



MINUTES

ORDINARY COUNCIL MEETING

Tuesday 28 February 2023
(Held in Council Chambers)

PUBLIC QUESTION TIME

1. The order of business allows for a Public Question time at the beginning of the Meeting.
2. If you wish to ask a Question about an Agenda Item before it is considered then it is recommended to be made at the Public Question Time at Item 4 on the Agenda Notice Paper in accordance with Council's Procedures and Guidelines for Public Question Time.
3. The visual or vocal recording of Council meeting proceedings is expressly prohibited unless the prior approval of the Council has been given.

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1. DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The Shire President declared the meeting open at 4.00pm and welcomed Councillors, Staff and members of the public present.

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

Cr Mike Walmsley	Shire President
Cr Naomi Purcell	Deputy Shire President
Cr John Mason	Councillor
Cr Karen Odorisio	Councillor
Cr Dion Pisconeri	Councillor
Cr Laurie Snell	Councillor
Cr Vince Vitale	Councillor
Mr Mark Goodlet	Chief Executive Officer
Mrs Karen Oborn	Director Infrastructure & Development Services
Ms Ashleigh Nuttall	Director Corporate & Community Services
Mr Bradley Oborn	Manager Works & Waste Services
Mr Craig Zanotti	Coordinator Regulatory & Development Services
Mrs Kate Pisconeri	Corporate Planning & Governance Officer

There were 2 members of the public present at the commencement of the meeting.

APOLOGIES

Mrs Kirsty Ferraro Manager Corporate Services

LEAVE OF ABSENCE PREVIOUSLY APPROVED

Nil

APPLICATIONS FOR LEAVE OF ABSENCE**COUNCIL RESOLUTION**

OCM23/02/001

Moved: Cr Purcell

Seconded: Cr Vitale

That Leave of Absence be granted to Cr Laurie Snell for the period 28 March – 9 April 2023, inclusive.

CARRIED 7/0

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

Nil

5. PETITIONS AND APPROVED DEPUTATIONS

Nil

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**6.1 Ordinary Council Meeting – 20 December 2022****COUNCIL RESOLUTION****OCM23/02/002****Moved: Cr Mason****Seconded: Cr Pisconeri**

That the Minutes of the Ordinary Council Meeting held 20 December 2022 be confirmed as being a true and correct record of proceedings.

CARRIED 7/0

7. ANNOUNCEMENTS BY THE PRESIDING MEMBER

Shire President welcomed everyone to what will be a busy year and noted that 2023 is an election year.

8. ANNOUNCEMENTS BY MEMBERS

Nil

9. ANNOUNCEMENTS BY MEMBERS

Nil

9. DISCLOSURES OF INTEREST

(Disclosure of interest MUST ALSO be made by the member or officer immediately prior to a matter, for which an interest is being disclosed, is dealt with.)

Cr Walmsley declared an interest affecting impartiality in items 10.3 and 11.3.2 as he is a member of the Waroona Agricultural Society.

Cr Walmsley declared an interest affecting impartiality in item 11.3.1 as he is a member of a local bushfire brigade.

Cr Purcell declared an interest affecting impartiality in item 10.3 as she is a member of the Waroona Football Club.

Cr Mason declared an interest affecting impartiality in item 10.3 as he is a life member of the Waroona Football Club.

Cr Pisconeri declared an interest affecting impartiality in items 11.2.3, 11.2.4, 11.2.5, 11.2.6, and 11.2.7 as a family member is the reporting officer.

Cr Snell declared an interest affecting impartiality in item 11.3.2 as she is a member of the Waroona Agricultural Society

Mrs. Karen Oborn declared a financial interest in item 11.2.8 as she has offered to pay the fees if they are not waived.

10. RECEPTION OF MINUTES AND RECOMMENDATIONS OF COMMITTEES

10.1 Annual Electors Meeting – 20 December 2022

COUNCIL RESOLUTION

OCM23/02/003

Moved: Cr Vitale

Seconded: Cr Purcell

That Council receives the unconfirmed minutes (Appendix 10.1) of the Annual Electors Meeting held 20 December 2022.

10.2 Local Emergency Management Committee Unconfirmed Minutes – meeting held 1 February 2023

CARRIED 7/0

COUNCIL RESOLUTION

OCM23/02/004

Moved: Cr Snell

Seconded: Cr Mason

That Council:

- 1. Receives and notes the Unconfirmed Minutes of the Local Emergency Management Committee meeting held 1 February 2023 (Appendix 10.2 A); and**
- 2. Adopts Local Emergency Management Committee Recommendations LEMC23/002 and LEMC23/003.**

CARRIED 7/0

Committee Recommendation

LEMC23/002

That Council

1. adopts the Shire of Murray and Shire of Waroona Communication Plan (CP), as detailed in Appendix 3;
2. submits copies of the endorsed Communications Plan, to the State Emergency Management Committee (SEMC) and District Emergency Management Committee (DEMC) – South Metropolitan; and,
3. notes that the Communication Plan is a live document that is subject to regular review and amendment to ensure currency.

Committee Recommendation

LEMC23/003

That Council adopts the amended Shire of Murray & Waroona Local Emergency Committee (LEMC) Terms of Reference as detailed in Appendix 4.

[Note that the Appendices to the Unconfirmed Minutes are at Appendix 10.2 B]

10.3 Alcoa Waroona Sustainability Fund Advisory Committee – Unconfirmed Minutes - meeting held 20 February 2023

COUNCIL RESOLUTION

OCM23/02/005

Moved: Cr Odorisio

Seconded: Cr Snell

That Council:

- 1. Receives and notes the Unconfirmed Minutes of the Alcoa Waroona Sustainability Fund Advisory Committee meeting held 20 February 2023 (Appendix 10.3 A - AWSF Minutes - 20 February 2023);**
- 2. Recommends an amendment of the Terms of Reference to allow for a third Community Representative on the Advisory Committee until the current position is vacated 1 December 2023 (Appendix 10.3 B – Signed Agreement);**
- 3. Conducts an interview with the third candidate promptly; and**
- 4. Sends a letter of apology to the third candidate.**

CARRIED 7/0

11. REPORTS OF THE CHIEF EXECUTIVE OFFICER AND OFFICERS**11.1 DIRECTOR INFRASTRUCTURE AND DEVELOPMENT SERVICES**

11.1.1 Johnston Road Strategic Business Case	
File Ref:	TT.7
Previous Items:	
Applicant:	Shire of Waroona
Author and Title:	Karen Oborn – Director of Infrastructure & Development Services
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Appendix Number	11.1.1 A – Johnston Road Strategic Business Case 11.1.1 B – Johnston Road Freight Study 11.1.1 C – Johnston Road Project Proposal

COUNCIL RESOLUTION**OCM23/02/006****Moved: Cr Pisconeri****Seconded: Cr Odorisio**

That Council endorses the Johnston Road Strategic Business Case and authorise Shire Officers to seek external funding, for the proposed upgrade project for the Johnston Road Heavy Vehicle route, via Bristol Road, Somers Road and Bancell Road, to the South Western Highway.

CARRIED 7/0**IN BRIEF**

The Peel Development Commission provided the Shire of Waroona \$40,000 to undertake the Johnston Road Freight Study and to develop a business case. For the purpose of seeking external funding from appropriate agencies, to resource the proposed upgrade to Johnston Road. Several options were investigated with the upgrade to the Johnston Road Heavy Vehicle route, via Bristol Road, Somers Road and Bancell Road, to the South Western Highway, found to be the most beneficial to the road users, proposed industries, and community, as well as the local and state economy.

BACKGROUND

During 2020/2021 the Peel Development Commission provided the Shire of Waroona \$40,000 to undertake the Johnston Road Freight Study. This study was completed during 2021/2022 and the grant funding successfully acquitted. However not all the funds had been expended, hence during 2022/23 the Peel Development Commission agreed to vary the project scope to enable the Shire of Waroona to have a strategic business case developed. For the purpose of seeking external funding from appropriate agencies to resource the proposed upgrade to Johnston Road. The proposed upgrade of Johnston Road is expected to deliver tangible, long-term benefits in the form of local, ongoing employment and economic activity. It will support planned investment in the region and deliver a positive net economic return for the State of Western Australia.

REPORT DETAIL

The Johnston Road Freight Study investigated a number of options to accommodate an upgrade to Johnston Road. Enabling the efficient and safe movement of a significantly

increased volumes of Heavy Vehicles predicted to going to be using the road. Whilst mitigating the risks associated with Heavy Vehicles traveling through the residential town of Yarloop. In addition to providing a truck assembly area for Heavy Vehicles to increase efficiency and realise productivity gains.

The options were:

- a) **Option A:** Upgrading Johnston Road between Forrest Highway and South Western Highway. This option included works to make Johnston Road a RAV 4 Route without conditions.
- b) **Option B:** Upgrading Johnston Road between Forrest Highway and South Western Highway via Bristol Road. This option includes works to make Johnston Road a RAV 4 Route without conditions and upgrades Sommers Road and Bancell Road to a RAV 4 route. This option removes the conflict of a RAV route through a townsite and improves and utilises existing RAV routes.
- c) **Option C:** Upgrading Johnston Road and Forrest Highway Intersection. An alternative option reviewed was to construct a right turn acceleration lane at Forrest Highway and Peppermint Grove Road for northbound trucks. This could be achieved by constructing a new road parallel to Forrest Highway to Peppermint Grove Road, a distance of approximately 2.4 kms.
- d) **Option D:** Upgrading Johnston Road between Forrest Highway and South Western Highway via Bristol Road with RAV Route Conditions. This option removes the conflict of a RAV route through a townsite and improves and utilises existing RAV routes.

Following stakeholder consultation **Option D** was the preferred option. It was also determined that the interface with Forrest Highway would be dependent on Main roads WA's long-term planning, and out of this projects scope at present. However, further consultation would be undertaken with Main Roads to determine the interface required.

Following the completion of the Freight Study. The Peel Development Commission agreed to vary the project scope to enable the Shire of Waroona to have a strategic business case developed. For the purpose of seeking external funding from appropriate agencies to resource the proposed upgrade to Johnston Road. The business case found, *“several upcoming developments are expected to elevate the strategic significance of Johnston Road.*

These include:

- *Development of the Myalup Strategic Project, a quarry located on the northern side of Johnston Road in the Shire of Waroona, at the approximate midpoint of a 100 million tonne Myalup strategic sand and limestone resource;*
- *Development of Frontier Energy's planned Bristol Springs solar energy and hydrogen project in the Shire of Waroona located close to major utility lines nearby;*
- *Development of Waroona Energy's solar project; and,*
- *Continued growth local agricultural sector exports requiring the efficiencies gained utilising longer heavy vehicle combinations.*

When developed, the Myalup Strategic Project and new energy projects are expected to provide significant economic impacts both in terms of local employment opportunities and economic output to the region. A large determinant of the success of these projects will be reliant on the ease of access and egress to the area for heavy vehicles and workers, and their ability to efficiently carry goods to market. To fully enable the benefits to be realised by these projects, significant upgrades to Johnston Road are required. There will also be further works needed along the remainder of the preferred proposed route to the South Western Highway. The planned developments are expected contribute a large increase in the size and volume of heavy vehicle traffic on Johnston Road, putting strain on the current infrastructure which is not well suited to this intensity of traffic. An upgrade is necessary to ensure the efficient operation of this freight task, and the safety of all motorists travelling along the route. Of note is also the current route of Johnston Road through the Yarloop

townsite. The town already experiences an undesirable mix of heavy vehicles flowing through low-density suburban streets. This raises safety issues with heavy vehicles travelling past residential property driveways, street parking, verge paths, pedestrian, and cyclists. The planned developments are expected to dramatically worsen these issues. Hence the proposal to direct eastbound heavy vehicle traffic along Johnston, then Bristol Road, Somers Road and Bancell Road, to reach the South Western Highway, near ALOCA's Wagerup refinery."

(Ref: Urbis, 2023, p.5)

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Economy
Aspiration	To create a diverse economy base that supports opportunity and employment
Objective	4.2 Manage assets in a consistent and sustainable manner
Strategy	4.2.1 Plan and effect appropriate maintenance, renewal, replacement and disposal of assets

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

In addition to quantifiable benefits, the upgrade represents significant additional benefits, including: an increase in direct and indirect employment opportunities during and following the upgrade of Johnston Road; an increase in community connectedness; reductions in environmental damage; improved efficiency, safety, and accessibility; and increased taxation / royalties' revenue for state and federal government. With a positive BCR of 1.8 and construction of the Myalup Strategic Project due to commence in the next year, it is recommended that this important project is prioritised and funded as it forms a critical piece of economic activation infrastructure within the Peel Region.

(Ref: Urbis, 2023, p.7)

Social - (Quality of life to community and/or affected landowners)

The upgrade of the road will significantly reduce the number of heavy vehicles traversing through the townsite of Yarloop, and to some extent the town of Waroona. This re-routing of both current and future volumes of heavy traffic around these towns is expected to facilitate the development of a more sustainable urban environment that exhibits improved walkability and greater community connectedness.

(Ref: Urbis, 2023, p.18)

Environment – (Impact on environment's sustainability)

The road upgrades (from eastern Johnston Road up to the McLarty State Explosive Storage Facility) and associated reduction in congestion will result in heavy vehicles travelling at greater travel speeds and with less time under acceleration. Overall, these improvements are expected to reduce both the air and noise pollution from vehicles along the upgraded route.

(Ref: Urbis, 2023, p.18)

Policy Implications

Nil

Risk Management Implications*(Please refer to the Shire of Waroona Risk Framework when reviewing this section)*

<i>Theme</i>	Project - Delays to start or completion, variations to scope or budget, insufficient funds
<i>Description</i>	Rejecting the recommendation to approve the business case and seek funding could see road upgrade delays, impacting the Capital roads program. Heightened sector and user complaints and increased risk to road users going forward.
<i>Consequence</i>	4 - Major
<i>Likelihood</i>	3 - Possible
<i>Rating</i>	High (10-19)
<i>Controls / Review</i>	This project as outlined in the business case will significantly reduce the potential road use risks.
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Director
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

- Chief Executive Officer
- The Peel Development Commission
- Director Infrastructure & Development Services
- Manager Works and Waste Services
- Community Consultation not required.

RESOURCE IMPLICATIONS***Financial***

The Peel Development Commission provided the Shire of Waroona \$40,000 to undertake the Johnston Road Freight Study and to develop a business case.

Workforce

Nil.

OPTIONS

Council has the option of:

1. accepting the officer recommendation;
2. modifying the officer recommendation; or
3. rejecting the officer recommendation.

CONCLUSION

It is recommended that the Shire of Waroona fund this project by seeking federal government funding through either the Growing Regions Program or the Regional Precincts and Partnerships program, both of which are expected to be made available soon. Future planning and studies for this project are expected to include the development of detailed designs, quantity surveyed cost estimates, and a detailed cost-benefit analysis, if required for the relevant funding program, to be included in a potential projects scope.

(Ref: Urbis, 2023, p.24)

11.1.2 SWR RRG Road Safety Management Plan 2021 -2030	
File Ref:	GR.27
Previous Items:	
Applicant:	Shire of Waroona
Author and Title:	Karen Oborn – Director of Infrastructure & Development Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.1.2 – SWR RRG Road Safety Management Plan

COUNCIL RESOLUTION

OCM23/02/007

Moved: Cr Purcell

Seconded: Cr Vitale

That Council endorses the SWR RRG Road Safety Management Plan 2021-2030 and approves its publication on the Shire of Waroona website, subject to the use of the current Shire of Waroona logo on this Plan.

CARRIED 7/0**IN BRIEF**

The SWR RRG Elected Members Committee is recommending that the Road Safety Management Plan is endorsed by each Local Government Council Executive/Committee. Ensuring the plan is supported by the organisation. Further it is also recommended that the endorsed Road Safety Management Plan is published on the Shire's website.

BACKGROUND

Following on from the RRG Technical Committee meeting held mid-November, where the group determined the priority actions for inclusion in this first iteration of the SWR RRG Road Safety Management Plan, a Draft Plan was submitted to the SWR RRG Elected Members Committee on 28 November for endorsement. The motion to endorse was passed. A copy of the endorsed SWR RRG Road Safety Management Plan 2021-2030 was sent to the regional Shires involved. To have the greatest chance of success, the SWR RRG Elected Members Committee is recommending that the Road Safety Management Plan is endorsed by each Local Government Council Executive/Committee. Ensuring the plan is supported by the organisation. Further it is also recommended that the endorsed Road Safety Management Plan is published on the Shire's website.

REPORT DETAIL

“The South West Regional Road Group in developing this Road Safety Management Plan are committed to reducing road trauma on the local road network throughout the South West Region. This is to be achieved by adopting Safe System principles and by accepting that people will always make mistakes on our roads but should not be killed or seriously injured as a consequence and acknowledging that there are known limits to the forces the human body can tolerate without being seriously injured. The group agrees that our local road transport system should be designed and maintained so that people are not exposed to crash forces beyond the limits of their physical tolerance. The aim of our Road Safety Management Plan is to understand the road safety risk on the local road network throughout the South West Region and set out both reactive and proactive actions to address the risks. Our members with support from our partners aim to implement the actions outlined in this plan

and monitor the road safety outcomes of these actions over the term of the plan. Our Road Safety Management Plan was endorsed by the members of the South West Regional Road Group on 28 November 2022. The delivery of the actions set out in the plan are to be achieved as the result of all our members and partners working collaboratively to achieve good road safety outcomes for the people who live, work and travel on the local road network in the South West Region” (Ref: SWRRG, 2022, p.2)

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Economy
Aspiration	To create a diverse economy base that supports opportunity and employment
Objective	4.2 Manage assets in a consistent and sustainable manner
Strategy	4.2.1 Plan and effect appropriate maintenance, renewal, replacement and disposal of assets

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

The SWR RRG Road Safety Management Plan 2021-2030 will impact the outcome of RRG grant funding applications.

Social - (Quality of life to community and/or affected landowners)

The SWR RRG Road Safety Management Plan 2021-2030 will improve community safety and wellbeing by reducing road trauma.

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Reputation - Public perception, poor customer service, sub standard work, corruption
<i>Description</i>	Rejecting the recommendation to endorse the SWR RRG Road Safety Management Plan 2021-2030 could create a negative perception of the Shire of Waroona.
<i>Consequence</i>	2 - Minor
<i>Likelihood</i>	3 - Possible
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	The endorsed SWR RRG Road Safety Management Plan 2021-2030 will be made public.
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Director

<i>Acceptance</i>	Accept - Risk acceptable with adequate controls
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CONSULTATION

- Director Infrastructure & Development Services
- Manager Works and Waste Services
- Community Consultation not required.

RESOURCE IMPLICATIONS

Financial

Nil.

Workforce

Nil.

OPTIONS

Council has the option of:

1. accepting the officer recommendation;
2. modifying the officer recommendation; or
3. rejecting the officer recommendation.

CONCLUSION

It is recommended that the Council endorse the SWR RRG Road Safety Management Plan 2021-2030, being an important community safety initiative for the region.

11.1.3 Adoption of Local Planning Policy (LPP) 14 Workforce Accommodation & 15 – Social Impact Assessment	
File Ref:	CM.7
Previous Items:	OCM22/10/143
Applicant:	Shire of Waroona
Author and Title:	Craig Zanotti, Coordinator Regulatory & Development Services
Declaration of Interest:	The author and authorising officer declare that they do not have any conflicts of interest in relation to this item.
Voting Requirements:	Simple Majority
Appendix Number	11.1.3 A – LPP 14 Workforce Accommodation 11.1.3 B – LPP 15 Social Impact Assessment

COUNCIL RESOLUTION

OCM23/02/008

Moved: Cr Mason

Seconded: Cr Snell

That the item be deferred to be discussed at the next Council briefing session.

CARRIED 7/0

OFFICER RECOMMENDATION

That Council:

1. **Adopts Local Planning Policy (LPP) 14 *Workforce Accommodation* with modifications, as presented in Attachment 1 of this item;**
2. **Adopts LPP 15 *Social Impact Assessment*, as presented in Attachment 2 of this item; and**
3. **Advertises the adopted LPP 14 *Workforce Accommodation* and LPP 15 *Social Impact Assessment*, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

IN BRIEF

The purpose of this report is for Council to consider adoption of two local planning policies that were initiated and advertised late last year. These are:

- LPP 14 – *Workforce Accommodation*; and
- LPP 15 – *Social Impact Assessment*.

BACKGROUND

At the Ordinary Council Meeting (OCM) on 25 October 2022 (item 11.1.2), Council resolved to:

- Initiate Local Planning Policies (LPPs) 14 *Workforce Accommodation* & 15 *Social Impact Assessment*;
- Advertise these LPPs; and
- Consider these two proposed LPPs at a briefing session once the advertising period has closed.

Both of these LPP were advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. The matter was also discussed at the 14 February 2023 briefing session.

REPORT DETAIL

Both policies were initiated pursuant to Clause 4 and 5, Part 2, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations* (Regulations). They were developed in response to changing and emerging trends and as part of ongoing reviews into the Shire's local planning framework.

The Shire is anticipating several major projects being developed in the coming years. This is based on a substantial increase in mining tenements and other major projects that have been applied for or publicly announced by companies. These include but are not limited to:

- Rio Tinto's exploration licences over 9,000 Hectares of State Forest;
- Industrial Minerals exploration licence over 20,000 Hectares of land to the west of the Waroona townsite;
- Skyborn Renewables Myalup windfarm project off the coast of Preston Beach - 1.9 Gigawatts; and
- Frontier Energy Bristol Springs hydrogen facility and a 114 Megawatt solar farm + potential future 438 Megawatts renewable energy facility.

It is anticipated that should these projects come to fruition, a considerable amount of workforce accommodation will be required.

The Shire of Harvey has recently received two planning applications for workforce accommodation, with proposals to house 500 people at Binningup and 850 at Australind for a resource company. The Shire of Harvey's local planning framework does not address this type of development, and this has created difficulties in ensuring orderly and proper planning. The Shire of Waroona is in a similar situation, from a local planning framework perspective. It lacks direction as to appropriate locations and design expectations.

LPP 14 Workforce Accommodation was prepared to provide some clarity and certainty to the public, developers and the state government around expectations from the Council in terms of appropriate locations and design.

LPP 15 Social Impact Assessment was prepared to identify and assess potential social impacts from a proposal and formulate ways to create benefits for the community.

LPP 14 Workforce Accommodation key points

Identifies three types of workforce accommodation:

- Short-term workforce accommodation
- Intermittent workforce accommodation
- Long-term workforce accommodation

There are different design standards, depending on what type of workforce accommodation is proposed.

Short-term and intermittent workforce accommodation is characterised by the relatively urgent nature of the accommodation being needed, to support the commencement of projects. The Shire has quantified this to a three-year period. The Shire does not expect a workforce associated with, for example, a single construction project to stay within the area beyond completion of a particular project. Given the short nature that this accommodation is

needed and designed for, a set of ‘Basic Design Standards’ are outlined. The basic design standards apply to the following proposals:

- Short-term workforce accommodation; or
- Intermittent workforce accommodation proposals.

Where workforce accommodation is designed to house a workforce for three years or greater, generally associated with an operational workforce, the Shire expects a higher standard of design. The ‘High Design Standards’ applies to:

- Long-term accommodation;
- Where provisions of clause 6.4, Location and land use permissibility are not satisfied;
- Where third party developments/operators are proposed;
- Hybrid accommodation models that incorporate Short-term, Intermittent and/or Long-term workforces.

The Policy does not support workforce accommodation outside of the Waroona town site boundaries. The only exceptions may be where small, low-scale workforce accommodation is proposed for existing agricultural producers and where the Shire is satisfied that the local planning framework and Strategic Community Plan are satisfied. For example, workforce accommodation that was approved at the December 2022 OCM for 26 units on McClure Road, Hamel.

Proposed modifications:

In accordance with the Regulations, LPP 14 has been reviewed, having regard to Councillor feedback. The comments made have planning merit and were well considered, providing the Shire with valuable information to propose refinement. The modifications to LPP 14 have been summarised below:

- Amend Part 6.4 Location and land use permissibility
 - Include parts of the Waroona North Structure Plan, to the north of the Waroona townsite, as a location which the Shire may consider approval of workforce accommodation.
 - Parts being the ‘Long term: Townsite Expansion Area’ or ‘Highway Area 1’
 - Include an excerpt from the Waroona North Structure Plan as Figure 2.

Inclusion of this land has many benefits such as:

- The land is already planned for intensification;
- It is a logical extension to the townsite;
- Larger lots allow for ease of development;
- Workforce accommodation development could prove the catalyst for further townsite expansion; and
- The proximity to town will allow for economic benefits whilst reducing potential conflict.

Benefits of this Policy

The intent of this policy is to bring additional residents to town and encourage integration. This can provide significant opportunities to the local economy and community and stimulate population growth. Additional residents with disposable income will increase patronage at stores, cafes and venues which will support local business. Meanwhile, a well-integrated population will likely result in participation in the community. Benefits can include volunteering with emergency services and community organisations, joining local sporting groups and increasing patronage at Shire run events and the recreation centre.

The alternative, having workforce accommodation far removed from town and self-sufficient/functioning as a quasi-town (a traditional workforce camp), will result in Waroona missing out on these benefits.

LPP 15 Social Impact Assessment key points

LPP15 seeks to:

- Identify negative social impacts from a proposal;
- Mitigate these adverse effects; and
- Maximise positive social and economic outcomes for the community.

This Policy seeks to delve into operational matters associated with a major project to capture benefits for the community and economy. This Policy can assist with scenarios such as:

A mining company wishes to establish a new mine in the hills to the east of Waroona, extracting rare earths. Vehicle access for exporting the material to the South West Highway is via Shire managed rural roads. The mine will employ 200 people and will need to house most employees in the region. This is proposed through a traditional self-sufficient workforce accommodation camp, located just outside the Waroona townsite boundaries. The camp is proposed to be run by a third-party operator, based in Perth with supply chain networks directly with distributors.

This matter would be dealt with under the *Mining Act 1978* and the Council does not have authority to approve or refuse. This is determined by the Minister for Mines on recommendation from the Mining Warden. However, the Minister for Mines must have due regard to the Shire's local planning framework. Having this LPP in place puts the Shire in an advantageous position to request a Social Impact Assessment and Management Plan. A Social Impact Assessment and Management Plan may identify potential issues as:

- Increased wear and tear on Shire managed roads with substantial maintenance cost burden.
- Lack of local community benefits from the camp.
- Lack of integration with the community.

Benefits of this Policy

These potential issues are quite common and play out frequently in the Pilbara. Having a LPP that requires a Social Impact Assessment and Management Plan allows local government to lobby for conditions to be imposed on a Mining Approval. This can lead to improved outcomes for the community and economy. Common opportunities/actions that have benefitted Pilbara local governments with the above issues have included:

- The mining company upgrading local roads and intersections and payment of a levy for maintenance.
- Shop local, buy local requirements. The camp is required to spend a minimum amount for goods at local stores such as IGA and Mitre 10.
- A quarter of the camp (generally the operational workforce) is located to an existing townsite, and permanent housing is constructed. The remainder of the camp is supplied with a regular and frequent bus services into town.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Built Assets
Aspiration	To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning
Objective	1.3 A planning framework that is visionary, supports connectivity and enables participation that ensures quality,

	diverse and innovative planning outcomes that meets community aspirations
Strategy	1.3.1 Ensure our Town Planning Scheme and Local Planning Strategy facilitates quality and diverse planning outcomes
Action	Adoption of these proposed policies will assist in achieving the aspirations, objectives and Strategies of the Strategic Community Plan.

OTHER STRATEGIC LINKS

Shire of Waroona Strategic Community Plan.

STATUTORY ENVIRONMENT

- Planning and Development Act 2005;
- Planning and Development (Local Planning Schemes) Regulations 2015; and
- Shire of Waroona Local Planning Scheme No. 7.

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Innovation and resilience of the built form are encouraged, assessed and implemented.

Social - (Quality of life to community and/or affected landowners)

Regular opportunities for the broad community to have input into the Shire's plans and programs are provided for transparency, accountability and two-way interaction.

Environment – (Impact on environment's sustainability)

The protection and valuing of the environment, amenity and the rural space in enhanced through community engagement.

Policy Implications

The adoption of these policies will allow control and influence in planning and mining decisions that will benefit the Shire from an economic and social perspective.

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Environmental - Regulatory compliance, contamination, inadequate processes
<i>Description</i>	There is a reputational risk associated which may arise from the adoption of the local planning policies, given an applicant has the option to apply to the State Administrative Tribunal for a review of any decision made using this policy.
<i>Consequence</i>	2 - Minor
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Although this risk will remain with the adoption of the officer's recommendation, the reputation risk would be greater if no amendment to the policy was adopted.
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Director
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

External Agencies

No agencies were advertised to as the policies are consistent with State Legislation and Policies.

Community and Stakeholders

Both LPPs were advertised in the local newspaper, on Facebook and on the Shire's website for a period of 32 days. This exceeds the mandatory advertising requirements of 21 days. The advertising by Facebook is also above and beyond what is required. No submissions were received.

In accordance with cl 4, regulation 4, Schedule 2 of the Regulations, should Council adopt LPP 14 and LPP 15, the Shire will publish a notice of the new policies in the local newspaper. A copy of both adopted policies will also be made available at the Administration Building and on the Shire's website.

RESOURCE IMPLICATIONS

Financial & Workforce

Officer time associated with the preparation, review and possible adoption of the Policy, which is within the Shire's existing operating expenditure.

OPTIONS

Council has the option of:

1. adopting the officer's recommendation;
2. amending the officer's recommendation; or
3. no adopting the officer's recommendation.

CONCLUSION

The two LPPs are designed to capture some of the economic and community benefits that major projects bring to the region. If the local planning framework does not address these issues, Council's position to lobby for conditions and improved outcomes will be severely limited. These LPPs have been tried and tested in the Pilbara and are adjusted to ensure a higher degree of design standards and consider local agricultural needs.

It is recommended that both proposed LPPs are adopted without change.

11.1.4 Drakesbrook (Waroona) Cemetery Expansion	
File Ref:	30/1
Previous Items:	OCM 22/02/004, OCM 20/10/177, OCM 20/08/134, OCM 20/07/124
Applicant:	Shire of Waroona
Author and Title:	Rikki Pulfer, Senior Technical and Waste Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.1.4 A – Flora Vegetation Condition Map 11.1.4 B – Fauna Habitat Trees Map

COUNCIL RESOLUTION**OCM23/02/009****Moved: Cr Purcell****Seconded: Cr Snell**

That this item be deferred to the next Council meeting, with the provision of all supporting documents.

CARRIED 5/2

**For the motion: Crs Purcell, Mason, Vitale, Odorisio and Snell
Against the motion: Crs Walmsley and Pisconeri**

OFFICER RECOMMENDATION

That Council:

1. Endorses the lodgement of a Native Vegetation Clearing Permit with the Department of Water and Environmental Regulation for the areas identified as Completely Degraded and Degraded;
2. Amends the 2022/23 adopted budget as follows:
 - a) Increase transfer of funds from Cemetery Reserve (148440) by \$XXXXXX; and
 - b) Increase capital expenditure account CE02 by \$XXXXXX, for capital works on the Drakesbrook Cemetery carpark.
3. Authorises officers to liaise with other government agencies to investigate the options for re-classification of surrounding reserves being R42587 Hawksley Park and Lot 236 on deposited plan 59048 for the purpose of expansion of the Drakesbrook (Waroona) Cemetery within surrounding reserves.

IN BRIEF

The Shire has been working on a proposal to develop the Drakesbrook (Waroona) Cemetery with a potential to extend within the current site and develop a carpark. The proposal included a Flora and Fauna assessment which was scheduled for Spring 2022.

BACKGROUND

Given the need to expand the capacity of the Drakesbrook (Waroona) Cemetery the Shire has been working on a proposal to develop the site. Council has considered and endorsed the expansion of the Drakesbrook (Waroona) Cemetery:

COUNCIL RESOLUTION OCM22/02/004

That Council endorses:

1. *Liaison with landowners, real estate agents and other government agents to investigate options to facilitate the expansion project; and*
 2. *Undertaking the flora survey of the Cemetery site (Appendix 11.1.2).*
- CARRIED 7/0**

As per item 2 of the Council resolution officers scheduled a Floral and Fauna survey for Spring 2022.

COUNCIL RESOLUTION OCM20/10/177

That Council:

1. *Accepts the 'Offer to Purchase' for the amount of \$85,000 (ex GST) by James Thomas Beinke for Lot 5 (11) Mitchell Avenue, Waroona;*
2. *Authorises the Chief Executive Officer to sign the relevant documents pertaining to the sale of Lot 5 (11) Mitchell Avenue, Waroona; and*
3. *Authorise the establishment of a new Reserve account for the purpose of Drakesbrook Cemetery capital upgrades and maintenance.*
4. *Amend the 2020/2021 budget as follows:*
 - a) *Income account 105150 increase by \$85,000 to account for sale of land;*
 - b) *Allocate all conveyancing costs and associated expenditure to account 101520; and*
 - c) *Increase account 148440 to transfer the net income to the new Drakesbrook Cemetery Reserve.*

CARRIED BY ABSOLUTE MAJORITY 8/0

Officers have been coordinating the concept design of the new carpark. The carpark will be funded by the proceeds of the sale of Lot 5 (11) Mitchell Avenue, Waroona in accordance with Council Resolution OCM 20/10/177.

REPORT DETAIL

The expansion of the Drakesbrook (Waroona) Cemetery has been progressing, with officers working on the concept carpark design along with scheduling the Flora and Fauna Survey. The was completed in September 2022 with the report being received by the Shire in January 2023.

The survey and report were undertaken in accordance with the Environmental Protection Authority (EPA) Technical Guidance – Flora and Vegetation Surveys for Environmental Impact Assessment (EPA 2016) and meet requirements of other relevant State, and Commonwealth guidelines for threatened species and communities, such as approved conservation advice for *Environment Protection Act 1999* (EPBC Act 1999) threatened species and communities. The detailed and targeted surveys were completed by trained officers with Flora Permits in accordance the Department of Biosecurity Conservation Authority guidelines.

A summary of the results are detailed below:

Flora Survey Summary

- 110 vascular flora taxa species were identified within the survey area, of which 35 (32%) were non-native species.
- No Threatened or Priority taxa, or species otherwise of conservation significance were found.
- *Watsonia Meriana* was the only Declared pest plant, found during the survey.
- Of the approximately 2.5ha of native vegetation within the survey area two-thirds (about 1.69ha) was in Degraded or better condition. A breakdown of the condition of the survey area is provided in appendix **11.1.4 A**.

Fauna Survey Summary

- 14 Fauna species (mainly common bird species) were observed, or secondary evidence of their presence recorded during the field survey.
- Evidence of the forest red-tailed black cockatoo and Carnaby’s black cockatoo was detected during the day survey in the form of chewed marri and jarrah fruits.
- No evidence of any other fauna species of conservation significance was observed.
- Thirteen trees contained apparent or obvious hollows, all of which were assessed as being unlikely to be suitable for black cockatoos to currently use for nesting purposes, due to the hollows apparent small size, unsuitable orientation and/ or low height above ground level.
- Six trees appeared to contain at least one hollow considered potentially suitable for black cockatoos to use for nesting purposes. None of the hollows showed any conclusive evidence of actual use by nesting black cockatoos. Shown in **appendix 11.1.4 B**.

The results of the Flora and Fauna survey are encouraging and potentially allow the expansion of the Drakesbrook (Waroona) Cemetery within the site itself. Although officers will have to apply to Department of Water and Environmental Regulation for a Native Vegetation Clearing Permit prior to any expansion plans being finalised officers believe the clearing of the Completely Degraded and Degraded vegetation shown in **appendix 11.1.4 A** has the potential of opening 1.69ha of space although it is highly likely that a requirement for clearing will include revegetation within a proximity of the site, a potential site will be investigated.

Following on from the Flora and Fauna Survey officers are proposing to explore and action the following options:

- Lodgment of Native Vegetation Clearing Permit for the Completely Degraded and Degraded areas as per **appendix 11.1.2 (a)** (*Please note permits can take ninety business days to process*).
- Complete a project costing on the renewing of the Drakesbrook (Waroona) Cemetery Carpark area for allocation of funds as part of the 2023/24 financial year.
- Investigate the surrounding reserves being R42587 Hawksley Park and Lot 236 on deposited plan 59048 for possible expansion of the site pending the outcome of the Native Vegetation Clearing Permit.

The timeframe of the above-mentioned actions will vary and are likely to be impacted by external governing bodies and budget implications.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Built Assets
Aspiration	To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning

Objective	4.1 Public spaces and infrastructure that are accessible and appropriate for our community, and meet the purpose and needs of multiple users
Strategy	4.1.1 Plan community facilities for current and future generations

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Shire of Waroona Local Planning Scheme No 7(LPS7)

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Nil

Social - (Quality of life to community and/or affected landowners)

Plan to support public spaces and infrastructure that are accessible and appropriate for our community and meet the purpose and needs of multiple users.

Environment – (Impact on environment’s sustainability)

Clearing of native vegetation which has been mitigated by reducing the clearing impact to vegetation classified as Completely Degraded and Degraded.

Policy Implications

Nil

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Project - Delays to start or completion, variations to scope or budget, insufficient funds
<i>Description</i>	A need to expand the current Drakesbrook (Waroona) Cemetery site to ensure the community gets best outcome currently possible.
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	3 - Possible
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Council endorsement of the recommendation of this report
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Director
<i>Acceptance</i>	Monitor - Risk acceptable with adequate control

CONSULTATION

- Brad Oborn, Manager of Works and Waste Services
- Karen Oborn, Director Infrastructure and Development Services
- Debbie Brace, Director, Principal Environmental Consultant
- Ben Dobbe, Engineering Surveyor, Surveying South

RESOURCE IMPLICATIONS

Financial

- Funds for the development of the new Drakesbrook (Waroona) Cemetery will be allocated from the new Drakesbrook Cemetery Reserve account 148440.
- Funds for the Native Vegetation Clearing Permit will be sourced from the design and consultant GL 132920 and will cost \$4,600
- Funds for clearing of Native Vegetation (pending granted permit) will be budgeted for as part of the 2023/24 financial year.

Workforce

Nil

OPTIONS

Council has the option of:

1. accepting the officer recommendations to endorse the proposed actions; or
2. rejecting the officer recommendations to endorse the proposed actions.

CONCLUSION

Given the need to expand the current site, by exploring the options outlined within the report officers will be ensuring that any expansion within the site is completed in accordance with Acts and Regulations. The expansion within the site has the maxim potential of achieving community goals and will be the best value for money, especially considering the impact of selling land and purchasing adequate land suitable for a Cemetery.

11.2 DIRECTOR CORPORATE & COMMUNITY SERVICES

11.2.1 Listing of Payments for the months of December 2022 and January 2023	
File Ref:	1/3 – Creditors
Previous Items:	N/A
Applicant:	N/A
Author and Title:	Kathy Simpson, Senior Finance Officer
Voting Requirements:	Simple Majority
Declaration of Interest:	Nil
Appendix Number	11.2.1 - Monthly Creditor Reports - December 2022 and January 2023

COUNCIL RESOLUTION

OCM23/02/010

Moved: Cr Vitale

Seconded: Cr Pisconeri

That Council receives the following payments made throughout the months of December 2022 and January 2023;

Municipal	Cheque	10054-10082	\$62,491.77
	EFT	37594-37967	\$1,443,309.76
Direct wages	01/12/22 – 31/01/2023 inclusive		\$422,618.40
Direct Debit	01/12/22 – 31/01/2023		\$401,243.76
Trust	Cheque – Nil		\$ -
	EFT – Nil		\$ -
GRAND TOTAL			\$2,329,663.69

as per Appendix 11.2.1.

CARRIED 7/0

IN BRIEF

The purpose of this report is to present the listing of payments made from the Shire's Municipal and Trust funds throughout the months of December 2022 and January 2023.

BACKGROUND

The attached appendix lists the payments from Council Municipal and Trust funds for the month applicable as per requirements of the Local Government Act 1995 and the Local Government (Financial Management) Regulations 1996.

As per Regulation 13 of the Local Government (Financial Management) Regulations 1996 the following information is required to be presented to Council;

- The Payee's name;
- The amount of the payment;
- The date of the Payment; and
- Sufficient information to identify the transaction.

REPORT DETAIL

As Council has delegated authority to the Chief Executive Officer to execute payments from the municipal fund and the trust fund a list of accounts paid are required to be submitted to Council showing the prescribed information.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Leadership
Aspiration	To embed strong leadership through good governance, effective communication and ensuring value for money
Objective	5.1 A sustainable future through embracing change, applying technological advancement and pursuing efficiencies
Strategy	5.1.1 Establish a strong corporate governance framework to ensure high standards of integrity, ethics and accountability, and pursue professional development opportunities
Action	

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

As per Regulation 13 of the Local Government (Financial Management) Regulations 1996 the following is required;

- (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 sub regulation (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.

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Nil

Social - (Quality of life to community and/or affected landowners)

Nil

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Operational - Adverse effects on core business, business continuity, human resource risks, loss of knowledge
<i>Description</i>	Non-compliance with the requirements stipulated by the <i>Local Government Act 1995</i>
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Control measures are in place whereby payments are checked and verified by two authorising officers.
<i>Review Frequency</i>	Monthly
<i>Risk Owner</i>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Nil

RESOURCE IMPLICATIONS

Financial

Nil

Workforce

Nil

OPTIONS

Council has the option of:

1. receiving the listing of payments presented for the months of December 2022 and January 2023; or
2. not receiving the listing of payments presented for the months of December 2022 and January 2023.

CONCLUSION

The listing of payments as per the attached appendix is a true reflection of the expenditure from the Municipal and Trust Fund accounts for the month of November 2022. All expenditure is accordance with the 2021/22 adopted budget and is presented as per the prescription within regulation 13 of the Local Government (Financial Management) Regulation 1996.

11.2.2 Monthly Statement of Financial Activity for the period ending 31 January 2023	
File Ref:	1/1 – Annual Statements
Previous Items:	N/A
Applicant:	N/A
Author and Title:	Kirsty Ferraro, Manager Corporate Services
Voting Requirements:	Simple Majority
Declaration of Interest:	Nil
Appendix Number	11.2.2 A – Monthly Agenda Report 22-23 December 2022 11.2.2 B – Monthly Agenda Report 22-23 January 2023

COUNCIL RESOLUTION

OCM23/02/011

Moved: Cr Mason

Seconded: Cr Purcell

That Council receives the Monthly Statement of Financial Activity for the period ending 31 January 2023, as per Appendix 11.2.2.

CARRIED 7/0**IN BRIEF**

The purpose of this report is to present the financial position of Council as at the reporting date as per requirements of the Local Government Act 1995 and the Local Government (Financial Management) Regulation 1996.

BACKGROUND

The Local Government Act 1995 in conjunction with regulation 34(1) of the Local Government (Financial Management) Regulations 1996 requires a monthly Statement of Financial Activity to be presented to Council detailing the prescribed information within 2 months after the end of the month to which the statement relates.

REPORT DETAIL

The monthly financial report recognises the financial position of Council at the reporting date and contains the following information;

- a) Annual budget estimates taking into account any expenditure incurred for an additional purpose under section 6.8(1) (b) or (c) of the Local Government Act 1995;
- b) Budget estimates to the end of the month to which the statement relates;
- c) Actual amounts of expenditure, revenue and income to the end of the month to which the statements relate;
- d) The material variance between the comparable amounts referred to in the paragraphs (b) and (c); and
- e) The net current assets at the end of the month to which the statement relates.

The following information is included in the report;

- Statement of Financial Activity by Programme
- Statement of Financial Activity by Nature and Type, and
- Statement of Financial Position
- Note 1 – Significant Accounting Policies
- Note 2 – Graphical Representation
- Note 3 – Net Current Funding Position

- Note 4 – Cash and Investments
- Note 5 – Major Variances
- Note 6 – Budget Amendments
- Note 7 – Receivables
- Note 8 – Grants & Contributions
- Note 10 – Capital Disposals and Acquisitions
- Note 11 – Significant Capital Projects
- Note 12 – Trust
- Note 13 - Borrowings

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Leadership
Aspiration	To embed strong leadership through good governance, effective communication and ensuring value for money
Objective	5.1 A sustainable future through embracing change, applying technological advancement and pursuing efficiencies
Strategy	5.1.1 Establish a strong corporate governance framework to ensure high standards of integrity, ethics and accountability, and pursue professional development opportunities
Action	

OTHER STRATEGIC LINKS

Shire of Waroona 2022/23 Annual Budget

STATUTORY ENVIRONMENT

Local Government Act 1995 – Section 6.4

Local Government (Financial Management) Regulations 1996 – Section 34

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Nil

Social - (Quality of life to community and/or affected landowners)

Nil

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

All financial policies from Policy FIN002 through to Policy FIN035

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Operational - Adverse effects on core business, business continuity, human resource risks, loss of knowledge
<i>Description</i>	Non-compliance with the requirements stipulated by the <i>Local Government Act 1995</i>

<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Monthly scheduled review of statements.
<i>Review Frequency</i>	Monthly
<i>Risk Owner</i>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Nil

RESOURCE IMPLICATIONS

Financial

Nil

Workforce

Nil

OPTIONS

Council has the option of:

1. receiving the monthly financial statements; or
2. not receiving the monthly financial statements.

CONCLUSION

That Council receives the monthly financial statements prepared in accordance with the Local Government Act 6.4 and Local Government (Financial Management) Regulations 1996 section 34.

Cr Pisconeri declared an interest affecting impartiality in item 11.2.3 as a family member is the reporting officer.

11.2.3 Corporate Business Plan – Quarterly Progress Report	
File Ref:	CM.4
Previous Items:	Nil
Applicant:	Not applicable
Author and Title:	Kate Pisconeri, Corporate Planning & Governance Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.2.3 – Corporate Business Plan - Quarterly Progress Report October to December 2022

COUNCIL RESOLUTION

OCM23/02/012

Moved: Cr Pisconeri

Seconded: Cr Mason

That Council receives the Corporate Business Plan – Quarterly Progress Report October 2022 to December 2022 as per Appendix 11.2.3.

CARRIED 7/0

IN BRIEF

Updates have been provided by responsible officers against Towards Waroona 2030 - Corporate Business Plan 2022 - 2026 projects and actions for the quarter covering 1 October 2022 to 31 December 2022. Council is requested to review and receive the Corporate Business Plan – Quarterly Progress Report October to December 2022.

BACKGROUND

In accordance with Section 5.56 of the *Local Government Act 1995*, all local governments in Western Australia are required to effectively plan for the future, with guidance outlined in the Integrated Planning & Reporting Framework. The intent of the framework is to ensure that priorities and services provided by the local government are aligned with community needs and aspirations and, in doing so, facilitate a shift from a short-term resource focus to long-term sustainability.

The Corporate Business Plan is the Shire of Waroona's four-year planning document and one of the core components of the Shires Integrated Planning and Reporting Framework. It gives effect to the first four years of the Strategic Community Plan and is pivotal in ensuring that the short and medium-term commitments are both strategically aligned and affordable.

A Corporate Business Plan quarterly progress report has been prepared for Council to deliver a brief update against all agreed projects and actions, and to demonstrate that work towards planned objectives is progressing.

REPORT DETAIL

The Quarterly Progress Report structure reflects that set out in the Towards Waroona 2030 – Corporate Business Plan 2022 - 2026. Actions and projects are grouped under objectives, which align with the strategies from the five key focus areas and aspirations in the Strategic

Community Plan: Our Community, Our Economy, Our Environment, Our Built Assets and Our Leadership.

A progress comment has been provided against most projects and actions by the responsible officer and lead department. As updates were provided during the month of January or February, some updates may include work completed in January 2023.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Leadership
Aspiration	To embed strong leadership through good governance, effective communication and ensuring value for money
Objective	5.1 A sustainable future through embracing change, applying technological advancement and pursuing efficiencies
Strategy	5.1.1 Establish a strong corporate governance framework to ensure high standards of integrity, ethics and accountability, and pursue professional development opportunities

OTHER STRATEGIC LINKS

Towards *Waroona* 2030 – Corporate Business Plan 2022 - 2026

STATUTORY ENVIRONMENT

Not Applicable

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

The Progress Report details current activities and progress against agreed Corporate Business Plan economic objectives.

Social - (Quality of life to community and/or affected landowners)

The Progress Report details current activities and progress against agreed Corporate Business Plan community objectives.

Environment – (Impact on environment’s sustainability)

The Progress Report details current activities and progress against agreed Corporate Business Plan environmental objectives.

Policy Implications

Nil.

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Operational - Adverse effects on core business, business continuity, human resource risks, loss of knowledge
<i>Description</i>	Failing to provide the council with regular progress against planned corporate business objectives would contribute to a lack of council knowledge of current Shire business activities. A councillor may subsequently be uninformed in the event they receive an enquiry from a member of the community regarding current Shire projects.

<i>Consequence</i>	2 - Minor
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Council's endorsement of the recommendation of this report will mitigate the likelihood of this risk coming into effect.
<i>Review Frequency</i>	Quarterly
<i>Risk Owner</i>	Chief executive officer
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Progress information has been provided by assigned responsible Officers across all Shire departments.

RESOURCE IMPLICATIONS

Financial

Nil.

Workforce

Nil.

OPTIONS

Council has the option of:

1. accepting the officer's recommendation; or
2. amending or rejecting the officer's recommendation.

CONCLUSION

A Corporate Business Plan quarterly progress report has been prepared for council to deliver a brief update against all agreed projects and actions, and to demonstrate that work towards planned objectives is progressing. Council is requested to review and receive the Corporate Business Plan – Quarterly Progress Report for October 2022 to December 2022.

Cr Pisconeri declared an interest affecting impartiality in item 11.2.4 as a family member is the reporting officer.

11.2.4 Shire of Waroona Health Amendment Local Law 2023	
File Ref:	26/8 / LE.9
Previous Items:	OCM November 2021 Item 11.2.1 OCM21/11/174 OCM July 2021 Item 11.2.1 OCM21/07/087
Applicant:	Not applicable
Author and Title:	Kate Pisconeri, Corporate Planning & Governance Officer
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Appendix Number	11.2.4 – Proposed Shire of Waroona Health Amendment Local Law 2023

COUNCIL RESOLUTION

OCM23/02/013

Moved: Cr Mason

Seconded: Cr Vitale

That Council:

- 1. Adopts the *Shire of Waroona Health Amendment Local Law 2023*, as detailed at Appendix 11.2.4 in accordance with the requirements of the *Public Health Act 2016*, *Health (Miscellaneous Provisions) Act 1911* and the *Local Government Act 1995*; and**
- 2. Approves for the Chief Executive Officer to:**
 - a. publish in the Government Gazette the *Shire of Waroona Health Amendment Local Law 2023*, as adopted;**
 - b. forward a copy of the adopted local law to the Minister for Local Government and Minister for Health;**
 - c. give local public notice of the adoption of the local law; and**
 - d. complete and submit all explanatory memorandums, statutory procedures checklists and other supporting information on the local law to the Joint Standing Committee on Delegated Legislation.**

CARRIED 7/0

IN BRIEF

- The *Shire of Waroona Health Local Law 2021* (Health Local Law) was adopted by Council on 27 July 2021.
- The Health Local Law was then gazetted in September 2021.
- Following the adoption of the Health Local Law the Joint Standing Committee on Delegated Legislation (Committee) highlighted a number of minor matters with the Health Local Law and sought an undertaking that they would be addressed.
- On 23rd November 2021, Council resolved for the Shire President to provide the requested undertaking and commence the process to make a proposed *Shire of*

Waroona Health Amendment Local Law 2022 to rectify the highlighted issues with the principal local law.

- The intended result of the 'Amendment' Local Law is to make the listed typographical changes to the principal Health Local Law 2021.

BACKGROUND

At the Ordinary Council Meeting held 23 November 2021, Council resolved the following to progress the development of a Health Amendment Local Law:

COUNCIL RESOLUTION

OCM21/11/174

Moved: Cr Mason

Seconded: Cr Snell

That Council:

1. *In respect to the Shire of Waroona Health Local Law 2021, resolves to undertake to the Joint Standing Committee on Delegated Legislation that it will:*
 - a. *within six months:*
 - i. *delete clauses 6.10(3), 7.4(4) and 7.11(3);*
 - ii. *correct the typographical and formatting errors in clauses 1.4 (definition of town site), 2.1 (definition of organiser); 2.7(1)(b); 2.13(5); 5.6(2); 5.7(4)(b); 5.13(6)(f) and 8.1(definition of recreational campsite);*
 - b. *State how the Australian/New Zealand standards referred to in the local law can be accessed by the public free of charge, and in this regard that it will ensure that a copy of the relevant Australian/New Zealand standards are available for viewing free of charge at the Shire offices during normal business hours;*
 - c. *Ensure all consequential amendments arising from undertaking 1a above will be made;*
 - d. *Not enforce clauses 6.10(3), 7.4(4) and 7.11(3) of the local law in a manner contrary to undertaking 1a above; and*
 - e. *Where the local law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertaking.*
2. *Approves the making of a proposed Shire of Waroona Health Amendment Local Law 2022, as detailed at Appendix 11.2.1C in accordance with sections 3.12(3)(a) and (b) of the Local Government Act 1995; and*
3. *Approves for the Chief Executive Officer to –*
 - a. *undertake local advertising, and arrange for the display of public notices relating to the proposed local law that invite public submissions for a minimum of six weeks;*
 - b. *make copies of the proposed local law available to the general public;*
 - c. *forward a copy of the proposed local law to the Minister for Local Government and Minister for Health and prepare National Competition Policy documentation after the close of the submission period; and*

- d. *prepare a further report to consider the submissions and the making of the local law after the advertising period has concluded.*
4. *Seeks a further report to consider the submissions on the making of the proposed Shire of Waroona Health Amendment Local Law 2022 following the close of the advertising period.*
CARRIED 7/0

The resolution has been completed, and Council approval is required to continue the progression of making this local law.

REPORT DETAIL

The proposed Shire of Waroona Health Amendment Local Law 2022 was advertised state-wide in The West Australian newspaper and locally in the Harvey Reporter on Tuesday, 21 December 2021. The advertisement invited public submissions for more than the statutory minimum of 6 weeks, with submissions due by Friday, 18 February 2021. Copies of the advertisement were displayed on the Shire Administration Office public notice board and on the Shire website.

On 13th January 2022, a copy was sent to the WA Minister of Health, WA Minister for Local Government, the Department of Health and the Department of Local Government, Sport and Cultural Industries (DLGSC).

Unfortunately, the officer that initiated the Health Amendment Local Law-making process, Mr Rod Peake, left the Shire of Waroona after this time and the Local Law amendments did not progress.

No submissions were received from the public during the submission period. Comments had been received from the DLGSC on 7th February 2022 with some minor grammatical edits suggested. These changes have been applied to the proposed Local Law as found at Appendix 11.2.4.

Following council adoption, the Health Amendment Local Law 2023 will be forwarded to the State Law Publisher for gazettal, advertised via local public notice and sent to WA Parliament's Joint Standing Committee on Delegated Legislation accompanied by an Explanatory Memorandum.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Leadership
Aspiration	To embed strong leadership through good governance, effective communication and ensuring value for money
Objective	5.1 A sustainable future through embracing change, applying technological advancement and pursuing efficiencies
Strategy	5.1.1 Establish a strong corporate governance framework to ensure high standards of integrity, ethics and accountability, and pursue professional development opportunities
Action	5.1.1.2 Review all Local Laws

OTHER STRATEGIC LINKS

Shire of Waroona Corporate Business Plan "Towards Waroona 2030

Action 5.1.1.2 – Review all local laws

STATUTORY ENVIRONMENT

Local Government Act 1995

Council may make local laws in accordance with Part 3 of the *Act* and in so doing, all local laws are then to be reviewed within eight years of their commencement date.

The process of adopting or amending a local law is set out in section 3.12 of the *Act* and is summarised in Table 1 below with further information provided following the table.

Table 1 - Timeline for making local law.

Task	LGA Section	Effective Date
Report to Council for approval to advertise proposed new Local Laws. <i>(President to give notice of the purpose and effect to the meeting of the proposed local law).</i>	3.12(2)	Tuesday, 23 November 2021
Give State-wide and local public notice and make copies available to the general public.	3.12(3)(a)	<u>The West Australian</u> – Tuesday, 21 December 2021 <u>Harvey Waroona Reporter</u> – Tuesday, 21 December 2021
Closing date for submissions to be received (not less than 6 weeks).	3.12(4)	Friday, 18 February 2021 <i>(59 days)</i>
Give copy of the proposed local law and the notice to the Minister for Local Government and prepare National Competition Policy review after advertising.	3.12(3)(b)	Thursday, 13 January 2021
Consider submissions and report back to Council to determine whether to make a Local Law (absolute majority required).	3.12(4)	Tuesday, 28 February 2021
Publish Local Laws in Government Gazette and give copy to the Minister for Local Government.	3.12(5)	Scheduled for: Tuesday 7 March, 2023
Give State-wide and local public notice advising that the new laws have been made, the title, and make copies available to the general public.	3.12(6)	Scheduled for: Tuesday 14 March, 2023
Prepare explanatory memorandum and submit with copy of the new Local Laws to Parliamentary Joint Standing Committee on Delegated Legislation.	3.12(6)	Scheduled for: Tuesday 14 March, 2023

Section 3.12 of the *Act* deals with the procedure for making local laws –

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.

- (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.
- (3) The local government is to —
- (a) give State-wide public notice stating that —
 - (i) the local government proposes to make a local law the purpose and effect of which is summarised in the notice; and
 - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
 and
 - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and
 - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.
* *Absolute majority required.*
- (5) After making the local law, the local government is to publish it in the *Gazette* and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.
- (6) After the local law has been published in the *Gazette* the local government is to give local public notice —
- (a) stating the title of the local law; and
 - (b) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
 - (c) advising that copies of the local law may be inspected or obtained from the local government's office.
- (7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.
- (8) In this section —
making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

Of relevance is section 3.12(4), where a local law initially proposed is significantly different, section 3.13 applies and in this case the major amendments proposed are considered to enact section 3.13.

Section 3.13 states that if during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Nil.

Social - (Quality of life to community and/or affected landowners)

Nil.

Environment – (Impact on environment’s sustainability)

Nil.

Policy Implications

Nil.

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Environmental - Regulatory compliance, contamination, inadequate processes
<i>Description</i>	Failing to regularly review policies may indicate poor governance, and result in no provision for the regulation, management and removal of waste in the district, and inability to enforce penalties for non-compliance.
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	3 - Possible
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Council’s endorsement of the recommendation of this report will mitigate the likelihood of this risk coming into effect.
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Chief executive officer
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

- State-wide notice of the proposed Health amendment local law and invitation for public submissions were advertised in The West Australian on Tuesday, 21 December 2021.
- Local notice of the proposed local law and invitation for public submissions were advertised in the Harvey Reporter on Tuesday, 21 December 2023.
- The proposed local law and invitation for public submissions were advertised online on the Shire website and copies available in hard copy at the Shire Administration Office.
- A copy of the proposed local law and copies of the advertisements were sent to the Minister for Local Government.
- One response was received from DLGSC.

RESOURCE IMPLICATIONS

Financial

The cost of making the proposed local law which includes re-advertising and gazettal is approximately \$1,500. Funds are available in the 2022/2023 budget for the project cost.

Workforce

Nil.

OPTIONS

Council has the option of:

1. accepting the officer's recommendation to complete the process to make the proposed Shire of Waroona Health Amendment Local Law 2021; or
2. amending or rejecting the proposal to make the health amendment local law.

CONCLUSION

It is recommended that Council completes the process under *the Local Government Act 1995* to update the proposed Shire of Waroona Health Amendment Local Law 2023 as per council's commitment to the Joint Standing Committee in November 2021.

Cr Pisconeri declared an interest affecting impartiality in item 11.2.5 as a family member is the reporting officer.

11.2.5 Enabling Waroona – Access and Inclusion Plan 2023-2028	
File Ref:	CM.4, CP.31
Previous Items:	OCM17/11/116
Applicant:	Not applicable
Author and Title:	Kate Pisconeri - Corporate Planning & Governance Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.2.5 – Enabling Waroona – Access and Inclusion Plan 2023-2028

COUNCIL RESOLUTION

OCM23/02/014

Moved: Cr Pisconeri

Seconded: Cr Snell

That Council:

- 1. Adopts ‘Enabling Waroona – Access and Inclusion Plan 2023-2028’ as per Appendix 11.2.5; and**
- 2. Approves for the Chief Executive Officer, subject to correction of typographical errors, to:**
 - a. undertake local advertising, and arrange for the display of public notices relating to public availability of ‘Enabling Waroona – Access and Inclusion Plan 2023-2028’;**
 - b. make copies of the proposed Access and Inclusion Plan available to the general public; and**
 - c. lodges a copy of the proposed Access and Inclusion Plan with the Disability Services Commission in accordance with the *Disability Services Act 1993*.**

CARRIED 7/0

IN BRIEF

- Council is requested to consider adopting ‘Enabling Waroona – Access and Inclusion Plan 2023-2028’ in accordance with the *Disability Services Act 1993*.
- Public authorities (local governments) must review their disability access and inclusion plan at least once in every five years.
- The last review of the Shire’s disability access and inclusion plan was completed in November 2017.

BACKGROUND

The Shire’s Access and Inclusion Plan 2023 – 2028 (the Plan) has been developed in compliance with the *Disability Services Act 1993*. This Act requires local government authorities to develop and implement a disability access and inclusion plan that will further

both the principles and objectives of the Act. Local governments are required to review their plan at least once every five years.

The purpose of a disability access and inclusion plan is to ensure that people with disability can access all information, services and facilities provided by local governments in Western Australia and be included in the community.

The Shire of Waroona has renamed its disability access and inclusion plan: Access and Inclusion Plan. Whilst focussing on people with a disability, the Plan's objective now broadens to include all members of the community, or visitors, who are limited in their physical ability. Persons with such limitations may include parents or carers with prams, mobility scooters or someone who has sustained a temporary injury. Although focussed mainly on persons living with a long-term disability, the projects and actions scheduled in the Plan aim to allow all people living or passing through the Shire of Waroona communities, to feel welcomed and included.

During 2020-2021, the Shire undertook a review of the Disability Access and Inclusion Plan 2017 – 2022 and engaged with key Shire employees, elected members and community members to draft a plan that would guide further improvements in disability access and inclusion. The development and review process included:

- Surveys open to all community members living within the Shire of Waroona,
- Consultation with the Shire's elected members to update the plan,
- Consultation with Shire officers to develop the plan's strategies and implementation process.

Most people were satisfied that the Shire of Waroona was welcoming and inclusive of people with disability. Information collected from the community has provided the Shire with key considerations to increase access and inclusion of people with disability in future projects including:

- Targeted promotion and communication about accessible and inclusive features of facilities, services and events;
- Availability and promotion of inclusive programs in the Shire including inclusive sports, school holiday programs and general social activities;
- Further improvements to buildings, facilities, outdoor environments and public spaces;
- Easier access to information;
- Increased awareness by Shire officers and external contractors about the positive impact made on the lives of people with disability when access and inclusion is considered in planning and delivering Shire projects;
- Different ways to engage with people with disability for community consultation and in providing feedback on Shire projects; and
- More employment and volunteer opportunities within the Shire for people with disability.

Since the inception of disability access and inclusion plans in 2004, the Shire's plan has undergone five reviews with the most recent being in November 2022.

REPORT DETAIL

The proposed Access and Inclusion Plan 2023 – 2028 continues to provide outcomes for people with limited ability that reflect the Department of Communities guidelines and the requirements of the *Disability Services Act 1993*.

The strategies in the Access and Inclusion Plan 2023 – 2028 reflect the findings from staff and community consultation completed in July 2021 and many of the specific suggestions

have been included in the strategies and actions to improve access and inclusion. The strategies and actions are centred around the seven standards set out in Schedule 2 of the *Disability Services Regulations 2004*:

1. People with disability have the same opportunities as other people to access the services of, and any events organised by, the Shire of Waroona.
2. People with disability have the same opportunities as other people to access the buildings and other facilities of the Shire of Waroona.
3. People with disability receive information from the Shire of Waroona in a format that will enable them to access the information as readily as other people are able to access it.
4. People with disability receive the same level and quality of service from the employees of the Shire of Waroona as other people receive.
5. People with disability have the same opportunities as other people to make complaints to the Shire of Waroona.
6. People with disability have the same opportunities as other people to participate in any public consultation by the Shire of Waroona.
7. People with disability have the same opportunities as other people to obtain and maintain employment with a public authority.

The availability of the access and inclusion plan will be publicised in the local community newspaper and made available on the Shire's website and/or by request in alternative formats, including print (standard or large), electronic format or Braille to disability service organisations, groups and interested individuals.

Shire officers will be advised of the contents of the Plan and their responsibilities through ongoing projects and during regular internal meetings. Agents and contractors used by the Shire will be informed through procurement documentation and through projects carried out under the Plan's strategies.

The Shire will measure success and progress of the Access and Inclusion Plan 2023-2028 through the following mechanisms:

- Regular community perception surveys;
- Delivery of projects on time and on budget;
- Regular progress reporting to Council, the community and in the Shire annual report.
- Annual progress reports in the prescribed format to the Disability Services Commission.

The proposed Disability Access and Inclusion Plan 2023 – 2028 is presented to Council at **Appendix 11.2.5**.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Community
Aspiration	To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning
Objective	1.1 Create a connected, safe and cohesive community with a strong sense of community pride

Strategy	1.1.2 Pursue a social environment that is accessible and inclusive for all ages and abilities
Focus Area	Our Built Assets
Aspiration	To build and effectively manage our assets to continually improve our standard of living
Objective	4.1 Public spaces and infrastructure that are accessible and appropriate for our community, and meet the purpose and needs of multiple users
Strategy	4.1.1 Plan community facilities for current and future generations

OTHER STRATEGIC LINKS

- Shire of Waroona Annual Report 2021/2022
- Towards Waroona 2030 – Corporate Business Plan 2022-2026
- Building Waroona 2030 – Asset Management Plan 2020-2030

STATUTORY ENVIRONMENT

Disability Services Act 1993

Part 5 – Disability access and inclusion plans by public authorities

s.28. Disability access and inclusion plans

- (1) Each public authority must have a disability access and inclusion plan to ensure that in so far as its functions involve dealings with the general public, the performance of those functions furthers the principles in Schedule 1 and meets the objectives in Schedule 2.
- (2) A disability access and inclusion plan must meet any prescribed standards.
- (3) A public authority must lodge its disability access and inclusion plan with the Commission —
 - (b) if the authority is established after the commencement of the Disability Services Amendment Act 2004, within 12 months after the day on which it is established.
- (4) A public authority may amend its disability access and inclusion plan at any time.
- (5) A public authority may review its disability access and inclusion plan at any time.
- (6) After reviewing its disability access and inclusion plan, a public authority must lodge a report of the review with the Commission in accordance with subsection
- (7) Not more than 5 years is to elapse —
 - (a) between the day on which a public authority first lodges its disability access and inclusion plan with the Commission and the day it lodges a report of a review of the plan with the Commission; or
 - (b) between the lodgement of the report of one review of a plan and the lodgement of the report of another review of the plan.
- (8) After reviewing its disability access and inclusion plan, a public authority may amend the plan or prepare a new plan.
- (9) If at any time a public authority amends its disability access and inclusion plan or prepares a new plan, whether after a review or not, it must lodge the amended or new plan with the Commission as soon as practicable after doing so.
- (10) A public authority must undertake public consultation in accordance with the procedure specified in the regulations when preparing, reviewing or amending a disability access and inclusion plan.

29A. Disability access and inclusion plans to be made available

A public authority that has a disability access and inclusion plan must ensure that the plan is made available to people with disability, and the public generally, by publication in the prescribed manner.

Disability Services Regulations 2004

r.7 Standards for disability access and inclusion plans (s.28)

For the purposes of section 28(5) of the Act, the standards that a disability access and inclusion plan must meet are those specified in Schedule 2.

r.9. Publication of disability access and inclusion plans (s. 29A)

For the purposes of section 29A, a public authority must publish its disability access and inclusion plan in a document that is made available —

- (a) on request, at the offices of the authority —
 - (i) in an electronic format; and
 - (ii) in hard copy format in both standard and large print; and
 - (iii) in an audio format on cassette or compact disc; and
- (b) on request, by email; and
- (c) on any website maintained by or on behalf of the authority,

and notice of which is given in a newspaper circulating throughout the State or, in the case of a local government, the district of that local government under the *Local Government Act 1995*.

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Nil.

Social - (Quality of life to community and/or affected landowners)

The access and inclusion plan optimises opportunities for improvements to community services, facilities and events. The Plan also considers inclusive access needs in the development of buildings and facilities. This in turn can assist in improving the quality of life for all residents of the Shire of Waroona.

Environment – (Impact on environment’s sustainability)

Nil.

Policy Implications

Nil.

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Reputation - Public perception, poor customer service, sub standard work, corruption
<i>Description</i>	Failing to comply with legislated requirements of the development and review of Access and Inclusion Plans could result in poor public perception and loss of reputation.
<i>Consequence</i>	2 - Minor
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Council’s endorsement of the recommendation of this report will mitigate the likelihood of this risk coming into effect.
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Chief executive officer
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Community survey was conducted between 1 July 2021 to 31 July 2021 – 16 responses and 1 submission were received.

RESOURCE IMPLICATIONS

Financial

Adoption of the Plan does not result in direct financial impact, although some aspects of the implementation of the Plan may require a financial allocation. Many of the projects will be subject to securing grant funding, developing partnerships and working with local organisations.

Workforce

It is anticipated that existing resources will be utilised to implement the access and inclusion plan over the next 5 years.

OPTIONS

Council has the option of:

1. accepting the officer's recommendation; or
2. amending or rejecting the officer's recommendation.

CONCLUSION

Implementing the Shire's Enabling Waroona - Access and Inclusion Plan 2023-2028 will ensure plans and strategies towards improving Shire assets and facilities continue to include *all* members of the community. The Plan aims to further the Shire's commitment to making services, events and information available to residents and visitors of all abilities and enabling every person to feel welcome and included in the community.

Cr Pisconeri declared an interest affecting impartiality in item 11.2.6 as a family member is the reporting officer.

11.2.6 Shire of Waroona Cat Local Law 2023	
File Ref:	LE.1
Previous Items:	Nil
Applicant:	Not Applicable
Author and Title:	Kate Pisconeri, Corporate Planning & Governance Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.2.6 – Proposed Shire of Waroona Cat Local Law 2023

COUNCIL RESOLUTION

OCM23/02/015

Moved: Cr Pisconeri

Seconded: Cr Mason

That Council:

- 1. approves the making of the proposed Shire of Waroona Cat Local Law 2023 (Cat Local Law), as detailed at Appendix 11.2.6, in accordance with section 79 of the *Cat Act 2011*;**
- 2. requests the Presiding Member to give notice to this meeting in accordance with section 3.12(2) of the Local Government Act 1995 of the purpose and effect of the proposed Cat Local Law, that being;**
 - a. The purpose of the proposed Shire of Waroona Cat Local Law 2023 is to encourage responsible cat ownership and to provide for the effective management of cats within the Shire of Waroona;**
 - b. The effect of the proposed Shire of Waroona Cat Local Law 2023 is that persons who own or keep a cat within the Shire of Waroona are to comply with the provisions of this local law; and**
- 3. In accordance with section 3.12(3) of the *Local Government Act 1995*, approves for the Chief Executive Officer to –**
 - a. undertake local advertising, and arrange for the display of public notices relating to the proposed local law that invite public submission for a minimum of 6 weeks;**
 - b. make copies of the proposed local law available to the general public;**
 - c. forward a copy of the proposed local law to the Minister for Local Government, and prepare National Competition Policy documentation after the close of the submission period; and**
 - d. prepare a further report on the proposed local law for Council consideration after the closing date for submissions.**

CARRIED 7/0

IN BRIEF

- The making of a Cat Local Law is required for a Local Government Authority to efficiently meet its regulatory requirements under the Cat Act of 2011.
- The proposed Shire of Waroona Cat Local Law 2023 (Cat Local Law) intends to encourage responsible cat ownership and provide for the effective management of cats within the Shire of Waroona.
- The intended effect of making the proposed Cat Local Law is that persons who own or keep a cat within the Shire of Waroona are to comply with the provisions of this local law.

BACKGROUND

The *Cat Act 2011* gives a local government the power to issue notices in relation to cat control as well as seize cats:

Part 3 Management of cats

Division 1 Cat control notices

s.26. Cat control notice may be given to cat owner

- (1) A local government may give a cat control notice to a person who is the owner of a cat ordinarily kept in its district.
- (2) A cat control notice is to
 - (a) be in the form prescribed; and
 - (b) identify the cat or cats in respect of which the notice is given and indicate where the cat or cats are, or are suspected to be; and
 - (c) direct the person to whom the notice is given to comply with a provision of this Act, the regulations or a local law in respect of the cat or cats; and
 - (d) specify the period within which the person to whom it is given is to comply with the notice.

Division 2 Seizing cats

27. Cats may be seized

An authorised person may —

- (a) in any public place, seize any cat that the authorised person believes, or suspects, on reasonable grounds is the subject of an offence against this Act; or
- (b) in any premises lawfully entered by the authorised person, seize any cat —
 - (i) at the request, or with the consent, of the person who is, or appears to be, the owner or occupier of the premises; or
 - (ii) under a warrant issued under Part 4 Division 3 Subdivision 3.

REPORT DETAIL

The proposed Cat Local Law incorporates past, present and future issues in relation to domestic cat management: the following topics are addressed:

- Control of cats
- Cat prohibited areas
- Permits for keeping cats
- Impounding of cats
- Offences and penalties.

When considering the proposed Cat Local Law, it should be remembered that the main broad objectives of local laws are to provide for –

- The peace, order and good governance of the local government district;
- A safe and healthy environment so that the community can enjoy a quality of life that meets its expectations;
- The safe, orderly and fair use and enjoyment of public places and facilities;
- The protection and enhancement of the amenity and environment of the local government district;
- The protection of assets managed by the Council on behalf of the community; and
- Governance systems that deliver responsible, ethical and accountable decision making.

Whilst some clauses may appear as over-regulation, these are required to enable Authorised Officers and law enforcement officers to address inappropriate and unlawful behaviours effectively and efficiently.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Leadership
Aspiration	To embed strong leadership through good governance, effective communication and ensuring value for money
Objective	5.1 A sustainable future through embracing change, applying technological advancement and pursuing efficiencies
Strategy	5.1.1 Establish a strong corporate governance framework to ensure high standards of integrity, ethics and accountability, and pursue professional development opportunities
Action	5.1.1.2 Review all local laws

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Providing Public Notice

s.1.8 Statewide public notice (Local Government Act 1995)

Where under this Act Statewide public notice of a matter is required to be given, notice of the matter must be given in accordance with section 1.7(a) and (b) and the requirements prescribed for the purposes of this section.

r.3A Requirements for local public notice (Act s. 1.7) (Local Government (Administration) Regulations 1996)

- (1) For the purposes of section 1.7(a), notice of a matter must be published on the local government's official website for —
 - (a) the period specified in or under the Act in relation to the notice; or
 - (b) if no period is specified in relation to the notice — a period of not less than 7 days.
- (2) For the purposes of section 1.7(b), each of the following ways of giving notice of a matter is prescribed —
 - (a) publication in a newspaper circulating generally in the State;
 - (b) publication in a newspaper circulating generally in the district;

- (c) publication in 1 or more newsletters circulating generally in the district;
- (d) publication on the official website of the Department or another State agency, as appropriate having regard to the nature of the matter and the persons likely to be affected by it, for —
 - (i) the period specified in or under the Act in relation to the notice; or
 - (ii) if no period is specified in relation to the notice — a period of not less than 7 days;
- (e) circulation by the local government by email, text message or similar electronic means, as appropriate having regard to the nature of the matter and the persons likely to be affected by it;
- (f) exhibition on a notice board at the local government offices and each local government library in the district for —
 - (i) the period specified in or under the Act in relation to the notice; or
 - (ii) if no period is specified in relation to the notice — a period of not less than 7 days;
- (g) posting on a social media account administered by the local government for -
 - (i) the period specified in or under the Act in relation to the notice; or
 - (ii) if no period is specified in relation to the notice — a period of not less than 7 days.

r.3B Requirements for Statewide public notice (Act s. 1.8)

- (1) For the purposes of section 1.8, one of the ways in which Statewide public notice of a matter must be given is the way prescribed in regulation 3A(2)(a) or (d).
- (2) If Statewide public notice of a matter is required to be given by the Electoral Commissioner —
 - (a) regulation 3A(2)(e) applies in relation to the Electoral Commissioner as if the reference to circulation by the local government by email, text message or similar electronic means were a reference to circulation by the Electoral Commissioner by email, text message or similar electronic means; and
 - (b) regulation 3A(2)(g) applies in relation to the Electoral Commissioner as if the reference to posting on a social media account administered by the local government were a reference to posting on a social media account administered by the Electoral Commissioner.

Procedure for Making Local Laws

Section 3.12 of the *Local Government Act 1995*, refers to the procedure for making local laws.

Council may make local laws in accordance with Part 3 of the *Act* and in so doing, all local laws are then to be reviewed within eight years of their commencement date, in accordance with s.3.16 of the *Act*.

The process of adopting or amending a local law is set out in section 3.12 of the *Act* and is summarised in Table 1 below with further information provided following the table.

Table 2 - Timeline for making local law

Task	LGA Section	Effective Date
Report to Council for approval to advertise proposed new Local Laws. <i>(President to give notice of the purpose and effect to the meeting of the proposed local law).</i>	3.12(2)	Tuesday, 28 February 2023
Give State-wide and local public notice and make copies available to the general public.	3.12(3)(a)	<u>The West Australian</u> – Tuesday, 7 March 2023 <u>Harvey Waroona Reporter</u> – Tuesday, 7 March 2023
Closing date for submissions to be received (not less than 6 weeks).	3.12(4)	Friday, 2 May 2023 (55 days)
Give copy of the proposed local law and the notice to the Minister for Local Government and prepare National Competition Policy review after advertising.	3.12(3)(b)	Tuesday, 15 March 2023
Consider submissions and report back to Council to determine whether to make a Local Law (absolute majority required).	3.12(4)	Tuesday, 23 May 2023
Publish Local Laws in Government Gazette and give copy to the Minister for Local Government	3.12(5)	Tuesday, 30 May 2023
Give State-wide and local public notice advising that the new laws have been made, the title, and make copies available to the general public.	3.12(6)	Tuesday, 6 June 2023
Prepare explanatory memorandum and submit with copy of the new Local Laws to Parliamentary Joint Standing Committee on Delegated Legislation.	3.12(6)	Tuesday, 6 June 2023

s.3.12 Procedure for making local laws (Act)

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.
- (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.
- (3) The local government is to —
 - (a) give State-wide public notice stating that —
 - (i) the local government proposes to make a local law the purpose and effect of which is summarised in the notice; and
 - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and

- (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
 - and
 - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and
 - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.
 - * *Absolute majority required.*
- (5) After making the local law, the local government is to publish it in the *Gazette* and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.
- (6) After the local law has been published in the *Gazette* the local government is to give local public notice —
 - (a) stating the title of the local law; and
 - (b) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
 - (c) advising that copies of the local law may be inspected or obtained from the local government's office.
- (7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.
- (8) In this section —
 - making** in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

s.3.13 Procedure where significant change in proposal (Act)

If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.

r.3 – Prescribed manner of giving notice of purpose and effect of proposed local law (Local Government (Functions and General) Regulations 1996)

For the purpose of section 3.12 of the Act, the person presiding at a council meeting is to give notice of the purpose and effect of a local law by ensuring that —

- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
- (b) the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The following fulfils the requirement defined in Regulation 3, above:

NOTICE of purpose and effect of the proposed Shire of Waroona Cat Local Law 2023:

- The **purpose** of the proposed Shire of Waroona Cat Local Law 2023 is to encourage responsible cat ownership and to provide for the effective management of cats within the Shire of Waroona.
- The **effect** of the proposed Shire of Waroona Cat Local Law 2023 is that persons who own or keep a cat within the Shire of Waroona are to comply with the provisions of this local law.

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Nil.

Social - (Quality of life to community and/or affected landowners)

Nil.

Environment – (Impact on environment’s sustainability)

Nil.

Policy Implications

Nil.

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Operational - Adverse effects on core business, business continuity, human resource risks, loss of knowledge
<i>Description</i>	Non-compliance with the local law review requirements stipulated by the <i>Local Government Act 1995</i>
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Scheduled review of all local laws within the 8 years statutory requirement.
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

- The Shire will undertake State-wide and local advertising and arrange for the display of public notices relating to the proposed local law that invite public submission for a minimum of 6 weeks.
- Submissions received during this period will be considered in preparation of the next Council report regarding this item.
- Department of Local Government, Sport & Cultural Industries.

RESOURCE IMPLICATIONS

Financial

The cost of making the proposed local law which includes re-advertising and gazettal is approximately \$4,000. Funds are available in the 2022/2023 budget for the project cost.

Workforce

Nil.

OPTIONS

Council has the option of:

1. accepting the officer's recommendation to commence the process to make the proposed Shire of Waroona Cat Local Law 2023; or
2. amending or rejecting the proposal to make the Shire of Waroona Cat local law 2023.

CONCLUSION

It is recommended that Council commences the process under *the Local Government Act 1995* to update the proposed Shire of Waroona Cat Local Law 2023 to encourage responsible cat ownership and to provide for the effective management of cats within the Shire of Waroona.

Cr Pisconeri declared an interest affecting impartiality in item 11.2.7 as a family member is the reporting officer.

11.2.7 Shire of Waroona Dog Local Law 2023	
File Ref:	LE.3
Previous Items:	OCM June 2012 Item 9.3.3 OCM12/06/075
Applicant:	Not Applicable
Author and Title:	Kate Pisconeri, Corporate Planning & Governance Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.2.7 – Proposed Shire of Waroona Dog Local Law 2023

COUNCIL RESOLUTION

OCM23/02/016

Moved: Cr Pisconeri

Seconded: Cr Snell

That Council:

1. approves the making of the proposed Shire of Waroona Dog Local Law 2023 (Dog Local Law), as detailed at Appendix 11.2.7 in accordance with section 49 of the *Dog Act 1976*;
2. requests the Presiding Member to give notice to this meeting in accordance with section 3.12(2) of the Local Government Act 1995 of the purpose and effect of the proposed Dog Local Law, that being;
 - a. The purpose of the proposed Shire of Waroona Dog Local Law 2023 is to provide for the effective management and control of dogs within Shire of Waroona in relation to containment, the number of dogs at a premises, kennel licencing and excreta.
 - b. The effect of the proposed Shire of Waroona Dog Local Law 2023 is that dog owners within the Shire are to comply with the provisions of the local law; and
3. In accordance with section 3.12(3) of the *Local Government Act 1995*, approves for the Chief Executive Officer to –
 - a. undertake local advertising, and arrange for the display of public notices relating to the proposed local law that invite public submission for a minimum of 6 weeks;
 - b. make copies of the proposed local law available to the general public;
 - c. forward a copy of the proposed local law to the Minister for Local Government, and prepare National Competition Policy documentation after the close of the submission period; and
 - d. prepare a further report on the proposed local law for Council consideration after the closing date for submissions.

CARRIED 7/0

IN BRIEF

- Under the *Local Government Act 1995*, local laws are required to be reviewed every eight (8) years.
- The Shire of Waroona Dog Local Law 2001 was adopted by Council on 26 June 2001, Item 10.5.3.
- The proposed local law makes provisions for the effective management and control of dogs within Shire of Waroona in relation to containment, the number of dogs at a premises, kennel licencing and excreta.
- The intended result is that dog owners within the Shire are to comply with the provisions of the local law.

BACKGROUND

The current Shire of Waroona Dog Local Law 2001 was reviewed with public consultation in March 2012 and formally adopted by Council in June 2012, as per the following resolution:

COUNCIL RESOLUTION

OCM12/06/075

MOVED: Cr Witney

SECONDED: Cr Salerian

That the Council:

1. *Amends the following Shire of Waroona Local Law – Local Government Property;*
2. *Prepares a Repeal Local Law to repeal the following obsolete local laws:*
 - *Fencing & Tennis Court Floodlighting*
 - *Bushfire;*
3. *Supports the retention of the following local laws with no amendment:*
 - *Dogs*
 - *Thoroughfares*
 - *Cemeteries*
 - *Extractive Industries*
 - *Standing Orders*
 - *Health;*
4. *Notes that no new local laws are considered necessary at this point;*
5. *A further report be prepared to consider proposed draft amendments to the Local Government Property Local Law and to finalise the repealing of local laws as outlined in point 2 above.*

CARRIED BY ABSOLUTE MAJORITY 6/0

Under the *Local Government Act 1995*, local laws are required to be reviewed every eight (8) years.

REPORT DETAIL

The proposed Shire of Waroona Dog Local Law 2023 (Dog Local Law) is modelled from the WALGA template and incorporates past, present and future issues. The following items are addressed:

- Impounding of dogs
- Requirements and limitations on the keeping of dogs
- Approved kennel establishments; and
- Offences and penalties.

When considering the proposed local law, it should be remembered that the main broad objectives of local laws are to provide for –

- The peace, order and good governance of the local government district;
- A safe and healthy environment so that the community can enjoy a quality of life that meets its expectations;
- The safe, orderly and fair use and enjoyment of public places and facilities;
- The protection and enhancement of the amenity and environment of the local government district;
- The protection of assets managed by the Council on behalf of the community; and
- Governance systems that deliver responsible, ethical and accountable decision making.

Whilst some clauses may appear as over-regulation, these are required to enable Authorised Officers and law enforcement officers to address inappropriate and unlawful behaviours effectively and efficiently.

As the proposed Dog Local Law is not considered to be a minor amendment to the Shire of Waroona Dog Local Law 2001, it will be necessary to recommence the local law-making process required by the *Local Government Act 1995*.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Leadership
Aspiration	To embed strong leadership through good governance, effective communication and ensuring value for money
Objective	5.1 A sustainable future through embracing change, applying technological advancement and pursuing efficiencies
Strategy	5.1.1 Establish a strong corporate governance framework to ensure high standards of integrity, ethics and accountability, and pursue professional development opportunities
Action	5.1.1.2 Review all local laws

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Providing Public Notice

s.1.8 Statewide public notice (*Local Government Act 1995*)

Where under this Act Statewide public notice of a matter is required to be given, notice of the matter must be given in accordance with section 1.7(a) and (b) and the requirements prescribed for the purposes of this section.

r.3A Requirements for local public notice (Act s. 1.7) (Local Government (Administration) Regulations 1996)

1. For the purposes of section 1.7(a), notice of a matter must be published on the local government's official website for —
 - (c) the period specified in or under the Act in relation to the notice; or
 - (d) if no period is specified in relation to the notice — a period of not less than 7 days.

2. For the purposes of section 1.7(b), each of the following ways of giving notice of a matter is prescribed —
 - a. publication in a newspaper circulating generally in the State;
 - b. publication in a newspaper circulating generally in the district;
 - c. publication in 1 or more newsletters circulating generally in the district;
 - (d) publication on the official website of the Department or another State agency, as appropriate having regard to the nature of the matter and the persons likely to be affected by it, for —
 - (iii) the period specified in or under the Act in relation to the notice; or
 - (iv) if no period is specified in relation to the notice — a period of not less than 7 days;
 - (e) circulation by the local government by email, text message or similar electronic means, as appropriate having regard to the nature of the matter and the persons likely to be affected by it;
 - (f) exhibition on a notice board at the local government offices and each local government library in the district for —
 - (iii) the period specified in or under the Act in relation to the notice; or
 - (iv) if no period is specified in relation to the notice — a period of not less than 7 days;
 - (g) posting on a social media account administered by the local government for -
 - (i) the period specified in or under the Act in relation to the notice; or
 - (ii) if no period is specified in relation to the notice — a period of not less than 7 days.

r.3B Requirements for Statewide public notice (Act s. 1.8)

- (2) For the purposes of section 1.8, one of the ways in which Statewide public notice of a matter must be given is the way prescribed in regulation 3A(2)(a) or (d).

- (3) If Statewide public notice of a matter is required to be given by the Electoral Commissioner —
 - (a) regulation 3A(2)(e) applies in relation to the Electoral Commissioner as if the reference to circulation by the local government by email, text message or similar electronic means were a reference to circulation by the Electoral Commissioner by email, text message or similar electronic means; and

- (b) regulation 3A(2)(g) applies in relation to the Electoral Commissioner as if the reference to posting on a social media account administered by the local government were a reference to posting on a social media account administered by the Electoral Commissioner.

Procedure for Making Local Laws

Section 3.12 of the *Local Government Act 1995*, refers to the procedure for making local laws.

Council may make local laws in accordance with Part 3 of the *Act* and in so doing, all local laws are then to be reviewed within eight years of their commencement date, in accordance with s.3.16 of the *Act*.

The process of adopting or amending a local law is set out in section 3.12 of the *Act* and is summarised in Table 1 below with further information provided following the table.

Table 3 - Timeline for making local law.

Task	LGA Section	Effective Date
Report to Council for approval to advertise proposed new Local Laws. <i>(President to give notice of the purpose and effect to the meeting of the proposed local law).</i>	3.12(2)	Tuesday, 28 February 2023
Give State-wide and local public notice and make copies available to the general public.	3.12(3)(a)	<u>The West Australian</u> – Tuesday, 7 March 2023 <u>Harvey Waroona Reporter</u> – Tuesday, 7 March 2023
Closing date for submissions to be received (not less than 6 weeks).	3.12(4)	Friday, 2 May 2023 (55 days)
Give copy of the proposed local law and the notice to the Minister for Local Government and prepare National Competition Policy review after advertising.	3.12(3)(b)	Tuesday, 15 March 2023
Consider submissions and report back to Council to determine whether to make a Local Law (absolute majority required).	3.12(4)	Tuesday, 23 May 2023
Publish Local Laws in Government Gazette and give copy to the Minister for Local Government	3.12(5)	Tuesday, 30 May 2023
Give State-wide and local public notice advising that the new laws have been made, the title, and make copies available to the general public.	3.12(6)	Tuesday, 6 June 2023
Prepare explanatory memorandum and submit with copy of the new Local Laws to Parliamentary Joint Standing Committee on Delegated Legislation.	3.12(6)	Tuesday, 6 June 2023

s.3.12 Procedure for making local laws (Act)

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.
- (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.
- (3) The local government is to —
 - (a) give State-wide public notice stating that —
 - (i) the local government proposes to make a local law the purpose and effect of which is summarised in the notice; and
 - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;and
 - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and
 - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.
* *Absolute majority required.*
- (5) After making the local law, the local government is to publish it in the *Gazette* and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.
- (6) After the local law has been published in the *Gazette* the local government is to give local public notice —
 - (a) stating the title of the local law; and
 - (b) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
 - (c) advising that copies of the local law may be inspected or obtained from the local government's office.
- (7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.
- (8) In this section —
making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

s.3.13 Procedure where significant change in proposal (Act)

If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.

r.3 – Prescribed manner of giving notice of purpose and effect of proposed local law (*Local Government (Functions and General) Regulations 1996*)

For the purpose of section 3.12 of the Act, the person presiding at a council meeting is to give notice of the purpose and effect of a local law by ensuring that —

- (c) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
- (d) the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The following fulfils the requirement defined in Regulation 3, above:

NOTICE of purpose and effect of the proposed Shire of Waroona Dog Local Law 2023:

- The **purpose** of the proposed Shire of Waroona Dog Local Law 2023 is to provide for the effective management and control of dogs within Shire of Waroona in relation to containment, the number of dogs at a premises, kennel licencing and excreta.
- The **effect** of the proposed Shire of Waroona Dog Local Law 2023 is that dog owners within the Shire are to comply with the provisions of the local law.

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Nil.

Social - (Quality of life to community and/or affected landowners)

Nil.

Environment – (Impact on environment’s sustainability)

Nil.

Policy Implications

Nil.

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Operational - Adverse effects on core business, business continuity, human resource risks, loss of knowledge
<i>Description</i>	Non-compliance with the local law review requirements stipulated by the <i>Local Government Act 1995</i>
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Scheduled review of all local laws within the 8 years statutory requirement.
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

- The Shire will undertake State-wide and local advertising and arrange for the display of public notices relating to the proposed local law that invite public submission for a minimum of 6 weeks.

- Submissions received during this period will be considered in preparation of the next Council report regarding this item.
- Department of Local Government, Sport & Cultural Industries.

RESOURCE IMPLICATIONS

Financial

The cost of making the proposed local law which includes re-advertising and gazettal is approximately \$4,000. Funds are available in the 2022/2023 budget for the project cost.

Workforce

Nil.

OPTIONS

Council has the option of:

1. accepting the officer's recommendation to commence the process to make the proposed Shire of Waroona Dog Local Law 2023; or
2. amending or rejecting the proposal to make the Dog local law.

CONCLUSION

It is recommended that Council commences the process under *the Local Government Act 1995* to update current Shire of Waroona Dog Local Law 2001. The Shire of Waroona Dog Local Law 2023 intends to provide for the effective management and control of dogs within Shire of Waroona in relation to containment, the number of dogs at a premises, kennel licencing and excreta.

Karen Oborn declared a financial interest in item 11.2.8 as she has offered to pay the fees if they are not waived.

Karen Oborn left the meeting at 4.48pm

11.2.8 Black Cockatoo Crisis – Retrospective Equipment Fee Waiver	
File Ref:	FM.12
Previous Items:	Nil
Applicant:	Jane Hammond, Filmmaker
Author and Title:	Jade Salpietro, Community Services Coordinator
Declaration of Interest:	Karen Oborn Financial – contributor to the filmmaker
Voting Requirements:	Simple Majority
Appendix Number	Nil

COUNCIL RESOLUTION

OCM23/02/017

Moved: Cr Snell

Seconded: Cr Mason

That Council retrospectively waives the fees and charges pertaining to the hire of the Movie Screen and Set, including staff set up and pack down (\$500 incl GST per day), hire of the portable toilet (\$200 incl GST per day) and Assessment of Public Event application (\$50 GST-free) for a Waroona screening of the film, *Black Cockatoo Crisis*.

LOST 2/5

For the motion: Crs Snell and Mason

Against the motion: Crs Walmsley, Purcell, Pisconeri, Odorisio and Vitale

IN BRIEF

- *Black Cockatoo Crisis* is an independent social impact documentary film aimed at raising awareness and encouraging action to save endangered black cockatoos.
- At the time of reading this report, documentary filmmaker, Jane Hammond, in partnership with supporters Kingsley Dixon and Bernie Worthington, have held a screening of *Black Cockatoo Crisis* at Drakesbrook Fine Wines in Waroona.
- The Shire was approached to collaborate by providing free use of the movie equipment and portable toilet for a Waroona screening.
- This was a ticketed event, with funds going to a not-for-profit that provides nesting boxes in known habitat areas for black cockatoos.

BACKGROUND

Black Cockatoo Crisis is a documentary following the plight of WA's (and Waroona's) iconic black cockatoos. The film has been funded through a crowdfunding campaign run through Documentary Australia.

As part of the of the film's national tour, the filmmaker held a screening in the Shire of Waroona on Friday, 24 February 2023 at Drakesbrook Fine Wines. There was a ticketing charge of Adults (\$10), Children (\$5), Concession (\$5) and Family (\$20). The proceeds of the ticket sales will be donated to a not-for-profit that provides nesting boxes in know habitat areas for black cockatoos.

The Shire was approached to collaborate with the event organisers to support and promote the screening.

REPORT DETAIL

The filmmaker is seeking a retrospective waiver of the fees involved with hiring the movie equipment to host the Waroona event. As per the Shire's Fees and Charges, the following fees were applicable:

- Hire Movie Screen & Set (includes staff setup/pack down) (per day) \$500 (incl GST)
- Hire Portable Toilet \$200 (incl GST) (24 hr)
- Assessment of Event Application \$50 (GST-free)

The total value of the fee waiver and public event application would be \$750.

In accordance with CP010 – Waiver of Fees and Charges, all eligible waivers will be assessed at the discretion of Council or the Chief Executive Officer. Applications over the value of \$500 from Shire of Waroona based organisations or individuals require Council determination.

CP010 states that waivers will be considered where the application relates to a free community activity and at least one of the following criteria is met:

1. The activity educates or strengthens communities or complements Council activities.
2. The purpose of the activity supports a service or activity that the local government considers it would have undertaken and is beneficial to the community.
3. The purpose of the activity supports the development of infrastructure or services that can be considered the responsibility of Council.
4. The application supports the activities of an incorporated club or group within the first 12 months of their operation.

While the event was not free, the proceeds are being directed into fundraising activities directly related to the film's premise – this will help to educate the community on the plight of the black cockatoos and ways they can take action to help prevent their extinction. As black cockatoos are found within the Shire and are cherished by the community, this film screening is expected to be well received by residents.

Supporting the filmmaker with the event also reflects the desires of the community as set out within the Strategic Community Plan, such as supporting events that activate the community and protecting and enhancing our existing natural assets, waterways, bushland and biodiversity.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Community
Aspiration	To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning
Objective	1.1 Create a connected, safe and cohesive community with a strong sense of community pride
Strategy	1.1.5 Develop and facilitate events of a local and regional scale
Action	1.1.5.1 Support, attract and develop events that activate the community

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995 – Part 6 Financial Management

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

The event may assist to raise the profile of the Waroona region. As the movie screening is a fundraising initiative, proceeds generated will be going outside the Shire. However, as the not-for-profit organisation provides nesting boxes in known habitat areas for black cockatoos, it's possible that this will at some point be redirected back into the Shire environment.

Social - (Quality of life to community and/or affected landowners)

The event enhances opportunities for social and community inclusion for spectators and helps to bring attention to the event location.

Environment – (Impact on environment's sustainability)

The movie screening itself is unlikely to adversely impact on the environment. The subject matter of the movie is intended to bring environmental matters to light and encourage positive action.

Policy Implications

Policy CP010 – Waiver of Fees and Charges

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Reputation - Public perception, poor customer service, sub standard work, corruption
<i>Description</i>	Determination in line with Strategic Community Plan and CP010
<i>Consequence</i>	2 - Minor
<i>Likelihood</i>	1 - Rare
<i>Rating</i>	Low (1-3)
<i>Controls / Review</i>	Assessment by Council
<i>Review Frequency</i>	Quarterly
<i>Risk Owner</i>	Project manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

- Event organisers - Jane Hammond, Kingsley Dixon, Bernie Worthington and Karen Oborn

RESOURCE IMPLICATIONS

Financial

Council would be **waiving a hire fee amount of \$750 (incl GST)** for the event.

Workforce

No additional workforce allocations are required as a result of the recommendation.

OPTIONS

Council has the option of:

1. Supporting the waiver of fees and charges as per Policy CP010
2. Not supporting the waiver of fees and charges

CONCLUSION

The Shire's community development team are working to build the capacity of local groups and individuals to run more events and projects that reflect the aspirations of the community.

It is recommended that Council waives the fees and charges pertaining to the hire of the movie equipment, portable toilet and public event application for the screening of *Black Cockatoo Crisis*.

Ashleigh Nuttall left the meeting at 4.56pm

Ashleigh Nuttall returned to the meeting at 4.56pm

Karen Oborn returned to the meeting at 4.56pm

One member of the public left the meeting at 5.01pm

11.2.9 Movie Under the Stars Fundraiser – Equipment Fee Waiver	
File Ref:	FM.12
Previous Items:	Nil
Applicant:	Lions and Leos Clubs of Waroona
Author and Title:	Jade Salpietro, Community Services Coordinator
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	Nil

COUNCIL RESOLUTION

OCM23/02/018

Moved: Cr Pisconeri

Seconded: Cr Odorisio

That Council:

- 1. Waives the fees and charges pertaining to the hire of the Movie Screen and Set, including staff set up and pack down (\$500 incl GST per day), Popcorn Machine (\$50 incl GST per day) and Assessment of Public Event application (\$50 GST-free) for a Movie Under the Stars charity fundraiser organised by the Lions and Leos Clubs of Waroona;**
- 2. Requests logo recognition and acknowledgement on promotional and publicity materials; and**
- 3. Assists to promote the event on the Shire’s website and Facebook page.**

CARRIED 7/0

IN BRIEF

- The Lions Club of Waroona have applied for an Alcoa Waroona Micro Grant to run a ticketed movie night at the Waroona Cricket Club grounds in the April school holidays to raise money for the Channel 7 Telethon Trust.
- Run by the Waroona Leos group, the event will be combined with the Lions Biggest BBQ and Longest Coin Line initiatives to raise money for cancer research.
- To enable grant funding to stretch further, it is recommended the Shire provides free use of the movie equipment and popcorn machine for a Waroona screening.

BACKGROUND

The Waroona Leos approached the Shire last year with their desire to run a fundraising event for the Channel 7 Telethon Trust and the Lions Children's Cancer Research Foundation.

The event would consist of a Lions' Biggest BBQ and the Longest Coin Line Challenge during the day, followed by a family-friendly movie at the Waroona Cricket Club in the evening.

Subsequently, the Lions have applied for an Alcoa Waroona Micro Grant of \$1224 (ex-GST) to cover the costs of the event so that all funds raised can be directed into their fundraising efforts. The Alcoa Waroona Sustainability Fund Advisory Committee met on 20 February 2023, with their recommendations being presented at next month's Council meeting.

REPORT DETAIL

The Waroona Lions and Leos Clubs are seeking Shire support to hold a Movie Under the Stars charity fundraiser, including a waiver of the fees involved with hiring the movie equipment. As per the Shire's Fees and Charges, the following fees would normally be applicable:

- Hire Movie Screen & Set (includes staff setup/pack down) (per day) \$500 incl GST
- Hire Popcorn Machine (per day) \$50 incl GST
- Assessment of Event Application \$50 GST-free

The total value of the fee waiver is \$600 incl GST.

In accordance with CP010 – Waiver of Fees and Charges, all eligible waivers will be assessed at the discretion of Council or the Chief Executive Officer. Applications over the value of \$500 from Shire of Waroona based organisations or individuals require Council determination.

CP010 states that waivers will be considered where the application relates to a **free community activity** and at least one of the following criteria is met:

1. The activity educates or strengthens communities or complements Council activities.
2. The purpose of the activity supports a service or activity that the local government considers it would have undertaken and is beneficial to the community.
3. The purpose of the activity supports the development of infrastructure or services that can be considered the responsibility of Council.
4. The application supports the activities of an incorporated club or group within the first 12 months of their operation.

While the event is not free, all proceeds will be directed into two fundraising efforts: Telethon Trust and the Lions Children's Cancer Research Foundation.

Supporting the Lions and Leos with their movie events also reflects the desires of the community as set out within the Strategic Community Plan, such as supporting events that activate the community. Held during the school holidays at a previously popular outdoor movie night location, it is anticipated that the event will be well received and attended.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Community
Aspiration	To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning
Objective	1.1 Create a connected, safe and cohesive community with a strong sense of community pride
Strategy	1.1.5 Develop and facilitate events of a local and regional scale

Action	1.1.5.1 Support, attract and develop events that activate the community
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OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995 – Part 6 Financial Management

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Food for the event will be purchased locally, however, as the project is a fundraising initiative, proceeds generated will be going outside the Shire.

Social - (Quality of life to community and/or affected landowners)

The event enhances opportunities for social and community inclusion for the group and spectators and helps to build the capacity of the Lions for hosting future movie nights.

Environment – (Impact on environment’s sustainability)

The event is unlikely to adversely impact on the environment.

Policy Implications

Policy CP010 – Waiver of Fees and Charges

Policy COM005 - Alcoa Waroona Micro Grant Fund

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Reputation - Public perception, poor customer service, sub standard work, corruption
<i>Description</i>	Determination in line with Strategic Community Plan and CP010
<i>Consequence</i>	2 - Minor
<i>Likelihood</i>	1 - Rare
<i>Rating</i>	Low (1-3)
<i>Controls / Review</i>	Assessment by Council
<i>Review Frequency</i>	Quarterly
<i>Risk Owner</i>	Project manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

- Lisa Fry
- Lynley Young (Waroona Lions)
- John Clare (formerly Waroona Lions)
- Lily Della Franca (Waroona Leos).

RESOURCE IMPLICATIONS

Financial

Council would be **waiving a hire fee amount of \$600 (incl GST)** for the event.

Workforce

No additional workforce allocations are required as a result of the recommendation.

OPTIONS

Council has the option of:

1. supporting the waiver of fees and charges as per Policy CP010; or
2. not supporting the waiver of fees and charges

CONCLUSION

The Shire works collaboratively with the Lions across a variety of events, including the recent Australia Day celebration where the Lions BBQ trailer was used to cater a successful breakfast.

The idea behind the Movie Under the Stars fundraising event has come from the Leos group, who are passionately wanting to resurrect the concept of an outdoor movie night in Waroona, while supporting charity. The Waroona Lions and Leos have applied for an Alcoa Waroona Micro Grant for further support to ensure this is a successful fundraising initiative.

It is recommended that Council waives the fees and charges pertaining to the hire of the movie equipment and public event application for the Movie Under the Stars fundraising event and helps to promote it through the website and Facebook page.

11.3 CHIEF EXECUTIVE OFFICER

Cr Walmsley declared an interest affecting impartiality in item 11.3.1 as he is a member of a local bushfire brigade.

11.3.1 Waroona Bush Fire Brigades Local Law	
File Ref:	LE.19
Previous Items:	OCM13/10/106 Local Law - Repeal of Local Laws 2013 OCM13/12/144 Local Law - Repeal of Local Law - Bushfire Brigades OCM22/07/86 Election of Officers for the 2022/2023 Fire Season
Applicant:	Shire of Waroona
Author and Title:	Mark Goodlet, Chief Executive Officer
Declaration of Interest:	Nil.
Voting Requirements:	Simple Majority
Appendix Number	11.3.1 A – Draft Waroona Bush Fire Brigades Local Law 11.3.1 B – WALGA's advice on Bush Fire Brigades Local Law 11.3.1 C – CONFIDENTIAL McLeods advice on Bush Fire Brigades Local Law

COUNCIL RESOLUTION

OCM23/02/019

Moved: Cr Purcell

Seconded: Cr Mason

That Council:

1. approves the making of the proposed Shire of Waroona Bush Fire Brigades Local Law 2023 (Local Law), as detailed at APPENDIX 11.3.1A in accordance with section 62 of the *Bush Fires Act 1954*;
2. requests the Presiding Member to give notice to this meeting in accordance with section 3.12(2) of the *Local Government Act 1995* of the purpose and effect of the proposed Local Law, that being;
 - a. The purpose of the proposed Shire of Waroona Bush Fire Brigades Local Law 2023 is to establish and maintain bush fire brigades and enable the bush fire brigades to carry out normal brigade activities under the *Bush Fires Act 1954*, its Regulations and the Waroona Bush Fire Brigades Local Law; and
 - b. The effect of the proposed Shire of Waroona Bush Fire Brigades Local Law 2023 is to;
 - i) equip each bush fire brigade so established with appliances, equipment and apparatus;
 - ii) provide for the appointment or election of a captain, a first lieutenant, a second lieutenant, and such additional lieutenants as may be necessary as officers of the bush fire brigade and prescribe their respective duties;
 - iii) provide for the appointment, employment, payment, dismissal and duties of bush fire control officers;

- iv) provide for the organisation, establishment, maintenance and equipment with appliances and apparatus of bush fire brigades to be established and maintained by the local government; and
 - v) provide for any other matters affecting the exercise of any powers or authorities conferred and the performance of any duties imposed upon the local government by the Bush Fires Act 1954;
3. In accordance with section 3.12(3) of the *Local Government Act 1995*, approves for the CEO to –
 - a) undertake local advertising, and arrange for the display of public notices relating to the proposed local law that invite public submission for a minimum of 6 weeks;
 - b) make copies of the proposed Local Law available to the general public;
 - c) forward a copy of the proposed local law to the Minister for Local Government, and prepare National Competition Policy documentation after the close of the submission period; and
 - d) prepare a further report on the proposed local law for Council consideration after the closing date for submissions;
4. requests the Chief Executive Officer (CEO) to seek legislative enabling and protection of local government bush fire brigades and members while operating outside of their district, through the Emergency Services legislative reform process; and
5. approves the release of the legal advice on the Bush Fire Brigades Local Law from McLeods (confidential Appendix 11.3.1 C McLeods advice on Bush Fire Brigades Local Law).

CARRIED 7/0

IN BRIEF

- This report seeks the introduction of a Bush Fire Brigades local law under the *Bush Fires Act 1954* following advice that a Bush Fire Brigades local law is necessary for the lawful establishment and maintenance of bush fires brigades, ensuring that volunteers are acting lawfully, are authorised and are protected under law.
- The effect of the recommendation to Council is to initiate the local law and follows the procedure provided in the *Local Government Act 1995* for new local laws.
- There is a need for the volunteer bush fire brigade members to have certainty regarding their firefighting actions outside of the district and this report supports the CEO's efforts to achieve that certainty, through the Emergency Services Reform process.
- It is also recommended that McLeod's legal advice be made public for transparency purposes and the edification of the State and local government sectors.

BACKGROUND

The Shire of Waroona resolved to prepared and adopt a repeal local law (OCM13/12/144, Local Law - Repeal of Local Law - Bushfire Brigades) to get rid of its Bush Fires Local Law. The rationale for this was:

“This existing Local Law was made in 2001, under the *Bush Fires Act 1954*, and seemed relevant at that time. The Bushfire Brigades Local Law relates to various ‘Administrative’ issues, which have now been superseded by State Government involvement, which was FESA, and now include items from the Department of Fire and Emergency Services [DFES].

The genesis of this advice is not provided in the report, though it appears that the involvement of DFES gave the impression that the Bush Fires Local Law was no longer relevant.

In March 2022 the *Work Health and Safety Act 2020* provided clarity that volunteer bush fire brigade members, were “workers” of the local government and that all of the provisions of this Act applied to them and to the local government as the “person conducting the business or undertaking”.

REPORT DETAIL

Relevant Legislation

The *Bush Fires Act 1954* provides that a local government is to establish and maintain bush fire brigades through local law. Despite the reconfiguration of the State Government emergency services portfolio to form DFES, the *Bush Fires Act 1954* was not amended to shift responsibility for the bush fire brigades to DFES, meaning the responsibility remained with local government. Accordingly, the enabling local law remains relevant and essential. While ever local governments retain responsibility for the volunteer bush fire brigades under the *Bush Fires Act 1954*, then the local law is essential for the establishment and maintenance of the bush fire brigades.

In response to the implemented *Work Health and Safety Act 2020*, the legal underpinnings of the bush fire brigades have been scrutinised to ensure that they are established and management in accordance with the *Bush Fires Act 1954* and operating in a manner that is compliant with the *Work Health and Safety Act 2020*.

McLeods provided advice to the Shire of Waroona as per Appendix 11.3.1 C, indicating that it was necessary to have a bush fire brigades local law in place. It is proposed that this advice be released in order to support the Shire’s position for a local law and to inform the State and local government sectors.

WALGA Advice

Subsequently WALGA has released a statement and a summary of its own and the State Governments’ position in respect to the need for local laws to constitute and manage the bush fire brigades.

This information is provided in full below due to its relevance.

WALGA was recently contacted by the Dept of Fire and Emergency Services, who informed of State Solicitor’s Office advice questioning the legality of Bush Fire Brigades established by Local Governments in the absence of an associated Bush Fire Brigades Local Law.

WALGA obtained its own separate, independent legal advice that confirmed the same; having established a Bush Fire Brigade, it is a requirement that the Local Government also adopt an associated Bush Fire Brigades Local Law.

WALGA has identified your Local Government as potentially falling into this category, following a search of your Local Government website for a BFB Local Law.

The Issues

1. DFES and WALGA have received separate, independent legal advice on the establishment of Bush Fire Brigades (BFB) by Local Governments under s.41 of the Bush Fires Act 1954 (BF Act);
2. The consistent legal position is that a Local Government, having exercised discretion to establish a BFB, must do so by making a Local Law – ref s.41(1) of the BF Act;
3. The head of power to make a BFB Local Law is under s.62 of the BF Act.
4. The Parliamentary Joint Standing Committee on Delegated Legislation has reported a similar requirement: 'Where a local government elects to establish a bush fire brigade it must do so in accordance with local laws it has made for that purpose' (Ref: Report 16, June 2019 at 2.2)

Relevant Consequences

5. Where a BFBs has been established in the absence of a Local Law, WALGA's legal advice indicates that the registration of the Brigade and Brigade membership under s.41(2) is likely to be invalid;
 6. In the absence of a Local Law, the election and duties of BFB officers under s.43 is likely to be invalid.
 7. In the absence of a Local Law, the powers of BFB officers relevant to preventing, controlling and extinguishing a bush fire under s.44 is likely to be invalid.
- WALGA's requested legal advice on other matters that we believe will provide some reassurances in the short term.

Although not having adopted a BFB Local Law will mean that Brigades are not properly constituted, we have been advised that the appointment of Bush Fire Control Officers will mean that Local Governments can effectively ensure the conduct of normal brigade activities, including responding to bush fires and directing firefighting assets and volunteers.

Our legal advice provides further reassurances that volunteers will be covered for compensation and protected from liability if conducting normal brigade activities under the direction of a BFCO.

Arrangements – Short Term

1. In the short term, Local Governments should ensure that a sufficient number of bush fire control officers (BFCO) are appointed under s.38(1) of the BF Act:
'A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it';
2. BFCO's special powers are set out in s.39 of the BF Act and this appointment will also ensure the proper direction of Brigades in responding to a bush fire, as set out in s.44(4) of the BF Act:
'(4) Subject to the provisions of sections 13(6) and 45, where a bush fire control officer of a local government is present at a fire which is burning in the district of the local government, he has supreme control and charge of all operations, and the officers and members of all bush fire brigades present at the fire are subject to and shall act under his orders and directions.'
3. WALGA's legal advice notes that a BFCO could manage a BFB established without a Local Law however this is not recommended as a permanent solution as BFBs will not have direct authority and powers otherwise provided under the BF Act.

Protections

4. WALGA sought legal advice on the application of Part 6B And Part 7 of the Fire and Emergency Services Act 1998 (FES Act);

5. *Part 6B applies to compensation entitlements for volunteers engaged in emergency response activities including firefighting;*
6. *Legal advice is that the compensation provisions will cover a person who engages in volunteer activities by participating in 'normal brigade activities' under the direction of a BFCO;*
7. *Part 7 applies to protection of persons acting in good faith when performing functions under emergency services Acts, including volunteer firefighters;*
8. *Similarly, legal advice confirms that a volunteer acting under the direction of a BFCO when carrying out 'normal brigade activities' will be able to rely upon the statutory protection under s.37 of the FES Act.*

Arrangements – Intermediate Term

1. *The Local Government is required to adopt a BFB Local Law to ensure its Bush Fire Brigades are properly established and Brigade officers are properly registered and empowered.*
2. *WALGA has developed a template BFB Local Law addressing the BF Act local law-making requirements. This can be made freely available upon request.*
3. *WALGA can also provide general advice on the local law-making process and the development of a Council agenda item for this purpose;*
4. *Alternatively, the Local Government can obtain its own legal advice for the purpose of drafting a BFB Local Law.*

Appointment of Bush Fire Control Officers

The advice provided by WALGA for short term action where no Local Law is in place, is to ensure bush fire control officers have been appointed by Council.

This has occurred as per the ordinary meeting of Council, decision OCM22/07/86 for election of officers for the 2022/2023 fire season.

Draft Waroona Bush Fire Brigades Local Law

Ahead of the recommendation by WALGA for all local governments with bush fire brigades to adopt a Local Law, the Shire has been preparing a Local Law. The draft Waroona Bush Fire Brigades Local Law at APPENDIX 11.3.1 A has been developed based on the WALGA template. It differs from the template on the following points, which have been assessed by McLeods in developing the new Local Law:

- a) It is proposed that the fire brigade **officers**, the chief bush fire control officer, the deputy chief bush fire control officer and the bush fire control officers be **appointed for a two-year term**, rather than the present annual election. This provides better stability and allows the officer to better come to grips with their role.
- b) The appointment or removal of officers is undertaken by the local government, rather than by the brigade committees, which now will endorse the positions to Council to approve, as already happens with the bush fire control officers.
- c) Assessment of the suitability of officers has been expanded to include "**competence**", in line with Work Health and Safety requirements. This aligns more generally with the fact that many volunteers have extensive experience and are often competent in the various duties.
- d) The definition and role of the **PCBU Officer** is documented in the Local Law, in order to enable the PCBU Officer to comply with their obligations to the volunteers as local government workers. This includes the ability to remove or suspend a member or officer.
- e) The functions of the Bush Fire Advisory Committee are detailed further and guidance on a quorum and voting are included.

- f) Items of business without notice will require the bush fire brigade committee to agree to deal with that item in the first instance.
- g) Some changes to the order of the Local Law have been made for a more logical layout.

Brigades and Members Operating Outside of the District

The following discussion is reflected in the advice taken from McLeods.

It is commonplace and expected that Shire of Waroona brigades and brigade members will support other brigades outside of the Shire of Waroona. Conversely, other brigades and its members may enter and support the Shire of Waroona in dealing with bush fires within the Shire. In both cases the chain of command is clear under the Bush Fires Act 1954, however the fundamental lawful enabler for a brigade to operate outside of the district is not clear.

Within the Local Government Act 1995, section 3.5 specifies that “a local law made under this Act does not apply outside the local government’s district unless it is made to apply outside the district under section 3.6”. Section 3.6 is the process by which the Governor permits a local law made under the Local Government Act 1995 to apply outside of the district.

It is understood that the Waroona Bush Fire Brigades Local Law is made under the Bush Fires Act 1954 and that the operation of the brigades are empowered by this Act, rather than the Local Government Act 1995. It is likely therefore, that the requirement to seek the Governor’s permission to operate outside of the district is not applicable in this case. Moreover, it is only the fire-fighting operations of the brigade and the members, rather than the establishment and maintenance of the brigades that needs to be lawfully authorised outside of the district. The Bush Fires Act 1954 and the Bush Fires Regulations 1954 are unfortunately silent on this matter, or at best is implied. The advice from McLeods explores this anomaly, which leaves the volunteers in a grey area legally.

In comparison to local government brigades, those volunteer fire fighters operating under the DFES Commissioner, do so under the head of power of the Fire Brigades Act 1942 and the Fire Brigades Regulations 1943. Regulation 219 makes an express provision for the brigades to operate outside of their district, as follows:

Whenever occasion requires, any portion of a brigade or any of its officers or firemen or apparatus and plant may be directed to proceed or be taken beyond the limits of any district, and from one district to another, for the purpose of attending incidents.

This provides certainty to those volunteers under DFES operating outside of their districts and it is proposed that a similar provision be made in the reformed new Emergency Services legislation. If this regulation is provided for the DFES volunteers, it should also be provided for the local government bush fire members in order to protect them.

It is recommended that this matter be put to the DFES Commissioner and Minister to be dealt with as part of the Emergency Services legislation reform process.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Community
Aspiration	To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning
Objective	1.1 Create a connected, safe and cohesive community with a strong sense of community pride
Strategy	1.1.6 Ensure the safety of our community

Action	Implementation of a new Local Law.
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OTHER STRATEGIC LINKS

Nil.

STATUTORY ENVIRONMENT

Bush Fires Act 1954, section 41. Bush Fire Brigades

(1) For the purpose of carrying out normal brigade activities a local government may, in accordance with its local laws made for the purpose, establish and maintain one or more bush fire brigades and may, in accordance with those local laws, equip each bush fire brigade so established with appliances, equipment and apparatus.

Bush Fires Act 1954, section 43. Election and duties of officers of bush fire brigades

A local government which establishes a bush fire brigade shall by its local laws provide for the appointment or election of a captain, a first lieutenant, a second lieutenant, and such additional lieutenants as may be necessary as officers of the bush fire brigade and prescribe their respective duties.

Bush Fires Act 1954, section 62. Local government may make local laws

(1) A local government may make local laws in accordance with subdivision 2 of Division 2 of Part 3 of the Local Government Act 1995 for and in relation to —

- (a) the appointment, employment, payment, dismissal and duties of bush fire control officers; and*
- (b) the organisation, establishment, maintenance and equipment with appliances and apparatus of bush fire brigades to be established and maintained by the local government; and*
- (c) any other matters affecting the exercise of any powers or authorities conferred and the performance of any duties imposed upon the local government by this Act.*

Local Government Act 1995, section 3.12. Procedure for making local laws

... (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.

Work Health and Safety Act 2020, section 7. Meaning of worker

(1) A person is a worker if the person carries out work in any capacity for a person conducting a business or undertaking, including work as — ... (h) a volunteer...

Work Health and Safety Act 2020, section 27. Duty of officers

(1) If a person conducting a business or undertaking has a duty or obligation under this Act, an officer of the person conducting the business or undertaking must exercise due diligence to ensure that the person conducting the business or undertaking complies with that duty or obligation.

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Nil.

Social - (Quality of life to community and/or affected landowners)

Implementation of a new Local Law provides protection for the volunteers involved in the brigades while ensuring they are able to carry out their roles lawfully and with the full authority of the law.

Environment – (Impact on environment’s sustainability)

Nil.

Policy Implications

CP019 – Volunteer Bush Fire Brigades will be reviewed once the Local Law is in place.

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Environmental - Regulatory compliance, contamination, inadequate processes
<i>Description</i>	Non-compliance with the Bush Fires Act 1954 through unlawful establishment of bush fire brigades and appointment of brigade officers.
<i>Consequence</i>	4 - Major
<i>Likelihood</i>	5 - Almost certain
<i>Rating</i>	Extreme (20-25)
<i>Controls / Review</i>	Adoption of new Local Law.
<i>Risk Owner</i>	Chief executive officer
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Extensive local government consultation has occurred in relation to the need for a local law and the WALGA advice captures the results of this consultation.

The bush fire brigades are to be provided with a detailed discussion on the new Local Law, why it is needed and how it operates once a decision by Council to initiate this local law occurs.

There is a statutory consultation process to be undertaken including the relevant Ministers, and the public through local public notice.

RESOURCE IMPLICATIONS**Financial**

To be dealt with through budgeted services.

Workforce

To be dealt with through existing workforce

OPTIONS

Council has the option of:

1. rejecting the initiation of the Local Law;
2. amending the recommendation; or
3. approving the recommendation.

CONCLUSION

In considering the bush fire brigades as a portfolio of local government it is noteworthy that this area presents as an extreme risk undertaking. It is imperative that in providing this service local government is underpinned by legislative mechanisms that ensure the bush fire brigades are lawfully enabled, authorised and protected in carrying out their activities. An essential component of this is the provision of a Waroona Bush Fire Brigades Local Law.

Cr Walmsley declared an interest affecting impartiality in item 11.3.2 as he is a member of the Waroona Agricultural Society.

Cr Snell declared an interest affecting impartiality in item 11.3.2 as she is a member of the Waroona Agricultural Society

11.3.2 Memorandum of Understanding Between the Waroona Agricultural Society and the Shire of Waroona	
File Ref:	RC.18
Previous Items:	Nil
Applicant:	Shire of Waroona
Author and Title:	Mark Goodlet, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.3.2 – MoU - Waroona Agricultural Society Shire of Waroona

COUNCIL RESOLUTION

OCM23/02/020

Moved: Cr Mason

Seconded: Cr Odorisio

That Council:

- 1. Endorses the Memorandum of Understanding (MoU) between the Waroona Agricultural Society and the Shire of Waroona at APPENDIX 11.3.2 A of this report; and**
- 2. Authorises the Chief Executive Officer to sign and execute the MoU.**

CARRIED 7/0

IN BRIEF

- The Shire of Waroona is a strong supporter of the Waroona Show (the Show), run by the Waroona Agricultural Society (WAS) on Shire reserve land.
- The effect of this MoU will be to recognize this relationship and the ongoing commitment of the Shire to the Waroona Show.
- It practice the MoU cements the Shire's position as a top tier sponsor of the Show and provides the value of the in-kind commitment of the Shire to this event and the WAS.

BACKGROUND

The Waroona Show has been an iconic event in the Shire of Waroona by the Waroona Agricultural Society since 1925. It is held at the Agricultural Showgrounds on Shire reserve land.

REPORT DETAIL

The Shire has been a long-time supporter of WAS and the Show. An MoU will quantify this support and provides recognition of the Shire's support by way of top tier sponsor to the Show.

Appendix 11.3.2 A provides details of the in-kind support in labour, fees exemptions, advertising and materials that the Shire provides ahead of the Show Day and on the Show Day itself.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Community
Aspiration	To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning
Objective	1.1 Create a connected, safe and cohesive community with a strong sense of community pride
Strategy	1.1.5 Develop and facilitate events of a local and regional scale
Action	Development of an MoU between the Shire and WAS.

OTHER STRATEGIC LINKS

Nil.

STATUTORY ENVIRONMENT

Local Government Act 1995, s1.3(3)

In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - *(Impact on the Economy of the Shire and Region)*

This MoU provides evidence of the Shire's commitment to the economy of the Shire of Waroona.

Social - *(Quality of life to community and/or affected landowners)*

This MoU provides evidence of the Shire's commitment to the social well-being of the Shire of Waroona community.

Environment – *(Impact on environment's sustainability)*

Nil.

Policy Implications

If Council agrees to this MoU, then Policy CP010 – Waiver of Fees and Charges is to be updated to include groups where an MoU exists.

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Financial - Projects going over budget, legal costs, insurance claims, overpayments, misuse of resources
<i>Description</i>	Detail the risk.
<i>Consequence</i>	2 - Minor
<i>Likelihood</i>	3 - Possible
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Development and implementation of an MoU between the Shire and WAS.
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

A previous in-house administrative MoU was developed in 2019. This MoU is an evolution of that earlier informal incarnation, providing more detail and clarity. It is provided to Council to approve on the basis that it has budgetary implications.

Development of this iteration of the MoU has been through a number of meetings with the WAS and an assessment of the actual tasks and actions from the 2022 Show Day, to determine more accurately what is involved and how much it costs. The Shire's Manager Works and Waste Services has provided detailed assistance in this regard.

WAS has provided confirmation of its support for the MoU as appended.

RESOURCE IMPLICATIONS

Financial

While the MoU is non-binding it provides a costs reference point for Council when determining its annual budget. Further the MoU can act as a template for other large events, making it simple for Council to assess and value its support relative to the Show Day support.

The MoU contains a value cap for the Shire, whereby the Ag Society agrees to fund any amount of support in excess of the budgeted expenditure.

The budgeted support for the Show is \$14,100 which includes Shire supplied labour, plant and equipment and materials, but excludes the various fee waivers totally \$4,993 (2022/23). The actual support needed was to the value of \$21,100 at the 2022 show. This was because of a need for a second employee on hand on Show Day, with this being necessary going forward. The MoU has a \$21,100 cap on total support by the Shire, with any over-expenditure being refunded to the Shire by the WAS. It is proposed to index the cap in line with Shire cost increases.

Workforce

The in-kind workforce support is documented in the MoU. It is not meant to be prescriptive but serves to quantify the support and to assist in allocation of responsibilities for the event. The aim of the MoU is to show the Shire's in-kind support where it has particular responsibility for Shire assets, as a general principle, meaning a natural task alignment with those areas of responsibility that the Shire has the most stake in.

OPTIONS

Council has the option of:

1. approving the recommendation;
2. approving an amended MoU; or
3. not approving the MoU.

CONCLUSION

The Shire of Waroona has supported the Waroona Show Day organised and run by the Waroona Agricultural Society each year. A memorandum of understanding underlines the Shire's ongoing commitment to this day and the partnership with the WAS, and in doing so provides recognition of Shire support as an event sponsor.

11.3.3 Council Elections	
File Ref:	
Previous Items:	Nil
Applicant:	Shire of Waroona
Author and Title:	Mark Goodlet, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Appendix Number	11.3.3 – Electoral Commission Offer to Conduct Shire of Waroona Election

COUNCIL RESOLUTION**OCM23/02/021****Moved: Cr Pisconeri****Seconded: Cr Mason****That Council:**

- 1. Declares, in accordance with section 4.20(4) of the Local Government Act 1995, the Western Australian Electoral Commissioner to be responsible for the conduct of all future Shire of Waroona Council elections and polls until the end of 2023; and**
- 2. Decides, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting all future elections or polls will be as a postal election.**

CARRIED 7/0**IN BRIEF**

Council is requested to declare the Western Australian Electoral Commission (WAEC) is responsible for the conduct of future elections to the end of 2023 and to agree to these elections being conducted as postal elections.

BACKGROUND

The conduct of the Local Government ordinary elections is a complex and time-consuming event and has been well managed by experienced returning officers provided by the Western Australian Electoral Commissioner (WAEC) in recent years. The WEAC are also adequately trained which ensures that all legislative requirements are complied with.

As an alternative, the Administration can undertake the conduct of the elections at a reduced cost. However, as the Administrative staff are not trained in conducting the elections, it may increase risk of non-compliance of the Act and disputed election outcomes. Further it would require additional resources, to ensure that the process is carried out in a timely manner.

Because of the convenience it provides to electors, a postal ballot encourages a higher participation rate by electors. The alternate would be to hold the election as an in-person election, but this may discourage a higher participation. Despite the postal ballot in-person voting on election day is still conducted, allowing a wide participation in the election process.

The Electoral Commission's offer to conduct the Shire of Waroona's election by postal vote is attached at Appendix 11.3.3

REPORT DETAIL

Council is requested to make a declaration that the Western Australian Electoral Commissioner (WAEC) is to be responsible for the conduct of future elections to the end of 2023 and to agree to these elections being conducted as postal elections.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Leadership
Aspiration	To embed strong leadership through good governance, effective communication and ensuring value for money
Objective	5.2 Develop a skilled, safe and compliant organisation

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 4.20. CEO to be returning officer unless other arrangements made

Section 4.61. Choice of methods of conducting election

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Nil

Social - (Quality of life to community and/or affected landowners)

Greater participation in Council Elections supports democracy.

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Reputation - Public perception, poor customer service, sub standard work, corruption
<i>Description</i>	Improperly run election.
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Electoral Commission to conduct the election.
<i>Risk Owner</i>	Chief executive officer
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

The Electoral Commission has been approached to conduct the Shire of Waroona elections for 2023.

RESOURCE IMPLICATIONS

Financial

As per the Electoral Commission's letter, it is estimated that the cost of the 2023 election will be \$28,000 including GST, including postal voting. An additional charge of \$725 will be incurred if Council decides to opt for the Australia Post Priority Service for the lodgment of election packages.

Workforce

The Shire will utilise its staff to assist in the count. Administrative support for the elections is a portfolio responsibility of the CEO's Office.

OPTIONS

Council has the option of:

1. conducting the election without the support of the Electoral Commission; or
2. arranging for the Electoral Commission's support to conduct the Council Elections.

CONCLUSION

This report seeks Council determination to involve the Electoral Commission in providing a returning officer and conducting its elections through the postal ballot system.

11.3.4 Tender Award - Waroona Community Precinct Landscape and Civil Works	
File Ref:	36/1
Previous Items:	OCM 20/09/164 - 22 September 2020 OCM 20/10/183 - 27 October 2020 OCM21/02/011 - 23 February 2022 OCM 21/11/184 - 23 November 2022
Applicant:	Shire of Waroona
Author and Title:	Mark Goodlet, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.3.4 A – CONFIDENTIAL Tender Evaluation for Tender No. 2022-11

COUNCIL RESOLUTION**OCM23/02/022****Moved: Cr Mason****Seconded: Cr Vitale****That Council:**

- 1. Selects Phase3 Landscape Construction under Tender Number T2022-11, as the preferred tenderer;**
- 2. Authorises the Chief Executive Officer to accept the tender offer by Phase3 Landscape Construction, subject to any minor negotiated variations, for the initial Separable Portion 1 up to current budget availability, and thereafter Separable Portions 2 to 4, as funds become available;**
- 3. Amends the 2022/23 adopted budget as follows:**
 - a. Increase General Purpose Funding operating income account Interest on Investments 149030 by \$40,000 to recognise an increase in interest received from term deposit investments;**
 - b. Decrease Economic Development operating expenditure account Business Case Initiatives 177720 by \$51,725 to reallocate funds to the Waroona Community Precinct project;**
 - c. Increase Town Centre Development capital expense account Community Precinct TC06 by \$91,725 to allow for additional Council financial contribution to the Waroona Community Precinct; and**
- 4. Requests the Chief Executive Officer seek further funding to complete all stages of the Waroona Community Precinct.**

CARRIED 7/0**IN BRIEF**

The Waroona Community Precinct (WCP) is a major initiative of the Shire of Waroona and part of the Waroona Revitalisation Strategy.

Concept, detailed design, approvals, fauna relocation, environmental assessment geotechnical assessment and demolition activities have been undertaken and the main construction tender for the landscape and civil works has been put to the market as Tender No. 2022-11.

This Tender has closed, and three tender responses received and evaluated. The tender representing best overall value to the Shire of Waroona is that by Phase3 Landscape Construction.

With the total tender prices exceeding the available budget it is recommended that Separable Portion 1 be commenced, being the playgrounds, skate park and pump track, followed by Separable Portions 2 to 4 as funds become available. It is further recommended that the CEO seek further funding for the project in order to complete the proposed works under the proposed contract.

BACKGROUND

State-wide notice was given for tender no. 2022-11 Waroona Community Precinct, with advertising commencing on 3 December 2022. Tenders closed on 24 January 2023.

REPORT DETAIL

Tenders were evaluated in accordance with the evaluation criteria, being:

- Compliance (non-weighted), including –
 - Offer form completed
 - Acknowledged Receipt of Addendums
 - Inclusion of Organisation Profile, ASIC documentation and Referees
 - Agency acting and details of Principal
 - Trust acting and details if relevant
 - Subcontractor information
 - Conflict of Interest declaration
 - Work Health and Safety compliance
- Qualitative (50% overall score) measures -
 - Relevant Experience (15%)
 - Key Personnel Skills and Experience (15%)
 - Tenderer's Resources (10%)
 - Demonstrated Understanding (10%)
- Price (50% quantitative measure)

Three tenders were received, being from:

- Phase3 Landscape Construction (<https://www.phasethree.net.au/>);
- MG Group (<https://www.mggroup.net.au/>); and
- BCP Contractors Pty Ltd (<https://bcpgroup.com/>).

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Built Assets
Aspiration	To embed strong leadership through good governance, effective communication and ensuring value for money
Objective	4.2 Manage assets in a consistent and sustainable manner
Action	Tender Evaluation and Award

OTHER STRATEGIC LINKS

The Waroona Community Precinct is a key outcome for the Waroona Townsite Revitalisation Strategy.

STATUTORY ENVIRONMENT

Local Government Act 1995

s.3.58, Tenders for providing goods or services

A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.

Local Government (Functions and General) Regulations 1996

Division 2 — Tenders for providing goods or services

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

An enhanced and revitalised town centre will bring economic activity and prosperity to the town.

Social - (Quality of life to community and/or affected landowners)

Activation of the town centre improves liveability and community cohesion in Waroona.

Environment – (Impact on environment’s sustainability)

The Waroona Community Precinct will showcase environmental aspects including the importance of water to the Shire and native vegetation.

Policy Implications

Tender no. 2022-11 complies with the following policies:

- FP001 – Purchasing and Procurement; and
- FP002 – Regional Price Preference.

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

<i>Theme</i>	Financial - Projects going over budget, legal costs, insurance claims, overpayments, misuse of resources
<i>Description</i>	Not maximising the financial benefit to the Shire
<i>Consequence</i>	4 - Major
<i>Likelihood</i>	4 - Likely
<i>Rating</i>	High (10-19)
<i>Controls / Review</i>	Engage professional project management and seek open market tenders.
<i>Risk Owner</i>	Chief executive officer
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Councillors have been briefed at the 14 February 2023 briefing session on this tender.

RESOURCE IMPLICATIONS

Financial

Available budget

Total available budget is \$4,232,438. Withing this amount, the Shire has committed \$450k to the project. These funds are to be provided by way of a loan.

In addition to this commitment, the Shire of Waroona separately purchased freehold lots that form part of the community precinct and has previously funded the early concept planning work. This additional \$660,000 project contribution is noted in the supporting Business Case, but not captured in grant applications. It results in an overall Shire contribution of \$1.1 million which is significant for a small rural Local Government.

In the course of the 2022/23 financial year the Shire received extra unbudgeted Federal Assistance Grant, of which \$51,725 remains unallocated. Additionally, the higher interest rates have provided a term deposit windfall to the Shire of an estimated \$40,000, which is unallocated. Both of these amounts are able to be used for capital works and it is recommended that this be put towards the Waroona Community Precinct project, out of its available though limited funds.

Shire Managed Services & Minor Works, include development and minor works costs of \$621,094 and \$548,527 respectively. This includes project management, design and documentation, aboriginal heritage assessment and monitoring, environmental assessment and fauna removal, approvals, tree removals and demolition.

Award of Separable Portion 1

Separable Portion 1 shown below includes the playgrounds, skate park and pump track.

Figure 1 Waroona Community Precinct Separable Portions

Table 1 below identifies that with the Shire’s addition of \$91,725 Separable Portion 1 can be built.



WAROONA COMMUNITY PRECINCT – PROJECT FUNDING STATUS	
Major Works - Construction Tender Cost	Phase 3
Scenario D - SP1	\$3,291,886
Shire Managed Services & Minor Works	
Development Costs	\$621,094
Minor Works Costs	\$398,527
Project Costs – SP1	\$4,311,507
Budget - Funding Available (without additional \$)	\$4,232,438
Budget - Funding Available with Shire \$91,725	\$4,324,163
Construction Funds Balance for SP1 (without additional \$)	-\$79,069
Construction Funds Balance for SP1 with Shire \$91,725	\$12,656

Table 4 Project Funding Separable Portion 1 Only

Note that under this scenario no project contingencies are applied, however the Shire has the ability to direct savings up to \$625,000 should unexpected costs be incurred such as latent conditions.

To complete all of the project as designed the Table 2 is pertinent.

WAROONA COMMUNITY PRECINCT – PROJECT FUNDING STATUS	
Major Works - Construction Tender Cost	Phase 3
All SP's	\$4,651,309
Shire Managed Services, Minor Works & Contingencies	
Development Costs	\$621,094
Minor Works Costs	\$398,527
Contingencies	\$567,093
Total Project Costs - All SP's	\$6,238,023
Budget - Funding Available	\$4,232,438
Budget - Funding Available with Shire \$91,725	\$4,324,163
Construction Funds Balance for all SPs	-\$2,005,585
Construction Funds Balance for all SPs with Shire \$91,725	-\$1,913,860

Table 5 Project Funding for Total Project

It is proposed that the balance of \$1,913,860 be sought through further grant funding asks. This work is underway presently.

Workforce

The landscape and civil works are to be outsourced via Tender 2022-11.

OPTIONS

Council has the option of:

1. accepting the recommendation;
2. modifying the recommendation by approving another expression of interest; or
3. not accepting the recommendation.

CONCLUSION

The Waroona Community Precinct landscaping and civil works tender 2022-11 has been put to the market with three tenders received. The tender which represents best overall value to the Shire of Waroona is that by Phase3 Landscape Construction. The current budget only supports separable portion 1, being the playgrounds, skatepark and pump track and it is recommended that this portion of the works be awarded now, with other components awarded as funding becomes available.

11.4 ITEMS FOR INFORMATION

Nil

12. BUSINESS LEFT OVER FROM A PREVIOUS MEETING

Nil

13. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Notice of Motion by Cr Snell from 20 December 2022 ordinary Council meeting.

COUNCIL RESOLUTION

OCM23/02/023

Moved: Cr Snell

Seconded: Cr Odorisio

That Council requests the CEO to provide a report and draft a local law on the White Weeping Broom as a Pest Plant for the Shire of Waroona District.

SIMPLE MAJORITY REQUIRED

CARRIED 7/0

Comments by Cr Snell and Cr Odorisio

I am presenting notice of motion of Pest Plant Local Law 2023 for consideration at the Shire of Waroona Council February 28, 2023.

White Weeping Broom, an escaped garden shrub, has become established on vacant land, verges and other areas around Preston Beach. This local law, if passed by Council, will provide the framework to control this weed. It will give the Shire of Waroona the means to enforce removal of the weed from Shire and private land.

Administration Response

A resolution of Council supporting a new Waroona Pest Plants Local Law will lead to initiation of the legislative process to implement this local law, including a public consultation period.

The imposition of a pest plant local law gives a local government the authority to prohibit and require removal of a pest plant within its district. This is particularly useful where State and/or Federal mechanisms have not listed a particular plant as a pest.

A preliminary proposed local law is attached as Appendix 13 – Draft Waroona Pest Plants Local Law. This local law will be finalised and presented to Council for formal initiation, pending the above resolution of Council. The following points are noted in relation to the Notice of Motion:

1. The City of Mandurah already has a Pest Plant Local Law specifically prohibiting White Weeping Broom.
2. In addition to providing an authority to specify pest plants, The draft Waroona Pest Plants local law;

- a) creates an offence where a person fails to comply with a notice in respect to control of a pest plant;
- b) provides for the local government to issue an infringement in lieu of prosecuting a person;
- c) allows the local government to determine pest plants by absolute majority without needing to change the local law. This approximates changes to the Dog Act 1974, which now provide for a local government to specify off lead areas for example without having to amend a Schedule in the local law, which is a lengthy and administratively burdensome process. This makes the addition of other pest plants a far simpler process, should the need arise.

14. NOTICE OF MOTIONS FOR CONSIDERATION AT A FOLLOWING MEETING

Nil

15. NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON PRESIDING OR BY DECISION OF THE MEETING

15.1 Correction to OCM report 20 December 2022 – Council resolution OCM22/12/185 (Item 11.1.6) Amendment to Local Planning Scheme No. 7	
File Ref:	N/A
Previous Items:	N/A
Applicant:	Shire of Waroona
Author and Title:	Craig Zanotti, Coordinator Regulatory & Development Services
Declaration of Interest:	The author and authorising officer declare that they do not have any conflicts of interest in relation to this item.
Voting Requirements:	Simple Majority
Appendix Number	Nil

COUNCIL RESOLUTION

OCM23/02/024

Moved: Cr Mason

Seconded: Cr Snell

That Council:

1. **Notes that Council resolution OCM22/12/185, Item 11.1.6, incorrectly referenced this as Amendment 42 to Local Planning Scheme No. 7; and**
2. **Corrects this to reference it as Amendment 43.**

CARRIED 7/0

IN BRIEF

The purpose of this report is to correct an administrative error, referencing Scheme Amendment Numbers.

BACKGROUND

Amendment 42 to Local Planning Scheme No. 7 was adopted by Council at its OCM on 28 June 2022 under Item 11.1.2. This related to scheme provisions for renewable energy facilities.

The Scheme Amendment initiated by Council at the OCM on 20 December 2023 relates to vegetation and clearing restrictions. This should be referenced as 'Amendment 43'.

REPORT DETAIL

This administrative correction will assist with progressing the Amendment with the State Government.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Environment
Aspiration	To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning
Objective	1.3 A planning framework that is visionary, supports connectivity and enables participation that ensures quality, diverse and innovative planning outcomes that meets community aspirations
Strategy	1.3.1 Ensure our Town Planning Scheme and Local Planning Strategy facilitates quality and diverse planning outcomes
Action	Initiation of this proposed Scheme Amendment will achieve the aspirations of the Strategic Community Plan to ensure protection of valued trees and other vegetation in the area that aren't necessarily afforded the level of protection under the <i>Environment Protection Act 1986</i> .

OTHER STRATEGIC LINKS

N/A

STATUTORY ENVIRONMENT

N/A

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

N/A

Social - (Quality of life to community and/or affected landowners)

N/A

Environment – (Impact on environment's sustainability)

N/A

Policy Implications

N/A

Risk Management Implications

(Please refer to the Shire of Waroona Risk Framework when reviewing this section)

Theme	Environmental - Regulatory compliance, contamination, inadequate processes
Description	Being seen to fetter private land.

<i>Consequence</i>	1 - Insignificant
<i>Likelihood</i>	3 - Possible
<i>Rating</i>	Low (1-3)
<i>Controls / Review</i>	Work with all parties to reach a suitable outcome.
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Director
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Correspondence will be sent to the relevant State Government Departments, advising of the correction.

RESOURCE IMPLICATIONS

Financial
Nil.

Workforce
Within the scope of the workforce budget.

OPTIONS

Council has the option of:

1. Adopting the officer's recommendation;
2. Amending the officer's recommendation; or
3. Not adopting the officer's recommendation.

CONCLUSION

Adoption of the Officer's recommendation will ensure that administration with the Scheme Amendments is correct and due process has been followed.

16. CLOSURE OF MEETING

There being no further business, the Presiding Member closed the meeting, the time being 5.16pm.

I CERTIFY THAT THESE MINUTES WERE CONFIRMED AT THE ORDINARY COUNCIL MEETING HELD 28 March 2023 AS BEING A TRUE AND CORRECT RECORD OF PROCEEDINGS.

.....
PRESIDING MEMBER

.....
DATE