



**SHIRE OF ASHBURTON
PUBLIC MINUTES**

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

20 April 2021

1.00 pm

**PUBLIC MINUTES - ORDINARY MEETING OF COUNCIL
20 APRIL 2021**

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



Mr Kenn Donohoe
Chief Executive Officer

Date: 20.04.2021

These minutes were confirmed by Council as a true and correct record of proceedings of the Ordinary Meeting of Council on the 20 April 2021.

Presiding Member:



Date:

18/05/2021

DISCLAIMER

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

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1. DECLARATION OF OPENING

The Presiding Member declared the meeting open at 1.04 pm.

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

The Presiding Member welcomed members of the public to the gallery.
Mr Peter Foster MLC elect.

3. ATTENDANCE

3.1 PRESENT

Elected Members:	Cr K White Cr D Diver Cr M Lynch Cr L Rumble Cr D Dias Cr J Richardson Cr M Gallanagh	Shire President (Presiding Member) Onslow Ward Deputy Shire President, Tom Price Ward Tom Price Ward Paraburdoo Ward Paraburdoo Ward Tablelands Ward Pannawonica Ward
Staff:	Mr K Donohoe Ms C McGurk Mr A Majid Mr M Khosravi Mr N Cain Mrs A Lennon Mrs D Hurstfield Mrs M Lewis Ms D Walkington	Chief Executive Officer Director Projects and Procurement Director People and Place Director Infrastructure Services Director Corporate Services Manager Media and Communications Manger Governance Council Liaison Officer Acting Governance Officer
Guests:	Nil	
Members of Public:	Mr Peter Foster MLC Elect	
Members of Media:	Nil	

3.2 APOLOGIES

Nil.

3.3 APPROVED LEAVE OF ABSENCE

Cr R de Pledge - Ashburton Ward.

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4. QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE
Nil.

4.2 PUBLIC QUESTION TIME

5. APPLICATIONS FOR LEAVE OF ABSENCE

Council Decision

MINUTE: 42/2021

MOVED: Cr L Rumble

SECONDED: Cr J Richardson

That Council approve the written request for Approved Leave of Absence for Cr Gallanagh for the May Ordinary Meeting of Council to be held 18 May 2021.

CARRIED 7/0

6. DECLARATION BY MEMBERS

6.1 DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA

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

6.2 DECLARATIONS OF INTEREST

Councillors to Note

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

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

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

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

NOTES ON DECLARING INTERESTS (FOR YOUR GUIDANCE)

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

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

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1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor, or a person closely associated with the Councillor and is capable of being measured in money terms. There are exceptions in the *Local Government Act 1995*, but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e., sporting, social, religious etc.), and the Councillor is not a holder of office of profit or a guarantor and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. If in doubt declare.
5. As stated in 6.2(b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **MUST** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) or the *Local Government Act 1995*; or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69 (3) of the *Local Government Act 1995*, with or without conditions.

Declarations of Interest provided:

Item Number/ Name	Type of Interest	Nature/Extent of Interest
11.2	STAFF ACCOMMODATION STRATEGY 2020 - 2030	
Cr Dias	Indirect Financial	The nature of my interest is my wife is a Pilbara Iron employee and we both own shares in Rio Tinto Ltd individually and collectively. Our primary residence is a house provided by Rio Tinto. The extent of my interest is indirect Financial.
Cr Rumble	Financial	The nature of my interest is I am a Shareholder with Rio Tinto, the dividends I get from the shares I pay tax on. These shares form part of my retirement fund. I do not believe I have any greater benefit from owning these shares than any other elected member of Council. The extent of my interest is I have shares in greater value than \$10,000.
Cr Diver	Indirect Financial	The nature of my interest is I am employed by Rio Tinto. The extent of my interest is I receive a salary, I also receive subsidised utilities (water

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Item Number/ Name	Type of Interest	Nature/Extent of Interest
		/power) and rent as part of my salary package.
Cr Lynch	Indirect Financial	The nature of my interest is I am an employee and tenant of Rio Tinto. The extent of my interest is I am paid a salary by Pilbara Iron.
Cr Gallanagh	Indirect Financial	The nature of my interest is myself and my husband are employed by Rio Tinto, have company housing and shares in Rio Tinto. The extent of my interest is Financial - We have shares of greater value than \$10,000 in Rio Tinto.
Kenn Donohoe	Financial	The nature of my interest - employee whose contract of employment has housing provided as part of that contract. The extent of my interest – Rental subsidies are provided for rental properties in Onslow and Tom Price.
11.5 MINING ACT 1978 TENEMENT REFERRALS – 1 FEBRUARY 2021 – 31 MARCH 2021		
Cr Dias	Financial	The nature of my interest is my wife is a Pilbara Iron employee and we both own shares in Rio Tinto Ltd individually and collectively. Our primary residence is a house provided by Rio Tinto. We are potential recipients of all the benefits offered to employees and/or shareholders. The extent of my interest is Direct Financial.
Cr Rumble	Financial	The nature of my interest is I am a Shareholder with Rio Tinto, the dividends I get from the shares I pay tax on. These shares form part of my retirement fund. I do not believe I have any greater benefit from owning these shares than any other elected member of Council. The extent of my interest is I have shares in greater value than \$10,000.
Cr Diver	Financial	The nature of my interest is I am employed by Rio Tinto. The extent of my interest is I receive a salary, I also receive subsidised utilities (water /power) and rent as part of my salary package.

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Item Number/ Name	Type of Interest	Nature/Extent of Interest
Cr Lynch	Indirect Financial	The nature of my interest is I am an employee and tenant of Rio Tinto. The extent of my interest is I am paid a salary by Pilbara Iron.
Cr Gallanagh	Financial	The nature of my interest is myself and my husband are employed by Rio Tinto, have company housing and shares in Rio Tinto. The extent of my interest is Financial - We have shares of greater value than \$10,000 in Rio Tinto.
18.2 CONFIDENTIAL ITEM AWARD OF RFQ – COMMUNITY LIFESTYLE AND INFRASTRUCTURE PLAN		
Cr Dias	Indirect Financial	The nature of my interest is my wife is a Pilbara Iron employee and we both own shares in Rio Tinto Ltd individually and collectively. We are potential recipients of all the benefits and gifts offered to employees and shareholders. Our primary residence is a house provided by Rio Tinto. The extent of my interest is Indirect Financial.
Cr Rumble	Financial	The nature of my interest is I am a Shareholder with Rio Tinto, the dividends I get from the shares I pay tax on. These shares form part of my retirement fund. I do not believe I have any greater benefit from owning these shares than any other elected member of Council. The extent of my interest is I have shares in greater value than \$10,000.
Cr Diver	Financial	The nature of my interest is I am employed by Rio Tinto. The extent of my interest is I receive a salary, I also receive subsidised utilities (water /power) and rent as part of my salary package.
Cr Lynch	Indirect Financial	The nature of my interest is I am an employee and tenant of Rio Tinto. The extent of my interest is I am paid a salary by Pilbara Iron.
Cr Gallanagh	Financial	The nature of my interest is myself and my husband are employed by Rio Tinto, have company housing and shares in Rio Tinto. The extent of my interest is Financial - We have shares of greater value than \$10,000 in Rio Tinto.

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Dear Mr Kenn Donohoe,

I refer to your correspondence dated 15 April 2020 and advise that, in accordance with 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).

The Department notes that at least two (2) of the disclosing Councillors are required to achieve a quorum. Accordingly, approval to participate is provided to the Councillors with the lowest level of declared interest, those being Cr Lynch and Cr Diver.

This approval allows the above members to fully participate in the discussion and decision making relating to the following item at the Shire's Ordinary Meeting of 20 April 2021:

11.3 STAFF ACCOMMODATION STRATEGY 2020 – 2030

11.5 MINING ACT 1978 TENEMENT REFERRALS – 1 FEBRUARY 2021 – 31 MARCH 2021

18.2 CONFIDENTIAL ITEM – AWARD OF RFQ – COMMUNITY LIFESTYLE AND INFRASTRUCTURE PLAN

Subject to the following conditions:

- 1. The approval is only valid for the 2 April 2021 Ordinary Council Meeting when agenda Items 11.2, 11.5 and 18.2 are 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 CEO is to provide a copy of the Department's 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 Department, to allow the Department 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 Carmen Chia, Legislation Officer via the details provided above.

Tim Fraser
EXECUTIVE DIRECTOR – LOCAL GOVERNMENT

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7. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS WITHOUT DISCUSSION

The Shire President thanked Janelle Fell for her years of service and wished her well for her future endeavours.

8. PETITIONS / DEPUTATIONS / PRESENTATIONS

8.1 PETITIONS

Petition submission for playground upgrades

Without necessarily supporting the contents, Cr White tabled a petition to Council containing the signatures of 243 people believed to be 'residents/electors' of the district stating as follows:

- *Adequate shelter (like lion's park) over all outdoor play spaces. The shade sails we have, are either ripped in places, don't cover the entire play ground and do not protect adequately in extreme heat conditions or in the rain. We are limited for play areas so having more than one option like lion's park would be beneficial for young families. Not only for mental health but also for variety.*
- *Request to have the nature park fully fenced. Myself along with many parents who have small children very rarely attend nature park. Small children frequently escape out onto stadium road as the area is not fully enclosed. This is a great park but very often empty during the week due to this hazard. Myself and many parents have submitted a CAR form however the response did not address this issue at all.*
- *Playground equipment for children with special needs. A wheel chair accessible play area or swing/flying fox would be greatly appreciated.*
- *A play area in Area W. This has been suggested by numerous parents. This would also eliminate children entering North Tom Primary school grounds outside of school hours. Parents with smaller children would be able to use it during school hours.*
- *Water park. We have more young children per capita here in Tom Price then in Onslow. Our closet beach is three hours away and Karijini is not child friendly. The pool is also only open for half of the year. Residents have suggested a water park for consideration like Onslow. Our town water pad is never in use and nature parks water play area is either not working or intermittent at best.*
- *Approaching the local mining companies who work in this area for help with funding this proposal.*

Tom Price is a beautiful town and also a very profitable town not only for Western Australia but the whole country. While I am aware, we have funding to upgrade our skate park, as a mother of two small children under five a skate park is not overly safe for them. We are a transitional town but also a town with many young families so any upgrades or improvements to the play areas would be greatly appreciated.

Please accept this letter along with the petition of 243 signatures.

Note: The Shire of Ashburton Local Law Standing Orders require that only Electors can petition Council. The Shire has not confirmed as to whether all signatories are 'electors.' The petition was accepted by the Shire President and the Chief Executive Officer requested to prepare a report for the May 2021 Ordinary Meeting of Council.

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8.2 DEPUTATIONS

8.3 PRESENTATIONS

The Shire President presented to Mr Peter Foster a plaque and gift due to his resignation on 1 April 2021 from his position as an Elected Member of the Shire of Ashburton. Mrs Michelle Lewis Councillor Support Officer, was also thanked for her service and presented a gift.

9. CONFIRMATION OF MINUTES

9.0.1 UNCONFIRMED MINUTES ORDINARY MEETING OF COUNCIL HELD ON 16 MARCH 2021 (ATTACHMENT 9.0.1)

Council Decision

MINUTE: 43/2021

MOVED: Cr Diver

SECONDED: Cr Lynch

That the Unconfirmed Minutes of the Ordinary Meeting of Council held 16 March 2021 as previously circulated on 23 March 2021 (ATTACHMENT 9.0.1) be confirmed as a true and accurate record.

CARRIED 7/0

9.1 RECEIPT OF COMMITTEE AND OTHER MINUTES

Council Decision

MINUTE: 44/2021

MOVED: Cr D Diver

SECONDED: Cr M Gallanagh

That the following Receipt of Committee and other Minutes be carried 'En Bloc';

9.1.1 MINUTES OF THE INLAND LOCAL EMERGENCY MANAGEMENT COMMITTEE HELD 3 DECEMBER 2020

That the Minutes of the Inland Local Emergency Management Committee held 3 December 2020 at the Clem Thompson Sports Pavilion, Tom Price (ATTACHMENT 9.1.1) be received.

9.1.2 MINUTES OF THE ONSLOW LOCAL EMERGENCY MANAGEMENT COMMITTEE HELD 8 DECEMBER 2020

That the Minutes of the Onslow Local Emergency Management Committee meeting held 8 December 2020 at the Onslow VFRS Centre (ATTACHMENT 9.1.2) be received.

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9.1.3 MINUTES OF THE PANNAWONICA LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING HELD 9 DECEMBER 2020
That the Minutes of the Pannawonica Local Emergency Management Committee Meeting held 9 December 2020 in Pannawonica (ATTACHMENT 9.1.3) be received.

9.1.4 MINUTES OF THE ONSLOW LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING HELD 29 MARCH 2021

That the Minutes of the Onslow Local Emergency Management Committee Meeting held 29 March 2021 at the Onslow VFRS Centre (ATTACHMENT 9.1.4) be received.

9.1.5 MINUTES OF THE PANNAWONICA LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING HELD 30 MARCH 2021

That the Minutes of the Pannawonica Local Emergency Management Committee Meeting held 30 March 2021 at the Pannawonica Mayu Maya Centre (ATTACHMENT 9.1.5) be received.

9.1.6 MINUTES OF THE INLAND LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING HELD 31 MARCH 2021

That the Minutes of the Inland Local Emergency Management Committee Meeting held 31 March 2021 at the Clem Thompson Sports Pavilion (ATTACHMENT 9.1.6) be received.

9.1.7 MINUTES OF THE STATE COUNCIL MEETING HELD 3 MARCH 2021

That the Minutes of the State Council Meeting held 3 March 2021 at WALGA, 170 Railway Parade, West Leederville (ATTACHMENT 9.1.7) be received.

CARRIED 7/0

9.2 RECEIPT OF COMMITTEE MINUTES – ‘EN BLOC’
Committee minutes were adopted En Bloc at item 9.1.

9.3 RECOMMENDATIONS OF COMMITTEE

9.3.1 CONFIDENTIAL - PILBARA REGIONAL WASTE MANAGEMENT FACILITY – STATUS REPORT

Council Decision

MINUTE: 45/2021

MOVED: Cr M Lynch

SECONDED: Cr D Diver

That with respect to the Confidential Item - Pilbara Regional Waste Management Facility – Commercial Licensing Opportunities, the PRWMF Committee;

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1. Receive this status report: and
2. Authorise the Chief Executive Officer to commence appropriate procedures to facilitate the change of licensing requirements for the Pilbara Regional Waste Management Facility from Class IV to a Class V facility in accordance with requirements of the Commonwealth and State regulatory bodies.

CARRIED:7/0

10.1 AGENDA ITEMS ADOPTED 'EN BLOC'

The following information is provided to Councillors for guidance on the use of En Bloc voting as is permissible under the *Shire of Ashburton Standing Orders Local Law 2012*:

"Part 5 – Business of a meeting

Clause 5.6 Adoption by exception resolution:

- (1) *In this clause 'adoption by exception resolution' means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the officer recommendation as the Council resolution.*
- (2) *Subject to sub clause (3), the Local Government may pass an adoption by exception resolution.*
- (3) *An adoption by exception resolution may not be used for a matter;*
 - (a) *that requires a 75% majority or a special majority;*
 - (b) *in which an interest has been disclosed;*
 - (c) *that has been the subject of a petition or deputation;*
 - (d) *that is a matter on which a Member wishes to make a statement; or*
 - (e) *that is a matter on which a Member wishes to move a motion that is different to the recommendation."*

There were no agenda items carried 'En Bloc' for this meeting.

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11. OFFICE OF THE CEO REPORTS

**11.1 PROGRESS OF IMPLEMENTATION OF COUNCIL DECISIONS STATUS
REPORT FOR MARCH 2021**

FILE REFERENCE:	GV04
AUTHOR'S NAME AND POSITION:	Michelle Lewis Council Liaison Officer
AUTHORISING OFFICER AND POSITION:	Kenn Donohoe Chief Executive Officer
NAME OF APPLICANT/ RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	7 April 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Agenda Item 11.1 (MINUTE: 25/2021) Ordinary Meeting of Council 16 March 2021

Summary

The purpose of this agenda item is to report back to Council on the progress of the implementation of Council decisions.

Background

The best practice in governance supports the regular review of Council decisions to ensure that they are actioned and implemented in a timely manner.

Comment

Wherever possible, Council decisions are implemented as soon as practicable after a Council meeting. However, there are projects or circumstances that mean some decisions take longer to action than others.

This report presents a summary of the "Decision Status Reports" for Office of the CEO, Corporate Services, Infrastructure Services, People and Place and Projects and Procurement.

ATTACHMENT 11.1

Consultation

Executive Leadership Team

Statutory Environment

Section 2.7 of the Local Government Act 1995 states:

"Role of council

- (1) The council —
 - (a) governs the local government's affairs; and*
 - (b) is responsible for the performance of the local government's functions.**
- (2) Without limiting subsection (1), the council is to —*

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

The above section of the Act notwithstanding, there is no specific legal requirement to present such a report to Council or for Council to receive or consider such a report. Given it is always 'received', it could simply be provided to elected members via weekly or monthly updates, such as in the weekly Information Bulletin.

The decision to retain the report in the Council's monthly agenda is entirely Council's prerogative. Staff acknowledge the critical and ongoing nature of the document, in that Council 'speaks by resolution'.

Financial Implications

There are no known financial implications for this matter.

Strategic Implications

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

- Goal 05 Inspiring Governance
Objective 4 Exemplary team and work environment

Risk Management

Risk has been assessed based on the Officers Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Compliance	Unlikely (2)	Insignificant (1)	Low (2)	No noticeable regulatory or statutory impact	Accept Officer Recommendation.

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 due to the financial value of the project and the risk to the Shire's reputation. Monthly reporting to Council assists with monitoring actions being undertaken.

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Policy Implications

There are no known policy implications for this matter.

Voting Requirement

Simple Majority Required

Officers Recommendation and Council Decision

MINUTE: 46/2021

MOVED: Cr M Lynch

SECONDED: Cr D Diver

**That with respect to the Council Decisions Status Reports” for the month of March 2021,
Council receive the report as per ATTACHMENT 11.1.**

CARRIED 7/0

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11.2 STAFF ACCOMMODATION STRATEGY 2020 - 2030

Declaration of Interest

Prior to consideration of this Agenda Item:

Cr Dias declared a financial interest

Cr Rumble declared a financial interest

Cr Diver declared an indirect financial interest

Cr Lynch declared an indirect financial interest

Cr Gallanagh declared a financial interest

See item 6.2 for details of the interest declared.

RECORDED ON REGISTER GV07

FILE REFERENCE:	PE06
AUTHOR'S NAME AND POSITION:	Janelle Fell Manager Land and Asset Compliance
AUTHORISING OFFICER AND POSITION:	Kenn Donohoe Chief Executive Officer
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	1 April 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author has no financial, proximity or impartiality interests in the proposal. The authorising officer (CEO) declares a financial interest in this item as a salaried officer that utilises Shire provided accommodation
PREVIOUS MEETING REFERENCE:	Agenda Item 13.2 (Minute No. 727/2019) Ordinary Meeting of Council 17 December 2019

Summary

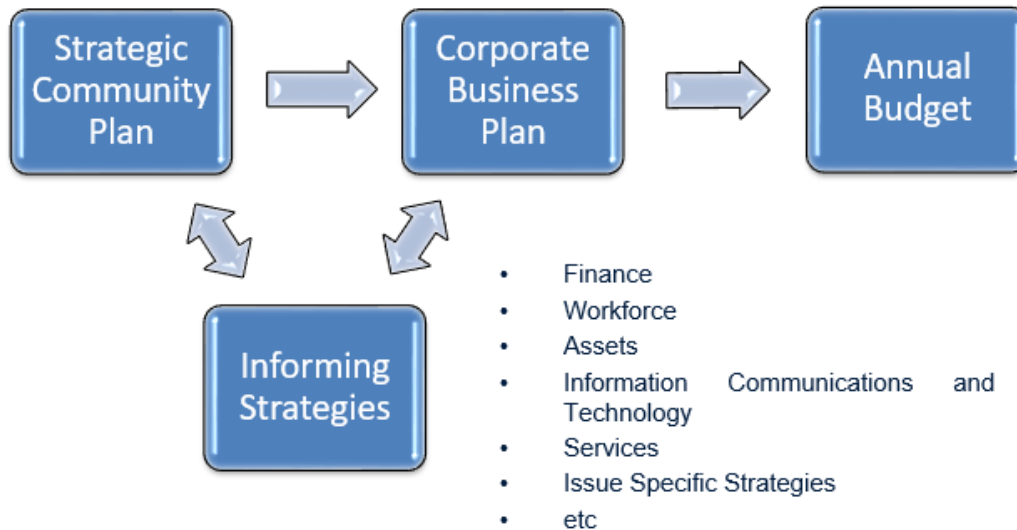
To establish the strategic direction for the provision of staff accommodation and to inform the Long Term Financial Plan (LTFP) over the next ten years, a Staff Accommodation Strategy (SAS) for 2020 – 2030 is presented for Council's consideration.

Background

A local government is to a plan for the future of the district in accordance with section 5.56 of the *Local Government Act 1995* through preparation of a Strategic Community Plan and Corporate Business Plan. A Corporate Business Plan is to '*develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning*'.

Developed alongside the staff growth forecasts, and to inform the LTFP, the SAS addresses future planning and sustainability of suitable accommodation needs for current and future Shire staff.

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At the December 2019 Ordinary Meeting of Council, Councilors endorsed that with respect to the Housing Strategy 2020-2025, Council:

1. Adopt the Housing Strategy 2020-2025; and
2. Endorses allowance for annual expenditure of \$3,177,920.00 over the next 5 year period, or an acceptable amount, in accordance with the Housing Strategy projections.

The annual expenditure outlined in the 2020-25 Housing Strategy was removed from the 2020/21 budget for reasons unknown to current Shire Officers. All maintenance during 2020/21 has been performed through Operational Budget allocations. Council endorsed a \$600,000 budget amendment in October 2020 to allow purchase of an executive style house in Tom Price. To date, this has not been achieved due to the type of accommodation being listed as poor quality.

To establish the strategic direction for the provision of staff accommodation and to inform the LTFP over the next ten years, consultants Moore Australia and Hatch RobertsDay were engaged to prepare a SAS. The consultant was required to:

1. Quantify and profile current staff and accommodation provision
Comprehensive analysis; evaluation and reporting of current staff's accommodation provision for Tom Price, Onslow and Paraburdoo.
2. Forecast staff growth and decline for each year from 2020 through to 2030
Comprehensive analysis, evaluation and reporting of staff forecast requirements for Tom Price, Onslow and Paraburdoo.
3. Determine the number and type of accommodation required to meet staff forecasts
Comprehensive analysis, evaluation and reporting of detailed accommodation demand requirement for Tom Price, Onslow and Paraburdoo.
4. Develop land and accommodation strategies to meet the identified demand
10 year Strategy for accommodation provision to meet forecast demand requirements.

Comment

The Shire has maintained a staff level of approximately 180 employees for the last five years, with staff located in various locations. Of the 100 properties that accommodate staff, 56 are owned by the Shire, 29 are Rio Tinto properties (managed by Sodexo), 13 are private rentals and 1 is rented from the Housing Authority. 46% of staff receive no assistance for housing from the Shire, they

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instead benefit from spousal accommodation provisions. Should a change of circumstances occur in the spouse's employer the Shire is not currently in a position to offer these staff accommodation, further exacerbating the housing provisions. Recruitment of staff continues to be impacted by limited or inadequate housing stock.

Quality accommodation when recruiting is important.

Three key demand drivers influence future staff accommodation growth:

1. Replacement of existing rental properties
Competition in the rental market impacts on the Shire's budget. If Council desire immunity from these cycles, replacing rental stock requires an additional 44 accommodation units to be constructed across the Shire.

During 2019/20, rentals cost \$714,448 (Onslow - \$219,276 [19 rentals], Tom Price - \$462,189 [31 rentals], Paraburdoo - \$32,983 [2 rentals]).

Rent relief is provided to staff who secure private rentals at the rates shown in the table below. With rental prices increasing across the Shire due to the upturn in the resources sector, this is not sufficient to cover rent per annum disincentivising staff from seeking private rentals, instead turning to the Shire for accommodation provision.

Town	Maximum Value	52 weeks
Onslow	\$550.00	\$28,600
Tom Price	\$600.00	\$31,200
Paraburdoo	\$400.00	\$20,800
Pannawonica	\$300.00	\$15,600

2. Accommodation for current vacant positions
21.5 FTE's were advertised at the time of compiling the Staff Growth Forecast report. Assuming a ratio of 100:115, 19 accommodation units would be required to fill the vacancies.
3. Accommodation for staff growth or changes in the percentage of housed staff.

Staff growth numbers were developed with the Executive Leadership Team and Managers by analysing current and potential future projects over the next five years and roles required during an integrated strategic planning and reporting workshop; additional full-time employees will be required.

CONFIDENTIAL ATTACHMENT 11.2C

Four main demand drivers for accommodation were identified:

1. Additional stock to accommodate existing vacant positions
2. Additional stock for staff growth forecasts
3. Replacing existing rentals with Shire owned properties
4. Additional stock to accommodate a higher percentage of staff

The SAS includes the following Guiding Principles regarding the Shire's policies:

- Invest in a system that will improve the efficiency and effectiveness of the Capital Works and Maintenance Programs
- Strengthen property management policies and procedures to provide fairness, equity and

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accountability

- Ensure housing refurbishments and new builds consider climate responsive design that better suits lifestyle needs, is comfortable to live, and achieves greater cost efficiencies
- Leverage Shire investment to support broader economic activity and improve lifestyle and amenity outcomes

Actions to make improvements to the Shire's processes include:

Property Management

1. Ensure staff have the Systems and Resources to properly manage the portfolio, including maintenance planning, asset and tenant information, and financial systems.
2. Progress a thorough Condition Assessment for all properties in Tom Price and Paraburdoo, particularly those earmarked for full and partial refurbishment.

The assessment should include a Statutory Compliance Register to adhere to relevant mandatory requirements such as hard-wired smoke alarms, RCD's, pool fences etc.

3. Prepare a Property Refurbishment Framework to guide and inform all future Capital Upgrades, for aging properties in Onslow, Tom Price and Paraburdoo.
4. Prepare and implement a Preventative Maintenance Program for all properties owned by the Shire, including new builds.
5. Prepare a Maintenance Budget that gives due consideration to all assets, including:
 - existing assets to be maintained
 - new builds / newer properties
 - existing assets to be upgraded or refurbished ('minimum maintenance') and
 - existing assets identified for inclusion in special maintenance programs and initiatives (such as Landscaping, Insulation etc.)

Lease Agreements

1. Reconsider the option to charge staff a minimal rent vs free rent, to address the risks and accountability. Consideration would be given to existing employee contracts with any current arrangements are grandfathered (exempting current staff from the changes).
2. Ensure current Lease Agreements are in place between the Shire and all tenants.
3. Establish regular reviews and inspections to ensure property conditions are adhered to.
4. Establish a policy to ensure a consistent and fair approach is in place, in relation to rent subsidies. Consider provisions for 'capped' rent, which could be subject to annual market review.
5. A recommended guide or 'capped' rent for each town, based on reasonable market rates and current market reviews, would help to manage issues of equity and fairness.

Acquisitions/Rental Replacement

1. Before making an acquisition, ensure there is a healthy mix of housing options to suit varying needs of staff in the medium and long term.

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2. If the land is vacant or a redevelop proposition, consider obtaining a high-level site plan concept from a building designer experienced in passive solar design, to better understand the site's suitability.
3. Monitor boom and bust cycle prices over the long-term and consider strategic purchases of land in suppressed markets (even if short-term need for acquisition is not apparent).

These Corporate Polies are further explored by town:

Tom Price & Paraburdo

Guiding Principles

- Upgrade / rebuild existing properties in poor condition
- Build portfolio to lessen reliance on rental properties
- Invest in larger + smaller dwellings to diversify housing stock in Town
- Explore Housing Benefit Initiatives (to encourage home ownership and balance out the rental market)

Strategic Opportunities

1. Continue dialogue with Gumala and other Not for Profit organisations to understand, support and possibly explore joint development opportunities on undeveloped land (i.e. along Warrara Street and other 'lazy-land' sites).
2. Explore partnership opportunities with the State Government to invest in commercial and residential opportunities to address the crisis for essential services and open up opportunities to diversify the local economy (Development WA, Department of Communities).

Shire Officers are exploring a 1000 lot development to future proof Tom Price from a town planning perspective. A land assessment undertaken in late 2020 sets out the infill potential in Tom Price which could be developed by State Agencies alone or in partnership with the Shire.

3. Partner with key stakeholders, such as Rio Tinto, to lobby and advocate for the necessary support structures and investment platforms that will progress the transition towards a diversified economy, and secure a future beyond Mining, for Tom Price and Paraburdo.
4. Invest in new community infrastructure in all areas of Town, to improve amenity, uplift property values and enhance livability (i.e. Area W).
5. Investigate housing suppliers that can provide relatively affordable 'kit homes' that can be orientated and slightly modified to suit local conditions.

Actions

1. Conduct a property condition assessment to thoroughly evaluate the condition of all properties in Tom Price and Paraburdo.
2. Establish a 'Refurbishment Framework' to guide and prioritise capital works.
3. Progress discussions with Gumala and the State Government to initiate Joint Development Opportunities for Tom Price, address the Town's housing shortage for essential workers, and build a more diverse and modern range of housing stock.

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4. Maintain open dialogue with key developers in Town, to understand building programs and leverage cost sharing opportunities, where possible.
5. Commence 'designated' works that will have an immediate and positive impact on property values and assist with cost-saving measures (i.e. landscaping, insulation, hot water systems).
6. Seek quotations and commence upgrades for properties in Tom Price and Paraburdoo, identified as 'high' and 'medium' priority (2 x properties p.a.)
7. Progress demolition and initiate a tender to construct new housing at 61 Pine Street Tom Price (explore 2 x 2 and 4 x 2).
8. Explore purchase opportunities for surplus housing stock with Rio Tinto, together with a position statement that demonstrates a joint commitment to grow and support a stronger and resilient Town.
9. Test 'lazy land' sites through concept designs and feasibilities.

Onslow

It is expected Onslow will require a larger staffing presence due to the high expectation of economic growth, and its flow-on effect, in the coming years.

Guiding Principles

- Invest in land now, while prices are still reasonable
- Consider larger dwellings to help attract more families to town (3 x 2 + 4 x 2)
- Explore Housing Benefit initiatives (to encourage home ownership and balance out the rental market)
- Invest in houses / block sizes that leverage the coastal location (i.e., larger block sizes, space for boats).

Strategic Opportunities

- Maintain open dialogue with the Department of Communities (Housing). Work closely with the Department to potentially pursue value for money acquisition opportunities, and possible joint development projects to achieve cost efficiencies.
- Continue to work with Development WA, to secure value for money land opportunities at Barrarda Estate.
- Continue to encourage more retirees to age in place within the Shire.
- As population grows, advocate for a stand-alone high school and improved health services.

Actions

1. Demolish and replace the Transit House (transition strategy required).
2. Demolish existing 3 x properties on Third Avenue and build new houses on Third Avenue.
3. Upgrade Heritage Property on 944 First Avenue.

Listed on the June 2019 Local Government Heritage Inventory with the management recommendation stating, 'encouragement should be given to the retention and conservation of the place' and 'photographically record prior to major development or demolition'.

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4. Progressively invest in vacant land, and aged properties within well sought-after locations (1 x lots of p.a.).
5. Undertake minimum refurbishments on long term strategic assets (waterfront properties).
6. In the medium to longer term, explore design ideas and cost implications to invest in a multi-density apartment development on the Shire's existing waterfront properties (First Avenue). The property could be utilised for short term contractors, visiting staff or Executive Accommodation.

The SAS provides valuable insight into current and speculated financial costs associated with providing suitable accommodation to Shire staff. The SAS will provide clear direction for Shire Officers to follow with the aim of achieving a level of accommodation that will not only provide staff with comfortable efficient accommodation but assist with attraction and retention of qualified staff.

Based on the recommendations of the SAS, the following program is proposed with a total of \$21,000,000 included in the LTFP from 2021/22 through 2031/32 inclusive. This investment will result in 26 accommodation gains (19 in Onslow while replacing current aged stock and 7 in Tom Price) and 12 refurbished properties (2 in Paraburdoo and 10 in Tom Price).

ATTACHMENT 11.2A

Rio Tinto have offered six residential dwellings requiring refurbishment in Tom Price for ~\$250,000 per property. Purchase and refurbishment of these properties is not feasible due to the considerable costs involved, with refurbishment being circa \$300,000 (excluding environmental improvements, roofing, landscaping), therefore new builds on land the Shire has tenure over, and where multiple dwellings per lot can be achieved, is recommended.

ATTACHMENT 11.2B

Consultation

Councillors
Executive Leadership Team
Middle Managers Group
Lease and Accommodation Officers
Moore Australia
Hatch RobertsDay

Statutory Environment

Local Government Act 1995
Section 5.56. Planning for the future

- (1) A local government is to plan for the future of the district.
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

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Financial Implications

\$21,000,000 has been included in the LTFP for staff housing acquisitions and refurbishments. This allocation, over a ten year period from 2021/22 – 2031/32, is as follows:

2021/22	\$	3,000,000
2022/23	\$	2,000,000
2023/24	\$	2,000,000
2024/25	\$	-
2025/26	\$	2,000,000
2026/27	\$	2,000,000
2027/28	\$	2,000,000
2028/29	\$	2,000,000
2029/30	\$	2,000,000
2030/31	\$	2,000,000
2031/32	\$	2,000,000

Strategic Implications

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

- Goal 05 Inspiring Governance
- Objective 1 Effective planning for the future
- Objective 4 Exemplary team and work environment

Risk Management

Risk has been assessed based on the Officers Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan
Financial	Unlikely (2)	Major (4)	Moderate (8)	\$1 million to \$5 million (per annum)	Inclusion in the LTFP and delivery of the proposed programme
Interruption to Service	Likely (4)	Extreme (5)	Extreme (20)	Indeterminate prolonged interruption of services, non-performance, > 1 month	Initiate actions as captured in the SAS

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The following Risk Matrix has been applied.

Risk Matrix						
Consequence Likelihood		Insignificant 1	Minor 2	Moderate 3	Major 4	Catastrophic 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 however, will be managed through internal processes and procedures.

Policy Implications

ENG13 Asset Management Policy

Voting Requirement

Simple Majority Required

Officers Recommendation

That with respect to Staff Accommodation Strategy 2020 – 2030, Council:

1. Adopt the Staff prepare a development plan for the Accommodation Strategy 2020 – 2030 **ATTACHMENT 11.2A** and
2. Request allocation of \$3,000,000 in the 2021/22 budget considerations, with works to be tendered, for Watson Drive Onslow
 - a. 2, 3 x 2 grouped dwellings at 76 Marrinup Way, Tom Price; and
 - b. Upgrades/refurbishment of 797 Kulai Street, Tom Price and 1104A Jabberup Place, Tom Price.

NOTE: Council was not able to achieve a quorum and therefore this item was unable to be considered.

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11.3 ASTROTOURISM INITIATIVES AGREEMENT

FILE REFERENCE:	ED01.01
AUTHOR'S NAME AND POSITION:	Benjamin Witkowski Manager Tourism and Economic Development
AUTHORISING OFFICER AND POSITION:	Megan Walsh Chief Operating Officer Airport and Tourism
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	3 February 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Not Applicable

Summary

In preparation for the Solar Eclipse taking place on 20 April 2023, a number of Astrotourism initiatives are being put in place by the Shire of Ashburton to build the profile of the region.

After a presentation to Council on 11 December 2020 regarding the importance of this eclipse, work commenced on securing a Service Level Agreement with Astrotourism WA to deliver several initiatives to the Shire of Ashburton's Astrotourism offer.

This report seeks Council support of:

1. The Service Level Agreement between Astrotourism WA and the Shire of Ashburton.
2. Authorise the Chief Executive Officer to execute the agreement.

Background

There will be a hybrid Solar Eclipse visible from Onslow on April 20, 2023. Hybrid Solar Eclipses are the rarest of all solar eclipses. They occur about every 10 years. The last three have only been visible over the ocean or hard-to-get to places and there has not been a hybrid eclipse seen from Australia in more than 1,000 years. This Hybrid Eclipse passes just 20km south of Exmouth with Onslow ideally located in the path to view the true total solar eclipse. This will bring a high level of visitation to the wider region, demonstrated in a survey completed by Tourism WA. In the survey, there was an indication that 50,000 people will visit Exmouth, the Gascoyne, and the Pilbara regions to witness the Eclipse.

A presentation was made to Council on 11 December 2020, to advise the importance of the Solar Eclipse to the Ashburton region and as an opportunity for the Shire of Ashburton to solidify its Astrotourism brand. This presentation included future economic, infrastructure and promotional activities that could be adopted in future to support the boom in Astrotourism in Western Australia.

Comment

ATTACHMENT 11.3

A future agreement and membership with Astrotourism WA will ensure the following benefits to the Ashburton region in regard to Astrotourism:

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- Assistance with the selection of two main locations in or near the Astrotourism town
 - o Onslow; TBC - possibly the Termite Mound Viewing Area
 - o Tom Price; TBC – possibly TV tower hill
- Astrotourism WA website promotion
- Digital Map listings
- Free community stargazing event
- Promotion through Australia's North West
- Education brochure/DL flyers
- Advocacy and engagement with State organisations
- Capacity building for visitor services providers in local communities – mentoring, information
- Support for interested regional enterprise to develop stargazing, astronomy and/or Aboriginal Astronomy (dream time interpretations) products and services
- Night sky quality measurements
- Lighting Management policy
- Advocacy for reduction in artificial light

Our membership with Astrotourism WA will be an invaluable resource, as it will start to promote Astrotourism in Ashburton from 2021 onwards. It will help educate the community and start to pique their interest leading up to the Eclipse. It will also put Onslow and Tom Price on the map for stargazing enthusiasts.

Once this agreement is in place and these initiatives begin to commence, it will open up the opportunity for the Shire of Ashburton to begin promoting a self-drive itinerary for Astrotourism.

The creation of an Astro-themed self-drive trail will take visitors through Ashburton and although the itinerary is still to be finalised, a potential route and points of interest could be:

Onslow: New stargazing destination (Termite Mound Viewing Area), Staircase to the Moon

Cheela Plains: Astrophotography showcase, station stay experience

Tom Price: New stargazing destination (TV Tower, Mt Nameless)

Karijini National Park: Karijini Eco Retreat Indigenous Star Walks, Remtrek Astronomy Tours and Dales Gorge

Auski Roadhouse: Indigenous Astro Tours

Millstream Chichester National Park: 'Stargazers Campground'

This would be presented as a digital campaign, as well as brochures/flyers with all information provided. This can be set up in time for the 2022 tourist season to promote Astrotourism in the area prior to the Eclipse.

Another key benefit of the membership with Astrotourism WA is the network and industry connections that can take place between Astrotourism enthusiasts, businesses and the Shire of Ashburton. Each of Barrow, Thevenard, Serrurier, Besserie and Airlie islands will have 100% viewing of the Solar Eclipse in 2023, making them identified opportunistic locations for the Shire of Ashburton to provide as stargazing destinations.

Consultation

Executive Leadership Team

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Statutory Environment

There are no known statutory impediments for this matter.

Financial Implications

There is already a budget allocation of \$10,000 in the 2020/21 budget, listed under:

5056 – Area Promotion General – GL 11301660 – Astro & Geo-tourism Initiatives

The proposed service level agreement will cost \$15,958 split across two financial years. The split amount of \$7,979 is covered already in the above-listed General Ledger (GL). The self-drive trail promotion will use the remainder of the budget in the GL mentioned above amounting to \$2,021.

This budget allocation will allow for the Service Level Agreement to be executed when ready.

Financial assistance will be required in future for the creation of a digital and physical promotion surrounding the Astrotourism self-drive trail.

Strategic Implications

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

Goal 02 Economic Prosperity
Objective 3 Well-managed Tourism

Economic and Tourism Development Strategy 2019

Goal 01 – Promote the Shire

Goal 02 – Encourage Infrastructure Development & Investment

Goal 03 – Promote Business Development

Risk Management

Risk has been assessed based on the Officers Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Reputation	Unlike (2)	Minor (2)	Low (4)	Substantiated, localised impact on community trust or low media item	Reputational risk is mitigated by following the officer's recommendation, which supports the Shire's Strategic Corporate Plan.
Financial Impact	Unlikely (2)	Minor (2)	Low (4)	\$10,000 - \$100,000	

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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 due to the minor impact of the activity.

Policy Implications

There are no known policy implications for this matter.

Voting Requirement

Simple Majority Required

Officers Recommendation and Council Decision

MINUTE: 47/2021

MOVED: Cr M Lynch

SECONDED: Cr D Diver

That with respect to the Astro-tourism Initiatives, Council:

- 1. Note and endorse initiatives being undertaken by the Shire of Ashburton for Astrotourism Development ATTACHMENT 11.3; and**
- 2. Authorise the Chief Executive Officer to engross the agreement.**

CARRIED 7/0

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11.4 PROPOSAL TO LEASE PORTION OF LOT 9001, ONSLOW AIRPORT – PHI INTERNATIONAL AUSTRALIA PTY LTD

FILE REFERENCE:	ONS.0016
AUTHOR'S NAME AND POSITION:	Janelle Fell Manager Land and Asset Compliance
AUTHORISING OFFICER AND POSITION:	Kenn Donohoe Chief Executive Officer
NAME OF APPLICANT/RESPONDENT:	PHI International Australia Pty Ltd
DATE REPORT WRITTEN:	31 March 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Agenda Item 8.1 (Minute No. 40/2021) – Special Meeting of Council 19 March 2021

Summary

Council endorsed the Chief Executive Officer to invoice PHI International Australia Pty Ltd (PHI) for six months for hangar and landside area costs at the Special Meeting of Council held on 19 March 2021. To ensure exclusive use of the hangar and (to be acquired) offices, a lease in accordance with section 3.58 of the *Local Government Act 1995* is presented for Council's consideration.

Background

PHI have recently been awarded a contract to provide offshore helicopter passenger transport services on the NW Cape for drilling campaign. Commencing 15 April 2021, PHI will operate their rotary wing operation from the Onslow Airport due to Onslow's attractive location which offers greater coverage for typical helicopter mission capacity and its proximity to the North West shelf.

Council endorsed expenditure on the following upgrades at the Onslow Airport after PHI identified compliance requirements for operations:

HSE

- Correct number/type of fire extinguishers, Fire alarm (air horn) system, Smoke alarms
- Emergency shower

Security

- All doors require to be security controlled (coded lock/swipe card) Offices
- 2 x demountable buildings (1 x 3 furnished office spaces, 1 x crib room with basic kitchen) hangar
- 50 Amp power upgrade for the 3-phase socket outlets (currently 20 amp)
- An appropriate outside, secure location for an air compressor installation
- Fence/gate across rear roller door to ensure security with roller door open

A letter of commitment binding PHI to pay the fees in advance by monthly installments was signed by PHI on 26 March 2021.

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Comment

To secure exclusive use of the hangar and (to be acquired) offices to be located on portion of Lot 9001 McAullay Road, Onslow, a lease is required to satisfy the requirements of section 3.58 of the *Local Government Act 1995*. The lease area is hachured yellow on the plan below.



The following terms are proposed in the lease:

Buildings	Hangar and offices including kitchenette
Term of Lease	Six (6) months
Further Term	One (1) month
Commencement Date	15 May 2021
Rent	\$106,796.82 including GST for six months, payable in monthly instalments of \$17,799.46 (inclusive of all outgoings excluding landing fees, apron parking fees, power and water)
Permitted Use	The operation of a base for helicopter operations and any services directly and necessarily related thereto or ancillary thereto

Additional terms and conditions including Airport safety and security requirements, are captured in the Lease Schedule.

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CONFIDENTIAL ATTACHMENT 11.4

To comply with section 3.58 of the *Local Government Act 1995*, a market rental valuation was obtained in March 2021. The Indicative Rental Amount for the area was assessed at \$112,000 per annum. Shire Officers have nearly secured this amount for the six month term indicating a higher rate could be supported for future lessees of the facility, subject to further market rental valuation influences.

Their drilling campaign is expected to be completed in six months however an additional one month extension is proposed to allow for a minimal campaign overrun. Should a further term be required beyond the lease term and further term, an updated market rental valuation will be procured to ensure the lease fee is reflective of the upgrades to be completed in April/May 2021.

Consultation

Executive Leadership Team
Chief Operating Officer – Airport and Tourism
PHI International

Statutory Environment

Local Government Act 1995

Section 3.58 sets out three means of disposing of property; under subsection (2)(a) by auction, or (b) but public tender, and under subsection (3) by the process referred to as ‘private treaty’, which is the process of this proposed lease. As required, should Council consent to disposing via lease, local public notice will be undertaken:

- a) Describing the property concerned; and
- b) Giving details of the proposed disposition; and
- c) Inviting submission to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and
- d) It considers any submission made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

Section 9.49A – Affixing the Common Seal states in part:

“9.49A. Execution of documents

- 1) *A document is duly executed by a local government if —*
 - a. *the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or*
 - b. *it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.*
- 2) *The common seal of a local government is not to be affixed to any document except as authorised by the local government.*
- 3) *The common seal of the local government is to be affixed to a document in the presence of —*
 - a. *the mayor or president; and*
 - b. *the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.”*

Financial Implications

The Lease will generate the income outlined in the March report, being \$17,799.47 excluding GST per month.

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Strategic Implications

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

- Goal 04 Distinctive and Well Serviced Places
- Goal 2 Economic prosperity
- Objective 1 Strong local economies

Risk Management

Risk has been assessed on the basis of the Officers Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan
Financial	Unlikely (2)	Moderate (3)	Moderate (6)	\$100,001 to \$1,000,000	The Letter of Commitment is legally binding, giving Council surety of the income generation for the Lease Term.

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 however, will be managed through internal processes and procedures.

Policy Implications

There are no known policy implications for this matter.

Voting Requirement

Simple Majority Required

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Officers Recommendation and Council Decision

MINUTE: 48/2021

MOVED: Cr D Diver

SECONDED: Cr L Rumble

That with respect to the Proposal to Lease Portion of Lot 9001, Onslow Airport – PHI International Australia Pty Ltd, Council:

- 1. Endorse lease of portion of Lot 9001 being the Airport Hangar and offices including kitchenette to PHI International Australia Pty Ltd for the purpose of the operation of a base for helicopter operations and any services directly and necessarily related thereto or ancillary thereto;**
- 2. Delegate authority to the Chief Executive Officer to negotiate the terms of the Lease Agreement with PHI International Australia Pty Ltd, generally in accordance with the terms outlined in this report and contained in the Draft Lease Agreement CONFIDENTIAL ATTACHMENT 11.4;**
- 3. Authorise the Chief Executive Officer to advertise the intention of the disposition for two weeks, in accordance with S3.58 of the *Local Government Act 1995* with any submissions referred back to Council; and**
- 4. Subject to no submissions being received from advertising of the proposed disposition, authorise the Shire President and the Chief Executive Officer to affix the Common Seal to, and execute the Lease Agreement between the Shire of Ashburton and PHI International Australia Pty Ltd.**

CARRIED 7/0

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11.5 MINING ACT 1978 TENEMENT REFERRALS – 1 FEBRUARY 2021 – 31 MARCH 2021

Declaration of Interest

Prior to consideration of this Agenda Item:

Cr Dias declared a financial Interest

Cr Rumble declared a financial interest

Cr Diver declared an indirect financial interest

Cr Lynch declared an indirect financial interest

Cr Gallanagh declared a financial interest

See item 6.2 for details of the interest declared.

RECORDED ON REGISTER GV07

FILE REFERENCE:	ED01
AUTHOR'S NAME AND POSITION:	Janelle Fell Manager Land and Asset Compliance
AUTHORISING OFFICER AND POSITION:	Kenn Donohoe Chief Executive Officer
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	31 March 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Agenda Item 12.4 (Minute No. 9/2021) Ordinary Meeting of Council 16 February 2021

Summary

The purpose of this report is to inform Council, for information, of Notices of Application for tenure under the *Mining Act 1978*.

Background

It is a requirement of the *Mining Regulations 1981* (Mining Regs) that application for mining tenements be in the prescribed form, being a Form 21, and lodged within 10 days of marking out (by fixing a post projecting at least 1 m above the ground along with other prescribed actions as per Division 1 – Marking out mining tenements of the Mining Regs).

A notice in the form of Form 21 is to be served on the Chief Executive Officer of the local government within 14 days of the lodging of the application to which the notice relates.

The period for lodgment of an objection concerning an application over private land is within 21 days of service of the Form 21 or the date notified on the Form 21, whichever is the longer period.

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Comment

Mining tenements prescribed under the *Mining Act 1978* include prospecting licences, exploration licences, retention licences, mining leases, general purpose leases and miscellaneous licences.

The Shire receives varying numbers of Form 21 Applications for Mining Tenement each month. Therefore, Shire Officers undertake an assessment of each Notification with any concerning Applications referred to Council. The due diligence assessment includes, but is not limited to:

- Affected Shire assets:
 - Will the licence generate traffic volumes that significantly affect Shire roads
 - Borrow pits
- Bushfire back burning areas
- Aboriginal heritage sites
- Special Control Areas as per the Local Planning Scheme No. 7
- Wittenoom a particular concern
- Areas used for public recreation
- Land identified for future use or development (landfill, tourism, etc.)
- Traffic management if operating near roads used by travelling public
- Identify landowner/pastoral company
- Identify Aboriginal groups
- European heritage sites – municipal inventory
- Proximity to:
 - Telecommunications
 - Electricity
 - Water
 - Gas pipelines
- General notification of possible permanent and temporary camps

Thirty-eight (38) Form 21 - Application for Mining Tenement notifications were received between 1 February 2021 and 31 March 2021.

ATTACHMENT 11.5

Exploration Licences

The Mining Regs imposes a limit on the amount of earth, soil, rock, stone, fluid or mineral bearing substance which may be excavated, extracted or removed to 1,000 tonnes in total. Excavation, extraction or removal in excess of this requires the Ministers written approval.

Exploration Licence notifications received include:

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Company	Application No.	Block/s (~80km2)	Locality
FMG Pilbara Pty Ltd	E 08/3338	85 BL	Uaroo 1
Avira Resources Ltd	E 08/3329	26 BL	Gregory
Rio Tinto Exploration Pty Limited	E 08/3335 E 47/4497 E 47/4502 E 47/4510 E 47/4515 E 47/4513	39 BL 20 BL 69 BL 70 BL 62 BL 47 BL	Cheela Plains Cheela Plains Toweranna Well Lefroy Well Quarrina Peawanah
Mallina Exploration Pty Ltd	E 47/4504	46 BL	Munni Creek
Forge Resources Swan Pty Ltd	E 47/4503 E 47/4506 E 47/4507	54 BL 96 BL 132 BL	Peawah
One Eight Two Capital Investments Pty Ltd	E 47/4508 E 47/4511 E 47/4514 E 47/4516	47 BL 62 BL 49 BL 70 BL	Coolawanyah

Mining Leases

The following kinds of mining operations are prescribed in the Mining Regs:

- open-cut operations;
- underground operations;
- quarrying operations;
- dredging operations;
- harvesting operations;
- scraping operations;
- leaching operations;
- tailing treatment operations;
- Construction activities incidental or conducive to mining operations, including the construction of plant, tailing storage facilities and overburden dumps.

Mining Lease notifications received are:

Company	Application No.	Hectares	Locality	Mineral
FMG Pilbara Pty Ltd	M 47/1613	1,005.00000	Gamajee	Iron Ore

Miscellaneous Licences

A miscellaneous licence may be granted for use of land for one or more of the following purposes:

- A road;
- A tramway;
- An aerial rope way;
- A pipeline;
- A powerline;
- A conveyor system;
- A tunnel;
- A bridge;
- Taking water;
- A search for groundwater;

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- Hydraulic reclamation and transport of tailings;
- An aerodrome;
- A meteorological station;
- A Sulphur dioxide monitoring station;
- A communications facility;
- A drainage channel;
- A pump station;
- A minesite accommodation facility;
- A bore;
- A bore field;
- A water management facility;
- A power generation and transmission facility;
- A storage or transportation facility for minerals or mineral concentrate;
- A minesite administration facility;
- A workshop and storage facility;
- A jetty.

Miscellaneous Licence notifications received are:

Company	Application No.	Hectares	Locality	Purpose/s
Pilbara Energy Company Pty Ltd (FMG)	L 08/239	630.00000	Uaroo	<ul style="list-style-type: none"> • A bore • A bore field • A communications facility • A pipeline • A power generation and transmission facility • A power line • A pump station • A water management facility • A workshop and storage facility • Taking water
	L 08/241 L 08/242 L 08/243 L 08/244	268.00000 634.00000 74.00000 95.00000	Uaroo Nanutarra	<ul style="list-style-type: none"> • A bore • A bore field • A communications facility • A pipeline • A power generation and transmission facility • A power line • A pump station • A road • A water management facility • A workshop and storage facility • Taking water
Orion Equities Limited	L 47/980	62.60000	Paulsens	<ul style="list-style-type: none"> • A bore • A bore field • A communications facility • A drainage channel

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Company	Application No.	Hectares	Locality	Purpose/s
				<ul style="list-style-type: none"> • A minesite administration facility • A pipeline • A road • A search for groundwater • A storage or transportation facility for minerals or mineral concentrate • A water management facility • A workshop and storage facility • Taking water
	L 47/981	465.04000	Paulsens	<ul style="list-style-type: none"> • A bore • A bore field • A communications facility • A conveyor system • A drainage channel • A minesite accommodation facility • A minesite administration facility • A pipeline • A power generation and transmission facility • A pump station • A road • A search for groundwater • A storage or transportation facility for minerals or mineral concentrate • A water management facility • A workshop and storage facility • Taking water
CV Extractives Pty Ltd	L 45/610	22.00000	Forrest / Mulga Downs	<ul style="list-style-type: none"> • A road
A.C.N 629 923 753 Pty Ltd (Mineral Resources)	L 08/231 L 08/232	4,893.57000 1,597.88000	Red Hill	<ul style="list-style-type: none"> • A bore • A bore field • A bridge • A communications facility • A drainage channel • A pipeline • A power generation and transmission facility • A power line • A pump station • A road

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Company	Application No.	Hectares	Locality	Purpose/s
				<ul style="list-style-type: none"> • A search for groundwater • A tunnel • A water management facility • Taking water
Pilbara Energy (Generation) Pty Ltd	L 08/246 L 08/245 L 08/240 L 08/238 L 08/235 L 08/236 L 08/237	2,207.00000 2,330.00000 4,798.00000 2,275.00000 4,109.00000 2,068.00000	Uaroo B2 Uaroo C1 Uaroo C2 Uaroo C3 Uaroo C4 Uaroo C5 Uaroo C6	<ul style="list-style-type: none"> • A bore • A bore field • A communications facility • A pipeline • A power generation and transmission facility • A power line • A pump station • A road • A water management facility • A workshop and storage facility • Taking water
AMCI (IO) Pty Ltd Aquila Steel Pty Ltd	L 08/247	392.09000	Kens Bore	<ul style="list-style-type: none"> • A bore • A bore field • A bridge • A communications facility • A drainage channel • A pipeline • A power generation and transmission facility • A power line • A pump station • A road • A search for groundwater • A tunnel • A water management facility • Taking water
Company	Application No.	Hectares	Locality	Purpose/s
Red Hill Iron Limited	L 08/248 L 08/249	440.00000 690.00000	Yarraloola Red Hill	<ul style="list-style-type: none"> • A road • A pipeline • A power line • A storage or transportation facility for minerals or mineral concentrate

Prospecting Licences

Prospecting licences are granted subject to conditions including: minerals of economic interest discovered be reported to the Minister; that no ground disturbing equipment be used unless a program of work has been approved by the Minister; that disturbances to the surface of the land the subject of the prospecting licence are made safe; and, the licence holder takes steps to prevent fire and damage to trees, property or livestock.

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A prospecting licence remains in force for a period of four years. This may be extended by the Minister for four years or, where retention status is nominated, a further period or periods of four years.

A prospecting licence will not be granted in respect of land subject to a mining tenement however, the holder of a prospecting licence has priority for grant of mining leases or general purpose leases.

Company	Application No.	Hectares	Locality
A.C.N. 629 923 753 Pty Ltd (Mineral Resources)	P 08/799	59.79000 HA	Ashburton

Miscellaneous Licences 08/248, 08/249, 08/231 and 08/232 and Prospecting Licence 08/799 encroach or utilise the Shire controlled and managed Red Hill Road. Applicants A.C.N. 629 923 753 Pty Ltd and Red Hill Iron Limited's proposals appear to be consistent with the Shire of Ashburton's strategic aims and objectives however, the Shire should be satisfied of the Public Road's use and maintenance while retaining unrestricted public access and safety of the roads. An Agreement for the design, construction and maintenance of Red Hill Road to include the following requirements (but not limited to) will be required:

- Establishing RAV rating required to inform width and integrity;
- Road design including specifications including signage etc;
- Shire inspection schedule;
- Construction materials and testing;
- Construction term;
- Maintenance term;
- Insurance; and
- A.C.N. 629 923 753 Pty Ltd and Red Hill Iron Limited being responsible for all costs (including Shire costs) associated with the preparation and implementation of the Agreement.

Alternatively, should the Shire be responsible for maintenance of Red Hill Road, an adequate fee will be required from A.C.N. 629 923 753 Pty Ltd and Red Hill Iron Limited to contribute to ongoing maintenance costs associated with use of the road.

Section 64B of the Mining Regulations requires the Notice of application for mining tenement be given to the holder of a pastoral lease, or other lease granted by or on behalf of the Crown for grazing purposes only.

Consultation

Executive Leadership Team

Statutory Environment

PART IV -- Mining tenements of the Mining Act 1978 sets out the grant and conditions of mining tenements in Western Australia.

Mining Regulations 1981

Regulation 64, Application for mining tenement of the Mining Regulations 1981 (Mining Regs) states that application for mining tenements must be in the prescribed form, being a Form 21 and copies served in accordance with 33 (Application for mining by permit holder), 41 (Application for prospecting licence), 56A (Special prospecting licences), 58 (Application for exploration licence), 70 (Special prospecting licence on an exploration licence), 74 (Application for mining lease), 85B

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(Special prospecting licence on a mining lease), 91 (Grant of miscellaneous licence) and 118 (Notice of application to be given to lessee of pastoral lease) of the *Mining Act 1978*.

Financial Implications

There are no known financial implications for this matter

Strategic Implications

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

Goal 02 Economic Prosperity
Objective 1 Strong local economies

Goal 04 Quality Services and Infrastructure
Objective 1 Quality public infrastructure

Risk Management

Risk has been assessed on the basis of the Officers Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Damage to natural environment – social performance responsibilities to the community at large	Rare (1)	Moderate (3)	Low (3)	Natural Environment (3) – contained, reversible impact managed by external agencies	Correspondence to all Applicants advising Shire's required considerations
Financial impact to assets (Red Hill Road)	Major (4)	Possible (3)	High (12)	Damage to road or liability for unsafe road	Where asset implications are identified, user agreements will be initiated

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 high due to potential litigation associated with unsafe roads. User agreements for maintenance or contribution to maintenance costs will see the roads maintained in a safe, trafficable state.

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Policy Implications

Town Planning Scheme No. 7
LPP – Transient Workforce Accommodation

Voting Requirement

Simple Majority Required

Officers Recommendation

That with respect to *Mining Act 1978* Tenement Referrals – 1 February 2021 - 31 March 2021, Council:

1. Acknowledge the contents of this report;
2. Advise the Department of Mines, Industry Regulation and Safety of the Shire of Ashburton's request to negotiate terms of agreement with A.C.N. 629 923 753 Pty Ltd in relation to Miscellaneous Licences 08/248, 08/249, 08/231 and 08/232 and, Red Hill Iron Limited in relation to Prospecting Licence 08/799; and
3. Negotiate terms of agreement with A.C.N. 629 923 753 Pty Ltd in relation to Miscellaneous Licences 08/248, 08/249, 08/231 and 08/232 and, Red Hill Iron Limited in relation to Prospecting Licence 08/799.

NOTE: Council was not able to achieve a quorum and therefore this item was unable to be considered.

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12. CORPORATE SERVICES REPORTS

12.1 MONTHLY FINANCIALS AND SCHEDULE OF ACCOUNTS PAID

FILE REFERENCE:	FM03
AUTHOR'S NAME AND POSITION:	Taryn Dayman Manger Finance and Administration
AUTHORISING OFFICER AND POSITION:	Nathan Cain Director Corporate Services
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	6 April 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author and authorising officer have no financial, proximity or impartiality interests in the proposal.
PREVIOUS MEETING REFERENCE:	Not Applicable

Summary

Council is required to produce a statement of financial activity and a schedule of accounts paid each month containing relevant information, as legislated.

The purpose of this report is to present the statement of financial activity for the month ended, and the schedule of accounts paid for, March 2021.

Council is requested to accept the statement of financial activity and confirm the schedule of accounts paid, as presented.

Background

The *Local Government (Financial Management) Regulations 1996* require Shire officers, monthly and within a prescribed timeframe, to:

1. Prepare financial reports covering prescribed information and present these to Council for acceptance; and
2. Prepare a schedule of payments made from the municipal fund and the trust fund and present this to Council for confirmation.

Comment

Financial Reporting

Shire officers have prepared the statement of financial activity and the schedule of accounts paid in accordance with legislative requirements.

The schedule of accounts paid, inclusive of credit card payments is attached.

CONFIDENTIAL ATTACHMENT 12.1A

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The monthly financial report has been prepared in accordance with legislative requirements as well as providing Council with additional supplementary information. The monthly financial report is inclusive of the following reports.

- Statement of Financial Activity for the period ending 31 March 2021.
- Capital Expense Report outlining the progress of capital initiatives on 31 March 2021.
- 2020-2021 Budget Amendments Register on 31 March 2021

ATTACHMENT 12.1B

Budget Variations

Part of the process in reviewing the monthly financial position involves the identification of new initiatives which may not have been previously budgeted for and have now emerged for Council consideration via a budget amendment.

These budget amendments are required to be authorised in advance by Council before expenditure is permitted to occur.

The following budget amendments have been identified:

GL/Job No.	General Ledger Description	Current Budget	Amendment	Revised Budget	Reason
041105	Capital Projects Minor Works	63,276	(45,082)	18,194	To procure the licence and implementation of Infocouncil Agendas and Minutes software.
042101	Computer Software	300,000	45,082	345,082	Licence, implementation, and annual help desk fees for the installation of Infocouncil software, recommended to improve the efficiency of the agenda management process.
AB2013	Tom Price Tennis Courts Redevelopment	1,570,000	(100,000)	1,470,000	The construction of the Tom Price Tennis Courts has concluded with underspend.
New	Onslow Bowling Green Replace Lighting	0	25,000	25,000	Lighting maintenance required for Onslow Bowling Green.
New	Paraburdoo Tennis Replace court lighting	0	30,000	30,000	Lighting maintenance required for Paraburdoo Tennis Courts.
EVI61	Passion of Pilbara	(130,000)	(40,000)	(90,000)	Increase to PoP funding is required to meet the demands of the ever-growing event. There is

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GL/Job No.	General Ledger Description	Current Budget	Amendment	Revised Budget	Reason
					also, currently a premium price being added to running events due to COVID impacts etc. There is a growing expectation for PoP as a major event and a desire to meet this expectation requires additional funds.
B364	TP Squash Courts	6,560	5,000	11,560	Tom Price Squash Courts annual electrical inspection has been completed switchboard circuit protection and upgrade AC feed circuit breakers are required

Infocouncil is a software solution helping to automate and streamline the creation of agendas and minutes. Shire officers have recognised cost and time efficiencies to be gained using this software, as well as greater search functionality and better record retention and reporting.

The Tom Price Tennis Court Redevelopment project has been completed underbudget by approximately \$100,000 resulting in a positive budget position. Several projects have been identified for inclusion in the current budget to be funded by these savings. These include;

- Onslow Building Lighting Replacement \$25,000 (new).
- Puraburdoo Tennis Court Lighting Replacement \$30,000 (new).
- Passion of Pilbara Grants & Contribution income (\$40,000) (decrease).
- Tom Price Squash Courts \$5,000 (increase).

A list of the budget amendments undertaken to date attached as part of the monthly financial report.

ATTACHMENT 12.1B

Consultation

Executive Leadership Team
Middle Management Team
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.

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

A local government is not to incur expenditure from the municipal fund for an additional purpose except where the expenditure is incurred before the budget is adopted (which it must then be

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included), is authorised in advance by Council resolution or is authorised in advance by the Shire President in an emergency.

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.

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.

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

Strategic Implications

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

Goal 05 Inspiring Governance

Objective 4 Exemplary team and work environment

Risk Management

Risk has been assessed based on the Officers Recommendation.

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

The following risk matrix has been applied.

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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 due to 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 Required

Officers Recommendation

That with respect to the Monthly Financials and Schedule of Accounts Paid, Council:

1. In accordance with the *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.), confirms the Schedule of Accounts Paid for March 2021 CONFIDENTIAL ATTACHMENT 12.1A;
2. In accordance with the *Local Government (Financial Management) Regulations 1996* regulation 34 Financial activity statement required each month (Act s. 6.4), accepts the Statement of Financial Activity, and associated reports, for February 2021 ATTACHMENT 12.1B; and
3. In accordance with the *Local Government Act 1995* section 6.8 (Expenditure from municipal fund not included in annual budget), authorise the following expenditure:
 - Software (Infocouncil) \$45,082.
 - Onslow Building Lighting Replacement \$25,000.
 - Paraburdoo Tennis Court Lighting Replacement \$30,000.

and approves the following budget amendments:

- a. Decrease Expenditure Capital Projects Minor Works by \$45,082, from \$63,276 to \$18,194;
- b. Increase Expenditure Account Computer Expenses by \$45,082, from \$300,000 to \$345,082.
- c. Decrease Tom Price Tennis Court Redevelopment by \$100,000, from \$1,570,000 to \$1,515,000
- d. Increase Onslow Building Lighting Replacement by \$25,000, from \$0 to \$25,000;
- e. Increase Paraburdoo Tennis Court Lighting Replacement by \$30,000, from \$0 to \$30,000;
- f. Decrease Income Account Passion of Pilbara by \$40,000, from \$130,000 to \$90,000; and
- g. Increase Expenditure Account Tom Price Squash Courts by \$5,000, from \$6,560 to

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\$11,560.

Council Decision

MINUTE: 49/2021

MOVED: Cr D Diver

SECONDED: Cr M Lynch

That with respect to the Monthly Financials and Schedule of Accounts Paid, Council:

- 1. In accordance with the 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.), confirms the Schedule of Accounts Paid for March 2021 CONFIDENTIAL ATTACHMENT 12.1A;**
- 2. In accordance with the Local Government (Financial Management) Regulations 1996 regulation 34 Financial activity statement required each month (Act s. 6.4), accepts the Statement of Financial Activity, and associated reports, for February 2021 ATTACHMENT 12.1B; and**
- 3. In accordance with the Local Government Act 1995 section 6.8 (Expenditure from municipal fund not included in annual budget), authorise the following expenditure:**
 - Software (Infocouncil) \$45,082.**
 - Onslow Building Lighting Replacement \$25,000.**
 - Paraburdoo Tennis Court Lighting Replacement \$30,000.**

and approves the following budget amendments:

- a. Decrease Expenditure Capital Projects Minor Works by \$45,082, from \$63,276 to \$18,194;**
- b. Increase Expenditure Account Computer Expenses by \$45,082, from \$300,000 to \$345,0820.**
- c. Decrease Tom Price Tennis Court Redevelopment by \$100,000, from \$1,570,000 to \$1,470,000.**
- d. Increase Onslow Building Lighting Replacement by \$25,000, from \$0 to \$25,000;**
- e. Increase Paraburdoo Tennis Court Lighting Replacement by \$30,000, from \$0 to \$30,000;**
- f. Decrease Income Account Passion of Pilbara by \$40,000, from \$130,000 to \$90,000; and**
- g. Increase Expenditure Account Tom Price Squash Courts by \$5,000, from \$6,560 to \$11,560.**

CARRIED BY ABSOLUTE MAJORITY 7/0

Reason for change – Amended due to a correction of figures.

**PUBLIC MINUTES - ORDINARY MEETING OF COUNCIL
20 APRIL 2021**

**12.2 ACCEPTANCE OF ANNUAL REPORT AND DETERMINATION OF DATE
FOR ANNUAL GENERAL MEETING OF ELECTORS**

FILE REFERENCE:	CM08
AUTHOR'S NAME AND POSITION:	Nathan Cain Director Corporate Services
AUTHORISING OFFICER AND POSITION:	Nathan Cain Director Corporate Services
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	6 April 2020
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Not Applicable

Summary

Council is required to hold a general meeting of electors once every financial year following Council acceptance of the annual report.

The purpose of this item is to outline the requirement for Council to produce and accept an annual report, and outline the processes and determinations associated with the holding of the annual general meeting of electors.

Council is requested to –

- Accept the 2019-2020 Annual Report, and
- Determine the date, time, and place of the 2020-2021 annual general meeting of electors.

Background

Each year a local government is required to produce an annual report and to hold an annual general meeting of electors.

The process undertaken for the collation of the 2019-2020 Annual Report has included –

- Shire officers conducting an analysis of the activities undertaken in their respective areas and providing commentary aligning with the Strategic Community Plan and Corporate Business Plan outcomes.
- Shire officers reviewing and modifying a draft of the annual report text and layout, as required.
- The 2019-2020 financial statements receiving audit sign-off.
- Council accepting the 2019-2020 Office of the Auditor General Opinion and 2019-2020 Annual Financial Report (March 2021).
- Presenting, for Council acceptance, the final version of the 2019-2020 Annual Report and determining the date, time, and place of the 2020-2021 annual general meeting of electors.

Comment

The annual report is to contain:

1. A report from the Mayor or President;
2. A report from the Chief Executive Officer;

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3. An overview of the plan for the future of the district, including major initiatives which are proposed to commence or to continue in the next financial year;
4. The financial report for the financial year;
5. Such information as may be prescribed in relation to the payments made to employees;
6. The auditor's report for the financial year;
7. A report on *Disability Services Act 1993* matters;
8. Details on complaints made associated with minor breaches; and
9. Other matters which may be prescribed.

The annual general meeting of electors is to be held not more than 56 days after Council accepts the annual report for the previous financial year. The Chief Executive Officer is to convene the annual general meeting of electors by providing at least 14 days' local public notice and providing each elected member at least 14 days' local public notice of the date, time, place and purpose of the meeting.

It is proposed Council hold the annual general meeting of electors following the May 2021 ordinary meeting of council, which will be within the legislated timeframe, should Council accept the 2019-2020 Annual Report.

ATTACHMENT 12.2

Consultation

Executive Leadership Team
Manager Media and Communications

Statutory Environment

Local Government Act 1995

Section 5.53 (Annual reports) requires a local government to prepare an annual report for each financial year and provides direction of the minimum content to be included.

Section 5.54 (Acceptance of annual reports) requires Council to accept the annual report by no later than 31 December after the end of the financial year to which the annual report refers. If the auditor's report is not available in time for the financial year to be accepted by 31 December after the relevant financial year, the annual report is to be accepted no later than two months after the auditor's report became available. The auditor's report is dated 23 February 2021 and is deemed to have been available as at this date.

Section 5.27 (Electors' general meetings) requires a general meeting of electors to be held once every financial year. The previous annual meeting of electors was held on 11 February 2020 in Paraburdoo. A general meeting is to be held not more than 56 days after the acceptance of the annual report for the previous financial year.

Section 5.29 (Convening electors' meetings) requires the Chief Executive Officer to convene an electors' meeting by giving at least 14 days' local public notice and to provide each council member at least 14 days' notice, and to advise the date, time, place, and purpose of the meeting. Common practice is for council to provide this direction to the Chief Executive Officer, via resolution. The matters to be discussed at the annual general meeting of electors are legislated and are, firstly, the contents of the annual report for the previous financial year and then any other general business.

It is proposed the annual general meeting of electors, to consider the contents of the 2019-2020 Annual Report and any other general business, be held on 18 May 2021 commencing 4:00pm at the Onslow Multi-purpose Centre, Cnr Hooley Avenue and McGrath Avenue, Onslow.

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Financial Implications

Expenses associated with advertising and hosting the annual meeting of electors, and producing the annual report are considered minor and are incorporated in the annual budget.

Strategic Implications

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

- Goal 05 Inspiring Governance
- Objective 3 Council leadership
- Objective 4 Exemplary team and work environment

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 (Controls or Treatment proposed)
The annual report not accepted in the legislated timeframe.	Unlikely (2)	Minor (2)	Low (4)	Compliance – Some temporary non compliances	Ensure Council is aware of the legislated requirements. Ensure annual report is compliant and of a suitable quality for acceptance.
The annual meeting of electors not held in the legislated timeframe.	Unlikely (2)	Minor (2)	Low (4)	Compliance – Some temporary non compliances	Ensure date set for annual meeting of electors is compliant. Ensure Council is aware of the legislated requirements.

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 due to the routine nature of these annual requirements.

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Policy Implications

There are no known policy implications for this matter.

Voting Requirement

Absolute Majority Required

Officers Recommendation and Council Decision

MINUTE: 50/2021

MOVED: Cr D Diver

SECONDED: Cr M Lynch

That with respect to the Acceptance of the Annual Report and Determination of Date for Annual General Meeting of Electors, Council:

- 1. In accordance with the *Local Government Act 1995* section 5.54 (Acceptance of annual reports), accepts the 2019-2020 Annual Report (ATTACHMENT 12.2); and**
- 2. In accordance with the *Local Government Act 1995* section 5.27 (Electors' general meetings), sets the date, time, place, and purpose of the 2020-2021 annual general meeting of electors to be 18 May 2021 commencing 4:00pm at the Onslow Multi-purpose Centre, Cnr Hooley Avenue and McGrath Avenue, Onslow. The purpose of the annual general meeting of electors is to be:**
 - a. Contents of the 2019-2020 Annual Report; and**
 - b. Any other general business.**

CARRIED BY ABSOLUTE MAJORITY 7/0

1.18pm Kenn Donohoe left the room.

Council Decision

Minute: 51/2021

MOVED: Cr D Diver

SECONDED: Cr L Rumble

That Council in accordance with CI 17.1(1) of the Shire of Ashburton Standing Orders Local Law 2012 Suspend Standing Orders at 1.20pm to discuss this item.

CARRIED 7/0

Council Decision

Minute: 52/2021

MOVED: Cr M Lynch

SECONDED: Cr M Gallanagh

That Council resume Standing Orders at 1.26pm.

CARRIED 7/0

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**12.3 ADOPTION OF STANDARDS FOR CHIEF EXECUTIVE OFFICER
RECRUITMENT, PERFORMANCE AND TERMINATION**

FILE REFERENCE:	GV20
AUTHOR'S NAME AND POSITION:	Danielle Hurstfield Manager Governance
AUTHORISING OFFICER AND POSITION:	Nathan Cain Director Corporate Services
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	30 March 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Not Applicable

Summary

Council is required to adopt minimum standards covering the recruitment, selection, performance review and early termination of the Chief Executive Officer.

The purpose of this item is to present the Model Chief Executive Officer Standards, which provide a framework for local governments to select, review the performance of, and terminate early, if required, the Chief Executive Officer, in accordance with the principles of merit, probity, fairness, equity, and transparency.

Council is requested to adopt the Model Chief Executive Officer Standards (**ATTACHMENT 12.3A**).

Background

On 14 March 2019, the Local Government Minister introduced the *Local Government Legislation Bill 2019* to Parliament.

The focus of this Bill was on better equipping council members to undertake their role and to provide greater transparency and accountability to the community.

The Bill was developed in consultation with the local government sector and the community and introduced a requirement for local governments to adopt minimum standards in relation to the recruitment, selection, performance review and early termination, if required, of the Chief Executive Officer.

On 3 February 2021, the *Local Government (Administration) Amendment Regulations 2021* were implemented, and these bring into effect section 22 of the Amendment Act by introducing mandatory minimum standards to cover the recruitment, selection, performance review and early termination, if required, of local government Chief Executive Officers.

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The Model Chief Executive Officer Standards (**ATTACHMENT 12.3A**) were developed with input from the Public Sector Commission and the local government sector and apply the principles of merit, probity, equity, and transparency.

Key features of the Chief Executive Officer Standards Regulations include the requirement for Council to:

- Establish a selection panel comprised of council members and at least one independent person to conduct the recruitment and selection process for the position of Chief Executive Officer;
- Establish a performance review process by agreement between Council and the Chief Executive Officer; and
- Conduct a recruitment and selection process where an incumbent Chief Executive Officer has held the position for a period of ten or more consecutive years on expiry of the Chief Executive Officer's contract.

In addition, requirements for advertising vacant Chief Executive Officer positions have been updated to align with amendments to state-wide public notice provisions.

Councils will be required to have prepared and adopted the Model Standards within three months of the Regulations coming into effect (by 3 May 2021). Until such time as a local government adopts the Model Standards (with or without minor permitted variations), the Regulations apply.

The Department of Local Government, Sport and Cultural Industries (DLGSC) has produced the *Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination (February 2021)* to assist elected members better understand the new requirements which is available at www.dlgsc.wa.gov.au.

The guidelines outline the recommended practice for Councils in undertaking these processes and will assist in meeting the mandatory minimum standards prescribed in the *Local Government (Administration) Amendment Regulations 2021*.

Comment

Shire officers have reviewed the Model Standards and are of the opinion they are suitable to be adopted without modification.

Council may choose to make minor permitted variations.

The expiry date of the contract for the current Chief Executive Officer is not impacted by the recent legislative changes.

Consultation

Western Australian Local Government Association
Department of Local Government, Sport and Cultural Industries
Manager Human Resources

Statutory Environment

Local Government Act 1995
Section 2.7 (Role of council)

Council is required to govern the local government's affairs and is responsible for the performance of the local government functions. One of the fundamental roles of Council is the employment of the Chief Executive Officer, who is responsible for implementing Council's strategic vision and leading the local government administration.

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Section 5.39B (Adoption of model standards)

Council is required, by 3 May 2021, to have prepared and adopted (by absolute majority) the standards to be observed, which incorporate the model standards, and must amend any previously adopted standards to incorporate the amendments. These new standards are then to be published to the Shire's website.

Local Government (Administration) Regulations 1996

Regulation 18FA (Model standards for Chief Executive Officer recruitment, performance, and termination)

Council is required to observe the model standards in relation to the recruitment, review of performance, and termination of the Chief Executive Officer.

Financial Implications

There are no known financial implications for this matter.

Strategic Implications

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

- Goal 05 Inspiring Governance
- Objective 3 Council leadership
- Objective 4 Exemplary team and work environment

Risk Management

Risk has been assessed based on the Officers Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council not adopting the model standards within the prescribed timeframe.	Unlikely (2)	Minor (2)	Low (4)	Compliance – Some temporary non compliances	Ensure Council is aware of the legislate requirements.

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 due to the required compliance nature of the amendments.

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Policy Implications

ELM26 Chief Executive Officer Performance Review

This Council Policy stipulates the performance of the Chief Executive Officer is to be reviewed by the 'Shire of Ashburton Chief Executive Officer Performance Review Occasional Committee' at least once in relation to each year of employment using the performance criteria contained in the Chief Executive Officer's position description. This Policy has been reviewed against, and is compliant with, the legislative amendments.

Voting Requirement

Absolute Majority Required

Officers Recommendation and Council Decision

MINUTE: 53/2021

MOVED: Cr D Diver

SECONDED: Cr M Lynch

That with respect to adoption of standards for the Chief Executive Officer recruitment, performance and termination, Council, in accordance with the *Local Government Act 1995* Section 5.39B (Adoption of model standards), adopts the Model Chief Executive Officer Standards (ATTACHMENT 12.3a), without modification

CARRIED BY ABSOLUTE MAJORITY 7/0

1.28 Kenn Donohoe returned to the meeting.

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**12.4 CODE OF CONDUCT FOR COUNCIL MEMBERS, COMMITTEE MEMBERS
AND CANDIDATES**

FILE REFERENCE:	GV20
AUTHOR'S NAME AND POSITION:	Danielle Hurstfield Manager Governance
AUTHORISING OFFICER AND POSITION:	Nathan Cain Director Corporate Services
NAME OF APPLICANT/ RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	30 March 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Not Applicable

Summary

Council is required to adopt a mandatory code of conduct for council members, committee members and candidates.

The purpose of this item is to present the Code of Conduct, which guides decisions, actions, and behaviours for council members, committee members and candidates, as a separate code to the code of conduct applied for employees, volunteers and contractors.

Council is requested to adopt the Code of Conduct for Council Members, Committee Members and Candidates (**ATTACHMENT 12.4A**).

Background

On 14 March 2019, the Local Government Minister introduced the Local Government Legislation Bill 2019 to Parliament.

The focus of this Bill was on better equipping council members to undertake their role and to provide greater transparency and accountability to the community.

On 3 February 2021, the *Local Government (Code of Conduct) Regulations 2021* (Code Regulations) were implemented, and these bring into effect sections 48-51 of the Amendment Act by introducing a mandatory code of conduct for council members, committee members and candidates.

ATTACHMENT 12.4A

The Code Regulations provide for:

- overarching principles to guide behaviour;
- behaviours which are managed by local governments; and
- rules of conduct breaches which are considered by the Standards Panel.

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The purpose of the Model Code is to guide decisions, actions, and behaviours. It also recognises there is a need for a separate code for council members, committee members and candidates to clearly reflect community expectations of behaviour and ensure consistency between local governments.

Each local government was previously required to develop their own code of conduct and manage behaviour in accordance with this code. These regulations replace these individual codes by introducing a Model Code which applies to all members and candidates. It also provides for a high-level process to deal with complaints to ensure a more consistent approach between local governments and across the sector. The intent of the Model Code is to address behaviour through education rather than sanctions.

If a council member does not comply with any action required by the local government following a breach of the Model Code, the local government may refer the matter to the Standards Panel as an alleged contravention of a rule of conduct. The Standards Panel has the authority to make binding decisions to resolve minor breaches.

Councils are required to have prepared and adopted the Model Code within three months of the Regulations coming into effect (by 3 May 2021). In adopting the Model Code, local governments can include additional behaviours under Division 3 provided these are consistent with the Model Code.

The Department of Local Government, Sport and Cultural Industries (DLGSC) has produced the Guidelines on the *Model Code of Conduct for Council Members, Committee Members and Candidates (March 2021)* to assist elected members better understand the new requirements.

ATTACHMENT 12.4B

Comment

Shire officers have reviewed the Model Code and are of the opinion they are suitable to be adopted, without modification.

Council may choose to make minor permitted variations if they are not inconsistent with the default standards in the regulations.

Elected members will recall the detail of the Model Code was workshopped at the March 2021 Council workshop.

Elected members sought to include a minor amendment by inserting 'unreasonably' at Clause 8, as shown below:

8. *Personal integrity*

- (1) A council member, committee member or candidate –
 - (a) must ensure their use of social media and other forms of communication complies with this code; and
 - (b) must only publish material which is factually correct.
- (2) A council member or committee member –
 - (a) must not be unreasonably impaired by alcohol or drugs in the performance of their duties; and
 - (b) must comply with all policies, procedures, and resolutions of the local government.

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Shire officers sought advice from the Department of Local Government, Sport and Cultural Industries and the Western Australian Local Government Association to ensure the proposed amendment was consistent with the intent.

Advice from both organisations suggested the word “unreasonably” should not be added as there is no intent for this to occur and it is considered, by them, this would contribute to difficulty in determining or assessing whether a person is in breach of the provision.

As a result of this advice, the proposed Model Code of Conduct included for adoption does not incorporate the amendment.

Consultation

Elected Members
Department of Local Government
Western Australian Local Government Association

Statutory Environment

Local Government Act 1995
Section 2.7 (Role of council)

Council is required to govern the local government’s affairs and is responsible for the performance of the local government functions. One of the fundamental roles of Council is the employment of the Chief Executive Officer, who is responsible for implementing Council’s strategic vision and leading the local government administration.

Section 5.104 (Adoption of model code of conduct)

Council is required, by 3 May 2021, to have prepared and adopted (by absolute majority) a code of conduct to be observed by council members, committee members and candidates which incorporate the model standards and must amend any previously adopted standards to incorporate the amendments. This new code of conduct is then to be published to the Shire’s website.

Financial Implications

There are no known financial implications for this matter.

Strategic Implications

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

Goal 05 Inspiring Governance
Objective 3 Council leadership
Objective 4 Exemplary team and work environment

Risk Management

Risk has been assessed based on the Officers Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council not adopting the model code of conduct within the prescribed timeframe.	Unlikely (2)	Minor (2)	Low (4)	Compliance – Some temporary non compliances	Ensure Council is aware of the legislate requirements.

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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 due to the required compliance nature of the amendments.

Policy Implications

ELM04 Code of Conduct

This Council Policy provides council members, committee members, employees, volunteers, and contractors in the Shire of Ashburton with consistent guidelines for an acceptable standard of professional conduct. Shire officers have reviewed this policy in line with the recent amendments.

Voting Requirement

Absolute Majority Required

Officers Recommendation and Council Decision

MINUTE: 54/2021

MOVED: Cr D Diver

SECONDED: Cr M Lynch

That with respect to the adoption of a Code of Conduct for Council Members, Committee Members and Candidates, Council, in accordance with the *Local Government Act 1995* section 5.104 (Adoption of model code of conduct), adopt the Model Code of Conduct for Council Members, Committee Members and Candidates (ATTACHMENT 12.4A), without modification.

CARRIED BY ABSOLUTE MAJORITY 7/0

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20 APRIL 2021**

**12.5 POLICY REVIEW DUE TO LOCAL GOVERNMENT ACT 1995
AMENDMENTS**

FILE REFERENCE:	GV20
AUTHOR'S NAME AND POSITION:	Danielle Hurstfield Manager Governance
AUTHORISING OFFICER AND POSITION:	Nathan Cain Director Corporate Services
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	26 March 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Not Applicable

Summary

Council is required to review and adopt changes to several policies resulting from legislative changes.

The purpose of this item is to present a summary of recommended changes for the following Council policies:

- ELM04 – Code of Conduct;
- ELM05 – Councillor Training / Conference Attendance;
- ELM06 – Councillor Accommodation, Travel, and Incidental Expenses on Council Business;
- ELM24 – Appointment of an Acting Chief Executive Officer;
- ELM26 – Chief Executive Officer Performance Review; and
- EMP11 – Senior Employees.

Council is requested to adopt recommended changes to the above Council policies resulting from legislative changes.

Background

On 14 March 2019, the Local Government Minister introduced the Local Government Legislation Bill 2019 to Parliament.

The focus of this Bill was on better equipping council members to undertake their role and to provide greater transparency and accountability to the community.

Resulting from the Bill was a raft of changes to the *Local Government Act 1995* including, amongst other matters, items regarding:

- Elected member training requirements;
- Treatment of gifts;
- Code of conduct requirements;
- Powers of the Standards Panel;

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- Best practice standards for Chief Executive Officer recruitment, performance review and early termination, if required; and
- Greater transparency through increased levels of information being online.

Councils are required to have reviewed and adopted amendments to Council policies impacted by recent legislative changes within three months of the legislation changes coming into effect (by 3 May 2021).

Comment

Shire officers have reviewed Council policies against the recent changes to legislation and provide the following observations, in summary form, and recommendations:

ELM04 Code of Conduct

Amendments to the *Local Government Act 1995* section 5.104 (Adoption of model code of conduct) requires each council to have prepared and adopted the Model Code within three months of the Regulations coming into effect (by 3 May 2021).

Shire officers recommend Council:

- Retain the policy until such time as a renewed policy for Employee, Volunteer, and Contractor Code of Conduct is prepared and adopted.
- Note the requirement to have prepared and adopted the *Code of Conduct for Councillors, Committee Members and Candidates* which replaces the Councillor component of *ELM04 Code of Conduct*.

ELM05 Councillor Training / Conference Attendance

Amendments to the *Local Government Act 1995* section 5.128 (Policy for continuing professional development) requires each council to have prepared and adopted a policy in relation to the continuing professional development of council members.

Shire officers recommend Council:

- Amend the title to *Continuing professional development – Elected members* to reflect the section of legislation which is the head of power for the policy.
- Incorporate requirements regarding training for elected members.
- Incorporate requirements for reporting on the continuing professional development of elected members.
- Incorporate provisioning for the Chief Executive Officer to approve training requests based on agreed and defined criteria.

ELM06 Councillor accommodation, travel, and incidental expenses whilst on Council business

Amendments to the *Local Government Act 1995* section 5.128 (Policy for continuing professional development) encompass several matters, included within *ELM06 Councillor accommodation, travel, and incidental expenses whilst on Council business*, which are required to be included within the policy in relation to the continuing professional development of council members.

Shire officers recommend Council:

- Incorporate requirements for Councillor accommodation, travel, and incidental expenses whilst on Council business into a new version of *ELM05 Continuing professional development – Elected members* (as proposed).
- Remove Council policy *ELM06 Councillor accommodation, travel, and incidental expenses whilst on Council business*.

ELM24 Appointment of an Acting Chief Executive Officer

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Council is required to develop and implement a policy which outlines the arrangements to temporarily replace the Chief Executive Officer for any period less than twelve months, for example, when the Chief Executive Officer is on planned or unplanned leave. The requirement to do so is contained within recent changes to the *Local Government Act 1995* section 5.39C (Policy for temporary employment or appointment of Chief Executive Officer).

Shire officers recommend Council:

- Incorporate requirements regarding appointing an Acting Chief Executive Officer.
- Amend Delegation of Authority 1.1.32 Appointment of Acting Chief Executive Officer to reflect legislative requirements.

ELM26 Chief Executive Officer performance review

Amendments to the *Local Government Act 1995* section 5.39A (Model standards for Chief Executive Officer recruitment, performance, and termination) and associated Regulations prescribe how Chief Executive Officer performance reviews are to be conducted.

Shire officers recommend Council:

- Incorporate requirements regarding the Chief Executive Officer performance review.

EMP11 Senior employees

Senior employees may be designated as such within the *Local Government Act 1995* section 5.37 (Senior employees). The designation of which position is a senior employee is at the discretion of Council and the recruitment of employees still resides with the Chief Executive Officer. The key difference between a senior employee and any other employee is the process of recruitment and termination. Recent legislative changes place additional requirements on the recruitment and termination of senior employees.

Shire officers recommend Council:

- Directors be classified as senior employees.
- Designate the Chief Executive Officer as a senior employee.

All Council policies and delegations.

Consultation

Elected members
Executive Leadership Team
Manager Human Resources

Statutory Environment

Local Government Act 1995
Section 2.7 (Role of council)

Council is required to govern the local government's affairs and is responsible for the performance of the local government functions. One of the fundamental roles of Council is the employment of the Chief Executive Officer, who is responsible for implementing Council's strategic vision and leading the local government administration.

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Section 5.36 (Local government employees)

Council is required to employ the Chief Executive Officer, having undertaken required due diligence, and is to rely upon the Chief Executive Officer to employ all other employees, who is also required to have undertaken due diligence.

Section 5.37 (Senior employees)

Council may, at its discretion, designate employees or persons belonging to a class of employee to be senior employees. The designation of an employee as a senior employee provides additional requirements for the recruitment and termination of such employees.

Section 5.39A (Model standards for Chief Executive Officer recruitment, performance, and termination)

This section of the *Local Government Act 1995* notes there is to be a model standard regarding certain matters associated with the Chief Executive Officer.

Section 5.39B (Adoption of model standards)

Council is required, by 3 May 2021, to have prepared and adopted (by absolute majority) the standards to be observed which incorporate the model standards and must amend any previously adopted standards to incorporate the amendments. These new standards are then to be published to the Shire's website.

Section 5.39C (Policy for temporary employment or appointment of Chief Executive Officer)

Council is required to have a policy setting out the process to be followed regarding the employment of a person in the position of Chief Executive Officer for a period not exceeding one year and the appointment of an employee to act in the position of Chief Executive Officer for a term not exceeding one year.

Section 5.104 (Adoption of model code of conduct)

Council is required, by 3 May 2021, to have prepared and adopted (by absolute majority) a code of conduct to be observed by council members, committee members and candidates which incorporate the model standards and must amend any previously adopted standards to incorporate the amendments. This new code of conduct is then to be published to the Shire's website.

Section 5.128 (Policy for continuing professional development)

Council is required to have prepared and adopted (by absolute majority) a policy in relation to the continuing professional development of council members. The policy is to incorporate any prescribed requirements. The policy is then to be published to the Shire's website.

Local Government (Administration) Regulations 1996

Division 3 – Standards for review of performance of Chief Executive Officers

Council is required to observe standards in relation to the process of the review of the performance of the Chief Executive Officer, which is to be conducted in a comprehensive, impartial, and transparent manner.

Financial Implications

Actions associated within the proposed amendments are contained within Council's annual budget and long-term financial planning documents.

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Strategic Implications

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

- Goal 05 Inspiring Governance
Objective 3 Council leadership
Objective 4 Exemplary team and work environment

Risk Management

Risk has been assessed based on the Officers Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council not adopting the recommended changes to existing Council policies.	Unlikely (2)	Minor (2)	Low (4)	Compliance – Some temporary non compliances.	Ensure Council is aware of the legislative requirements.

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 due to the required compliance nature of the recommendations.

Policy Implications

The following Council policies are recommended for modification / removal:

- ELM04 – Code of Conduct;
- ELM05 – Councillor Training / Conference Attendance;
- ELM06 Councillor Accommodation, Travel, and Incidental Expenses on Council Business;
- ELM24 – Appointment of an Acting Chief Executive Officer;
- ELM26 – Chief Executive Officer Performance Review; and
- EMP11 – Senior Employees.

The summary for each modification / removal is contained within the *Comment* section of this agenda item.

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The modified Council policies are as attached.

Voting Requirement
Absolute Majority Required

Officers Recommendation and Council Decision

MINUTE: 55/2021

MOVED: Cr D Diver

SECONDED: Cr M Lynch

That with respect to the Policy Review due to *Local Government Act 1995* Amendments, Council:

1. In accordance with the *Local Government Act 1995* section 5.104 (Adoption of model code of conduct) adopts Council policy *ELM04 Code of Conduct*, as modified ATTACHMENT 12.5A;
2. In accordance with the *Local Government Act 1995* section 5.128 (Policy for continuing professional development) adopts Council policy *ELM05 Continuing professional development – Elected members*, as modified ATTACHMENT 12.5B;
3. In accordance with the *Local Government Act 1995* section 5.128 (Policy for continuing professional development) removes Council policy *ELM06 Councillor accommodation, travel, and incidental expenses whilst on Council business*; ATTACHMENT 12.5C;
4. In accordance with the *Local Government Act 1995* section 5.39C (Policy for temporary employment or appointment of Chief Executive Officer) adopts Council policy *ELM24 Appointment of an Acting Chief Executive Officer*, as modified and attached, and adopts Council Delegation of Authority 1.1.32 *Appointment of Acting Chief Executive Officer*, as modified ATTACHMENT 12.5D;
5. In accordance with the *Local Government Act 1995* section 5.39A (Model standards for Chief Executive Officer recruitment, performance, and termination), and associated Regulations, adopts Council policy *ELM26 Chief Executive Officer performance review*, as modified ATTACHMENT 12.5E; and

In accordance with the *Local Government Act 1995* section 5.37 (Senior employees) adopts Council policy *EMP11 Senior employee*, as modified ATTACHMENT 12.5F.

CARRIED BY ABSOLUTE MAJORITY 7/0

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12.6 EXTRAORDINARY VACANCY AND EXTRAORDINARY ELECTION – TOM PRICE WARD

FILE REFERENCE:	GV04
AUTHOR'S NAME AND POSITION:	Nathan Cain Director Corporate Services
AUTHORISING OFFICER AND POSITION:	Kenn Donohoe Chief Executive Officer
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	6 April 2020
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Not Applicable

Summary

Councillor Peter Foster formally resigned from Council on 1 April 2021, thus creating an extraordinary vacancy on Council.

The purpose of this report is to progress the filling of this extraordinary vacancy on Council.

Council is requested to support an application to the Electoral Commissioner, and subsequent granting, for the vacancy to remain unfilled until the ordinary elections in October 2021 and, failing a successful application and / or non-Council support, to set the extraordinary election meeting date to be 17 July 2021.

Background

On 1 April 2021 Councillor Peter Foster provided the following advisement to the Shire President and Chief Executive Officer:

"Today the WAEC at 3pm "pressed the button" to determine those elected to represent South West, Agricultural and Mining and Pastoral which I was contesting for WA Labor.

As most expected, I was confirmed as elected (3rd of 6 positions) to the Legislative Council for WA Labor, for the 41st Parliament, Council session to commence 22nd May 2021.

As the result is now confirmed, and I am therefore, MLC-elect, and am also, therefore resigning effective immediately from my position on Shire of Ashburton Council."

The resignation by Councillor Foster, and confirmation of his election to the Legislative Council for Western Australia, means he is no longer qualified for membership on Council.

Pursuant to the *Local Government Act 1995*, Councillor Foster's resignation creates an extraordinary vacancy on Council and may trigger the need to hold an extraordinary election.

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Comment

If the office of a Councillor becomes vacant through resignation, an election to fill the office is to be held.

The poll needed for an extraordinary election is to be held on a day decided on and fixed by the Shire President or by Council within one month after the vacancy occurs. The election day fixed for an extraordinary election is to be a day which allows enough time for the electoral requirements to be complied with and, unless the Electoral Commission approves otherwise, cannot be held later than four months after the vacancy occurs (which is 31 July 2021).

If at the end of one month after the vacancy an election has not been fixed by the Council or Shire President, the Chief Executive Officer is to notify the Electoral Commissioner and the Electoral Commissioner will fix a day for the extraordinary election.

Shire officers wrote to the Electoral Commissioner advising of the extraordinary vacancy and enquired regarding the necessity to fill the vacancy created by Councillor Foster's resignation in October 2021.

The Western Australian Electoral Commissioner has granted the request for the vacancy to be held over until the October 2021 ordinary elections should Council so desire.

ATTACHMENT 12.6

Council may choose to accept this approval from the Electoral Commissioner or, alternatively, set a date to hold an extraordinary election. The third Saturday in July 2021 (17 July) has been identified by Shire officers as a suitable date to allow enough time for the electoral requirements to be undertaken, and is within the four-month timeframe, as required, after the vacancy occurred.

Shire officers recommend accepting the approval from the Western Australian Electoral Commissions to hold over the extraordinary vacancy until the October 2021 local government ordinary elections noting, amongst other matters:

- A full complement of elected members exists (other than the single vacancy), which is greater than the minimum number required to form a Council;
- The Tom Price Ward continues to be represented by other elected members; and
- Reaching an absolute majority decision, when required, is still viable with the remaining number of elected members.

Consultation

Western Australian Electoral Commission
Executive Leadership Team

Statutory Environment

Local Government Act 1995

Section 2.31 (Resignation)

An elected member may resign from the office of council member by providing the Chief Executive Officer with a written notice of resignation and this is to take effect from the date of delivery of the notice or from a later date specified in the notice. The date of effect for Councillor Foster's resignation is 1 April 2021.

Section 2.32 (How extraordinary vacancies occur in offices elected by electors)

There are several reasons an extraordinary vacancy occurs in Council. Regarding Councillor Foster's circumstances, his resignation meets the requirements to generate an extraordinary vacancy in Council.

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Section 4.8 (Extraordinary elections)

If the office of an elected member becomes vacant (under Section 2.32 (above)) an election to fill the office is to be held. An election of this kind is known as an extraordinary election.

Section 4.9 (Election day for extraordinary election)

Any poll needed for an extraordinary election is to be held on a day decided on and fixed either by the Shire President or at a Council meeting held within one month after the vacancy occurs (by 30 April 2021).

The election day is to be a day which allows enough time for the electoral requirements to be complied with and, unless the Electoral Commissioner approves, cannot be later than four months after the vacancy occurs (by 31 July 2021).

Financial Implications

The Western Australian Electoral Commission has quoted the cost to the Shire to hold the October 2021 ordinary elections at \$20,000 (excluding GST) if conducted as a postal ballot.

Shire officers have been provided with an estimate of \$10,000 (excluding GST) from the Western Australian Electoral Commission to hold an extraordinary election for the Tom Price Ward, if conducted as a postal ballot.

Strategic Implications

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

- Goal 05 Inspiring Governance
- Objective 3 Council leadership
- Objective 4 Exemplary team and work environment

Risk Management

Risk has been assessed based on the Officers Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council not supporting the Electoral Commissioner waiving of the need to hold an extraordinary election.	Unlikely (2)	Insignificant (1)	Low (2)	Financial Impact – Less than \$10,000.	The dollar value is considered immaterial and can be absorbed through Council operations.
Council not having enough elected members to operate.	Unlikely (2)	Minor (2)	Low (4)	Compliance – Some temporary non compliances.	There may be a need to hold special meetings of council is there are insufficient numbers required for absolute majority decisions.

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Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
					Seeking Ministerial approval is an option if there are insufficient numbers of elected members present.

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 as Council has two very valid alternatives to choose from.

Policy Implications

There are no known policy implications for this matter.

Voting Requirement

Simple Majority Required

Officers Recommendation and Council Decision

MINUTE: 56/2021

MOVED: Cr D Diver

SECONDED: Cr M Lynch

That with respect to the Extraordinary Vacancy and Extraordinary Election - Tom Price Ward resulting from Councillor Foster's resignation on 1 April 2021, Council, in accordance with the *Local Government Act 1995* section 4.9 (Election day for extraordinary election), acknowledges and accepts the approval by the Western Australian Electoral Commissioner to hold over the filling of the vacancy created by Councillor Foster's resignation until the October 2021 local government ordinary elections.

CARRIED 7/0

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**12.7 APPOINTMENT OF MEMBERS TO COMMITTEES OF COUNCIL
RESULTING FROM EXTRAORDINARY VACANCY**

FILE REFERENCE:	GV04
AUTHOR'S NAME AND POSITION:	Nathan Cain Director Corporate Services
AUTHORISING OFFICER AND POSITION:	Nathan Cain Director Corporate Services
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	6 April 2020
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Not Applicable

Summary

The resignation from Council by Councillor Foster, on 1 April 2021, means there are vacancies on several committees of Council.

The purpose of this report is to progress the filling of these vacancies, should Council so choose.

Council is requested to appoint Elected Member representation on the following committees of Council:

- Ashburton Economic and Tourism Development Committee;
- Reconciliation Action Plan Committee;
- Shire of Ashburton Inland Local Emergency Management Committee; and
- Shire of Ashburton Local Recovery Management Coordination Group.

Background

At the October 2019 Ordinary Council Meeting Council appointed various Elected Members to Committees of Council, Community Working Groups and External Groups of Council.

Councillor Foster was appointed to many of these committees and groups as either the Member / Delegate or Deputy representative.

On 1 April 2021 Councillor Foster resigned from his position as Councillor on the Shire of Ashburton Council and, consequently, there are now vacancies on committees and groups associated with his resignation.

Councillor Foster was previously appointed to the following committees of Council, as a Member –

- Ashburton Economic and Tourism Development Committee
- Audit and Risk Management Committee (currently presiding)
- Chief Executive Officer's Performance Review Occasional Committee
- Reconciliation Action Plan Committee
- Shire of Ashburton Inland Local Emergency Management Committee
- Shire of Ashburton Local Recovery Management Coordination Group

Councillor Foster was previously appointed to the following committees of Council, as a Deputy –

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- Bush Fire Advisory Committee
- Onslow Local Emergency Management Committee
- Onslow Local Recovery Coordination Group
- Pannawonica Local Emergency Management Committee
- Pannawonica Local Recovery Coordination Group
- Paraburdoo Community Hub (CHUB) Committee
- Pilbara Regional Waste Management Facility Committee

The local government ordinary elections are to occur in October 2021, immediately after which representation on these committees of Council will again be considered.

Council may choose to temporarily fill vacancies arising from Councillor Foster's resignation now rather than wait until after the next election.

Comment

Below is a brief background of each committee of Council where Councillor Foster was appointed along with the Shire Officers recommendation for dealing with the matter regarding his resignation:

Ashburton Economic and Tourism Development Committee

Members: Cr Foster (retired 1 April 2021), Cr Diver, Cr Lynch and Cr Gallanagh (Ideally one elected member from each ward)

Deputies: All other Councillors

Membership: 4 Councillors

Quorum: 2 Councillors

Purpose: To identify and develop strategies to promote tourism so there is a positive impact at the regional level. To advise Council on suggested actions the Council should consider addressing relevant issues raised with and by the Committee.

Meeting cycle: As required

Contact: Office of the Chief Executive Officer

The Committee last met in August 2019.

Given there is ideally one elected member from each ward, Shire officers recommend an elected member from the Tom Price Ward be appointed to the vacancy.

Audit and Risk Management Committee

Members: All Councillors (Cr Foster Presiding Member)

Deputies: All Councillors

Membership: 9 Councillors

Quorum: 5 Councillors

Purpose: Under the *Local Government Act 1995*, Local Governments are required to appoint an Audit Committee (section 7.1A of the *Local Government Act 1995*).

Meeting cycle: At least once annually to recommend the adoption of the Annual Report.

Contact: Office of the Chief Executive Officer

As all Councillors are members of this committee there is no reason to fill the vacancy. At the next committee meeting a presiding member will need to be appointed as Cr Foster was the presiding member.

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Chief Executive Officer's Performance Review Occasional Committee

Members: All Councillors
Deputies: All Councillors
Membership: 9 Councillors
Quorum: 5 Councillors
Purpose: Under the *Local Government Act 1995*, Councillors are to be Members of the Chief Executive Officer's Performance Review Occasional Committee (section 5.10 and 5.11A of the *Local Government Act 1995*).
Meeting cycle: At least once annually to review the performance of the Chief Executive Officer.
Contact: Office of the Chief Executive Officer

As all Councillors are members of this committee there is no reason to fill the vacancy.

Reconciliation Action Plan Committee

Members: Cr Foster (retired 1 April 2021), Cr Gallanagh, Cr Lynch, Cr Diver, Cr White
Deputies: All other Councillors
Membership: 5 Councillors
Quorum: 3 Councillors
Purpose: To be advised
Meeting cycle: As required
Contact: Office of the CEO

Shire officers recommend an elected member be appointed to the vacancy.

Shire of Ashburton Inland Local Emergency Management Committee

Members: Cr Dias, Cr Foster (retired 1 April 2021), and Cr Diver
Director People and Place and Emergency Management Co-Ordinator
Deputies: All other Councillors
Membership: Shire of Ashburton Coordinator Ranger Services (Presiding Person)
Other representation as per determination of the delegate Councillors and the Director People and Place
Quorum: Not applicable
Purpose: Pursuant to S36 (b) of the *Emergency Management Act 2005*, this committee is to ensure effective local emergency management arrangements are prepared and maintained for the district.
Meeting Cycle: As required
Contact: People and Place Directorate

Despite there being no quorum requirements, Shire officers recommend an elected member be appointed to the vacancy as there is a need for Councillors to represent the majority of members on a committee of Council.

Shire of Ashburton Local Recovery Management Coordination Group

Members: Cr Dias, Cr Foster (retired 1 April 2021), and Cr Diver
Director People and Place and Coordinator Ranger Services.
Deputies: All other Councillors
Membership: Shire of Ashburton Coordinator Ranger Services (Presiding Person)
Other representation as per determination of the delegate Councillors and the Director People and Place
Quorum: Not applicable
Purpose: Pursuant to S36 (b) of the *Emergency Management Act 2005*, this committee is to manage recovery following an emergency affecting the community in the district.
Meeting Cycle: As required.
Contact: People and Place Directorate

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Despite there being no quorum requirements, Shire officers recommend an elected member be appointed to the vacancy as there is a need for Councillors to represent the majority of members on a committee of Council.

Other committees, as a Deputy

Cr Foster was also nominated as a Deputy on all other committees of Council via a broad appointment of all other Councillors being made deputies. Accordingly, there is no requirement to fill these deputy vacancies.

Consultation

Executive Leadership Team

Statutory Environment

Local Government Act 1995

Section 5.8 (Establishment of committees)

A local government may establish committees of three or more persons to assist the council and to exercise the powers and discharge the duties of the local government which can be delegated to committees. Council requires an absolute majority decision to establish a committee. For this report, these committees have already been established.

Section 5.11 (Committee membership, tenure of)

Where a person is appointed as a member of a committee the person's membership of the committee continues until the person no longer holds the office by virtue of which the person became a member, the person resigns, the committee disbands, or the next ordinary election day (whichever happens first). In this instance, Councillor Foster has resigned from Council and all positions on Committees of Council were provided to him because of his role as an elected member to Council.

Section 7.1A (Audit committee)

A local government is to establish an audit committee of three or more persons. The members of the audit committee are to be appointed by the local government and at least three of the members, and the majority of the members, are to be council members. Councillor Foster is currently the Presiding Member of the Audit and Risk Committee.

Emergency Management Act 2005

Section 36 (Functions of local government)

Local governments are required to ensure effective local emergency management arrangements are prepared and maintained for the district, and to manage recovery following an emergency affecting the community of the district.

Financial Implications

Costs associated with Councillors attending committee meeting is included in the Annual Budget and are considered minimal.

Strategic Implications

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

Goal 05 Inspiring Governance
Objective 4 Exemplary team and work environment

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Risk Management

Risk has been assessed based on the Officers Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Committee meetings unable to be held because Councillors did not nominate, and a quorum could not be met	Unlikely (2)	Minor (2)	Low (4)	Compliance – Some temporary non compliances Interruption to Service – Short temporary interruption	Councillors requested to nominate for vacancies, as recommended

The following Risk Matrix has been applied.

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

Adoption of this item has been evaluated against the Shire of Ashburton's Risk Management Policy CORP5 Risk Matrix. The perceived level of risk is low due to the anticipated nature and regularity of committee meetings between now and the next election.

Policy Implications

There are no policy implications for this matter.

Voting Requirement

Absolute Majority Required

Officers Recommendation

That with respect to the appointment of Councillors to committees of Council resulting from the extraordinary vacancy created by Cr Foster's resignation, Council:

1. In accordance with the *Local Government Act 1995* section 5.11 (Committee membership, tenure of), –
 - a. Appoints Councillor _____ to be a member of the Ashburton Economic and Tourism Development Committee; and
 - b. Appoints Councillor _____ to be a member of the Reconciliation Action Plan Committee.

2. In accordance with the *State Emergency Act 2005* section 36 (Functions of local government) and the *Local Government Act 1995* section 5.11 (Committee membership, tenure of), –

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- a. Appoints Councillor Dias _____ to be a member of the Shire of Ashburton Inland Local Emergency Management Committee; and
- b. Appoints Councillor _____ to be a member of the Shire of Ashburton Local Recovery Management Coordination Group.

Council Decision

MINUTE: 57/2021

MOVED: Cr L Rumble

SECONDED: Cr J Richardson

That with respect to the appointment of Councillors to committees of Council resulting from the extraordinary vacancy created by Cr Foster's resignation, Council:

1. In accordance with the *Local Government Act 1995* section 5.11 (Committee membership, tenure of), –
 - a. Does not appoint a Councillor to be a member of the Ashburton Economic and Tourism Development Committee, to be filled by a Deputy until reappointment in October 2021.
 - b. Does not appoint a Councillor to be a member of the Reconciliation Action Plan Committee, to be filled by a Deputy until reappointment in October 2021.
2. In accordance with the *State Emergency Act 2005* section 36 (Functions of local government) and the *Local Government Act 1995* section 5.11 (Committee membership, tenure of), –
 - a. Appoints Councillor Dias to be a member of the Shire of Ashburton Inland Local Emergency Management Committee; and
 - b. Does not appoint a Councillor to be a member of the Shire of Ashburton Local Recovery Management Coordination Group, to be filled by a Deputy until reappointment in October 2021,

CARRIED BY ABSOLUTE MAJORITY 7/0

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12.8 APPOINTMENT OF MEMBERS TO COMMUNITY WORKING GROUPS AND EXTERNAL GROUPS OF COUNCIL RESULTING FROM EXTRAORDINARY VACANCY

FILE REFERENCE:	GV04
AUTHOR'S NAME AND POSITION:	Nathan Cain Director Corporate Services
AUTHORISING OFFICER AND POSITION:	Nathan Cain Director Corporate Services
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	6 April 2020
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Not Applicable

Summary

The resignation from Council by Councillor Foster, on 1 April 2021, means there are vacancies on several working groups and external groups of Council.

The purpose of this report is to progress the filling of these vacancies, should Council so choose.

Council is requested to appoint Elected Member representation on the following community working groups and external groups of Council:

- Partnership Governing Committee (Rio Tinto);
- Pilbara Inland Chamber of Commerce and Industry;
- Pilbara Regional Council; and
- Western Australian Local Government Association – Pilbara Country Zone.

Background

At the October 2019 Ordinary Council Meeting Council appointed various Elected Members to Committees of Council, Community Working Groups and External Groups of Council.

Councillor Foster was appointed to many of these committees and groups as either the Member / Delegate or Deputy representative.

On 1 April 2021 Councillor Foster resigned from his position as Councillor on the Shire of Ashburton Council and, consequently, there are now vacancies on committees and groups associated with his resignation.

Councillor Foster was previously appointed to the following community working groups and external groups of Council, as a Delegate –

- Australia Day WA – Community Citizen of the Year Award Working Group
- Partnership Governing Committee (Rio Tinto)
- Pilbara Inland Chamber of Commerce and Industry
- Pilbara Regional Council
- Western Australian Local Government Association – Pilbara Country Zone

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Councillor Foster was previously appointed to the following community working groups and external groups of Council, as a Deputy –

- Joint Development Assessment Panel
- Regional Road Group

The local government ordinary elections are to occur in October 2021, immediately after which representation on these community working groups and external groups of Council will again be considered.

Council may choose to temporarily fill vacancies arising from Councillor Foster's resignation now rather than wait until after the next election.

Comment

Below is a brief background of each community working group and external group where Councillor Foster was appointed along with the Shire Officer's recommendation for dealing with the matter regarding his resignation:

Australia Day WA – Community Citizen of the Year Award Working Group

Delegates: Shire President (Presiding Person), Cr Gallanagh (Pannawonica Ward Councillor), Cr D Dias (Paraburdoo Ward Councillor), Cr P Foster (Tom Price Ward) retired 1 April 2021

Director People and Place or the nominee

Purpose: To select recipients of the Community Citizen of the Year, Community Citizen of the Year (Senior), Community Citizen of the Year (Youth), and Active Citizenship (Group/Event) for each town.

Meeting Cycle: As required.

Contact: People and Place Directorate

Cr Foster was the Delegate for the Tom Price Ward. Shire officers recommend no delegate be appointed at this time as the working group meets after the local government ordinary elections and before Australia Day.

Partnership Governing Committee (Rio Tinto)

Delegates: Shire President (Presiding Person), Cr Rumble and Cr Foster (retired 1 April 2021)
Chief Executive Officer
Director People and Place

Membership: Rio Tinto Iron Ore representatives / Shire of Ashburton Representatives.

Purpose: To administer the Memorandum of Understanding between Rio Tinto and the Shire of Ashburton which sets out a shared vision with supporting strategies and defines specific roles and responsibilities in the delivery of community infrastructure and related services for the towns of Tom Price, Paraburdoo and Pannawonica.

Meeting Cycle: Two per year, or more if required

Contact: Manager Community Services - East

Shire officers recommend Council appoint a delegate.

Pilbara Inland Chamber of Commerce and Industry

Delegates: Cr Foster (retired 1 April 2021), Cr Lynch and Cr Diver

Meeting Cycle: As required

Contact: John Hanlon (Vice chairman)

Email: pilbarainlandCCI@gmail.com

Phone: Nintirri for any information 91891556

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Council has membership to the Chamber and the nominated delegates hold voting rights. The Council delegates have traditionally been from the Tom Price and / or Paraburdoo Ward. Shire officers recommend Council appoint a delegate.

Pilbara Regional Council

Delegates: Shire President (Presiding Person) and Cr Foster (retired 1 April 2021)

Deputies: Cr Diver and Cr Rumble

In the absence of the above Councillors all other Councillors

Meeting Cycle: As required

Contact: Pilbara Regional Council

Although the Shire President is the presiding person, and all other Councillors are deputies, Shire officers recommend a delegate be appointed.

Western Australian Local Government Association – Pilbara Country Zone

Delegates: Shire President (Presiding Person) and Cr Foster (retired 1 April 2021)

Deputies: Cr Diver and Cr Rumble

In the absence of the above Councillors all other Councillors

Meeting Cycle: As required.

Contact: Western Australian Local Government Association

Although the Shire President is the presiding person, and all other Councillors are deputies, Shire officers recommend a delegate be appointed.

Additionally, the meeting for this group occurs adjacent to the Pilbara Regional Council and it is recommended the delegates and deputies are the same.

Other community working groups and external groups, as a Deputy

Cr Foster was also nominated as a Deputy on –

- Joint Development Assessment Panel
- Regional Road Group

All other Councillors are general deputies to these group. Accordingly, there is no requirement to fill these deputy vacancies.

Consultation

Executive Leadership Team

Statutory Environment

Local Government Act 1995

Section 2.10 (Role of councillors)

Councillors are to, amongst other functions, represent the interests of electors, ratepayers and residents of the district and facilitate communication between the community and the council.

Financial Implications

Costs associated with Councillors attending community working groups and external groups are included in the Annual Budget and considered minimal.

Strategic Implications

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

Goal 05 Inspiring Governance

Objective 4 Exemplary team and work environment

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Risk Management

Risk has been assessed based on the Officers Recommendation.

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

The following Risk Matrix has been applied.

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 due to the anticipated nature and regularity of community group and external group meetings between now and the next election.

Policy Implications

There are no known policy implications for this matter.

Voting Requirement

Simple Majority Required

Officers Recommendation

That with respect to the appointment of Councillors to Community Working Groups and External Groups of Council resulting from the extraordinary vacancy created by Cr Foster's resignation, Council:

1. Appoints Councillor Lynch to be a Council delegate on the Partnership Governing Committee (Rio Tinto);
2. Appoints Councillor vacant to be a Council delegate on the Pilbara Inland Chamber of Commerce and Industry;
3. Appoints Councillor Rumble to be a Council delegate on the Pilbara Regional Council; and
4. Appoints Councillor Rumble to be a Council delegate on the Western Australian Local Government Association – Pilbara Country Zone.

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Council Decision

MINUTE: 58/2021

MOVED: Cr M Lynch

SECONDED: Cr M Gallanagh

That with respect to the appointment of Councillors to Community Working Groups and External Groups of Council resulting from the extraordinary vacancy created by Cr Foster's resignation, Council:

- 1. Appoints Councillor Lynch to be a Council delegate on the Partnership Governing Committee (Rio Tinto);**
- 2. Does not appoint a Councillor to be a Council delegate on the Pilbara Inland Chamber of Commerce and Industry; to be filled by a Deputy until reappointment in October 2021.**
- 3. Appoints Councillor Rumble to be a Council delegate on the Pilbara Regional Council; and**
- 4. Appoints Councillor Rumble to be a Council delegate on the Western Australian Local Government Association – Pilbara Country Zone.**

CARRIED 7/0

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12.9 PERIODIC POLICY REVIEW

FILE REFERENCE:	GV20
AUTHOR'S NAME AND POSITION:	Danielle Hurstfield Manager Governance
AUTHORISING OFFICER AND POSITION:	Nathan Cain Director Corporate Services
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	31 March 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal

Summary

Council is required to determine, review, and modify Council policies on a regular basis.

The purpose of this item is to present the recommendations of the most recent periodic policy review, which encompasses the following Council policies:

- ADM04 – Digital Information (Proposed – New);
- ELM01 – Council and Other Meetings;
- ELM03 – Recognition of Retiring Councillors;
- ELM13 – Affixing the Shire of Ashburton Common Seal; and
- ELM14 – Governance and Policy Manual.

Council is requested to adopt the recommendation from the periodic policy review.

Background

Shire officers progressively review Council policies to ensure compliance with current legislation and complete the policy cycle by providing feedback (evaluation / corrective action) to Councillors for workshopping and consideration.

Comment

The most recent periodic policy review encompassed consideration of five Council policies. The summary of the review is as below:

ADM04 – Digital Information

This policy is a proposed new policy and is deemed by Shire officers as required to address the digital business environment.

The Council policy, as proposed, supports moving Shire operations to a digital environment and is considered the first step on the journey towards source records being kept digitally. Currently there is a need to maintain paper records, which is considered as an ineffective method of record keeping in the digital age.

The Council policy will be supported by directives and documented procedures.

ATTACHMENT 12.9A

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ELM01 – Council and Other Meetings

Council Policy ELM01 outlines the rights and responsibilities of Councillors regarding appropriate reimbursement for representing Council at meetings and functions.

On review, the intent of this Council policy is duplicated by the *Local Government Act 1995* section 5.98 (Fees etc. for council members).

Accordingly, Shire officers recommend this Council policy be removed.

ATTACHMENT 12.9B

ELM03 – Recognition of Retiring Councillors

Council Policy ELM03 outlines the details of the provision of gifts to Councillors upon their retirement.

On review, the intent of this Council policy is duplicated by the *Local Government (Administration) Regulations 1996* regulation 34AC (Gifts to council member, when permitted etc. (Act s.5.100A)).

Accordingly, Shire officers recommend this Council policy be removed.

ATTACHMENT 12.9C

ELM13 – Affixing of the Shire of Ashburton Common Seal

Council Policy ELM13 outlines the details associated with the conditions required to affix the Common Seal.

The proposed amendments are deemed by Shire officers as required to assist with operational efficiencies and provide additional compliance against the *Local Government Act 1995* section 9.49A (Execution of documents).

The proposed amendments address the fact there are currently no persons authorised to sign contracts and other important documents on behalf of the Shire except where the document is related to Tenders for Goods and Services.

The amendments still require documents of an important nature to be presented to Council in the first instance.

Shire officers recommend the policy be renamed to ELM13 – Execution of Documents and Affixing the Common Seal.

ATTACHMENT 12.9D

ELM14 – Governance and Policy Manual

Council policy ELM14 outlines the requirement to have a single manual with all Council policies included.

On review, current practice (and is legislated in some instances) is for Council policies to be shown on the Shire website individually.

The Governance section of the existing *Governance and Policy Manual* is a framework which exists outside the need for inclusion in a Council policy.

Accordingly, Shire officers recommend this Council policy be removed.

ATTACHMENT 12.9E

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Consultation

Councillors
Executive Leadership Team

Statutory Environment

Local Government Act 1995
Section 2.7 (Role of council)

Council is required to govern the local government's affairs and is responsible for the performance of the local government functions. One of the fundamental roles of Council is the determination of policies to assist in the good governance of the Shire.

Section 5.98 (Fees etc. for council members)

A council member who attends a council, committee or prescribed meeting is entitled to be paid in accordance with prescribed amounts set by Council, as directed and influenced by the Salaries and Allowances Tribunal.

Council members are also entitled to reimbursement of expenses as determined by legislation and Council.

Section 9.49A (Execution of documents)

A document is duly executed by the Council if the common seal is affixed to it and it is signed on behalf of Council by a person or persons duly authorised to do so. Council can authorise the Chief Executive Officer, another employee, or an agent to sign documents on behalf of the local government.

Local Government (Administration) Regulations 1996

Regulation 34AC (Gifts to council members, when permitted etc. (Act s. 5.100A)

The retirement of a council member who has served at least one full term of office can be gifted an amount of \$100 for each year served, up to a maximum of \$1,000, by way of a gift.

Financial Implications

Financial implications are identified in individual policy documents. The financial impact of these Council policies is included within the annual budget and is deemed minimal.

Strategic Implications

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

Goal 05	Inspiring Governance
Objective 3	Council leadership
Objective 4	Exemplary team and work environment

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Risk Management

Risk has been assessed based on the Officers Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council not adopting the recommended changes to existing Council policies.	Unlikely (2)	Minor (2)	Low (4)	Compliance – Some temporary non compliances.	Ensure Council is aware of the legislative requirements.

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 due to the required compliance nature of the need to comply with legislation.

Policy Implications

The following Council policies are recommended for adoption, modification, or removal:

- ADM04 – Digital Information (Proposed – New);
- ELM01 – Council and Other Meetings;
- ELM03 – Recognition of Retiring Councillors;
- ELM13 – Affixing the Shire of Ashburton Common Seal; and
- ELM14 – Governance and Policy Manual.

The summary for the recommended treatment of each Council policy is contained within the *Comment* section of this agenda item.

Voting Requirement

Absolute Majority Required

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Council Decision

MINUTE: 59/2021

MOVED: Cr D Diver

SECONDED: Cr L Rumble

That with respect to Council policies impacted by the recent periodic policy review, Council:

1. In accordance with the *Local Government Act 1995* section 2.7 (Role of council):
 - a. Adopt Council policy ADM04 – Digital Information, ATTACHMENT 12.9A;
 - b. Remove Council policy ELM01 – Council and Other Meetings ATTACHMENT 12.9B;
 - c. Remove Council policy ELM03 – Recognition of Retiring Councillors ATTACHMENT 12.9C;
 - d. Adopt changes to Council policy ELM13 – Affixing the Shire of Ashburton Common Seal and retitle this Council policy to ELM13 – Execution of Documents and Affixing the Common Seal ATTACHMENT 12.9D; and
 - e. Remove Council policy ELM14 – Governance and Policy Manual ATTACHMENT 12.9E; and
2. In accordance with the *Local Government Act 1995* section 9.49A (Execution of documents), authorises the following positions to sign on behalf of the Shire of Ashburton for any document, including Deeds, necessary or appropriate to be signed to undertake responsible functions and duties under any written law:
 - a. Chief Executive Officer;
 - b. Director Corporate Services;
 - c. Director Infrastructure Services;
 - d. Director People and Place; and
 - e. Director Projects and Procurement.

CARRIED BY ABSOLUTE MAJORITY 7/0

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12.10 CHANGE OF VENUE FOR THE MAY 2021 ORDINARY MEETING OF COUNCIL

FILE REFERENCE:	GV04
AUTHOR'S NAME AND POSITION:	Michelle Lewis Council Liaison Officer
AUTHORISING OFFICER AND POSITION:	Nathan Cain Director Corporate Services
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	16 April 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Not Applicable

Summary

Council is required to provide public notice of the date, time, and place of Council meetings.

The currently advertised location for the May 2021 Ordinary Council Meeting is not available to be able to hold the meeting.

Council is requested to change the venue for the May 2021 Ordinary Council Meeting.

Background

In October 2020, Council resolved to adopt the meeting schedule for the period from February 2021 to December 2021.

The resolution identified the May 2021 Ordinary Council Meeting as being held on 18 May 2021, commencing at 1:00pm, at the Council Chambers, Onslow Shire Complex, Second Avenue, Onslow.

The venue will not be available on this day and, as such, an alternate venue is proposed.

Comment

Council has, previously, used the Onslow Sports Club as an alternate venue to hold meetings when in Onslow, however this venue is not available on 18 May 2021.

Approval is sought to change the venue of the May 2021 Ordinary Council Meeting to the Onslow Multi-purpose Centre, Corner Hooley Avenue and McGrath Avenue, Onslow, with the date and commencement time remaining unchanged.

Consultation

Councillors
Executive Leadership Team

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Statutory Environment

Local Government Act 1995

Section 5.25 (Regulations about council and committee meetings and committees)

Council is required to give public notice of the date and agenda for council and committee meetings.

Financial Implications

There are no known financial implications for this matter.

Strategic Implications

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

Goal 05 Inspiring Governance

Objective 3 Council leadership

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 (Controls or Treatment proposed)
Council not being able to hold the May 2021 ordinary council meeting.	Rare (1)	Moderate (3)	Low (3)	Compliance – Short-term non-compliance	Provide a suitable alternate venue. Book all venues immediately following the annual Council resolution for meetings and venues.

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 due to the regulatory nature of this process.

Policy Implications

Council Policy ELM01 – Council and Other Meetings

Voting Requirement

Simple Majority Required

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Officers Recommendations and Council Decision

MINUTE: 60/2021

MOVED: Cr D Diver

SECONDED: Cr J Richardson

That with respect to the Change of Venue for the Ordinary Meeting of Council to be held 18 May 2021, Council, in accordance with the *Local Government Act 1995* section 5.25 (Regulations about council and committee meetings and committees) amends the May 2021 Ordinary Council Meeting location to the Onslow Multi-purpose Centre, Corner Hooley Avenue and McGrath Avenue, Onslow (18 May 2021, commencing 1:00pm).

CARRIED 7/0

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13. PEOPLE AND PLACE REPORTS

13.1 PROPOSED AMENDMENT TO THE SHIRE OF ASHBURTON LOCAL PLANNING SCHEME NO. 7 TO REZONE LOT 558 BEADON CREEK ROAD FROM 'TOURISM' TO 'INDUSTRIAL' ZONE

FILE REFERENCE:	LP10.7.33
AUTHOR'S NAME AND POSITION:	Ben McKay Manager Town Planning
AUTHORISING OFFICER AND POSITION:	Adam Majid Director People and Place
NAME OF APPLICANT/RESPONDENT:	RFF Australia
DATE REPORT WRITTEN:	30 March 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Not Applicable

Summary

Council has received an application from RFF Australia on behalf of Greater Ashburton Services Pty Ltd to rezone Lot 558 Beadon Creek road from 'Tourism' to 'Industrial' and incorporate an additional clause which places restrictions on the use of the site for Storage Facility/Depot/laydown area **ATTACHMENT 13.1A**.

The purpose of the amendment is to formalise the existing uses which have operated onsite to support the operation of Beadon creek harbour and the construction of the Onslow Marine Supply Base. The amendment will align the zoning of the subject site with Shire of Ashburton's Local Planning Strategy and create land capable of being developed which is necessary to support expanded operations at the harbour.

This report recommends that proposed Scheme Amendment No. 33 to Shire of Ashburton Town Planning Scheme No. 7 (Standard Amendment) is initiated and subsequently advertised in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015.

Background

Lot 558 Beadon Creek Road is in the Onslow locality (the 'Subject Site') is at the eastern end of Beadon Creek Road directly adjoining the Beadon Creek boat harbour.

ATTACHMENT 13.1B

The subject site has a land area of 1.08 hectares with a frontage of 106m to Beadon Creek Road and 138m frontage to an internal port access road connecting Beadon Creek Road to the Onslow Marine Supply Base. An informal crossover from Beadon Creek road is the main access point.

The subject site is flat and cleared. The major improvement is a large shed historically used to process seafood. Whilst the site is currently not used, in more recent times, the property has been

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utilised informally as a laydown and transport depot associated with the operation of Beadon creek harbour and the construction of the Onslow Marine Supply Base.

Comment

The proposed Scheme Amendment seeks the following amendments to the Shire of Ashburton Local Planning Scheme No. 7:

- Rezone Lot 588 Beadon Creek Road from 'Tourism' to 'Industry'.
- Incorporate additional Clause 4.6 – Restricted Use which includes the following text:

4.6.1 – *The table below sets out –*

- a) *restricted classes of use for specified land that apply instead of the classes of use that are permissible in the zone in which the land is located; and*
- b) *the conditions that apply to that restricted use.*

Table - Restricted uses for land in Scheme area No. Description of land Restricted use Conditions

No.	Description of Land	Restricted Use	Conditions
1	Lot 588 Beadon Creek Road, Onslow	Storage Facility/ Depot/Laydown Area	Any proposed development of the site for a Storage Facility/ Depot/Laydown Area must demonstrate operations on the premises, will not cause any injury to, or will not adversely affect the adjoining property, Lot 100 on Deposited Plan 403216 by reason of the emission of light, noise, electrical interference, vibration, smell, fumes, smoke, vapour, steam soot, ash, dust, wastewater, or other waste products

4.6.2. *Despite anything contained in the zoning table, land that is specified in the Table to subclause 4.6.1 may be used only for the restricted class of use set out in respect of that land subject to the conditions that apply to that use.*

Whilst the inclusion of clause 4.6.1 would impose additional conditions should the site be used for a Storage Facility/ Depot/Laydown Area, an assessment in accordance with WAPC's 'Transport Impact Assessment (TIA) guidelines', has not been submitted to support the scheme amendment proposal. This assessment should be requested to help inform the compatibility of the site with an increase in vehicle movements.

The rezoning is consistent with the endorsed local planning strategy, which indicates the subject site should be zoned Industry / Mixed Business. The subject site is identified as 'Future Industry/Mixed Business' in Ashburton's Draft Local Planning Strategy (Draft LPS), which was adopted at the 10 November 2021 Ordinary Council Meeting and subsequently submitted to the WAPC.

Part 2 of the Draft LPS outlines the need to ensure there is adequate industrial land to support growth of the community and expanded operations at Beadon Creek Harbour. The Strategy does

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however note the potential land use conflict arising from sensitive land uses, such as Discovery Parks being in proximity to Beadon Creek Harbour and the surrounding Industrial Land.

Local Planning Policy LPP20 – Social Impact Assessment requires that any proposed scheme amendment be accompanied by a social impact assessment. LPP20 establishes a highly detailed and comprehensive set of standards for social impact statements that far exceeds the amount of detail required to support this proposed scheme amendment. The Social Impact Assessment provided as part of this application is considered to meet the standard of LPP20.

ATTACHMENT 13.1C

The process for amending a town planning scheme is established by the *Planning and Development Act 2005*. In accordance with this legislation, should Council resolve to initiate this proposed scheme amendment, the supporting documentation will be forwarded to the Environmental Protection Authority for assessment and determination whether the proposal requires formal environmental review.

Should it be determined that no formal review is necessary, Scheme Amendment 33 will be advertised for public comment and referred to service providers and other stakeholders for comment. Following this advertising period that is set at a minimum of 42 days, Council will reconsider Scheme Amendment 33 and determine whether the proposal should be adopted (with or without modification) or not adopted.

Following this resolution, the Western Australian Planning Commission will be advised of Council's decision and determine whether TPS7 is to be amended.

Consultation

Internal

Town Planning Team
Director People and Place

External

External agency consultation will occur extensively in later stages of the process.

Community

Community Consultation is a mandatory aspect associated with any Scheme Amendment. This includes targeted consultation with adjoining landowners and surrounds in addition to the whole of community through advertising required as part of the legislation.

Statutory Environment

Planning and Development Act 2005

75. Amending scheme

A local government may amend a local planning scheme with reference to any land within its district, or with reference to land within its district and other land within any adjacent district, by an amendment —

- (a) prepared by the local government, approved by the Minister and published in the Gazette; or*
- (b) proposed by all or any of the owners of any land in the scheme area, adopted, with or without modifications, by the local government, approved by the Minister and published in the Gazette.*

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Planning and Development (Local Planning Schemes) Regulations 2015

35. Resolution to prepare or adopt amendment to local planning scheme

- (1) *A resolution of a local government to prepare or adopt an amendment to a local planning scheme must be in a form approved by the Commission.*

Note for this subregulation:

Section 75 of the Act provides for a local government to amend a local planning scheme or adopt an amendment to a local planning scheme proposed by all or any of the owners of land in the scheme area.

- (2) *A resolution must —*
- (a) specify whether, in the opinion of the local government, the amendment is a complex amendment, a standard amendment or a basic amendment; and*
 - (b) include an explanation of the reason for the local government forming that opinion.*
- (3) *An amendment to a local planning scheme must be accompanied by all documents necessary to convey the intent and reasons for the amendment.*
- (4) *The local government may refuse to adopt an amendment to a local planning scheme proposed by a landowner if the local government is not satisfied that there is in place an agreement for the local government to use any copyrighted material provided in support of the proposed amendment —*
- (a) for the purpose of preparing and implementing the amendment; and*
 - (b) for zero remuneration.*

47. Advertisement of standard amendment

- (1) *Subject to sections 81 and 82 of the Act, if a local government resolves under regulation 35(1) to prepare a standard amendment to a local planning scheme or to adopt a standard amendment to a local planning scheme proposed by the owner of land in the scheme area, the local government must, as soon as is reasonably practicable, prepare a notice in a form approved by the Commission giving details of —*
- (a) the purpose of the amendment; and*
 - (b) how the amendment is to be made available to the public in accordance with regulation 76A; and*
 - (c) the manner and form in which submissions may be made; and*
 - (d) the period under subregulation (3) for making submissions and the last day of that period.*
- (2) *On completion of the preparation of the notice, the local government must advertise the standard amendment to a local planning scheme as follows —*
- (a) publish in accordance with regulation 76A —*
 - (i) the notice; and*
 - (ii) the amendment;*
 - (b) deleted*
 - (c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment;*

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- (d) *deleted]*
 - (e) *advertise the amendment as directed by the Commission and in any other way the local government considers appropriate.*
- (3) *The period for making submissions on a standard amendment to a local planning scheme is —*
- (a) *the period of 42 days after the day on which the notice is first published under subregulation (2)(a)(i); or*
 - (b) *a longer period approved by the Commission.*

48. Land owner may be required to pay costs of publication

The local government may require a person to pay the cost of the publication of a notice under regulation 47(2) if —

- (a) *the notice relates to an amendment to a local planning scheme in respect of land owned by the person; and*
- (b) *the person proposed the amendment to the local planning scheme.*

49. Submissions on standard amendment

- (1) *A submission on a standard amendment to a local planning scheme must —*
- (a) *be made in writing to the relevant local government in a form approved by the Commission; and*
 - (b) *state the name and address of the person making the submission; and*
 - (c) *include a statement about the capacity in which the person makes the submission.*
- (2) *A local government must acknowledge in writing the receipt of each submission received by it.*

50. Consideration of submissions on standard amendments

- (1) *In this regulation —*

consideration period, in relation to a standard amendment to a local planning scheme, means the period ending on the latest of the following days —

- (a) *the day that is 60 days after the end of the submission period for the amendment;*
- (b) *the day that is 21 days after the receipt of a statement in respect of the amendment delivered under section 48F(2)(a) of the EP Act;*
- (c) *the day that is 21 days after the receipt of a statement in respect of the amendment delivered under section 48G(3) of the EP Act if that statement is in response to a request by the local government made under section 48G(1) of the EP Act before the later of the days set out in paragraphs (a) and (b);*
- (d) *a day approved by the Commission;*

submission period, in relation to a standard amendment to a local planning scheme, means the period for making submissions that applies under regulation 47(3).

- (2) *The local government —*
- (a) *must consider all submissions in relation to a standard amendment to a local planning scheme lodged with the local government within the submission period; and*

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- (b) may, at the discretion of the local government, consider submissions in relation to the amendment lodged after the end of the submission period but before the end of the consideration period.*
- (3) Before the end of the consideration period for a standard amendment to a local planning scheme, or a later date approved by the Commission, the local government must pass a resolution —*
 - (a) to support the amendment without modification; or*
 - (b) to support the amendment with proposed modifications to address issues raised in the submissions; or*
 - (c) not to support the amendment.*
- (4) If no submissions have been received within the submission period, the resolution referred to in subregulation (3) must be passed as soon as is reasonably practicable after the end of the submission period.*

51. Local government may advertise proposed modifications to standard amendment

- (1) The local government may decide to advertise a modification to a standard amendment to a local planning scheme if —*
 - (a) the local government proposes the modification to address issues raised in submissions made on the amendment; and*
 - (b) the local government is of the opinion that the proposed modification to the amendment is significant.*
- (2) If a local government makes a decision under subregulation (1) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the standard amendment.*
- (3) A proposed modification to a standard amendment to a local planning scheme may not be advertised on more than one occasion without the approval of the Commission;*
- (4) Any advertisement of a proposed modification to a standard amendment to a local planning scheme must include a notice specifying —*
 - (a) the proposed modification to be made to the advertised amendment to the local planning scheme; and*
 - (b) details of how the proposed modification is made available to the public; and*
 - (c) the manner and form in which submissions may be made; and*
 - (d) the period under subregulation (5) for making submissions and the last day of that period.*
- (5) The period for making submissions on the proposed modification is —*
 - (a) the period of 21 days after the day on which the notice under subregulation (4) is first advertised; or*
 - (b) a longer period approved by the Commission.*

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- (6) *A person may make a submission on a proposed modification to a standard amendment to a local planning scheme that has been advertised in accordance with subregulation (2) —*
- (a) *in the manner and form specified in the notice; and*
 - (b) *within the period specified in the notice.*
- (7) *If a proposed modification to an amendment to a local planning scheme is advertised in accordance with this regulation, a local government —*
- (a) *must consider all submissions on the proposed modification made to the local government within the period specified in the notice; and*
 - (b) *may, at the discretion of the local government, consider submissions on the proposed modification made to the local government after the period specified in the notice; and*
 - (c) *must make a recommendation in respect of each submission considered.*

52. Incorporation of environmental conditions

If a local government receives a statement in respect of a standard amendment to a local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to prepare or adopt the amendment but before complying with regulation 53, the local government must amend the amendment documents —

- (a) *to incorporate the conditions set out in the statement; or*
- (b) *if as the result of a request by the local government under section 48G(1) of the EP Act a statement is delivered to the local government under section 48G(3) of the EP Act, to incorporate the conditions set out in that later statement.*

53. Information on standard amendment to be provided to the Commission

- (1) *After passing a resolution under regulation 50(3) the local government must provide the advertised amendment to the local planning scheme to the Commission together with the following —*
- (a) *a schedule of submissions made on the amendment;*
 - (b) *the response of the local government in respect of the submissions;*
 - (c) *particulars of each modification to the amendment proposed by the local government in response to the submissions;*
 - (d) *if any proposed modification to the amendment was advertised —*
 - (i) *an explanation of the reasons for advertising the modification; and*
 - (ii) *particulars of how the modification was advertised; and*
 - (iii) *a schedule of submissions made on the proposed modifications; and*
 - (iv) *the recommendation of the local government in accordance with regulation 51(7)(c) in respect of each submission;*
 - (e) *a copy of the resolution passed under regulation 50(3);*
 - (f) *if that resolution was a resolution under regulation 50(3)(c) — a summary of the reasons why the local government does not support the amendment;*
 - (g) *details of any provision in the local planning scheme that varies or excludes a provision set out in Schedule 1;*
 - (h) *details of any provision in the local planning scheme as it will be amended that supplements a provision set out in Schedule 2;*
 - (i) *any relevant maps, plans, specifications and particulars required by the Commission.*

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- (2) *The schedule of submissions referred to in subregulation (1)(a) and (d)(iii) must include the following —*
- (a) *the name and address of the person making the submission;*
 - (b) *where it is relevant, a description of the property that is the subject of the submission;*
 - (c) *the submission or a summary of the submission.*
- (3) *The documents referred to in subregulation (1) must be provided to the Commission —*
- (a) *in the case of a resolution to support an amendment to a local planning scheme without modification or not to support an amendment to a local planning scheme — within 21 days of passing the resolution; or*
 - (b) *in the case of a resolution to support an amendment to a local planning scheme with proposed modifications —*
 - (i) *if the local government decides not to advertise the proposed modification — within 21 days of passing the resolution; or*
 - (ii) *otherwise — within 21 days of complying with regulation 51(7); or*
 - (c) *if the Commission in any case approves a longer period — within that longer period.*

54. Commission may direct amendment be treated as complex amendment

If, on receipt of documents provided to it under regulation 53(1), the Commission considers that the amendment to the local planning scheme is a complex amendment, the Commission may direct the local government —

- (a) *to readvertise the amendment as a complex amendment; or*
- (b) *to take any other steps the Commission considers appropriate to advertise the amendment.*

55. Commission to submit standard amendment and recommendations to Minister

Unless the Commission makes a direction under regulation 54, the Commission must, within 60 days of receiving the documents provided to it under regulation 53(1), or within such longer period as the Minister or an authorised person allows —

- (a) *consider the documents; and*
- (b) *make any recommendations to the Minister in respect of the amendment that the Commission considers appropriate; and*
- (c) *submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.*

56. Minister or authorised person may direct modifications to standard amendment be advertised

- (1) *Before a decision is made under section 87 of the Act, the Minister or an authorised person may direct the local government to advertise modifications to a standard amendment to a local planning scheme if —*
- (a) *the local government proposes, or the Commission recommends, that the amendment that was advertised under regulation 47(2) be modified; and*
 - (b) *the Minister or authorised person is of the opinion that the modification is significant.*

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- (2) *The direction must include details of the process to be followed in respect of the advertisement including timeframes for —*
- (a) *the making and consideration of submissions on the modifications; and*
 - (b) *providing recommendations to the Minister or authorised person following the advertisement.*
- (3) *If a local government is given a direction under subregulation (1) the local government must advertise the modification to the amendment to the local planning scheme as directed by the Minister or authorised person.*

Financial Implications

Preparation of amendment documentation and processing the amendment through the statutory process will require no special allocation of funds and will be actioned through the normal function of the Manager Town Planning and other Shire staff as required. The Shire's fees and charges 2020/21 require the applicant to pay an initial application fee of \$4,000 as required for processing of the Amendment.

Strategic Implications

Shire of Ashburton 10 Year Strategic Community Plan 2017-2027 and the Strategic Corporate Plan 2019-2023. In particular, the strategic direction provided for this activity:

- | | |
|--------------|--|
| Goal 01 | Vibrant and Active Communities |
| Objective 1 | Connected, caring and engaged communities. |
| Objective 4 | A rich cultural life |
| Goal 02 | Economic Prosperity |
| Objective 1 | Strong local economies |
| Objective 2 | Partnerships with industry and government |
| Objective 3 | Well-managed tourism |
| Goal 04 | Quality services and infrastructure |
| Objective 1 | Quality public infrastructure |
| Objective 2 | Accessible and safe towns |
| Objective 03 | Well-planned towns |
| Goal 05 | Inspiring governance |
| Objective 1 | Effective planning for the future |
| Objective 2 | Community ownership |

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Risk Management

Risk has been assessed on the basis of the Officers Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
The proposed rezoning creates land use conflict with the adjacent tourism zone	Unlikely (2)	Minor (2)	Low (4)	Reputation - Unsubstantiated, localised low impact on community trust, low profile, or no media item.	Accept Officers Recommendation

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 due to the statutory requirements for assessing and advertising of the amendment.

Policy Implications

Local Planning Policy 20 – Social Impact Assessment requires that a Social Impact Assessment be prepared for all proposals to amend the Scheme.

Voting Requirement

Simple Majority Required

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Officers Recommendations and Council Decision

MINUTE: 61/2021

MOVED: Cr D Diver

SECONDED: Cr M Lynch

That with respect to the Proposed Amendment to the Shire of Ashburton Local Planning Scheme No7 to Rezone Lot 558 Beadon Creek Road from “Tourism” to “Industrial” Zone, Council:

- 1. Resolve pursuant to Section 75 of the *Planning and Development Act 2005* to initiate Amendment No.33 to the Shire of Ashburton Town Planning Scheme No. 7 by rezoning Lot 558 Beadon Creek Road, Onslow from ‘Tourism’ to ‘Industrial’;**
- 2. Advise the applicant that an assessment in accordance with WAPC’s ‘Transport Impact Assessment (TIA) guidelines’ needs to be undertaken and submitted to Council.**
- 3. Resolve that Amendment No. 33 is a “Standard” amendment in accordance with the Planning and Development (Local Planning Scheme) Regulations 2015 for the following reason:**
 - It is consistent with the endorsed local planning strategy for the scheme.**
 - The provisions of the amendment ensure that adequate consideration can be given to potential future land conflicts with nearby potentially sensitive land uses.**
- 3. Refer the amendment to the Environmental Protection Authority to determine if formal environmental assessment is required.**
- 4.**
- 5. Subject to formal assessment not being required by the Environmental Protection Authority (EPA), refer a copy of the proposed Scheme Amendment 33 documentation to relevant public authorities for consideration and comment, and publicly advertise the proposal over a submission period of not less than 42 days in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*; and**
- 5. Ensure that the proposed amendment is referred to Council for further consideration following public advertising.**

CARRIED 7/0

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13.2 NOTICE OF INTENT TO PREPARE A NEW LOCAL PLANNING SCHEME

FILE REFERENCE:	LP10.8.0
AUTHOR'S NAME AND POSITION:	Benjamin Leavy Statutory Planning Officer
AUTHORISING OFFICER AND POSITION:	Ben McKay Manager Town Planning
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	29 March 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Not Applicable

Summary

The purpose of this report is for Council to consider preparing a new local planning scheme, to be referred to as Shire of Ashburton (Shire) Local Planning Scheme No. 8 (LPS8).

This new scheme is for the development in Tom Price, Onslow, Paraburdoo, and the wider Local Government area. This does not include the Ashburton North Strategic Industrial Area, as Improvement Scheme No. 1: Ashburton North Strategic Industrial Area dictates the orderly and proper planning within the defined improvement scheme area.

This matter is overdue as the system and format that developed, Scheme No. 7, was never updated to incorporate the Deemed Provisions and Model Scheme Text in 2016.

This scheme will replace the 2004 version. This scheme will provide more consistency and incorporate the changes and recommendations adopted with the Local Planning Strategy for future development in the Shire of Ashburton.

Background

In 2015, the *Planning and Development (Local Planning Schemes) Regulations 2015* (The Regulations), introduced a new Model Scheme Text (MST) that set out the format and general content for new local government planning schemes. When preparing a new Scheme, a local government is required to follow the MST, ensuring consistency of local planning controls across the State. Any relevant new Schemes and Scheme Amendments must also be consistent with the MST.

Model Scheme Text

The Planning and Development (Local Planning Schemes) Regulations 2015 introduced a new version of the MST, replacing the previous version contained in the now repealed *Town Planning Regulations 1967*. The purpose of the MST is to provide consistency in local planning implementation throughout Western Australia, giving local governments a clear and concise template for the preparation of a new local planning scheme.

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In addition to the MST, the Regulations introduced 'Deemed Provisions' into all local planning schemes throughout the State, these Deemed Provisions effectively overwrite sections of the Scheme, standardising specific elements automatically and without the ability of a local government to modify without the Minister's approval. While they cannot be altered, supplemental provisions that are consistent with the Deemed Provisions and the Regulations may be included in a Scheme to provide additional planning controls.

Deemed Provisions

A significant number of clauses have been overwritten by the Deemed Provisions in the Regulations, meaning that some of the text in the Scheme is effectively meaningless. The new Scheme will delete these provisions. The planning matters now regulated by the Deemed Provisions that used to be regulated by local planning schemes include:

- The process for preparing, amending, and revoking local planning policies.
- Heritage protection *[note this relates to non-indigenous heritage only as aboriginal heritage is regulated under separate legislation]*.
- Preparing, amending, and rescinding subordinate planning tools: The Scheme's Development Plans are replaced with Structure Plans, Activity Centre Plans, and Local Development Plans.
- Clearly defining where development approval is required and establishing what use and development of land is exempt from local government development approval.
- Setting out the process for submitting, assessing, determining, and reviewing of development approval by the local government.
- Assessing applications for development approval in a bushfire risk area.
- Local government enforcement powers.
- Delegation of powers; and
- Provision of forms.

Accordingly, any Scheme text relating to these matters within the LPS7 should have been removed, as it has no statutory authority and may conflict with the Deemed Provisions. While these Deemed Provisions have legal effect and provide the Shire's planning statutory framework, the actual Scheme Text remains unchanged until the overwritten clauses are deleted via the adoption of a new Scheme or scheme amendment. This has caused some confusion, particularly for developers and others using the printed version available on the Department of Planning, Lands and Heritage (DPLH) website.

Furthermore, the Council endorsed the Shire of Ashburton Local Planning Strategy on 10 November 2020. The finalisation of this planning process provides a Local Planning Strategy that will guide local planning decisions with an intended lifespan of 10-15 years. The Strategy provides the justification and rationale for preparing and gazettal of a new local planning scheme, as the document proposes a number of actions and recommendations that are required to be incorporated into a new local planning scheme.

Comment

Local governments are required to review their Local Planning Scheme every five (5) years. The current Shire of Ashburton Local Planning Scheme No. 7 (LPS7) was gazetted on 24 December 2004 and is substantially overdue for review.

In preparing a new local planning scheme, the Shire must follow the legislative requirements of the *Planning and Development Act 2005* (Act) and *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations). The new local planning scheme must be initiated by Council, advertised extensively, adopted by Council, endorsed by the Western Australian Planning Commission and given final approval by the Minister for Planning to come into effect. The new local planning scheme must be prepared in a manner and form as prescribed in the Model Scheme Text which forms part of the Regulations.

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This report represents a very early stage in the process and simply aims to formally notify relevant stakeholders of the Shire's intention to prepare a new local planning scheme. High level aims of the new local planning scheme have been developed and a map of the proposed scheme area have been included in the resolution to provide stakeholders of an indication of the Shire's intentions for Local Planning Scheme No. 8. Significant opportunities for engagement will be available in the latter part of 2021 to provide input into the new scheme, which will be carried out as a matter of course following this resolution.

**ATTACHMENT 13.2A
ATTACHMENT 13.2B**

Local Planning Scheme No. 7 will continue to apply to development applications within the Scheme Area until such a time as the contents of Local Planning Scheme No. 8 have been prepared, advertised and endorsed, which is scheduled to occur in 2021/22.

Consultation

Internal

Town Planning Team
Director People and Place

External

External agency consultation will occur extensively in later stages of the process.

Community

Community Consultation will occur in the later stages of the process.

Statutory Environment

*Planning & Development Act 2005
Part 5 Division 1
s.72*

72. Local government may prepare or adopt scheme

- (1) *Subject to section 71, a local government may —*
- (a) *prepare a local planning scheme with reference to any land within its district, or with reference to land within its district and other land within any adjacent district;*
 - or*
 - (b) *adopt, with or without modifications, a local planning scheme proposed by all or any of the owners of any land*

*Planning and Development (Local Planning Schemes) Regulations 2015
Part 4 Division 1 r. 19*

19. Resolution to prepare or adopt scheme

- (1) *A resolution of a local government to prepare or adopt a local planning scheme must be in a form approved by the Commission.*

Note for this subregulation:

Section 72(1) of the Act provides for a local government to prepare a local planning scheme or to adopt a local planning scheme proposed by the owners of land in respect of which the local government might have prepared a scheme.

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(2) *The local government may resolve not to adopt a local planning scheme proposed by a landowner if the local government is not satisfied that there is in place an agreement for the local government to use any copyrighted material provided in support of the proposed scheme —*

- (a) *for the purpose of preparing and implementing the scheme; and*
- (b) *for zero remuneration.*

*Planning and Development (Local Planning Schemes) Regulations 2015
Part 4 Division 1 r. 20*

20. Notification of Resolution

(1) *A local government must, as soon as is reasonably practicable after passing a resolution to prepare or adopt a local planning scheme, advertise the resolution as follows —*

- (a) *publish a notice in a form approved by the Commission in accordance with regulation 76A;*
- (b) *provide a copy of the published notice to the following persons or bodies for recommendations —*
 - (i) *the local government of each district that adjoins the local government district;*
 - (ii) *each licensee under the Water Services Act 2012 likely to be affected by the scheme;*
 - (iii) *the chief executive officer of the department of the Public Service principally assisting in the administration of the Conservation and Land Management Act 1984;*
 - (iv) *each other public authority likely to be affected by the scheme.*

Note for this subregulation:

Under section 81 of the Act written notice of the resolution and written information about the local planning scheme must be given to the EPA.

(2) *A local government must, on the provision of the published notice to a person or body referred to in subregulation (1)(b), request the person or body to provide to the local government within 21 days or such longer period as the local government allows, a memorandum in writing setting out any recommendations in respect of the resolution.*

(3) *If a person or body does not provide a memorandum within the time allowed under subregulation (2), the local government may determine that the person or body is to be taken to have no recommendations to make in respect of the resolution.*

Financial Implications

The Shire will incur minor administrative costs in publishing the notice of intent to prepare Local Planning Scheme No. 8, as required under the Regulations.

Strategic Implications

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

Goal 01 Vibrant and Active Communities
Objective 1 Connected, caring and engaged communities

Goal 02 Economic Prosperity
Objective 1 Strong local economies

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Goal 03 Unique Heritage and Environment
Objective 1 Flourishing natural environments
Objective 2 Leading regional sustainability

Goal 04 Quality services and infrastructure
Objective 1 Quality public infrastructure
Objective 2 Accessible and safe towns
Objective 3 Well-planned towns

Goal 05 Inspiring governance
Objective 1 Effective planning for the future
Objective 2 Community ownership

Risk Management

Risk has been assessed on the basis of the Officers Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Statutory Compliance	Possible (3)	Minor (2)	Moderate (6)	Some temporary non compliances	Accept Officers Recommendation

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 due to the known compliance risk associated with the item, because the Shire is required to review its Local Planning Scheme every five (5) years under the Act, and it has not been reviewed and updated for seventeen (17) years.

This risk will be mitigated by adoption of the officers recommendation.

Policy Implications

The intent to undertake a new Local Planning Scheme will have an impact on a number of the adopted local planning policies, these policies will be reviewed as part of the adoption process to ensure consistency and compliance.

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Voting Requirement
Simple Majority Required

Officers Recommendation and Council Decision

MINUTE 62/2021

MOVED: Cr D Diver

SECONDED: Cr M Lynch

That with respect to the Notice of Intent to Prepare a New Local Planning Scheme, Council:

- 1. Resolve pursuant to Clause 19 of the *Planning and Development (Local Planning Schemes) Regulations 2015* to prepare Local Planning Scheme No. 8 to apply to the municipality of the Shire of Ashburton as shown in ATTACHMENT 13.2A with the inclusion of draft aims as shown in ATTACHMENT 13.2B and;**
- 2. Delegate to the Chief Executive Officer to carry out notification of the resolution in accordance with Clause 20 of the *Planning and Development (Local Planning Schemes) Regulations 2015***

CARRIED: 7/0

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14. INFRASTRUCTURE SERVICES REPORTS

There are no Infrastructure Reports for this agenda.

15. PROJECTS AND PROCUREMENT REPORTS

There are no Projects and Procurement Reports for this agenda.

16. COUNCILLOR AGENDA ITEMS / NOTICES OF MOTIONS

**17. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY
DECISION OF MEETING**

18. CONFIDENTIAL MATTERS

Council Decision

MINUTE: 63/2021

MOVED: Cr J Richardson

SECONDED: Cr D Diver

That Council move behind closed doors at 1.38pm to consider the following Confidential Items.

18.1 CONFIDENTIAL ITEM – STRATEGIC TOURISM

**18.2 CONFIDENTIAL ITEM AWARD OF RFQ – COMMUNITY LIFESTYLE AND
INFRASTRUCTURE PLAN**

Pursuant to sub section 5.23 (2) (c) of the *Local Government Act 1995* which provides:
((d) legal advice obtained, or which may be obtained, by the local government and which
relates to a matter to be discussed at the meeting.

CARRIED 7/0

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18.1 CONFIDENTIAL ITEM – STRATEGIC TOURISM

FILE REFERENCE:	GV05
AUTHOR'S NAME AND POSITION:	Janelle Fell Manager Land and Asset Compliance
AUTHORISING OFFICER AND POSITION:	Kenn Donohoe Chief Executive Officer
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	7 April 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Not Applicable

Officers Recommendation and Council Decision

MINUTE: 64/2021

MOVED: Cr M Lynch

SECONDED: Cr L Rumble

That with respect to the Proposed Purchase of Land, Onslow, Council endorse the recommendation under CONFIDENTIAL ATTACHMENT 18.1.

CARRIED BY ABSOLUTE MAJORITY 7/0

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**18.2 CONFIDENTIAL ITEM AWARD OF RFQ – COMMUNITY LIFESTYLE AND
INFRASTRUCTURE PLAN**

Declaration of Interest

Prior to consideration of this Agenda Item:

Cr Dias declared an Indirect financial Interest

Cr Rumble declared a financial interest

Cr Diver declared an indirect financial interest

Cr Lynch declared an indirect financial interest

Cr Gallanagh declared a financial interest

See item 6.2 for details of the interest declared.

RECORDED ON REGISTER GV07

FILE REFERENCE:	AS.TE.05.07
AUTHOR'S NAME AND POSITION:	Adam Majid Director People and Place
AUTHORISING OFFICER AND POSITION:	Kenn Donohoe Chief Executive Officer
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	5 April 2021
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	11 August 2020 Minute reference: 116/2020

REASON FOR CONFIDENTIALITY

This Report is confidential in accordance with s5.23 (2) of the *Local Government Act 1995* because it deals with matters affecting s5.23 (2):

- 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; and*

NOTE: Council was not able to achieve a quorum and therefore this item was unable to be considered.

Council Decision

MINUTE: 65/2021

MOVED: Cr J Richardson

SECONDED: Cr D Diver

That Council re-open the meeting to the public at 1.44 pm.

CARRIED 7/0

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19. NEXT MEETING

The next Ordinary Meeting of Council will be held on 18 May 2021, at the Onslow Multi-purpose Centre, Cnr Hooley Avenue and McGrath Avenue, Onslow, commencing at 1.00 pm.

20. CLOSURE OF MEETING

There being no further business to discuss the Presiding Member closed the meeting at 1.45 pm.