



Date: 17 August 2021

To: Shire President
All Councillors

Copy: Directors
Managers
Staff

ORDINARY COUNCIL MEETING NOTICE AND AGENDA

An Ordinary Council meeting of the Shire of Waroona will be held in the Council Chambers on 24 August 2021 at 4.00pm to consider and resolve the matters set out in the attached Agenda.

A handwritten signature in black ink, appearing to read "D. Unsworth", is positioned above the name of the Chief Executive Officer.

**DEAN UNSWORTH
CHIEF EXECUTIVE OFFICER**

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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AGENDA

1. **DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS**
2. **ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE**
3. **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
4. **PUBLIC QUESTION TIME**
5. **PETITIONS AND APPROVED DEPUTATIONS**
 - 5.1 **Deputation – Steve & Marina Shelton – Agenda Item 11.1.1 – Permission to Construct Gate Across Public Thoroughfare**
6. **CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**
 - 6.1 **Ordinary Council Meeting – 27 July 2021**

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held 27 July 2021 be confirmed as being a true and correct record of proceedings.
 - 6.2 **Special Council Meeting – 10 August 2021**

RECOMMENDATION

That the Minutes of the Special Council Meeting held 10 August 2021 be confirmed as being a true and correct record of proceedings.
7. **ANNOUNCEMENTS BY THE PRESIDING MEMBER**
8. **ANNOUNCEMENTS BY MEMBERS**
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.)
10. **RECEPTION OF MINUTES AND RECOMMENDATIONS OF COMMITTEES**
 - 10.1 **Bushfire Advisory Committee Minutes – Meeting held Wednesday 28 July 2021**

RECOMMENDATION

That the Minutes of the Bushfire Advisory Committee Meeting held 28 July 2021 be received.

10.2 Bushfire Advisory Committee Minutes – Items from meeting held Wednesday 28 July 2021 – to be dealt with separately

10.2.1 Election of Officers for the 2021/2022 Fire Season	
File Ref:	51/1
Previous Items:	Nil
Applicant:	Not Applicable
Author and Title:	Gavin Stevens, Community Emergency Services Coordinator
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	Appendix 2 of the BFAC Minutes

COMMITTEE RECOMMENDATION

Following a vote to consider the appointment of the Chief and Deputy Chief Bush Fire Control Officers and consider nominations for other positions the Bush Fire Advisory Committee recommend to Council:

1. To make the following appointments for the 2021/2022 Fire Season:

Chief Bush Fire Control Officer: Mr. Brian Beales

Deputy Chief Bush Fire Control Officer: Mr. Greg Lewis

Fire Control Officers:
Mr. Gareth Davies – Lake Clifton VBFB
Mr. Steve Thomas – Preston Beach VBFB
Mr. Greg Lewis – Waroona West VBFB
Mr. Brian Beales – Waroona VFES

Fire Control (Permit Issuing Only):
Mr Donald Bebbington – Preston Beach VBFB
Mr Bradley Lewis – Waroona West VBFB

Fire Weather Officer: Mr. John Twaddle

Deputy Fire Weather Officer: Community Emergency Services Coordinator

Shire Training Coordinator/s: Mr. Steve Thomas
Community Emergency Services Coordinator.

2. To support the appointment, though the Chief Executive Officer of additional Fire Control Officers (Permit Issuing Only), as necessary for the district.

IN BRIEF

For the Bush Fire Advisory Committee (BFAC) to recommend to Council appointments under the *Bush Fires Act 1954*, as outlined.

BACKGROUND

Brigade Fire Control Officer (FCO) nominations are undertaken at brigade level through a formal meeting process, normally at respective brigade Annual General Meetings (AGM) and this is supported through Council's existing BFAC membership structure.

Annually at a BFAC meeting, nominations are received for appointments to the following positions.

- Chief Bush Fire Control Officer
- Deputy Chief Bush Fire Control Officer/s
- Fire Control Officers
- Fire Control Officer (Permit issuing only)
- Fire Weather Officer
- Deputy Fire Weather Officer
- Shire Training Coordinator

The Chief Executive Officer has the delegated authority under Section 48 of the *Bush Fires Act 1954* to appoint Fire Control Officers, inclusive of a Chief Bush Fire Control Officer and Deputy Chief Bush Fire Control Officers and Fire Weather Officers. The appointment of Fire Weather Officers requires additional DFES endorsement.

Notwithstanding the Delegated Authority in place, historically BFAC recommendations for Fire Control Officer appointments and other positions have been presented to Council for formal endorsement.

REPORT DETAIL

The report presented is for the Committee to support the appointment of the brigade representative Fire Control Officers from the Lake Clifton Volunteer Bush Fire Brigade, Preston Beach Volunteer Bush Fire Brigade and Waroona West Volunteer Bush Fire Brigade, and the Waroona Volunteer Fire Emergency Services Unit and make the above recommendation to Council.

Under the current structure each Shire of Waroona Brigade has one Fire Control Officer position. Written nominations, as detailed at Appendix 2 of the BFAC Minutes, have been received from the Waroona VBFB's and Waroona VFES for FCO appointments -

- Mr. Gareth Davies – Lake Clifton VBFB
- Mr. Steve Thomas – Preston Beach VBFB
- Mr. Greg Lewis – Waroona West VBFB
- Mr. Brian Beales – Waroona VFES

No brigade nominations have been submitted for Fire Weather Officer or Permit Issuing Officers for the district.

Nominations have been received from Mr Brian Beales and Mr Steve Thomas for the position of Chief Bush Fire Control Officer.

Mr Gregory Lewis has provided a nomination for Deputy Chief Bush Fire Control Officer. Mr Brian Beales and Mr Steve Thomas have provided a nomination for the position of Deputy Chief Bush Fire Control Officer should they not be successful during any vote for the Chief Bush Fire Control Officer position.

Additionally, Mr Steve Thomas has forwarded a nomination for the Shire Training Coordinator position.

There were no nominations for Fire Weather Officer from the eligible Fire Control Officers and so nominations were called from the floor by the Chairperson. Mr John Twaddle AFSM was nominated by Mr Gavin Stevens and Mr Brian Beales was nominated by Mr Greg Lewis. A silent vote was conducted and Mr John Twaddle was appointed as the Fire Weather Officer.

All Shire Rangers, the Community Emergency Service Coordinator (CESC), the Bushfire Risk Planning Coordinator (BRPC), Shire of Murray Manager Ranger and Emergency Services (MRES) and the Shire of Murray Manager Governance are appointed as Fire Control Officers and prosecutors, as required, under the provisions of the *Bush Fire Act 1954* at the time of their employment. There is no need to appoint or amend the appointments of these officers. The Community Emergency Service Coordinator (CESC) remains the Deputy Fire Weather Officer and the Shire Training Coordinator.

SHIRE OF WAROONA STRATEGIC COMMUNITY PLAN

Theme 4	Society/Community Wellbeing
Aspiration	Maintain strong sense of community and effective community wellbeing
Strategy 4.09	Work in partnership with other agencies to effectively plan for and coordinate various emergency services.

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Fire Control Officers & Chief & Deputy Chief Fire Control Officers.

Section 38(1) of the *Bush Fires Act 1954* (**‘Act’**) states that 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 the 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. The appointment of Fire Control Officers may be delegated to the Chief Executive Officer under Section 48 of the Act.

A local government or a person delegated the authority shall cause notice of an appointment made under the provisions of subsection (1) to be published at least once in a newspaper circulating in its district.

Fire Weather & Deputy Fire Weather Officers

Section 38(6)(c) An approved local government may appoint to the office of fire weather officer such number of senior bush fire control officers as it thinks necessary. The appointment of Fire Weather officers may also be delegated to the Chief Executive Officer under Section 48 of the Act.

- (ca) Where more than one fire weather officer is appointed by a local government the local government shall define a part of its district in which each fire weather officer shall have the exclusive right to exercise the power conferred by paragraph (h).
- (cb) An approved local government may appoint one or more persons, as it thinks necessary, to be the deputy or deputies, as the case may be, of a fire weather officer appointed by the local government and where 2 or more deputies are so appointed they shall have seniority in the order determined by the local government.
- (cc) Where the office of a fire weather officer is vacant or whilst the occupant is absent or unable to act in the discharge of the duties of the office, any deputy appointed in respect of that office under paragraph (cb) is, subject to paragraph (cd), entitled to act in the discharge of the duties of that office.
- (cd) A deputy who is one of 2 or more deputies of a fire weather officer is not entitled to act in the discharge of the duties of the office of that fire weather officer if a deputy who has precedence over him in the order of seniority determined under paragraph (cb) is available and able to discharge those duties.
- (d) The local government shall give notice of an appointment made under paragraph (c) or (cb) to the Authority and cause notice of the appointment to be published at least once in a newspaper circulating in its district and the Authority shall cause notice of the appointment to be published once in the *Government Gazette*.
- (h) A fire weather officer of an approved local government, or a deputy of that fire weather officer while acting in the place of that officer, may authorise a person who has received a permit under section 18(6)(a), to burn the bush in the district of the local government notwithstanding that for any day, or any period of a day, specified in the notice the fire danger forecast issued by the Bureau of Meteorology in Perth, in respect to the locality where the bush proposed to be burnt is situated, is “extreme” or “very high”, and upon the authority being given the person, if he has otherwise complied with the conditions prescribed for the purposes of section 18, may burn the bush.
- (i) This subsection does not authorise the burning of bush during the prohibited burning times.

Note: Fire Weather Officers must be appointed as Fire Control Officers pursuant to Section 38(6)(c).

Section 48 Delegation by local governments

- (1) A local government may, in writing, delegate to its chief executive officer the performance of any of its functions under this Act.
- (2) Performance by the chief executive officer of a local government of a function delegated under subsection (1) —
 - (a) is taken to be in accordance with the terms of a delegation under this section, unless the contrary is shown; and
 - (b) is to be treated as performance by the local government.
- (3) A delegation under this section does not include the power to sub-delegate.
- (4) Nothing in this section is to be read as limiting the ability of a local government to act through its council, members of staff or agents in the normal course of business.

The Shire Training Coordinator position is not an appointment specified within the Act. Council is requested to continue to recognise this position to assist the Shire in managing and overseeing the ongoing training requirements for volunteers.

SUSTAINABILITY & RISK CONSIDERATIONS

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

There are no economic impacts on the community.

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

The appointments support the community and there is no negative impact on the quality of life.

Environment – (Impact on environment's sustainability)

There is no negative impact on the natural or built environment.

Policy implications

There are no policy implications and the level of risk is considered to be low if the recommendation is endorsed. The proposed appointments under delegated authority are in accordance with the provisions of the *Bush Fires Act 1954*.

Risk Management Implications

Nil

CONSULTATION

- *Bush Fires Act 1954,*
- Council Records,
- Council Staff,
- Chief Bush Fire Control Officer, and;
- Bush Fire Advisory Committee minutes.

RESOURCE IMPLICATIONS

Financial

The cost of advertising the appointments is provided in the annual Shire of Waroona budget.

Workforce

Nil

OPTIONS

The Committee has the option of recommending to Council to:

1. Endorse the Officer appointments, as detailed; or,
2. Reject the proposal.

CONCLUSION

The Committee recommendations supports the following appointments to ensure effective fire management, brigade and community support in the district -

- Chief Bush Fire Control Officer;
- Deputy Chief Bush Fire Control Officer;
- Fire Control Officers;
- Fire Control Officers (Bush Fire Permit issuing only);
- Fire Weather Officer;
- Deputy Fire Weather Officer; and,
- Shire Training Coordinator/s.

10.2.2 2021/2022 Firebreak Notice	
File Ref:	60/1
Previous Items:	Nil
Applicant:	Not Applicable
Author and Title:	Gavin Stevens, Community Emergency Services Coordinator
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	App 3 of the BFAC Minutes

COMMITTEE RECOMMENDATION

That Council:

- 1. Notes that the Shire of Waroona Firebreak Notice adopted at the Ordinary Council Meeting on 23 June 2020 (OCM20/06/094) and published in the Government Gazette on 4 September 2020 remains in effect without amendment.**
- 2. Supports the publication of the Firebreak Notice, in accordance with the provisions of the *Bush Fires Act 1954*, before 30 September 2021.**

IN BRIEF

Acknowledge support for the current Shire of Waroona Firebreak Notice (**‘Notice’**), as previously adopted.

BACKGROUND

During 2019/2020 fire season Ranger and Emergency Services identified a number of inadequacies and enforcement issues with the Shire of Waroona Firebreak Notice. As a consequence, a post fire season debrief around the enforcement was conducted on 19 May 2020.

A firebreak notice for the district was then developed following the debrief and consultation process. This Notice was presented to the Bush Fire Advisory Committee (BFAC) at its meeting on 10 June 2020. Subsequently Council adopted the Notice at the Ordinary Council Meeting on 23 June 2020.

REPORT DETAIL

Given the prior comprehensive review and the short timeframe available to send the Notice with the annual rates advice, it is suggested that BFAC recommend to Council that current Shire of Waroona Firebreak Notice, as provided at Appendix 3 of the BFAC Minutes, continues without amendment, other than minor changes to Fire Control Officers details and contact numbers.

SHIRE OF WAROONA STRATEGIC COMMUNITY PLAN

Theme 4	Society/Community Wellbeing
Aspiration	Maintain strong sense of community and effective community wellbeing

Strategy 4.09	Work in partnership with other agencies to effectively plan for and coordinate various emergency services.
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OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Section 33 of the *Bush Fires Act 1954* provides a local government the ability to make a Notice requiring all owners or occupiers of land within the district to take measures for preventing the outbreak of a bush fire, or for preventing the spread or extension of a bush fire which may occur.

SUSTAINABILITY & RISK CONSIDERATIONS

Economic – (Financial impact to the community)
Nil

Social – (Quality of life to community and/or affected landowners)
No amendments are suggested to the current Notice and this provides continuity and support landowner compliance.

Environment – (Impact on environment’s sustainability)
Nil

Policy Implications
Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
Low	The level of negative community feedback will likely be low as no change to the current Notice is proposed.

CONSULTATION

- Bush Fire Advisory Committee
- Council Records
- Council Staff – enforcement officers

RESOURCE IMPLICATIONS

Financial

Funds are provided in the Shire of Waroona Annual Budget to publish the Notice annually.

Workforce

Nil

OPTIONS

The Committee has the option of:

1. support the recommendation presented; or,

2. reject the recommendation and commence making a new Notice or amend the current Notice to present to Council for consideration.

CONCLUSION

The current Shire of Waroona Firebreak Notice is effective and applies a reasonable minimum standard of fire prevention requirements across land categories in the district to prevent the spread or extension of a bushfire, and the Notice prescribes additional abilities to manage greater risk by way of Special Works Orders. It is recommended that BFAC endorse the recommendation presented.

Note: A meeting of the Alcoa Waroona Sustainability Fund Advisory Committee will be held on Thursday 19th August at 9 am to consider the Round 2 applications, and the minutes and report/recommendation will be forwarded to Council following that.

10.3 Alcoa Waroona Sustainability Fund Advisory Committee Minutes – Meeting held Thursday 19 August 2021

RECOMMENDATION

That the Minutes of the Alcoa Waroona Sustainability Fund Advisory Committee Meeting held 19 August 2021 be received.

10.4. Alcoa Waroona Sustainability Fund Advisory Committee – Item from meeting held Thursday 19 August 2021 – to be dealt with Separately

10.4.1 Alcoa Waroona Micro Grants – Round 2 Applications	
File Ref:	
Previous Items:	Nil
Applicant:	Not Applicable
Author and Title:	Kelly Shipway, Manager Place & Community
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	

Note: A meeting of the Alcoa Waroona Sustainability Fund Advisory Committee will be held on Thursday 19th August at 9 am to consider the Round 2 applications, and a report and recommendation will be forwarded to Council following that.

10.5. Local Emergency Management Committee – Minutes of Meeting held Wednesday 4th August 2021

RECOMMENDATION

That the Minutes of the Local Emergency Management Committee Meeting held 4 August 2021 be received.

11. REPORTS OF THE CHIEF EXECUTIVE OFFICER AND OFFICERS

11.1 DIRECTOR INFRASTRUCTURE SERVICES

11.1.1 Permission to Construct Gate Across Public Thoroughfare	
File Ref:	68/1 & A205
Previous Items:	SCM20/12/247
Applicant:	SJ & MC Shelton
Author and Title:	Patrick Steinbacher, Director Infrastructure Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.1.1 A, B C, D

RECOMMENDATION

That Council grant approval to SJ & MC Shelton, being the landowners of 851 Nanga Brook Road to maintain gate structures across the unnamed road reserve within their property in the locations as indicated at Appendix 11.1.1A with the following conditions:

1. This approval be in place for a period of five years from the date of notification by the Shire to the landowner.
2. The gate/s and associated structure/s shall be maintained in a sound condition.
3. The gate/s shall be unlocked when closed.
4. Adequate retroreflective delineation shall be erected and maintained.
5. This approval shall only apply to the locations as indicated at Appendix 11.1.1A.
6. Council shall bear no cost whatsoever.
7. This approval is also subject to the remaining provisions of Regulation 9 of the *Local Government (Uniform Local Provisions) Regulations 1996* “*Permission to have gate across public thoroughfare – Sch.9.1 cl. 5(1)*”.

IN BRIEF

This matter was previously brought to Council at its SCM of December 22 2020 for approval under Regulation 9 of the *Local Government (Uniform Local Provisions) Regulations 1996*. At this meeting, the officer recommendation was changed because of concerns as to the interpretation of Regulation 9 and approval was not granted at that time. The Applicant has since taken the matter to the State Administrative Tribunal who have now decided that Council has proper jurisdiction to grant approval for the gates under Regulation 9.

BACKGROUND

Historically, the owners of 851 Nanga Brook Road have kept two gates across the road that bisects their property as shown on **Appendix 11.1.1A**. Assumingly the gates were installed by previous owners to control stock, however the current owners are more concerned with restricting the entry of wildlife into their property as well as controlling ad hoc public access. In the past, given the relatively low traffic volumes, the gates have posed little issue and have never been formally approved.

Usage of the road by the applicant's neighbours has highlighted some issues, including gates being not previously approved. The applicants have therefore made application to have the gates approved by Council to ensure their right to continue to maintain the gates in their current locations.

The unnamed road is used by two of the applicants' neighbours for access, one which shares a boundary and one further to the north east. It is also anecdotally used for ad hoc access by the public. However, it is a very low volume road and it would appear that the gates are not posing a significant hindrance and they do not adversely affect Shire activities. This, coupled with the fact that the gates have been in place for many years, suggests that it is appropriate for officers to recommend they be approved.

The matter of the gates across the unnamed road reserve was brought to Council at its SCM on 22 December 2020 with an officer recommendation to approve the application with conditions as per the current officer recommendation. However, uncertainty as to the proper application and interpretation of Regulation 9 to the existing gates prompted the Council to resolve as per the following:

COUNCIL RESOLUTION

SCM20/12/247

Moved: Cr Scott

Seconded: Cr Purcell

That Council:

1. Does not approve the application for gates across a Public Thoroughfare to SJ & MC Shelton on 851 Nanga Brook Road across the unnamed road reserve within their property as the requirement to allow the gates to prevent livestock from straying (Local Government Uniform Local Provisions Regulations 1996) has not been met.
2. Instructs the CEO to not remove the gates until a decision by the landowners to pursue this matter in the State Administrative Tribunal (SAT) has been made, and if that is to be pursued, until an outcome of the SAT has been determined.
3. Requests that landowners to remove the gates if a formal application has not been made to the SAT by 28 February 2021.

CARRIED 8/0

The gates were not removed and the Applicant did subsequently apply to SAT for a determination.

The SAT determination has now been received and forms **Appendix 11.1.1B**.

Supporting information from the applicants has also been received and forms **Confidential Appendix 11.1.1C**.

REPORT DETAIL

Legal advice received from McLeods is included as a **confidential** appendix at **Appendix 11.1.1D**.

Given the SAT decision and the above advice from McLeods, officers have returned to their previous recommendation for approval.

A directions hearing is set down at SAT for 13 August, however since the August OCM is after this date, McLeods have recommended that the proceedings be adjourned until after the Council meeting so that the matter can be referred back to Council for reconsideration.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Built Assets
Aspiration	To build and effectively manage our assets to continually improve our standard of living
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 (Uniform Local Provisions) Regulations 1996

Under the *Local Government (Uniform Local Provisions) Regulations 1996* Council is able to grant permission for the construction of a gate structure across a public thoroughfare:

9. *Permission to have gate across public thoroughfare — Sch. 9.1 cl. 5(1)*
- (1) *A person may apply to the local government for permission to have across a public thoroughfare under the control or management of the local government a gate or other device that enables motor traffic to pass across the public thoroughfare and prevents livestock from straying.*
 - (2) *The local government may, before dealing with the application, require the applicant to publish notice of the application in such manner as the local government thinks fit.*
 - (3) *Permission granted by the local government under this regulation —*
 - (a) *must be in writing; and*
 - (b) *must specify the period for which it is granted; and*
 - (c) *must specify each condition imposed under subregulation (4); and*
 - (d) *may be renewed from time to time; and*
 - (e) *may be cancelled by giving written notice to the person to whom the permission was granted.*
 - (4) *The local government may impose such conditions as it thinks fit on granting permission under this regulation including, but not limited to, conditions on the construction, placement and maintenance of the gate or other device across the public thoroughfare.*
 - (5) *The local government may, when renewing permission granted under this regulation or at any other time, vary any condition imposed by it under subregulation (4) and the variation takes effect when written notice of it is given to the person to whom the permission was granted.*
 - (6) *The local government may at any time, by written notice given to the person to whom permission was granted under this regulation, cancel the permission*

and request the person responsible for the gate or other device to remove it within a time specified in the request.

- (7) A person to whom a request is made under subregulation (6) must comply with the request.
Penalty: a fine of \$5 000.
- (8) A local government must keep a register of gates and other devices constructed in accordance with a permission granted under this regulation.

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 gates have been in place for many years by current and previous owners. The current landowners wish to have formally approved these gates.

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>	The risk here involves allowing something to go unapproved that does not comply with the Shire’s obligations under the Local Government Act. By carrying out this process the gates can be approved and remove that risk.
<i>Consequence</i>	2 - Minor
<i>Likelihood</i>	1 - Rare
<i>Rating</i>	Low (1-3)
<i>Controls / Review</i>	The application has to be reviewed every five years.
<i>Review Frequency</i>	Five yearly
<i>Risk Owner</i>	Director
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

- State Administrative Tribunal
- McLeod’s Barristers and Solicitors

RESOURCE IMPLICATIONS

Financial
Some minor legal costs have been incurred.

Workforce

Officers has spent a number of hours on this issue, however it has been undertaken in budgeted officer time.

OPTIONS

Council has the option of:

1. Approving the application for the gates to remain and applying the conditions as per the officer recommendation.
2. Not approving the application in which case the gates remain uncontrolled and unapproved and may be subject to a removal order, pending further SAT proceedings, including a likely final hearing.

CONCLUSION

Officers believe that the application to maintain two gates across the road reserve in this instance contains merit. It formalises an arrangement that has been in place for many years.

11.2 DIRECTOR PLANNING & SUSTAINABILITY

11.2.1 Peel-Harvey Catchment Council Memorandum of Understanding for Lake Clifton Catchment Conservation and Stewardship Program	
File Ref:	120/1
Previous Items:	Nil
Applicant:	Peel Harvey Catchment Council
Author and Title:	Greg Delahunty – Manager Planning Services
Voting Requirements:	Simple Majority
Appendix Number	11.2.1A

RECOMMENDATION

That Council:

1. **Agrees to enter into a new Memorandum of Understanding with the Peel Harvey Catchment Council as set out in Appendix 11.2.1A.**
2. **Authorises the Chief Executive Officer to sign the Memorandum of Understanding.**

IN BRIEF

- The existing Memorandum of Understanding (MOU) between the Shire and the Peel Harvey Catchment Council (PHCC) expired in June 2021.
- PHCC has requested that the MOU be extended for an additional five years.

BACKGROUND

The PHCC is a not-for-profit, community based natural resource management organisation that promotes an integrated approach to catchment management and the way we protect and restore the environment within the Peel Harvey estuarine catchment.

PHCC places a strong emphasis on partnerships, working with landholders, community groups, industry and all levels of government to effect change 'on-ground' and in the way the environment is managed.

The Shire has been an active partner of the PHCC since 2017. The most recent MOU, under which the Shire committed \$2,500, ran from 1 July 2020 to 30 June 2021.

REPORT DETAIL

The PHCC has requested that the Shire agree to enter into a new MOU for a period of five years. A copy of the draft MOU is included at **Appendix 11.2.1A**. The MOU will formalise the partnership between the PHCC and the Shire and formalise the terms, roles and responsibilities agreed to by each party.

The MOU requires the Shire to commit a minimum annual financial contribution of \$2,500 from 2021 to 2026. This contribution will support delivery of components of the PHCC Lake Clifton Catchment Conservation and Stewardship Program.

The MOU sets out that the funding provided by the Shire will only be used to undertake on-ground activities to maintain, protect and improve the cultural heritage and environment of

the Shire through the following, as they relate to the Lake Clifton Catchment Conservation Stewardship Program:

- Community Events, including the annual Seedling give-away program;
- Quarterly newsletters;
- Community engagement with Lake Clifton;
- Implement Land for Wildlife Site Assessments;
- Grants (available exclusively to LFW recipients).

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Environment
Aspiration	To continually care for, protect and enhance our environment for the generations to come
Objective	3.1 Protect and enhance our natural assets, waterways, bushland and biodiversity
Strategy	3.1.1 Collaborate with local environmental community organisations and volunteers

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 1.3 (3) of the Local Government Act 1995 states “*In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through integration of environmental protection, social advancement and economic prosperity*”.

SUSTAINABILITY & RISK CONSIDERATIONS

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

Protection and enhancement of the natural environment, including State parks within the area, can have an economic tourism benefit for the District.

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

Protection of the environment within the area will enhance the social values of the community and landowners.

Environment – (Impact on environment’s sustainability)

The MOU will facilitate the protection of key environmental assets.

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
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<i>Description</i>	Fettering good environmental outcomes
<i>Consequence</i>	2 - Minor
<i>Likelihood</i>	1 - Rare
<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>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Nil

RESOURCE IMPLICATIONS

Financial

Entering into the MOU would result in a total financial commitment of \$12,500 over a five-year period. This has not been included in the Shire’s 2021-22 budget however is a relatively small amount and can be reflected in the mid-year budget review.

Workforce

Nil

OPTIONS

Council has the following options:

1. Agree to enter into the MOU and allocate funds accordingly in subsequent budgets.
2. Not agree to enter into the MOU and advise the PHCC accordingly.

CONCLUSION

The MOU provides an opportunity to continue and improve on the successful partnership that has been in place for a number of years. The document recognises the partnership between the stakeholders but has no statutory authority. Either party is free to walk away by notifying the other in writing.

11.3 DIRECTOR CORPORATE SERVICES

11.3.1 Listing of Payments for the Month of July 2021	
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	11.3.1

RECOMMENDATION

That Council receive the following payments made throughout the month of July 2021;

Municipal	Cheque 9739 - 9764	\$52,350.54
	EFT 34595 - 34767	\$670,483.88
Direct wages	01/07/21 – 31/07/21 inclusive	\$156,615.40
Direct Debit	01/07/21 – 31/07/21	\$35,435.99
Trust	Cheque – Nil	\$ -
	EFT – Nil	\$ -
GRAND TOTAL		\$914,885.81

as attached at Appendix 11.3.1.

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 month of July 2021.

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 prescribe 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. Receive the listing of payments presented for the month of July 2021.
2. Not receive the listing of payments presented for the month of July 2021.

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 July 2021. All expenditure is accordance with the 2020/21 adopted budget and is presented as per the prescription within regulation 13 of the Local Government (Financial Management) Regulation 1996.

11.3.2 Monthly Statement of Financial Activity for the Period 1 July 2021 to 31 July 2021	
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	<u>11.3.2</u>

Please note the July Financial Statements will be presented to the September 2021 meeting.

11.3.3 Towards Waroona 2030 – Corporate Business Plan 2021-2025	
File Ref:	38/1
Previous Items:	Nil
Applicant:	Not applicable
Author and Title:	Brad Vitale, Corporate Compliance Officer
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Appendix Number	11.3.3 – Towards Waroona 2030

RECOMMENDATION

That Council adopts Towards Waroona 2030 – Corporate Business Plan 2021-25 as per Appendix 11.3.3.

IN BRIEF

Council is requested to consider adopting Towards Waroona 2030 – Corporate Business Plan 2021-2025 in accordance with the *Local Government Act 1995* and *Local Government (Administration) Regulations 1996*.

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 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 Council's four year planning document and one of the core components of Council's 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.

The Corporate Business Plan sits in the middle of the Council's planning hierarchy and identifies a number of prioritised services, operations and projects that the Council plans to undertake over the next four years to deliver the community's main priorities and expectations as identified in the Strategic Community Plan. It is a statutory requirement that that Corporate Business Plan is reviewed every year to ensure alignment to the short term Annual Budget and long term Strategic Community Plan.

REPORT DETAIL

Towards Waroona 2030 follows the same vision, mission and values of the Strategic Community Plan. The actions and projects identified in the Corporate Business Plan align with the strategies from the five key focus areas and aspirations in the Strategic Community Plan.

1. Our Community

To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning.

2. Our Economy

To create a diverse economy base that supports opportunity and employment.

3. Our Environment

To continually care for, protect and enhance our environment for the generations to come.

4. Our Built Assets

To build and effectively manage our assets to continually improve our standard of living.

5. Our Leadership

To embed strong leadership through good governance, effective communication and ensuring value for money.

Towards Waroona 2030 will activate the objectives of the Strategic Community Plan and informs the annual budget process to ensure the priorities of the community are strategically aligned and affordable. The actions and projects identified in the Corporate Business Plan will be reported on quarterly and summarised in the Annual Report.

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	5.1.1.4 Review the Corporate Business Plan

OTHER STRATEGIC LINKS

- Resourcing Waroona 2030 – Long Term Financial Plan 2021-2031.
- Annual Budget 2021/22.

STATUTORY ENVIRONMENT

Local Government Act 1995

s.5.56 Planning for the future

- (1) A local government is to plan for the future of the district.
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

Local Government (Administration) Regulations 1996

r.19DA Corporate business plans, requirements for (Act s.5.56)

- (1) A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.
- (2) A corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.
- (3) A corporate business plan for a district is to —
 - (a) set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government’s priorities for dealing with the objectives and aspirations of the community in the district; and
 - (b) govern a local government’s internal business planning by expressing a local government’s priorities by reference to operations that are within the capacity of the local government’s resources; and
 - (c) develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.
- (4) A local government is to review the current corporate business plan for its district every year.
- (5) A local government may modify a corporate business plan, including extending the period the plan is made in respect of and modifying the plan if required because of modification of the local government’s strategic community plan.
- (6) A council is to consider a corporate business plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.

*Absolute majority required.
- (7) If a corporate business plan is, or modifications of a corporate business plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.

SUSTAINABILITY & RISK CONSIDERATIONS

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

The Corporate Business Plan is the key driver for the Long Term Financial Plan and Annual Budget. This linkage ensures that community priorities and projects are adequately funded, and that appropriate and endorsed rating strategies are in place to allow any financial impact on the community to be carefully considered. There are a number of economic initiatives within the Plan, which reflect the high priority Council has given to the growth of the Waroona economy.

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

The actions outline multiple projects that will increase alignment with the community needs and aspirations around the provision of services, and thereby contribute to quality of life.

Environment – (Impact on environment’s sustainability)

The Plan details the level of focus provided to environmental outcomes and projects.

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 endorse the review of the Corporate Business Plan would result in non-compliance with legislation and potential consequences from the relevant State Government department.
<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

- Actions have been based on the strategies outlined in the Strategic Community Plan, following significant community and key stakeholder engagement.
- Workshop with staff to review, develop and prioritise actions.
- Public consultation not required.

RESOURCE IMPLICATIONS*Financial*

Costs associated with implementing the actions are included in this Plan and incorporated within the Long Term Financial Plan 2021-2031 and Annual Budget 2021/22.

Workforce

The strategies outlined within the Corporate Business Plan align with minor amendments to workforce across the four years of the Plan.

OPTIONS

Council has the option of:

1. Accepting the officer recommendation.
2. Amending or rejecting the officer recommendation.

CONCLUSION

The Corporate Business Plan is used to drive the development of the Shire's Annual Budget and provides a link to existing service delivery that supports achieving the aspirations and outcomes set out in the Strategic Community Plan. It also aligns with financial and other resources outlined in the supporting plans.

The review of the Corporate Business Plan allows an assessment of all the existing Shire's strategies, including the Local Community Plans. The linkages contained within the Plan ignite the relationships that exist between these strategies, as well as the workforce, infrastructure and financial plans that underpin them. This integrated approach will allow Council to achieve the community aspirations within a sustainable framework.

11.3.4 Delegations Amendments	
File Ref:	52/1
Previous Items:	Nil
Applicant:	Not applicable
Author and Title:	Brad Vitale, Corporate Compliance Officer
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Appendix Number	11.3.4 – Proposed delegation 2.13.6

RECOMMENDATION

That Council:

- 1. revokes existing delegation 2.13.6; and**
- 2. approves new delegation 2.13.6 as provided in Appendix 11.3.4.**

IN BRIEF

Due to the adoption of the Shire of Waroona Health Local Law 2021, and subsequent repeal of the Shire of Waroona Health Local Law 2001, existing delegation 2.13.6 is no longer relevant. This delegation must be revoked and replaced with a new delegation relevant to the current local law.

BACKGROUND

The aim and purpose of delegated authority is to assist with the efficiency of the local government activities by way of quicker decisions. Under the *Local Government Act 1995* and other legislation, Council may delegate its functions, duties and powers to the Chief Executive Officer to assist with efficient and timely decision making. The Chief Executive Officer may then sub delegate functions, duties and powers to other staff and sub-delegated functions are also reviewed annually as a separate process. Delegations are a proven effective organisational tool that enhances productivity and support effective customer service and timely decision making.

REPORT DETAIL

Delegation 2.13.6 in the Delegation of Authority Register is required to be replaced due to the adoption of the Shire of Waroona Health Local Law 2021 and subsequent repeal of the Shire of Waroona Health Local Law 2001. Without delegation, any duties outside of the Authorised Officer role must be determined by Council, resulting in inefficient decision making and action. The proposed replacement delegation will result in more efficient service provision and operation of the local law.

The proposed replacement delegation is detailed in **Appendix 11.3.4**.

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	Nil

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

s.5.16 – Delegation of some powers and duties to certain committees

- (1) Under and subject to section 5.17, a local government may delegate* to a committee any of its powers and duties other than this power of delegation.
* Absolute majority required.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —
 - (a) a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and
 - (b) any decision to amend or revoke a delegation under this section is to be by an absolute majority.
- (4) Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.

s.5.17 – Limits on delegation of powers and duties to certain committees

- (1) A local government can delegate —
 - (a) to a committee comprising council members only, any of the council's powers or duties under this Act except —
 - (i) any power or duty that requires a decision of an absolute majority of the council; and
 - (ii) any other power or duty that is prescribed; and
 - (b) to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and
 - (c) to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of —
 - (i) the local government's property; or
 - (ii) an event in which the local government is involved.
- (2) A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).

s.5.18 – Register of delegations to committees

A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.

s.5.42 – Delegation of some powers and duties to CEO

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

* Absolute majority required.

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

s.5.43 – Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority of the council;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (h) any power or duty that requires the approval of the Minister or the Governor;
- (i) such other powers or duties as may be prescribed.

s.5.44 – CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —
- (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and
 - (b) the exercise of that power or the discharge of that duty by the CEO's delegate, are subject to any conditions imposed by the local government on its delegation to the CEO.
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.
- (5) In subsections (3) and (4) — conditions includes qualifications, limitations or exceptions.

s.5.45 – Other matters relevant to delegations under this Division

- (1) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —
- (a) a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and

- (b) any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.
- (2) Nothing in this Division is to be read as preventing —
 - (a) a local government from performing any of its functions by acting through a person other than the CEO; or
 - (b) a CEO from performing any of his or her functions by acting through another person.

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

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

Local Government (Administration) Regulations 1996

r.18G – Delegations to CEOs, limits on (Act s.5.43)

Powers and duties of a local government exercised under the following provisions are prescribed under section 5.43(i) as powers and duties that a local government cannot delegate to a CEO —

- (a) section 7.12A(2), (3)(a) or (4); and
- (b) regulations 18C and 18D.

r.19 – Delegates to keep certain records (Act s.5.46(3))

Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of —

- (a) how the person exercised the power or discharged the duty; and
- (b) when the person exercised the power or discharged the duty; and
- (c) the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.

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 endorse the amendments would result in non-compliance with legislation and potential consequences from the relevant State Government department.
<i>Consequence</i>	3 - Moderate
<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

- WALGA Delegations of Authority Register template.
- Public consultation not required.

RESOURCE IMPLICATIONS*Financial*

Nil.

Workforce

Delegated powers to the Chief Executive Officer and other officers will improve efficiency in decision-making.

OPTIONS

Council has the option of:

1. Accepting the officer recommendation.
2. Amending or rejecting the officer recommendation.

CONCLUSION

Delegation of Council duties and powers to the Chief Executive Officer and other officers assists with efficient and timely decision making. Delegations are a proven effective organisational tool that enhances productivity and support effective customer service and timely decision making.

11.3.5 Shire of Waroona Extractive Industries Local Law 2021	
File Ref:	26/3
Previous Items:	Nil
Applicant:	Not Applicable
Author and Title:	Brad Vitale, Corporate Compliance Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.3.5 – Proposed Shire of Waroona Extractive Industries Local Law 2021

RECOMMENDATION

That Council approves for the:

1. making of the proposed Shire of Waroona Extractive Industries Local Law 2021, as detailed at Appendix 11.3.5 in accordance with section 3.12(3)(a) and (b) of the *Local Government Act 1995*; and
2. Chief Executive Officer to –
 - a. 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;
 - 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.

IN BRIEF

- Under the *Local Government Act 1995*, local laws are required to be reviewed every eight (8) years.
- The Shire of Waroona Extractive Industries Local Law 1999 was adopted by Council on 27 July 1999.
- The proposed local law will prohibit the carrying on of an extractive industry in the district, unless by authority of a licence issued by the local government, regulate the carrying out of the extractive industry in order to minimise damage to the environment, roads and other peoples' health and property, provide for the restoration and reinstatement of any excavation site and to provide penalties for contraventions of the local law.
- The intended result is that any person wanting to carry on an extractive industry will need to be licensed and will need to comply with the provisions of the local law.

BACKGROUND

The current Shire of Waroona Extractive Industries Local Law 1999 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 reviewed local law is modelled from the WALGA template and Shire of Harvey Extractive Industries Local Law that was adopted in March 2017, and incorporates past, present and future issues.

This local law will prohibit the carrying on of an extractive industry on private land in the district unless by authority of a licence. This will provide the lawful means to regulate the carrying on of the extractive industry in order to minimise damage to the environment, roads and other people's health and property and provide for the restoration and reinstatement of any excavation site and also provide the mechanism to create offences and apply modified penalties for contraventions of the proposed local law.

Licence applications lodged under the proposed local law will run in parallel with applications for Planning consent under the Shire of Waroona Local Planning Scheme. Appropriate delegations will be developed to enable licence applications and all associated matters to be dealt with in a timely and consistent manner.

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 effectively and efficiently address inappropriate and unlawful behaviours.

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

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, 24 August 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, 31 August 2021 <u>Harvey Waroona Reporter</u> – Tuesday, 31 August 2021

Task	LGA Section	Effective Date
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, 31 August 2021
Closing date for submissions to be received (not less than 6 weeks).	3.12(4)	Friday, 22 October 2021 (52 days)
Consider submissions and report back to Council to determine whether to make a Local Law (absolute majority required).	3.12(4)	Tuesday, 23 November 2021
Publish Local Laws in Government Gazette and give copy to the Minister for Local Government	3.12(5)	Tuesday, 30 November 2021
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, 7 December 2021
Prepare explanatory memorandum and submit with copy of the new Local Laws to Parliamentary Joint Standing Committee on Delegated Legislation.	3.12(6)	Tuesday, 7 December 2021

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.

The following fulfils the requirement defined in Regulation 3:

NOTICE of purpose and effect of the proposed Shire of Waroona Extractive Industries Local Law 2021:

“The purpose of this local law is to prohibit the carrying on of an extractive industry in the district, unless by authority of a licence issued by the local government, regulate the carrying out of the extractive industry in order to minimise damage to the environment, roads and other peoples' health and property, provide for the restoration and reinstatement of any excavation site and to provide penalties for contraventions of the local law.”

The effect of this local law will be that any person wanting to carry on an extractive industry will need to be licensed and will need to comply with the provisions of the local law.”

Local Government (Functions and General) Regulations 1996

r.3 – Prescribed manner of giving notice of purpose and effect of proposed local law

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.

SUSTAINABILITY & RISK CONSIDERATIONS

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

Social - (Quality of life to community and/or affected landowners)
Part of the licensing requirements for proposed extractive industries require applicants to engage in writing with adjoining landowners before lodging an application. Provisions also enable broader consultation by way of publication in a local newspaper and site specific signage. The framework within the proposed local law regulate extractive industries to ensure activities are well managed to reduce possible negative impacts on adjoining landowners.

Environment – (Impact on environment’s sustainability)
Implementing robust controls on extractive industries during the licencing process and having the means to review activities periodically supports positive environmental outcomes.

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>	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.
- WA Local Government Association.
- 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 \$2,500. Funds are available in the 2021/2022 budget for the project cost.

Workforce
Nil.

OPTIONS

Council has the option of:

1. Accepting the officer recommendation to commence the process to make the proposed Shire of Waroona Extractive Industries Local Law 2021; or
2. Amending or rejecting the proposal to make the Extractive Industries local law.

CONCLUSION

It is recommended that Council commences the process under *the Local Government Act 1995* to update the proposed Shire of Waroona Extractive Industries Local Law 2021 to prohibit the carrying on of an extractive industry in the district, unless by authority of a licence issued by the local government, regulate the carrying out of the extractive industry in order to minimise damage to the environment, roads and other peoples' health and property, provide for the restoration and reinstatement of any excavation site and to provide penalties for contraventions of the local law. The effect will be that any person wanting to carry on an extractive industry will need to be licensed and will need to comply with the provisions of the local law.

11.3.6 Resourcing Waroona 2030 – Long Term Financial Plan 2021-2031	
File Ref:	38/1
Previous Items:	Nil
Applicant:	Not applicable
Author and Title:	Ashleigh Nuttall, Director Corporate Services Brad Vitale, Corporate Compliance Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.3.6 – Resourcing Waroona 2030

RECOMMENDATION

That Council adopts Resourcing Waroona 2030 – Long Term Financial Plan 2021-31 as per Appendix 11.3.6.

IN BRIEF

Council is requested to consider adopting Resourcing Waroona 2030 – Long Term Financial Plan 2021-2031.

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 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 Long Term Financial Plan (LTFP) is a modelling tool to project the Shire's financial commitments over the next ten years as a means of helping to ensure financial sustainability.

The LTFP is a dynamic tool which analyses financial trends over a ten year period on a range of assumptions and provides information to assess the impacts of current decision and budgets on future financial sustainability. The aim of the LTFP is to achieve the following objectives:

- Help to project commitments with regards to the costs of new services or projects as a result of community growth and expectations or changing demographics;
- Maintain a strong cash position, ensuring that the Shire remain financially sustainable in the long term, and has the capacity to respond to unexpected opportunities or unpredictable events such as natural disasters;
- Strategically pursue state and federal government grant funding opportunities where aligned with the Strategic Community Plan and Corporate Business Plan requirements;
- Plan rate increases to balance the budget to ensure service delivery that meets reasonable community needs;
- Ensure that critical infrastructure asset renewal is funded at the optimum time;
- Maximise opportunities for Shire freehold properties from an economic and community development perspective; and
- Support the broad review of our Strategic Community Plan every two years and a full review every four years.

REPORT DETAIL

The LTFP relies on the most current information available for known revenues and expenditures. Future forecasting processes use estimates carefully to be as accurate, reliable and easily understood as possible. The level of accuracy from assumptions within the LTFP is more likely in the first four years. Later years (5-10) will have a higher reliance on assumptions and subjectivity to variables. The ability to accurately forecast over a long period is likely to be hindered by uncertainties such as the availability of grant funding, fluctuating interest rates, economic trends, as well as demographic and political change.

Assumptions and key items are included within the Plan. In addition to the details of assumptions, the LTFP contains major capital works schedules, capacity of financial reserves and local government performance measures. The LTFP demonstrates that with prudent financial planning, monitoring of rating capacity and careful assessment of priorities, the Shire of Waroona will be able to maintain a sound financial position in the long term.

The LTFP will be reviewed annually in conjunction with the budget process to ensure continued relevance and sustainability.

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	5.1.2 Maintain long term financial sustainability
Action	5.1.2.1 Review the Long Term Financial Plan

OTHER STRATEGIC LINKS

- Towards Waroona 2030 – Corporate Business Plan 2021-2025.
- Annual Budget 2021/22.

STATUTORY ENVIRONMENT

Local Government Act 1995

s.5.56 Planning for the future

- (3) A local government is to plan for the future of the district.
- (4) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

SUSTAINABILITY & RISK CONSIDERATIONS

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

The LTFP identifies funding for infrastructure and major projects that are key to the success of growing the economy of Waroona.

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

The LTFP outlines the services that will be provided to the community to enhance the quality of living. It is crucial that the LTFP aligns with the aspirations of the community to ensure financial strategies are in place to meet future demand.

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>	Financial - Projects going over budget, legal costs, insurance claims, overpayments, misuse of resources
<i>Description</i>	Failing to endorse the review of the Long Term Financial Plan could result in inaccurate financial and resource planning for the next ten years.
<i>Consequence</i>	4 - Major
<i>Likelihood</i>	3 - Possible
<i>Rating</i>	High (10-19)
<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

- Proposals have been based on the strategies outlined in the Strategic Community Plan, following significant community and key stakeholder engagement.
- Public consultation not required.

RESOURCE IMPLICATIONS

Financial

All proposals in the LTFP provide direction for what is expected/likely to occur for the period 1 July 2021 to 30 June 2031. Proposals for the 2021/22 financial year (year one) are to be reflected in the 2021/22 annual budget. Staff will further develop the document during the ensuing twelve month period with the aim of the LTFP being a live working document.

Workforce

The proposals outlined within the LTFP align with minor amendments to workforce across the ten years of the LTFP.

OPTIONS

Council has the option of:

1. Accepting the officer recommendation.
2. Amending or rejecting the officer recommendation.

CONCLUSION

The purpose of the LTFP is to guide the future direction of the Council in a financially sustainable manner. It is designed as a summary on the future planning of the Council's financial operations, particularly in relation to key components such as rate increases, service levels, asset renewal, reserve account movements and loan borrowings.

The LTFP is also designed to indicate long term financial viability and identification of issues that may have a long term impact on the Council's finances. Linkages with other key Council planning documents is also an essential component of the LTFP.

The LTFP is reviewed annually to ensure that it remains consistent with the direction of the Strategic Community Plan and that it forms the basis for continuous improvement within the Shire.

11.4 DIRECTOR PLACE, COMMUNITY & ECONOMIC DEVELOPMENT

11.4.1 Policy FIN011 – Purchase Orders	
File Ref:	17/1
Previous Items:	OCM 26 June 2021 OCM 21/06/071
Applicant:	Shire of Waroona
Author and Title:	Liz Storr, Director Place, Community & Economic Development
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Appendix Number	11.4.1

RECOMMENDATION

That Council amends Policy FP003 – Purchase Orders – Authority for Issue as per Appendix 11.4.1.

IN BRIEF

- To seek Council's endorsement to amend the current Purchase Order Policy FP003 to include the increase the purchase authority order limit for the Visitor Centre Manager from \$1,000 to \$5,000 to streamline Visitor Centre activities.

BACKGROUND

Councillors are reminded of the objectives of the Council's Policy Manual documentation which are:

- To provide the Council with a formal written record of policy decisions;
- To provide Council staff with clear direction to respond to issues and act in accordance with the Council's direction;
- To enable Councillors to adequately handle general enquiries relating to the role of the Council;
- To enable the Council to maintain a process to continually review policy decisions and to ensure they are in keeping with the community expectations, current legislative trends and circumstances; and
- To enable residents to obtain immediate advice on matters of Council policy.

REPORT DETAIL

Council policy FP003 is of high importance and is used on a daily basis. The policy ensures strict compliance with Accounting Regulations and internal controls.

This report proposes the amendment of the following position and level of authority.

Visitor Centre Manager – Authority to issue orders of an operational nature associated with the function of the Waroona Visitor Centre up to \$5,000.

Authority does not extend to capital equipment purchases.

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	N/A

OTHER STRATEGIC LINKS

Nil.

STATUTORY ENVIRONMENT

Details of policies which are required as a result of statutory legislation are to contain a statement providing a reference to the relevant legislation.

The Council is no longer required by legislation to conduct annual reviews of its policies, however it is considered “best practice” to do so.

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

Details on the policy have been included in this amendment. See the “Report Detail” for information on the proposed policy amendment.

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 reviewing and correctly amending Council policy results in poor governance, non-compliance with legislative requirements and unclear direction to staff on Council's direction.
<i>Consequence</i>	2 - Minor
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Reviewed annually to ensure currency and compliance.
<i>Review Frequency</i>	Annually

<i>Risk Owner</i>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

No direct public consultation is required during the preparation of documentation, however, all updated policies will be available on the Council’s website.

RESOURCE IMPLICATIONS

Financial

Nil.

Workforce

Nil.

OPTIONS

Council has the option of:

1. Accepting the officer recommendation.
2. Amending or not accepting the officer recommendation.

CONCLUSION

Although the Policies Documentation is formally reviewed and adopted en-bloc once a year, the requirement to address this individual policy outside of the normal policy review process will result in the amendment to the policy being able to take immediate effect.

11.4.2 Waroona Amateur Basketball Association (WABA) Complex Hire Fees 2021/22	
File Ref:	126/02
Previous Items:	Nil
Applicant:	Waroona Amateur Basketball Association
Author and Title:	Daniel Cools Manager Recreation Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	Appendix 11.4.2 (letter from WABA)

RECOMMENDATION

That Council advise Waroona Amateur Basketball Association (WABA) that no further reduction in hire fees for the Waroona Recreation and Aquatic Centre (WRAC) will be offered and that the Council's adopted fees and charges for 21/22 will apply for all user groups of the WRAC.

IN BRIEF

- WABA is the largest local sporting club that utilises the WRAC.
- WABA requires court access on two to four afternoons/nights for approximately six months of the year
- WABA is the main complex hire user group for the Centre annually.
- WABA has requested consideration of a fee reduction for its upcoming 2021/22 season.

BACKGROUND

The WRAC provides quality sporting, recreation and facility services to many local users and community clubs/groups. WABA is the main user of the indoor court facilities over the summer months (October – March). It is important that fees and charges associated with hiring the facility reflect operational costs of the WRAC to ensure long term sustainability is achieved. Consideration of club affordability is also vital for the club's membership retention and ongoing operations.

REPORT DETAIL

WRAC Facility Hire:

From 2011 to 2018, WABA paid a 'per-game' court hire fee of \$50 for senior games, \$40 for junior games, approximately \$13 per junior training session and \$18 per senior training session. This equated to approximately \$22,000 per season in court hire revenue for the WRAC.

During the 2018/19 season an 'entire facility' hire fee of \$400 was introduced as part of the WRAC's fees and charges. This fee provided a cheaper option for WABA to hire the courts for their competition and training requirements. Along with WABA combining its senior and junior competitions, this resulted in a significant decrease in income received by the WRAC for court hire. Approximately \$11,000 was received from WABA during the 2020/21 season, representing an almost 50% reduction in court hire fees when compared to court hire fees as recently as four seasons prior.

For 21/22, the fees and charges have increased slightly with court hire (for games) increasing to \$52 (\$2 increase per game) and the entire facility hire fee being limited to four hours of court hire. This time limit has been introduced to reflect the additional staffing and operational costs incurred by the WRAC beyond a four-hour booking. In practice, this means WABA

would be required to pay the \$600 'entire facility' fee, the single court hire fee per game, or a mixture of both if the booking exceeded the four-hour time limit.

Comparison to other indoor recreation centres in Peel and the South West regions:

- The Mandurah Aquatic and Recreation Centre (MARC) currently charges \$36.15 for regular non-profit groups per court plus a staffing fee of \$88 per hour after 6pm. For the MARC-run competition, a fee of \$60 per team per game for seniors and \$49 for juniors applies.
- Harvey Recreation and Cultural Centre (HRCC) charges \$92 per hour per court and \$127.50 per hour for two courts.
- Murray Leisure Centre (MLC) charges \$40 per court per hour. The team fee is \$60 per team per game.
- Neither the HRCC or MLC has cheaper training fee options. After paying umpires (max \$60 per game), these two facilities are generating a minimum of \$60 per game in court hire.

Currently, the WRAC is receiving approximately \$30 per game under the 'entire facility' \$400 hire fee model. Two to three training sessions are included as part of this fee. As a result, the WRAC is receiving half the revenue of what other similar centres currently generate for comparable activities.

WRAC court maintenance and associated operational costs:

With the ongoing maintenance costs and asset management and replacement program for the indoor courts, Council must ensure fees charged to user groups are considerate of the associated operational costs. Some of the key costs are outlined below and are mostly incurred prior to the start of each basketball season.

- Court resurfacing (cost/lifespan) \$1,650
- Electrical maintenance (lights) \$1,000
- Cleaning wage \$10,000
- Floor scrubber maintenance and replacement (cost/lifespan) \$1,700
- Staff wages (additional hours on WABA nights) \$1,000
- Backboard servicing \$500
- Roof maintenance \$2,500
- Score boards replacement (cost/lifespan) \$1,200
- Painting (cost/lifespan) \$1,500

Approximate seasonal cost of maintaining the basketball courts is \$21,050

As WABA utilizes the courts for a six-month period each year, and is the main source of hire revenue for the WRAC, further reducing hire fees below the \$11,000 paid in the 20/21 year, will set an unsustainable precedent and potentially impact on the maintenance program for the WRAC.

With the proposed 21/22 fees and charges for the WRAC and the revised 'entire facility' hire fee of \$600 per night, WABA will incur approximately \$14,500 in hire fees for its upcoming season. This amount is still more affordable than court hire fees paid by WABA up until 2018

and reflects a shortfall of approximately \$6,550 to cover the required maintenance and staffing associated with upkeep and management of the courts for basketball games and training.

Remaining at the 20/21 ‘entire facility’ fee of \$400 (with no four-hour time limit) or further reducing hire fees will result in additional reduction in court hire revenue and therefore greater subsidy from ratepayers.

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	4.2 Manage assets in a consistent and sustainable manner
Strategy	4.1.1 Plan community facilities for current and future generations
Action	Providing fees and charges that are sustainable for asset management and affordable for community users and local sporting groups.

OTHER STRATEGIC LINKS

- 1.4.1 Promote a mentally and physically healthy lifestyle
- 4.2.1 Plan and effect appropriate maintenance, renewal, replacement, and disposal of assets.
- 5.1.2. Maintain long term financial Sustainability

STATUTORY ENVIRONMENT

Local Government Act 1995

SUSTAINABILITY & RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)
 The WRAC runs at a financial loss for the Shire. Ensuring fees and charges are made to help mitigate some of the loss is crucial for the Centre’s sustainability. Finding the balance between asset management and user affordability is the highest priority.

Social - (Quality of life to community and/or affected landowners)
 The WRAC is a hub for health and wellbeing for the Shire. The indoor courts are used for fitness, recreational, educational, developmental, and sporting purposes. Ensuring these courts are sustainable will allow access for all community members for many years to come.

Environment – (Impact on environment’s sustainability)
 Nil.

Policy Implications
 There are no direct Policy implications.

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
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<i>Description</i>	Fees and charges not reflecting sustainable operational costs of the WRAC
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	3 - Possible
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	A detailed asset management established and utilised against fees and charges to ensure they reflect long term sustainability of the WRAC.
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Operational manager
<i>Acceptance</i>	Monitor - Risk acceptable with adequate control

CONSULTATION

The Recreation Services Manager has regular contact with WABA and has worked with the organisation over many seasons to understand its financial position and court hire requirement.

RESOURCE IMPLICATIONS

Financial

As discussed in report detail.

Workforce

Nil

OPTIONS

Council has the option of:

1. Supporting recommendation 1, as proposed.
2. Amend the 21/22 fees and charges for the WRAC to enable the WABA and any other locally based sporting club to pay a maximum hire fee of \$400 for the entire facility for competition nights even if hire exceeds the current four-hour limit. This will result in further reductions in complex hire revenue for the WRAC, which is used to offset operational costs.
3. Rejecting the recommendations and determining an alternative proposal.

CONCLUSION

The fees and charges proposed for the 2021/22 financial year have considered club affordability as well as long term operational sustainability of the WRAC. These fees will help with the financial cost involved in the asset management associated with the indoor courts and still come at an affordable rate for the club to not have to increase its membership fees.

11.4.3 Proposal to Lease Old Ag Building at 120 South Western Hwy, Waroona	
File Ref:	A1937; 88/3; LD216
Previous Items:	Item 11.4.2 27 October 2020 OCM20/10/184
Applicant:	Shire of Waroona Waroona Landcare Harvey River Restoration Trust Peel Harvey Biosecurity Group Peel Harvey Catchment Council Community Recycling WA
Author and Title:	Liz Storr, Director Place, Community & Economic Dev.
Declaration of Interest:	Nil
Voting Requirements:	Absolute majority
Appendix Number	11.4.3 – proposed lease agreement

RECOMMENDATION

That Council:

- 1. Enter the proposed Lease Agreement with Western Australian Agriculture Authority (WAAA) for the lease of the identified premises on Lot 419 (No. 120) South Western Highway, Waroona, as per Appendix 11.4.3;**
- 2. Authorise the application of the Shire of Waroona Common Seal to the Lease Agreement;**
- 3. Authorise the Shire President and Chief Executive Officer to sign and execute all matters relating to the Lease Agreement;**
- 4. Delegate Authority to the Shire President and Chief Executive Officer to negotiate, sign and execute all matters relating to the sub-lease of the property to local environmental groups; and**
- 5. Authorise the application of the Shire of Waroona Common Seal to the Sub-lease Agreement.**

IN BRIEF

- The Shire of Waroona submitted an Expression of Interest (EOI) to the Department of Primary Industries and Regional Development (DPIRD) in November 2020 to lease the property for use as a regional environment hub (OCM 20/10/184 held on 27 October 2020 Item 11.4.2).
- The local natural resource management (NRM) groups, currently based in Irrigation House, and Community Recycling WA (CRWA) are the intended occupants of the property.
- DPIRD has advised that the Shire's EOI was successful and has offered a lease of five years with a two year option.
- DPIRD has advised the intention is for the property to be vested with the Shire.
- Entering into the formal lease agreement will ensure security of tenure and enable the Shire to progress development of the regional environmental hub including executing occupancy arrangements with the local environmental groups.

BACKGROUND

The property (DPIRD site) has been vacant for some years following consolidation of the Department of Agriculture's regional offices into locations in Bunbury and Mandurah. DPIRD approached the Shire of Waroona to ascertain interest in leasing the property for community or municipal purposes. Council determined to submit an Expression of Interest for lease of the property to enable relocation of the local NRM groups from Irrigation House. There is also the opportunity to provide a portion of the site to Community Recycling WA (Containers for Change) for use as a collection centre.

REPORT DETAIL

The proposed lease agreement between WAAA and the Shire of Waroona includes the following key components:

- The whole of the Premises as identified, together with all buildings, grounds, sheds and furniture, in **the Schedule** of the Lease Agreement.
- The Lease is for 60 months commencing on 1 October 2021 and expiring on 30 September 2026, with a further 24 month option.
- The annual lease fee is \$1.00 inclusive of GST payable annually in advance.
- The Lease is provided for the establishment of an environmental-agricultural centre and the Shire may sub-lease to NRM groups.
- The Lessee will be responsible for the supply of all services, maintenance, security and the safe storage of chemicals.

The proposed occupancy arrangements with local NRM groups are as follows:

- The Shire will establish a sub-lease with Waroona Landcare, Harvey River Restoration Taskforce, Peel Harvey Catchment Council, Peel Harvey Biosecurity Group and Community Recycling WA (CRWA).
- The sub-lease will be for 60 months commencing 1 October 2021 and expiring on 30 September 2026, with a further 24 month option.
- The sub-lease will confirm the responsibilities and operating cost contributions of the Shire and the groups.
- The groups will commence using the sheds and parking areas only from the commencement of the sub-lease. Occupancy of the office building will occur following refurbishment.

The local NRM groups and CRWA have indicated that the DPIRD site offers excellent storage that will accommodate all of the trailers, large and small equipment, display materials, chemicals, and furniture that the groups use on a regular basis.

The office building provides ample space for employees and volunteers and includes meeting rooms and communal areas that will enable the groups to offer expanded community education and training activities, which assist landowners, land managers and interested community members to better care for the environment.

The property also enables these groups to grow and provide 'hot desk' opportunities for like-minded organisations and individuals. The groups have indicated that the expanded office space will enable more of their regional staff and volunteers to operate from Waroona.

As per Council's 21/22 Budget, the costs associated with maintaining the site will be shared with the sub-lessees and this will be detailed in the sub-lease agreement to be put in place. At the August 2021 Special Council Meeting, Council agreed to provide an annual contribution of \$10,000 towards these costs (SCM21/08/102). The NRM groups have agreed

to an annual lease fee of \$10,000 as a collective contribution to meet the overall costs of maintaining the property. The groups will be responsible for costs associated with power and water consumption and their own organisational expenses.

Containers for Change will be able to operate from the eastern portion of the site and details of the tenure arrangements for this group are to be negotiated.

A refurbishment of the office building and some alterations to fencing and crossovers is required. It is intended that the Shire will work with the groups to identify and plan for these works. In the 21/22 budget, Council agreed to contribute up to \$10,000 for a qualified draftsman or architect to prepare concept plans and costings for this work. External funding will be sought for the refurbishment works, in addition to capital contributions agreed to by Council for the improvements - \$20,000 towards the office building refurbishment and \$3,000 towards the CRWA fencing, gates and crossovers.

The establishment of the property as a regional environment hub provides increased activation of the town centre and increases local employment opportunities.

DPIRD has indicated it is their intention to progress the vesting of the property with the Shire however the timeline for this is currently unconfirmed.

Vacating Irrigation House also enables the potential refurbishment of the building, incorporation into the new Community Precinct and its reestablishment as of a multi-purpose, community facility with shared and flexibility meeting spaces.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

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

Focus Area	Our Environment
Aspiration	To continually care for, protect and enhance our environment for the generations to come
Objective	3.1 Protect and enhance our natural assets, waterways, bushland and biodiversity
Strategy	3.1.1 Collaborate with local environmental community organisations and volunteers

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Nil

SUSTAINABILITY & RISK CONSIDERATIONS

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

Occupancy of the property as a regional environment hub provides benefits for Waroona including:

- Increased town centre activity through expanded environmental service delivery being based in Waroona.
- Visual improvements and more fit-for-purpose facilities for the groups in a currently vacant site.
- Enables groups to grow and provide more local employment.

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

Provides opportunities for community members to come together in a fit-for-purpose facility to work together on environmental programs.

Environment – (Impact on environment’s sustainability)

Enhances local opportunities for landowners, land managers and community members to access support, education, information and equipment to assist in land care and environmental initiatives.

Policy Implications

Policy CGP019 – Application of the Shire of Waroona Common Seal

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>	Failure to enter into formal lease and sub-lease agreements may result in unclear responsibilities for the Shire of Waroona and the tenants impacting management of the premises, delivery of services and compliance with legislation and arrangements.
<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>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

- Department of Primary Industries and Regional Development
- Waroona Landcare
- Harvey River Restoration Trust
- Peel Harvey Catchment Council
- Peel Harvey Biosecurity Group
- Community Recycling WA (Containers for Change)

RESOURCE IMPLICATIONS

Financial

Council contributions approved at Special Council Meeting 10 August 2021 (SCM21/08/102).

\$20,000 refurbishment contribution

\$3,000 CRWA fencing / gates

\$10,000 draftsman for refurbishment concepts

\$10,000 annual contribution to maintenance and insurance

Tenant contributions

\$10,000 annual sub-lease fee

Should one or more of the sub-lessees withdraw from the sub-lease arrangements, Council may incur increased costs to ensure the upkeep of the property. Alternate tenants will be sought.

Workforce

Nil.

OPTIONS

Council has the option of:

1. Supporting the recommendation provided.
2. Amending or not supporting the recommendation.

CONCLUSION

This lease with WAAA and the sub-lease with tenants provides clarity of responsibilities and compliance with agreed conditions regarding the premises, and ensure that the property is occupied by valued environmental groups doing good work in our community.

11.5 CHIEF EXECUTIVE OFFICER

Nil.

11.6 ITEMS FOR INFORMATION

11.6.1 Outstanding Council Resolutions – Appendix 11.6.1.

12. BUSINESS LEFT OVER FROM A PREVIOUS MEETING

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

14. NOTICE OF MOTIONS FOR CONSIDERATION AT A FOLLOWING MEETING

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

16. MEETING CLOSED TO THE PUBLIC

17. CLOSURE OF MEETING