



# Agenda

Ordinary Council Meeting  
Tuesday, 10 October 2023

Date:	Tuesday 10 October 2023
Time:	1:00pm
Location:	Clem Thompson Sports Pavilion, Stadium Road, Tom Price
Distribution Date:	Thursday 05 October 2023



**Shire of Ashburton  
Ordinary Council Meeting**

Please be informed an Ordinary Council Meeting will be held at 1:00pm on Tuesday 10 October 2023 at Clem Thompson Sports Pavilion, Stadium Road, Tom Price.

A handwritten signature in black ink, appearing to read "Kenn Donohoe".

Kenn Donohoe  
Chief Executive Officer  
05 October 2023

**Disclaimer**

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

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# 1 Declaration Of Opening

The Presiding Member declared the meeting open at [enter time](#).

## 1.1 Acknowledgement Of Country

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

# 2 Announcement Of Visitors

To be informed at the meeting.

# 3 Attendance

## 3.1 Present

Elected Members:	Cr K White Cr M Lynch Cr R De Pledge Cr M Gallanagh Cr L Rumble JP Cr A Sullivan Cr J Richardson Cr A Smith Cr T Mladenovic	Shire President (Presiding Member), Onslow Ward Deputy Shire President, Tom Price Ward Ashburton Ward Pannawonica Ward Paraburdoo Ward Paraburdoo Ward Tableland Ward Tom Price Ward Tom Price Ward
Employees:	K Donohoe C McGurk D Kennedy R Miller J Bray A Furfaro	Chief Executive Officer Director Community Development Director Corporate Services Director Infrastructure Services Manager Governance Governance Officer
Guests:	<a href="#">Enter names</a>	
Members of Public:	There were <a href="#">enter number</a> members of the public in attendance at the commencement of the meeting.	
Members of media:	There were <a href="#">enter number</a> members of the media in attendance at the commencement of the meeting.	

### **3.2 Apologies**

To be informed at the meeting.

### **3.3 Approved Leave Of Absence**

## **4 Question Time**

### **4.1 Response To Previous Public Questions Taken On Notice**

Nil

### **4.2 Public Question Time**

To be informed at the meeting.

## **5 Declaration By Members**

### **5.1 Due Consideration By Councillors To The Agenda**

Councillors will be requested to note they have given due consideration to all matters contained in this agenda.

### **5.2 Declaration Of Interest**

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

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

The following declarations of interest are disclosed –

Nil

## **6 Announcements By The Presiding Member And Councillors Without Discussion**

To be informed at the meeting.

## **7      Petitions / Deputations / Presentations**

### **7.1    Petitions**

Nil

### **7.2    Deputations**

Nil

### **7.3    Presentations**

Nil

## **8      Applications for Leave of Absence**

Nil

## **9 En Bloc Council Resolutions**

### **9.1 Agenda Items Adopted En Bloc**

To be advised at the meeting

## **10 Confirmation Of Minutes**

### **10.1 Confirmation of Council Minutes**

#### **10.1.1 Minutes Of The Ordinary Council Meeting Held On 12 September 2023**

##### **Officer Recommendation**

That the Minutes of the Ordinary Council Meeting held 12 September 2023 (Item 10.1.1 Attachment 1) be confirmed as a true and accurate record.

### **10.2 Receipt of Committee and other Minutes**

#### **10.2.1 Minutes Of The Onslow Local Emergency Management Committee Meeting Held On 8 September 2023**

##### **Officer Recommendation**

That the Minutes of the Onslow Local Emergency Management Committee Meeting held 8 September 2023 (Item 10.2.1 Attachment 1) be received.

#### **10.2.2 Minutes Of The Pannawonica Local Emergency Management Committee Meeting Held On 5 September 2023**

##### **Officer Recommendation**

That the Minutes of the Pannawonica Local Emergency Management Committee Meeting held 5 September 2023 (Item 10.2.2 Attachment 1) be received.



## 11 Recommendations From Committee

### Audit And Risk Management Committee Meeting held on 10 October 2023

#### AR.1 Regulation 17 Review

<b>File Reference</b>	CM52
<b>Applicant or Proponent(s)</b>	Not Applicable
<b>Author</b>	D Weerasingha, Internal Auditor
<b>Authorising Officer</b>	D Kennedy, Director Corporate Services
<b>Previous Meeting Reference</b>	Ordinary Council Meeting 08 September 2020 - Item 9.2
<b>Disclosure(s) of interest</b>	Author – Nil
	Authorising Officer – Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. SOA Regulation 17 Review Report 2023</li> <li>2. SOA Regulation 17 Review Report 2023 - Airport - Confidential</li> </ol>

#### Report Purpose

Council is required to review the attached Shire of Ashburton Regulation 17 Review report (report).

The purpose of this report is to present the results of the Chief Executive Officer's (CEO) review of the appropriateness and effectiveness of the Shire of Ashburton's (Shire) systems and procedures in compliance with Regulation 17 of the *Local Government (Audit) Regulations 1996*.

Council is requested to receive the Regulation 17 Review report (refer to Attachment 1).

#### Background

Regulation 17 of the *Local Government (Audit) Regulations 1996* prescribes as follows:

- (1) *The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —*
  - (a) *risk management.*
  - (b) *internal control; and*
  - (c) *legislative compliance.*
- (2) *The review may relate to any or all the matters referred to in sub regulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.*
- (3) *The CEO is to report to the audit committee the results of that review.*

The last such review was carried out in 2020 by M/S AMD and was presented to the Audit and Risk Management Committee on 8 September 2020.

Management of the Shire has requested Internal Audit (IA), as an independent party, to carry out the review. Council adopted the Internal Audit Charter in accordance with the

International Internal Audit Standard 1000. The charter and Department of Local Government, Sport and Cultural Industries (DLGSC) Operational Guidelines no. 9 detail the Internal Auditor functionally reports to Audit and Risk Management Committee while administratively report to CEO or his delegate.

The use of third-party specialist reports was to leverage specialised expertise for informed recommendations. The review was conducted in accordance with the established standards, principles, and guidelines governing review practices.

Review tests and evidence are limited to Annexure 1 which provides factual findings resulting from the review tests, while the main body of the report offers a general assessment based on management information.

Due to the inherent limitations in any internal control structure, it is possible errors or irregularities may occur and not be detected. Further, the internal control structure, within which the control procedures that have been reviewed operate, has not been reviewed in its entirety and therefore no opinion is expressed as to the effectiveness of the greater internal control structure. It should also be noted that the review was not designed to detect all weaknesses in control procedures as it was not performed continuously throughout the period subject to review. The review conclusion and any opinion expressed in this report have been formed on the above basis.

## Comments

This report presents the findings of the comprehensive review of risk management, internal controls, and legislative compliance within the Shire for the period of July 2020 to March 2023 (referred to as the "engagement period").

The scope of the review included an assessment of the Shire's significant business processes. The review aimed to identify areas of good governance practices (refer to the Review section of the report) and opportunities for performance improvement (refer to Annexure 1 of the report) within each of these processes. To facilitate this evaluation, three key rating criteria were applied.

**Risk assessment of the theme:** This criterion assessed the level of risk associated with each risk theme. The risk assessments were informed by the Shire's 2022 risk assessment and considered the subsequent control implementations.

**Control assessment:** The effectiveness of internal controls was evaluated based on audits, assessments conducted during the engagement period, and other relevant assessment tests.

**Maturity of the process:** The maturity of each business process was assessed based on several factors, including the documentation of policies, directives, frameworks, procedures, the regularity of reviews, the utilisation of computer applications, the segregation of duties, and the corrective actions taken in response to audit findings and other assessment results.

For a comprehensive understanding of the rating criteria used in this assessment, please refer to Annexure 2 of the report.

The review of risk management, internal controls, and legislative compliance for the Shire has revealed both commendable governance practices and areas where enhancements are required. The outcomes of this assessment will serve as a valuable resource for the Shire in its ongoing efforts to enhance risk management, internal controls, and compliance with legislative requirements.

This report provides a foundation upon which the Shire can strategically plan for improvements and address identified issues. It is imperative that the Shire acts upon the

findings and recommendations contained in this report, to ensure the continued effectiveness and efficiency of its operations. The summary provided below outlines the ratings assigned to various areas and the number of identified improvement opportunities during the engagement period, along with those that are pending completion at the end of the engagement period.

S/N	Areas of review	Ratings for Engagement Period			No of Open issues as of 25 August	Audited by
		Risk of Theme	Control Assessment	Maturity Assessment of Process		
1	Assets Management and Projects Management	High	Inadequate	2-Repetable but intuitive	3	SOA IA
2	Fleet	High	Inadequate	2-Repetable but intuitive	1	SOA IA
3	Waste Management	High	Inadequate	1-Initial/ Ad hoc	2	SOA IA
4	Natural Environment Related Information	High	Inadequate	2-Repetable but intuitive	1	SOA IA
5	Workplace Health and Safety	High	Inadequate	1-Initial/ Ad hoc	1	SOA IA
6	Organisational Development	Moderate	Adequate	3-Defined	1	SOA IA
7	Swimming Pools	Low	Adequate	3-Defined	2	SOA IA
8	Caravan Parks	Low	Adequate	2-Repetable but intuitive	1	SOA IA
9	Community Grants and Gifts	Low	Inadequate	1-Initial/ Ad hoc	1	SOA IA
10	Onslow Airport	Moderate	Effective	3-Defined	1	SOA IA
11	Risk Management	High	Inadequate	1-Initial/ Ad hoc	15	MA
12	Legislative Compliance	High	Adequate	1-Initial/ Ad hoc	1	MA
13	Procurement	Moderate	Effective	3-Defined	7	MA
14	Grants Management	Low	Inadequate	0-Non-existent	10	MA
15	Records Management	High	Inadequate	2-Repetable but intuitive	18	MA
16	Cyber Security	Moderate	Adequate	1-Initial/ Ad hoc	20	MA
17	Business Continuity, Disaster Recovery and Incident Management	Moderate	Inadequate	1-Initial/ Ad hoc	23	MA
18	Building Permit Application Process	Low	Effective	3-Defined	8	MA
19	Contract Management	Moderate	Adequate	2-Repetable but intuitive	7	MA
20	Payroll and HR	Moderate	Adequate	3-Defined	6	MA
21	Fraud and Corruption	Moderate	Adequate	1-Initial/ Ad hoc	20	MA
<b>Total</b>					<b>149</b>	

IA- Shire of Ashburton Internal Audit

MA- Moore Australia

**Consultation**

As per the Internal Audit Charter, the planning memorandum has been prepared and discussed with the Executive Leadership Team (ELT) and approved by the CEO. Kick off meetings were held with the relevant Director and process owners. After the audit execution, an exit meeting was held with the process owners and directors. The draft report was discussed with ELT and management comments were obtained from process owners and directors. The final report was presented to ELT, where ratings and findings were discussed in detail and the report was approved.

**Strategic Community Plan**

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective	4. Performance - We will lead the organisation, and create the culture, to deliver demonstrated performance excellence to the community.
Strategic Outcome	4.6 Visionary community leadership with sound, diligent and accountable governance
Strategy	3 Deliver best practice governance and risk management.

**Council Policy**

[Council Policies » Shire of Ashburton](#)

Nil

**Financial Implications**

Current Financial Year

Nil

Future Financial Year(s)

Nil

**Legislative Implications**

In accordance with regulation 17 of the *Local Government (Audit) Regulations 1996*, the CEO is to review the appropriate and effectiveness of a local government’s systems and procedures in relation to:

- Risk management,
- Internal control, and
- Legislative compliance.

The CEO is to report to the Audit and Risk Management Committee, the results of each review.

**Risk Management**

Risk has been assessed against the Shire of Ashburton Risk Management Framework.

Theme	Risk	Likelihood	Consequence	Inherent Risk Rating	Risk Treatment
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Compliance	Compliance failures if areas identified for improvement are not addressed.	Possible (3)	Major (4)	High (10-16)	Implement process improvements as a result internal/ external reviews and provide regular progress reporting to the Audit and Risk Management Committee.
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Based on the inherent risk rating and risk treatments, the residual risk to the Shire is considered to be medium.

**Voting Requirements**

Simple Majority

**Committee Recommendation**

That with respect to the Regulation 17 Review, the Audit and Risk Management Committee recommends that, Council, receives the Shire of Ashburton Regulation 17 Review Report as detailed in Attachments 1 and 2.



## 12 Office of the Chief Executive Officer Reports

### 12.1 Community Lifestyle and Infrastructure Plan (CLIP) for Tom Price and Paraburdoo

<b>File Reference</b>	CM21.21
<b>Applicant or Proponent(s)</b>	Not Applicable
<b>Author</b>	L Advisory, LK Advisory Pty Ltd
<b>Authorising Officer</b>	K Donohoe, Chief Executive Officer
<b>Previous Meeting Reference</b>	Special Council Meeting 18 April 2023 - Item 8.1 – 060/2023
<b>Disclosure(s) of interest</b>	Author – Nil
	Authorising Officer – Nil
<b>Attachments</b>	1. Community Lifestyle and Infrastructure Plan - Part A

#### Report Purpose

To consider endorsing the Community Lifestyle and Infrastructure Plan (CLIP) for Tom Price and Paraburdoo.

#### Background

In October 2021, the Shire appointed a team of consultants to undertake the CLIP Project, which has been funded by the Pilbara Development Commission (PDC) and Rio Tinto Iron Ore (RTIO) through its Partnership Agreement with the Shire.

Work on the project commenced in late 2021 and has involved extensive engagement with the community and stakeholders of Tom Price and Paraburdoo, to define the key social, economic and infrastructure needs for the long-term liveability of both towns.

At the Ordinary Council Meeting on 18 April 2023, Council resolved to conclude the contract with the previously appointed consultancy team by mutual agreement, resulting in Shire staff taking over responsibility for completion of the project with the assistance of the Shire's Planning Consultants, LK Advisory.

The final draft CLIP (Part A) is included as Attachment 1 and it is presented for Council's endorsement.

#### Comments

Tom Price and Paraburdoo were established as mining towns in the late 1960s and early 1970's by RTIO and its predecessor subsidiary companies.

Historically, both towns have been defined by and reliant on the resources sector for their economic prosperity, employment, housing, and physical and social infrastructure.

With the evolution of mining activities in the region, through advancements in production, transport, automation and remote operations, there is a growing need to diversify and 'future

proof' Tom Price and Paraburdoo to sustain and enhance both communities to 2035 and beyond.

The CLIP aims to achieve this goal by identifying a range of opportunities, strategies, and actions to support the growth of Tom Price and Paraburdoo as vibrant, liveable, and sustainable communities with less dependence on the resources sector than has traditionally been the case.

The CLIP will support and inform the Shire's advocacy agenda, relationship-building with key stakeholders, future townsite improvements, and efforts relating to investment attraction, employment growth, and economic diversification in Tom Price and Paraburdoo.

When considering the CLIP, Council should note that:

1. The CLIP comprises two parts, as follows –

Part A: The report included as Attachment 1, incorporating Master Plans with recommended strategies and actions for implementation in Tom Price and Paraburdoo.

Part B: The background and analysis report which has informed Part A and includes, as Appendices, various research findings, technical studies and detailed engagement results attained throughout the CLIP project.

As Part B comprises the background and technical work that has informed Part A, it is not presented for Council endorsement, as Part A of the CLIP is the only actionable component for future implementation.

2. The CLIP has been produced as a guiding document only and is not intended to bind Council to the actions, decisions, and expenditure recommended therein.

3. If endorsed by Council, the CLIP will be one of several 'informing strategies' in the Shire's Integrated Planning and Reporting Framework (IPRF). Other informing strategies include the Shire's Long Term Financial Plan, Strategic Asset Management Plan, Local Planning Scheme and Local Planning Strategy. Together, these informing strategies provide valuable insights and inputs into the Shire's Strategic Community Plan, Corporate Business Plan and Annual Budget, but do not themselves dictate the directions and decisions taken by Council under those key strategic documents.

If any inconsistency arises now or in future between the endorsed CLIP and the other 'informing strategies' in the Shire's IPRF, then those other strategies will prevail over the CLIP to the extent of any inconsistency, unless otherwise determined by Council at the time.

4. The final draft CLIP (Part A) will be designed and presented in accordance with the Shire's document style guide once endorsed by Council and before being published on the Shire's website.

The strategies, actions and recommendations of the CLIP are expansive and have been extensively described in the attached final draft document, and are therefore not reproduced in this report, for the sake of brevity. That said, it is worth noting that six core themes emerged through the project, and these represent both the foundation and the focus of the CLIP –

- Housing – Create options for diverse and affordable housing delivery, responding to the community's current and changing needs.
- Commercial – Activate and optimise our town centres and activity nodes, making sure there's always something happening that is fun, memorable, and exciting to attract, sustain and grow future investment opportunities.



- Community – Create and maintain a culture of innovation and proactivity across the Shire, responding to the changing needs of residents from all age groups, abilities, and cultural backgrounds.
- Tourism – Make our towns viable and attractive tourism destinations that captivate locals and visitors, building civic pride for future generations.
- Sports and Recreation – Concentrate activities and key community assets that support both formal and informal social interactions.
- Greening and Connection – Enhance our attractive environment by creating inviting and inclusive spaces, enhancing connections for all, and celebrating Aboriginal culture.

For each of these six themes, the CLIP sets out various strategies and actions for implementation to achieve the following community-inspired visions and principles:

Vision –

*Tom Price is a sought-after place to live, visit, and invest, with infrastructure improving productivity and equity, and unlocking growth opportunities that leverage the regions advantages and diversifies its economic base.*

*Paraburdoo is a thriving and integrated community, with a welcoming, sustainable, and socially active town centre, offering a variety of opportunities to community.*

Principles –

*Consolidation: Create destinations and experiences within the town centre and surrounding parklands that captivate both locals and visitors, fostering a sense of civic pride for future generations.*

*Regeneration: Celebrate our town's unique qualities and make it more responsive to the changing needs of the community.*

*Connection: Build on our town's 'welcoming and inclusive' mantra by enhancing accessibility for all ages, abilities, and cultural backgrounds, and celebrating Aboriginal culture.*

*Integration: Integrate recreation, art, and culture into the town centre and surrounding parklands to enhance the community's sense of discovery, learning, and adventure.*

*Optimisation: Optimise existing facilities and create opportunities for communities to enjoy and connect.*

### Election Caretaker Policy

The Western Australian Government's latest tranche of reforms to the *Local Government Act 1995* have introduced provisions into this Act and its subsidiary legislation that will impose a statewide Election Caretaker Period prior to an ordinary local government election. The intent of these pending provisions is that during the statutorily applied Caretaker Period certain crucial prescribed decisions could not be made, by the current Council that would bind a future Council, while electors are deciding the composition of the new Council.

Importantly, these statutory Election Caretaker Period provisions do not commence until 1 July 2024 and will then only apply to ordinary local government elections from 2025 onwards.

Council at its meeting on 14 February 2023, adopted its own "Election Caretaker" Policy, which applies a self-imposed caretaker period, during which time the CEO should avoid

major decisions being presented to Council for consideration, unless extraordinary circumstances apply, and ensure that decisions are either:

- considered by the Council prior to the commencement of the caretaker period, or
- scheduled for determination by the incoming Council.

“Major Decisions” in the current policy are defined as:

- relating to the employment, termination or remuneration of the CEO or any other designated senior officer, other than a decision to appoint an Acting CEO, or to suspend the current CEO (in accordance with the terms of their contract), pending the election,
- relating to the Shire entering a sponsorship arrangement unless that sponsorship arrangement has previously been granted “in principle” support by the Council and sufficient funds have been included in the Council’s annual budget to support the sponsorship arrangement,
- relating to the Shire entering into a major trading undertaking or major land transaction as defined by section 3.59 of the Local Government Act 1995,
- that would commit the Shire to substantial unbudgeted expenditure,
- that result in actions which the CEO considers significant and unplanned, such as that which might be brought about through a Notice of Motion by an elected member,
- that, in the CEO’s opinion, will have significant impact on the Shire or the community,
- relating to the adoption, repeal or substantial amendment of a policy, including local planning policy, a local law or local planning scheme,
- reports requested or initiated by an elected member, candidate or member of the public that, in the CEO’s opinion, could be perceived within the general community as an electoral issue and has the potential to call into question whether decisions are soundly based and in the best interests of the community.

The CLIP is not considered to fall within the definition of a “Major Decision” for the reasons mentioned earlier, namely because it is not binding on Council, will support the Shire’s advocacy agenda, has been the subject of extensive community and stakeholder engagement, and will be one of many informing strategies for Council to have regard to when making other formal, resourcing or expenditure decisions in future. Furthermore, the CLIP is not a statutory instrument or a decision-making document.

Although the CLIP is not considered to meet the definition of a Major Decision, even if it were, the Policy allows the CEO to refer such decisions to Council for consideration during the Caretaker Period where “extraordinary circumstances” exist. Such circumstances include:

Extraordinary circumstances mean a situation that requires a major decision of the Council because, in the CEO’s opinion:

- the urgency of the issue is such that it cannot wait until after the election,
- legal and/or financial repercussions are possible if a decision is deferred, and/or
- it is in the best interests of the Shire, community or impacted stakeholders for the decision to be made as soon as possible

Endorsing the CLIP (Part A) is an important decision for the Shire, but not a “major decision” under the Policy, as the CLIP identifies projects, ideas and initiatives for further exploration and provides overall Master Plans with recommended strategies and actions in Tom Price and Paraburdoo that will require subsequent decisions of Council to support the six core themes identified to enhance the long-term liveability of both towns.

Supporting the CLIP Part A means identified actions can be progressed effectively.

**Consultation**

The CLIP Project has involved extensive consultation with various stakeholders since early 2022, the results of which have been considered by and incorporated in the final draft CLIP.

**Strategic Community Plan**

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective	2. Place - We will provide sustainable, purposeful, and valued built and natural environment opportunities for the community.
Strategic Outcome	2.6 Land use opportunities to benefit current and future communities
Strategy	3 Review and implement planning frameworks and strategies to ensure appropriate development outcomes.

**Council Policy**

Nil

**Financial Implications**

Current Financial Year

The current budget allocation is \$385,300 plus GST, with \$236,500 including GST committed to LK Advisory to complete the CLIP. This includes the design and publication of the associated documents in electronic form only.

Future Financial Year(s)

Council’s adoption of the Officer Recommendation will enable the CLIP to progress to implementation stage for the individual actions detailed. Implementation costs will be presented to Council during the normal annual budget cycle.

**Legislative Implications**

*Local Government Act 1995*

**Risk Management**

Risk has been assessed against the Shire of Ashburton Risk Management Framework.

Theme	Risk	Likelihood	Consequence	Inherent Risk Rating	Risk Treatment
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Reputation (social/community)	Substantiated, localised impact on community trust or low media item.	Possible (3)	Minor (2)	Moderate (5-9)	Adopt the officer's recommendation.
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Based on the inherent risk rating and risk treatments, the residual risk to the Shire is considered to be low.

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That with respect to Community Lifestyle and Infrastructure Plan for Tom Price and Paraburdoo, Council,

1. Acknowledges the “Election Caretaker” Policy and agrees that endorsement of the Community Lifestyle and Infrastructure Plan – Part A is not a major decision for the purposes of the Policy but nevertheless passes the test for extraordinary circumstances warranting Council’s consideration.
2. Endorses the Community Lifestyle and Infrastructure Plan Part A, as detailed in Attachment 1 and notes that the document will be subject to design, layout, and styling in accordance with the Shire’s standards for publications, to the satisfaction of the Chief Executive Officer;
3. Authorises the Chief Executive Officer to finalise any Amendments or Addendums required to the Community Lifestyle Infrastructure Plan – Part B to reconcile and align with the endorsed Community Lifestyle Infrastructure Plan – Part A in point 2; and
4. Authorises the Chief Executive Officer to publish the Community Lifestyle Infrastructure Plan - Part A on the Shire’s website following the completion of the requirements in point 2 of this recommendation.

## 12.2 Local Planning Scheme No. 8 - Adoption for Public Advertising

<b>File Reference</b>	LP10.8.0
<b>Applicant or Proponent(s)</b>	Not Applicable
<b>Author</b>	L Advisory, LK Advisory Pty Ltd
<b>Authorising Officer</b>	K Donohoe, Chief Executive Officer
<b>Previous Meeting Reference</b>	Ordinary Council Meeting – 20 April 2021 – 13.2 – Council Decision – 62/2021. Ordinary Council Meeting – 22 October 2022 – 13.1 – Council Decision – 144/2022. Ordinary Council Meeting – 9 May 2023 – 11.3 – Council Decision – 069/2023.
<b>Disclosure(s) of interest</b>	Author – Nil
	Authorising Officer – Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Draft LPS 8</li> <li>2. Overall Scheme</li> <li>3. Onslow Townsite</li> <li>4. Onslow Surrounds</li> <li>5. Paraburdoo Townsite</li> <li>6. Tom Price Townsite</li> <li>7. Tom Price Surrounds</li> <li>8. Tubridgi</li> </ol>

### Report Purpose

To consider the draft Local Planning Scheme No. 8 (LPS 8) for adoption, for the purposes of referral to the Environmental Protection Authority (EPA) and the Minister for Planning and Western Australian Planning Commission (WAPC) for consent to commence public advertising.

### Background

At the Ordinary Council Meeting held on 9 May 2023, Council resolved:

*“That with respect to Draft Local Planning Scheme No. 8 and the Local Planning Strategy, Council:*

1. *Advises the Environmental Protection Authority that it withdraws the version of draft Local Planning Scheme No. 8 adopted by Council on 11 October 2022 and later referred to the Authority for consideration under Section 81 of the Planning and Development Act 2005, due to Council’s future consideration of a revised draft Scheme;*
2. *Advises the Western Australian Planning Commission that it withdraws the version of draft Local Planning Scheme No. 8 adopted by Council on 11 October 2022 and later referred to the Commission for consideration under regulation 21(4) of the Planning and Development (Local Planning Schemes) Regulations 2015, due to Council’s future consideration of a revised draft Scheme;*
3. *Receives a further report to adopt a new draft Local Planning Scheme No. 8 for subsequent referral to the Environmental Protection Authority and Western*

*Australian Planning Commission, and to concurrently amend the Shire's Local Planning Strategy; and*

4. *Authorises the Chief Executive Officer to secure and execute a funding agreement from the Department of Planning, Lands and Heritage for a financial contribution towards the Shire's costs of preparing the revised draft Local Planning Scheme No. 8 and amended Local Planning Strategy."*

The Shire has actioned items 1, 2 and 4 from Council's resolution above. This report addresses item 3.

Draft Local Planning Scheme No. 8 was listed for consideration at Council's Ordinary Meeting on 12 September 2023 (Agenda Item 12.1) but was withdrawn from that Agenda by the Chief Executive Officer for Administration to review queries raised about the nature of that report in the context of Council's "Election Caretaker" Policy.

Administration has concluded its review of this matter, which included obtaining specific legal advice, and the Chief Executive Officer is now satisfied that reasonable and appropriate grounds exist for Council to consider this item at its October 2023 meeting. The basis for this decision is outlined at the end of the "Comments" section of this report, under the sub-heading "Election Caretaker Policy".

### **Comments**

The Shire's planning consultant, LK Advisory, has worked closely with staff to ensure that LPS 8 aligns with Council's goals and objectives for the future and positions the Shire well to deal with key planning and development issues, trends, opportunities, and risks facing the region.

In preparing LPS 8, LK Advisory has extensively reviewed multiple Council decisions and strategic documents, including:

- The Shire's existing Local Planning Strategy (2021).
- Local Planning Scheme No. 7 (LPS 7).
- The draft Community Lifestyle Infrastructure Plan (CLIP) for Tom Price and Paraburdoo.
- The Onslow: Towards a Visitor Economy Report (2022).
- Strategic Community Plan 2022 – 2032.
- Corporate Business Plan 2023 – 2027.
- *Planning and Development Act 2005 (Act).*
- *Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regulations), including Schedule 1 – Model Provisions for Local Planning Schemes (Model Provisions) and Schedule 2 – Deemed Provisions for Local Planning Schemes (Deemed Provisions).*

The draft Scheme is based on the Model Provisions and carefully addresses key planning issues relating to housing, tourism, environment, and industry. It generally follows the guidance of the Shire of Ashburton Local Planning Strategy (endorsed 21 June 2021), which has also been reviewed and is the subject of another report in this agenda.

Together with Shire staff, LK Advisory prepared five discussion papers relating to the structure of LPS 8, Onslow, Tom Price, Paraburdoo and regional issues. These were workshopped with elected members on 9 August 2023.

The issues outlined in the Discussion Papers are well understood and generally agreed among elected members. However, two key matters were identified in the recent workshop, relating to the residential density code over ‘Centre’ zoned land in Onslow and the location of ‘Industrial Development’ zoned land in Paraburdoo. These two issues are discussed in more detail below.

Residential Density Coding in Onslow

The existing ‘Civic and Commercial’ zone (R50) is recommended to be changed to ‘Centre’ zone (R-AC4). The primary controls (taken from the Residential Design Codes – Volume 2 Apartment Design) for R50 and R-AC4 coded land are provided for comparison in the table below.

Primary Control	R-Codes	
	R50 (Current)	R-AC4 (Recommended)
Building height	3 Storeys	3 Storeys
Boundary wall height	1 Storey (to one boundary only; 2/3 the length of the lot boundary.	2 Storeys
Minimum primary and secondary street setbacks	2m	2m or Nil (Nil for commercial use at ground floor)
Minimum side setbacks	3m	Nil
Minimum rear setback	3m	6m
Average side setback where building length exceeds 16m	3.5m	N/A
Plot ratio	0.7	1.2

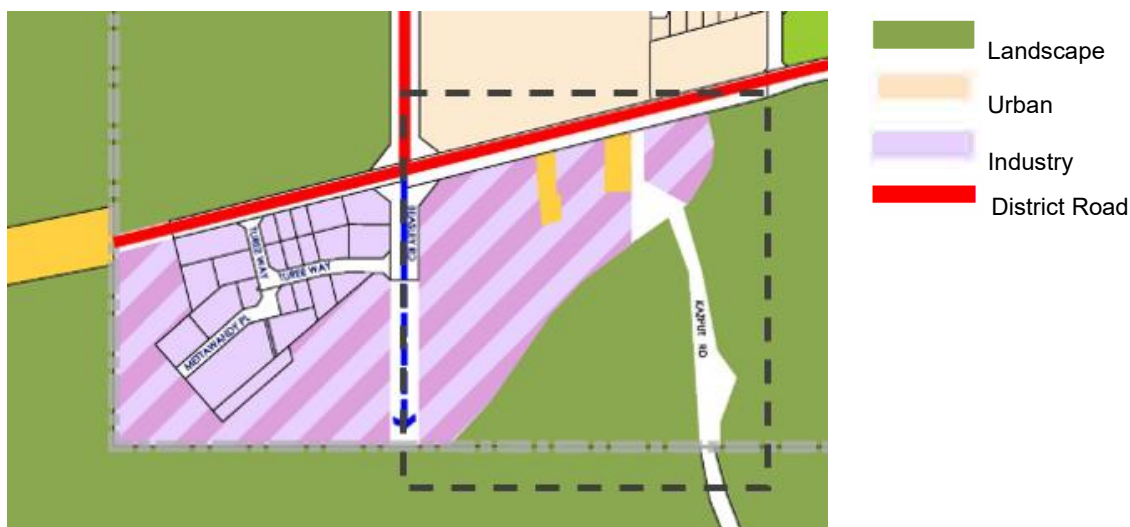
The R-AC4 code is recommended because the controls provide for more efficient use of land in the town centre and a built form that is typical of a traditional main street environment. The controls provide for development with nil setbacks for shopfronts and additional plot ratio to facilitate a mix of residential and non-residential land uses.

This type of built form is more likely to accommodate the right mix and intensity of land use required to create a vibrant, activated and high quality streetscape. Furthermore, the additional plot ratio and reduced setbacks may enable development to be effectively accommodated entirely on the first and second floors in circumstances where the ground floor is not able to accommodate anything other than vehicle parking due to the minimum floor levels required to mitigate coastal hazard risks.

Industrial Development zoned land in Paraburdoo

‘Rural’ zoned land surrounding the existing Industrial zoned land is recommended to be rezoned to ‘Industrial Development’, in accordance with the Local Planning Strategy, illustrated by the purple diagonally striped land in the below figure.





Some concerns were raised by elected members at the recent workshop about allowing additional Industrial Development on the southern side of Camp Road east of Beasley Road. The concern related to the current unsightly development that is occurring in this location, its proximity to residential uses and the associated visual impacts on the gateway into the town from the west.

In considering whether to zone this land Industrial Development, Council should note that a Structure Plan would need to be approved by the WAPC before subdivision and development can occur. The benefit here is the structure planning process requires the applicant to:

- Establish a bespoke planning framework including zones, reserves, land uses and development standards within the structure plan area;
- Outline mechanisms to protect environmental or heritage features;
- Identify how subdivision and development will respond to hazards and separation areas;
- Identify how subdivision and development will respond to or be staged in relation to major infrastructure, including for the provision of roads and utilities;
- Provide arrangements to interface with land adjoining the structure plan area; and
- Provide for public open space in accordance with WAPC policies.

Comprehensive structure planning and development has the ability to resolve some of the issues associated with the ad-hoc and unplanned state of the area by facilitating a more orderly and complete development precinct. By contrast, maintaining the existing 'Rural' zone could result in the status quo remaining.

If Council is satisfied with the recommended approach to these two matters, it can adopt the officer's recommendation.

If however, Council wants to change the approach to one or both of these matters (or any other aspect of the draft Scheme), it must amend the officer recommendation by deleting item 1 of the officer recommendation and replace it with the following:

1. Adopts the draft Scheme subject to the following modifications and proceeds to advertise the draft Scheme with modifications as specified in item 2 below, in accordance with section 72(1)(a) of the *Planning and Development Act 2005* and



regulation 21(1)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*;

- a) Change the residential density code for land zoned 'Centre' in Onslow from 'R-AC4' to 'R50'; and/or
- b) Change the 'Industrial Development' zoned land south of Camp Road and east of Beasley Road, Paraburdoo to 'Rural'.
- c) ...etc.

**Next Steps**

If Council adopts LPS 8 for public advertising, it must refer the scheme to the EPA pursuant to section 83A of the Act and seek approval to commence public advertising from the Minister for Planning pursuant to section 87 of the Act and the WAPC pursuant to regulation 21(1)(2) of the LPS Regulations.

The table below sets out the six legislative steps that need to occur before the Shire can commence public advertising of LPS 8.

<b>Step</b>	<b>Timeframe</b>
1. Council Adopts LPS 8 for public advertising.	October 2023
2. The Shire refers LPS 8 to EPA.	October 2023
3. The Shire refers LPS 8 to Minister for Planning and WAPC.	October 2023
4. EPA to determine whether LPS 8 requires environmental assessment.	28 days from the date of receiving LPS 8
5. WAPC to review LPS 8, advise of any modifications and provide consent for the Shire to advertise LPS 8.	90 days from the date of receiving LPS 8
6. Minister for Planning to review LPS 8 and advise whether they approve advertising the scheme, require modifications to the scheme before advertising, or refuse approval to advertise the scheme.	No time limit

The Shire and LK Advisory will continue to work collaboratively with the DPLH and the EPA, providing any necessary documentation and correspondence to ensure that LPS 8 progresses smoothly through to advertising.

It is expected that LPS 8 will be approved for advertising by the Minister for Planning and/or the WAPC in late 2023/early 2024. However, if an environmental assessment is required by the EPA or if LPS 8 needs to be modified and resubmitted for inspection by the Minister for Planning and/or WAPC, the public advertising may be delayed.

A further report will be presented to Council if the EPA require the Shire to undertake an environmental assessment of the Scheme or if the Minister for Planning and/or the WAPC require any modifications before advertising.

Advertising of LPS 8

Upon receipt of advice from the Minister for Planning and/or the WAPC that LPS 8 can be advertised, the Shire will undertake the necessary steps to commence public advertising as described in the below table.

Step	Timeframe
1. Prepare advertising material, including a notice of the draft Scheme in a prescribed form.	As soon as practicable
2. Publish the notice and the draft Scheme in accordance with r.76A of the LPS Regulations which includes: <ul style="list-style-type: none"> <li>a. Publishing the notice and the document (or a link to the document) on the Shire’s website; and may include</li> <li>b. Publishing the notice in a local newspaper/s circulating the scheme area; and</li> <li>c. Making the documentation available for public inspection at the Shire’s offices in each town.</li> </ul>	The period for making submissions is at least 90 days from the dater the notice is published.
3. Refer a copy of the draft Scheme to each Public Authority the Shire considers likely to be affected.	
4. Review and respond to submissions.	
5. Prepare Council report to consider submissions and either support LPS 8 with or without modifications or not support the Scheme.	120 days from the end of advertising period
6. Provide all necessarily documentation to WAPC.	Within 21 days of Council’s resolution

Subject to external decision-making processes, advertising of LPS 8 may commence in the first quarter of 2024.

After public advertising, Council will have an opportunity to consider all submissions received and resolve to either:

- Support the draft Scheme with or without modification; or
- Not support the draft Scheme.

Approval of LPS 8

At the conclusion of the public advertising period, there are three steps involved before LPS 8 can be approved by the Minister for Planning. Each step is described in the left column of the table below, the Minister or agency involved in the middle column and the timeframe in the right-hand column.

Step	Agency/Organisation	Timeframe
1. Officers of the DPLH review the draft Scheme, all documentation and submissions received, and prepare a report with recommendations for consideration by the Statutory Planning Committee (SPC) (on behalf of the WAPC).	DPLH	120 days

Step	Agency/Organisation	Timeframe
2. The SPC formally makes a recommendation to the Minister for Planning, which may or may not include modifications to the draft Scheme.	WAPC	
3. Minister for Planning may approve the Scheme with or without modifications or may refuse the Scheme.	Minister for Planning	No time limit

The Shire and LK Advisory will liaise with DPLH as they undertake their assessment of the Scheme and submissions and will provide clarification and support as and when required.

Implementation of LPS 8

After LPS 8 is referred to the WAPC for final adoption, the Shire will prepare a suite of Local Planning Policies and procedures to supplement the new Scheme and fill any gaps in the existing local planning framework. The draft policy framework will be presented to Council for advertising and adoption while the WAPC undertakes its assessment of the Scheme. This approach will ensure the policies are ready for implementation by time the new Scheme is gazetted.

Election Caretaker Policy

The WA Government’s latest tranche of reforms to the *Local Government Act 1995* have introduced provisions into the Act and subsidiary legislation that would impose a statewide Election Caretaker Period prior to an ordinary local government election. The intent of these provisions is that during the Caretaker Period certain crucial decisions could not be made by the current Council that would bind the future Council, while electors are deciding the composition of the new Council.

Importantly, however, these statutory Caretaker provisions do not commence until 1 July 2024 and will then only apply to ordinary local government elections from 2025 onwards. Hence, there is currently no statutory impediment to a Council making any decision it chooses prior to the forthcoming local government election on 21 October 2023.

Notwithstanding, at its meeting on 14 February 2023, Council adopted its own “Election Caretaker” Policy, which applies a self-imposed caretaker period, during which time the CEO should, so far as reasonably practicable, avoid presenting “Major Decisions” to Council except in extraordinary circumstances.

“Major Decisions” are defined on pages 4 and 5 of the Policy and include any decision relating to “the adoption, repeal or substantial amendment of a policy, including local planning policy, a local law or local planning scheme”.

The Policy defines the “Caretaker Period” as applying from the date of the “opening of nominations being 44 days prior to election day in accordance with section 4.49(a) of the *Local Government Act 1995*, until 6pm on election day”. However, Administration’s review of this matter in the context of Council’s Policy has identified that:

- The Shire’s “Caretaker Period” is defined as commencing when nominations open, which is stated as 44 days before election day (i.e. 7 September 2023). However, the opening of nominations prescribed by section 4.49(a) of the Act is 51 days before election day (i.e. 31 August 2023). Hence, the number of days stated in the Policy definition contradicts the section of the Act which it references; and

- The new *Local Government Act 1995* caretaker period will commence from the close of nominations (not the opening of nominations as stated in Council's Policy), meaning the Policy's caretaker period is contrary to that imposed by the Act.

Council's Policy will need to be amended to correct this situation.

In the meantime, however, the Policy recognises the voluntary nature of imposing a Caretaker Period prior to the statewide provisions taking effect and grants the following critical discretions:

- The CEO "should" (not "shall" or "must") avoid presenting major decisions to Council during the Caretaker Period;
- This should be done "so far as reasonably practicable" in the opinion of the CEO, which generally means 'what is at that particular time reasonably able to be done under the given circumstances';
- If the CEO is satisfied that "exceptional circumstances" exist, then the presumption against presenting major decisions to Council during the caretaker period can be set aside; and
- If the CEO chooses to submit a major decision to Council during the caretaker period, the report must include information detailing that the decision could be a major decision and the reason that Council should make an exception to the Policy.

Considering these points, the CEO is satisfied that reasonable, appropriate and exceptional grounds exist for this matter to be presented to Council during the voluntary caretaker period imposed under Council's Policy, for the following reasons:

- i. Council first considered Draft LPS 8 for advertising at its meeting on 11 October 2022. Shire staff subsequently actioned Council's decision and sought advice from the WAPC (Department of Planning, Lands and Heritage) and EPA for commencement of advertising, but both agencies informed the Shire that insufficient detail and documentation had been provided to enable their consideration.
- ii. On 4 April 2023, Administration and the Shire's appointed Planning Consultants presented to Elected Members in Paraburdoo on the approach to LPS 8 and the Local Planning Strategy to address the agency feedback which had been received. That approach is reflected in the reports presented to Council in September 2023 (Agenda Items 12.1 and 12.2).
- iii. The approach to prepare new Draft LPS 8 and amended Local Planning Strategy (as per the 4 April 2023 workshop) was presented to and formally endorsed by Council at its meeting on 9 May 2023
- iv. In early August 2023, detailed Discussion Papers addressing key aspects of Draft LPS 8 and Local Planning Strategy were circulated to Elected Members for review. This was supplemented by a workshop with Elected Members, Administration, and the Shire's appointed Planning Consultants in Onslow on 8 August 2023.
- v. Based on feedback from Elected Members at and after the 8 August workshop, the Draft Scheme and Strategy were listed for consideration as Items 12.1 and 12.2 (respectively) on the 12 September 2023 Council Meeting Agenda.

- vi. The approach taken to progress both the Scheme and Strategy accorded with that endorsed by Council on 9 May 2023 and workshopped with Elected Members on 4 April 2023 and 8 August 2023.
- vii. The content of the Draft Scheme and Strategy now being presented to Council for consideration in October 2023 is identical to that published in the 12 September 2023 Council Meeting Agenda.
- viii. The Shire has received grant funding from the WA Government to prepare the Draft Scheme and Strategy, which is subject to general adherence to a timeline that was submitted with the grant application, as previously presented to and agreed by Elected Members. Presentation of the Draft Scheme and Strategy to Council in October 2023 will support this compliance.
- ix. Any decision made by Council on the Draft Scheme and Strategy at its October 2023 will be subject to further review and determination by Council and will not bind the future Council to a particular course of action after the forthcoming local government election. Specifically, the decision currently before Council is to consider endorsing the draft Scheme and Strategy for referral to the WAPC and EPA for permission to advertise those documents for an extensive public consultation process. It is expected (and virtually guaranteed) that one or both agencies will provide feedback requiring further information or modification of the documents before advertising can commence. In that case, the Officer Recommendation already states that the Scheme and/or Strategy would be referred to Council for consideration if that were to occur. Additionally, Council will need to consider submissions received during the advertising period, when that eventually concludes.

**Consultation**

Department of Planning, Lands and Heritage  
 Elected Members  
 Executive Leadership Team

**Strategic Community Plan**

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective	2. Place - We will provide sustainable, purposeful, and valued built and natural environment opportunities for the community.
Strategic Outcome	2.6 Land use opportunities to benefit current and future communities
Strategy	2 Incorporate appropriate planning controls for land use planning and development.

**Council Policy**

Nil

**Financial Implications**

Current Financial Year

The Shire has received grant funding from the DPLH to prepare LPS 8 and update its Local Planning Strategy.

Future Financial Year(s)

Nil

**Legislative Implications**

LPS 8 has been prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**Risk Management**

Risk has been assessed against the Shire of Ashburton Risk Management Framework.

Theme	Risk	Likelihood	Consequence	Inherent Risk Rating	Risk Treatment
Compliance	Council refuse to approve LPS 8 for advertising or require major changes.	Unlikely (2)	Minor (2)	Low (1-4)	Accept the officers' recommendation
Compliance	The EPA require an environmental review of LPS 8.	Possible (3)	Minor (2)	Moderate (5-9)	
Compliance	The Minister for Planning or WAPC require modifications to LPS 8 prior to advertising.	Unlikely (2)	Minor (2)	Low (1-4)	

Based on the inherent risk rating and risk treatments, the residual risk to the Shire is considered to be medium.

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That with respect to the draft Local Planning Scheme No. 8, Council,

1. Acknowledges and agrees that appropriate, reasonable, and exceptional circumstances exist to consider this matter notwithstanding the provisions of Council's "Election Caretaker" Policy, for the reasons described in the Officer Report.
2. Adopts the draft Scheme (comprising the Scheme Text and Scheme Maps included as Attachments 1 and 2, respectively) without modification and proceeds to advertise the draft Scheme in accordance with section 72(1)(a) of the *Planning and Development Act 2005* and regulation 21(1)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
3. Authorises the Chief Executive Officer to:
  - a. Refer the draft Local Planning Scheme No. 8 to the Environmental Protection Authority for consideration in accordance with section 81(1) of the *Planning and Development Act 2005*.

- b. Refer the draft Local Planning Scheme No. 8 to the Western Australian Planning Commission for consideration in accordance with regulation 21(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
  - c. Refer the draft Local Planning Scheme No. 8 to the Minister for Planning for approval to advertise in accordance with section 83A(1) of the *Planning and Development Act 2005*.
  - d. Advertise the draft Local Planning Scheme No. 8 for public comment in accordance with regulation 22 of the *Planning and Development (Local Planning Schemes) Regulations 2015* if no environmental assessment or modifications are required in response to a., b., or c. above.
4. Notes that a further report will be presented to Council:
- a. If, in response to 2.a. above, the Environmental Protection Authority requires an environmental review of the Scheme in accordance with section 48C(1)(a) of the *Environmental Protection Act 1986*.
  - b. If, in response to 2.b. or 2.c. above, the Western Australian Planning Commission or the Minister for Planning require modifications to the draft Scheme prior to the commencement of public advertising.
  - c. To consider submissions received during public advertising of the draft Scheme if the Environmental Protection Authority does not require an environmental review and the Commission and the Minister do not require the Scheme to be modified before advertising commences.

### 12.3 Amendment No. 1 to Local Planning Strategy - Adoption for the Purposes of Advertising

<b>File Reference</b>	LP10.8.0
<b>Applicant or Proponent(s)</b>	Not Applicable
<b>Author</b>	L Advisory, LK Advisory Pty Ltd
<b>Authorising Officer</b>	K Donohoe, Chief Executive Officer
<b>Previous Meeting Reference</b>	Ordinary Council Meeting – 9 December 2015 – 14.1. Ordinary Council Meeting – 24 November 2017 – 14.1 – Council Decision 266/2017. Ordinary Council Meeting – 10 November 2020 – 13.2 – Council Decision 196/2020. Ordinary Council Meeting – 9 May 2023 – 11.3 – Council Decision – 069/2023.
<b>Disclosure(s) of interest</b>	Author – Nil
	Authorising Officer – Nil
<b>Attachments</b>	1. Amendment No. 1 Schedule of Changes 2. Amended Local Planning Strategy Part 1 (Combined)

#### Report Purpose

Council is requested to consider adopting Amendment No. 1 to the Local Planning Strategy for the purposes of referral to the Western Australian Planning Commission (WAPC) for certification to advertise.

#### Background

At the Ordinary Council Meeting held on 9 May 2023, Council resolved the following:

*“That with respect to Draft Local Planning Scheme No. 8 and the Local Planning Strategy, Council:*

1. *Advises the Environmental Protection Authority that it withdraws the version of draft Local Planning Scheme No. 8 adopted by Council on 11 October 2022 and later referred to the Authority for consideration under Section 81 of the Planning and Development Act 2005, due to Council’s future consideration of a revised draft Scheme;*
2. *Advises the Western Australian Planning Commission that it withdraws the version of draft Local Planning Scheme No. 8 adopted by Council on 11 October 2022 and later referred to the Commission for consideration under regulation 21(4) of the Planning and Development (Local Planning Schemes) Regulations 2015, due to Council’s future consideration of a revised draft Scheme;*
3. *Receives a further report to adopt a new draft Local Planning Scheme No. 8 for subsequent referral to the Environmental Protection Authority and Western Australian Planning Commission, and to concurrently amend the Shire’s Local Planning Strategy; and*



4. *Authorises the Chief Executive Officer to secure and execute a funding agreement from the Department of Planning, Lands and Heritage for a financial contribution towards the Shire's costs of preparing the revised draft Local Planning Scheme No. 8 and amended Local Planning Strategy."*

The Shire has actioned items 1, 2 and 4 from Council's May 2023 resolution and this report now relates to the Local Planning Strategy component of item 3. A separate report is included in this agenda regarding draft Local Planning Scheme No. 8 (LPS 8).

The Draft Local Planning Strategy was listed for consideration at Council's Ordinary Meeting on 12 September 2023 (Agenda Item 12.2) but was withdrawn from that Agenda by the Chief Executive Officer for Administration to review queries raised about the nature of that report in the context of Council's "Election Caretaker" Policy.

Administration has concluded its review of this matter, which included obtaining specific legal advice, and the Chief Executive Officer is now satisfied that reasonable and appropriate grounds exist for Council to consider this item at its October 2023 meeting. The basis for this decision is outlined at the end of the "Comments" section of this report, under the sub-heading "Election Caretaker Policy".

### **Comments**

The Shire's Local Planning Strategy (Strategy) was first prepared and adopted by Council on 24 December 2017 and was later endorsed by the WAPC on 21 June 2021.

Following endorsement of the Strategy, the WAPC published a 'Local Planning Strategy Template', in October 2021. Although new Local Planning Strategies need to follow this template, officers at the Department of Planning, Lands and Heritage (DPLH) have confirmed that the Shire's Strategy does not need to be reformatted for the purposes of the proposed amendment which is the subject of this report. Consequently, Amendment No. 1 to the Strategy presented to Council has retained the same structure and format as that endorsed by the WAPC in 2021.

The *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations) require a Local Planning Strategy to be prepared for each Local Planning Scheme. As the Shire is preparing a new LPS 8, a simultaneous amendment to the Strategy has been prepared to:

- Ensure the Strategy aligns with recent strategic decisions and documents adopted by Council;
- Update the Strategy with recent data, for example, demographic data from the 2021 Census;
- Update the Strategy to reflect changes to the state planning framework; and
- Ensure the Strategy aligns with and supports the newly drafted LPS 8.

### Summary of key changes

The Strategy comprises of two parts:

- Part 1 – The strategic plans and actions for implementation; and
- Part 2 – A collection of background data and information forming a Local Profile and Context Report.

In its entirety, the Strategy is a voluminous document, comprising nearly 300 pages. If prepared under the current WAPC Template and Guidelines for Local Planning Strategies,

it would be a far more succinct. However, as the Strategy is only being amended, the structure of the Strategy has been kept intact.

At this stage, the Shire and its planning consultants, LK Advisory, have prepared changes to Part 1 of the Strategy to align with the new LPS 8. Updates to Part 2 are well advanced and will be completed prior to Amendment No. 1 being referred to external agencies for consent to advertise, but are not included with this report. As Part 2 is merely a contextual document mainly comprising facts and data to inform Part 1, it is recommended that Council authorise the Chief Executive Officer to separately finalise Part 2, to enable the timely progression of Amendment No. 1 and LPS 8.

The schedule of the changes proposed to the Strategy by Amendment No. 1 is included as Attachment 1. Attachment 2 shows these changes in 'tracked' red coloured text. The following key changes to the Strategy are highlighted for Council's consideration:

1. Amendment No. 1 updates the population data to incorporate the 2021 Census, which reflects a substantial decline in the Shire's overall population (43% decline since 2016) and the implications of this change. Notably, the population decrease predominantly occurred in areas outside of the Shire's townsites where the resource sector's need for workers declined as major projects transitioned from construction to operation phase. In recognition of this trend, Amendment No. 1 and LPS 8 have been prepared to accommodate future fluctuations in the resource economy, to capitalise on transient workforces and economic activity, and to position the townsites as viable permanent places of residence for resource sector workers and their families.
2. An action has been included in Amendment No. 1 to, where appropriate, rezone underutilised or surplus land within the townsites of Onslow, Tom Price and Paraburdoo for residential development, in addition to increasing the allowable residential density and identifying nearby land for residential expansion.
3. Amendment No. 1 includes an action for LPS 8 to include specific provisions requiring Workforce Accommodation (previously referred to as Transient Worker Accommodation) to be located within established townsites, wherever practicable. Currently, the Strategy adopts more of an 'advocacy' position in this respect, likely in recognition of the fact that Workforce Accommodation is often exempt from the need for approval under the Local Planning Scheme, due to the effect of other State legislation.
4. Amendment No. 1 changes the Townsite Strategy Plans to identify additional land for possible industrial development near the townsites to address a lack of available industrial land.
5. Amendment No. 1 changes the Strategy document and overall Strategy Plan to recognise and appropriately zone the Pilbara Regional Waste Management Facility and to identify land for future expansion.
6. Amendment No. 1 takes a position to identify land for conservation purposes only where that land has been formally recognised as a Conservation Area, rather than land 'proposed' for conservation. The existing 'Landscape' classification of land surrounding the townsites of the Strategy remains.
7. The Onslow Townsite Strategy Plan has been amended to identify additional land south of Beadon Creek Boat Harbour and around Onslow Airport for possible industrial and service commercial use. Importantly this Plan identifies the need to prepare a structure plan for the Beadon Creek Boat Harbour to coordinate and guide

land use, particularly given the risk of conflict between industrial uses, residential/tourism uses, and recreational and commercial boating.

8. More generally, Amendment No. 1 changes the terminology used to classify land on the Strategy Plans to better align with the zones and reserves proposed by LPS 8 and as guided by the Model Provisions of the LPS Regulations.
9. Several site-specific changes have been made to the designation of land in the Townsite Strategy Plans to better reflect the current use of land, and/or the Shire’s strategic intentions, and to ensure alignment with the zoning or reservations proposed by LPS 8.

**Procedural Steps**

If Council adopts Amendment No. 1, the steps involved in advertising, obtaining final approval and implementing Amendment No. 1 are set out under the headings below. The process for amending a Local Planning Strategy is the same as that required for preparing a new Local Planning Strategy, though the LPS Regulations allow for a Local Planning Strategy to be amended concurrently with a Local Planning Scheme. It is intended that Amendment No. 1 and LPS 8 will progress and be advertised concurrently.

*1. WAPC to certify Amendment No. 1 for advertising*

There are five steps that need to be followed for Amendment No. 1 to receive WAPC certification to advertise. Each step is described in the first column of the table below, with the second column identifying the responsible agency or organisation and the associated timeframes provided in the third column.

Step	Agency/Organisation	Timeframe
1. Council adopt Amendment No. 1 to the Strategy	Shire of Ashburton	September 2023
2. Refer the Amendment No. 1 to the WAPC		September 2023
3. WAPC assesses Amendment No. 1	WAPC	As soon as reasonably practicable after referral from the Shire.
4. WAPC can require modifications to Amendment No. 1		
5. WAPC certifies that Amendment No. 1 can proceed to advertising		

Upon referral to the WAPC, the Shire and LK Advisory will continue to work collaboratively with the DPLH as they assess and provide a recommendation on the amended Strategy to the WAPC.

As indicated above, there are no statutory timeframes for the certification of Amendment No. 1; however, based on other examples, it is anticipated the Shire will receive consent to advertise within 3-4 months after referring it to the WAPC. This timeframe may take longer if the WAPC requires modifications to Amendment No. 1. If this occurs, a further report will be presented to Council to consider the modifications required by the WAPC.

*2. Advertising of Amendment No. 1 to the Strategy*

Upon receipt of advice from the WAPC that Amendment No. 1 to the Strategy has been certified for advertising, the steps in the following table are to be taken.

Step	Agency/Organisation	Timeframe
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1. Prepare advertising material	Shire of Ashburton	As soon as practicable after receiving WAPC consent to advertise.
2. Advertise Amendment No. 1		90 days recommended.
3. Review the submissions received		
4. Prepare a Council report to consider the submissions and adopt Amendment No. 1 with or without modifications; or not adopt Amendment No. 1.		As soon as practicable after the close of advertising.
5. Provide documents to WAPC		As soon as practicable after Council's decision.

Subject to a timely response from the WAPC, it is anticipated that Amendment No. 1 will be advertised within the first quarter of 2024, concurrently with LPS 8. The advertising of both Amendment No. 1 and LPS 8 will be carried out in accordance with Council's Community Engagement Policy and the requirements of the LPS Regulations.

3. *Approval of Amendment No. 1*

Once the Shire submits Amendment No. 1 to the WAPC for approval, there are two steps involved, described in the table below.

Step	Agency/Organisation	Timeframe
1. WAPC considers submissions received, the Shire's response to submissions and any modifications made by the Shire.	WAPC	60 days (though may be extended by the Minister or an authorised person).
2. WAPC endorses Amendment No. 1 to the Strategy with or without modification or refuses to endorse the amended Strategy.		

Once Amendment No. 1 is endorsed, the Strategy will be updated to reflect the changes made by Amendment No. 1. The updated Strategy will then be published on the Shire's and WAPC's websites.

4. *Implementation of Amended Strategy*

The amended Strategy will primarily be implemented through the concurrent gazettal of LPS 8, though will be supported by the preparation of a suite of Local Planning Policies and procedures to complement the new LPS 8 statutory framework.

Actions from the amended Strategy that cannot be implemented through LPS 8 will be progressed by the Shire through its ordinary corporate business planning practices, for example the advocacy positions recommended by the Strategy.

Election Caretaker Policy

The WA Government's latest tranche of reforms to the *Local Government Act 1995* have introduced provisions into the Act and subsidiary legislation that would impose a statewide Election Caretaker Period prior to an ordinary local government election. The intent of these provisions is that during the Caretaker Period certain crucial decisions could not be made

by the current Council that would bind the future Council, while electors are deciding the composition of the new Council.

Importantly, however, these statutory Caretaker provisions do not commence until 1 July 2024 and will then only apply to ordinary local government elections from 2025 onwards. Hence, there is currently no statutory impediment to a Council making any decision it chooses prior to the forthcoming local government election on 21 October 2023.

Notwithstanding, at its meeting on 14 February 2023, Council adopted its own “Election Caretaker” Policy, which applies a self-imposed caretaker period, during which time the CEO should, so far as reasonably practicable, avoid presenting “Major Decisions” to Council except in extraordinary circumstances.

“Major Decisions” are defined on pages 4 and 5 of the Policy and include any decision relating to “the adoption, repeal or substantial amendment of a policy, including local planning policy, a local law or local planning scheme”.

The Policy defines the “Caretaker Period” as applying from the date of the “opening of nominations being 44 days prior to election day in accordance with section 4.49(a) of the *Local Government Act 1995*, until 6pm on election day”. However, Administration’s review of this matter in the context of Council’s Policy has identified that:

- The Shire’s “Caretaker Period” is defined as commencing when nominations open, which is stated as 44 days before election day (i.e. 7 September 2023). However, the opening of nominations prescribed by section 4.49(a) of the Act is 51 days before election day (i.e. 31 August 2023). Hence, the number of days stated in the Policy definition contradicts the section of the Act which it references; and
- The new *Local Government Act 1995* caretaker period will commence from the close of nominations (not the opening of nominations as stated in Council’s Policy), meaning the Policy’s caretaker period is contrary to that imposed by the Act.

Council’s Policy will need to be amended to correct this situation.

In the meantime, however, the Policy recognises the voluntary nature of imposing a Caretaker Period prior to the statewide provisions taking effect and grants the following critical discretions:

- The CEO “should” (not “shall” or “must”) avoid presenting major decisions to Council during the Caretaker Period;
- This should be done “so far as reasonably practicable” in the opinion of the CEO, which generally means ‘what is at that particular time reasonably able to be done under the given circumstances’;
- If the CEO is satisfied that “exceptional circumstances” exist, then the presumption against presenting major decisions to Council during the caretaker period can be set aside; and
- If the CEO chooses to submit a major decision to Council during the caretaker period, the report must include information detailing that the decision could be a major decision and the reason that Council should make an exception to the Policy.

Considering these points, the CEO is satisfied that reasonable, appropriate and exceptional grounds exist for this matter to be presented to Council during the voluntary caretaker period imposed under Council’s Policy, for the following reasons:

- i. Council first considered Draft LPS 8 for advertising at its meeting on 11 October 2022. Shire staff subsequently actioned Council's decision and sought advice from the WAPC (Department of Planning, Lands and Heritage) and EPA for commencement of advertising, but both agencies informed the Shire that insufficient detail and documentation had been provided to enable their consideration.
- ii. On 4 April 2023, Administration and the Shire's appointed Planning Consultants presented to Elected Members in Paraburdoo on the approach to LPS 8 and the Local Planning Strategy to address the agency feedback which had been received. That approach is reflected in the reports presented to Council in September 2023 (Agenda Items 12.1 and 12.2).
- iii. The approach to prepare new Draft LPS 8 and amended Local Planning Strategy (as per the 4 April 2023 workshop) was presented to and formally endorsed by Council at its meeting on 9 May 2023
- iv. In early August 2023, detailed Discussion Papers addressing key aspects of Draft LPS 8 and Local Planning Strategy were circulated to Elected Members for review. This was supplemented by a workshop with Elected Members, Administration, and the Shire's appointed Planning Consultants in Onslow on 8 August 2023.
- v. Based on feedback from Elected Members at and after the 8 August workshop, the Draft Scheme and Strategy were listed for consideration as Items 12.1 and 12.2 (respectively) on the 12 September 2023 Council Meeting Agenda.
- vi. The approach taken to progress both the Scheme and Strategy accorded with that endorsed by Council on 9 May 2023 and workshopped with Elected Members on 4 April 2023 and 8 August 2023.
- vii. The content of the Draft Scheme and Strategy now being presented to Council for consideration in October 2023 is identical to that published in the 12 September 2023 Council Meeting Agenda.
- viii. The Shire has received grant funding from the WA Government to prepare the Draft Scheme and Strategy, which is subject to general adherence to a timeline that was submitted with the grant application, as previously presented to and agreed by Elected Members. Presentation of the Draft Scheme and Strategy to Council in October 2023 will support this compliance.
- ix. Any decision made by Council on the Draft Scheme and Strategy at its October 2023 will be subject to further review and determination by Council and will not bind the future Council to a particular course of action after the forthcoming local government election. Specifically, the decision currently before Council is to consider endorsing the draft Scheme and Strategy for referral to the WAPC and EPA for permission to advertise those documents for an extensive public consultation process. It is expected (and virtually guaranteed) that one or both agencies will provide feedback requiring further information or modification of the documents before advertising can commence. In that case, the Officer Recommendation already states that the Scheme and/or Strategy would be referred to Council for consideration if that were to occur. Additionally, Council will need to consider submissions received during the advertising period, when that eventually concludes.

## Consultation

Department of Planning, Lands and Heritage  
 Elected Members  
 Executive Leadership Team

**Strategic Community Plan**

Shire of Ashburton Strategic Community Plan 2022-2032

- Strategic Objective            2. Place - We will provide sustainable, purposeful, and valued built and natural environment opportunities for the community.
- Strategic Outcome            2.6 Land use opportunities to benefit current and future communities
- Strategy                         3 Review and implement planning frameworks and strategies to ensure appropriate development outcomes.

**Council Policy**

Nil

**Financial Implications**

Current Financial Year

The Shire has received grant funding from the DPLH to prepare a new Local Planning Scheme and amend its Local Planning Strategy.

Future Financial Year(s)

Nil

**Legislative Implications**

Amendment No. 1 to the Strategy has been prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**Risk Management**

Risk has been assessed against the Shire of Ashburton Risk Management Framework.

Theme	Risk	Likelihood	Consequence	Inherent Risk Rating	Risk Treatment
Reputation (social/community)	The amended Strategy is not adopted resulting in the Strategy not aligning with the strategic direction of the Shire.	Unlikely (2)	Minor (2)	Low (1-4)	Accept the officers' recommendation.
Compliance	The Strategy should reflect the Shire's planning objectives so that these are considered in determining applications for development approval. If the amended Strategy does not progress, the	Unlikely (2)	Minor (2)	Low (1-4)	Accept the officers' recommendation.

	<p>local planning framework may be misaligned to the Shire's objectives, potentially leading to adverse planning decisions and/or outcomes.</p>				
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Based on the inherent risk rating and risk treatments, the residual risk to the Shire is considered to be low.

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That with respect to Amendment No. 1 to Local Planning Strategy - Adoption for the Purposes of Advertising, Council,

1. Acknowledges and agrees that appropriate, reasonable, and exceptional circumstances exist to consider this matter notwithstanding the provisions of Council's "Election Caretaker" Policy, for the reasons described in the Officer Report.
2. In accordance with regulations 11 and 17 of the *Planning and Development (Local Planning Schemes) Regulations 2015* adopts Amendment No. 1 to the Shire's Local Planning Strategy, comprised of:
  - a. Modifications to Part 1, as detailed in Attachments 1 and 2; and
  - b. Modifications to Part 2, as deemed necessary by the Chief Executive Officer in accordance with 2. below.
3. Authorises the Chief Executive Officer to prepare a schedule of modifications to Part 2 of the Shire of Ashburton Local Planning Strategy to accord with Council's modifications to Part 1 and to address the following:
  - a. Factual updates to all sections of Part 2, including:
    - i. State and Regional Planning Context;
    - ii. Local Planning Context;
    - iii. Land Tenure and Environmental Profile;
    - iv. Population and Housing;
    - v. Economic and Employment;
    - vi. Retail and Commerce;
    - vii. Industry;
    - viii. Rural and Rangelands Areas;
    - ix. Tourism and Visitors;
    - x. Community, Recreation and Open Space;
    - xi. Urban Design, Character and Heritage;
    - xii. Traffic and Transport; and
    - xiii. Infrastructure Services;



- b. Identification of 'Implications' for the above sections with any changes being broadly consistent with the current Strategy or any more recent decisions and strategic positions adopted by the Council; and
  - c. Updating Section 15 'Townsite Issues and Opportunities' in a manner that is consistent with any relevant decisions and positions adopted by the Council.
4. Authorises the Chief Executive Officer to:
- a. Upon completion of the modifications and updates detailed in 1 and 2 above, refer Amendment No. 1 to the Shire's Local Planning Strategy to the Western Australian Planning Commission for advertising in accordance with regulation 12(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
  - b. Advertise Amendment No. 1 to the Shire's Local Planning Strategy for public comment in accordance with regulation 13(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015* if no modifications are required in response to 3.a. above.
5. Notes a further report will be presented to Council:
- a. If, in response to 3.a., the Western Australian Planning Commission requires modifications to Amendment No. 1 prior to certifying the amendment for advertising; and
  - b. To consider submissions received during public advertising of Amendment No. 1 to the Shire's Local Planning Strategy if the Commission does not require the amendment to be modified before advertising commences.

## 12.4 Mineral Resources Lot 300 Approved Transit Workforce Accommodation - Proposed Connection to Sewer through Shire Reserve Lot 383 on DP 205462 (Reserve 29117)

<b>File Reference</b>	BAC.0300
<b>Applicant or Proponent(s)</b>	Mineral Resources Limited
<b>Author</b>	J Hunter, Coordinator Planning and Lands
<b>Authorising Officer</b>	R Wright, Executive Manager Land, Property and Regulatory Services
<b>Previous Meeting Reference</b>	Ordinary Council Meeting 14 February 2023 – Item 11.5 (014/2023) Ordinary Council Meeting 9 August 2022 – Item 13.2 (109/2022) Ordinary Council Meeting 14 December 2021 – Item 13.2 (203/2021)
<b>Disclosure(s) of interest</b>	Author – Nil
	Authorising Officer – Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Proposed Sewer Connection Alignment</li> <li>2. Tourist Information Bay Concept</li> <li>3. Caravan Parking Concept</li> </ol>

### Report Purpose

The purpose of this report is to outline the background, provide a summary of what is proposed and provide comment on the submission from Mineral Resources Limited (MinRes) for Council's consideration.

Council is requested to provide support via Deed of Agreement, for the proposed sewer connection through Shire managed reserve Lot 383 on DP 205462 (Reserve 29117) to allow the adjoining Lot 300 (Min Res's Transit Workforce Accommodation site) to achieve connection to sewer mains to service the lot to ensure compliance with one condition of their development approval.

### Background

At the Ordinary Council Meeting held on December 2021, Council considered a Development Assessment Panel (DAP) Application DAP/21/02078 - DA 21-67 for a proposed 500-person, Transit Workforce Accommodation development at Lot 300 Back Beach Road, Onslow.

Council resolved to support the recommendation within the Responsible Authority Report (RAR) to recommend the DAP refuse the proposed development.

At the Regional Joint Development Assessment Panel (JDAP) meeting held on 23 December 2021, the DAP resolved to approve the development, subject to conditions.

At the Ordinary Council Meeting held on August 2022 Council considered DAP Application DAP/21/02078 - DA 22-40 for an amendment to the previously approved development, seeking amendments to several conditions of approval and several building modifications.

Council supported the recommendation within the RAR to recommend approval of the proposed amendments and at the Regional JDAP meeting held on 24 August 2022, the DAP further resolved to approve the proposed amendments.

At the Ordinary Council Meeting held on 14 February 2023 Council considered a DAP Application DAP/21/02078 – DA22-76 for an amendment to the previously approved development, seeking the vehicle access point for the development to be relocated from Third Avenue to Back Beach Road, associated reconfiguration of the development to accommodate the new access, a reduction in the number of ‘pods’ from 253 to 206 and a reduction in the total number of rooms from 500 to 412.

As the proposed amendments were submitted through a 17A, Council was the decision maker in this instance, rather than the Regional JDAP and the proposed amendments were approved, with all other Conditions and Advice Notes, as imposed by the Regional JDAP on 21 December 2021 and amended on 24 August 2022, remaining in place.

Condition 20 (originally condition 24) of the approved development requires the development to be connected to the reticulated sewerage system of the Water Corporation. The condition states:

*“The development site must be connected to the reticulated sewerage system and reticulated water system of the Water Corporation before commencement of any use.”*

The condition clearly requires sewer services to be achieved by connection to the reticulated sewerage system of the Water Corporation. Any alternatives to this would require a further amendment to the existing approval.

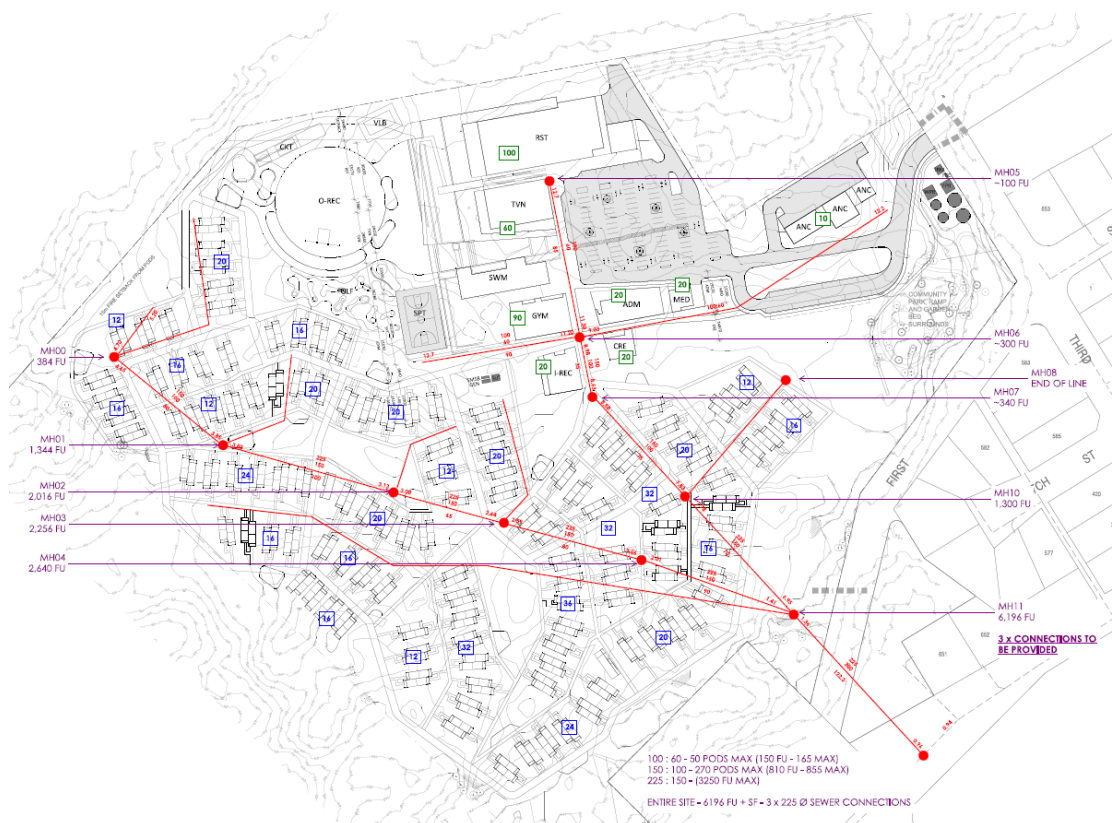
MinRes are now seeking to satisfy part of this condition – seeking connection to the reticulated sewerage system of the Water Corporation via Shire Crown Reserve Lot 383 on DP 205462 (Reserve 29117).

MinRes has requested Council to consider and ultimately consent to the sewer line passing through the Shire’s managed reserve for reasons outlined below.

Advice provided by Water Corporation to MinRes and the Shire was that “a gravity connection is preferable over any other sewer solutions, wherever possible”. This position is due to large, pumped connection flows creating “surges” in the gravity network which can affect the general flow characteristics of the system and increase gas release which can further cause a knock-on effect (causing sewerage issues for other properties that are connected to the same system).

Due to site levels, the depth of the existing sewer infrastructure, the way in which the existing sewer infrastructure has been installed and other constraints, options to achieve a suitable sewer connection are limited.

Additionally, due to the size and scale of the development and the flows created, Water Corporation’s Standard DS50 stipulates that the connection must be made to a 225mm diameter sewer pipe. Typically, most general reticulation sewer is 150mm diameter. A 225mm sewer exists in Simpson Street, can achieve a gravity fed connection and was identified as the most suitable connection point as shown in the Pritchard Francis Engineering Servicing Report that was provided as a part of the supporting documentation for the approved development (**Figure 1** refers).

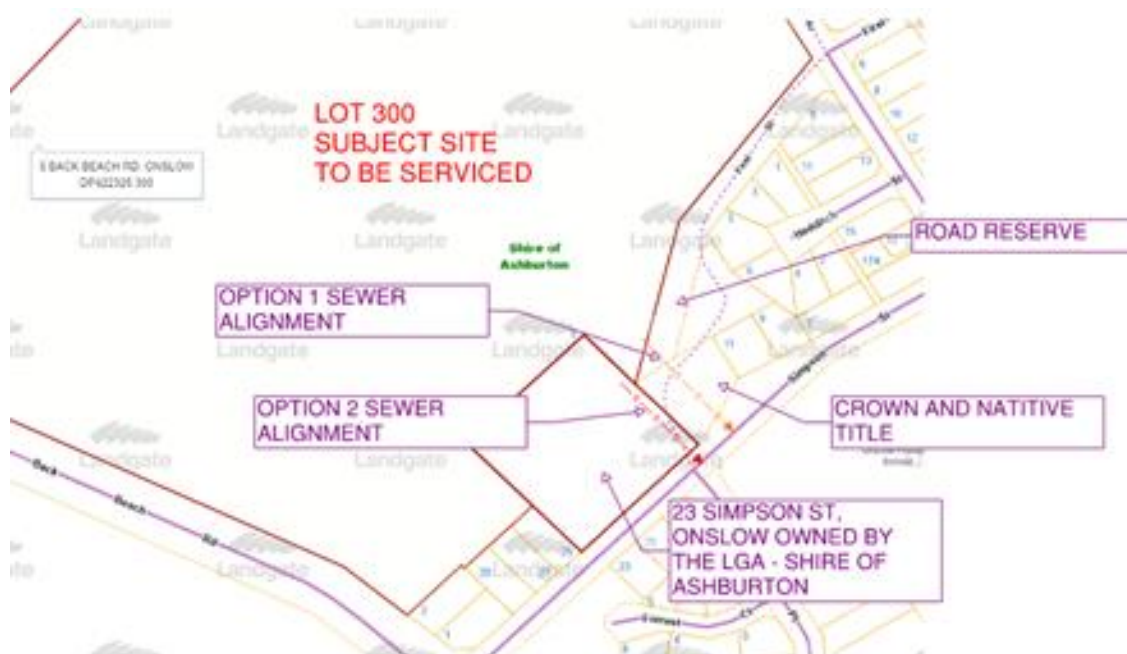


**Figure 1 - Engineering Servicing Report showing sewer connection to Simpson Street via an unconstructed road reserve and Unallocated Crown Land (UCL) Lot 710 on Deposited Plan 400278.**

Further investigations undertaken by Min Res into this sewer connection alignment identified the following complication for sewer connection:

*“The initial sewer line alignment (from Lot 300 to connect to mains) transferred through a lot that has unresolved native title (unallocated crown land). Therefore, no further action can be undertaken for this option as Department of Lands is not permitted to action any request for access in this regard.”*

An alternative option has been identified which proposes the sewer line connection via the Shires Reserve Lot 383 on DP 205462 (Reserve 29117) (**Figure 2** refers). **Attachment 1** illustrates the proposed sewer alignment through the Shire’s reserve land, Lot 383 and is the subject of this Council report.



**Figure 2 - Original sewer connection alignment (option 1) through the Unallocated Crown Land lot subject to Native Title and the identified alternative alignment (option 2) through the Shire Reserve Lot 383 on DP 205462 (Reserve 29117).**

### Comments

Lot 383 on DP 205462 (Reserve 29117) is a Crown Reserve vested to the Shire for the purpose of “Tourist Information Bay”.

The land was previously vested to the Water Corporation for the purpose of “Town Water Supply” and contained a water tank and other associated water infrastructure. Water Corporation decommissioned the site, removing all buildings and infrastructure, including undertaking soil remediation, and relinquished its management of the reserve in late 2016 - early 2017, as it was surplus to their requirements. The Shire was granted management of the reserve in late 2017.

The sewer line is proposed to be located 1m inside the north-eastern boundary of Lot 383 for a length of approximately 65m. Depending on the requirements, an easement may be implemented over the top of the sewer alignment to provide protection and allow access for maintenance works; a sewerage easement is generally 2 - 3m in width.

**Attachment 2** illustrates a concept design for the Tourist Information Bay from 2016. From this concept design, it appears that the proposed sewerage line would have little impact on future use of the site as the area affected is shown as ‘landscaping enhancement.’

**Attachment 3** illustrates a more recent concept from 2023 that shows the potential number of caravan/ long vehicle parking spaces that could be accommodated within the site. The concept shows a potential for 60 bays, more than what the Shire would require, however, it gives an idea of the potential of the site. Again, the proposed sewer line through the lot is not considered to significantly constrain the site’s potential.

Given the possible risks to Shire managed Reserve, it would be prudent for the Shire to enter into a Deed of Agreement for the life of the project (20 years with 3 options to renew each for 10 years, consistent with Min Res’ lease of Lot 300 from Buurabalayji Thalanyji Aboriginal Corporation). The Deed would outline each parties’ obligations such as:

- Ongoing maintenance obligations for the sewer line.

- Reinstatement of future improvements should access to the line be required during the life of the project.
- Any fees payable to the Shire to use the Shire’s managed land.
- Indemnification for the Shire and the Minister for Lands from any liability or damages associated with the works.
- Reinstatement of the land and removal of the sewer line at the end of the project (if applicable).

Min Res has agreed, in writing, to cover any costs associated with the creation of the sewer line through the subject land, including the cost of drafting the Deed, any easement registration, lodgement fees, surveys, etc and ongoing costs associated with the reinstating assets within the Shire’s reserve.

The Department of Planning, Lands & Heritage may request ‘power to license’ be obtained prior to Min Res accessing the Reserve, Shire Officers will facilitate this process as required.

Whilst the sewer connection through the Shire reserve, Lot 383 on DP 205462 (Reserve 29117) is not ideal, it is considered the most suitable option due to the following three (3) main points:

1. The proposed alignment allows a gravity fed system to be achieved. Alternative alignments such as connection via Back Beach Road, into Simpson Street would require a pumped system due to site levels, etc. Pumped solutions are not preferred due to potential issues associated with them (surging).
2. The proposed alignment allows connection to a 225mm diameter sewer pipe within Simpson Street (which is the only pipe of this diameter that adjoins the subject development site). The 225mm diameter pipe is required due to the size of the development.
3. The alternative alignment is via UCL lot (Lot 710 on DP 400278) which is subject to Native Title. Advice from the DPLH from Min Res is that this is not supported.

**Consultation**

Water Corporation  
 Mineral Resources Limited  
 Department of Planning, Lands, and Heritage  
 Executive Manager Land, Property and Regulatory Services

**Strategic Community Plan**

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective	2. Place - We will provide sustainable, purposeful, and valued built and natural environment opportunities for the community.
Strategic Outcome	2.2 Appropriate, inviting, and diverse employee accommodation and land management opportunities
Strategy	1 Manage and oversee compliance of land assembly and development.

**Council Policy**

Nil

**Financial Implications**

Current Financial Year

Min Res has agreed, in writing, to pay for all costs associated with the creation of the sewer line through the subject land, including drafting the Deed, any easements, lodgement fees, surveys, etc. The Shire may derive a minor fee for access to the Shire’s Reserve, likely an annual fee of \$550 inclusive of GST under the Shire’s Fees and Charges for Crown Land Administration.

Future Financial Year(s)

The Shire would request agreement from Min Res that any future improvements are restored should there be any maintenance activity undertaken on the sewer line that causes damage (i.e., reinstatement of landscaping). An annual fee of \$550 will also be charged for the use of the Reserve.

**Legislative Implications**

*Land Administration Act 1997*

S. 46 provides power to the Minister of Lands to grant the care, control, and management of a reserve to a management body for the purpose of which that land is reserved for.

S. 144 provides power to the Minister of Lands to grant easements over Crown land:

- (a) with the consent of every management body of the relevant Crown land and of every person having any interest, right, title or power in respect of that land, for a specified purpose or any other purpose the Minister thinks fit; and
- (b) in that grant express that easement to be subject to specified conditions and the payment of specified consideration.

*Local Government Act 1995*

S. 3.54 outlines powers for the purpose of controlling and managing land vested in or placed under the control and management of a local government.

**Risk Management**

Risk has been assessed against the Shire of Ashburton Risk Management Framework.

Theme	Risk	Likelihood	Consequence	Inherent Risk Rating	Risk Treatment
Reputation (social/community)	A decision to not support the proposal may be viewed as impeding or complicating the ability for the development to be achieved.	Possible (3)	Minor (2)	Moderate (5-9)	Adopt officer recommendation.

Based on the inherent risk rating and risk treatments, the residual risk to the Shire is considered to be medium.

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That with respect to Mineral Resources Lot 300 Approved Transit Workforce Accommodation - Proposed Connection to Sewer through Shire Reserve Lot 383 on DP 205462 (Reserve 29117), Council,

1. Provides support, in principle to the proposed sewer connection as per Attachment 1.
2. Requests the sewer line has an easement or alternative binding agreement to ensure indemnification to the Shire and the State from any future liability or damages.
3. Authorises the CEO to execute any documentation required in connection to any required Deed of Agreement, easement, or access agreement on the subject land, subject to approval by the Minister for Lands.



### 12.5 Virgin Airways - Onslow Airport

<b>File Reference</b>	ONS.0016
<b>Applicant or Proponent(s)</b>	Virgin Australia Regional Airlines
<b>Author</b>	N Niven, Lease and Accommodation Officer
<b>Authorising Officer</b>	K Donohoe, Chief Executive Officer
<b>Previous Meeting Reference</b>	Nil
<b>Disclosure(s) of interest</b>	Author – Nil
	Authorising Officer – Nil
<b>Attachments</b>	Nil

#### Report Purpose

Council is required to consider a new commercial licence agreement for a portion of Lot 201 on Deposited Plan 422498, Onslow Airport, Onslow, Western Australia 6710.

Council is requested to endorse the new commercial licence agreement with Virgin Australia Regional Airlines Pty Ltd (VARA) for review.

#### Background

On 1 April 2015 VARA entered into a commercial licence agreement with the Shire for the whole of the Onslow Airport Terminal, **Figure 1** refers. This agreement and subsequent renewals expired 31 March 2020 and the agreement has remained in month by month (periodic) holdover since 1 April 2020, despite the Shire reaching out to VARA requesting renewal of the agreement on numerous occasions.

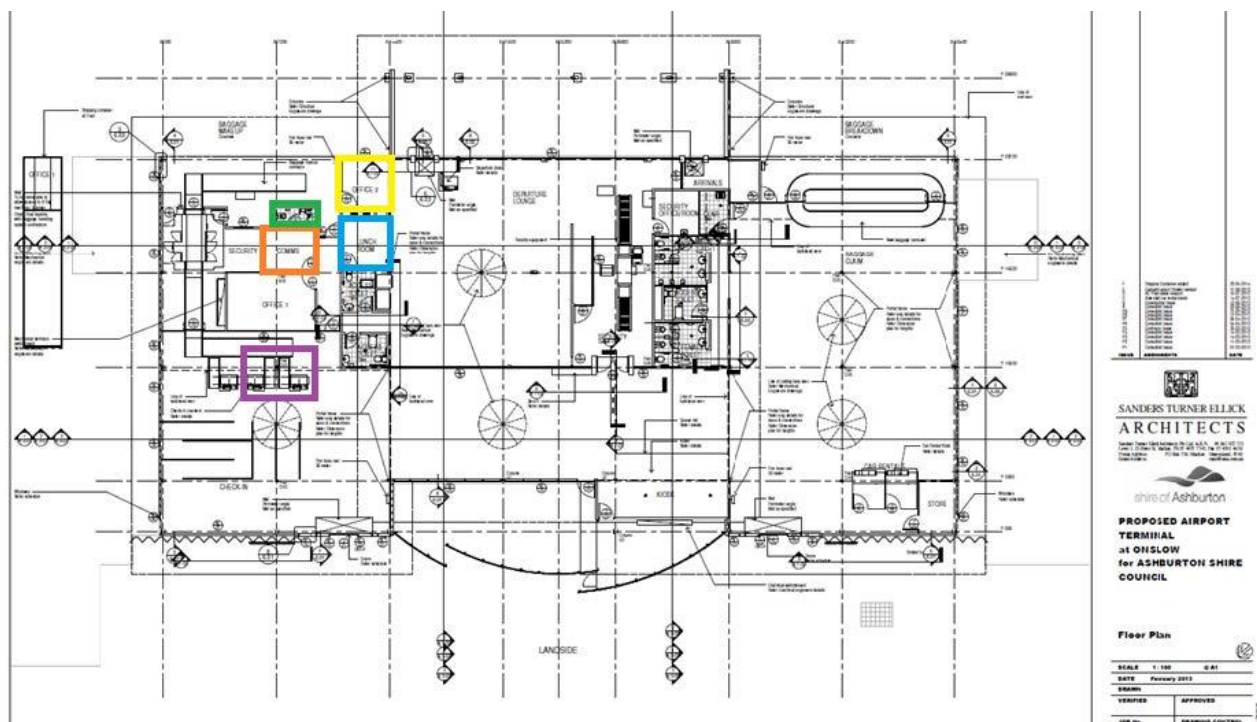


Figure 1 – Onslow Airport Terminal

#### Comments

Several meetings have been held with VARA over the past 18 months requesting commitment with VARA to finalise a new license for operations at Onslow Airport.

In November 2022, licensed valuer, Property Valuation and Advisory (WA) reviewed the license proposal and indicated a license fee of \$39,500 per year. As negotiations became protracted with VARA, the valuation has since expired, with a new valuation obtained on 28 September 2023 at a slight increase at \$41,250 per year. It was noted in both valuations that should the number of flights increase, then the license fee should increase accordingly, and this has been included as a special condition.

In September 2023, the following draft terms were agreed between all parties, subject to an updated valuation:

<b>Licence</b>	Commercial Licence
<b>Premises:</b>	Portion of Lot 201, Onslow Airport, Onslow
<b>Permitted Purpose:</b>	Public Purpose
<b>Term:</b>	1 year
<b>Commencement Date:</b>	Date of execution
<b>Options:</b>	1 year + 1 year
<b>Licence Fees:</b>	\$3,263.98 per month exclusive of GST
<b>Fee Review:</b>	Should airport operational needs change during the term of the license, a new rate may be negotiated between the parties. Should the airport services be permanently cancelled by the airport provider, the license may be terminated by mutual agreement.
<b>Public Liability Insurance:</b>	Licensee responsibility - \$20 million
<b>Preparation and costs</b>	The license will be prepared by the Shire at its cost, with each party to pay its own costs for review and negotiation.
<b>Assignment or sub-licence</b>	No assignment or sub-licence without consent of Licensor
<b>Special Conditions</b>	<p><b>Check In Counters, Boarding gate Counter and Equipment</b> – The Licensor agrees the Licensee shared use of three (3) check-in counters, including equipment on each counter being monitors, keyboards, mouse and KVA switches. The Licensee can store their own check-in equipment in the counters.</p> <p><b>Dispatch Office and Common Use Area</b> – The Dispatch Office is to be utilised for dispatch purposes only. The Licensee will be provided with 1x desk, 1x chair, 1x cupboard (key secured), 1x power point and 1x data point. Access port to connect VHF radio (shared use of airport antenna). The Licensee is responsible for arranging, managing, and making payment for, a Telstra connection for the Licensee’s equipment.</p> <p><b>Kitchen Facilities</b> – Shared use of kitchen facilities with other Airline Operators, Airline contractors, and Airport Personnel.</p> <p><b>Toilet Facilities</b> – Private, shared use of toilet facilities with Airline contractors and Airport Personnel.</p> <p><b>Communications Room</b> – The Licensor has an allocated rack for storage and/or servers. The Licensor has provided data ports and patching to operate equipment. A Fibre Optic connection is available into the Terminal building</p>

	<p>which terminates at a Telstra device. The Licensee is responsible for arranging, managing, and making payment for, a Telstra connection for the Licensee’s equipment.</p> <p><b>Branding</b> – Branding may be installed in the Terminal (only with Licensor prior written consent).</p> <p><b>Storage</b> - shared use of a portion of the storage shed, designated areas on the apron to store ground support equipment and a satellite.</p> <p><b>Tie Down Equipment</b> - external tiedown structures are available for use however it is the responsibility of the Licensee to secure and tie down their own equipment during inclement weather conditions. The Licensor takes no responsibility for any equipment damage during storm events.</p> <p><b>No Alterations</b> – The Licensee shall not, without the Airport Managers consent, remove damage or make any external or internal additions or alterations to any part of the Onslow Airport Terminal. At the end of the Licence Agreement, the Licensee shall remove all fixtures and fittings installed in the premise and rectify any damage caused by their removal unless otherwise agreed.</p> <p><b>Utilities and Cleaning</b> – The Licensor provides electricity, water, and cleaning of the licenced area.</p> <p><b>Compliance with the Law</b> – The Licensee in conducting its business in, on or upon the Onslow Airport Terminal shall:</p> <ul style="list-style-type: none"> <li>• Observe and use its best endeavours to cause all staff or contractors to observe all Acts for the time being in force, or any by-laws or regulations made thereunder relating to public health or safety and to also observe the requirements of bodies such as the Department of Transport and Infrastructure and the Civil Aviation Safety Authority in relation thereto; and</li> <li>• Cause as little disruption as practicable to the everyday airport activities at the Onslow Airport Terminal.</li> </ul>
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**Consultation**

Manager Airport Services  
Virgin Australia

**Strategic Community Plan**

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective	2. Place - We will provide sustainable, purposeful, and valued built and natural environment opportunities for the community.
Strategic Outcome	2.7 Quality, well-maintained, and purposeful community facilities

Strategy 2 Maintain facilities in a strategic manner, ensuring community needs are met.

**Council Policy**

Nil

**Financial Implications**

Current Financial Year

If agreement is endorsed by all relevant parties and an executed license commences prior to end of financial year, it would generate the license fee as income at \$39,167.76 exclusive of GST per annum.

Future Financial Year(s)

Annual license fee income as above plus annual increases fixed at 3%. The licence term is one year followed by a further term of one year, plus one year (three years in total). If VARA adds further flights to their schedule the rent will increase further applicable to their operations and negotiations with the Shire.

**Legislative Implications**

*Section 3.58 of the Local Government Act 1995 (Disposing of Property)*

Any private treaty negotiations to lease will be required to comply with section 3.58 of the *Local Government Act 1995*, such as the advertising of the lease and valuation for a period of no less than two weeks inviting submissions.

**Risk Management**

Risk has been assessed against the Shire of Ashburton Risk Management Framework.

Theme	Risk	Likelihood	Consequence	Inherent Risk Rating	Risk Treatment
Financial impact	Expired licence remains in holdover, no annual increases, and no ability to increase fees if VARA adds further flights. Further, VARA may terminate their license with one month notice as the current license stipulates.	Possible (3)	Moderate (3)	Moderate (5-9)	Enter into new Licence Agreement

Based on the inherent risk rating and risk treatments, the residual risk to the Shire is considered to be medium.

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That with respect to a Proposed Licence for a portion of Lot 201, Onslow Airport (Airport Terminal), Onslow WA, Council,

1. Approves the licence for a portion of Lot 201, Onslow Airport, Onslow.
2. Approves in principle, and subject to advertising under section 3.58 of the *Local Government Act 1995*, a new license over Lot 201, Onslow Airport to Virgin Australia for a one-year term with two one-year options, commencing upon execution.
3. Requests the Chief Executive Officer the publication of the local public notice of the intention to dispose of a portion of Lot 201, Onslow Airport, Onslow in accordance with section 3.58 of the *Local Government Act 1995*.
4. Authorises the Chief Executive Officer to:
  - (a) Consider any public submissions regarding item 3 above, noting that elected members will be informed of the result of the public consultation period, and
  - (b) Negotiate further commercial license terms and engross all documentation and comply with all applicable legislation as is required to effect item 1 and 2.

## 13 Corporate Services Reports

### 13.1 Monthly Financial Statements - August 2023

<b>File Reference</b>	FM03
<b>Applicant or Proponent(s)</b>	Not Applicable
<b>Author</b>	T Dayman, Manager Finance
<b>Authorising Officer</b>	D Kennedy, Director Corporate Services
<b>Previous Meeting Reference</b>	Nil
<b>Disclosure(s) of interest</b>	Author – Nil
	Authorising Officer – Nil
<b>Attachments</b>	1. Monthly Financial Report - August 2023

#### Report Purpose

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

The purpose of this report is to present the Statement of Financial Activity for the month ended 31 August 2023.

Council is requested to accept the Statement of Financial Activity.

#### Background

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

#### Comments

Shire officers have prepared the Statement of Financial Activity, and supporting documentation, in accordance with legislative requirements, as provided and detailed in Attachment 1.

There are no further 2023/2024 Budget amendments recommended.

#### Consultation

Executive Leadership Team  
Middle Management Group  
Finance Team

#### Strategic Community Plan

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective	4. Performance - We will lead the organisation, and create the culture, to deliver demonstrated performance excellence to the community.
Strategic Outcome	4.2 Appropriate, sustainable, and transparent management of community funds
Strategy	4 Ensure financial transactions are accurate and timely.

**Council Policy**

Nil

**Financial Implications**

Current Financial Year

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

Future Financial Year(s)

Nil

**Legislative Implications**

*Local Government Act 1995*

*Section 6.4 (Financial report)*

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

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

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

**Risk Management**

Risk has been assessed against the Shire of Ashburton Risk Management Framework.

Theme	Risk	Likelihood	Consequence	Inherent Risk Rating	Risk Treatment
Compliance	Material misstatement or significant error in the financial statements.	Unlikely (2)	Moderate (3)	Moderate (5-9)	Review of financial position information to be undertaken regularly and by multiple Shire officers.
Compliance	Council does not accept the officer recommendation.	Unlikely (2)	Minor (2)	Low (1-4)	Provide Council with sufficient information for decision making.

Based on the inherent risk rating and risk treatments, the residual risk to the Shire is considered to be low.

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That with respect to Monthly Financial Statements, Council, in accordance with *Local Government (Financial Management) Regulations 1996* regulation 34, accepts the Statement of Financial Activity, and associated documentation, for August 2023, as included at Attachment 1.



### 13.2 Monthly Schedule of Accounts Paid - August 2023

<b>File Reference</b>	FM03
<b>Applicant or Proponent(s)</b>	Not Applicable
<b>Author</b>	T Dayman, Manager Finance
<b>Authorising Officer</b>	D Kennedy, Director Corporate Services
<b>Previous Meeting Reference</b>	Nil
<b>Disclosure(s) of interest</b>	Author – Nil
	Authorising Officer – Nil
<b>Attachments</b>	1. Schedule of Accounts Paid - August 2023

#### Report Purpose

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

The purpose of this report is to present the:

- Schedule of Creditor Accounts Paid for August 2023,
- Trust Fund Payments for August 2023, and
- Corporate Credit Card Reconciliations for July 2023.

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

#### Background

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

#### Comments

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

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

Description	Amount \$
<u>Municipal Fund</u>	
Electronic Funds Transfers	4,956,842.56
Superannuation / Payroll (Direct Debits)	208,609.52
Cheques	914.95
Credit Cards	11,265.67
Bpay	98.20
Bank Fees and Charges	2,350.28
<u>Municipal Fund Total</u>	5,180,081.18

<u>Trust Fund</u>	
Electronic Funds Transfers	0.00
<u>Trust Fund Total</u>	0.00

**Consultation**

Executive Leadership Team  
Finance Team

**Strategic Community Plan**

Shire of Ashburton Strategic Community Plan 2022-2032

- Strategic Objective            4. Performance - We will lead the organisation, and create the culture, to deliver demonstrated performance excellence to the community.
- Strategic Outcome            4.2 Appropriate, sustainable, and transparent management of community funds
- Strategy                         4 Ensure financial transactions are accurate and timely.

**Council Policy**

Nil

**Financial Implications**

Current Financial Year

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

Future Financial Year(s)

Nil

**Legislative Implications**

*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.

**Risk Management**

Risk has been assessed against the Shire of Ashburton Risk Management Framework.

Theme	Risk	Likelihood	Consequence	Inherent Risk Rating	Risk Treatment
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Compliance	Council does not accept the officer recommendation.	Unlikely (2)	Minor (2)	Low (1-4)	Provide Council with adequate information to make an informed decision.
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Based on the inherent risk rating and risk treatments, the residual risk to the Shire is considered to be low.

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That with respect to Monthly Schedule of Accounts Paid, Council, in accordance with *Local Government (Financial Management) Regulations 1996* Regulation 13, confirms the Monthly Schedule of Accounts Paid for August 2023, as included at Attachment 1.

### 13.3 Corporate Business Plan 2023-2027 - Quarterly Progress Reporting

<b>File Reference</b>	CM05
<b>Applicant or Proponent(s)</b>	Not Applicable
<b>Author</b>	J Bray, Manager Governance
<b>Authorising Officer</b>	D Kennedy, Director Corporate Services
<b>Previous Meeting Reference</b>	Ordinary Council Meeting 8 August 2023 - Item 13.3 - 156/2023
<b>Disclosure(s) of interest</b>	Author – Nil
	Authorising Officer – Nil
<b>Attachments</b>	Nil

#### Report Purpose

The purpose of this report is to present the first quarter (1 July 2023 – 30 September 2023) progress updates to Council on the actions detailed in the Corporate Business Plan 2023-2027 (CBP).

Council is requested to receive the first quarter progress update (refer to Attachment 1).

#### Background

At its meeting held 8 August 2023, Council resolved to adopt the CBP and to receive quarterly progress updates on its implementation.

Quarterly progress reports:

- Enable Council to assess performance against the actions in the CBP, identify risks and significant variations in project performance and budgeting, receive information needed to be able to make informed decisions, and be able to take action to address any issues that arise; and
- Provides Council and the community a higher level of transparency and accountability relating to strategic actions, plans and projects.

#### Comments

Written progress reports will enable the Council to oversee the Town’s performance and allocation of the Town’s finances and resources. They will also help to inform the community about the Town’s progress in relation to the plans and strategies.

These reports on the actions, projects and outcomes, for the plans and strategies listed in the Council resolution, have been attached to this report. Further commentary for each report has also been included below.

The status of actions from the CBP are as follows.

Strategic theme	Total actions	No. of actions completed	No. of actions in progress	No. of actions not started	No. of actions overdue
People	23	0	21	2	0
Place	48	0	41	7	0

Prosperity	26	0	15	11	0
Performance	44	0	36	8	0
<b>Total</b>	141	0	113	28	0

The following actions were completed within the reporting quarter however, have been marked 'ongoing' as they are annual actions and will continue for the life of the CBP.

<b>Corporate Business Plan action</b>	<b>Comment</b>
<b>4.5.1.2 Continue with Executive Leadership Team and Middle Management Group coaching panels and Organisational Development 1:1 coaching.</b>	Coaching panels for 2023/2024 have been made available. Action completed for 2023/2024.
<b>4.6.3.2 Develop an annual Internal Audit Plan.</b>	The Strategic Internal Audit Plan was adopted by Council on 8 August 2023. Action completed for 2023/2024.

**Consultation**

Managers provided progress updates for their relevant areas.

**Strategic Community Plan**

Shire of Ashburton Strategic Community Plan 2022-2032

- Strategic Objective            4. Performance - We will lead the organisation, and create the culture, to deliver demonstrated performance excellence to the community.
- Strategic Outcome            4.6 Visionary community leadership with sound, diligent and accountable governance
- Strategy                         3 Deliver best practice governance and risk management.

**Council Policy**

Nil

**Financial Implications**

Current Financial Year

Nil

Future Financial Year(s)

Nil

**Legislative Implications**

Section 2.7(b) of the *Local Government Act 1995* prescribes the Council is responsible for the performance of the local government's functions. Providing regular progress updates assists Council to meet this requirement.

**Risk Management**

Risk has been assessed against the Shire of Ashburton Risk Management Framework.

Theme	Risk	Likelihood	Consequence	Inherent Risk Rating	Risk Treatment
Reputation (social/community)		Possible (3)	Minor (2)	Moderate (5-9)	Provide regular updates to Council and the community via Council agendas and provide commentary where actions are not progressing in line with expected timeframes.

Based on the inherent risk rating and risk treatments, the residual risk to the Shire is considered to be low.

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That with respect to the Corporate Business Plan 2023-2027, Council, receives the quarterly progress report as detailed in Attachment 1

## 14 Infrastructure Services Reports

### 14.1 Disaster Recovery Funding Arrangements WA – Funding Issues

<b>File Reference</b>	ES08
<b>Applicant or Proponent(s)</b>	Not Applicable
<b>Author</b>	R Miller, Director Infrastructure Services
<b>Authorising Officer</b>	R Miller, Director Infrastructure Services
<b>Previous Meeting Reference</b>	Nil
<b>Disclosure(s) of interest</b>	Author – Nil
	Authorising Officer – Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Cost Estimates and Claims - Various Roads</li> <li>2. Letter DFES - AGRN Flood Damage Claims</li> </ol>

#### Report Purpose

The purpose of this report is to seek the Western Australian Local Government Associations' (WALGA) support to engage with the Department of Fire and Emergency Services (DFES) to find solutions to revise the Disaster Recovery Funding Arrangements WA (DRFA-WA) so that the whole process is improved to better manage approvals and claims in a more timely and responsive manner.

Council is requested to support referring the issue to the WALGA Pilbara Country Zone meeting to be held in November 2023. The focus to be on functionality improvements from DRFA-WA/DFES and expediting the funds to Local Governments (LG's) to reduce the risk and negative impacts on Shire's cash flows.

#### Background

There are significant delays in the initial cost estimate process. Many cost estimates taking more than 12 months to get approved by DFES. Given that the funding is for the reinstatement of essential public assets following a disaster event, this is an unacceptable delay. The standard response you will generally receive from DFES if you raise this is that local governments should proceed with the work without waiting for approval from DFES as if the work is really essential then it will be done regardless of whether it is funded directly by the LG or by the DRFAWA. This can increase the risk to the Shire should funding not be fully approved.

Below the list of current outstanding claims;

- |    |                             |                      |                 |
|----|-----------------------------|----------------------|-----------------|
| 1. | AGRN920: Severe Weather:    | 5 May 2020,          | \$ 1,637,997.64 |
| 2. | AGRN951: Tropical Low:      | 28/1-8/2021,         | \$ 1,382,103.50 |
| 3. | AGRN1015: Flooding Pilbara: | 7-10 February 2022,  | \$ 1,925,869.99 |
| 4. | AGRN1031: Flooding Pilbara: | 29 May -1 June 2022, | \$ 609,625.81   |

Refer (**Attachment 1**)

There has been significant delays in obtaining reimbursement for costs incurred during the reinstatement works. Shire’s Flood Damage consultants track the time taken by DFES to approve each claim for reimbursement and it can be seen to be more than 100 days for some local governments(LG). At a typical contractor expenditure rate of \$300 – 400k per month, LGs can easily be holding several million in costs waiting for DFES to approve. The response DFES generally provides is that they provide working capital as an upfront payment of 20%. However, this can easily be exceeded with a 100-day wait for approval of claims. They will also advise the Shire that they now part-approve claims if there is an element they are unsure of. Again, this misses the point in that if it still takes 100 days for a part approval, then the LG is not much better off.

Refer (**Attachment 2**) (letter dated 22 September 2022 ongoing issues regarding flood damage claims).

**Comments**

This is an ongoing issue affecting many local governments across the state and current engagement attempts including writing to the DFES Deputy Commissioner Strategy and Emergency Management, has not seen any noticeable improvement. This not only increases the risk to the shire but, also the community that use the impacted road infrastructure. Seeking the support through WALGA will escalate the issue to higher levels of government to highlight the problems being experienced and to encourage new or revised arrangements to better manage the process in a more timely and responsive manner.

**Consultation**

Deputy Commissioner Strategy and Emergency Management  
 DRFA-WA Department of Fire and Emergency Services  
 Greenfield Consultants (Provide Flood Damage support for works, estimates and claims)

**Strategic Community Plan**

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective	2. Place - We will provide sustainable, purposeful, and valued built and natural environment opportunities for the community.
Strategic Outcome	2.8 Safe and interconnected transport networks for the community
Strategy	2 Manage roads, pathways, and other transport infrastructure according to need and use.

**Council Policy**

Nil

**Financial Implications**

Current Financial Year

All costs associated with progressing the claims or works carried out will be unfunded until DRFA WA approves that the claims are valid.

Future Financial Year(s)



All costs associated with progressing the claims or works carried out will be unfunded until DRFA WA approves that the claims are valid. As this will also affect timing of works it may negatively impact across multiple financial years.

**Legislative Implications**

N/A

**Risk Management**

Risk has been assessed against the Shire of Ashburton Risk Management Framework.

Theme	Risk	Likelihood	Consequence	Inherent Risk Rating	Risk Treatment
Financial impact	Further delays will have a negative impact on Shire’s cash flow.	Possible (3)	Moderate (3)	Moderate (5-9)	Endorsement of this agenda item and active engagement through WALGA to expedite approvals and payment of claims.

Based on the inherent risk rating and risk treatments, the residual risk to the Shire is considered to be low.

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That with respect to the Disaster Recovery Funding Arrangements WA, Council, directs the Chief Executive Officer to raise the matter of excessive delays in processing and approving of claims as an emerging issue and submit an agenda item to the WALGA Pilbara Country Zone meeting to be held 23 November 2023.

## 14.2 Pilbara Regional Waste Management Facility - Contract Letter of Intent Extension and Status Update

<b>File Reference</b>	CM23.20
<b>Applicant or Proponent(s)</b>	Not Applicable
<b>Author</b>	R Miller, Director Infrastructure Services
<b>Authorising Officer</b>	R Miller, Director Infrastructure Services
<b>Previous Meeting Reference</b>	Ordinary Council Meeting 11/07/2023 - Item 14.1 - 041/2023 Ordinary Council Meeting 14/03/2023 - Item 13.1 - 135/2023 Ordinary Council Meeting 13/12/2022 - Item 13.1 - 75/2022 Ordinary Council Meeting 13/04/2021 - Item 7.1 - 67/2021 Ordinary Council Meeting 13/10/2019 - Item 15.1 - 175/2019
<b>Disclosure(s) of interest</b>	Author – Nil
	Authorising Officer – Nil
<b>Attachments</b>	1. Draft Letter of Intent extension to 28 February 2024 - Confidential

### Report Purpose

Council is required to note the status report and the proposed Letter of Intent for signing as provided at Attachment 1.

The purpose of this report is to advise Council of the current status of the Pilbara Regional Waste Management Facility (PRWMF) in regards to projects and the Waste Services Agreement.

Council is requested to note and accept the PRWMF status report and support the Chief Executive Officer's engrossing the extension to the Letter of Intent (LOI) as detailed at Attachment 1, for the period to 28 February 2024.

### Background

In May 2021, Shire of Ashburton (Shire) officers submitted a licence application under Part V, Division 3 of *Environmental Protection Act 1986* for the operation of the PRWMF.

A draft licence was issued by Department of Water and Environmental Regulation (DWER) on 25 November 2021, which required comment to be provided to DWER on the draft nature of the licence.

Following consideration of the comments, a final licence was issued on 22 December 2021 allowing the PRWMF to accept waste to the site, subject to conditions.

Pilbara Environmental Services (PES) and the Shire have been working through the identified issues at the PRWMF, in order for the facility to become fully operational.

In June 2022, Council amended the Alliance Board structure to include the Shire President as the Chair of the Board.

In December 2022, Council through resolution 175/2022, directed the CEO to negotiate to amend the Letter of Intent (LOI) to include Marcus Geisler as the nominated independent representative. This has been actioned.

### Comments

The PRWMF is operating under a LOI which provides a mechanism for the facility to operate and for the contractor, PES to establish the site without formally entering a full operational contract.

Both the LOI and draft agreement refers to the establishment of an Alliance Board to create an operational and decision-making platform between the Shire and PES. The aim of the Alliance Board is to ensure the parties work together effectively and that the agreement (contract) will be implemented in the future, with the spirit and intent to facilitate a successful commercial enterprise.

The current agreed membership of Alliance Board is four Shire representatives and four PES representatives plus the Shire President as the Chair.

The draft agreement refers to the following Alliance Board members:

**Chair:** Shire of Ashburton President

**Shire:** Chief Executive Officer, Director Infrastructure Services, Director Corporate Services, Manager Waste Services

**PES:** PES Director, Joint Venture Manager, Environmental and Technical Manager, Landfill and Logistics Manager

The LOI has been extended several times to facilitate PES and Shire officers to work through the constraints of licence approvals, issues identified in the draft contract and operational matters experienced by both parties. The LOI has allowed the PRWMF to be open, operate and remove waste from the Onslow Transfer Station (currently transported to Tom Price).

The current LOI expired on the 30 September 2023 but, there are still matters to be worked through in regard to the agreement and to ensure the facility operates effectively.

The signing of a LOI extension, engages PES to supply specific waste management services (early works and limited operations) subject to the draft Waste Services Agreement and further terms as set out in the LOI (which would prevail in the event of conflict between the two). The LOI extension will allow projects in the pipeline to achieve increased revenue, to be implemented and to continue to explore the opportunities of the partnership. It acknowledges PES as the preferred tenderer but does not bind either party to proceed with a long term supply of waste management services if good faith discussions to finalise the agreement don't materialise. With the recent bund earthworks wall completed it has allowed waste cell 1 to receive class IV waste with the first delivery received on the 26 June 2023.

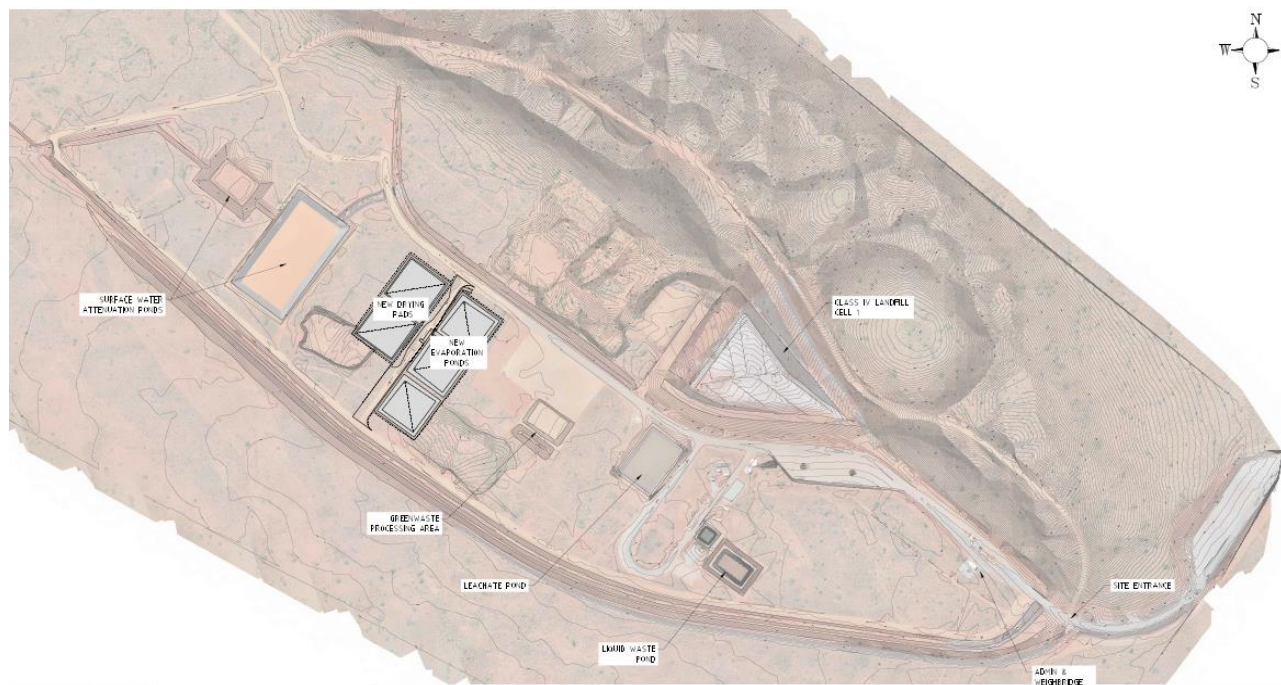
### Status Report - Update

Despite some of the challenges being experienced, current significant activities are in the process of being implemented to assist in bringing the facility to unrestricted operating capacity. These being:

- RFT 01.23 Intra cell (between cell 1 and proposed cell 2) bund earthworks wall project built and delivered 30 June 2023.

- RFT 23.22 for the high flow pumping system - contract awarded with project delivery expected by December 2023. Interim measures are in place to reduce risk of leachate overflow to acceptable level while waiting for pump delivery.
- RFT 16.23 Evaporation Ponds and Drying Pad Construction – Currently advertised, submissions close 10 October 2023. Expect complete construction March/April 2024.
- RFT 15.23 Detailed Design of Class IV Waste Cell 2 and Leachate Pond – Submissions have closed and expected to award in mid October 2023. Expect complete construction April 2024.
- RFQ 10.23 Cell Closure Plan L9304/2021/1 – Awarded 3 October 2023 and will be complete by 15 December 2023. This will comply with the DWER license required deadline of December 2023.
- Licence amendments – The proposed amendments will improve the efficiencies and viability of the facility with key items to accept putrescible waste and allow co-disposal into the Class IV cell, acceptance of tyres for burial among other changes. DWER has advised that the finalisation of the amendment approvals is linked to the CD Dodd works approval and that drafts will be issued first to allow the licence boundary to be amended before the works approval is issued. Staff are following up on progress of the amendment processing on a regular basis.
- Works approval for the evaporation ponds and drying bed are being assessed by DWER and they are waiting on Department of Health (DoH) approval before issuing final approval. DoH are currently assessing and is expected to be completed by the end of October 2023.

The following site plan shows some of the proposed projects.



Based on the information presented, officers recommend the Chief Executive Officer (under delegation and acting through) seek an extension to the LOI with PES, until 28 February 2024.

**Consultation**

Executive Leadership Team

Pilbara Environmental Services  
 Ashurst Legal Services

At the meeting of the Pilbara Regional Waste Management Facility – Alliance Board on 29 September 2023 the proposal for the extension to the Letter of Intent with Pilbara Environmental Services to 28 February 2024 was discussed and supported.

**Strategic Community Plan**

Shire of Ashburton Strategic Community Plan 2022-2032

Strategic Objective	2. Place - We will provide sustainable, purposeful, and valued built and natural environment opportunities for the community.
Strategic Outcome	2.1 Coordinated delivery of natural and built environment services and projects for the community
Strategy	1 Develop and maintain key natural and built environment services partnerships, both internally and externally, to support Council’s vision.

**Council Policy**

Nil

**Financial Implications**

Current Financial Year

Commits Council to funding of operations until the LOI expires or changes through signing of a waste agreement.

Future Financial Year(s)

Agreement with infrastructure improvements will facilitate increased revenue.

**Legislative Implications**

Nil

**Risk Management**

Risk has been assessed against the Shire of Ashburton Risk Management Framework.

Theme	Risk	Likelihood	Consequence	Inherent Risk Rating	Risk Treatment
Interruption to service	The operator, PES, does not agree to LOI extension.	Unlikely (2)	Major (4)	Moderate (5-9)	Engage in early discussions with the operator to agree on the benefits to both parties.

Based on the inherent risk rating and risk treatments, the residual risk to the Shire is considered to be medium.

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That with respect to the Pilbara Regional Waste Management Facility, Council,

1. Notes the status update provided in this report; and
2. Supports the Chief Executive Officer's engrossing the extension to the Letter of Intent with Pilbara Environmental Services to 28 February 2024, as provided and detailed at Attachment 1.

**15 Community Development Reports**

Nil

**16 Councillor Agenda Items / Notices of Motion**

Nil

**17 New Business Of An Urgent Nature Introduced By Council Decision**

## 18 Confidential Matters

### 18.1 Property Purchase - Tom Price

<b>File Reference</b>	WAR.1119
<b>Applicant or Proponent(s)</b>	Not Applicable
<b>Author</b>	R Wright, Executive Manager Land, Property and Regulatory Services
<b>Authorising Officer</b>	K Donohoe, Chief Executive Officer
<b>Previous Meeting Reference</b>	Nil
<b>Disclosure(s) of interest</b>	Author – Nil
	Authorising Officer – Nil
<b>Attachments</b>	1. Valuation including photos - Confidential

#### ***Reason for Confidentiality***

<b><i>Section under the Act</i></b>	<i>This matter is to be considered behind closed doors pursuant to s.5.23(2)(c) of the Local Government Act 1995 as the subject matter relates to:</i>
<b><i>Sub-clause and Reason:</i></b>	<i>“s.5.23(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.”</i>

#### **Report Purpose**

The purpose of this report is to inform Council of an opportunity which has presented itself for the purchase of a property for staff housing purposes in Tom Price.

Council is requested to consider the purchase of the property and progression of an offer to purchase.

#### **Voting Requirements**

Simple Majority



## 18.2 Purchase Properties - Onslow

<b>File Reference</b>	FOR.0010
<b>Applicant or Proponent(s)</b>	Not Applicable
<b>Author</b>	R Wright, Executive Manager Land, Property and Regulatory Services
<b>Authorising Officer</b>	K Donohoe, Chief Executive Officer
<b>Previous Meeting Reference</b>	Nil
<b>Disclosure(s) of interest</b>	Author – Nil
	Authorising Officer – Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. 3 Forrest Court Valuation - Confidential</li> <li>2. 4 Anketell Court Valuation - Confidential</li> </ol>

### ***Reason for Confidentiality***

<b>Section under the Act</b>	<i>This matter is to be considered behind closed doors pursuant to s.5.23(2)(c) of the Local Government Act 1995 as the subject matter relates to:</i>
<b>Sub-clause and Reason:</b>	<i>“s.5.23(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.”</i>

### **Report Purpose**

The purpose of this report is to inform Council of an opportunity which has presented itself for the purchase of two properties for staff housing purposes in Onslow.

Council is requested to consider the progression of offers to purchase the properties.

### **Voting Requirements**

Simple Majority

## **19 Next Meeting**

The next Ordinary Council Meeting will be held at 1:00pm on Tuesday 14 November 2023 at Ashburton Hall, Ashburton Avenue, Paraburdoo.

## **20 Closure Of Meeting**

There being no further business, the Presiding Member closed the meeting at [enter time](#).