## **ATTACHMENTS**

Attachment 1 – Gibb River - Kalumburu Road and Port Warrender Road

Attachment 2 - Letter from the Minister

#### 12.5.4. Invitation to register as a Roadwise Council

<b>DATE</b>	27 February 2024
<b>AUTHOR</b>	Director Infrastructure and Strategic Projects
<b>RESPONSIBLE OFFICER</b>	Director Infrastructure and Strategic Projects
<b>ASSESSMENT NO</b>	N/A
<b>FILE NO</b>	GR.03.6
<b>DISCLOSURE OF INTERESTS</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER</b>	Advocator - advocate and support initiatives on behalf of the community
<b>VOTING REQUIREMENT</b>	Simple Majority

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

**That Council accept WALGA's invitation to register as a RoadWise Council.**

#### **COUNCIL DECISION**

**Minute Number: 27/02/2024 – 118976**

**Moved: Cr C McNeil**

**Seconded: Cr D Hearty**

**That Council accept WALGA's invitation to register as a RoadWise Council.**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

#### **PURPOSE**

Correspondence has been received from WALGA inviting the Shire to register as a RoadWise Council.

The new RoadWise Councils Framework informs the approach WALGA's road safety team takes in supporting local governments in working towards delivering best practice road safety. The Framework considers the elements which determine the level of safety of the road transport system within the context of local governments.

Not all local governments have been invited to register. Initially 76 local governments have been invited to ensure that the support offered is not diluted. As support through the RoadWise Council program is available to a limited number of local governments, there is a requirement to formalise the relationship. The invitation can be accepted by Council resolution providing a commitment to road safety.

The benefits for Local Governments that register as RoadWise Councils include:

- use of the RoadWise logo,

- priority access to WALGA’s road safety services and products,
- exclusive quarterly meetings and support from a Road Safety Advisor,
- priority access to participate in WALGA’s road safety policy development, training, professional development forums and knowledge-sharing workshops offered by WALGA,
- access to incentives and sponsored programs, and
- participation in the new RoadWise Recognised initiative.

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

N/A

## **STATUTORY IMPLICATIONS**

Section 3.2(2) of the Local Government Act 1995 states that the general function of a local government is to provide for the good government of persons in its district.

## **POLICY IMPLICATIONS**

Nil

## **STRATEGIC IMPLICATIONS**

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

**Focus Area:** SUSTAINABILITY

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

**Goal Outcome 10.2:** Collaborative partnerships - Collaborative partnerships that build capacity and increase opportunities

**Strategy 10.2:** Support collaboration and partnerships to deliver key outcomes for our community

## **RISK IMPLICATIONS**

**RISK:** Failure to adequately resource and manage funding requirements which meet the needs of the Shire’s service delivery requirements and strategic objectives.

**CONTROL:** Utilise offered funded programs to educate and support the administration in related service delivery areas.

## **FINANCIAL IMPLICATIONS**

There are no financial implications resulting from the recommendation of this report.

## **Asset Considerations**

Roadwise currently offer support to road safety initiatives. This invitation will provide expanded funded services to the administration related to training, policy development and other road safety services.

## **COMMUNITY ENGAGEMENT**

No community engagement is required.

## **COMMENTS**

Whilst the Shire already works with Roadwise, who offer written project support, have previously assisted in safety audits and who also organise quarterly meetings with Council representation, administrative officers and other relevant agencies, Roadwise wish to widen services to the Shire through formal invitation and acceptance by Council. There is a benefit to the Shire in that Officers will have access to resources that Roadwise control such as policy documents, training and professional development.

## **ATTACHMENTS**

Attachment 1 - Meeting item - RoadWise Council  
Attachment 2 - RoadWise Council Registration Form

### 12.5.5. POL-4016 Street Tree Removal - New Policy

<b>DATE</b>	27 February 2024
<b>AUTHOR</b>	Director Infrastructure and Strategic Projects
<b>RESPONSIBLE OFFICER</b>	Director Infrastructure and Strategic Projects
<b>ASSESSMENT NO</b>	N/A
<b>FILE NO</b>	ET.02
<b>DISCLOSURE OF INTERESTS</b>	Nil
<b>COUNCIL'S ROLE IN THE MATTER</b>	Leader - plan and provide direction through policy and practices
<b>VOTING REQUIREMENT</b>	Simple Majority

### OFFICER'S RECOMMENDATION

**That Council:**

- **Adopts the new Council Policy POL-4016 Street Tree Removal; and**
- **Authorise the Chief Executive Officer to advertise the adoption of POL-4016 Street Tree Removal and publish the Policy on the Shire Website as soon as practicable.**

### COUNCIL DECISION

**Minute Number: 27/02/2024 – 118977**

**Moved: Cr B Robinson**

**Seconded: Cr C McNeil**

**That Council:**

- **Adopts the new Council Policy POL-4016 Street Tree Removal; and**
- **Authorise the Chief Executive Officer to advertise the adoption of POL-4016 Street Tree Removal and publish the Policy on the Shire Website as soon as practicable.**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

### PURPOSE

This report requests Council to adopt a new policy to provide direction for the removal of street trees. The proposed policy relates to the removal of street trees only, and does not pertain to tree planting or total tree assets.

### BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

This matter has been raised in the March 2022 briefing of Council where the Shire was requested to consider the removal of an existing healthy tree in the Kununurra townsite, the result of which prompted Council to request the creation of a Street Tree removal policy.

## **STATUTORY IMPLICATIONS**

*Local Government Act 1995, Part 3, Division 1, General function (1)*

## **POLICY IMPLICATIONS**

POL-4010 Asset Management  
POL-4004 Vehicle Crossover Subsidy  
POL-4002 Private Works and Developments on Road Verges and Shire Managed Land

## **STRATEGIC IMPLICATIONS**

This matter relates to the following sections of the *Strategic Community Plan 2017-2027*:

**Focus Area 4:** PERFORMANCE - Civic Leadership

**Goal 4.4:** Sustainably maintain the Shire's financial viability

**Strategy 4.4.3:** Adequately plan for and fund asset maintenance and renewal to deliver planned services

This matter relates to the following sections of the *Corporate Business Plan 2021-2025*:

**Shire Project:** 408 - Coordinate regular reviews of Shire services and development of Service Delivery Plans

**Service Area:** Asset Management and Capital Works  
Asset Management

## **RISK IMPLICATIONS**

**Risk:** Failure to ensure that customer services at the Shire are accessible and effective in resolving issues, providing services and delivering information to the community.

**Control:** Implement a policy in relation to street tree removals to provide clear definition on when and why the Shire administration will consider street tree removal.

## **FINANCIAL IMPLICATIONS**

There are no significant financial implications arising from this report that cannot be accommodated in the current budget of Council.

## **COMMUNITY ENGAGEMENT**

Community engagement has been considered and it is suggested that the Policy once adopted be advertised for comment as street trees contribute a great deal towards the look and feel of the Shire. Comments to be considered by the Administration and the Policy amended if required..

## **COMMENTS**

The administration has previously progressed street tree removals by customer request, and at the best consideration of staff at the time. In many instances, continued requests may leave the administration in a position to make a decision, with no foundational understanding of what the Councils wishes may be.



The proposed policy is based upon the WALGA document, 'Street Trees, Guidance Report', and is available on [www.walga.asn.au](http://www.walga.asn.au). Standard conditions related to consideration of a tree removal are;

- *The tree is diseased and is beyond remedial treatment, or dead*
- *The tree has been assessed by the Shire as structurally weak and/or dangerous, placing the public at risk or jeopardising safety*
- *The tree has been irreparably damaged*
- *The tree is hazardous to motorists/pedestrians owing to interference in the suitable sitelines presented by the trees alignment or spacing*
- *The tree is affected to road widening, service modification/relocation or other infrastructure works and all other options to retain the tree have been deemed by the Shire to be inappropriate*
- *The tree is dangerously in contact with overhead power lines or distributor wires to properties and where, for reasons of growth habit pertaining to the variety, selective pruning is not practical with the only option being severe lopping*
- *The tree is classified as a noxious weed or prohibited by state or federal legislatures*
- *The tree precludes reasonable development of an adjoining property and there is no reasonable alternative to removal*
- *The tree is causing damage to Shire asset that exceeds the cost of owning the tree, and in the opinion of the Shire is required to be removed to protect that asset.*

These conditions will eliminate ad hoc removal of healthy trees that should otherwise remain in place.

There are instances where a developer or ratepayer will attempt to apply pressure on Shire officers in relation to a tree removal, usually in relation to perceived risk or hazard pertaining to a particular tree. It is a given that all large trees will have some level of inherent risk associated with it, usually in relation to root intrusion, the falling of the tree, or limb loss. However, if the tree is healthy and not posing any imminent threat that requires, in the opinion of the inspecting authorised officer, removal would not be considered if:

- *The tree obscures or potentially obscures views (other than safe sight lines)*
- *The tree variety is disliked*
- *The tree variety causes nuisance by way of leaf, fruit and/or bark shedding or the like*
- *The tree causes allergies*
- *The tree is in the way of a non-essential crossover or verge paving option*
- *The tree shades private gardens, solar panels, pools, etc.*
- *Unsubstantiated 'potential' damage if the tree may fall, or from growth damage*

Additionally, it is the officers experience that extremely committed individuals may press points of potential risk or tree health with officers. In which instance, through the policy, Council may extend the offer for a proponent to:

*Should there be a disagreement on the outcome of the health of a tree, the requesting agent may at their own cost, engage the services of a suitably qualified, reputable, professional arborist to assess the health, or other matter, relevant to the tree in question, the matter to be then put to Council for consideration with a copy of that qualified report. The Arborist must supply copies of any credentials to substantiate professional credentials.*

The proposed policy relates to Shire maintained street trees only, and not to private trees, natural trees or naturally seeded trees in Shire reserves or Shire maintained open space.

*Addendum*

*Item added to POLICY STATEMENT “The tree is formally classified 'dangerous' or invasive species.”*

**ATTACHMENTS**

Attachment 1 - POL-4016 Street Tree Removal

**13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

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

Nil

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

Nil

**16. MATTERS BEHIND CLOSED DOORS**

*Cr D Menzel moved that Council go in-camera at 5:52pm to discuss items listed in 16. "Matters Behind Closed Doors".*

**Council Decision:**

**Minute Number: 27/02/2024 – 118978**

**Moved: Cr D Menzel**

**Seconded: Cr B Robinson**

**That Council move-in camera at 5:52pm to discuss items in 16. Matters Behind Closed Doors.**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

The gallery left the room at 5:52pm

## 16.1. APPOINTMENT OF DIRECTOR PLANNING AND COMMUNITY DEVELOPMENT

<b>DATE:</b>	27 February 2024
<b>AUTHOR:</b>	Manager Human Resources and Safety
<b>RESPONSIBLE OFFICER:</b>	Vernon Lawrence, Chief Executive Officer
<b>FILE NO:</b>	TBA
<b>DISCLOSURE OF INTERESTS:</b>	Nil

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

### 5.23. *Meetings generally open to public*

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

## **VOTING REQUIREMENT**

Simple Majority

## **PURPOSE**

For Council to be informed of the Chief Executive Officer's intention to appoint Applicant # 1 to the vacant Director Planning and community Development position for a period of five (5) years.

**COUNCIL DECISION**

**Minute Number: 27/02/2024 – 118979**

**Moved: Cr Robinson**

**Seconded: Cr Hearty**

**That Council notes the Chief Executive Officer's intention to offer a five (5) year performance based contract of employment as Director Planning and Community Development to Applicant #1 as outlined in the confidential report - subject to the receipt of satisfactory Police Clearance, Medical Questionnaire and qualifications.**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

**Cr Menzel moved that Council move out of Camera. Seconded by Cr Robinson**

**COUNCIL DECISION**

**Minute Number: 27/02/2024 – 118980**

**Moved: Cr D Menzel**

**Seconded: Cr B Robinson**

**That Council move-out of camera at 5:58 pm.**

**Carried / Lost : 5/0**

**For: Cr D Menzel, Cr D Hearty, Cr C McNeil, Cr B Kyne, Cr B Robinson**

**Against: Nil**

*The gallery was reopened and Council decision read aloud.*

**17. CLOSURE**

Cr D Menzel declared the meeting closed at 6:00pm