

# Ordinary Meeting of Council

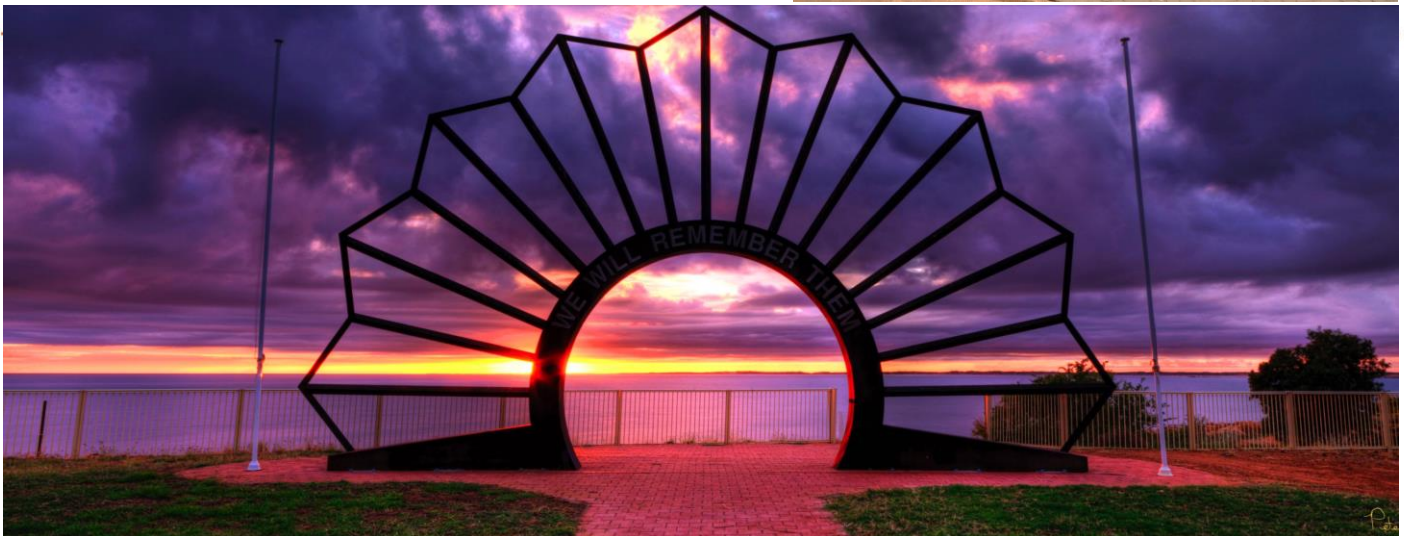
Onslow



## PUBLIC AGENDA

12 May 2020

Council Chambers,  
Onslow Shire Complex, Second Avenue, Onslow  
1.00 pm



The Shire of Ashburton 10 year Strategic Community Plan (2017-2027) provides focus, direction and represents the hopes and aspirations of the Shire.

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# Our Vision

*We will embrace our unique Pilbara environment and lifestyle through the development of vibrant, connected and active communities that have access to quality services, exceptional amenities and economic vitality.*



## STRATEGIC DIRECTIONS

1. Vibrant and Active Communities
2. Economic Prosperity
3. Unique Heritage and Environment
4. Quality Services and Infrastructure
5. Inspiring Governance



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



**SHIRE OF ASHBURTON  
PUBLIC AGENDA**

**Council Chambers, Onslow Shire Complex,  
Second Avenue, Onslow  
and by means of Teleconference / Video  
Conference**

**12 May 2020  
1.00 pm**

**PUBLIC AGENDA - ORDINARY MEETING OF COUNCIL  
12 MAY 2020**

**SHIRE OF ASHBURTON**

**ORDINARY MEETING OF COUNCIL**

Notice is hereby given that an Ordinary Meeting of Council of the Shire of Ashburton will be held on 12 May 2020 at the Council Chambers, Onslow Shire Complex, Second Avenue, Onslow commencing at 1:00 pm.

**ATTENDANCE VIA ELECTRONIC MEANS COVID-19**

*Administration Regulation 14D (3) and (4)*

- *New regulations allow council meetings to continue electronically during a public health emergency or state of emergency*
- *Local governments are now allowed to hold meetings via teleconference, video conference or other electronic means*
- *Local governments will continue to make decisions in the best interest of their communities and help reduce the impact of COVID-19*

The business to be transacted is shown in the Agenda.



Mr Kenn Donohoe  
**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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**1. DECLARATION OF OPENING**

The Shire President declared the meeting open at \_\_\_\_\_pm.

**1.0 SUSPENSION OF MEETING PROCEDURES (STANDING ORDERS)  
LOCAL LAW 2012**

Council will suspend the operation of clauses

6.1 Meetings generally open to the public; and  
8.1 Members to be in the proper places;

of the Shire of Ashburton Meeting Procedures Local Laws 2012 for the duration of this electronic meeting and that these matters be determined at the discretion of the Presiding Member.

**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, present and emerging.

**2. ANNOUNCEMENT OF VISITORS**

Members of the public are unable to attend in person due to COVID-19 guidelines and therefore, the option to teleconference in has been advised to the public.

**ATTACHMENT 2.0**

**3. ATTENDANCE**

**3.1 PRESENT**

<b>Elected Members:</b>	Cr K White Cr D Diver Cr L Rumble Cr P Foster Cr M Lynch Cr J Richardson Cr M Gallanagh Cr R de Pledge Cr D Dias	Shire President (Presiding Member) Onslow Ward Deputy Shire President, Tom Price Ward Paraburdoo Ward Tom Price Ward Tom Price Ward Tablelands Ward Pannawonica Ward Ashburton Ward Paraburdoo Ward (To call in from home residence in Perth)
<b>CONFIDENTIAL ATTACHMENT 3.1 0- Listing of residential address</b>		
<b>Staff:</b>	Mr K Donohoe Mr J Bingham Ms C Bryce Mrs K Bartley Mr M Hudson Mrs M Lewis	Chief Executive Officer Director Corporate Services Acting Director Property and Development Services Director Community Service Director Infrastructure Council Liaison Officer
<b>Guests:</b>		

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<b>Members of Public:</b>	There were ____ members of the public in attendance at this meeting.
<b>Members of Media:</b>	There were _____ members of the media in attendance at the meeting.

**3.1.0 Approval for Councillor Participation from the following locations as a 'suitable place' Administration Regulation 14A:**

1. Approve Councillor Dias' attendance at the May 2020 Ordinary Meeting of Council via telephone /video conference in accordance with *Regulation 14A of the Local Government (Administration) Regulations 1996*; and
2. Approve **CONFIDENTIAL ATTACHMENT 3.1.0** as contained as a suitable place for Councillor Dias for attendance in accordance with Regulation 14A (4) of the *Local Government (Administration) Regulations 1996*.

**3.2 APOLOGIES**

**3.3 APPROVED LEAVE OF ABSENCE**

Cr D Dias was approved for Leave of Absence at the Ordinary Meeting of Council 14 April 2020 for the May Ordinary Meeting of Council. The Shire President advised that Cr Dias has requested to participate in the Ordinary Meeting of Council to be held 12 May 2020 by teleconference due to his availability to do so.

**4. QUESTION TIME**

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

Nil questions taken on notice to be responded to at this meeting.

**4.2 PUBLIC QUESTION TIME**

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil applications received at the time of preparing this agenda.

**6. DECLARATION BY MEMBERS**

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

Councillors are requested to give due consideration to all matters contained in the Agenda presently before the meeting.

**6.2 DECLARATIONS OF INTEREST  
Councillors to Note**

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



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- (a) In a written notice given to the Acting Chief Executive Officer before the Meeting or;
  - (b) At the Meeting, immediately before the matter is discussed.
- A member, who makes a disclosure in respect to an interest, must not:

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

**NOTES ON DECLARING INTERESTS (FOR YOUR GUIDANCE)**

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

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

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

**Declarations of Interest provided:**

Item Number/ Name	Type of Interest	Nature/Extent of Interest

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**7. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS WITHOUT DISCUSSION**

**8. PETITIONS / DEPUTATIONS / PRESENTATIONS**

**8.1 PETITIONS**

There will be no Petitions for this meeting

**8.2 DEPUTATIONS**

There will be no Deputations for this meeting.

**8.3 PRESENTATIONS**

There will be no Presentations for this meeting

**9. CONFIRMATION OF MINUTES**

**9.0.1 UNCONFIRMED MINUTES ORDINARY MEETING OF COUNCIL HELD ON 14 APRIL 2020 (ATTACHMENT 9.0.1)**

That the Unconfirmed Minutes of the Ordinary Meeting of Council held 14 April 2020, as previously circulated on 22 April 2020 (**ATTACHMENT 9.0.1**) be confirmed as a true and accurate record.

**9.1 RECEIPT OF COMMITTEE MINUTES – ‘EN BLOC’**

Nil at the time of preparing the agenda.

**9.2 RECEIPT OF COMMITTEE AND OTHER MINUTES**

**9.2.0 SHIRE OF ASHBURTON INLAND LOCAL EMERGENCY MANAGEMENT COMMITTEE MINUTES FOR MEETING HELD ON 15 APRIL 2020 (ATTACHMENT 9.2.0)**

Shire of Ashburton Inland Local Emergency Management Committee Minutes for meeting held 15 April 2020 (**ATTACHMENT 9.2.0**) be received.

**9.2.1 ONSLOW LOCAL EMERGENCY MANAGEMENT COMMITTEE MINUTES FOR MEETING HELD ON 17 APRIL 2020 (ATTACHMENT 9.2.1)**

Onslow Local Emergency Management Committee Minutes for meeting held 17 April 2020 (**ATTACHMENT 9.2.1**) be received.

**9.2.2 PANNAWONICA LOCAL EMERGENCY MANAGEMENT COMMITTEE MINUTES FOR MEETING HELD ON 20 APRIL 2020 (ATTACHMENT 9.2.2)**

Pannawonica Local Emergency Management Committee Minutes for meeting held 20 April 2020 (**ATTACHMENT 9.2.2**) be received.

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**9.2.3 CONFIDENTIAL PARTNERSHIP GOVERNING COMMITTEE (PGC) MINUTES FOR MEETING HELD ON 12 SEPTEMBER 2019 (ATTACHMENT 9.2.3)**

Confidential Partnership Governing Committee (PGC) Minutes for meeting held 12 September 2019 (**ATTACHMENT 9.2.3**) be received.

**9.2.4 CONFIDENTIAL PARTNERSHIP GOVERNING COMMITTEE (PGC) MINUTES FOR MEETING HELD ON 15 APRIL 2020 (ATTACHMENT 9.2.4)**

Confidential Partnership Governing Committee (PGC) Minutes for meeting held 15 April 2020 (**ATTACHMENT 9.2.4**) be received.

**9.3 RECOMMENDATIONS OF COMMITTEE**

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

**10.1 AGENDA ITEMS ADOPTED 'EN BLOC'**

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

*"Part 5 – Business of a meeting  
Clause 5.6 Adoption by exception resolution:*

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

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**11. OFFICE OF THE CEO REPORTS**

**11.1 PROGRESS OF IMPLEMENTATION OF COUNCIL DECISIONS STATUS REPORT FOR APRIL 2020**

<b>FILE REFERENCE:</b>	GV04
<b>AUTHOR'S NAME AND POSITION:</b>	Michelle Lewis Council Liaison Officer
<b>AUTHORISING OFFICER AND POSITION:</b>	Kenn Donohoe Chief Executive Officer
<b>NAME OF APPLICANT/RESPONDENT:</b>	Not Applicable
<b>DATE REPORT WRITTEN:</b>	1 May 2020
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author and authorising officer have no financial, proximity or impartiality interests in the proposal
<b>PREVIOUS MEETING REFERENCE:</b>	Agenda Item 11.1 (Minute No 51/2020) Ordinary Meeting of Council 14 April 2020

**Summary**

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

**Background**

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

**Comment**

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

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

**ATTACHMENT 11.1**

**Consultation**

Executive Management Team

**Statutory Environment**

*Section 2.7 of the Local Government Act 1995* states:

*"Role of council*

*(1) The council —*

*(a) governs the local government's affairs; and*

*(b) is responsible for the performance of the local government's functions.*

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- (2) *Without limiting subsection (1), the council is to —*  
    (a) *oversee the allocation of the local government's finances and resources; and*  
    (b) *determine the local government's policies."*

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

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

**Financial Implications**

The financial implications will vary depending on the Status Report.

**Strategic Implications**

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

Goal 05      Inspiring Governance  
Objective 4    Exemplary team and work environment

**Risk Management**

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 known policy implications for this matter

**Voting Requirement**

Simple Majority Required

**Officers Recommendation**

That Council receive the "*Council Decisions Status Reports*" for the month of April 2020 as per **ATTACHMENT 11.1**.

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**11.2 USE OF COMMON SEAL AND ACTIONS PERFORMED UNDER  
DELEGATED AUTHORITY FOR THE MONTH OF APRIL 2020**

<b>FILE REFERENCE:</b>	GV21 CM02
<b>AUTHOR'S NAME AND POSITION:</b>	Michelle Lewis Council Liaison Officer  Brooke Beswick Executive Assistant
<b>AUTHORISING OFFICER AND POSITION:</b>	Kenn Donohoe Chief Executive Officer
<b>NAME OF APPLICANT/RESPONDENT:</b>	Not Applicable
<b>DATE REPORT WRITTEN:</b>	30 April 2020
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The authors and authorising officer have no financial, proximity or impartiality interests in the proposal
<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, actions performed under delegated authority requiring referral to Council and a copy of the Tender Register, for the month of April 2020.

**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 2020.

**Comment**

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

**ATTACHMENT 11.2A  
ATTACHMENT 11.2B**

**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  
Delegated Authority Register

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**Financial Implications**

There are no known financial implications for this matter.

**Strategic Implications**

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

Goal 05 Inspiring Governance  
Objective 4 Exemplary team and work environment

**Risk Management**

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 Policy

**Voting Requirement**

Simple Majority Required

**Officers Recommendation**

That with respect to the Use of Common Seal and Actions Performed under Delegated Authority for the month of April 2020, Council receive the reports relating to:

1. The use of the Common Seal as per **ATTACHMENT 11.2A**;
2. Actions performed under delegated authority for the month as per **ATTACHMENT 11.2A**;  
and
3. The Tender Register as per **ATTACHMENT 11.2B**.

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**11.3 REVISED NATIVE TITLE DETERMINATION APPLICATION - ROBE RIVER  
KURUMA ABORIGINAL CORPORATION**

<b>FILE REFERENCE:</b>	LS04
<b>AUTHOR'S NAME AND POSITION:</b>	Keith Pearson Special Projects Advisor
<b>AUTHORISING OFFICER AND POSITION:</b>	Kenn Donohoe Chief Executive Officer
<b>NAME OF APPLICANT/RESPONDENT:</b>	Robe River Kuruma Aboriginal Corporation
<b>DATE REPORT WRITTEN:</b>	3 May 2020
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.
<b>PREVIOUS MEETING REFERENCE:</b>	Not Applicable

**Summary**

In 2018 the Kuruma Marthudunera People, after a 20 year court case, which the Shire was a party to, obtained native title over a large portion of land in the north west of the Shire.

The Kuruma Marathudunera People, through their corporate entity, Robe River Kuruma Aboriginal Corporation, are now requesting an amendment to the Federal Court's 2018 ruling in order that three sites of cultural significance to the native title holders are declared as being "exclusive possession" sites. The three sites are located on Unallocated Crown Land, but are the subject to mineral exploration licences. These sites are relatively small and are isolated.

If the native title holders are successful in obtaining "exclusive possession" rights over the three sites, they will have the right to regulate access by other parties to the land in question.

A recent decision of the High Court of Australia, in an unrelated matter, has resulted in a ruling, which favours the Kuruma Marthudunera People's right to claim "exclusive possession, over the three sites nominated by them.

The Kuruma Marthadunera People's legal representatives have served notice on all parties, including the Shire, who were party to the original claim, notifying them of the proposed amendment, which is being sought from the court.

It is recommended Council resolve to advise the Court and other parties to the original claim, it has no objection to the proposed amendment and it withdraw from the recently initiated legal action as quickly as is practicable.

**Background**

In the late 1990s, following the Commonwealth Government's adoption of the Native Title Act 1993, approximately twenty Native Title claims, covering land within the Shire, were lodged with the Federal Court. The Shire was invited to become a party to each of the claims, subject to it having a legal interest (ie a reserve, freehold or leasehold property interest), within a specific claim area. The Shire chose to become a party to many of these claims.



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One claim the Shire became a party to was a 1998 claim by the by the Kuruma Marthudunera People, in relation to a large parcel of land in the north of the Shire, which includes Pannawonica township site, and areas to the east, as far as the Millstream National Park, as shown on the attached plan.

**ATTACHMENT 11.3**

Like many native title claims, the Kuruma Marthudunera Claim had a tortuously long passage through the court system. In fact it took twenty years before the claim was finally settled in April, 2018.

Although most of the terms of the final settlement are consistent with other native title settlements, the Kuruma Marthudunera Claim settlement contains two conditions, which are unique to it.

Firstly, the Native Title claimants (now holders) agreed to give the Shire unconditional rights to maintain and service Pannawonica – Millstream Road as a road available to the public despite the road not being within a gazetted road reservation. (for most of its length the road is located in a pastoral lease, while it traverses a Water Corporation reserve at its western end).

Secondly, the final settlement of the claim contained a provision to address a point of conflict between the claimants, the State Government and the resource companies. Conflict had arisen as a result of the claimants wishing to have “exclusive possession” to three sites of special significance to them, which were located on Unallocated Crown Land (UCL).

If the native title holders are successful in obtaining “exclusive possession” rights over the three sites, they will have the right to regulate access by other parties to the land in question.

In normal circumstances allocating “exclusive possession” rights over UCL, for areas of special cultural significance, would not be a major issue, however, the sites in question were impacted upon by mineral exploration leases. At the time the Kuruma Marthudunera Claim was finally being settled, litigation, by unrelated parties, was taking place in the High Court of Australia, which would provide a definitive, legal ruling on this legal matter. It is for this reason the Federal Court, in its determination, provided the Kuruma Marthudunera People the right to seek to have the three sites in question classified as being “exclusive rights” sites in the event of a favourable High Court decision.

**Comment**

The High Court of Australia has now ruled in favour of the claimants and as a result the Kuruma Marthudunera People, through its corporate entity, Robe River Kuruma Aboriginal Corporation, is requesting an amendment to the Federal Court’s 2018 ruling in order that the three sites of cultural significance are declared as being “exclusive possession” sites.

In order to initiate the necessary court procedure, the corporation has served notice on all the parties to the original claim, including the Shire.

Solicitors for the Robe River Kuruma Aboriginal Corporation, have stated in an email to the Shire;

*“I refer to the KM Part B consent determination which took place on 26 April 2018. This was reported as *Finlay v State of WA [2018] FCA 548*.*

*As you know, recitals G to J of the determination agreed to by all parties provided in effect that it was recognised that there were areas of exclusive possession (parts of Jungari, Payering’s Cave and Kangaroo Trap Pool) which could not be determined in the KM Part B determination because*

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*of the decision in the Tjiwarl case [BHP v KN [2018] FCAFC 8] which had the effect that s47B could not apply to areas where there were exploration licences at the date that the claim was made. However the parties agreed that a variation application could be brought to seek a determination of exclusive possession in those areas in the event that the High Court should overturn that Tjiwarl decision. The High Court did in fact on the 17 April 2019 in Tjungarrayi v WA [2019] HCA 12 decide that s47B and thus exclusive possession could apply despite exploration licences in the relevant areas”.*

Civic Legal, the Shire Solicitors, have reviewed the documentation relating to the request to amend the native title decision and have, as a result, commented;

*“I tend to suspect that the Shire would not have any particular vested interests and/or reserves that need protection (such as continued rights of access) in relation to those UCLs, which sound very much as if they are located in remote areas of no particular concern to the Shire (although they might be of concern to some mining and/or pastoral interests, but that is a matter for those respondent parties). If I am correct, the Shire may simply wish to consider consenting to, or at least not opposing, this Revised Application by RRKAC”.*

This current request to amend the existing Kuruma Marthudunera Agreement to include "exclusive possession" over three small portions of Unallocated Crown Land has no impact on Shire assets within the claim area and therefore does not warrant Shire participation in any possible new litigation.

Furthermore, it is noted native title matters are notorious for being long winded and expensive to participate in. (The original claim was in the courts for twenty years). For this reason it is recommended the Shire instruct the Shire Solicitors to advise the Court and other parties to the claim, that it has no objection to the proposed amendment and wishes to withdraw from the new claim as soon as is practicable.

It is also suggested the Shire Solicitors be advised the Shire does not require a detailed report be prepared in relation to the documents received to date (The full documentation received from the Robe River Kuruma Corporation solicitors is in excess of 100 pages and much is irrelevant to the matter under consideration).

Having regard to the above matters, it is recommended

That Council instruct the Chief Executive Officer to:

- Instruct Civic Legal to advise the Court and other parties to the claim, that the Shire has no objection to the proposed amendment sought by the Robe River Kuruma Aboriginal Corporation and the Shire Solicitors take all steps necessary to withdraw the Shire from the new claim as soon as it is practicable, and
- Advise Civic Legal the Shire does not require a detailed report be prepared in relation to the documents received to date.

Finally, the request to revise the original determination also includes a request to amend a minor discrepancy in the native title claim area boundary with a neighbouring indigenous group. This has no implications for the Shire.

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**Consultation**

Chief Executive Officer  
Shire Solicitor  
Executive Coordinator

**Statutory Environment**

*Native Title Act 1993* (Commonwealth)  
*Native Title Amendment Act 1998* (Commonwealth)

**Financial Implications**

Currently there are nil financial implications based on the recommendation.

**Strategic Implications**

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

Goal 05      Inspiring Governance  
Objective 3    Council leadership

**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 known policy implications for this matter.

**Voting Requirement**

Simple Majority Required

**Officers Recommendation**

That with respect to the revised Native Title Determination application, by the Robe River Kuruma Aboriginal Corporation, Council:

1. Authorise the Chief Executive Officer to:
  - a. Instruct Civic Legal to advise the Court and other parties to the claim, that the Shire has no objection to the proposed amendment sought by the Robe River Kuruma Aboriginal Corporation and the Shire Solicitors take all steps necessary to withdraw the Shire from the new claim as soon as it is practicable, and
  - b. Advise Civic Legal the Shire does not require a detailed report be prepared in relation to the documents received to date.

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**12. CORPORATE SERVICES REPORTS**

**12.1 MONTHLY FINANCIALS AND SCHEDULE OF ACCOUNTS PAID**

<b>FILE REFERENCE:</b>	FM03
<b>AUTHOR'S NAME AND POSITION:</b>	Geoff Garside Finance and Administration Manager
<b>AUTHORISING OFFICER AND POSITION:</b>	John Bingham Director Corporate Services
<b>NAME OF APPLICANT/RESPONDENT:</b>	Not Applicable
<b>DATE REPORT WRITTEN:</b>	29 April 2020
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author and authorising officers have no financial, proximity or impartiality interests 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 within 2 months after the end of the month of the report. Administration also presents Budget Amendment Register and Schedule of Accounts and Credit Card payments to Council each month for review.

**ATTACHMENT 12.1A  
ATTACHMENT 12.1B  
ATTACHMENT 12.1C  
ATTACHMENT 12.1D**

**Comment**

There are no budget variations recommended for May 2020.

**Consultation**

Executive Management Team  
Finance Team

**Statutory Environment**

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

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*The Local Government Act 1995* Part 6 Division 4 s 6.8 (1) requires the local government not to incur expenditure from its Municipal Fund for an additional purpose except where the expenditure

(b) Is authorised in advance by resolution\*

“Additional purpose” means a purpose for which no expenditure estimate is included in the local government’s annual budget.

\*requires an absolute majority of Council.

**Financial Implications**

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

**Strategic Implications**

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

Goal 05      Inspiring Governance  
Objective 4    Exemplary team and work environment

**Risk Management**

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

**Policy Implications**

FIN06 – Significant Accounting Policy.

**Voting Requirement**

Simple Majority Required

**Officer’s Recommendation**

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

1. Receive the Financial Report for March 2020 **ATTACHMENT 12.1A;**
2. Receive the Capital Expenditures Progress Tracker as at April 2020 **ATTACHMENT 12.1B;**
3. Receive the Budget Amendment Register as at 30 April 2020 **ATTACHMENT 12.1C;** and
4. Receive the Schedule of Accounts (March 2020) and Credit Card payments made in the period (4 February 2020 – 2 March 2020) (approved by the Chief Executive Officer in accordance with delegation DA03-1 Payments from Municipal Fund and Trust Funds) **ATTACHMENT 12.1D.**

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**12.2 PROPOSED SCHEDULE OF FEES AND CHARGES 2020/21**

<b>FILE REFERENCE:</b>	FM28
<b>AUTHOR'S NAME AND POSITION:</b>	John Bingham Director Corporate Services
<b>AUTHORISING OFFICER AND POSITION:</b>	Kenn Donohoe Chief Executive Officer
<b>NAME OF APPLICANT/RESPONDENT:</b>	Not Applicable
<b>DATE REPORT WRITTEN:</b>	29 April 2020
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author and authorising officer have no financial, proximity or impartiality interests in the proposal
<b>PREVIOUS MEETING REFERENCE:</b>	Agenda Item 12.3 (Minute No.586/2019) – Ordinary Meeting of Council 18 June 2019

**Summary**

The Shire's proposed 2020/21 Fees and Charges are presented to Council for consideration.

**Background**

At the 12 April 2020 Ordinary Meeting of Council a COVID-19 Financial Relief and Support Package approved a freeze on 2020/21 Fees and Charges. A few additions have been made along with the removal of duplicate entries to consolidate the schedule size.

The proposed Fees and Charges have been collated and compiled in consultation with Directors and their teams responsible for providing the relevant services to the community and ensuring appropriate levels of income / cost recovery are generated for the Shire.

**Comment**

The following year on year amendments have been made to the existing schedule:

- Removal under Library and Visitor Centre of printing, laminating, email and internet usage:
  - All have been amalgamated to sit under Administration charges with the same GL 040277.
- Removal under Department of Parks and Wildlife (DPAW) Park Passes:
  - These are advertised by DPAW and sold at the Visitor Centre – removal advised by Visitor Centre Coordinator as funds are put to merchandise code.
- Addition of Onslow Sun Chalets, as per April 2020 Ordinary Council Meeting:
  - Chalets;
  - Motel Units; and
  - General Charges.

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- Community and Commercial Leases – moved from Community Services to Property and Development Services:
- Removed:
  - Morgan & Co lease – expired;
  - Onslow Motor-cross and Enduro – no longer active; and
  - Portion of Onslow Airport - lease terminated.
- Added:
  - Tigers Football Club – storage (approved by Council, due to start 1 April) - \$100 per annum;
  - Fortescue National Football League – storage - \$100 per annum;
  - Paraburdoo Basketball Association – storage - \$100 per annum;
  - Paraburdoo Saints Football & Sporting Club – storage (Peter Sutherland Oval rooms) - \$100 per annum;
  - Paraburdoo Soccer Club – storage - \$100 per annum;
  - Paraburdoo Tee-ball Association - storage - \$100 per annum;
  - Caravan Park, 66 Nameless Valley Drive (Summer-star Pty Ltd) – per lease agreement;
  - Portion of Onslow Airport (Avis Australia) – per lease agreement GL 11220330;
  - Portion of Onslow Airport (Beadon Bay Kiosk) – per lease agreement GL11220380;
  - Portion of Onslow Airport (Northwest Aviation Services Pty Ltd) – per licence agreement GL 11220280;
  - Portion of Onslow Airport (Sky-fuel) – per lease agreement GL 11220280; and
  - Portion of Onslow Airport (Virgin Australia Regional Airlines Pty Ltd) – per licence agreement GL 11220320.
- Addition of Airport Terminal floor space usage (per square meter).

The proposed 2020/21 Schedule of Fees and Charges is attached and is subject to amendment if the Council so desires.

**ATTACHMENT 12.2A**

Once adopted by Council the intention to impose the 2020/21 Fees and Charges will be advertised in accordance with Section 6.19 of the *Local Government Act 1995 (the Act)*.

**ATTACHMENT 12.2B**

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**Consultation**

Executive Management Team  
Management Team  
Finance Team  
Councillor Workshop

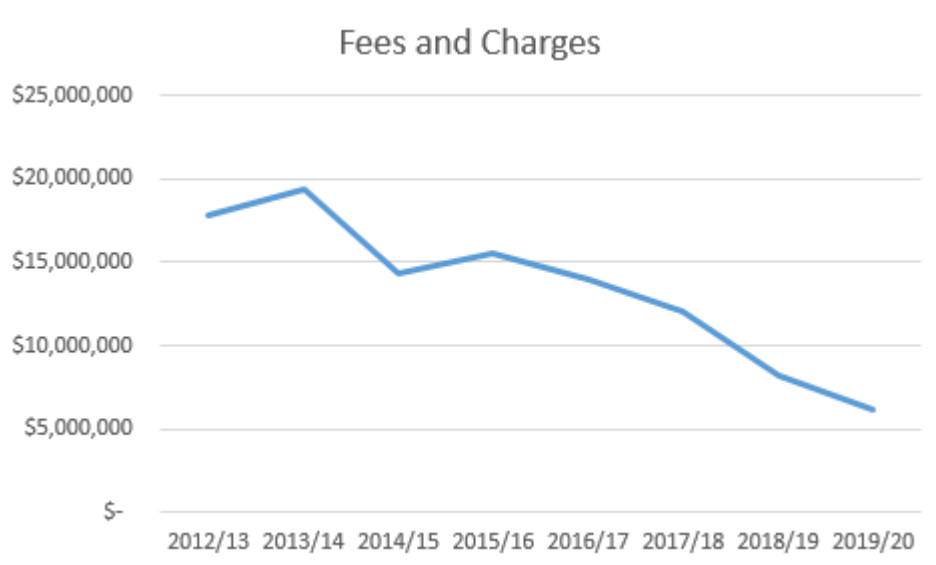
**Statutory Environment**

The following sections of the *Local Government Act 1995* apply:

- Section 6.16 sets out the Councils power to impose and recover fees and charges including what fees and charges can be imposed i.e. use of facilities, providing services etc. It also states Fees and Charges are to be imposed when adopting the Annual Budget but may be imposed during the financial year as well as amended from time to time during the financial year.
- Section 6.17 addresses the level of funding to be set including consideration of costs to the local government based on such considerations as the importance of the service and the price at which the goods and services could be provided by an alternative provider.
- Section 6.19 states that once adopted the Shire must give local public notice of its intention to do so and the date from which it is proposed the fees and charges will be imposed.
- Section 1.7 requires a public notice to be given in a newspaper circulating in the district, exhibited on public notice boards at the local government's administration office as well as libraries.

**Financial Implications**

Fees and Charges income is forecast to drop in 2020/21. The level of revenue continues to be highly dependent on mining (e.g. waste sites) and oil and gas (Onslow airport) activity. A downward trend however has been in effect from its peak of \$20m in 2013/14 when Onslow airport was servicing a high volume of flights for FIFO workers related to the construction of the Wheatstone Gas Facility.



The impact of COVID-19 in 2020 is putting additional pressure on Fees and Charges income. At time of writing Shire facilities (i.e. pools, halls, gyms and libraries) have been closed for seven weeks resulting in total loss of income.



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Due to travel restrictions the tourist season has been severely impacted with reduced numbers of visitors to caravan parks, as well as to the Tom Price Visitor Centre. In 2019/20 combined budgeted income for these services (i.e. all facilities) was upward of \$1m. It is difficult to forecast whether or not we will see this maintained into 2020/21.

The lease for Onslow Sun Chalets ended in December 2019 and lease income of \$144k will not be received in 2020/21. As the Shire is taking over operations for the units, replacement income will be generated however a business model will be required to estimate revenue levels.

On a positive note income for licenses, registrations, building and development applications, health inspections etc. have held up reasonably well. Also waste sites are doing very well considering the current business environment. Onslow airport is maintaining its flight schedule at around 3 to 8 flights per week providing stable income from landing and passenger fees in what is a very uncertain period for the airline industry. The 2020/21 airport income budget is forecast to be upward of \$2m.

Lastly it is worth noting that beginning in 2021 the Onslow Pilbara Regional Waste Management Facility Class IV project will be complete and operations commence – income from fees and charges will need to be assessed and updated to the 2020/21 Budget at the half yearly review.

**Strategic Implications**

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

Goal 05      Inspiring Governance  
Objective 1    Effective planning for the future

**Risk Management**

Adoption of this item has been evaluated against the Shire of Ashburton's Risk Management Policy CORP5 Risk Matrix. Even though the total revenues collected from fees and charges is significant, the level of increase is the risk driver and the perceived level of risk is therefore considered to be a "*Low Risk: Managed by routine procedures*".

If Council was to direct that fees and charges be modified significantly without complimentary changes in other parts of the budget, then the level of risk would need to be reassessed.

**Policy Implications**

There are no specific policy implications related.

**Voting Requirement**

Absolute Majority Required

**Officer Recommendation**

That with respect to the proposed Fees & Charges for the 2020/21 financial year, Council:

1. Pursuant to section 6.16 of the *Local Government Act 1995* adopt the Fees & Charges Schedule as per the **ATTACHMENT 12.2B** and give local public notice of the changes with effect from the date of that notice;
2. Pursuant to section 53 of the *Cemeteries Act 1986* adopt the Fees and Charges for all Cemeteries in the Shire of Ashburton as referenced in **ATTACHMENT 12.2A** with effect from the date of advertisement in the WA Government Gazette;

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3. Pursuant to regulation 53 of the *Building Regulations 2012* adopt a swimming pool inspection fee as referenced in **ATTACHMENT 12.2A**; and
4. Pursuant to section 67 of the *Waste Avoidance and Resources Recovery Act 2007*, adopt the charges for the removal and deposit of domestic and commercial waste as referenced in **ATTACHMENT 12.2A**.

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**13. PROPERTY AND DEVELOPMENT SERVICES REPORTS**

**13.1 COMMUNITY GROUP COMPLIANCE FUNDING REQUEST – RESERVE 39277 (SHOOTING COMPLEX), TOM PRICE**

<b>FILE REFERENCE:</b>	RC39277
<b>AUTHOR'S NAME AND POSITION:</b>	Leona Stevenson Lease Officer  Janelle Fell Manager Land and Asset Compliance
<b>AUTHORISING OFFICER AND POSITION:</b>	Brian Cameron Director Property and Development Services
<b>NAME OF APPLICANT/RESPONDENT:</b>	Not Applicable
<b>DATE REPORT WRITTEN:</b>	20 April 2020
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
<b>PREVIOUS MEETING REFERENCE:</b>	Agenda Item 12.1 (Minute No. 12000) – Ordinary Meeting of Council 19 August 2015

**Summary**

An application for compliance funding has been received from the Tom Price Branch Sporting Shooters Association of Western Australia (Shooters Club) to undertake repairs, and make safe buildings and structures, upgrade and reconnect ablutions, remediate the site through the disposal of debris and apply for building permits for existing buildings.

**Background**

At the Ordinary Meeting of Council on 5 June 2013, Council endorsed execution of a Lease Agreement between the Shire of Ashburton and the Tom Price Sporting Shooters Association for Reserve 39277.

Reserve 39277, comprising Lot 555 on Deposited Plan 75412, is a 27.6261ha lot accessible via Tom Price-Paraburdoo Road. The "Purpose" of the Reserve is for "Shooting Complex". The Lease commenced on 1 December 2013 for a 5 year term, with a further 5 year term option.

In 2015, an Implementation Plan for risk mitigation works on Shire managed reserves leased to Community Groups was endorsed by Council.

**ATTACHMENT 13.1A**

A lease inspection undertaken on 8 November 2019 with the then President of the Shooters Club identified outstanding remediation actions identified in the Implementation Plan for the site. In February 2020, a follow-up inspection was undertaken with the Shooters Club's incoming President, where the outstanding remedial actions were highlighted.

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**Comment**

To meet the requirements of the *Health (Public Buildings) Regulations 1992* and the Shire's obligations as the Management Body in accordance with the *Land Administration Act 1997* remediation actions were ascertained during the February 2020 inspection.

The Shooters Club have been very cooperative and are eager to comply with the requirements of the Implementation Plan. The Shooters Club has obtained quotes to undertake the remedial actions and requests both financial and in-kind support from Council to comply with the Implementation Plan requirements and, as a result, relevant legislation.

**ATTACHMENT 13.1B**

The total financial support is \$18,000, which include up to \$10,000 in-kind financial support to cover waste disposal fees. The breakdown is as illustrated in the following table:

Item Description	Details	Detail of Costs	Cost Estimate (incl. GST)
Removal of structures and scrap/rubbish on the reserve identified by as unsafe and/or no longer required	Centurion container White office building and patio/deck and aluminum platforms All unused building materials and rubbish including scrap metal, beams and old fuel bulkies	Removal and disposal of structures and scrap:  Waste site fees (in-kind assistance)  Franna crane hire	  \$10,000 (in-kind)  \$1,700
Building permits required for all structures remaining on site and ensure all are made safe and appropriately anchored	Ablution block Rifle range Shed/club room Target container Container at pistol range area Generator enclosure Skeet throwing enclosures	Application for building permits	\$105

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<b>Item Description</b>	<b>Details</b>	<b>Detail of Costs</b>	<b>Cost Estimate (incl. GST)</b>
Replacement of rifle range roof	Replace with cut to size corrugated zinc sheeting and paint structure	Zinc sheeting Paint Roofing screws (Bunnings)	\$1344.18 \$454.10 \$200.40
Ablutions upgrade and water tank	Water blast and clean all surfaces internal and external of toilet block, replace flooring, install water tank, solar pump and panel.	Vinyl flooring (Bunnings)  4500L water tank (Bunnings)  Solar pump, solar panel, battery and regulator (12 Volt Shop)	\$298.50  \$940.50  \$1769.97
Freight costs	Caledonian Carriers	Freight on water tank and roofing sheets	\$770.00
Freight costs	The 12 Volt Shop	Freight on solar pump, solar panel, battery & regulator	\$230.00

Shooters Club members will undertake any non-trade works in an effort to achieve the remedial works as cost effectively as possible.

To ensure good governance, the Shooters Club will be required to complete the works within 12 weeks of payment of any funds. Upon completion of the works an acquittal will be required. Any unspent funds will be required to be returned to the Shire.

The Shooters Club has advised of plans to reinstate the pistol range (increase in membership) and to facilitate a North West shooters meet. While COVID-19 has delayed regional competition aspirations, the Shire's Club Development Officer is assisting the Shooters Club with external grant funding applications in an effort to see this come to fruition in the near future.

Council support of the requested funds combined with monitoring by Shire Officers to see the works completed ensures the Shire is maintaining good community governance.

**Consultation**

Executive Management Team  
Building Surveyor and Compliance Officer  
Environmental Health Officer  
Club Development Officer

**Statutory Environment**

*Land Administration Act 1997* states in part:  
46. Care, control and management of reserves

- (7) *A person with whom the care, control and management of a reserve is placed by order has, by virtue of this subsection, the capacity, functions and powers to hold and deal with the reserve in a manner consistent with the order, any order conferring power on that person under subsection (3)(a) and this Act to the extent that the person does not already have that capacity or those functions and powers.*

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Section 3.54 - Reserves under control of local government of the *Local Government Act 1995* states in part:

(1) *If land reserved under the Land Administration Act 1997 is vested in or placed under the control and management of a local government, the local government may do anything for the purpose of controlling and managing that land...*

*Health Act 1911 and Health (Public Buildings Regulations) 1992*

Legislation outlining occupancy conditions, including certificate of approval, certification of electrical work, exit doors and lighting, facility lighting, sanitary facilities, evacuation plans etc.

*Disability Services Act 1993*

This Act defines the functions of the Disability Service Commission who administer policy and planning, legislation, advisory bodies, standards, community education, advocacy support, information and referral, Disability Access and Inclusion Plans and funding and providing services.

*Building Act 2011*

NCC Building Code of Australia

**Financial Implications**

The 2019/20 budget includes \$350,000 in GL 1111230 – Donation to Community Group – Compliance to address this site and other sites identified with compliance issues throughout the financial year. This balance of this budget is able to make provision for the proposed \$13,000 remedial works.

**Strategic Implications**

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

Goal 01      Vibrant and Active Communities  
Objective 2    Sustainable services, clubs, associations and facilities

Goal 04      Quality Services and Infrastructure  
Objective 3    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", can be managed by routine procedures and is unlikely to need specific application of resources.

**Policy Implications**

REC05 Community Lease and Licence Agreements of Shire Assets (Facilities, Buildings and Land)

**Voting Requirement**

Simple Majority Required

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**Officers Recommendation**

That with respect to Community Group Compliance Funding Request – Reserve 39277 (Shooting Complex), Tom Price, Council:

1. Approve the donation of \$8,000 to the Tom Price Branch Sporting Shooters Association of Western Australia from GL 11112230 – Donation to Community Groups – Compliance; and
2. Approve up to \$10,000 in-kind support to the Tom Price Branch Sporting Shooters Association of Western Australia from GL 11112230 to cover waste disposal fees at the Tom Price Waste Disposal Site.

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**13.2 AUTHORISATION TO AFFIX THE COMMON SEAL TO NOTIFICATION  
UNDER SECTION 70A – 914 YARUGA STREET, TOM PRICE**

<b>FILE REFERENCE:</b>	YAR.0914
<b>AUTHOR'S NAME AND POSITION:</b>	Janelle Fell Manager Land and Asset Compliance
<b>AUTHORISING OFFICER AND POSITION:</b>	Brian Cameron Director Property and Development Services
<b>NAME OF APPLICANT/ RESPONDENT:</b>	Byblos Holdings Pty Ltd
<b>DATE REPORT WRITTEN:</b>	23 April 2020
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
<b>PREVIOUS MEETING REFERENCE:</b>	Not Applicable

**Summary**

To comply with conditional development approval, the proprietor of Lot 914 Yaruga Street, Tom Price is required to lodge a Notification under Section 70A of the *Transfer of Land Act 1893* regarding use or enjoyment of the land.

Council endorsement is requested to affix the Common Seal to the Notification to allow registration at Landgate by the Applicant.

**Background**

Modular WA, as builder, made application to the Shire of Ashburton in February 2020 for the proposed development of two single storey houses on Lot 914 Yaruga Street, Tom Price. Development Application 20-10 was approved under Delegated Authority, subject to conditions, on 7 April 2020.

**Comment**

Due to the existence of a hazard or other factor affecting use or enjoyment of the land, a Notification under Section 70A of the *Transfer of Land Act 1893* is required to be lodged on the title. The memorial is to state:

“Registered proprietors and prospective purchasers of the land described above or any part thereof (land) are notified that the land is within a bushfire prone area and buildings shall be designed and constructed in accordance with Australian Standard 3959 - Construction of Buildings in Bushfire-Prone Areas (or superseded Australian Standard) and comply with any approved fire management plan prepared in respect of the land to minimise the risk of property damage.”

The required Notification has been prepared by proprietor Byblos Holdings Pty Ltd. As the public authority, the Shire is required to execute the Notification.



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**ATTACHMENT 13.2**

Council endorsement is required to affix the Common Seal to the document to allow the Applicant to lodge the Notification at Landgate satisfying this condition of the Development Approval.

**Consultation**

Executive Management Team  
Consultant Principal Town Planner, Joe Douglas

**Statutory Environment**

The *Local Government Act 1995* states in part:

*“Section 9.49A. Execution of documents*

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

Section 70A of the *Transfer of Land Act 1893 – Factor affecting use and enjoyment of land, notification on title*, requires a Notification be registered on the title where particular hazards or other factors affecting use or enjoyment of the land exist.

The *Planning and Development Act 2005* (PDA) and subsidiary legislation provides for development approval subject to conditions. Part Three of the PDA allows for a State Planning Policy to be implemented to preserve life and reduce the impact of bushfire on property and infrastructure. State Planning Policy 3.7: Planning in Bushfire Prone Areas is used to inform and guide decision makers to help achieve acceptable bushfire protection outcomes.

**Financial Implications**

There are no known financial implications related to this matter

**Strategic Implications**

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

Goal 04      Quality Services and Infrastructure  
Objective 3    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 that will be managed by policy, procedures and monitoring.

**Policy Implications**

ELM13 Affixing of the Shire of Ashburton Common Seal

**Voting Requirement**

Simple Majority Required

**Officers Recommendation**

That with respect to the Authorisation to Affix the Common Seal to Notification Under Section 70A – 914 Yaruga Street, Tom Price, Council approve affixing of the Common Seal in the presence of the Shire President and the Chief Executive Officer to land titling form 'Notification' to allow the registration on the title with Landgate.

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**14. COMMUNITY SERVICES REPORTS**

**14.1 APPLICATION ACCEPTANCE OF SIGNATURE EVENT ALLOCATIONS  
2020/21**

<b>FILE REFERENCE:</b>	GS01
<b>AUTHOR'S NAME AND POSITION:</b>	Dee Walkington Administration Officer Community Services
<b>AUTHORISING OFFICER AND POSITION:</b>	Kellie Bartley Director Community Services
<b>NAME OF APPLICANT/RESPONDENT:</b>	Not Applicable
<b>DATE REPORT WRITTEN:</b>	23 April 2020
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author and authorising officer have no financial, proximity or impartiality interests in the proposal
<b>PREVIOUS MEETING REFERENCE:</b>	Agenda Item 14.1 (Minute Number 593/2019) Ordinary Meeting of Council 18 June 2019

**Summary**

The Shire recently promoted and invited applications for Signature Event Funding Grants. The submissions were specifically for Signature Events as per REC08 Community Donations, Sponsorship and Funding Policy with applications closing 31 March 2020.

**Background**

The Signature Events Grant Funding is a Council initiative and has been in place since 2014. This is an opportunity for not-for-profit communities and associations for financial assistance to deliver programmed Signature Events within the Shire. This enables and supports community initiatives that help to strengthen the sense of community within the Shire of Ashburton.

**Comment**

The Signature Event Grant Funding was promoted directly to clubs and organisations via email. The grants or sponsorship can be up to \$10,000 per annual financial year per event. The Signature Events are considered based on broad delivery to the community benefit, are inclusive for the community and are considered appropriate.

The funding criteria is based on:

- The extent to which the event directly benefits the residents of the Shire of Ashburton;
- Funding and/or contributions from other sources; and
- Value for money.

Previously the Shire has supported Signature Events such as Robe River Rodeo, Onslow Rodeo, Tom Price Camp Draft, Pannawonica Gala and Paraburdoo Red Dirt Rocks.

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There is one funding round each year, opening in February and closing in March. At the close of 31 March 2020 round, one application was received. Due to the COVID19 pandemic, Shire Officer's has since made contact with previous recipients. An additional application was received after the advertised closing date, which is outside REC 08 policy guidelines.

The applications received for the 2020/21 annual financial year are summarised in Table 14.1A.

**TABLE 14.1A. SIGNATURE EVENT APPLICATIONS 2020/21 FINANCIAL YEAR**

<b>Organisation</b>	<b>Event</b>	<b>Amount Requested (\$)</b>
Robe River Rodeo Association	Pannawonica Rodeo	10,000.00
Pannawonica Gala Committee	Panna Gala	10,000.00

**ATTACHMENT 14.1A  
ATTACHMENT 14.1B**

**COVID 19**

The Coronavirus (COVID 19) pandemic has significantly impacted the health and wellbeing of citizens worldwide as well as the economy of every region, territory and state.

The Shire has supported the community with the COVID-19 Support packages for Small Business, Community Groups and Clubs.

With the borders of the State of Western Australia and the regions being closed by the Government, there will be consideration with regards to the impact of tourists not able to access the Pilbara region during this pandemic. The impact will not be fully understood over the coming months and consideration will be required with regards to the signature events that are normally an annual program for these community groups.

Shire Officer's contacted the Paraburdoo Red Dirt Rocks and Tom Price Camp Draft where both groups have submitted requests to be included in the 2020/2021 Annual Budget funding allocation, with the chance that the events may occur once COVID19 relaxes mass gatherings for these events to take place.

The Onslow Rodeo Committee has advised the Onslow Rodeo will not be progressed in August 2020 due to COVID-19 however have requested that they are to be considered for funding allocation in the draft Annual Budget 2020/2021 as the program may be schedule in early August 2021.

Consideration may be required outside the current REC08 – Community Donations, Grants and Funding Policy with regards to the funding round guidelines as it states "*There is one funding round each year in February (open for six weeks) for projects from 1 August – 31 July the following financial year.*"

Council may wish to consider during the COVID19 pandemic to review this grant funding opportunity outside of this guideline.

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**Option 1**

Endorse the current applications received and make provisions for \$20,000 in the draft 2020/21 annual budget.

**Option 2**

Endorse the current applications received for \$20,000 and make a provision for an additional \$30,000 for the opportunity for the recipients to make contact with Council as COVID 19 relaxes mass gatherings and giving these committees to submit their request and approve via EMACCESS to enable the recipients to be able to draw down these funds as required.

Council will make provisions of \$50,000 in the draft 2020/21 annual budget.

**Conclusion**

Signature Events are important the community and helps to build community capacity. Should Council support Option 2, it will enhance the Shire of Ashburton's local communities and committees that will have to access to these funds.

**Consultation**

Executive Management Team  
Administration Officer – Community Services  
Club Development Officers – Community Services

**Statutory Environment**

*Local Government Act 1995*

**6.7. Municipal fund**

- (1) *All money and the value of all assets received or receivable by a local government are to be held and brought to account in its municipal fund unless required by this Act or any other written law to be held in the trust fund.*
- (2) *Money held in the municipal fund may be applied towards the performance of the functions and the exercise of the powers conferred on the local government by this Act or any other written law.*

**Financial Implications**

The cost of \$40,000.00 being for the four Signature Events from individual GL codes. \$10,000.00 for Pannawonica Gala to be allocated from GL Code 11131820.

These funds may be re-allocated into the COVID19 Reserve funds until the recipients request for their individual Signature Event during the 2020/21 financial year.

**Strategic Implications**

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

- |             |  |
|-------------|--|
| Goal 01     | Vibrant and Active Communities                           |
| Objective 2 | Sustainable services, clubs, associations and facilities |
| Goal 05     | Inspiring Governance                                     |
| Objective 2 | Community ownership                                      |

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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**

The request for Signature Events is within the provisions in REC08 – Community Donations, Grants and Funding.

**Voting Requirement**

Absolute Majority Required

**Officers Recommendation**

That with respect to the Application Acceptance of Signature Event Allocations for 2020/2021, Council:

1. Consider the submissions received for Signature Events in the draft Annual Budget 2020/2021 for a total of \$50,000 and transfers to COVID-19 Financial Support and Relief Reserve; and
2. Acknowledge that due to the current COVID–19 pandemic, when restrictions for mass gatherings are relaxed, that the Signature Events Applications for funding may be received outside the REC08 – Community Donations, Grants and Funding guidelines and will be forwarded to elected members via EMACCESS.

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**15. INFRASTRUCTURE SERVICES REPORTS**

**15.1 RFT 26.19 MINE ROAD, PAVEMENT RENEWAL AND WIDENING WORKS**

<b>FILE REFERENCE:</b>	CM26.19
<b>AUTHOR'S NAME AND POSITION:</b>	Douglas Bailey Manager Projects and Assets
<b>AUTHORISING OFFICER AND POSITION:</b>	Mike Hudson Director Infrastructure Services
<b>NAME OF APPLICANT/RESPONDENT:</b>	Not Applicable
<b>DATE REPORT WRITTEN:</b>	23 April 2020
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author and the authorising officer have no financial, proximity or impartiality interests in this report
<b>PREVIOUS MEETING REFERENCE:</b>	Not Applicable

**Summary**

A Request for Tender (RFT) 26.19 Mine Road, Pavement Renewal and Widening Works was issued via WALGA eQuotes on 13 December 2019 to 23 January 2020.

Eight tenders (six conforming) were received in response to the RFT 26.19. The evaluation panel has completed its assessments of the conforming submissions and makes its recommendation.

Council is requested to authorise the engagement of a contractor for Mine Road, Pavement Renewal and Widening Works.

**Background**

The Shire of Ashburton seeks to engage a suitably qualified and experienced contractor to undertake pavement reconditioning works, including compaction and final trim, two coat bituminous sealing and delineation works on Mine Road, Tom Price from SLK 1.414 to SLK 4.535.

This project is derived from a Blackspot Funding Application to MRWA from November 2017 which has been approved for \$267,126. Shire funding of \$182,874 was attributed to the project to provide an accumulated budget of \$450,000.

**Comments**

**Scope**

The successful Tenderer shall provide all works generally comprising of the reconditioning of existing pavement material, between SLK 1.414 and SLK 4.535, including compaction and final trim, two coat bituminous sealing and delineation works on Mine Road, Tom Price.

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Works also include the supply of all plant, labour, materials, accommodation and consumables in order to carry out the works. The successful Tenderer will supply all required sealing aggregates.

Works will commence by, and be completed, within the period between the award date and 30 June 2020, inclusive of all final submissions of invoices.

The RFT was the result of an original submission for MRWA Blackspot Funding which at the time was estimated to cost \$400,689 in total. A Budget amendment increased this budget to \$450,000 in February 2020.

The RFT submissions we received proved that this was either underestimated at the time of the Blackspot application or that the costs have significantly increased since late 2017, or a combination of both.

Recommended Contractors Price to complete works is \$532,129.

The Director of Infrastructure Services will investigate if Regional Road Group and/or Blackspot Funds can be increased to meet this non budgeted expenditure.

**Selection Criteria**

In line with FIN12 Purchasing Policy, the advertised selection criteria was as follows:

<b>Criteria</b>	<b>Weighting</b>
Relevant Experience	15%
Key Personnel	10%
Past Company Performance	10%
Resources	10%
Methodology/Quality and OHS Systems/Life Cycle/Risk	15%
Price	40%

Only submissions that meet the initial compliance criteria are deemed compliant for further assessment against the selection criteria and value for money.

The evaluation and recommendation report, including the overall evaluation scores and rankings, is attached as a confidential item.

**CONFIDENTIAL ATTACHMENT 15.1**

**Consultation Assessment**

Executive Management Team  
Manager Projects and Assets  
Senior Procurement Officer  
Technical Officer

**Statutory Environment**

*Local Government Act 1995 Section 3.57. Tenders for providing goods or services*

*(1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services. (2) Regulations may make provision about tenders.*



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*Local Government Act 1995 Section 5.23. Meetings generally open to public*

- (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-*
- (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;"*

*Local Government (Functions and General) Regulations 1996*

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more than \$150,000 unless sub-regulation (2) states otherwise.*

**Financial Implications**

The budgeted provision for all the works in 2019/20 included in this RFT is \$450,000. MRWA Blackspot Funding has been approved for \$267,126 within this budget with the balance being funded by the Shire.

MRWA Blackspot Funded	\$267,126
Original Shire of Ashburton Budget Contribution	\$182,874
Requested Increase in Shire Contribution	<u>\$ 82,129</u>
	<u>\$532,129</u>

Request the increase of the Mine Road Pavement Renewal and Widening Works Budget G/L Account 11244500 for this project by \$90,000 to \$540,000 from the Floodway Stabilisation Budget G/L Account 11244600.

**Strategic Implications**

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

Goal 04      Quality Services and Infrastructure  
Objective 3    Well planned towns

Goal 04      Quality Services and Infrastructure  
Objective 4    Exemplary team and work environment

**Risk Management**

Nil

**Policy Implications**

Policy FIN12 Purchasing Policy

This Policy outlines how the Shire of Ashburton will deliver best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance whereby establishing efficient, effective, economical and sustainable procedures in all purchasing activities. This Policy was used to undertake the procurement process through a publicly advertised RFT.

Policy ENG09 Asset Management Policy

This policy has been developed to support effective asset management ensuring that all Infrastructure assets are well planned and delivered to the expectations of the community now and into the future.

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**Voting Requirement**

Absolute Majority Required

**Officers Recommendation**

That with respect to RFT 26.19 Mine Road, Pavement Renewal and Widening Works, Council:

1. Resolve that Report **CONFIDENTIAL ATTACHMENT 15.1** is confidential in accordance with s5.23 (2) of the *Local Government Act 1995* because it deals with matters affecting s5.23 (2) (c);  
  
“A contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.”
2. Accept the tender, being that submitted by Comiskey’s Contracting Pty Ltd to form a contract for tender RFT 26.19 Mine Road Pavement Renewal and Widening Works;
3. Delegate, by Absolute Majority, in accordance with section 5.42 of the *Local Government Act 1995*, authority to the Chief Executive Officer to negotiate in regard to the contract for Tender RFT 26.19 Mine Road Pavement Renewal and Widening Works;
  - a) Minor variations before entry into the contract, in accordance with *Regulation 20 of the Local Government (Functions and General) Regulations 1996*.
  - b) Variations, after the contract has been entered into, limited to variations which the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract in accordance with *Regulation 21A of the Local Government (Functions and General) Regulations 1996*.
4. Approve a budget variation for the 2019/20 Budget as outlined below:
  - (a) Increase Expenditure Account GL Account 11244500 Mine Road Pavement Renewal and Widening Works by \$90,000 from \$450,000 to \$540,000.
  - (b) Decrease Expenditure Account GL 11244600 Works Program Floodway Stabilisations by \$90,000 from \$498,000 to \$408,000.
5. Accept that, should a Contract not be formed within Comiskey’s Contracting Pty Ltd then the next Tenderer, being Stabilised Pavements is accepted and a Contract is to be formed, under the terms and conditions noted above, in accordance with *Regulation 20(2) of the Local Government (Functions and General) Regulations 1996*.

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**15.2 RFT 13.19 PANNAWONICA – MILLSTREAM ROAD, SEALING OF UNSEALED ROAD, CONTRACT VARIATION.**

<b>FILE REFERENCE:</b>	CM13.19
<b>AUTHOR'S NAME AND POSITION:</b>	Douglas Bailey Manager Projects and Assets
<b>AUTHORISING OFFICER AND POSITION:</b>	Mike Hudson Director Infrastructure Services
<b>NAME OF APPLICANT/RESPONDENT:</b>	Not Applicable
<b>DATE REPORT WRITTEN:</b>	30 April 2020
<b>DISCLOSURE OF FINANCIAL INTEREST:</b>	The author and the authorising officer have no financial, proximity or impartiality interests in this report.
<b>PREVIOUS MEETING REFERENCE:</b>	Agenda Item 15.2 (Minute Number 713/2019) Ordinary Meeting of Council 19 November 2019

**Summary**

RFT 13.19 Pannawonica-Millstream Road, Sealing of Unsealed Road contract was awarded to Stabilised Pavements of Australia Pty Ltd in November 2019 for the sealing of 15km of Pannawonica - Millstream Road.

The contract scope of works stated that the Principal shall supply and deliver aggregate for the contractor. The Contractor should have been responsible for both aggregate procurement and delivery to site.

This was an error in the original scope of works.

This variation is above 10% of contract price and therefore requires Council approval. The requested contract variation will bring the overall costs for the sealing of Pannawonica Millstream Road over budget by less than 1%.

**Background**

The Shire of Ashburton received funding from the Regional Roads Group for the widening, realignment and sealing of 15km of Pannawonica – Millstream Road, from Roebourne – Wittenoom Road to the National Park entrance.

This final stage of the project involves final pavement preparation and the application of a two coat bituminous seal.

RFT 13.19 Pannawonica-Millstream Road, Sealing of Unsealed Road contract was awarded to Stabilised Pavements of Australia Pty Ltd in November 2019.

**Comments**

The contract scope of works incorrectly stated that the Principal shall supply and deliver aggregate for the contractor. The shire doesn't have aggregate supply contracts and we don't

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have the capacity to transport 3000 tonnes of aggregate to Pannawonica Millstream Road to meet the start date of this contract.

It is common practice for the Contractor to be responsible for both the supply and delivery of aggregate to site. The supply of road aggregate by the Principal was an error in the original scope of works, this variation is to correct the error.

The contractor is due on site in May and it is requested to allow for a variation to their contract to provide for the supply and delivery of aggregate to the value of \$257,235.00 + GST as per their quote received on 23 April 2020.

**Previous Council Resolution (Minute # 683/2019 OCM Nov 2019)**

*"4. Authorise the Acting Chief Executive Officer to manage the contract, including the provision of possible variations, providing the variation is necessary in order for the goods or services to be supplied, does not change the scope of the contract, is managed within the overall budget for the project and meets legislative requirements."*

The provision of aggregate is necessary for the goods or services to be supplied, per the contract.

**Statutory Environment**

*Local Government Act 1995 Section 3.57. Tenders for providing goods or services*

*(1) A local government is required to invite tenders before it enters into a contract of p rescribed kind under which another person is to supply goods or services.*

*(2) Regulations may make provision about tenders.*

*Local Government Act 1995 Section 5.23. Meetings generally open to public*

*(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 -*

*(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;"*

*Local Government (Functions and General) Regulations 1996*

*(1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more than \$150,000 unless sub-regulation (2) states otherwise.*

**21A. Varying a contract for the supply of goods or services**

*If a local government has entered into a contract for the supply of goods or services with a successful tenderer, the contract must not be varied unless —*

*(a) the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or*

*(b) the variation is a renewal or extension of the term of the contract as described in regulation 11(2)(j).*

**Financial Implications**

The budgeted provision for the total works to reconstruct and seal the 15km of Pannawonica – Millstream Road is \$1,995,244.63 for the 2019/2020 financial year.

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With the additional variation to contract requested (\$257,235 + GST) the total contracted costs relating to this Project would be \$2,006,336.11.

**Strategic Implications**

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

Goal 04      Quality Services and Infrastructure  
Objective 1    Quality public infrastructure

Strategic Direction - Provide and maintain affordable infrastructure that serves the current and future needs of the community, environment, industry and business.

Goal 04      Quality Services and Infrastructure  
Objective 3    Well planned towns

Goal 04      Quality Services and Infrastructure  
Objective 4    Exemplary team and work environment

**Risk Management**

Nil

**Policy Implications**

Policy FIN12 Purchasing Policy

This Policy outlines how the Shire of Ashburton will deliver best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance whereby establishing efficient, effective, economical and sustainable procedures in all purchasing activities. This Policy was used to undertake the procurement process through a publicly advertised RFT.

Policy ENG09 Asset Management Policy

This policy has been developed to support effective asset management ensuring that all Infrastructure assets are well planned and delivered to the expectations of the community now and into the future.

**Voting Requirement**

Simple Majority Required

**Officers Recommendation**

That with respect to RFT Contract 13.19 Pannawonica – Millstream Road, Sealing of Unsealed Road, Council:

1. Authorise the Chief Executive Officer to approve the variation to the RFT 13.19 contract with Stabilised Pavements of Australia Pty Ltd of and additional \$257,235 + GST for the procurement of essential material required to complete the requirements of the contract; and
2. Authorise the Chief Executive Officer to manage the contract, including the provision of possible variations, providing the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract and is within 10% overall budget for the project.

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

*Under the Local Government (Administration) Regulations 1996, s14A. Attendance by telephone etc. states in part:*

- (1) A person who is not physically present at a meeting of a council or committee is to be taken to be present at the meeting if —**
  - (a) the person is simultaneously in audio contact, by telephone or other means of instantaneous communication, with each other person present at the meeting; and**
  - (b) the person is in a suitable place; and**
  - (c) the council has approved\* of the arrangement.**
- (2) A council cannot give approval under subregulation (1) if to do so would mean that at more than half of the meetings of the council, or committee, as the case may be, in that financial year, a person (other than a person with a disability) who was not physically present was taken to be present in accordance with this regulation.**
- (3) A person referred to in this regulation is no longer to be taken to be present at a meeting if the person ceases to be in instantaneous communication with each other person present at the meeting.**
- (4) In this regulation — disability has the meaning given in the Disability Services Act 1993 section 3; suitable place —**
  - (a) in relation to a person with a disability — means a place that the council has approved\* as a suitable place for the purpose of this paragraph; and**
  - (b) in relation to any other person — means a place that the council has approved\* as a suitable place for the purpose of this paragraph and that is located —**
    - (i) in a townsite or other residential area; and**
    - (ii) 150 km or further from the place at which the meeting is to be held under Regulation 12, measured along the shortest road route ordinarily used for travelling;**

*townsite has the same meaning given to that term in the Land Administration Act 1997 section 3(1).*

**\* Absolute majority required.**

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Council resume the Meeting Procedures (Standing Orders) Local Law 2012;

6.1 Meetings generally open to the public; and

8.1 Members to be in the proper places;

Back in order due to the conclusion of this meeting.

**19. NEXT MEETING**

The next Ordinary Meeting of Council will be held on 9 June 2020, Ashburton Hall, Ashburton Avenue, Paraborndoo commencing at 1.00 pm.

**20. CLOSURE OF MEETING**

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