



Date: 17 November 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 Chamber on 23 November 2021 at 4.00pm to consider and resolve the matters set out in the attached Agenda.

A handwritten signature in blue ink, consisting of stylized, cursive letters that appear to read "MG".

**MARK GOODLET
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
6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

6.1 Ordinary Council Meeting – 26 October 2021

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held 26 October 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 Local Emergency Management Committee Meeting – Wednesday 3 November 2021	
File Ref:	1/2246
Author and Title:	Robert Marlborough, Manager Governance
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	10.1A - LEMC Minutes - 3 November 2021 Unconfirmed 10.1B - LEMC Appendices - 3 November 2021

RECOMMENDATION

That Council receives and notes the Minutes of the Local Emergency Committee meeting held on Wednesday 3 November 2021, as attached at Appendix 10.1A and Appendix 10.1B

- 10.1.1 LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING – 3 NOVEMBER 2021 – ITEMS TO BE DEALT WITH SEPARATELY

10.1.2 Local Government - Emergency Management - Memorandum of Understanding between the City of Mandurah, City of Rockingham, Shire of Murray, Shire of Waroona and the Shire of Serpentine Jarrahdale			
File Ref:	7206		
Previous Items	OCM. 26 Apr 17	Item 9.4.1	(OCM17/04/039)
Applicant	Nil		
Author and Title:	Robert Marlborough, Manager Governance		
Declaration of Interest:	Nil		
Voting Requirements:	Simple Majority		
Appendix Number	10.1.2		

RECOMMENDATION

That Council:

1. supports the Local Government, Emergency Management Memorandum of Understanding with the City of Mandurah, City of Rockingham, Shire of Murray, Shire of Waroona and the Shire of Serpentine Jarrahdale, as detailed and provided at Appendix 10.2.2 and,
2. supports the Chief Executive Officer endorsing the Local Government - Emergency Management Memorandum of Understanding with the adjoining Local Governments, as detailed.

IN BRIEF

To consider support to renew the Emergency Management Memorandum of Understanding for Mutual Aid between the City of Mandurah, City of Rockingham, Shire of Murray, Shire of Waroona and the Shire of Serpentine Jarrahdale for a term expiring on 1 December 2025

BACKGROUND

The Local Government Emergency Management Memorandum of Understanding (MOU) for mutual aid during emergencies between City of Mandurah, City of Rockingham and the Shire of Murray (partner local governments) was first supported by Shire of Murray at the Ordinary Council Meeting on 9 July 2015. The operable term of the first MOU was from 2015 to 2018.

The Shire of Waroona Council agreed to be a participant in the MOU for mutual aid at its meeting in on 26 April 2017 and the term of the MOU was extended until 10 December 2021 for all partner local governments.

The aim of the MOU is to formalise cooperative arrangements between the partner local governments, promoting sharing of resources during emergencies and during post-incident recovery, which affects one or more of the partnering local governments.

The guiding principle of the MOU is that any support given to partner local government in a particular emergency event shall be voluntary and of a level that will not unduly compromise the operability of the local government providing the support.

The MOU further provides the purpose as:

- To facilitate the provision of mutual aid between partnering LGs during emergencies and post incident recovery.
- To enhance the capacity of our communities to cope in times of difficulty.

- To demonstrate the capacity and willingness of participating LGs to work co-operatively and share resources within the region.

Partners to the MOU, in times of community distress due to an emergency incident, agree where possible to:

1. Provide whatever resources may reasonably be available within the capacity of that LG to respond to the emergency incident, if requested;
2. Provide at its absolute discretion, whatever resources may be available within the means of that LG to assist with post incident recovery in the community.

REPORT DETAIL

The current MOU is due to expire on 10 December 2021. A new MOU will continue to support the ongoing cooperative arrangements between the partner local governments during emergencies, and during post-incident recovery activities which could impact one or more local government districts.

The joint Local Emergency Management Committee at its meeting on 3 November 2021 supported a continuing MOU for mutual aid during emergency events with the partner local governments. Council are requested to formally support the recommendation presented.

Murray 2031 Strategic Community Plan

Focus Area	Places for People
Objective	Socially connected, safe and cohesive community
Strategy	Facilitate safe neighbourhoods and communities

Murray 2021-2025 Corporate Business Plan

Focus Area	Places for People
Objective	Socially connected, safe and cohesive community
Strategy	Facilitate safe neighbourhoods and communities
Action 1.1.6.5	Facilitate, implement and maintain effective emergency management

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Emergency Management Act 2005.

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 Shire has a responsibility to provided support to the community during emergency events and during recovery from emergencies. Having documented agreements in place for aid with

other local government ensures that additional resourcing opportunities are available, should the need arise.

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

<i>Risk Level</i>	<i>Comment</i>
<i>Low</i>	There is very limited likelihood of adverse reputational or organisational risk from participating in formal arrangements to support emergency management.

CONSULTATION

Local Emergency Management Committee

RESOURCE IMPLICATIONS

Financial

Nil

Workforce

Working arrangements are in place in the Local Emergency Management Arrangements to support emergency events that may occur.

OPTIONS

Council has the option of:

1. supporting the recommendation presented to participate in the Local Government, Emergency Management Memorandum of Understanding for mutual aid, with the partner local governments; or
2. reject the recommendation presented.

CONCLUSION

Having documented relationships with adjoining local governments in the Emergency Management sphere provides additional means for mutual support, should the need arise. This in turn supports the broader community during emergency events and during the recovery phase from emergencies.

11. REPORTS OF THE CHIEF EXECUTIVE OFFICER AND OFFICERS

11.1 DIRECTOR INFRASTRUCTURE SERVICES

A confidential item will be considered under item 16.2

11.2 DIRECTOR PLANNING & SUSTAINABILITY

11.2.1 Shire of Waroona Health Local Law	
File Ref:	26/8 and 77/10
Previous Items:	Item 11.2.1 27 April 2021 OCM21/04/042 Item 11.2.1 27 July 2021 OCM21/07/087
Applicant:	N/A
Author and Title:	Rod Peake, Director Planning and Sustainability
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Appendix Number	11.2.1A – Shire of Waroona Health Local Law 2021 11.2.1B – Letter from Joint Standing Committee on Delegated Legislation 11.2.1C – Proposed Shire of Waroona Health Amendment Local Law 2022

RECOMMENDATION

That Council:

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

- a. undertake State-wide and local advertising, and arrange for the display of public notices relating to the proposed local law that invite public submissions for a minimum of six weeks;
 - b. make copies of the proposed local law available to the general public;
 - c. forward a copy of the proposed local law to the Minister for Local Government and Minister for Health and prepare National Competition Policy documentation after the close of the submission period; and
 - d. prepare a further report to consider the submissions and the making of the local law after the advertising period has concluded.
4. Seeks a further report to consider the submissions on the making of the proposed Shire of Waroona Health Amendment Local Law 2022 following the close of the advertising period.

IN BRIEF

- In July 2021 Council considered the submissions and resolved to make the *Shire of Waroona Health Local Law 2021* (Health Local Law). The Health Local Law became operative in September 2021.
- Subsequent to the adoption of the Health Local Law the Joint Standing Committee on Delegated Legislation (Committee) highlighted a number of relatively minor matters with the Health Local Law and has sought an undertaking that they will be addressed.
- It is recommended at this stage that the Council authorise the Shire President to provide the requested undertaking and commence the process to make a proposed *Shire of Waroona Health Amendment Local Law 2022* to rectify the highlighted issues with the principal local law.

BACKGROUND

At its meeting on 27 July 2021, Council considered the submissions and resolved to make the Health Local Law. This was gazetted on 15 September 2021 and became operative 14 days after the gazettal date. A copy of the Health Local Law is attached at **Appendix 11.2.1A**

Once a local law is gazetted, it is referred to the Joint Standing Committee on Delegated Legislation (Committee) to consider matters including whether it:

- is within power;
- has any unintended effect on any person's rights or interests;
- provides an effective mechanism for the review of administrative decisions; and
- contains only matter that is appropriate for subsidiary legislation.

Where the Committee finds that a local law is inconsistent with one or more of these matters, it will usually seek a written undertaking from the local government to amend or repeal the local law.

Where a local government does not comply with the Committee's request for an undertaking, the Committee may resolve to report to the Parliament recommending the disallowance of the local law in the Legislative Council. A disallowed local law will cease to have effect from the date on which it is disallowed.

REPORT DETAIL

On 10 November 2021 the Committee wrote to the Shire advising of:

1. a number of minor typographical and formatting errors in the Health Local Law;
2. requesting that Australian Standards adopted as part of the Health Local Law will be made easily available and without charge; and
3. its preliminary view of a potential inconsistency between the Health Local Law and the *Local Government Act 1995* (Act). This relates to precluding payment of compensation for damages or loss by the Shire, unless as a result of negligence or breach of duty, where a person is required to carry out works, fails to do so and the Shire then carries out the work in connection to matters including:
 - a) mosquito prevention measures (cl. 6.4); and
 - b) cleaning, disinfecting and related works in the case of infectious disease (Part 7 Division 1).

As a result, the Committee has requested an undertaking, signed by the Shire President in the following terms by 29 November 2021:

1. Within six months:
 - delete clauses 6.10(3), 7.4(4) and 7.11(3)
 - correct the typographical and formatting errors in clauses 1.4 (definition of town site); 2.1 (definition of organiser); 2.7(1)(b); 2.13(5); 5.6(2); 5.7(4)(b); 5.13(6)(f) and 8.1(definition of recreational campsite);
2. State how the Australian/New Zealand standards referred to in the local law can be accessed by the public free of charge.
3. Ensure all consequential amendments arising from undertaking 1 will be made.
4. That clauses 6.10(3), 7.4(4) and 7.11(3) of the local law will not be enforced in a manner contrary to undertaking 1.
5. Where the local law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertaking.

To protect the Committee and Parliament's rights to disallow the Health Local Law and to provide the Committee with additional time to scrutinise it if needed depending on the Shire's response, the Committee has also resolved to give a Notice of Motion in the Legislative Council to disallow the Health Local Law. This is however merely to protect their interests in the process should the Shire refuse to provide the undertakings sought. The Committee officer has indicated that the letter represents the Committee's full assessment of the Health Local Law.

A full copy of the letter from the Committee is included at **Appendix 11.2.1B**

It is not unusual in the process of making a local law that the Committee will highlight issues and request an undertaking to address these. The local law is still operative until and unless the Parliament disallows the local law.

In respect to the formatting and typographical changes raised, these are supported.

In respect to making the various Australian/New Zealand standards stated in the local law available free of charge to the community. These standards can be made available for viewing free of charge at the Shire offices during office hours.

In respect to clauses 6.10(3), 7.4(4) and 7.11(3), these seek to protect the Shire from claims of compensation and damages except where the Shire has acted negligently or in breach of duty. Section 3.22 of the Act contains a general requirement for the payment of compensation by local governments to owners or occupiers of land for damage sustained through the performance of functions under the Act.

Whilst on the face of it, it does appear that a conflict exists, identical clauses are included in other existing local government local laws. The conflict needs to be reviewed in more detail and will depend on factors such as the context of section 3.22 of the Act. Given the extremely tight timeframe provided by the Committee, this was not able to be completed prior to the publication of the agenda. The Shire’s solicitors are currently reviewing the issue and Councillors will be advised before the Council meeting should they consider that there is no conflict.

Subject to the advice of the Shire solicitors, it is recommended that Council make the undertaking to the Committee in full. This will result in the need to formally make a Shire of Waroona Health Amendment Local Law 2022 as shown in **Appendix 11.2.1C**.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

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

OTHER STRATEGIC LINKS

Shire of Waroona Corporate Business Plan “Towards Waroona 2030”

Action 5.1.1.2 – Review all local laws

STATUTORY ENVIRONMENT

Local Government Act 1995 (Act) and subsidiary legislation

Council may make local laws in accordance with Part 3 of the *Local Government Act 1995* 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 s3.12 of the *Local Government Act 1995*.

Section 3.12 –

- (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 Statewide public notice stating that —
 - (i) the local government proposes to make a local law the purpose and effect of which is summarised in the notice; and
 - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; andsubmissions 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.
- (3a) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.
- (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.

The timeline associated with making a local law and a summary of the process steps is shown in the following table.

Task	LGA Section	Timeline
Report to Council for approval to advertise the proposed new Local Law.	3.12(2)	November 2021
Give State-wide and local public notice and make copies available to the general public	3.12(3) & 3(a)	December 2021
Provide a copy of the proposed local law and the notice published to the Minister for Local Government and other relevant Ministers	3.12(3)(b)	December 2021
Closing date for submissions to be received (not less than 6 weeks)	3.12(4)	February 2022
Consider submissions and report back to Council to determine whether to make the Local Law (Absolute Majority required)	3.12(4)	March 2022
Publish Local Law in Government Gazette and forward a copy to the Minister for Local Government and other relevant Ministers	3.12(5)	April 2022
Give State-wide and local public notice advising that the new law has been made, the title, the purpose and effect and make copies available to the general public	3.12(6)	May 2022
Prepare explanatory memorandum and submit with copy of the new Local Laws to Parliamentary Joint Standing Committee on Delegated Legislation.	3.12(6)	May 2022
<i>Note: Dates are a guide only</i>		

In addition, Regulation 3 of the *Local Government (Functions and General) Regulations 1996* provides that:

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

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

The following statement fulfils the requirement defined in Regulation 3:

NOTICE of purpose and effect of the proposed *Shire of Waroona Health Amendment Local Law 2022*;

Purpose:

“The purpose of the local law is to correct minor errors in the Shire of Waroona Health Local Law 2021;

The effect of making the proposed local law is that the Shire of Waroona Health Local Law 2021 is clearer to understand, apply and enforce.”

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>	Community health and amenity
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	4 - Likely
<i>Rating</i>	High (10-19)
<i>Controls / Review</i>	Local law will provide a statutory means to effectively control health and amenity impacts on the community
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Director
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

- Joint Standing Committee on Delegated Legislation.
- All local laws are required to undergo State-wide and local advertising that invite public submissions for a minimum of six weeks. Submissions received will be considered as part of the making of the local law.

RESOURCE IMPLICATIONS

Financial

The costs associated with addressing the matters raised by the Committee and making an Amendment Local Law will be restricted to legal, advertising and gazettal costs. Sufficient funds are available in the 2021/22 budget to cover these costs.

Workforce

The proposed Amendment Local Law can be prepared within existing staff resource levels.

OPTIONS

Council has the option of:

1. Providing the undertaking to the Committee and commencing the process of an Amendment Local Law.
2. Not providing the undertaking to the Committee (in part or in whole) and set out the reasons for this.

CONCLUSION

The matters raised by the Committee in respect to the minor changes to the Health Local Law and providing access to the specified Australian/New Zealand standards are considered reasonable.

The matter of inconsistency with the Local Government Act in three of the Health Local Law clauses also appears correct on face value, however, is currently being reviewed by the Shire solicitors. Councillors will be advised before the Council meeting should the solicitors advise there is not a conflict.

On this basis it is recommended at this stage that the Council authorises the Shire President to provide the requested undertaking to the Committee and commences the process to make the proposed *Shire of Waroona Health Amendment Local Law 2022* to rectify the highlighted issues with the principal local law.

11.2.2 Proposed Inert Landfill, Waste Sorting and Recycling Facility at Lot 3 Buller Road, Waroona	
File Ref:	TP2228
Previous Items:	OCM 15/12/217 (File Ref: TP2174/EIL35) OCM 15/09101 (File Ref: TP1770 EIL 34)
Applicant:	AMG WA Pty Ltd
Author and Title:	Cherryll Oldham, Senior Planning Officer Rod Peake, Director Planning and Sustainability
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Numbers	11.2.2A- Landfill Waste Classification and Waste Definitions 11.2.2B – Application Report 11.2.2C – Submission Schedule

RECOMMENDATION

That Council approves the application for Inert Landfill, Waste Sorting and Recycling Facility at Lot 3 Buller Road, Waroona, subject to the following conditions:

- 1. The development is to be carried out in accordance with the approved plans and documentation (as modified by these conditions of approval) included in the ‘Peel Landfill Facility Lot 3 Buller Road Waroona Supporting Documentation dated 28 June 2021, as amended;**
- 2. Landfill materials are to be restricted to Class I landfill only as defined by the Department of Water and Environment Regulation’s ‘*Landfill Waste Classification and Waste Definitions*’;**
- 3. No clearing of vegetation is permitted outside the area identified as ‘Edge of vegetation clearing’, without further approval being granted by the local government;**
- 4. Should the extraction of sand be delayed through the expiry of the local government approval and/or excavation licence or is behind schedule, no stock piling of land fill is permitted on Lot 3 Buller Road;**
- 5. Hours of operation, including the movement of heavy vehicles and/or machinery in or out of the property is limited to 7.00am to 5.00pm Monday to Friday and 7.00am – 1.00pm Saturday. The facility is not to operate on Sundays or public holidays;**
- 6. The waste sorting and recycling components of the approved development are to cease once the inert land fill has been completed;**
- 7. Prior to the commencement of works a Groundwater Quality Monitoring Plan is to be lodged with the local government for approval. The plan is to include the installation of ground water quality monitoring bores designed and located to effectively monitor the impact of the landfill on ground water quality (including in particular heavy metals, hydrocarbons and chlorinated organics); monitoring, reporting; and contingency measures. The approved plan is to be implemented to the satisfaction of the local government;**
- 8. Prior to the commencement of works the Transport Management Plan is to be updated to the satisfaction of the local government to consider and identify the cumulative traffic impacts from all the developments that use Buller, Fawcett and Coronation Roads to the satisfaction of the local government. The recommendations of the approved Transport Management Plan are to be implemented to the satisfaction of the local government;**

9. Prior to the commencement of works the applicant is to construct and seal the crossover to Buller Road, the driveway within Lot 3 and upgrade the adjacent section of Buller Road in accordance with the Shire of Waroona Heavy Vehicle Driveway Crossover Details Specification to the satisfaction of the local government;
10. The applicant is to financially contribute to the following as determined by the local government, having regard to the approved (revised) Transport Management Plan:
 - (a) Upgrading the local road network to accommodate the movement of haulage vehicles used in the approved development; and
 - (b) The repair, maintenance and renewal of the local road network to accommodate the movement of haulage vehicles used in the delivery of materials to the site;

Prior to the commencement of works, the applicant/landowner is to enter into an agreement with the local government to secure the financial contributions referred to in this condition. The applicant/landowner is to bear all expenses associated with preparing and registration of the agreement;

11. A Rehabilitation Management Plan is to be lodged with the local government for approval by the local government prior to the commencement of works to address all aspects of the site closure and rehabilitation. The management plan is to, in particular, consider the type and depth of soil to be used to cap the land fill to maximise the success of the native vegetation rehabilitation and the staging of the progressive landfill and rehabilitation. The development site shall be progressively rehabilitated in accordance with the requirements of the approved Rehabilitation Management Plan;
12. Prior to the commencement of works the landowner/applicant is to enter into an agreement with and to the satisfaction of the local government to implement the approved Rehabilitation Management Plan as required by condition 11 above. The agreement is to provide for access to the site by the local government or its contractors to undertake the rehabilitation in the event that the applicant fails to implement the Rehabilitation Management Plan. The applicant/landowner is to bear all expenses associated with preparing and registration of the agreement;
13. Prior to the commencement of works the landowner/applicant is provide a bond or bank guarantee to the local government to secure the successful implementation of the approved Rehabilitation Management Plan as required by condition 11 above. The bond or bank guarantee is to be no less than 30% of the cost of implementing the plan including the site preparation, planting and maintenance for two summers;
14. Prior to the commencement of works a plan is to be lodged with the local government for approval by the local government that demonstrates how the edge impacts of the land fill works will be effectively managed to avoid impacting the adjacent retained native vegetation. In particular this plan is to address the intrusion of litter, weeds, people/vehicles, dieback and fill materials.
15. A Landscape Assessment and Management Plan is to be lodged with the local government for approval by the local government prior to the commencement of works. The plan is to, in particular, consider the staging of the development, the existing and proposed ground levels and the screening necessary to minimise the visual impact of the landfill, waste sorting and recycling operations from the adjacent street and properties. The approved Landscape Assessment and Management Plan is to be implemented to the satisfaction of the local government;

16. The landfill site is to be fenced to the satisfaction of the local government sufficient to prevent unauthorised access or dumping of materials;
17. The site is to be managed to effectively stabilise dust on the site to prevent it from resulting in a nuisance to adjacent landowners;
18. The burning of cleared vegetation or other materials from the development is not permitted. The vegetation that cannot be salvaged is to be mulched and used onsite for the rehabilitation;
19. Prior to the commencement of works a sign is to be installed at the main entrance to the property and maintained at all times to identify the operator and a contact name and telephone number of a responsible contact person for enquiries relating to the facility.
20. Prior to the commencement of works signs are to be installed and maintained to the specifications and satisfaction of the local government, warning of trucks entering and existing the site.
21. A Dieback Management Plan is to be submitted to the local government for approval by the local government. The approved Dieback Management Plan is to be implemented to the satisfaction of the local government.
22. A Weed Management Plan is to be submitted to the local government for approval by the local government. The approved Weed Management Plan is to be implemented to the satisfaction of the local government.
23. By 30 June each year, a report is to be provided to the local government in the form approved by the local government. The report is to provide details of the operations of the approved development for the preceding calendar year including, but not limited to:
 - (a) the progress of the work;
 - (b) the progress of all rehabilitation work undertaken or completed;
 - (c) certifying that the provisions of each of the plans referred to in these conditions have been complied with;
 - (d) in the event of any non-compliance with the provisions of any of the plans referred to in these conditions, details of each non-compliance; and
 - (e) the number and type of complaints received from the public and the responses made to those complaints.

The progress report shall include a survey of the current state of the site accurate to within one month of the date of the report.

24. This approval shall expire and have no further effect if the development hereby approved is not substantially commenced within two years of date of the approval, or any extension of time which upon written application to the local government (made at least 60 days prior to the expiry of the approval) is granted in writing.

IN BRIEF

- The application seeks approval to use an existing and developing sand pit to deposit inert landfill and to undertake a waste sorting and recycling facility.
- The development will require separate Works Approval from the Department of Water and Environmental Regulation (DWER). This process will deal with the environmental management of the facility and the monitoring of the materials to be used as land fill.

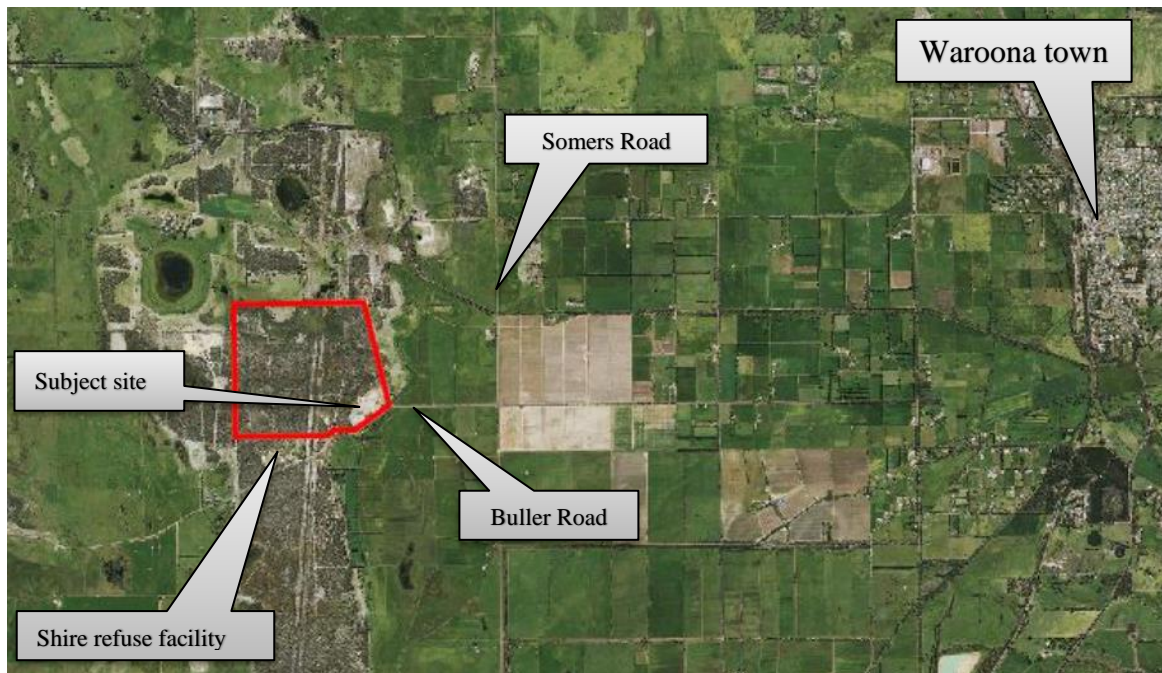
- The site is separated by at least 1.1km to the nearest dwelling and so noise and dust impacts should be able to be effectively managed.
- Rehabilitation of the site is proposed with native vegetation on a staged basis as the site is filled.

BACKGROUND

Lot 3 Buller Road is located some eight kilometres west of Waroona town. Land to the east is generally used for agricultural pursuits. Land to the south, east and west forms part of a natural vegetated corridor, which includes the Buller Nature Reserve. The Shire’s Buller Road refuse site and another sand excavation and inert landfill are located nearby to the west.

Lot 3 measures approximately 218Ha in area. The majority of the site is covered with native vegetation which incorporates mapped wetlands. An approximate 10Ha area in the south west corner of the site adjacent to Buller Road has been cleared for previous sand excavation. An adjacent area has also recently been cleared to accommodate an approved extension to the sand excavation. The nearest dwelling is located approximately 1.1km to the north of the landfill site.

A location map of the site is shown below.



In December 2015, Council granted approval to excavate sand from a 13Ha portion in the south western corner of Lot 3. This approval expired in December 2020. On 15 December 2020 Council re-approved the excavation for a further five years and extended the excavation area by a further 10Ha to 23Ha. No extraction activity is currently being carried out from the site.

REPORT DETAIL

Proposal

The application proposes an inert landfill, waste sorting and recycling facility. The site will comprise two separate adjacent areas totalling approximately 22.6Ha which have generally either been previously excavated or approved for future excavation. It is proposed to continue the approved sand excavation from the site, which will progressively provide additional airspace for the landfill.

The applicant estimates it will initially receive approximately 100,000m³ of waste per annum for the first few years, increasing to approximately 200,000m³ per annum. The land fill will be restricted to the DWER's Class I materials. A Class I landfill means an unlined landfill designed to accept inert wastes for burial. Proposed Class I acceptable wastes include:

- Clean Fill;
- Inert Waste Type 1 (includes non-hazardous and non-biodegradable landfill);
- Uncontaminated fill;
- Neutralised acid sulfate soil (where authorised under an Environmental Protection Act licence);
- Contaminated solid wastes meeting waste acceptance criteria specified for Class I landfills (where authorised under an Environmental Protection Act licence);
- Inert Waste Type 2 (where authorised under an Environmental Protection Act licence)(includes stable non-biodegradable organic materials such as tyres and plastics);
- Inert Waste Type 3 (where authorised under an Environmental Protection Act licence)(includes waste material from licensed secondary waste treatment plants);
- Special Wastes Type 1 and Type 3 (where authorised under an Environmental Protection Act licence) (includes asbestos and asbestos containing materials as well as Perfluoroalkyl and Polyfluoroalkyl Substances).

The DWER '*Landfill Waste Classification and Waste Definitions*' is included as **Appendix 11.2.2A** which sets out in more detail the materials included as Class I land fill.

The waste sorting and recycling will be carried out within the sand mining void and include the following:

- Receival and inspection of waste;
- Sorting of waste material into processable inert material, recyclable component and residual waste;
- Screening of mixed waste materials;
- Screening and crushing of inert materials to produce sand, road base and drainage rock products;
- Stockpile, sampling and analysis of sand product; and,
- Storage of waste and recyclable material pending off-site removal.

The applicant estimates approximately 75,000m³ of waste to be received at the sorting and recycling facility initially increasing to approximately 150,000m³ in time.

A Facility Waste Management Plan has been included with the application which sets out the proposed means of managing the waste activities on the site.

The facility will operate from 7am to 5pm Monday to Friday and 7am to 1pm on Saturday. It will be closed on Sundays and public holidays. Between six and 10 staff will be needed during operating times for the overall facility, including the excavation.

Site infrastructure will include:

- Gatehouse – located at the site entrance off Buller Road (existing access point);
- Weighbridge – 28m x 3.5m deck located alongside the gatehouse;
- Crib room and ablutions;
- Water supply tank (50kL) for dust suppressions and firefighting; and
- Internal roads – to the landfill and the sorting and recycling facility. The access roads will change as the landfill tipping area moves around the site.

The landfill site will be progressively closed and rehabilitated once the waste level achieves the design profile. Within two years of commencing land fill operations the applicant proposes to prepare a comprehensive rehabilitation plan covering all aspects of land fill closure and site rehabilitation. It is proposed that the land fill will be capped by at least one metre of soil and then vegetated.

A full copy of the application documentation is included at **Appendix 11.2.2B**.

Zoning and Permissibility

Lot 3 is zoned 'Rural' under the Peel Region Scheme and 'Rural 1 – General Farming' under the Shire of Waroona Local Planning Scheme No. 7 (Scheme).

The inert landfill is a prescribed premise under the *Environmental Protection Regulations 1987* and requires a works approval/licencing under the *Environmental Protection Act 1986* from the DWER. On this basis, the development would be classified as 'Industry-noxious' under the Scheme. 'Industry-noxious' is identified as an 'A' use in the 'Rural 1 – General Farming' zone which means that Council has discretion to approve the use following advertising and consideration of any submissions.

The objective of the 'Rural 1 – General Farming' zone is "*to preserve the rural character of the District's farming lands and to ensure that they continue to contribute materially to the District's economy, whilst recognising that changes in land use practices will affect land management and the landscape generally.*"

The proposal is a temporary use that will continue until the land has been filled to an approved level and has been rehabilitated. The land will then be suitable for a future use consistent with its zoning. On this basis it is considered that the use may be considered consistent with the objectives of the zone.

Buffers to Sensitive Land Uses

The DWER *Guidance Statement on Separation Distances between Industrial and Sensitive Land Uses* stipulate a 150m buffer to the nearest sensitive land uses such as residential for inert landfill and 1,000m for crushing of building materials.

The nearest dwelling to the development is approximately 1.1 km to the north. There are also two dwellings to the north east and south at approximately 1.2 km from the landfill.

The key amenity issues associated with the proposed use are noise and dust. The distance between the proposed land use and existing dwellings exceeds the stipulated buffers. Where the separation distance is greater than the generic distance, there will not typically be a need to carry out site-specific technical analyses to determine the likely amenity impacts. The application does however include an acoustic assessment which demonstrates compliance with the Environmental Protection (Noise) Regulations. The Facility management also

includes a number of dust management measures that are considered sufficient to effectively manage the dust in this case.

Materials

The landfill materials will be restricted to inert waste in accordance with the DWER *Landfill Waste Classification and Waste Definitions*. This typically includes clean fill, building rubble, vehicle tyres, plastics, asphalt, casting and blasting sand and asbestos. The majority of customers are anticipated by the applicant to be commercial waste collection, demolition and construction companies.

The proposed works involve waste management activities that require a Works Approval to be issued by the DWER. An application for a Works Application has been submitted to the DWER and is in the process of being assessed concurrent with the development application. It is noted that detailed environmental management of the works, including the monitoring of the landfill materials, will therefore be overseen by the DWER rather than through the development approval process.

Due to the nature of the waste being received on site there should be limited leachate being generated by the waste mass. This will be managed via a range of methods including maintaining a two-metre vertical separation distance to groundwater; inspection, sorting and management of waste; and ground water monitoring. It is considered that ground water quality monitoring be undertaken in order to ensure effective monitoring and quality control at the facility. The existing location of the ground water bores may be unsuitable for monitoring of ground water quality and any potential leachates and additional monitoring bores should be installed downstream of the land fill areas.

As the Class I land fill includes asbestos, a separate Asbestos Management Procedure has been included with the application. This will include a dedicated asbestos area, asbestos handling and the use of personal protective equipment, the wrapping and marking of asbestos containing materials and an asbestos register for recording the location of the asbestos. The DWER licencing process will ensure that asbestos management meets with legislative requirements that precludes airborne asbestos fibres.

Tyres will be accepted at the facility. These are proposed to be well distributed throughout the fill material which will ensure suitable ground consolidation and fire risk is managed.

Vegetation clearing

Portion of the land fill site is currently covered in native vegetation.

The Commonwealth Department of the Environment and Energy granted approval (EPBC 2018/8138) to carry out sand mining on Lot 3 and to clear vegetation from the additional 10.04 hectare area, subject to submission of a revegetation plan for revegetating the revised 23.14 hectare site upon the cessation of mining. This approval is valid until 31 December 2039.

Two clearing permits have been issued by DWER for the clearing of native vegetation on the site to facilitate the previously approved sand extraction. These areas generally include the land fill areas. Neither decision accounted for land fill as the end land use. The proposed would therefore result in non-compliance with the clearing permit conditions requiring revegetation of cleared areas following the completion or cessation of sand extraction activities. Consequently, amendments to the revegetation conditions for the clearing permits will be required. DWER has recommended that an increased offset area and revegetation of the land fill areas be undertaken. This has been agreed to by the applicant.

The proposed works have the potential to impact and degrade the native vegetation abutting the land fill areas, particularly the western land fill area which has a relatively narrow shape. A condition has been recommended to require a plan that demonstrates how the edge impacts of the land fill works will be managed to minimise impacts on the adjacent vegetation in terms of factors such as intrusion of litter, weeds, people/vehicles, fill and dieback.

Traffic

The Transport Management Plan submitted with the application did not raise any issues with the extractive industry and proposed inert land fill proposal on the existing local roads. Whilst individually the developments do not appear to generate safety concerns, the cumulative impact of all developments using Buller Road, Somers Road and Coronation Road and the intersection of at South Western Highway should be further considered. It is recommended that prior to development commencing a revised transport management plan be prepared and submitted to the Shire that considers all users of these roads and intersections. This report will reveal any safety issues that need to be considered.

The transport management plan identifies the need to contribute to the maintenance of Shire managed roads similar to the extractive industry requirements, a condition has been included requiring a deed of agreement to be entered into with the Shire to ensure road maintenance contribution is paid to the Shire.

Rehabilitation

It is intended to cap the land fill with a minimum of one metre depth of soil from the site and then revegetate the filled areas with native vegetation. The applicant advises that a comprehensive Rehabilitation Plan covering all aspects of landfill closure and site rehabilitation will be provided within two years of commencing landfill operations.

There are concerns that one metre of fill may not be adequate to maximise success of the native vegetation rehabilitation. In addition, the plan should be provided prior to the commencement of land fill works so that the rehabilitation, including staging, is known up front and can be factored into the works. The Rehabilitation Plan should address staging as well as type and depth of capping soil to maximise the success of the rehabilitation to native vegetation.

The final contouring plan shows the final land profile that is generally compatible with the adjacent land. It is noted however that the fill areas are in part higher than natural ground level. The applicant advises that the top of the profile has been designed to be above the existing natural ground level, with the maximum height difference being approximately 5 metres over a small area in the centre of the proposed eastern landfill. This allows for settlement and surface drainage.

Whilst the final surface profile appears reasonably compatible with the surrounding area upon completion of the fill and rehabilitation, during the period that works are being undertaken they will be visible at least in parts from the south and east. It is recommended that a landscape impact assessment be undertaken, and landscape screening be implemented in accordance with the approved plan with the aim of minimising the visual impact of the development.

WAROONA 2030 STRATEGIC COMMUNITY PLAN

Focus Area	Our Community
Aspiration	To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning
Objective	1.3 A planning framework that is visionary, supports connectivity and enables participation that ensures quality, diverse and innovative planning outcomes that meets community aspirations
Strategy	1.3.1 Ensure our Town Planning Scheme and Local Planning Strategy facilitates quality and diverse planning outcomes

Focus Area	Our Economy
Aspiration	To create a diverse economy base that support opportunity and employment
Objective	3.2 Proactively manage resources and practice sustainability through responsible management of water, energy, fire management and waste.
Strategy	2.2.1 Support local businesses, Waroona Business Support Group Initiatives

Focus Area	Our Environment
Aspiration	To continually care for, protect and enhance our environment for the generations to come
Strategy	Protect and enhance our existing natural assets, waterways, bushland and biodiversity

Focus Area	Our Environment
Aspiration	To continually care for, protect and enhance our environment for the generations to come.
Strategy	3.2.4 Improve waste management practices through diversion, re-use and recycling

OTHER STRATEGIC LINKS**South Metropolitan Peel Sub-Regional Planning Framework**

The Planning Framework identified the site with a rural land use area. The Framework also lists key waste management sites within the sub-region, including Henderson Waste Recovery Park, Millar Road landfill and recycling facility, Armadale landfill and recycling facility, Mandurah Waste Management Centre and the Tim's Thicket Septage and Inert Waste Disposal Facility.

The Planning Framework advises consolidation of existing waste facility sites and co-location of waste facilities with other compatible industries and infrastructure can potentially meet most short-to-medium term waste infrastructure needs in the Perth and Peel regions.

The Western Australian Waste Strategy: "Creating the Right Environment" identifies long-term waste and recycling infrastructure planning as a key strategic response to the challenges facing waste management in the State. A range of investigations are currently being undertaken to identify strategic waste infrastructure sites required in the long-term. This

document was released in 2012 and no further updates other than data gathering is provided in relation to this strategy.

Local Planning Strategy (LPS)

Under the Shire of Waroona's Local Planning Strategy Lot 3 is located within the General Agricultural zone where the objectives are 'to provide for the continued use of the areas for a range of agriculture pursuits and low-key establishment'.

STATUTORY ENVIRONMENT

Shire of Waroona Local Planning Scheme No 7
Planning and Development (Local Planning Schemes) Regulations

SUSTAINABILITY & RISK CONSIDERATIONS

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

This application proposes to use the excavated area from sand extraction to fill with Class I inert materials. This development has the potential increase local employment opportunities and facilitate ongoing local economic activity.

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

Increased employment opportunities in the area have the potential to enhance the quality and lifestyle of local residents and increase economic opportunities for local business.

Environment – (Impact on environment's sustainability)

No significant further removal of vegetation is proposed by this development. Class I inert landfill does not pose a significant risk in relation to ground water contamination as the materials buried are inorganic, non-toxic and non-leaching. There is risk however that toxic or unsuitable materials may arrive on site mixed with inert materials. This risk however is reduced by process to be put in place to ensure unsuitable materials are identified and removed from the site. Also, the two-metre separation between the fill and highest known ground water level should be sufficient to prevent any contamination of groundwater. Water monitoring bores can be utilised to monitor the quality of the water entering and leaving site.

Policy Implications

There are no specific local planning policies nor other Council policies that directly apply to the proposed development.

Risk Management Implications

<i>Theme</i>	Environmental - Regulatory compliance, contamination, inadequate processes
<i>Description</i>	Potential environmental or amenity impacts
<i>Consequence</i>	2 - Minor
<i>Likelihood</i>	3 - Possible
<i>Rating</i>	Low (1-3)
<i>Controls / Review</i>	Conditions of approval
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

The application was advertised for submissions for 34 days by way of an onsite sign, letters to nearby landowners and relevant State agencies. An advertisement was also placed in the local newspaper and on the Shire website. The closing date for submission 5 October 2021.

A the close of the advertising period seven landholder and five State agency submissions were received. A summary of the issues raised by each submission, together with an applicant and officer comment on each is included in a submission schedule at **Appendix 11.2.2C**

RESOURCE IMPLICATIONS*Financial*

The relevant administration fee has been paid the applicant.

Workforce

Nil

OPTIONS

Council has the option of:

1. Granting development approval with or without conditions.
2. Refusing to grant development approval for stated reasons.

CONCLUSION

The Council has discretion to consider this application following advertising and consideration of submissions.

The development will require separate works approval from the Department of Water and Environmental Regulation, which will deal with the environmental management of the facility. The site is separated by at least 1.1km to the nearest dwelling and so noise and dust impacts should be able to be effectively managed. Rehabilitation of the site is proposed with native vegetation on a staged basis as the site is filled. It is recommended that the application be approved with conditions.

11.3 DIRECTOR CORPORATE SERVICES

11.3.1 Listing of Payments for the Month of October 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 - Payment Listing October 2021

RECOMMENDATION

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

Municipal	Cheque 9799 - 9821	\$22,428.13
	EFT 35066 – 35267	\$797,946.35
Direct wages	01/10/21 – 31/10/21 inclusive	\$168,512.20
Direct Debit	01/10/21 – 31/10/21	\$34,830.84
Trust	Cheque – 11267	\$43,665.00
	EFT - Nil	
GRAND TOTAL		\$1,067,382.52

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 October 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 October 2021.
2. Not receive the listing of payments presented for the month of October 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 October 2021 to 31 October 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	11.3.2 - Monthly Agenda Report 21-22 October

RECOMMENDATION

That Council receive the Monthly Statement of Financial Activity for the period ending 31 October 2021 as presented.

IN BRIEF

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

BACKGROUND

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

REPORT DETAIL

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

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

The following information is included in the report;

- Statement of Financial Activity by Programme
- Statement of Financial Activity by Nature and Type, and
- Statement of Financial Position
- Note 1 – Significant Accounting Policies
- Note 2 – Graphical Representation
- Note 3 – Net Current Funding Position
- Note 4 – Cash and Investments
- Note 5 – Major Variances
- Note 6 – Budget Amendments

- Note 7 – Receivables
- Note 8 – Grants & Contributions
- Note 10 – Capital Disposals and Acquisitions
- Note 11 – Trust
- Note 12 - Borrowings

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

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

OTHER STRATEGIC LINKS

Shire of Waroona 2020/21 Annual Budget

STATUTORY ENVIRONMENT

Local Government Act 1995 – Section 6.4
 Local Government (Financial Management) Regulations 1996 – Section 34

SUSTAINABILITY & RISK CONSIDERATIONS

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

Nil

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

Nil

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

All financial policies from Policy FIN002 through to Policy FIN035

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

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

CONSULTATION

Nil

RESOURCE IMPLICATIONS*Financial*

Nil

Workforce

Nil

OPTIONS

Council has the option of:

1. Receiving the monthly financial statements.
2. Not receiving the monthly financial statements.

CONCLUSION

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

11.3.3 Change of Rating Method	
File Ref:	111/1 & 1/7
Previous Items:	
Applicant:	N/A
Author and Title:	Kirsty Ferraro, Manager Corporate Services
Declaration of Interest:	N/A
Voting Requirements:	Simple Majority
Appendix Number	11.3.3 - Change of Rating Method - Nov 21

RECOMMENDATION

That Council:

1. **In accordance with Section 6.28 of the Local Government Act 1995 the Council will endorse, a change in rating method from Unimproved (UV) to Gross Rental Value (GRV), according to predominant land use, for areas of the Shire of Waroona detailed below and identified at Appendix 11.3.3 with an anticipated application date of 1st July 2022.**
 - a. **McDowell Street north of the Waroona townsite.**
 - b. **Banbar View subdivision Waroona.**
 - c. **Flathead Vista, Blackbrim Entrance and Rakali Drive Lake Clifton.**
2. **Following endorsement by Council, affected landowners be informed in writing of Council's reasons for seeking the change in the method of valuation and the likely impact on the annual rates payable for that property and are given 28 days after receiving the information to make a submission on whether the assessment of predominant land use is correct.**
3. **The ratepayer's submissions, if any, and Council's response to each submission will be presented to Council, recorded in the Council minutes and conveyed to the Minister for Local Government as part of the application process.**

IN BRIEF

- The Shire of Waroona regularly reviews the rating method for properties as required under Section 6.28 of the Local Government Act 1995.\
- Council is required under section 6.28 to rate land areas in accordance with the principle of "predominant land use".
- Council's last change of rating method occurred in 2009/10 when Leavy Road Waroona and Southern Estuary Road Lake Clifton were changed from Unimproved Value (UV) to Gross Rental Value (GRV).

BACKGROUND

Past changes in rating method from Unimproved Value (UV) to Gross Rental Value (GRV) have occurred in the following areas:

2009/10 – Leavy Road and sections of Southern Estuary Road
 2006/07 – Forrington Heights and Woodley Heights
 2002/03 – Armstrong Hills and Tuart Grove

Recent subdivisions in the Lake Clifton and Hills area and residential development north of the town boundary requires an assessment of predominant land use to ensure equability across all rating areas.

REPORT DETAIL

The Shire of Waroona regularly reviews the rating method for properties as required under section 6.28 of the Local Government Act 1995, whereby Council is required to rate land areas in accordance with the principle of “predominant land use”.

This section defines that the basis for rating on any land is to be:

- a. Where the land is used predominantly for rural purposes, the UV of the land.
- b. Where the land is used predominantly for non-rural purposes, the GRV of the land.

Local Governments have a role in ensuring that the rating principles of the Act are correctly applied to rateable land within the district.

Assessing the predominant land use

Assessing the predominant land use of land is fundamental to determining the method of valuation to be used for rating purposes. The Act does not define the term “predominant”. Consequently, an assessment must be made on a case-by-case basis as a question of “fact and degree” as to whether or not the use of a particular property should be categorised as predominantly rural or non-rural.

Local Governments should take all relevant factors into consideration including the following:

a. Activity conducted on the land

Many activities may be associated with the use of the property. The nature, the scale and extent of each activity should be considered in any assessment of predominant use.

b. Development on the land

The nature, scale, and extent of the development of a property can give an indication of the nature, scale and intensity of associated uses. They can also affect the capacity for a property to be used for other purposes.

c. Income

Where a property is used for (2) or more different purposes, the income generated from each use can be a guide to assessing the predominant use of the land.

d. Local Planning Scheme restrictions

A local planning scheme can effectively restrict the use of land for a rural or non-rural purpose and should be considered when assessing predominant land use.

e. Vacant land

As vacant land is generally not used for any purpose, it is arguable what the predominant use of such land might be. In determining the “predominant use” of vacant land, consideration should be given to the predominant use of the surrounding land and any planning/development restrictions that apply to the vacant land in question.

Proposed change of rating method areas

Land identified for a change in rating method are:

a. McDowell Street north of the Waroona Townsite

A rating method change for this area will affect approximately 60 properties. All of the properties identified are currently located in the Prescribed UV (06) area and have already been allocated a GRV valuation for Emergency Services Levy (ESL) purposes.

The majority of properties located in this area are of a similar size and zoning and most of them are developed for residential purposes with people living on them. Most of the residents on these properties keep some animals and grow produce mainly for personal consumption. However, due to the small scale of rural activities the predominant land use is residential. As the majority of the surrounding properties are used predominantly for non-rural purposes, the vacant land could be deemed to be predominantly non-rural.

b. Banbar View, east of the Waroona townsite

A rating method change for this area will affect 5 properties. The Banbar View subdivision is located in the hills next to the Leavy Road subdivision and was subdivided in March 2014. These properties are currently located in UV Rate Code 02 (General Farming) and are zoned R4 Hills Face for planning purposes.

The majority of properties located in this area are of the same size and zoning and most of them are developed for residential purposes with people living on them. As the majority of the surrounding properties are used predominantly for non-rural purposes, the vacant land could be deemed to be predominantly non-rural.

c. Flathead Vista, Blackbrim Entrance & Rakali Drive, Lake Clifton

A rating method change for this area will affect approximately 26 properties. The Flathead Vista/Blackbrim Entrance/Rakali Drive subdivisions are in Lake Clifton next to the Southern Estuary Drive and Stacey Rise subdivisions. They are currently rated UV Rate Code 02 (General Farming).

The majority of properties located in this area are of a similar size and zoning and most of them are developed for residential purposes with people living on them. Most of the residents on these properties keep some animals and grow produce mainly for personal consumption. However, due to the small scale of rural activities the predominant land use is residential. As the majority of the surrounding properties are used predominantly for non-rural purposes, the vacant land could be deemed to be predominantly non-rural.

Potential Impact on Landowners

The impact of those properties within the areas of review is that the valuation will be based on improvements to the land and the potential annual rental yield, with the exception of vacant land which would be derived from a calculation of 3% of the capital value. This is opposed to the current UV valuations which are assessed on the land with no improvements taken into account.

The exact financial implications are unknown until revaluations have been received from Landgate’s Valuation Services, however, there may be instances where a landowner’s rates may increase or decrease.

Implementation date

Should the proposal be supported by the Council and the Minister, the date of implementation is proposed to be 1 July 2022. Please note that this coincides with the 2022/23 GRV revaluation for the whole shire.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

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

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Section 6.28 of the Local Government Act 1995

6.28 *Basis of rates*

(1) *The Minister is to –*

(a) *Determine the method of valuation of land to be used by a local government as the basis for a rate; and*

(b) *Publish a notice of the determination in the Government Gazette.*

(2) *In determining the method of valuation of land to be used by a local government the Minister is to have regard to the general principle that the basis for a rate on any land is to –*

(a) *Where the land is used **predominantly for rural purposes**, the unimproved value of the land; and*

(b) *Where the land is used predominantly for non-rural purposes, the gross rental value of the land.*

(3) *The unimproved value or gross rental value, as the case requires, of rateable land in the district of a local government is to be recorded in the rate record of that local government.*

Interpretation of ‘rural purposes’

The phrase ‘rural purpose’ is not defined in the Local Government Act and has not been judicially considered. In these circumstances, the ordinary and natural meaning of the phrase should be applied taking into account the context of section 6.28 of the Local Government Act.

‘Rural’ means the character of non-urban areas where agriculture is carried out.

‘Rural land’ means lands on which grazing, vegetable, animal production or other agricultural or horticultural activities are conducted. In determining whether land is ‘rural land’, it is the physical use of the land which is relevant.

From these definitions, it can be adduced that a rural purpose would mean a purpose pertaining to agriculture. “Agriculture” has been defined to mean the use or cultivation of land for any purpose of husbandry or horticulture, including the raising of livestock and the growing of crops. Using land for open space is not permitted use for agriculture and therefore would not be a rural use of the land.

Interpretation of predominantly

The word ‘predominantly’ is also not defined in the *Local Government Act*; however, the Land Valuation Tribunal of WA considered its meaning in a related context and determined the following principles.

- The predominant use of land is one of fact and degree,
- “Where a part of the premises is used for a purpose which is subordinate to the purpose which inspires the use of another part, it is legitimate to disregard the former and treat the dominant purpose as that for which the whole is being used’, and
- The predominant purpose for which land is determined by more than simply the area of land that is occupied for a particular use.

SUSTAINABILITY & RISK CONSIDERATIONS

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

There are no significant financial implications for Council with this proposal which seeks to ensure compliance with the Act rather than generate additional revenue. The amount of the increase is difficult to determine due to:

- Valuations are yet to be supplied.
- The level of rating to be set by Council during the adoption of the 2022/23 budget.
- The type of development on the property, i.e., a larger residence which is likely to attract a higher GRV and therefore higher rates.

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 of 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>	Annual reviews
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Landowners of affected properties will be informed in writing following Council’s endorsement of the change in rating method. Landowners will be advised Council’s reasons for seeking the change in valuation method and the likely impact on the annual rates payable for that property. Landowners will be given 28 days after receiving the information to make a submission to Council on whether the assessment of predominant use is correct.

RESOURCE IMPLICATIONS

Financial

Changes in rating method will result in costs from Landgate’s Valuation Services for property revaluations. Funding is available in the Shire’s budget for revaluation services.

Workforce

The recommendations can be implemented within the current workforce.

OPTIONS

Council has the option of:

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

CONCLUSION

Based on the assessment, the activities being carried out on the land identified in the report, including the commercial nature, if any, of those properties, are sufficient to conclude that the land 'is used predominantly for non-rural purposes' for the purposes of section 6.28 (2).

As a general proposition, it is unlikely that land used as a hobby farm would satisfy the description of land 'used predominantly for rural purposes' nor it is evident that the nature of the land is conducive to an occupier deriving a livelihood from the property, therefore the Shire would be correct in assessing rating changes on the gross rental value of the land and not the unimproved value of the land.

11.3.4 2022 Ordinary Council Meeting Dates	
File Ref:	4/1
Previous Items:	Nil
Applicant:	Not Applicable
Author and Title:	Brad Vitale, Corporate Compliance Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	Nil

RECOMMENDATION

That Council adopts and advertises the dates and locations for the 2022 Ordinary Council Meetings as follows, all to commence at 4pm:

February	Tuesday 22 February	Council Chamber
March	Tuesday 22 March	Preston Beach Community Centre
April	Tuesday 26 April	Council Chamber
May	Tuesday 24 May	Council Chamber
June	Tuesday 28 June	Council Chamber
July	Tuesday 26 July	Council Chamber
August	Tuesday 23 August	Council Chamber
September	Tuesday 27 September	Council Chamber
October	Tuesday 25 October	Council Chamber
November	Tuesday 22 November	Lake Clifton Community Centre
December	Tuesday 20 December	Council Chamber

IN BRIEF

- Council is requested to consider the proposed time, dates and locations for the 2022 Ordinary Council Meetings.

BACKGROUND

In accordance with the *Local Government (Administration) Regulations 1996*, local governments, at least once each year, are required to give local public notice of the dates on which and the time and place at which the Ordinary Council Meetings are to be held in the next 12 months.

In 2021, Ordinary Council Meetings were held as follows, all commencing at 4pm:

February	Tuesday 23 February	Council Chamber
March	Tuesday 23 March	Preston Beach Community Centre
April	Tuesday 27 April	Council Chamber
May	Tuesday 25 May	Council Chamber
June	Tuesday 22 June	Council Chamber
July	Tuesday 27 July	Council Chamber
August	Tuesday 24 August	Council Chamber
September	Tuesday 28 September	Council Chamber
October	Tuesday 26 October	Council Chamber
November	Tuesday 23 November	Council Chamber
December	Tuesday 20 December	Council Chamber

REPORT DETAIL

Shire of Waroona Ordinary Council Meeting dates are historically scheduled for the fourth Tuesday of each month, with the exception of January where no meeting is held, and December where the meeting date is brought forward by two weeks due to Christmas and New Year holidays. The proposed Ordinary Council Meeting dates for 2022 do not coincide with any scheduled public holidays.

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	Not applicable

OTHER STRATEGIC LINKS

Nil.

STATUTORY ENVIRONMENT**Local Government Act 1995****s.5.3. Ordinary and special council meetings**

- (1) A council is to hold ordinary meetings and may hold special meetings.
- (2) Ordinary meetings are to be held not more than 3 months apart.
- (3) If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.

Local Government (Administration) Regulations 1996**r.12. Meetings, public notice of (Act s. 5.25(1)(g))**

- (1) In this regulation —
meeting details, for a meeting, means the date and time when, and the place where, the meeting is to be held.
- (2) The CEO must publish on the local government's official website the meeting details for the following meetings before the beginning of the year in which the meetings are to be held —
 - a. ordinary council meetings;
 - b. committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public.

- (3) Any change to the meeting details for a meeting referred to in sub regulation (2) must be published on the local government’s official website as soon as practicable after the change is made.
- (4) If a local government decides that a special meeting of the council is to be open to members of the public, the CEO must publish the meeting details for the meeting and the purpose of the meeting on the local government’s official website as soon as practicable after the decision is made.

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>	Reputation - Public perception, poor customer service, sub standard work, corruption
<i>Description</i>	Failing to adopt and give notice of the date, time and location of the 2022 Ordinary Council Meetings would result in non-compliance with the <i>Local Government (Administration) Regulations 1996</i> .
<i>Consequence</i>	2 - Minor
<i>Likelihood</i>	1 - Rare
<i>Rating</i>	Low (1-3)
<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

<i>Theme</i>	Reputation - Public perception, poor customer service, sub standard work, corruption
<i>Description</i>	Failing to give notice of the date, time and location of the 2022 Ordinary Council Meetings could result in an absence of a clear schedule of meeting dates for 2022 available to councillors, staff and the community.
<i>Consequence</i>	2 - Minor
<i>Likelihood</i>	1 - Rare
<i>Rating</i>	Low (1-3)

<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

- The Shire has considered local events and national public holidays when proposing these dates, times and locations.

RESOURCE IMPLICATIONS

Financial

Nil.

Workforce

Nil.

OPTIONS

Council has the option of:

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

CONCLUSION

In accordance with Regulation 12 of the *Local Government (Administration) Regulations 1996*, the CEO is required to publish on the Shire's website the meeting details for the Ordinary Council Meetings to be held in the next 12 months before the beginning of the year in which the meetings are to be held.

To promote the function of Council meetings, and to assist with the accessibility of community members from outside of the Waroona townsite, Council may consider holding one meeting a year in each Lake Clifton and Preston Beach at the respective community centres/halls.

Previously Council held its February and August Ordinary Council Meetings in Preston Beach and Lake Clifton, respectively, in 2020, and February Ordinary Council Meeting in Preston Beach in 2021.

11.3.5 Shire of Waroona Extractive Industries Local Law 2021	
File Ref:	26/3
Previous Items:	24/08/2021 Item 11.3.5 OCM21/08/123
Applicant:	Not Applicable
Author and Title:	Brad Vitale, Corporate Compliance Officer
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Appendix Number	11.3.5 – Proposed Shire of Waroona Extractive Industries Local Law 2021

RECOMMENDATION

That Council:

- 1. Adopts the Shire of Waroona Extractive Industries Local Law 2021, as detailed at Appendix 11.3.5 in accordance with the requirements of the *Local Government Act 1995*; and**
- 2. Approves for the Chief Executive Officer to –**
 - a. publish in the Government Gazette the Shire of Waroona Extractive Industries Local Law 2021, as adopted;**
 - b. forward a copy of the adopted local law to the Minister for Local Government;**
 - c. give local public notice of the adoption of the local law; and**
 - d. complete and submit all explanatory memorandums, statutory procedures checklists and other supporting information on the local law to the Joint Standing Committee on Delegated Legislation.**

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

At the Ordinary Council Meeting held 24 August 2021, Council resolved the following:

COUNCIL RESOLUTION

OCM21/08/123

Moved: Cr Purcell

Seconded: Cr Mason

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.*

CARRIED 7/0

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

REPORT DETAIL

The proposed Shire of Waroona Extractive Industries Local Law 2021 was advertised locally in the Harvey Reporter on Tuesday, 31 August 2021. The advertisement invited public submissions for more than the statutory minimum of 6 weeks, with submissions due by Friday, 22 October 2021. Copies of the advertisement were displayed on the Shire Administration Office public notice board and on the Shire website. A copy of the proposed draft local law and copies of the advertisements were sent to the Minister for Local Government for review.

No public submissions were received; however, the Department of Local Government, Sport and Cultural Industries provided the following comments:

Submission Comment	Shire Response
<p>The Department has noted that several Australian Standards are mentioned within the local law.</p> <p>The use of Australian Standards can be problematic since they are commercial documents and not always publicly accessible. While the Delegated Legislation Committee is happy to allow their use in local laws, this is on the condition that:</p> <p>(a) The Standards are cited accurately;</p> <p>(b) The full citation of each Standard is used at least once, either in the applicable clause to which the Standard relates or otherwise in the interpretation clause.</p> <p>(c) The local government’s website should include information on where the applicable standard can be accessed.</p>	<p>Proposed local law checked that the Standards are cited accurately, the full citation of each Standard is used at least once, either in the applicable clause to which the Standard relates or otherwise in the interpretation clause, and the Shire’s website includes information on where the applicable standard can be accessed.</p>
<p>Part 8 provides that a person will have appeal rights whenever a decision is made to grant, vary or cancel a licence.</p>	<p>This has been addressed by inserting clause (c).</p>

Submission Comment	Shire Response
<p>Under the current wording, it is uncertain whether a right of appeal exists in situations involving a proposed transfer. The Shire may wish to clarify this point.</p>	
<p>Clause 4.2 provides that where a licence is cancelled, the licence holder will be notified in writing of the cancellation.</p> <p>It is suggested that similar provisions be added to:</p> <ul style="list-style-type: none"> • Clause 3.1 – where an application is rejected; and • Clause 4.3 – where a licence renewal is rejected. 	<p>This has been addressed by inserting clauses 3.1(6) and 4.3(5).</p>
<p>Under the <i>Local Government Act 1995</i>, a modified penalty cannot be more than 10% of the maximum unmodified penalty for that offence.</p> <p>Currently, the unmodified penalties for clauses 6.1 and 6.4(2) are \$2000. This means the maximum modified penalty for these two offences is \$200. The two penalties in Schedule 1 should be reduced accordingly so they fall within the statutory maximum.</p> <p>As an alternative, the Shire has the option of increasing the unmodified penalty for those offences. However, changing the unmodified penalties is likely to be a significant difference for the purposes of 3.13 of the <i>Local Government Act 1995</i> the purposes and require the local law process to be restarted.</p>	<p>This has been addressed by reducing the modified penalties for clauses 6.1 and 6.4(2) from \$350 to \$200.</p>
<p>Minor edits:</p> <ul style="list-style-type: none"> • Clause 2.2(1)(b): Reformat the paragraph for consistency. • Clause 6.4(1)(d): On the second line after “concerning” insert a dash. • When a line branches into multiple paragraphs or subclauses, the branch should be indicated by a dash. <p>The Shire should also ensure that all references and cross references are checked, particularly if any changes are made as a result of the Department’s comments.</p>	<p>This has been addressed by reformatting as suggested.</p>

Amendments made to the local law can be seen in red in **Appendix 11.3.5**. As these amendments are not significantly altering the original proposed local law endorsed by Council at the August Ordinary Council Meeting, the local law-making process can continue as planned.

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 local public notice and make copies available to the general public.	3.12(3)(a)	<u>Shire Website</u> Wednesday, 25 August 2021 <u>Shire & Library Noticeboards</u> Wednesday, 25 August 2021 <u>Shire social media</u> Thursday, 26 August 2021 <u>Harvey Waroona Reporter –</u> Tuesday, 31 August 2021
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 <i>(52 days)</i>
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

Task	LGA Section	Effective Date
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

- Local public notice of the proposed local law and invitation for public submissions were advertised in the Harvey Reporter on Tuesday, 31 August 2021.
- The proposed local law and invitation for public submissions were advertised on the Shire and Public Library noticeboards, Shire website and Shire social media with hard copies available at the Shire Administration Office.
- A copy of the proposed local law and copies of the advertisements were sent to the Minister for Local Government.
- Department of Local Government, Sport & Cultural Industries provided a submission as summarised in ‘Report Detail’.

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 complete 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 completes 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 2021/22 Review of the Delegation of Authority Register	
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	11.3.6 - Register of Delegations

RECOMMENDATION

That Council, as the Delegator, accepts the annual statutory review of the Delegations of Authority Register for the 2021/22 financial year, in accordance with sections 5.18 and 5.46 of the *Local Government Act 1995*, section 47(2) of the *Cat Act 2011* and section 10AB of the *Dog Act 1976*.

IN BRIEF

- Each year Council must review the Shire of Waroona Delegation of Authority Register.
- The proposed register is modelled from the WALGA template which features in many local governments of various sizes throughout the state.
- No amendments have been recommended.

BACKGROUND

The *Local Government Act 1995*, *Cat Act 2011* and *Dog Act 1976* require local governments to review their delegation of powers and authority to the Chief Executive Officer at least once in every twelve months, and for the Chief Executive Officer to review their delegation of authority within the same review period. The last review of the Delegation of Authority Register was conducted in October 2020 and endorsed at the Ordinary Council Meeting held in November 2020.

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

A comprehensive review of the Delegation of Authority Register has been completed with no amendments recommended.

The Delegation of Authority Register is included as **Appendix 11.3.6**.

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 include 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

All policies have a section for relevant delegations. Any amendments to delegations may impact how a policy is implemented but not the policy itself.

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>	Failure to review and endorse the Delegation of Authority Register annually will result in non-compliance with 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>	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

Nil.

RESOURCE IMPLICATIONS

Financial

Nil.

Workforce

Nil.

OPTIONS

Council has the option of:

1. Supporting the officer recommendation; or
2. Amending or not supporting 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.

11.3.7 Certification of Compliance with Adopted Standards for CEO Recruitment	
File Ref:	54/1
Previous Items:	SCM21/08/103, Item 11.1.1, SCM21/08/104, Item 11.1.2, SCM21/08/105, Item 11.1.3, SCM21/08/107, Item 11.1.4 19 th August 2021 OCM26/10/170, Item 23.2, 26 th October 2021 OCM21/04/049, Item 11.3.7, 27 April 2021
Applicant:	Not applicable
Author and Title:	Ashleigh Nuttall, Director Corporate Services
Declaration of Interest:	By Mark Goodlet, CEO. Nature of Interest is Impartiality. Extent of the interest is the CEO is the subject of the employment process.
Voting Requirements:	Absolute Majority
Appendix Number	Nil

RECOMMENDATION

That Council certifies that Mark Goodlet was employed as the Chief Executive Officer in accordance with the Shire of Waroona’s adopted standards in relation to the recruitment of Chief Executive Officers.

IN BRIEF

- The *Local Government (Administration) Regulations 1996* requires Councils to certify that the employment was conducted in accordance with the Shire’s adopted Chief Executive Officer recruitment standards.
- The new Chief Executive Officer was appointed at the October 2021 Ordinary Council Meeting.

BACKGROUND

At the Ordinary Council Meeting held on 27th April 2021, Council adopted the Shire of Waroona Model Standards for Chief Executive Officer Recruitment, Performance and Termination (Standards). These Standards were utilised during the recent Chief Executive Officer recruitment which has now been finalised.

At a Special Council Meeting held on 19th August 2021, Council endorsed the Chief Executive Officer recruitment panel terms of reference, confidentiality agreement, position description and proposed employment contract of the Chief Executive Officer to comply with the Standards and relevant regulations.

At the October Ordinary Council Meeting held on 26th October 2021, Council endorsed the appointment of the successful candidate, Mr Mark Goodlet to the position of Chief Executive Officer.

REPORT DETAIL

The Shire of Waroona Model Standards for Chief Executive Officer Recruitment, Performance and Termination prescribe the process for the recruitment of the Chief Executive Officer, in accordance with the *Local Government (Administration) Regulations 1996* (Regulations).

In addition to the Standards, the Regulations require Council to, by absolute majority resolution, certify that the person employed in accordance with the Standards as soon as practicable after the person is employed in the position of Chief Executive Officer. Following this certification, Council must give a copy of the resolution to the Departmental Chief Executive Officer within 14 days after the resolution is passed.

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.5.39A. Model standards for CEO recruitment, performance and termination

- (1) Regulations must prescribe model standards for local governments in relation to the following —
 - (a) the recruitment of CEOs;
 - (b) the review of the performance of CEOs;
 - (c) the termination of the employment of CEOs.
- (2) Regulations may amend the model standards.

s.3.59B Adoption of model standards

- (7) Regulations may provide for –
 - (a) The monitoring of compliance with adopted standards; and
 - (b) The way in which contraventions of adopted standards are to be dealt with.

Local Government (Administration) Regulations 1996

r.18FA. Model standards for CEO recruitment, performance and termination (Act s. 5.39A(1))

Schedule 2 sets out model standards for local governments in relation to the following —

- (a) the recruitment of CEOs;
- (b) the review of the performance of CEOs;

- (c) the termination of the employment of CEOs.

r.18FB Certification of compliance with adopted standards for CEO recruitment (Act s.5.3B(7))

- (1) In this regulation —
 - adopted standards* means —
 - (a) the standards adopted by a local government under section 5.39B; or
 - (b) if the local government has not adopted standards under that section, the standards taken under section 5.39B(5) to be the local government’s adopted standards.
- (2) This regulation applies if —
 - (a) a local government employs a person in the position of CEO of the local government; and
 - (b) the local government’s adopted standards in relation to the recruitment of CEOs apply to the employment.
- (3) As soon as practicable after the person is employed in the position of CEO, the local government must, by resolution*, certify that the person was employed in accordance with the local government’s adopted standards in relation to the recruitment of CEOs.
 - * *Absolute majority required.*
- (4) The local government must give a copy of the resolution to the Departmental CEO within 14 days after the resolution is passed by the local government.

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>	Reputation - Public perception, poor customer service, sub standard work, corruption
<i>Description</i>	Failing to certify that the Standards have been complied with may indicate poor governance, and will result in non-compliance with legislative requirements, exposing the Shire to

	action by the Department of Local Government, Sport and Cultural Industries.
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	1 - Rare
<i>Rating</i>	Low (1-3)
<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

Nil.

RESOURCE IMPLICATIONS

Financial

Nil.

Workforce

Nil.

OPTIONS

Council has the option of:

1. Supporting the officer recommendation; or
2. Amending or not supporting the officer recommendation.

CONCLUSION

This certification is the final step in the Chief Executive Officer recruitment process and must be completed to ensure compliance with the *Local Government (Administration) Regulations 1996*.

11.4 DIRECTOR PLACE, COMMUNITY & ECONOMIC DEVELOPMENT

11.4.1 Waroona Amateur Basketball Association Complex Hire Fees 2021/22	
File Ref:	126/02
Previous Items:	SCM 21/08/102
Applicant:	Daniel Cools
Author and Title:	Daniel Cools Manager Recreation Services
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Appendix Number	Nil

RECOMMENDATION

That Council:

1. Gives local public notice of the imposition of a new fee for Local Sporting Clubs and Associations to hire the courts at the Aquatic & Recreation Centre, applicable for sporting clubs or associations based in the Shire of Waroona; and
2. That following the advertising period amends the 2021/22 Fees and Charges to include an additional fee, “Junior and Senior Game Night per Game for Local Sporting Clubs and Associations”, under the Basketball Court and Netball Court Programs, of \$30.00 (including GST) applicable from 1 December 2021.

IN BRIEF

- The Waroona Amateur Basketball Association (WABA) is the largest local sporting club that utilizes the Waroona Recreation and Aquatic Centre (WRAC).
- The WABA requires court hire on two to four afternoons/nights for approximately six months of the year. This makes it the main complex hire user group for the WRAC each year.
- WABA has requested consideration of a fee reduction for its upcoming 2021/22 basketball season.

BACKGROUND

The WRAC provides quality services to many local users and community clubs and groups. The WABA is the main user of the indoor court facilities over the summer months (October – March). Fees and charges associated with hiring the courts must consider the operational costs of the WRAC to ensure long term sustainability is achieved. Consideration of club affordability is vital for WABA’s membership retention and ongoing operations.

REPORT DETAIL

WRAC Facility Hire:

Historically, WABA paid a per game fee of \$50 for seniors and \$40 for juniors, approximately \$13 per junior training and \$18 per senior training. This would equate to approximately \$22,000 in court hire fees per season.

During the 2018/19 season an entire facility hire fee of \$400 for any hirer was introduced by the WRAC as part of the Centre’s fees and charges. This fee became a cheaper option for WABA to hire the courts as part of their competition and training requirements. This, along

with combining the senior and junior competition resulted in a significant decrease in the applicable court hire fee to approximately \$26 per game.

This year the fees and charges have increased slightly in the Fees and charges as adopted by Council (SCM21/08/102). This year's fees are as follows:

- Court hire per game \$52 (\$2 increase per game from previous year)
- Entire facility hire fee \$400 (up to four hours)
- Entire facility hire fee \$600 (over four hours)

WABA sometimes requires the courts for more than four hours per evening to accommodate all their nightly fixtures. In effect, this would mean WABA would be required to pay the \$600 entire facility fee, the per game court hire fee, or a combination of both if the booking exceeded the four-hour time limit.

WRAC Court Maintenance and Associated Operational Costs:

With the ongoing maintenance and asset management of the indoor courts, fees and charges need to appropriately reflect the operational costs. The key operational items associated with court maintenance are outlined below based on a six-month period, which covers the 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) \$1,000
- Backboard servicing \$500
- Roof maintenance \$2,500
- Score boards replacement (cost/lifespan) \$1,200
- Painting (cost/lifespan) \$1,500

Approximate seasonal (6-monthly) cost - \$21,050

WABA background

WABA has experienced a decline in members over the last ten years with COVID and other factors impacting numbers. This has influenced the Association's financial viability. Over the past two seasons, the Association has made changes to turn this trend around including offering more affordable membership fees. The result has been a slight increase in players: a trend that the Association hopes will continue in upcoming seasons.

WABA wishes to keep its own membership fees down to attract more players and keep sport affordable within the Shire of Waroona. A discount in court hire fees will enable the Association to do this. Keeping the fees down when compared to other basketball competitions aims to attract more members and keep local players in the competition. If fees were to increase, WABA has expressed concerns that it will experience a further loss in playing members.

Over the years, WABA has also contributed financially to the construction of the indoor courts, improvements such as LED-lighting and the hosting of major events such as Perth Wildcats games in Waroona.

Comparison with other Recreation Centre hire fees in the Peel and 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 from WABA 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.

On basketball game nights, the WRAC also operates its kiosk and generates revenue from the sale of food and drinks.

Revised Court Hire Fee

Introducing a \$30 per game court hire fee for sporting organisations based in the Shire of Waroona will provide an affordable rate for WABA and assist the WRAC in recovering some of the operational costs for the indoor courts and in turn, assist in the WRAC's long-term sustainability. Discussions with WABA have indicated that the Association is supportive of this revised fee and will assist the Association to remain financially viable for the upcoming season.

An expected income of approximately \$13,000 in court hire for the 2021/22 season inclusive of game fees, training fees and country week training fees will be received from WABA. This new court hire fee would also apply to the Waroona Junior Netball Association, which is the only other local sporting group hiring the courts.

Some of the resultant shortfall in court hire revenue may be offset through the hire of courts by other casual users and sporting groups during these summer months.

It is recommended that Council endorses a new WRAC court hire fee of \$30 per game for Sporting Clubs and Associations based in the Shire of Waroona for the 2021/22 year.

The fees and charges for the WRAC will again be reviewed at the end of the financial year as part of the budget preparation process.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

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

s. 6.16 Imposition of fees and charges

- (1) *A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.*
 - * Absolute majority required.*
- (2) *A fee or charge may be imposed for the following —*
 - (a) *providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;*
 - (b) *supplying a service or carrying out work at the request of a person;*
 - (c) *subject to section 5.94, providing information from local government records;*
 - (d) *receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;*
 - (e) *supplying goods;*
 - (f) *such other service as may be prescribed.*
- (3) *Fees and charges are to be imposed when adopting the annual budget but may be —*
 - (a) *imposed* during a financial year; and*
 - (b) *amended* from time to time during a financial year.*
 - * Absolute majority required.*

s.6.19 Local government to give notice of fees and charges

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

- a) its intention to do so; and
- b) the date from which it is proposed the fees or charges will be imposed.

Local Government (Administration) Regulations 1996

r.3A – Requirements for local public notice (Act s.1.7)

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
<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

Several meetings have been held with WABA to understand its current financial position, planned membership drive and request for a revised court hire fee structure.

RESOURCE IMPLICATIONS

Financial

As discussed in report detail.

Workforce

Nil

OPTIONS

Council has the option of:

1. Supporting recommendation 1, as proposed.
2. Rejecting the recommendation and determining an alternative proposal.

CONCLUSION

This new fee proposed for the 2021/22 financial year has considered local sporting group affordability as well as long term operational sustainability of the WRAC. This fee will help with the financial cost involved in the asset management associated with the indoor courts and still come at an affordable rate for users, which in turn enables groups to keep membership fees low.

11.4.2 Waroona Town Centre Revitalisation Strategy – Endorsement to Advertise			
File Ref:	97/1		
Previous Items:	Item 10.2.7	OCM 20/05/078	May 2020
	Item 9.5.2	OCM 19/12/165	Dec 2019
Applicant:	Nil		
Author and Title:	Liz Storr, Director Place, Community and Economic Development Rod Peake, Director Planning and Sustainability		
Declaration of Interest:	Nil		
Voting Requirements:	Simple majority		
Appendix Number	11.4.2 - Town Centre Revitalisation Strategy rev Nov 21		

RECOMMENDATION

That Council:

- 1. Accepts the draft Waroona Town Centre Revitalisation Strategy as set out in Appendix 11.4.2 for the purposes of advertising for public consultation;**
- 2. Endorses the advertising of the Waroona Town Centre Revitalisation Strategy;**
- 3. Requests a further report to consider the submissions and adoption of the draft strategy following the close of the consultation period;**
- 4. Disbands the Town Centre Task Force now that the objectives of the Task Force have been achieved, resulting in preparation of the Revitalisation Strategy; and**
- 5. Approves the formation by the CEO, of small, targeted community working groups comprising residents and business operators with relevant expertise for each specific project and wider community consultation as required, to advance this Strategy.**

IN BRIEF

- The Town Centre Task Force, comprising local community members, was established in April 2020 to provide input and guidance on the development of the Town Centre Revitalisation Strategy (OCM 19/12/165).
- The Shire of Waroona appointed Element Advisory Pty Ltd. (Element) to prepare a town centre revitalisation strategy for Waroona.

BACKGROUND

In 2003 the Shire commissioned the preparation of the Waroona Town Centre Strategy and Masterplan (2003 Strategy). The 2003 Strategy included site analysis, stakeholder engagement and preparation of concept development options which resulted in a Masterplan and associated recommendations. Since 2003, there has been little change within the town centre with the exception of the creation of Drakesbrook Place, undergrounding of overhead power infrastructure along South-Western Highway and the partial completion of new footpaths and road pavement reconfiguration.

The Shire progressed its 10-year Community Strategic Plan for the wider Shire area in 2019, hosting a series of workshops to engage on the future direction across many different areas,

including in part the Waroona town centre. 84% of participants regarded town centre upgrade initiatives as highly important. The outputs from these workshops helped to drive the completion of the Strategic Community Plan 2020-2030.

With the improvement of the Waroona town centre a key strategy of this Plan, the Shire set up a Town Centre Taskforce (TCTF) of local community and business members who could be actively involved in the preparation of a specific strategy to revitalise the town centre.

A Revitalisation Strategy was pursued for the town centre for several reasons, including:

- A focus on economic support and regeneration;
- Renewed stakeholder engagement to understand up to date information specific to the town centre;
- Updating known issues, challenges and opportunities, particularly given the considerable time that had passed since these were last documented in 2003;
- Revisiting objectives in light of updated broader policy directions;
- Linkages with the Shire’s recently developed Strategic Community Plan 2020-2030;
- Consideration of place-making opportunities and infrastructure required to support them; and
- Understanding use of the town centre, community facilities and primary activities and to identify any current/future gaps.

In 2020, the Shire of Waroona proposed to develop a new Town Centre Revitalisation Strategy (2021 Strategy) for Waroona. A Consultancy Brief was developed and distributed to appropriately skilled and experienced town planning consultants. Element was awarded the work and commenced planning and engagement activities in mid-2020. Through a collaborative process with the Shire, Task Force members and community, the 2021 Strategy was completed in August 2021.

REPORT DETAIL

The 2021 Strategy was prepared through a collaborative process with Element, Shire staff, the TCTF and the community.

The 2021 Strategy provides a vision for the next iteration of the Waroona town centre and includes broader revitalisation objectives and guiding place themes. Together, these form a framework for short, medium and longer-term revitalisation strategies, ideas and recommendations for the town centre.

The study area for the purposes of the 2021 Strategy includes a core and frame area. The core area includes the primary community and commercial areas, whilst the frame area captures the peripheral residential, supporting commercial and recreational spaces along the South West Highway. The 2021 Strategy focuses on initiatives, ideas and recommendations for the core area, whilst taking into account the influence of the frame area and beyond.

The recommendations for implementation of these strategies and ideas are captured through four primary revitalisation focus areas:

1. Hardscape – physical changes and improvements to the public realm;
2. Softscape – soft infrastructure, programs and initiatives;
3. Bringing the town to life – activation, events and activities;

4. Getting the word out there - strategic promotion, marketing and awareness.

The resulting strategy document provides a high-level overview of town centre revitalisation and delves into detailed analysis of proposed strategies and ideas to deliver on revitalisation outcomes.

The three guiding place themes are:

- Connection to nature;
- Escape from the city / hub in the hinterland; and
- Community and belonging.

These themes, outlined below, overarch the revitalisation objectives and assist in the categorisation of recommended strategies and ideas.

Social, culture and community

1. *Welcoming and unique spaces/activities for youth to enjoy within the town centre;*
2. *Multipurpose places to host a variety of events and activities;*
3. *An increased sense of community ownership and pride;*
4. *Representation of local Aboriginal and non-Aboriginal families, past and present;*

Economic

5. *Increased activity (amount of activity and total activity/opening hours) and vitality in the town centre;*
6. *Increased and diversified visitation, including capture of visitors to surrounding areas (with the town centre as a focal point);*
7. *Increase business and service diversity to create more businesses that are doing better;*

Layout & movement

8. *Improved access, amenity, parking and wayfinding for visitors and locals;*
9. *Improved walkability and accessibility in terms of ease, interest and infrastructure;*
10. *A hierarchy of focal points that provide a sense of a town 'centre' supported by other nodes of activity;*

Landscape & environment

11. *Increased natural assets and landscaping in the town centre; and*
12. *Aesthetics that represents the local identity and vernacular and instil pride in the town and its assets.*

Recommendations are made for 30 key strategies and ideas, which have been outlined and ranked based on comparative improvement outcomes, documented need, funding availability, interdependencies and effort required.

A full copy of the 2021 Strategy is included at **Appendix 11.4.2**

Progression of the 2021 Strategy will require an Implementation Review to effectively evaluate the proposed strategies and actions (projects) before preparing an overall Master Plan for the town centre and associated Project Plans, as depicted in Figure 1 below.

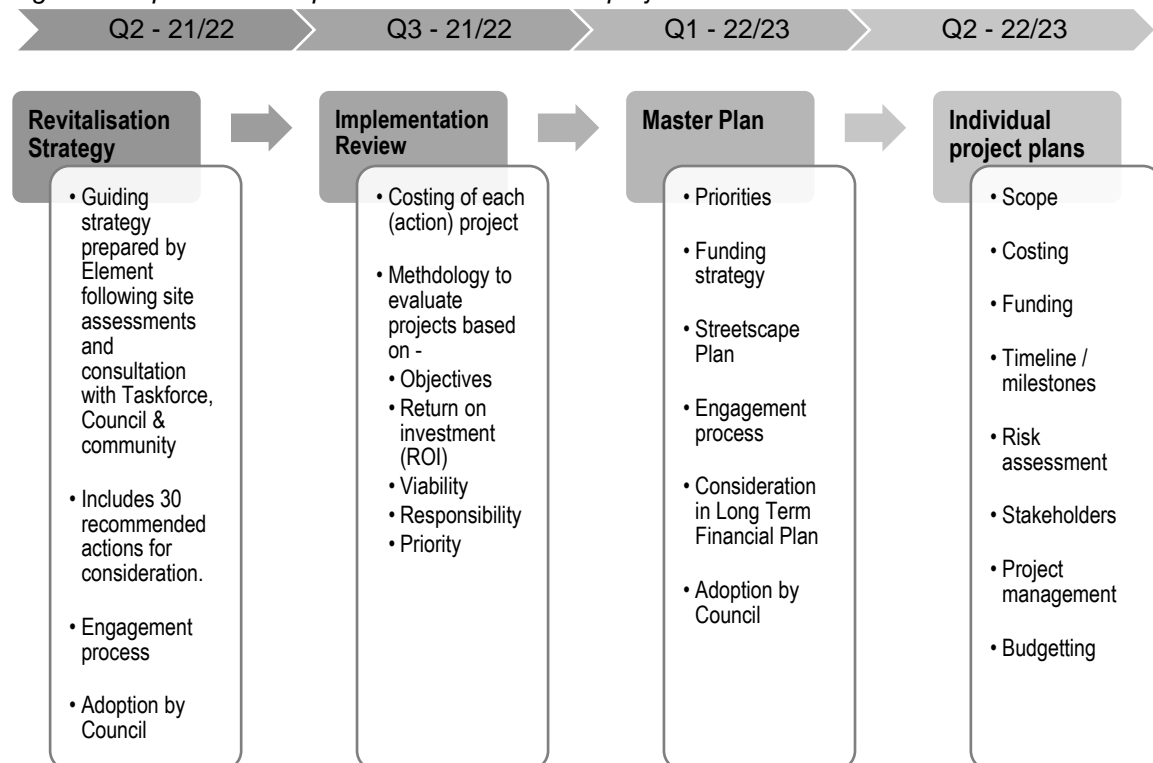
The Implementation Review will commence in early 2022 and evaluate each project’s ability to meet the revitalisation objectives, provide an acceptable return on investment and demonstrate viability. This evaluation will also identify stakeholders, responsibilities and the priority status for each project.

Subject to budget allocation in 2022/23, a Master Plan will then be prepared incorporating the agreed projects; a Streetscape Plan which will detail overall concepts for streetscape improvements, public art, landscaping, entry statements, way finding signage and the like; the funding strategy and stakeholder engagement approach. An individual Project Plan will be developed to guide delivery of each project.

An accompanying Local Planning Policy will set out preferred land uses and design guidelines aimed at providing a high standard of design which reflects the desired town character for new development in the town.

Economic analysis of the potential impacts of town centre revitalisation works will also be required to support business cases and funding submissions. Government and other funding schemes will be monitored to identify potential funding sources for implementation of revitalisation programs.

Figure 1: Implementation process for revitalisation projects



It is proposed that the 2021 Strategy be advertised for public consultation for a period of six weeks to enable the local community, property owners and business operators to provide comment. Given the upcoming Christmas period, it is suggested that this consultation period commence from mid-January 2022. It is envisaged that the Strategy would be widely advertised through social media, Shire website and local newspaper adverts, letters to key

stakeholder groups and that the Shire would hold a drop-in session to provide an opportunity for the community to view the documents and ask questions.

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	2.3 Create a vibrant, inviting and thriving town centre and maximise Waroona's natural assets, cultural and heritage as drivers for tourism development
Strategy	2.3.1 Encourage community and business initiatives to refresh the appearance of the town centre

Focus Area	Our Economy
Aspiration	To create a diverse economy base that supports opportunity and employment
Objective	2.2 Develop a locally supported resilient, stable and innovative business community that embraces creativity, resourcefulness and originality
Strategy	2.2.1 Support local businesses, Waroona Business Support Group and initiatives

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

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Nil

SUSTAINABILITY & RISK CONSIDERATIONS

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

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

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

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

Environment – (Impact on environment's sustainability)

Nil

Policy Implications

The Strategy provides a framework for the preparation of new policies relating to the town.

Risk Management Implications

<i>Theme</i>	Project - Delays to start or completion, variations to scope or budget, insufficient funds
<i>Description</i>	Implementation of the 2021 Strategy will only proceed once external funding has been confirmed.
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Funding confirmation and agreements in place prior to any projects commencing.
<i>Review Frequency</i>	Semi-annually
<i>Risk Owner</i>	Project manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

The Waroona community has been engaged in the development of the 2021 Strategy through stakeholder interviews, workshops, an online survey and the TCTF. A drop-in community day also enabled interested community members to provide input to the strategy.

Several workshops have been held with the TCTF including presentations from Element, with a final detailed presentation and discussion held on 19 October 2021.

Outcomes from the engagement program informed development of the 2021 Strategy.

Following a series of review meetings and workshops with the TCTF, the 2021 Strategy has been refined resulting in the completed strategy as presented to Council as an appendix to this report. The TCTF held its final meeting on 19 October 2021 and all members were thanked and acknowledged by the Shire President and staff for the contribution they made over the 18 month period.

Progression of individual projects assessed from the Implementation Review will require ongoing engagement with stakeholders including community members and business operators. This will likely be in the form of small, targeted community working groups comprising residents and business operators with relevant expertise for each specific project and wider community consultation as required.

RESOURCE IMPLICATIONS*Financial*

Strategies and ideas within the 2021 Strategy will need to be scoped and costed. Implementation will be subject to obtaining external funding.

Workforce

Project management of implementation of major projects within the 2021 Strategy may require additional human resources to project manage.

OPTIONS

Council has the option of:

1. Advertising the 2021 Waroona Town Centre Revitalisation Strategy for public consultation.
2. Endorsing the 2021 Waroona Town Centre Revitalisation Strategy without public consultation.
3. Not endorsing the 2021 Waroona Town Centre Revitalisation Strategy.

CONCLUSION

The 2021 Waroona Town Centre Revitalisation Strategy provides a framework for progressing a range of initiatives to enhance the town centre including small and large projects which will require participation by the community, property owners and business operators, and will be subject to attracting funding for implementation.

11.5 CHIEF EXECUTIVE OFFICER

11.5.1 CEO Performance Review Process	
File Ref:	
Previous Items:	“Model Standards Chief Executive Officer Recruitment, Performance and Termination”, adopted by Council on 27 April 2021
Applicant:	
Author and Title:	Mark Goodlet CEO
Declaration of Interest:	By Mark Goodlet, CEO. Nature of Interest is Impartiality. Extent of the interest is the CEO is the subject of the review process.
Voting Requirements:	Simple Majority
Appendix Number	11.5.1-A CEO Position Description performance requirements 11.5.1-B Existing CEO KPIs

RECOMMENDATION

That Council agrees to the following process in relation to the CEO’s performance review:

a. Establishment of Performance Measures

- i. CEO presents in writing to the next available Councillor Briefing Session, the CEO position description performance requirements and existing CEO key performance indicators (KPIs);**
- ii. Councillors consider the performance requirements and indicators and advise the CEO any suggested changes;**
- iii. The CEO position description performance requirement and KPIs are presented to Council for adoption at the December 2020 ordinary meeting of Council.**

b. Progress Reporting

- i. Progress on the KPIs is reported to Councillors at four monthly intervals in writing at Briefing Sessions.**

c. Annual Review

- i. The CEO to submit in writing to an August Briefing Session, an evidence-based statement of compliance and progress on the CEO position description performance requirements and existing CEO KPIs.**
- ii. The Director Corporate and Community is to seek confidential written feedback from the Councillors on the CEO’s performance.**
- iii. The Director Corporate and Community is to provide a review report to the August ordinary meeting of Council summarizing the confidential councillor feedback and recommending by absolute majority, an endorsement of the review.**
- iv. The CEO is to be notified of the results of the review and if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.**

IN BRIEF

- In April this year Council adopted the Model Standards for Chief Executive Officer Recruitment, Performance and Termination.
- The Standard require Council to decide on the review process for the CEO's performance.
- The review process is recommended above.

BACKGROUND

Council appointed its new Chief Executive Officer (CEO) on 1 November 2021. The new CEO position description contains performance requirements. Council also has CEO key performance indicators in varying stages of completion, which were assigned to the previous CEO.

REPORT DETAIL

Council's Model Standards for Chief Executive Officer Recruitment, Performance and Termination require that a process be agreed between the Council and the CEO on the CEO's performance review.

This matter has been discussed between councillors and the CEO at a Briefing Session on 9 November 2021 and the suggested performance review process is now presented to Council for its consideration.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Leadership
Aspiration	To embed strong leadership through good governance, effective communication and ensuring value for money
Objective	5.2 Develop a skilled, safe and compliant organisation
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	Approval of the CEO performance review process.

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Reg. 18FA. of the Local Government (Administration) Regulations 1996 - Model standards for CEO recruitment, performance and termination (Act s. 5.39A(1)).

Clauses 16 – 19, in Schedule 2 of the Local Government (Administration) Regulations 1996.

16. Performance review process to be agreed between local government and CEO

- (1) The local government and the CEO must agree on —
 - (a) the process by which the CEO's performance will be reviewed; and
 - (b) any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.

- (2) Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 17, 18 and 19.
- (3) The matters referred to in subclause (1) must be set out in a written document.

17. Carrying out a performance review

- (1) A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.
- (2) The local government must —
 - (a) collect evidence regarding the CEO’s performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and
 - (b) review the CEO’s performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

18. Endorsement of performance review by local government

Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

19. CEO to be notified of results of performance review

After the local government has endorsed a review of the performance of the CEO under clause 18, the local government must inform the CEO in writing of —

- (a) the results of the review; and
- (b) if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.

SUSTAINABILITY & RISK CONSIDERATIONS

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

Review of CEO performance benefits the progress of the Shire of Waroona’s economic strategic priorities.

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

Review of CEO performance benefits the progress of the Shire of Waroona’s social strategic priorities.

Environment – (Impact on environment’s sustainability)

Review of CEO performance benefits the progress of the Shire of Waroona’s environmental strategic priorities.

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>	Lack of compliance with, or progress on, CEO performance measures or KPIs.
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	3 - Possible
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Adoption of a review process and scheduled reporting to ensure accountability.
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Chief executive officer
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

The CEO performance process must be agreed with the CEO. This process reflects the consultation carried out by the CEO with the councillors at the 9 November 2021 Briefing Session. The CEO agrees to the recommended process.

RESOURCE IMPLICATIONS*Financial*

Nil.

Workforce

Nil.

OPTIONS

Council has the option of:

1. Seeking an external consultant to establish a performance review process and a committee. Estimated cost is \$4,000 + GST.

CONCLUSION

Adoption of a CEO performance review process will expedite the review / setting of the initial CEO KPIs, and will provide an opportunity for Council to update its priorities for the coming 12 months. It will also ensure regular progress reporting on the CEO performance measures.

11.6 ITEMS FOR INFORMATION**12. BUSINESS LEFT OVER FROM A PREVIOUS MEETING****13. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****RECOMMENDATION****To be Moved by Cr Naomi Purcell**

That Council review the terms of reference for the Visitor Centre Working Group and then advertise for community members on the working group.

Administrative Comment

The Waroona Visitor Centre Working Group was reconstituted at the October 2021 Ordinary Council Meeting.

Periodic review of Terms of Reference is good practice and is supported.

Terms of Reference should deal with matters relating to the makeup, governance and administrative issues of the working group in terms of its constitution and functioning. In relation to purpose, the Terms of Reference should describe the strategic matters it will be considering and should steer away from dealing with operational issues.

Terms of Reference would benefit by standardisation of approach and content, across the working groups at the Shire of Waroona. This is a matter to be addressed at a future date.

It is suggested that the wording of the current resolution be amended to assign the task of the review and advertising to the CEO and the organisation, rather than Council itself, which of course has oversight, but isn't operational. As such it would state –

That Council:

- 1. requests the CEO;**
 - a. to review the terms of reference for the Visitor Centre Working Group;**
 - b. to engage with the Waroona Visitor Centre Working Group on updated Terms of Reference;**
 - c. to report back to Council for approval of the Terms of Reference; and**
- 2. authorises the CEO to advertise for community members following completion of item 1 of this resolution.**

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****RECOMMENDATION**

That Council proceeds behind closed doors as per Section 5.2.3(2) of the Local Government Act for the purpose of considering Items 16.1 to 16.3.

16.1 Tender – Request for Tender 2021/22-04 Provision of Goods and Services for Minor Electrical Work	
File Ref:	RFT2021/22-04
Previous Items:	Nil
Applicant:	N/A
Author and Title:	Rikki Pulfer, Technical Officer
Declaration of Interest:	N/A
Voting Requirements:	Simple Majority
Appendix Number	N/A

A confidential report is provided under separate cover.

16.2 Confidential Minutes – Australia Day Awards Committee – Meeting held 9 November 2021 – Provided under separate Confidential Cover

RECOMMENDATION

That the Minutes of the Australia Day Awards Committee meeting held 9 November 2021 be received and noted.

16.3 Confidential Item – Australia Day Awards Committee – Meeting held 9 November 2021 – Items to be dealt with separately

16.3.1 CONFIDENTIAL ITEM - SHIRE OF WAROONA 2022 AUSTRALIA DAY AND MERITORIOUS COMMUNITY SERVICE AWARDS	
File Ref:	12/2; 58/1
Previous Items	Australia Day Awards Committee Meeting 9 November 2021 OCM 20/11/205-208
Applicant:	Shire of Waroona
Author and Title:	Kim Mahoney – Community Development Officer
Declaration of Interest	N/A
Voting Requirement	Absolute/ Majority
Appendix Number	N/A

A confidential report is provided under separate cover.

17. CLOSURE OF MEETING