



Date: 15 February 2022

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 22 February 2022 at 4.00pm to consider and resolve the matters set out in the attached Agenda.

A handwritten signature in blue ink, appearing to be "MG", is positioned above the printed name of the Chief Executive Officer.

**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**
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4. **PUBLIC QUESTION TIME**
5. **PETITIONS AND APPROVED DEPUTATIONS**
6. **CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

6.1 **Ordinary Council Meeting – 14 December 2021**

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held 14 December 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 9 February 2022	
File Ref:	1/2246
Author and Title:	Robert Marlborough, Manager Governance
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	10.1 A - LEMC Minutes – 9 February 2022 Unconfirmed 10.1 B - LEMC Appendices – 9 February 2022

RECOMMENDATION

That Council receives and notes the Minutes of the Local Emergency Committee meeting held on Wednesday 9 February 2022, as attached at Appendix 10.1A and Appendix 10.1B

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

11.1.1 Sustainable Solar Farming and Renewable Energy Projects	
File Ref:	129/1
Previous Items:	Nil
Applicant:	Shire of Waroona
Author and Title:	Karen Oborn, Director Infrastructure & Development Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.1.1 A - Sustainable Solar Farming and Renewable Energy Projects 11.1.1 B - Renewable Energy Facilities Local Planning Policy 11.1.1 C - Sustainable POS Renewable energy Facilities Position Statement

RECOMMENDATION

That Council, in relation to renewal energy:

- 1. Requests the CEO to develop a policy position, aligned with the example policy intent of Appendix 11.1.1B, and a scheme amendment;**
- 2. Approves broad advocacy work and liaison with the Sector, Government Agencies, and Industry Representatives, as well as Community Stakeholders on this matter; and**
- 3. Requests the CEO to submit an initial recommendation to the WALGA Zone meeting, as per Appendix 11.1.1A.**

IN BRIEF

In recent years concerns over climate change, expanding development and the need for sustainable energy sources has increased. As a result, a significant number of renewable energy projects have been instigated overseas, in Australia and in Western Australia, including in Waroona (1) (2).

BACKGROUND

In December 2021, the Regional Joint Development Assessment Panel approved a DAP Application from Rangers Loaders Pty Ltd to use their land for a “solar farm”, with a capacity of approximately 140 megawatts. *“The panel was satisfied that the proposal is consistent with the planning framework and that approval is warranted. The land is not priority agriculture and has already been cleared, and a merits-based assessment of the installation of the solar panels was considered acceptable. The conditions proposed were considered appropriate, including in relation to further visual amenity management, noting the applicant was agreeable to implementing these measures”* (2).

Additionally, in 2019, South Energy (2) acquired land in the Shire of Waroona and were given planning approval for a *“proposed capacity of approximately 180 megawatts, the project is expected to generate enough clean energy to supply the equivalent of around 67,000 homes. This will assist Australia in minimising carbon emissions by approximately 285,000 tonnes per year. The project is currently under development. Once the project has successfully*

obtained all relevant permits, [they are] expecting to commence construction in 2022/23, with full operation in 2024 (4).

REPORT DETAIL

The development and sustainable use of resources in Western Australia, would benefit from a whole of sector and government approach to these types of projects. As there is a need to keep negative impacts in the community to a minimum, protect productive 'food producing' agricultural land, as well as promote environmental conservation and sustainable economic development.

Whilst the recent proponent has agreed to meet the conditions, requested by the Shire of Waroona (2), future applicants may not be as agreeable. Consequently, it is felt that there is a need to inform and develop a sector practice framework that supports 'best practice'. Some of the matters that could potentially result in a land use conflict and long-term impacts include;

- Amenity issues addressed – setbacks, screening etc.
- Using only low value agricultural land
- Using land that is already cleared
- Mandating underground power connection to transmission lines to prevent conflicts (9)
- Solar Farm end of life decommissioning requirements (protecting local landfill)
- Mandating non-harmful materials (no cadmium or nitrogen trifluoride)
- Potential powers within energy provision legislation that could override Town Planning Scheme requirements, that need to be changed (e.g.: a requirement to underground the power outside of the property)?
- Mandating whole of life product stewardship

As a result, Shire of Waroona staff are seeking council endorsement to develop a scheme amendment and policy position on this matter. Undertake broad advocacy work, and liaise with the Local Government as a sector, through WALGA, form a Local Government Renewable Energy Working Group designed to:

- Champion and develop a renewable energy position on behalf of local government;
- Develop Local Planning Scheme model text and policies;
- Develop amendments to incorporate into the Planning and Development (Local Planning Schemes) Regulations 2015 as model or deemed provisions (10);

whilst collaborating with State and Federal Governments and their agencies, as well as Industry Representatives, and Community Stakeholders, to develop industry guidelines and a regulatory framework (7) (8) to address this matter.

References

1. https://en.wikipedia.org/wiki/Renewable_energy
2. <https://www.dplh.wa.gov.au/departmentofplanninglandsh heritage/media/daps/regional%20dap/minutes/2021/december/20211214%20-%20minutes%20-%20no%2038%20-%20shire%20of%20moora%20-%20shire%20of%20waroona.pdf>
3. <https://waroonasolar.com.au/>
4. <https://waroonasolar.com.au/the-project/>
5. <https://www.livescience.com/31995-how-do-wind-turbines-kill-birds.html#:~:text=Wind%20turbines%20kill%20more%20than%20573%2C000%20birds%20each,golden%20eagle s.%20%5B%20In%20Photos%3A%20Birds%20of%20Prev%5D>
6. <https://www.abc.net.au/news/rural/2021-12-30/solar-panel-contamination-regional-australia/100559830>
7. <https://www.planning.nsw.gov.au/-/media/Files/DPE/Guidelines/large-scale-solar-energy-guideline-2018-12-11.pdf?la=en>
8. https://shared-drupal-s3fs.s3.ap-southeast-2.amazonaws.com/master-test/fapub_pdf/ISEPP+renewables+FINAL+EIE.pdf
9. <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2007-0641#sec.44>
10. <https://www.wa.gov.au/system/files/2021-07/POS-Renewable-energy-facilities-position-statement.pdf>
11. <https://www.cleanenergycouncil.org.au/advocacy-initiatives/community-engagement/best-practice-charter>

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Economy
Aspiration	To build and effectively manage our assets to continually improve our standard of living
Objective	2.1 Develop an economy that is focused on growth, knowledge and innovation, and infrastructure, and protects prime agricultural land
Strategy	2.1.1 Maximise the inherent economic opportunities in the Murray Waroona functional economic region

OTHER STRATEGIC LINKS

- State Planning Strategy 1997
- State Planning Policy 2.0 environment and natural resources policy
- State Planning Policy 2.5 agricultural and rural land use planning
- State Planning Policy 2.6 state coastal policy
- State Planning Policy 3.0 urban growth and settlement

STATUTORY ENVIRONMENT

- **Shire of Waroona Local Planning Scheme No 7 (LPS7)**

Land Use Within all Rural Zones, it is Council’s objective 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*”.

- **Planning & Development (Local Planning Schemes) Regulations 2015**

SUSTAINABILITY & RISK CONSIDERATIONS

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

- Using high value agricultural land would negatively impact the agricultural sectors productivity.
- Not mandating underground power connection to transmission lines to prevent conflicts, could result in lower land values, access issues and would negatively impact the agricultural sector.
- Not enforcing Solar Farm end of life decommissioning requirements, would lead to the local landfill being vulnerable to dumping and the community incurring the cost of disposal.
- No mandating non-harmful materials (no cadmium or nitrogen trifluoride) would lead to the local area being vulnerable to contamination and the community incurring the cost of disposal.
- Potential powers within energy provision legislation could override Town Planning Scheme requirements, that could result in economic, social and environment issues that would become the community’s liability.
- Not mandating whole of life product stewardship, could result in economic, social and environment issues that would become the community’s liability.

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

- Not ensuring amenity issues are addressed – setbacks, screening etc. could result in land use conflicts and lower land values.

- Not mandating underground power connection to transmission lines could result in land use conflicts, poor amenity, and lower land values.
- Potential powers within energy provision legislation could override Town Planning Scheme requirements, that could result in economic, social and environment issues that would become the community’s liability.
- Not mandating whole of life product stewardship, could result in economic, social and environment issues that would become the community’s liability.

Environment – (Impact on environment’s sustainability)

- Not enforcing Solar Farm end of life decommissioning requirements, would lead to the local landfill being vulnerable to dumping and the community incurring the cost of disposal.
- No mandating non-harmful materials (no cadmium or nitrogen trifluoride) would lead to the local area being vulnerable to contamination and the community incurring the cost of disposal.

Risk Management Implications

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

Theme	Environmental - Regulatory compliance, contamination, inadequate processes
Description	There is a need to keep negative impacts in the community to a minimum, protect productive ‘food producing’ agricultural land, as well as promote environmental conservation and sustainable economic development.
Consequence	4 - Major
Likelihood	3 - Possible
Rating	High (10-19)
Controls / Review	Council’s endorsement of the recommendation of this report may mitigate the likelihood of this risk coming into effect.
Review Frequency	Annually
Risk Owner	Director
Acceptance	Monitor - Risk acceptable with adequate control

CONSULTATION

- Mark Goodlet, Chief Executive Officer
- Community consultation is not required at this time.

RESOURCE IMPLICATIONS

Financial

Officer’s time is budgeted.

Workforce

Nil.

OPTIONS

Council has the option of:

1. Accepting the officer recommendation to endorse the proposed actions; or
2. Rejecting the officer recommendation to endorse the proposed actions.

CONCLUSION

There is a need to keep negative impacts in the community to a minimum, protect productive 'food producing' agricultural land, as well as promote environmental conservation and sustainable economic development. As a result, proactive advocacy that results in a solid framework, is a solution to mitigate potential future issues.

11.1.2 Drakesbrook (Waroona) Cemetery Expansion	
File Ref:	30/1
Previous Items:	Nil
Applicant:	Shire of Waroona
Author and Title:	Karen Oborn, Director Infrastructure & Development Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.1.2 - WaroonaCemeterySurveyDesignV3

RECOMMENDATION

That Council endorses:

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

IN BRIEF

There is a need to expand the capacity of the Drakesbrook (Waroona) Cemetery. The current site has potential (attachment 1) to provide 804 new sites. However, it is believed rare and endangered flora may be present on the site (attachment 2). As a result, a flora survey is needed, and other expansion options need to be explored to accommodate the goals of the expansion project.

BACKGROUND

The current cemetery site potentially has rare flora in it so it is unlikely we will get a clearing permit to expand the available grave area (green shaded area in figure 1). The Catholic section is very crowded, and it will be the section that becomes critical. A flora and fauna survey is planned this year. However, it can't be conducted until spring. The estimated cost is \$12,000. The surveyor will need to map the rare flora to see where it is and if any clearing can happen, to what extent and what option can be developed for the expansion.



Figure 1

REPORT DETAIL

Council has considered the resourcing and endorsed the expansion of the Drakesbrook (Waroona) Cemetery:

COUNCIL RESOLUTION OCM20/07/124

That Council:

1. Approves the listing of Lot 5 (11) and Lot 6 (13) Mitchell Avenue, Waroona for sale at market valuation; and
2. Following compliance with s3.58(3) of the Local Government Act 1995, will formally consider an "Offer to Purchase".
3. That the proceeds of the sale of the lots be allocated towards cemetery parking.

CARRIED BY ABSOLUTE MAJORITY 8/0

COUNCIL RESOLUTION OCM20/08/134

That Council:

1. acknowledges the 'Offer to Purchase' for the amount of \$85,000 (ex GST) by James Thomas Beinke for Lot 5 (11) Mitchell Avenue, Waroona;
2. advertises the potential sale of Lot 5 (11) Mitchell Avenue, Waroona in accordance with s3.58(3) of the Local Government Act 1995;
3. in addition to (2) above undertakes further community consultation; and
4. following the compliance with (2) and (3) above formally considers the "Offer to Purchase" Lot 5 (11) Mitchell Avenue, Waroona.

CARRIED BY ABSOLUTE MAJORITY 7/0

COUNCIL RESOLUTION OCM20/10/177

That Council:

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

CARRIED BY ABSOLUTE MAJORITY 8/0

An expansion plan has been developed to accommodate 804 new sites and land sold to fund the project. However, the current cemetery site potentially has rare flora in it so it is unlikely we will get a clearing permit to expand the available grave area. A flora survey is planned in spring 2022, to ascertain if there is any protected species on the site.

In addition, several key considerations have been taken into account when investigating options to expand the cemetery. These include;

- Cemetery life is approx. 15 – 25 years, and potential for 804 new sites to achieve 50+ years.
- Not overspending on area with a potentially limited life span.
- Resourcing the expansion and development of the cemetery.
- Being located near town for universal access and walkability for elderly residents and visitors

- Connectivity of town spaces and links to the nearby oval facilities. As wakes are popular at this location so provide scope of event connectivity.
- Space activation and flow into town centre development plans.
- Potential to create walkways and memorial paths, niche walls and seating areas.
- Possibility of using abattoir wastewater on oval -diverting current oval water to retic cemetery to create parkland amenity.

To achieve these best possible outcomes for the Waroona community, Shire officers are seeking to explore and investigate a range of potential solutions and resourcing options. These currently include;

1. Sell more Shire land to fund expansion options at other and/or adjoining locations.
2. Sell more Shire land and purchase “Bonny Vista”; or swap Shire land with the owners of “Bonny Vista” next to the cemetery (figure 2).



Figure 2

3. (Swap Shire land with) request DPLH to give Shire the land marked as drainage on the corner of Logue St. potentially for parking and/or parkland seating areas.
4. Combine all of the above options to realise the expansion goals.
5. Keep looking at other possible locations.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Built Assets
Aspiration	To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning
Objective	4.1 Public spaces and infrastructure that are accessible and appropriate for our community, and meet the purpose and needs of multiple users
Strategy	4.1.1 Plan community facilities for current and future generations

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

- Shire of Waroona Local Planning Scheme No 7 (LPS7)

SUSTAINABILITY & RISK CONSIDERATIONS

Economic
Nil

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

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

Environment – (Impact on environment’s sustainability)

- Need to undertake a flora survey.

Risk Management Implications

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

Theme	Project - Delays to start or completion, variations to scope or budget, insufficient funds
Description	Need to investigate range of expansion options to ensure community gets best outcome currently possible
Consequence	3 - Moderate
Likelihood	3 - Possible
Rating	Moderate (4-9)
Controls / Review	Council’s endorsement of the recommendation of this report may mitigate the likelihood of this risk coming into effect.
Review Frequency	Annually
Risk Owner	Director
Acceptance	Monitor - Risk acceptable with adequate control

CONSULTATION

- Rikki Pulfer, Technical Officer
- Murry Bracknell, Manager Works and Services
- Mark Goodlet, Chief Executive Officer
- Community consultation will be required.

RESOURCE IMPLICATIONS

Financial

Officer's time is budgeted.

\$12,000 is budgeted in Business Case Initiatives account number 7772 for the flora and fauna survey.

Workforce

Nil.

OPTIONS

Council has the option of:

1. Accepting the officer recommendation to endorse the proposed actions; or
2. Rejecting the officer recommendation to endorse the proposed actions.

CONCLUSION

There is a need to explore all option for the Council's expansion of the Drakesbrook (Waroona) Cemetery to maximise the potential of achieving the community goals in relation to this project.

11.1.3 Consultation for Mobile Vendor Policy and Guidelines	
File Ref:	111/1
Previous Items:	Nil
Applicant:	Shire of Waroona
Author and Title:	Karen Oborn, Director Infrastructure & Development Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.1.3 A - Draft Mobile Food Vendors Policy 11.1.3 B - Draft Mobile Food Vendors Guidance

RECOMMENDATION

That Council endorses the following draft policy and guidelines for the purposes of community consultation:

- A. **Draft Mobile Vendor Policy, as per Appendix 11.1.3A; and**
- B. **Draft Mobile Vendor Guidelines, as per Appendix 11.1.3B.**

IN BRIEF

There is a need to balance the complexities and equity issues of enforcing the Shire of Waroona Local Law - Activities on Thoroughfares and Trading in Thoroughfares and Public Places, with the desire to support quality mobile food traders who enhance the vibrancy and economic activity of the Shire, without adversely affecting other existing 'bricks and mortar' businesses (2). As a result, the Shire of Waroona staff are seeking Council endorsement to undertake community consultation and input into developing a Mobile Vendor Policy and a Mobile Vendor Guideline for applicants.

BACKGROUND

In recent years 'pop-up' and mobile vendors have become increasingly popular and generate a lot of 'street' trade in addition to space activation around towns (1). There is also a need to enable quality mobile food traders to provide members of the public with a food service that enhances the vibrancy and economic activity of the Shire, without adversely affecting other existing 'bricks and mortar' businesses (2).

REPORT DETAIL

The purpose of developing a **Mobile Vendor Policy**, in consultation with the community's input is to, support Council in assessing mobile food vendor permit applications. As the Council of the Shire of Waroona seeks to support mobile food vendors that enhance the ambience of an area and economic activity, while not adversely impacting on nearby businesses, public safety, pedestrian access, or the amenity of a public space. The policy does not apply to food vendors operating at a Shire approved event.

The purpose of developing a **Mobile Vendor Guideline**, in consultation with the community's input is to,

- Provide guidance on the requirements for the operation of Mobile Food Traders within the Shire of Waroona to applicants;
- Encourage Mobile Food Traders to operate in locations which support the activation of public spaces;

- Ensure Mobile Food Traders operate in a way which complements existing food businesses in commercial areas;
- Ensure Mobile Food Traders do not unreasonably compromise the amenity of the surrounding residential area;
- Ensure Mobile Food Traders are of a temporary nature in line with the permitted trading times for each location; and
- Ensure Mobile Food Traders practice safe food handling in accordance with the Food Act 2008.

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References

1. <https://www.facebook.com/mandurahfoodtruckfrenzy/>
2. <https://www.bayswater.wa.gov.au/development/business/business-approvals,-permits-and-guidelines/mobile-food-vehicles>
3. <https://perth.wa.gov.au/council/reports-and-important-documents/policies>
4. <https://www.mandurah.wa.gov.au/-/media/files/com/downloads/business/permits-and-approvals/food-business/mobile-food-van-requirements.pdf>

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

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

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

- Shire of Waroona Local Planning Scheme No 7 (LPS7)
- Shire of Waroona Local Law - Activities on Thoroughfares and Trading in Thoroughfares and Public Places.

SUSTAINABILITY & RISK CONSIDERATIONS

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

- Support of new local businesses, Waroona Business Support Group, and initiatives, without adversely affecting other existing ‘bricks and mortar’ businesses (2).

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

- Support of innovative business community that embraces creativity, resourcefulness and originality, promoting space activation around towns (1).

Environment – (Impact on environment’s sustainability)

- Need to ensure Mobile Food Traders practice safe food handling in accordance with the Food Act 2008.

Risk Management Implications

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

Theme	Environmental - Regulatory compliance, contamination, inadequate processes
Description	To enable quality mobile food traders to provide members of the public with a food service that enhances the vibrancy and economic activity of the Shire, without adversely affecting other existing 'bricks and mortar' businesses
Consequence	3 - Moderate
Likelihood	3 - Possible
Rating	Moderate (4-9)
Controls / Review	Council's endorsement of the recommendation of this report may mitigate the likelihood of this risk coming into effect.
Review Frequency	Annually
Risk Owner	Director
Acceptance	Monitor - Risk acceptable with adequate control

CONSULTATION

- Mark Goodlet, Chief Executive Officer
- Community consultation will be required.

RESOURCE IMPLICATIONS

Financial

Officers time is covered by salary package.

Workforce

Nil.

OPTIONS

Council has the option of:

1. Accepting the officer recommendation to endorse the proposed actions; or
2. Rejecting the officer recommendation to endorse the proposed actions.

CONCLUSION

There is a need to enable quality mobile food traders to provide members of the public with a food service that enhances the vibrancy and economic activity of the Shire, without adversely affecting other existing 'bricks and mortar' businesses.

11.1.4 Proposed changes to the DAP boundaries	
File Ref:	48/8
Previous Items:	Nil
Applicant:	Shire of Waroona
Author and Title:	Karen Oborn, Director Infrastructure & Development Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.1.4 - Proposed DAP Boundary Changes

RECOMMENDATION

That Council authorizes a response to DPLH (*Department Planning, Lands & Heritage*);

1. **Acknowledging the DPLH’s proposal to include the Shire of Waroona in the proposed Metropolitan DAP zone, as it is a part of the Perth - Peel Region;**
2. **Acknowledging the DPLH’s clarification that panelist assessing development applications, would have appropriate background and expertise, in relation to regional development;**
3. **Acknowledging that DAP decisions are guided by the Shire of Waroona’s local planning frameworks expressed aspirations and constraints; and**
4. **Acknowledging DPLH assistance and guidance in updating the Local Planning Framework.**

IN BRIEF

As part of the Action Plan for Planning Reform, DPLH will be implementing changes to the Development Assessment Panel (DAP) system. The result is a proposal, which encompasses the Shire of Waroona, as an Outer Metropolitan Shire. Being a part of the Perth – Peel Region. The DPLH plans to undertake stakeholder consultation, to the end of February 2022. The DPLH indicated DAP decisions would continue to be guided by the Shire of Waroona’s local planning framework.

BACKGROUND

“Two initiatives of the Action Plan for Planning Reform focused specifically on reforms to improve the Development Assessment Panel (DAP) system:

- Development Assessment Panel (DAP) processes are more consistent and transparent.
- Development assessment processes are streamlined and outcomes focused.

Development Assessment Panels comprise a balance of local government and expert members to enhance planning expertise in determining development applications. The number of panels has been reduced from (9) to five (5) and will be further reduced to three (3), panels [based on geographic locations] and a new Special Matters DAP to consider complex development proposals.

Changes to the Planning and Development (Development Assessment Panel) Regulations 2011 are currently being scoped. These changes will create a new Special Matters Development Assessment Panel, further reduce the number of geographic panels from the current five-panel configuration to no more than three and provide for greater transparency and consistency in the DAP system” (ref: 1).

REPORT DETAIL

The Shire President, CEO and Director of Infrastructure and Development Services had a video conference with the DPLH Stakeholder Engagement Coordinator and Planning Reform Team Members. To discuss the Shire of Waroona’s initial concerns about the possible implications of having development applications assessed by panelists without understanding of regional and rural community needs, aspirations and constraints. In addition to understanding the DPLH decision to include Waroona in the proposed metropolitan boundary.

From that discussion it was acknowledged that the panelist assessing Shire of Waroona development applications would likely have appropriate background and expertise, in relation to understanding our regional community. In addition, the DAP decisions would be guided by the Shire of Waroona’s local planning framework. Therefore, updating the Local Planning Strategy was of significant importance.

Further, the DPLH had included the Shire of Waroona in in the proposed metropolitan boundary, as a location within the Peel Region, encompassed by the Peel Development commission, Peel Region Scheme, and RDA Peel Strategic Plan. Consequently, the DPLH believe the Shire of Waroona is best placed to remain in this DAP zone.



To support the Shire of Waroona’s community goals and maximize the potential for positive impacts resulting from development applications, Shire Staff are taking action to update the Local Planning Framework. This work will be undertaken in collaboration with the DPLH and WAPC. Whilst focusing on SCP alignment and compliance with the regulatory environment. In addition to seeking expert input in the Local Planning Strategy and Scheme updates.

References:

- 1 <https://www.wa.gov.au/organisation/department-of-planning-lands-and-heritage/development-assessment-panels-reforms>
- 2 <https://www.wa.gov.au/government/document-collections/action-plan-planning-reform>
- 3 <https://www.wa.gov.au/government/document-collections/peel-region-scheme>
- 4 <https://www.rdapeel.org.au/wp-content/uploads/2021/07/RDA-Strategic-Plan-v6-pages-low-res.pdf#:~:text=The%20RDA%20Peel%20Strategic%20Plan%202021-2025%20has%20been.and%20dynamic%20region%20with%20a%20culture%20of%20care.>

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Community
Aspiration	To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning
Objective	1.3 A planning framework that is visionary, supports connectivity and enables participation that ensures quality, diverse and innovative planning outcomes that meets community aspirations
Strategy	1.3.2 Consider new growth areas and prepare District Structure Plans

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

- Shire of Waroona local Planning Strategy
- Shire of Waroona Local Planning Scheme No 7 (LPS7)
- State Planning Strategy 1997
- State Planning Policy 2.0 environment and natural resources policy
- State Planning Policy 2.5 agricultural and rural land use planning
- State Planning Policy 2.6 state coastal policy
- State Planning Policy 3.0 urban growth and settlement

SUSTAINABILITY & RISK CONSIDERATIONS

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

- Planning approvals given by the Development Assessment Panel, not consistent with the Shire of Waroona’s vision and goals could have negative economic impacts within the Shire.

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

- Planning approvals given by the Development Assessment Panel, not consistent with the Shire of Waroona’s vision and goals could have negative social impacts within the Shire.

Environment – (Impact on environment’s sustainability)

- Planning approvals given by the Development Assessment Panel, not consistent with the Shire of Waroona’s vision and goals could have negative environmental impacts within the Shire.

Risk Management Implications

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

Theme	Environmental - Regulatory compliance, contamination, inadequate processes
Description	Planning approvals given by the Development Assessment Panel, not consistent with the Shire of Waroona's vision and goals could result in long term negative impacts.
Consequence	3 - Moderate
Likelihood	3 - Possible
Rating	Moderate (4-9)
Controls / Review	Council's endorsement of the recommendation of this report may mitigate the likelihood of this risk coming into effect.
Review Frequency	Annually
Risk Owner	Director
Acceptance	Monitor - Risk acceptable with adequate control

CONSULTATION

- Mark Goodlet, Chief Executive Officer
- Stakeholder consultation will be undertaken by the DPLH

RESOURCE IMPLICATIONS

Financial
Nil

Workforce
Nil

OPTIONS

Council has the option of:

1. Accepting the officer recommendation to endorse the proposed actions; or
2. Rejecting the officer recommendation to endorse the proposed actions.

CONCLUSION

There is a need for the Shire of Waroona to actively engage with the DPLH regarding the reform process to maximise the potential beneficial outcomes for the community, within the Shire of Waroona.

11.1.5 Work, Health and Safety Law Changes and Bushfire Brigade Management	
File Ref:	23/1
Previous Items:	Nil
Applicant:	Shire of Waroona
Author and Title:	Karen Oborn, Director Infrastructure & Development Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	Nil

RECOMMENDATION

That Council approves;

1. **As an interim measure, investigating the formation of the three the Bush Fire Brigades (BFB) into an ‘Association’, to limit the extent that the Shire of Waroona ‘employees’ can be held criminally liable, under the new WHS act;**
2. **Formally handing over the management and control of the Bush Fire Brigades (BFB) to the Department of Fire and Emergency Services (DFES), through the legal mechanism outlined in the WA Bush Fires Act 1954; and**
3. **Advocating for the modernisation of WA legislation, to be extended to modernising the WA Bush Fires Act 1954, in alignment with the rest of Australia, removing the requirement for WA Local Governments to manage volunteer Bush Fire Brigades.**

IN BRIEF

Volunteer Bush Fire Brigades (BFBs) are a vital and much valued part of regional and rural communities. This matter is not about the validity or effectiveness of the current BFB arrangements. The matter has arisen in response to the significant risk posed to the organisation and its employees, resulting from the new WHS legislation framework. Western Australia (WA) is transitioning from the OSH Act to the WHS Act in March 2022. Two key changes will significantly impact the way BFB’s are managed.

Firstly, the new Act has significant jail terms (20 years) and fines, applicable to individuals, that cannot be insured against. Secondly, ‘volunteers’, are now viewed as Shire ‘workers’ under the new Act. This is problematic as, BFB volunteer members will now be ‘workers’ of the Shire, who are operating in a ‘hazardous’ workplace, being a ‘fire’ zone. However, the Shire of Waroona has no control over BFB activities. Nor does it have the expertise or capacity, to manage either a fire related incident, or BFB volunteer ‘workers’. Under the new Act, Chief BFB Officers and other BFB Officers, are not liable, and liability rests with the Local Government CEO and Directors. This situation presents an extreme litigation and regulatory risk to the Shire of Waroona and other regional Local Government Authorities.

BACKGROUND

Volunteer BFB’s are a vital and much valued part of regional and rural communities. The work undertaken by volunteer members to protect lives and livelihoods, in our communities is invaluable. The BFB ‘s have become an ingrained and important part of life, in regional and rural locations. Currently, the Shire of Waroona has three BFB’s, with a DFES Chief BFB Officer, overseeing all three brigades. There is also a ‘DFES ‘town’ brigade.

Previously, the Shire of Waroona also shared a Community Emergency Services Coordinator, (CESM) with the Shire of Murray. However, the Shire of Murray, ended the shared arrangement effective 5th February 2022 (ref: I12213).

This matter however, is not about the validity or effectiveness of the current BFB arrangements. It is ultimately about who is most suited, capable and expert in management of BFBs. It has arisen in response to the significant risk to the organisation and its employees, resulting from the new WHS legislation framework.

In 2021, the new Work Health and Safety Act 2020 (WHS Act) passed through Parliament. It is scheduled to commence in March 2022. Many of the requirements under the WHS Act exist in the current Occupational Safety and Health Act 1984. However, there are a number of aspects of the WHS Act, particularly as they relate to Local Government's responsibilities for volunteer Bush Fire Brigades (ref:3).

This is problematic as, BFB volunteer members will now be 'workers' of the Shire, operating in a 'hazardous' workplace, being a 'fire' zone. But the Shire of Waroona has no control over their activities, nor the expertise, or capacity, to manage a fire zone, being the BFB volunteers "work" environment. Under the new Act, liability in this situation rests with the Local Government CEO and Directors. Whom in the event of an injury or fatality, would be required to 'prove' they took all reasonable steps to provide a safe working environment. Furthermore the new Act brings the ability to prosecute the organization which does not have adequate health and safety measures in place commensurate with the risk, irrespective of whether an incident has occurred. In the case of bush fire risk this places a significant burden on local governments.

This situation presents an extreme risk to the Shire of Waroona and other regional Local Government Authorities, who neither have the expertise nor capacity, to develop, implement or provide direct management of safe work systems, in a fire zone.

Consequently, another important aspect of the new WHS law for WA businesses is the introduction of the offence of industrial manslaughter. Industrial manslaughter is a significant change to WA's WHS landscape. It carries big penalties: 20 years imprisonment or a fine of \$5M for individuals. Body corporates may incur fines of up to \$10M (ref: 3).

A guiding principle of the new WHS Act is that all people are provided the highest level of health and safety protection from hazards arising from work, so far as is reasonably practicable. The term '*reasonably practicable*' means what could reasonably be done at a particular time to ensure health and safety measures are in place.

In determining what is reasonably practicable, there is a requirement to weigh up all relevant matters including:

- the **likelihood of a hazard or risk occurring** (the probability of a person being exposed to harm)
- the degree of harm that might result if the hazard or risk occurred (the **potential seriousness** of injury or harm)
- what the person **concerned knows, or ought to reasonably know**, about the hazard or risk and ways of eliminating or minimising it
- the availability of suitable ways to eliminate or minimise the hazard or risk
- the cost of eliminating or minimising the hazard or risk.

Costs may only be considered after assessing the extent of the risk and the available ways of eliminating or minimising the risk. Cost will not ordinarily be the key factor in determining what it is reasonably practicable for a duty holder to do unless it can be shown to be 'grossly disproportionate' to the risk (ref:1).

REPORT DETAIL

Given the potential ramifications of the changes to the WHS regulatory environment in WA, Shire officers have developed a range of risk mitigation actions, designed to maximise beneficial health and safety outcomes for all concerned whilst meeting the new WHS acts requirements.

The new WHS act specifically prohibits an employer from knowingly and / or consenting to, allowing 'an employee' to work in a hazardous place, that may result in an 'injury' to the employee, and / or could result in a 'fatality'. A fire event is commonly known to potentially pose a risk of injury and also, unfortunately, has the potential to result in a fatality.

To minimize the risks associated with this situation, as an operational measure;

1. All Bush Fire Brigade (BFB) members will be given operational instructions, informing them that under no circumstances is any volunteer BFB member, to undertake any activity, that may pose a risk of injury and / or could potentially result in a fatality, to themselves or others, outside of their individual capabilities, safe work systems, training and authority levels provided by DFES, being the lead response agency in WA. Further they will be required to sign an undertaking to that effect and undergo Shire of Waroona employee OSH inductions.

The new Act also provides exemptions from prosecution for associations, who do not employ people for monetary reward, apart from the reimbursement of expenses. Consequently, forming the three brigades into an association, may afford further protection from prosecution for the BFB members themselves. An investigation into the new Act's legislative protections afforded to associations is to be carried out.

To minimize the risks associated with this situation, Council approval will be needed to;

2. Form the three the Bush Fire Brigades (BFB) into an 'Association', to limit the extent that the Shire of Waroona 'employees' can be held criminally liable, under the new WHS act.

Previously, the Shire of Waroona shared a CESM, with the Shire of Murray. However, the outgoing CEO, shared also with the Shire of Murray at that time, ended that arrangement effective 5th February 2022 (ref: I12213). As a result, the Shire of Waroona, does not currently have the expertise nor organizational capacity, to adequately manage volunteer Bush Fire Brigades, as required by the WA Bush Fires Act (ref:4). In response Shire officers have commenced exploring the option of sharing a CESM with another regional Shire.

As an interim measure, as an operational measure the Shire will;

3. Fund 0.30 of the cost of a Department of Fire and Emergency Services (DFES) approved Community Emergency Services Manager (CESM) or Coordinator. It will be intended that DFES will fund 0.40 and a new partnering Shire will fund the remaining 0.30 of the cost.

Currently the Shire of Waroona, like many other LG's in WA, with regional BFB's and DFES being the 'lead' agency:

- Has no decision-making powers with regard to funding allocations, resourcing or equipping a BFB, nor the resourcing to provide these items from its own source funding;
- Has no ability to access BFB Training or Qualification records, unless these are duplicated and provided by DFES to the Shire;
- Lacks the expertise and organizational capacity, to develop and implement 'safe work systems' for BFB's;
- Lacks the expertise and organizational capacity, to control a fire related incident, or direct BFB volunteers, engaging in 'safe work systems';

- Lacks the expertise and organizational capacity, to ensure those who do attend a fire related incident are appropriately, qualified, trained and vaccinated;

This is because all of these matters are controlled and managed by DFES governance, risk and management arrangements and systems. Therefore, it could be viewed that, the further provision of Local Government controlled BFB is an inappropriate duplication of “services or facilities provided by the ... State” under s3.18 of the Local Government Act 1995.

In addition, the WA Bush Fire Act 1957, 41. Bush fire brigades: (1) states, a local government *may*, in accordance with its local laws made for the purpose, establish and maintain one or more bush fire brigades. As such, the local government could also decide not to maintain one or more bush fire brigades. Also the Shire of Waroona has no local laws relating to the establishment or management of BFB’s.

As a result, although it will take some time to enact, to minimize the risks associated with this situation, Council approval will be needed to;

4. Formally hand over the current Bush Fire Brigades (BFB) to the Department of Fire and Emergency Services (DFES) ownership, for them to manage and control going forward, under a different name if required, through a legally recognised instrument.

This complex situation has arisen due to the change in WA’s WHS regulations, which were changed with the intent of modernizing the WHS regulation and bring them in line with the rest of Australia. However, WA is unique in that is the only State where the Bush Fire regulations have the Local Government managing its local Bush Fire Brigades.

Again although it will take some time to enact, Council approval will be needed to;

5. Advocate for the modernisation of legislation, such as the work undertaken to align WA with the rest of Australia through the implementation of the new WHS act; be extended to modernising the Western Australia’s Bush Fires Act 1954, in alignment with the rest of Australia. Thereby removing the requirement for Local Governments to manage their volunteer Bush Fire Brigades.

References

1. https://www.dmirs.wa.gov.au/sites/default/files/atoms/files/overview_wa_whs_act_0_0.pdf
2. [Rural fire division - Department of Fire and Emergency Services \(dfes.wa.gov.au\)](http://rural.fire.wa.gov.au/)
3. <https://www.soundlegal.com.au/blog/whs-act-2020-wa-lessons-learned-from-australias-first-industrial-manslaughter-case/#:~:text=WHS%20harmonisation%20finally%20arrives%20in%20WA%20It%E2%80%99s%20taken,2020%20passed%20the%20WA%20Parliament%20in%20November%202020>
4. <https://walqa.asn.au/policy-advocacy/our-policy-areas/emergency-management/bushfire-brigade-resources#:~:text=In%202021%2C%20the%20new%20Work%20Health%20and%20Safety,other%20stakeholders%20to%20allow%20a%20longer%20transition%20period>
5. https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_106_homepage.html

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	5.2.1 Employ, maintain and retain a skilled workforce

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

In light of, *the Local Government Act of 1995: Division 3 — Executive functions of local governments, Subdivision 1 — Performing executive functions, 3.18. Performing executive functions: 3(b)*; as the WA Department of Fire and Emergency Services (DFES), is already providing a rural fire division (ref. 2), it could be considered that the further provision of Local Government controlled BFB is an inappropriate duplication of “*services or facilities provided by the ... State*”.

Division 3 — Executive functions of local governments

Subdivision 1 — Performing executive functions

3.18. Performing executive functions

- (1) A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act.
- (2) In performing its executive functions, a local government may provide services and facilities.
- (3) A local government is to satisfy itself that services and facilities that it provides
 - (a) integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State or any public body; and
 - (b) do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private;** and
 - (c) are managed efficiently and effectively.

The *WA Bush Fire Act 1957, 41. Bush fire brigades: (1)* states, a local government may, in accordance with its local laws made for the purpose, establish and maintain one or more bush fire brigades. As such, the local government could also decide not to maintain one or more bush fire brigades.

Bush Fire Act 1957,

41. Bush fire brigades:

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

The Shire of Waroona does not have local law to manage its BFBs.

SUSTAINABILITY & RISK CONSIDERATIONS

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

- Accepting the risk of managing ‘employees’ whom the Shire of Waroona has no capacity to direct or manage, could have significant economic implications in the event of a reportable event occurring.

A confidential item will be considered under item 16.2

11.2 DIRECTOR CORPORATE & COMMUNITY SERVICES

11.2.1 Listing of Payments for the Month of December 2021 and January 2022	
File Ref:	1/3 - Creditors
Previous Items:	N/A
Applicant:	N/A
Author and Title:	Kathy Simpson, Senior Finance Officer
Voting Requirements:	Simple Majority
Declaration of Interest:	Nil
Appendix Number	11.2.1 - Monthly Report to Council - Dec 21 Jan 22

RECOMMENDATION

That Council receive the following payments made throughout the month of December 2021 and January 2022;

Municipal	Cheque 9836 - 9873	\$54,661.51
	EFT 35406 - 35832	\$1,850,067.97
Direct wages	01/12/21 – 31/01/22 inclusive	\$481,492.80
Direct Debit	01/12/21 – 31/01/22	\$120,459.78
Trust	Cheque – Nil	\$ -
	EFT – Nil	\$ -
GRAND TOTAL		\$2,506,682.06

as attached at Appendix 11.2.1.

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 December 2021 and January 2022.

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 November 2021.
2. Not receive the listing of payments presented for the month of November 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 September 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.

11.2.2 Monthly Statement of Financial Activity for the period 1 July 2021 to 31 December 2021 and 1 July 2021 to 31 January 2022	
File Ref:	1/1 – Annual Statements
Previous Items:	N/A
Applicant:	N/A
Author and Title:	Kirsty Ferraro, Manager Corporate Services
Voting Requirements:	Simple Majority
Declaration of Interest:	Nil
Appendix Number	11.2.2 A - Monthly Agenda Report 21-22 December 11.2.2 B - Monthly Agenda Report 21-22 January

RECOMMENDATION

That Council receives the Monthly Statement of Financial Activity for the period 1 July 2021 to 31 December 2021 and 1 July 2021 to 31 January 2022.

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;

- o Statement of Financial Activity by Programme
- o Statement of Financial Activity by Nature and Type, and
- o Statement of Financial Position
- o Note 1 – Significant Accounting Policies
- o Note 2 – Graphical Representation
- o Note 3 – Net Current Funding Position
- o Note 4 – Cash and Investments
- o Note 5 – Major Variances
- o Note 6 – Budget Amendments
- o Note 7 – Receivables
- o Note 8 – Grants & Contributions

- Note 10 – Capital Disposals and Acquisitions
- Note 11 – Significant Capital Projects
- Note 12 – Trust
- Note 13 - Borrowings

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

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

OTHER STRATEGIC LINKS

Shire of Waroona 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.

11.2.3 2020/2021 Annual Report, Annual Financial Report & Annual Electors Meeting	
File Ref:	8/1 – Annual Electors Meeting 15/1 – Auditors: Finance Audits 166/1 – Integrated Planning & Reporting
Previous Items:	OCM20/12/225 & OCM20/12/226
Applicant:	N/A
Author and Title:	Ashleigh Nuttall, Director Corporate & Community Services
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Appendix Number	11.2.3 - Annual Report 2020.21 - Amended Prior to Adoption

RECOMMENDATION

That Council:

- 1. Receives the Shire of Waroona Annual Report for the financial year commencing 1 July 2020 and concluding 30 June 2021;**
- 2. Receives the audited annual financial statements and Auditor’s report for the Shire of Waroona for the financial year ended 30 June 2021;**
- 3. Continues to investigate strategies to improve the Operating Surplus Ratio and ensure continual improvement in the Long Term Financial Plan towards meeting benchmarks;**
- 4. Gives local public notice of the availability of the 2020/2021 Annual Report; and**
- 5. Holds the annual electors meeting on Tuesday 22nd March 2022 at 6.00pm and gives local public notice of the meeting.**

IN BRIEF

- Council is requested to consider and adopt the Shire of Waroona Annual Report for the 2020/21 financial year.
- Council is to consider the receipt of the audited annual financial statements for the year ended 30 June 2021.
- Make the accepted annual report available to the public.
- Advertise the annual electors meeting to be held on Tuesday 22nd March 2022.

BACKGROUND

Council is required to prepare and submit to its Auditors their annual financial statements by September 30 each year. This is followed by formal acceptance of the Audit report and subsequent incorporation of the audit report into the Annual Report which is to be presented to the Electors.

In accordance with the Local Government Act 1995, local governments are required to accept the annual report by absolute majority no later than 2 months after the auditor’s report becomes available.

This is the first financial year that the Shire of Waroona’s audit comes under the Office of the Auditor General.

The Annual Electors Meeting is to be held no more than 56 days after the acceptance of the annual report for the previous financial year.

REPORT DETAIL

Then Shire of Waroona Annual Report is a comprehensive account of the Shire’s activities throughout the 2020/2021 financial year which highlights the progression and achievements towards the strategic objectives detailed in Council’s Strategic Community Plan.

The annual report document contains the annual financial report and auditors report. This will be available on Council’s website as well as at the Administration Office and Library for public viewing. Copies will be provided to ratepayers and community members upon request and at the annual electors meeting.

Council’s annual audit was conducted by Butler Settineri contracted by the Office of the Auditor General. The Office of the Auditor General has released an opinion on the financial report for the Shire of Waroona which is based on proper accounts and records and in their opinion is a fair representation of the operations for the year ended 30 June 2021.

Following adoption of the Annual Report (including the Annual Financial Statements and the official audit’s report), the document will be presented to the Electors at the annual electors meeting held on Tuesday 22nd March 2022 at 6.00pm.

As per the Local Government (Audit) Regulations 1996, the WA Auditor General requires reporting of benchmarks not reached with relation to financial ratios to be addressed in the Auditors Report. The Council is required to calculate 7 financial ratios and report the outcomes in its financial statements. These ratios measure trends in the Council’s financial performance by a series of benchmarks.

Council’s Auditor has advised that 1 of the 7 benchmark ratios has not been achieved –

- Operating surplus ratio – measures the Council’s ability to cover its operational costs and have revenues available for capital funding or other purposes. This ratio does not include any operating grants or contributions in its calculation.

Council Officers will endeavour to make changes where possible to improve this ratio. The Council’s Long Term Financial Plan aims to achieve improvements in this ratio over the longer period which is normal practice for the majority of Councils.

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

Local Government Act 1995

5.53. Annual reports

- (1) The local government is to prepare an annual report for each financial year.
- (2) The annual report is to contain —
 - (a) a report from the mayor or president; and
 - (b) a report from the CEO; and
 - [(c), (d) deleted]
 - (e) an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year; and
 - (f) the financial report for the financial year; and
 - (g) such information as may be prescribed in relation to the payments made to employees; and
 - (h) the auditor's report prepared under section 7.9(1) or 7.12AD(1) for the financial year; and
 - (ha) a matter on which a report must be made under section 29(2) of the Disability Services Act 1993; and
 - (hb) details of entries made under section 5.121 during the financial year in the register of complaints, including —
 - (i) the number of complaints recorded in the register of complaints; and
 - (ii) how the recorded complaints were dealt with; and
 - (iii) any other details that the regulations may require; and
 - (i) such other information as may be prescribed.

5.54. Acceptance of annual reports

- (1) Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.
* Absolute majority required.
- (2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.

5.55. Notice of annual reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

5.55A. Publication of annual reports

The CEO is to publish the annual report on the local government's official website within 14 days after the report has been accepted by the local government.

5.27. Electors' general meetings

- (1) A general meeting of the electors of a district is to be held once every financial year.
- (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual

- report for the previous financial year.
- (3) The matters to be discussed at general electors' meetings are to be those prescribed.

Financial Management, Division 3 — Reporting on activities and finance

6.4. Financial report

- (1) A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.
- (2) The financial report is to —
- (a) be prepared and presented in the manner and form prescribed; and
 - (b) contain the prescribed information.
- (3) By 30 September following each financial year or such extended time as the Minister allows, a local government is to submit to its auditor —
- (a) the accounts of the local government, balanced up to the last day of the preceding financial year; and
 - (b) the annual financial report of the local government for the preceding financial year.

Division 4 – General

7.12A. Duties of local government with respect to audits

- (3) A local government must —
- (aa) examine an audit report received by the local government; and
 - (a) determine if any matters raised by the audit report, require action to be taken by the local government; and
 - (b) ensure that appropriate action is taken in respect of those matters.
- (4) A local government must —
- (a) prepare a report addressing any matters identified as significant by the auditor in the audit report, and stating what action the local government has taken or intends to take with respect to each of those matters; and
 - (b) give a copy of that report to the Minister within 3 months after the audit report is received by the local government.
- (5) Within 14 days after a local government gives a report to the Minister under subsection (4)(b), the CEO must publish a copy of the report on the local government's official website.

Local Government (Financial Management) Regulations 1996

Part 4 details the content of the Annual Financial Report. Item 36 – 50

51. Annual financial report to be signed etc. by CEO and given to Department

- (1) After the annual financial report has been audited in accordance with the Act the CEO is to sign and append to the report a declaration in the form of Form 1.

- (2) A copy of the annual financial report of a local government is to be submitted to the Departmental CEO within 30 days of the receipt by the local government’s CEO of the auditor’s report on that financial report.

Local Government (Administration) Regulations 1996

- 15. Matters to be discussed at general meeting (Act s. 5.27(3))
For the purposes of section 5.27(3), the matters to be discussed at a general electors’ meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.

SUSTAINABILITY & RISK CONSIDERATIONS

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

The Annual Report demonstrates to the community sound management of the Shire’s resources during the 2020/21 financial year.

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

The Annual Report outlines achievements that demonstrate the Shire’s commitment to improving the quality of life in the community.

Environment – (Impact on environment’s sustainability)

The Annual Report includes details of projects and planning initiatives that consider and address environmental sustainability.

Policy Implications

CGP016 – Legislative Compliance

To ensure that the Shire of Waroona complies with legislative requirements and has appropriate processes and procedures to ensure such compliance occurs. The desired objective is to formally support the achievement of 95+% legislative compliance within the relevant timeframes.

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>	<p>ANNUAL REPORT Council is required to prepare and accept an annual report at the conclusion of each financial year which is then publicised to the community. Council risks not being compliant with the Local Government Act 1995 and Regulation’s requirements. There is also a reputational factor where Council could fail to communicate to the community in a transparent and accountable way.</p> <p>ANNUAL FINANCIAL STATEMENTS As per the Local Government Act 1995 and associated Regulation Council is to submit to the auditors by 30 September the balanced account of the Local government. All compliance dates and requirements have been met. If Council was to not meet these requirements it would be in breach of the Local Government Legislation. This could lead to further scrutiny and loss of reputation due to the inability to be transparent and present the annual financials in the correct manner.</p>

<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Monitor the risk, ensure compliance with annual statutory calendar.
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Director
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Community consultation is not required when preparing the annual report. Shire officers across the organisation are invited to provide submissions for inclusion in the annual report where appropriate or required.

The Shire is required to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government. The Chief Executive Officer is required to publish the annual report on the local government's official website within 14 days after the report has been accepted.

RESOURCE IMPLICATIONS

Financial

Nil

Workforce

Nil

OPTIONS

Council has the option of:

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

CONCLUSION

The Annual Report is the final component of the Shire's Integrated Planning & Reporting Framework and is a mechanism of communicating with the community and key stakeholders in a transparent and accountable way.

The acceptance of the Annual Report will allow the report to be published on the Shire's website in advance of the Annual Elector's Meeting which is scheduled for Tuesday 22nd March 2022.

It is recommended that Council receive the audited annual financial statements as presented and that a copy of the statements will be included within the Annual Report document which is to be presented to Electors at the Annual meeting of Electors proposed to be held on Tuesday 22nd March 2022.

11.2.4 Amendments to Various Policies Due to Organisational Restructure	
File Ref:	111/1 – Policy Manual Review
Previous Items:	OCM21/06/071
Applicant:	N/A
Author and Title:	Ashleigh Nuttall – Director Corporate Services
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Appendix Numbers	11.2.4 A – FP001 Purchasing and Procurement 11.2.4 B – FP003 Purchase Orders Authority 11.2.4 C – FP004 Corporate Credit Cards 11.2.4 D – Electronic Fund Transfers and Cheques 11.2.4 E – FP011 Investment of Funds

RECOMMENDATION

That Council endorses the following amended Policies:

- a. **FP001 – Purchasing and Procurement;**
- b. **FP003 – Purchase Orders Authority;**
- c. **FP004 – Corporate Credit Cards;**
- d. **FP005 – Electronic Fund Transfers and Cheques; and**
- e. **FP011 – Investment of Funds.**

IN BRIEF

- To seek Council's endorsement of the amendment to a number of policies to updated officer positions in accordance with the organisation restructure and the ceasing of a number of resource sharing agreements.
- Update the Purchasing and Procurement policy to reduce confusion with intent.

BACKGROUND

Currently there are a number of financial policies that need to be amended to account for the recent change in officers due to the organisational restructure. These changes allow the newly appointed officers to conduct their duties within their departments effectively and in accordance with budgeted levels.

This amendment also removed officers that were a part of a resource sharing arrangement that have since ceased.

The Purchasing and Procurement Policy requires amending due to the intent being misinterpreted by Council's auditors. The amendment will ensure that this policy is clear and there is no ambiguity surrounding the intention.

REPORT DETAIL

FP001 – Purchasing and Procurement

Amended to ensure that intent is clear, that for purchases under \$7,500 that quoting is only necessary where practical. Market research should always be conducted to be in accordance with the overall policy including using local suppliers where appropriate.

FP003 – Purchase Orders Authority

Amended to include new officer positions as a result of the organisational restructure; Director Technical & Development Services and Building Maintenance Officer. The Works Supervisor has also been added to allow for more streamlined processing. The following positions have been removed, Director Place, Community & Economic Development, Directory Planning & Sustainability, Manager Planning and Community Emergency Services Manager.

Purchasing limits have been amended to be in line with the purchasing and procurement policy.

FP004 – Corporate Credit Cards

Addition of Building Maintenance Officer as a credit card holder. This will ensure that daily purchasing can be performed in an efficient manner.

Removal of Community Emergency Services Coordinator due to the ceasing of the resource sharing arrangement.

FP005 – Electronic Fund Transfers and Cheques

Updating current officer positions to allow for the efficient transfer of Council’s funds to ensure payments are made to suppliers in accordance with payment terms from the Municipal and Trust funds.

FP011 – Investment of Funds

Addition of Director Infrastructure & Development Services to allow for Municipal and Trust funds to be invested where appropriate and in accordance with policy advice.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

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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

Local Government Act 1995

Section 6.14 – Power to Invest

Local Government (Functions & General) Regulations 1996

11A. Purchasing policies for local governments

- 1) A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250 000 or less or worth \$250 000 or less.
- 2) A purchasing policy is to make provision for and in respect of the policy to be followed by the local government for, and in respect of, entering into contracts referred to in sub regulation (1).
- 3) A purchasing policy must make provision in respect of —
 - a. the form of quotations acceptable; and
 - ba. the minimum number of oral quotations and written quotations that must be obtained; and
 - b. the recording and retention of written information, or documents, in respect of —
 - i. all quotations received; and
 - ii. all purchases 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

Amended policies have been included as an attachment to this report. Explanation of each change has been described in the report details.

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>	To ensure that policy amendments are completed affectively to ensure that officer are able to perform their duties.
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	4 - Likely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Amended polices will ensure that officers are able to conduct business in the most appropriate manner.
<i>Review Frequency</i>	Semi-annually
<i>Risk Owner</i>	Director
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Nil

RESOURCE IMPLICATIONS

Financial

Nil

Workforce

Nil

OPTIONS

Council has the option of:

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

CONCLUSION

Although the Policies are formally reviewed once a year as best practice, the requirement to address these individual policies outside of the normal policy review process will result in the amendment to the policy being able to take immediate effect. This will allow the newly appointed officers to perform their duties effectively.

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

RECOMMENDATION

That Council:

1. **revokes all delegated authority to the Director Planning and Sustainability and the Director of Infrastructure Services; and**
2. **approves delegated authority to the Director Infrastructure and Development Services for the following delegations:**
 - **2.5.1 – Determine compensation,**
 - **2.5.2 – Prohibition orders,**
 - **2.5.3 – Food business registrations,**
 - **2.5.4 – Appoint authorised officers and delegated officers,**
 - **2.5.5 – Debt recovery and prosecutions,**
 - **2.5.6 – Abattoir inspections and fees, and**
 - **2.5.7 – Food business list - public access.**

IN BRIEF

Due to a change in staff, amendments to delegations are required.

BACKGROUND

The aim of delegated authority is to assist with the efficiency of the local government activities by way of quicker decisions. Under the *Food Act 2008*, an enforcement agency (in this case Council) has the ability to delegate a function conferred or imposed on it.

Currently Council has delegated functions under the *Food Act 2008* to the Chief Executive Officer and Director Planning and Sustainability.

REPORT DETAIL

With the cessation of the Director Planning and Sustainability and commencement of the Director Infrastructure and Development Services, Council must review their delegations relating to these roles.

The relevant delegations are:

i. Determine compensation

1. Authority to determine applications for compensation in relation to any item seized if no contravention has been committed and the item cannot be returned [s.56(2)].

2. Authority to determine an application for compensation from a person on whom a prohibition notice has been served and who has suffered loss as the result of the making of the order and who considers that there were insufficient grounds for making the order [s.70(2) and (3)].

ii. Prohibition orders

1. Authority to serve a prohibition order on the proprietor of a food business in accordance with s.65 of the *Food Act 2008* [s.65(1)].
2. Authority to give a certificate of clearance, where inspection demonstrates compliance with a prohibition order and any relevant improvement notices [s.66].
3. Authority to give written notice to proprietor of a food business on whom a prohibition order has been served of the decision not to give a certificate of clearance after an inspection [s.67(4)].

iii. Food business registrations

1. Authority to consider applications and determine registration of a food business and grant the application with or without conditions or refuse the registration [s.110(1) and (5)].
2. Authority to vary the conditions or cancel the registration of a food business [s.112].

iv. Appoint authorised officers and delegated officers

1. Authority to appoint a person to be an authorised officer for the purposes of the *Food Act 2008* [s.122(1)].
2. Authority to appoint an Authorised Officer appointed under s.122(1) of this Act or the s.24(1) of the *Public Health Act 2016*, to be a Designated Officer for the purposes of issuing Infringement Notices under the *Food Act 2008* [s.126(13)].
3. Authority to appoint an Authorised Officer to be a Designated Officer (who is prohibited by s.126(13) from also being a Designated Officer for the purpose of issuing infringements), for the purpose of extending the time for payment of modified penalties [s.126(6)] and determining withdrawal of an infringement notice [s.126(7)].

v. Debt recovery and prosecutions

1. Authority to recover costs incurred in connection with the lawful destruction or disposal of an item (seized) including any storage costs [s.54(1)] and the costs of any subsequent proceedings in a court of competent jurisdiction [s.54(3)].
2. Authority to institute proceedings for an offence under the *Food Act 2008* [s.125].

vi. Abattoir inspections and fees

1. Authority, relevant to the payment of abattoir meat inspection fees under Regulation 41, to:
 - (a) require a person to provide security,
 - (b) determine the form that security is to be provided, and
 - (c) discharge a security held by the Shire of Waroona [r.43].
2. Authority to give written notice and withdraw abattoir meat inspection services, pending payment of any fees due and payable [r.45].

vii. Food business list – public access

Authority to make a list of food businesses maintained under s.115(a) or (b) publicly available [r.51].

Without delegation, any duties outside of the Authorised Officer role must be determined by Council or the Chief Executive Officer, resulting in inefficient decision making and action.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Leadership
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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

Food Act 2008

s.118 – Functions of enforcement agencies and delegation

- (1) An enforcement agency has the functions in relation to the administration of this Act that are conferred or imposed on the agency by or under this Act or are delegated to the agency under this Act.
- (2) A function conferred or imposed on an enforcement agency may be delegated —
 - (a) if the enforcement agency is the CEO — in accordance with section 117; or
 - (b) if the enforcement agency is a local government or a person or body, or a person or body within a class of persons or bodies, prescribed by the regulations — subject to subsections (3) and (4), in accordance with the regulations.
- (3) Without limiting the Interpretation Act 1984 section 59, the performance by a delegate of an enforcement agency of a function delegated under subsection (2)(b) is subject to —
 - (a) any condition or limitation imposed under section 119 on the performance by the enforcement agency of the function; and
 - (b) any guidelines that the enforcement agency is required to adopt under section 120 in performing the function.
- (4) If —
 - (a) regulations referred to in subsection (2)(b) expressly authorise a delegated function of an enforcement agency to be further delegated; and
 - (b) the delegated function is further delegated to a person or body in accordance with those regulations,
 subsection (3) applies to the performance by the person or body of that function as if the function were performed and delegated as described in that subsection.

SUSTAINABILITY & RISK CONSIDERATIONS

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

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

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

Policy Implications
 Nil.

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

<i>Theme</i>	Environmental - Regulatory compliance, contamination, inadequate processes
<i>Description</i>	Failing to endorse the amendments would result in non-compliance with legislation and potential consequences from the relevant State Government department.
<i>Consequence</i>	3 - Moderate
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Council’s endorsement of the recommendation of this report will mitigate the likelihood of this risk coming into effect.
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Chief executive officer
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Nil.

RESOURCE IMPLICATIONS

Financial
 Nil.

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

OPTIONS

Council has the option of:

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

CONCLUSION

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

11.2.6 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	Change of Rating Method Confidential Attachments: 11.2.6 A – Confidential – I13367 Submission 11.2.6 B – Confidential – I13396 Submission 11.2.6 C – Confidential – I13479 Submission

RECOMMENDATION

That Council:

In accordance with Section 6.28 of the Local Government Act 1995 the Council seeks ministerial approval for 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 11.2.6 - Change with an anticipated application date of 1st July 2022:

- a. **McDowell Street north of the Waroona townsite;**
- b. **Banbar View subdivision Waroona; and**
- c. **Flathead Vista, Blackbream Entrance and Rakali Drive Lake Clifton.**

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, Blackbreem Entrance & Rakali Drive, Lake Clifton

A rating method change for this area will affect approximately 26 properties. The Flathead Vista/Blackbreem 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.

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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

Eighty-seven landowners of affected properties were informed in writing of the proposed change, following Council's endorsement of the change in rating method at the November 2021 Council meeting and given 28 days to provide a submission to Council. Three (3) submissions were received and are provided as confidential attachments.

Submission one (1) suggests that the change of rating method to McDowell Street north will incur significant costs to Council in improving road conditions that would be expected by ratepayers located within a GRV area. It is noted that road upgrade / improvement requirements are assessed for all Shire roads in accordance with normal asset management principals and where warranted, are budgetted for work.

Submission two (2) states land located on McDowell St is used predominantly for cattle and that the lack of infrastructure in the area such as pathways and cable NBN does not constitute a residential area.

Submission two (3) states that their land located in the McDowell Street north proposed area is a habitat for native vegetation and wildlife, is used as a hobby farm and small orchard and is maintained using rural plant and should remain UV rated.

The submissions will be provided to the Minister for Local Government as part of the application process.

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 CHIEF EXECUTIVE OFFICER

11.3.1 Local Government Act Review	
File Ref:	2/1
Previous Items:	N/A
Applicant:	Shire of Waroona
Author and Title:	Mark Goodlet, Chief Executive Officer
Declaration of Interest:	Nature – Impartiality. Extent – Responses relating to CEO performance and management are provided in Appendix B.
Voting Requirements:	Simple Majority
Appendix Number	11.3.1 A - Local Government Review Panel Final Report, May 2020. 11.3.1 B - Local Government Reform - Summary of Proposed Reforms. WALGA Advocacy Positions and Recommendations (November 2021) & Shire of Waroona Positions and Recommendations February 2022.

RECOMMENDATION

That Council:

- 1. Approves Appendix 11.3.1 B Local Government Reform - Summary of Proposed Reforms WALGA Advocacy Positions and Recommendations (November 2021) & Shire of Waroona Positions and Recommendations February 2022; and**
- 2. Requests the Chief Executive Officer to provide its Appendix 11.3.1 B submission to the Department of Local Government, Sport and Cultural Industries.**

IN BRIEF

- The Department of Local Government, Sport and Cultural Industries (DLGSCI) in managing a review of the Local Government Act 1995 on behalf of the State Government. Appendix A contains the Local Government Review Panel Final Report, May 2020.
- Submissions have been invited for a series of specific proposed reforms. This report captures the Shire of Waroona's view on these proposed reforms and is intended to be submitted to the DLGSCI.

BACKGROUND

The State Government have recently advised of a three-month consultation period, which was due to close on Friday 4 February 2022, on the proposed Local Government Act legislative reforms. At WALGA's State Council Meeting held on Wednesday 1 December, the State Council resolved to approach the Minister for Local Government for an extension to the consultation period by 1 month due to the Christmas holiday period. A response has been received extending submissions now to 25 February 2022.

While a WALGA position has been provided to the various proposed reforms, this is intended to be ratified by WALGA following receipt of responses from local governments, at the Wednesday 23 February 2022 WALGA Special Meeting of State Council.

The Shire of Waroona has not been in a position to submit to WALGA ahead of its meeting, however it can simply submit its position directly to the DLGSCI on the closing date of 25th February 2022.

REPORT DETAIL

Departmental Overview

The Department of Local Government, Sport and Cultural Industries notes the following:

“Local government benefits all Western Australians. It is critical that local government works with:

- *a culture of openness to innovation and change*
- *continuous focus on the effective delivery of services*
- *respectful and constructive policy debate and democratic decision-making*
- *an environment of transparency and accountability to ensure effective public engagement on important community decisions.*

Since first coming to office in 2017, the McGowan Government has already progressed reforms to improve specific aspects of local government performance. This includes new laws that work to improve transparency, cut red tape, and support jobs growth and economic development - ensuring that local government works for the benefit of local communities. Based on the significant volume of research and consultation undertaken over the past five years, the Minister for Local Government has now announced the most significant package of major reforms to local government in Western Australia since the Local Government Act 1995 was passed more than 25 years ago. The package is based on six major themes:

- *Earlier intervention, effective regulation and stronger penalties*
- *Reducing red tape, increasing consistency and simplicity*
- *Greater transparency and accountability*
- *Stronger local democracy and community engagement*
- *Clear roles and responsibilities*
- *Improved financial management and reporting.*

A large focus on the new reform is oversight and intervention where there are significant problems arising within a local government. The introduction of new intermediate powers for intervention will increase the number of tools available to address problems and dysfunction more quickly within local governments. The proposed system for early intervention has been developed based on similar legislation in place in other jurisdictions, including Victoria and Queensland.

This will deliver significant benefits for small business, residents and ratepayers, industry, elected members and professionals working in the sector”.

Shire of Waroona Response

The Shire of Waroona’s response is in two parts in Appendix B. Firstly, a statement on the Shire of Waroona’s Overall Position on the Reform Intent and Process (pg. 4) is provided. The proposed Shire of Waroona response deals with gaps in the methodology and overall outcomes, seeking greater emphasis on the good work that local governments do, a genuine reduction in red tape, and a comprehensive and transparent evidence-based evaluation process.

Secondly, statements on whether it supports the WALGA position and recommendations (in blue, column 3), are provided for each of the reform proposals, under the title Shire of Waroona Proposed Reform Position and Recommendations, commencing on page 5 and

shown in red. Where it has an alternative view or additional perspective, this has been included.

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	Respond to the Local Government Act reform consultation process.

OTHER STRATEGIC LINKS

N/A

STATUTORY ENVIRONMENT

The reforms relate to the Local Government Act 1995, an Act of State Parliament that has now been substantially in place since 1996, some 25 years.

SUSTAINABILITY & RISK CONSIDERATIONS

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

N/A

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

N/A

Environment – (Impact on environment’s sustainability)

N/A

Policy Implications

N/A

Risk Management Implications

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

<i>Theme</i>	Reputation - Public perception, poor customer service, sub standard work, corruption
<i>Description</i>	The risk is reputational damage in not participating in the reform process and in not championing the values of the Shire of Waroona.
<i>Consequence</i>	1 - Insignificant
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Low (1-3)
<i>Controls / Review</i>	The Shire submits a response.
<i>Risk Owner</i>	Chief executive officer
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Consultation has occurred with WALGA, Local Government Professionals (WA) and other Local Governments in the WALGA Central Country Zone.

The proposed response by the Shire of Waroona has been workshopped at a Briefing Session with Councillors. Changes suggested at that briefing have been incorporated to the submission.

RESOURCE IMPLICATIONS

Financial

Within normal administrative role.

Workforce

Within normal administrative role.

OPTIONS

Council has the option of:

1. Approving the response as per Appendix B.
2. Amending and approving the response in Appendix B.
3. Not approving the response and not submitting a response.

CONCLUSION

The review of the Local Government Act 1995 has generational implications for local government in Western Australia. Whether it becomes a revision of the existing Act, or a completely new Act, it will shape the way local government works for years to come. For this reason, it is worth participating in the process to ensure the voice of the Shire of Waroona is heard.

The proposed Shire of Waroona response deals with gaps in the methodology and overall outcomes, seeking greater emphasis on the good work that local governments do, a genuine reduction in red tape, and a comprehensive and transparent evidence-based evaluation process.

The Shire's response generally aligns with that of WALGA, though reflecting on some matters pertinent to a regional, well performing local government are put forward in addition, or as an alternative, to the WALGA position.

11.3.2 Waroona Sport and Recreation Precinct Master Plan Draft	
File Ref:	126/6
Previous Items:	Nil
Applicant:	Shire of Waroona
Author and Title:	Marlene Renton, Shire of Murray Manager Community and Library Services Mark Goodlet, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Appendix Number	11.3.2 A – Waroona Sport Master Plan Report DRAFT 11.3.2 B – Appendix 5 to Master Plan Building Evaluation Report Shire of Waroona Sport Recreation

RECOMMENDATION

That Council:

- 1. Notes the information contained in the draft Sport and Recreation Master Planning report as per Appendix 11.3.2 A;**
- 2. Acknowledges the completion of the consultancy work by A Balanced View (ABV) Leisure Consultancy Services;**
- 3. Notes the structural assessments of the bowling club and golf club, as well as the buildings conditions ratings for all Shire buildings, being undertaken to inform cost, facilities life expectancy and likely replacement timetable;**
- 4. Agrees to proceed with the sport and recreation master planning on the basis of two precincts in the Town of Waroona;**
- 5. Agrees to continue to work towards a colocation model, but provides approval to consider solo location on the basis of agreement by the stakeholder clubs and groups that their opportunity for capital funding is limited by this option;**
- 6. Requests the Chief Executive Officer (CEO) to engage further with the stakeholder clubs and groups to seek direction on;**
 - a. Items 4 & 5 above; and**
 - b. Progressing to a consensus, or near consensus concept plan for each site;**
- 7. Approves a budget amount of \$10,000 for coordination and assistance for completion of the consultation and drafting of the next stage of the Sport & Recreation Master Plan; and**
- 8. Requests the CEO to report back to Council with a draft Sport and Recreation Master Plan which incorporates findings on the further consultation and implications of the facilities fair value, condition ratings and structural assessments, in a CEO KPI revision from April to June 2022.**

IN BRIEF

- The Shire engaged 'A Balanced View (ABV) Leisure Consultancy Services' in September 2020 to develop the 'Waroona Sport and Recreation Precinct Master Plan and Report (the Master Plan)'.

- The purpose of the Master Plan is to guide the sustainable development of sport and recreation infrastructure in the town of Waroona based on the principles of co-location, shared use, and multi-purpose design, using an evidence-based approach.
- Initially it was expected that the project would be completed by March 2021, however additional time was required to explore a number of club planning issues, and to ensure the stakeholder engagement process was thorough.
- Additional work is now being undertaken to inform the condition of the facilities and the master planning work.
- Council is requested to note the draft Master Plan, acknowledge the completion of the consultancy with ABV, and to endorse the proposed actions.

BACKGROUND

The population of Waroona has not grown significantly over the past ten years and as a result there has been little demand for new facilities. However, the facilities within the Town Precinct have experienced consistent use by resident clubs and the community, but many are old and will require major works or replacement within the coming years. This will place significant financial impact on the Shire and in particular, the clubs that hold leases over the facilities.

The Shire recognised this an opportunity to review current facility locations, design, functions, and management models and to investigate options for rationalisation and consolidation of community infrastructure, with a view to providing a more sustainable outcome for the clubs and ratepayers. In the long term, advance planning will optimise the use of both land and facility space and will allow the Clubs and the Shire to set aside funds for future capitals works.

In September 2020, the Shire engaged ABV to undertake a review of existing sport and recreation facilities in the town of Waroona with the aim of consolidating and rationalising infrastructure and creating a Sport and Recreation Precinct Master Plan to guide sustainable development for the next ten years.

REPORT DETAIL

Sport and recreation facilities within the town of Waroona are located in two distinct locations. These are:

A: Waroona Recreation and Aquatic Centre (WRAC) site

Waroona Amateur Basketball Association, Waroona Amateur Swimming Club, Waroona Cricket Club, Waroona Football and Netball Club (netball component), Waroona Junior Netball Club, and Waroona Golf Club.

B: Waroona Town Oval site

Waroona Agricultural Society, Waroona Bowling Club, Waroona Darts Club, Waroona Football and Netball Club (football component), Waroona Leos Club, Waroona Lions Club, and Waroona Men's Shed.



The Master Plan objectives are;

- a) Understand the condition, use and life expectancy of existing infrastructure in the Project Locations.
- b) Understand the operational requirements and needs of the clubs (listed in Clause 5) residing within the two existing Project Locations.
- c) Identify opportunities for the rationalisation and consolidation of ageing infrastructure and provide recommendations for refurbishment, repurposing, upgrading, demolition and new build.
- d) Identify opportunities for clubs to share multi-purpose facilities and provide options for the co-location (and relocation) of community facilities to create one sport and recreation precinct.
- e) Identify needs and opportunities for recreational infrastructure that will complement the facilities and activities at the sport and recreation precinct such as playground, shelter, BBQ.

Building Evaluation Report

In October 2020, ABV sub-consulted Gremcon to complete a building condition audit on the project facilities, which is provided as part of the draft Master Plan. The Report recommended that the Waroona Bowling Club and the Waroona Golf Club buildings be the subject of further structural investigations by a qualified engineer due to their poor condition. In particular, a cost benefit analysis comparing refurbishment or rebuild should be undertaken with regard to the bowling club building.

A fair value and general condition report is also being carried out for Shire facilities. The results of this work will inform the master planning work, replacement priorities and overall financial commitment of the Shire's facilities.

Initial Consultation

In October 2020 ABV sent surveys to each of the key stakeholder clubs requesting historical and current membership numbers and demographics, activities, challenges and aspirations. The surveys were followed up with one-on-one phone calls and, in some cases, in person meetings in order to capture as much club and user information as possible.

During this round of engagement, the Waroona Golf Club (WGC) informed ABV and the Shire that they had been considering options for club house renewal, course irrigation to convert from sand to grass, and decreasing from 18 to 9 holes. Given that the golf course land, and the club itself, formed a critical part of the potential future facility options, the project was put on hold to allow the WGC to formally consider their options and provide ABV with a position. The WGC completed a strategic planning exercise and presented the plan and the clubs' position in May 2021 to the Shire Project Team (executive and officers).

Precinct Concept Options

ABV collated the stakeholder feedback, considered the building audit findings, and the outcome of site investigations (power, water, land ownership) and recommended that the two locations remain as separate sport and recreation precincts (as opposed to consolidation of all clubs in one precinct).

Concept Consultation

The concepts were presented to Council by ABV at a briefing on 9 November 2021 and to the Waroona Recreation Advisory Group (WRAG) and clubs on 16 November 2021. The WRAG and the clubs were given three weeks to provide a formal response to the Concepts.

The feedback received indicated that presentation of the concepts had triggered key conversations amongst the clubs, both internally and externally, and that further in-depth engagement was required.

While it is important that the process move to completion, it is more important that the clubs are constructively engaged and the evidence is that having seen the concept, carefully considered feedback is now being put forward.

Officer Comment

The draft Master Plan by ABV should be considered as Stage 1 of the project and used as a guiding document to undertake the next stage in order to complete the Project Objectives. In particular, to confirm which clubs will co-locate and share precincts and facilities, then to the design and costing phase for the purpose of financial planning. This stage will need to involve the clubs and be undertaken in close collaboration with all key stakeholders.

Management of the master planning process was supported by an officer at the Shire of Murray. This officer is no longer available to carry out this duty.

Further Work

The draft Sport and Recreation Master Plan makes the following statements.

“The feedback from key stakeholders on the Master Plan concepts has indicated a number of groups have alternative views on potential facilities mix and upgrades to suit their needs. Therefore, it would be prudent for the Shire to conduct further in-depth consultation with these groups to work towards Master Plans for the precincts that will provide the greatest level of satisfaction within the parameters the Shire has defined.

“It is important that the identified needs are then considered with the existing consultation findings from the stakeholder groups that were comfortable with the findings / master plan concepts. This may require further consultation with all groups in a joint workshop setting to consider possible master plan concept options (draft master plan concept options may be required to aid groups in providing informed feedback on possible master plans).

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Built Assets
Aspiration	To have a connected and involved community that improves our quality of life through developing quality places and implementing quality town planning
Objective	4.1 Public spaces and infrastructure that are accessible and appropriate for our community, and meet the purpose and needs of multiple users
Strategy	4.1.1 Plan community facilities for current and future generations

OTHER STRATEGIC LINKS

The Department of Local Government, Sport & Cultural Industries administers the Community Sporting and Recreation Facilities Fund (CSRFF). Under this grant scheme, “priority will be given to projects that lead to facility sharing and rationalisation. Multi-purpose facilities reduce infrastructure required to meet similar needs and increase sustainability. The program is not designed to provide facilities to meet a club’s ambitions to compete in a higher grade” https://www.dlgsc.wa.gov.au/funding/sport-and-recreation-funding/community-sporting-and-recreation-facilities-fund/csrff-guidelines#Priority_consideration).

It is common practice now for local governments to align with this priority on the basis that it will enrich the opportunity to access this grant funding, as well as provide a more economical solution for the Shire of Waroona ratepayers. Additional consideration of this approach is provided under the Options section of this report.

STATUTORY ENVIRONMENT

- Local Government Act 1995, section 5.56. Planning for the future
 - (1) A local government is to plan for the future of the district.
 - (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

SUSTAINABILITY & RISK CONSIDERATIONS

Our Community

To have a connected and involved community that improves our quality of life through developing quality places. Support local community, sporting and recreational groups and initiatives. Public spaces and infrastructure that are accessible and appropriate for our community, and meet the purpose and needs of multiple users

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

N/A

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

Encourage an active and healthy community with an improved quality of life

Environment – (Impact on environment’s sustainability)

New facilities must meet current sustainability standards.

Policy Implications

The Sport and Recreation Master Plan supports the Shire’s Asset Management Policy by assisting to ensure that services delivered by the Shire of Waroona continue to be sustainably delivered.

In making informed decisions in relation to infrastructure assets, the Shire will consider the following key principles:

- Philosophy of renewing assets before acquiring new assets and, where possible, rationalising assets that are no longer used or do not provide the necessary level of service required to sustainably deliver the service for which the asset was acquired.
- Prior to consideration of any major refurbishment or improvement to an asset, a critical review of the following shall occur as part of the evaluation process:
 - o Need for facility (short and long term)
 - o Legislative requirements
 - o Opportunities for rationalisation
 - o Future liability including ultimate retention/disposal
 - o Opportunities for multiple use

Risk Management Implications

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

<i>Theme</i>	Financial - Projects going over budget, legal costs, insurance claims, overpayments, misuse of resources
<i>Description</i>	Inefficient use of funds through lack of advanced planning for sport and recreation facilities
<i>Consequence</i>	5 - Catastrophic
<i>Likelihood</i>	3 - Possible
<i>Rating</i>	High (10-19)
<i>Controls / Review</i>	Develop Sport & Recreation Master Plan
<i>Risk Owner</i>	Chief executive officer
<i>Acceptance</i>	Treat - Risk acceptable with excellent controls

CONSULTATION

The following key stakeholders were consulted:

- Shire of Waroona
- Waroona Football and Netball Club
- Waroona Agricultural Society
- Waroona Amateur Basketball Association
- Waroona Amateur Swimming Club
- Waroona Bowling Club
- Waroona Cricket Club
- Waroona Darts Club
- Waroona Recreation Advisory Committee
- Waroona Junior Football Club
- Waroona Golf Club
- Waroona Junior Netball Club
- Waroona Just Dance Collective
- Waroona Leos Club
- Waroona Lions Club
- Waroona Youth Advisory Committee
- Golf WA

As recommended in the draft Master Plan there is considerable work yet to be undertaken in consulting with the groups, working up viable options and documenting these. However, it is vital that adequate further time be provided to the clubs to fully respond and negotiate a viable solution. Failing this the Master Plan is likely to be ultimately of little value to the clubs and to Council when it comes time to make on the ground decisions.

RESOURCE IMPLICATIONS

Financial

The budget allocation for development of the Sport and Recreation Master Plan, at \$??? Has been exhausted in the work to date. It is recommended that a further \$10,000 be allocated to complete the engagement and finish the draft plan.

Workforce

The Shire of Murray has been providing coordination and management level support to the Sport & Recreation Master Planning. This support has now been withdrawn with this report, in effect providing a handover of the project. The Shire of Waroona will now resource the project finalisation by coordinating the project internally and using externally resourced assistance.

OPTIONS

Multi-function Space Versus Single Use Space

There has been a mixed reaction by clubs to the multi-function space approach.

Some have embraced the idea that they want control of a facility only while their season lasts and for the rest of the year this responsibility becomes a burden. An example of this is where a summer sporting club (e.g. cricket) holds a licence to use the club during the summer months and in the winter months the winter sporting club (e.g. football) takes the licence for the winter period. In these instances, the clubs get the benefit of sole control of the facility, including running its own program, sub-hire and bar facility use.

This is simple and appealing for the club, who then hands the facility over to the opposite season club once their season ends. A good licence document separates maintenance and operational responsibilities for each club. The only extra each club needs is permanent storage for equipment and trophies while they are in sporting hibernation.

On the other hand, some clubs, particularly those needing year-round access to their facility have sometimes been reluctant to consider colocation due to potential conflict on usage times, display of trophies, bar rights, space allocation, cleaning and other operational matters. These issues can be magnified where there is a club size disparity in particular, or where the goals of the clubs are at odds with each other.

Social Versus Sporting Needs

Sporting clubs have in many instances provided more than just a focal point for the organisation of a particular sport. They are places where friendships are formed and built on and for some, they maintain connection with the community on a ongoing basis. Additionally, they become a social event with lower cost drinks and meals, putting going out into a more affordable bracket for some. An example of this is a bowling club where members have been attending for years and the social drinks and cheaper meals mean the club serves a purpose for its members beyond the sport itself.

This is at odds with the CSRFF grant rationale which only aims to “fund new or upgraded facilities which will maintain or increase physical activity or result in a more rational use of facilities”. This rationale is rightly about maximising the return on investment toward physical exercise and sport, but it isn’t cognisant of the social role these facilities can play.

The loss of a facility for many community members is as much about a loss of connection and is difficult to accept for some. What they have known and feel comfortable is threatened to be taken away with no certainty about whether the new facility will continue to provide for their social needs. In some cases, only generational change will deal with this issue, unless it is given particular focus and attention.

In a declining sport this can be particularly difficult to justify, including when the club is no longer able to meet its operating costs.

From a financial perspective, subsidizing the social benefits of the club member, could be seen as competition to the options of going to the local hotel or restaurants, where there is no ratepayer subsidy of these social activities, however beneficial they may be.

On balance then, the approach recommended is as follows:

1. The preferred approach remains collocation into multifunction facilities. In a typical funding arrangement of 1/3rd by the club, the Shire and the State Government grant, each, the scale of the facility able to be constructed is
2. For those clubs and groups that wish to remain on their own, that they agree to a funding arrangement limited to a 50% contribution by the club and 50% by the Shire, but in the order of 1/3rd of what could otherwise be provided.

These options are illustrated in the example table below, based on the 1/3rd contribution by each of the three main parties.

Option	Club 1 Contribution (\$)	Club 2 Contribution (\$)	Shire Contribution (\$)	Grant Contribution (\$)	Total Build (\$)
Colocation	100,000	100,000	200,000	200,000	600,000
Sole Location	100,000	N/A	100,000	N/A	200,000

Council has the option of:

1. Supporting a master planning approach with colocation only.
2. Supporting a master planning approach that recommends colocation, but allows sole location where the club agrees to a reduced funding opportunity.
3. Not progressing the Sport and Recreation Master Plan further.

CONCLUSION

The Shire of Waroona has embarked on forward thinking strategic work to maximise the benefit of its sports and recreation land and facilities in the Town of Waroona for the clubs and groups who are presently stakeholders of these sites.

While the consultation program has confirmed two sites for further development and consideration, the engagement by the stakeholders has significant work yet to be done to

come to a point of agreement and optimum outcome. The work undertaken by ABV has been extensive and is in a suitable format to provide the draft outcomes (Appendix A). However, given that some information is yet to be collected including facility valuations, condition reports and structural assessments, and further in-depth consultation is needed based on some flexibility on colocation versus sole location, then it is recommended that the Shire take the extra time needed to develop these further solutions.

- 11.4 ITEMS FOR INFORMATION**
- 12. BUSINESS LEFT OVER FROM A PREVIOUS MEETING**
- 13. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 14. NOTICE OF MOTIONS FOR CONSIDERATION AT A FOLLOWING MEETING**
- 15. NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON PRESIDING OR BY DECISION OF THE MEETING**
- 16. MEETING CLOSED TO THE PUBLIC**

RECOMMENDATION

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

16.1 Confidential Item - Tender – RFT 2021/22-06 – Provide Tree Maintenance and Removal Services	
File Ref:	2021/22-06
Previous Items:	N/A
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

- 17. CLOSURE OF MEETING**