

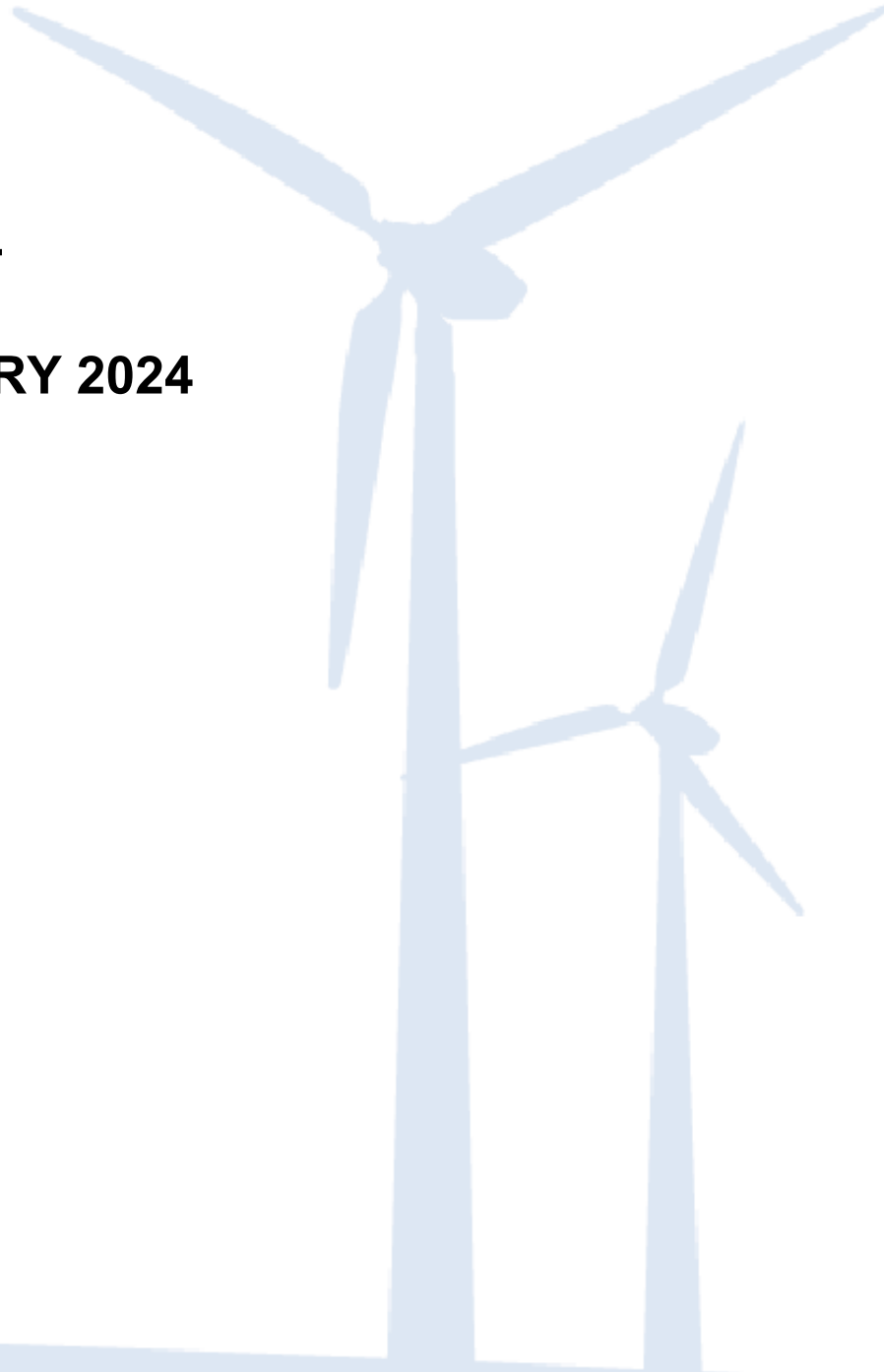


**Shire of Esperance**

**ORDINARY COUNCIL**

**TUESDAY 23 JANUARY 2024**

**MINUTES**



### **DISCLAIMER**

No responsibility whatsoever is implied or accepted by the Shire of Esperance for any act, omission or statement or intimation occurring during Council or Committee meetings. The Shire of Esperance disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee meetings. Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by a member or officer of the Shire of Esperance during the course of any meeting is not intended to be and is not to be taken as notice of approval from the Shire of Esperance. The Shire of Esperance warns that anyone who has any application lodged with the Shire of Esperance must obtain and should only rely on written confirmation of the outcome of the application, and any conditions attaching to the decision made by the Shire of Esperance in respect of the application.

### **ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST**

Council is committed to a code of conduct and all decisions are based on an honest assessment of the issue, ethical decision-making and personal integrity. Councillors and staff adhere to the statutory requirements to declare financial, proximity and impartiality interests and once declared follow the legislation as required.

### **ATTACHMENTS**

Please be advised that in order to save printing and paper costs, all attachments referenced in this paper are available in the original Agenda document for this meeting.

### **RECORDINGS**

The Meeting will be live streamed. The recording will be made publicly available as soon as practical following the meeting.

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**SHIRE OF ESPERANCE**

**MINUTES**

**ORDINARY COUNCIL MEETING HELD IN COUNCIL CHAMBERS ON  
23 January 2024.  
COMMENCING AT 4:00 PM**

**1. OFFICIAL OPENING**

The Shire President declared the meeting open at 4:00pm and did an acknowledgement to country.

*The Shire of Esperance acknowledges the Kepa Kurl Wudjari people of the Nyungar nation and Ngadju people who are the Traditional Custodians of this land and their continuing connection to land, waters and community. We pay our respects to Elders past, present and emerging and we extend that respect to other Aboriginal Australians today.*

The President welcomed Councillors, staff, guests and members of the public to the meeting.

**2. ATTENDANCE**

**Members**

Pres R Chambers		Town Ward
Cr J Obourne	Deputy President	Town Ward
Cr G Johnston		Town Ward
Cr S McMullen		Town Ward
Cr L de Haas		Town Ward
Cr W Graham		Rural Ward
Cr S Starcevich		Rural Ward
Cr S Flanagan		Town Ward
Cr C Davies		Town Ward

**Shire Officers**

Mr S Burge	Chief Executive Officer
Mr M Walker	Director Asset Management
Mr R Grieve	Director External Services
Mr S Stock	Acting Director Corporate & Community Services
Mrs C Hoffrichter	Executive Assistant
Miss S Hawke	Previous Executive Assistant
Mrs R Hamilton	Manger Financial Services

**Members of the Public & Press**

Mr G Vivian	Media – Esperance Weekender
Mr H Smith	Media – ABC Goldfields-Esperance
Ms A Lilly	Media – Kalgoorlie Miner

**3. APOLOGIES & NOTIFICATION OF GRANTED LEAVE OF ABSENCE**

Mrs F Baxter	Granted Leave
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**4. APPLICATIONS FOR LEAVE OF ABSENCE**

**MOTION**

**Moved: Cr Johnston**  
**Seconded: Cr de Haas**

**00124-001**

**That Council accepts the below leave of absence:**

**Cr McMullen 06 to 27 February 2024**

**Cr McMullen 26 March to 03 April 2024**

**Cr Obourne 22 to 25 February 2024**

**CARRIED**  
**F9 - A0**

**5. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

The Shire President referred to Clause 19.2 of the Standing Orders Local Laws to advise Cr de Haas and Cr Davies have switched seats due to a health issue.

**19.2 Cases not Provided for in Standing Orders**

- (1) The person presiding is to decide questions of order, procedure, debate, or otherwise in cases where these Standing Orders and the Act and Regulations are silent

**6. DECLARATION OF MEMBERS INTERESTS**

**6.1 Declarations of Financial Interests – Local Government Act Section 5.60a**  
Nil

**6.2 Declarations of Proximity Interests – Local Government Act Section 5.60b**  
Nil

**6.3 Declarations of Impartiality Interests – Admin Regulations Section 34c**  
Nil

**7. PUBLIC QUESTION TIME**

Nil Questions

**8. PUBLIC ADDRESSES / DEPUTATIONS**

Nil

## 9. PETITIONS

### 9.1 Noise Abatement Peition – Motorcycles at 4 Douglas Street

#### NOISE ABATEMENT PETITION REGARDING MOTORCYCLES 4 DOUGLAS STREET, CASTLETOWN

##### THE PROBLEM

We, the undersigned residents of Castletown, are complaining about the noise from loud motorcycles, coming and going from 4 Douglas Street, Castletown, that is disturbing everyone in the neighbourhood. Nearby neighbours have made complaints in the past, to no avail, and, due to other activities that take place at this premises, many of them are anxious for their safety and don't want to be involved in this complaint on their own. The excessive noise of these bikes can be heard for miles, in fact, it sometimes sounds like they just drive up Chaplin Street and then come back again. According to our research, noise pollution regulations are supposed to limit offensive noise levels from vehicles (<https://transport.wa.gov.au>vehicles>) These bikes come and go at all times of the day, sometimes every fifteen minutes, changing gears as many times as they can in the 100m from the abovementioned house to the Goldfields Road entrance. For example, on Monday, bikes were coming and going every 15 mins and the noise continued well past 2300hours. On Tuesday night they made a run at 0100 hours, waking everyone up. The Environmental Protection (Noise) Regulations 1997 (Noise Regulations) is aimed at protecting people from unnecessary disturbance. (<https://perth.wa.gov.au>community services and facilities>) These activities are disrespectful and counter the noise restrictions in WA (7am – 7pm Monday to Saturday)

##### THE SOLUTION

The solution for us would be:

1. that these bikes have their exhaust systems baffled so that the noise level drops within acceptable limits,
2. that the occupants using a motorcycle would limit their excursions to a reasonable, and,
3. that the occupants would only use the noisy bikes in line with the WA noise restriction hours.

##### TO GET FROM THE PROBLEM TO THE SOLUTION

These bikes sound like Harley Davidsons, with very loud exhaust systems. We want the sound level, and frequency of trips along the road to stop. To this end we would like the police to pull these motorcycles up and sound test their exhaust systems (in line with the blitz started in June 2012 <https://netrider.net.au>threads>days-of-loud-exhausts> ...). If the exhaust system is non-compliant the rider should be issued a non-compliance notice and ordered to fix it. If the non-compliance persists the bike should be marked as un-roadworthy and the rider charged. For our part, we are going to note every time a motorcycle from that premises goes by and take a decibel reading as it passes (we have bought a sound monitor for this purpose). Hopefully this will assist with any investigations. Why anyone needs to come and go from a property every fifteen minutes is beyond our comprehension. It is our hope that the police, having more authority than us, might speak to the occupants and point this out. We intend to take photos and decibel readings of the motorcycles as they pass our place and hope that when we have collected data (and photographic evidence) that this will support the police in their actions in this matter.

**NOISE ABATEMENT PETITION REGARDING MOTORCYCLES 4 DOUGLAS STREET, CASTLETOWN**  
We, the undersigned, are in agreement with this petition

NAME	ADDRESS	PHONE NUMBER	SIGNATURE
TERENCE STONEHOUSE	12 WISEMAN STREET		<i>[Signature]</i>
ROSEMARY STONEHOUSE	12 WISEMAN STREET		<i>[Signature]</i>
LEWIS JAMES	1 DOUGLAS ST		<i>[Signature]</i>
ETHEL JAMES	1 DOUGLAS ST		<i>[Signature]</i>
Kylie Leeson	15 Wiseman St		<i>[Signature]</i>
John Gallagher	13 DOUGLAS STREET		<i>[Signature]</i>
Katie Gibson	103 WISEMAN		<i>[Signature]</i>
Phil Truery	4 WISEMAN		<i>[Signature]</i>
melissa Cellis	3 Douglas St		<i>[Signature]</i>
Judy Nancy	11 Douglas St		<i>[Signature]</i>
John BELLINGER	5 DOUGLAS ST		<i>[Signature]</i>
STEVE BELLINGER	✓		<i>[Signature]</i>
Gary Bennie	6 Douglas Street		<i>[Signature]</i>
Simone Bennie	6 Douglas Street		<i>[Signature]</i>
Peter Wilkinson	3 DOUGLAS STREET		<i>[Signature]</i>
GARY STEVENSON	10A WISEMAN ST		<i>[Signature]</i>
Robert Bach	8 WISEMAN ST		<i>[Signature]</i>
BILL COMPTON	1 WISEMAN ST		<i>[Signature]</i>

NAME	ADDRESS	PHONE NUMBER	SIGNATURE
Tracey Husbands	21 Wiseman street Castletown		<i>[Signature]</i>
Eloise Husbands	21 wiseman St castletown		<i>[Signature]</i>
Frika Nielson	23 wiseman St castletown		<i>[Signature]</i>
John Nielson	23 wiseman St castletown		<i>[Signature]</i>

**MOTION**

**Moved:** Cr Flanagan

**Seconded:** Cr de Haas

**00124-002**

**Council Resolution**

**That Council:**

- 1. Note the petition against loud motorbikes at 4 Douglas Street Castletown, and acknowledge that there are community members that have been negatively impacted by the noise; and**
- 2. Request the CEO to forward this Petition to the Western Australian Police Force for their consideration and action.**

**CARRIED  
F9 - A0**

**10. CONFIRMATION OF MINUTES**

**Moved:** Cr de Haas

**Seconded:** Cr Starcevich

**00124-003**

**That the Minutes of the Ordinary Council Meeting of the 19 December 2023 be confirmed as a true and correct record.**

**CARRIED  
F9 - A0**



**11. DELEGATES' REPORTS WITHOUT DISCUSSION**

**Cr Starcevich**

- 16 Jan Attended Cancer Council Women's Business Lunch
- 16 Jan Zoom Meeting with Telstra Manager, Boyd Brown

**Cr Johnston**

- 31 Dec Attended Rotary Club of Esperance NYE Festival & Fireworks
- 09 Jan Met with Peter Rundle
- 16 Jan Attended Cancer Council Women's Business Lunch
- 16 Jan Zoom Meeting with Telstra Manager, Boyd Brown

**Cr De Haas**

- 19 Dec Attended Harbour Road Masterplan Workshop
- 19 Dec Attended Council Dinner
- 09 Jan Met with Peter Rundle

**Cr Flanagan**

- 16 Jan Zoom Meeting with Telstra Manager, Boyd Brown

**Cr McMullen**

- 16 Jan Zoom Meeting with Telstra Manager, Boyd Brown

**Cr Davies**

Nil

**Cr Graham**

- 09 Jan Met with Peter Rundle
- 16 Jan Zoom Meeting with Telstra Manager, Boyd Brown

**Cr Obourne**

- 28 Dec Attended DFES Incident Control Briefing
- 31 Dec Attended Rotary Club of Esperance NYE Festival & Fireworks
- 09 Jan Met with Peter Rundle
- 13 Jan Met with constituents regarding immigration issues
- 16 Jan Site visit for constituent development issues
- 16 Jan Attended Cancer Council Women's Business Lunch
- 16 Jan Zoom Meeting with Telstra Manager, Boyd Brown
- 16 Jan Chaired Agenda Briefing

**Pres Chambers**

- 31 Dec Attended Rotary Club of Esperance NYE Festival & Fireworks
- 09 Jan Met with Peter Rundle
- 10 Jan Attended debrief for Neds Corner fire
- 12 Jan Met with Justin DBCA manager
- 16 Jan Site visit Shelden Road
- 16 Jan Zoom Meeting with Telstra Manager, Boyd Brown
- 22 Jan Met with Horizon Power

Pres Chambers sends his heartfelt condolences to the Stead family with the unfortunate loss of their son Harry. Thank you to all the emergency services teams that assisted on Boxing Day with the fires. There was close to 13 fires burning across the district and everyone did a wonderful job, thank you.

**12. MATTERS REQUIRING A DETERMINATION OF COUNCIL**

**12.1 EXTERNAL SERVICES**

Nil

**12.2 ASSET MANAGEMENT**

Nil

**12.3 CORPORATE & COMMUNITY SERVICES**

**Item: 12.3.1**

**Policy Review - Executive Services**

<b>Author/s</b>	Sarah Walsh	Coordinator Governance & Corporate Support
<b>Authorisator/s</b>	Steve Stock	Acting Director Corporate & Community Services

**File Ref: D23/33592**

**Applicant**  
Internal

**Location/Address**  
N/A

**Executive Summary**

For Council to review the section of the Policy Manual that relates to Executive Services.

**Recommendation in Brief**

That Council endorse the Executive Services policies inclusive of amendments, inclusions and deletions as reviewed.

**Background**

A review of Council Policies is recommended to take place every two years, in line with Council elections to ensure that the Policies are in keeping with community expectations, relevance and current requirements.

**Officer's Comment**

This year, the policy template has been modified to conform to a change in Shire branding and to meet requirements outlined within the recent regulation 17 review of Shire's systems and procedures.

The following is a summary of recommended changes to the Executive Services policies. Please refer to Attachment A for policy details.

<b>Policy Name</b>	<b>New Ref No.</b>	<b>Recommended Amendment</b>
Public Land Asset Strategy	POL 0032	Amend Council Plan references throughout and responsible officer position title.
Approval to Hold a Civic Reception	POL 0033	Include scope and definition, replace reject with deny in first paragraph, begin second paragraph with 'All', remove (format, invitation list, etc.) from second paragraph.
Elected Member Entitlements	POL 0034	Include scope, remove references to removed sections and replace with reference to professional development policy in travelling expenses section, replace semicolon with full stop in first paragraph of uniform section.
Senior Employees	POL 0035	Include scope.
Execution of Documents and Common Seal Usage	POL 0036	Include scope and definitions, minor wording changes, include disclosure

		statements, notices and property condition reports to item 22 and add item 23 to table.
Legal Representation Cost Indemnification	POL 0037	No change
Conferring of Honours	POL 0038	Include scope and definitions
Presentation of a Shire Plaque of the Council Crest	POL 0039	Rewording of purpose and scope, removal of duplicate paragraph in practice section.
Vandalism Rewards	POL 0040	Include scope.
External Committee Representation	POL 0041	Include scope.
Community Engagement	POL 0042	Adjust reference for Council Plan, add scope and definitions, adjust remove matrix and replace with guide, amend IAP2 table, minor wording amendments.
Use and Storage of Presidential Chain	POL 0043	Include scope, remove Australia Day Ceremonies from limitations list, minor wording updates to second list.
Live Streaming and Recording of Meetings	POL 0044	Include officers definition, remove ('Act') after first reference of LG Act, minor wording changes.
Electoral Caretaker Period	POL 0045	No change
Cultural Protocols	POL 0046	Include scope, move second sentence in Welcome to Country definition to the welcome to country section, remove third paragraph under practice section, minor grammar and wording updates.
Attendance at Events <b>*absolute majority required</b>	POL 0047	Minor rewording, include scope.
Code of Conduct Behaviour Complaints Management	POL 0048	Minor rewording
Elected Member Professional Development <b>*absolute majority required</b>	POL 0049	Change references of conferences and training to be professional development, minor rewording and formatting.
Elected Member Social Media	POL 0050	Removed Guidelines from policy and created the Elected Member Use of Social Media Guide which is now referenced, minor rewording.

### Consultation

Executive Services

### Financial Implications

Nil

### Asset Management Implications

Nil

### Statutory Implications

*Local Government Act 1995 s.2.7(2)(b) 'Determine the Local Government's policies'*

**Policy Implications**

Nil

**Strategic Implications**

Council Plan 2022 – 2032

*Performance - Outcome 15. Operational excellence and financial sustainability*

Objective 15.1. Provide responsible, agile and innovative planning and resource management.

**Environmental Considerations**

Nil

**Attachments**

A⇒. Reviewed Executive Policies - *Under Separate Cover*

---

**RECOMMENDATION AND DECISION**

**12.3.1 Policy Review - Executive Services**

**Moved: Cr Davies**

**Seconded: Cr Obourne**

**O0124-004**

**Council Resolution**

**That Council endorse the Executive Services policies inclusive of amendments, inclusions and deletions as reviewed.**

**CARRIED  
F9 - A0**

**Item: 12.3.2**

**Lease Request - Esperance Airport Car Wash Down Facility**

<b>Author/s</b>	Sarah Walsh	Coordinator Governance & Corporate Support
<b>Authorisator/s</b>	Steve Stock	Acting Director Corporate & Community Services

**File Ref: D24/148**

**Applicant**

Busby Investments Pty Ltd T/As Budget Rent A Car

**Location/Address**

Portion Lot 15 Coolgardie-Esperance Highway Gibson.

**Executive Summary**

For Council to consider entering into a new lease with Busby Investments Pty Ltd T/as Budget Rent A Car for the car wash down bay located at the Esperance Airport, portion Lot 15 Coolgardie-Esperance Highway, Gibson.

**Recommendation in Brief**

That Council enters into a new lease with Busby Investments Pty Ltd T/as Budget Rent A Car for the car wash down bay located at the Esperance Airport, portion Lot 15 Coolgardie-Esperance Highway, Gibson.

**Background**

Busby Investments Pty Ltd T/As Budget Rent A Car (Applicant) began leasing the Car Wash Down Facility at the Esperance Airport in April 2014, and the lease is due to expire 31 March 2024.

The Applicant has requested to enter into a new lease for a further two year term.

**Officer's Comment**

The Applicant currently holds two leases at the Esperance Airport, being the Car Wash Down Facility and Car Hire Desk 2. The proposed two year term will align the expiry date of both leases to 2026.

Discussion with relevant officers has determined that there are no concerns with the lease being renewed and aligning the expiry of both leases will allow for consolidation at the 2026 expiry.

As per s.3.58(4)(c)(i) of the *Local Government Act 1995*, to determine the market value of the disposition we require a rental valuation to be carried out, not more than 6 months prior to the proposed disposition. In this instance, it is proposed that we utilise s.3.58(4)(c)(ii) of the Act for determining the market value of the disposition. This clause states "as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition."

The Shire last obtained an independent rental valuation in February 2019 for land only airport rental space; the valuation was \$6.30 (ex GST) per m<sup>2</sup>/p.a.

The current rental rate being charged for the car wash down bay area is higher than the valuation provided in 2019 and therefore it is recommended that CPI be applied to this amount, resulting in the rate being \$9.90 including GST per m<sup>2</sup> for 2024/25.

As the premises is 225m<sup>2</sup> in size, the annual rent for the premises based on this valuation would be \$2,227.50 including GST.



### **Consultation**

Busby Investments Pty Ltd T/As Budget Rent A Car

### **Financial Implications**

Lease preparation fee: \$630 inc GST

Annual rent: \$2,227.50 inc GST, subject to annual reviews based on CPI

### **Asset Management Implications**

Nil – land only lease. Applicant is responsible for maintenance/repair of all improvements, utility costs, waste water etc.

### **Statutory Implications**

*Local Government Act 1995*- Section 3.58 Disposing of Property

### **Policy Implications**

Building and Property Agreements policy

### **Strategic Implications**

Council Plan 2022 – 2032

*Prosperity - Outcome 12. A prosperous and diverse economy*

Objective 12.1. Attract and retain diverse industries and enterprises to grow the economy and local jobs.

### **Environmental Considerations**

The Applicant is responsible for ensuring they comply with relevant environmental and health regulations.

### **Attachments**

[A](#). Lease Request - Busby Investments - Car Wash Down Facility

**RECOMMENDATION AND DECISION**

**12.3.2 Lease Request - Esperance Airport Car Wash Down Facility**

**Moved: Cr Obourne**

**Seconded: Cr Starcevich**

**O0124-005**

**Council Resolution**

**That Council;**

- 1. Enter into a new lease for the portion of Esperance Airport, Lot 15 Coolgardie-Esperance Highway Gibson, known as Esperance Airport Car Wash Down Facility to Busby Investments Pty Ltd T/As Budget Car Rentals, subject to;**
  - a. The term of the lease being 2 years;**
  - b. Lease rental being \$2,227.50 including GST and that Council consider this value to be a true indication of the current market rental rate, subject to annual CPI increases;**
  - c. Lease preparation fee of \$630 including GST being payable; and**
  - d. The disposition being advertised in accordance with Section 3.58 of the *Local Government Act 1995* for Disposal of Property.**

**CARRIED  
F9 - A0**

**Archived:** Wednesday, 3 January 2024 10:00:32 AM

**From:** [REDACTED]

**Mail received time:** Thu, 28 Dec 2023 00:34:25

**Sent:** Thursday, 28 December 2023 8:34:25 AM

**To:** [Corporate Support](#)

**Cc:** [REDACTED]

**Subject:** EPR Washbay

**Importance:** Normal

**Sensitivity:** None

---

[Caution: External Email] This email was sent from outside the organisation - be cautious, particularly with links and attachments.

Hi Sarah

Merry Xmas

I got the renewal letter from you re the washbay

We do wish to go another term of 2 years. Can you get the paperwork drawn up and we can go from there

Thanks

John

**John McShera** | Group General Manager & Director

Busby Investments Pty Ltd | An Avis & Budget Licensee

A 239 Great Eastern Highway | Burswood WA 6100

D [REDACTED] | E [REDACTED]

W [www.avis.com.au](http://www.avis.com.au) | [www.budget.com.au](http://www.budget.com.au)



Message protected by MailGuard: e-mail anti-virus, anti-spam and content filtering.

<https://www.mailguard.com.au/mg>

**Item: 12.3.3**

**Financial Services Report - January 2024**

<b>Author/s</b>	Roselyn Hamilton	Manager Financial Services
<b>Authorisor/s</b>	Steve Stock	Acting Director Corporate & Community Services

**File Ref: D24/276**

**Attachments**

[A1.](#) Financial Services Report - December 2023

---

**RECOMMENDATION AND DECISION**

**12.3.3 Financial Services Report - January 2024**

**Moved: Cr de Haas**

**Seconded: Cr Davies**

**O0124-006**

**Council Resolution**

**That Council receive the attached report entitled Monthly Financial Services Report for the month of December 2023.**

**CARRIED  
F9 - A0**





























































































## **12.4 EXECUTIVE SERVICES**

### **Item: 12.4.1**

#### **Information Bulletin - January 2024**

<b>Author/s</b>	Sofie Hawke	Executive Assistant
<b>Authorisor/s</b>	Shane Burge	Chief Executive Officer

**File Ref: D24/256**

#### **Applicant**

Internal

#### **Strategic Implications**

Council Plan 2022-2032

*Performance*

*Outcome 15. Operational excellence and financial sustainability.*

Objective 15.1. Provide responsible, agile and innovative planning and resource management.

#### **Attachments**

- A. Information Bulletin – January 2024
- B. Council Priorities Summary – Corporate Performance – December 2023
- C. Status Report – Open Council Resolutions – January 2024

**RECOMMENDATION AND DECISION**

**12.4.1 Information Bulletin - January 2024**

**Moved: Cr Obourne**

**Seconded: Cr de Haas**

**O0124-007**

**Council Resolution**

**That Council accepts:**

- 1. Information Bulletin – January 2024**
- 2. Council Priorities Summary – Corporate Performance – December 2023**
- 3. Status Report – Open Council Resolutions – January 2024**

**CARRIED  
F9 - A0**













































































































































**13. REPORTS OF COMMITTEES**

**Item: 13.1**

**Minutes of Committees**

<b>Author/s</b>	Chantelle Hoffrichter	Executive Assistant
<b>Authorisor/s</b>	Shane Burge	Chief Executive Officer

**File Ref: D24/931**

**Attachments**

[A1](#). Minutes - Audit Committee Meeting - 21 November 2023

## **RECOMMENDATION AND DECISION**

### **13.1 Minutes of Committees**

**Moved: Cr McMullen**

**Seconded: Cr Flanagan**

**O0124-008**

#### **Council Resolution**

**That Council accept the following unconfirmed minutes:**

- 1. Minutes - Audit Committee Meeting - 21 November 2023**

**CARRIED  
F9 - A0**















































































































































**14. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN**

Nil

**15. MEMBERS QUESTIONS WITH OR WITHOUT NOTICE**

**Cr Johnston – Australian Flag**

1. I'd just like to know will the Shire Council be raising the Australian Flag on Australia Day this year please?  
*Mr Burge responded No, the Shire office is not open, so no staff here to raise the flag and its common practice that we only raise it when we are open.*
  
2. Cr Johnston responded, so just to follow on from that, is there any way for the Australian Flag to be raised even on the Australian Day public holiday, for example, could I volunteer as a Councillor to come and raise the flag please?  
*Mr Burge responded, no that's not a Councillor Duty, it's an Officers responsibility to do that, so no.*  
Cr Johnston responded thank you

**16. URGENT BUSINESS APPROVED BY DECISION**

Nil

**17. PUBLIC QUESTION TIME**

Nil Questions



## 18. **MATTERS BEHIND CLOSED DOORS**

### **Officer's Comment:**

It is recommended that the meeting is behind closed doors for the following items, in accordance with section 5.23(2) of the Local Government Act 1995.

### **Moving behind closed doors**

**Moved:** Cr Graham  
**Seconded:** Cr Flanagan

**00124-009**

**That the meeting proceed behind closed doors in accordance with section 5.23(2) of the Local Government Act 1995, to consider the following items, which are considered confidential for the reasons indicated.**

#### **17.1 Workers Accommodation Project**

*This report is considered confidential in accordance with the Local Government Act 1995, as it relates to a matter that if disclosed, would reveal a trade secret, where the trade secret is held by, or is about, a person other than the local government (Section 5.23(2)(e)(i)).*

#### **17.2 Lot 50 Wylie Bay Road**

*This report is considered confidential in accordance with the Local Government Act 1995, as it relates to a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting (Section 5.23(2)(c)); and legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting (Section 5.23(2)(d)); and a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government (Section 5.23(2)(e)(ii)).*

**CARRIED  
F9 - A0**

Mrs Hamilton and Mr Vivian, left the Chamber at 4:23pm and did not return.  
Mr Smith and Ms Lilly left the Chamber at 4:23pm.

#### **17.1 Workers Accommodation Project**

##### **Officer's Recommendation**

That Council endorse the business case that has been developed by the Shire of Esperance with support from the Goldfields Esperance Development Commission (Attachment B), noting a further risk assessment will be undertaken if State Government funding, and any associated conditions, is confirmed.

This risk assessment will include, but not limited to the following:

1. The impact of any cost escalations since the November 2023 business case cost estimate was prepared;
2. The impact of any conditions imposed in return for the State Government funding contribution;
3. The capacity to secure a suitable builder to undertake the project; and
4. An assessment of the ongoing management options available for the facility.

**MOTION**

**Moved:** Cr Flanagan

**Seconded:** Cr Graham

**00124-010**

**Council Resolution**

**That Council:**

1. Endorses the findings of the Esperance Workers Accommodation Facility business case developed by the Shire of Esperance, with support from the Goldfields Esperance Development Commission, that a Shire developed and owned facility as specified in the business case is the most viable development option.
2. Supports an application for State Government funding on that basis.
3. In the event that State Government funding is approved, undertake a risk assessment in accordance with the Shire's Risk Management Policy (Policy 004) having specific regard, but not limited to, the following:
  - a. The impact of any cost escalations since the November 2023 business case cost estimate was prepared;
  - b. The impact of any conditions imposed in return for the State Government funding contribution;
  - c. The capacity to secure a suitable builder to undertake the project; and
  - d. An assessment of the ongoing management options available for the facility.
4. Requests the CEO to provide the findings of the risk assessment for Council consideration prior to acceptance of the State Government funding and commencement of any procurement processes.

**CARRIED  
F9 – A0**

Reason: as Council wanted to include the risk assessment that was included in the business case, and endorse the outcome before proceeding with the grant.

**17.2 Lot 50 Wylie Bay Road**

**Moved:** Cr McMullen

**Seconded:** Cr Flanagan

**00124-011**

**Council Resolution**

**That Council:**

1. Support the request for an Option to Purchase a portion of Lot 50 Wylie Bay Road as per the request from Esperance Tjaltjraak Native Title Aboriginal Corporation (ETNTAC). The option is to include the following:
  - a. The Option to Purchase is to be for a period of 2 years from execution;
  - b. Purchase price is to be \$500,000;
  - c. That there will be no payment on execution of the Option to Purchase;
  - d. That any sale is subject to ETNTAC advising that they have achieved a Positive Investment Decision with regards to the development of an aquaculture precinct on the subject site (and adjoining Lot 4 Wylie Bay

- Road) and the Shire of Esperance being satisfied that development of the proposed aquaculture precinct will proceed. It is the responsibility of ETNTAC to provide the evidence required to satisfy the Shire of Esperance of this;
- e. That any proposed alternate purchasing entity would be subject to Shire of Esperance consent;
  - f. That the Shire of Esperance has the right to purchase the land back at the price of \$500,000 should ETNTAC (or an approved nominee) sell the land at any time following their purchase if the aquaculture precinct has not been developed at that time; and
  - g. That ETNTAC will have no rights to access or utilise the subject land prior to a purchase occurring without the prior approval of the Shire.
2. Instruct the Chief Executive Officer to:
- a. Commence the disposal of property process, via a Public Notice as per Section 5.58(3)(a), Local Government Act 1995, for the southern portion of Lot 50 Wylie Bay Road as per the offer provided by Esperance Tjaltjraak Native Title Aboriginal Corporation for the purpose of an aquaculture precinct; and
  - b. Prepare relevant agreement documents for the proposed land transaction, with all costs associated with preparing and executing this agreement to be at the cost of the proponent.
3. Confirms it believes that the valuation previously received from Herron Todd White in December 2018 for Lot 50 Wylie Bay Road continues to be a fair indication of the value of this lot.

**CARRIED**  
**F9 - A0**

**Coming from behind closed doors**

**Moved: Cr McMullen**

**Seconded: Cr Graham**

**00124-012**

**That the meeting come from behind closed doors.**

**CARRIED  
F9 - A0**

Mr Smith and Ms Lilly returned to the Chamber at 4:33pm.

**The Presiding Member read aloud the above Resolutions.**

**19. CLOSURE**

The President declared the meeting closed at 4:35pm.

**These Minutes were confirmed at a meeting held on \_\_\_\_\_**

**Signed \_\_\_\_\_**

**Presiding Member at the meeting at which the Minutes were confirmed.**

**Dated \_\_\_\_\_**