



**Shire of Derby /
West Kimberley**

MINUTES

Ordinary Council Meeting Thursday, 12 December 2019

Date: Thursday, 12 December 2019

Time: 5.30 pm

**Location: Council Chambers
Clarendon Street
Derby**



Order Of Business

1 Declaration of Opening, Announcements of Visitors 5

2 Attendance via Telephone/Instantaneous Communications..... 5

3 Disclosure of Interests 6

 3.1 Declaration of Financial Interests 6

 3.2 Declaration of Proximity Interests 6

 3.3 Declaration of Impartiality Interests..... 6

4 Applications for Leave of Absence 7

5 Responses to Previous Public Questions taken on Notice 7

6 Public Time..... 7

 6.1 Public Question Time 7

 6.2 Public Statements 7

7 Petitions, Deputations, Presentations and Submissions 7

8 Announcements by Presiding Person without Discussion 7

9 Confirmation of Minutes of Previous Meetings 7

10 Recommendations and Reports of Committees 8

 10.1 Minutes of the Compliance and Strategic Review Committee Meeting held on
 12 September 2019 8

 10.2 Minutes of the Compliance and Strategic Review Committee Meeting held on
 14 November 2019 9

 10.3 Minutes of the Compliance and Strategic Review Committee Meeting held on
 5 December 2019 10

 10.4 Finalisation of CEO Probation..... 11

 10.6 Delegations of Power - F1 Incurring Liabilities and Making Payments..... 19

 10.7 Policy Review - AF1 Procurement of Goods and Services..... 24

 10.8 Occupational Safety and Health Policy 27

 10.9 Annual Financial Report 2018-19 and Annual Report 2018-19 31

Reports 38

11 Executive Services 38

 11.1 Minutes of the joint meeting of the Kimberley Zone and Kimberley Regional
 Group held 3 December 2019. 38

 11.2 LGIS Surplus Distribution 44

 11.3 Boab Tree - 16 Archer Street 47

12 Corporate Services 50

 12.1 Accounts for Payment - November 2019 50

12.2	Statement of Financial Activity for the Period Ending 30 November 2019.....	54
13	Technical Services.....	58
13.1	Leasing of Areas 2 and 3 to MPA Fish Farms Pty Ltd at the Derby Wharf	58
13.2	Waiving of Fees for Burials in the Fitzroy Crossing Cemetery	61
13.3	Additional Expenditure - Sutherland Street Reconstruction	64
14	Development Services	66
	Nil	
15	Community and Recreation Services	67
15.1	Kristy Blake Group Fitness - Request for Community/ Non Government Fees and Charges for the Derby Community Room and Undercover Court	67
16	Motions of which Previous Notice has been Given	73
17	New Business of an Urgent Nature	73
18	Matters for which the Meeting may be Closed (Confidential Matters).....	74
18.1	Air BP	74
18.2	Derby Wharf Cafe	74
19	Closure.....	76
19.1	Date of Next Meeting.....	76
19.2	Closure of Meeting.....	76

**MINUTES OF SHIRE OF DERBY / WEST KIMBERLEY
ORDINARY COUNCIL MEETING
HELD AT THE COUNCIL CHAMBERS, CLARENDON STREET, DERBY
ON THURSDAY, 12 DECEMBER 2019 AT 5.30 PM**

- PRESENT:** Cr Geoff Haerewa (Shire President), Cr Paul White (Deputy Shire President), Cr Geoff Davis (via telephone), Cr Chris Kloss, Cr Andrew Twaddle, Cr Steve Ross, Cr Rowena Mouda, Cr Keith Bedford, Cr Pat Riley (via telephone)
- IN ATTENDANCE:** Amanda O'Halloran (Chief Executive Officer), Danielle Hurstfield (Manager Administration and Governance), Wayne Neate (Director Technical and Development Services), Myra Henry (Manager Finance), Carlie McCulloch (Executive Services Coordinator)
- VISITORS:** Nil
- GALLERY:** Terri Buckley, Peter Jackson, Julie Twaddle
- APOLOGIES:** Nil
- APPROVED LEAVE OF ABSENCE:**
- ABSENT:** Nil

1 DECLARATION OF OPENING, ANNOUNCEMENTS OF VISITORS

The meeting was opened at 5.30pm by Shire President Geoff Haerewa.

2 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS

In accordance with regulation 14A of the Local Government (Administration) Regulations 1996 Council must approve (by Absolute Majority) the attendance of a person, not physically present at a meeting of Council, by audio contact. The person must be in a 'suitable place' as approved (by absolute majority) by Council. A 'suitable place' means a place that is located in a townsite or other residential area and 150km or further from the place at which the meeting is to be held.

APPROVE REMOTE ATTENDANCE**RESOLUTION 150/19****RESOLUTION 151/19**

Moved: Cr Andrew Twaddle

Seconded: Cr Paul White

That Council, BY AN ABSOLUTE MAJORITY:

- 1. APPROVES Cr Pat Riley and Cr Geoff Davis' attendance at the Council Meeting held 12 December 2019 via telephone communication in accordance with regulation 14A(1) of the *Local Government (administration) Regulations 1996*;**
- 2. APPROVES Perth and Broome, Western Australia, as a suitable place for Councillor attendance in accordance with regulation 14A(4) of the *Local Government (Administration) Regulations 1996*.**

In Favour: Crs Geoff Haerewa, Paul White, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda and Keith Bedford

Against: Nil

CARRIED BY AN ABSOLUTE MAJORITY 7/0

3 DISCLOSURE OF INTERESTS

Section 5.65 and 5.70 of the *Local Government Act 1995* requires an Elected Member or officer who has an interest in any matter to be discussed at a Committee/Council Meeting that will be attended by the Elected Member or officer must disclose the nature of the interest in a written notice given to the Chief Executive Officer before the meeting; or at the meeting before the matter is discussed.

An Elected Member who makes a disclosure under section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during, any discussion or decision making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allow an Elected Member to speak, the extent of the interest must also be stated.

3.1 Declaration of Financial Interests

18.2 Derby Wharf Café – Cr Andrew Twaddle

18.2 Derby Wharf Café – Cr Geoff Haerewa

3.2 Declaration of Proximity Interests

Nil

3.3 Declaration of Impartiality Interests

18.2 DERBY WHARF CAFÉ – CR GEOFF HAEREWA

4 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

5 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**6 PUBLIC TIME****6.1 Public Question Time**

Nil

6.2 Public Statements

Terri Buckley and Peter Jackson thanked the Shire for the work this year. Terri and Peter said they were so proud and happy to be able to give back to the community.

7 PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS

Nil

8 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Shire President Geoff Haerewa thanked Terry and Peter on behalf of the Shire. The Shire President congratulated Myra Henry's son Liam Henry for being picked to play for the Fremantle Dockers – a very proud time for our communities. Shire President Geoff Haerewa thanked the Shire's Finance team for working hard to have a financial audit reporting completed. Shire President on behalf of all the Councillors, wished everyone a Merry Christmas and a Happy New Year.

9 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**RESOLUTION 152/19****Moved: Cr Paul White****Seconded: Cr Andrew Twaddle****That the Minutes of the Ordinary Meeting of the Shire of Derby/West Kimberley held at the Library, Fitzroy Crossing, on 21 November 2019 be CONFIRMED.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

10 RECOMMENDATIONS AND REPORTS OF COMMITTEES**10.1 MINUTES OF THE COMPLIANCE AND STRATEGIC REVIEW COMMITTEE MEETING HELD ON 12 SEPTEMBER 2019****File Number: 4110****Author: Amanda O'Halloran, Chief Executive Officer****Responsible Officer: Amanda O'Halloran, Chief Executive Officer****Authority/Discretion:****HEADING**

For Council to receive the Minutes of the Compliance and Strategic Review Committee.

ATTACHMENTS

- 1. Minutes of the Compliance and Strategic Review Committee Meeting held on 12 September 2019**

RESOLUTION 153/19**Moved: Cr Paul White****Seconded: Cr Steve Ross**

- 1. That the Minutes of the Compliance and Strategic Review Committee Meeting held on 12 September 2019 be received and the recommendations therein be adopted.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

10.2 MINUTES OF THE COMPLIANCE AND STRATEGIC REVIEW COMMITTEE MEETING HELD ON 14 NOVEMBER 2019

File Number: 4110
Author: Amanda O'Halloran, Chief Executive Officer
Responsible Officer: Amanda O'Halloran, Chief Executive Officer
Authority/Discretion: Executive

HEADING

For Council to receive the Minutes of the Compliance and Strategic Review Committee.

ATTACHMENTS

- 1. Minutes of the Compliance and Strategic Review Committee Meeting held on 14 November 2019**

RESOLUTION 154/19

Moved: Cr Paul White

Seconded: Cr Andrew Twaddle

- 1. That the Minutes of the Compliance and Strategic Review Committee Meeting held on 14 November 2019 be received and the recommendations therein be adopted.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

10.3 MINUTES OF THE COMPLIANCE AND STRATEGIC REVIEW COMMITTEE MEETING HELD ON 5 DECEMBER 2019

File Number: 4110
Author: Amanda O'Halloran, Chief Executive Officer
Responsible Officer: Amanda O'Halloran, Chief Executive Officer
Authority/Discretion: Executive

HEADING

For Council to receive the Minutes of the Compliance and Strategic Review Committee.

ATTACHMENTS

- 1. Minutes of the Compliance and Strategic Review Committee Meeting held on 5 December 2019**

RESOLUTION 155/19

Moved: Cr Keith Bedford
Seconded: Cr Rowena Mouda

- 1. That the Minutes of the Compliance and Strategic Review Committee Meeting held on 5 December 2019 be received and the recommendations therein be adopted.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

10.4 FINALISATION OF CEO PROBATION

File Number: 0530

Author: Amanda O'Halloran, Chief Executive Officer

Responsible Officer: Amanda O'Halloran, Chief Executive Officer

Authority/Discretion: Executive

SUMMARY

The CEO Ms Amanda O'Halloran commenced employment with the Shire of Derby/West Kimberley on the 3 June 2019. Under the terms of the employment contract a six month probationary period was to apply until the 3 December 2019.

The CEO Performance Committee (the Committee) met on the 6 December 2019 to discuss and assess Ms O'Halloran's performance during the probationary period.

The committee recommends to council that Ms O'Halloran has "Met Performance Standards" and recommends the continuation of her employment at the Shire of Derby/West Kimberley beyond the probationary period in accordance with the Employment Contract.

DISCLOSURE OF ANY INTEREST

The CEO, Amanda O'Halloran declares a financial interest. The nature of my interest is I am employed as CEO with the Shire Derby/West Kimberley and receive remuneration along with accommodation and vehicle. The extent of my interest is financial interest pursuant to Section 5.60A of the *Local Government Act 1995*.

BACKGROUND

The CEO Ms Amanda O'Halloran commenced employment with the Shire of Derby/West Kimberley on the 3 June 2019.

Ms O'Halloran's Employment Contract includes a six month probationary period during which time her performance in the role of CEO is to be assessed.

Ms O'Halloran's probationary period ends on 3 December 2019. Council as the employer of the CEO is required to assess and make a determination as to whether Ms. O'Halloran has or has not met the required Performance Standards, and if found to have satisfied this requirement, to confirm her ongoing employment.

STATUTORY ENVIRONMENT

The Meeting will be closed to the public in accordance with Section 5.23(a) of the *Local Government Act 1995* being a matter affecting an employee or employees.

Local Government Act 1995

5.38. Annual review of certain employees' performances

The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.

5.41. Functions of CEO

The CEO’s functions are to —

- a) advise the council in relation to the functions of a local government under this Act and other written laws; and
- b) ensure that advice and information is available to the council so that informed decisions can be made; and
- c) cause council decisions to be implemented; and
- d) manage the day to day operations of the local government; and
- e) liaise with the mayor or president on the local government’s affairs and the performance of the local government’s functions; and
- f) speak on behalf of the local government if the mayor or president agrees; and
- g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and
- h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
- i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There are no further or increased financial implications. All costs have been taken into consideration in the 2019/20 Annual Budget.

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
Good Governance and an effective organisation	Outcome 4.1: Effective Governance and Leadership	Leadership that provides strategic Direction for the Community, supported by efficient and effective service delivery
	Outcome 4.5: Skilled, committed and professional staff in a supportive environment	Provide opportunities for the training and development of the Shires’ employees

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Organisation's Operations: The Shires business is not managed effectively and	Possible	Moderate	Medium	Council appoint an appropriately qualified CEO to manage the organisation, its human and fiscal Resources.

efficiently.				
Financial:	Possible	Moderate	Medium	Council appoint an appropriately qualified CEO to accurately manage the budget and support the delivery of the Shires services in a cost effective manner.

CONSULTATION

The CEO Performance Committee considered the matter at its 5 December 2019 Meeting.

COMMENT

The CEO Performance Review Committee is required to assess the CEO’s performance and make a recommendation to Council.

The following documentation was supplied for the Committee to consider:

1. CEO Employment Contract inclusive of the Schedule of Duties and Responsibilities (Confidential Attachment 1);
2. In lieu of the Council and Ms O’Halloran formulating appropriate performance criteria, Ms O’Halloran has prepared a report on her work as CEO leading up to her six month probation review date (Confidential Attachment 2).

The Committee recommended the following:

That the Chief Executive Officer’s Performance Review Committee recommend to Council that with respect to the Chief Executive Officer’s Probation Review, Council:

- 1. Receives the Probation Review Report and endorses the overall performance rating for Ms Amanda O’Halloran as the Shire of Derby West/ Kimberley’s CEO, for the probation review period 3 June to the 3 December 2019, as Mets Performance Requirements;*
- 2. Confirms the contract of employment between Council and Ms O’Halloran; and*
- 3. Schedules the first annual review of performance to be completed by June 2020.*

Moved: Cr Twaddle

Seconded: Cr Ross

Carried 8/0

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

Nil

RESOLUTION 156/19**Moved: Cr Paul White****Seconded: Cr Chris Kloss****That Council receives the recommendation of the CEO Performance Review Committee, and:**

- 1. Endorses the overall performance rating for Ms Amanda O'Halloran as the Shire of Derby West/Kimberley's CEO, for the probation review period 3 June to the 3 December 2019, as "Met Performance Requirements";**
- 2. Confirms the contract of employment between Council and Ms O'Halloran; and**
- 3. Schedules the first annual review of performance to be completed by 30 June 2020.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0 BY ABSOLUTE MAJORITY

10.5 GOVERNANCE PROGRAM - 2019/20**File Number: 4180****Author: Danielle Hurstfield, Manager Administration and Governance****Responsible Officer: Amanda O'Halloran, Chief Executive Officer****Authority/Discretion: Administrative****SUMMARY**

This item seeks approval to implement a compliance program to ensure the Shire's systems and procedures in relation to risk management, internal control and legislative compliance are identified and implemented.

DISCLOSURE OF ANY INTEREST

Nil

BACKGROUND

The Terms of Reference for the Compliance and Strategic Review Committee adopted 26 March 2015 detail the key role the Committee holds in assisting the Shire fulfil its corporate governance responsibilities in managing the affairs of the organisation. This includes financial reporting, risk management, compliance requirements and auditing.

The Committee will ensure compliance in the Shire's financial reporting and will liaise with the CEO to ensure the effective and efficient management of the Shire's financial accounting systems to meet statutory requirements.

Regulation 17 of the Local Government (Audit) Regulations 1996 provides that the CEO is to review the appropriateness and effectiveness of the local governments systems and procedures in relation to risk management, internal control and legislative compliance. The review presented by the CEO in November 2019 provided an opportunity to plan a structured approach for the next 12 months.

STATUTORY ENVIRONMENT***Local Government Act 1995******Part 7, Division 1A — Audit committee*****7.1A. Audit committee**

- (1) A local government is to establish an audit committee of 3 or more persons to exercise the powers and discharge the duties conferred on it.
- (2) The members of the audit committee of a local government are to be appointed* by the local government and at least 3 of the members, and the majority of the members, are to be council members.

* Absolute majority required.

Local Government (Audit) Regulations 1996

16. Functions of audit committee

An audit committee has the following functions —

- (a) to guide and assist the local government in carrying out —
 - (i) its functions under Part 6 of the Act; and
 - (ii) its functions relating to other audits and other matters related to financial management;
- (b) to guide and assist the local government in carrying out the local government's functions in relation to audits conducted under Part 7 of the Act;
- (c) to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to —
 - (i) report to the council the results of that review; and
 - (ii) give a copy of the CEO's report to the council;
- (d) to monitor and advise the CEO when the CEO is carrying out functions in relation to a review under —
 - (i) regulation 17(1); and
 - (ii) the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c);
- (e) to support the auditor of the local government to conduct an audit and carry out the auditor's other duties under the Act in respect of the local government;
- (f) to oversee the implementation of any action that the local government —
 - (i) is required to take by section 7.12A(3); and
 - (ii) has stated it has taken or intends to take in a report prepared under section 7.12A(4)(a); and
 - (iii) has accepted should be taken following receipt of a report of a review conducted under regulation 17(1); and
 - (iv) has accepted should be taken following receipt of a report of a review conducted under the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c);
- (g) to perform any other function conferred on the audit committee by these regulations or another written law.

[Regulation 16 inserted: Gazette 26 Jun 2018 p. 2386 7.]

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
4: Good governance and effective organisation	4.1: Effective governance and leadership	4.1.3: Strengthen the governance role of Councillors by informing, resourcing, skilling and supporting their role 4.1.8: Develop and maintain risk management policies and procedures

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Financial, Legal and Compliance, Organisational Operations and Reputation	Unlikely	Extreme	Extreme	Monthly reporting to the Compliance and Strategic Review Committee for awareness and direction where required.

CONSULTATION

Consultation has been undertaken with Managers of relevant function areas.

COMMENT

This program follows on from the Regulation 17 Review of Risk Management, Internal Controls and Legislative Compliance adopted by Council on 21 November 2019. Given the large workload that was identified during that review, the program identifies 2 areas under each of the 3 review areas for focus in the period to the end of this financial year.

Risk Management will review the areas of ICT (Information and Communication Technologies) and Emergency Management Arrangements. Internal Controls will focus on Recordkeeping and Customer Service and Legislative Compliance will review Cemeteries and ensure the Compliance Audit Return is completed.

This item formalises a body of work that has commenced in this regard and seeks to ensure outcomes are achieved through planning and reporting.

An update detailing progress will be provided to the March 2020 Compliance and Strategic Review Committee.

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

- 1. 2019/20 Governance Program 

RESOLUTION 157/19

Moved: Cr Paul White

Seconded: Cr Andrew Twaddle

That Council endorse the proposed Governance Program as attached to be completed for the 2019/20 year.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

10.6 DELEGATIONS OF POWER - F1 INCURRING LIABILITIES AND MAKING PAYMENTS**File Number: 4120****Author: Danielle Hurstfield, Manager Administration and Governance****Responsible Officer: Amanda O'Halloran, Chief Executive Officer****Authority/Discretion: Legislative****SUMMARY**

A recent review of Council's Procurement process has identified a need to provide clear delegation of specified powers and duties to the Chief Executive Officer and other employees in accordance with the provisions of the Local Government Act 1995 (the Act). This authority is currently provided under F1 Payments from Municipal Funds – Incurring Liabilities and Making Payments.

DISCLOSURE OF ANY INTEREST

The Chief Executive Officer holds this delegation.

The Manager of Administration and Governance is an existing subdelegate.

BACKGROUND

In accordance with Section 5.42 of the Act, a local government can delegate certain functions to a committee of Council, or to the Chief Executive Officer. A variety of other legislation also permits the delegations of functions to the Chief Executive Officer, as well as other officers. The Chief Executive Officer's statutory powers and duties under the Act and any powers or duties delegated by the Council can be further delegated by the Chief Executive Officer to other officers of Council. Delegation details must be recorded in a register, which is available for inspection by the public.

A register of delegations of authority is essential in order to inform the public of the activities, functions, powers and duties of the local government as well as meeting the requirements of section 5.46 of the Local Government Act 1995.

Local governments utilise levels of delegated authority to undertake day-to-day statutory functions, thereby allowing Council to focus on policy development, representation, strategic planning and community leadership, with the organisation focussing on the day-to-day operations of the Shire. The use of delegated authority means the large volume of routine work of a local government can be effectively managed and acted on promptly, which in turn facilitates efficient service delivery to the community.

STATUTORY ENVIRONMENT***Local Government Act 1995******5.42. Delegation of some powers and duties to CEO***

(1) *A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under*

(a) this Act other than those referred to in section 5.43.

(b) the Planning and Development Act 2005 section 214(2), (3) or (5)

** Absolute majority required.*

- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*

5.43. Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;*
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) appointing an auditor;*
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;*
- (f) borrowing money on behalf of the local government;*
- (g) hearing or determining an objection of a kind referred to in section 9.5;*
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;*
- (h) any power or duty that requires the approval of the Minister or the Governor;*
- (i) such other powers or duties as may be prescribed.*

5.44. CEO may delegate powers and duties to other employees

- (1) *A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.*
- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*
- (3) *This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —*
- (a) The CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and*
 - (b) the exercise of that power or the discharge of that duty by the CEO's delegate,*

are subject to any conditions imposed by the local government on its delegation to the CEO.

- (4) *Subsection (3) (b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.*
- (5) *In subsections (3) and (4) — conditions includes qualifications, limitations or exceptions.*

5.45. Other matters relevant to delegations under this Division

- (1) *Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —*
- (a) *A delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and*
- (b) *Any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.*
- (2) *Nothing in this Division is to be read as preventing —*
- (a) *A local government from performing any of its functions by acting through a person other than the CEO; or*
- (b) *A CEO from performing any of his or her functions by acting through another person.*

5.46. Register of, and records relevant to, delegations to CEO and employees

- (1) *The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.*
- (2) *At least once every financial year, delegations made under this Division are to be reviewed by the delegator.*
- (3) *A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.*

Regulation 19 of the Local Government (Administration) Regulations relates to records to be kept of delegations exercised.

19. Delegates to keep certain records (Act s. 5.46(3))

Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of —

- (a) *how the person exercised the power or discharged the duty; and*
- (b) *when the person exercised the power or discharged the duty; and*

- (c) *the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.*

POLICY IMPLICATIONS

Amended purchasing delegations and identified limits are set out in AF1 – Procurement of Goods and Services

FINANCIAL IMPLICATIONS

Expenditure by Officers in accordance with adopted budget and set limits.

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
<p>4: Good governance and an effective organisation</p> <p>Leadership that provides strategic direction for the community, supported by efficient and effective service delivery</p>	<p>4.1: Effective governance and leadership</p>	<p>4.1.4: Ensure governance policies and procedures are in accordance with legislative requirements</p>

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<p>Legal & Compliance:</p> <p>A properly constructed delegations register reduces risk as it ensures a clear understanding of authority to make decisions as approved by Council</p>	Unlikely	Moderate	Medium	Accept officer recommendation to amend subdelegates

CONSULTATION

Chief Executive Officer, Senior Management Group.

COMMENT

Under section 5.45 of the Act, a delegation made under the Act will be effective for the period of time specified in the delegation or otherwise indefinitely. Any amendment or repeal of a delegation by a local government is to be by an absolute majority. It should be noted that whether a function or duty has been sub-delegated is determined by the Chief Executive Officer unless the Council has made it a condition that the original delegation may not be sub-delegated.

Amendments

This delegation has been amended to list the names of Officers as subdelegates who require this delegation to undertake duties in accordance with internal processes that control the purchasing and payment functions of Council. The positions that are proposed to hold the delegation and the limits are summarised below:

LIMIT	OFFICER
\$150,000	Chief Executive Officer
\$100,000	Director Technical and Development Services
\$50,000	Manager Finance
\$50,000	Manager Operations
\$50,000	Asset Management Coordinator
\$20,000	Manager Development Services
\$20,000	Fitzroy Crossing Area Manager
\$20,000	Manager Administration & Governance
\$20,000	Manager Community Services

These amendments are recommended to clearly define purchasing authority within the organisation and will be included in Council’s policy AF1 – Procurement of Goods and Services and internal procedures.

VOTING REQUIREMENT

Absolute majority

ATTACHMENTS

- 1. AMENDED - F1 Payments from Municipal Funds - Incurring Liabilities and Making Payments** 

RESOLUTION 158/19

Moved: Cr Keith Bedford
Seconded: Cr Steve Ross

That Council by AN ABSOLUTE MAJORITY amend Delegation F1 – Payments from Municipal Funds – Incurring Liabilities and Making Payments as attached, in accordance with Section 5.42 of the Local Government Act 1995.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0 BY ABSOLUTE MAJORITY

10.7 POLICY REVIEW - AF1 PROCUREMENT OF GOODS AND SERVICES**File Number: 4160****Author: Danielle Hurstfield, Manager Administration and Governance****Responsible Officer: Amanda O'Halloran, Chief Executive Officer****Authority/Discretion: Administrative****SUMMARY**

This report recommends that Council adopt the revised Procurement of Goods and Services Policy in order to meet legislative requirements. This policy assists with establishing a strong governance framework with respect to the procurement of goods, services and works for the Shire of Derby/West Kimberley.

DISCLOSURE OF ANY INTEREST

The Chief Executive Officer and Manager Administration & Governance both hold purchasing delegations.

BACKGROUND

Amendments to the Local Government (Functions and General) Regulations 1996 were included in the previous management guideline used by Officers. The amendments were a result of recommendations made by the Local Government Steering Committee and the Corruption and Crime Commission (CCC), with the aim of improving the purchase and tendering practices of local government.

The key amendments are provided below:

- Tender Threshold
- Anti-Avoidance Provisions
- Receiving and Opening Tenders
- Varying a Contract
- Panels of Pre-Qualified Suppliers

STATUTORY ENVIRONMENT***Local Government Act 1995***

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.

Local Government (Functions and General) Regulations 1996

Part 4 — Provision of goods and services

Division 1 — Purchasing policies

11A. Purchasing policies for local governments

- (1) A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$150 000 or less or worth \$150 000 or less.
- (2) A purchasing policy is to make provision for and in respect of the policy to be followed by the local government for, and in respect of, entering into contracts referred to in subregulation (1).
- (3) A purchasing policy must make provision in respect of —
 - (a) the form of quotations acceptable; and
 - (ba) the minimum number of oral quotations and written quotations that must be obtained; and
 - (b) the recording and retention of written information, or documents, in respect of —
 - (i) all quotations received; and
 - (ii) all purchases made.

POLICY IMPLICATIONS

Amendment to this Policy

FINANCIAL IMPLICATIONS

Amendments to this policy will provide tighter controls around purchasing by reducing the number of Officers authorised.

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
4: Good governance and an effective organisation – Leadership that provides strategic direction for the community, supported by efficient and effective service delivery	4.1: Effective governance and leadership	4.1.4: Ensure governance policies and procedures are in accordance with legislative requirements

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Legal & Compliance: Procurement is not undertaken in accordance with legislative requirements	Possible	Moderate	Low	Adoption of revised policy and implementation of procedures

CONSULTATION

Senior Management Group

COMMENT

This policy was last reviewed and adopted on 28 February 2019 (MINUTE NO. 012/2019). Since this time there have been a number of Local governments reviewed with deficiencies found in both procurement policy and practices. The Shire has also received feedback from Auditors that procurement is an area that requires further improvement. To provide an assurance of transparency the attached AF1 Procurement of Goods and Services has used the WALGA model which provides industry best practice as a result of investigations and consideration of WA Auditor General guidelines. This policy is central to good governance and is referenced in the Code of Conduct, Statement of Business Ethics and Transaction Card Policy.

Further detail has been provided to include framework for purchasing in the spend area of \$0 - \$500. In the 2018/19 68% of all transactions below \$5,000 were identified in this spend area. This amendment seeks to find a balance between demonstrating value for money and the cost of doing so. All purchases will require documenting of the decision and approval by an authorising officer. The number of authorised officers has been reduced to 9 with purchasing limits set out below:

LIMIT	OFFICER
\$150,000	Chief Executive Officer
\$100,000	Director Technical and Development Services
\$50,000	Manager Finance
\$50,000	Manager Operations
\$50,000	Asset Management Coordinator
\$20,000	Manager Development Services
\$20,000	Fitzroy Crossing Area Manager
\$20,000	Manager Administration & Governance
\$20,000	Manager Community Services

Once adopted, all staff will be trained in the procedure and responsibilities.

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

- 1. AMENDED AF1 - Procurement of Goods and Services** 

RESOLUTION 159/19

Moved: Cr Rowena Mouda

Seconded: Cr Andrew Twaddle

That Council adopt the revised policy – AF1 Procurement of Goods and Services, as attached to comply with the Local Government (Functions and General) Regulations 1996.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

10.8 OCCUPATIONAL SAFETY AND HEALTH POLICY

File Number: 5470

Author: Michelle Inglis, Manager Human Resources

Responsible Officer: Amanda O'Halloran, Chief Executive Officer

Authority/Discretion: Executive

SUMMARY

The purpose of this report is to present the Occupational Safety and Health (OSH) Policy to Council for adoption.

DISCLOSURE OF ANY INTEREST

Nil

BACKGROUND

The Shire of Derby/West Kimberley originally adopted an Occupational Safety and Health Policy in 1998, it was reviewed in 2009 and recently in February 2019 it was rescinded with the view to combining it with AF 16 Injury Management at a later date through the policy review process that commenced in late 2018.

In September 2016 Council adopted the AF6 Risk and Opportunity Management Policy which was reviewed, updated and adopted in February 2019.

Since the changeover of Chief Executive Officers in mid-2019 and subsequent discussions with Council's insurers Local Government Insurance Services (LGIS) in the light of risk management and occupational safety and health it became apparent that a policy was required.

This the first step in ensuring our OSH systems, process and practices meet legislative requirements, the requirements of the Shires' insurers LGIS.

More importantly this provides a framework for our Councillors and staff to provide for a safe work environment and return home safe each day.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 2.7(2) (b) states that the making of a policy is a role of the Council.

Occupational Safety and Health Act 1984

19. Duties of employers

(1) An employer shall, so far as is practicable, provide and maintain a working environment in which the employees of the employer (the employees) are not exposed to hazards and in particular, but without limiting the generality of the foregoing, an employer shall —

(a) provide and maintain workplaces, plant, and systems of work such that, so far as is practicable, the employees are not exposed to hazards; and

- (b) provide such information, instruction, and training to, and supervision of, the employees as is necessary to enable them to perform their work in such a manner that they are not exposed to hazards; and
- (c) consult and cooperate with safety and health representatives, if any, and other employees at the workplace, regarding occupational safety and health at the workplace; and
- (d) where it is not practicable to avoid the presence of hazards at the workplace, provide the employees with, or otherwise provide for the employees to have, such adequate personal protective clothing and equipment as is practicable to protect them against those hazards, without any cost to the employees; and
- (e) make arrangements for ensuring, so far as is practicable, that —
 - (i) the use, cleaning, maintenance, transportation and disposal of plant; and
 - (ii) the use, handling, processing, storage, transportation and disposal of substances, at the workplace is carried out in a manner such that the employees are not exposed to hazards.

(2) In determining the training required to be provided in accordance with subsection (1)(b) regard shall be had to the functions performed by employees and the capacities in which they are employed.

Section 20 – Duties of Employees

20 . Duties of employees

(1) An employee shall take reasonable care —

- (a) to ensure his or her own safety and health at work; and
- (b) to avoid adversely affecting the safety or health of any other person through any act or omission at work.

(2) Without limiting the generality of subsection (1), an employee contravenes that subsection if the employee —

- (a) fails to comply, so far as the employee is reasonably able, with instructions given by the employee's employer for the safety or health of the employee or for the safety or health of other persons; or
- (b) fails to use such protective clothing and equipment as is provided, or provided for, by his or her employer as mentioned in section 19(1)(d) in a manner in which he or she has been properly instructed to use it; or
- (c) misuses or damages any equipment provided in the interests of safety or health; or
- (d) fails to report forthwith to the employee's employer —
 - (i) any situation at the workplace that the employee has reason to believe could constitute a hazard to any person that the employee cannot correct; or
 - (ii) any injury or harm to health of which he or she is aware that arises in the course of, or in connection with, his or her work.

(3) An employee shall cooperate with the employee’s employer in the carrying out by the employer of the obligations imposed on the employer under this Act.

POLICY IMPLICATIONS

AF6 Risk and Opportunity Management Policy. Adopted at OCM Feb 2019.

The policy states Risk Management Objectives (relevant to OHS) as

- The ongoing health and safety of employees at the workplace.
- Ensuring public safety within the Council’s jurisdiction is no compromised.
- Limited loss or damage to property or other assets.

And Responsibilities as

- Executives, managers and supervisors have the responsibility and accountability for ensuring that all staff manage the risks within their own work areas. Risks should be anticipated and reasonable protective measures taken.
- All staff will, after appropriate training, adopt the principles of risk management and comply with all policies, procedures and practices relating to risk management.
- All staff and employees will, as required, conduct risk assessments during the performance of their daily duties.

FINANCIAL IMPLICATIONS

There are no financial implications to the 2019-2020 budget.

LGIS to provide assistance and support through their provision of insurance services. Additional fee for services will be purchased using LGIS experience account.

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
<p>Goal 4: Good Governance and an effective Organisation</p> <p>Leadership that provides strategic direction for the community, supported by efficient and effective service delivery.</p>	<p>Outcome 4.1: Effective governance and leadership.</p> <p>Outcome 4.5: Skilled, committed and professional staff in a supportive environment.</p>	<p>Strategy 4.1.4: Ensure governance policies and procedures are in accordance with legislative requirements.</p> <p>Strategy 4.1.8: Develop and maintain risk management policies and procedures.</p> <p>Strategy 4.5.3: Ensure safe work practices through implementation of appropriate Occupational, Health, Safety and Welfare practices.</p>

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK	MITIGATION
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			ANALYSIS	
People Health & Safety: That our Staff are not provided a safe work environment.	Likely	Moderate	Medium	Council adopt the policy proposed.

CONSULTATION

Discussions have been held between LGIS Senior Management and the Shire’s Chief Executive Officer.

Planning and advice has been undertaken with the Shire’s Manager Human Resources and Emma Horsefield – Principal OSH Consultant with LGIS.

A draft policy was emailed to the Shire’s Senior Management Team and tabled at the 25 November 2019 management team meeting.

COMMENT

Since the changeover of Chief Executive Officers in mid-2019 and subsequent discussions with Council’s insurers LGIS in the light of risk management and occupational safety and health it become apparent that a policy was required as the first part of the Shires overall Occupational Safety and Health Plan to ensure our systems, process and practices met both legislative requirements and the requirements of LGIS. The main aim of the policy is to demonstrate management’s commitment to safety.

Following Council’s commitment to OSH by adopting the policy, the complete OSH process will be reviewed and updated to develop an OSH Plan that is relevant, legislatively compliant, best practice and has specific Safety and health objectives, measurable targets and timelines. It will provide for consultation and reporting, hazard management and training and supervision.

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

- 1. **AF17 - Occupational Safety and Health Policy** 

RESOLUTION 160/19

Moved: Cr Paul White
Seconded: Cr Steve Ross

That Council adopts the policy – Occupational Safety and Health as attached.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

10.9 ANNUAL FINANCIAL REPORT 2018-19 AND ANNUAL REPORT 2018-19**File Number: 5151****Author: Myra Henry, Manager Finance****Responsible Officer: Amanda O'Halloran, Chief Executive Officer****Authority/Discretion: Executive****SUMMARY**

For the Council to consider and accept the 2018-19 Annual Financial Report, Auditors Report as recommended for adoption by the Compliance and Strategic Review Committee meeting on the 12 December 2019.

The Auditors Report and the Annual Financial Statements of the Shire of Derby/West Kimberley for the financial year ended the 30 June 2019 have been received by the Shire in DRAFT on the 09 December 2019.

After receiving the auditor reports, the Compliance and Strategic Review Committee examined the report of the auditor and determine if any matters raised by the report require action to be taken and ensure appropriate action is taken in the future.

The Compliance and Strategic Review Committee has now provided this report and it's attachments for Councils consideration and acceptance.

DISCLOSURE OF ANY INTEREST

Nil

BACKGROUND

The Local Government Act 1995 and the Local Government (Financial Management) Regulations require the Shire to prepare, and Council to accept, the Annual Financial Statements and Audit Report of the Shires' accounts. Following this the Annual Report will be made available on the Shire's website and in turn be presented at the Annual General Meeting of Electors.

The Auditors Report and the Annual Financial Statements of the Shire of Derby/West Kimberley for the financial year ended the 30 June 2019 have been received by the Shire in DRAFT on the 09 December 2019.

After receiving the auditor reports, the Compliance and Strategic Review Committee examined the report of the auditor and determine if any matters raised by the report require action to be taken and ensure appropriate action is taken in the future.

The Compliance and Strategic Review Committee has now provided this report and it's attachments for Councils consideration and acceptance.

Annual Financials**Annual Report**

The 2018-19 Annual Report forms the main item of business discussed at the Annual General Meeting of Electors. Section 5.27 of the Local Government Act 1995 requires that the Annual General Meeting of Electors is to be held on a day selected by the Local Government, but not more than 56 days after the Annual Report is accepted.

It is anticipated that Council will accept the Annual Report at its meeting to be held 12 December 2019.

Furthermore, section 5.29 of the Local Government Act 1995 states that the Chief Executive Officer is to convene an Electors Meeting by giving at least 14 days public notice.

Should Council adopt the Annual Report at its meeting to be held 12 December 2019, the earliest date to issue local public notice is Thursday 16 January 2020, meaning that the earliest date the Annual General Meeting of Electors can be held is Friday 31 January 2020, with the last date being Wednesday 5 February 2020.

It is considered that the most appropriate date for holding the Annual General Meeting of Electors is Tuesday 4 February 2020 at 5.30pm. Elected Members are more likely to be available at this time due January recess and it also provides opportunity for the public to attend.

STATUTORY ENVIRONMENT

Section 6.4 of the *Local Government Act (1995)* requires all local governments to prepare an annual financial report for the preceding financial year.

The annual report is to contain a report from the Shire President, a report from the CEO, a report on the principal activities commenced or continued during the financial year and assessment of performance in relation to these activities, an overview of the principal activities proposed to commence or continue in the next financial year, and include the annual financial report or other matters of statutory compliance.

The annual financial report is required to be drawn up in accordance with the Act, *Local Government (Financial Management) Regulations*, the Australian Accounting Standards (including the Australian Accounting Interpretations) and International Financial Reporting Standards. The annual financial report is to be audited by the local government's auditors in accordance with the *Local Government (Audit) Regulations*.

The audit has now been completed by the Office of Auditor General and their contracted Auditors RSM under the requirements of the Local Government (Audit) Regulations 1996 (Audit Regulations) and Part 6 of the Financial Management Regulations for the year ended 30 June 2019. Based on the evidence that has been assessed as part of their engagement, the following has been reported in accordance with the Audit Regulations:

(i) The following material matters indicate non-compliance with Part 6 of the Act, the Financial Management Regulations or applicable financial controls of any other written law:

(a) For approximately 30% of purchase transactions we sampled, there was inadequate or no evidence that a sufficient number of quotations was obtained to test the market and no documentation was available to explain why other quotes were not sought. This practice increases the likelihood of not receiving value for money in procurement.

(b) The Shire has not reported the Asset Renewal Funding Ratio for 2019, 2018 and 2017 in the annual financial report as required by regulation 50(1)(c) of the Financial Management Regulations as planned capital renewals and required capital renewals were not estimated in a long-term financial plan and asset management plan respectively.

(ii) The following material matter indicates significant adverse trends in the financial position or the financial management practices of the Shire and are disclosed in Note 32 of the financial report:

(a) The Operating Surplus Ratio has been below the Department of Local Government, Sports and Cultural Industries standard for the last three years.

Section 5.54 of the *Local Government Act 1995* required the annual report for a financial year to be accepted by the local government no later than 31 December after that financial year by absolute majority.

Section 5.27 of the *Local Government Act 1995* required that a local government is to hold a General Meeting of the Electors of its district once every financial year, but not more than 56 days after the Council accepts its financial statements for the previous financial year.

The *Local Government (Administration) Regulations* require that the annual financial report be the first item of business on the agenda at the annual meeting of electors, followed by general business.

At least 14 days' notice of the meeting is required to be given.

POLICY IMPLICATIONS

There are no policy implications that relate to this report.

FINANCIAL IMPLICATIONS

The Annual Financial Statements set out the operating results for the Shire for the year ended 30 June 2019 and the assets and liabilities as at that date, together with other relevant financial information.

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
4: Good governance and an effective organisation Leadership that provides strategic direction for the community, supported by efficient and effective	4.1: Effective governance and leadership	4.1.3: Strengthen the governance role of Councillors by informing, resourcing, skilling and supporting their role
4: Good governance and an effective organisation Leadership that provides strategic direction for the community, supported by efficient and effective	4.1: Effective governance and leadership	4.1.4: Ensure governance policies and procedures are in accordance with legislative requirements

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK	MITIGATION
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			ANALYSIS	
Legal & Compliance: Failure to prepare and adopt the Annual Financial Report would result in non-compliance with its statutory responsibilities under the Local Government Act 1995	Rare	Moderate	Low	Accept officer recommendation

CONSULTATION

Moore Stephens (WA) Pty Ltd - consultants

Shire Staff

RSM - Contracted Auditors for the Office of the Auditor General

Office of the Auditor General for Western Australia

There is no legislative requirement to consult on the preparation of the Annual Financial Report, but the Local Government Act 1995 requires a General Meeting of Electors to be held and the Shire’s Annual Report, incorporating the Annual Financial Report, to be made available publicly.

COMMENT

The Shire has demonstrated a marked improvement in meeting the deadlines in regards to the 2018/19 Annual Report. Compared to 2017/18 in which the Shire had not completed a final audit and had audited financials until April 2019. The Shire has achieved the following;

- Annual Report submitted to the Auditors by 30 September as per requirements of the *Local Government Act 1995 section 6.4 (3)*.
- Completed Interim audit site visit on schedule
- Completed Final audit site visit on schedule
- Presentation of the Annual Financials to ensure compliance and submission to the Department of Local Government, Sports and Cultural Industries by 31 December as required by the *Local Government Act 1995 Section 7.9*.

As stated in the Office of the Auditor Generals Audit finding, the following issues have been raised;

(i) The following material matters indicate non-compliance with Part 6 of the Act, the Financial Management Regulations or applicable financial controls of any other written law:

(a) For approximately 30% of purchase transactions we sampled, there was inadequate or no evidence that a sufficient number of quotations was obtained to test the market and no documentation was available to explain why other quotes were not sought. This practice increases the likelihood of not receiving value for money in procurement.

As per the management comments Management has stated the following; As this issue was highlighted in the interim audit report, the Finance and Administration team have reviewed the purchasing policy and made changes giving greater internal control. It is noted that in some categories the commercial makeup of the Shire of Derby/West Kimberley limits the Shire's options of suppliers and ability to gain the required number of quotes. This has been factored in where necessary.

The new purchasing policy will go to Council for review at the December 2019 Compliance and Strategic Committee with a recommendation for adoption at the December 2019 Ordinary Meeting of Council.

It is anticipated that from February 2020 all Staff will be trained and using the new policy.

Responsible Person: Manager Finance and Manager Governance

Completion Date: February 2020

(b) The Shire has not reported the Asset Renewal Funding Ratio for 2019, 2018 and 2017 in the annual financial report as required by regulation 50(1)(c) of the Financial Management Regulations as planned capital renewals and required capital renewals were not estimated in a long-term financial plan and asset management plan respectively.

As per the management comments Management has stated the following; This ratio is a measure of the ability of a local government to fund its projected asset renewal/replacements in the future.

This ratio indicates whether the local government has the financial capacity to fund asset renewal as required, and can continue to provide existing levels of services in future, without additional operating income; or reductions in operating expenses. The ratio is calculated from information included in the local government's Long Term Financial Plan and Asset Management Plan; not the Annual Financial Report.

The Shire has only recently updated the Long Term Financial Plan in the 19/20 year and will move towards developing an Asset Management plan where the ratio can then be calculated in line with regulation 50(1)(c) of the Local Government (Financial Management) Regulations 1996.

Issues such as these have arisen from difficulties resourcing the department and the inability to retain appropriately skilled Staff, with the change in CEO there is a renewed effort to review the structure and an emphasis has been placed on improving retention in this area.

Responsible Person: Manager Finance/CEO

Completion Date: December 2020

(ii) The following material matter indicates significant adverse trends in the financial position or the financial management practices of the Shire and are disclosed in Note 32 of the financial report:

(a) The Operating Surplus Ratio has been below the Department of Local Government, Sports and Cultural Industries standard for the last three years.

This ratio is a measure of a local government's ability to cover its operational costs and have revenues available for capital funding or other purposes. This Ratio is worked out by the following formula

- *Operating Surplus Ratio - (Operating Revenue MINUS Operating Expense) divided by Own Source Operating Revenue*
- *Standards - Basic Standard between 1% and 15% (0.01 and 0.15) Advanced Standard > 15% (>0.15).*
- *SDWK has had less than 1% – 2018-19 – (0.54), 2017-18 – (1.58), 2016-17 – (0.71)*
- *Due to things like;*
 - *The impact of ongoing capital road funds such as Roads to Recovery (R2R) and Regional Road Group (RRG) -neither of which are included in the calculation of the operating surplus ratio.*
 - *WANDRAA (Natural Disaster such as Flood Damage) expenditure is recognised as operating expenditure but the Income is recognised as Capital Income. The Shire has had almost 11 million of WANDRAA expenditure in the last four years*
 - *Airports and Wharfs – more expenditure than income*
- *This will become a focus in the Long Term Financial and Asset Management Planning.*

Under Section 7.12A (4) of the Local Government Act 1995 requires a local government to prepare a report stating what action has been taken or is intended to be taken in respect to matters raised within the audit report. The Shire will need to draft a report to the Department within 3 months as due the above issue.

The Audit also raised fourteen further findings that require review and action - see attached Annexure A with management comments.







There has been a significant improvement in the operating fund from the 2017/18 year. In the 2017/18 the Shire had a deficit of \$(5,128,250) left over to cover loans and capital expenditure compared to the 2018/19 year the Shire had a surplus of \$2,041,874 to be able to cover its loans and capital expenditure.

On a positive note in the 2019/20 the Shire has started the process in ensuring the IPR (Integrated Planning and Reporting) programs are completed as per scheduled. We have the Corporate Business Plan and Long Term Financial Plan completed which has been incorporated into the 19/20 budget, which should translate to more improvements in coming years.

VOTING REQUIREMENT

Absolute majority

ATTACHMENTS

1. **Exit Meeting Agenda** 
2. **Closing Report for the year ended 30 June 2019** 
3. **Annexure A - Management Letter Points** 
4. **Annexure B - Effect of Adjustments and Misstatements** 
5. **2018/19 Draft Annual Report** 
6. **2018/19 Draft Annual Financial Report** 

RESOLUTION 161/19**Moved: Cr Keith Bedford****Seconded: Cr Chris Kloss****That Council BY AN ABSOLUTE MAJORITY recommend:**

- 1. Pursuant to section 5.54 of the Local Government Act 1995, ACCEPTS the 2018-2019 Annual Report incorporating the Annual Financial Statements and the Auditors Report.**
- 2. Authorises the Chief Executive Officer to oversee the final presentation and publication of the 2018-2019 Annual Report; and**
- 3. Pursuant to section 5.55 of the Local Government Act 1995, GIVES local public notice of the availability of the 2018-19 Annual Report.**
- 4. Pursuant to section 5.27 of the Local Government Act 1995, CONVENES by simple majority the Annual General Meeting of Electors on Tuesday 4th February 2020 commencing at 5.30pm at the Council Chambers, Derby; and**
- 5. ADVERTISE the Annual Electors Meeting in accordance with section 5.29 of the Local Government Act 1995.**
- 6. Pursuant Section 7 .12A (4) of the Local Government Act 1995, prepare a report stating what action has been taken or is intended to be taken in respect to the below matter raised within the audit report .**
 - *The Operating Surplus Ratio has been below the Department of Local Government, Sports and Cultural Industries standard for the last three years.***
- 7. Authorise the Chief Executive Officer to advertise the matter on the Shires website and ensure that the report is provided to the Department of Local Government Sport and Cultural Industries within 3 months of the meeting.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

REPORTS

11 EXECUTIVE SERVICES

11.1 MINUTES OF THE JOINT MEETING OF THE KIMBERLEY ZONE AND KIMBERLEY REGIONAL GROUP HELD 3 DECEMBER 2019.

File Number: 4221

Author: Amanda O'Halloran, Chief Executive Officer

Responsible Officer: Amanda O'Halloran, Chief Executive Officer

Authority/Discretion: Advocacy

SUMMARY

This report presents for Council endorsement the Minutes from the Joint Meeting of the Kimberley Zone of the Western Australian Local Government Association (WALGA) and the Kimberley Regional Group held on 3 December 2019.

DISCLOSURE OF ANY INTEREST

Nil.

BACKGROUND

A copy of the minutes from the joint meeting held 3 December 2019 between members of the Kimberley Zone of WALGA (Zone) and Kimberley Regional Group (KRG) is attached for Council consideration.

As a result of a past decision of the group, both the Kimberley Zone and KRG meetings are joined.

It should be remembered that the Kimberley Zone of WALGA is a group established to represent regional issues to the State Council of WALGA. This group includes the four Kimberley Shires in addition to the Shires of Christmas Island and Cocos Keeling Islands.

The KRG is a group defined through a deed of agreement between the four Kimberley local governments with the Minister for Local Government.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

STATUTORY ENVIRONMENT

Local Government Act 1995

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
4. Good governance and effective organisation	4.1 Effective governance and leadership	4.1.1 Provide leadership in balancing the needs of the community, government industry and the

	4.2 Effective engagement with community and stakeholders	environment 4.2.2 Work cooperatively with other Kimberley Shires and support the regional governance group
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RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Community: That the Shire’s interests and contribution to the zone are represented and reflect the views of the community	Unlikely	Minor	Low	Minutes received and endorsed by Council to allow for transparency and assist zone attendees with clear direction

CONSULTATION

Nil.

COMMENT

The minutes and respective background information are attached to this report and the following comments are made in relation to the resolutions passed by the Group. Additional recommendations have been made where necessary for Council’s consideration.

8.1 WALGA STATE COUNCIL AGENDA

This report provided members with the recommendations on Matters for Decisions that will be considered at the WALGA State Council meeting on 4 December 2019.

The item was carried.

8.2 WALGA PRESIDENTS REPORT

This report provided a copy of the WALGA President’s Report for December 2019.

The item was carried.

8.3 WALGA STATE BUDGET SUBMISSION

This report provided the priorities for inclusion in the next State Budget and Forward Estimates.

The item was carried.

8.4 WALGA REGIONAL MEETING – KIMBERLEY SEPTEMBER 2020

WALGA has requested that the Kimberley Zone host the State Council Regional Meeting on 3 and 4 September 2020.

The item was carried.

8.5 DEPARTMENT OF LOCAL GOVERNMENT SPORT AND CULTURAL INDUSTRIES – PARTICIPATION AT WALGA ZONE MEETINGS

This report sought approval of the DLGSC request to participate in the Kimberley Zone meetings to provide an update on key issues and opportunities.

This item was carried.

8.6 PROPOSED ALTERNATIVE TO THE CA07 RESTRICTED VEHICLE OPERATING CONDITION

This report sought a Kimberley Zone Representative for the Stakeholder Working Group for the consideration of the proposed alternative to the CA07 Restricted Access Vehicle Operating Condition.

The item was carried.

8.7 FUTURE DROUGHT FUND AND THE NATIONAL DROUGHT RESPONSE RESILIENCE PLAN

This report noted the Future Drought Fund and the National Drought Resilience Funding Plan.

The item was carried.

9.2 MEETING DATES 2020

This item provided guidance in relation to potential meeting dates for 2020.

The item was carried.

9.3 KIMBERLEY REGIONAL GROUP ANNUAL FINANCIAL REPORT 2018/19

This report presented the 2018/19 Audit and Annual Financial Statement for member consideration.

The item was carried.

9.4 DISASTER RELIEF FUNDING ARRANGEMENTS

This report recommended that the Kimberley Regional Group (KRG) adopt the Financial Activity Report.

The item was carried.

9.5 KIMBERLEY REGIONAL GROUP STATE BUDGET SUBMISSION

This item provided a budget submission to outline the key priorities of the region.

The item was carried.

9.6 ALCOHOL MANAGEMENT REPORT NOVEMBER 2019

This item provided an update on member Shire activities in relation to Alcohol Management.

The item was carried.

9.7 SAVANNAH WAY MEMBERSHIP RENEWAL

This item provided update on the current status of Savannah Way Ltd.

The item was carried.

9.8 DELEGATION TO CANBERRA

This item provided an overview of the planning, with a verbal update to be provided at the meeting on the 4 December 2019, of the delegation to Canberra.

The item was carried.

9.9 KIMBERLEY REGIONAL GROUP ADVOCACY AGENDA

This report presented a proposed Kimberley Regional Group Advocacy Agenda for consideration.

The item was carried.

9.10 DISASTER RELIEF FUNDING ARRANGEMENTS WA BUSINESS CASE

This report provided an update on the Disaster Relief Funding Arrangements Business Case.

This item was carried.

9.11 REGIONAL ROAD FUNDING

This report provided a request from Main Roads seeking endorsement of the nominated Roads of Strategic Importance (ROSI) roads projects and proposed ROSI funding allocations.

This item was carried.

9.11 REGIONAL ROAD FUNDING

This report provided a request from Main Roads seeking endorsement of the nominated Roads of Strategic Importance (ROSI) roads projects and proposed ROSI funding allocations.

This item was carried.

9.12 BUSINESS PLAN STATUS REPORT

This report provided an update of the Strategic Community Plan and Business Plan for the period 2018-2022.

This item was carried.

9.13 CONSULTANTS REPORT

This report provided an overview of the activity undertaken by the consultant to support the activities of the Zone.

This item was carried.

9.14 PASTORAL ANIMALS ADVISORY GROUP REPORT

This report provided an update on actions of the PAHAG.

This item was carried.

9.15 PUBLIC HEALTH RISKS ASSOCIATED WITH PESTICIDES IN WESTERN AUSTRALIA

This report provided an update from the KRG in regard to the response to the Management Public Health Risks Associated with pesticides in Western Australia.

This item was carried.

9.16 SUBMISSION TO THE PRODUCTIVITY COMMISSION ON REMOTE AREA TAXATION

This report provided a copy of the submission to the Productivity Commission Draft Report: Remote Area Tax Concessions and Payments Review.

This item was carried.

9.16 SUBMISSION TO THE SELECT COMMITTEE ON THE NORTHERN AUSTRALIA AGENDA REVIEW

This report provided a copy of the submission to the Select Committee on the Effectiveness of the Australian Government's Northern Australia Agenda.

This item was carried.

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

- 1. Joint Zone KRG Minutes 3 December 2019** 

RESOLUTION 162/19

Moved: Cr Paul White

Seconded: Cr Chris Kloss

That Council

- 1. Receives and endorses the resolutions of the Kimberley Zone of WALGA and Kimberley Regional Group as attached in the minutes from the Joint Meeting held 3 December 2019.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

11.2 LGIS SURPLUS DISTRIBUTION**File Number:** 5465**Author:** Amanda O'Halloran, Chief Executive Officer**Responsible Officer:** Amanda O'Halloran, Chief Executive Officer**Authority/Discretion:** Executive**SUMMARY**

To inform the West Australian Local Government Association (WALGA) of the Shire's preferred application of the 2019 Local Government Insurance Scheme (LGIS) surplus.

DISCLOSURE OF ANY INTEREST

Nil

BACKGROUND

WALGA has written to the Shire seeking a formal resolution from Council on the preferred application of the LGIS surplus for 2019.

The Shire maintains a comprehensive insurance portfolio for the protection against loss of assets and liability claims with these insurance policies procured through WALGA.

WALGA has established self-insurance schemes for local government including the LGIS Liability Scheme, LGIS WorkCare Scheme, LGIS Property Scheme and the LGIS Bushfire Volunteers Scheme.

Jardine Lloyd Thompson Pty Ltd (JLT) has been appointed by WALGA as the scheme manager for the self – insurance schemes known collectively as LGISWA and the City is a member of LGISWA.

WALGA has also appointed JLT as the insurance broker for local government and this joint venture trades as LGIS Insurance Broking (LGISIB). The Shire arranges its remaining insurance policies through LGISIS.

The 2018 surplus share was \$47,846.00, the Shire received this as a contribution credit and is utilising the funds to support the implementation of the Shires OSH processes and systems.

STATUTORY ENVIRONMENT

There are no statutory implications associated with the receipt of the LGIS surplus.

POLICY IMPLICATIONS

There are no policy implications associated with the receipt of the LGIS Surplus

FINANCIAL IMPLICATIONS

The Shire will receive \$68,322.00 as its share of the surplus from LGIS. \$34,161.00 will be utilised to fund risk mitigation activities and be retained in trust for the Shire and \$34,161.00 will be refunded into general revenue and distributed accordingly at the Annual Budget Review. The Shire has received a total of \$474,160.00 scheme surplus since 1995.

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
Good Governance and an effective organisation	Outcome 4.1: Effective governance and leadership	Develop and maintain risk management policies and procedures
	Outcome 4.4 Financial sustainability and accountability for performance	Actively pursue alternative sources of income to fund the Shires services and infrastructure.

RISK MANAGEMENT CONSIDERATIONS

Nil

CONSULTATION

Nil

COMMENT

The Shire’s share of the 2019 LGIS surplus is \$68,322

The Shire has three options being;

1. Receiving the surplus as a refund this year;
2. Allow LGIS to retain the funds to offset the Shire’s contribution for the next financial year; or
3. LGIS to retain the amount in trust for risk mitigation activities

The council has generally kept the funds in trust to cover risk mitigation and support, this year the Shire is undertaking significant work in this area, reviewing the Port, Pool, Occupational Health and Safety Programs, Business Continuity and Disaster Planning.

It is proposed to complete many of these works and proceed with further improvements in this area across airports, recreation facilities and waste facilities in the upcoming financial Year.

The Shire Administration therefore proposes that the Shire receive half of the funds back into general revenue and distribute accordingly at the Annual Budget Review; the other half of the funds are to be retained in trust to continue the risk mitigation activates for the organisation.

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

Nil

RESOLUTION 163/19

Moved: Cr Andrew Twaddle

Seconded: Cr Paul White

That The Council authorises the CEO to request that half of the LGIS surplus of \$34,161.00 be refunded to the Shire and the remaining half of \$34,161.00 be retained for further risk mitigation activities.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

11.3 BOAB TREE - 16 ARCHER STREET

File Number: A100430

Author: Amanda O'Halloran, Chief Executive Officer

Responsible Officer: Amanda O'Halloran, Chief Executive Officer

Authority/Discretion: Administrative

SUMMARY

This report seeks Council’s approval for the landowner to remove a Boab Tree from the rear of his property.

DISCLOSURE OF ANY INTEREST

The landowner is an Officer of the Shire of Derby/West Kimberley.

BACKGROUND

- The subject property is 16 Archer Street, Derby;
- The applicant is the owner of the property;
- Property is zoned Residential R15 and has an area of 916m2;
- Property is developed with a single residential dwelling, granny flat, pool and boat port.

STATUTORY ENVIRONMENT

Local Planning Scheme No.5 – Land Use and development issues and specifically Part 4 – Clause 4.9 – Landscaping and preservation of existing vegetation

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
Goal 2: A balance between the natural and built environment – sustainable environments that meets the needs of the community and supports growth	2.1: Appropriate development that enhances the unique character and heritage of the Shire’s township	2.1.4: Ensure quality, consistent and responsive development and building assessment approval processes and enforcement

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Property: Damage to property from Boab Tree.	Likely	Moderate	Medium	That Council approve removal of the Boab Tree.

CONSULTATION

Nil

COMMENT

The applicant is seeking approval to remove a Boab tree that is located near the applicant’s pool and accommodation.

The subject tree has an overall height of approximately 7 metres and is located within close proximity to the pool and accommodation. It generally appears in good health however its current location makes relocation difficult and it is likely that the tree will, in time, cause damage to the accommodation and pool as the trunk grows.

Planning considerations:

TPS No.5 includes the following provisions regarding landscaping and preservation of existing vegetation:

Clause 4.9.3 To maintain and enhance the character of the Town of Derby, no person shall remove a Boab Tree from any land within the scheme area without the prior written consent of the Council. For the purpose of this Clause:

- (a) the consent of Council shall not be unreasonably withheld and shall be issued where the tree is dead, dying or dangerous;
- (b) it shall be sufficient defence to show that a tree that has been removed was dead, dying or dangerous prior to its removal.

4.9.4 When considering an application for Planning Consent the Council shall determine whether any Boab tree or other vegetation on the subject site has landscape or environmental significance and should be retained and in granting consent to an application may:

- (a) impose a condition on the planning consent requiring the retention or relocation of the tree or trees;
- (b) request a modification of the proposal; and/or
- (c) permit a variation of the site development requirements to provide for retention of the tree or trees

In this particular instance, the tree does not appear as having any disease or structural faults that are causing any immediate risks. Rather the issue is that the location of the tree is likely to cause damage to pool and accommodation in the future as the tree continues to grow. The structure of the tree would also make its relocation problematical as is advocated under the scheme provisions. **(See Attachment 1 – Images)**

The tree being located at the rear of the property is not readily visible from the either street frontage and as such would not be regarded as having substantive landscape or environmental significance to the area generally. There is another Boab tree in the front setback area of the lot which the owner is retaining and has also planted a young boab in another part of the property which is from the seed of the tree to be removed.

Options:

Council has the following options in this matter:

1. Impose a condition requiring the owner to relocate the tree.

As previously described, the trees location would complicate its removal and relocation.

2. Council may deem that that the tree does not have any significant landscape or environmental issues that demands its retention over and beyond the owners' right to develop and use the land as proposed.

As described above, the tree is located at the rear of the property and is not readily visible from the street. The size of the tree suggests that it is not a particularly aged specimen and there is another Boab tree located at the front of the property that affords a greater contribution to the streetscape and the amenity of the area.

Having regard to the matters set out above, it is recommended that Option Two (2) be adopted and that the Council advises the owner that the subject tree may be removed.

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

1. **Boab - 16 Archer Street, Derby** 
2. **Letter from Wayne Neate dated 11 November 2019** 

RESOLUTION 164/19

Moved: Cr Andrew Twaddle

Seconded: Cr Paul White

That Council having regard to the matters set out within the Local Planning Scheme No.5, advises the owner of 16 Archer Street, Derby, that it approves the removal of the Boab tree located within the north west corner of the lot.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

12 CORPORATE SERVICES**12.1 ACCOUNTS FOR PAYMENT - NOVEMBER 2019****File Number: 5110 - Accounts Payable****Author: Tenille Parasiliti, Finance Officer****Responsible Officer: Amanda O'Halloran, Chief Executive Officer****Authority/Discretion: Information****SUMMARY**

For Council to note the list of accounts paid under delegated authority during the month of November 2019.

DISCLOSURE OF ANY INTEREST

Nil

BACKGROUND

Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the Shire's municipal and trust funds. In accordance with regulation 13 of the Local Government (Financial Management) Regulations 1996, a list of accounts paid by the Chief Executive Office is to be provided to Council.

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996

12. Payments from municipal fund or trust fund, restrictions on making

12(1) A payment may only be made from the municipal fund or a trust fund –

- (a) if the local government has delegated to the Chief Executive Officer the exercise of its power to make payments from those funds – by the CEO: or
- (b) otherwise, if the payment is authorised in advance by a resolution of the council.

The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.

13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.

(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared –

- (a) the payee's name; and
- (b) the amount of the payment; and

- (c) the date of the payment; and
 - (d) sufficient information to identify the transaction.
- (2) A list of accounts for approval to be paid is to be prepared each month showing —
- (a) for each account which requires council authorisation in that month —
 - (i) the payee’s name; and
 - (ii) the amount of the payment; and
 - (iii) sufficient information to identify the transaction; and
 - (b) the date of the meeting of the council to which the list is to be presented.
- (3) A list prepared under subregulation (1) or (2) is to be —
- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
 - (b) recorded in the minutes of that meeting.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

All expenditure from the municipal fund was included in the annual budget as adopted or revised by Council.

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
4: Good governance and an effective organisation Leadership that provides strategic direction for the community, supported by efficient and effective service delivery	4.4: Financial sustainability and accountability for performance	4.4.4: Provide resources to support the Shire’s operations and to meet planning, reporting and accountability requirements

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Legal & Compliance: In accordance with section 6.8 of the Local Government Act 1995,	Rare	Minor	Low	Expenditure to only be incurred in accordance with budget parameters, which have been

a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by an absolute majority of Council			structured on financial viability and sustainability principles
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CONSULTATION

Internal consultation within the Corporate Services Department.

COMMENT

All municipal fund expenditure included in the list of payments is incurred in accordance with the 2019-20 Annual Budget as adopted by Council at its meeting held 29 August 2019 (Minute No. 81/19 refers) and subsequently revised or has been authorised in advance by the President or by resolution of Council as applicable.

The table below summarises the payments drawn on the funds during the month. Lists detailing the payments made are appended as an attachment.

**REPORT TO COUNCIL
NOVEMBER 2019**

FUND	DETAILS	AMOUNT
MUNICIPAL ACCOUNT		
EFT Payments	EFT 47689 - 47799	363,809.78
Municipal Cheques	CHQ 54778 - 54781	52,265.25
Direct Debits	Fees & Charges, Credit Card Payments, Payroll, Payroll Liabilities	632,773.24
Manual Cheques		-
TRUST ACCOUNT		
EFT Payments	EFT 47791 - 47797	2,260.00
Trust Cheques	CHQ 6557 - 6564	640.00
TOTAL		\$1,051,748.27

Creditors Outstanding as at 30/11/2019

\$952,935.33

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

1. November - Detailed Payments List 
2. November - Credit Card Payments List 

RESOLUTION 165/19**Moved: Cr Paul White****Seconded: Cr Chris Kloss**

That Council NOTES the list of accounts for November 2019 paid under Delegated Authority in accordance with regulation 13(1) of the Local Government (Financial Management) Regulations 1996 attached to this report, totalling \$1,051,748.27

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

12.2 STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 30 NOVEMBER 2019.**File Number: 5152****Author: Myra Henry, Manager Finance****Responsible Officer: Amanda O'Halloran, Chief Executive Officer****Authority/Discretion: Information****SUMMARY**

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the Shire's financial performance on a year to date basis for the period ending 30 November 2019.

DISCLOSURE OF ANY INTEREST

NIL

BACKGROUND

Pursuant to section 6.4 of the Local Government Act 1995 and regulation 34(4) of the Local Government (Financial Management) Regulations 1996 ('the Regulations'), a local government is to prepare, on a monthly basis, a statement of financial activity that reports on the Shire's financial performance in relation to its adopted/amended budget.

The Shires Financial Reports are produced in accordance with the Local Government Act 1995 and Local Government (Financial Management) Regulations 1996 as amended. Regulation 34 of the Local Government (Financial Management) Regulations 1996 requires that local governments produce a monthly statement of financial activity and such other supporting information as is considered relevant by the local government.

The Shires financial reporting framework provides Council, management and employees with a broad overview of the shire wide financial position.

STATUTORY ENVIRONMENT:

Section 34 of the Local Government (Financial Management) Regulations 1996 provides:

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

- (1) *A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —*
 - (a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and*
 - (b) *budget estimates to the end of the month to which the statement relates; and*
 - (c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and*
 - (d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - (e) *the net current assets at the end of the month to which the statement relates.*

- (2) *Each statement of financial activity is to be accompanied by documents containing —*
 - (a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and*
 - (b) *an explanation of each of the material variances referred to in subregulation (1)(d); and*
 - (c) *such other supporting information as is considered relevant by the local government.*
- (3) *The information in a statement of financial activity may be shown —*
 - (a) *according to nature and type classification; or*
 - (b) *by program; or*
 - (c) *by business unit.*
- (4) *A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
 - (a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
 - (b) *recorded in the minutes of the meeting at which it is presented.*
- (5) *Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

POLICY IMPLICATIONS

- AF14 – Significant Accounting Policies
- AF18 – Sundry Debtors Collection
- AF19 – Outstanding Rates Collection
- FM4 – Reserve Accounts
- FM7 – Cashflow Management
- FM8 – Investments

FINANCIAL IMPLICATIONS

Expenditure for the period ending has been incurred in accordance with the 2019/20 Annual Budget as adopted by Council at its meeting held 29 August 2019 (Minute No. 86/19 refers) budget parameters, which have been structured on financial viability and sustainability principles.

Details of any budget variation in excess of \$30,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
4: Good Governance and an effective organisation	4.1: Effective Governance and Leadership	4.1.4: Ensure governance policies and procedures are in accordance with

Leadership that provides strategic direction for the community, supported by efficient and effective service delivery		legislative requirements
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RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<p>Financial:</p> <p>The Shire is exposed to a number of financial risks. Most of these risks exist in respect to recurrent revenue streams which are required to meet current service levels. Any reduction in these revenue stream into the future is likely to have an impact on the Shire’s ability to meet service levels or asset renewal funding requirements, unless the Shire can replace this revenue or alternatively reduce costs.</p>	Possible	Major	High	Risk assessments have been completed in relation to a number of higher level financial matters. The timely and accurate completion of monthly financial reporting enabling Council to make fully informed decisions is a control that assists in addressing this risk.

CONSULTATION

Internal consultation within the corporate services department.

External consultation with Moore Stephens.

In accordance with section 6.2 of the Local Government Act 1995, the annual budget was prepared having regard to the Strategic Community Plan, prepared under section 5.56 of the Local Government Act 1995.

COMMENT

Any material variances are highlighted in the Operating Statement and included by way of Note to the Operating Statement (as attached)

Attached to the Agenda is a copy of:

- Statement of Financial Activity by Program
- Statement of Financial Activity by Nature and Type

Notes related to –

- Significant Accounting Polies
- Net current Financial Position
- Capital – Acquisition, Funding and Disposal
- Cash and investments
- Budget Amendments
- Trust fund movements
- Material variances
- Grants and Contributions
- Rating Information
- Cash backed reserves
- Receivables
- Payables

And related summary graphs.

Comments are required for variances that are more than 10% of budget and \$30,000.

VOTING REQUIREMENT

Simple majority

ATTACHMENTS**1. Monthly Financial Report for 30 November 2019** **RESOLUTION 166/19**

Moved: Cr Rowena Mouda

Seconded: Cr Steve Ross

That Council RECEIVES the Monthly Financial Management Report incorporating the Statement of Financial Activity for the period ending 30 November 2019.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

13 TECHNICAL SERVICES

13.1 LEASING OF AREAS 2 AND 3 TO MPA FISH FARMS PTY LTD AT THE DERBY WHARF

File Number: 9010.13

Author: Wayne Neate, Director Technical and Development Services

Responsible Officer: Amanda O'Halloran, Chief Executive Officer

Authority/Discretion: Administrative

SUMMARY

This item is seeking approval for the continued Leasing of Areas 2 and 3 (located within the goods shed on the Derby Wharf) to MPA Pty Ltd for a period of 2 years with a 2 year option.

DISCLOSURE OF ANY INTEREST

Nil

BACKGROUND

MPA Fish Farms Pty Ltd undertake the production of Barramundi in Cone bay and use the Derby Wharf as a logistics hub to load feed on boats and store frozen Barramundi which are to be shipped off to their various markets. MPA began operations back in 2008 and were leased the areas of the goods shed known as area 2 and 3 for their operations on the 1st July 2009 for a five year period with a five year option. They exercised their option which resulted in the lease expiring on 30th June 2019.

Lease area 2 is used as the storage facility for the whole fish product and ice, but has also been used, in some instances, for limited handling operations for the whole fish product. Lease Area 3 has been used solely to store fish feed which is transported out to Cone Bay for the growing of the fish.

STATUTORY ENVIRONMENT

Local Government Act 1995 – 3.58 Disposal of Property – governs the process of disposal of property.

The Occupiers Liability Act 1985 – prescribes the standard of care owed by occupiers and landlords of premises to persons and property on the premises.

POLICY IMPLICATIONS

AF35 – Establishment of Leases and User Agreements

FINANCIAL IMPLICATIONS

It is proposed that the lease payments for Area 2 are \$21,420 per annum and for Area 3 are \$10,595 per annum plus initial payments for disbursements incurred in the leasing process. These disbursements would be the fees incurred for the valuation of both areas from the property valuers and all costs from McLeod’s Barristers and Solicitors in relation to these two leases.

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
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3. A strong and diverse local economy	3.4 Appropriate Infrastructure that supports economic development	3.4.1 Promote release of serviced industrial, commercial and residential land
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RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Financial: <i>If leases are not undertaken, business could move out of town resulting in loss of Jobs and other operational income</i>	Unlikely	Moderate	Medium	<i>Sign lease for further terms</i>
Reputation:	Unlikely	Moderate	Medium	<i>Sign lease for further terms</i>

CONSULTATION

Officers have been in contact with McLeod’s Barristers and Solicitors, Department of Transport Staff and MPA Fish Farms staff to resolve any issues with the lease and ensure compliance with all clauses of our Head Lease.

COMMENT

At the request of MPA Fish Farms Pty Ltd, valuations have been undertaken of both Lease areas, and the terms of the lease have been reviewed. There have been no other enquiries from other interested parties; however, there has also been no advertising requesting any interest from other parties.

VOTING REQUIREMENT

Absolute majority

ATTACHMENTS

Nil

RESOLUTION 167/19**Moved: Cr Paul White****Seconded: Cr Chris Kloss****That Council;**

- 1. Delegate authority to the Chief Executive Officer to commence the process of disposition of property in accordance with Section 3.58 of the Local Government Act by giving local public notice of its intention to lease area 3 and 2 of the Goods shed at the Derby Wharf to MPA Fish Farms Pty Ltd**
- 2. Subject to no objections being received by the close of the submission period, Council delegate authority to the Chief Executive Officer and Shire President to negotiate and execute a lease which will include the following;**
 - i) Approve the lease of Areas 2 and 3 within the Goods shed on the Derby Wharf to MPA Fish Farms Pty Ltd from the 1st July 2019 to 30th June 2021 with an option for a further 2 years with an expiry date of the 30th June 2023;**
 - ii) Lessee to pay for all costs associated with preparing the lease including but not limited to legal, advertising and survey fees;**
 - iii) Rental based on an independent market rental valuation;**
 - iv) Other standard terms and conditions of Shire lease agreements.**
- 3. Authorise the affixing of the common seal to the document**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

13.2 WAIVING OF FEES FOR BURIALS IN THE FITZROY CROSSING CEMETERY**File Number: 6320****Author: Wayne Neate, Director Technical and Development Services****Responsible Officer: Amanda O'Halloran, Chief Executive Officer****Authority/Discretion: Executive****SUMMARY**

This item seeks Councils support to waive burial fees for eight persons who were previously buried on the banks of the Fitzroy River, exhumed due to environmental factors and now at the request of the families they will be interned in the new Fitzroy Crossing cemetery.

DISCLOSURE OF ANY INTEREST

Nil

BACKGROUND

Following the wet season of 2016/17 a number of human remains were found exposed on the bank of the Fitzroy River to the South of the old cemetery on the banks of the river. It was found that the area south of the old cemetery was used for indigenous burials up until the mid to late eighties.

The Shire began working with the Department of Aboriginal Affairs (DAA) and the Kimberley Aboriginal Law and Cultural Centre (KALACC) to first identify the number of persons buried within the site and a process to intern them in the new Fitzroy Crossing Cemetery. During the location identification and exhumation of the bodies, some were identified by items on the person, however many were not.

Those that were not identified were re-interned in the new Fitzroy Crossing Cemetery. On the 16th August 2018 sixty five people were laid to rest and part of the Shire's involvement in this process was to excavate the new grave sites and have each coffin prior to the ceremony surveyed and marked. This work was carried out at no cost to other parties but at a cost to the Shire to demonstrate the Shires recognition of the injustices of the past. This decision to waive fees was not formalised through Council at the time.

Some of the exhumed bodies from the Fitzroy river bank have been kept in storage by KALACC as these were unidentified or there was difficulty gaining the families consent as to the direction to be taken at the time of the previous burials. Eight of those families have now approached KALACC to request that the remains be interned into the new Fitzroy Crossing Cemetery which was bought to the attention of Council on the 21st of November 2019 by Councillor Bedford acting on behalf of KALACC.

STATUTORY ENVIRONMENT

Local Government Act 1995

6.12 Power to defer, grant discounts, waive or write off debts.

(1) Subject to subsection (2) and any other written law, a local government may:

(b) waive or grant concessions in relation to any amount of money;

POLICY IMPLICATIONS

None applicable

FINANCIAL IMPLICATIONS

The cost to undertake the burials is \$6,000.00 which covers the cost of preparing the sites and associated administration tasks and responsibilities. If Council is to waive these costs, no income will be received.

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
4. Good Governance and an effective organisation	4.1 Effective governance and leadership	4.1.1 Provide Leadership in balancing the needs of the community, government, industry and the environment.

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Reputation: The reputation of the Shire is tarnished by not approving the fee waiver due to precedence and cultural insensitivity	Likely	Major	High	Due to the precedence that has been previously undertaken that the fees are waived and assistance offered in the reburial process

CONSULTATION

KALACC has been in touch with the families and noted their wishes which have been presented through Councillor Bedford to staff.

COMMENT

Due to a precedence being set with the fee waiver relating to the internment of the previous 65 persons in the burial that occurred on the 16th of August 2018 it is considered appropriate to treat these burials in the same manner to maintain good faith and equity, as these eight people have all come from the same area used as a cemetery on the banks of the Fitzroy River.

As a gesture of goodwill towards those families and the people of the Fitzroy Valley who have had family buried in the banks of the Fitzroy the assistance of the Shire is important. The waiving of the fess will help both the people and the shire move forward from the events of the past.

It is the officer’s recommendation to support the waiving of the fees.

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

Nil

RESOLUTION 168/19

Moved: Cr Paul White

Seconded: Cr Steve Ross

That Council;

- 1) Waive the burial fees associated with the process of internment for the eight persons into the new Fitzroy Crossing cemetery who were previously buried on the Fitzroy River bank.**
- 2) Provide ongoing approval for any related burial requests for the internment of any persons into the new Fitzroy Crossing cemetery who were previously buried on the Fitzroy River bank.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

13.3 ADDITIONAL EXPENDITURE - SUTHERLAND STREET RECONSTRUCTION

File Number: 0481

Author: Chris Hurstfield, Manager Technical

Responsible Officer: Wayne Neate, Director Technical and Development Services

Authority/Discretion: Executive

SUMMARY

This item is to consider a budget amendment to complete the reconstruction of Sutherland Street.

DISCLOSURE OF ANY INTEREST

Nil

BACKGROUND

Difficulties have been encountered during the reconstruction of Sutherland St due to the proximity of sewer manholes and asbestos cement water main to the open drains, and the condition of the existing subgrade. Additional funding is required to complete this project.

STATUTORY ENVIRONMENT

- *Local Government Act 1995* Part 6 Financial Management
- *Local Government (Financial Management) Regulations 1996*
- *Local Government (Functions and General) Regulations 1996* Part 4 Provision of Goods and

SERVICES POLICY IMPLICATIONS

AF1 – Procurement of Goods and Services
 AF33 – Regional Price Preference Policy

FINANCIAL IMPLICATIONS

The budget was insufficient to complete the project. It is proposed to utilise \$132,000 of Roads to Recovery funding to complete this project.

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
2: A balance between natural and built environments. Sustainable natural and built environments that meet the needs of the community and support future growth.	2.3: Reliable and safe transport infrastructure.	2.3.1: Develop a road maintenance and upgrading strategy.
4: Good governance and effective organisation. Leadership that provides	4.4: Financial sustainability and accountability for	4.4.4: Provide resources to support the Shire’s operations and to meet planning, reporting and accountability

strategic direction for the community, supported by efficient and effective service delivery.	performance.	requirements.
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RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Community: Access to communities and pastoral stations.	Almost Certain	Major	High	Maintain roads to industry standards.

CONSULTATION

Consultation with local residents has occurred on a regular basis during the project.

COMMENT

The design for this project had to be changed several times due to the proximity of Water Corporation assets to the new open drains (sewer main installed on incorrect alignment on wrong side of road, asbestos cement water main required protection east of Numbala Nunga). The condition of the underlying subgrade also required additional fill to be installed to ensure required compaction could be achieved. Omissions in the design also resulted in additional kerbing and rock protection being required.

VOTING REQUIREMENT

Absolute majority

ATTACHMENTS

Nil

<p>RESOLUTION 169/19</p> <p>Moved: Cr Andrew Twaddle</p> <p>Seconded: Cr Rowena Mouda</p> <p>That Council</p> <p>1. Amends the 2019/20 budget to include expenditure of \$132,000 to allow the completion of the Sutherland St Reconstruction project utilising Roads to Recovery funding.</p> <p><u>In Favour:</u> Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford</p> <p><u>Against:</u> Nil</p> <p style="text-align: right;">CARRIED 9/0 BY ABSOLUTE MAJORITY</p>
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14 DEVELOPMENT SERVICES

Nil

15 COMMUNITY AND RECREATION SERVICES**15.1 KRISTY BLAKE GROUP FITNESS - REQUEST FOR COMMUNITY/ NON GOVERNMENT FEES AND CHARGES FOR THE DERBY COMMUNITY ROOM AND UNDERCOVER COURT****File Number: 6130****Author: Madison Church, Senior Aquatic and Recreations Officer****Responsible Officer: Amanda O'Halloran, Chief Executive Officer****Authority/Discretion: Administrative****SUMMARY**

For Council to approve the use of the Derby Recreation Centre's community room and one multipurpose court at the Community/Non-Government rate for Kristy Blake's Boot camp and Spin bike classes.

DISCLOSURE OF ANY INTEREST

Nil

BACKGROUND

Sara Hennessy has provided on average 6 group fitness classes per week since September 2019, two of which are Spin bike classes. On average these classes are made up of;

- Up to 4 to 8 participants who are charged at \$30.00 per week and
- Up to 1 to 2 participants who are charged at \$15.00 per session.
- There has been a drastic increase in participants with potential of 15 participants or more attending classes sporadically over the past 10 weeks; this occurred when Derby Life and Soul partnered up with for the Derby Christmas Cracker event, run through the Derby Life and Soul health club.

Sara Hennessy has confirmed she will be relocating to Broome and so, will no longer be providing group fitness classes as of 30 December 2019.

Between May 2019 and August 2019, Derby and the surrounding communities had little to no group fitness options before Sara commenced her group fitness classes.

Positive steps ran a boot camp with three classes per week at \$15.00 per person, these sessions were held at 5.00am and finished in June 2019 with the intent of not returning.

Kristy Blake ran boot camp classes held at 5.00am. The last boot camp Kristy ran was an 8 week program with a 45 minute class once a week ending on the 8 August 2019. Participants were charged \$150.00 for the 8 week program.

Mireille Fricker runs a one hour Pilates class on a Saturday morning between the times of 9.30am till 10.30am in the Derby Recreation Centre Community Room and charges \$10.00 per session. There is a maximum of 10 spots for these classes with an average of 6 participants and the community room has been paid in full until the 31 December 2019.

To date fitness classes provided by individual instructors have generally had the community/non-government rate applied to support their operations as they are considered a hobby and not a commercial operation.

Sara’s group fitness classes have attracted a higher demand with Derby Clontarf approaching her for extra private group fitness sessions and Derby Life and Soul approaching her to partner up in the Derby Life and Soul Christmas Cracker event.

Should the opportunity of group fitness classes fail completely, the Derby community’s general fitness, health and wellbeing may be impacted.

Boot camps and Spin classes are affordable and well-structured, with qualified instructors that motivate all participants involved in a safe and controlled environment. Other benefits include but are not limited to, improved physical health and wellbeing, mental health and wellbeing and social engagement.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Projected Shire Income if the Shire was to charge the commercial/government rate –
Derby Recreation Centre Community room

approx. 30 weeks x 2 one hour bookings @ \$30.00 per hour = \$1,800.00 plus

One Derby multipurpose court

approx. 30 weeks x 2 one hour bookings with lights @ \$70.00 per hour = \$4,200.00

Total annual fees for approx. 30 weeks of use = \$6,000.00 (The application of this rate would inhibit the ability for the classes to proceed as anticipated numbers are not expected to cover full operational costs)

Shire Income if the Shire was to charge the community/non-government rate –
The Derby Recreation Centre Community room

approx. 30 weeks x 2 one hour bookings @ \$15.00 per hour = \$900.00 plus

One Derby Undercover court

approx. 30 weeks x 2 one hour bookings with lights @ \$30.00 per hour = \$1,800.00.

Total annual fees for approx. 30 weeks of use = \$2,700.00

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
Community Wellbeing	1.5 Sport, recreation and leisure opportunities that support community health and well-being.	1.5.1: Maintain and improve sporting and recreation facilities.
		1.5.2: Promote sporting, recreation and leisure facilities and programs.
		1.5.3: Develop and implement a health and well-being strategy.
	1.8 Access to learning, Cultural and art opportunities that support community growth and diversity.	1.8.4: Promote and support community and cultural events.
A balance between the natural and built	2.4 Shire buildings and facilities that meet	2.4.1: Ensure shire buildings, facilities and public amenities are provided and

environments	community needs.	maintained to an appropriate standard.
A strong and diverse local economy	3.1 Local business development and employment opportunities.	3.1.2: Lobby for employment opportunities.
	3.2 A strong and diverse industry base providing community benefits.	3.2.2: Investigate major joint ventures through a business and community benefits plan.
Good governance and an effective organisation	4.1: Effective governance and leadership.	4.1.1: Provide leadership in balancing the needs of the community, government, industry and the environment.
	4.3: Accessible and effective customer services and information system.	4.3.1: Provide and promote responsive customer services.

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Community: Concerns over continuity and creating an ongoing expectation in the community	Possible	Minor	Low	Community engagement with other service providers or community members that can increase group fitness activity.
Property: Concerns that the equipment may need increased maintenance or may require replacing during the agreement.	Possible	Minor	Low	Agreement will include clause that Shire is not currently in a position to maintain and upgrade equipment, if equipment fails, users will need to consider alternative options.

CONSULTATION

Kirsty is suggesting the following four options;

1. 6 week package that entitles each participant to two 45 minute spin classes per week, two 45 minute Boot Camp sessions per week, 3 recipes per week for breakfast, lunch and dinner, motivational emails and an outside of class challenge to complete @ \$300.00
2. 6 week package that entitles each participant to two 45 minute spin classes per week, 3 recipes per week for breakfast, lunch and dinner, motivational emails and an outside of class challenge to complete @ \$150.00

3. 6 week package that entitles each participant to two 45 minute Boot Camp sessions per week, 3 recipes per week for breakfast, lunch and dinner, motivational emails and an outside of class challenge to complete @ \$150.00
4. Casual attendance to either a Spin class or a Boot Camp class @ \$15.00 per participant for each session.

Using costing provided by Kristy, an average number of participants provided for Boot Camp (12 participants) and Sara's average number of participants provided for week passes for Spin Classes (8 participants), the projected annual income before expenses could be;

Boot camp (5 x 6 week programs = 30 weeks)

12 participants x \$150.00 per block x 5 blocks per year = \$9,000.00

Spin Classes (5 x 6 week programs = 30 weeks)

8 participants x \$150.00 per block x 5 blocks per year = \$6,000.00

Total annual income for 30 weeks of service before expenses = \$15,000.00

Kirsty will incur the following expenses;

- Facility hire – to be determined by council
- Insurance (public liability) - \$130.00 per year and
- Accreditation registration - \$250.00 per year
- Purchase of Equipment where applicable, current amount spent on Boot Camp equipment is truly within the thousands of dollars.

Kristy, moving into the future, would like to become a business entity should the demand of group fitness increase and/or be viable as a business within the Derby community. She would look into purchasing her own spin bikes among other fitness equipment, and employing qualified locals to assist with running group fitness classes in the future.

Should Kristy become a registered business, she will notify the Shire and renegotiations will commence with the Acting Aquatics and Recreation Manager, to be presented to Council.

COMMENT

Kristy Blake is a fully trained and registered fitness professional with her Certificate III in Fitness (Group Fitness) and Certificate IV in Fitness (Personal Trainer).

Kristy would like to work with the community of Derby by using her wealth of knowledge in the health and fitness industry to assist community members who are interested or need help and motivation to improve their physical and mental health.

Kristy supports a healthier community and believes the service she provides will assist in keeping the cost of health care down by improving community members' fitness which can assist in reducing health related issues.

Kristy would like to request the use of the Derby Community Room at the Community/Non-Government rate of \$15.00 per hour for two 45 minute Spin classes per week in 6 week blocks and one of the Undercover courts with lights at the Community/Non-Government rate of \$30.00 per hour for two 45 minute Boot camp classes per week in 6 week blocks.

Bookings will be made for the full one hour to allow time for the set up and pack up of her classes.

Kristy would also like to request the use of the Shire stationary spin bikes and the speaker and microphone located in the Community room.

Class timetable is as follows;

- Monday (Spin Class) 5.00pm – 6.00pm
- Tuesday (Boot Camp) 5.00am – 6.00am
- Wednesday (Spin Class) 5.00pm – 6.00pm
- Thursday (Boot Camp) 5.00am – 6.00am

Kristy is planning to run a 6 week programs from Monday, 20 January 2020 through to Thursday, 27 February 2020. She will be away for 3 weeks and on her return intends to continue running 10 - 6 week programs though the rest of the year.

The Shire Administration recommends Council supports this initiative in the interest of the Communities health and wellbeing with the potential of economic growth in the long term.

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

Nil

RESOLUTION 170/19

Moved: Cr Rowena Mouda

Seconded: Cr Keith Bedford

That Council:

- 1. Approves the use of the Community room at the Derby Recreation Centre for the use of Spin classes ran by Kristy Blake and the use of the Shires Spin Bikes, microphone and speaker at \$15.00 per hour for the following times**
 - Monday 5.00pm – 6.00pm**
 - Wednesday 5.00pm – 6.00pm**
- 2. Approves the use of one multipurpose court with lights at the Derby Recreation Centre for the use of Boot Camp classes ran by Kristy Blake at \$30.00 per hour for the following times.**
 - Tuesday 5.00am – 6.00am**
 - Thursday 5.00am – 6.00am**

Kristy Blake will be responsible for her own insurance and must provide a current copy of public liability to the Shire prior to the commencement of her program

Kristy Blake will be responsible for other extra costs associated with the running of her Boot Camps and Spin Classes, this includes but is not limited to organising alternative equipment should the current shire equipment fail.

Kristy Blake will be responsible for supplying attendance numbers to the Aquatic and Recreation Manager on a weekly bases to track facility attendance which will be presented to council on a monthly basis.

Should Kristy Blake become a business entity prior to the 30 June 2020 Kristy will notify the Shire and Kristy will be charged at the full Commercial/ Non-Government fees and charges rate.

Arrangement to be reviewed and a user agreement considered prior to the commencement of July 2020.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0 BY ABSOLUTE MAJORITY

16 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

17 NEW BUSINESS OF AN URGENT NATURE

Nil

18 MATTERS FOR WHICH THE MEETING MAY BE CLOSED (CONFIDENTIAL MATTERS)

RESOLUTION 171/19

Moved: Cr Paul White

Seconded: Cr Andrew Twaddle

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 5.23(2) of the Local Government Act 1995:

18.1 Air BP

This matter is considered to be confidential under Section 5.23(2) - c and e(iii) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting and a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person, where the information is held by, or is about, a person other than the local government.

18.2 Derby Wharf Cafe

This matter is considered to be confidential under Section 5.23(2) - c and d of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting and legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

At 6.00pm the meeting was closed and the public left the gallery.

RESOLUTION 172/19

Moved: Cr Paul White

Seconded: Cr Chris Kloss

18.1 AIR BP

RECOMMENDATION

That Council

- 1. Approve the Shire taking on the provision of fuel services at the Derby Airport for Air BP in the interests of economic development for Derby and the Region.**
- 2. As per the commercial specifics of this report delegate the CEO to negotiate an acceptable contract with Air BP for an initial 12 month trial with a full review to be undertaken at that time.**
- 3. Report to Council quarterly on the financial and resourcing aspects of the operation for**

their consideration.

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Chris Kloss, Andrew Twaddle, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 9/0

At 06:15 pm, Cr Andrew Twaddle and Cr Geoff Haerewa left the meeting.

RESOLUTION 173/19

Moved: Cr Chris Kloss

Seconded: Cr Steve Ross

18.2 DERBY WHARF CAFE

RECOMMENDATION

That with respect to subject of this report, Council adopt the Officer recommendation contained in the body of the report.

In Favour: Crs Paul White, Geoff Davis, Chris Kloss, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 7/0

RESOLUTION 174/19

Moved: Cr Chris Kloss

Seconded: Cr Steve Ross

That Council moves out of Closed Council into Open Council.

In Favour: Crs Paul White, Geoff Davis, Chris Kloss, Steve Ross, Rowena Mouda, Pat Riley and Keith Bedford

Against: Nil

CARRIED 7/0

At 06:20 Pm, Cr Andrew Twaddle and Cr Geoff Haerewa returned to the meeting.

19 CLOSURE

19.1 Date of Next Meeting

The next ordinary meeting of Council will be held Thursday, 27 February 2020 in the Council Chambers, Clarendon Street, Derby.

19.2 Closure of Meeting

The Presiding Member closed the meeting at 6.23pm.

These minutes were confirmed at a meeting on

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Signed:

Presiding Person at the meeting at which these minutes were confirmed.

Date: