



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

**Clem Thompson Sports Pavilion, Stadium Road,**  
**Tom Price**

**12 April 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.

A handwritten signature in blue ink, appearing to read 'K Donohoe'.

K Donohoe  
Chief Executive Officer  
13 April 2022

These minutes were confirmed by Council as a true and accurate record of proceedings at the Ordinary Council Meeting held on Tuesday 12 April 2022.

Presiding Member

A handwritten signature in black ink, appearing to read 'K J White'.

Date

10 / 5 / 2022

**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.*

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## 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 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 Furfaro	Governance Officer
N Jeffrey	Executive Assistant Corporate Services

#### Guests

Nil

#### Members of the public

Nil

Members of the media

Nil

**3.2 Apologies**

Cr T Mladenovic Tom Price Ward

**3.3 Approved leave of absence**

Cr M Gallanagh Pannawonica Ward 12 April 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**

Nil

**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*.

### 11.1 – RFT 01.22 - Design & Construction of 2 New Residences, Tom Price

Declarant	Cr M Lynch
Declaration of Interest	Impartiality – My wife, Renae Lynch, as the Senior Procurement Officer, is an Evaluation Panel Member for this agenda item. It could be perceived that I have an Impartiality Interest.

### 14.2 - Application by Hastings Technology Metals Ltd to add Towera Road and Towera-Lyndon Road, Onslow, to Restricted Vehicle Network

Declarant	Cr K White
Declaration of Interest	Financial – More than \$10,000 worth of shares.

Declarant	Cr L Rumble
Declaration of Interest	Financial – Share holder of shares less than \$10,000.

Declarant	Cr R de Pledge
Declaration of Interest	Indirect Financial – Shares to the value of less than \$10,000.

### 15.1 – Request For Tender (RFT) 02.22 – Design and Construction of Tom Price and Paraburdoo Multipurpose Courts, WA

Declarant	Cr M Lynch
Declaration of Interest	Impartiality – My wife, Renae Lynch, as the Senior Procurement Officer, is an Evaluation Panel

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Member for this agenda item. It could be perceived that I may be impartial.

Declarant  
Declaration of Interest

Cr M Lynch  
Indirect financial – I am an employee and tenant of Rio Tinto. I am paid a salary by Pilbara Iron.

Declarant  
Declaration of Interest

Cr L Rumble  
Financial – Share holder of Rio Tinto with shares greater than the value of \$10,000.

Declarant  
Declaration of Interest

Cr A Smith  
Indirect financial – My husband is an employee with Rio Tinto with shares greater than the value of \$10,000. My husband's employment with Rio Tinto provides him with subsidized housing and utilities in which I reside too.

Declarant  
Declaration of Interest

Cr A Sullivan  
Financial – I and my husband hold shares above the prescribed amount. I and my husband live in subsidised housing provided by Rio Tinto. I and my husband are employees of Rio Tinto. I and my husband own shares greater than the value of \$10,000.

The Presiding Member requested the Chief Executive Officer read aloud the following correspondence from the Department of Local Government, Sport and Cultural Industries and noted each Councillor had been provided a copy –



# Confirmed Minutes – Public Ordinary Council Meeting 12 April 2022



Our ref E22030367  
Enquiries Amy Lin  
Phone (08) 6552 1762  
Email [legislation@dlgsc.wa.gov.au](mailto:legislation@dlgsc.wa.gov.au)

Mr Kenn Donohoe  
Chief Executive Officer  
Shire of Ashburton

E: [Andrea.Furfaro@ashburton.wa.gov.au](mailto:Andrea.Furfaro@ashburton.wa.gov.au)

Dear Mr Donohoe

I refer to your correspondence dated 7 April 2022 and advise that, in accordance with the authority delegated by the Minister for Local Government, I have approved your application, under section 5.69(3) of the *Local Government Act 1995* (the Act).

## 15.1 – Request for Tender (RFT) 02.22 – Design and Construction of Tom Price and Paraburdoo Multipurpose Courts, WA

It has been noted that the Shire requires a minimum approval of two members in order to achieve quorum. Accordingly, approval has been granted to Cr Lynch and Cr Smith.

This approval allows Cr Lynch and Cr Smith to fully participate in the discussion and decision making relating to the following item at the Shire's Ordinary Council Meeting, to be held on 12 April 2022 subject to the following conditions.

Conditions of approval:

1. *The approval is only valid for the 12 April 2022 Ordinary Council Meeting when agenda item 15.1 is considered;*
2. *The abovementioned Councillors must declare the nature and extent of their interests at the abovementioned meeting when the matter is considered, together with the approval provided;*
3. *The Chief Executive Officer (CEO) is to provide a copy of the Department of Local Government, Sport and Cultural Industries (DLGSC) letter of approval to the abovementioned Councillors;*
4. *The CEO is to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the abovementioned meeting, when the item is considered;*
5. *The CEO is to provide a copy of the confirmed minutes of the abovementioned meeting to the DLGSC, to allow the DLGSC to verify compliance with the conditions of this approval; and*
6. *The approval granted is based solely on the interests disclosed by the abovementioned Councillors, made in accordance with the application. Should other interests be identified, these interests will not be included in this approval and the financial interest provisions of the Act will apply.*

Should you require further information in relation to this matter, please contact Ms Amy Lin, A/Legislation Officer via the details provided above.

Yours sincerely

TIM FRASER  
EXECUTIVE DIRECTOR – LOCAL GOVERNMENT

11 April 2022

## **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 March 2022

**Attachment 9.1A**

<b>Council Decision</b>	<b>034/2022</b>
<b>Moved</b>	<b>Cr L Rumble</b>
<b>Second</b>	<b>Cr M Lynch</b>

**That Council confirm the minutes of the Ordinary Council Meeting held in Ashburton Hall, Ashburton Avenue, Paraburdoo on 8 March 2022 as a true and accurate record, as include in Attachment 9.1A.**

**Carried 7/0**

Special Council Meeting – 3 March 2022

**Attachment 9.1B**

<b>Council Decision</b>	<b>035/2022</b>
<b>Moved</b>	<b>Cr R de Pledge</b>
<b>Second</b>	<b>Cr A Smith</b>

**That Council confirm the minutes of the Special Council Meeting held in the Council Chambers, Onslow Shire Complex, Second Avenue, Onslow and via Electronic Means on 3 March 2022 as a true and accurate record, as include in Attachment 9.1B.**

**Carried 7/0**

**9.2 Receipt of committee and other minutes**

Nil

**9.3 Recommendations of committee meetings – En bloc**

Nil

**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

### 11.1 RFT 01.22 - Design and Construction of Two (2) New Residences, Tom Price

<b>File reference</b>	CM01.22
<b>Author's name</b>	R Wright
<b>Author's position</b>	Manager Land and Asset Compliance
<b>Author's interest</b>	Nil
<b>Authorising officer's name</b>	K Donohoe
<b>Authorising officer's position</b>	Chief Executive Officer
<b>Authorising officer's interest</b>	Nil
<b>Name of applicant / respondent</b>	Not applicable
<b>Date report written</b>	24 March 2022
<b>Previous meeting reference</b>	Not applicable

#### Summary

Council has included in the 2021-2022 Annual Budget a provision for staff housing which includes new builds and, accordingly, a Request for Tender (RFT) was advertised inviting submissions for the construction of two (2) new residences in Tom Price.

Four (4) tenders, one (1) conforming and three (3) non-conforming, were received in response to RFT 01.22 - Design and Construction of Two New Residences, Tom Price. The evaluation panel has completed the assessment of the one conforming submission and provided a recommendation.

Council is requested to reject all offers as it has determined no offers received demonstrated value for money to the Shire.

#### Confidentiality

An attachment to this report is confidential in accordance with section 5.23 (2) of the *Local Government Act 1995* because it deals with –

- (c) *“a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.”*
- (e) *“Information that has a commercial value to a person”*

## Background

Request for Tender (RFT) 01.22 - Design and Construction of Two (2) New Residences, Tom Price, was issued via the Shire's e-tendering portal (Tenderlink) on Wednesday 26 January 2022 and closed on Thursday 24 February at 2:00 pm.

The tender was advertised via state-wide public notice in *The West Australian* newspaper.

The tender brief is as follows:

*The Shire of Ashburton seeks to engage a suitably qualified and experienced Contractor for the design, documentation, and construction of two (2), four (4) bedroom houses on residential land owned by the Shire of Ashburton at 76 Marrinup Way and 61 Pine Street, Tom Price, WA. The existing structures at 61 Pine Street will require demolition by the successful Tenderer prior to commencement of the new Works. The primary objective is the provision of quality accommodation, to facilitate the attraction and retention of suitably skilled Shire staff. The attached reference design documentation shows the Principal's minimum requirements for the new residences.*

*In light of budget constraints, two tender price submissions have been requested for the Principal to select the preferred option:*

- *Price Option 1: New residence to Lot 76 Marrinup Way, Tom Price, WA*
- *Price Option 2: Separable portion 1- New residence to Lot 76 Marrinup Way, Tom Price, WA*
- *Separable portion 2- Demolition and New residence to Lot 61 Pine St, Tom Price, WA*

*The successful Tenderer shall provide all necessary services including design documents, materials, products, labour, plant and equipment for its design, management, construction and completion of the whole of the work under the Contract in compliance with the National Construction Codes (NCC), Building Code of Australia (BCA) 2019 Volume 1 Amendment 1, National Quality Framework and all relevant Australian Standards, Codes of Practice, Western Australia and Commonwealth legislation, statutes, ordinances, rules and regulations bearing on the provision of such services and conduct of the work under the Contract.*

A full disclosure of the required services and work under the Contract is stated and described in this Request for Tender and the Principal's Project Requirements.

**Comment**

The Qualitative Criteria was approved prior to the advertisement of the RFT. Each Criteria was given the following weightings and included within the RFT document.

<b>Criteria</b>		<b>Weighting</b>
(a)	Relevant Experience and Past Company Performance	20%
(b)	Key Personnel	15%
(d)	Resources, Plant and Equipment	10%
(e)	Methodology/Programme/Quality and OSH/Risk Management	15%
(f)	Price	40%

Each Panel Member individually assessed the Qualitative Criteria responses of the one conforming submission.

The submission was assessed against the Qualitative Criteria and each Criterion was given a score in accordance with the Evaluation Guide contained within the Evaluation Spreadsheets.

A rating scale of zero-to-ten (0 - 10) was used for evaluating the Tender submissions in accordance with the Qualitative Criteria, with 0 being lowest and 10 being highest.

The evaluation and recommendation report, including the overall evaluation scores and rankings, is attached.

**Confidential Attachment 11.1A**

The offers submitted from Neowest Building Co Pty Ltd, Modularis Pty Ltd T/A Modular WA and Pacesetter were deemed non-conforming with the scope and specification and, therefore, their submissions were not evaluated.

The evaluation of the remaining submission received against the quantitative and qualitative criteria resulted in the rankings (in order of priority) as shown below –

<b>Ranking</b>	<b>Tenderer</b>
1	Karalyura Contracting

The offer from Karalyura Contracting materially exceeded the approved budget for the works and, as such, was not considered value for money to the Shire. It should be noted all submissions stated the construction would take more than twelve (12)

months, this is of further concern to Shire officers as staff housing in Tom Price is required in the short term.

## **Consultation**

Chief Executive Officer  
Team Assessment Panel  
Procurement Department

## **Statutory environment**

### *Local Government Act 1995*

#### *Section 3.57. Tenders for providing goods or services*

A local government is required to invite tenders before it enters a contract of a prescribed kind under which another person is to supply goods or services.

### *Local Government (Functions and General) Regulation 1996*

#### *11. When tenders must be publicly invited*

*(1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless sub regulation (2) states otherwise.*

*(2) Tenders do not have to be publicly invited according to the requirements of this Division if —*

*(a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or*

*(aa) the supply of the goods or services is associated with a state of emergency; or*

*(b) the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program; or*

*(c) within the last 6 months*

*(i) the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment; or*

*(ii) the local government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer.*

### *Local Government (Functions and General) Regulation 1996*

#### *18. Rejecting and accepting tenders*

- (1) *A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.*
- (2) *A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.*
- (3) *If, under regulation 23(4), the CEO has prepared a list of acceptable tenderers for the supply of goods or services, a tender submitted by a person who is not listed as an acceptable tenderer is to be rejected.*
- (4) *Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.*
- (4a) *To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.*
- (5) *The local government may decline to accept any tender.*
- (6) *If a local government has accepted a tender but acceptance of the tender does not create a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree not to enter into a contract in relation to the tender, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.*
- (7) *If a local government has accepted a tender and acceptance of the tender creates a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree to terminate the contract, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.*

### **Financial implications**

The 2021-2022 Annual Budget provision is \$3,000,000 with a remaining amount of \$1,365,736.

All offers submitted were not considered value for money to the Shire for the construction of two (2) staff houses.



**Strategic implications**

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective            Place - We will provide sustainable, purposeful, and valued built and natural environment opportunities for the community.

Strategic Outcome            Appropriate, inviting, and diverse employee accommodation and land management opportunities

Strategy                            Provide diversity for residential employee accommodation

**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 approve the recommendation and awards the tender	Possible (3)	Moderate (3)	Moderate (9)	<u>Financial Impact</u> \$1million to \$5 million	Provide sufficient information for informed decision making.

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 initial perceived level of risk is “Moderate” risk and will be reduced through exploring an alternative staff housing option, with a separate item to be presented.

## **Policy implications**

### *FIN12 Purchasing Policy*

*The Shire of Ashburton is committed to delivering best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance whereby establishing efficient, effective, economical, and sustainable procedures in all purchasing activities.*

## **Voting requirement**

Simple majority

## **Councillor interest declarations**

Cr M Lynch - Impartiality

## **Officer recommendation**

That with respect to the award of Request for Tender (RFT) 01.22 - Design and Construction of Two (2) New Residences, Tom Price, Council:

- a Accepts the Evaluation Report, as included in Confidential Attachment 11.1A, and
- b In accordance with Regulation 18(5) of the *Local Government (Functions and General) Regulations 1996*, declines to accept any tender as it was considered the submissions do not represent value for money.

**Council Decision                    036/2022**

**Moved                                    Cr J Richardson**

**Second                                   Cr L Rumble**

**That with respect to the award of Request for Tender (RFT) 01.22 - Design and Construction of Two (2) New Residences, Tom Price, Council:**

- a        Accepts the Evaluation Report, as included in Confidential Attachment 11.1A, and**
- b        In accordance with Regulation 18(5) of the *Local Government (Functions and General) Regulations 1996*, declines to accept any tender as it was considered the submissions do not represent value for money.**

**Carried 7/0**

## 12 Corporate Services reports

### 12.1 Monthly Schedule of Accounts Paid

<b>File reference</b>	FM03
<b>Author's name</b>	T Dayman
<b>Author's position</b>	Manager Finance and Administration
<b>Author's interest</b>	Nil
<b>Authorising officer's name</b>	N Cain
<b>Authorising officer's position</b>	Director Corporate Services
<b>Authorising officer's interest</b>	Nil
<b>Name of applicant / respondent</b>	Not applicable
<b>Date report written</b>	25 March 2022
<b>Previous meeting reference</b>	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 February 2022,
- Trust Fund Payments for February 2022, and
- Corporate Credit Card Reconciliations for January 2022.

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	2,963,487.70
Superannuation / Payroll (Direct Debits)	458,251.01
Cheques	0.00
Credit Cards	11,018.06
Bank Fees and Charges	1,386.93
<u>Municipal Fund Total</u>	3,434,143.70
<u>Trust Fund</u>	
Electronic Funds Transfers	0.00
<u>Trust Fund Total</u>	0.00

## Strategic implications

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective	Performance – We will lead the organisation, and create the culture, to deliver demonstrated performance excellence to the community.
Strategic Outcome	Appropriate, sustainable, and transparent management of community funds.
Strategy	Ensure financial transactions are accurate and timely.

## 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 February 2022, as included at Attachment 12.1A.

<b>Council Decision</b>	<b>037/2022</b>
<b>Moved</b>	<b>Cr M Lynch</b>
<b>Second</b>	<b>Cr A Smith</b>
<b>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 February 2022, as included at Attachment 12.1A.</b>	
<b>Carried 7/0</b>	

## 12.2 Monthly Financial Statements - February 2022

<b>File reference</b>	FM03
<b>Author's name</b>	T Dayman
<b>Author's position</b>	Manager Finance and Administration
<b>Author's interest</b>	Nil
<b>Authorising officer's name</b>	N Cain
<b>Authorising officer's position</b>	Director Corporate Services
<b>Authorising officer's interest</b>	Nil
<b>Name of applicant / respondent</b>	Not applicable
<b>Date report written</b>	25 March 2022
<b>Previous meeting reference</b>	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 February 2022 as well as provide budget amendment 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

The Director Projects and Procurement has requested the following 2021-2022 budget amendment be considered -



<b>GL / Job No.</b>	<b>GL / Job Description</b>	<b>Current Budget</b>	<b>Amendment</b>	<b>Revised Budget</b>	<b>Reason</b>
22052	Foreshore Masterplan Development Onslow	\$800,000	(\$300,000)	\$500,000	Identified savings.
NEW Capital	Oceanview Caravan Park Stage 3	\$0	\$300,000	\$300,000	Project identified in LTFP for 2022-2023, with works required to be completed by April 2023. Initial works, including design and headworks require commencement in 2021-2022 to ensure timeframe is met.

### **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.

*Local Government Act 1995*  
*Section 6.8 (Expenditure from municipal fund not included in annual budget)*

A local government is not to incur expense from its municipal fund for an additional purpose except where the expense is incurred in a financial year before the Annual Budget is adopted (and must then be included), is authorised in advance by an Absolute Majority resolution by Council or authorised by the Shire President in an emergency.

*Local Government (Financial Management) Regulations 1996*

*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.

Proposed amendments to the 2021-2022 Annual Budget, have an overall impact of \$nil.

**Strategic implications**

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective                      Performance – We will lead the organisation, and create the culture, to deliver demonstrated performance excellence to the community.

Strategic Outcome                      Appropriate, sustainable, and transparent management of community funds.

Strategy                                      Ensure financial transactions are accurate and timely.

**Risk management**

Risk has been assessed based on the Officer Recommendation.

<b>Risk</b>	<b>Risk Likelihood</b>	<b>Risk Impact / Consequence</b>	<b>Risk Rating</b>	<b>Principal Risk Theme</b>	<b>Risk Action Plan</b>
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**

Absolute majority

**Councillor interest declarations**

Nil

**Officer recommendation**

That with respect to the Monthly Financial Statements, Council,

- a In accordance with Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, accepts the Statement of Financial Activity, and associated documentation, for February 2022, as included at Attachment 12.2A, and

b In accordance with Section 6.8 of the *Local Government Act 1995*, authorises the following additional expense –

- Oceanview Caravan Park (Stage 3) \$300,000

And amends the Annual Budget 2021-2022 as below –

- Increase expense – Oceanview Caravan Park (Stage 3) by \$300,000
- Decrease expense – Foreshore Masterplan Development Onslow by \$300,000

To facilitate commencement of headworks for Stage 3 of the Oceanview Caravan Park.

<b>Council Decision</b>	<b>038/2022</b>
<b>Moved</b>	<b>Cr L Rumble</b>
<b>Second</b>	<b>Cr R de Pledge</b>
<b>That with respect to the Monthly Financial Statements, Council,</b>	
<b>a</b>	<b>In accordance with Regulation 34 of the <i>Local Government (Financial Management) Regulations 1996</i>, accepts the Statement of Financial Activity, and associated documentation, for February 2022, as included at Attachment 12.2A, and</b>
<b>b</b>	<b>In accordance with Section 6.8 of the <i>Local Government Act 1995</i>, authorises the following additional expense –</b>
	<b>• Oceanview Caravan Park (Stage 3) \$300,000</b>
	<b>And amends the Annual Budget 2021-2022 as below –</b>
	<b>• Increase expense – Oceanview Caravan Park (Stage 3) by \$300,000</b>
	<b>• Decrease expense – Foreshore Masterplan Development Onslow by \$300,000</b>
	<b>To facilitate commencement of headworks for Stage 3 of the Oceanview Caravan Park.</b>
	<b>Carried 7/0</b>

### 12.3 Review of Delegations

<b>File reference</b>	GV20
<b>Author's name</b>	N Cain
<b>Author's position</b>	Director Corporate Services
<b>Author's interest</b>	Nil
<b>Authorising officer's name</b>	N Cain
<b>Authorising officer's position</b>	Director Corporate Services
<b>Authorising officer's interest</b>	Nil
<b>Name of applicant / respondent</b>	Not applicable
<b>Date report written</b>	27 March 2022
<b>Previous meeting reference</b>	Agenda Item 11.3 (Council Decision 139/2020) Ordinary Council Meeting 8 September 2020

#### **Summary**

Council may delegate some powers and duties to the Chief Executive Officer and, where delegations occur, a review of these delegations is to be done at least once every financial year.

Shire officers have performed a full review, including a rewrite of existing delegations. The complete review is presented for Council consideration.

Council is requested to adopt the presented Register of Delegations and Authorisations.

#### **Background**

Delegations by Council are an effective way to reduce red tape and improve customer satisfaction through prompt decision-making processes.

Using the power of delegation appropriately assist local government to effectively deal with a wide range of operational matters which are minor, administrative in nature and potentially time-consuming.

Certain safeguards are incorporated into delegations, such as limiting the use of when a delegation can be exercised as well as granting appeal rights to the Council when

an impacted individual is aggrieved with a Shire officer's decision (as set out in Part 9 – Division 1 of the *Local Government Act 1995*).

It is important to note Shire officers are not obliged to use a delegation; where a matter is determined to be of a contentious nature, the matter can be referred to Council.

The current Register of Delegations, located on the official Shire website, was last reviewed in September 2020, using guidelines produced by the Department of Local Government, Sport, and Cultural Industries.

This review has been undertaken –

- utilising the same guidelines, as mentioned,
- model templates from the WA Local Government Association (WALGA), and
- samples from other local governments.

### **Comment**

The proposed delegation style is based on model templates produced by WALGA.

The style of delegation references the specific sections of legislation, under which a delegation is made, and details the express function as delegated.

A summary of changes from existing delegations to the proposed delegations is attached.

### **Supplementary Attachment 12.3A**

The proposed Register of Delegations and Authorisations for Council consideration is attached.

### **Supplementary Attachment 12.3B**

### **Consultation**

Executive Leadership Team  
WA Local Government Association  
Other local government

### **Statutory environment**

*Local Government Act 1995*  
*Section 5.42 Delegation of some powers and duties to CEO*

A local government may delegate to the Chief Executive Officer the exercise of certain powers or the discharge of certain duties under various pieces of legislation.

*Local Government Act 1995*

*Section 5.46 Register of, and records relevant to, delegations to CEO and employees*

The Chief Executive Officer is to keep a register of the delegations made by Council to the Chief Executive Officer, and to any employees, and to –

- Review these at least once every financial year, and
- Have records kept of each instance a power or duty is exercised or discharged.

*Local Government Act 1995*

*Section 9.49A Execution of documents*

A local government may authorise the Chief Executive Officer, another employee, or an agent of the local government to sign documents on behalf of the local government, either generally or subject to specified conditions or restrictions.

*Building Act 2011*

*Section 127 Delegation: special permit authorities and local governments*

A local government may delegate, as specified, any of its powers or duties as a permit authority under the *Building Act 2011*.

*Bush Fires Act 1954*

*Section 48 Delegation by local governments*

A local government may delegate to its Chief Executive Officer the performance of any of its functions under the *Bush Fires Act 1954*.

*Cat Act 2011*

*Section 44 Delegation by local government*

A local government may delegate to its Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under the *Cat Act 2011*.

*Dog Act 1976*

*Section 10AA Delegation of local government powers and duties*

A local government may delegate to its Chief Executive Officer any power or duty of the local government under the *Dog Act 1976*.

*Food Act 2008*

*Section 118 Functions of enforcement agencies and delegation*

A local government, as an enforcement agency, has the functions in relation to the administration of the *Food Act 2008* and may delegated these functions to a person or body, or a person or body within a class of persons or bodies, prescribed by legislation.

*Graffiti Vandalism Act 2016*

*Section 16 Delegation by local government*

A local government may delegate to its Chief Executive Officer the exercise of any of its powers or the discharge or any of its duties under the *Graffiti Vandalism Act 2016*.

*Public Health Act 2016*

*Section 21 Enforcement agency may delegate*

A local government, as an enforcement agency, may delegate a power or duty conferred on it by the *Public Health Act 2016* to the Chief Executive Officer or an authorised officer designated by the local government.

*Planning and Development (Local Planning Schemes) Regulations 2015*

*Schedule 2 Clause 82 Delegations by local government*

A local government may delegate to a committee or to the Chief Executive Officer the exercise of any of the local government's powers or the discharge of any of the local government's duties under this legislation, other than the power of the local government to delegate.

**Financial implications**

Sufficient funds exist in the 2021-2022 Annual Budget to address the recommendation as review of the delegations was undertaken by Shire officers.

**Strategic implications**

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective	Performance – We will lead the organisation, and create the culture, to deliver demonstrated performance excellence to the community.
Strategic Outcome	Visionary community leadership with sound, diligent and accountable governance.
Strategy	Provide, and lead in the development of, meaningful policies and processes to ensure sound and compliant delivery of services to the community.



## 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 fails to review the delegations in the timeframe required.	Unlikely (2)	Moderate (3)	Moderate (6)	<u>Compliance</u> Short term noncompliance but with significant regulatory requirements imposed	Council is provided with sufficient information within sufficient time to meet the 30 June requirement.
Delegations provided by Council are inappropriate, without power, or have been superseded.	Unlikely (2)	Major (4)	Moderate (8)	<u>Compliance</u> Short term noncompliance but with significant regulatory requirements imposed	Shire officers continuously review delegations to ensure they are current and appropriate.

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 "Moderate" because, although consequence of incorrect delegations may have significant consequence, sufficient controls are in place to mitigate the risk of significant compliance failure.

## Policy implications

The adoption of Delegations generally leads to the development of Policies.

**Voting requirement**

Absolute majority

**Councillor interest declarations**

Nil

**Officer recommendation**

That with respect to the review of delegations Council,

- a In accordance with Section 5.46 of the *Local Government Act 1995*, receives the review of the Register of Delegations, as summarised and included in Supplementary Attachment 12.3A, and
- b In accordance with Section 5.42 of the *Local Government Act 1995*, adopts, by Absolute Majority, the Register of Delegations as included in Supplementary Attachment 12.3B.

**Council Decision                      039/2022**

**Moved                                      Cr M Lynch**

**Second                                      Cr L Rumble**

**That with respect to the review of delegations Council,**

- a                      In accordance with Section 5.46 of the *Local Government Act 1995*, receives the review of the Register of Delegations, as summarised and included in Supplementary Attachment 12.3A, and**
- b                      In accordance with Section 5.42 of the *Local Government Act 1995*, adopts, by Absolute Majority, the Register of Delegations as included in Supplementary Attachment 12.3B.**

**Carried 7/0**

## **13 People and Place reports**

Nil

## 14 Infrastructure Services reports

### 14.1 Application by RFF Australia to add Beadon Creek Road, Onslow, to Restricted Access Vehicle Network

<b>File reference</b>	RD0049
<b>Author's name</b>	M Fanning
<b>Author's position</b>	Director Infrastructure Services
<b>Author's interest</b>	Nil
<b>Authorising officer's name</b>	M Fanning
<b>Authorising officer's position</b>	Director Infrastructure Services
<b>Authorising officer's interest</b>	Nil
<b>Name of applicant / respondent</b>	RFF Australia
<b>Date report written</b>	22 March 2022
<b>Previous meeting reference</b>	Nil

#### Summary

This item is for Council to consider adding Beadon Creek Road, Onslow, to the Main Roads WA Restricted Access Vehicle (RAV) network.

MRWA has forwarded an application to the Shire to have Beadon Creek Road, Onslow, added to the RAV network to cater for access by “pocket” double road trains – RAV Category 4 configuration.

Council is requested to refuse the application to add Beadon Creek Road, Onslow, to the RAV network as the existing infrastructure does not support this type of traffic.

#### Background

RFF Australia (the applicant) applied to Main Roads WA (MRWA) to extend the Restricted Access Vehicle (RAV) network to include Beadon Creek Road, Onslow.

RFF Australia is a consultancy firm however it has not identified whom it is working for as its client.

This application was to allow 27.5m long “pocket” double road trains (RAV Category 4 configuration) to access Lot 558 to store empty trailers. The application was supported

through a briefing note assessing the route.

**Attachment 14.1A**  
**Attachment 14.1B**

**Comment**

The applicant provided supporting route assessment documentation (Attachment 14.1B) to support their application which needed to be assessed against the MRWA Standard Restricted Access Vehicle Route Assessment Guidelines (Attachment 14.1C). Infrastructure Services personnel have reviewed the application to determine whether the proposed route complied with these guidelines.

The applicants briefing note states to provide evidence that RAV 4 class road trains (maximum length 27.5m) to maximum weight 87.5 tonnes could access / egress Beadon Creek Road whilst staying “lane correct” (making the turn without crossing the centre line of either road).

Analysis of the briefing note (Attachment 14.1D) identified that there is sufficient evidence to recommend refusal of the application. Justification for this conclusion is as follows:

- Beadon Creek Road carriageway is 8.4m in width, with an additional 1.0m asphalt shoulder on the southern side, not “approximately 7m”;
- The maximum allowable weight of the proposed configuration is 98 tonnes under MRWA’s Accredited Mass Management Scheme;
- The “swept path analysis” shown on Figure 5 of the supporting documentation shows the configuration is not able to remain “lane correct” when turning into / out of Beadon Creek Road as it is crossing the centre line when turning into Beadon Creek Road and mounting the south kerb when exiting Beadon Creek onto McAullay Road. MRWA criteria for RAV Route assessments states that turning RAV’s are not able to cross centrelines of roads where linemarking is installed, which is the case for both Beadon Creek Road and McAullay Road;
- Statement that Figure 5 of the supporting documentation illustrates RAV4 swept path analysis is incorrect as it actually illustrates RAV7 swept paths;
- The swept path analysis in Figure 5 of the supporting documentation does not accurately reflect the turning movements that would be made by a RAV configuration turning at a sharply angled intersection;
- A RAV7 configuration vehicle cannot be 27.5m long as axle spacings will not meet minimum specified requirements;
- Empty trailers recently observed parked on Lot 558 were full length (12.2 – 13.7m), which are too long to be used in a RAV4 configuration;

- Should Beadon Creek Road be approved for RAV use, the majority of usage would be by RAV 5 or RAV 6 (36.5m) double road trains, as have been observed illegally accessing the road in the past;
- The adjoining RAV route is RAV 10 (Triple/quad road trains) – It would be rational to assume further requests up to RAV 10 may be forthcoming; and
- Significant infrastructure upgrade will be required to allow access by these larger configuration vehicles.

In addition, any reconstruction of the road alignment to enable access by RAV of any configuration should be a condition of development for the relevant proponent.

The proximity of a tourism zoned facility such as Discovery Park does not complement the establishment of a RAV categorisation of the road. Further Council has invested significant funds in the development of the recreation of a boating facility with shared use of the road and a conflict between trailer boats and heavy vehicles does not justify the application by RFF Australia.

**Attachment 14.1C**

**Attachment 14.1D**

## **Consultation**

A telephone discussion regarding this application was held with a team member from MRWA Heavy Vehicle Services who agreed that the application should not be supported based on the evidence provided in the briefing note.

The application was also referred to the Manager Town Planning who advised that although it is logical for RAV access to be approved on a road leading to an area zoned Industry with Port Access, Town Planning do not support the application due to the non-compliance with MRWA requirements.

## **Statutory environment**

*Road Traffic (Vehicles) Act 2012*

*Division 3 - Access restrictions on certain vehicles that comply with mass or dimension requirements.*

Main Roads Western Australia administer the Restricted Access Vehicle (RAV) network. Should the application pertain to a local government-controlled road, concurrence from the Council is sought.

The Council as the asset owner is requested to consider any restricted access vehicle (RAV) application and provide its consideration as to whether to include any proposed route onto the restricted access vehicle network.

### Financial implications

All costs shall be borne by the proponent, however, there is concern whether Beadon Creek Road has been built to any required standard for RAV access.

Should the road be placed on the RAV network, the road would need regular maintenance and ongoing upgrade, projected to be at a considerable cost to the Shire.

A full pavement assessment would need to be undertaken to determine the level of upgrade works required.

### Strategic implications

Shire of Ashburton Strategic Community Plan 2022 - 2032

Strategic Objective We will provide sustainable, purposeful, and valued built and natural environment opportunities for the community.

Strategic Outcome Safe and interconnected transport networks for the community

Strategy Manage roads, pathways, and other transport infrastructure according to need and use.

### 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
Other vehicle(s) colliding with turning RAV	Possible (3)	Catastrophic (5)	High (15)	<u>People</u> Fatality, permanent disability	Reject the application until the intersection of McAullay and Beadon Creek Roads has been reconstructed to allow safe access by required RAV configurations.
	Possible (3)	Moderate (3)	Moderate (9)	<u>Reputation</u> Substantiated, public embarrassment, moderate impact on community trust or moderate media profile	
Damage to road associated infrastructure by RAV's travelling in either direction between McAullay Rd and Beadon Creek Rd	Almost Certain (5)	Moderate (3)	High (15)	<u>Property</u> Localised damage requiring external resources to rectify	

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 “Moderate to High” in accordance with the likelihood and consequences if an incident involving a turning RAV occurs at the intersection of McAullay and Beadon Creek Roads, Onslow, in its current layout.

**Policy implications**

*ENG13 Road Management Policy*

The Shire of Ashburton manages its road network to minimise preventable expenditure. This will at times preclude maximising efficiencies such as allowing access by Restricted Access Vehicles.

**Voting requirement**

Simple majority

**Councillor interest declarations**

Nil

**Officer recommendation**

That with respect to the Application by RFF Australia to add Beadon Creek Rd, Onslow, to Restricted Access Vehicle Network, Council,

- a Requests the Chief Executive Officer advise Main Roads Western Australia Heavy Vehicle Section Branch the Council does not concur with the application as the Beadon Creek Road infrastructure does not support the route category, as requested, and land uses in proximity do not reflect heavy industry use,



- b Requests the Chief Executive Officer to write to Department of Transport advising it does not support any form of Restricted Access Vehicle Heavy Vehicle access to Beadon Creek, Onslow, and
- c Requests the Chief Executive Officer undertake a structure plan for Beadon Creek, and surrounds, which includes nearby tourism precincts, marine precincts, and the airport precinct.

**Council Decision                      040/2022**

**Moved                                      Cr M Lynch**

**Second                                      Cr R de Pledge**

**That with respect to the Application by RFF Australia to add Beadon Creek Rd, Onslow, to Restricted Access Vehicle Network, Council,**

- a            Requests the Chief Executive Officer advise Main Roads Western Australia Heavy Vehicle Section Branch the Council does not concur with the application as the Beadon Creek Road infrastructure does not support the route category, as requested, and land uses in proximity do not reflect heavy industry use,**
- b            Requests the Chief Executive Officer to write to Department of Transport advising it does not support any form of Restricted Access Vehicle Heavy Vehicle access to Beadon Creek, Onslow, and**
- c            Requests the Chief Executive Officer undertake a structure plan for Beadon Creek, and surrounds, which includes nearby tourism precincts, marine precincts, and the airport precinct.**

**Carried 7/0**

**14.2 Application by Hastings Technology Metals Ltd to add Towera Road and Towera-Lyndon Road, Onslow, to Restricted Vehicle Network**

<b>File reference</b>	RD0049
<b>Author's name</b>	M Fanning
<b>Author's position</b>	Director Infrastructure Services
<b>Author's interest</b>	Nil
<b>Authorising officer's name</b>	M Fanning
<b>Authorising officer's position</b>	Director Infrastructure Services
<b>Authorising officer's interest</b>	Nil
<b>Name of applicant / respondent</b>	Hastings Technology Metals Ltd
<b>Date report written</b>	24 March 2022
<b>Previous meeting reference</b>	Nil

**Summary**

This item is for Council to consider adding Towera Road and Towera-Lyndon Road, Onslow, to the Main Roads Western Australia Restricted Access Vehicle (RAV) network for the ore haulage from the Tangibana Project.

Main Roads WA have forwarded an application to the Shire to have the Towera Road and Towera-Lyndon Road, Onslow, added to the RAV network to cater for access by 'AB Triple' road trains – RAV Category 7 configuration.

Council is requested to approve the application to add Towera Road and Towera-Lyndon Road, Onslow, to the RAV network subject to Council entering a Road Use Agreement for Hastings Technology Metals Ltd to provide a full maintenance service whilst the Yangibana Project is in operation.

**Background**

Hastings Technology Metals Ltd (the applicant) have applied to Main Roads Western Australia (MRWA) to extend the Restricted Access Vehicle (RAV) network to include Towera Road and Towera-Lyndon Road, Onslow. These roads form part of their project delivery to haul product from the Yangibana site located in the Shire of Upper Gascoyne through to Onslow for processing and export. This application was to allow up to 36.5m configuration vehicles to be utilised on the route. It is proposed there will be up to six (6) vehicle movements per day. The application was supported by a full

route assessment by the Australian Roads Research Board (ARRB).

A copy of the RAV application and map of the proposed route is attached.

**Attachment 14.2A**

**Attachment 14.2B**

### **Comment**

The applicant provided supporting route assessment documentation to support their application, which needed to be assessed against the MRWA Standard Restricted Access Vehicle Route Assessment Guidelines. Shire officers have reviewed the application to determine whether the proposed route complied with these guidelines.

**Attachment 14.1C**

**Attachment 14.1D**

In addition, the applicant has issued the Shires of Upper Gascoyne, Carnarvon, and Ashburton a draft Road Use Agreement (agreement) titled Road Access - Upgrade and Maintenance Deed for the management of the route while the project is active.

**Attachment 14.1E**

The intent is that the Road Use Agreement be signed by all three (3) local governments and the management of the roads, which form part of the route, be managed all under this single agreement.

The agreement has been reviewed by all Shires and is nearing consensus between all parties. The agreement includes the standard in which the roads will be upgraded and maintained for the life of the project.

For the Shire of Ashburton, the agreement will include gravel resheeting, intersection works and maintenance activities.

### **Consultation**

MRWA HVS Staff

Hastings Technology Metal Ltd Project Staff

Shire of upper Gascoyne

Shire of Carnarvon

## **Statutory environment**

### *Road Traffic (Vehicles) Act 2012*

*Division 3 - Access restrictions on certain vehicles that comply with mass or dimension requirements.*

Main Roads Western Australia administer the Restricted Access Vehicle (RAV) network. Should the application pertain to a local government-controlled road, concurrence from the Council is sought.

The Council as the asset owner is requested to consider any restricted access vehicle (RAV) application and provide its consideration as to whether to include any proposed route onto the restricted access vehicle network.

The Council can place limited conditions onto a RAV approval. The standard local government condition used for these applications is the CA07 as follows:

The Shire of Ashburton supports the application for the above-mentioned roads to be included on the RAV 7 network on the basis that the roads are subject to a CA07 that stipulates the following:

Max Speed: 70k/ph.

Visibility: Lights must be turned on

All operators, as required by the Shire, must carry current written approval from the road asset owner permitting use of the road.

No operation on unsealed road segment when visibly wet, without the road owner's approval.

Direct radio contact must be maintained with other vehicles on or near the road (suggested channel 40)

### *Road Traffic Act 2008*

Section 132 (4) of the *Road Traffic Act 2008* permits a local government and person who may become liable for the cost of repairs to enter into an agreement providing for the person to pay a compensation to the local government thereby avoiding being the subject of section 132 (2) proceedings.

## Financial implications

All costs associated with the road use agreement will be borne by the proponent – Hasting Technology Metals Ltd, For the life of the haulage operation. There are mechanisms within the road use agreement which provide the Council the ability to draw on a security bond should works not be achieved. In addition, there are also mechanisms to resolve disputes and manage rain fall events within the agreement.

## Strategic implications

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective	Place - We will provide sustainable, purposeful, and valued built and natural environment opportunities for the community.
Strategic Outcome	Safe and interconnected transport networks for the community
Strategy	Manage roads, pathways, and other transport infrastructure according to need and use

## 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
Other vehicle(s) colliding with vehicle	Possible (3)	Catastrophic (5)	High (15)	<u>People</u> Fatality, permanent disability	General road rules apply, in addition the route standard will be increase from Type 2 to Type 3. Road Use Agreement places operational and maintenance responsibility onto the proponent.
	Possible (3)	Moderate (3)	Moderate (9)	<u>Reputation</u> Substantiated, public embarrassment, moderate impact on community trust or moderate media profile	
Damage to road associated infrastructure by RAV's travelling in either direction	Almost Certain (5)	Moderate (3)	High (15)	<u>Property</u> Localised damage requiring external resources to rectify	

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 “Moderate to High” in accordance with the likelihood and consequences if an incident involving a RAV was to occur.

### Policy implications

#### *ENG13 Road Management Policy*

The Shire of Ashburton manages its road network to minimise preventable expenditure. This will at times preclude maximising efficiencies such as allowing access by Restricted Access Vehicles.

### Voting requirement

Simple majority

### Councillor interest declarations

Cr K White	-	Financial
Cr L Rumble	-	Financial
Cr R de Pledge	-	Indirect Financial

### Officer recommendation

That with respect to the Application by Hastings Technology Metals Ltd to add Towera Road and Towera-Lyndon Road, Onslow to the Restricted Access Vehicle, Council,

- a Requests the Chief Executive Officer to advise Main Roads Western Australia Heavy Vehicle Section Branch Council concurs with the application subject to the inclusion of condition CA07 as following:

- o Max Speed 70k/ph.

- Visibility      Lights must be turned on
  
  - All operators, as required by the Shire, must carry current written approval from the road asset owner permitting use of the road.
  
  - No operation on unsealed road segment when visibly wet, without the road owner’s approval.
  
  - Direct radio contact must be maintained with other vehicles on or near the road (suggested channel 40),
- b      Only provides concurrence to the above Restricted Access Network approval on the provision Hastings Technology Metals Ltd enter into a Road Use Agreement under section 132 of the *Road Traffic Act 2008*, and
- c      Delegates to the Chief Executive Officer the power to negotiate to enter into a Road Use Agreement and, once consensus is reached, the Shire President and Chief Executive Officer be authorised to engross the Road Use Agreement between the Shires of Upper Gascoyne, Carnarvon, Ashburton, and Hastings Technology Metals Ltd.

**Council Decision**

*The quorum required for the meeting to continue, and consider this item, could not be met (as per Section 5.19 of the Local Government Act 1995). Council proceeded to the next item of business.*

## 15 Projects and Procurement reports

1:15pm Cr M Lynch, Cr A Smith, Cr A Sullivan, and Cr L Rumble declared an interest in this matter for which the Minister permitted Cr M Lynch and Cr A Smith to fully participate in and have voting rights. Cr A Sullivan and Cr L Rumble left the meeting.

### 15.1 Request For Tender (RFT) 02.22 – Design and Construction of Tom Price and Paraburdoo Multipurpose Courts, WA

<b>File reference</b>	CM.02.22
<b>Author's name</b>	C McGurk
<b>Author's position</b>	Director Projects and Procurement
<b>Author's interest</b>	Nil
<b>Authorising officer's name</b>	K Donohoe
<b>Authorising officer's position</b>	Chief Executive Officer
<b>Authorising officer's interest</b>	Nil
<b>Name of applicant / respondent</b>	Not applicable
<b>Date report written</b>	21 March 2022
<b>Previous meeting reference</b>	Not Applicable

#### Summary

Council has previously endorsed the upgrading of the multipurpose courts in Tom Price and Paraburdoo, and the tennis courts in Paraburdoo.

One (1) conforming tender was received in response to RFT 02.22 Design and Construction of Tom Price and Paraburdoo Multipurpose Courts, WA. The evaluation panel has completed the assessment of the conforming submission and provided a recommendation.

Council is requested to authorise the engagement of the recommended contractor for the Design and Construction of Tom Price and Paraburdoo Multipurpose Courts, WA.



### **Confidentiality**

An attachment to this report is confidential in accordance with Section 5.23(2) of the *Local Government Act 1995* because it deals with –

- (c) “a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.”
- (e) “information that has a commercial value to a person.”

### **Background**

Request for Tender *RFT 02.22 Design and Construction of Tom Price and Paraburdoo Multipurpose Courts, WA*, was issued via the Shire’s e-tendering portal (Tenderlink) on Wednesday 2 February 2022 and closed on Wednesday 2 March 2022 at 2:00pm.

The tender was also advertised via State-Wide public notice in *The West Australian* newspaper from Wednesday 2 February 2022.

Tenders were invited in accordance with the *Local Government Act 1995* to invite suitably registered, qualified, and experienced contractors to submit bids to enter a contract for RFT 02.22, in accordance with the tender brief as detailed below –

*The Shire of Ashburton seeks to engage a suitably qualified and experienced contractor for the design, documentation and construction works to upgrade the existing Tom Price and Paraburdoo Multipurpose Courts, and the existing tennis courts at Paraburdoo.*

*The works broadly consist of demolition works, new shade structures, playing court expansion and resurfacing, new fencing, new equipment, new clubhouse facilities, new amenities, new services connections and various siteworks.*

*The Works are to be completed under one Contract with two (2) separable portions:*

- *Separable Portion 1: Upgrade to Tom Price Multipurpose Courts*
- *Separable Portion 2: Upgrade Paraburdoo Multipurpose Courts and Tennis courts*

## Comment

Approval of the Qualitative Criteria was undertaken prior to the advertisement of the RFT. Each Criterion was given the following weightings and included within the RFT document, as outlined below -

Criteria		Weighting
(a)	Relevant Experience and Past Company Performance	15%
(b)	Key Personnel	15%
(c)	Resources / Plant / Equipment	10%
(d)	Methodology/Programme/Quality & OHS Systems/Risk Management	10%
(e)	Price	50%

Each Panel Member individually assessed the Qualitative Criteria responses of the Tender submission.

The submission was assessed against the Qualitative Criteria and each Criterion was given a score in accordance the Evaluation Guide contained within the Evaluation Spreadsheet.

A rating scale of zero to ten (0 to 10) was used for evaluating the Tender submission in accordance with the Qualitative Criteria, with zero (0) being lowest and ten (10) being highest.

The evaluation and recommendation report, including overall evaluation scores and rankings, is attached

### **Confidential Attachment 15.1A**

The evaluation of the submission received against the quantitative and qualitative criteria resulted in the submission from Emirge Pty Ltd being deemed suitable.

A probity audit undertaken on the process identified there were no probity issues to note.

## Consultation

Tender Assessment Panel  
Procurement Department  
Probity Auditor

## **Statutory environment**

### *Local Government Act 1995*

#### *Section 3.57 – Tenders for providing goods or services*

A local government is required to invite tenders before it enters a contract of a prescribed kind under which another person is to supply goods or services.

### *Local Government Act 1995*

#### *Section 6.8 (Expenditure from municipal fund not included in annual budget)*

A local government is not to incur expense from its municipal fund for an additional purpose except where the expense is incurred in a financial year before the Annual Budget is adopted (and must then be included), is authorised in advance by an Absolute Majority resolution by Council or authorised by the Shire President in an emergency.

### *Local Government (Functions and General) Regulations 1996*

#### *Regulation 11 – When tenders must be publicly invited — Tenders for providing goods or services (s. 3.57)*

Tenders are to be publicly invited before a local government enters a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250,000. Conditions and exemptions apply.

### *Local Government (Functions and General) Regulations 1996*

#### *Regulation 18 – Rejecting and accepting tenders*

Council may choose to accept or may choose to decline to accept a tender. A tender that is submitted at a place, and within the time, specified in the invitation for tenders and which fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.

## **Financial implications**

The 2021-2022 Revised Annual Budget has an allocation of \$9,500,000 for the combined projects captured in the RFT, with the allocation broken down as follows:

- Tom Price components - \$4.5 million
- Paraburdoo components - \$5.0 million

Rio Tinto have committed \$3.0 million towards Tom Price, as per funding agreements, with Council required to contribute a minimum of \$1.5 million towards the project, which has been included in the 2021-2022 Revised Annual budget.

Additionally, Rio Tinto have committed \$5.0 million towards Paraburdoo, as per funding agreements, with Council required to contribute a minimum of \$1.0 million towards the project, which has been earmarked in the 2022-2023 Draft Annual Budget.

The submission from Emirge Pty Ltd is \$11,996,313 (ex GST) (approximately \$1.35 million over the budget allocation).

Council can accept the tender in this financial year and budget the amount as a carry-over commitment into next financial year and identify the short fall of funds in the budget deliberation for its 2022-2023 Annual Budget. This will commit Council to this expense, acknowledging minimal funds would be drawn from the 2021-2022 Revised Annual Budget due to timing of the project.

Additionally, Council could consider reducing the scope, or declining the tender submission however this is not recommended.

### Strategic implications

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective	Place – We will provide sustainable, purposeful, and valued built and natural environment opportunities for the community.
Strategic Outcome	Quality, well-maintained, and purposeful community facilities.
Strategy	Provide high-standard sport and recreation facilities across the Shire.

### 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 approve the recommendation to award tender resulting in no further action, and community infrastructure is not upgraded.	Possible (3)	Major (4)	High (12)	<u>Reputation</u> Substantiated, public embarrassment, high impact on community trust, high media profile, third party actions	Provide sufficient information for informed decision making.
Tenderer cannot complete the works on time	Possible (3)	Moderate (3)	Moderate (9)	<u>Project Time and Cost</u>	Implementation and adherence to contract

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Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan
				Exceeds deadline by 15% of project timeline and / or exceeds project by 25%	performance management and liquidated damages coverage.
Extra budget allocation not made by Council	Possible (3)	Major (4)	High (12)	<u>Reputation</u> Substantiated, public embarrassment, high impact on community trust, high media profile, third party actions	Provide sufficient information for informed 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 “Moderate to High” because there is community expectation the facilities will be upgraded. Without additional funding the project cannot proceed.

### Policy implications

#### *ENG09 Asset Management Policy*

Council is committed to the responsible management of its assets and to establish a framework to ensure these assets are acquired, maintained, and disposed of in such a manner the agreed level of service delivery is achieved within the constraints of the asset life, cost effectiveness, and financial environmental sustainability.

#### *FIN12 Purchasing Policy*

Council is committed to delivering best practice in the purchasing of goods, services and works which align with the principles of transparency, probity, and good governance, and

establishing efficient, effective, economical, and sustainable procedures in all purchasing activities.

### **Voting requirement**

Absolute majority

### **Councillor interest declarations**

Cr M Lynch	-	Impartiality
Cr M Lynch	-	Indirect financial
Cr L Rumble	-	Financial
Cr A Smith	-	Indirect financial
Cr A Sullivan	-	Financial

### **Officer recommendation**

That with respect to RFT 02.22 Design and Construction Tom Price and Paraburdoo Multipurpose Courts WA, Council,

- a Notes the Evaluation Report, as included in Confidential Attachment 15.1A,
- b In accordance with Regulation 18 of the *Local Government (Functions and General) Regulations 1996*, accepts the submission from Emirge Pty Ltd for RFT 02.22 Design and Construction Tom Price and Paraburdoo Multipurpose Courts, WA, for the tendered price of \$11,996,313 (ex GST), as being advantageous and value for money,
- c Authorises the Chief Executive Officer to negotiate and engross the contract, with or without modification, with Emirge Pty Ltd based on their submitted and accepted submission, and
- d In accordance with Section 6.8 of the *Local Government Act 1995*, includes sufficient funds (currently estimated at an additional \$1.0 million) to complete the full scope of works, as listed in the Request for Tender documentation, in the 2022-2023 Annual Budget.

**Council Decision                    041/2022**

**Moved                                    Cr M Lynch**

**Second                                   Cr J Richardson**

**That with respect to RFT 02.22 Design and Construction Tom Price and Paraburdoo Multipurpose Courts WA, Council,**

- a        Notes the Evaluation Report, as included in Confidential Attachment 15.1A,**
- b        In accordance with Regulation 18 of the *Local Government (Functions and General) Regulations 1996*, accepts the submission from Emirge Pty Ltd for RFT 02.22 Design and Construction Tom Price and Paraburdoo Multipurpose Courts, WA, for the tendered price of \$11,996,313 (ex GST), as being advantageous and value for money,**
- c        Authorises the Chief Executive Officer to negotiate and engross the contract, with or without modification, with Emirge Pty Ltd based on their submitted and accepted submission, and**
- d        In accordance with Section 6.8 of the *Local Government Act 1995*, includes sufficient funds (currently estimated at an additional \$1.0 million) to complete the full scope of works, as listed in the Request for Tender documentation, in the 2022-2023 Annual Budget.**

**Carried 5/0**

1:16pm        Cr A Sullivan and Cr L Rumble returned to the meeting.

## **16 Councillor agenda items / notices of motions**

Nil

## **17 New business of an urgent nature introduced by Council decision**

**Council Decision                      042/2022**

**Moved                                      Cr M Lynch**

**Second                                      Cr R de Pledge**

**That with respect to new business of an urgent nature introduced by Council decision Council, at 1:16pm, pursuant to Clause 5.4 of the *Shire of Ashburton Standing Orders Local Law 2012* consider the following new business –**

**17.1 Attendance at Events Policy**

**17.2 RFT 26.21 - Design and Construction Skate Bowl, Tom Price, WA - Phase 2**

**Carried 7/0**



### 17.1 Attendance at Events Policy

<b>File reference</b>	GV20
<b>Author's name</b>	A Furfaro
<b>Author's position</b>	Governance officer
<b>Author's interest</b>	Nil
<b>Authorising officer's name</b>	N Cain
<b>Authorising officer's position</b>	Director Corporate Services
<b>Authorising officer's interest</b>	Nil
<b>Name of applicant / respondent</b>	Not applicable
<b>Date report written</b>	7 April 2022
<b>Previous meeting reference</b>	Agenda item 11.3 (Minute 26/2020) Ordinary Council Meeting 10 March 2020

#### **Summary**

Council has previously adopted an Attendance at Events policy.

The purpose of the policy is to provide the framework to enable Council members, the Chief Executive Officer, and designated senior employees to attend events as representatives of Council without restricting their future participation in the Council decision-making process. Currently attendance at events, functions, and briefings with Council's two (2) State Agreement Strategic Partners is restricted, which is considered not to be in the best interests for the community.

Council is requested to adopt amendments to the Policy to permit attendance at pre-approved events hosted by Rio Tinto Iron Ore and Chevron Australia Pty Ltd.

#### **Background**

Section 5.90A of the *Local Government Act 1995* requires local governments to have an Attendance at Events policy. The purpose of the policy is for Council to actively consider the purpose of, and benefits to the community from, Council members, Chief Executive Officers and designated senior employees attending events.

The policy provides a framework for the acceptance of invitations to various events and clarifies who will pay for tickets or the equivalent value of the invitation.

The tickets should be provided to the local government and not individual Council members. A ticket or invitation provided by a donor to an individual in their capacity as a Council member, Chief Executive Officers or designated senior employees is to be treated as a gift to the person, unless the tickets or invitation are referred to the local government to be considered in accordance with the policy.

### **Comment**

In developing the policy, there are several matters which need to be considered. Principally, the Council needs to consider what is the benefit to the community or local government in having members of Council, Chief Executive Officers or designated senior employees attend the event.

The Attendance at Events policy is to enable Council members to attend events as a representative of Council without restricting their ability to participate in Council meetings. It is not intended to be used as a mechanism to avoid conflict of interest provisions where significant matters are likely to come before Council from the provider of the invitation.

While attending events is generally considered an important function for Council members, the Chief Executive Officer, and designated senior employees to represent the local government, if there are costs involved, especially significant costs, it can lead to criticism from the community for spending ratepayer's money if the tangible benefits are not identified. Similarly, if the Council is accepting tickets, including those because of sponsorship, there can be a perception of bias when matters affecting the organisation come before Council.

The policy should also consider the role the person attending will have at the event - for example, speaking, giving an award or being a member of the audience – especially if there are significant costs associated with attendance. The community perception will be different for a person attending to undertake a specific role or function versus being a member of the audience.

Note, examples are provided in the legislation of what constitutes an event: concerts, conferences, functions and sporting events. This is not an exhaustive list and Council should consider the full range of events which may be relevant to the district, such as agricultural shows, field days, school awards nights and cultural events.

Ultimately, it is the decision of Council as to what is contained within the policy, and this will vary between local governments.

In March 2020 Council adopted the Attendance at Events policy.

This policy currently has the following attendance at events pre-approved –

- *Advocacy or lobbying of Members of Parliament or Ministerial briefings (Elected Members, the CEO and Directors and Managers only);*
- *Any free event held within the Shire of Ashburton;*
- *Events run by ALGA, WALGA, LGIS or major professional bodies associated with local government at a local, state, and federal level and Local, State or Federal Government or Government Agency or Department*
- *Meetings or Events hosted by Clubs, organisations, schools or Not for Profit Organisations within the Shire of Ashburton or District to which the Shire President, Elected Member, CEO or employee has been officially invited;*
- *Shire hosted, run or sponsored ceremonies, tournaments, functions and events and functions and events with employees;*
- *Community art exhibitions within the Shire of Ashburton or District;*
- *Cultural events/festivals within the Shire of Ashburton or District;*
- *Opening or launch of an event or facility within the Shire of Ashburton or District;*
- *Recognition of Service events within the Shire of Ashburton or District;*
- *Returned and Services League of Australia events within the Shire of Ashburton or District; and*
- *Where Shire President, Elected Member or CEO representation has been formally requested.*

The above list does not include the ability to meet or attend functions hosted by Council's two (2) State Agreement Strategic Partners - Rio Tinto Iron Ore and Chevron Australia Pty Ltd.

Councillors have commented this inability to attend these events is precluding them from serving the best interest of the community.

Shire officers propose amending the Attendance at Events policy to include the ability to attend events run and hosted by Rio Tinto Iron Ore and Chevron Australia Pty Ltd.

As stated by the Department of Local Government Operational Guidelines for Attendance at events policy the matters which could be included:

- *To whom invitations are to be directed,*
- *Who authorises attendance at an event, including how the decision is made for a council member or CEO to attend an event,*
- *How many people are authorised to attend an event,*
- *Who is responsible for the cost of attending (if any), including whether there is a requirement for the council member or CEO to contribute to the cost,*

*particularly if the person's partner is also attending;*

- *Whether there are any events that are authorised in advance by council (preauthorised events),*
- *Whether the location of the event is within the district,*
- *Attendance at sponsored events, and*
- *Attendance at events that are outside the policy.*

The council, with accountability to the local community, is in the best position to determine the design and content of the policy. Some local governments have requested guidance from the Department. To this end a sample policy is included on the following pages.

The policy may provide authorisation for the Chief Executive Officer to be the decision maker where decisions align with the policy intent. In that case, the policy must set out clear criteria by which the Chief Executive Officer may make such determinations.

## **Consultation**

Executive Leadership Team

## **Statutory environment**

*Local Government Act 1995*

*Section. 5.90A – Policy for attendance at events*

As per this section in the *Local Government Act*, a local government must prepare and adopt an attendance at events Policy. This section includes information on the type of events to be included in the Policy. An absolute majority is required.

## **Financial implications**

There are no identified financial implications arising from this item.

## **Strategic implications**

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective	Performance – We will lead the organisation, and create the culture, to deliver demonstrated performance excellence to the community.
Strategic Outcome	Visionary community leadership with sound, diligent and accountable governance.
Strategy	Provide, and lead in the development of, meaningful policies and processes to ensure sound and compliant delivery of services to the community.

## 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 is unable to attend events hosted by Rio Tinto and Chevron Australia Pty Ltd. This could affect the relationship and ability to effectively serve the community.	Almost Certain (5)	Moderate (3)	High (15)	Compliance Short term non-compliance but with significant regulatory requirements imposed	Adopt the Shire Officers recommendation.

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 “High” because the Shire’s operations rely upon maintaining an effective and profitable relationship with Rio Tinto Iron Ore and Chevron Australia Pty Ltd which arguably, to date, has been hindered by restricted access to events by these two organisations.

## **Policy implications**

### *ELM11 Attendance at Events Policy*

The aim of this policy is to address attendance at any events, including concerts, functions, or sporting events, whether free of charge, part of a sponsorship agreement, or paid by the local government and to provide transparency about the attendance at events of Elected Members, the Chief Executive Officer, and designated senior employees.

## **Voting requirement**

Absolute majority

## **Councillor interest declarations**

Nil

## **Officer recommendation**

That with respect to the Attendance at Events Policy, and in accordance with s. 5.90A of the *Local Government Act 1995*, Council,

- a Recognises Chevron Australia Pty Ltd and Rio Tinto Iron Ore as 'State Agreement Strategic Partners' with the Shire of Ashburton, the partnership of which contributes to the delivery of services for the community,
- b Identifies the need of Council members, the Chief Executive Officer, and designated senior employees to be able to attend events to maintain, and for the benefit of, the relationship with the 'State Agreement Strategic Partners', and
- c Adopts the Attendance at Events Policy, as included in Attachment 17.1A, which identifies events held by Chevron Australia Pty Ltd and Rio Tinto Iron Ore as pre-approved events.

**Council Decision                    043/2022**

**Moved                                    Cr M Lynch**

**Second                                   Cr L Rumble**

**That with respect to the Attendance at Events Policy, and in accordance with s. 5.90A of the *Local Government Act 1995*, Council,**

- a        Recognises Chevron Australia Pty Ltd and Rio Tinto Iron Ore as ‘State Agreement Strategic Partners’ with the Shire of Ashburton, the partnership of which contributes to the delivery of services for the community,**
- b        Identifies the need of Council members, the Chief Executive Officer, and designated senior employees to be able to attend events to maintain, and for the benefit of, the relationship with the ‘State Agreement Strategic Partners’, and**
- c        Adopts the Attendance at Events Policy, as included in Attachment 17.1A, which identifies events held by Chevron Australia Pty Ltd and Rio Tinto Iron Ore as pre-approved events.**

**Carried 7/0**

**17.2 RFT 26.21 - Design and Construction Skate Bowl, Tom Price, WA - Phase 2**

<b>File reference</b>	CM23.21
<b>Author's name</b>	M Fanning
<b>Author's position</b>	Director Infrastructure Services
<b>Author's interest</b>	Nil
<b>Authorising officer's name</b>	M Fanning
<b>Authorising officer's position</b>	Director Infrastructure Services
<b>Authorising officer's interest</b>	Nil
<b>Name of applicant / respondent</b>	Not Applicable
<b>Date report written</b>	30 October 2021
<b>Previous meeting reference</b>	Ordinary Council Meeting 14 December 2021 Agenda Item 14.1 (Minutes 204/2021)

**Summary**

Council has included in the 2021-2022 Annual Budget the Construction of a new Skate Bowl as Phase 2 of the Tom Price Skate Park Upgrade.

Following a tender exempt process, one (1) tenderer provided two (2) submissions, one (1) conforming and one (1) alternate submission, in response to RFT 26.21 Design and Construction Skate Bowl, Tom Price, WA - Phase 2. The evaluation panel has completed the assessment of the submissions and provided a recommendation.

Council is requested to accept CONVIC PL as the preferred tenderer for the Design and Construction of a Skate Bowl in Tom Price, WA.

**Confidentiality**

An attachment to this report is confidential in accordance with section 5.23 (2) of the *Local Government Act 1995* because it deals with –

- (c) *“a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.”*
- (e) *“Information that has a commercial value to a person”*



## Background

Request for Tender (RFT) RFT 26.21 - Design and Construction Skate Bowl, Tom Price, WA - Phase 2 was issued via the Shire's e-tendering portal (Tenderlink) on Saturday 30 October 2021 and closed on Tuesday 23 November 2021 at 2:00 pm.

Tenders were assessed, and, at the December 2021 Ordinary Council Meeting, Council resolved to –

- not accept any tenders, and
- request a tender exempt process commence.

A tender exempt process under section 11.2(c)(i) *Local Government (Functions and General) Regulations 1996* was then undertaken with a revised specification. Tender documents were issued to three (3) entities, as below -

- Skate Sculpture
- CONVIC PL
- Landscape Australia Construction

The entities were given three (3) weeks to complete and submit their offers.

## Comment

The same Qualitative Criteria was issued as per the original RFT. Each Criteria was given the following weightings and included within the RFT document.

Criteria		Weighting
(a)	Relevant Company Experience	40%
(b)	Key Personnel and Resourcing	10%
(d)	Methodology / Programme / Quality and OHS Systems / Risk Management	20%
(e)	Price	30%

Each Panel Member individually assessed the Qualitative Criteria responses of the Tender submissions.

The submissions were assessed against the Qualitative Criteria and each Criterion was given a score in accordance with the Evaluation Guide contained within the Evaluation Spreadsheets.

A rating scale of zero-to-ten (0 - 10) was used for evaluating the Tender submissions in accordance with the Qualitative Criteria, with 0 being lowest and 10 being highest.

The evaluation and recommendation report, including the overall evaluation scores and rankings, is attached.

### **Confidential Attachment 17.2A**

Of the entities invited to submit tenders only one (1) entity submitted (providing both a conforming submission and an alternate submission).

The evaluation of this submission received against the quantitative and qualitative criteria resulted in the rankings (in order of priority) as shown below -

<b>Ranking</b>	<b>Tenderer</b>
1	CONVIC PL - Alternate
2	CONVIC PL - Conforming

Of note, the conforming submission from CONVIC PL Construction significantly exceeded the approved budget however an alternate offer was also presented which represented better value for money.

It is recommended the Chief Executive Officer with the tenderer to enter a contract for these works.

### **Consultation**

Executive Leadership Team  
Team Assessment Panel  
Procurement Department

### **Statutory Environment**

#### *Local Government Act 1995*

#### *Section 3.57 – Tenders for providing goods or services*

A local government is required to invite tenders before it enters a contract of a prescribed kind under which another person is to supply goods or services.

#### *Local Government (Functions and General) Regulations 1996*

#### *Regulation 11 – When tenders must be publicly invited — Tenders for providing goods or services (s. 3.57)*

Tenders do not have to be publicly invited according to the requirements of this Division if, within the last six (6) months the local government has, according to the requirements, publicly invited tenders for the supply of the goods or services and no

tender was submitted which met the tender specifications or satisfied the value for money assessment.

*Local Government (Functions and General) Regulations 1996*

*Regulation 18 – Rejecting and accepting tenders*

Tenders which have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.

**Financial Implications**

The 2021-2022 Annual Budget provision is \$700,000. The conforming tender submitted was not considered value for money.

**Strategic Implications**

Shire of Ashburton Strategic Community Plan 2022-2032

- Strategic Objective            Place – We will provide sustainable, purposeful, and valued built and natural environment opportunities for the community.
- Strategic Outcome            Quality, well-maintained, and purposeful community facilities.
- Strategy                            Provide high-standard sport and recreation facilities across the Shire.

**Risk Management**

Risk has been assessed based on the Officer Recommendation.

<b>Risk</b>	<b>Risk Likelihood</b>	<b>Risk Impact / Consequence</b>	<b>Risk Rating</b>	<b>Principal Risk Theme</b>	<b>Risk Action Plan</b>
Council does not approve the recommendation to award the tender.	Possible (3)	Moderate (3)	Moderate (9)	<u>Reputation</u> Substantiated, public embarrassment, moderate impact on community trust or moderate media profile	Provide sufficient information for informed decision making.
Council approves the recommendation to award the tender and the tenderer	Possible (3)	Major (4)	High (12)	<u>Financial Impact</u> \$1million to \$5 million	Form of Contract is Lump Sum minimising the financial risk to the Council. Council's

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Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan
cannot complete the works due to financial matters.					Infrastructure Services staff will project manage the works.
Council approves the recommendation to award the tender and the tenderer cannot complete the works to time.	Possible (3)	Moderate (3)	Moderate (9)	Exceeds deadline by 15% of project timeline	Mitigated through the placement of Liquidated Damages as part of the contract.

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 initial perceived level of risk is “Moderate to High” risk and will be reduced through the form of contract and ensuring suitable supervision.

### Policy Implications

#### *ENG09 Asset Management Policy*

The purpose of this policy is to demonstrate the Shire of Ashburton’s commitment to the responsible management of its assets and to establish a framework to ensure that these Assets are acquired, maintained, and disposed of in such a manner that the agreed level of service delivery is achieved within the constraints of Asset life, cost effectiveness and financial environmental sustainability.

#### *FIN12 Purchasing Policy*

The Shire of Ashburton is committed to delivering best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance whereby establishing efficient, effective, economical, and sustainable procedures in all purchasing activities.

**Voting Requirement**

Simple majority

**Councillor Interest Declarations**

Nil

**Officer Recommendation**

That with respect to the award of RFT 26.21 Design and Construction Skate Bowl, Tom Price, WA - Phase 2, Council,

- a Notes the Evaluation Report, as included in Confidential Attachment 17.2A, and
- b In accordance with the *Local Government (Functions and General) Regulations 1996* Regulation 18, accept CONVIC PL as the preferred tenderer and authorises the Chief Executive Officer to successfully negotiate a contract for the delivery of the Tom Price Skate Bowl Phase 2.

<b>Council Decision</b>	<b>044/2022</b>
<b>Moved</b>	<b>Cr M Lynch</b>
<b>Second</b>	<b>Cr J Richardson</b>
<b>That with respect to the award of RFT 26.21 Design and Construction Skate Bowl, Tom Price, WA - Phase 2, Council,</b>	
<b>a</b>	<b>Notes the Evaluation Report, as included in Confidential Attachment 17.2A, and</b>
<b>b</b>	<b>In accordance with the <i>Local Government (Functions and General) Regulations 1996</i> Regulation 18, accept CONVIC PL as the preferred tenderer and authorises the Chief Executive Officer to successfully negotiate a contract for the delivery of the Tom Price Skate Bowl Phase 2.</b>
<b>Carried 7/0</b>	

**Council Decision                    045/2022**

**Moved                                    Cr A Smith**

**Second                                  Cr R de Pledge**

**That Council, at 1:19pm, 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 Property Purchase – Tom Price**

**18.2 Masterplan and Commercial Considerations for Portions of Lot 201 (formerly Lot 9001) McAullay Road, Onslow**

**Carried 7/0**

## 18 Confidential matters

### 18.1 Property Purchase – Tom Price

<b>File reference</b>	KIA.0653
<b>Author's name</b>	R Wright
<b>Author's position</b>	Manager Land and Asset Compliance
<b>Author's interest</b>	Financial Interest
<b>Authorising officer's name</b>	K Donohoe
<b>Authorising officer's position</b>	Chief Executive Officer
<b>Authorising officer's interest</b>	Financial Interest
<b>Name of applicant / respondent</b>	Not applicable
<b>Date report written</b>	24 March 2022
<b>Previous meeting reference</b>	Nil

#### Summary

Council has previously identified the need to increase property holdings to house Shire employees and key workers and an opportunity has presented itself for the purchase of two (2) suitable properties in Tom Price.

The Chief Executive Officer has made offers to the owners of the suitably identified properties, subject to Council approval and due diligence provisions.

Council is requested to consider the purchase of the two (2) properties and progression of the offer to purchase.

#### Confidentiality

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

*“a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.”*

**Amended Motion**

**Council Decision            046/2022**

**Moved                            Cr M Lynch**

**Second                         Cr L Rumble**

**That with respect to Property Purchase – Tom Price, Council:**

- a        Authorises the purchase price and “Offer, as defined” section of this Report, for the two properties in Tom Price, described within this Report, and**
- b        Authorises the Shire President and Chief Executive Officer to engross all documents including applying the Common Seal, associated with the purchase outlined within this report, in accordance with all laws of Western Australia, and**
- c        Retain existing rental housing for staff use.**

**Reason for change**

**Council wished to retain its existing stock of rental housing.**

**Carried 7/0**



**18.2 Masterplan and Commercial Considerations for Portions of Lot 201 (formerly Lot 9001) McAullay Road, Onslow**

<b>File reference</b>	ONS.0016
<b>Author's name</b>	B McKay
<b>Author's position</b>	Manager Town Planning
<b>Author's interest</b>	Nil
<b>Authorising officer's name</b>	T Matson
<b>Authorising officer's position</b>	Director People and Place
<b>Authorising officer's interest</b>	Nil
<b>Name of applicant / respondent</b>	Onslow Marine Supply Base
<b>Date report written</b>	3 March 2022
<b>Previous meeting reference</b>	Agenda Item 17.1 (Minute No. 329/2018) – Ordinary Meeting of Council 6 March 2018 / Agenda Item 13.8 (Minute No. 707/2019) – Ordinary Meeting of Council 19 November 2019 / Agenda Item 18.2 (Minute No. 152/2021) – Ordinary Meeting of Council 28 September 2021

**Summary**

Onslow Marine Support Base Pty Ltd (OMSB) is seeking to enter a new lease with the Shire for Lot 201 (formally Lot 9001) McAullay Road, Onslow. In support of the application OMSB has submitted a proposed masterplan for the site.

The purpose of this report is to provide Council with advice on the masterplan's compliance with the Local Planning Scheme, and to seek a resolution from Council on the future of the site regarding the proposed lease.

Council is requested to consider the Shire officer assessment of the masterplan as being inconsistent with the Local Planning Scheme and Council's stated intention of the use within the Airport precinct.

**Confidentiality**

This report is confidential in accordance with section 5.23 of the *Local Government Act 1995* because it deals with matters affecting section 5.23 (2):

*"legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting"*

**Council Decision                      047/2022**

**Moved                                      Cr L Rumble**

**Second                                     Cr M Lynch**

**That with respect to the Masterplan and Commercial Considerations for Portions of Lot 201 (formerly Lot 9001) McAullay Road, Onslow, Council,**

- a        Oppose the proposed masterplan for Lot 201 (formerly Lot 9001) McAullay Road, Onslow, because it is inconsistent with the Local Planning Scheme and Council’s stated intention of the use within the Airport Precinct Reserve, and**
- b        Instructs the Chief Executive Officer to cease all lease negotiations regarding a Pilbara freight logistics hub at this location.**

**Carried 7/0**

**Council Decision                      048/2022**

**Moved                                      Cr R de Pledge**

**Second                                     Cr A Smith**

**That Council, at 1:21pm, move out from behind closed doors.**

## **19 Next meeting**

The next Ordinary Council Meeting will be held at 1:00pm on Tuesday 10 May 2022 at Council Chambers, Onslow Shire Complex, Second Avenue, Onslow.

## **20 Closure of meeting**

There being no further business, the Presiding Member closed the meeting at 1:22pm.