



**SHIRE OF ASHBURTON
AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING**

**CONFIRMED MINUTES
(Public Document)**

**Ashburton Hall, Ashburton Avenue, Paraboradoo
9 June 2020
9.30 am**

SHIRE OF ASHBURTON

AUDIT AND RISK MANAGEMENT COMMITTEE MEETING

The Chief Executive Officer recommends the endorsement of these minutes at the next Ordinary Meeting of Council.



Mr K Donohoe
CHIEF EXECUTIVE OFFICER

Date: 09.06 2020

These minutes were confirmed by Council as a true and correct record of proceedings of the Ordinary Meeting of Council on the 09.06 2020.

Presiding Member:



Date:

09/06/2020

DISCLAIMER

The resolutions contained in the Minutes are subject to confirmation by Council. The Shire of Ashburton warns that anyone who has any application lodged with Council must obtain and should only rely on written confirmation of the outcomes of the application following the Council meeting, and any conditions attaching to the decision made by the Council in respect of the application. No responsibility whatsoever is implied or accepted by the Shire of Ashburton for any act, omission or statement or intimation occurring during a Council meeting.

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1. DECLARATION OF OPENING

The Presiding Member declared the meeting open at 9.39 am.

1.1 ACKNOWLEDGEMENT OF COUNTRY

As representatives of the Shire of Ashburton Council, we respectfully acknowledge the local Indigenous people, the traditional custodians of this land where we are meeting upon today and pay our respects to them and all their elders both past, present and future.

2. ATTENDANCE

2.1 PRESENT

Members:	Cr P Foster Cr K White Cr L Rumble Cr M Lynch Cr D Diver Cr R de Pledge Cr J Richardson	Tom Price Ward (Presiding Member) Onslow Ward Paraburdoo Ward Tom Price Ward Tom Price Ward Ashburton Ward Tablelands Ward
Staff:	Mr K Donohoe Mr J Bingham Ms C Bryce Mrs K Bartley Mr M Hudson Mrs M Lewis	Chief Executive Officer Director Corporate Services Acting Director Property and Development Services Director Community Services Director Infrastructure Council Liaison Officer
Guests:	Nil	
Members of Public:	There were no members of the public in attendance at the commencement of the meeting.	
Members of Media:	There were no members of the media in attendance at the commencement of the meeting.	

2.2 APOLOGIES

Cr D Dias Paraburdoo Ward

2.3 APPROVED LEAVE OF ABSENCE

Cr M Gallanagh Pannawonica Ward

3. ANNOUNCEMENT OF VISITORS

There were no visitors for this meeting.

4. DECLARATION BY MEMBERS

4.1 DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA

All Councillors noted that they had given due consideration to all matters contained in the Agenda presently before the meeting.

4.2 DECLARATIONS OF INTEREST

Councillors to Note

A member who has an Impartiality, Proximity or Financial Interest in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest:

- (a) In a written notice given to the Chief Executive Officer before the Meeting or;
- (b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- (a) Preside at the part of the Meeting, relating to the matter or;
- (b) Participate in, or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under Section 5.68 or Section 5.69 of the *Local Government Act 1995*.

NOTES ON DECLARING INTERESTS (FOR YOUR GUIDANCE)

The following notes are a basic guide for Councillors when they are considering whether they have an interest in a matter.

These notes are included in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measure in money terms. There are exceptions in the *Local Government Act 1995* but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc.), and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.

4. If in doubt declare.
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **MUST** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) or the *Local Government Act*, or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69 (3) of the *Local Government Act*, with or without conditions.

Declarations of Interest provided:

Item Number/ Name	Type of Interest	Nature/Extent of Interest
There were no Declaration of Interests provided.		

5. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

5.1 AUDIT AND RISK COMMITTEE MEETING HELD ON 10 MARCH 2020

<p>Council Decision</p> <p>MOVED: Cr D Diver SECONDED: Cr M Lynch</p> <p>That the Unconfirmed Minutes of the Audit and Risk Committee Meeting held on 10 March 2020 (ATTACHMENT 5.1) be confirmed as a true and accurate record.</p> <p style="text-align: right;">CARRIED 7/0</p>
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6. TERMS OF REFERENCE

Audit and Risk Management Committee

Purpose

The Audit Committee's role in accordance with Regulation 15 of the *Local Government (Audit) Regulations 1995* is to provide assistance and guidance to Council on the discharge of its duties under Part 6 and 7 of the *Local Government Act 1995 (the Act)*. The Audit Committee assists Council to monitor the integrity of the Shire's financial statements, risk management, internal controls and compliance with legislative requirements.

Responsibilities

The Audit Committee is responsible for:

- 1.1 Guiding and assisting Council in carrying out its functions under:

- (a) Part 6 of the Act and its functions relating to other audits and other matters related to financial management; and
 - (b) Part 7 of the Act in relating to auditing the Shire's financial accounts.
- 1.2 Reviewing the CEO's report required under regulation 17(3).
- 1.3 Monitoring and advising the CEO when the CEO is carrying out functions in relation to a review under:
- (a) regulation 17 (1); and
 - (b) the *Local Government (Financial Management) Regulations 1996*, regulation 5(2)(c).
- 1.4 Support the Auditor conducting an audit and carrying out the Auditor's other duties under the Act.
- 1.5 Oversee the implementation of any action that Council
- (a) is required to take, has stated it has taken or intends to take in respect to matters raised by the audit report;
 - (b) has accepted should be taken on receipt of the CEO's report of a review under regulation 17(1); and
 - (c) has accepted should be taken on receipt of the CEO's report under regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996*.
- 1.6 The Audit Committee's duties include;
- (a) considering the Auditor's interim audit of the Shire's accounting and internal control procedures for the financial year;
 - (b) reviewing the audited financial report for the previous financial year;
 - (c) reviewing the interim and final audit reports for the financial year;
 - (d) reviewing the annual Compliance Audit Return;
 - (e) reviewing the CEO's triennial report on the appropriateness and effectiveness of the Shire's systems and procedures regarding risk management, internal controls and legislative compliance;
 - (f) reviewing the CEO's triennial report on the appropriateness and effectiveness of the Shire's financial management systems and procedures; and
 - (g) considering the proposed timeline for Council to adopt the budget and the ten-year financial plan for the following financial year; and providing a report to council on those matters.

7. AGENDA ITEMS

7.1 NATIONAL REDRESS SCHEME (PARTICIPATIONS OF WA LOCAL GOVERNMENTS)

MINUTE: 80/2020

FILE REFERENCE: GRO1

AUTHOR'S NAME AND POSITION: Kellie Bartley
Director Community Services

AUTHORISING OFFICER AND POSITION: Kenn Donohoe
Chief Executive Officer

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 22 May 2020

DISCLOSURE OF FINANCIAL INTEREST: The author and the authorising officer have no financial, proximity or impartiality interests in the proposal

PREVIOUS MEETING REFERENCE: Agenda Item 7.5 (Minute No. 577/2019) – Ordinary Meeting of Council 18 June 2019

Summary

The purpose of this report is for Council to consider the background information and the Western Australian Government's decision in relation to the National Redress Scheme. Noting the key considerations and administrative arrangements for the Shire of Ashburton and consider the Shire's participation as part of the WA Government's declarations in the National Redress Scheme.

Background

The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) was established in 2013 to investigate failures of public and private institutions to protect children from sexual abuse. The Royal Commission released three reports throughout the inquiry:

- Working with Children Checks (August 2015);
- Redress and Civil Litigation (September 2015); and
- Criminal Justice (August 2017).

The Royal Commission's Final Report (15 December 2017) incorporated findings and recommendations of the three previous reports and contained a total of 409 recommendations, of which 310 are applicable to the Western Australian Government and the broader WA community.

The implications of the Royal Commission's recommendations are twofold: the first is accountability for historical breaches in the duty of care that occurred before 1 July 2018 within any institution; the second is future-facing, ensuring better child safe approaches are implemented holistically moving forward.

The scope of this report addresses only the historical element of institutional child sexual abuse through the National Redress Scheme.

All levels of Australian society (including the WA local government sector and the Shire of Ashburton) will be required to consider leading practice approaches to child safeguarding separately in the future.

The Shire may consider a Child Safe Policy that would include the National Principles for Child Safe Organisations that assists arts, cultural, community, sport and recreation organisations to reflect upon our current child safe practices against the National Principles for Child Safe Organisations and to identify areas for improvement, to act and make positive change.

National Redress Scheme

The Royal Commission's *Redress and Civil Litigation (September 2015)* Report recommended the establishment of a single National Redress Scheme (the Scheme) to recognise the harm suffered by survivors of institutional child sexual abuse.

The Scheme acknowledges that children were sexually abused, recognises the suffering endured, holds institutions accountable and helps those who have been abused access counselling, psychological services, an apology and a redress payment.

The Scheme commenced on 1 July 2018, will run for 10 years and offers eligible applicants three elements of Redress:

- A direct personal response (apology) from the responsible institution, if requested;
- Funds to access counselling and psychological care; and
- A monetary payment of up to \$150,000.

All State and Territory Governments and many major non-government organisations and church groups have joined the Scheme and the State started participating from 1 January 2019.

The WA Parliament has passed the legislation for the Government and WA based non-government organisations to participate in the National Redress Scheme.

Under the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth)*, local governments may be considered a State Government institution.

A decision was made at the time of joining the Scheme to exclude WA local governments from the State Government's participation declaration. This was to allow consultation to occur with the sector about the Scheme, and for fuller consideration of how the WA local government sector could best participate.

ATTACHMENT 7.1

Comment

Following extensive consultation, the State Government (December 2019):

- Noted the consultations undertaken to date with the WA local government sector about the National Redress Scheme;
- Noted the options for WA local government participation in the Scheme;
- Agreed to local governments participating in the Scheme as State Government institutions, with the State Government covering payments to the survivor; and
- Agrees to the Department of Local Government, Sport and Cultural Industries (DLGSC) leading further negotiations with the WA local government sector regarding local government funding costs, other than payments to the survivor including counselling, legal and administrative costs.

The following will be covered for local governments participating in the Scheme as a State Government institution and part of the State's declaration:

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination of requests for information and record keeping in accordance with the *State Records Act 2000*); and
- Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below for further explanation).

State Government financial support for local government participation in the Scheme, as set out, will ensure that Redress is available to as many WA survivors of institutional child sexual abuse as possible.

Individual local governments participating in the Scheme as a State Government institution, with the State will be responsible for:

- Providing the State with the necessary (facilities and services) information to participate in the Scheme;
- Resources and costs associated with gathering their own (internal) information and providing that information (Request for Information) to the State (if they receive a Redress application); and
- Costs associated with the delivery of a DPR (apology), if requested (based on a standard service fee, plus travel and accommodation depending on the survivor's circumstance). The State's decision includes that all requested DPR's will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice, on every occasion.

The WALGA State Council meeting of 4 March 2020:

1. Acknowledged the State Government's decision to include the participation of Local Governments in the National Redress Scheme as part of the State's declaration;
2. Endorsed the negotiation of a Memorandum of Understanding and Template Service Agreement with the State Government, and
3. Endorsed by Flying Minute the Memorandum of Understanding prior to execution, in order to uphold requirements to respond within legislative timeframes.

The State and WALGA will sign a Memorandum of Understanding to reflect the principles of WA local governments participating in the Scheme as State Government institutions and being part of the State's declaration.

State agencies (led by DLGSC), WALGA and Local Government Professionals WA will support all local governments to prepare to participate in the Scheme from 1 July 2020 (or earlier, subject to completing the necessary arrangements).

The State's decision allows for the WA Government's Scheme participation declaration to be amended to include local governments and this report seeks endorsement of the Shire's participation in the Scheme.

As an independent entity and for absolute clarity, it is essential that the Shire of Ashburton formally indicates via a decision of Council, the intention to be considered a State Government institution (for the purposes on the National Redress Scheme) and be included in the WA Government's amended participation declaration.

The Shire of Ashburton will not be included in the State's amended declaration, unless it formally decides to be included.

The financial and administrative coverage offered by the State will only be afforded to WA local governments that join the Scheme as a State Government institution, as part of the State's amended declaration.

The option also exists for the Shire of Ashburton to formally decide not to participate in the Scheme (either individually or as part of the State's declaration).

Should the Shire of Ashburton formally decide (via a resolution of Council) not to participate with the State or in the Scheme altogether, considerations for the Shire include:

- Divergence from the Commonwealth, State, WALGA and the broader local government sector's position on the Scheme (noting the Commonwealth's preparedness to name-and-shame non-participating organisations).
- Potential reputational damage at a State, sector and community level.
- Complete removal of the State's coverage of costs and administrative support, with the Shire having full responsibility and liability for any potential claim.
- Acknowledgement that the only remaining method of redress for a victim and survivor would be through civil litigation, with no upper limit, posing a significant financial risk to the Shire.

Detailed below is a list of considerations to participate in the Scheme:

Executing a Service Agreement

All Royal Commission information is confidential, and it is not known if the Shire of Ashburton will receive a Redress application. A Service Agreement will only be executed if the Shire of Ashburton receives a Redress application.

Shire of Ashburton needs to give authority to an appropriate position / officer to execute a service agreement with the State, if a Redress application is received. Timeframes for responding to a Request for Information are 3 weeks for priority applications and 7 weeks for non-priority applications. A priority application timeframe (3 weeks) will be outside most Council meeting cycles and therefore it is necessary to provide the authorisation to execute an agreement in advance.

Reporting to Council if / when an application is received

Council will receive a confidential report, notifying when a Redress application has been received. All information in the report will be de-identified but will make Council aware that an application has been received.

Application Processing / Staffing and Confidentiality

Administratively the Shire of Ashburton will determine:

- Which position(s) will be responsible for receiving applications and responding to Requests for Information;
- Support mechanisms for staff members processing Requests for Information.

The appointed person(s) will have a level of seniority in order to understand the magnitude of the undertaking and to manage the potential conflicts of interest and confidentiality requirements.

Record Keeping

The State Records Office advised (April 2019) all relevant agencies, including Local Governments, of a 'disposal freeze' initiated under the *State Records Act 2000* (the Act) to protect past and current records that may be relevant to actual and alleged incidents of child sexual abuse. The Shire of Ashburton's record keeping practices as a result, have been modified to ensure the secure protection and retention of relevant records. These records (or part thereof) may be required to be provided to the State's Redress Coordination Unit in relation to a Redress application.

The Redress Coordination Unit (Department of Justice) is the state record holder for Redress and will keep copies of all documentation and RFI responses. Local Governments will be required to keep their own records regarding a Redress application in a confidential and secure manner, and in line with all requirements in *The Act*.

Redress Decisions

The Shire of Ashburton should note that decisions regarding Redress applicant eligibility and the responsible institution(s), are made by Independent Decision Makers, based on the information received by the applicant and any RFI responses. The State Government and the Shire of Ashburton do not have any influence on the decision made and there is no right of appeal.

Consultation

The State, through the Department of Local Government, Sport and Cultural Industries (DLGSC), consulted with the WA local government sector and other key stakeholders on the Royal Commission into Institutional Responses to Child Sexual Abuse (in 2018) and the National Redress Scheme (in 2019).

The consultation throughout 2019 has focused on the National Redress Scheme with the aim of:

- raising awareness about the Scheme;
- identifying whether WA local governments are considering participating in the Scheme;
- identifying how participation may be facilitated; and
- enabling advice to be provided to Government on the longer-term participation of WA local governments.

Between March and May 2019, DLGSC completed consultations that reached 115 out of 137 WA local governments via:

- Webinars to local governments, predominately in regional and remote areas;
- Presentations at 12 WALGA Zone and Local Government Professional WA meetings;
- Responses to email and telephone enquiries from individual local governments.

It was apparent from the consultations local governments were most commonly concerned about the:

- potential cost of Redress payments;
- availability of historical information;
- capacity of local governments to provide a Direct Personal Response (apology) if requested by Redress recipients;
- process and obligations relating to maintaining confidentiality if Redress applications are received, particularly in small local governments;
- lack of insurance coverage of Redress payments by LGIS, meaning local governments would need to self-fund participation and Redress payments.

LGIS published and distributed an update (April 2019) regarding the considerations and (potential) liability position of the WA local government sector in relation to the National Redress Scheme.

The WALGA State Council meeting on 3 July 2019 recommended that:

1. *WA local government participation in the State's National Redress Scheme declaration with full financial coverage by the State Government, be endorsed in principle, noting that further engagement with the sector will occur in the second half of 2019.*
2. *WALGA continue to promote awareness of the National Redress Scheme and note that local governments may wish to join the Scheme in the future to demonstrate a commitment to the victims of institutional child sexual abuse.*

DLGSC representatives presented at a WALGA hosted webinar on 18 February 2020 and presented at all WALGA Zone meetings in late February 2020.

The State's decision, in particular to cover the costs / payments to the survivor, has taken into account the feedback provided by local governments during the consultation detailed above.

Options

Option 1

That Council:

1. Notes the consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries in regarding the National Redress Scheme and the participation of WA local governments;
2. Agrees to participate in the National Redress Scheme as a State Government institution and is included as part of the State Government's declaration;
3. Authorises the Chief Executive Officer to execute a service agreement with the State, if a Redress application is received;
4. Notes that a confidential report will be provided if a Redress application is received by the Shire of Ashburton; and
5. Request the Chief Executive Officer prepare a Shire of Ashburton Child Safe Policy for the consideration of Council as soon as practicable.

Option 2

That Council:

1. Notes that consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries in regarding the National Redress Scheme and the participation of WA local governments;
2. Does not endorse the participation of the Shire of Ashburton in the National Redress Scheme as a State Government institution and included as part of the State Government's declaration; and
3. Requests the Chief Executive Officer prepare a Shire of Ashburton Child Safe Policy for the consideration of Council as soon as practicable.

The option also exists for Council to formally decide not to participate in the Scheme (either individually or as part of the State's declaration).

Should the Shire formally decide (via a resolution of Council) not to participate with the State or in the Scheme altogether, considerations for the Shire include:

- Divergence from the Commonwealth, State, WALGA and the broader local government sector's position on the Scheme (noting the Commonwealth's preparedness to name-and-shame non-participating organisations).
- Potential reputational damage at a State, sector and community level.
- Complete removal of the State's coverage of costs and administrative support, with the Shire having full responsibility and liability for any potential claim.
- Acknowledgement that the only remaining method of redress for a victim and survivor would be through civil litigation, with no upper limit, posing a significant financial risk to the Shire.

Statutory Environment

The Shire in agreeing to join the Scheme, is required to adhere to legislative requirements set out in the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth).

Authorisation of an appropriately appointed person to execute a service agreement with the State, if a Redress application is received, will be in accordance with s.9.49A(4) of the *Local Government Act 1995*.

Financial Implications

The State's decision will cover the following financial costs for local governments:

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination or requests for information and record keeping); and
- Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below).

The only financial cost the local government may incur will be the payment of the DPR's, which is on an 'as requested' basis by the survivor. This will be based on the standard service fee of \$3,000 plus travel and accommodation depending on the survivor's circumstances. All requested DPR's will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice.

The State's decision also mitigates a significant financial risk to the local government in terms of waiving rights to future claims. Accepting an offer of redress has the effect of releasing the responsible participating organisation and their officials (other than the abuser/s) from civil liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme. This means that the person who receives redress through the Scheme, agrees to not bring or continue any civil claims against the responsible participating organisation in relation to any abuse within the scope of the Scheme.

There is no current budget allocation for matters of this type.

Strategic Implications

There are no known strategic implications for this matter.

Risk Management

Adoption of this item has been evaluated against the Shire of Ashburton's Risk Management Policy CORP5 Risk Matrix. The perceived level of risk is considered to be "Moderate" risk and can be managed by routine procedures, and is unlikely to need specific application of resources.

Policy Implications

There are no known policy implications for this matter.

Voting Requirement

Simple Majority Required

Committee Recommendation

That with respect to the National Redress Scheme (Participations of WA Local Governments), the Audit and Risk Management Committee recommend, Council:

1. Note the consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries in regarding the National Redress Scheme and the participation of WA local governments;
2. Agree to participate in the National Redress Scheme as a State Government institution and is included as part of the State Government's declaration;
3. Authorise the Chief Executive Officer to execute a service agreement with the State, if a Redress application is received;
4. Note that a confidential report will be provided if a Redress application is received by the Shire of Ashburton; and
5. Request the Chief Executive Officer prepare a Shire of Ashburton Child Safe Policy for the consideration of Council as soon as practicable.

Alternate motion

MOVED: Cr D Diver

SECONDED: Cr L Rumble

That with respect to the National Redress Scheme (Participations of WA Local Governments), the Audit and Risk Management Committee recommend, Council:

- 1. Note the consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries in regarding the National Redress Scheme and the participation of WA local governments;**
- 2. Agree to participate in the National Redress Scheme as a State Government institution and is included as part of the State Government's declaration;**
- 3. Authorise the Chief Executive Officer to execute a service agreement with the State, if a Redress application is received;**
- 4. Note that a confidential report will be provided if a Redress application is received by the Shire of Ashburton; and**
- 5. Request the Chief Executive Officer prepare a Shire of Ashburton Child Safe Policy in consultation with Council and the community for the consideration of Council as soon as practicable.**

CARRIED 7/0

Reason for change – Council requested a workshop be conducted prior to the policy being finalised.

8. CONFIDENTIAL MATTERS

Under the Local Government Act 1995, Part 5, and Section 5.23, states in part:

- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —***
- (a) *a matter affecting an employee or employees; and***
 - (b) *the personal affairs of any person; and***
 - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;***
 - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and***
 - (e) *a matter that if disclosed, would reveal —***
 - (i) *a trade secret; or***
 - (ii) *information that has a commercial value to a person; or***
 - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and***
 - (f) *a matter that if disclosed, could be reasonably expected to —***
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or***
 - (ii) *endanger the security of the local government's property; or***
 - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety;***
 - (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and***
 - (h) *such other matters as may be prescribed.***

Council Decision

MOVED: Cr K White

SECONDED: Cr D Diver

That Council move behind closed doors at 9.48 am to consider the following Confidential Items.

8.1 CONFIDENTIAL ITEM - UPDATE ON WITTENOOM LITIGATION, USE OF DELEGATION, WITTENOOM STEERING COMMITTEE, SENIOR COUNSEL LEGAL ADVICE AND ROEBOURNE - WITTENOOM ROAD

pursuant to sub section 5.23 (2) (a) (b) (c) and (d) of the *Local Government Act 1995* which provides:

- (b) the personal affairs of any person;**
- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;**
 - (I) a matter that if disclosed, would reveal;**
 - (II) a trade secret;**
 - (III) information that has a commercial value to a person; or**
 - (IV) information about the business, professional, commercial or financial affairs of a person.**

CARRIED 7/0

8.1 CONFIDENTIAL ITEM - UPDATE ON WITTENOOM LITIGATION, USE OF DELEGATION, WITTENOOM STEERING COMMITTEE, SENIOR COUNSEL LEGAL ADVICE AND ROEBOURNE - WITTENOOM ROAD

MINUTE: 81/2020

FILE REFERENCE: LS34

AUTHOR'S NAME AND POSITION: Keith Pearson
Special Projects Advisor

Janyce Smith
Executive Officer

Alan Mccoll
Manager Operations - East

AUTHORISING OFFICER AND POSITION: Kenn Donohoe
Chief Executive Officer

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 25 May 2020

DISCLOSURE OF FINANCIAL INTEREST: The authors and the authorising officer have no financial proximity or impartiality interests in the proposal.

PREVIOUS MEETING REFERENCE: Confidential Agenda Item 8.1 (Minute No. 23/020) Audit and Risk Committee Meeting 10 March 2020

Confidential Agenda Item 18.5 (Minute No. 757/2020)
Ordinary Meeting of Council 11 February 2020

Confidential Agenda Item 8.1 (Minute No. 689/2019)
Audit and Risk Committee Meeting 17 December 2019

Confidential Agenda Item 18.2 (Minute No. 687/2019)
Ordinary Meeting Council 22 October 2019

Confidential Agenda Item 8.1 (Minute No 631/2019) –
Audit and Risk Committee Meeting 18 September 2019

REASON FOR CONFIDENTIALITY

The Chief Executive Officer's Report is confidential in accordance with s5.23 (2) *the Local Government Act 1995* because it deals with matters affecting s5.23 (2):

- (b) *the personal affairs of any person;*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.*

Committee Recommendation

That with respect to the Confidential Item – Update on Wittenoom Litigation, Use of Delegation, Wittenoom Steering Committee, Senior Counsel Legal Advice and Roebourne - Wittenoom Road, the Audit and Risk Management Committee recommend, Council:

1. Receive the Confidential Item – Update on Wittenoom Litigation, Use of Delegation, Wittenoom Steering Committee, Senior Counsel Legal Advice and Roebourne - Wittenoom Road (CONFIDENTIAL ATTACHMENT 8.1A) and remain confidential in accordance s5.23 (2)(b) & (d) of the *Local Government Act 1995*; and
2. Ensure that the Shire management continue to provide Wittenoom related reports to the Audit and Risk Management Committee.

Alternate Motion

MOVED: Cr K White

SECONDED: Cr L Rumble

That with respect to the Confidential Item – Update on Wittenoom Litigation, Use of Delegation, Wittenoom Steering Committee, Senior Counsel Legal Advice and Roebourne - Wittenoom Road, the Audit and Risk Management Committee recommend, Council:

- 1. Receive the Confidential Item – Update on Wittenoom Litigation, Use of Delegation, Wittenoom Steering Committee, Senior Counsel Legal Advice and Roebourne - Wittenoom Road (CONFIDENTIAL ATTACHMENT 8.1A) and remain confidential in accordance s5.23 (2)(b) & (d) of the *Local Government Act 1995*; and**
- 2. Ensure that the Shire management continue to provide Wittenoom related reports to the Audit and Risk Management Committee; and**
- 3. Request the Chief Executive Officer to develop a Senior Counsel legal brief in relation to developing Wittenoom claims.**

CARRIED 7/0

Reason for change – To request the Chief Executive Officer provide a legal brief in relation to Council on legal liability matters.

Council Decision

MOVED: Cr D Diver

SECONDED: Cr R de Pledge

That Council re-open the meeting to the public at 10.03 am pursuant to sub section 5.23 (2) (a) and (b) of the *Local Government Act 1995*.

CARRIED 7/0

9. NEXT MEETING

The next Audit and Risk Committee Meeting will be held on Tuesday 8 September 2020 at the Barry Lang Centre, Pannawonica at a time to be advised.

10. CLOSURE OF MEETING

The Presiding Member closed the meeting at 10.04 am.