



**Shire of Ashburton
Ordinary Council Meeting
Confirmed Minutes
(Public)**

**Ashburton Hall, Ashburton Avenue,
Paraburdoo**

8 March 2022

1:00pm



**Shire of Ashburton
Ordinary Council Meeting**

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

K Donohoe
Chief Executive Officer
11 March 2022

These minutes were confirmed by Council as a true and accurate record of proceedings at the Ordinary Council Meeting held on Tuesday 8 March 2022.

Presiding Member

Date

Disclaimer

The Shire of Ashburton warns anyone who has an 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 Council in respect of the application. No responsibility whatsoever is implied, or accepted, by the Shire of Ashburton for any act, omission, statement, or intimation occurring during a Council meeting.

Contents

1	Declaration of opening.....	5
	1.1 Acknowledgement of country	5
2	Announcement of visitors.....	5
3	Attendance.....	5
	3.1 Present.....	5
	3.2 Apologies	6
	3.3 Approved leave of absence.....	6
4	Question time.....	6
	4.1 Response to previous questions taken on notice	6
	4.2 Public question time	6
5	Applications for leave of absence	6
6	Declaration by members	7
	6.1 Due consideration by Councillors to the agenda	7
	6.2 Declarations of interest	7
7	Announcements by the Presiding Member and Councillors without discussion	7
8	Petitions / Deputations / Presentations	8
	8.1 Petitions	8
	8.2 Deputations.....	8
	8.3 Presentations	8
9	Confirmation of minutes	8
	9.1 Confirmation of Council meetings	8
	9.2 Receipt of committee and other minutes.....	8
	9.3 Recommendations of committee meetings – En bloc	9
	9.4 Recommendations of committees	10
10	En bloc resolutions.....	10
	10.1 Agenda items adopted en bloc.....	10
11	Office of the Chief Executive Officer reports.....	11

Confirmed Minutes – Public Ordinary Council Meeting 8 March 2022

12	Corporate Services reports	12
12.1	Monthly Schedule of Accounts Paid.....	12
12.2	Monthly Financial Statements – January 2022.....	16
12.3	2021-2022 Annual Budget Review.....	20
12.4	Local Laws Review	31
12.5	Strategic Community Plan (Major Review).....	38
12.6	Development Assessment Panel Local Government Representation	48
13	People and Place reports.....	56
13.1	Proposed Conversion of Lease N456248 (Lot 501 And Lot 502 Nameless Valley Drive, Tom Price) To Freehold Land Tenure	56
14	Infrastructure Services reports	67
14.1	Continued Maintenance of Banjima Drive as a National Park Road .	67
15	Projects and Procurement reports	76
16	Councillor agenda items / notices of motions.....	76
17	New business of an urgent nature introduced by Council decision.....	76
18	Confidential matters.....	77
18.1	Surrender of Lease and Management Order for Conversion to Freehold Land Tenure for Sale to Third Party - Lot 41, Nameless Valley Drive, Tom Price (Reserve 38467)	77
19	Next meeting.....	78
20	Closure of meeting.....	79

1 Declaration of opening

The Presiding Member declared the meeting open at 1:00pm.

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 their elders past, present and emerging.

2 Announcement of visitors

Nil

3 Attendance

3.1 Present

Elected members

Cr K White	Shire President (Presiding Member) Onslow Ward
Cr M Lynch	Deputy Shire President, Tom Price Ward
Cr A Smith	Tom Price Ward
Cr T Mladenovic	Tom Price Ward
Cr L Rumble	Paraburdoo Ward
Cr A Sullivan	Paraburdoo Ward
Cr R de Pledge	Ashburton Ward
Cr J Richardson	Tableland Ward

Employees

K Donohoe	Chief Executive Officer
N Cain	Director Corporate Services
T Matson	Director People and Place
M Fanning	Director Infrastructure Services
C McGurk	Director Projects and Procurement
A Lennon	Manager Media and Communications
A Furfaro	Governance Officer
N Jeffrey	Executive Assistant Corporate Services

Guests

Nil

Members of the public

Nil

Members of the media

Nil

3.2 Apologies

Nil

3.3 Approved leave of absence

Cr M Gallanagh

Pannawonica Ward

8 March 2022

4 Question time

4.1 Response to previous questions taken on notice

Nil

4.2 Public question time

Nil

5 Applications for leave of absence

Cr M Gallanagh

Pannawonica Ward

12 April 2022

Council Decision 016/2022

Moved Cr M Lynch

Second Cr J Richardson

That with respect to applications for leave of absence, Council grants leave of absence to Cr M Gallanagh from 14 April to 14 April 2022, inclusive.

Carried 8/0

Cr T Mladenovic

Tom Price Ward

10 May 2022

Council Decision **017/2022**

Moved **Cr A Smith**
Second **Cr L Rumble**

That with respect to applications for leave of absence, Council grants leave of absence to Cr T Mladenovic from 10 May to 10 May 2022, inclusive.

Carried 8/0

6 Declaration by members

6.1 Due consideration by Councillors to the agenda

Councillors noted they have given due consideration to all matters contained in this agenda.

6.2 Declarations of interest

A member who has an Impartiality, Proximity or Financial interest in any matter to be discussed at this meeting must disclose the nature of the interest either in a written notice, given to the Chief Executive Officer, prior to the meeting, or at the meeting immediately before the matter is discussed.

A member who makes a disclosure in respect to an interest must not preside at the part of the meeting which deals with the matter, or participate in, or be present during any discussion or decision-making process relative to the matter, unless the disclosing member is permitted to do so under Section 5.68 or Section 5.69 of the *Local Government Act 1995*.

No declarations of interest have been submitted.

7 Announcements by the Presiding Member and Councillors without discussion

Nil

8 Petitions / Deputations / Presentations

8.1 Petitions

Nil

8.2 Deputations

Nil

8.3 Presentations

Nil

9 Confirmation of minutes

9.1 Confirmation of Council meetings

That with respect to the confirmation of minutes, Council confirms the following, as attached –

- Ordinary Council Meeting – 8 February 2022

Attachment 9.1A

Council Decision	018/2022
Moved	Cr T Mladenovic
Second	Cr L Rumble
That with respect to the confirmation of minutes, Council confirms the following Ordinary Council Meeting minutes held in Council Chambers, Onslow Shire Complex, Second Avenue, Onslow on 8 February 2022 as true and accurate record, as included in Attachment 9.1A.	
Carried 8/0	

9.2 Receipt of committee and other minutes

That with respect to the receipt of committee and other minutes, Council receives the following, as attached –

- Audit and Risk Committee – 8 March 2022

Council Decision 019/2022

Moved Cr M Lynch

Second Cr R de Pledge

That with respect to the receipt of committee and other minutes, Council receives the Audit and Risk Committee – 8 March 2022 committee meeting minutes.

Carried 8/0

9.3 Recommendations of committee meetings – En bloc

Council Decision 020/2022

Moved Cr M Lynch

Second Cr L Rumble

That with respect to recommendation of committee meetings – en bloc, Council approves the following recommendations –

Audit and Risk Management Committee – 8 March 2022

Committee Recommendation 002/2022

That with respect to the 2021 Compliance Audit Return, and pursuant to the *Local Government (Audit) Regulations 1996*, the Audit and Risk Management Committee recommends Council,

- a Adopts the 2021 Compliance Audit Return for the period 1 January 2021 to 31 December 2021, as included at Attachment 7.1A, and**
- b Authorises the Shire President and Chief Executive Officer to sign the joint certification of the completed Compliance Audit Return and submit it along with all other prescribed information to the Department of Local Government, Sport and Cultural Industries by 31 March 2022.**

Committee Recommendation 003/2022

That with respect to the Regulation 17 Review – 2020 Program status update, the Audit and Risk Management Committee;

- a** **Receives the status update;**
- b** **Recommends Council receive the Regulation 17 Review 2020 Program status update; and**
- c** **Requests the Chief Executive Officer provide further updates on the progress of these reviews.**

Committee Recommendation 004/2022

That with respect to the Internal Audit 2021, Committee recommends Council receive the update, noting those matters considered as “high” risk matters are being addressed in a future and separate report.

Carried 8/0

9.4 Recommendations of committees

Nil

10 En bloc resolutions

10.1 Agenda items adopted en bloc

Nil

11 Office of the Chief Executive Officer reports

Nil

12 Corporate Services reports

12.1 Monthly Schedule of Accounts Paid

File reference	FM03
Author's name	T Dayman
Author's position	Manager Finance and Administration
Author's interest	Nil
Authorising officer's name	N Cain
Authorising officer's position	Director Corporate Services
Authorising officer's interest	Nil
Name of applicant / respondent	Not applicable
Date report written	18 February 2022
Previous meeting reference	Not applicable

Summary

Council is required to have produced a Schedule of Accounts Paid each month containing relevant information, as legislated.

The purpose of this Report is to present the –

- Schedule of Creditor Accounts Paid for January 2022,
- Trust Fund Payments for January 2022, and
- Corporate Credit Card Reconciliations for December 2021.

Council is requested to confirm the Monthly Schedule of Accounts Paid, as presented.

Background

The *Local Government (Financial Management) Regulations 1996* require Shire officers, monthly and within a prescribed timeframe, to prepare a schedule of payments made from the Municipal Fund and the Trust Fund and present this to Council for confirmation.

Comment

Shire officers have prepared the Monthly Schedule of Accounts Paid, in accordance with legislative requirements, and this is attached.

Consultation

Executive Leadership Team
 Middle Management Group
 Finance Team

Statutory environment

Local Government (Financial Management) Regulations 1996

Regulation 13 (Payments from municipal fund or trust fund by Chief Executive Officer, Chief Executive Officer’s duties as to etc.)

Where the Chief Executive Officer has been delegated the exercise of power to make payments from the Municipal Fund or the Trust Fund, a list of accounts authorised for payment by the Chief Executive Officer is to be presented each month to Council.

Financial implications

Payments included on the Schedule of Accounts Paid have been undertaken in accordance with appropriate processes and the Annual Budget.

For the month under review the following summarised details are presented:

Description	Amount \$
<u>Municipal Fund</u>	
Electronic Funds Transfers	5,223,224.62
Superannuation / Payroll (Direct Debits)	0.00
Cheques	0.00
Credit Cards	14,013.51
Bank Fees and Charges	1,566.81
<u>Municipal Fund Total</u>	5,238,804.94
<u>Trust Fund</u>	
Electronic Funds Transfers	0.00
<u>Trust Fund Total</u>	0.00

Strategic implications

Shire of Ashburton Strategic Community Plan 2017-2027 Living Life (2019 Desktop Review)

Goal 5 Inspiring Governance
 Objective 4 Exemplary team and work environment
 Desired Outcome Highly functioning Shire team who effectively manages Shire resources to build strong communities.

Risk management

Risk has been assessed based on the Officer Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan
Council does not accept the Shire officer recommendation.	Unlikely (2)	Minor (2)	Low (4)	<u>Compliance</u> Some temporary non-compliances	Provide Council with adequate information to make an informed decision.

The following Risk Matrix has been applied:

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

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 "Low" because of the financial controls in place and the regularity of review of the information contained within these reports.

Policy implications

FIN06 Significant Accounting Policy

This Council Policy provides guidelines for the preparation of financial reports.

ELM10 Financial Sustainability Policy

This Council policy commits Council to ensuring no decisions will be made without considering the long-term financial impact of those decisions.

Voting requirement

Simple majority

Councillor interest declarations

Nil

Officer recommendation

That with respect to the Monthly Schedule of Accounts Paid, Council, in accordance with *Local Government (Financial Management) Regulations 1996* Regulation 13 confirms the Monthly Schedule of Accounts Paid for December 2021, as included at Attachment 12.1A.

Council Decision	021/2022
Moved	Cr T Mladenovic
Second	Cr A Smith
That with respect to the Monthly Schedule of Accounts Paid, Council, in accordance with <i>Local Government (Financial Management) Regulations 1996</i> Regulation 13 confirms the Monthly Schedule of Accounts Paid for December 2021, as included at Attachment 12.1A.	
Carried 8/0	

12.2 Monthly Financial Statements – January 2022

File reference	FM03
Author's name	T Dayman
Author's position	Manager Finance and Administration
Author's interest	Nil
Authorising officer's name	N Cain
Authorising officer's position	Director Corporate Services
Authorising officer's interest	Nil
Name of applicant / respondent	Not applicable
Date report written	18 February 2022
Previous meeting reference	Not applicable

Summary

Council is required to have produced a Statement of Financial Activity each month containing relevant information, as legislated.

The purpose of this Report is to present the Statement of Financial Activity for the month ended January 2022 as well as provide budget amendments recommendations.

Council is requested to accept the Statement of Financial Activity and any recommended budget amendments.

Background

The *Local Government (Financial Management) Regulations 1996* require Shire officers, monthly and within a prescribed timeframe, to prepare financial reports covering prescribed information and present these to Council.

Comment

Shire officers have prepared the Statement of Financial Activity, and supporting documentation, in accordance with legislative requirements (as attached).

Attachment 12.2A

Consultation

Executive Leadership Team
Middle Management Group
Finance Team

Statutory environment

Local Government Act 1995

Section 6.4 (Financial report)

Local governments are required to prepare and present financial reports, on an annual basis and at any other time, and in any other format, as prescribed.

Regulation 34 (Financial activity statement required each month (Act s. 6.4))

Shire officers are to prepare each month a statement of financial activity reporting on the revenue and expenditure as set out in the annual budget. Each statement of financial activity is to be accompanied by information explaining the composition of net assets less committed and restricted assets, any material variances and any other supporting information considered relevant.

Financial implications

Commentary on the current financial position is outlined within the body of the attached reports.

Strategic implications

There are no strategic implications for this item.

Risk management

Risk has been assessed based on the Officer Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan
Material misstatement or significant error in the financial statements.	Unlikely (2)	Moderate (3)	Moderate (6)	<u>Financial Impact</u> \$100,000 to \$1m	Review of financial position information to be undertaken regularly and by multiple Shire officers.
Council does not accept the Shire officer recommendation.	Unlikely (2)	Minor (2)	Low (4)	<u>Compliance</u> Some temporary non-compliances	Provide Councillors with sufficient information for decision making.

The following Risk Matrix has been applied:

Consequence Likelihood		Risk Matrix				
		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

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 “Low” because of the financial controls in place and the regularity of review of the information contained within these reports.

Policy implications

FIN06 Significant Accounting Policy

This Council Policy provides guidelines for the preparation of financial reports.

ELM10 Financial Sustainability Policy

This Council policy commits Council to ensuring no decisions will be made without considering the long-term financial impact of those decisions.

Voting requirement

Simple majority

Councillor interest declarations

Nil

Officer recommendation

That with respect to the Monthly Financial Statements, Council, in accordance with *Local Government (Financial Management) Regulations 1996* regulation 34 accepts the Statement of Financial Activity, and associated documentation, for January 2022, as included at Attachment 12.2A.

Council Decision 022/2022

Moved Cr R de Pledge

Second Cr L Rumble

That with respect to the Monthly Financial Statements, Council, in accordance with *Local Government (Financial Management) Regulations 1996* regulation 34 accepts the Statement of Financial Activity, and associated documentation, for January 2022, as included at Attachment 12.2A.

Carried 8/0

12.3 2021-2022 Annual Budget Review

File reference	FM.14
Author's name	T Dayman
Author's position	Manager Finance and Administration
Author's interest	Nil
Authorising officer's name	N Cain
Authorising officer's position	Director Corporate Services
Authorising officer's interest	Nil
Name of applicant / respondent	Not applicable
Date report written	24 February 2022
Previous meeting reference	Not applicable

Summary

This item presents the Annual Budget Review for the 2021-2022 Financial Year in accordance with the *Local Government Act (Financial Management) Regulations 1996 regulation 33A*.

The purpose of this report is to present the outcomes of the recent Finance and Costing Review of the Annual Budget, including forecast estimates and budget recommendations to the end of the financial year, forming a review of the annual budget.

Council is requested to endorse the review of the annual budget, noting proposed amendments.

Background

Regulation 33A of the *Local Government Act (Financial Management) Regulations* requires local governments to conduct a review of the Annual Budget between 1 January and 31 March in each financial year (the Review).

The Review must –

- Consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in the financial year,

- Consider the local government's financial position as at the date of the Review, and
- Review the outcomes for the end of the financial year which are forecast.

Shire officers are to submit the Review to Council thirty (30) days of completing the Review, after which Council is required to consider the Review to determine whether to adopt the Review, any parts of the Review, or any recommendations made in the Review.

Shire officers have recently undertaken a Finance and Costing Review (FACR) for the current financial year, which incorporated the requirements outlined for the Annual Budget Review.

The Review, completed on 24 February 2022, is based on year-to-date actual expense and revenue, along with any commitments, and seeks to forecast known impacts on the Annual Budget for the remainder of the financial year.

This process aims to highlight over, and under, expense of funds and over, and under, achievement of revenue targets for the benefit of all stakeholders to ensure sound fiscal management of remaining projects and programs.

Comment

The 2021-2022 Annual Budget was adopted by Council at the 17 August 2021 Ordinary Council Meeting as a balanced budget (i.e., all available funds were offset by an equal amount of expense).

A review of the Annual Budget (for the 1st Quarter of the financial year) was undertaken and presented to Council at the 14 December 2021 Ordinary Council Meeting which, although not statutorily required, is considered best practice, ensuring Council is aware of the Shire's financial performance against budget estimates.

The Annual Budget Review was undertaken with year-to-date values of 31 January 2022 (current as of 9 February 2022).

Meetings with Managers, the Executive Leadership Team and Manager Finance and Administration were held in mid-February 2022, with the overall aim of achieving a \$nil impact and the continued delivery of a balance budget.

The general adopted practice is for identified expense savings and revenue windfalls to be offset against increases in forecast costs, with any remaining funds used towards new essential projects / services not identified in the Annual Budget.

Confirmed Minutes – Public Ordinary Council Meeting 8 March 2022

Finally, any difference remaining is offset by movements of funds to / from Reserve Accounts, which ultimately will generate a balanced budget.

The table below provides an overview of net proposed amendments for each Directorate.

The totals represent a net of Revenue, Operating Expense, and Capital Expense, as well as movements in Loan and Reserve Account balances.

Directorate	Current Budget (Net) \$	End-of-Year Forecast (Net) \$	Proposed Amendments (Net) \$
Opening Position	2,192,163	2,192,163	0
Chief Executive's Office	13,650,111	14,056,194	406,083
Corporate Services	(67,081,333)	(67,504,507)	(423,174)
Infrastructure Services	21,879,371	22,340,960	461,589
People and Place	5,449,008	4,821,574	(627,434)
Projects and Procurement	37,053,213	37,236,150	182,937
Less Non-Cash Movements	13,142,982	13,142,982	13,142,982
Total	0	0	0

Non-cash movements, such as depreciation, profit, and loss are removed from the calculations in accordance with accounting practices for local government.

The Review was completed on the 24 February 2022 and provides a balanced budget to be considered by Council.

Proposed Transfers to Reserve

To achieve the balanced budget an additional \$1,688,783 is proposed to be transferred to Reserve Accounts.

This is due to works being deferred, and savings identified, in the Review, with the major savings as follows –

- \$812,000 transfer funds from Twitchin Road Resheet (capital) due to savings on the works,
- \$900,000 Mine Road Reconstruction and Reprofile (capital) due to savings on the works, and
- \$50,000 transfer from Doradeen Road Redesign (capital), defer until 2022-2023.

Proposed Budget Amendments

The Review process identified several proposed budget amendments, and new items for inclusion in the budget review.

The following is a list of new items, which have been assessed by the Executive Leadership Team (totalling \$6,229,069), and are proposed for inclusion in the Budget Review, which are offset by reduced expense and increased revenue in other areas –

• Chief Executive Officer Vehicle replacement	\$ 75,000
• Dawson Creek Road (AGRN920 Flood Repairs)	\$ 241,739
• Disaster Recovery Emergency Funding Trigger Provision	\$ 175,000
• Kooline-Ashburton Downs Road Resheet	\$ 19,369
• New Grinder equipment	\$ 7,700
• Organisational COVID-19 Protective Equipment	\$ 24,000
• Pannawonica-Millstream Road (AGRN920 Flood Repairs)	\$ 583,261
• Pannawonica-Millstream Road (Flood Repairs)	\$ 100,000
• Sports Court Coverage – Paraburdoo	\$ 5,000,000
• Working Through Onslow - Reconciliation Week Event	\$ 3,000

A comprehensive list of budget adjustments has been attached for Council's consideration.

Attachment 12.3A

Included within the attached amendments are the following significant increases to original and / or amended budget items -

- Corporate Services – Consultancy Fees from \$404,056 to \$474,056.
Reason: Increase in identified consultancy service requirements resulting from staff turnover and vacancies.
- Aviation Area Screening Provider from \$645,800 to \$945,000.
Reason: Increase in estimated costs for services to 30 June, which is offset by additional screening revenue.
- Aviation Area Rotary Wing Base from \$214,000 to \$290,605.
Reason: Increase in costs / Scope of works.
- Tourism and Economic Development - Astro and Geotourism Initiatives from \$129,200 to \$229,200.
Reason: Increase in costs / Scope of works.
- Tourism and Economic Development – Onslow Water Tanks from \$205,300 to \$254,300.

Reason: Recognition of expense occurred to date and the recommencement of project an estimate costs.

- Tourism and Economic Services - Shire of Ashburton 50th Anniversary Celebrations from \$500,000 to \$775,000.
Reason: Transfer of \$125,000 from Community Services (East) Unit Consultancy / Project cost – identified for 50 Year Celebrations Paraburdoo / Pannawonica to this project general ledger, plus an additional \$150,000 for additional programs and activities.
- Fleet – Plant Maintenance from \$258,700 to \$308,700.
Reason: Increase in fuel, oil, and other anticipated costs.
- Civil Projects - Pathways – Paraburdoo from \$250,000 to \$330,000.
Reason: Increase provision to match quotations received on works for project to proceed as per scope.
- Roads and Civil Projects - Ashburton – Meekatharra Road (DFES TC Damien ARGN899) from \$1,199,600 to \$1,649,52.
Reason: Increase in reinstatement works costs.
- Waste Services – Regional Waste Facility Consultancy Services from \$92,000 to \$462,000.
Reason: Correction of consultancy services allocation, previously reflected in Waste Services (\$nil budget impact).
- Waste Services – Regional Waste Facility Mobilisation from \$1,383,800 to \$1,692,099.
Reason: Review of forecast projections from contractor.

Employment costs

The original budget estimated employment costs at \$18,189,216 based on the current organisation structure as well as consideration for trends in vacancy rates.

The budgeted estimation for employment costs incorporated a significant difference (\$ millions) between full employment, as per the organisation structure, and the likelihood of retaining full employment in the economic and near-full employment climate faced by the nation.

Shire officers have conservatively estimated, and included in the Review, an additional reduction in employment costs of \$195,754 from the reduced adopted budgeted estimate.

Opening Position

When preparing a review of the budget, it is normal practice to take into consideration opening position adjustments.

The Shire's opening position is currently pending certification from the Shire's auditors and, as a result, no amendments to opening balance have been considered in this Review.

Any amendments arising from variation to the opening position will be included in the 3rd Quarter Finance and Costing Review process and presented to Council.

Reserve Accounts

Interest Earnings on Reserve Accounts is significantly lower than budget projections due to an anticipated rise in official interest rates not having occurred.

A reduction in interest earnings projections of \$153,601 has been reflected in the review, impacting the Reserve Accounts anticipated balance as of 30 June 2022.

As outlined within this report the Review identified budget savings through multiple areas.

These savings have been proposed for transfer to Reserve Accounts for future purposes.

The additional transfers are outlined as follows:

- \$50,000 Infrastructure Reserve
- \$1,500,000 Tom Price Administration Building Reserve
- \$138,783 Future Project Reserve

In addition, a transfer of \$2,000,000 from the Waste Reserve has been included in the Review to fund the development of new cells for the Pilbara Regional Waste Management Facility at a cost of \$3,000,000 as per Council's resolution 10/2022.

This will result in an increase in the estimated budget balance as of 30 June 2022.

Consultation

Executive Leadership Team
Middle Management Group
Finance Team

Statutory environment

Local Government (Financial Management) Regulations 1996

Regulation 33A – Review of budget

A local government is to review the annual budget at least once every financial year. A review, as legislated, is to occur within a specified timeframe, and incorporate several considerations to ascertain the performance of the local government operations against the adopted and / or amended budget.

Financial implications

The net result of all proposed amendments in the Review is \$nil.

An additional \$1,688,783 is proposed for transferring to Reserve Accounts.

Strategic implications

There are no strategic implications for this item.

Risk management

Risk has been assessed based on the Officer Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan
Potential reduction in the quality of assets provided and services delivered if the Budget Amendments are not adopted.	Possible (3)	Major (4)	High (12)	<u>Interruption to service</u> Prolonged interruption of services – additional resources; performance affected, < 1 month.	Provide Councillors with sufficient information for sound decision making
Negative public perception if works are not completed due to funding issues	Possible (3)	Moderate (3)	Moderate (9)	<u>Reputation</u> Substantiated, public embarrassment, moderate impact on community trust or moderate media profile.	Provide Councillors with sufficient information for sound decision making.

The following Risk Matrix has been applied:

		Risk Matrix				
Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

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 “Moderate to High” because, without the proposed amendments, Council assets and services may be negatively impacted.

Policy implications

FIN06 Significant Accounting Policy

This Council Policy provides guidelines for the preparation of financial reports.

ELM10 Financial Sustainability Policy

This Council Policy commits Council to ensuring no decisions will be made without considering the long-term financial impact of those decisions.

Voting requirement

Absolute majority

Councillor interest declarations

Nil

Officer recommendation

That with respect to the 2021-2022 Annual Budget Review, and pursuant to Regulation 33A of the *Local Government (Financial Management) Regulations 1996*, Council,

- a Adopts the 2021-2022 Annual Budget Review and notes the budget amendments, which are included in Attachment 12.3A, and summarised below by Business Unit, with amounts in brackets representing a benefit to the organisation, which results in an overall \$nil budget variance –

Opening Position 1 July \$2,192,163

Office of the CEO

- Office of the CEO \$ 39,967
- Aviation and Tourism \$ 236,064
- Human Resources \$ 56,057
- Land and Asset Compliance \$ 125,626
- Media And Communications (\$ 51,631)
- \$ 406,083

Corporate Services

- Corporate Services \$ 92,404
- Finance and Administration (\$ 56,746)
- Governance (\$ 209,058)
- ICT Services \$ 59,337
- Corporate Funding (\$ 309,112)
- (\$ 423,174)

Infrastructure Services

- Infrastructure Services (\$ 72,092)
- Assets and Programming (\$ 39,518)
- Fleet \$ 142,869
- Maintenance \$ 952
- Roads and Civil Projects (\$1,847,742)
- Waste Services (\$ 2,277,119)
- \$ 461,589

People and Place

- People and Place Services (\$ 54,215)
- Regulatory Services (\$ 167,098)
- Development Services \$ 9,121

Confirmed Minutes – Public Ordinary Council Meeting 8 March 2022

• Community Services (East)	(\$ 410,634)
• Community Services (West)	(\$ 4,952)
• Library Services	<u>\$ 344</u>
	(\$ 627,434)

Projects and Procurement

• Projects and Procurement	\$ 38,324
• Procurement	\$ 41,170
• Facilities (East)	\$ 247,062
• Facilities (West) and Aquatics	<u>(\$ 143,618)</u>
	\$ 182,937)

Less Non-Cash movements	<u>\$13,142,982</u>
Forecast 30 June Budget position	\$ 0

Council Decision 023/2022
Moved Cr T Mladenovic
Second Cr J Richardson

That with respect to the 2021-2022 Annual Budget Review, and pursuant to Regulation 33A of the *Local Government (Financial Management) Regulations 1996, Council,*

a Adopts the 2021-2022 Annual Budget Review and notes the budget amendments, which are included in Attachment 12.3A, and summarised below by Business Unit, with amounts in brackets representing a benefit to the organisation, which results in an overall \$nil budget variance –

Opening Position 1 July \$2,192,163

Office of the CEO

• Office of the CEO	\$ 39,967
• Aviation and Tourism	\$ 236,064
• Human Resources	\$ 56,057
• Land and Asset Compliance	\$ 125,626
• Media And Communications	<u>(\$ 51,631)</u>
	\$ 406,083

Corporate Services

• Corporate Services	\$ 92,404
• Finance and Administration	(\$ 56,746)
• Governance	(\$ 209,058)
• ICT Services	\$ 59,337
• Corporate Funding	(\$ 309,112)
	<u>(\$ 423,174)</u>

Infrastructure Services

• Infrastructure Services	(\$ 72,092)
• Assets and Programming	(\$ 39,518)
• Fleet	\$ 142,869
• Maintenance	\$ 952
• Roads and Civil Projects	(\$1,847,742)
• Waste Services	<u>(\$ 2,277,119)</u>
	\$ 461,589

People and Place

• People and Place Services	(\$ 54,215)
• Regulatory Services	(\$ 167,098)
• Development Services	\$ 9,121
• Community Services (East)	(\$ 410,634)
• Community Services (West)	(\$ 4,952)
• Library Services	<u>\$ 344</u>
	(\$ 627,434)

Projects and Procurement

• Projects and Procurement	\$ 38,324
• Procurement	\$ 41,170
• Facilities (East)	\$ 247,062
• Facilities (West) and Aquatics	<u>(\$ 143,618)</u>
	\$ 182,937

Less Non-Cash movements	<u>\$13,142,982</u>
Forecast 30 June Budget position	\$ 0

Carried 8/0

12.4 Local Laws Review

File reference	LE.LL
Author's name	N Cain
Author's position	Director Corporate Services
Author's interest	Nil
Authorising officer's name	N Cain
Authorising officer's position	Director Corporate Services
Authorising officer's interest	Nil
Name of applicant / respondent	Not applicable
Date report written	17 February 2022
Previous meeting reference	Not applicable

Summary

Local governments are required to undertake a formal review of their local laws at least once every eight (8) years.

Currently Council has eleven (11) local laws in effect, as provided by the Department of Local Government, Sport and Cultural Industries.

Council is requested to initiate the process to review the local laws, which involves requesting comment from the public, after which any changes required, or potential repeal, of any outdated local laws can be undertaken.

Background

The *Local Government Act 1995* requires local governments to undertake a review of their local laws at least once every eight (8) years.

Local laws currently in place (as provided by the Department of Local Government, Sport and Cultural Industries and confirmed through the State Law Publisher), when they were made / gazetted, and comments regarding them are shown below and, without pre-empting the outcome of the review, possible action which may be required is shown to assist –

Confirmed Minutes – Public Ordinary Council Meeting 8 March 2022

Local Law	Activities on Thoroughfares and Public Places and Trading Local Law 2013
Gazettal and Amendment Dates	5 April 2013, page 1403 15 November 2013, page 5257
Comments / Possible Outcomes	Merge – Activities on Thoroughfares and Public Places and Trading Local Law 2013, Local Government Property Local Law 2013 and Local Law Relating to the Management and Control of Public Swimming Pools 1998.

Local Law	Cemeteries Local Law 2013
Gazettal and Amendment Dates	8 March 2013, page 1182 15 November 2013, page 5237
Comments / Possible Outcomes	-

Local Law	Dogs Local Law 2012
Gazettal and Amendment Dates	8 March 2013, page 1170
Comments / Possible Outcomes	Update – Reflect <i>Dog Act</i> and associated Regulations now in force.

Local Law	Extractive Industries Local Law 2013
Gazettal and Amendment Dates	8 March 2013, page 1161
Comments / Possible Outcomes	-

Local Law	Fencing Local Law 2014
Gazettal and Amendment Dates	11 April 2014, page 1041 28 November 2014, page 4414
Comments / Possible Outcomes	-

Local Law	Health Local Law 2013
Gazettal and Amendment Dates	5 April 2013, page 1357
Comments / Possible Outcomes	-

Local Law	Local Government Property Local Law 2013
Gazettal and Amendment Dates	5 April 2013, page 1449 15 November 2013, page 5257
Comments / Possible Outcomes	Merge – Activities on Thoroughfares and Public Places and Trading Local Law 2013, Local Government Property Local Law 2013 and Local Law Relating to the Management and Control of Public Swimming Pools 1998.

Local Law	Local Law Relating to Control of Cats 1998
Gazettal and Amendment Dates	3 June 1998, page 3031
Comments / Possible Outcomes	Update – Reflect <i>Cat Act 2012</i> and associated Regulations which are now in force.

Local Law	Local Law Relating to the Management and Control of Public Swimming Pools 1998
Gazettal and Amendment Dates	3 June 1998, page 3027 3 November 2000, page 6105
Comments / Possible Outcomes	Merge – Activities on Thoroughfares and Public Places and Trading Local Law 2013, Local Government Property Local Law 2013 and Local Law Relating to the Management and Control of Public Swimming Pools 1998.

Local Law	Parking and Parking Facilities Local Law 2013
Gazettal and Amendment Dates	5 April 2013, page 1427
Comments / Possible Outcomes	-

Local Law	Standing Orders Local Law 2012
Gazettal and Amendment Dates	8 March 2013, page 1143
Comments / Possible Outcomes	-

Comment

By way of cursory review, the number of local laws Council has in place can be reduced.

Keeping local laws up to date ensures the Shire is well placed to deal with any issues which may arise as well as removing redundant or unnecessary regulation.

Some local laws are clearly no longer required, others need amendment to reflect changes in ‘higher’ legislation (Acts or regulations made by the State or Commonwealth), and some can be merged into one local law.

As per legislation, and as part of a review of local laws, Council is required to give local public notice inviting submissions (for a period of not less than six (6) weeks).

Any feedback from the public consultation process is presented to Council.

Any changes to local laws must then be undertaken in accordance with legislative procedures and requirements to make a new local law, amendment local law, or repeal local law.

Consultation

Local government consultants

Statutory environment

Local Government Act 1995

Section 3.12 – Procedure for making local laws

This section provides the procedure which must be followed, in the sequence it is described, in making a local law (be it new, amendment or repeal).

Local Government Act 1995

Section 3.16 – Periodic review of laws

Within a period of eight (8) years from the day when a local law commenced or a report of a review of the local law was accepted a local government is to carry out a review of the local law to determine whether it considers it should be repealed or amended.

Financial implications

Costs associated with the review process, advertising and notice requirements, and the drafting of any changes, have been included in the annual budget.

Strategic implications

Shire of Ashburton 10 Year Community Strategic Plan 2017- 2027 (Desktop Review 2019)

Goal 5	Inspiring Governance
Objective 2	Effective planning for the future
Strategic Direction	Monitor trends, anticipate needs and capitalise on opportunities to build strong communities.

Risk management

Risk has been assessed based on the Officer Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan
Failure to review local laws in a timely manner.	Possible (3)	Moderate (3)	Moderate (9)	<p><u>Compliance</u> Short-term non-compliance with significant regulatory requirements imposed.</p> <p><u>Reputation</u> Substantiated public embarrassment, moderate impact on community trust or moderate media profile.</p>	Council commences the review of local laws process, as recommended.

The following Risk Matrix has been applied:

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Adoption of this item has been evaluated against the Shire of Ashburton’s Risk Management Policy CORP5 Risk Matrix.

This item has been evaluated against the Shire of Ashburton’s Risk Management Policy CORP5 Risk Matrix.

The perceived level of risk is “moderate” because, notwithstanding some local laws are outdated, they are functional and those recommended for update have other legislation implications.

Policy implications

There are no known policies or policy implications relating to this item.

Voting requirement

Simple majority

Councillor interest declarations

Nil

Officer recommendation

That with respect to the Local Laws Review, and pursuant to the *Local Government Act 1995*, Council,

- a Formally commences a review of all Local Laws,
- b Requests the Chief Executive Officer to undertake local public notice advising,
 - i Council proposes reviewing its Local Laws, as required by legislation,
 - ii A copy of the Local Laws may be inspected or obtained at the Shire offices or from the Shire website,
 - iii Submissions regarding the Local Laws may be made to the Shire before a day to be specified in the notice, being a day not less than six (6) weeks after the notice is given, and
- c Requests the Chief Executive Officer to present to Council the results of the local public notice advertising and any submissions received.

Council Decision

024/2022

Moved

Cr L Rumble

Second

Cr A Sullivan

That with respect to the Local Laws Review, and pursuant to the *Local Government Act 1995*, Council,

- a Formally commences a review of all Local Laws,**

- b Requests the Chief Executive Officer to undertake local public notice advising,**
- i Council proposes reviewing its Local Laws, as required by legislation,**
 - ii A copy of the Local Laws may be inspected or obtained at the Shire offices or from the Shire website,**
 - iii Submissions regarding the Local Laws may be made to the Shire before a day to be specified in the notice, being a day not less than six (6) weeks after the notice is given, and**
- c Requests the Chief Executive Officer to present to Council the results of the local public notice advertising and any submissions received.**

Carried 8/0

12.5 Strategic Community Plan (Major Review)

File reference	OR.CM.10.00
Author's name	N Cain
Author's position	Director Corporate Services
Author's interest	Nil
Authorising officer's name	N Cain
Authorising officer's position	Director Corporate Services
Authorising officer's interest	Nil
Name of applicant / respondent	Not applicable
Date report written	20 February 2022
Previous meeting reference	No applicable

Summary

Council is required to undertake a major review of its Strategic Community Plan every four (4) years.

The Review commenced in 2021 and is now complete.

Council is requested to endorse the major review of the Strategic Community Plan which, by its very nature, will mean endorsing a new Strategic Community Plan.

Background

In 2017, as part of legislative requirements, the Shire completed a set of documents which, together, comprise the Western Australia Integrated Planning and Reporting Framework.

These documents included a Strategic Community Plan, a Corporate Business Plan, and several additional plans as supporting documents.

A major review of these documents is required every four (4) years.

The review of these documents commenced in 2021 (in line with the required timeframes) and was delayed due to COVID-19 related matters, low-levels of community participation, and delays in availability from suitably qualified consultants.

The new Strategic Community Plan is now complete, and the purpose of this report is for Council to adopt the new Plan.

Comment

The Western Australian Integrated Planning and Reporting Framework comprise a set of strategic and operational documents which Council is required by legislation to prepare with the involvement of the community.

These documents include –

- **Strategic Community Plan**
A Strategic Community Plan is a strategic document which provides direction for the Council, Shire and Community for at least the next ten (10) years.
- **Corporate Business Plan**
A Corporate Business Plan is an operational document which activates the Strategic Community Plan and is for a minimum of four (4) years.
- **Key supporting documents**

Long-Term Financial Plan – shows how the Shire will be able to pay for managing assets, carrying out new capital works, and providing services.

Asset Management Plan/s – Asset management planning is intended to integrate the expected cost of looking after assets with long-term financial planning.

Workforce Plan – Workforce planning is intended to ensure the Shire has the right people to deliver the right asset management, service provision and capital works.

Engagement

The Strategic Community Plan (the focus of this report) is the principal strategy and planning document, which reflects the community's long-term vision, values, aspirations, and priorities.

The Plan was arrived at following community engagement, which included –

- Community workshops (December 2020),
- Surveys provided to, and received from, attendees at community events (July 2021 to October 2021), and
- Community focus groups (November 2021 to December 2021).

Content analysis of the information collected through the engagement process was conducted and the preparation of a draft Strategic Community Plan, using the results of the content analysis, prepared.

State guidelines target 5% of the community population or 500 members of the community to be involved, using two (2) engagement types.

Shire officers were unable to achieve the targeted participation levels despite undertaking three (3) methods of community engagement over a twelve (12) month period and so relied upon the previous engagement conducted in 2017 to verify the validity of the community information included in the proposed Strategic Community Plan.

In discussion with community members, Shire officers believe the low levels of participation in community engagement relates to a combination of COVID-19 social isolation / participation restrictions, a lack of general concern / overall acceptance regarding the services being provided in the district, and a level of “consultation fatigue” resulting from many employers, government and social service providers engagement currently being experienced in the district.

Key Vision and Aspirations

Although each town differed in the key priorities, variations were minor.

The top five (5) priorities, across all towns, were –

- Public safety
The district is recognised as having low crime statistics compared with other Pilbara areas. Community members felt there was the beginning of increased levels of anti-social behaviour and minor crime across the towns. Opportunities to bring this to the attention of those who can best address these concerns was sought.
- Events
Events and activities were highly valued by community members across all towns, however there are concerns more attention is paid to some towns and

not others. Opportunities for coordination and centralisation of events was also seen as important to maximise access to all events for all people and avoid local activity clashes.

- **Regional affordability**
Community members expressed concern with the relative low levels of competition in each of the towns, which has the impact of pushing pricing beyond a reasonable level of affordability. A voice or opportunities to question the current low level of competition, and high prices, was sought.
- **Education**
The leakage of families with older children from the area was noted as a negative, which has a flow-on impact on the growth and development of all towns. Opportunities for higher levels of education, perhaps in virtual classrooms, was sought.
- **Travel costs**
Community members welcomed the reduced cost for air travel to some of the towns, although acknowledged the number of available “low cost” airfares were minimal, and the number of flights (especially through Onslow), seemed insufficient to meet demand. Opportunities to reduce travel costs and increase options was sought.

The Strategic Direction

The Strategic Direction is the principal part of any Strategic Community Plan.

It represents the beginning of a long-term focus to map the future of the Shire.

The vision, values, and strategic outcomes represent the strategically principled (and tactically flexible) way in which the Shire’s actions will be conducted.

A summarised version of the key aspects of the strategic direction, as informed by community participation, is shown below –

Vision - Opportunity to Community

We will be a welcoming, sustainable, and socially active district, offering a variety of opportunities to community.

Values

- **Respect**
We will acknowledge and listen to the diverse opinions and cultures of our community.

- Openness
We will be honest, accountable, and transparent in how we do things.
- Teamwork
We will focus on coordinating the effective and efficient delivery of services and projects.
- Leadership
We will remain positive, and find opportunities to thrive, in all situations.
- Excellence
We will be empowered to deliver achievable excellence in everything we do.
- Health and Wellbeing
We will champion the health and wellbeing of our fellow employees and community members.

Key Aspirational Themes

- People – We will support opportunities for the community to be safe, socially active, and connected.
- Place – We will provide sustainable, purposeful, and valued built and natural environment opportunities for the community.
- Prosperity – We will advocate and drive opportunities for the community to be economically desirable, resilient, and prosperous.
- Performance – We will lead the organisation, and create the culture, to deliver demonstrated performance excellence to the community.

Strategic Outcomes – People

- Coordinated delivery of social services and projects for the community
- Communities connected with opportunities
- Individual and community learning opportunities

Strategic Outcomes – Place

- Coordinated delivery of natural and built environment services and projects for the community
- Appropriate, inviting, and diverse employee accommodation and land management opportunities
- Attractive and sustainable townscapes offering opportunities for all communities

Confirmed Minutes – Public Ordinary Council Meeting 8 March 2022

- Effective, compliant, and sustainable management of community assets and infrastructure
- Enhanced community opportunities for sustainable waste management
- Land use opportunities to benefit current and future communities
- Quality, well-maintained, and purposeful community facilities
- Safe and interconnected transport networks for the community

Strategic Outcomes – Prosperity

- Coordinated delivery of economic services and projects for the community
- Aviation transport opportunities for the community
- Clean, safe, and accessible communities
- Sustainable commerce and tourism opportunities

Strategic Outcomes – Performance

- Coordinated delivery of organisational leadership and performance excellence for the benefit of the community
- Appropriate, sustainable, and transparent management of community funds
- A range of effective opportunities for the community to receive information in a timely manner
- Information systems to aid delivery of services to the community are robust, reliable, and secure
- Safe, engaged, inclusive, and productive workforce culture
- Visionary community leadership with sound, diligent and accountable governance

The Shire of Ashburton Strategic Community Plan provides a clear direction for how the Shire will evolve, and will be delivered through –

- Direct service provision,
- Key partnerships, and
- Advocating on behalf of the community.

The Draft Strategic Community Plan is attached.

Attachment 12.5A

The Corporate Business Plan, and other key supporting documents, will be presented to Council for endorsement following the endorsement of the Strategic Community Plan.

Consultation

Community
Councillors
Executive Leadership Team
Shire Managers

Statutory environment

Local Government Act 1995

Section 5.56 – Planning for the future

A local government is required to plan for the future.

Local Government (Administration) Regulations 1996

Regulation 19C – Strategic community plans, requirements for (Act s. 5.56)

A local government is to ensure a Strategic Community Plan, which meets the necessary requirements relating to content, time, and community engagement, is made for the district as, and when, required.

Financial implications

Printing, branding, and publication of the final Strategic Community Plan is included in the Annual Budget and is considered minor.

Strategic implications

Shire of Ashburton 10 Year Community Strategic Plan 2017- 2027 (Desktop Review 2019)

Goal 5	Inspiring Governance
Objective 2	Effective planning for the future
Strategic Direction	Monitor trends, anticipate needs and capitalise on opportunities to build strong communities.

If the attached Strategic Community Plan is endorsed by Council, then this will guide the Strategic implications section for all future Agenda items.

Risk management

Risk has been assessed based on the Officer Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan
Council does not endorse the Strategic Community Plan.	Unlikely (2)	Moderate (3)	Moderate (6)	<u>Compliance</u> Short-term non-compliance with significant regulatory requirements imposed. <u>Reputation</u> Substantiated public embarrassment, moderate impact on community trust or moderate media profile.	Sufficient information and community engagement is provided so Council can approve the Strategic Community Plan.
The Strategic Community Plan is inappropriate and does not meet community expectations.	Unlikely (2)	Moderate (3)	Moderate (6)	<u>Reputation</u> Substantiated public embarrassment, moderate impact on community trust or moderate media profile.	Council continually reviews and monitors the effectiveness of the Strategic Community Plan as legislatively required to do so.

The following Risk Matrix has been applied:

Risk Matrix						
Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Adoption of this item has been evaluated against the Shire of Ashburton's Risk Management Policy CORP5 Risk Matrix.

This item has been evaluated against the Shire of Ashburton's Risk Management Policy CORP5 Risk Matrix.

The perceived level of risk is “moderate” because, notwithstanding the relative low levels of community participation, the general themes within the Strategic Community from this current community engagement process Plan align with previous strategic documentation.

Policy implications

ADM08 – Community engagement

This Council policy provides the framework for all community engagement activities conducted by the Shire and ensures there is awareness of Council’s principles toward community engagement.

Voting requirement

Absolute majority

Councillor interest declarations

Nil

Officer recommendation

That with respect to the Strategic Community Plan (Major Review), and pursuant to Section 5.56 of the *Local Government Act 1995* and associated Regulations, Council,

- a Acknowledges the major review of the Strategic Community Plan as having been undertaken, and
- b Endorses the Strategic Community Plan, as included in Attachment 12.5A.

Council Decision 025/2022

Moved Cr T Mladenovic

Second Cr M Lynch

That with respect to the Strategic Community Plan (Major Review), and pursuant to Section 5.56 of the *Local Government Act 1995* and associated Regulations, Council,

- a Acknowledges the major review of the Strategic Community Plan as having been undertaken, and**
- b Endorses the Strategic Community Plan, as included in Attachment 12.5A.**

Carried 8/0

12.6 Development Assessment Panel Local Government Representation

File reference	GV04
Author's name	N Cain
Author's position	Director Corporate Services
Author's interest	Nil
Authorising officer's name	N Cain
Authorising officer's position	Director Corporate Services
Authorising officer's interest	Nil
Name of applicant / respondent	Not Applicable
Date report written	14 February 2022
Previous meeting reference	Ordinary Meeting of Council 19 October 2021 Agenda Item 11.2 (Minute No. 162/2021)

Summary

Council has previously nominated Councillor representation to the Regional Joint Development Assessment Panel administered by the Department of Planning, Lands and Heritage (Cr K White and Cr L Rumble).

The Department of Planning, Lands and Heritage have requested an additional two (2) representatives be provided by the Shire of Ashburton

Council is requested to nominate an additional two (2) elected members to be representatives on the Development Assessment Panel and advise the Local members and the Alternate local members to the Department of Planning, Lands and Heritage.

Background

As a key component of planning reform in Western Australia, Development Assessment Panels (DAPs) have been introduced by State Government to enhance planning expertise in decision-making by improving the balance between technical advice and local knowledge.

A DAP's primary function is to decide applicable Development Applications by resolution, with DAP members reporting to the Minister for Planning, Lands and Heritage.

They are not employed by any associated Department, nor the Western Australian Planning Commission.

The Shire of Ashburton provides direct membership to the Regional Joint Development Assessment Panel (JDAP) which has been established to service two (2) or more local governments across regional Western Australia.

Following the recent local government election (October 2021), Council nominated and supported Cr K White and Cr L Rumble as the Shire of Ashburton Local members for the appropriate DAP and this advice was forwarded to the Department of Planning, Lands and Heritage.

Following this advice, the Department communicated the need for an additional two (2) representatives from the Shire of Ashburton and advises –

“Local representation is a vital component of Development Assessment Panel (DAP). Local members are members of a local government council who are nominated by that local government to sit on a DAP. The relevant local government will be responsible for nominating four (4) local government representative members from the local government’s pool of elected members (councillors). The Minister will appointment the local government representatives in accordance with the local government nomination.

Should the local government fail to nominate four (4) representatives, the Minister has the power to appoint two alternative community representatives to ensure local representation is always present on a panel. The regulations require that these alternate representatives are residents of the local area and have relevant knowledge or experience that, in the opinion of the Minister, will enable them to represent the interests of their local community.”

Each DAP comprises five (5) members; three (3) specialist members, one (1) of which is the presiding member, and two (2) local members, nominated by the local government.

Specialist members are appointed from a list of appropriately qualified persons and must have experience in one (1) or more of the following areas –

- Planning,
- Architecture,
- Urban Design,
- Engineering,
- Landscape Design,

- Environment,
- Law, and / or
- Property Development and Management.

There is also to be Alternate (deputy) members for local members and specialist members.

Alternate (deputy) members will be used when an issue of quorum arises or when a DAP member is unable to act by reason of illness, absence, or other cause.

Deputy local members cannot sit in the place of specialist members, and deputy specialist members cannot sit in the place of local members.

At a meeting of a DAP, a quorum is constituted by three (3) members of the DAP, including the Presiding Member.

Council is requested to nominate an additional two (2) elected members to be the representatives on the DAP.

Comment

Council has previously nominated Cr K White and Cr L Rumble as the Shire of Ashburton Local members for the appropriate DAP, and this advice was forwarded to the Department of Planning, Lands and Heritage.

Council is being requested to nominate an additional two (2) representatives, and to nominate which two (2) will be the Local members and which two (2) will be the Alternate local members.

Alternate local members will be used when an issue of quorum arises or when a DAP Local member is unable to act by reason of illness, absence, or any other cause, when sufficient notice is provided.

The Alternate local member (1) will be contacted in the first instance for attendance, if a local member is unable to act, and the Alternate local member (2) will be contacted in the second instance for attendance or if the Alternate local member (2) is unable to act.

All DAP members are appointed for a term of not more than three (3) years, with all DAP members listed on the DAP website.

Following the expiration of a Local member's term, the Minister for Planning, Lands and Heritage will ask each local government to provide nominations for two (2) Local government members and two (2) Alternate members.

Shire officers provided the names of the two (2) Local government members to represent the Shire of Ashburton and were requested to provide an additional two (2) elected members and to advise which would be Local members and which would be Alternate local members.

The DAP Regulations require all Local members to be –

- residents of the district,
- an eligible voter in the district, and
- have relevant knowledge or experience which, in the opinion of the Minister, will enable them to represent the interests of their local community.

A DAP member cannot sit as a member of a DAP until they satisfactorily complete the training for DAP members.

Training involves covering the DAP process and Planning and the law.

The DAP process component of the training comprises –

- Training material on the DAP process and procedures,
- DAP Standing Orders,
- DAP Code of Conduct – including conflicts of interest and professional ethics, and
- DAP Procedures Manual.

The Planning and the law component of the training comprises –

- The principal acts under which DAP members make decisions,
- Relevant local and State Government planning instruments,
- Appropriate planning considerations and legal requirements in decision-making, and
- The State Administrative Appeals process.

The training includes a series of case studies relating to appropriate planning considerations in the DAP context, and the legal ramifications of DAP decisions.

Training is currently provided as a single day, in-person training session in Perth.

Shire officers consider the nomination of four (4) DAP members, and the clear demarcation of Local members and Alternate local members, to be a sound direction to ensure the Shire of Ashburton has suitably qualified members available to always represent the best interests of the district in DAP matters and comply with the legislation.

Consultation

Department of Planning Lands and Heritage
Shire of Ashburton Council

Statutory environment

*Planning and Development (Development Assessment Panels) Regulations 2011
Regulation 25 – JDAP members*

This regulation outlines the requirement for relevant local governments to be represented on relevant JDAPs.

*Planning and Development (Development Assessment Panels) Regulations 2011
Regulation 26 – JDAP local government member register*

This regulation requires the names of two (2) members of Council to be included as Local members to the relevant JDAP.

*Planning and Development (Development Assessment Panels) Regulations 2011
Regulation 28 – Alternate members*

This regulation permits the Minister to appoint Alternate local members to act in the place of the Local member if the Local member is unable to perform the functions of the member by reason of illness, absence, or other cause.

Financial implications

Council required meeting fees and costs associated with the DAP is included in the annual budget and is considered minimal.

Strategic implications

Shire of Ashburton 10 Year Community Strategic Plan 2017- 2027 (Desktop Review 2019)

Goal 5	Inspiring Governance
Objective 2	Community ownership
Strategic Direction	Ensure equitable and broad representation on committees and in community engagement activities to ensure there is well informed decision making.

Risk management

Risk has been assessed based on the Officer Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan
Council not being appropriately represented at community and external groups if no delegates are appointed.	Unlikely (2)	Minor (2)	Low (4)	<u>Reputation</u> Substantiated, localised impact on community trust or low media item.	Councillors requested to nominate for vacancies, as recommended.

The following Risk Matrix has been applied:

Consequence Likelihood		Risk Matrix				
		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Adoption of this item has been evaluated against the Shire of Ashburton’s Risk Management Policy CORP5 Risk Matrix.

This item has been evaluated against the Shire of Ashburton’s Risk Management Policy CORP5 Risk Matrix. The perceived level of risk is “Low” due to the routine nature of Committee participation and nomination.

Policy implications

There are no known policies or policy implications relating to this Item.

Voting requirement

Simple majority

Councillor interest declarations

Nil

Officer recommendation

That with respect to Development Assessment Panel Local Government Representation, and pursuant to the *Planning and Development (Development Assessment Panels) Regulations 2011*, Council –

- a Nominates Cr K White as Local member (1) and Cr L Rumble as Local member (2),
- b Nominates Cr _____ as Alternate local member (1) and Cr _____ as Alternate local member (2), and
- c Requests the Chief Executive Officer to –
 - i advise the Department of Planning, Lands and Heritage of Council's nominations, and
 - ii coordinate the attendance of Councillors to the appropriate and required Development Assessment Panel member eligibility training.

Council Decision	026/2022
Moved	Cr M Lynch
Second	Cr R de Pledge
That Council, at 1:15pm, suspend <i>Shire of Ashburton Standing Orders Local Law 2012</i>.	
Carried 8/0	

Council Decision	027/2022
Moved	Cr T Mladenovic
Second	Cr M Lynch
That Council, at 1:40pm, resume <i>Shire of Ashburton Standing Orders Local Law 2012</i>.	
Carried 8/0	

Council Decision 028/2022

Moved Cr L Rumble

Second Cr M Lynch

That with respect to Development Assessment Panel Local Government Representation, and pursuant to the *Planning and Development (Development Assessment Panels) Regulations 2011*, Council –

- a Nominates Cr K White as Local member (1) and Cr L Rumble as Local member (2),**
- b Nominates Cr M Lynch as Alternate local member (1) and Cr R de Pledge as Alternate local member (2), and**
- c Requests the Chief Executive Officer to –**
 - i advise the Department of Planning, Lands and Heritage of Council’s nominations, and**
 - ii coordinate the attendance of Councillors to the appropriate and required Development Assessment Panel member eligibility training.**

Carried 8/0

13 People and Place reports

13.1 Proposed Conversion of Lease N456248 (Lot 501 And Lot 502 Nameless Valley Drive, Tom Price) To Freehold Land Tenure

File reference	NAM.0501 NAM.0502
Author's name	B Leavy
Author's position	Statutory Planning Officer
Author's interest	Nil
Authorising officer's name	B McKay
Authorising officer's position	Manager Town Planning
Authorising officer's interest	Nil
Name of applicant / respondent	Department of Planning, Lands and Heritage
Date report written	2 February 2022
Previous meeting reference	Agenda Item 12.8 (Minute 168/2020) Ordinary Council Meeting 13 October 2020

Summary

The Department of Planning, Lands and Heritage seeks Council's comments on the conversion of Crown Lease - N456248 into freehold land tenure.

The request from the Department of Planning, Lands and Heritage is to obtain Council's comments on the freehold conversion of Crown Lease – N456248; being Lot 501 and Lot 502 on Deposited Plan (DP) 409463.

Council is requested to provide comments on the proposed freehold conversion.

Background

Council has previously opposed the proposed sale of Unallocated Crown land (UCL) within the Tom Price townsite for an 'aerodrome' at the June 2013 Ordinary Meeting of Council.

The proposed site was Unallocated Crown Land (UCL) adjacent to Nameless Valley Drive in the vicinity of the road access to the Mount Nameless walking track, BMX Club and Tom Price Speedway.

At the time, an unknown proponent proposed to operate helicopter tours from the site.

However, due to the proximity to the Tom Price Caravan Park and potential hazard of water birds from the Tom Price Wastewater treatment plant, it was determined the proposal would negatively impact on residential and tourist amenity at the proposed location.

In October 2016 the Department of Planning, Lands and Heritage (DPLH) created Lot 501 (1,465 m²) and Lot 502 (2,069 m²) Nameless Valley Drive, registered a (road access) Easement on the Title and executed a Lease (N456248) with CompassWest Helicopters Pty Ltd.

Lease N456248 was transferred from CompassWest Helicopters Pty Ltd to RBH Real Estate Pty Ltd (RBH) in March 2020.

In early 2020, RBH requested freehold tenure (or leasehold if freehold is not supported) over UCL Lot 500 on Deposited Plan 409463 and the freehold conversion of Lease N456248 (being Lot 501 on DP 409463 and Lot 502 on DP 409463).

Council objected to the freehold conversion of Lot 500 on Deposited Plan 409463 and the freehold conversion of Lease N456248 (being Lot 501 and Lot 502 on DP 409463), noting the freehold tenure type was not supported due to lack of strategic direction for that type of land use within the locality, and leasehold tenure was the preferred option.

The leasehold tenure was supported to avoid potential conflicts in future planning for the immediate area.

RBH also requested DPLH to vary the use of the lease to be 'Storage Facility/Depot/Laydown Area' in alignment with LPS7 and like the development typology located at Lot 50 Nameless Valley Drive, Tom Price.

The following Development Applications have been lodged for each site in accordance with the zoning table of the Shire of Ashburton Local Planning Scheme No. 7, as identified:

LOT 501 ON DP 409463		
30 April 2014	DA 14-4	The application was lodged (4 February 2014) with the Shire for a Helicopter Tourism and Charter Business on Nameless Valley Drive, Tom Price. Subsequently, the DA was withdrawn on 30 April 2014.
20 January 2015	DA 14-82	The application was lodged with the Shire for a Helicopter Tourism and Charter Business on Nameless Valley Drive, Tom Price.

Confirmed Minutes – Public Ordinary Council Meeting 8 March 2022

The application was advertised and published in the local newspaper in accordance with the requirements of LPS7. Several submissions were received opposing the development.

Subsequently, the DA was approved under delegated authority. It should be noted that upon lodgement of the application at this time, Lot 501 and Lot 502 had not formally been created to facilitate the development of the proposed land use on the site.

26 June 2017	DA 14-82	<p>An amendment to DA 14-82 was lodged (26 June 2017) with the Shire that sought for the development of a helicopter tourism business consisting of:</p> <ul style="list-style-type: none">• 30m x 30m helicopter pad with security fencing (lot 502);• Customer Car parking of approximately 5 car parking bays (lot 502);• A 20ft sea container for use as an office (lot 502);• 2 x 20ft sea containers with a dome shelter attached (lot 501);• Service car parking area (lot 501); and• A 20ft sea container for use as another office space with attached verandah.• The land use being located within the cadastrally defined land parcels of Lot 501 and Lot 502. <p>The application amendment was approved under delegated authority.</p>
12 February 2021	DA 20-50	<p>An application for 'Transient Workforce Accommodation & Depot' use with associated sea containers, was lodged with the Shire. An extension of assessment time was granted for the application, to ensure that any adverse impacts on the site could be considered. Following correspondence with the Applicant, the application was withdrawn on 12 February 2021.</p>
9 September 2021	DA 21-59	<p>The application was approved under delegated authority for a Storage Facility/Depot/Laydown Area use & Incidental Breakroom & Site Power Generator.</p>

LOT 502 ON DP 409463

30 April 2014 DA 14-4 The application was lodged (4 February 2014) with the Shire for a Helicopter Tourism and Charter Business on Nameless Valley Drive, Tom Price. Subsequently, the DA was withdrawn on 30 April 2014.

20 January 2015 DA 14-82 The application was lodged with the Shire for a Helicopter Tourism and Charter Business on Nameless Valley Drive, Tom Price.

The application was advertised and published in the local newspaper in accordance with the requirements of LPS7. Several submissions were received opposing the development.

Subsequently, the DA was approved under delegated authority. It should be noted that upon lodgement of the application at this time, Lot 501 and Lot 502 had not formally been created to facilitate the development of the proposed land use on the site.

26 June 2017 DA 14-82 An amendment to DA 14-82 was lodged (26 June 2017) with the Shire that sought for the development of a helicopter tourism business consisting of:

- 30m x 30m helicopter pad with security fencing (lot 502);
- Customer Car parking of approximately 5 car parking bays (lot 502);
- A 20ft sea container for use as an office (lot 502);
- 2 x 20ft sea containers with a dome shelter attached (lot 501);
- Service car parking area (lot 501); and
- A 20ft sea container for use as another office space with attached verandah.
- The land use being located within the cadastrally defined land parcels of Lot 501 and Lot 502.

The application amendment was approved under delegated authority.

20 August 2020 DA 20-37 An application was lodged with the Shire seeking retrospective approval for the following:

- The placement of two (2) 30m² container structures comprise a width of 2.5 metres, a length of 12 metres and a height of 2.4 metres. The container structures have been fitted out to include office floor areas, enclosed storage areas and toilets for the employees;
- The erection of a 108 m² domed roof structure between the container structures to provide

- protect from elements and to cover the materials being stored on the land;
- Use of the site as a storage facility to store tyres;
 - The site is used for the storage of tyres, with the materials being stored within the container structures or under the covered area;
 - Access to the site will be available twenty-four (24) hours per day, seven (7) days per week by the operator (when required);
 - The site will accommodate two (2) staff at any one given time, on some occasions a third staff member may attend the site; and
 - The storage facility will include the parking of one (1) truck and one (1) ute.

The application was subsequently withdrawn on 12 February 2021.

9 September 2021	DA 21-60	The retrospective application was approved under delegated authority for a Storage Facility/Depot/Laydown Area use, Incidental Office & Dome Shelter with Associated Sea Containers.
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The leased sites are currently subject to DA 21-59 and DA 21-60 respectively, with land uses and development on each site subject to conditions of approval.

The current operable development applications and associated conditions are held in perpetuity with the land parcels.

Comment

The Department of Planning, Lands and Heritage has forwarded to the Shire a request to convert Crown Lease N456248 (being Lot 501 and Lot 502 on DP 409463) to freehold land tenure.

The request from DPLH is on behalf of the current leaseholder - RBH Real Estate Pty Ltd.

Attachment 13.1A
Attachment 13.1B

Regular enquiries are made to Shire officers regarding available land for mixed business/light industrial/industrial purposes in Tom Price.

The conversion of land into freehold tenure allows for a greater degree of unconstrained land to be available for utilisation within Tom Price and the surrounding area.

Lot 501 and Lot 502 Nameless Valley Drive are identified as being elevated above the nearby watercourse and relatively small (Lot 501 – 1,465 m² and Lot 502 – 2,069 m²) in relation to the surrounding lots and land uses.

Any potential issues which may have arisen in relation to the use of the sites have been addressed as part of the development application process for the recently approved development applications.

In seeking freehold land tenure over the lots, it is recognised access to the site shall need to be formalised by way of defining the road reserve and identifying the road reserve as a separate land parcel.

Access to the site is currently granted by means of an easement (road access) registered on the Land Title.

The formalisation process, sealing of the road and associated costs will need to be addressed by the Applicant and Owner as part of the land tenure conversion process.

It should be noted this application for freehold land tenure does not include Lot 500 on DP Lot 500 on Deposited Plan 409463.

The matter of Lot 500 on DP 409463 should be addressed within a separate report to address the number of site constraints, noting matters identified within Minute 168/2020 have not adequately been addressed.

Consultation

Department of Planning Lands and Heritage
Development Control Unit
Manager Town Planning

Statutory environment

Land Administration Act 1997 - section 74 (freehold) and 79 (leasehold)

74. Minister's powers as to sale of Crown land

(1) The Minister may sell Crown land and may, without limiting the generality of that power —

- (a) invite expressions of interest in Crown land; and*
- (b) invite public tenders for the purchase of Crown land; and*
- (c) offer for sale or re-offer for sale Crown land at any time; and*
- (d) withdraw Crown land from offer for sale at any time before acceptance of that offer; and*
- (e) lodge positive covenants or restrictive covenants or memorials concerning the performance of conditions of sale of Crown land; and*
- (f) sell Crown land by public auction, public tender, or private treaty; and*
- (g) sell Crown land subject to easements or reservations; and*
- (h) sell Crown land by way of terms contracts requiring instalment payments.*

(2) Subject to this Part, the Minister may in relation to Crown land —

- (a) determine, and alter at any time before sale, conditions, and covenants on title, prices, reserve prices, terms, conditions, interest rates and penalty interest rates; and*
- (b) require a performance bond in respect of any such sale; and*
- (c) select by ballot successful applicants for the purchase of Crown land; and*
- (d) pay a commission to a person acting on behalf of the Minister in the sale of Crown land.*

(3) The Minister is not obliged to disclose any reserve price determined in relation to Crown land under subsection (2).

79. Minister's powers as to lease of Crown land

(1) Subject to Part 7, the Minister may grant leases of Crown land for any purpose and may, without limiting the generality of that power —

- (a) grant leases of Crown land by public auction, public tender, or private treaty; and*
- (b) fix the duration of any such lease; and*
- (c) determine rentals, premiums, conditions, and penalties in respect of any such lease; and*
- (d) require a performance bond in respect of any such lease.*

(2) The Minister may pay a commission to a person acting on behalf of the Minister in the granting of leases of Crown land.

(3) Without limiting the generality of conditions referred to in subsection (1)(c), those conditions include —

- (a) options for renewal of leases granted; and*
- (b) options to purchase the fee simple of the Crown land leased,*

under subsection (1), and conditions for the variation of those conditions.

(4) The Minister may at any time extend the term of a lease, other than a pastoral lease, having effect under this Act or vary the provisions of such a lease.

(5) Any sublease or other interest granted under a lease —

- (a) the term of which is extended; or*
- (b) the provisions of which are varied,*

under subsection (4) continues to have effect insofar as it is permitted to do so by that extension or variation.

89. *Certain lessees of Crown land may purchase, or purchase options to purchase, the land*

(1) The holder of a lease, other than a pastoral lease, of any Crown land may apply to the Minister to purchase

- (a) the fee simple of the Crown land; or*
- (b) an option to purchase that fee simple.*

(2) The Minister may grant or refuse to grant an application made under subsection (1).

(3) If the Minister grants an application under subsection (1), the applicant is entitled, on payment of a price fixed by the Minister for the sale of —

- (a) the fee simple and on compliance with such conditions, if any, as are prescribed, to obtain in lieu of the lease the fee simple of the relevant Crown land; or*
- (b) the option and on compliance with such conditions, if any, as are prescribed, to obtain an option to purchase the fee simple of the relevant Crown land.*

(4) If the lease is mortgaged, is affected by another interest or is subject to a caveat and the lessee, during the continuance of the mortgage, other interest or caveat, becomes entitled under subsection (3), the mortgage, other interest or caveat is by operation of this subsection transferred to and applies to the fee simple when purchased in all respects as if the fee simple had been referred to in the mortgage, other interest or caveat and has the same effect in respect of the fee simple as if it were a mortgage, other interest or caveat under the TLA.

Financial implications

There are no known significant financial implications for this matter.

Strategic implications

There are no known strategic implications for this matter.

Risk management

Risk has been assessed based on the Officer Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan
The relationship with external stakeholders is damaged if the item is not supported.	Possible (3)	Insignificant (1)	Low (3)	<u>Reputation</u> Unsubstantiated, localised low impact on community trust, low profile, or no media item.	Adopt the Officers Recommendation

The following Risk Matrix has been applied:

Risk Matrix						
Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

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 “Low” because the proposed item before Council has a reputation risk associated.

Policy implications

There are no known policy implications in relation to this matter.

Voting requirement

Simple majority

Councillor interest declarations

Nil

Officer recommendation

That with respect to the proposed conversion of Lease N456248 (Lot 501 and Lot 502 Nameless Valley Drive, Tom Price) to freehold land tenure Council,

- a Supports the proposal subject to the following conditions –
 - i Prior to the sale and conversion of Lease N456248 to freehold land tenure the road access to the sites shall be formalised and sealed at the owner’s expenses, and
 - ii Upon completion of the formalisation and sealing of the road reserve the easement (road access) be removed from the Certificate of Title, and
- b Requests the Chief Executive Officer to advise the Department of Planning, Lands and Heritage of Council’s conditional support.

Council Decision	029/2022
Moved	Cr A Smith
Second	Cr A Sullivan
That with respect to the proposed conversion of Lease N456248 (Lot 501 and Lot 502 Nameless Valley Drive, Tom Price) to freehold land tenure Council,	
a Supports the proposal subject to the following conditions –	

- i Prior to the sale and conversion of Lease N456248 to freehold land tenure the road access to the sites shall be formalised and sealed at the owner's expenses, and**
- ii Upon completion of the formalisation and sealing of the road reserve the easement (road access) be removed from the Certificate of Title, and**
- b Requests the Chief Executive Officer to advise the Department of Planning, Lands and Heritage of Council's conditional support.**

Carried 8/0

14 Infrastructure Services reports

14.1 Continued Maintenance of Banjima Drive as a National Park Road

File reference	NP.KJNI
Author's name	S Kane
Author's position	Manager Assets and Programming
Author's interest	Nil
Authorising officer's name	M Fanning
Authorising officer's position	Director Infrastructure Services
Authorising officer's interest	Nil
Name of applicant / respondent	Not Applicable
Date report written	18 February 2022
Previous meeting reference	Not Applicable

Summary

The purpose of this report is to seek Council's consideration regarding the ongoing maintenance of Banjima Drive, Karijini National Park.

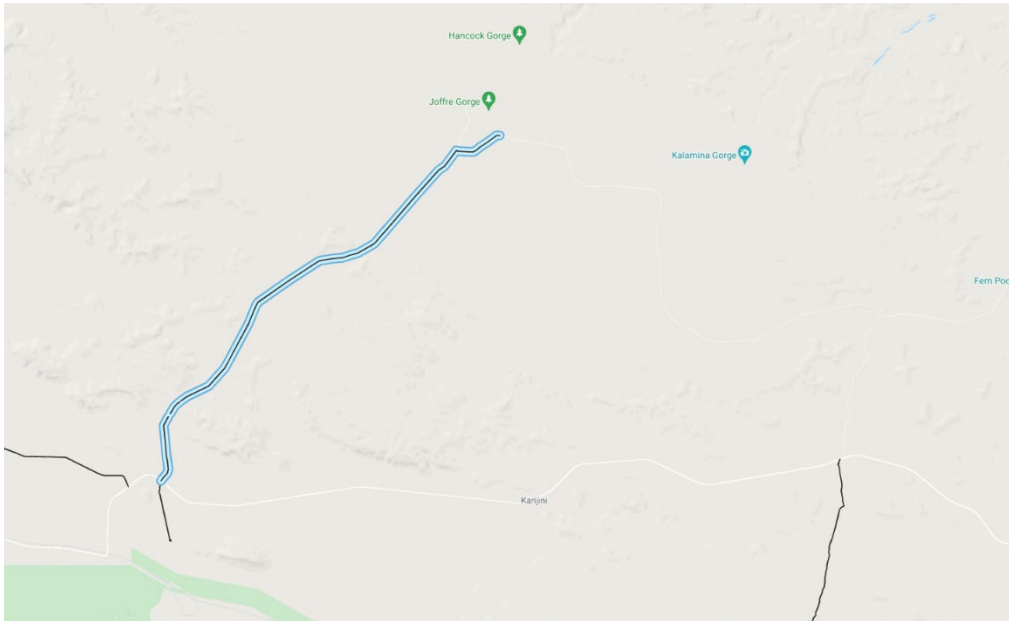
Council is currently maintaining this road under an expired Memorandum of Understanding with the Department of Parks and Wildlife, which was in place between 2008 and 2013, and previously required both parties to pay \$100,000 toward maintenance on an annual basis, which has not been received since the expiration of the Memorandum in 2013.

Council is requested to officially approve handing back the maintenance portion of Banjima Drive (28.19 km - Karijini Drive to Joffre Road) to the Department of Biodiversity, Conservation and Attractions – Parks and Wildlife Services.

Background

Over previous years, the Shire has been maintaining a 28.19 km portion of Banjima Drive within the Karijini National Park, which is owned and operated by the Department of Parks and Wildlife (DPaW), without any financial contribution from them.

The below map identifies the 28.19 km portion of Banjima Drive (Road No. 8110051) which the Shire has undertaken works on behalf of the State Government.



Previously a Memorandum of Understanding (MoU) was in place from 2008 to 2013 between the Department of Environment and Conservation and the Shire of Ashburton.

DPaW (formerly Department of Environment and Conservation) are the agency responsible for Management of Millstream Chichester National Park (MCNP) and Karijini National Park (KNP).

The MoU was entered into for a five (5) year period (2008 – 2013) to encompass grant sharing arrangements and expenditure agreements and to assist DPaW with effectively managing and maintaining access, utilities services and infrastructure required to satisfy visitor needs and demands.

The commitments agreed to under this MOU were as follows –

Department of Parks and Wildlife (DPaW)

1. *Provide a minimum annual allocation of \$100,000 for routine road maintenance carried out by SoA in the MCNP and the KNP contingent on the MRWA Tourist Road Grand Funding.*
2. *Seek funding for capital works priorities identified in the strategic outcomes for roadwork construction and upgrade within the parks.*
3. *Prepare site development plans and project briefs on behalf of and in consultation with Project Advisory Committee for site access and carparks within the parks.*

4. *Advise the SoA of fire hazards, or road damage and/or water across the roads, and under direction of SoA personnel, place and/or remove advisory road signs.*

Shire of Ashburton

General Financial Commitment –

1. *Provide an annual contribution of up to \$100,000 to routine road maintenance and grading in the MCNP and the KNP contingent on Regional Road Grant Funding.*
2. *In cooperation with DPaW, seek funding for capital works priorities in the strategic outcomes for roadwork construction and upgrade within the parks.*

General administrative commitment –

1. *Provide a quarterly statement to DPaW detailing the balance of the accumulated trust account.*
2. *Provide, tender or contract, the supply of personnel, plant, and equipment to deliver roadwork requirements to standards agreed to by the Project Advisory Committee.*
3. *Maintain internal campground roads and parking areas to prescribed standards.*
4. *Establish a waste management agreement with DPaW for the KNP.*
5. *Establish a protocol with DPaW for placement and removal of advisory road signs in the event of fire hazards, flood or other damage or water across the road.*

The agreement was formally executed and commenced on 15 July 2008, and subsequently expired five (5) years later.

Upon expiration of the agreement, the Shire issued correspondence indicating the negotiations were to take place to allow for a new agreement to be entered.

Following expiration of the agreement, both parties corresponded (via email) regarding the agreement however in January 2014, DPaW advised they were more inclined to *‘... going down the path of a different agreement / contract of some sort to set out road maintenance roles and functions. The MOU appears less valuable or relevant these days.’*

The option of road maintenance being charged in accordance with Council Approved Fees and Charges for any works carried out on Millstream Chichester and Karijini National Park was the preferred method, however it was agreed a MoU was required to address Waste Management.

In summary, the MoU for road maintenance was ‘abandoned’ and charges were to be included as part of the Councils annual Fees and Charges.

No further conversations were held in relation to Waste Management agreements.

Attachment 14.1A

On 27 June 2014, the Shire received correspondence from DPaW's Pilbara Regional Manager requesting the Shire to '*... consider reduced private works rates for necessary road maintenance improvements at Karijini and Millstream National Park*'.

DPaW commented –

'A previous Memorandum of Understanding between this department and the Shire expired in late 2013, however that instrument was lacking in detail about certain aspects of road maintenance and improvement required improvement. An MoU could be reprised in the future dealing with the broader relationship between Parks and Wildlife and SoA and include the outcome of this matter. This may take some time however, and the department would prefer to progress reduced Private Works rates as a single issue at this stage.

The department seeks a private reduction of the rates set out in the Shire's 2014/15 Schedule of Fees and Charges for Private Works. Please advise is a cost, plus percentage reduction, or other model may best apply for this situation.'

Following a thorough review of Shire records, this request was neither actioned nor agreed.

As a result, no funds have been recovered and there is no agreement in place at present for the Shire of Ashburton to maintain, or be responsible for, Banjima Drive.

Attachment 14.1B

In June 2018, Council resolved –

That with respect to Cr Thomas's Notice of Motion:

- 1. That Council's position be that Karijini National Park is a significant and iconic attraction for Western Australia.*
- 2. That based on the significance of the Karijini National Park, Council requests the Chief Executive Officer to write to Department of Biodiversity, Conservation and Attractions (DBCA) and the Minister for DBCA requesting appropriate funding level for Karijini National Park for:*
 - Banjima Drive to be sealed;*

- *All other roads, including Mt Bruce Road, to be suitably maintained for public access for all types of vehicles’; and*
- *Safety issues for National Park users to be adequately addressed.*

As a result of the above resolution, on 5 August 2018 Shire officers wrote requesting assistance towards the cost of upgrading roads within National Parks from –

- Director General for Department of Biodiversity, Conservation and Attractions, Parks and Wildlife Service,
- Minister for Environmental Disability Services, Deputy Leader of the Government in the Legislative Council, and
- Minister for Tourism, Racing and Gaming; Small Business; Defence Issues; Citizenship and Multicultural Interests.

Attachment 14.1C

The Department of Biodiversity, Conservation and Attractions (DBCA) responded informing they did not have the funding available to continue to contribute towards the cost to upgrade this road.

At the time, DBCA’s Pilbara Regional Office in Karratha had an annual budget of \$125,000 for road maintenance which is primarily used to grade unsealed roads on conservation estates across the region.

They also raised the cost of sealing approximately 30km of Banjima Drive is estimated to cost \$9.8 million.

Attachment 14.1D

On 15 October 2018, the Shire received correspondence from the Minister for Environment; Disability Services Leader of the Legislative Council in response to the correspondence dated 5 August 2018.

Their response was very similar to the DBCA’s and again no support was received.

Attachment 14.1E

Since 2013, no funds relating to road maintenance have been received from DPaW (which was originally \$100,000 (ex GST) per annum).

Comment

As is noted the Shire has been maintaining a road (Banjima Drive) which it is not responsible for.

It is the officer's recommendation DPaW be advised, as the road is neither owned by, nor the responsibility of, the Shire, maintenance of Banjima Drive will no longer be undertaken by the Shire.

Consultation

Manager Development Services
Strategic Planner

Statutory environment

Although not specifically of a statutory nature, the State Government's Road Responsibility Policy: Policy and Guidelines for Determining and Assigning Administrative Responsibility for Roads in Western Australia – February 2021 states –

2. Current arrangements for road responsibility in WA

2.1 Management Responsibility

Responsibility for public roads in WA rests with either State or local government, except for around 2,500km of public roads used to access remote (predominately Aboriginal) communities, which are currently deemed outside the sphere of government responsibility. The Commonwealth Government has a role in providing funding for both State and local roads. The details below show the responsibilities of each sphere of government in road administration.

2.1.1 State Government

Except for the Commonwealth Government's funding contribution towards certain road projects and the National Land Transport Road Network, the State Government is responsible for funding and management of all roads that are declared 'highways' or 'main roads'. All 'highways' and 'main roads' are provided and managed by the Commissioner of Main Roads under the provisions of the Main Roads Act 1930, as amended. These roads have a regional function and are identified through the administrative classification process specifically developed for this purpose (refer to Section 3).

Some other roads in WA such as those in State Forests, National Parks and Regional Parks such as Kings Park and the roads on Rottnest Island are also the responsibility of the State Government. However, these roads are managed by government agencies other than MRWA and are not proclaimed as 'highways' or 'main roads'. These roads are not covered by these guidelines.

Main Roads Act 1930

Section 24(5)

In accordance with Section 24 (5) of the Act, secondary roads are the responsibility of local government. With a few minor exceptions, public roads not proclaimed as a 'highway' or 'main road' under the Main Roads Act are the responsibility of local government. The exceptions include public roads in National Parks and State Forests

which are administered by DBCA and Kings Park and Rottnest Island Roads which are administered by separate boards.

Local Government Act 1995

Section 3.27 and Schedule 3.2 – Particular things local governments can do on land even though it is not local government property

Local government may only do certain works on land when it is not local government property, except where financial remuneration is received by way of recompense. The maintenance of roads on behalf of another agency, without agreement or recompense, is not included in the list of acceptable works.

Financial implications

The Shire has continued to maintain Banjima Drive past the expiry of the MoU and, as such, spent over \$5 million on this section of road (which does include grant and Regional Road Group funds).

Strategic implications

Shire of Ashburton Strategic Community Plan 2017-2027 Living Life (2019 Desktop Review)

- Goal 05 Inspiring Governance.
- Objective 01 Effective planning for the future.
- Strategic Direction Ensure the Strategic Community Plan and Corporate Business Plan are used effectively to guide all planning and decision making in the delivery of quality services and facilities.

Risk management

Risk has been assessed based on the Officer Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan
Council continues to maintain Banjima Drive without the legislative authority	Likely (4)	Moderate (3)	High (12)	<p><u>Reputation</u> Substantiated, public embarrassment, moderate impact on community trust or moderate media profile</p> <p><u>Compliance</u> Short term non-compliance with significant</p>	Advising the Department of Parks and Wildlife the Shire will no longer be maintaining Banjima Drive as it is not the responsible agency.

				regulatory requirements imposed.	
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The following Risk Matrix has been applied:

Risk Matrix						
Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

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 "high". By handing the asset back to the State the perceived risk will be eliminated.

Policy implications

There are no policy implications relating to this matter.

Voting requirement

Simple majority

Councillor interest declarations

Nil

Officer recommendation

That with respect to the continued maintenance of Banjima Drive as a National Park Road, Council,

- a In accordance with the State Government's "*Road Responsibility Policy: Policy and Guidelines for Determining and Assigning Administrative Responsibility for Roads in Western Australia – February 2021*", recognises Banjima Road as a National Park Road and therefore not owned by, nor the responsibility of, the Shire of Ashburton, and

- b Requests the Chief Executive Officer to advise the Director General for the Department of Biodiversity, Conservation and Attractions – Parks and Wildlife Services the Shire of Ashburton will no longer continue to maintain Banjima Drive (between Karijini Drive to Joffre Road) as it is not a Shire of Ashburton asset.

Council Decision 030/2022

Moved Cr M Lynch

Second Cr L Rumble

That with respect to the continued maintenance of Banjima Drive as a National Park Road, Council,

- a **In accordance with the State Government's "*Road Responsibility Policy: Policy and Guidelines for Determining and Assigning Administrative Responsibility for Roads in Western Australia – February 2021*", recognises Banjima Road as a National Park Road and therefore not owned by, nor the responsibility of, the Shire of Ashburton, and**
- b **Requests the Chief Executive Officer to advise the Director General for the Department of Biodiversity, Conservation and Attractions – Parks and Wildlife Services the Shire of Ashburton will no longer continue to maintain Banjima Drive (between Karijini Drive to Joffre Road) as it is not a Shire of Ashburton asset.**

Carried 8/0

15 Projects and Procurement reports

Nil

16 Councillor agenda items / notices of motions

Nil

17 New business of an urgent nature introduced by Council decision

Nil

Council Decision 031/2022

Moved Cr R de Pledge

Second Cr T Mladenovic

That Council, at 1:45pm, pursuant to Clause 6.2 of the *Shire of Ashburton Standing Orders Local Law 2012* consider the following confidential items behind closed doors,

18.1 Surrender of Lease and Management Order for Conversion to Freehold Land Tenure for Sale to Third Party – Lot 41, Nameless Valley Drive, Tom Price (Reserve 38467)

Carried 8/0

18 Confidential matters

18.1 Surrender of Lease and Management Order for Conversion to Freehold Land Tenure for Sale to Third Party - Lot 41, Nameless Valley Drive, Tom Price (Reserve 38467)

File reference	NAM.0041
Author's name	R Wright
Author's position	Manager Land and Asset Compliance
Author's interest	Nil
Authorising officer's name	K Donohoe
Authorising officer's position	Chief Executive Officer
Authorising officer's interest	Nil
Name of applicant / respondent	Ashburton Aboriginal Corporation
Date report written	16 February 2022
Previous meeting reference	Ordinary Meeting of Council of Council 14 December 2021 Agenda Item 11.2 (Minute 196/2021)

Summary

The Shire has approached Ashburton Aboriginal Corporation to surrender their Lease for Portion of Reserve 38467 being Lot 41, Nameless Valley Drive, Tom Price.

The current Lease expires in 2025, however, the Shire is currently working with a third party who wishes to purchase and use the site.

Council is requested to consider the surrender documents, which have been approved in principle by the Ashburton Aboriginal Corporation, subject to relocation costs.

Confidentiality

This report is confidential in accordance with section 5.23 of the *Local Government Act 1995* because it deals with –

“.....*information about the business, professional, commercial or financial affairs of a person*”.

Council Decision 032/2022

Moved Cr T Mladenovic

Second Cr L Rumble

That with respect to the Surrender of Lease and Management Order for Conversion to Freehold Land Tenure for Sale to Third Party - Lot 41, Nameless Valley Drive, Tom Price (Reserve 38467), Council,

- a Authorises the payment of the financial offer, as outlined in this report, to the Ashburton Aboriginal Corporation to agree to the surrender of the lease, and contribute towards relocation costs, on the bases the Proponent reimburse the Ashburton Aboriginal Corporation for costs of fencing, and other capital invested, into the Reserve,**
- b Endorses the surrender of the Management Order over Reserve 38467 to allow the sale of Reserve 38467 as freehold land to the Proponent, as outlined in this report, and**
- c Authorises the Chief Executive Officer to sign the Statutory Declaration regarding any possible contamination of the Reserve to comply with the Department of Planning, Lands and Heritage request, and the *Contaminated Sites Act 2003*.**

Carried 8/0

Council Decision 033/2022

Moved Cr T Mladenovic

Second Cr M Lynch

That Council, at 1:53pm, move out from behind closed doors.

Carried 8/0

19 Next meeting

The next Ordinary Council Meeting will be held at 1:00pm on Tuesday 12 April 2022 at Clem Thompson Sports Pavilion, Stadium Road, Tom Price.

20 Closure of meeting

There being no further business, the Presiding Member closed the meeting at 1:55pm.