



Town of
Port Hedland



Ordinary Meeting of Council Minutes

Council Chambers, McGregor St, Port Hedland

5:30pm Wednesday 24 July 2019

Distribution Date:
31 July 2019

David Pentz
Chief Executive Officer

Our Vision

*To be Australia's leading
Port Town embracing
community, culture
and environment*



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Item 1 Opening of Meeting

The Commissioner declared the meeting open at 5.30 pm.

Item 2 Acknowledgement of Traditional Owners and Dignitaries

The Commissioner acknowledged the Kariyarra people, on whose lands we are meeting, and paid his respects to Elders past, present and emerging.

The Commissioner also acknowledged Honorary Freeman of the Town of Port Hedland Arnold Carter, the Mayor Camilo Blanco, Deputy Mayor Louise Newbery and the President from the Shire of Ashburton, Kerry White.

The Commissioner thanked the public for attending and welcomed those watching the live stream, especially Peter Rogers and Caroline Knight from the City of Mandurah.

Item 3 Recording of Attendance

3.1 Attendance

Hon Fredrick Riebeling Commissioner

David Pentz	Chief Executive Officer
Michael Cuvalo	Acting Director Development, Sustainability and Lifestyle
Anthea Bird	Director Corporate and Performance
Louise O'Donnell	Acting Senior Governance Advisor
Wendy Barnard	Corporate Support Officer/ Minute Taker

Staff	11
Public	13
Media	1

3.2 Attendance by Telephone / Instantaneous Communications

Nil

3.3 Apologies (Not applicable during Council suspension.)

Nil

3.4 Approved Leave of Absence (Not applicable during Council suspension.)

Nil

3.5 Disclosures of Interest

Nil

Item 4 Applications for Leave of Absence

Nil

Item 5 Response to Previous Questions

5.1 Response to Questions taken on notice from Public at the Ordinary Council Meeting held on Wednesday 26 June 2019

5.1.1 Mr Ron Attwood

Could I please have a breakdown of materials and contracts of the budget amount of \$43,625,430?

The Acting Manager Financial Services advised that the materials and contracts budget is broken up as below:

Materials and Contracts by Program	
Operating Expenditure	
General Purpose Funding	58,000.00
Governance	352,515.00
Law, Order, Public Safety	354,050.00
Health	51,000.00
Education and Welfare	389,081.00
Housing	292,000.00
Community amenities	3,409,710.00
Recreation and Culture	3,855,624.46
Transport	30,307,770.00
Economic Services	549,343.00
Other Property and Services	4,006,343.00
	43,625,436.46

Your budget advises that you have finalised the debts for the amount of \$23.9M. What was the payout figure that was included in this payment? What was the position regarding self-supporting loans, which is in the same line item?

The Mayor advised that there are two self-supporting loans, one was the Port Hedland Yacht Club and the other one was the South Hedland Bowling and Tennis Club, with the total being approximately a million dollars.

The Acting Manager Financial Services advised that the 2018/19 amended budget provided for full payment of all loans. The Acting Manager Financial Services further advised that all outstanding loans were paid out on 17 June 2019. The payout figure (including principal, interest and premium payments) totalled \$24,970,675.64. The self-supporting loans were paid out however the corresponding debt outstanding to the

Town from the Port Hedland Yacht Club and South Hedland Bowling and Tennis Club is still due and payable on the same terms.

5.2 Response to Questions taken on notice from Elected Members at the Ordinary Council Meeting held on Wednesday 26 June 2019

Nil

Item 6 Public Time

Important note:

This meeting is being recorded on audio tape and streamed live online. If you do not give permission for recording your participation please indicate this at the meeting. In accordance with the Town's Standing Orders nobody shall record the proceedings of any meeting unless that person has been given permission by the chairperson to do so and mobile telephones must be switched off.

Unless the Presiding Member determines otherwise, a person may ask up to three questions at a meeting. The minimum time to be allocated for the asking of and responding to questions raised by members of the public is 15 minutes but the Presiding member may extend question time for up to 60 minutes after the end of the minimum time for questions. Members of the public are required to complete a question form and place the completed form in the tray provided.

In accordance with the Town's Standing Orders, if the Presiding Member determines that questions and statements are out of order due to the use of an offensive or objectionable expression, or are defamatory, they will not be recorded or responded to.

6.1 Public Question Time

The Commissioner opened Public Question Time at 5.34pm.

6.1.1 Mr Chris Whalley

Given that the leases of most of the residents of the Port Hedland Retirement Village expired on 30 June 2019, does the Town of Port Hedland have any new leasing arrangements in place?

The Chief Executive Officer advised that this work is ongoing and residents will be informed of the outcome shortly.

6.1.2 Mr George Daccache

As a Councillor I asked a number of times if Council could approach the main shopping centres to request the installation of car parking spaces for seniors next to the disabled parking spaces. Could you tell me the status of that request? Can Council also provide car parking spaces for seniors next to the disabled parking spaces at the Civic Centre?

The Chief Executive Officer advised that this question would be taken on notice.

6.1.3 Mr Dean Davis

The local government has been addressed multiple times about concerns of the dangers of education being presented and procedures endorsed by local government on disposal of bio-hazardous waste in unmarked, unrated containers and recycling.

Why is Council promoting or endorsing these procedures and ignoring presented dangers, when it should be refusing to promote or endorse them until the problem is resolved?

The Commissioner asked if this question related to a state-wide recycling program.

I assume that it is. I have been talking at a local level in regards to the program and the dangers involved.

The Commissioner queried if this question related to hazardous waste.

Currently the state and local government have promoted placing bio-hazardous needle waste into unmarked, unrated containers that end up in general waste or recycling streams and using that as a means of stating that the needle waste found in the local community is acceptable.

The Commissioner advised that the needle exchange program is a federal program, run by the State Government through the Health Department. The needle exchange program in Hedland had not been functioning well and no longer operates.

There is no exchange program.

The Commissioner replied that it is his understanding that the needle exchange program should operate out of the hospital, but that is not happening. The Health Department is investigating using the Well Women's Centre to run the needle exchange program, but they are not offering any payment. The State Government should be responsible for this.

The Commissioner further advised that he believes there are pick up litter programs to encourage people not to litter and queried if there were any other programs in town.

The Acting Director Development, Sustainability and Lifestyle replied that public community groups undertake litter collection programs on roadsides and local reserves and the Town has a collection program through the parks and gardens teams.

The Commissioner advised that the local Upper House member, Stephen Dawson, is the minister that runs the waste strategy.

Mr Dawson refuses to correspond on this matter, he states that needle waste is not in his portfolio.

The Commissioner advised that Mr Dawson is the Minister who runs the waste strategy for Western Australia and that his understanding was that the former Minister Sheila McHale is the chairperson of that board. The Commissioner further advised that if Mr Davis drafted a letter to Mr Dawson he would direct it to the Minister on his behalf.

I have sent a letter to Kevin Michel who had stated that there is currently no local location acceptable for a needle exchange program. I have also been in recent correspondence with Town staff who state that they intend to increase the number and visibility of sharp disposal points over a needle exchange program scheme. This has been raised multiple times in Council meetings and it is acknowledged that the community do not want parks and children's playgrounds turned into high traffic needle drug locations.

The Commissioner asked Mr Davis if he wished to say anything else.

Why is local government not listening to the local community or following the direction voted on in Council meetings? Council voted unanimously to take every available option for a needle exchange program.

The Commissioner advised that he thinks Council is following the direction voted on.

Then why are Council going in a different direction?

The Commissioner replied that he does not believe that Council are going in a different direction.

Correspondence that I have indicates that they are increasing the number and visibility of sharps disposal points. That is not in line with the direction of the needle exchange program. My question is what would it cost to set up each disposal point location and maintain it over the course of twelve months?

The Acting Director Development, Sustainability and Lifestyle advised that the Town is supportive of and currently operates needle disposal points in multiple public toilets and other facilities throughout the community. This is a standard approach taken across the state and the country and is due to the occurrence of needles in the community.

In relation to increasing the disposal points, they are included in new Town facilities and it is standard practice to install disposal points at these locations. With respect to the needle exchange program, the Town actively supports that program. The Health Department is leading and managing this initiative and it is their responsibility to identify a site. If the Town can support that it will, but no request has been received to date. The Town is in communication with the Health Department and will assist if possible.

6.1.4 Mr Deon Cawthray

The State Administrative Tribunal came back with a ruling against Councillor Daccache on 24 June 2019. Even though Council is suspended now, I would like to know if Councillor Daccache is reprimanded, fined or removed?

The Chief Executive Officer advised that the question would be taken on notice.

Have you made a decision on the timing of the next election, will it be October or February?

The Commissioner advised that elections will not take place in October 2019, but take place in approximately late January or early February 2020. The date of elections will be well advertised.

Will elections be held at the end of the suspension?

The Commissioner advised in the affirmative.

The Commissioner closed Public Question Time at 5.45pm.

6.2 Public Statement Time

The Commissioner opened Public Statement Time at 5.45pm.

The Commissioner closed Public Statement Time at 5.45pm.

6.3 Petitions/Deputations/Presentations/Submissions

Nil

Item 7 Questions from Members without Notice

Not applicable during Council suspension.

Item 8 Announcements by Presiding Member without Discussion

Mayor's Meetings for the month of June 2019:

Date	Meeting	Topic
5/6/2019	Business Breakfast	Hosted at the WEB Business Hub ft Dianne Wolfer
5/6/2019	Confidential Briefing	As per agenda
5/6/2019	Special Council meeting	As per agenda
6/6/2019	Meeting with Minister Saffiotti	Minister for Transport; Planning and Lands. Accompanied by David McFerran, Principal Policy Adviser; Patrick Abromeit, Transport Policy Adviser; Joel Kelly, Senior Media Adviser; Peter Woronzow, the Managing Director of Main Roads and Kevin Michel MLA, Member for Pilbara.
6/6/2019	Meeting with Minister Templeman	Hon. David Templeman MLA, Minister for Local Government; Heritage; Culture and the Arts meeting with staff and Elected Members regarding the Show Cause Notice sent on 31 May 2019.
11/6/2019	Advisory Forum Agenda Briefing	As per agenda
11/6/2019	Dept. Planning and Land Heritage	Stage One of Design WA
11/6/2019	Western Australian Planning Commission (WAPC) Dinner	Dinner with Planning Commission
12/6/2019	WAPC Bus tours	Tour of Port and South Hedland, and Wedgefield
12/6/2019	Budget Workshop	As per agenda
12/6/2019	Special Council Meeting	As per agenda
12/06/19	Agenda Feedback Session	As per agenda
12/06/19	Confidential Briefing	As per agenda
14/6/2019	Visitors Centre	Comms appearance
14/6/2019	Golf Club	Meeting
15/6/2019	Opening of refurbished Kevin Scott Oval Playground	Speech and official opening
17/6/2019	Kathy Mann meeting (HSHS)	Community Project
17/6/2019	LEMC	As per agenda
19/6/2019	East Pilbara District Health Advisory Council (DHAC) Meeting	Meeting with District Health representatives
19/6/2019	BHP NPI Catch-up	Meeting with BHP
19/6/2019	Confidential briefing	As per agenda
20/6/2019	Gallery	Comms appearance
20/6/2019	School board meeting	As per agenda

Date	Meeting	Topic
21/6/2019	Port Hedland International Airport Meeting	Mayor, CEO, Rod Evans and Hon Cheryl Edwards
21/6/2019	Phoenix Security	Jim Stanley
25/6/2019	Hedland Community Safety Advisory Forum	As per agenda
25/6/2019	Hedland Roadwise Group meeting	As per agenda
26/6/2019	Jansen Monterio	Community work for youth justice
26/6/2019	TOPH/Linkforce	The opportunities to work collaboratively with regional communities in terms of existing programs and better understand the specific challenges for Port Hedland
26/6/2019	Nicki – Resident	Community safety/needles
26/6/2019	Ordinary Council Meeting	As per agenda
27/6/2019	BHP Stakeholder Engagement Group	Housing, Camps and aviation

Item 9 Declarations of All Members to Have Given Due Consideration to All Matters Contained in the Business Paper before the Meeting

The Commissioner declared that he had given due consideration to all matters contained in the agenda.

Item 10 Confirmation of Minutes of Previous Meeting

10.1 Confirmation of Minutes of the Ordinary Council Meeting held on Wednesday 26 June 2019

CM201920/001 OFFICER’S RECOMMENDATION / COUNCIL DECISION

That Council confirm that the Minutes of the Ordinary Council Meeting held on Wednesday 26 June 2019 are a true and correct record.

CARRIED BY COMMISSIONER RIEBELING

Disclaimer

Members of the public are cautioned against taking any action on Council decisions, on items on this evening’s Agenda in which they may have an interest, until formal notification in writing by the Town has been received. Decisions made at this meeting can be revoked, pursuant to the Local Government Act 1995.

Item 11 Reports of Officers

11.1 Corporate and Performance**11.1.1 Statement of Financial Activity for the Period Ended 31 May 2019 (File No. 12/14/0003)**

Author	Acting Manager Financial Services
Authorising Officer	Director Corporate and Performance
Disclosure of Interest	The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

CM201920/002 OFFICER'S RECOMMENDATION / COUNCIL DECISION

That Council, pursuant to section 6.4 of the *Local Government Act 1995*:

1. Receive the Statement of Financial Activity for the period ended 31 May 2019;
2. Receive the Material Variance Report;
3. Note the Accounts paid under delegated authority for period ended 31 May 2019; and
4. Receive the Credit Card Statements for period ended 31 May 2019.

CARRIED BY COMMISSIONER RIEBELING

PURPOSE

The purpose of this report is for Council to consider the Statement of Financial Activity for the period ended 31 May 2019. Supplementary information is also presented to Council to provide further information regarding the Town's activities.

DETAIL

The information provided in this report is for the period ended 31 May 2019, with financial results included in *Attachment 1. Statement of Financial Activity Notes 1-12* prepared by the Town of Port Hedland.

The Town of Port Hedland financial activity reports use a materiality threshold to measure, monitor and report on financial performance and position of the Town.

As part of the 2018/19 original budget, Council adopted the following thresholds as levels of material variances for financial reporting.

1. With regards to expenditure classified as capital projects, a variance of 10% or \$10,000, whichever is greater, of the year to date budget, with individual project as the level that requires explanation.
2. With regards to all other items excluding capital projects identified above, a variance of 10% or \$50,000, whichever is greater, of the year to date budget, with Nature and Type as the level that requires explanation.

Commentary is provided on variances as details above as per *Attachment 2 Note 13. Explanation of Material Variances.*

The opening funding surplus of \$7.1M presented in YTD Actual on the Statement of Financial Activity is as per the closing surplus presented in the audited June 2018 financial statements.

The net current asset position as at 31 May 2019 was \$25.7M. The breakdown of the cash position is displayed below:

	2018/19 Actuals
Current Assets: Cash and Investments	\$248.5M
Restricted Cash – Reserves	\$238.0M
Unrestricted Cash Position as at 31 May 2019	\$9.9M

Previous Decisions

The Statements of Financial Activity are presented to Council each month for noting.

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 ‘Significant Decision Making’, this matter is considered to be of low significance, because this report is presented to Council for information purposes only.

CONSULTATION

Internal

All consultation and engagement is conducted internally.

Community

N/A

LEGISLATION AND POLICY CONSIDERATIONS

Section 6.4 of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Financial Management) Regulations 1996* detail the form and manner in which a local government is to prepare its statement of financial activity.

FINANCIAL AND RESOURCES IMPLICATIONS

The statement of financial activity is to be supported by such information as is considered relevant by the local government 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 sub-regulation (1)(d); and
- c. supporting information as is considered relevant by the local government.

Reserves:

Ensure compliance will section 6.11 of the *Local Government Act 1995* when reserve accounts are utilised.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following section of the Council's *Strategic Community Plan 2018-2028* is applicable in the consideration of this item:

- 4.b.1** Sound long-term financial planning is implemented
- 4.b.2** Transparent and regular financial reporting and communication to the community is undertaken
- 4.b.3** Transparent and regular governance reporting and communication to the community is undertaken

There are no significant identifiable environmental, social or economic impacts relating to this item.

RISK MANAGEMENT CONSIDERATIONS

As per the risk matrix contained in policy 1/022 'Risk Management', the level of risk is considered to be Medium (6) .

There is a risk rating of medium (6) assigned in the 2018/19 budget to the risk that a reduction in income or increase in expenses throughout the 2018/19 financial year is likely to have an impact on the Town's ability to meet service levels or asset renewal funding requirements. The risk action plan is to monitor revenue and expenditure on a regular basis ensure in line with budget and amend as needed.

OPTIONS

Option 1 - Adopt Officers Recommendation

Note the Statement of Financial Activity and reports for the period ended 31 May 2019 in accordance with *regulation 34(1) of the Local Government (Financial Management) Regulations 1996*.

Option 2 - Amend Officers Recommendation

That Council receive the Statement of Financial Activity for the period ended 31 May 2019 and request further information or clarification.

Option 3 – Do not adopt Officers Recommendation

That Council do not note or receive the Statement of Financial Activity for the period ended 31 May 2019.

CONCLUSION

The opening funding surplus of \$7.1M presented in YTD Actual on the Statement of Financial Activity is as per the closing surplus presented in the audited financial statements. The net current asset position was \$25.7M.

Variances in operating revenue and expenditure are addressed in detail in *Attachment 2 Note 13. Explanation of Material Variances*. The net current asset position will decrease as operating and capital budgets are expended throughout the year.

ATTACHMENTS

1. Statement of Financial Activity Notes 1-12 (Under Separate Cover)
2. Note 13 Material Variance Report (Under Separate Cover)
3. Accounts paid under delegated authority listing (Under Separate Cover)
4. Credit Card Statements for period ended 31 May 2019 (Under Separate Cover)

11.1.2 Policy Update 1/009 Legal Representation for Council Members and Employees (File No. 04/03/0001)

Author	Legal Advisor
Authorising Officer	Director Corporate and Performance
Disclosure of Interest	The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

CM201920/003 OFFICER'S RECOMMENDATION 1 / COUNCIL DECISION

That Council adopt revised policy 1/009 'Legal Representation for Council Members and Employees' as per Attachment 1.

CARRIED BY COMMISSIONER RIEBELING

CM201920/004 OFFICER'S RECOMMENDATION 2 / COUNCIL DECISION

That Council amend the Town of Port Hedland Delegation Register under delegation 1.2.21 'Payments from the Municipal or Trust Funds' to add the following condition:

1. "Authority for the CEO to approve payments made in accordance with Clause 6 of the Town's Policy 1/009 'Legal Representation for Council Members and Employees' to the limit of \$10,000".

CARRIED BY COMMISSIONER RIEBELING - ABSOLUTE MAJORITY

PURPOSE

The purpose of this report is for Council to consider changes to the current policy 1/009 'Legal Representation – Costs Indemnification' ('Current Policy'), which has been renamed 'Legal Representation for Council Members and Employees' ('Revised Policy').

DETAIL

Local governments have a duty of care to their employees to provide a safe working environment, and morally have the same duty to Council members. To reinforce this, in January 2006, Council adopted policy 1/009 'Legal Representation – Costs Indemnification', with the objective of protecting the interests of council members and employees if they became involved in legal proceedings because of their official functions.

In April 2006, the then Department of Local Government and Communities published a model policy for 'Legal Representation for Council Members and Employees'.

The Revised Policy is framed upon the Department's model policy and differs from the Current Policy in the following regard:

Clause 1 – Payment Criteria	Now sets out clearer minimum payment criteria.
Clause 2 – Examples of Legal Representation Costs that may be Approved	<p>Adds 'exceptional circumstances' to the types of legal representation costs the Town may approve payment of.</p> <p>Removes reference to statutory or other inquiries to the types of legal representation costs the Town may approve payment of.</p> <p>Notes that the Town may not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or negligence action, instituted by a council member or officer, on the basis that it is fundamental to public scrutiny that governments be open to criticism by members of the community.</p>
Clause 3 - Application for payment	<p>Retains both that applications are determined by Council, accompanied by an assessment by the CEO, and urgent applications by the CEO.</p> <p>Now sets out more comprehensive requirements to accompany an application for payment from an elected member or officer, in particular:</p> <ul style="list-style-type: none"> ▪ the applicant must make a declaration that he or she has acted in good faith and not unlawfully or in a way that constitutes improper conduct; and ▪ must sign a written statement that the applicant acknowledges the repayment provisions and undertakes to repay the Town in accordance with those provisions.
Clause 4 - Legal representation costs - limit	New section that now requires the Council to set a limit on the costs to be paid based on the estimated costs on the application.

<p>Clause 5 - Council's powers</p>	<p>Now specifies that Council may approve an application subject to conditions, including entering into an agreement regarding payment and repayment of costs.</p> <p>Now requires the Council in assessing an application, to have regard to any insurance benefits that may be available to the applicant under the Town's Management Liability Insurance Policy.</p> <p>Notes that the Town will automatically pay the excess on any insurance claim. Reason being, the Council via its adoption of the budget has resolved to obtain the insurance policy, and the Town, in administering that policy, would proceed to make any payment required in order to facilitate and progress any claim.</p> <p>Now enables the Council to revoke or vary any application approved or its conditions.</p> <p>Where a court, tribunal or inquiry finds that a member or officer has not acted in good faith, acted unlawfully or in a way that constitutes improper conduct or has given false or misleading information, the Council can revoke any previously approved application and require repayment of those costs.</p>
<p>Clause 6 - Approval for payment for legal representation costs in exceptional circumstances</p>	<p>Now increases the delegation to the CEO to \$10,000 as per the Department's Model Policy in cases where a delay in approval of an application will be detrimental to the legal rights of the applicant (previously delegated \$5,000).</p> <p>This will also be added as a condition under the current delegation register, Section 1.2.21 'Payments from the Municipal or Trust Funds'.</p>
<p>Clause 7 - Repayment of legal representation costs</p>	<p>Is the same in substance as the current policy.</p>

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of low significance, as there are no significant substantive changes from the existing policy.

CONSULTATION

Internal

Manager Governance

LEGISLATION AND POLICY CONSIDERATIONS

Sections 3.1, 6.7(2) and 9.56 of the *Local Government Act 1995* are applicable in relation to this policy.

Section 5.42 of the *Local Government Act 1995* requires that any delegation of powers to the CEO must be made by an absolute majority.

Local Government Operational Guidelines Number 14 – April 2006 ‘Legal Representation for Council Members and Employees’

FINANCIAL AND RESOURCES IMPLICATIONS

Nil

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Strategic Community Plan

The following sections of the Town’s Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

4.a.3 A positive narrative and unique brand is developed and promoted

4.b.3 Transparent and regular governance reporting and communication to the community is undertaken

There are no significant identifiable environmental, social or economic impacts relating to this item.

Corporate Business Plan

The following action of the Town’s Corporate Business Plan 2018-2022 applies in relation to this item:

4.b.3.1 Ensure governance information provided to the community is in line with legislated requirements

RISK MANAGEMENT CONSIDERATIONS

There are reputational and financial risks associated with this item because Council are working from an outdated policy that may not align with current community expectations for funding legal representation of elected members and employees. The risk rating is considered to be low (3), which is determined by a likelihood of possible (3) and a consequence of insignificant (1).

This risk will be eliminated by the adoption of the officer’s recommendation.

OPTIONS

Option 1 – Adopt officer's recommendation

Option 2 – Amend officer's recommendation

Option 3 – Do not adopt officer's recommendation

CONCLUSION

In relation to the revised policy, local governments have a duty of care to their employees to provide a safe working environment, and morally have the same duty to Council members. By adopting revised policy 1/009 'Legal Representation for Council Members and Employees', this ensures that the Town is providing this duty of care in line with Council's strategic direction to promote and develop a positive narrative for the Town and ensure transparency and good governance.

ATTACHMENTS

1. Revised policy 1/009 'Legal Representation for Council Members and Employees'
2. Current policy 1/009 'Legal Representation - Costs Indemnification'
3. Operational Guidelines
4. Extract from the Delegation Register section 1.2.21 'Payments from the Municipal or Trust Funds'

**1/009 Legal Representation for Council Members and Employees****Objective**

This policy is designed to protect the interests of Council members and Employees (including past members and former employees) of the Town of Port Hedland if they become involved in legal proceedings because of their official functions. In these situations the Town may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings.

This policy is necessary to ensure security, equity and consistency for Members and Employees to work for the good government of the district. This policy applies in that respect.

Content**1 Payment criteria**

- 1.1 There are four major criteria for determining whether the Town may pay the legal representation costs of a Council member or employee. These are –
- (a) the legal representation costs are to relate to a matter that arises from the performance, by the Council member or employee, of his or her functions;
 - (b) the legal representation cost are to be in respect of legal proceedings that have been, or may be, commenced;
 - (c) in performing his or her functions, to which the legal representation relates, the Council member or employee is to have acted in good faith, and is not have acted unlawfully or in a way that constitutes improper conduct; and
 - (d) the legal representation costs do not relate to a matter that is of a personal or private nature.

2 Examples of legal representation costs that may be approved

- 2.1 If the criteria in clause 1 of this policy are satisfied, the Town may approve the payment of legal representation costs –
- (a) where proceedings are brought against a Council member or employee in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the Council member or employee; or
 - (b) to enable proceedings to be commenced and/or maintained by a Council member or employee to permit him or her to carry out his or her functions – for example, where a Council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the Council member or employee; or

- (c) where exceptional circumstances are involved – for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about Council members or employees.
- 2.2 The Town may not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a Council member or employee.
- 3 Application for payment**
- 3.1 A Council member or employee who seeks assistance under this policy is to make an application(s), in writing:
- (a) in urgent cases under clause 6.1, to the CEO to be determined by CEO; and
 - (b) otherwise to the CEO to be determined by the Council.
- 3.2 The written application for payment of legal representation costs is to give details of –
- (a) the matter for which legal representation is sought;
 - (b) how that matter relates to the functions of the Council member or employee making the application;
 - (c) the lawyer (or law firm) who is to be asked to provide the legal representation;
 - (d) the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc);
 - (e) an estimated cost of the legal representation; and
 - (f) why it is in the interests of the Town for payment to be made.
- 3.3 The application is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates.
- 3.4 As far as possible, the application is to be made before commencement of the legal representation to which the application relates.
- 3.5 The application is to be accompanied by a signed written statement by the applicant that he or she –
- (a) has read, and understands, the terms of this policy;
 - (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions of clause 7 and any other conditions to which the approval is subject; and
 - (c) undertakes to repay to the Town any legal representation costs in accordance with the provisions of clause 7.



- 3.6 In relation to clause 3.5(c), when a person is to be in receipt of such monies the person is to sign a document which requires repayment of those monies to the Town as may be required by the Town and the terms of the policy.
- 3.7 An application is also to be accompanied by a report prepared by the CEO or, where the CEO is the applicant, by an appropriate employee.
- 4 Legal representation costs – limit**
- 4.1 The Council in approving an application in accordance with this policy is to set a limit on the costs to be paid based on the estimated costs in the application.
- 4.2 A Council member or employee may make a further application to the Council in respect of the same matter.
- 5. Council's powers**
- 5.1 The Council may –
(a) refuse;
(b) grant; or
(c) grant subject to conditions,
an application for payment of legal representation costs.
- 5.2 Conditions under clause 5.1 may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.
- 5.3 In assessing an application, the Council may have regard to any insurance benefits that may be available to the applicant under the Town's Council members 'or employees' insurance policy or its equivalent. The Town will pay the excess on any insurance claim.
- 5.4 The Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.

- 5.5 The Council may, subject to clause 5.6, determine that a Council member or employee whose application for legal representation costs has been approved has, in respect of the matter for which legal representation costs were approved –
- (a) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
 - (b) given false or misleading information in respect of the application
- 5.6 A determination under clause 5.5 may be made by the Council only on the basis of, and consistent with, the findings of a court, tribunal or inquiry.
- 5.7 Where the Council makes a determination under clause 5.5, the legal representation costs paid by the Town are to be repaid by the Council member or employee in accordance with clause 7.
- 6 Approval of payment for legal representation costs in exceptional circumstances**
- 6.1 In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the Council, any of the powers of the Council under clause 5.1 and 5.2, to a maximum of \$10,000 in respect of each application.
- 6.2 An application approved by the CEO under clause 6.1, is to be submitted to the next ordinary meeting of Council. Council may exercise any of its powers under this policy, including its powers under clause 5.4.
- 7 Repayment of legal representation costs**
- 7.1 A Council member or employee whose legal representation costs have been paid by the Town is to repay the Town –
- (a) all or part of those costs – in accordance with a determination by the Council under clause 5.7;
 - (b) as much of those costs as are available to be paid by way of set-off – where the Council member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the Town paid the legal representation costs.
- 7.2 The Town may take action in a court of competent jurisdiction to recover any monies due to it under this policy.



Definitions

“approved lawyer” is to be –

- (a) a ‘certified practitioner’ under the *Professions Act 2008*;
- (b) from a law firm on the Town’s panel of legal service providers, if relevant, unless the Council considers that this is not appropriate – for example where there is or may be a conflict of interest or insufficient expertise; and
- (c) approved in writing by the Council or the CEO under delegated authority.

“Council member or employee” means a current or former commissioner, Council member, non-elected member of a Council committee or employee of the Town.

“legal proceedings” may be civil, criminal or investigative.

“legal representation” is the provision of legal services, to or on behalf of a Council member or employee, by an approved lawyer that are in respect of –

- (a) a matter or matters arising from the performance of the functions of the Council member or employee; and
- (b) legal proceedings involving the Council member or employee that have been, or may be, commenced.

“legal representation costs” are the costs, including fees and disbursements, properly incurred in providing legal representation.

“legal services” includes advice, representation or documentation that is provided by an approved lawyer.

“payment” by the Town of legal representation costs may be either by –

- (a) a direct payment to the approved lawyer (or the relevant firm); or
- (b) a reimbursement to the Council member or employee.

Relevant legislation	<i>Local Government Act 1995</i> (sections 3.1, 6.7(2) & 9.56)		
Delegated authority	Nil		
Business unit	Governance		
Directorate	Corporate & Performance		
Governance to complete this section			
Version Control	Version No.	Resolution No.	Adoption date
	V01	200506/297	25 January 2006
	V02		24 August 2019
Review frequency	3 Yearly		



Policy

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DRAFT



1/009 Legal Representation – Costs Indemnification

Introduction

This policy is designed to protect the interests of council members and employees (including past members and former employees) where they become involved in civic legal proceedings because of their official functions. In most situations the local government may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings.

In each case it will be necessary to determine whether assistance with legal costs and other liabilities is justified for the good government of the district. This policy applies in that respect.

Content

General Principles

- a) The local government may provide financial assistance to members and employees in connection with the performance of their duties provided that the member or employee has acted reasonably and has not acted illegally, dishonestly, against the interests of the local government or otherwise in bad faith.
- b) The local government may provide such assistance in the following types of legal proceedings:
 - i. proceedings brought by members and employees to enable them to carry out their local government functions (e.g. where a member or employee seeks a restraining order against a person using threatening behaviour);
 - ii. proceedings brought against members or employees [this could be in relation to a decision of Council or an employee which aggrieves another person (e.g. refusing a development application) or where the conduct of a member or employee in carrying out his or her functions is considered detrimental to the person (e.g. defending defamation actions)]; and
 - iii. statutory or other inquiries where representation of members or employees is justified.



- c) The local government will not support any defamation actions seeking the payment of damages for individual members or employees in regard to comments or criticisms levelled at their conduct in their respective roles. Members or employees are not precluded, however, from taking their own private action. Further, the local government may seek its own advice on any aspect relating to such comments and criticisms of relevance to it.
- d) The legal services the subject of assistance under this policy, will usually be provided by the local government's solicitors. Where this is not appropriate for practical reasons or because of a conflict of interest then the service may be provided by other solicitors approved by the local government.

Applications for financial assistance

- a) Subject to item (e), decisions as to financial assistance under this policy are to be made to Council.
- b) A member or employee requesting financial support for legal services under this policy is to make an application in writing, where possible in advance, to the Council providing full details of the circumstances of the matter and the legal services required.
- c) An application to the Council is to be accompanied by an assessment of the request and with a recommendation which has been prepared by, or on behalf of, the Chief Executive Officer (CEO).
- d) A member or employee requesting financial support for legal services, or any other person who might have a financial interest in the matter, should take care to ensure compliance with the financial interest provisions or the *Local Government Act 1995*.
- e) Where there is a need for the provision of urgent legal services before an application can be considered by Council, the CEO may give an authorisation to the value of \$5,000 provided that the power to make such an authorisation has been delegated to the CEO in writing under section 5.42 of the *Local Government Act 1995*.
- f) Where it is the CEO who is seeking urgent financial support for legal services the Council shall deal with the application.

Repayment of assistance

- a) Any amount recovered by a member or employee in proceedings, whether for costs or damages, will be off set against any monies paid or payable by the local government.
- b) Assistance will be withdrawn where the Council determines, upon legal advice, that a person has acted unreasonably, illegally, dishonestly, against the interests of the local government or otherwise in bad faith; or where information from the person is shown to have been false or misleading.
- c) Where assistance is so withdrawn, the person who obtained financial support is to repay any monies already provided. The local government may take action to recover any such monies in a court of competent jurisdiction.

Definitions

Nil.

Relevant legislation	Nil
Delegated authority	Nil
Business unit	Governance
Directorate	Corporate & Performance

<i>Governance to complete this section</i>			
Version Control	Version No.	Resolution No.	Adoption date
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Government of **Western Australia**
Department of **Local Government and Communities**



Local Government Operational Guidelines

Number 14 – April 2006

Legal Representation for Council Members and Employees

1. Introduction

In today's society there is an increased risk of legal action being taken or threatened against individual council members and employees. Council members and employees may require legal advice and representation and expect their local government to provide financial assistance to meet the cost of the advice or representation.

For example, council members or employees may be threatened with legal action when an aggrieved party believes that they will not, or have not, carried out their legislative functions or responsibilities in the correct and appropriate manner. Legal action may also be threatened where it is anticipated that such action will influence a vote or a recommendation.

Council members and employees may feel inhibited in undertaking their roles in a full, frank and impartial manner if they do not have an assurance that they are protected from threats and will be given proper legal representation if any legal action is taken against them. Local governments have a legislative duty of care to their employees to provide a safe working environment and morally have the same duty to council members. Accordingly, it is appropriate and prudent for local governments to assist council members and employees by adopting a policy to fund or partly fund the cost of providing legal representation in appropriate circumstances.

The Inquiry into the City of Joondalup criticised some council members for making uninformed and ill-advised decisions to pay personal legal expenses of the Chief Executive Officer (CEO). It is therefore important that council adopts a policy on the provision of financial

assistance so that its position is known to the council members, employees and the community in advance of applications for funding being made. Non-elected council committee members may also require assistance and should be considered in any policy adopted by council.

This guideline, and the incorporated model policy, are provided to assist councils when making decisions or developing a policy. It is important that a council devotes time to understanding the issues outlined in this guideline.

If a policy is adopted and legal representation costs are granted under the policy, it is critical that council has presented to it full and detailed accounts from the lawyer approved to provide the legal representation to ensure that the representation provided complies with the approval given. Repayment of any costs associated with matters not approved should be enforced.

This guideline does not address the situation where council members and employees are interviewed during, or are required to give evidence to, an inquiry into their local government. Determining whether financial assistance is given in these situations is a complex matter and one that will relate to the circumstances and reasons for the inquiry.

2. Legislation

Section 9.56 of the *Local Government Act 1995* (the Act) provides protection from actions of tort for anything a council member or employee has, in good faith, done in the performance or purported performance of a function under the Act or under any other written law. However, the legislation does not preclude people

taking action against individual council members or employees if they believe that the council member or employee has not acted in good faith.

Section 3.1 of the Act provides that the general function of a local government is to provide for the good government of persons in its district. Section 6.7(2) provides that money held in the municipal fund may be applied towards the performance of the functions and the exercise of the powers conferred on the local government by the Act or any other written law. Under these provisions, a council can expend funds to provide legal representation for council members and employees, as long as it believes that the expenditure falls within the scope of the local government's function.

3. Determining a Suitable Policy

The policy should have a clear set of principles or directives to help the council deal with a situation where a council member or employee is defending or will need to defend a legal action or requires advice or representation and is requesting financial assistance. The policy should set out the circumstances under which funding will be provided, the level of funding that will be provided and the processes to be followed by the applicant when making a request.

The degree of complexity of an appropriate policy may vary but generally could include the following matters –

- under what circumstances would financial assistance be provided. For example, where legal action is taken against a council member or employee in connection with the performance of their duties and they have not acted illegally, dishonestly or in bad faith;
- who would make the decision that financial support would be provided (eg council or the CEO);
- who would provide the legal services (eg the local government's lawyers, other lawyers);
- what limits, if any, would be placed on financial assistance;
- how applications would be made for assistance;
- what obligations a council member or employee receiving assistance should have (eg an obligation to disclose anything that might affect representation or to act reasonably);
- whether contingent authorisation in urgent cases would be provided for and who would exercise that authority;
- under what circumstances could financial assistance be withdrawn (eg person having acted illegally, dishonestly or otherwise in bad faith);
- provision for the recoup of money already provided under the policy where approval is withdrawn; and
- a clear statement that legal representation will not be provided for matters that relate to the personal affairs of a council member or employee (eg under investigation for a matter not related to a legislative function or an employee seeking legal advice on a contract of employment).

3.1 Other Circumstances where Funding Requests may be Made

Under legislation, any expenditure of a local government's funds must be justified on the basis that the expenditure will 'provide for the good government of persons in its district'. Therefore, in formulating a policy on legal representation the council must take into account the need to satisfy itself that the expenditure can be justified as providing for that good government.

Local government council members and employees will at times be subject to personal public criticism they consider to be unfair. Depending on the circumstances and the veracity of the criticism, council members or employees may seek to redress the situation by taking legal action. Legal advice received by the Department suggests that only in exceptional circumstances would a local government be able to justify, under the 'good government' provisions, funding the initiation of legal action by a council member or employee.

It is important to note that where public criticism is made about the local government, ie the City, Town, or Shire, funding could not be justified. Legal precedent dictates that it is fundamental to public scrutiny that governments be open to criticism by members of the community. The threat of civil action against any person who publicly criticises a local government will have an inhibiting effect on freedom of speech and inevitably lessen a local government's accountability to its community.

Council members, if asked to vote on such a request, should ask themselves 'would a reasonable person, given all the facts, conclude that the expenditure provides for the good government of the persons in the district'. If a majority of council members are satisfied, council could, under its general function power, resolve that the local government fund the obtaining of advice or initiation of legal action by the council member or employee.

Council members should ensure that they receive appropriate documentation that presents reasons for and against the recommendation when considering an application for such funding as they may be asked to justify the decision at a future date. Documentation provides a proper decision-making trail that can be used to support the decision.

As a condition of approval, the council may require the council member or employee to undertake to refund the costs of legal representation paid by the local government should their action be successful.

3.2 Support for Former Council Members and Employees

The council, when considering the scope of its policy, will need to determine if the policy extends to the funding of legal representation for former council members, commissioners and employees and under what circumstances funding would be provided.

3.3 Delegation

A number of councils have, in adopting a policy on this issue, delegated to their CEO the power to deal with requests for the payment of legal representation costs. Because of the sensitive nature of providing funding, some CEOs have asked council not to delegate the power. A council should discuss the matter with the CEO before making any decision to delegate any aspect of its legal representation policy.

It may be appropriate for council to seek agreement from the CEO for a delegation limited to circumstances where a delay in approving a request will be detrimental to the legal rights of the council member or employee.

4. Adopting a Policy

In considering the policy all relevant people are encouraged to study and thoroughly understand the implications and likely consequences of adopting the policy.

A model policy has been provided on the following pages as an example for local governments undertaking their own policy-making on legal representation of adopting the policy. The Department welcomes any comments that individuals or local governments believe will assist in the improvement of the model policy.

Model Policy

Legal Representation for Council Members and Employees

Explanation of key terms

approved lawyer is to be –

- (a) a 'certified practitioner' under the *Professions Act 2008*;
- (b) from a law firm on the City/Town/Shire's panel of legal service providers, if relevant, unless the council considers that this is not appropriate – for example where there is or may be a conflict of interest or insufficient expertise; and
- (c) approved in writing by the council or the CEO under delegated authority.

council member or employee means a current or former commissioner, council member, non-elected member of a council committee or employee of the City/Town/Shire.

legal proceedings may be civil, criminal or investigative.

legal representation is the provision of legal services, to or on behalf of a council member or employee, by an approved lawyer that are in respect of –

- (a) a matter or matters arising from the performance of the functions of the council member or employee; and
- (b) legal proceedings involving the council member or employee that have been, or may be, commenced.

legal representation costs are the costs, including fees and disbursements, properly incurred in providing legal representation.

legal services includes advice, representation or documentation that is provided by an approved lawyer.

payment by the City/Town/Shire of legal representation costs may be either by –

- (a) a direct payment to the approved lawyer (or the relevant firm); or
- (b) a reimbursement to the council member or employee.

1. Payment Criteria

1.1 There are four major criteria for determining whether the City/Town/Shire will pay the legal representation costs of a council member or employee.

These are –

- (a) the legal representation costs must relate to a matter that arises from the performance, by the council member or employee, of his or her functions;
- (b) the legal representation cost must be in respect of legal proceedings that have been, or may be, commenced;
- (c) in performing his or her functions, to which the legal representation relates, the council member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (d) the legal representation costs do not relate to a matter that is of a personal or private nature.

2. Examples of Legal Representation Costs that may be Approved

2.1 If the criteria in clause 1 of this policy are satisfied, the City/Town/Shire may approve the payment of legal representation costs –

- (a) where proceedings are brought against a council member or employee in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the council member or employee; or
- (b) to enable proceedings to be commenced and/or maintained by a council member or employee to permit him or her to carry out his or her functions – for example, where a council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the council member or employee; or
- (c) where exceptional circumstances are involved – for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about council members or employees.

2.2 The City/Town/Shire will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a council member or employee.

3. Application for Payment

3.1 A council member or employee who seeks assistance under this policy is to make an application(s), in writing, to the council or the CEO.

3.2 The written application for payment of legal representation costs is to give details of –

- (i) the matter for which legal representation is sought;
- (ii) how that matter relates to the functions of the council member or employee making the application;
- (iii) the lawyer (or law firm) who is to be asked to provide the legal representation;
- (iv) the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc);
- (v) an estimated cost of the legal representation; and
- (vi) why it is in the interests of the City/Town/Shire for payment to be made.

3.3 The application is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates.

3.4 As far as possible, the application is to be made before commencement of the legal representation to which the application relates.

3.5 The application is to be accompanied by a signed written statement by the applicant that he or she –

- (a) has read, and understands, the terms of this policy;
- (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions of clause 7 and any other conditions to which the approval is subject; and
- (c) undertakes to repay to the *City/Town/Shire* any legal representation costs in accordance with the provisions of clause 7.

3.6 In relation to clause 3.5(c), when a person is to be in receipt of such monies the person should sign a document which requires repayment of those monies to the local government as may be required by the local government and the terms of the policy.

3.7 An application is also to be accompanied by a report prepared by the CEO or, where the CEO is the applicant, by an appropriate employee.

4. Legal Representation Costs – Limit

4.1 The council in approving an application in accordance with this policy shall set a limit on the costs to be paid based on the estimated costs in the application.

4.2 A council member or employee may make a further application to the council in respect of the same matter.

5. Council's Powers

5.1 The council may –

- (a) refuse;
- (b) grant; or
- (c) grant subject to conditions, an application for payment of legal representation costs.

5.2 Conditions under clause 5.1 may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.

5.3 In assessing an application, the council may have regard to any insurance benefits that may be available to the applicant under the *City's/Town's/Shire's* council members 'or employees' insurance policy or its equivalent.

5.4 The council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.

5.5 The council may, subject to clause 5.6, determine that a council member or employee whose application for legal representation costs has been approved has, in respect of the matter for which legal representation costs were approved –

- (a) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
- (b) given false or misleading information in respect of the application.

5.6 A determination under clause 5.5 may be made by the council only on the basis of, and consistent with, the findings of a court, tribunal or inquiry.

5.7 Where the council makes a determination under clause 5.5, the legal representation costs paid by the City/Town/Shire are to be repaid by the council member or employee in accordance with clause 7.

6. Delegation to Chief Executive Officer

6.1 In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the council, any of the powers of the council under clause 5.1 and 5.2, to a maximum of \$10,000 in respect of each application.

6.2 An application approved by the CEO under clause 6.1, is to be submitted to the next ordinary meeting of the council. Council may exercise any of its powers under this policy, including its powers under clause 5.4.

7. Repayment of Legal Representation Costs

7.1 A council member or employee whose legal representation costs have been paid by the City/Town/Shire is to repay the City/Town/Shire –

- (a) all or part of those costs – in accordance with a determination by the council under clause 5.7;
- (b) as much of those costs as are available to be paid by way of set-off – where the council member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City/Town/Shire paid the legal representation costs.

7.2 The City/Town/Shire may take action in a court of competent jurisdiction to recover any monies due to it under this policy.

These guidelines are also available on the Department's website at www.dlgc.wa.gov.au



About the Guideline series

This document and others in the series are intended as a guide to good practice and should not be taken as a compliance requirement. The content is based on Department officer knowledge, understanding, observation of, and appropriate consultation on contemporary good practice in local government. Guidelines may also involve the Department's views on the intent and interpretation of relevant legislation.

All guidelines are subject to review, amendment and re-publishing as required. Therefore, comments on any aspect of the guideline are welcome. Advice of methods of improvement in the area of the guideline topic that can be reported to other local governments will be especially beneficial.

For more information about this and other guidelines, contact the Local Government Regulation and Support Branch at:

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Translating and Interpreting Service (TIS) – Tel: 13 14 50

ATTACHMENT 4 TO ITEM 11.1.2

Delegation Register with Non-Statutory Powers



1.2.21 *Payments from the Municipal or Trust Funds*

Express Power or Duty Delegated:	Local Government (Financial Management) Regulations 1996: r.12(1)(a) Payments from municipal fund or trust fund, restrictions on making
Delegate:	Chief Executive Officer
Function:	1. Authority to make payments from the municipal or trust funds [r.12(1)(a)].
Council Conditions on this Delegation:	<ul style="list-style-type: none"> a. Authority to make payments is subject to annual budget limitations within 10% materiality contingency. b. Authority for the CEO to approve payments made in accordance with clause 6 of the Town's policy 1/009 'Legal Representation for Council Members and Employees' to the limit of \$10,000.
Sub-Delegate/s: <i>Appointed by CEO</i>	Director Corporate and Performance (1) Director Development, Sustainability and Lifestyle (1) Director Infrastructure and Town Services (1) Manager Project Design and Delivery (1) Manager Waste Operations (1) Manager Parks, Gardens and Engineering Services (1) Manager Town Planning and Development (1) Manager Human Resources (1) Manager Leisure Facilities (1) Manager Community Services and Delivery (1) Manager Environmental Health and Community Safety (1) Manager Financial Services (1) Manager Governance (1) Manager ICT (1) Manager Marketing, Events and Communications (1)
CEO Conditions on this Sub-Delegation:	<ul style="list-style-type: none"> 1. Delegates must comply with the Procedures approved by the CEO in accordance with Financial Management Regulation 5. 2. Delegates that approve the payment must not verify the liability. The verification of incurring the liability via the purchase order, invoice and evidence of goods / service received, must be undertaken independent of the payment approval. 3. The Municipal Fund and Trust Fund is to be signed by two (2) of the abovementioned officers <p><i>* Note – payments for investments are specifically outlined under section 1.2.24 and are not included in this section.</i></p>

11.1.3 Award of Tender RFT1819/59 – ‘IT Managed Services’ (File No. 17/04/0011)

Author	Director Corporate and Performance
Authorising Officer	Chief Executive Officer
Disclosure of Interest	The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

CM201920/005 OFFICER'S RECOMMENDATION / COUNCIL DECISION

That Council endorse the recommendation of the evaluation panel and award the Tender for RFT 1819/59 IT Managed Services to XCY Pty Ltd for a projected annual contract value of \$129,600 (excluding GST), and with a contract term of two years with an optional extension of two years plus one year.

CARRIED BY COMMISSIONER RIEBELING

PURPOSE

The purpose of this report is for Council to consider a summary of the assessment of submissions received for Tender RFT 1819/59 for IT Managed Services and the evaluation panel's recommendation to award the tender to the preferred tenderer.

DETAIL

The Town released a Request for Tender (RFT) on 1 May 2019, requesting IT Managed Services covering the following scope of works.

- Monthly server patching and health checks
- Firewall and communication support
- Server support
- Backup monitoring and management including annual disaster recovery failover/backup restore testing
- CCTV system monitoring
- System administration including user accounts
- Monthly managed IT services for client devices
- Network monitoring, management and security
- Software – support and maintenance for standard operating suite and operating environment, and liaison with other providers to assist issue resolution (e.g ERP)
- Systems management
- Data storage and management
- Help desk services
- On-call services as appropriate

- Assistance with development of IT strategy and implementation, including opportunities for cost reduction
- Assistance with asset management including renewal and associated budgeting
- 12 month rolling planning
- Technical assistance with IT related procurement processes
- Management/QA of IT implementations and projects
- Monthly report to Council management
- Review/update/maintain schematic diagrams of network
- Review/update/maintain equipment and systems registers
- Four visits to Port Hedland per annum will be required as part of the engagement. Ad-hoc and emergency site visits will be determined and agreed on a case-by-case basis.

Periodic servicing of the CCTV network is not covered by this tender.

The RFT was released on Vendorpanel (the Town's e-tendering portal) on 1 May 2019 and was advertised in the West Australian and the North West Telegraph on 1 May 2019 with a closing date of 7 June 2019.

The Town received 12 submissions for RFT 1819/59. The respondents were as follows:

1. Avantgarde Technologies
2. Borekar Enterprises Pty Ltd
3. Command IT Services
4. CTM Professional Services
5. Diverse Services
6. Focus Networks
7. Integral Management Systems Pty Ltd
8. Managed System Services
9. Market Creations Pty Ltd
10. R Group International Pty Ltd
11. Virtunet Pty Ltd
12. XCY Pty Ltd

All submissions received from respondents were compliant.

This tender is being presented to Council as the contract value over five years exceeds the delegated authority of the Chief Executive Officer.

Tender Assessment

All compliant tender submissions have been evaluated by a panel of three (3) Town employees whose main objectives were:

- a) Make a recommendation to the Council.
- b) Ensure the tender submissions are assessed fairly in accordance with a predetermined weighting schedule;
- c) Ensure adherence to Local Government procedures, policies and legislation; and
- d) Ensure that the requirements specified in the Request are evaluated in a way that can be measured and documented.

The compliant submissions were assessed against the qualitative criteria as listed in the below table:

Qualitative Criteria	(%)
Relevant experience	30%
Capacity to deliver and resources	30%
Key personnel and skills	20%
Demonstrated understanding and methodology	20%

A summary of the assessment results of each submission received is included in the confidential evaluation report attached.

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of medium significance. Efficient and secure IT systems are necessary for any local government to ensure ongoing operations.

CONSULTATION

Internal

- Discussion with two ICT officers employed by the Town.
- Executive Leadership Team

External Agencies

- Discussion with Shire of East Pilbara who outsourced IT Managed Services in 2018.

Community

The RFT was released to the community via Vendorpanel (the Town's e-tendering portal) on 1 May 2019 and was advertised in the West Australian and the North West Telegraph on 1 May 2019 with a closing date of 7 June 2019.

LEGISLATION AND POLICY CONSIDERATIONS

Section 3.57 of the *Local Government Act 1995*, and division 2 of the *Local Government (Functions and General) Regulations 1996* apply in relation to the invitation of tenders.

The evaluation report and corresponding details relating to the respondents offers are deemed confidential pursuant to section 5.23 (c) and (e) of the *Local Government Act 1995*.

The following Town policies were considered in relation to this tender:

- 2/007 'Purchasing'
- 2/016 'Regional Price Preference'

Successful contractors must abide by the Town's Code of Conduct while carrying out works for the Town.

FINANCIAL AND RESOURCES IMPLICATIONS

An amount of \$200,000 has been approved in the 2019/20 budget for IT Managed Services, with an additional approved amount of \$16,800 for quarterly travel to site. These amounts will need to be budgeted in subsequent years and have been included in the adopted Long-Term Financial Plan 2019 to 2034.

It should be noted that outsourcing IT Managed Services is expected to provide a net saving to the Town of approximately \$150,000 per annum. The contract will replace two currently vacant positions in the organisational chart which are difficult to recruit, whilst providing a more efficient and technical service.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Council's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 1.d.2** Facilities and community infrastructure are revitalised across the Town
- 1.d.3** Facilities and community infrastructure are well maintained, managed and fit for purpose to provide a range of lifestyle opportunities
- 4.c.1** High quality and responsive customer service is provided
- 4.c.4** Efficiency strategies across the Town's infrastructure and amenity assets are implemented

There are no significant identifiable environmental, social or economic impacts relating to this item.

Corporate Business Plan

The following actions of the Town's Corporate Business Plan 2018-2022 apply in relation to this item:

- 2.b.4.1 - Develop, implement and review and ICT and IS strategy; and
- 2.b.4.2 – Develop, implement and review new technology and system improvements.

RISK MANAGEMENT CONSIDERATIONS

There are two main risks associated with the contract being contract management and business continuity. The risk rating is considered to be medium (9), which is determined by a likelihood of possible (3) and a consequence of moderate (3).

This risk will be eliminated by the adoption of the officer's recommendation.

OPTIONS

Option 1 – Adopt officer's recommendation

Option 2 – Do not adopt officer's recommendation

CONCLUSION

It is recommended that Council award RFT 1819/59 IT Managed Services to the preferred tenderer indicated in the Tender Evaluation Report. The preferred tenderer have met all the selection criteria requirements and also represent best value for money for the Town of Port Hedland.

ATTACHMENTS

1. Evaluation Report (Confidential, under separate cover)

11.1.4 Mayoral Request for Refund for State Administrative Tribunal Application Fee (File No. 14/01/0002)

Author	Manager Governance
Authorising Officer	Director Corporate and Performance
Disclosure of Interest	The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

CM201920/006 OFFICER'S RECOMMENDATION / COUNCIL DECISION

That Council notes and approves Mayor Camilo Blanco's request for reimbursement of the \$500.00 application fee paid to the State Administrative Tribunal to appeal a decision of the Standards Panel that he had committed a minor breach and had to publicly apologise to Councillor Daccache.

CARRIED BY COMMISSIONER RIEBELING

PURPOSE

The purpose of this report is for Council to consider Mayor Blanco's request for a refund of the \$500 application fee he lodged with the State Administrative Tribunal (SAT) to appeal a Standards Panel decision that he had committed a minor breach of the *Local Government Act 1995*, which required him to issue a public apology to Councillor Daccache. Council is required to consider this request in line with Town's policy 1/009 'Legal Representation - Costs Indemnification.'

DETAIL*Background*

Council is requested to consider an application for refund from Mayor Blanco in accordance with the Town's current policy 1/009 'Legal Representation – Cost Indemnification.'

On 1 July 2018 Mayor Blanco was found by the Standards Panel to have breached regulation 7(1)(b) of the *Local Government (Rules of Conduct) Regulations 2007*, and had therefore committed a 'minor breach' pursuant to sections 5.104 and 5.105(1) of the *Local Government Act 1995* (the Act). On 25 September 2018 the Standards Panel ordered, pursuant to s 5.110(6)(b)(ii) of the Act, that the applicant apologise publicly for the minor breach. Mayor Blanco sought a review of both the decision finding that a minor breach had occurred and the decision requiring the applicant to publicly apologise pursuant to section 5.125(1) of the Act. The Mayor utilised his personal credit card to pay the \$500 SAT application fee (attachment 1).

The Attorney-General of Western Australia intervened in the proceeding. The proceeding was set down for directions hearings on 19 November 2018 and 25 February 2019 and was listed for final hearing on 14 May 2019. The Tribunal's conclusion (attachment 2) was that "*there is no basis on which the Tribunal could find an improper use of the applicant's office as a council member. Clearly therefore no sanction should result. The application for review should therefore be allowed.*"

The orders concluded: "*For the reasons set out above the Tribunal's orders will be: 1. The application for review is allowed. 2. The decisions of the Local Government Standards Panel are set aside and in substitution thereof there will be a decision dismissing the complaint.*"

The Mayor requested via email to the CEO on 24 June 2019 reimbursement of the \$500 associated with the SAT application.

The Town's policy 1/009 'Legal Representation - Costs Indemnification' outlines the process in accordance with which an elected member can request the Council to assist with legal costs. The policy stipulates that an elected member is submit an application for the CEO to assess and then report to Council with a recommendation.

The Town's CEO has considered this application, sought advice from the Governance team, including the Town's Legal Advisor on the application of current policy 1/009 'Legal Representation – Costs Indemnification', and is recommending that Council consider refunding Mayor Blanco the \$500 SAT application fee in full.

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of low significance, and therefore does not require community consultation.

CONSULTATION

Internal

- Chief Executive Officer
- Legal Advisor

LEGISLATION AND POLICY CONSIDERATIONS

The Town's current policy 1/009 'Legal Representation - Costs Indemnification' applies.

Local Government Operational Guidelines Number 14 – April 2006 'Legal Representation for Council Members and Employees.'

FINANCIAL AND RESOURCES IMPLICATIONS

There is a \$500 financial implication associated with this item which will be funded from the Governance operations - legal expenses budget.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Strategic Community Plan

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 4.b.3** Transparent and regular governance reporting and communication to the community is undertaken

There are no significant identifiable environmental, social or economic impacts relating to this item.

Corporate Business Plan

The following action of the Town's Corporate Business Plan 2018-2022 applies in relation to this item:

- 4.b.3.1** Ensure governance information provided to the community is in line with legislated requirements

RISK MANAGEMENT CONSIDERATIONS

There are reputational risks associated with this item in terms of how Council assesses applications for legal representation costs. The risk rating is considered to be low (3), which is determined by a likelihood of possible (3) and a consequence of insignificant (1).

This risk will be eliminated by the adoption of the officer's recommendation.

OPTIONS

Option 1 – Adopt officer's recommendation


Option 2 – Do not adopt officer's recommendation

CONCLUSION

The CEO has assessed the Mayor's application for reimbursement of the \$500 SAT application. In view of the SAT's determination it is proposed that Council agrees to the refund.

ATTACHMENTS

1. SAT Fee application form
2. SAT Decision (Under Separate Cover)
3. Current policy 1/009 'Legal Representation - Costs Indemnification'



WESTERN AUSTRALIA

SAT

STATE
ADMINISTRATIVE
TRIBUNAL

SAT
Form

Credit Card Payment Authorisation

Use this form when paying a SAT fee by Credit Card.

v1.0

SAT Application Details

SAT matter number / Eg. CC 123 / 2015

SAT matter name
Eg. 'Party v Party', or the subject person of an application 'John Smith'

Your name

Credit Card Details

Visa
 Mastercard
 SAT only accepts Visa and Mastercard

Name on Card

Card Number

Expiry Date /
MM YY

Fee Details

The fee is a:

Application Fee
 Hearing Fee

Transcript Fee
 Other

Fee Amount \$

Office Use Only

Page 1 of 1

Contact
SAT

☎ 08 9219 3111 or 1300 306 017
 ☎ 565 Hay St PERTH Western Australia 6000
 ✉ sat@justice.wa.gov.au

☎ 08 9325 5099
 ☎ GPO Box U1991 PERTH Western Australia 6845
 🌐 www.sat.justice.wa.gov.au

ATTACHMENT 3 TO ITEM 11.1.4

Policy

1/009 Legal Representation – Costs Indemnification

Introduction

This policy is designed to protect the interests of council members and employees (including past members and former employees) where they become involved in civic legal proceedings because of their official functions. In most situations the local government may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings.

In each case it will be necessary to determine whether assistance with legal costs and other liabilities is justified for the good government of the district. This policy applies in that respect.

Content

General Principles

- a) The local government may provide financial assistance to members and employees in connection with the performance of their duties provided that the member or employee has acted reasonably and has not acted illegally, dishonestly, against the interests of the local government or otherwise in bad faith.
- b) The local government may provide such assistance in the following types of legal proceedings:
 - i. proceedings brought by members and employees to enable them to carry out their local government functions (e.g. where a member or employee seeks a restraining order against a person using threatening behaviour);
 - ii. proceedings brought against members or employees [this could be in relation to a decision of Council or an employee which aggrieves another person (e.g. refusing a development application) or where the conduct of a member or employee in carrying out his or her functions is considered detrimental to the person (e.g. defending defamation actions)]; and
 - iii. statutory or other inquiries where representation of members or employees is justified.



- c) The local government will not support any defamation actions seeking the payment of damages for individual members or employees in regard to comments or criticisms levelled at their conduct in their respective roles. Members or employees are not precluded, however, from taking their own private action. Further, the local government may seek its own advice on any aspect relating to such comments and criticisms of relevance to it.
- d) The legal services the subject of assistance under this policy, will usually be provided by the local government's solicitors. Where this is not appropriate for practical reasons or because of a conflict of interest then the service may be provided by other solicitors approved by the local government.

Applications for financial assistance

- a) Subject to item (e), decisions as to financial assistance under this policy are to be made to Council.
- b) A member or employee requesting financial support for legal services under this policy is to make an application in writing, where possible in advance, to the Council providing full details of the circumstances of the matter and the legal services required.
- c) An application to the Council is to be accompanied by an assessment of the request and with a recommendation which has been prepared by, or on behalf of, the Chief Executive Officer (CEO).
- d) A member or employee requesting financial support for legal services, or any other person who might have a financial interest in the matter, should take care to ensure compliance with the financial interest provisions or the *Local Government Act 1995*.
- e) Where there is a need for the provision of urgent legal services before an application can be considered by Council, the CEO may give an authorisation to the value of \$5,000 provided that the power to make such an authorisation has been delegated to the CEO in writing under section 5.42 of the *Local Government Act 1995*.
- f) Where it is the CEO who is seeking urgent financial support for legal services the Council shall deal with the application.



Repayment of assistance

- a) Any amount recovered by a member or employee in proceedings, whether for costs or damages, will be off set against any monies paid or payable by the local government.
- b) Assistance will be withdrawn where the Council determines, upon legal advice, that a person has acted unreasonably, illegally, dishonestly, against the interests of the local government or otherwise in bad faith; or where information from the person is shown to have been false or misleading.
- c) Where assistance is so withdrawn, the person who obtained financial support is to repay any monies already provided. The local government may take action to recover any such monies in a court of competent jurisdiction.

Definitions

Nil.

Relevant legislation	Nil
Delegated authority	Nil
Business unit	Governance
Directorate	Corporate & Performance

<i>Governance to complete this section</i>			
Version Control	Version No.	Resolution No.	Adoption date
	V01	200506/297	25 January 2006
Review frequency	3 Yearly		

Document Control Statement – *The electronic reference copy of this Policy is maintained by the Governance Team. Any printed copy may not be up to date and you are advised to check the electronic copy at <http://www.porthedland.wa.gov.au/documents/public-documents/policies> to ensure that you have the current version. Alternatively, you may contact the Governance Team.*

11.1.5 Offer on Lot 421 Kingsford Smith Business Park (*File No. 05/26/0001*)

Author	Governance Officer
Authorising Officer	Director Corporate and Performance
Disclosure of Interest	The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

CM201920/007 OFFICER'S RECOMMENDATION / COUNCIL DECISION

That Council:

1. Note the offer received from MJW Commercial Properties Pty Ltd for Lot 421 at Kingsford Smith Business Park, as per Confidential Attachment 1;
2. Reject the offer from MJW Commercial Properties Pty Ltd for Lot 421 Kingsford Smith Business Park as it does not meet current market value.

CARRIED BY COMMISSIONER RIEBELING

PURPOSE

The purpose of this report is for Council to consider an offer received for lot 421 at Kingsford Smith Business Park, made by MJW Commercial Properties Pty Ltd. The offer is outside of the Chief Executive Officer's delegated authority to accept, and is therefore presented to Council for determination.

DETAIL*Background*

The Kingsford Smith Business Park (KSBP) is an industrial estate located between Port and South Hedland on the Great Northern Highway. The estate comprises of 36 lots. To date, the Town has sold 17 lots at KSBP, with 4 currently under offer and 15 remaining for sale.

Guidelines for the estate were adopted in 2013. The key purposes of the Guidelines are as follows:

- To create a high quality light industrial / bulky goods estate which services the Port Hedland community and provides a place of employment;
- To form a cohesive light industrial / bulky goods precinct which capitalises on the proximity of the Port Hedland Airport, and allows a for a range and scale of businesses that may benefit from this proximity; and

- To implement and achieve sustainable building and management practices, including maximizing resource efficiency, minimising waste to landfill, minimizing energy use and water consumption.

Offer

On 10 July 2019, the Town received an offer from MJW Commercial Properties Pty Ltd (MJW) to purchase lot 421. The current valuation for this lot is \$370,000 plus GST. Justification of the price offered is due to the amount of fill that is required to bring the site up to building height. The Town requested that MJW provide quotations for the justification and is yet to receive this information.

One of the requirements for all offers on lots at KSBP is that the buyer must acknowledge and accept the KSBP Design Guidelines. All offers are to be accompanied by a signed copy of the Design Guidelines, acknowledging that the buyer is aware of any requirements in relation to building principles, built form design and natural resource management, including stormwater and drainage management and site fill levels. The offer from MJW includes a signed copy of the Design Guidelines, as can be seen on page 11 of confidential attachment 1.

On Friday 21 June 2019, the Town's Manager Planning and Town Development met with Mr Webb, the proprietor of MJW, and the Commercial Sales Consultant from Hedland First National on site to discuss the filling and development of sites at KSBP.

During their meeting, the Manager Town Planning and Development advised Mr Webb that the decision to make an offer on lots in KSBP should be made based on an understanding that development of the site must comply with the KSBP Design Guidelines, including Clause 6.1 which relates to development levels and stormwater management.

Mr Webb has previously purchased 3 lots at KSBP (lots 405, 406 and 407) for a combined total of \$452,000.

Location

The below map shows the location of lot 421:



LEVEL OF SIGNIFICANCE

In terms of public consultation, and in accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of medium significance.

CONSULTATION

Internal

- Executive Leadership Team
- Senior Governance Advisor
- Manager Planning and Development

External Agencies

The Town liaises with the Commercial Sales Consultant at Hedland First National for the sale of lots at KSBP.

Community

Should Council choose to accept the offer from MJW Commercial Properties Pty Ltd, a public notice for the disposal of land will be required to be placed in accordance with the *Local Government Act 1995* in the local newspaper for 14 days seeking submissions on the offer from members of the community. If any submissions are received during the public notice period, they must be presented again to Council for consideration. If no submissions are received, the CEO has delegated authority to finalise the settlement of the lot.

LEGISLATION AND POLICY CONSIDERATIONS

The details contained in attachment 1 (the offer) is deemed confidential in accordance with section 5.23(2)(e)(ii) of the *Local Government Act 1995*, as it concerns information that has a commercial value to a person.

Sections 3.58(3) and (4) of the *Local Government Act 1995* prescribe the process for disposing of property, including a public notice submission period open for 14 days which is to include details of the disposition, name of parties involved and market value of the land.

Section 1.2.20 'Disposing of Properties' of the Town's Delegation Register applies.

Policy 2/019 'Financial Reserves' applies in terms of proceeds from sales of lots at KSBP.

FINANCIAL AND RESOURCES IMPLICATIONS

Proceeds from the sale of all lots at KSBP are allocated to the 'Asset Management - Infrastructure and Community Facilities' reserve to fund asset renewal requirements for the Town in line with both the Strategic Community Plan and the Corporate Business Plan. Any associated rates revenue generated as a result of sale or lease will remain within normal Municipal operations, as will any interest earned on the investment of any such proceeds.

Past sales history estimates that the Town will sell a total of 5 lots at KSBP this financial year (2019/20).

Four other lots at KSBP are currently under offer (lots 2, 3, 410 and 411), with settlement expected before September 2019.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 1.d.2** Facilities and Community Infrastructure are revitalised across the Town
- 2.b.2** The Town's economic development strategy is supported through engagement with key economic groups
- 2.c.1** Business and government agencies and other relevant stakeholders are engaged to:

- Identify strategic employment and economic development priorities
 - Assess and address market failures affecting the cost of living
 - Assess and address cost of doing business challenges
- 2.c.2** Opportunities for social enterprise, innovators, and small and medium sized businesses are identified, and strategies to attract and support them are implemented
- 4.b.1** Sound long-term financial planning is implemented
- 4.b.2** Transparent and regular financial reporting and communication to the community is undertaken

Economic

There are only positive economic benefits in relation to this item. Regardless of the sale price, the development of any lots at KSBP increases industrial/ commercial opportunities; therefore promoting economic growth in the community.

There are no significant identifiable environmental or social impacts relating to this item.

Corporate Business Plan

The following actions of the Town's Corporate Business Plan 2018-2022 apply in relation to this item:

- 2.b.2.1** Develop, implement and review partnerships with key stakeholders to promote economic growth and diversification
- 2.c.1.1** Work with key stakeholders to develop, implement and review strategies to stimulate and diversify the local economy and address business challenges
- 2.c.2.1** Provide information to the business community to support decision making
- 4.b.2.1** Ensure the Town's finances are managed efficiently and effectively in line with legislated requirements.
- 4.b.3.1** Ensure governance information provided to the community is in line with legislated requirements

RISK MANAGEMENT CONSIDERATIONS

If Council accept the offer, there is a low (4) financial risk associated with this item, as there would be a financial loss. The risk rating is determined by a likelihood of unlikely (2) and a consequence of minor (2).

There is also a medium (9) financial risk that if Council accept this offer, it may set a precedent to other potential buyers that Council are willing to accept offers that do not meet market valuation. The risk rating is determined by a likelihood of possible (3) and a consequence of moderate (3).

These risks will be eliminated by the adoption of the officer's recommendation.

There is also a financial risk associated with rejecting the offer and subsequently not receiving a higher offer, or the purchaser buying elsewhere. The risk rating is considered to be medium (9), which is determined by a likelihood of possible (3) and a consequence of moderate (3).

This risk will be eliminated if Council decide to accept the offer.

OPTIONS

This report presents two options for Council to consider.

Option 1 – Adopt officer's recommendation - Reject the offer

The Officer's recommendation is to reject the offer.

This recommendation is based on MJW's acknowledgement of the Design Guidelines which stipulate that any costs for earthworks to the site must be borne by the buyer, and that the justification provided does not warrant a discount of the land's valuation.

It should be noted that there is the risk that MJW may withdraw their offer completely.

Option 2 – Accept the offer

By accepting MJW's offer, Council acknowledges that the site will require filling to an appropriate level at the buyer's expense and that Council agrees that the offer price reflects an acceptable discount to mitigate these additional costs to the buyer.

The associated implications of this option would be that there is a reduction in sales proceeds resulting in less funding for asset renewals. The proceeds are almost guaranteed, albeit at a reduced price. If this option is considered, the following motion would be used:

That Council:

1. Accepts the offer to purchase lot 421 at Kingsford Smith Business Park for the amount of \$318,181.81 (excl GST) from MJW Commercial Properties Pty Ltd in accordance with section 3.58 of the *Local Government Act 1995*; and
2. Request the Chief Executive Officer, or his delegate finalise the legal documentation to formalise the disposition of lot 421 at Kingsford Smith Business Park in accordance with the *Local Government Act 1995*.

CONCLUSION

Council is requested to consider an offer for lot 421 at KSBP from MJW Commercial Properties Pty Ltd which falls beneath the CEO's delegated authority to accept, and also falls below the current valuation of the lot.

As outlined above, there are financial implications associated with either options to accept or reject the offer, and Council must weigh each option on their merits and associated risks.

Officers recommend rejecting the offer, based on MJW's reasoning not being considered as an acceptable justification for the offer. A higher offer would provide increased funding towards asset renewal in line with the strategic direction of Council to revitalise the Town's facilities and community infrastructure.

ATTACHMENTS

1. Offer on Lot 421 Kingsford Smith Business Park (Confidential - Under separate cover)
2. Kingsford Smith Business Park Design Guidelines (Under separate cover)
3. Valuation of lots at Kingsford Smith Business Park (Confidential - Under separate cover)

11.2 Development, Sustainability and Lifestyle

11.2.1 Annual Community Development Grant (File No 02/05/0004)

Author	Administration Officer, Development, Sustainability & Lifestyle
Authorising Officer	Acting Director Development, Sustainability & Lifestyle
Disclosure of Interest	The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

CM201920/008 OFFICER'S RECOMMENDATION / COUNCIL DECISION

That Council:

1. Acknowledge the applications for Community Development Grant funding under policy 6/003 "Community Grants Program Policy".
2. Endorse the following applications for funding support:
 - a) Youth Involvement Council – \$10,000 – to deliver a program called Chill Skills that helps raise self-esteem and confidence in teens, it supports development of healthy behaviour and emotional wellbeing;
 - b) 514 ACU Australian Army Cadets - \$9,000 – for field activities to increase the cadets' confidence and skills such as survival skills, team skills, first aid and team leadership whilst in an isolated field environment;
 - c) Hedland Community Living Association Incorporated - \$10,000 - to provide an opportunity for the disadvantaged, children in care, at risk youth and others with disability to access outdoor recreational activities;
 - d) Unit 2 Boxing Inc - \$10,000 – to hold a community event which showcases up and coming young boxers;

CARRIED BY COMMISSIONER RIEBELING

PURPOSE

The purpose of this report is for Council to consider applications for the 2019 Community Development Grant annual round of funding offered to the community under the Community Grants Program Policy 6/003. The objective of this policy is to ensure the Council allocate financial support to the community in the most effective manner.

DETAIL

The Community Development Grant (CDG) is one of twelve different types of grants offered to the community by the Town of Port Hedland (Town).

The CDG is one of two grants available that offer funding of up to \$10,000 maximum and the requirements for eligibility is slightly more complex.

The Town actively promotes this funding category on an annual basis and the advertisement for the current round was published in April 2019.

Review process

This year, we received a total of eight (8) applications ranging from youth services to sporting groups.

Applications were assessed against the Town Community Grants Program Policy 6/003 to ensure compliance and to determine the merit of the project or event.

A panel including the Acting Director Development Sustainability and Lifestyle, Manager Community Services and Delivery and Administration Officer Development Sustainability and Lifestyle convened to assess each of the applications. The review process involved assessment of the applicants for compliance with the requirements of the Policy and relevant guidelines. The panel prepared a matrix to assess all applications based on information applicants provided.

Applicants were then scored from (1 to 5) according to the following:

- Alignment with the Town's Strategic Plan 2018-2028
- Sustainability beyond Town support
- Demonstrated high level of community need for event/program/service
- Community impact and demonstrated increase access
- Meets the Town's Community Grants Program Policy 6/003 Guidelines & Selection Criteria (Yes/No response)

Applicants were requested to align their applications with the current Strategic Community Plan 2018-2028

Recommendation

That Council fund the following applications based on the outcome of the review process (outlined previously) and supported by the information provided in the Community Development Grant Matrix Register (attachment 1).

Ranking	Applicant	Amount	Comments
1	Youth Involvement Council	\$10,000.00	<p>Delivering a program called Chill Skills that helps raise self-esteem and confidence in teens, it supports development of healthy behaviour and emotional wellbeing</p> <p>This program has proven to be effective at supporting high risk children to develop an understanding of appropriate behaviours and build health relationships. It aligns with both the Town's Strategic Community Plan 2018-2028 and the Community Safety Plan 2019-2021 that is currently out for comment.</p>
2	514 ACU Australian Army Cadets	\$9,000.00	<p>Field activities to increase cadets' confidence and skills such as survival skills, team skills, first aid and team leadership whilst in an isolated field environment.</p> <p>It is a positive and inclusive Program for the community and youth providing benefits to the wider community by providing mentoring, healthy lifestyles and youth diversion.</p>
3	Hedland Community Living Association Incorporated	\$10,000.00	<p>This initiative will provide an opportunity for the disadvantaged, children in care, at risk youth and others with disability to access outdoor recreational activities. It aligns well with both the Town's Strategic Community Plan 2018-2028 and the Community Safety Plan 2019-2021 by providing diversionary programming for those at risk.</p>
4	Unit 2 Boxing Inc	\$10,000.00	<p>Hold a community event which showcases up and coming young boxers in Hedland. This initiative provides benefits to the youth sector including mentoring, healthy lifestyles and youth diversion.</p>

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of medium significance, as it is based on the rationale of the Strategic Community Plan endorsed at the May, 2018 OCM and the Community Grants Program Policy 6/003.

CONSULTATION

Internal

- Acting Director Development Sustainability and Lifestyle
- Manager Community Services and Delivery
- Administration Officer Development Sustainability and Lifestyle

External Agencies

Not applicable

Community

The grant was advertised through the Town's Community Notices, on the Town's Facebook Page and promoted through email networks. A number of organisations called and emailed to find out more information and understand whether their initiative would fit the criteria. The Community Engagement Team responded to all enquiries.

LEGISLATION AND POLICY CONSIDERATIONS

Reg. 12 and Reg. 13 of the *Local Government (Financial Management) Regulations 1996* outline the provisions of making payments and delegates the CEO authorisation to make the payment. Although the CEO has authority under regulation 13 to make payments, the delegation from the Council to the CEO under the Community Grants Program Policy 6/003 (and also in the Delegation register) states that the Community Development Grants are to be decided by Council on an annual basis.

FINANCIAL AND RESOURCES IMPLICATIONS

The outcome if the officer's recommendation is accepted will be to endorse \$39,000 for the Community Development Grant from the Community Grant budget for 2019/2020. The total 2019/2020 budget allocation is \$160,025.00. We have approved \$1,060.00 for Community funding and donations to date leaving a current underspend of \$158,965.00 prior to this recommendation being adopted.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item as it relates to the process of awarding grant funds.

- 1.a.3** Youth services and facilities are implemented with regular input from youth and providers
- 1.a.4** Partnerships with stakeholders to deliver sport and recreation are enhanced
- 1.a.5** Agencies and the community are fully engaged to reduce anti-social behaviours and improve community safety
- 1.a.6** Town-wide health, safety, recreation and sporting activities and services

- 1.b.3** Forums and activities to give a voice to youth, people with a disability, ageing, Aboriginal and Torres Strait Islander, and Culturally and Linguistically Diverse people are recognised and supported
- 1.b.4** Regular opportunities for the broad community to have input into the Town of Port Hedland plans and programs are provided for transparency, accountability and two-way interaction
- 1.b.5** Opportunities to get involved and results of engagement are regularly promoted
- 1.c.1** The community, industry, arts and cultural organisations are engaged to identify, plan and coordinate events and activities
- 1.c.2** Events and activities to celebrate the Town's cultural heritage, arts and Pilbara lifestyle are consistently programmed and delivered
- 1.c.3** Partnerships with industry and government to support events and activities are enhanced
- 1.c.4** The Town's program of events and activities is promoted locally, regionally and nationally
- 1.d.1** The present and future facilities and requirements of the Town are planned for and developed in-line with relevant facility standards and community needs
- 1.d.2** Facilities and community infrastructure are revitalised across the Town
- 1.d.3** Facilities and community infrastructure are well maintained, managed and fit for purpose to provide a range of lifestyle opportunities
- 3.a.1** Traditional owners, key stakeholders, and the community are informed and actively involved in the protection and enhancement of the natural environment

Social

There are several identifiable social impacts that will result from the approval of the allocation of the Community Development Grant. These include: supporting critical community services; supporting a recreational activity within the community; improvement in social outcomes through supporting early based learning programs

There are no significant identifiable environmental or economic impacts relating to this item.

RISK MANAGEMENT CONSIDERATIONS

As per the risk matrix contained in policy 1/022 'Risk Management', the level of risk is considered to be Low (3) given that the \$39,000 submitted for approval is in relation to the 2019/2020 Community Development Grant funding for which there currently remains a budget of \$158,965.00

There is a risk rating of Low (3) assigned to the reputation risk given that the Town could be compromised should we not allocate the Community Development Grant. This is given we have advertised the funding round and applicants have taken the time to prepare and submit their applications and provide all relevant requested information.

This risk will be eliminated by the adoption of the officer's recommendation.

OPTIONS

Option 1 – Adopt officer's recommendation

Option 2 – Amend officer's recommendation

Option 3 – Do not adopt officer's recommendation

CONCLUSION

The review process has identified four worthy applicants for the current round of the Community Development Grant. The selection is based on a thorough review process by an independent panel of members. Successful applicants have applied by the due date and provided all necessary documentation as requested. Therefore Council's endorsement of the recommended successful applicants will contribute to positive social outcomes and provide support for the community of Port Hedland.

ATTACHMENTS

1. Summary of Community Development Grant Applications for 2019/2020 Financial Year Matrix. (Confidential, Under Separate Cover)

11.2.2 Revised Local Planning Policy 02 – Advertising Signs (*File No. 18/01/0021*)

Author Planning and Development Support Officer
Authorising Officer Acting Director Development, Sustainability and Lifestyle
Disclosure of Interest The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

CM201920/009 OFFICER'S RECOMMENDATION / COUNCIL DECISION

1. That Council, pursuant to Clause 3, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* resolves to:
 - a) Adopt amended Local Planning Policy 02 – Advertising Signs, presented as Attachment 1 of this item for the purpose of public consultation.
 - b) Advertise amended Local Planning Policy 02 – Advertising Signs in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.
 - c) Note the Town's Election Sign Guidelines included as Attachment 3.

CARRIED BY COMMISSIONER RIEBELING

PURPOSE

The purpose of this report is for Council to consider adopting a revised Local Planning Policy for Advertising Signs including the removal of the reference to Election Signs in line with Western Australian Local Government Association's (WALGA's) Political Signage Guideline, and reformat the remainder of the policy to make it simpler to understand for members of the public.

DETAIL

Local Planning Policy 02 – Advertising Signs (LPP 02) has been prepared with the goal of revising the Town's existing Control of Signs and Advertising Devices planning policy. LPP 02 has been developed to create a more streamlined, applicant friendly policy aimed at effectively outlining development requirements for Advertising Signs within the Town. The revised policy includes revised objectives and assessment criteria that the Town will use to assess future applications. The assessment criteria was developed following an extensive review of other local government planning policies relating to advertising signs to ensure best practice. Implementation of the policy aims to facilitate advertising signs being developed to a higher design standard to complement their surroundings and promote local businesses.

The need to review the Town's policy relating to signage was brought to the attention of the Town when WALGA released their 'Political Signage Guideline' in relation to how local planning frameworks regulate Election Signage in anticipation of the 2019 Local Government Elections. WALGA's guidelines noted a case in the City of Armadale whereby it was deemed inappropriate for a local planning scheme or policy to regulate Election Signage:

"The principal point of note that arises from examination of this issue, is for Local Government not to single out election signage as a class of sign under a local planning scheme or local planning policies to which specific arbitrary constraints are attached.

Such attempt to prohibit election signage in a district is likely to be deemed an infringement on the implied freedom of political communication and will be considered invalid. Local Governments that have local planning schemes and local planning policies that reflect such a prohibition will be required to amend their schemes in light of the City of Armadale case and the invalidity of such provisions."

In response to WALGA's guidelines, the Town has removed all references to Election Signs in its local planning policy (revised policy included as Attachment 1) and developed "Election Sign Guidelines" (included as Attachment 3) which will be administered by the Town's Governance team during election periods. The remainder of the Town's existing Control of Signs and Advertising Devices planning policy has been restructured and formatted in a clearer and more coherent manner to enable the public to understand when planning approval is required for signage, and the Town's expected development standards for signage.

The adoption of this policy will focus on tackling the following key issues:

- Clarifying development approval exemptions for signs which have minimal impact on visual aesthetics and community safety;
- Encourage growth and the promotion of businesses;
- To better utilise potential signage locations; and
- To guide staff on assessing future sign and advertising related queries.

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of low significance. A significant reason for revising the Town's Advertising Signs Policy is the upcoming Local Government Elections on 19 October 2019.

CONSULTATION

Internal

- Manager Town Planning & Development
- Senior Planner
- Governance Officer
- Senior Environmental Health Officer
- Rangers Team Leader

External Agencies

External agencies will be consulted as part of public advertising of the draft policy. WALGA's Political Signage Guideline was reviewed in relation to this item. Several other Local Governments election policies/ guidelines were reviewed in relation to this item, including City of Karratha, City of Swan, City of Belmont and City of Bayswater.

Community

If Council supports the revised Local Planning Policy 02 – Advertising Signs, the Town will publish a notice of the proposed draft policy in the North West Telegraph, giving details of:

- The subject and nature of the proposed policy;
- The objectives of the proposed policy;
- Where the proposed policy may be inspected; and
- To whom, in what form and during what period submissions in relation to the proposed policy may be made.

A copy of the draft policy will also be placed on the Town's website inviting feedback.

Any submissions received during the public advertising period will be considered and reported back to Council in line with the *Planning and Development (Local Planning Schemes) Regulations 2015*. LPP 02 will become operational upon Council's final adoption of the policy.

LEGISLATION AND POLICY CONSIDERATIONS

Town of Port Hedland Local Planning Scheme No. 5
Planning and Development (Local Planning Schemes) Regulations 2015
Main Roads Western Australia Policy and Application Guidelines for Advertising within and Beyond State Road Reserves 2018

FINANCIAL AND RESOURCES IMPLICATIONS

There is a financial cost of advertising the draft policy in the newspaper. There is an estimated cost of \$300.00.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 1.c.1** The community, industry, arts and cultural organisations are engaged to identify, plan and coordinate events and activities
- 1.c.2** Events and activities to celebrate the Town's cultural heritage, arts and Pilbara lifestyle are consistently programmed and delivered
- 1.c.3** Partnerships with industry and government to support events and activities are enhanced

- 1.c.4* The Town's program of events and activities is promoted locally, regionally and nationally
- 2.b.3* Red tape for business is minimised through review and reform of relevant policies and by-laws
- 3.b.4* Innovation and resilience of the built form are encouraged, assessed and implemented
- 4.c.3* Innovative marketing to attract amenity usage is implemented

There are no significant identifiable environmental, social or economic impacts relating to this item.

RISK MANAGEMENT CONSIDERATIONS

There is an environmental and compliance risk associated with this item as the exemption from development approval could lead to members of the community ignoring the design conditions in line with Table 1 of LPP 02. The risk rating is considered to be medium (6), which is determined by a likelihood of possible (3) and a consequence of minor (2).

LPP 02 – Advertising Signs clearly separates the types of signs that are exempt from development approval and signs that require development approval.

The policy also makes it clear that being exempt from development approval does not obviate the requirement of the applicant to operate in a legal manner in accordance with conditions and relevant state legislation relating to signage.

The risks are mitigated by the Town's ability to take compliance action against unlawful operators, and the ability for operators to apply for development approval when they seek to vary policy conditions.

This policy supports WALGA's Political Signage Guideline Implied Constitutional Freedom of Political Communication by acknowledging the problems identified by including election signage in regulatory provisions.

OPTIONS

Option 1 – Adopt officer's recommendation

Option 2 – Amend officer's recommendation

CONCLUSION

This report has detailed the reasons for reviewing the Town's policy in relation to advertising signs and the benefits associated with the revised policy. Creating a more streamlined, applicant friendly policy not only benefits members of the business community, it enables the Town's Officers to convey planning requirements clearly to ensure the Town promotes the most effective, visually aesthetic signs that benefit all members of the community. By adopting this policy, Council will facilitate greater communication between businesses and members of the community.

ATTACHMENTS

1. Local Planning Policy 02 – Advertising Signs (revised policy)
2. Control of Signs and Advertising Devices (existing policy) (Under Separate Cover)
3. Election Sign Guidelines

ATTACHMENT 1 TO ITEM 11.2.2**Town of
Port Hedland****Local Planning Policy****LPP/02 ADVERTISING SIGNS****1. Purpose**

The purpose of this policy is to provide guidance on signage and instances where development approval is not required from the Town of Port Hedland (the Town). This policy also clarifies what signage is considered suitable by the Town for approval to provide certainty to businesses.

2. Objectives

The objectives of this policy are to:

1. Ensure that signs do not dominate the built environment and remain an incidental aspect of development.
2. Ensure that the display of signage does not adversely impact on the amenity of neighbouring land.
3. Promote the display of signage for the purpose of public events.
4. Ensure that signage does not adversely impact the level of safety for motorists, cyclists, and pedestrians by obstructing sight lines.
5. Protect the significance of heritage places and buildings.
6. Ensure that signage is established and maintained to a high standard.

3. Application

This policy applies to the entire municipality of the Town and must be read in conjunction with the Town of Port Hedland Local Planning Scheme No. 5 (Scheme) and *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations). If this policy is inconsistent with the Scheme, Regulations or any Design Guidelines, the Scheme, Regulations and/or Design Guidelines prevail to the extent of the inconsistency.

1. Signage that meets all development standards outlined in Table 1 is exempt from obtaining development approval.
2. Signage on buildings or places listed in the Town's Heritage Inventory or registered by the Heritage Council is not exempt from development approval. The Town will assess signage on heritage buildings or places on its merit considering location, scale, materials, colour and the extent to which the signage respects the heritage values of the building or place.
3. Signage types not listed in Table 1 and signage that does not meet all development standards in Table 1 as determined by the Town must obtain development approval.
4. Businesses seeking to display more than five (5) separate signs in total on a lot will require development approval from the Town.



Local Planning Policy

5. Home business signage shall not exceed 0.2m² as per the Scheme.
6. The Town will assess all Development Applications against the objectives of this policy and the Development Standards in Table 1 or Assessment Criteria in Table 2 (as applicable).
7. Even if signage is exempt under Table 1 or meets all criteria under Table 2, structures permanently fixed to the ground or structure for a period exceeding 30 days in a calendar year require a Building Permit.
8. Signs not listed in this policy and deemed as 'community signs' as determined by the Town may require approval from the Town's Technical Services.

4. Non Permitted Signage

The following signage shall not be permitted:

1. Any signage that, in the opinion of the Town is objectionable, dangerous or offensive.
2. Signage located on land not owned or leased by the advertiser unless where otherwise specified in this policy.
3. Illuminated, animated, moving, pulsating or flashing advertisements unless specified in this policy.
4. Advertisements located in the centre of any roundabout or within the minimum distance from any traffic signal as specified in the *Main Roads Western Australia (MRWA) Policy and Application Guidelines for Advertising Signs Within and Beyond State Road Reserves*.

5. Existing Signage



1. Existing signs are those which were erected, placed or displayed lawfully prior to the coming into force of this policy will not be impacted. Modification to existing signs will be subject to this policy.
2. Council may require the removal or repair of existing signage where it is considered that the sign(s) have deteriorated to a point where they are illegible, dangerous or in poor condition.
3. Signs that have been erected without approval and where they do not meet the Development Standards outlined in this policy may be removed with or without notice.

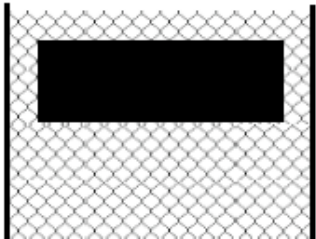
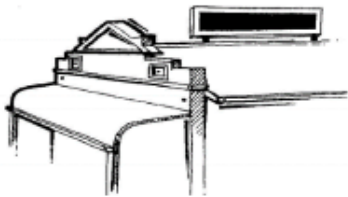

6. Signs Exempt from Development Approval

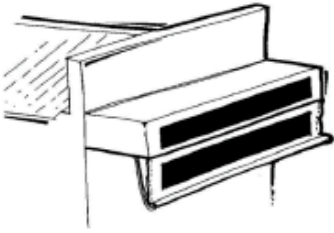


Development Criteria for Signage which is Exempt from Development Approval

The sign types that meet all following Development Standards outlined in Table 1 do not require development approval. If any sign does not meet all applicable standards, development approval from the Town must be obtained.

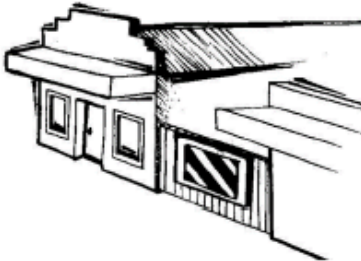

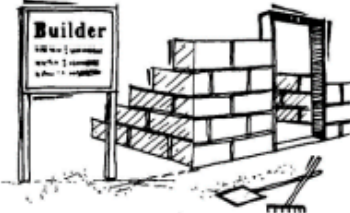
Table 1: Signage exempt from the requirement to obtain development approval


SIGNAGE	DEFINITION	DEVELOPMENT STANDARDS
<p>Portable A-Frame and other small portable signage</p>	<p>Definition: A free-standing portable sign not permanently attached to a structure or fixed to the ground or pavement.</p> 	<p>Size: Shall not exceed</p> <ul style="list-style-type: none"> • A maximum height of 1m and width of 750mm. <p>Location: Shall</p> <ul style="list-style-type: none"> • Be located entirely within the property boundary. • Be removed at the end of each day. <p>Shall not</p> <ul style="list-style-type: none"> • Impede traffic, pedestrians, affect car parking or be placed in a hazardous way. <p>Design Standards: Shall</p> <ul style="list-style-type: none"> • Only advertise the business located on the property. • Be removed at the issue of a cyclone warning 'yellow' alert. • Have a maximum of two (2) signs per tenancy.
<p>Flag Sign</p>	<p>Definition: A sign with advertising printed on a flag and flown from a pole.</p> 	<p>Size: Shall not exceed</p> <ul style="list-style-type: none"> • A maximum area of 2m² for each flag. <p>Shall</p> <ul style="list-style-type: none"> • Achieve a minimum separation of 2m between the bases of each flag. <p>Location: Shall</p> <ul style="list-style-type: none"> • Be located entirely within the property boundary. • Be removed at the end of each day. <p>Shall not</p> <ul style="list-style-type: none"> • Impede traffic, pedestrians, affect car parking or be placed in a hazardous way. <p>Design Standards: Shall</p> <ul style="list-style-type: none"> • Only advertise the business located on the property. • Be removed at the issue of a cyclone warning 'yellow alert'. • Have a maximum of two (2) signs per tenancy.

<p>Community Display (non-for-profit events)</p>	<p>Definition: A temporary sign displaying information to notify the public of an upcoming non-for-profit community event.</p> 	<p>Size: Shall not exceed</p> <ul style="list-style-type: none"> • 2m at its highest point above natural ground level. • A maximum area of 4m² in aggregate. <p>Location: Shall</p> <ul style="list-style-type: none"> • Be integrated with its surroundings. • Be positioned in such a way that it will not negatively impact on surrounding amenity. • Be removed no later than the day after the event. <p>Shall not</p> <ul style="list-style-type: none"> • Impede traffic, pedestrians, affect car parking or be placed in a hazardous way. • Be erected without consent of the relevant landowner <p>Design Standards: Shall</p> <ul style="list-style-type: none"> • Only be used to promote non-for-profit community events. • Be removed at the issue of a cyclone warning 'yellow alert'.
<p>Roof Sign</p>	<p>Definition: A sign erected on or attached to the roof of a building.</p> 	<p>Size: Shall not exceed</p> <ul style="list-style-type: none"> • A maximum area of 4m² in aggregate. <p>Location: Shall not</p> <ul style="list-style-type: none"> • Exceed 1m in height above the roofline. <p>Design Standards: Shall</p> <ul style="list-style-type: none"> • Only advertise the business(es) located on the property. <p>Shall not</p> <ul style="list-style-type: none"> • Exceed one sign per street frontage, with a maximum of two roof signs per building.
<p>Wall Sign</p>	<p>Definition: A sign which is affixed to the external part of a wall of the building but does not project more than 300mm from the wall.</p> 	<p>Size: Shall not exceed</p> <ul style="list-style-type: none"> • 20% of the wall to which it is affixed/painted; or • An area greater than 4m² in aggregate; (whichever is the lesser) <p>Location: Shall not</p> <ul style="list-style-type: none"> • Be located above ground floor level (signage on second story requires development approval). <p>Design Standards: Shall</p> <ul style="list-style-type: none"> • Only advertise the business/businesses located within the building/tenancy the sign is located on. • Be limited to two (2) signs on any one wall.

<p>Awning Sign</p>	<p>Definition: A sign displayed on the outer fascia of an awning or eaves of a building, and include signs on blinds, sunshades and similar structures attached to an awning, veranda, balcony or eaves of a building.</p> 	<p>Size: Shall not exceed</p> <ul style="list-style-type: none"> The face of the awning canopy. <p>Location: Shall</p> <ul style="list-style-type: none"> Be located wholly within the face of the building in which the sign is being displayed. <p>Design Standards: Shall</p> <ul style="list-style-type: none"> Only advertise the business(es) located on the property. Be consistent with the scale of the building. <p>Shall not</p> <ul style="list-style-type: none"> impede traffic, pedestrians, affect car parking or be placed in a hazardous way.
<p>Window / door signs</p>	<p>Definition: A sign which is affixed to either the interior or exterior of the glazed area of a window and /or door.</p> 	<p>Size: Shall not exceed</p> <ul style="list-style-type: none"> 25% of the window area to which it is being affixed; or 10m² maximum area in aggregate; (whichever is the lesser) <p>Location: Shall</p> <ul style="list-style-type: none"> Be located wholly on the windows or door(s) of a building. <p>Design Standards: Shall</p> <ul style="list-style-type: none"> Only advertise the business within the building or tenancy the window is part of.
<p>Variable Message Sign (VMS)</p>	<p>Definition: An electronic sign positioned to notify members of the community of upcoming events and/or safety messages.</p> 	<p>Size: Shall not exceed</p> <ul style="list-style-type: none"> A sign area greater than 4.2m² for each side. <p>Location: Shall not</p> <ul style="list-style-type: none"> impede traffic, pedestrians, affect car parking or be placed in a hazardous way. Be located within a State Road reserve without approval from Main Roads WA. Be located within a Local Road reserve without written consent from the Town. Be located in a residential zone. <p>Design Standards: Shall</p> <ul style="list-style-type: none"> Be granted temporary approval if the sign is to be used for less than 30 days upon written request and confirmation from the Town of Port Hedland. Be used for community events or safety messages only. Be removed in the event of a 'yellow' cyclone warning. <p>Shall not</p> <ul style="list-style-type: none"> Be used for commercial purposes.



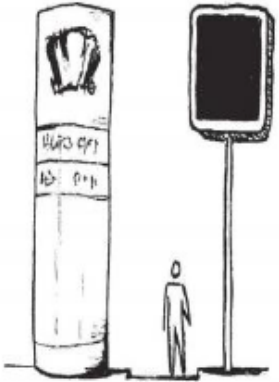
<p>Fence Sign</p>	<p>Definition: A Sign which is affixed to a panel/fence.</p> 	<p>Size: Shall not exceed</p> <ul style="list-style-type: none"> • 2m diagonally across the face. • 2m at its highest point above natural ground level. <p>Location: Shall</p> <ul style="list-style-type: none"> • Be located entirely within the property boundary and secured flat to a fence. <p>Shall not</p> <ul style="list-style-type: none"> • Project over/within a road reserve or public place. <p>Design Standards: Shall</p> <ul style="list-style-type: none"> • Only display advertising which relates to the business located on the lot. • Be no more than two (2) signs per property.
<p>Banner Sign</p>	<p>Definition: A temporary sign of non-rigid material attached between posts or from a veranda of a building to promote sales or special activity on the site but does not include a community display sign.</p> 	<p>Size: Shall not exceed</p> <ul style="list-style-type: none"> • A face area of 4m² in aggregated area. <p>Location: Shall</p> <ul style="list-style-type: none"> • Be located entirely within the property boundary. • Be removed at the issue of a 'Yellow' alert cyclone warning. <p>Shall not</p> <ul style="list-style-type: none"> • Project beyond the face of the building. <p>Design Standards: Shall</p> <ul style="list-style-type: none"> • Only advertise the business(es) located on the property. • Be removed at the issue of a cyclone warning 'yellow alert'.
<p>Development Sign</p>	<p>Definition: A sign that provides details of a development occurring on a property, which is displayed during the course of construction of a building, development or subdivision.</p> 	<p>Size: Shall not exceed</p> <ul style="list-style-type: none"> • A face area of 4m² in aggregated area. <p>Location: Shall</p> <ul style="list-style-type: none"> • Be wholly located within the boundary of the property the development/subdivision is occurring within. • Be removed upon practical completion of a building. • Be removed upon issuance of all titles of subdivision. • Be removed if the development or building approval has lapsed. <p>Shall not</p> <ul style="list-style-type: none"> • Impede traffic, pedestrians, affect car parking or be placed in a hazardous way. <p>Design Standards: Shall</p> <ul style="list-style-type: none"> • Contain the following details – <ol style="list-style-type: none"> (i) the name and registration number of the building contractor; (ii) a contact telephone number for the building contractor; (iii) the name and registration number of the nominated supervisor for the building contractor. • Be limited to one (1) sign per street frontage.

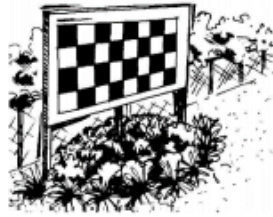

<p>Real Estate Sign</p>		<p>Size: Shall not exceed</p> <ul style="list-style-type: none"> • A face area with a maximum of 1.8m in height and 1.2m in width. <p>Location:</p> <p>Shall</p> <ul style="list-style-type: none"> • Be wholly located within the lot boundaries of the property which is for sale. • Be removed once a contract of sale/purchase has been signed. <p>Shall not</p> <ul style="list-style-type: none"> • Impede traffic, pedestrians, affect car parking or be placed in a hazardous way. <p>Design Standards:</p> <p>Shall</p> <ul style="list-style-type: none"> • Only incorporate the logo and contact details of the realtor and /or the Real Estate Developer. • Be limited to one (1) sign per lot.
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9. Signage Types that Require Development Approval

Assessment will be undertaken with regard to the Objectives of this Policy and the Assessment Criteria of Table 2.

Table 2: Signage Types That Require Development Approval

SIGNAGE	DEFINITION	ASSESSMENT CRITERIA
<p>Pylon Sign</p>	<p>Definition: A large sign which is infilled from the ground level to the top of the sign or fixed to a post connected to the ground.</p> 	<p>Size: Shall not exceed a maximum</p> <ul style="list-style-type: none"> • Face area dimension of 3.5m width or height. • Face area of 4m² on each side (single tenancy). • Face area of 13m² on each side (multiple tenancy). • Height of six (6) metres from natural ground level. • Depth of 400mm. <p>Location:</p> <p>Shall</p> <ul style="list-style-type: none"> • Be located within a property boundary <p>Shall not</p> <ul style="list-style-type: none"> • Impede traffic, pedestrians, affect car parking or be placed in a hazardous way. • Project over a road reserve, walkway or any other public area. • Be located in a residential area. • Dominate the environment in which it is situated. <p>Design Standards:</p> <p>Shall</p> <ul style="list-style-type: none"> • Where a lot contains more than one tenancy, the design shall ensure provision within the allowable sign size for every tenancy to be displayed. • Be limited to one (1) sign per lot, even where there are multiple tenancies, except where a lot contains two or more tenancies and has more than one street frontage. In which case, one (1) sign per street frontage may be permitted.

<p>Hoarding Sign</p>	<p>Definition: A large free standing structure that is used for advertising commercial products, services or businesses or government and community messages but not in relation to land/building development or transactions.</p> 	<p>Size: Shall not exceed</p> <ul style="list-style-type: none"> • A face area of more than 8m² for each side. • 4m in height from natural ground level. <p>Shall</p> <ul style="list-style-type: none"> • Achieve a minimum vertical clearance of 1.2m from natural ground level. <p>Location: Shall not</p> <ul style="list-style-type: none"> • Be located on or within 6m of a road reserve or public reserve. • Impede traffic, pedestrians, affect car parking or be placed in a hazardous way. • Be located in a residential area. • Dominate the environment in which it is situated. <p>Design Standards: Shall be limited to</p> <ul style="list-style-type: none"> • One (1) sign per lot.
<p>Shipping Container Sign</p>	<p>Definition: A sign located on a shipping container.</p> 	<p>Size: Shall not exceed</p> <ul style="list-style-type: none"> • 6m or equivalent 20ft. • 3m in height above natural ground level. • 16m² in aggregate area. <p>Location: Shall</p> <ul style="list-style-type: none"> • Be located within a property boundary and cannot project over a road reserve or public place. <p>Shall not</p> <ul style="list-style-type: none"> • Be located in a residential area. <p>Design Standards: Shall</p> <ul style="list-style-type: none"> • Not exceed the diagonal dimensions of the sea container. • Not exceed one (1) per lot. • Obtain a Building Permit if placement exceeds 30 days in a calendar year.

10. Definitions

For the purposes of this policy, the following definitions apply:

“Amenity” is defined by factors which combine to form the character of an area and include the present and likely future amenity.

“Sign” or **“Signage”** means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, that is used wholly or partly for the purpose of advertising, announcing or directing, and includes –

1. any hoarding or similar structure used, or adapted for use, for the display of advertisements; and
2. any airborne device anchored to any land or building used for the display of advertising; and



Local Planning Policy

- 3. any vehicle or trailer or other similar object placed or located so as to serve the purpose of displaying advertising.

Relevant legislation	<i>Planning and Development Act 2005 Planning and Development (Local Planning Schemes) Regulations 2015 Town of Port Hedland Local Planning Scheme No. 5</i>
Delegated authority	
Business unit	Planning & Development
Directorate	Development, Sustainability & Lifestyle

<i>Governance to complete this section</i>			
Version Control	Version No.	Resolution No.	Adoption date
Review frequency	2 Yearly		

ATTACHMENT 3 TO ITEM 11.2.2

Local Government Elections - Election Sign Guidelines



When can I install election signs?

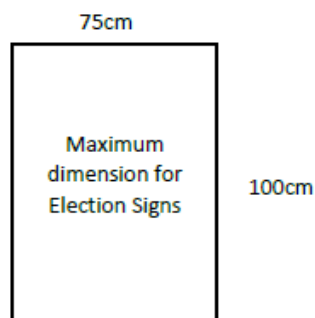
- Election signs can be erected the day after the nomination period closes. For 2019, this date is Friday 13 September 2019.
- Signs must be removed within 7 days of the election. This is Saturday 1 November 2019.

Where can I install election signs?

- You can place election signs on private property, provided that you obtain approval from the owner of the property first.
- Election signs must not be placed on any Local Government owned property / fences / buildings/ parks etc. Examples are: Civic Centre, Depot, JD Hardie, Libraries, Aquatic Centres and the Wanangkura Stadium.
- Election signs must not obstruct or encroach a public thoroughfare or endanger the public in any way.
- Each sign must be erected using its own stake or picket. Signs must not be placed on any existing sign infrastructure.
- Election signs cannot be placed within 50m of an intersection/ roundabout/ traffic sign or traffic island.
- Elections signs must be no closer than 3.5m from the trafficable path of vehicles.

How big can election signs be?

- Election signs cannot exceed 0.75m² in area.



Do I need approval to erect an election sign?

- No. Election signs are exempt from planning approval.

Local Government Elections - Election Sign Guidelines



What must be on the election sign?

- The name and address of the person authorising the sign
- The name and place of business of the printer of the sign
- Signs must not contain any purported representation of a ballot paper
- Signs must not contain any misleading or deceptive imagery or material

What do I do if I see an election sign in breach of these guidelines?

- Call the Town of Port Hedland on (08) 9158 9300 and tell us the location. Our Rangers will investigate and remove the sign if the sign is breaching the Town's guidelines.

The above guidelines are based on information contained within the following documents:

- Sections 187 and 191A of the [Electoral Act 1907](#)
- Regulations 7 & 7A of the [Local Government \(Uniform Local Provisions\) Regulations 1995](#)
- Schedule 2 item 61 of the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#)
- Clause 4.12 and 4.13 of the [Town of Port Hedland Animals Environment and Nuisances Local Law 2016](#)
- Clause 11.6 of the [Town of Port Hedland Planning Policy No. 12 'Control of Signs and Advertising Devices'](#)

11.2.3 Port Hedland International Airport Initial Lessee Masterplan & Capital Works Program (File No. 18/02/0053)

Author	Manager Town Planning & Development
Authorising Officer	Acting Director Development Sustainability & Lifestyle
Disclosure of Interest	The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

CM201920/010 OFFICER'S RECOMMENDATION / COUNCIL DECISION

That Council:

1. Approves the Initial Lessee Masterplan (Masterplan) included as Attachment 1 of this report to guide planning of the Port Hedland International Airport for the first 20 years of the lease, pursuant to clause 8.2 of the Novation and Operating Deed, subject to the following requirements being met within six (6) months to the satisfaction of the Town of Port Hedland:
 - Updated Australian Noise Exposure Forecast (ANEF) map to be provided in a form approved by Air Services, to replace Figures 23, 24 and 25 and update relevant sections of the Masterplan.
2. Approves the Capital Works Program included as Confidential Attachment 2 of this report, subject to the requirements of the Lease and Novation and Operating Deed being met in relation to implementation.
3. Delegates to the Chief Executive Officer to approve the final Masterplan to incorporate the updated ANEF map required by Recommendation 1 (a) and authorise the Chief Executive Officer to approve minor changes to the Masterplan and Capital Works Program prior to works being implemented.

CARRIED BY COMMISSIONER RIEBELING

PURPOSE

The purpose of this report is for Council to consider endorsing the attached Port Hedland International Airport (PHIA) Initial Lessee Masterplan (Masterplan) and Capital Works Program (CWP) as per the requirements of the Lease and Novation and Operating Deed for the Port Hedland International Airport.

DETAIL

The Town leased the Port Hedland International Airport to PHIA Asset Pty Ltd as trustee of the PHIA Asset Trust (Lessee) on 11 March 2016 for a period of 50 years. A requirement of the Lease and Novation and Operating Deed between the Town of Port Hedland, PHIA Operating Company Pty Ltd and the Lessee is for the Lessee to prepare Masterplan to guide planning of the airport for the first 20 years of the lease. There is a further requirement in the Novation and Operating Deed for the Masterplan to be peer reviewed by an independent consultant, using a collaborative process, until the Town of Port Hedland has granted approval to the Masterplan.

A Draft Masterplan was submitted to the Town by PHIA in March 2018. The Town engaged Airbiz to independently review the Masterplan, who produced an independent review report generally covering the following points, as per the requirements of the independent review process as outlined in the Lease and Novation and Operating Deed:

- Assessment of the extent to which the Masterplan is consistent with the template for a regional airport master plan contained in the Regional Airport Master Planning Guidelines;
- Identify whether adequate justification is provided in the draft Masterplan for any deviations from the Template Master Plan requirements;
- Assessment of the extent which the Masterplan protects options for future infrastructure on the land;
- Assessment of the extent to which the Masterplan ensures that development on the land meets prevailing noise and height limitation standards associated with the operation of aircraft;
- Assessment of the extent which the Masterplan ensures that any commercial development does not derogate from the transportation functions of the Airport;
- Comparatively reference against the existing PHIA Masterplan (2012) and highlight any significant changes or trends since this time that warrant changes as outlined in the draft Masterplan (2018).
- Assessment of whether the draft Masterplan (2018) included an adequate Capital Works Program in accordance with the terms of the Lease between Town of Port Hedland and Port Hedland International Airport (2016) and Novation and Operating Deed – Port Hedland International Airport (2016);
- Assessment of whether the underlying assumptions of growth and patronage are consistent with the Town's assumptions used in its Long Term Financial Plan and Growth Models; and
- Assessment of whether the draft Masterplan (2018) adequately addresses the local planning framework, and whether any changes to the planning framework are recommended to be undertaken to guide the development of precincts.

Several revisions/iterations of the Masterplan were made throughout the independent review process to address issues raised as part of the independent review. The Town's officers have assessed the revised Masterplan and are satisfied that it meets the requirements of the Lease, Novation and Operating Deed and Regional Airport Master Planning Guidelines.

Masterplan

The proposed Masterplan includes a detailed description of the existing context and activities of the airport, which leads to a SWOT analysis and development of a strategic vision and objectives for the airport's future development. The PHIA Op Co vision for PHIA is:

“To be a leading regional Australian airport and a modern, well-serviced airport which is a major domestic and international gateway airport for Western Australia (WA). It will be the gateway to the Pilbara and a major intermodal hub”.

The strategic objectives relate to safe and secure operations, customer satisfaction, sustainable growth management and business development. The strategic vision and objectives of the airport are consistent with the Town's Strategic Community Plan 2018-2028 vision and are appropriate to guide development of the Masterplan area.

The critical airport planning parameters outline forecasted passenger and aircraft movements, design aircraft types, pavement strength, passenger terminal parameters, and safety considerations including noise and obstacle height limit mapping. These have guided the formation of six (6) precincts each with a different purpose based on the critical parameters and SWOT analysis. The precincts are generally consistent with previous masterplans for the airport and include the following:

- Airside Precinct – 309.4 hectares
- Northern Precinct – 107.6 hectares
- Terminal and General Aviation Precinct – 24.5 hectares
- Freight Precinct – 8.4 hectares
- Highway Precinct – 89.3 hectares
- Airport Industrial Park Precinct – 278.3 hectares

Whilst each precinct outlines preferred businesses and activities in each precinct, it should be noted that the Town of Port Hedland Local Planning Scheme No. 5 (Scheme) applies in relation to development permissibility and the Town must consider Scheme requirements for development applications. Generally however, the Masterplan provides an overview of the Scheme requirements and the terminology used regarding land use permissibility is generally consistent with the Scheme.

An airport safeguarding plan is provided within the Masterplan which generally meets the requirements of the lease, which are:

- Ensure options are protected for future infrastructure on the land;
- Ensure that development on the land meets prevailing noise and height limitation standards associated with the operation of aircraft; and
- Ensure that any commercial development does not derogate from the transportation functions of the airport.

In relation to point one (1), the Masterplan protects the existing airside facilities and accounts for possible future runway extensions, apron and taxiway modifications, and passenger facility requirements.

Provision is made for a Freight Precinct to capitalise on future aircraft freight demand. It is considered that the Masterplan adequately protects options for future infrastructure on the land, noting that the Scheme will apply to development applications and function to prohibit any inappropriate development proposals.

In relation to point two (2), in particular noise standard mapping, the mapping included in the Masterplan is not clear enough and has not been endorsed by Air Services, which is required to guide land use planning. The obstacle height limit mapping included is sufficient and the Town will need to update its local planning framework to accommodate the new obstacle height limit mapping. It is recommended the Masterplan is approved subject to updated Australian Noise Exposure Forecast (ANEF) mapping being provided in a form approved by Air Services. PHIA have indicated this can be finalised within six (6) months, which has been incorporated into the Officer Recommendation of this report.

In relation to point three (3), the proposed extent of commercial development does not derogate from the transport functions of the airport as airside facilities and the future freight precinct are positioned to capitalise on these opportunities. As the level of detail in the Masterplan is light-on and allows flexible development options, Town will need to consider individual developments in accordance with the Scheme and Masterplan to ensure that any commercial development reinforces the airport's primary transport function. This is reflected as a Scheme Objective for developments on airport land so will be considered as a matter of course for each development application.

A brief implementation plan is included which outlines broad short term, medium term and long term actions which aim to be flexible to respond to market drivers and changes in air traffic movements. The implementation plan does not constitute the Capital Works Program, but rather functions to indicate development priorities in the short term (i.e. terminal redevelopment and highway precinct) and medium term to complement the Capital Works Program.

Capital Works Program

The Capital Works Program is included as a Confidential Attachment (Attachment 2) at the request of PHIA, and is summarised to include the following works:

- Airside pavements
 - Taxiway golf and airside pavement works
- Buildings
 - Heliport development (completed)
 - PHIA operations office (completed)
 - Terminal redevelopment (forecasted 2019-2021)
 - Car rental solution (forecasted 2019-2020)
 - Relocation of air freight shed (forecasted 2019)
- Other Infrastructure Developments
 - Medium intensity runway lighting (MIRL) (forecasted 2019)
 - Movement area guidance signs (MAGS) (forecasted 2019-2020)
 - Improvement in access control points (2018)
 - Fire station access road (forecasted 2019)
 - Bulk haulage development (Highway Precinct) (2019-ongoing)

- Consulting and Capex
 - Baseline contamination report (completed 2017)
 - Remedial action plan (completed 2018)
 - Masterplan and Review (ongoing 2018-2019)
 - Salary and supplementary costs (ongoing)
 - Supplementary equipment and vehicles (ongoing)

There is a requirement for PHIA to spend a minimum of \$40m on capital works as part of the lease. The capital works program included as Attachment 2 indicates the PHIA Board has approved a significant percentage of the \$40m required capital works and includes a commitment that PHIA will meet its lease obligations in relation to the minimum \$40m expenditure. It is considered generally that the capital works program is suitable given current asset conditions and the need for more modern facilities to support an improved passenger experience and freight movement.

Part 2 of the Officer Recommendation of this report ensures that the Council decision on the capital works program acknowledges that the Lease and Novation and Operating Deed apply in relation to implementing the capital works. Part 3 the Officer Recommendation requests that Council delegates to the Chief Executive Officer the ability to approve minor changes to the Capital Works Program and Masterplan to allow some flexibility in adapting the document and to accommodate the required updates to ANEF mapping.

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of low significance, because this item will not significantly impact the community or Council as a whole, nor have any significant financial implications at this present time.

CONSULTATION

Internal

- Chief Executive Officer
- Director Development, Sustainability & Lifestyle
- Manager Town Planning & Development
- Manager Governance
- Legal Advisor

External

- PHIA General Manager
- Independent Review Consultants (Airbiz)

LEGISLATION AND POLICY CONSIDERATIONS

- *Lease – Port Hedland International Airport*
- *Novation and Operating Deed – Port Hedland International Airport*
- *Ministerial Direction M37/99 – Air Services responsible for technical accuracy of Australian Noise Exposure Forecast (ANEF) mapping for land use planning*
- *Australian Standard AS2021: 2015 – Acoustics, Aircraft Noise Intrusion – Building Siting and Construction*

FINANCIAL AND RESOURCES IMPLICATIONS

The Town's financial implications associated with PHIA either under or over spending the required \$40M in carrying out the CWP approved under the Masterplan is mitigated by the following clauses of Novation and Operating Deed:

- Cl.8.3(g): provides that if PHIA incurs costs less than \$40M in carrying out the approved CWP, PHIA must pay the Town a 50% share of the cost saving; and
- Cl.8.2(h)(i): provides that if PHIA incurs costs greater than \$40M in carrying out the approved CWP, the Town is not liable for those further costs.

The resource implications of this decision are that the approved Masterplan determines the CWP to be carried out by PHIA. Upon expiry or termination of the Airport Lease, PHIA is required to transfer ownership in all Structures it constructed to the Town, including the terminal, runways and aprons (see cl.32 'Handover' of the Airport Lease). The CWP approved by Council will ultimately become the Town's assets.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Council's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 2.c.1** Business and government agencies and other relevant stakeholders are engaged to:
 - Identify strategic employment and economic development priorities
 - Assess and address market failures affecting the cost of living
 - Assess and address cost of doing business challenges
- 4.b.2** Transparent and regular financial reporting and communication to the community is undertaken
- 4.c.4** Efficiency strategies across the Town's infrastructure and amenity assets are implemented

There are no significant identifiable environmental, social or economic impacts relating to this item.

RISK MANAGEMENT CONSIDERATIONS

There is a service interruption risk associated with this item as failure to approve the Masterplan within six months from the date it is received will extend the date PHIA is required to deliver the CWP by a period of month for every month the approval takes beyond the six months (see cl.8.3(3) of the Novation and Operating Deed).

The risk rating is considered to be medium (9), which is determined by a likelihood of possible (3) and a consequence of moderate (3).

This risk will be mitigated by approving the Masterplan.

OPTIONS

Option 1 – Adopt officer's recommendation

Option 2 – Amend officer's recommendation

Option 3 – Do not adopt officer's recommendation

CONCLUSION

This report has provided details on the contents of the PHIA Masterplan and Capital Works Program, and provides an assessment of whether the Masterplan and Capital Works Program are satisfactory for endorsement by Council. There is a minor outstanding issue with the Masterplan being updated ANEF noise mapping. It is recommended that Council approve the Masterplan and Capital Works Program subject to this matter being finalised within six (6) months of the approval date, which will enable PHIA to move forward with submission of development applications to implement parts of the Capital Works Program.

ATTACHMENTS

1. Port Hedland International Airport Masterplan (Under Separate Cover)
2. Capital Works Program (Confidential, Under Separate Cover)

11.2.4 JD Hardie Site Masterplan (File No. 26/17/0002)

Author	Senior Sport and Facilities Officer
Authorising Officer	Acting Director Development, Sustainability and Lifestyle
Disclosure of Interest	The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

CM201920/011 OFFICER'S RECOMMENDATION / COUNCIL DECISION

1. That Council endorse the JD Hardie Site Masterplan (Attachment 1).
2. Authorise the Chief Executive Officer to proceed to the detailed design of the JD Hardie Site.

CARRIED BY COMMISSIONER RIEBELING

PURPOSE

The purpose of this item is for Council to consider and endorse the masterplan and proceed to detailed design. Donovan Payne Architects completed the commissioned masterplan for the JD Hardie Youth Zone (JDHYZ) facility and surrounds.

A Balanced View Leisure Consultants (ABV) and Town of Port Hedland (Town) Officers undertook comprehensive community consultation to establish need at the JDHYZ site in conjunction with two other major community recreation masterplans (Attachment 2). The following report summarises the outcomes of this consultation and how this informed the final masterplan.

DETAIL

The JDHYZ is the Town's primary youth precinct. Built in the 1970s as an indoor recreation centre, the building underwent a \$9.55 million redevelopment in 2010 and reopened as an expanded youth centre. The building features a full-sized indoor sports court, performing arts room, commercial kitchen, meeting rooms, offices and a lounge area providing a hangout space for youth. Externally, the facility is attached to three unshaded outdoor bitumen basketball courts and is serviced by a car parking area. JDHYZ is Port Hedland's primary welfare centre providing one of the emergency community evacuations centres.

Town Community Services and Delivery Department Officers, located at the JDHYZ occupy the newer western wing offices and program workshops, birthday parties, activities and excursions for youth of all ages. This includes the popular programs 'Kids Club' (children 0 – kindergarten) and Friday night 'SLAM' basketball (youth aged 12 – 25). Town Rangers and community focussed tenants, including Lifestyle Solutions and Headspace also occupy office space. The large hall area is regularly utilised for large scale lands meetings, sorry business gatherings and dance performances. Martial arts, combat sports, dance groups, organised basketball and roller derby utilise the performing arts room and the indoor court spaces during high demand early weeknight evening times and weekends. The JDHYZ is limited in its ability to facilitate youth programming as its indoor facilities are fully booked with prime-time use at capacity throughout most of the year.

The services on offer at JDHYZ are well regarded by the community. However there are capacity and functionality issues with the site. Throughout JDHYZ's life it has performed numerous functions for the community and an endorsed masterplan will provide strategic legitimacy to future capital and operational planning supported by the intention to ultimately guide future planning actions and present a vision for the future of the JDHYZ.

The JDHYZ attracts anti-social behaviour during and after operating hours and there are ongoing concerns with safety, vandalism and break-ins, similar behaviour is experienced at the South Hedland Library. Additionally, considerable foot traffic toward Marquee Park and the South Hedland Town Centre from JDHYZ occurs throughout the sizable parcel of undeveloped land.

The key elements of the Masterplan are to formalise foot traffic flow through the undeveloped land; address Port Hedland's significant shortages in childcare provision; and provide a solution for the South Hedland Library due to the facilities nearing the end of their useful life. As a result, the option to relocate the library, build a new childcare appropriate space and develop the currently undeveloped land to the west has created an opportunity to masterplan a community learning and development hub at the JDHYZ site.

Please refer to the legend in Donovan Payne's final JDHYZ Masterplan (Attachment 1) for the identified Key Elements:

- Youth Engagement
 - BMX Pump tracks (Point 2 and 3)
 - Skate grinding and obstacles (Point 6)
 - Shaded multi-use courts (Point 8)
- Car parking
 - 150 formalised car parking spaces (10)
- Outdoor Activation
 - Commercial Café (Point 12)
 - Shaded seating (Point 13)
 - Shaded amphitheatre

- Outdoor activation space (Point 14)
- New primary entry point

- Foot traffic flow management
 - Shaded walkways (Point 15)
- Library and Childcare
 - A street side Library (Point 16) and Childcare Centre (Point 17 and 18) are the major inclusions at the southern section of the site along Cottier Drive.

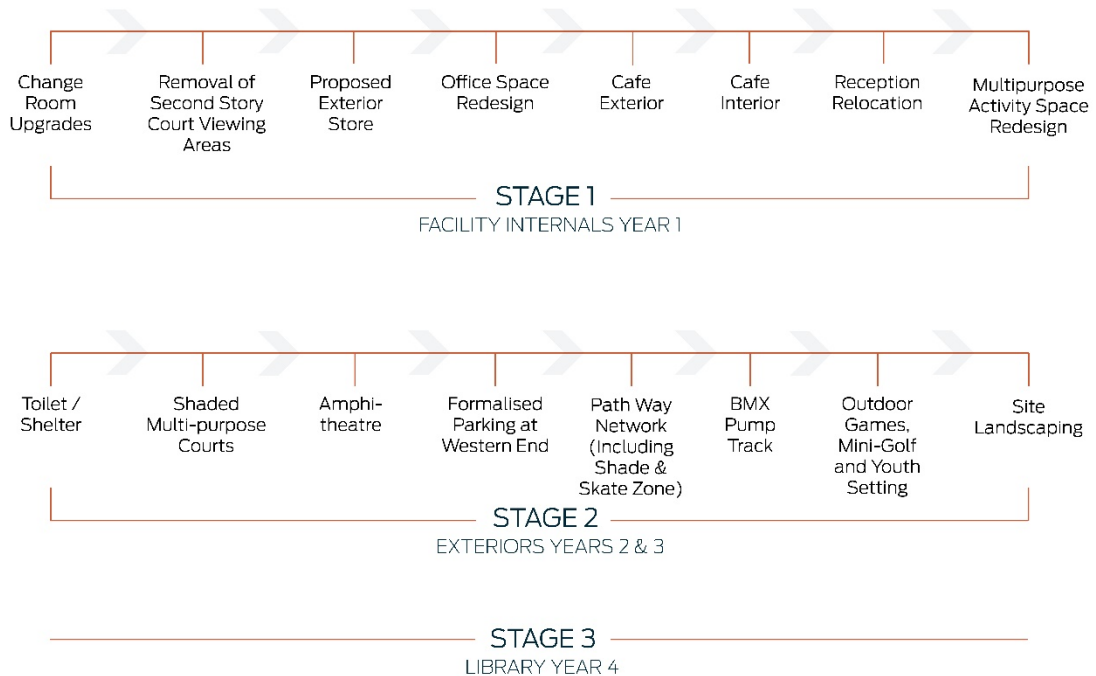
Whilst typically not required as part of the masterplan process, Donovan Payne Architects developed an internal schematic to show how the interior of the facility could 'talk' to the external elements. The schematic demonstrates how more performance and activity space can be generated in the south-eastern side of the facility. These spaces would connect to the shaded amphitheatre and provide for operational programming.

The administration and operations areas are relocated to the south-western side, with connectivity to the café/commercial kitchen, as well as a youth lounge; both of which are accessible from the exterior of the building. Enhanced office spaces with the reduction of unnecessary hallway space in the north-western side of the facility should provide more office space for Town staff. If required, further office space can be accommodated in the detailed design of the new library.

The work, from design to delivery, to complete the masterplan in its entirety will be a staged process over the coming years. Note that masterplans are living documents that evolve with changes in community need over time, and this is simply a concept to assist Town Officers move these staged projects forward.

Based on the needs identified, the following priority schedule was developed:

Masterplan Timeline



Town officers will manage these stages one at a time, however if funding opportunities arise, such as a successful Building Better Regions Fund application, then all stages can be project managed concurrently. It should be noted that there is an assumption that the childcare elements (including parking) on the eastern section of the site will be funded and project managed separately to the other elements of this masterplan.

The current contract with Donovan Payne Architects includes the option to proceed to the detailed design phase of the project. This phase involves the development of concept schematic drawings, a concept design summary report and scope, a cost report and construction program. It is the officer’s recommendation that Council proceed with this option if the Masterplan is endorsed.

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 ‘Significant Decision Making’, this matter is considered to be of medium to high significance, given the important long term function that the JDHYZ provides to the community.

CONSULTATION

Internal

- Director Development, Sustainability and Lifestyle
- Manager Facilities
- Manager Community Services and Delivery
- Manager Town Planning and Development
- Manager Parks, Gardens & Engineering Services
- Coordinator Property Management
- Senior Librarian
- Senior Youth Services Officer
- Senior Sport and Facilities Officer

External Agencies

- ABV Leisure Consultants
- Donovan Payne Architects
- EPIC Disability Services

Community

A Balanced View Leisure Consultants (ABV) were engaged in January 2019, to produce a Town-wide needs assessment and architectural briefs relating to the JDHYZ site as well as the South Hedland Sports Complex and McGregor Street Precinct. The consultation included face-to-face meetings with stakeholders on the ground in Port Hedland in February and June 2019. The Needs Analysis Report (Attachment 2) summarises this consultation.

An electronic survey open to the wider community was promoted through the Town's website and social media, received 67 individual responses relating to the JDHYZ site. Club committees and other organised groups considered primary stakeholders were asked to complete separate group-specific surveys. Phone interviews were also conducted with specific stakeholders.

The **key learnings** from the consultation period:

- There is significant immediate community demand for childcare places with demand anticipated to increase.
- There is community demand for:
 - Indoor sports and activities. In particular there is high demand for basketball, dance and martial arts;
 - Covered outdoor sports courts;
 - Affordable community activity and meeting spaces;
 - Car parking amenities and connectivity access at the site; and

- An expectation of supporting recreational and general public amenities at the site such as public toilets, water fountains, paths, playgrounds and notably, given hot summer climatic conditions, shade.
- In relation to the requirement to provide an alternative facility to operate the South Hedland Library, it is a community preference for co-location with community, childcare and/or sport and recreation facilities
- Consideration that there will be a requirement for additional open space provision into the future.
- That all community developments, where possible should be flexible in design and multipurpose (there are some facilities such as child care facilities that cannot be built for alternative uses, nevertheless, can be flexible in design to meet changing requirements).

LEGISLATION AND POLICY CONSIDERATIONS

There are no significant State, Local or other legislation considerations attached to this item. The Town's Disability Access and Inclusion Plan (DAIP) was considered as well as the draft Public Open Space Strategy. The site is located on Crown Reserve 41675 vested to the Town of Port Hedland Recreation purposes, meaning there are no significant land tenure issues to be addressed.

FINANCIAL AND RESOURCES IMPLICATIONS

\$150,000 has been allocated in the 2019/20 budget for Stage 1 of the detailed design at the JDHYZ Site. Upon adoption, a priority schedule will be developed that will determine appropriate staging priorities for this masterplan.

The intention of this masterplan is to guide the next 20 years of capital and operations planning at the site. These developments have been factored into the Town's long term financial planning.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Council's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 1.a.1** Stakeholders are engaged to develop a whole of town approach to increase accessibility to quality health and wellbeing services
- 1.a.2** Community needs and gaps in health provision are identified and delivered
- 1.a.3** Youth services and facilities are implemented with regular input from youth and providers
- 1.a.4** Partnerships with stakeholders to deliver sport and recreation are enhanced
- 1.a.6** Town-wide health, safety, recreation and sporting activities and services

- 1.b.4** Regular opportunities for the broad community to have input into the Town of Port Hedland plans and programs are provided for transparency, accountability and two-way interaction
- 1.b.5** Opportunities to get involved and results of engagement are regularly promoted
- 1.c.1** The community, industry, arts and cultural organisations are engaged to identify, plan and coordinate events and activities
- 1.c.2** Events and activities to celebrate the Town's cultural heritage, arts and Pilbara lifestyle are consistently programmed and delivered
- 1.d.1** The present and future facilities and requirements of the Town are planned for and developed in-line with relevant facility standards and community needs
- 1.d.2** Facilities and community infrastructure are revitalised across the Town
- 1.d.3** Facilities and community infrastructure are well maintained, managed and fit for purpose to provide a range of lifestyle opportunities.
- 3.b.1** The present and future needs for serviced land and infrastructure provision are identified, planned and developed
- 3.b.4** Innovation and resilience of the built form are encouraged, assessed and implemented
- 3.b.5** The protection and valuing of amenities and urban space is enhanced through community engagement
- 3.c.1** Urban and spatial planning is implemented to enhance human interaction with nature and industry
- 3.c.2** The community is surrounded by and has access to attractive natural habitats, built form, parks and amenities
- 3.c.3** Engagement with the community on urban renewal and greening initiatives is enhanced
- 4.b.4** Constructive forums are provided for discussion and the representation of the diversity of views and needs that impact on the Town's developments, programs and policies
- 4.c.2** Community members, business and tourists are engaged to provide feedback about local facilities and services
- 4.c.4** Efficiency strategies across the Town's infrastructure and amenity assets are implemented

Environmental – Development of the currently undeveloped western side of the site will have negligible environmental impact.

Economic – This masterplan is accommodated in the long term financial planning of the Town.

Social – it is expected that the realisation of this masterplan will have significant impact on social capital for the Port Hedland community.

Disability Access and Inclusion Plan

The following outcome/s of the Town's Disability Access and Inclusion Plan 2017-2022 apply in relation to this item:

- Outcome 2 – Buildings and Facilities

RISK MANAGEMENT CONSIDERATIONS

There is a reputational risk associated with this matter because of the identified community need for developments at JDHYZ, particularly that of childcare and hireable activity spaces. The risk rating is considered to be medium (9), which is determined by a likelihood of possible (3) and a consequence of moderate (3).

This risk will be mitigated by the adoption of the officer's recommendation. There is a compliance risk associated with this matter because future detailed design needs to take all aspects of 'Universal Access' into account. The risk rating is considered to be low (4), which is determined by a likelihood of rare (1) and a consequence of major (4).

This risk will be eliminated by complying with the requirements of all relevant codes, Australian Standards, the Town's DAIP and further user group consultation during the detailed design process.

OPTIONS

Option 1 – Adopt officer's recommendation

Option 2 – Do not adopt officer's recommendation

CONCLUSION

ABV's Needs Analysis identified clear gaps between community need and the functionality of the current facility which are remedied by this masterplan. Most notably current and future demand for programmable space, library services and childcare shortages are sufficiently addressed. An endorsed masterplan will serve as a guiding document to ensure that detailed design and construction of future upgrades will be consistent with the plan, will provide improved hard infrastructure and increase the capacity of infrastructure to meet the needs of the community for increased facilities and improved programs.

ATTACHMENTS

1. JD Hardie Site Masterplan - *Donovan Payne Architects*
2. Town of Port Hedland Master Plan Needs Analysis. A Balanced View Leisure Consultants (Under Separate Cover)

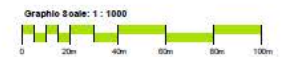
ATTACHMENT 1 TO ITEM 11.2.4



MASTERPLAN LEGEND

- | | | | | |
|-----------------------------------|---|---------------------------------|--|----------------------------|
| 1 TOILETS PERMANENT SHADE | 5 BMX VIEWING & GATHERING HUB | 9 EXTERNAL YOUTH ACTIVATION | 13 COVERED CAFE COURTYARD | 16 LIBRARY |
| 2 JUNIOR BMX TRACK | 6 SKATE ZONE | 10 CENTRAL CAR PARKING | 14 COVERED EXTERNAL PERFORMANCE AREA | 17 CHILDCARE FACILITY |
| 3 BMX & PUMP TRACK | 7 MINI GOLF | 11 JD HARDIE MULTI-PURPOSE ZONE | 15 COVERED WALKWAYS CONNECTING SITE ELEMENTS | 18 EXTERNAL CHILDCARE PLAY |
| 4 OUTDOOR GAMES & PERMANENT SHADE | 8 SHADED BASKETBALL COURTS WITH PERIMETER SEATING | 12 JD HARDIE CAFE/ KIOSK | 19 NOTIONAL LANDSCAPING | 20 EXTERIOR STORE ROOM |

- PATHWAY CONNECTIONS
- EXISTING TREES/ PLANTATION



TOWN OF PORT HEDLAND

JD HARDIE PRECINCT MASTERPLAN

SK00

LOCATION PLAN

14 JUNE 2019

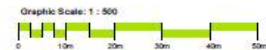




MASTERPLAN LEGEND

- | | | | | | |
|-----------------------------------|---|---------------------------------|--|----------------------------|------------------------|
| 1 TOILETS PERMANENT SHADE | 5 BMX VIEWING & GATHERING HUB | 9 EXTERNAL YOUTH ACTIVATION | 13 COVERED CAFE COURTYARD | 16 LIBRARY | 20 EXTERIOR STORE ROOM |
| 2 JUNIOR BMX TRACK | 6 SKATE ZONE | 10 CENTRAL CAR PARKING | 14 COVERED EXTERNAL PERFORMANCE AREA | 17 CHILDCARE FACILITY | |
| 3 BMX & PUMP TRACK | 7 MINI GOLF | 11 JD HARDIE MULTI-PURPOSE ZONE | 15 COVERED WALKWAYS CONNECTING SITE ELEMENTS | 18 EXTERNAL CHILDCARE PLAY | |
| 4 OUTDOOR GAMES & PERMANENT SHADE | 8 SHADED BASKETBALL COURTS WITH PERIMETER SEATING | 12 JD HARDIE CAFE/KIOSK | | 19 NOTIONAL LANDSCAPING | |

- PATHWAY CONNECTIONS
- EXISTING TREES/ PLANTATION



TOWN OF PORT HEDLAND

JD HARDIE PRECINCT MASTERPLAN

SK01

MASTERPLAN

14 JUNE 2019





TOWN OF PORT HEDLAND

JD HARDIE PRECINCT MASTERPLAN SK05

JD HARDIE CENTRE FLOOR PLAN

06/20/19

11.3 Infrastructure and Town Services

11.3.1 Request to Lease McGregor Street (*File No. 05/05/0107*)

Author	Project Officer
Authorising Officer	Acting Director Infrastructure and Town Services
Disclosure of Interest	The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

CM201920/012 OFFICER'S RECOMMENDATION / COUNCIL DECISION

That Council:

1. Approve the disposal of 144sqm of Reserve 53212, Lot 2052 McGregor Street, Port Hedland to CipherTel Pty Ltd by way of land lease in accordance with Section 3.58 (3) of the *Local Government Act 1995* on the following terms and conditions:
 - a) Initial lease term of 10 years;
 - b) Option to extend for 11 years (total 21 years);
 - c) Annual rental of \$8,500 per annum exclusive of GST;
 - d) Annual increases of 3% per year cumulative;
 - e) Annual rental to be quarantined in the Town's community reserve account and applied to community facilities; and
 - f) Permitted purpose of telecommunications facility.

Subject to no submissions being received during the requisite advertising period.

CARRIED BY COMMISSIONER RIEBELING

PURPOSE

The purpose of this report is for Council to consider approving the disposal of a 144sqm portion of Reserve 53212, McGregor Street Port Hedland by way of lease to CipherTel Pty Ltd.

Reserve 53212, Lot 2052 McGregor Street, Port Hedland is Crown Land owned by the State of Western Australia. The Town of Port Hedland has the Management Order for the Reserve with power to lease for up to 21 years with consent required from the Minister for Lands. The permitted use of the Reserve is Recreation & Telecommunications.

CipherTel Pty Ltd have submitted a proposal to the Town, requesting to lease a portion of Reserve 53212 to install a communications facility (communications hut) to support the provision of telecommunications.

DETAIL

The Town has been approached by CipherTel to enter into a lease for a parcel of land on Reserve 53212 to enable them to establish a Communication’s Hut.

The proponent suggests that the communications exchange supports, and is of benefit to, the local community of Port Hedland in that:

- *“It makes possible, increased overseas investment, trade and operation into the region.*
- *Increases communication services which provide the opportunity for local economic growth.*
- *Increases communications services which provide diversity in choice for the consumer.*

With the exponential growth of information sharing for economic and social benefit, it’s critical the infrastructure that connects us digitally can support our increasing demand. Therefore, to stay competitive globally we must plan ahead and provision for increasing request for regional connectivity.

The proposed communications services will enable greater capabilities for Port Hedland and the North West in terms of domestic and international connectivity. By providing the ability for international customers to trade and operate more easily in the North West will help increase overseas investment in the region.”



CipherTel have requested to lease a 12m x 12m (144sqm) area as detailed in the above diagram. They have requested a lease term of 10 years, plus an 11 year option. They have also offered an annual rental offering of \$8,500 with a 3% annual lease increase per annum.

The Town has received a Market Rental Valuation from AssetVal Pty Ltd and the offer from CipherTel is consistent within the valuation figure.

The process for disposing of the land under a lease is to advertise its disposal and the compensation being offered in the local paper for at least 14 days. Should no submissions be received within the requisite advertising period it is proposed that a lease will be offered to CipherTel based around the following terms:

- a) Initial lease term of 10 years
- b) Option to extend for 11 years (total 21 years)
- c) Annual rent \$8,500
- d) Annual increase of 3% per annum cumulative.

The proposal to lease the parcel of land must be approved by the Minister for Lands. Without the relevant Minister's approval, the lease will not be able to proceed. At the time of writing this report, Officers have been in dialogue with the Department of Planning, Lands and Heritage seeking their views.

If the lease is agreed to and endorsed by all stakeholders, the proponents will be required to meet the Town's normal Planning and Building regulation requirements.

The proponents will also be responsible for organising connection to power, water and any other required utilities, and will be required to meet all outgoing costs.

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of low significance, as disposing of this land through a lease does not have a significant impact on the community.

CONSULTATION

Internal

- Executive Leadership Team
- Manager Governance
- Manager Town Planning and Development
- Coordinator Property Management

External Agencies

Department of Planning, Lands and Heritage.

Community

An advert will be placed in the North West Telegraph to inform the community of the proposed lease, and the offering being made by CipherTel Pty Ltd.

LEGISLATION AND POLICY CONSIDERATIONS

Section 3.58 of the *Local Government Act 1995* will be referred to in guiding the process to dispose of the land through a lease process.

The proposed lease will be subject to State Government approval. Without the Minister for Lands' approval, the lease will not be able to proceed.

FINANCIAL AND RESOURCES IMPLICATIONS

Through leasing a section of Reserve 53212, McGregor Street Port Hedland, the Town will receive an income of \$8,500 plus annual increases of 3%.

There is an advertising cost of approximately \$200.00 to submit an advertisement in the local newspaper.

In regards to monies generated from the existing lease on this Reserve, the monies have been quarantined in the Town's community facilities reserve account and applied to community facilities. There is a likelihood that any monies generated from the proposed new lease, may also need to be similarly quarantined.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

- 2.b.4* Business approval processes are transparent and pathways streamlined
- 2.d.2* The development of industry specific value chains are encouraged and supported

There are no significant identifiable environmental, social or economic impacts relating to this item.

RISK MANAGEMENT CONSIDERATIONS

There is a low (2) risk associated with this item because it is replicating an existing lease, and has minimal impact on the community in terms of disposal of the land through a lease. This is calculated by a likelihood of unlikely (2) and a consequence of insignificant (1).

OPTIONS

Option 1 – Adopt officer's recommendation

Option 2 – Amend officer's recommendation

Option 3 – Do not adopt officer's recommendation

CONCLUSION

Council has the option to disposal of a portion of Reserve 53212, Lot 2052 McGregor Street Port Hedland through a lease which will generate an income. However, any lease is subject to approval from the State Government and there being no major concerns from the community during the advertising period.

ATTACHMENTS

Nil

Item 12 Reports of Committees

Nil

Item 13 Motions of Which Previous Notice Has Been Given

Nil

Item 14 New Business of an Urgent Nature

Nil

Item 15 Matters for Which Meeting May Be Closed (Confidential Matters)

CM201920/013 COUNCIL DECISION

That Council close the meeting to members of the public as prescribed in section 5.23(2) of the *Local Government Act 1995*, to consider item 15.1 Recruitment of Senior Employees.

CARRIED BY COMMISSIONER RIEBELING

5.57pm The Commissioner declared the meeting closed to the public.

15.1 Recruitment of Senior Employees (File No. CEO-01)

CM201920/014 COUNCIL DECISION

That with respect to the division of services by directorate, Council:

1. Receive the advice from the Chief Executive Officer that proposes a restructure of directorates, including the change in title of directorates; the addition of a fourth directorate; and the restructuring of current directorates into the following:
 - a. Directorate - Community Services;
 - b. Directorate - Regulatory Services;
 - c. Directorate - Infrastructure Services; and
 - d. Directorate - Corporate Services.
2. Establishes position of Deputy Chief Executive Officer and assigns to the Director of Corporate Services.

CARRIED BY COMMISSIONER RIEBELING

CM201920/015 OFFICER'S RECOMMENDATION 2 / COUNCIL DECISION

That Council:

- 1 Approve the restructure of the current director role of Development, Sustainability and Lifestyle into the two positions of Director Community Services and Director Regulatory Services;
- 2 Approve the recruitment of a Director Regulatory Services;
- 3 Approve the recruitment of a Director Community Services; and
- 4 Approve the recruitment of the vacant position of Director Infrastructure Services.

CARRIED BY COMMISSIONER RIEBELING

CM201920/016 COUNCIL DECISION

That Council open the meeting to members of the public.

CARRIED BY COMMISSIONER RIEBELING

6.01pm The Commissioner declared the meeting open to members of the public.

Item 16 Closure

16.1 Date of Next Meeting

The next Ordinary Meeting of Council will be held on Wednesday 28 August 2019, commencing at 5:30pm.

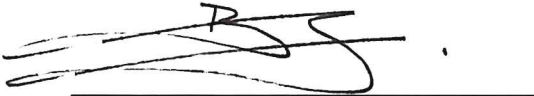
16.2 Closure

There being no further business, the Commissioner declared the meeting closed at 6:05pm.

DECLARATION OF CONFIRMATION OF MINUTES

I certify that these minutes were confirmed by the Commissioner at the Ordinary Council Meeting of 28 August 2019.

CONFIRMATION:



COMMISSIONER

23rd OCTOBER 2019
DATE