

# Ordinary Meeting of Council

Paraburdoo



## Minutes – Public Document

14 February 2017

Ashburton Hall  
Ashburton Avenue  
Paraburdoo  
1.00pm



The Shire of Ashburton 10 year Community Strategic Plan (2012-2022) provides focus, direction and represents the hopes and aspirations of the Shire.

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## Our Vision

The Shire of Ashburton will be a vibrant and prosperous place for work, leisure and living



## Our Mission

Working together, enhancing lifestyle and economic vitality



*The Shire of Ashburton respectfully acknowledges the traditional custodians of this land.*

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### Community Goals

- Vibrant and Active Communities
- Economic Prosperity
- Unique Heritage and Environment
- Distinctive and Well-services Places
- Inspiring Governance

### Future Focus

The next four years will see a strong focus on:

1. Community inclusion and participation
2. Provision of infrastructure that enables economic strength
3. Economic strength
4. Organisation stability
5. Staying ahead of the game
6. Development of our governance





**SHIRE OF ASHBURTON  
ORDINARY MEETING OF COUNCIL**

**MINUTES  
Ashburton Hall, Ashburton Avenue,  
Paraburdoo  
14 February 2017**

**1.00 pm**

# MINUTES - ORDINARY MEETING OF COUNCIL 14 FEBRUARY 2017

## SHIRE OF ASHBURTON ORDINARY MEETING OF COUNCIL

Dear Councillor

Notice is hereby given that an Ordinary Meeting of Council of the Shire of Ashburton will be held on 14 February 2017 at Ashburton Hall, Ashburton Avenue, Paraboradoo commencing at 1:00 pm.

The business to be transacted is shown in the Agenda.

Neil Hartley  
**CHIEF EXECUTIVE OFFICER**

### **DISCLAIMER**

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

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## MINUTES - ORDINARY MEETING OF COUNCIL 14 FEBRUARY 2017

### 1. **DECLARATION OF OPENING**

The Shire President declared the meeting open at 1.02 pm.

#### 1.1 **ACKNOWLEDGEMENT OF COUNTRY**

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

### 2. **ANNOUNCEMENT OF VISITORS**

The Shire President welcomed John Phillips from JCP Consulting and Brenton Hall from the Shire of Ashburton and members of the public to the gallery.

### 3. **ATTENDANCE**

#### 3.1 **PRESENT**

Cr K White	Shire President, Onslow Ward
Cr L Rumble	Deputy Shire President, Paraburdoo Ward
Cr D Dias	Paraburdoo Ward
Cr L Thomas	Tableland Ward
Cr P Foster	Tom Price Ward
Cr M Lynch	Tom Price Ward
Cr D Diver	Tom Price Ward
Cr M Gallanagh	Pannawonica Ward
Cr G Dellar	Ashburton Ward
Mr N Hartley	Chief Executive Officer
Mr F Ludovico	Executive Manager, Corporate Services
Mr F Ng	Finance Manager
Mr T Davis	Executive Manager, Infrastructure Services
Ms A Serer	Executive Manager, Strategic & Economic Development
Ms L Reddell	Executive Manager, Development & Regulatory Services
Ms L O'Reilly	Executive Manager, Community Development
Ms J Smith	Executive Officer
Mrs T Forbes	CEO & Councillor Support Officer

#### 3.2 **APOLOGIES**

There were no apologies.

#### 3.3 **APPROVED LEAVE OF ABSENCE**

There were no Councillors on approved leave of absence.

### 4.0 **QUESTION TIME**

#### 4.1 **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

There were no questions take on notice from the previous meeting.

**4.2 PUBLIC QUESTION TIME**

The following questions were asked:

**4.2.1 Person (Town): Andrew Smith (Tom Price)**

**Q1. Question**

In relation to the proposed Drainage Infrastructure Improvements, Stadium Road, Tom Price: Whilst we understand the constant requirement for improvements to infrastructure in Tom Price, we question the choice to upgrade drainage infrastructure along Stadium Road over more pressing areas of the town also requiring drainage upgrades namely the storm water drainage running through TPPS.

Recent wet weather has again highlighted the issue of poor drainage through the school with heavy rains filling the "creek" area running through the school and then leaving large areas of standing water which turns stagnant over time attracting mosquitos and march flies, also becoming an area for bacteria to breed and become hazards to health.

The issue has been ongoing with complaints first raised in 1984 and several times since then, mostly recently in 2015 when the Director General of Education was made aware of the issue during a school visit. Resulting in a variety of contractors attending the school and liaising with the Shire. The area poses an unacceptable safety risk to both students and staff and the potential for accident causing serious injury or worse is unacceptably high.

We therefore request that the shire urgently reconsider it's proposal and consider placing the drainage issue through TPPS at the top of its list.

**Answer**

**The CEO, Neil Hartley, responded:**

The drainage infrastructure improvements proposed for Stadium Road, Tom Price are to be funded by the Federal Roads to Recovery Program and as such the funding will not be able to be transferred to another project.

The Shire isn't aware of any earlier complaints or investigations by the Department of Education into the drainage running through the primary school grounds, but will investigate.

A drainage works program for the Tom Price townsite is due to commence next month, but there are no plans for any changes to the drainage at the Primary school (at least at this point in time.) Council can certainly, however, investigate options for drainage upgrades for the primary school to be included in the 2017/18 Budget. For this to occur we would need to investigate things such as land tenure and cost options.

This investigation can be carried out by our Infrastructure Services team and presented to Council for its consideration



**5. APPLICATIONS FOR LEAVE OF ABSENCE**

There were no applications received for leave of absence.

**6. DECLARATION BY MEMBERS**

**6.1 DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA**

That Councillors White, Rumble, Dias, Dellar, Gallanagh, Thomas, Diver, Lynch and Foster have given due consideration to all matters contained in the Agenda presently before the meeting.

**6.2 DECLARATIONS OF INTEREST**

**Councillors to Note**

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

(a) In a written notice given to the Chief Executive Officer before the Meeting

or;

(b) At the Meeting, immediately before the matter is discussed.

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

(c) Preside at the part of the Meeting, relating to the matter or;

(d) Participate in, or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under Section 5.68 or Section 5.69 of the Local Government Act 1995.

**NOTES ON FINANCIAL INTEREST (FOR YOUR GUIDANCE)**

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

I intend to include these notes in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measure in money terms. There are exceptions in the Local Government Act 1995 but they should not be relied on without advice, unless the situation is very clear.

2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc), and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.

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

### Declarations of Interest provided:

Item Number/ Name	Type of Interest	Nature/Extent of Interest
<b>AGENDA ITEM TITLE 16.3</b>		
Cr Rumble	Financial	The nature of my interest share holder Rio and the extent of my interest is shares greater than \$10000.
Cr Dias	Financial	The nature of my interest is long serving, valued, appreciated, dedicated and loyal employee of Hamersley Iron Pty Ltd. The extent of my interest is Rio Tinto shareholder with shares well in excess of \$10000 in value.

## 7. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

There were no announcements without discussion by the presiding person for this meeting.

## 8. PETITIONS / DEPUTATIONS / PRESENTATIONS

### 8.1 PETITIONS

There were no petitions presented to Council.

### 8.2 DEPUTATIONS

There were no deputations presented to Council.

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**8.3 PRESENTATIONS**

There were no presentations to Council.

**9. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**9.1 ORDINARY MEETING OF COUNCIL HELD ON 17 JANUARY 2017**

**Council Decision**

**MOVED: Cr Foster**

**SECONDED: Cr Thomas**

**That the Minutes of the Ordinary Meeting of Council held on 17 January 2017, as previously circulated on 24 January 2017, be confirmed as a true and accurate record.**

**CARRIED 9/0**

**Councillors White, Rumble, Dias, Diver, Lynch, Foster, Gallanagh, Dellar and Thomas voted for the motion.**

**10. AGENDA ITEMS ADOPTED "EN BLOC"**

**10.1 MOVE AGENDA ITEMS 'EN BLOC'**

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

*"Part 5 – Business of a meeting*

*Clause 5.6 Adoption by exception resolution:*

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

**There were no items on En Bloc**

## MINUTES - ORDINARY MEETING OF COUNCIL 14 FEBRUARY 2017

### 11. GOVERNANCE & EXECUTIVE SERVICE REPORTS

#### 11.1 PROGRESS OF IMPLEMENTATION OF COUNCIL DECISIONS JANUARY 2017

MINUTE: 99

<b>FILE REFERENCE:</b>	GV04
<b>AUTHOR'S NAME AND POSITION:</b>	Tahnee Forbes CEO & Councillor Support Officer
<b>NAME OF APPLICANT/ RESPONDENT:</b>	Not Applicable
<b>DATE REPORT WRITTEN:</b>	25 January 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author has no financial interest in the matter.
<b>PREVIOUS MEETING REFERENCE:</b>	Agenda Item 10.1 (Minute: 11477) - Ordinary Meeting of Council 10 April 2013

#### Summary

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

#### Background

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

#### ATTACHMENT 11.1

#### Comment

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

This report presents a summary of the "Decision Status Reports" for Office of the CEO, Corporate Services, Infrastructure Services, Strategic & Economic Development, Community Development and Development & Regulatory Services.

#### Consultation

Chief Executive Officer  
Executive Management Team

#### Statutory Environment

Not Applicable

#### Financial Implications

Not Applicable



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### **Strategic Implications**

Shire of Ashburton 10 Year Community Strategic Plan 2012-2022

Goal 05 – Inspiring Governance

Objective 04 – Exemplary Team and Work Environment

### **Risk Management**

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

### **Policy Implications**

Not Applicable

### **Voting Requirement**

Simple Majority Required

### **Council Decision**

**MOVED: Cr P Foster**

**SECONDED: Cr D Diver**

**That Council receives the "Decision Status Reports" as per ATTACHMENT 11.1.**

**CARRIED 9/0  
Councillors White, Rumble, Dias, Thomas, Dellar, Gallanagh, Foster, Diver and Lynch voted for the motion.**

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### 11.2 USE OF COMMON SEAL AND ACTIONS PERFORMED UNDER DELEGATED AUTHORITY FOR THE MONTH OF JANUARY 2017

MINUTE: 100

<b>FILE REFERENCE:</b>	CM02
<b>AUTHOR'S NAME AND POSITION:</b>	Janyce Smith Executive Officer  Sheree Selton Administration Assistant Planning
<b>NAME OF APPLICANT/RESPONDENT:</b>	Not Applicable
<b>DATE REPORT WRITTEN:</b>	15 January 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The authors have no financial interest in the matter.
<b>PREVIOUS MEETING REFERENCE:</b>	Not Applicable

#### Summary

The purpose of this agenda item is to report to Council for information, Use of the Common Seal and actions performed under delegated authority requiring referral to Council, for the month of January 2017.

#### Background

Council has historically sought a monthly update of the more significant activities for the organisation relative to (1) use of the Common Seal, and (2) actions performed under delegated authority requiring referral to Council as per the Shire of Ashburton Delegated Authority Register 2017.

#### ATTACHMENT 11.2

#### Comment

A report on use of the Common Seal and relevant actions performed under delegated authority has been prepared for Council.

#### Consultation

Relevant officers as listed in the Attachment.

#### Statutory Environment

Local Government Act 1995

Clause 9.3 of the Shire of Ashburton Town Planning Scheme No. 7

#### Financial Implications

As outlined in Attachment 11.2.

#### Strategic Implications

Shire of Ashburton 10 Year Community Strategic Plan 2012-2022

Goal 05 – Inspiring Governance

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Objective 04 – Exemplary Team and Work Environment

### **Risk Management**

This item has been evaluated against the Shire of Ashburton's Risk Management Policy CORP5 Risk Matrix. The perceived level of risk is considered to be "Low" in light of the report being for information purposes only and the risk can be managed by routine procedures, and is unlikely to need specific application of resources.

### **Policy Implications**

ELM 13 – Affixing the Shire of Ashburton Common Seal.

FIN12 – Purchasing and Tendering Policy.

### **Voting Requirement**

Simple Majority Required

### **Council Decision**

**MOVED:** Cr P Foster

**SECONDED:** Cr L Thomas

**That Council accept the report *"11.2 Use of Common Seal and Actions Performed Under Delegated Authority for the Month of January 2017"*.**

**CARRIED 9/0**  
**Councillors White, Rumble, Dias, Thomas, Dellar, Gallanagh, Foster, Diver and Lynch voted for the motion.**

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### 11.3 SENIOR EMPLOYEES

MINUTE: 101

<b>FILE REFERENCE:</b>	CM02
<b>AUTHOR'S NAME AND POSITION:</b>	Maurice Ferialdi Acting Chief Executive Officer
<b>NAME OF APPLICANT/RESPONDENT:</b>	Kerry White Shire President
<b>DATE REPORT WRITTEN:</b>	31 January 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	At the time of preparing this report the Author was contracted to Act in the Chief Executive Officer's stead
<b>PREVIOUS MEETING REFERENCE:</b>	Agenda Item 13.2 (Minute: 11981) – Ordinary Meeting of Council 15 July 2015 Agenda Item 10.3 (Minute: 11747) - Ordinary Meeting of Council 19 February 2014 Agenda Item 11.3 (Minute: 11369) - Ordinary Meeting of Council 12 December 2012 Agenda Item 10.04.05 - Ordinary Meeting of Council 21 April 2009

#### Summary

The Acting Chief Executive Officer has received a written request from the Shire President to "prepare an agenda item to come to Council at the February meeting regarding executive staff contracts to come to Council for endorsement."

The purpose of this report is to provide elected members with relevant legislative requirements in which Council can be informed of each proposal to employ or dismiss a senior employee.

#### Background

Currently the Shire has six Executive Staff, these being:

- The Chief Executive Officer
- The Executive Manager – Community Services
- The Executive Manager – Corporate Services
- The Executive Manager – Development & Regulatory Services
- The Executive Manager – Infrastructure Services
- The Executive Manager – Strategic & Economic Development.

The Chief Executive Officer (CEO) is selected by the Council and is generally employed on a fixed term contract basis. This contract contains performance criteria which are evaluated by the Council in the CEO's performance review on an annual basis.

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The CEO acts as the conduit between the elected members and the Shire staff. All other Shire staff, including, for example, engineers, planners, financial managers, administrators and outside workers, ultimately receive their direction from, and are responsible to, the CEO.

### **Comment**

Under the terms of the Local Government Act 1995 (the Act), section 5.41(g) states all responsibilities for employing staff, including contracts of employment, are the function of the CEO.

The Function of the CEO – Section 5.41 of the Act states that the CEO be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees). The Shire does not currently have any officers designated as senior employees and as such there is not a requirement for the CEO to involve Council in the employment etc. of any staff. Should Council wish to be informed of proposed employment or dismissal of senior employees a Senior Employee Policy will be required to be adopted, this would then allow the process as specified under section 5.37 (1) (2) of the Act to be implemented:

#### *“5.37. Senior employees*

- (1) A local government may designate employees or persons belonging to a class of employee to be senior employees.*
  
- (2) The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO’s recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.”*

Once adopted, a report would be required to be presented to Council for accepting or rejecting on each proposal to employ or dismiss a senior employee. Section 5.37 of the Act does not provide a capacity for performance reviews or renewal of contracts for senior employees to be presented to Council.

If Council wished to have a policy developed a suggested officer recommendation could therefore be –

*That Council direct the CEO to prepare a Senior Employee Policy for its consideration, to reflect the requirement by Council to designate Senior Employees as provided for in Section 5.37 of the Local Government Act.*

If Council however wished to retain the existing arrangements, a suggested officer recommendation could therefore be –

*That Council note the Officer Report but makes no changes to its current arrangements in regard to staff appointments.*

### **Consultation**

WALGA

Governance and Policy Consultant

### **Statutory Environment**

Local Government Act 1995

Section 5.37 (1) (2) – Senior employees



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Section 5.41(g) – Functions of CEO

### **Financial Implications**

Salaries have a direct impact on Council's annual budgets.

### **Strategic Implications**

Shire of Ashburton 10 Year Community Strategic Plan

Goal 5 – Inspiring Governance

Objective 3 – Council Leadership

### **Risk Management**

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

### **Policy Implications**

There is no current policy in place.

### **Voting Requirement**

Simple Majority Required

### **Recommendation**

For Council consideration.

### **Council Decision**

**MOVED: Cr P Foster**

**SECONDED: Cr L Rumble**

**That Council direct the CEO to prepare a Senior Employee Policy for its consideration, to reflect the requirement by Council to designate Senior Employees as provided for in Section 5.37 of the Local Government Act.**

**CARRIED 8/1  
Councillors White, Rumble, Thomas, Foster, Dellar, Gallanagh, Diver and Lynch voted for the motion. Councillor Dias voted against the motion.**

**Reason for Change: Councillors selected "option one" from the Comment section of the report.**

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### 11.4 REQUEST FOR DONATION TOWARDS THE VIDEO PRODUCTION 'SHEARERS - THE TRUCK DAYS'

MINUTE: 102

<b>FILE REFERENCE:</b>	GS01
<b>AUTHOR'S NAME AND POSITION:</b>	Janyce Smith Executive Officer
<b>NAME OF APPLICANT/RESPONDENT:</b>	Kerry White Shire President
<b>DATE REPORT WRITTEN:</b>	6 February 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author has no financial interest in the matter.
<b>PREVIOUS MEETING REFERENCE:</b>	Not Applicable

#### Summary

The Shire President has received a request for a financial donation (\$2,000) from the Shearers and Pastoral Workers Social Club to assist with costs for the production of a video depicting some of the history of sheep shearing in the Pilbara. Cr White has requested that the proposal be referred to Council for its consideration.

The purpose of this report is for Council to consider the donation.

#### Background

The Shearers and Pastoral Workers Social Club has advised that:

"This video is designed to show case the memoirs and oral histories of the few remaining shearers and team staff members of this bygone era. The story will be told through interviews, and a montage of archive photographs of the time.

This historic video, will be professionally produced by WA's leading television producer Ron Reddingius. Ron has worked in television for more than 40 years and currently produces Channel 7 Perth's Home in WA."

All sponsors will all receive a credit acknowledgement and will also receive 10 copies of this video.

Attached is background information (titled "The Culture of the Truck") provided by The Shearers and Pastoral Workers Social Club which provides a good summary of the way the shearing industry was conducted in the pastoral regions of Western Australia from the 1920's to the 1960's.

#### ATTACHMENT 11.4

#### Comment

The Shearers and Pastoral Workers Social Club is seeking a commitment by Tuesday 28 February 2017.

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The sheep and shearing industry is historically linked to the Pilbara and the Onslow region, where wool was transported by ship from Onslow.

This request compliments the Shire's ELM20 History Collection Policy in that the video will preserve an historical resource for the present and future communities of the Shire of Ashburton.

If this donation is granted the video could be available to be played in both the Tom Price and Onslow Visitors Centres and further, a copy could be provided to each of the Shire's libraries for access by the general public.

### Consultation

Shire President  
Chief Executive Officer

### Statutory Environment

Local Government Act 1995 Section 6.7 Municipal Fund.

### Financial Implications

Funding can be accessed from the Shire's Tourism Budget (Account 11301720 – Tourism Consultancy).

### Strategic Implications

Shire of Ashburton 10 Year Community Strategic Plan 2012-2022  
Goal 03 – Unique Heritage and Environment  
Objective 03 – Celebration of History and Heritage

### Risk Management

This item has been evaluated against the Shire of Ashburton's Risk Management Policy CORP5 Risk Matrix. The perceived level of risk is considered to be "Low" risk and can be managed by routine procedures.

### Policy Implications

ELM20 History Collection Policy

### Voting Requirement

Simple Majority Required

### Council Decision

**MOVED:** Cr P Foster

**SECONDED:** Cr D Diver

**That Council approve the contribution of \$2000 (from General Ledger Account – 11301720 Tourism Consultancy) to the Shearers and Pastoral Workers Social Club to assist with the production of the video titled "*Shearers – The Truck Days*").**

**CARRIED 9/0**  
**Councillors White, Rumble, Dellar, Foster, Thomas, Gallanagh, Dias, Diver and Lynch voted for the motion.**

## MINUTES - ORDINARY MEETING OF COUNCIL 14 FEBRUARY 2017

### 12. COMMUNITY DEVELOPMENT REPORTS

### 13. CORPORATE SERVICES REPORTS

#### 13.1 RECEIPT OF FINANCIALS AND SCHEDULE OF ACCOUNTS FOR MONTH OF DECEMBER 2016 & JANUARY 2017

MINUTE: 103

<b>FILE REFERENCE:</b>	FM03
<b>AUTHOR'S NAME AND POSITION:</b>	Freemond Ng Finance Manager
<b>NAME OF APPLICANT/RESPONDENT:</b>	Not Applicable
<b>DATE REPORT WRITTEN:</b>	1 February 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author has no financial interest in the proposal.
<b>PREVIOUS MEETING REFERENCE:</b>	Not Applicable

#### **Summary**

In accordance with Regulation 34 of the Local Government (Financial Management) Regulations, the Shire is to prepare a monthly Statement of Financial Activity for consideration by Council.

#### **Background**

Regulation 34 of the Local Government (Financial Management) Regulations requires the Shire to prepare a monthly statement of Financial Activity for consideration by Council.

#### **Comment**

This report presents a summary of the financial activity for the following month:

#### **December 2016**

- Statements of Financial Activity and associated statements for the Month of December 2016.

**ATTACHMENT 13.1A**

#### **January 2017**

- Schedule of Accounts and Credit Cards paid under delegated authority for the Month of January 2017.

**ATTACHMENT 13.1B**

#### **Consultation**

Executive Manager - Corporate Service

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Executive Management Team  
Finance Manager  
Finance Coordinator  
Finance Officers  
Consultant Accountant

### **Statutory Environment**

Section 6.4 Local Government Act 1995, Part 6 – Financial Management, and regulation 34 Local Government (Financial Management) Regulation 1996.

### **Financial Implications**

Financial implications and performance to budget are reported to Council on a monthly basis.

### **Strategic Implications**

Shire of Ashburton 10 year Community Strategic Plan 2012-2022  
Goal 5 - Inspiring Governance  
Objective 4 - Exemplary Team and Work Environment

### **Risk Management**

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

### **Policy Implications**

There are no policy implications in this matter.

### **Voting Requirement**

Simple Majority Required

### **Council Decision**

**MOVED: Cr M Lynch**

**SECONDED: Cr D Diver**

**That Council:**

- 1. Accepts the Financial Reports for December 2016 ATTACHMENT 13.1A; and**
- 2. Notes the Schedule of Accounts and Credit Cards paid in January 2017 as approved by the Chief Executive Officer in accordance with delegation DA03-1 Payments from Municipal Fund and Trust Funds as per ATTACHMENT 13.1B.**

**CARRIED 9/0**

**Councillors White, Rumble, Gallanagh, Dias, Diver, Lynch, Foster, Thomas and Foster voted for the motion.**



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### 13.2 TENDER RFT 25/16 WIDE AREA NETWORK (WAN) BRANCH REPEATER OPTIMISATION.

MINUTE: 104

<b>FILE REFERENCE:</b>	CM25.16
<b>AUTHOR'S NAME AND POSITION:</b>	Al Lind Manager Information Systems
<b>NAME OF APPLICANT/RESPONDENT:</b>	Not Applicable
<b>DATE REPORT WRITTEN:</b>	6 February 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author has not financial interest in the matter.
<b>PREVIOUS MEETING REFERENCE:</b>	Not Applicable

#### Summary

The 2016/17 Budget provided \$300,000 for the refreshment and updating Wide Area Network (WAN) Branch Repeater optimization systems. These upgrades are designed to improve system speed and disaster recovery.

It is recommended that Anittel PTY LTD be awarded the contract for \$279,901.44 (GST Inclusive).

#### Background

The 2016/17 Budget provided \$300,000 for the refreshment and updating Wide Area Network (WAN) Branch Repeater optimization systems. These upgrades are designed to improve system speed and disaster recovery.

The tender for these works was advertised on 30 November 2016 and closed on 15 December 2016. Three tenders were received but one was not accepted as it was received after the closure of the tender.

<b>Tenderer</b>	<b>Price (GST Inclusive)</b>	<b>Score</b>	<b>Ranking</b>
Anittel Pty Ltd (Option 1)	\$279,901.44	81	1
Telstra		71.2	2
Anittel Pty Ltd (Option 2)		69.1	3
Denver Technology	Non-conforming		

Anittel Pty Ltd is the preferred Tenderer on 81 points and it is recommended that the contract be awarded in accordance with the submission, totalling \$279,901.44 (GST Inclusive).

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The Tender Evaluation Report is attached.

### ATTACHMENT 13.2

#### **Comment**

The upgrade works will improve the IT system speed across the entire Shire operation (but particularly in Onslow where computing speed has been a disadvantage for several years). Increased data transfer speeds will not only reduce staff frustrations, but improve customer service and organisational efficiency. The upgrade will also improve disaster recovery (should that occur) by accelerating continuous backup during normal working hours (reducing the amount of potential lost data).

#### **Consultation**

Executive Manager Corporates Services.  
Manager Information Systems  
Administration Information Service

#### **Statutory Environment**

Section 3.57 "Tenders for providing goods or services" of the Local Government Act 1995.

#### **Financial Implications**

The Tender is below the allocated budget for this project.

#### **Strategic Implications**

Shire of Ashburton 10 year Community Strategic Plan 2012-2022  
Goal 5 - Inspiring Governance  
Objective 4 - Exemplary Team and Work Environment

#### **Risk Management**

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

#### **Policy Implications**

FIN12 Procurement Policy

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### Voting Requirement

Simple Majority Required

#### Council Decision

**MOVED: Cr P Foster**

**SECONDED: Cr M Lynch**

#### That Council:

1. **Award Tender RFT 25/16 Wide Area Network (WAN) Branch Repeater Optimisation, to Anittel Pty Ltd for \$279,901.44 (GST Inclusive); and**
2. **Authorise the Chief Executive Officer to negotiate the final terms and execute the Contract Documentation.**

**CARRIED 9/0**

**Councillors White, Rumble, Dias, Foster, Gallanagh, Dellar, Thomas, Diver and Lynch voted for the motion.**

**14. DEVELOPMENT AND REGULATORY SERVICES REPORTS**

**14.1 REQUEST FOR RESOLUTION NOT TO PROCEED WITH SCHEME AMENDMENT NO.25 TO THE SHIRE OF ASHBURTON TOWN PLANNING SCHEME NO.7 PROPOSING REVISED PROVISION TO THE 'ONSLow AIRPORT HEIGHT RESTRICTIONS AREA - SPECIAL CONTROL AREA'**

**MINUTE:** 105

<b>FILE REFERENCE:</b>	LP10.7.25
<b>AUTHOR'S NAME AND POSITION:</b>	Andrew Patterson Principal Town Planner
<b>NAME OF APPLICANT/RESPONDENT:</b>	Shire of Ashburton
<b>DATE REPORT WRITTEN:</b>	14 January 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author has no financial interest in the proposal.
<b>PREVIOUS MEETING REFERENCE:</b>	Agenda item 13.8 (Minute No. 11290) Ordinary Meeting of Council 19 September 2012

**Summary**

At its Ordinary Meeting on 19 September 2012, Council resolved to initiate Amendment No. 25 to Shire of Ashburton Town Planning Scheme No. 7 (TPS7) to revise the Scheme text and Maps relating to the Onslow Airport Height Restrictions Area – Special Control Area (SCA).

The existing SCA provisions comprise an obstacle limitation surface (OLS) delineated on the Scheme Map (ATTACHMENT 1), and associated text that requires appropriate clearance from proposed structures constructed within the OLS.

Initially proposed in response to the Onslow Airport runway realignment, Amendment 25 has not progressed beyond the initiation phase, with none of the required supporting reports or documentation prepared or submitted to the Environmental Protection Authority for consideration prior to public advertising.

The need to update the Scheme maps and introduce more comprehensive Scheme provisions is acknowledged, however given the length of time since initiation, and the lack of any progress on Amendment 25, it is recommended that this Amendment be formally discontinued, and new provisions and Scheme map updates included in the Omnibus Scheme Amendment anticipated to be presented to Council in mid-2017.

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### Background

OLS is airspace surrounding an aerodrome that is protected from obstacle intrusion, ensuring safe approach and takeoff. It is represented on the TPS7 maps as four isosceles trapezium centered on the old Onslow Airport runway and labeled 'Onslow Airport Height Restrictions Area – SCA'.

The Scheme text makes the following provision with regard to the SCA:

#### 7.5 ONSLOW AIRPORT HEIGHT RESTRICTIONS AREA

*7.5.1 Development shall ensure appropriate clearance between proposed Structures and the current obstacle limitation surface for the Onslow Aerodrome.*

While the Scheme map fails to accurately describe the Onslow Airport OLS, this has not resulted in any intrusions into the actual OLS, largely due to the height constraints for developing in a cyclone-prone area and the OLS only extending over one section of developed land, being:

- the industrial-zoned land at Shanks Road;
- a portion of the industrial-zoned land at the western end of Beadon Creek Road;
- a portion of the Bindi Bindi Community; and
- a portion of Barrarda Estate.

Notwithstanding the demarcation of the SCA, applications for development considered likely to intrude into the actual OLS have been referred to the Onslow Airport Manager to ensure these have no impact on air operations.

In addition to the OLS, Onslow Airport now utilizes PANS-OPS, an instrument approach and departure procedure that imposes instrument flight rules in response to meteorological conditions.

PANS-OPS are rules for designing instrument approach and departure procedures that allow aircraft to land and take off when instrument meteorological conditions impose instrument flight rules. Similar to an OLS, the PANS-OPS protection surfaces are imaginary surfaces in space that guarantee an aircraft a certain minimum obstacle clearance.

These surfaces may be used in assessing applications for planning approval. Where buildings may (under certain circumstances) be permitted to penetrate the OLS, they cannot be permitted to penetrate the PANS-OPS surface without prior approval as these surfaces guarantee pilots operating under instrument meteorological conditions IMC an obstacle-free descent or approach path to the runway.

Implementing this new technology requires a planning response not anticipated under Amendment 25, further strengthening the case for abandoning this Amendment to enable additional Scheme text making reference to PANS-OPS, advising developers of the requirement to consider the implications for development and ensuring referral of relevant applications to the Onslow Airport Manager.

### Comment

Given the length of time since initiating this amendment, and the significantly different planning control requirements now relevant to land surrounding the Onslow Airport, it is recommended that the Minister for Planning be advised that Council no longer wish to proceed with Amendment 25.

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This will enable resources that would otherwise be allocated to preparing the documentation and supporting reports to progress Amendment 25, to complete a more comprehensive omnibus amendment that includes the latest planning and development controls required to account for the constraints imposed on development by the Onslow Airport. The omnibus amendment is an opportunity for the Shire to collectively address and correct a number of inaccuracies and mistakes within the Scheme in a single process, rather than through individual amendments.

Alternatively, Council could resolve to proceed with Amendment 25, in which case Shire staff will prepare the supporting reports and documentation required to amend the Scheme in accordance with the September 2012 initiation resolution.

Should Council resolve to proceed with Amendment 25, the Shire would need to advertise it in its current form, which is without reference to the PANS-OPS. Following public advertising, when Council considers all submissions and resolves on final adoption, reference to this additional component could be adopted as a modification to the Amendment. This is not recommended as other stakeholders would not have an opportunity to comment on the PANS-OPS and it is possible that the WAPC would require re-advertising of the Amendment to ensure relevant stakeholders are able to consider and comment on the full scope of the Amendment.

### **Consultation**

Chief Executive Officer  
Executive Manager Development and Regulatory Services  
Executive Manager Infrastructure Services  
Manager Onslow Airport

### **Statutory Environment**

*Planning and Development Act 2005*  
*Planning and Development (Local Planning Schemes) Regulations 2015*  
*Shire of Ashburton Town Planning Scheme No. 7*

### **Financial Implications**

Preparation of amendment documentation and processing the amendment through the statutory process requires time allocation by Shire staff.

### **Strategic Implications**

Shire of Ashburton 10 Year Community Strategic Plan 2012-2022  
Goal 04 - Distinctive and Well Serviced Places  
Objective 01 – Quality Public Infrastructure  
Objective 02 – Accessible and Safe Towns  
Objective 03 – Well Planned Towns

### **Risk Management**

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

### **Policy Implications**

Nil.

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### Voting Requirement

Simple Majority Required

#### Council Decision

**MOVED: Cr P Foster**

**SECONDED: Cr L Thomas**

**That Council, in pursuance of Section 75 of the *Planning and Development Act 2005 (as amended)*, DOES NOT PROCEED with Scheme Amendment 25 to the *Shire of Ashburton Town Planning Scheme No. 7* by:**

- 1. Advising the Western Australian Planning Commission and Minister for Planning of its decision not to proceed with the Amendment; and**
- 2. Removing Scheme Amendment No. 25 from the Shire's list of active Scheme Amendments.**

**CARRIED 9/0**

**Councillors, White, Rumble, Thomas, Dellar, Gallanagh, Foster, Dias, Diver and Lynch voted for the motion.**

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### 14.2 NOMINATION OF TWO MEMBERS AND TWO ALTERNATE MEMBERS BY COUNCIL TO THE PILBARA JOINT DEVELOPMENT ASSESSMENT PANEL

MINUTE: 106

<b>FILE REFERENCE:</b>	LP22
<b>AUTHOR'S NAME AND POSITION:</b>	Andrew Patterson Principal Planner
<b>NAME OF APPLICANT/RESPONDENT:</b>	Shire of Ashburton
<b>DATE REPORT WRITTEN:</b>	16 January 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author has no financial interest in the proposal.
<b>PREVIOUS MEETING REFERENCE:</b>	Agenda item 14.1 (Minute No. 11904) Ordinary Meeting of Council 28 January 2015 Agenda Item 11.3 (Minute No. 12010) Ordinary Meeting of Council 21 October 2015.

#### Summary

The Department of Planning has advised the Shire that the current Councillor nominations to the Northern Development Assessment Panel (DAP) will expire on 26 April 2017 and fresh nominations are required prior to 28 February 2017.

A DAP is an independent planning approval authority that considers specific applications for planning approval throughout Western Australia with each panel made up of three specialist members (including the presiding member) and two local government elected members. The Northern DAP replaces the previous Pilbara Joint Development Assessment Panel.

Previous appointments to the panel were for a two year term, however recent changes to the *Planning and Development (Development Assessment Panels) Regulations 2011* (Regs) will come into effect on 1 February 2017 that now establish nominations for a three-year term.

In addition to the two members, Council is required to nominate two alternative members who will substitute for the nominated members should they become unavailable.

#### Background

Established in 2011, Development Assessment Panels (DAPs) act as an independent planning approval authority, determining applications for planning approval where the cost of development is equal to or greater than \$10 million. Should they wish to have an application determined by a DAP instead of the local government, Developers also have the option of having a DAP determine an application where the cost of development is between \$2 million and \$10 million.



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Each DAP comprising three specialist members (one of whom is the presiding member), and two local government elected members. The local government members will only sit on a panel to determine applications for planning approval for developments within their respective local government area.

The metropolitan area comprises six DAPs, with regional Western Australia now divided into three regions. The Shire of Ashburton is within the jurisdiction of the Kimberley/Pilbara/Gascoyne (Northern) Joint Development Assessment Panel (JDAP). The Northern JDAP includes the following local governments:

- Ashburton
- Broome
- Carnarvon
- Derby-West Kimberley
- East Pilbara
- Exmouth
- Halls Creek
- Port Hedland
- Karratha
- Shark Bay
- Upper Gascoyne
- Wyndham-East Kimberley

Each local government is responsible for nominating two DAP representatives from their pool of elected members (Councillors). When nominated and accepted, the Minister for Planning is advised of the appointments and the names published on the DAP website maintained by the Department of Planning.

In addition to the two nominated members, two alternate members are also nominated, with these members to be available if required (due to illness, leave, or other cause). Alternate members can only sit in replacement of a permanent local member where they generally share the same knowledge and/or experience as the permanent member.

In the event a local authority fails to nominate two elected representatives within the specified time frame, the Minister has the power to appoint two alternative community representatives.

In all instances, nominated DAP and alternate members are required to undergo mandatory training prior to sitting on a DAP. Training addresses the Western Australian planning and development framework, planning law, the operation of a DAP, the DAP Code of Conduct and the expected behaviour of DAP members.

DAP members receive fees for services, as set by the Department of Planning.

The Specialist Members appointed to the Northern JDAP for 2015 – 2017 are:

Eugene Koltasz (Presiding Member)  
Clayton Higham (Deputy Presiding Member)  
Luigi D'Alessandro (Third Specialist)

Should two of these members not be available to sit, an alternate specialist pool is available from which to draw additional members to achieve a meeting quorum. The names of those additional members are available on the Department of Planning website.

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All DAP members are appointed for a term of three (recently increased from two) years, although an appointment may be extended for an additional three months in order for a member to be reappointed, or another member nominated and trained to the position. This recent change to the Regulations is to ensure sufficient elected members are available to sit on the panel following local government elections or delays created in training newly elected members.

DAPs meet on an irregular basis to assess applications lodged within its jurisdiction. Shire of Ashburton members attended no meetings in 2016, and three meetings in 2015. Given the lack of major development within the Shire meeting the DAP application criteria and the gazettal of the ANSIA Improvement Scheme that also excludes applications from the DAP regime, it is not anticipated that Council nominees will be called upon frequently in 2017.

In accordance with the DAP Regulations, Council is required to submit the names of their nominated DAP members and alternate members to the Minister prior to 28 February 2017. In making these nominations, the Department of Planning encourages local governments to consider the potential impact of the October 2017 local government elections when determining nominees.

### **Comment**

Sitting on a DAP is an important role, ensuring the opinion and knowledge from local communities is considered during the consideration and determination of applications for planning approval for large developments. As the local community representatives to this planning assessment authority, local government representatives provide local context and appreciation of community values to the development process.

Given the significance of the projects considered during a DAP, it is critical that Council nominate members with a sound understanding of planning process and principles in order that the Shire's interests are adequately considered during the determination of all applications within the local government area.

### **Consultation**

Chief Executive Officer  
Executive Manager - Development & Regulatory Services

### **Statutory Environment**

*Planning and Development Act 2005*

*Planning and Development (Development Assessment Panels) Regulations 2011*

### **Financial Implications**

The only anticipated financial implications related to this matter are minimal Shire Officer's administration time. There are no budgetary or financial implications arising from the nomination and appointment of Councilors to the DAP, and the WAPC pays sitting fees directly to members as required.

### **Strategic Implications**

Shire of Ashburton 10 Year Community Strategic Plan 2012-2022

Goal 01 – Vibrant and Active Communities

Goal 04 – Distinctive and Well Serviced Places

Objective 03 – Well Planned Towns

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### **Risk Management**

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

### **Policy Implications**

There are no policy implications for this matter.

### **Voting Requirement**

Simple Majority Required

### **Council Decision**

**MOVED: Cr D Dias**

**SECONDED: Cr L Rumble**

**That Council nominate:**

**Cr Kerry White and Cr Ivan Dias as its two members to the Pilbara Area Joint Development Assessment Panel; and**

**Cr Peter Foster and Cr Linton Rumble as its two alternate members to the Pilbara Area Joint Development Assessment Panel.**

**CARRIED 9/0**  
**Councillors White, Rumble, Dias, Gallanagh, Foster, Thomas, Diver, Dellar and Lynch voted for the motion.**

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### 14.3 SHIRE OF ASHBURTON AUTHORISED AND APPROVED OFFICERS - PUBLIC HEALTH ACT 2016

MINUTE: 107

<b>FILE REFERENCE:</b>	LE01/PH04
<b>AUTHOR'S NAME AND POSITION:</b>	Tim Brokenshire Manager Environmental Health
<b>NAME OF APPLICANT/RESPONDENT:</b>	Shire of Ashburton
<b>DATE REPORT WRITTEN:</b>	31 January 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author has no financial interest in the matter.
<b>PREVIOUS MEETING REFERENCE:</b>	Not Applicable

#### Summary

The existing *Health Act 1911* has finally been replaced with the *Public Health Act 2016*. The Public Health Act together with the supporting Public Health (Consequential Provisions) Act 2016 ('the Consequential Act'), received Royal Assent on the 25th July 2016. Implementation is to occur in five stages over the next three to five years.

The current implementation level reached is at Stage 3 and it is now appropriate for Council to consider changes that are coming into play and the delegation of duties.

Changes need to be made to the delegations and authorisations register to reflect the amendments.

#### Background

The Public Health Act (hereafter referred to as the 'Act') provides a flexible and proactive framework for the regulation of public health, with key features including:

- promoting public health and well-being in the community;
- helping to prevent disease, injury, disability and premature death;
- informing individuals and communities about public health risks;
- encouraging individuals and their communities to plan for, create and maintain a healthy environment;
- supporting programs and campaigns intended to improve public health;
- collecting information about the incidence and prevalence of diseases and other public health risks for research purposes;
- to reduce the health inequalities in public health of disadvantaged communities.

There are five stages of implementation, of which Stages 1 and 2 are already in effect and have no practical implications for local government. Implementation has now reached Stage 3 and involves key elements of the administrative framework provided by Part 2 of the new Act coming into operation. This includes gazettal of Environmental

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Health Officers to enforce the provisions of the Act within their local government authority and annual reporting requirements.

It is important to note that local government has the following functions in relation to the administration of the new Act.

- To initiate, support and manage public health planning for its local government district (i.e. in accordance with the Act and the Local Government Act 1995);
- To develop and implement policies and programs to achieve the objects of this Act within its local government district;
- To perform the functions that are conferred on local governments by or under this Act;
- To administer and enforce this Act within its local government district in accordance with the objects and principles of this Act.

Part 2 of the Act recognises the roles and functions of both State and local government and provides for the continuation of arrangements whereby responsibility for public health is shared between the State and local government. Local government has always been the front line of operational activities in traditional public health matters, with the WA Department of Health having primarily a policy and advisory role with the legislative framework.

As we are now at Stage 3 of the implementation process, the key elements of the administrative framework provided by Part 2 of the Act come into operation to replace the equivalent administrative framework provided by Part II of the Health Act 1911. Council now has the opportunity to delegate responsibility under Section 21 of the Act to the CEO or designate specific employees to be authorised officers.

### ATTACHMENT 14.3

#### **Comment**

##### Local government preparation

At Stage 3, the Health Act 1911 will be renamed the Health (Miscellaneous Provisions) Act 1911. The Health (Miscellaneous Provisions) Act 1911 and subsidiary legislation will continue to be the main enforcement tool for local government during Stages 3 and 4.

##### Designation of authorised officers and appointment of Environmental Health Officers

##### What is an authorised officer?

An authorised officer is a person or class of persons who are designated the authority to administer and enforce provisions of the Act on behalf of the enforcement agency [section 24].

##### Who is responsible for designating a person as an authorised officer? [Section 24]

It is the responsibility of the enforcement agency (the local government) to designate persons or a class of persons as authorised officers [section 24].

The Act enables an enforcement agency to designate as an authorised officer:

- environmental health officers, as appointed under the Act; or
- persons who are not appointed environmental health officers, but who possess other appropriate qualifications and experience to perform particular functions under the Act or other Acts; or

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- a mixture of both.

### Appointment of Environmental Health Officers [Section 17]

Any person appointed as an environmental health officer (EHO) under Section 17 of the Act must have at least one of the qualifications and/or experience approved and gazetted by the Chief Health Officer under section 18.

The appointment of an EHO is the responsibility of local government and does not need to be in writing. The appointment can be done in accordance with whatever process is used by a local government for employing staff.

A person appointed as an EHO under Section 17 of the Act may be designated as an authorised officer in writing and be issued with a certificate of authority.

### Persons who are not Environmental Health Officers [Section 25]

An enforcement agency may designate as an authorised officer persons who are not also an appointed environmental health officer in accordance with Section 25 of the Act. This can be done if the enforcement agency considers the person has appropriate qualifications and experience to perform the particular functions that they will be designated to perform. The Act enables an enforcement agency to specify conditions or restrictions to which the person's authority is subject, based on their qualifications and experience.

Although an enforcement agency has the discretion to assess what will constitute appropriate qualifications and experience, when making these designations an enforcement agency must have regard to any Chief Health Officer guidelines issued under Section 29 of the Act.

As the Act is being implemented in a staged manner, the Chief Health Officer guidelines under section 29 will initially require that persons designated as authorised officers should:

- hold a qualification approved by the Chief Health Officer under Section 18 of the Act; or
- have been previously approved by the Executive Director, Public Health to be appointed as an Environmental Health Officer, under the Health Act 1911; or
- hold qualifications and experience approved by the Western Australian Environmental Health Officers Professional Review Board.

As new subsidiary legislation under the Public Health Act is implemented, these guidelines will be updated to include other qualifications and experience. It is recommended that during the implementation phase of the Act an enforcement agency follows the Chief Health Officer guidelines on the qualifications and experience for the designation of persons who are not appointed environmental health officers, as authorised officers.

### Issuing a certificate of authority [Section 30]

An authorised officer must be issued with, and show evidence on request, of their authorisation under the Act. This is achieved by issuing any person who is authorised under the Act with a 'Certificate of Authority' card.

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The Tables below outline the provisions of the *Act* or the [Health \(Consequential Provisions\) Act 2016](#) that will come into operation at Stage 3 and the action that is required by enforcement agencies to prepare for this stage.

<b>Designation of authorised officers</b>	Designation of authorised officers, and appointment of Environmental Health Officers must now be made under the Public Health Act 2016. This is the responsibility of local government enforcement agencies.	In order to minimise the impact on local governments, Section 312 of the Public Health Act includes a transitional provision. Under that section, persons who are currently appointed as environmental health officers will be deemed to be designated as authorised officers for the purpose of the Public Health Act, the Health Act and a range of other relevant Acts Certificate of authority cards must be issued.
[Division 2 and Division 4 of the Public Health Act 2016]		

The Manager Environmental Health (Tim Brokenshire) and the Onslow Environmental Health Officer (Tahi Morton) hold a current appointment as an Environmental Health Officer (EHOs) and will automatically be designated as an authorised officers.

<b>Asbestos Regulation Amendments</b>	On the 24th January 2017 the <a href="#">Health (Asbestos) Regulations 1992</a> was amended to increase the penalties for offences under the regulations and enable local governments to issue infringement notices for specified offences.	Certificate of authority cards issued to EHOs under the <i>Public Health Act 2016</i> must now include wording identifying that the person is an authorised officer appointed to issue infringement notices under the <i>Health (Asbestos) Regulations 1992</i> .  The amendments have been confirmed in the <a href="#">government gazetted dated 10 January 2017</a> .
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The Act allows Council to delegate the powers and duties conferred across to the Chief Executive Officer. Delegation to the CEO will allow for smooth implementation of the provisions of the Act as they are implemented/introduced over the next couple of years. Further it allows the CEO to delegate responsibility to employees that are not EHO's that may have the skills and experience necessary to implement the requirements in line with Councils function under the Act.

Appropriately it is recommended that the CEO be delegated authority for the requirements of the Act under Section 21 and that changes be made to the delegations and authorisations register to reflect the authorisation as per **ATTACHMENT 14.3A**.

**Consultation**

Chief Executive Officer  
Executive Manager Development and Regulatory Services  
Governance consultant

**Statutory Environment**

*Public Health Act 2016*

Section 21(1)(b)(i) enables Council to delegate the powers and duties conferred on it to the Chief Executive Officer, or an authorised officer designated by the Local Government.

**Financial Implications**

There are no financial implications.

**Strategic Implications**

Shire of Ashburton 10 year community strategic plan 2012-2022

Goal 1 – vibrant and active communities

Objective 3 – quality education, healthcare, childcare, aged care and youth services

Goal 4 - distinctive and well serviced places

Objective 2 - accessible and safe towns

**Risk Management**

This item has been evaluated against the Shire of Ashburton’s Risk Management Policy CORP5 Risk Matrix. The perceived level of risk concerning the recommendation is considered to be “Low”.

**Policy Implications**

There are no policy implications for this matter.

**Voting Requirement**

Absolute Majority Required

**Council Decision**

**MOVED:** Cr M Lynch

**SECONDED:** Cr D Diver

**That Council:**

1. **Delegates to the CEO all powers and duties conferred or imposed on the Shire of Ashburton by the *Public Health Act 2016*.**
2. **Adopt the addition to the Delegations of Authority Register of the Approved Authorisations as per ATTACHMENT 14.3A.**

**CARRIED 9/0**  
**Councillors White, Rumble, Gallanagh, Thomas, Dias, Dellar, Foster, Lynch and Diver voted for the motion.**



**15. INFRASTRUCTURE SERVICES REPORTS**

**15.1 PROPOSED WORKS ON SHIRE ROAD RESERVE – FIRST AVENUE, ONSLOW FRONTING THE ASHBURTON RESORT**

MINUTE: 108

<b>FILE REFERENCE:</b>	RD05
<b>AUTHOR'S NAME AND POSITION:</b>	Troy Davis Executive Manager Infrastructure Services
<b>NAME OF APPLICANT/RESPONDENT:</b>	Drew Norrish CEO Mackerel Islands Pty Ltd
<b>DATE REPORT WRITTEN:</b>	31 January 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author has no financial interest in the matter
<b>PREVIOUS MEETING REFERENCE:</b>	Not Applicable

**Summary**

In early 2015, the Chief Executive Officer of Mackerel Islands Pty Ltd (MIPL) (owner of the Ashburton Resort, Onslow), contacted the Shire to request permission to undertake landscaping improvement works within the First Avenue road reserve fronting the Ashburton Resort.

The initial approach requested joint funding from the Shire, but this was not supported due to the proposed project not being budgeted for. However the proposal was supported 'in-principle' with the scope to be determined in consultation with Shire staff.

Since that initial enquiry, staff have been working with MIPL to agree conditions of approval for a reduced scope of works from that initially proposed, with a view to issuing a permit for the works. To date those negotiations have been unsuccessful and MIPL has undertaken some works without a permit being issued.

The situation has now reached an impasse whereby MIPL has been issued a Show Cause notice for not complying with permit requirements set by the Shire. As the next step in the process can involve monetary fines and possible removal of the works, this report seeks Council's consideration of the most appropriate way to address this situation.

**Background**

In early 2015, the Chief Executive Officer of Mackerel Islands Pty Ltd (MIPL) (owner of the Ashburton Resort, Onslow), contacted the Shire to request permission to undertake landscaping improvement works within the First Avenue road reserve fronting the Ashburton Resort.

**ATTACHMENT 15.1A**

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The initial approach requested joint funding from the Shire, but this was not supported due to the proposed project not being budgeted for. However the proposal was supported 'in-principle' with the scope to be determined.

Shire staff have delegated authority to issue permits for such works, subject to conditions (similar to conditions imposed on land development applications) in accordance with the Local Government (Uniform Local Provisions) Regulations 1996 (the 'Regulations').

During the prolonged negotiations, works were undertaken in the road reserve without the proposed conditions being agreed and a permit being issued.

On 9 January 2017, a 'Show Cause' letter was sent to MIPL requesting the immediate address of concerns regarding the unauthorised works. Upon the expiry of the 14 day notice period, no response had been received.

### **ATTACHMENT 15.1B**

Subsequently, a response was received that further declined to comply with the conditions proposed and sought explanation for the reasons behind the specific condition to construct a pedestrian footpath. This condition appears to be the 'sticking point' to enable a permit to be issued.

### **ATTACHMENT 15.1C**

### **ATTACHMENT 15.1D**

As further action may now include monetary fines and/or removal of the unauthorised works, it was deemed appropriate that Council should consider both the proposed conditions of approval and the actions to progress should agreement not be reached within a reasonable time.

### **Comment**

The proposed landscaping works on First Avenue, Onslow fronting the Ashburton Resort have been the subject of discussion for almost two years. Initial approaches MIPL proposed significant financial contributions from the Shire to enable the works to be undertaken.

The initial proposal included landscaping, a playground, access road and concrete pathway across the full frontage of the property. The option for Shire expenditure was not supported as there was no budget allowed for and it did not align with any long term financial plans of Council.

Whilst the joint funding proposal was not supported, the proposal to beautify the First Avenue road reserve was supported 'in-principle' with negotiations on exact scope and conditions ongoing over the past two years.

The main points that Shire staff wanted addressed were to ensure vehicular and pedestrian traffic were catered for, and that any structures or other impediments on the road reserve that may be a risk to the public were adequately separated/delineated via fencing or other devices such as bollards.

The contentious condition being challenged by MIPL is the requirement to construct a concrete pedestrian pathway across the full frontage of the Ashburton Resort. The proposal was initiated by MIPL in the introductory scope presented in early 2015.

MIPL contends that the proposed path '*leads to no known location of actual or planned public aesthetic or recreational value*', however the counter argument is that the proposed

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path is an extension of the existing path along the foreshore to the north and can eventually extend along the full foreshore as any future Onslow beautification works are progressed.

Anecdotally it is understood that the works that have been undertaken have been well received and have improved the aesthetics of the property frontage, however it can't be debated that the works have been undertaken without the appropriate permit being in place which ultimately places the Shire at risk should an incident or accident occur. Whilst staff have thus far been consulting with MIPL and the Onslow Ward Councillor, a mutually agreeable position has been unable to be reached and a decision now needs to be made by Council with respect to the footpath condition (and whether it wishes to progress with monetary fines and/or removal of the works).

Options include; (1) accept the works that have been completed, plus the additional works such as fencing, that have already been agreed, (2) provide financial support to enable the construction of the path. MIPL has indicated a sum of \$30,000 for the path works which could be funded or part funded from the 2016/17 budget New Footpath budget, however that would delay the other programmed footpath works in Onslow, (3) advising MIPL that the concrete footpath needs to be installed and that if it is not, the works undertaken thus far need to be removed.

The first option to accept the works 'as-is', whilst the path of least resistance, could be perceived as 'giving in' to a business and allowing them to use public land for their own benefit. If Council wish to support this option, a suggested recommendation could therefore be:

*That Council accepts the works that have been completed (plus the additional works such as fencing that have already been agreed, namely, general landscaping works including gardens and lawn, plus a gravelled road/pathway) and issue a permit for the landscaping works on First Avenue, Onslow (fronting Lot 447, the Ashburton Resort) on the condition of the construction of a 2m wide gravel footpath (in lieu of a concrete pathway) for the entire road reserve frontage of Lot 447.*

The second option has merit although the exact value of any Council contribution and timing of any works would need to be defined. If there is urgency in having the path constructed then an agreed contribution up to \$30,000 could be made this financial year, to the detriment of other planned footpath works. Alternatively, should the footpath not be deemed as urgent then MIPL could be requested to provide an agreed contribution to works (held in trust) that can be planned and programmed through the Footpath Improvement Plan (formerly the 'Bike Plan') currently being developed. This would ensure that MIPL's concerns that the proposed path doesn't lead anywhere would be alleviated as it would then be part of a broader path network. If Council wish to support this option, a suggested recommendation could therefore be:

*That Council -*

- 1. Update the Footpath Improvement Plan to include a proposed footpath along this general area (subject to confirmation from the current Coastal Hazard Risk Management and Adaptation Plan) so it forms part of a broader path network;*
- 2. In an effort to find a mutually agreeable compromise, allocate a maximum of \$15,000 (estimated to be 50% of the concrete footpath construction cost) from the current footpath construction budget as a contribution towards the footpath cost; and*

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3. *Accepts the works that have been completed (plus the additional works such as fencing that have already been agreed, namely general landscaping works including gardens and lawn, plus a gravelled road/pathway) and issue a permit for the landscaping works on First Avenue, Onslow (fronting Lot 447, the Ashburton Resort) on the condition of the construction of a 2m wide concrete footpath for the entire road reserve frontage of Lot 447.*

The third option (impose fines and/or remove the works), whilst allowable under the provisions of the Regulations, is the least palatable and presents a high level of reputational risk due to the public nature of the works. If Council wish to support this option, a suggested recommendation could therefore be

*That Council –*

1. *Notes the original proposal by MIPL for a concrete footpath in Attachment 15.1A;*
2. *Accepts the works that have been completed (plus the additional works such as fencing that have already been agreed namely general landscaping works including gardens and lawn, plus a gravelled road/pathway) and issue a permit for the landscaping works on First Avenue, Onslow (fronting Lot 447, the Ashburton Resort) on the condition of the construction of a 2m wide concrete footpath for the entire road reserve frontage of Lot 447.; and*
2. *Authorise the Chief Executive Officer to order the removal of the unauthorised works should all works subject to the permit (including the construction of a 2m wide concrete footpath) not be completed by Mackerel Islands Pty Ltd by 30 June 2017.*

### **Consultation**

Chief Executive Officer  
Operations Manager

### **Statutory Environment**

Local Government (Uniform Local Provisions) Regulations 1996, Part 6 'Obstruction of public thoroughfare by things placed and left';  
Local Government (Uniform Local Provisions) Regulations 1996, Part 17 'Private works on, over, or under public spaces'.  
The License conditions are appealable to the State Administrative Tribunal and therefore all conditions need to be justifiable.

### **Financial Implications**

There are no direct financial implications of adopting the recommendation as there is already a budget for new footpaths in 2016/17. The program of works could be adjusted with no additional costs to Council.

The alternatives also realise no net financial implications as they are cost neutral; either being no additional works required, or cost recovery should the Shire need to undertake remediation works.

### **Strategic Implications**

Shire of Ashburton 10 Year Community Strategic Plan 2012-2022

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Goal 04 – ‘Distinctive and Well planned Serviced Places’

Objective 02 – ‘Accessible and safe town’

### Risk Management

Adoption of this item has been evaluated against the Shire of Ashburton’s Risk Management Policy CORP5 Risk Matrix. The perceived level of risk is considered to be ‘low’ should an agreement, in accordance with the approved conditions, be reached. However, the level of risk could rise to ‘high’ due to the potential reputational risk that is envisaged should an agreement not be reached and the existing works are ordered to be removed.

### Policy Implications

ENG01 – Street Lawns and Gardens Policy

### Voting Requirement

Simple Majority Required

#### Council Decision

**MOVED:** Cr M Lynch

**SECONDED:** Cr L Rumble

**That Council –**

- 1. Update the Footpath Improvement Plan to include a proposed footpath along this general area (subject to confirmation from the current Coastal Hazard Risk Management and Adaptation Plan) so it forms part of a broader path network;**
- 2. In an effort to find a mutually agreeable compromise, allocate a maximum of \$15,000 (estimated to be 50% of the concrete footpath construction cost) from the current footpath construction budget as a contribution towards the footpath cost; and**
- 3. Accepts the works that have been completed (plus the additional works such as fencing that have already been agreed, namely general landscaping works including gardens and lawn, plus a gravelled road/pathway) and issue a permit for the landscaping works on First Avenue, Onslow (fronting Lot 447, the Ashburton Resort) on the condition of the construction of a 2m wide concrete footpath for the entire road reserve frontage of Lot 447.**

**CARRIED 9/0**

**Councillors White, Rumble, Dellar, Gallanagh, Thomas, Foster, Dias, Lynch and Diver voted for the motion.**

**Reason for change: Councillors selected “option two” from the Comment section of the report.**

## MINUTES - ORDINARY MEETING OF COUNCIL 14 FEBRUARY 2017

### 16. STRATEGIC AND ECONOMIC DEVELOPMENT REPORTS

#### 16.1 DISPOSAL OF SHIRE ASSETS - WASTE WATER TREATMENT SYSTEMS

MINUTE: 109

<b>FILE REFERENCE:</b>	GV04
<b>AUTHOR'S NAME AND POSITION:</b>	Sean Ripley Strategic Project Manager
<b>NAME OF APPLICANT/RESPONDENT:</b>	Not Applicable
<b>DATE REPORT WRITTEN:</b>	31 January 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author has no financial interest in this matter.
<b>PREVIOUS MEETING REFERENCE:</b>	Agenda Item 19.1 (Minute No. 11871) – Ordinary Meeting of Council 15 October 2014 Agenda Item 16.3 (Minute No. 11832) – Ordinary Meeting of Council 16 July 2014 Agenda Item 18.2 (Minute No. 11756) – Ordinary Meeting of Council 19 February 2014 Agenda Item 18.1 (Minute No. 11629) – Ordinary Meeting of Council 21 August 2013 Agenda Item 17.2 (Notice of Motion) – Ordinary Meeting of Council 21 June 2016 Agenda Item 16.1 (Minute No.12) – Ordinary Meeting of Council 19 July 2016

#### **Summary**

At the Ordinary Council Meeting held on the 19 July 2016, Council resolved for the CEO to *“Terminate all contracts in relation to the ongoing hire and operation of the Onslow Airport Camp & Procure appropriate contractors to demobilise the camp and reinstate its grounds.”*

Further direction is now sought from Council on the disposal of Shire assets associated with the former Onslow Airport Camp and also the Nameless Valley Camp, Tom Price, being Waste Water Treatment Systems (WWTS) which are currently stored and could potentially be relinquished.

#### **Background**

During the peak demand period for accommodation in both Onslow and Tom Price temporary accommodation camps were established by the Shire. At each of the sites a WWTS was purchased to ensure environmental and health compliance with Department of Health Regulations.

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Both camps have now been demobilised and the WWTS at both sites have been decommissioned, flushed and are available for reuse, relocation or sale. Advice has been provided by the manufacturer that if the WWTS are stored for an extensive length of time, there is the greater likelihood that major maintenance would be required when re-commissioning the units.

Originally each WWTS was supplied and installed by a contractor for the Shire at a cost of approximately \$300,000 each. Current market value has been estimated by Pickles Auctions to be in the vicinity of \$30,000-\$40,000 each. If Council decide to relinquish these assets, as they are no longer required, there are two options in proceeding forward with the disposal:

1. Public Auction (this would be an online auction with viewing of the units made available by appointment through the auctioneer); or
2. Tender (advertised in the Western Australian newspaper with viewing of the units made available through the Shire of Ashburton).

The alternative to the disposal of the WWTS units is to continue the current storage.

### Comment

Options have been investigated to reuse one of the units at the Onslow Airport facility. It has been determined however that the WWTS unit is not suitable for operations at this facility as the units require 3000L of 'through put waste' daily for proper operation and the airport only produces 1000L.

Both units are currently stored in safe, although unsecured, sites. If stored for an excessive amount of time this would make the units vulnerable to damage from vandalism or theft. Furthermore, the WWTS will deteriorate at a steady pace if left in an un-operational state. This has the potential to lead to an increased cost when re-commissioning the units in the future. No other appropriate use has been identified for either WWTS due to the high 'through put' requirements (i.e. they can only be used in an environment that produces high volumes of waste, and will require the establishment of appropriate discharge areas/fields).

If at some future time another Temporary Workers Camp is required, it is believed best to hire this type of equipment for the term of the camps use. Disposal of the WWTS systems are therefore proposed.

### Consultation

Chief Executive Officer  
Executive Manager – Strategic & Economic Development  
Onslow Airport Manager

### Statutory Environment

Disposing of property 3.58(1) of the *Local Government Act*

In this section -

“dispose” includes to sell, lease, or otherwise dispose of, whether absolutely or not;

“property” includes the whole or any part of the interest of a local government in property, but does not include money.

(2) Except as stated in this section, a local government can only dispose of property to

—  
(a) The highest bidder at public auction; or

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(b) The person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

### **Financial Implications**

Revenue from the sale of the two WWTS is estimated at \$60,000-\$80,000 and this income would be returned to the Shire of Ashburton's 2016/17 Annual Budget.

### **Strategic Implications**

Shire of Ashburton 10 Year Community Strategic Plan 2012-2022

Goal 02 - Enduring partnerships

Objective 01- Strong Local Economies

### **Risk Management**

The disposal of these assets has been evaluated against the Shire of Ashburton's Risk Management Policy CORP5 Risk Matrix. The perceived level of risk to disposal or holding onto these items is considered to be 'Low'. This is driven by the Minor Consequence and Unlikely Likelihood Financial impact from either holding onto or disposing of the assets.

### **Policy Implications**

There are no policy implications in this matter.

### **Voting Requirement**

Simple Majority Required

### **Council Decision**

**MOVED: Cr P Foster**

**SECONDED: Cr D Diver**

**That Council authorise the CEO to proceed with the disposal of the Waste Water Treatments Systems located in Onslow and Tom Price via Public Auction.**

**CARRIED 9/0  
Councillors White, Rumble, Diver, Lynch, Thomas, Gallanagh, Foster, Dias,  
Dellar voted for the motion.**



## MINUTES - ORDINARY MEETING OF COUNCIL 14 FEBRUARY 2017

### 16.2 ESTABLISHMENT OF A COMMERCIAL LICENCE FOR PORTION OF RESERVE 40065, PARABURDOO

MINUTE: 110

<b>FILE REFERENCE:</b>	PR40065
<b>AUTHOR'S NAME AND POSITION:</b>	Janelle Fell Manager – Economic & Land Development
<b>NAME OF APPLICANT/RESPONDENT:</b>	Not Applicable
<b>DATE REPORT WRITTEN:</b>	31 January 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author has no financial interest in this matter.
<b>PREVIOUS MEETING REFERENCE:</b>	Agenda Item 13.9 (Minute No. 11496) – Ordinary Meeting of Council 10 April 2013

#### Summary

In April 2013 Council endorsed the installation of underground cables and associated electrical works within Reserve 40065 (Lot 67 Mine Road, Paraburdo) by Rio Tinto to enable the relocation of the stationary Para Burger Bus (now known as The Bedford Paraburdo). Shire Officers noted the food van did not have the necessary planning approvals and furthermore the reserve did not allow for a lease/licence (power to lease) or for a commercial profit to be made from the Section 20A Reserve.

Negotiations with Department of Lands has resulted in a 98m<sup>2</sup> lot being defined within the reserve for the food van to continue to operate.

Council endorsement is sought for the Chief Executive Officer to negotiate the terms and execute a Licence Agreement for the operation of The Bedford Paraburdo food van.

#### Background

At the Ordinary Meeting of Council in April 2013, Council supported the proposed installation of underground cables and associated electrical works within Reserve 40065 (Cnr Mine and Rocklea Road's, Paraburdo) to enable the relocation of the then Para Burger Bus to Reserve 40065 from Rocklea Road's road reserve. Reserve 40065 is a Section 20A Recreation Reserve (*Town Planning and Development Act 1928*) without power to lease, and commercial profit from the reserve not permitted.

#### Comment

To ensure the 30 year icon remained in the current vicinity, negotiations were undertaken with Department of Lands who conditionally supported a licence for a 98m<sup>2</sup> portion of Reserve 40065 with the following mandatory conditions:

1. The term of the licence is a period of two years;
2. All revenue from the licence is to be expended only on the Reserve maintenance and upkeep;

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3. The Licence would require a redescription of the Reserve to depict the proposed licence area (indicated below) as a single lot and facilitate appropriate description of the limited ability for the Shire to licence only that portion of the Reserve; and



4. The Shire would be responsible for the cost of survey actions.

Department of Lands have supported the initial annual licence fee being applied to the survey costs and subsequent income expended on the reserve's maintenance and upkeep.

A Comparative Market Analysis was undertaken as per S3.58 of the *Local Government Act 1995* with the recommendation being an annual fee between \$1,185 and \$4,290 (includes GST). Given the decline in the residential population and the limited trading hours, Sarah Gorman, owner/operator of The Bedford Paraburdoo, has agreed to an annual licence fee of \$2,600.

A summary of the general conditions of license would be –

Length of Licence: 2 years

Commencement: Upon approval from the Minister for Lands

Annual Licence Fee: \$2,600

Outgoings: The annual licence fee is inclusive of water consumption and rates, electricity, telecommunications and waste collection charges

Essential Terms: Compliance with relevant food legislation

In accordance with the requirements of the *Local Government Act 1995* – Section 3.58 Disposing of Property, the mandatory two week advertising period seeking public comment has been undertaken (from 9 – 25 January 2017, Pilbara News, local noticeboards and libraries, Shire of Ashburton website) with no comment received.

### Consultation

Chief Executive Officer

Executive Manager – Strategic & Economic Development

Executive Manager – Development and Regulatory Services

Principal Planner

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### **Statutory Environment**

*Town Planning and Development Act 1928*

*Land Administration Act 1997*

*Local Government Act 1995* Section 3.58 (3) 'Disposing of Property':

"A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property –

(a) It gives local public notice of the proposed disposition...

(b) Considers any submissions made to it before the date specified in the notice..."

### **Financial Implications**

A Comparative Market Analysis was undertaken by LJ Hooker Pilbara as per S3.58 of the *Local Government Act 1995* with the recommendation being an annual licence fee between \$1,185 and \$4,290 (includes GST). Given the decline in the residential population and the limited trading hours, negotiations with The Bedford Paraburdoo owner has resulted in a suggested annual licence fee of \$2,600. Department of Lands require all revenue be expended on the maintenance and upkeep of the reserve.

### **Strategic Implications**

Shire of Ashburton 10 Year Community Strategic Plan 2012-2022

Goal 01 – Vibrant and Active Communities

Objective 01 - Connected, Caring and Engaged Communities

Objective 02 – Active People, Clubs and Associations

Goal 02 – Enduring Partnerships

Objective 01 - Strong Local Economies

Objective 02 – Enduring Partnerships with Industry and Government

Goal 04 – Distinctive and Well Serviced Places

Objective 01 – Quality Public Infrastructure

Objective 02 – Accessible and Safe Towns

### **Risk Management**

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

### **Policy Implications**

There are no policy implications for this matter.

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### Voting Requirement

Simple Majority Required

#### Council Decision

**MOVED: Cr D Dias**

**SECONDED: Cr L Rumble**

#### That Council:

1. **Approve the proposal to enter into a licence agreement for portion of Reserve 40065 being Lot 67 Mine Road, Paraburdoo with Sarah Gorman t/a The Bedford Paraburdoo; and**
2. **Authorise the Chief Executive Officer to negotiate and execute a licence in accordance with the terms outlined this report.**

**CARRIED 9/0**

**Councillors White, Rumble, Dellar, Gallanagh, Diver Lynch, Foster, Dias, Thomas voted for the motion.**

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### Declaration of Interest

Prior to consideration of this Agenda Item:

Cr Rumble declared a (financial) interest.

Cr Dias declared a (financial) interest.

See item 6.2 for details of the interest declared.

**RECORDED ON REGISTER GV07**

Cr Rumble & Dias left the meeting at 1.53pm.

### **16.3 NOTICE OF MOTION - PARABURDOO COMMUNITY HUB (CHUB) COMMITTEE**

**MINUTE:** 111

<b>FILE REFERENCE:</b>	RC42129
<b>AUTHOR'S NAME AND POSITION:</b>	Anika Serer Executive Manager Strategic and Economic Development
<b>NAME OF APPLICANT/RESPONDENT:</b>	Cr Peter Foster*
<b>DATE REPORT WRITTEN:</b>	30 January 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author has no financial interest in the proposal.
<b>PREVIOUS MEETING REFERENCE:</b>	Agenda Item 16.1 (Minute No. 94) – Ordinary Meeting of Council 17 January 2017 Agenda Item 18.2 (Minute No. 12109) – Ordinary Meeting of Council 21 June 2016 Agenda Item 16.1 (Minute No. 12083) – Ordinary Meeting of Council 26 April 2016 Agenda Item 7.1 – Special Meeting of Council 12 November 2014 Agenda Item 13.1 (Minute No. 11753) – Ordinary Meeting of Council 19 February 2014

\*Note: Incorrectly recorded in the Agenda as “Not Applicable”

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### Summary

At the Ordinary Meeting of Council held on 17 January 2017, Cr Foster tabled the following Notice of Motion:

*“That the CEO prepare a report on the formulation of a Paraburdoo Community Hub (CHUB) Committee;*

*Of which to include five (5 members) of whom three (3) are Councillors, one (1) is a Shire staff representative and one (1) a Rio Tinto representative;*

*To deal with the following under a terms of reference*

- 1) To meet monthly,*
- 2) To be kept aware of progress of the CHUB,*
- 3) To be informed of any variations,*
- 4) To oversee finances spent on the project and*
- 5) To work with the project officer as appropriate over the course of construction.”*

This report outlines the proposed existing arrangements for the monitoring of this project and also, how a Council Committee could play a suitably productive role in that process, albeit in a slightly different format to the proposal.

### Background

At the Ordinary Meeting of Council held on 17 January 2017, Cr Foster tabled the following Notice of Motion:

*“That the CEO prepare a report on the formulation of a Paraburdoo Community Hub (CHUB) Committee;*

*Of which to include five (5 members) of whom three (3) are Councillors, one (1) is a Shire staff representative and one (1) a Rio Tinto representative;*

*To deal with the following under a terms of reference*

- 1) To meet monthly,*
- 2) To be kept aware of progress of the CHUB,*
- 3) To be informed of any variations,*
- 4) To oversee finances spent on the project and*
- 5) To work with the project officer as appropriate over the course of construction.”*

Supplementary information to the above notice of motion was forwarded by Cr Foster with additional information/clarification.

### ATTACHMENT 16.3

A Memorandum of Understanding was signed by Shire of Ashburton and Rio Tinto in July 2012, creating a long term partnership to work together to revitalise existing and develop new civic, sporting and community facilities and programs in the towns that Rio Tinto has a significant presence. The Paraburdoo CHUB project has been a primary focus of that partnership.

The consultation and development of the Paraburdoo CHUB has therefore been a priority project for both the Shire and Rio Tinto. Significant work has been undertaken to scope and design the facility, including consultation with community and sporting groups, reviewing of existing facilities and extensive stakeholder engagement.

A business case was endorsed by Council at the Ordinary Meeting of Council on 26 April 2016, including a concept design providing the following scope:

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- New multipurpose hall suitable for recreation and emergency shelter;
- Swimming pool facility upgrades (change rooms, first aid, office, kiosk);
- New facilities to support oval users including change rooms, first aid, equipment storage, club room, kitchen, bar, spectator outdoor viewing;
- Gym
- Refurbish existing sports hall for neighbourhood centre, toy library, playgroup, squash courts;
- Upgrades to Lesser Hall; and
- External works (landscaping, carpark, footpaths) to improve connectivity and activation.

The project is budgeted to cost \$14.4 million which is funded by Rio Tinto (\$6 million), Royalties for Regions (\$5 million) and Shire of Ashburton (\$3.4 million). The funding agreements executed with Department of Regional Development (DRD) and Rio Tinto include specific requirements for project management and variation control. In particular there are requirements to:

- *“Establish a Project Reference Group...to provide continuous monitoring of the Project (during the scoping and construction phases of the Project) with representation from Rio Tinto and other key stakeholders, with the primary objective of ensuring key deliverables are achieved in line with the needs and expectations of the Parties, other stakeholders and the wider community and expenditure incurred consistent with the Project Budget; and*
- *Consult with and consider the recommendations of the Project Reference Group through the scoping and construction phases of the Project, to ensure that it has addressed all key issues prior to making or implementing any key commitments. The Shire of Ashburton must give written reasons to the Project Reference Group (which may be further referred to the Partnership Governing Committee under the MOU for consideration), if it objects to any of the recommendations made by the Project Reference Group” (Rio Tinto).”*

*“The Recipient shall establish and maintain for the duration of the Project a Project Steering Committee (PSC) and Project Reference Group (PRG) and ensure the Pilbara Development Commission is represented on both Groups. The Recipient shall ensure the PSC and PRG meet regularly (not less than two [2] times per calendar year to report on Project Milestones (achievements, impediments, risks and solutions) and Funding.” (Dept of Regional Development).”*

To date, the Tender for Architectural Services (RFT 23/16) has been awarded, and a Project Reference Group (PRG) consisting of key user groups for the new facilities has met to provide input for the detailed design. The Paraburdoo Ward Councillors, Rio Tinto and Pilbara Development Commission also attend the PRG meetings. The first PSC meeting is intended to take place directly after the next Rio Tinto Partnership Governing Committee meeting (February) to allow representation from Rio Tinto senior level management and Pilbara Development Commission.

### **Comment**

As the project proponent and future asset owner, it is appropriate for Council to ensure that the Paraburdoo CHUB is delivered within the agreed budget, scope and timeframe. In particular, any significant variations proposed during the detailed design phase, either by the Project Reference Group or Project Architect, need to be considered against cost impacts, potential effect on other users and the requirements of the funding agreements.

## MINUTES - ORDINARY MEETING OF COUNCIL 14 FEBRUARY 2017

The Notice of Motion suggested that the Committee membership *'include five (5 members) of whom three (3) are Councillors, one (1) is a Shire staff representative and one (1) a Rio Tinto representative'*. Given the other two avenues of stakeholder representation for the project (Project Reference Group and Project Steering Committee) it is recommended that the Committee membership be limited to three Councillors to prevent confusion about the decision-making requirements for various external stakeholders, and meet the day prior to the Ordinary Meetings of Council.

The purpose of the Committee will be to review:

- 1) Updated designs and reports regarding estimated cost, risk, deliverables;
- 2) The register of design changes, including impact to cost / size / scope;
- 3) Requests and feedback from the Project Reference Group;
- 4) Major variations (over \$100,000 in cost, or exceed total budget, or change in scope that affects functionality or purpose of area) for recommendation to Council;
- 5) Proposed variations to the terms of the funding agreements (via request to Dept of Regional Development or Rio Tinto);
- 6) Final documented designs before presentation to Council for endorsement; and
- 7) Monthly project progress reports and major variation requests during construction.

The Committee is not suggested to have delegation to make decisions, but rather make recommendations to Council for consideration (hosting the meetings the day prior to the Council Meeting will enable this to be progressed in a timely manner).

To ensure that the timeframes and contractual arrangements are met it is suggested that Officers continue to liaise as required with the Project Reference Group, two Paraburdoo Ward Councillors and the Shire President, to develop the concept design and respond to the Architect's queries. It is recommended that Officers continue to deal with 'minor variations' that do not affect the scope of functionality of the project, and to define this the value must be \$100,000 or less. Examples of this variation authority would include things such as changes required to meet legislative requirements (e.g. a doorway isn't wide enough, a power point is too close to a water source), substituting similar products if the original choice isn't available, extension of time due to inclement weather.

It needs to be noted that variations to the project recommended by the Committee, and endorsed by Council, may still require subsequent approval of the Project Steering Group to meet the requirements of the project funding agreements before they can be implemented. Variations requiring PSG approval would include changes to the agreed scope of the project (for example, removing or changing the function of an area), budget or milestones; this approval may be requested 'Out of Session'.

The contract for Architectural Services was awarded to Hodge Collard Preston at the Ordinary Meeting of Council on 17 January 2017, which has commenced reviewing the concept and endorsed business case in order to develop the design. Hodge Collard Preston's scope of work requires a 'fully developed and documented' design which will be used to request tenders for construction (i.e. not design and construction). This will reduce the number of unknowns and design/cost decisions that need to be made during construction.



## MINUTES - ORDINARY MEETING OF COUNCIL 14 FEBRUARY 2017

### **Consultation**

Chief Executive Officer  
Councillor Foster  
Pilbara Development Commission  
Rio Tinto

### **Statutory Environment**

Local Government 1995 Part 5, Division 2 Council meetings, committees and their meetings and electors' meetings; Subdivision 2 – Committees and their meetings; Subdivision 3 – Matters affecting council and committee meetings.

### **Financial Implications**

The administrative requirements for the monthly meetings of the Committee will be captured within the existing Strategic and Economic Development operating budget, and is expected to be negligible.

Historically the CEO has been authorised to manage all contracts within the constraints of the overall project budget and scope, including variations. It is inevitable that there will be variations to the construction contract during delivery of the Paraburdoo CHUB, which will be made in accordance with the terms of that agreement. If the standard response times to Requests for Variations, Extensions etc cannot be met due to the Council's governance requirements of the project it should be noted that the contractor may be entitled to claim time penalties (for example, construction crew on 'standby' waiting for approval to change a structural beam or substitute materials).

This report therefore recommends that Officers continue to manage variations to a predetermined value (within the other given constraints such as project budget and scope), however consideration should also be given to urgent requests such as the examples given above. It would seem appropriate to set a reasonable dollar limit that the committee wishes to specifically consider, one high enough not to overly disrupt the building program, but low enough to ensure that changes to the project have been suitably overseen by the Committee/Council. A figure of \$100 – 140,000 (i.e. up to 1% of the project budget) is thought to be a suitable amount on this occasion. If the circumstance is particularly urgent, it is suggested that the CEO exercise *DA02-4 Delegation of Powers and Duties of the Local Government Act to the CEO* which requires at least 24 hours' notice via EMACCESS could be utilised.

### **Strategic Implications**

Shire of Ashburton 10 Year Community Strategic Plan 2012-2022  
Goal 4 – Distinctive and Well Serviced Places  
Objective 1 – Quality Public Infrastructure

### **Risk Management**

Adoption of this item has been evaluated against the Shire of Ashburton's Risk Management Policy CORP5 Risk Matrix. The perceived level of risk is considered to be "Medium" in light of the potential impacts to external contractual arrangements. As a medium risk matter, the Executive Manager Strategic and Economic Development will monitor progress of this item.

### **Policy Implications**

ELM10 Financial Sustainability Policy  
ENG09 Asset Management Policy

## MINUTES - ORDINARY MEETING OF COUNCIL 14 FEBRUARY 2017

### Voting Requirement

Absolute Majority Required

#### Council Decision

**MOVED: Cr P Foster**

**SECONDED: Cr L Thomas**

#### That Council:

1. **Establish a Paraburdoo Community Hub (CHUB) Committee.**
2. **The Committee to meet as it deems necessary so as to undertake the task of overseeing the CHUB project and to make recommendations to Council on;**
  - a) **Updated designs and reports regarding estimated cost, risk, deliverables;**
  - b) **The register of design changes, including impact to cost / size / scope;**
  - c) **Final documented designs before presentation to Council for endorsement; and**
  - d) **Major variations (over \$100,000 in cost, or exceed total budget, or change in scope that affects functionality or purpose of area) for recommendation to Council;**
  - e) **Proposed variations to the terms of the funding agreements (via request to the Project Steering Group);**
  - f) **Requests and feedback from the Project Reference Group;**
  - g) **Monthly project progress reports and major variation requests during construction.**
3. **Confirm that the Committee does not have Delegation and will report to Council with recommendations on proposed changes to the Paraburdoo CHUB project as required; and**
4. **The Committee shall be comprised of Councillor White, Councillor Rumble and Councillor Lynch.**

**CARRIED 7/0**

**Councillors White, Thomas, Foster, Diver, Dellar, Lynch and Gallanagh voted for the motion.**

Crs Rumble and Dias returned to the meeting at 2.01pm

- 17. **COUNCILLOR AGENDA ITEMS / NOTICES OF MOTIONS**
- 18. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**
- 19. **CONFIDENTIAL MATTERS**

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

*(2) If a meeting is being held by a Council or by a committee referred to in subsection (1)(b), the Council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:*

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

*Where the trade secret or information is held by, or is about, a person other than the local government.*

- (f) a matter that if disclosed, could be reasonably expected to:
  - (I) Impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;*
  - (II) Endanger the security of the local government's property; or*
  - (III) Prejudice the maintenance or enforcement of any lawful measure for protecting public safety;**
- (g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1981; and*
- (h) such other matters as may be prescribed.*

## MINUTES - ORDINARY MEETING OF COUNCIL 14 FEBRUARY 2017

### Council Decision

**MOVED: Cr P Foster**

**SECONDED: Cr D Diver**

**That Council close the meeting to the public at 2.03pm pursuant to sub section 5.23 (2) (a) and (b) of the Local Government Act 1995.**

**CARRIED 9/0**

**Councillors White, Rumble, Dias, Foster, Gallanagh, Dellar, Thomas, Diver and Lynch voted for the motion.**

### Council Decision

**MOVED: Cr L Rumble**

**SECONDED: Cr L Thomas**

**That Council adjourn for a short recess at 2.03pm.**

**CARRIED 8/1**

**Councillors White, Rumble, Foster, Gallanagh, Dellar, Thomas, Diver and Lynch voted for the motion. Cr Dias voted against the motion.**

Councillors White, Rumble, Gallanagh, Dellar, Thomas, Diver, Dias and Lynch and staff returned to the meeting at 2.28pm

### Council Decision

**MOVED: Cr I Dias**

**SECONDED: Cr L Rumble**

**That Council reconvene from recess at 2.28pm.**

**CARRIED 8/0**

**Councillors White, Rumble, Gallanagh, Dellar, Thomas, Diver, Diver and Lynch voted for the motion.**

Cr Foster returned to the meeting at 2.29pm

### Council Decision

**MOVED: Cr L Thomas**

**SECONDED: Cr M Gallanagh**

**That Council considers the following new business of an urgent nature:**

- Confidential Item – BDO Audit Report (Industrial Relations Advise); and
- Confidential Item - CEO Annual Performance Review.

**CARRIED 9/0**

**Councillors White, Rumble, Gallanagh, Dellar, Thomas, Dias, Foster, Diver and Lynch voted for the motion.**

Staff and public left meeting room at 2.30pm.  
John Phillips of JCP Consulting remained in the meeting.

## MINUTES - ORDINARY MEETING OF COUNCIL 14 FEBRUARY 2017

### Council Decision

**MOVED:** Cr P Foster

**SECONDED:** Cr M Lynch

**That Council suspend standing orders.**

**ABSOLUTE MAJORITY  
CARRIED 9/0**

**Councillors White, Rumble, Gallanagh, Dellar, Thomas, Dias, Foster, Diver and Lynch voted for the motion.**

### 19.1 CONFIDENTIAL ITEM - CEO ANNUAL PERFORMANCE REVIEW

<b>FILE REFERENCE:</b>	GV05
<b>AUTHOR'S NAME AND POSITION:</b>	Not Applicable
<b>NAME OF APPLICANT/RESPONDENT:</b>	Cr Kerry White Shire President
<b>DATE REPORT WRITTEN:</b>	14 February 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	Not applicable
<b>PREVIOUS MEETING REFERENCE:</b>	Not applicable.

Report/ Attachment is Confidential as per Local Government Act 1995, Section 5.23 (2)(a).

#### **That Council:**

- 1. Notes that the Annual Appraisal of the CEO for 2016 has been undertaken; and**
- 2. Schedules the next review of performance to be commenced by the 1 December 2017 and completed by the 28 February 2018.**

**Council resolved to lay the report on the table.**

## MINUTES - ORDINARY MEETING OF COUNCIL 14 FEBRUARY 2017

### Council Decision

**MOVED:** Cr Lynch

**SECONDED:** Cr Thomas

**That Council close the meeting to the public pursuant to sub section 5.23 (2) (a) and (b) of the Local Government Act 1995.**

**CARRIED 9/0**

**Councillors White, Rumble, Gallanagh, Dellar, Thomas, Dias, Foster, Diver and Lynch voted for the motion**

Mr John Phillips left the meeting room.

### **19.2 CONFIDENTIAL ITEM - BDO AUDIT REPORT (INDUSTRIAL RELATIONS ADVICE)**

**MINUTE:** 115

<b>FILE REFERENCE:</b>	GV05 FM10
<b>AUTHOR'S NAME AND POSITION:</b>	Not Applicable
<b>NAME OF APPLICANT/RESPONDENT:</b>	Cr Kerry White Shire President
<b>DATE REPORT WRITTEN:</b>	14 February 2017
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	Not Applicable.
<b>PREVIOUS MEETING REFERENCE:</b>	Agenda Item 19.2 (Minute No: 90) Ordinary Meeting of Council 16 December 2016 Agenda Item 19.1 (Minute No: 63) - Ordinary Meeting of Council 22 November 2016 Agenda Item 19.1 (Minute No: 62) – Ordinary Meeting of Council 25 October 2016 Agenda Item 19.1 (Minute No: 23) – Ordinary Meeting of Council 16 August 2016

## MINUTES - ORDINARY MEETING OF COUNCIL 14 FEBRUARY 2017

### Council Decision

**MOVED: Cr L Rumble**

**SECONDED: Cr L Thomas**

**That Council:**

1.
  - a) **Note the report from BDO in respect to allegations made against the Shire and particular employees in August 2016;**
  - b) **Note the report from BDO has been provided to the Public Sector Commission and the Corruption and Crime Commission; and**
  - c) **Take no further action in respect to the report from BDO at this stage.**
2. **Endorse Option 1 of the Confidential Schedule relating to an employee matter.**

**CARRIED 9/0**

**Councillors White, Rumble, Thomas, Gallanagh, Dellar, Dias, Foster, Lynch and Diver voted for the motion.**

### Council Decision

**MOVED: Cr L Thomas**

**SECONDED: Cr L Rumble**

**That Council re-open the meeting to the public at 4.45pm.**

**CARRIED 9/0**

**Councillors White, Rumble, Gallanagh, Dellar, Thomas, Dias, Foster, Diver and Lynch voted for the motion.**

Staff and members of the public returned to the meeting room at 4.45pm.

Councillor Foster read the resolutions from the Confidential Items to staff and members of the public present.

### **20. NEXT MEETING**

The next Ordinary Meeting of Council will be held on 14 March 2017, at the Council Chambers, Onslow Shire Complex, Second Avenue, Onslow, commencing at 1.00 pm.

### **21. CLOSURE OF MEETING**

The Shire president declared the meeting closed at 4.45pm