



MINUTES

ORDINARY COUNCIL MEETING

Tuesday 14 December 2021
(Held in the Council Chamber)

PUBLIC QUESTION TIME

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

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1. DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

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

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

Cr Mike Walmsley	Councillor
Cr Naomi Purcell	Councillor
Cr Laurie Snell	Councillor
Cr John Mason	Councillor
Cr Dion Pisconeri	Councillor
Cr Vince Vitale	Councillor
Cr Karen Odorisio	Councillor
Mr Mark Goodlet	Chief Executive Officer
Miss Ashleigh Nuttall	Director Corporate & Community Services
Mr Patrick Steinbacher	Director Infrastructure Services
Mr Rod Peake	Director Planning & Sustainability
Ms Merrin Kirk	Acting Executive Assistant

APOLOGIES

Cr Ryan Woodbury	Councillor
Mrs Kirsty Ferraro	Manager Corporate Services

There were 4 members of the public present at the commencement of the meeting.

LEAVE OF ABSENCE PREVIOUSLY APPROVED

Nil.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. PUBLIC QUESTION TIME

Nil

5. PETITIONS AND APPROVED DEPUTATIONS

Cr Walmsley declared a proximity interest in item 11.2.1, as a neighbour of the applicant.

Cr Walmsley left the meeting, the time being 4.01 pm, and the Deputy Shire President, Cr Purcell, assumed the Chair.

5.1 Deputation – Brian Dell’Agostino, Fruitico – Agenda Item 11.2.1 – Application for Use of Bird Scaring Devices at Fruitico Farms Pty Ltd - Lots 1, 1, 2, 20, 270, 271 and 272 Buller Road, Waroona

Mr. Dell’Agostino spoke in favour of approval the application in item 11.2.1.

Cr Walmsley returned to the meeting, the time being 4.06 pm.

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

6.1 Ordinary Council Meeting – 23 November 2021

COUNCIL RESOLUTION

OCM21/12/196

Moved: Cr Mason

Seconded: Cr Purcell

That the Minutes of the Ordinary Council Meeting held 23 November 2021 be confirmed as being a true and correct record of proceedings.

CARRIED 7/0

7. ANNOUNCEMENTS BY THE PRESIDING MEMBER

President announced that the December OCM is the last meeting for both Patrick Steinbacher and Rod Peake. He thanked both Directors for their services to the Shire over their respective tenures.

8. ANNOUNCEMENTS BY MEMBERS

Nil.

9. DISCLOSURES OF INTEREST

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

Mr Mark Goodlet declared an interest affecting impartiality in item 11.4.1 as he is the CEO.

Cr Walmsley declared a proximity interest in item 11.2.1, as a neighbour of the applicant.

Cr Purcell declared an interest affecting impartiality in item 11.2.1, as a family member works as a contractor to Fruitico.

10. RECEPTION OF MINUTES AND RECOMMENDATIONS OF COMMITTEES**11. REPORTS OF THE CHIEF EXECUTIVE OFFICER AND OFFICERS****11.1 DIRECTOR INFRASTRUCTURE SERVICES**

11.1.1 Amendment to Fees and Charges – Additional Waste Fees	
File Ref:	77/3
Previous Items:	N/A
Applicant:	Shire of Waroona
Author and Title:	Rikki Pulfer, Technical Officer
Declaration of Interest:	N/A
Voting Requirements:	Absolute Majority
Appendix Number	N/A

COUNCIL RESOLUTION

OCM21/12/197

Moved: Cr Odorisio

Seconded: Cr Snell

That Council:

1. Approves an amendment to the Fees and Charges in the 2021/22 Annual Budget to include fees for additional single bin services:
 - Additional 240 litre recycling collection (fortnightly) at \$110 (ex GST) per year
 - Additional 240 litre general waste collection (weekly) at \$225.00 (ex GST) per year
2. Give local public notice of the imposition of the new fees and charges applicable from 1 January 2022.

CARRIED 7/0**IN BRIEF**

The purpose of this item is to seek Council approval to amend the 2021/22 Fees and Charges to include a new fee for additional residential waste services.

BACKGROUND

In accordance with the *Local Government Act 1995*, Local Governments are able to impose and recover a fee or charge for any goods or services it provides. These fees and charges are to be set when adopting the annual budget but may be amended from time to time during the financial year.

Following a number of requests around the provision of single additional bin services, this item seeks an amendment to the 2021/22 Fees and Charges.

REPORT DETAIL

The Shire has received a number of requests for additional single bin services – either general waste or recycling – above and beyond the two bins provided under the annual waste bin charge in the waste levy. Currently the Fees and Charges do not provide for the supply of a single bin, meaning that residents must pay the full bin charge to receive an additional

single bin. This amendment subject to this item allows the bin charge to be split to reflect the cost of single additional bin services.

The provision of creating the fee structure for the additional bin service as a separated option will allow the Shire to improve the waste recovery statistics for Shire of Waroona as part of their reporting requirement with the Department of Water and Environmental Regulations.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Environment
Aspiration	To continually care for, protect and enhance our environment for the generations to come
Objective	3.2 Proactively manage resources and practice sustainability through responsible management of water, energy, fire management and waste
Strategy	3.2.4 Improve waste management practices through diversion, re-use and recycling

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

s.2.7 Role of Council

(1) The council —

- (a) governs the local government's affairs; and
- (b) is responsible for the performance of the local government's functions.

(2) Without limiting subsection (1), the council is to —

- (a) oversee the allocation of the local government's finances and resources; and
- (b) determine the local government's policies.

s.6.16 Imposition of fees and charges

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

** Absolute majority required*

(2) A fee or charge may be imposed for the following —

- (a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;
- (b) supplying a service or carrying out work at the request of a person;
- (c) subject to section 5.94, providing information from local government records;
- (d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;
- (e) supplying goods;
- (f) such other service as may be prescribed.

- (3) Fees and charges are to be imposed when adopting the annual budget but may be
 - (a) imposed* during a financial year; and
 - (b) amended* from time to time during a financial year.

* *Absolute majority required*

s.6.17 Setting level of fees and charges

- (1) In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors —
 - (a) the cost to the local government of providing the service or goods; and
 - (b) the importance of the service or goods to the community; and
 - (c) the price at which the service or goods could be provided by an alternative provider.
- (2) A higher fee or charge or additional fee or charge may be imposed for an expedited service or supply of goods if it is requested that the service or goods be provided urgently.
- (3) The basis for determining a fee or charge is not to be limited to the cost of providing the service or goods other than a service —
 - (a) under section 5.96; or
 - (b) under section 6.16(2)(d); or
 - (c) prescribed under section 6.16(2)(f), where the regulation prescribing the service also specifies that such a limit is to apply to the fee or charge for the service.
- (4) Regulations may —
 - (a) prohibit the imposition of a fee or charge in prescribed circumstances; or
 - (b) limit the amount of a fee or charge in prescribed circumstances.

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

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

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

Local Government (Administration) Regulations 1996

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

SUSTAINABILITY & RISK CONSIDERATIONS

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

This initiative will generate additional income which will reduce waste management's reliance on rates and assist in the building up of the waste reserve account.

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

The additional fees will make it easier for residents to gain access to additional bin services for a lesser cost which will reduce household expenditure which can then be used for other purposes.

Environment – (Impact on environment’s sustainability)

The new additional bin service will allow residents to opt for an additional recycling bin service or general waste depending on their need. Given the demand for improved recycling it is more likely that residents will opt for the additional recycling bin which will improve material recovery rates as well as the diversion of material from landfill.

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>	The Shire doesn't currently have a legal fee/ charge to allow separate additional bins, which means ratepayers cannot access additional waste services easily which could result in higher contaminated bins and decrease material recovery rates and diversion of material from landfill.
<i>Consequence</i>	1 - Insignificant
<i>Likelihood</i>	1 - Rare
<i>Rating</i>	Low (1-3)
<i>Controls / Review</i>	Review each year at budget preparation
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Director
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

This item was prepared with advice from the Shire's waste collection contractor Cleanaway.

RESOURCE IMPLICATIONS

Financial

If approved, the new additional bin fees will generate additional income and increase flexibility around how bin services can be provided. In addition, the new service will also improve the waste recovery statistics in the annual report which is to be submitted to the Department of Water and Environmental Regulations.

Workforce

Nil

OPTIONS

Council has the option of:

1. Amending the 2021/22 Fees and Charges.
2. Not amending the 2021/22 Fees and Charges and stay with the current fee structure.

CONCLUSION

If approved, the proposed new fee structure will allow for additional waste income, more flexibility and options for residents as well as reduced costs along with improved waste collection services which will allow for improved material recovery.

11.2 DIRECTOR PLANNING & SUSTAINABILITY

Cr Walmsley declared a proximity interest in item 11.2.1, as a neighbour of the applicant.

Cr Purcell declared an interest affecting impartiality in item 11.2.1, as a family member works as a contractor to Fruitico.

Cr Walmsley left the meeting, the time being 4.08 pm, and the Deputy Shire President, Cr Purcell, assumed the Chair.

11.2.1 Application for Use of Bird Scaring Devices at Fruitico Farms Pty Ltd - Lots 1, 1, 2, 20, 270, 271 and 272 Buller Road, Waroona	
File Ref:	A3821
Previous Items:	N/A
Applicant:	Fruitico Farms Pty Ltd
Author and Title:	Rod Peake, Director Planning and Sustainability
Declaration of Interest:	Nil
Voting Requirements:	Simple
Appendix Number	11.2.1A – Extract from Shire of Waroona Health Local Law 2021 11.2.1B – Application including the Noise Management and Monitoring Plan 11.2.1C – Submission Schedule

COUNCIL RESOLUTION

OCM21/12/198

Moved: Cr Snell

Seconded: Cr Mason

That Council:

- 1. Approves the application submitted by Brian Dell'Agostino on behalf of Fruitico Farms Pty Ltd, for the use of bird scaring devices on Lots 1, 1, 2, 20, 270, 271 and 272 Buller Road, Waroona, subject to the following conditions:**
 - a) This approval relates to the use of bird scaring devices for the period 2 January 2022 to 15 May 2022, inclusive.**
 - b) The approved gas guns must only be used while lasers and bird squawkers are being used as proposed in the application.**
 - c) Notwithstanding the approval, gas guns must only be used to the minimum extent necessary to deter birds from damaging crops, with bird squawkers and lasers used as a first option.**
 - d) Bird scaring devices permitted to be used under this approval are up to seven gas guns, being Zon 'Mark 4' gas cannons, and bird squawkers only. Bird squawkers are to be set at a volume that does not cause nuisance to residents of nearby properties. No more than four gas guns are to be used on the portion of the land north of Buller Road and no more than three gas guns are to be used on the portion of the land south of Buller Road.**
 - e) The gas guns must only be used on the 'standard' setting as described in the approved Noise Management and Monitoring Plan prepared by Reverberate Consulting and dated 1 November 2021 and only whilst placed at ground level.**
 - f) Gas guns must not be used within 500 metres of a dwelling on the adjacent lots, provided the maximum noise levels set out in the Environmental Protection (Noise) Regulations are not exceeded.**

- g) Gas guns must not be used within 100 metres of a property boundary abutting a road when the tube of the gas gun faces the road or within 50 metres of a property boundary abutting a road where the tube of the gas gun faces away from the road.**
- h) Gas guns must not be used before sunrise or after sunset, as published by the Bureau of Meteorology, on any day and in any case not before 6am on any day.**
- i) Notwithstanding condition h, above gas guns must not be used in the area between 500 metres and 1,200 metres of dwellings on adjacent lots:
 - i. before 7am on Mondays to Saturdays;**
 - ii. before 9 am on Sundays and public holidays; and**
 - iii. after 7pm on any day.****
- j) Gas guns must not be used between the hours of 11am and 2pm on any day.**
- k) Gas guns must be oriented as far as possible with the tube facing away from dwellings on the adjacent lots.**
- l) Gas guns must only be used within 600m of a dwelling on an adjacent lot where screening by way of hay bales (or other suitable method designed to maximise noise mitigation) is installed close to the gas gun. The hay bales are to be positioned in a 'U' shape at the rear and sides of the gas gun approximately one metre from the gas gun and to a height of at least 1.2 metres, unless otherwise approved in writing by the Shire following advice from an acoustic consultant.**
- m) The interval between blasts from an individual gas gun must not be less than six minutes. A blast sequence from a multiple blast gas gun may be counted as a single blast provided the time between the first blast and the last blast in a sequence does not exceed five seconds.**
- n) Notice of the approved use of bird scaring devices is to be given to members of the public within 4 weeks of the approval being granted in a form approved by the Shire by way of:
 - i. Notice published in the 'Harvey Waroona Reporter Community Newspaper';**
 - ii. Notice installed on a durable sign placed on the fence in a prominent position on the fence at the main entrance to the land where the bird scaring devices are to be used.****

The Notice is to set out key details of the approval including the period of approval, days and times of operation, location where the approved Noise Management and Monitoring Plan as well as the complaint response procedure may be viewed and the name and telephone number for any noise complaints to be made. The sign notice is to be maintained in good condition for the approval period.

- o) A designated noise complaint contact person and telephone number is to be established and be available to take and act on complaints at all times during the approval period. All complaints are to be considered and addressed wherever reasonably practical with the outcome to be communicated to the complainant as soon as reasonably practical and in any case within 24 hours of the complaint being made.**
- p) A record of any noise complaints received is to be placed in a register and kept onsite for at least two years. The complaint register is to include a record of details of the complaint including:
 - i. the date that the complaint was received;**
 - ii. the complainants name, contact details and the affected property;****

- iii. a description of the complaint including the dates and start and end times when the issue occurred, the location the issue occurred;
 - iv. a comment describing the location of the relevant gas gun at the time, including the approximate distance and receiver direction relative to the gas gun.
 - v. a comment on the advice provided to the complainant and any action taken to address the complaint.
- q) The complaint register is to be made available for viewing by Shire officers and a copy provided to the Shire upon request and within 14 days of the end of the approval period.
 - r) If the approved use of gas guns is carried out in a manner that in the opinion of the Shire is causing a nuisance to owners or occupiers of land in the vicinity, the Shire may withdraw the approval granted by it or may modify the conditions of approval. After such withdrawal or modifications to conditions of approval, gas guns are either not to be used or are to be used in a manner consistent with the modified conditions of approval as the case may be.
2. Advise the applicant that approval of the application to use bird scaring devices does not remove the responsibility of the owner and/or occupier of the land to meet the requirements of the Environmental Protection Act 1986 or the Environmental Protection (Noise) Regulations 1997.

CARRIED 6/0

IN BRIEF

- An application for the use of bird scaring devices, pursuant to the Shire's new Health Local Law has been submitted for determination.
- The application has been lodged with a supporting noise management plan.
- Consultation with adjacent landowners is currently underway and Council will be provided with any submissions received prior to the closing date for submissions.
- Subject to consideration of any submissions, at this stage approval is recommended subject to a range of conditions aimed at minimising potential noise nuisance.

BACKGROUND

Two of the Shire's significant fruit growers, Capogreco Farms Pty Ltd and Fruitico Farms Pty Ltd (Fruitico) have been using gas guns in recent years to scare off or deter birds from damaging fruit crops.

Whilst the growers contribute to the local economy and provide jobs, the use of gas guns to scare off or deter birds from damaging local fruit crops has resulted in frequent noise related complaints from nearby residents, demonstrating a significant nuisance and impact on the amenity of the nearby area.

It is understood that crop damage is at its highest in the first few hours after sunrise and the last few hours before sunset, however damage is not exclusively restricted to those periods. The peak damage period usually occurs as the fruit is ripening in the period from mid-December through to early May.

The use of gas guns is not directly regulated in Western Australia. The noise emitted from gas guns is however controlled indirectly by the Environmental Protection Act and Environmental Protection (Noise) Regulations. Operators have an obligation to manage

noise in accordance with the limits set out in the Regulations and not cause unreasonable noise. Penalties apply for breaching these limits.

Notwithstanding the noise legislation, gas guns could be used throughout the day provided they meet the noise limits set out in the Regulations and do not result in unreasonable noise. The growers however expressed the need for early morning use of gas guns, being the time when birds are most active, although a period when the noise limits in the Regulations were hardest to meet. Adjacent residents also expressed the need for better controls than the noise legislation could provide, including during the daytime periods when the noise limits were mostly being met.

Attempts were initially made to negotiate a set of operating conditions that would be incorporated into a Noise Management Plan and agreed by the parties in place of the assigned noise limits in the Regulations. Unfortunately, a set of conditions could not be agreed. The Shire therefore introduced a new provision into its Health Local Law. These provisions now require approval to be granted for the use of gas guns and enable the application of enforceable conditions. The provisions were informed by best practice guidelines and discussions with the fruit growers and adjacent residents. An extract from the Shire's Health Local Law which sets out the key Bird Scaring Device Provisions (which includes gas guns) is included at **Appendix 11.2.1A**. A full copy of the Local Law can be found at <https://www.waroona.wa.gov.au/council/governance/local-laws.aspx>. The new Local Law became operative in September 2021.

REPORT DETAIL

Fruitico has lodged an application for the use of Bird Scaring Devices pursuant to the Shire's Health Local Law. The key elements of the application are as follows:

1. Relates to the entire Fruitico farm which covers seven lots, north and south of Buller Road, with a total land area of approximately 213 hectares;
2. Seeks the use of up to eight double blast gas guns across the farm for the period between 2 January to 15 May 2022. The number of gas guns will be transitioned up and down as needed and moved around the farm within the agreed areas as needed, focussing on the most affected areas.
3. Seven days per week operation, between sunrise and sunset, however not before 6am across the farm and not before 7am in the area nominated for day use (9am on Sundays and public holidays) and not after 7pm;
4. Use no closer than 500m to a dwelling on an adjacent lot during daytime use when facing away from dwellings and 600m when facing dwellings;
5. Use no closer than 900m to a dwelling on an adjacent lot during early morning use when facing away from dwellings and 1200m when facing dwellings;
6. A break in use between 11am to 2pm daily.
7. A noise management plan submitted with the application demonstrates general compliance with the Noise Regulations;
8. Orientation of gas guns away from dwellings on adjacent lots together with use of hay bales to reduce noise impacts;
9. Alternative bird scaring devices, include bird squawkers and lasers to supplement the use of gas guns.

A copy of the application which sets out the proposal in full, including the Noise Management and Monitoring Plan and supplementary information is included in **Appendix 11.2.1B**.

In effect, the noise management plan starts with the general restrictions of the Local Law, and then applies another (stricter) filter on top of this using the Noise Regulations to produce the overall noise limitations for the use of gas guns on the site.

Noise readings have been adjusted by 10dB to allow for impulsiveness of the gas gun noise and for wind. Generally, the results are consistent with the Shire’s previous findings and so appear to be accurate.

Based on the measurements taken, the plan shows that the Noise Regulations will be met for the majority of the time. There will however be some instances where the Noise Regulations may be exceeded by a minor degree of around 1-2dB. It is indicated by the applicant’s acoustic consultant that this level of exceedance is not detectable to an “average listener” however it does underline the need to include additional management such as increased distance to adjacent dwellings, facing the gas guns away from the adjacent dwellings and using screens in the form of hay bales or other approved design close to the gas guns. These measures have been incorporated in the application.

The following plan shows a 600m distance to adjacent dwellings (orange shading) being the suitable area for placement of gas guns for daytime use and 1,200m distance to adjacent dwellings (blue shading) for placement of gas guns for early morning use (pre 7am Monday to Friday and pre 9am Sunday and public holidays).



Figure 2: Areas nominated for the placement and operation of the gas cannon. Operating times must also comply with the Health Local Law restrictions of between sunrise and sunset only, and not used between 11 am and 2 pm on any day

Provided that Fruitico manage the gas gun siting as per Figure 2 above and orientate the gas guns away from the nearest dwellings with screens, they should not need to regularly monitor the gas gun noise level, which makes the noise management plan fairly straight forward to administer from Fruitico’s perspective, and also clear for the Shire to assess whether it is being followed.

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	5.3 Actively increase the level of engagement with the community, and respond efficiently and effectively to the evolving needs of the community
Strategy	5.3.2 Deliver efficient and effective Council services to the community

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

- *Shire of Waroona Health Local Law 2021*
- *Environmental Protection (Noise) Regulations 1997*
- *Environmental Protection Act 1986*

SUSTAINABILITY & RISK CONSIDERATIONS

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

Clear guidance is needed for growers on what is expected in relation to gas guns so that they can effectively adapt their operations to meet the Shire’s requirements.

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

Noise associated with the use of gas guns has resulted in a significant nuisance and impact on the amenity of nearby residents.

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

There are no Shire policies related to the use of bird scaring devices.

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>	Noise impacts on adjacent community
<i>Consequence</i>	3 - Moderate

<i>Likelihood</i>	3 - Possible
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Appropriate conditions of approval
<i>Review Frequency</i>	Monthly
<i>Risk Owner</i>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

There is provision in the Health Local Law that the Shire may consult with owners and occupiers of nearby premises on applications for the use of bird scaring devices and provide them with a reasonable opportunity to make submissions on the application.

In this case all owners of land within one kilometre of the Fruitico Farms were advised of the application and provided the opportunity to make a submission. The closing date for submissions is 10 December 2021. At the time of finalising this report one submission had been received. The key issues raised and an officer comment on each is included in the submission schedule at **Appendix 11.2.1C**. Councillors will be advised of any further submissions received by the submission closing date and any resultant changes to the officer recommendation before the Council meeting.

RESOURCE IMPLICATIONS

Financial

The applicant has paid the application administrative fee of \$300.

Workforce

The application has been assessed within existing staff resource levels.

OPTIONS

Council has the option of:

1. Approve the application with or without conditions.
2. Refuse to approve the application with stated reasons.

CONCLUSION

The application generally meets the requirements of the local law. The noise management plan demonstrates that provided certain buffers are maintained then the use of gas guns should generally meet the requirements of the Noise Regulations. A number of conditions are recommended consistent with the local law aimed at reducing the impacts of the gas gun use on the nearby residents. It is proposed that any approval only relate to the upcoming season. The impacts this season should be monitored and adjusted as necessary for future seasons.

Cr Walmsley returned to the meeting, the time being 4.10pm

2 members of the public left the meeting, the time being 4.10pm.

11.2.2 Access Easement across Waroona Dam Wall	
File Ref:	132/3
Previous Items:	Item 9.3.2 24 Sept 2019 OCM19/09/102
Applicant:	Not Applicable
Author and Title:	Rod Peake, Director Planning and Sustainability
Declaration of Interest:	Nil
Voting Requirements:	Simple
Appendix Number	Nil

COUNCIL RESOLUTION

OCM21/12/199

Moved: Cr Mason

Seconded: Cr Snell

That Council advises the Water Corporation and Department of Planning Lands and Heritage that in view of the liability obligations requested to be incorporated in the easement that it no longer seeks to formalise public access across the Waroona Dam wall at this time.

CARRIED 7/0

IN BRIEF

- The Waroona dam wall is owned by the Water Corporation and includes a constructed road which links a public road network on either side of the dam.
- Discussions have been held with the Water Corporation and Department of Planning, Lands and Heritage Officers regarding a proposed public access easement to formalise public access.
- These agencies support the principle of an easement, however, seek to transfer liability for damage of the dam wall and surrounding area including contamination of the dam water to the Shire where this is associated with the use of the easement.
- The road across the dam wall is already in effect a public road and public access is already freely available. The requested liability obligations place an unnecessary risk on the Shire where there is not considered to be a significant additional public benefit to be derived by the easement compared to the existing arrangement.
- It is therefore recommended that Council advise the Water Corporation and Department of Planning Lands and Heritage that in view of this it no longer seeks to formalise the access easement at this time.

BACKGROUND

Current access arrangements in the vicinity of the Waroona Dam do not include formalised public access across the dam wall. The subject land is currently Crown land managed by the Water Corporation, with informal public access provided via a constructed road over the dam wall.

A plan showing the existing access arrangement around Waroona Dam is shown overleaf. It is noted from the plan that the same public access issue exists on other road surround surrounding the dam (areas highlighted in blue).



Constructed Road within Existing Road Reserve

Constructed Road Outside of Road Reserve

Proposed easement over Section of Constructed Road

In September 2019 Council resolved to:

1. support the formalisation of legal public access over the dam wall, subject to the Shire not being responsible for the cost of the maintenance and associated infrastructure of the road; and
2. delegate authority to the Chief Executive Officer to negotiate with the Water Corporation on behalf of Council an agreement to provide legal public access over the dam wall.

REPORT DETAIL

Discussions have since been held with the Water Corporation and Department of Planning, Lands and Heritage Officers regarding a proposed public access easement.

These agencies support the principle of an easement however seek to transfer liability for damage of the dam wall and surrounding area including contamination of the dam water to the Shire that may arise from the use of the easement.

The dam wall is already in effect a public road. It not only provides Water Corporation access but also to the public and forest roads, private lots and recreation areas around and to the south of the dam.

An easement would have had the benefit of formalising the existing public access. The requested liability obligations that are sought however place an unnecessary risk on the Shire where there is not considered to be a significant additional public benefit to be derived by the easement compared to the existing arrangement. It is therefore recommended that Council advise the Water Corporation and Department of Planning Lands and Heritage that in view of this it no longer seeks to formalise the access easement at this time.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

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

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Land Administration Act

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)

Policy Implications

Nil

Risk Management Implications

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

<i>Theme</i>	Financial - Projects going over budget, legal costs, insurance claims, overpayments, misuse of resources
<i>Description</i>	Costs associated with maintenance and liability of the dam wall and dam water body associated with the use of the road.
<i>Consequence</i>	4 - Major
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Moderate (4-9)
<i>Controls / Review</i>	Appropriate conditions of easement restricting potential liability and maintenance
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Director
<i>Acceptance</i>	Treat - Risk acceptable with excellent controls

CONSULTATION

- Water Corporation
- Department of Planning Lands and Heritage

RESOURCE IMPLICATIONS

Financial

There are some surveying and other costs incurred to date in negotiating the easement. These costs can be accommodated within the existing budget.

The costs relating to liability in the event of an incident associated with the use of the road could be substantial.

Workforce

The application has been assessed within existing staff resource levels.

OPTIONS

Council has the option of:

1. Proceeding with discussions on the easement.
2. Withdrawing its support for the easement at this time.

CONCLUSION

Whilst there are benefits associated with formalising public access over the dam wall, the road is already in effect a public road and the liability obligations that have been requested would place an unreasonable risk on the Shire in the event of an incident occurring associated with the use of the easement, particularly as it is not considered to be a significant additional public benefit to be derived by the easement compared to the existing arrangement. It is therefore recommended that Council advise the Water Corporation and Department of Planning Lands and Heritage that in view of this it no longer seeks to formalise the access easement at this time.

11.2.3 Final Approval of Local Planning Policy 10 – Home-Based Business	
File Ref:	111/1
Previous Items:	Item 9.2.1 March 2019 (OCM19/03/017) Item 11.2.1 Sept 2021 (OCM21/09/136)
Applicant:	Nil
Author and Title:	Greg Delahunty – Manager Planning Services
Voting Requirements:	Simple Majority
Appendix Number	11.2.3 – Draft Policy

COUNCIL RESOLUTION

OCM21/12/200

Moved: Cr Mason

Seconded: Cr Pisconeri

That Council, pursuant to Schedule 2, Clause 4(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to approve the modified Local Planning Policy 10 - Home-Based Business as set out at Appendix 11.2.3

CARRIED 7/0**IN BRIEF**

- Council is requested to consider approving a new Local Planning Policy - Home Based Business (Policy).
- A draft Policy was publicly advertised for 21 days with no comments received during the submission period.
- It is recommended that the draft Policy be approved with minor modifications to address questions raised by during Council's earlier consideration of the policy.

BACKGROUND

In March 2018 Council revoked *Local Planning Policy 11 - Home Based Businesses* as part of a comprehensive Policy Review. This policy was procedural in nature, containing little planning requirements or merit.

On 18 December 2020, amendments to the *Planning and Development (Local Planning Schemes) Regulations 2015* (Planning Regulations) were gazetted as part of the State's planning reform agenda. These amendments came into effect on 15 February 2021 and exempt certain home-based businesses from requiring development approval.

On 28 September 2021 Council approved the advertising of a new draft Home Based Business Policy.

REPORT DETAIL

A copy of the advertised version of the Policy is included at **Appendix 11.2.3**

During discussion at the September 2021 Council meeting, a number of issues were raised for further consideration during the advertising process. It is considered that the draft Policy could be improved through minor changes that provide greater flexibility to accommodate additional clients/customers, provided that sufficient car parking is available on-site. It is also recommended that additional clarity be provided with respect to truck or delivery vehicles and that an additional clause is included to reinforce the fact that variations can be considered on

merit where circumstances warrant provided an application meets the policy objective. Recommended rewording is highlighted by underlining below and in the Policy at **Appendix 11.2.3**.

3.4.2 No more than five client/customer vehicles visit the premises per day, with visits by appointment only and spaced so that only one client/customer vehicle is present at any one time. Appointments may be spaced so that a second client/customer vehicle is present on site where it can be demonstrated that there is sufficient space on-site to accommodate a second vehicle.

3.4.4 Does not involve regular truck or delivery vehicle visits to the premises to the extent that would cause adverse impacts to the amenity of the locality.

3.4 Variations

Variations to the requirements of this policy may be considered on their individual merit, having regard to the policy objective and any submissions received where the application is advertised for comment.

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

Planning & Development (Local Planning Schemes) Regulations 2015

The Deemed Provisions set out in Schedule 2 of the Planning Regulations provide for the preparation and approval of a local planning policy.

SUSTAINABILITY & RISK CONSIDERATIONS

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

Nil

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

Nil

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

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

<i>Theme</i>	Reputation - Public perception, poor customer service, sub standard work, corruption
<i>Description</i>	Being seen to fetter private business
<i>Consequence</i>	1 - Insignificant
<i>Likelihood</i>	3 - Possible
<i>Rating</i>	Low (1-3)
<i>Controls / Review</i>	Work with all parties to reach a suitable outcome
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Operational manager
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

Public Consultation

The draft Policy was advertised for a period of 21 days from 5 to 26 October 2021. A notice was published in the Harvey Waroona Reporter on 5 October 2021 and the Policy was displayed on the Shire's website for the duration of the advertising period.

No submissions were received.

RESOURCE IMPLICATIONS

Financial

The only direct cost associated with the draft Policy is the newspaper notice. The cost of the notice has been accommodated within the current adopted operational budget.

Workforce

Preparation of the Policy has been accommodated within existing staff resource levels.

OPTIONS

Council has the following options:

1. Approve the modified Policy either with or without modification.
2. Not approve the modified Policy.

CONCLUSION

The Shire is committed to supporting local business as well as maintaining a contemporary and dynamic planning policy framework. The proposed Policy will assist the Shire in achieving these aims. The minor modifications to the advertised version of the Policy will allow a greater deal of flexibility to businesses as well as ensuring that the amenity of residential areas is maintained.

11.3 DIRECTOR CORPORATE & COMMUNITY SERVICES

11.3.1 Listing of Payments for the Month of November 2021	
File Ref:	1/3 - Creditors
Previous Items:	N/A
Applicant:	N/A
Author and Title:	Kathy Simpson, Senior Finance Officer
Voting Requirements:	Simple Majority
Declaration of Interest:	Nil
Appendix Number	11.3.1

COUNCIL RESOLUTION**OCM21/12/201****Moved: Cr Vitale****Seconded: Cr Snell**

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

Municipal	Cheque 9822 - 9835	\$13,119.94
	EFT 35268 - 35405	\$444,520.72
Direct wages	01/11/21 – 30/11/21 inclusive	\$174,556.60
Direct Debit	01/11/21 – 30/11/21	\$57,996.34
Trust	Cheque – Nil	\$ -
	EFT – Nil	\$ -
GRAND TOTAL		\$690,193.60

as attached at Appendix 11.3.1.

CARRIED 7/0

IN BRIEF

The purpose of this report is to present the listing of payments made from the Shire's Municipal and Trust funds throughout the month of November 2021.

BACKGROUND

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

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

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

REPORT DETAIL

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

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

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

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

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

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared
 - (a) the payee's name; and
 - (b) the amount of the payment; and
 - (c) the date of the payment; and
 - (d) sufficient information to identify the transaction.

- (2) A list of accounts for approval to be paid is to be prepared each month showing
 - (a) for each account which requires council authorisation in that month
 - (i) the payee's name; and
 - (ii) the amount of the payment; and
 - (iii) sufficient information to identify the transaction; and
 - (b) the date of the meeting of the council to which the list is to be presented.

- (3) A list prepared under sub regulation (1) or (2) is to be —
 - (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
 - (b) recorded in the minutes of that meeting.

SUSTAINABILITY & RISK CONSIDERATIONS

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

Nil

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

Nil

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

Nil

Risk Management Implications

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

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

CONSULTATION

Nil

RESOURCE IMPLICATIONS

Financial

Nil

Workforce

Nil

OPTIONS

Council has the option of:

1. Receive the listing of payments presented for the month of 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.

11.3.2 Monthly Statement of Financial Activity for the Period Ending 30 November 2021	
File Ref:	1/1 – Annual Statements
Previous Items:	N/A
Applicant:	N/A
Author and Title:	Kirsty Ferraro, Manager Corporate Services
Voting Requirements:	Simple Majority
Declaration of Interest:	Nil
Appendix Number	<u>11.3.2</u>

COUNCIL RESOLUTION**OCM21/12/202****Moved: Cr Purcell****Seconded: Cr Snell**

That Council receives the Monthly Statement of Financial Activity for the period ending 30 November 2021 as presented.

CARRIED 7/0**IN BRIEF**

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

BACKGROUND

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

REPORT DETAIL

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

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

The following information is included in the report;

- 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

- Note 7 – Receivables
- Note 8 – Grants & Contributions
- Note 10 – Capital Disposals and Acquisitions
- Note 11 – Significant Capital Projects
- Note 12 – Trust
- Note 13 - Borrowings

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

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

OTHER STRATEGIC LINKS

Shire of Waroona 2020/21 Annual Budget

STATUTORY ENVIRONMENT

Local Government Act 1995 – Section 6.4

Local Government (Financial Management) Regulations 1996 – Section 34

SUSTAINABILITY & RISK CONSIDERATIONS

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

Nil

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

Nil

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

All financial policies from Policy FIN002 through to Policy FIN035

Risk Management Implications

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

<i>Theme</i>	Operational - Adverse effects on core business, business continuity, human resource risks, loss of knowledge
<i>Description</i>	Non-compliance with the requirements stipulated by the <i>Local Government Act 1995</i>
<i>Consequence</i>	3 - Moderate

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

CONSULTATION

Nil

RESOURCE IMPLICATIONS

Financial

Nil

Workforce

Nil

OPTIONS

Council has the option of:

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

CONCLUSION

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

11.3.3 POLICY FP004 – Corporate Credit Card	
File Ref:	17/1
Previous Items:	OCM 27 April 2021 11.3.10 OCM21/04/053
Applicant:	Shire of Waroona
Author and Title:	Kirsty Ferraro, Manager Corporate Services
Declaration of Interest:	N/A
Voting Requirements:	Absolute Majority
Appendix Number	11.3.3

COUNCIL RESOLUTION

OCM21/12/203

Moved: Cr Mason

Seconded: Cr Vitale

That Council endorses the amended Policy FP004 – Corporate Credit Cards as per Appendix 11.3.3., with the amendment of an error in the Policy to show the overall total for the credit facility to equal \$52,000.

CARRIED 7/0**IN BRIEF**

To seek Council's endorsement to amend the current Corporate Credit Card policy to reflect organisational structure position changes and to increase the limit of the cards issued to the Director Corporate & Community Services and Director Infrastructure & Development Services from \$5,000 to \$10,000 and Manager Place & Community Development from \$1,000 to \$5,000 to assist with operational use.

BACKGROUND

The current policy states:

The Council approves the issue of a Business Credit Card facility to the value of \$43,000 per month for ease of on-line purchases and other incidental purchases where other payment methods are not practicable. Individual card holders are as follows:

- Chief Executive Officer with a limit of \$15,000
- Director Corporate Services with a limit of \$5,000
- Director Place, Community & Economic Development with a limit of \$5,000
- Director Planning & Sustainability with a limit of \$5,000
- Manager Corporate Services with a limit of \$5,000
- Manager Place & Community Development with a limit of \$1,000
- Community Emergency Services Coordinator with a limit of \$5,000
- Visitor Centre Manager with a limit of \$1,000
- Executive Assistant with a limit of \$1,000

Conditions of use shall be as follows:

- Expenditure to be for official Council purposes only. Personal use and recoup of expenditure is not permitted.
- No cash withdrawals are to occur.
- Inadvertent personal transactions in error to be reimbursed within 30 days of Bank Statement issue date.
- Receipts to be kept (orders where appropriate) and presented to Accounts staff.
- Access to card is restricted when not in use including adequate security.

- Statement to be reconciled monthly with supporting documents and a signed endorsement provided by the Chief Executive Officer & Deputy Chief Executive Officer/Director Corporate Services.
- Authority form “Corporate Credit Cardholder Agreement” signed by card recipient.
- Use of card by other officers requires signed authority in the form of a Council Purchase Order.
- Purchase to be accordance with Shire of Waroona Purchasing Policy where relevant.

REPORT DETAIL

It is recognised, that as a result of organisational structure changes and operational requirements that there is a need to amend policy FP004 to reflect the following changes:

Remove the following positions:

Director Place, Community & Economic Development with a limit of \$5,000
 Director Planning & Sustainability with a limit of \$5,000
 Director Corporate Services with a limit of \$5,000

And replace with:

Director Corporate & Community Services with a limit of \$10,000
 Director Infrastructure & Development Services with a limit of \$10,000

In addition, due to increased operational requirements, increase the limit of the credit card for the Manager Place & Community Development from \$1,000 to \$5,000.

The existing conditions of use, as identified in the existing policy will continue to apply to any additional users.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

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

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

The following provisions of the Local Government Act 1995 (the Act) and associated regulations impact on the use and control of corporate credit cards;

- Section 2.7(2)(a) and (b) of the Act requires the council to oversee the allocation of the local government’s finances and resources and to determine the policies of the local government.

- Section 6.5(a) of the Act requires the Chief Executive Officer (CEO) to ensure that proper accounts and records of the transactions and affairs of the local government are kept in accordance with regulations.
- Local Government (Financial Management) Regulation 11(1)(a) requires local governments to develop procedures for the authorisation and payment of accounts to ensure that there is effective security and appropriate authorisations in place for the use of credit cards.

SUSTAINABILITY & RISK CONSIDERATIONS

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

Nil

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

Nil

Environment – (Impact on environment’s sustainability)

Nil

Policy Implications

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

Risk Management Implications

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

<i>Theme</i>	Financial - Projects going over budget, legal costs, insurance claims, overpayments, misuse of resources
<i>Description</i>	Non-compliance with the requirements stipulated by the <i>Local Government Act 1995</i>
<i>Consequence</i>	1 - Insignificant
<i>Likelihood</i>	2 - Unlikely
<i>Rating</i>	Low (1-3)
<i>Controls / Review</i>	Council Policy FIN028
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Director
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

Proposed Local Government reforms, developed on the basis of findings identified as part of the Local Government Act Review and recommendations of various reports, indicates improved financial management and reporting will be implemented through publicly reporting to Council, credit card statements by employee position on a monthly basis. It is anticipated, even though the reform changes have not yet been formerly implemented, that the Shire of Waroona will commence credit card reporting in December 2021 in an effort to improve transparency.

CONSULTATION

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

RESOURCE IMPLICATIONS

Financial

Nil

Workforce

Nil

OPTIONS

Council has the option of:

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

CONCLUSION

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

11.3.4 Delegation Amendment	
File Ref:	52/1
Previous Items:	Nil
Applicant:	Not applicable
Author and Title:	Rob Marlborough
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Appendix Number	11.3.4 - Proposed Delegation 2.4.11

COUNCIL RESOLUTION

OCM21/12/204

Moved: Cr Purcell

Seconded: Cr Snell

That Council approves new delegation 2.4.11, as provided in Appendix 11.3.4.

CARRIED 7/0**IN BRIEF**

To consider a new delegation to the Chief Executive Officer for the purposes of dealing with written applications seeking approval to keep more than the prescribed number of dogs, (not exceeding six dogs) where Council have set a limit of the number of dogs that may be kept on certain land in the district.

BACKGROUND

The overall aim and purpose of delegated authority is to assist with the efficiency of the local government activities by way of quicker decisions. Under the *Local Government Act 1995* and other legislation, Council may delegate its functions, duties and powers to the Chief Executive Officer to assist with efficient and timely decision making.

The Chief Executive Officer may then sub delegate functions, duties and powers to other staff and sub-delegated functions are also reviewed annually as a separate process. Delegations are a proven effective organisational tool that enhances productivity and support effective customer service and timely decision making.

Prior to the adoption of the current Register of Delegations from Council to Committees and the Chief Executive Officer, a delegation to the Chief Executive Officer existed to enable applications to keep six or less dogs on land in the district by way of a written approval (exemption) under Section 26 (3) of the *Dog Act 1976*.

The prior delegated authority that related to this particular matter was inadvertently missed during the development and subsequent adoption of the current Register of Delegations from Council to Committees and Chief Executive Officer.

Clause 3.2 of the Shire of Waroona Dog Local Law 2001 (Local Law) provides the following limitation on the number of dogs that may be kept, unless an exemption is approved, or the particular premises is approved as a kennel establishment, under the *Dog Act 1976* and the Local Law.

- a) two dogs over the age of three months and the young of those dogs under that age unless the premises are situated in a rural or special rural zone under the town planning scheme; or

- b) four dogs over the age of three months and the young of those dogs under that age if the premises are situated within a rural or special rural zone under the town planning scheme.

REPORT DETAIL

From time-to-time applications for exemptions are received from landowners seeking to keep more dogs than the Local Law limitations provide for, but for not more than six dogs. Keeping more than six dogs requires a kennel establishment licence which is a wholly separate process.

The new delegation presented for Council to consider, as provided at **Appendix 11.3.4** resolves the omission during the development and subsequent adoption of the current Register of Delegations from Council to Committees and Chief Executive Officer.

Having a delegation in place to deal with exemption applications supports the overarching principles of efficiencies in local government activities by way of quicker decision making.

Applications lodged for exemptions are all assessed through a formal process, which includes canvassing adjoining neighbours and an onsite inspection to enable each circumstance to be assessed on its own merits. Conditions are generally applied to exemptions at the time of approval to ensure appropriate management and controls are in place, these include but are not limited to specifying particular dogs, confinement controls, ensuring compliance with registration microchipping and the nuisance provisions of the Act. In some cases, a specific time frame on the life of the approval is also a condition imposed. The delegation of authority presented provides the ability to impose any conditions as considered necessary.

Exemptions cannot be considered to enable the keeping of more than two dangerous dogs, or restricted breed dogs, A right of appeal to the State Administrative Tribunal exists if a person is aggrieved by a decision to reject an application or to a condition imposed on any approval.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

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

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

10AA. Delegation of local government powers and duties (Dog Act 1976)

- (1) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, delegate to its chief executive officer any power or duty of the local government under another provision of this Act.

- (2) The delegation must be in writing.
- (3) The delegation may expressly authorise the delegate to further delegate the power or duty.
- (4) A local government's chief executive officer who is exercising or performing a power or duty that has been delegated as authorised under this section, is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of a local government's chief executive officer to perform a function through an officer or agent.

10AB. Register of, and review of, delegations (Dog Act 1976)

- (1) The chief executive officer of a local government is to keep a register of —
 - (a) delegations made under section 10AA(1); and
 - (b) further delegations made under the authority of a delegation made under section 10AA(1).
- (2) At least once every financial year —
 - (a) delegations made under section 10AA(1); and
 - (b) further delegations made under the authority of a delegation made under section 10AA(1),
 are to be reviewed by the delegator.

Part V — The keeping of dogs Dog Act 1976

26. Limitation as to numbers

- (1) A local government may, by a local law under this Act —
 - (a) limit the number of dogs that have reached three months of age that can be kept in or at premises in the local government's district; or
 - (b) limit the number of dogs of a breed specified in the local law that can be kept in or at premises in the local government's district.
- (2) A local law mentioned in subsection (1) —
 - (a) may limit the number of dogs that can be kept in or at premises to two, three, four, five or six only; and
 - (b) cannot prevent the keeping in or at premises of one or dogs that have reached three months of age and any pup of either of those dogs under that age; and
 - (c) cannot apply to dogs kept at premises that are licensed under section 27 as an approved kennel establishment; and
 - (d) cannot apply to dangerous dogs (declared) or dangerous dogs (restricted breed).
- (3) Whereby a local law under this Act a local government has placed a limit on the keeping of dogs in any specified area but the local government is satisfied in relation to any particular premises that the provisions of this Act relating to approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in respect of those premises but any such exemption —
 - (a) may be made subject to conditions, including a condition that it applies only to the dogs specified in the exemption; and
 - (b) cannot authorise the keeping in or at those premises of —
 - (i) more than six dogs that have reached three months of age; or
 - (ii) a dog under that age unless it is a pup of a dog whose keeping is authorised by the exemption;
 and
 - (c) may be revoked or varied at any time.
- (4) A person must not keep in or at any premises, not being licensed under section 27 as an approved kennel establishment —
 - (a) in the case of dogs that have reached three months of age, other than dangerous dogs (declared) or dangerous dogs (restricted breed), more than the number of dogs than the limit imposed under —
 - (i) a local law mentioned in subsection (1); or
 - (ii) an exemption granted under subsection (3);
 or
 - (b) more than —

- (i) two dangerous dogs (declared); or
- (ii) two dangerous dogs (restricted breed); or
- (iii) one of each of those kinds of dangerous dogs, that have reached three months of age; or
- (c) any pup, of a dangerous dog (restricted breed), that is under three months of age.

Penalty:

- (a) for an offence relating to a dangerous dog —
 - (i) a fine of \$10,000, but the minimum penalty is a fine of \$500;
 - (ii) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500;
- (b) for an offence relating to a dog other than a dangerous dog —
 - (i) a fine of \$5 000;
 - (ii) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$100.
- (5) Any person who is aggrieved —
 - (a) by the conditions imposed in relation to any exemption under subsection (3); or
 - (b) by the refusal of a local government to grant such an exemption, or by the revocation of an exemption,

may apply to the State Administrative Tribunal for a review of the decision.

(6) An application under subsection (5) cannot be made later than the expiry of a period of 28 days after the day on which a notice of the decision is served on the person affected by that decision.

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

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

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

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

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

<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

Public consultation not required.

RESOURCE IMPLICATIONS

Financial

Nil.

Workforce

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

OPTIONS

Council has the option of:

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

CONCLUSION

The previous delegation of authority that was in place for considering exemption applications worked effectively and supported efficient and timely decision making. Holistically

delegations are a proven effective organisational tool that enhances productivity and support effective customer service.

11.4 CHIEF EXECUTIVE OFFICER

Mr Mark Goodlet declared an interest affecting impartiality in item 11.4.1 as he is the CEO.

11.4.1 CEO Key Performance Indicators	
File Ref:	38/1
Previous Items:	CEO Performance Review Process adopted by Council on 23 November 2021
Applicant:	N/A
Author and Title:	Mark Goodlet, Chief Executive Officer
Declaration of Interest:	By Mark Goodlet, CEO. Nature of Interest is Impartiality. Extent of the interest is the CEO is the subject of the review process.
Voting Requirements:	Simple Majority
Appendix Number	N/A

COUNCIL RESOLUTION**OCM21/12/205****Moved: Cr Odorisio****Seconded: Cr Purcell**

That Council agrees to the proposed Chief Executive Officer Key Performance Indicators as follows:

CARRIED 7/0

No.	Key Performance Indicator	Due Date
1	Produce a Facilities Asset Management Plan, including Fair Value and Buildings Condition Assessment.	30 Jun 2022
2	Investigate rates equity and income options.	30 Jun 2023
3	Have endorsed the Waroona Town Centre Revitalisation Strategy, Master Plan and Implementation Plan.	30 Jun 2022
4	Investigate Land Swap opportunities for the Waroona Community Precinct.	Ongoing
5	Progress the Waroona Community Precinct Project.	Stage 1 by 30 Jun 23
6	Complete a Waroona Sport and Recreation Precinct Plan that considers the long term for AFL, Cricket, Golf and Bowls.	30 Apr 2022
7	Develop a Shire of Waroona Tourism Website.	30 Jun 2022
8	Have significant input into the Yalgorup Recreational Master Plan.	Ongoing
9	Influence the provision of water infrastructure for Waroona and the Peel region.	Ongoing
10	Revisit the Waroona Cemetery Master Plan and develop long-term Cemetery Plan.	30 Jun 2024
11	Investigate options for a Johnson Road (or East West connection) Breakdown / Freight route.	Ongoing
12	Pursue options for resource sharing.	Ongoing
13	Investigate subdivision/development of Shire freehold lots in Preston Beach.	31 Dec 2022

IN BRIEF

Councils and CEOs are required to agree to develop and agree on performance criteria for the CEO.

BACKGROUND

Council agree to a CEO performance review process at its November 2021 ordinary meeting of Council.

The series of previously set CEO Key Performance Criteria (KPIs) have been reviewed. Redundant operational and completed KPIs have been deleted or substituted with more targeted KPIs. Delivery dates have been updated where necessary. Some new KPIs have been added.

REPORT DETAIL

An assessment of the existing CEO KPIs is provided in the table below. KPIs with strikethrough formatting are proposed for deletion. Additional KPIs are proposed.

KPI Name	Due Date	Revised Due Date	Status	Comments
Further develop an Integrated Corporate Planning Framework, including Asset Management Plan, Long-Term Finance Plan, Human Resource Plan Produce Facilities Asset Management Plan, including Fair Value and Buildings Condition Assessment.	30 Jun 2022	30 Jun 2022	On Track	Recommend focus on Facilities Asset Management as critical to understanding long term financial sustainability of the Shire. Other items are on normal corporate calendar schedule. Fair Value is a regulatory requirement. Buildings Condition Assessment will lead to improved maintenance planning and risk mitigation.
Develop a 5-year Organisational Structure Plan	31 Mar 2022	-	Complete	Delete. New Restructure also determined in November.
Develop a Strategy and Organisational Structure in the event of State Government enforced Local Government Reform	30 Sep 2021	-	Complete	Delete, as completed.
Develop a quality Occupational Safety and Health Plan	31 Mar 2022	-	In progress	Delete as operational. Will implement as an organization KPI.
Develop an Information Communication and Technology Plan, with focus on improved service at the Recreation Centre	30 Nov 2021	-	Complete	Delete, as completed.
Develop a work force plan for the Waroona Aquatic and Recreation Centre	30 Sep 2021	-	Complete	Delete as complete.

Investigate rates equity and income options.	30 Jun 2023	-	In progress	New.
Have endorsed the Waroona Town Centre Revitalisation and Implementation Plan	31 Dec 2021	30 Jun 2022	In Progress	Revise completion date to reflect Nov 21 OCM, with Master Plan and Implementation Schedule development.
Continue to seek opportunities with Agricultural Workers Accommodation	31 Mar 2022	-	Complete	Delete. Matter is being resolved.
Complete a Land Rationalisation Plan Investigate Land Swap for Community Precinct.	-	31 Dec 2023	Not started	Delete. New KPI is more specific with target completion date added.
Develop a Drakesbrook Weir Operational Plan	30 Jun 2021	-	Complete	Delete as completed.
Complete the Preston Beach Foreshore Management Plan	23 Nov 2021	-	Complete.	Delete as completed.
Progress the Waroona Community Precinct Plan	-	-	On going	Concept completed. Detail design under way along with further engagement. New stage 2 added for the buildings, some art and heritage elements and underground power.
Complete a Waroona Sport and Recreation Precinct Plan that considers the long term for AFL, Cricket, Golf and Bowls	31 Dec 2021	30 Apr 2022	Ongoing	Draft done and in consultation phase. Estimate that consultation will take extra time so extending due date.
Assist AFL, Cricket, Bowls and Golf with a Strategic Plan for each Club	30 Jun 2022	-	In progress	Delete. Low priority and funding utilised for those clubs willing.
Progress the Preston Beach Community Garden	-	-	In progress	Group working with Greg D on development approval. Have applied for funding (pending) and group is active.
Have developed a Shire of Waroona Tourism Website	31 Dec 2021	30 Jun 2022	In progress	Have engaged firm to build the website, though expected completion date extended.

Develop a Shire of Waroona Tourism and Economic Development Strategy	28 Feb 2022	-	In progress	Delete. With David Arkwright retiring this has been difficult to progress due to resources. Economic Strategy already done in 2015. Suggest revisiting tourism strategy when community precinct is more advance or consider as a budget item for 22/23.
Have significant input into the Yalgorup Recreational Master Plan	ongoing	-	In progress	First Beach Access Working Group was held 17 May. No outcomes regarding a beach access strategy was achieved. Awaiting further direction from the City of Mandurah.
Influence the provision of water infrastructure for Waroona and the Peel region	ongoing		In progress	Work with Peel Alliance to develop and progress this item.
Revisit the Waroona Cemetery Master Plan and develop long-term Cemetery Plan	22 Feb 2022	30 Jun 2024	In progress	Vegetation Mapping to be done to determine “life” of cemetery. Finding and acquiring land is a 3 yr. project, hence time extension.
Progress the Waroona Tip Site Management Plan	-	-	Complete	Delete. Management and closure plan complete and in implementation phase.
Progress the closure of the Liquid Waste Facility	-	-	In progress	Delete. Completion is scheduled and subject to appropriate weather conditions.
Develop a long-term Operational (Transitional) Plan for Works and Services	24 Dec 2021	-	In progress	Delete. Operational in nature and has been considered in restructure.
Commence the transition to reusable items (non-single use plastics)	31 Mar 2022	-	In progress	Delete as operational in nature. Relates to State Government mandate to stop using some plastic disposable cutlery, crockery etc, and helium balloons.
Investigate options for a Johnson Road (or East West connection) Breakdown / Freight route.	ongoing	-	In progress	New. Investigate demand, location options and funding.

Pursue options for resource sharing.	ongoing			New. Helps to create cooperation and efficiencies.
Investigate subdivision/ development of Shire freehold lots in Preston Beach.	31 Dec 2022			New. May assist with Shire financial sustainability.

STRATEGIC COMMUNITY PLAN & CORPORATE BUSINESS PLAN

Focus Area	Our Leadership
Aspiration	To embed strong leadership through good governance, effective communication and ensuring value for money
Objective	5.2 Develop a skilled, safe and compliant organisation
Strategy	5.2.2 Promote an organisational culture of safety, best practice and continuous improvement

OTHER STRATEGIC LINKS

Nil.

STATUTORY ENVIRONMENT

Local Government (Administration) Regulations 1996

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

The local government and the CEO must agree on any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.

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
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<i>Description</i>	Regulatory requirement
<i>Consequence</i>	4 - Major
<i>Likelihood</i>	1 - Rare
<i>Rating</i>	Low (1-3)
<i>Controls / Review</i>	Annual Review as per employment contract
<i>Review Frequency</i>	Annually
<i>Risk Owner</i>	Chief executive officer
<i>Acceptance</i>	Accept - Risk acceptable with adequate controls

CONSULTATION

The proposed KPIs were discussed with Councillors and the Executive at the 7 December 2021 briefing session.

RESOURCE IMPLICATIONS

Financial

Nil.

Workforce

Nil.

OPTIONS

The nature and number of CEO KPIs agreed to between Council and the CEO is at the discretion of the two parties.

CONCLUSION

The proposed KPIs reflect the priority areas of the Council and CEO.

11.5 ITEMS FOR INFORMATION

Nil

12. BUSINESS LEFT OVER FROM A PREVIOUS MEETING

Nil

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

Nil

14. NOTICE OF MOTIONS FOR CONSIDERATION AT A FOLLOWING MEETING

Nil

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

Nil

16. MEETING CLOSED TO THE PUBLIC**COUNCIL RESOLUTION**

OCM21/12/206

Moved: Cr Purcell

Seconded: Cr Snell

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.

CARRIED 7/0

COUNCIL RESOLUTION

OCM21/12/207

Moved: Cr Mason

Seconded: Cr Snell

That standing orders be suspended to enable open and frank discussion, the time being 4.22 pm

CARRIED 7/0

COUNCIL RESOLUTION

OCM21/12/208

Moved: Cr Walmsley

Seconded: Cr Purcell

That standing orders be resumed once again, the time being 4.42 pm

CARRIED 7/0

16.1 Waroona Land Matters	
File Ref:	36/1
Previous Items:	Nil
Applicant:	N/A
Author and Title:	Mark Goodlet, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Appendix Number	16.1 Confidential Appendices

A confidential report is provided under separate cover

COUNCIL RESOLUTION

OCM21/12/209

Moved: Cr Vitale

Seconded: Cr Purcell

That Council agrees to the Chief Executive Officer recommendations on the Waroona Land Matters, as detailed in the confidential report.

CARRIED 7/0

COUNCIL RESOLUTION

OCM21/12/210

Moved: Cr Vitale

Seconded: Cr Purcell

That the meeting resume in public, the time being 4.45 pm.

CARRIED 7/0

17. CLOSURE OF MEETING

There being no further business the Presiding Member closed the meeting the time being 4.46 pm.

I CERTIFY THAT THESE MINUTES WERE CONFIRMED AT THE ORDINARY COUNCIL MEETING HELD 14 DECEMBER 2021 AS BEING A TRUE AND CORRECT RECORD OF PROCEEDINGS.

.....
PRESIDING MEMBER

.....
DATE