



15 FEBRUARY 2024

Shire of Esperance

NOTICE OF MEETING AND AGENDA

An Agenda Briefing Session of the Shire of Esperance will be held at Council Chambers on 20 February 2024 commencing at 1pm to brief Council on the matters set out in the attached agenda.

An Ordinary Council meeting of the Shire of Esperance will be held at Council Chambers on 27 February 2024 commencing at 4:00 PM to consider the matters set out in the attached agenda.

R Greive

Acting Chief Executive Officer

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.



DISCLOSURE OF INTERESTS

Agenda Briefing Ordinary Council Meeting Special Meeting

Name of Person Declaring an interest

Position Date of Meeting

This form is provided to enable members and officers to disclose an Interest in the matter in accordance with the regulations of Section 5.65, 5.70 and 5.71 of the Local Government Act 1995 and Local Government (Administration) Regulations 1996 34C.

INTEREST DISCLOSED

Item No Item Title

Nature of Interest

Type of Interest Financial Proximity Impartiality

INTEREST DISCLOSED

Item No Item Title

Nature of Interest

Type of Interest Financial Proximity Impartiality

INTEREST DISCLOSED

Item No Item Title

Nature of Interest

Type of Interest Financial Proximity Impartiality

DECLARATION

I understand that the above information will be recorded in the Minutes of the meeting and recorded by the Chief Executive Officer in an appropriate Register.

Signature Date

DISCLOSURE OF INTERESTS

Notes for Your Guidance



IMPACT OF A FINANCIAL INTEREST (s. 5.65. & s. 67. Local Government Act 1995)

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

- a. In a written notice given to the Chief Executive Officer before the Meeting or;
- b. At the Meeting immediately before the matter is discussed.

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

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

INTERESTS AFFECTING FINANCIAL INTEREST

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

1. A Financial Interest, pursuant to s. 5.60A or 5.61 of the *Local Government Act 1995*, requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measured in money terms. There are expectations in the *Local Government Act 1995* but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e sporting, social, religious etc, and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e, if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors and ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. If in doubt declare.
5. As stated if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **must** be given when the matter arises in the Agenda, and immediately before the matter is discussed. Under s. 5.65 of the *Local Government Act 1995* failure to notify carries a penalty of \$10 000 or imprisonment for 2 years.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) of the *Local Government Act 1995*; or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69(3) of the *Local Government Act 1995*, with or without conditions.



INTERESTS AFFECTING PROXIMITY (s. 5.60b Local Government Act 1995)

1. For the purposes of this subdivision, a person has a proximity interest, pursuant to s.5.60B of the Local Government Act 1995, in a matter if the matter concerns;
 - a. a proposed change to a planning scheme affecting land that adjoins the person's land; or
 - b. a proposed change to the zoning or use of land that adjoins the person's land; or
 - c. a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.
2. In this section, land (the proposal land) adjoins a person's land if;
 - a. The proposal land, not being a thoroughfare, has a common boundary with the person's land; or
 - b. The proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
 - c. The proposal land is that part of a thoroughfare that has a common boundary with the person's land.
3. In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

INTERESTS AFFECTING IMPARTIALITY

Definition: An interest, pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected, but does not include an interest as referred to in Section 5.60 of the 'Act'.

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

- a. In a written notice given to the Chief Executive Officers before the Meeting or;
- b. At the Meeting, immediately before the matter is discussed

IMPACT OF AN IMPARTIALITY DISCLOSURE

There are very different outcomes resulting from disclosing an interest affecting impartiality compared to that of a financial interest. With the declaration of a financial interest, an elected member leaves the room and does not vote.

With the declaration of this type of interest, the elected member stays in the room, participates in the debate and votes. In effect then, following disclosure of an interest affecting impartiality, the member's involvement in the Meeting continues as if no interest existed.

TABLE OF CONTENTS

1.	OFFICIAL OPENING	9
.2.	ATTENDANCE	9
3.	APOLOGIES & NOTIFICATION OF GRANTED LEAVE OF ABSENCE	9
4.	APPLICATIONS FOR LEAVE OF ABSENCE	9
5.	ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION	9
6.	DECLARATION OF MEMBERS INTERESTS	10
6.1	Declarations of Financial Interests – Local Government Act Section 5.60a	10
6.2	Declarations of Proximity Interests – Local Government Act Section 5.60b	10
6.3	Declarations of Impartiality Interests – Admin Regulations Section 34c	10
7.	PUBLIC QUESTION TIME	10
8.	PUBLIC ADDRESSES / DEPUTATIONS	10
9.	PETITIONS	10
10.	CONFIRMATION OF MINUTES	10
11.	DELEGATES' REPORTS WITHOUT DISCUSSION	10
12.	MATTERS REQUIRING A DETERMINATION OF COUNCIL	11
12.1	EXTERNAL SERVICES	11
12.2	ASSET MANAGEMENT	12
12.2.1	Carbon Emission Targets	12
12.3	CORPORATE & COMMUNITY SERVICES	15
12.3.1	Adoption of Cat Local Law 2024	15
12.3.2	Adoption of Dog Local Law 2024	35
12.3.3	Policy Review - External Services	61
12.3.4	Adoption of Cemeteries Local Law 2024	64
12.3.5	Lease Renewal - Old Chemist Shop - Museum Village	69
12.3.6	Financial Services Report - February 2024	73
12.3.7	Lease Surrender Request - Old Matron's Quarters Museum Village	121
12.3.8	Rates Exemption Applications	124
12.4	EXECUTIVE SERVICES	128
12.4.1	Sale of Residential Land	128
12.4.2	Information Bulletin - February 2024	131
13.	REPORTS OF COMMITTEES	163

14.	MOTIONS OF WHICH NOTICE HAS BEEN GIVEN	163
15.	MEMBERS QUESTIONS WITH OR WITHOUT NOTICE	163
16.	URGENT BUSINESS APPROVED BY DECISION	163
17.	MATTERS BEHIND CLOSED DOORS	164
	17.1 0548-23 Esperance Airport - Runway Upgrade Design	164
18.	PUBLIC QUESTION TIME	165
19.	CLOSURE	165

SHIRE OF ESPERANCE

AGENDA

**ORDINARY COUNCIL MEETING
TO BE HELD IN COUNCIL CHAMBERS ON 27 FEBRUARY 2024
COMMENCING AT 4:00 PM**

1. OFFICIAL OPENING

The Shire of Esperance acknowledges the Kapa 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.

.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
Mrs F Baxter	Director Corporate & Community Services
Mrs C Hoffrichter	Executive Assistant

Members of the Public & Press

3. APOLOGIES & NOTIFICATION OF GRANTED LEAVE OF ABSENCE

4. APPLICATIONS FOR LEAVE OF ABSENCE

5. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

6. DECLARATION OF MEMBERS INTERESTS

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

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

6.3 Declarations of Impartiality Interests – Admin Regulations Section 34c

7. PUBLIC QUESTION TIME

8. PUBLIC ADDRESSES / DEPUTATIONS

9. PETITIONS

Nil

10. CONFIRMATION OF MINUTES

That the Minutes of the Ordinary Council Meeting of the 23 January 2024 be confirmed as a true and correct record.

Voting Requirement

Simple Majority

11. DELEGATES' REPORTS WITHOUT DISCUSSION

From October 2023 to September 2025				
	Agenda Briefing Sessions (4)	Ordinary Council Meetings (4)	Special Council Meetings (1)	Annual Electors Meeting (1)
Ron Chambers Shire President	4	4	1	1
Cr Jennifer Obourne Deputy Shire President	4	4	1	1
Cr Shayne Flanagan	4	4	1	1
Cr Connor Davies	2	4	1	1
Cr Steve McMullen	4	3	1	0
Cr Leonie de Haas	3	4	1	1
Cr Wes Graham	4	4	1	1
Cr Sam Starceвич	4	4	1	1
Cr Gemma Johnston	4	4	1	1

12. MATTERS REQUIRING A DETERMINATION OF COUNCIL

12.1 EXTERNAL SERVICES

Nil

12.2 ASSET MANAGEMENT

Item: 12.2.1

Carbon Emission Targets

Author/s	Mathew Walker	Director Asset Management
Authorisor/s	Roy Greive	Acting Chief Executive Officer

File Ref: D24/3659

Applicant

Internal

Location/Address

N/A

Executive Summary

For Council to consider setting corporate carbon emission targets.

Recommendation in Brief

That Council:

1. Continues to track our annual corporate carbon emissions, to better refine our baseline;
2. Continues to work as a member of the GVROC Climate Alliance on climate change and emission reduction initiatives at a regional scale;
3. Focuses on energy efficiency to reduce our corporate emissions in the short term; and
4. Sets aspirational corporate carbon emission targets in line with COP28.

Background

As part of Shire of Esperance's Council Plan - Outcome 5. Shared responsibility for climate action and sustainability and the Shires commitments under the Climate Change Declaration and Cities Power Partnership, the Shire has undertaken a baseline of our corporate annual carbon emissions. This was presented to Council at the May 2023 Ordinary Council Meeting, where Council resolved the following motion:

That Council:

1. Receive the Net Zero Emissions Baseline Study – Executive Summary;
2. Receive the 2022 Renewable Energy Projects Audit – Executive Summary;
3. Note the estimated Shire of Esperance annual corporate carbon emissions is 4,335 tCO₂e, excluding emissions from waste; and
4. Request the CEO to:
 - a. Continue to monitor the Shire of Esperance's annual corporate carbon emissions; and
 - b. Bring a report back to Council on corporate carbon emissions reduction targets.
 - c. To bring the report back to Council at the November Ordinary Council Meeting 2023 in order for the new Councillors to consider this decision.

Now that we have corporate carbon emissions baseline, we have a starting point to begin the process to investigate and set reduction targets.

Officer's Comment

Going through the process of practically setting corporate carbon emissions reduction targets it is evident that:

1. A better understanding of our baseline corporate carbon emissions is required to fully understand where our emissions are coming from, including from contractors and sources not easily identified. Capturing carbon emissions over consecutive years may be required to accurately document our emissions to investigate and identify reduction options.
2. There are factors outside the Shires control in its endeavour to reduce our carbon emissions, namely:
 - a. Electricity consumption which accounts for 46.3% of our emissions, is largely dictated to us by Horizon Power and their proportion of renewable power supplied; and
 - b. Our requirement for Transport Fuels which accounts for 49.9% of our emissions, mostly from plant and fleet. There is no economical viable alternative in Esperance currently for our reliance on diesel for our heavy plant.
3. A focus on energy efficiency across our organisation would deliver the best investment in the short term. By reducing our energy consumption, we would be:
 - a. Reducing our carbon emissions;
 - b. Reducing the requirement to produce that energy in the first place; and
 - c. Saving operational costs, i.e. power and fuel costs.
4. The work we are doing with the GVROC Climate Alliance will enable the Shire to be a partner to regional scale emission reduction initiatives and climate change adaptation projects.
5. We should not lose focus of the bigger picture and end goal, which should be aligned to the international goals of COP28 that are:
 - a. 43% reduction by 2030 (compared to 2019 levels); and
 - b. Net zero by 2050

There is a long road ahead of the Shire to transition our corporate carbon emissions to net zero by 2050. This said, there are great opportunities that can make this process a reality. It is recommended Council set realistic and achievable, targets and actions, along with aspirational goals. Setting these will also help provide guidance to the Sustainability Working Group.

Consultation

Council workshop on the 19 December 2023
GVROC Climate Alliance Coordinator.

Financial Implications

The financial implications arising from this report will be included in future budgets.

Asset Management Implications

Nil

Statutory Implications

Nil

Policy Implications

Shire's Climate Change Declaration

Strategic Implications

Council Plan 2022 – 2032

Planet - Outcome 5. Shared responsibility for climate action and sustainability

Objective 5.1. Encourage the adoption of sustainable practices.

Environmental Considerations

The environmental considerations are detailed in the report, with the objective to reduce the Shire of Esperance corporate carbon emissions.

Attachments

Nil

Officer's Recommendation

That Council:

1. **Continues to track our annual corporate carbon emissions, to better refine our baseline;**
2. **Continues to work as a member of the GVROC Climate Alliance on climate change and emission reduction initiatives at a regional scale;**
3. **Focuses on energy efficiency to reduce our corporate emissions in the short term; and**
4. **Sets aspirational corporate carbon emission targets in line with COP28 of:**
 - a. **43% reduction by 2030 (compared to 2019 levels); and**
 - b. **Net zero by 2050**

Voting Requirement

Simple Majority

12.3 CORPORATE & COMMUNITY SERVICES

Item: 12.3.1

Adoption of Cat Local Law 2024

Author/s	Sarah Walsh Zoe Sheffield-van Mierlo	Coordinator Governance & Corporate Support Manager Ranger & Emergency Services
Authorisor/s	Roy Greive	Director of External Services

File Ref: D23/30132

Applicant

Internal

Location/Address

N/A

Executive Summary

For Council to consider adopting the Cat Local Law 2024.

Recommendation in Brief

That Council adopt the Cat Local Law 2024.

Background

The Cat Local Law 2022 was adopted by Council in January 2023.

Following correspondence received from the Joint Standing Committee on Delegated Legislation, in June 2023 Council resolved to undertake changes to the local law as below;

That Council;

1. Undertake to the Joint Standing Committee on Delegated Legislation that;
 - a) Within 6 months:
 - delete clauses 2.1, 3.7(1)(b) and paragraph (a) and the words 'or is likely to be' in paragraph (e) of the definition of nuisance in clause 1.4
 - correct the typographical errors in Schedules 1 and 2
 - change the title of the local law to 2023
 - a) All consequential amendments arising from undertaking 1 will be made
 - b) Clauses 2.1, 2.2 and 3.7(1)(b) will not be enforced in a manner contrary to undertaking 1
 - c) Where the local law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertaking
2. Request the CEO to;
 - a) Give Local Public Notice of the proposed Shire of Esperance Cat Amendment Local Law 2023 in accordance with s.3.12(3) of the *Local Government Act 1995*;
 - b) Forward a copy of the proposed local law and public notices to the Minister for Local Government; and
 - c) Prepare a further report at the conclusion of the public submission period to enable Council to consider submissions.

Officer's Comment

The above changes to the local law have been made, with the statutory advertising now having closed and no public submissions being received.

The proposed local law was provided to the Minister for Local Government, and the Department has provided comments as follows;

1. Update head of power clause to reflect accurate date Council resolved to make the local law;
2. Amend definition of 'nuisance' to delete references to indigenous or non-privately owned animals;
3. Include repeal clause; and
4. Replace all instances of 'shall' with 'must'.

Consultation

Joint Standing Committee on Delegated Legislation
Department of Local Government, Sport and Cultural Industries
Manager Waste & Environmental Health
Director External Services

Financial Implications

There are nominal costs associated with making the local law, including advertising and gazettal.

Asset Management Implications

Nil

Statutory Implications

Section 3.12 of the *Local Government Act 1995* determines the process which all local governments must take when creating new local laws.

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. Cat Local Law 2024

B. DLGSC Feedback - Cat Local Law

Officer's Recommendation

That Council

Makes the Cat Local Law 2024, as per Attachment A, in accordance with section 3.12(4) of the *Local Government Act 1995*, subject to the Chief Executive Officer;

- a. **Publishing the Cat Local Law 2024 in the Government Gazette in accordance with section 3.12(5) of the *Local Government Act 1995*;**
- b. **Following gazettal, providing local public notice of the Cat Local Law 2024 in accordance with section 3.12(6) of the *Local Government Act 1995*; and**
- c. **Following local public notice, providing an Explanatory Memorandum, signed by the Shire President and Chief Executive Officer, and a copy of the Cat Local Law 2024 to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation in accordance with section 3.12(7) of the *Local Government Act 1995*.**

Voting Requirement

Absolute Majority



Shire of Esperance

CAT LOCAL LAW 202⁴²

Cat Act 2011

Item: 12.3.2

Adoption of Dog Local Law 2024

Author/s	Sarah Walsh Zoe Sheffield-van Mierlo	Coordinator Governance & Corporate Support Manager Ranger & Emergency Services
Authorisor/s	Roy Greive	Director of External Services

File Ref: D23/30142

Applicant
Internal

Location/Address
N/A

Executive Summary

For Council to consider adopting the Dog Local Law 2024.

Recommendation in Brief

That Council adopt the amended Dog Local Law 2024.

Background

The Dog Local Law 2022 was adopted by Council in January 2023.

Following correspondence received from the Joint Standing Committee on Delegated Legislation, in June 2023 Council resolved to undertake changes to the local law as below;

That Council;

1. Undertake to the Joint Standing Committee on Delegated Legislation that;
 - a) Within 6 months, either, to ensure compliance with section 45A(3) of the *Dog Act 1976*:
 - increase the unmodified penalty in clause 6.8 so that the existing modified penalties in Schedule 3, other than the penalties for clause 4.9, are 10% or less of the unmodified penalty
 - correct the typographical errors in clause 6.2 to refer to the 3rd and 4th columns of Schedule 3
 - change the title of the local law to 2023.
 - a) All consequential amendments arising from undertaking 1 will be made
 - b) All relevant penalties will not be enforced in a manner contrary to undertaking 1
 - c) Where the local law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertaking
2. Request the CEO to;
 - a) Give Local Public Notice of the proposed Shire of Esperance Dog Amendment Local Law 2023 in accordance with s.3.12(3) of the *Local Government Act 1995*;
 - b) Forward a copy of the proposed local law and public notices to the Minister for Local Government; and
 - c) Prepare a further report at the conclusion of the public submission period to enable Council to consider submissions.

Officer's Comment

The above changes to the local law have been made, with the statutory advertising now having closed with no public submissions being received.

The proposed local law was provided to the Minister for Local Government, and the Department has provided comments as follows;

1. Update head of power clause to reflect accurate date Council resolved to make the local law;
2. Update repeal clause to reflect current Dog Local Law;
3. Consider amending penalty limits in clause 6.8;
4. Replace all instances of 'shall' with 'must'.
5. Include definition of 'poundkeeper';
6. Consider deleting clause 2.2;
7. Amend definition of 'adjoining land' in clause 4.1.

Consultation

Joint Standing Committee on Delegated Legislation
Department of Local Government, Sport and Cultural Industries
Manager Waste & Environmental Health
Director External Services

Financial Implications

There are nominal costs associated with making the local law, including advertising and gazettal.

Asset Management Implications

Nil

Statutory Implications

Section 3.12 of the *Local Government Act 1995* determines the process which all local governments must take when creating new local laws.

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. Dog Local Law 2024
- B. DLGSC Feedback - Dog Local Law

Officer's Recommendation

That Council

Makes the Dog Local Law 2024, as per Attachment A, in accordance with section 3.12(4) of the *Local Government Act 1995*, subject to the Chief Executive Officer;

- a. **Publishing the Dog Local Law 2024 in the Government Gazette in accordance with section 3.12(5) of the *Local Government Act 1995*;**
- b. **Following gazettal, providing local public notice of the Dog Local Law 2024 in accordance with section 3.12(6) of the *Local Government Act 1995*; and**
- c. **Following local public notice, providing an Explanatory Memorandum, signed by the Shire President and Chief Executive Officer, and a copy of the Dog Local Law 2024 to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation in accordance with section 3.12(7) of the *Local Government Act 1995*.**

Voting Requirement

Absolute Majority

Item: 12.3.3

Policy Review - External Services

Author/s	Sarah Walsh	Coordinator Governance & Corporate Support
Authorisator/s	Felicity Baxter	Director Corporate & Community Services

File Ref: D24/605

Applicant
Internal

Location/Address
N/A

Executive Summary

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

Recommendation in Brief

That Council endorse the External Services policies inclusive of amendments, inclusions, rescissions 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 External Services policies. Please refer to Attachment A for policy details.

Policy Name	New Ref No.	Recommended Amendment
Refuse and Recycling Collection Services	POL 0052	Change title, rewrite of policy for consistency with proposed local law.
Applications Lodged by Senior Employees or Elected Members	POL 0053	Remove old policy reference number, amend responsible position title.
Refusal of Planning Applications	POL 0054	Amend responsible position title.
Non-Refundable Development Services Application Fees	POL 0055	Amend responsible position title.
Retaining Walls		Rescind as the matter is dealt with in the National Construction Code.
Geotechnical Testing Requirements for Structures		Rescind as the matter is dealt with in the National Construction Code.
Method for Determining Climate Zone for Properties Located Outside Esperance Townsite		Rescind as the matter is dealt with in the National Construction Code.
Wind Load Rating		Rescind as the matter is dealt with in the National Construction Code.
Outdoor Eating Facilities in Public Places	POL 0056	Amend references to Manager Development & Statutory Services

		to Manager Waste & Environmental Health. Remove specific standards and include general reference. Remove requirement for two sets of plans, proof of public liability insurance and indemnity from 'Application and Administration Procedure'. Amend 'renewal of permit' section to simplify insurance requirements.
Outdoor Personal Training in Public Places		Rescind – to become management practice
Dividing Fences	POL 0057	Amend responsible position title.
Borrowing of Museum Exhibits		Rescind – information included in Museum Collection policy.
Arts Collection	POL 0058	Update wording to remove aspirational information to better reflect current practices.
Museum Village Markets	POL 0059	Increase public liability insurance required.
Fire Management – Roadside Burning	POL 0060	Update responsible position. Replace 'Council' with 'the Shire' in point 5.
Museum Collection	POL 0061	Update purpose, include scope, rewrite Practice sections to reflect current practice.
Street Entertainers and Busking		Rescind – to become management practice
Advertising Signage in a Thoroughfare or Public Place	POL 0062	Update strategic context section. Increase public liability required to \$10 million. Amend responsible position title.
Trading in Public Places and Local Government Property	POL 0063	Amend title. Include local government property definition, amend public place definition. Include provision for water/power use costs. Minor wording changes. Include more specific map areas for the foreshore and remove areas vested to other agencies.
Shark Hazard Response	POL 0064	Simplify scope. Include definitions of DPIRD, DBCA and beach categories. Include 'shark interactions at Shire managed/controlled beaches', 'prioritisation of response activities' and 'record management' sections. Amend responsible officer position.
Seasonal Indoor Sports Stadium Fees		Rescind – information included in annual Schedule of Fees and Charges.
Accommodation in a Caravan		Rescind due to inconsistencies with Caravan Park and Camping Legislation.
Body Worn Camera	POL 0067	Include definition and scope.
Sporting Association Ground Fees	POL 0068	Update responsible officer.

The Bushfire Management policy has not been included as part of this review, as a recent review of this policy was endorsed by Council in November 2023.

The Local Planning Scheme No. 24 Advertising Requirements and the Compliance and Enforcement policies will be reviewed and put forward at a subsequent council meeting.

Consultation

External 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⇒. External Services Policy Review - *Under Separate Cover*

Officer's Recommendation

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

Voting Requirement

Simple Majority

Item: 12.3.4

Adoption of Cemeteries Local Law 2024

Author/s	Sarah Walsh Neroli Logan	Coordinator Governance & Corporate Support Manager Waste & Environmental Health
Authoriser/s	Roy Greive	Director of External Services

File Ref: D24/1074

Applicant

Internal

Location/Address

N/A

Executive Summary

For Council to consider adopting the Cemeteries Local Law 2024.

Recommendation in Brief

That Council adopt the Cemeteries Local Law 2024.

Background

The Cemeteries Local Law 2023 was adopted by Council in June 2023.

Following correspondence received from the Joint Standing Committee on Delegated Legislation, in October 2023 Council resolved to undertake changes to the local law as below;

That Council;

1. Undertake to the Joint Standing Committee on Delegated Legislation that;
 - a) Within 6 months;
 - Amend clause 8.11;
 - Correct the following typographical errors;
 - o In clause 2.4(1), insert the words 'the Board must renew the grant for a further term of twenty five (25) years commencing on the expiry date of the grant' on a new line below subclause (b);
 - o In clause 5.7(1), insert 'to' after 'the' and before 'Board';
 - o In clause 6.1(2), insert 'permission' at the end of the sentence;
 - o In clause 7.20(1)(b), remove 'or' at the end and insert a full stop;
 - o Re-format clause 8.6 so that it contains 2 subclauses;
 - o Re-draft clause 8.10 given there are no references to fireworks despite the heading stating 'Fireworks or firearms'; and
 - o In clause 8.11, remove the word 'and' after 'video' and before 'any'.
 - Clause 8.11 will not be enforced in a manner contrary to undertaking 1.
 - Ensure any consequential amendments arising from undertaking 1 will be made.
 - Where the local law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertakings.
2. Request the CEO to;

- a) Give Local Public Notice of the proposed Shire of Esperance Cemeteries Amendment Local Law 2023 in accordance with s.3.12(3) of the Local Government Act 1995;
- b) Forward a copy of the proposed local law and public notices to the Minister for Local Government; and
- c) Prepare a further report at the conclusion of the public submission period to enable Council to consider submissions.

Officer's Comment

The above changes to the local law have been made, with the statutory advertising now having closed and no public submissions being received.

The proposed local law was provided to the Minister for Local Government, and the Department has provided comments as follows;

1. Update head of power to reflect accurate date Council resolved to make the local law;
2. Amend repeal clause;
3. Suggestion to remove page numbers from the contents page when the local law is gazetted.

Consultation

Joint Standing Committee on Delegated Legislation
Department of Local Government, Sport and Cultural Industries
Cemetery Working Group
Manager Waste & Environmental Health
Director External Services

Financial Implications

There are costs associated with making the local law, including advertising and gazettal.

Asset Management Implications

Nil

Statutory Implications

Section 3.12 of the *Local Government Act 1995* determines the process which all local governments must take when creating new local laws.

Policy Implications

Nil

Strategic Implications

Council Plan 2022 – 2032

Place - Outcome 9. Attractive and welcoming places

Objective 9.3. Provide quality community facilities, parks and spaces.

Environmental Considerations

Nil

Attachments

- A⇒. Cemeteries Local Law 2024 - *Under Separate Cover*
- B↓. DLGSC Feedback Cemeteries Local Law

Officer's Recommendation

That Council

Makes the Cemeteries Local Law 2024, as per Attachment A, in accordance with section 3.12(4) of the *Local Government Act 1995*, subject to the Chief Executive Officer;

- a. **Publishing the Cemeteries Local Law 2024 in the Government Gazette in accordance with section 3.12(5) of the *Local Government Act 1995*;**
- b. **Following gazettal, providing local public notice of the Cemeteries Local Law 2024 in accordance with section 3.12(6) of the *Local Government Act 1995*; and**
- c. **Following local public notice, providing an Explanatory Memorandum, signed by the Shire President and Chief Executive Officer, and a copy of the Cemeteries Local Law 2024 to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation in accordance with section 3.12(7) of the *Local Government Act 1995*.**

Voting Requirement

Absolute Majority

Item: 12.3.5

Lease Renewal - Old Chemist Shop - Museum Village

Author/s	Cherrie Vincent	Governance and Corporate Support Officer
Authorisor/s	Sarah Walsh	Coordinator Governance & Corporate Support

File Ref: D24/2730

Applicant
Sara Hall

Location/Address
48 Dempster Street, Esperance



Executive Summary

For Council to consider entering into a new lease with Sara Hall for the Old Chemist Shop, Museum Village, portion of 48 Dempster Street, Esperance.

Recommendation in Brief

That Council enter into a new lease with Sara Hall for the Old Chemist Shop, Museum Village, portion of 48 Dempster Street, Esperance.

Background

Ms Hall has been leasing the premises since May 2019 and the lease is due to expire in May 2024.

A request has been received to enter into a new lease for a 5 year term.

Officer's Comment

Discussion with officers has determined that there are no concerns with the proposal being approved.

Ms Hall noted in her request that she believed the previous arrangement was a 3 year lease with a 2 year further term option, however the arrangement was a set 5 year lease. Verbal discussion with Ms Hall has confirmed that she is happy to proceed with another 5 year term lease.

Consultation

Sara Hall
Manager Development Services
Coordinator Building Services
Coordinator Environmental Health

Financial Implications

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.

Council's Building and Property Agreements Policy stipulates that lease fees for the Museum Village are to be the average CBD rate, as determined by local real estate, less 20%. Recent discussion with local real estate agents has determined the current average CBD rent less 20% to be \$166/m² ex GST. As the property is 46.3m² in size, the annual rent for the property based on this valuation would be \$8,454.38 Inc GST.

Annual Rent \$8,454.38 Inc GST

Asset Management Implications

As per building maintenance schedule.

Statutory Implications

Local Government Act 1995 - Section 3.58 Disposing of Property
Commercial Tenancy (Retail Shops) Agreement Act 1985

Policy Implications

Building and Property Agreements

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

Nil

Attachments

A₁. Lease request - Sara Hall

Officer's Recommendation

That Council enter into a lease for the Old Chemist Shop, Museum Village, portion of Lot 100, 48 Dempster Street Esperance to Sara Hall, subject to;

- 1. The term of Lease being 5 years;**
- 2. Annual rent being \$8,454.38 inc GST, subject to annual rent reviews based on CPI;**
- 3. All lease terms and conditions being as per Council's standard Commercial Lease (Retail Shop) template; and**
- 4. The disposition being advertised in accordance with s3.58 of the *Local Government Act 1995*.**

Voting Requirement

Simple Majority

Item: 12.3.6

Financial Services Report - February 2024

Author/s	Roselyn Hamilton	Manager Financial Services
Authoriser/s	Felicity Baxter	Director Corporate & Community Services

File Ref: D24/3811

Attachments

[A↓](#). Monthly Financial Services Report - January 2024

Officer's Recommendation

That Council receive the attached report entitled Monthly Financial Services Report for the month of January 2024.

Voting Requirement Simple Majority

Item: 12.3.7

Lease Surrender Request - Old Matron's Quarters Museum Village

Author/s	Sarah Walsh	Coordinator Governance & Corporate Support
Authoriser/s	Felicity Baxter	Director Corporate & Community Services

File Ref: D24/4152

Applicant

Stevie Lawrence

Location/Address

Portion Lot 100 Dempster Street, Esperance



Executive Summary

For Council to consider surrendering the lease with Stevie Lawrence for the Old Matron's Quarters in the Museum Village.

Recommendation in Brief

That Council surrenders the lease with Stevie Lawrence for the Old Matron's Quarters in the Museum Village.

Background

Ms Lawrence has been leasing the Old Matron's Quarters in the Museum Village since July 2022, when she moved across from the Old Court House building.

During the time she has been leasing within the Village, her business has expanded and she has now requested to surrender her lease in order to further expand into a larger premise in the centre of town.

Officer's Comment

During the time that Ms Lawrence has been leasing the Old Matron's Quarters, invoices have been paid consistently and there have been no breaches or other issues raised.

The previous tenant installed a dividing wall in the rear room, which Ms Lawrence requested to remain at the premises. This will need to be removed unless the next tenant wishes for this to remain at the premises.

Ms Lawrence has indicated that she is planning to move from the Village during March.

The premises will be advertised for expressions of interest once the surrender request is approved by Council.

Consultation

Stevie Lawrence

Financial Implications

Any outstanding invoices are to be paid by the Lessee

\$240 lease surrender fee

Current lease renewal valuation is approx. \$17,440

Asset Management Implications

Nil

Statutory Implications

Local Government Act 1995

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

Nil

Attachments

A₁. Stevie Lawrence Lease Surrender Request

Officer's Recommendation

That Council surrender the lease with Stevie Lawrence for the Old Matron's Quarters in the Museum Village, portion Lot 100 Dempster Street, subject to;

- 1. Lease surrender fee of \$240 being payable; and**
- 2. Any outstanding invoices being paid prior to the surrender being finalised.**

Voting Requirement

Simple Majority

Item: 12.3.8

Rates Exemption Applications

Author/s	Tania Hourn	Coordinator Revenue
Authorisor/s	Felicity Baxter	Director Corporate & Community Services

File Ref: D24/2333

Applicant

Lutheran Church of Australia Western Australia District Incorporated.

Location/Address

10 Backland Street, Sinclair
Lot 73 Pln 9425

Executive Summary

For Council to consider granting a rates exemption to a property under Section 6.26(2)(d) land used exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery or occupied exclusively by a religious brotherhood or sisterhood of the *Local Government Act 1995*.

Recommendation in Brief

That Council grant a rates exemption under Section 6.26(2)(d) of the *Local Government Act 1995* to the Esperance Lutheran Church for 10 Backland Street, Sinclair (Assessment 31195) from 1st July 2023.

Background

An application for rates exemption under Section 6.26(2)(d), a place of residence of a minister of religion was received from Marie Schutz, treasurer of the Lutheran Church, dated 19th January 2024.

The property at 10 Backland Street, Sinclair is currently being used as a place of residence for Pastor Glenn Crouch and his family. The Pastor commenced residency at the property in February 2023.

The Lutheran Church receives no income for the provision of full-time accommodation.

Pastor Glenn provides weekly church services at the Lutheran Church located adjacent to the property at 10 Backland Street. The property is also used for counselling provided by Pastor Glenn.

It is noted that this property has been granted an exemption previously under the same requirements provided by the *Local Government Act 1995*. From 1st of July 2019 circumstances changed and the property became privately rented and was deemed rateable land.

Officer's Comment

Section 6.26(2)(d) of the act provides that "land used exclusively for a place of residence for a minister of religion" is deemed not rateable by local government and the Lutheran Church of WA have supported their application with the following: -

1. Completed application for rates exemption;
2. Copy of Certificate of Incorporation (Attachment A)
3. Copy of Certificate Australian Charities & not-for-profits Commission (Attachment B)
4. St John's Lutheran Church Esperance Constitution

It is recommended that the Lutheran church of WA be granted rates exemption under Section 6.26(2)(d) from 1st July 2023 and any rates already paid be refunded.

It should be noted that any rates exemption only applies to the rates and waste portion of their rates notice. Charges such as rubbish services and ESL are still due and payable.

Consultation

Lutheran Church of Esperance WA (Marie Schutz)
Local Government Act 1995

Financial Implications

2023/24 Rates GRV	\$1,850.72
2023/24 Rates Waste Rate	\$ 80.00

Asset Management Implications

Nil

Statutory Implications

The statutory implications associated with this item are Section 6.26(2)(d) a place of residence of minister of religion, the *Local Government Act 1995*.

Policy Implications

Nil

Strategic Implications

Council Plan 2022 – 2032

Leadership

A financially sustainable and supportive organisation achieving operational excellence

Environmental Considerations

Nil

Attachments

- A. Certificate of Incorporation
- B. Australian Charities and Not-for-profits Commission

Officer's Recommendation

That Council grant a rates exemption under Section 6.26(2)(d) of the *Local Government Act 1995* to the Esperance Lutheran Church for 10 Backland Street, Sinclair (Assessment 31195) from 1st July 2023.

Voting Requirement

Simple Majority

12.4 EXECUTIVE SERVICES

Item: 12.4.1

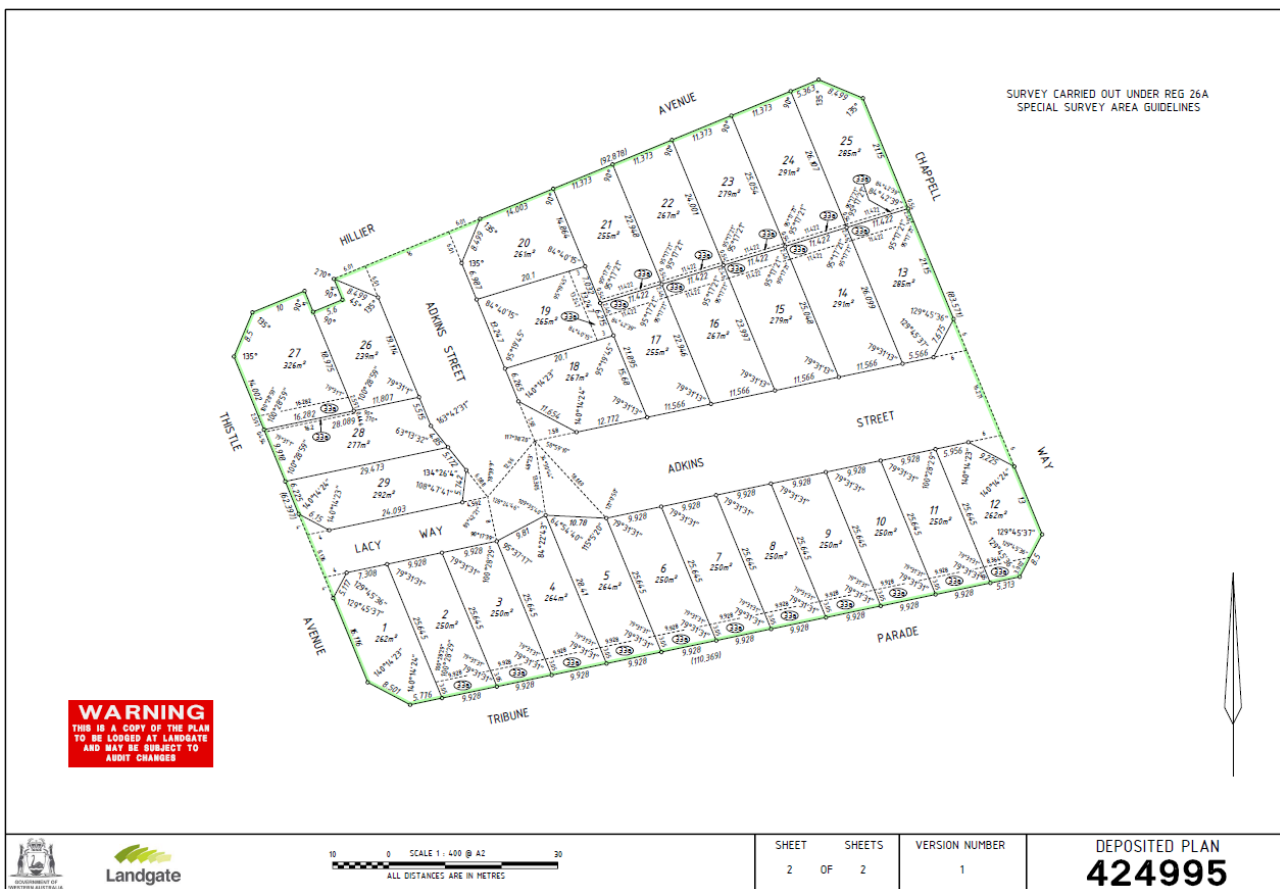
Sale of Residential Land

Author/s	Trevor Ayers	Manager Economic Development
Authoriser/s	Roy Greive	Acting Chief Executive Officer

File Ref: D24/2737

Applicant
Internal Report

Location/Address



Executive Summary

Approval is sought to proceed to tender for a number of vacant lots of land, with any lots that don't receive an offer through the tender process to continue to be sold via Chief Executive Officer (CEO) delegation for a further six-month period.

Recommendation in Brief

That Council:

1. Direct the CEO to advertise all unsold lots within Flinders Stage 4 (excluding any lots that are under contract at the time the tender is advertised) for sale by tender.
2. Confirm it believes that the valuation previously received from the Opteon Property Group In August 2023 still represents the current market for lots in the Esperance region and forms the basis for developing acceptable pricing for the lots with Flinders Stage 4.
3. Relist all lots that don't receive an offer through the tender process.
4. Delegate authority to the CEO to negotiate and accept offers on these listed properties.

Background

The current delegated authority to the CEO to accept offers on identified vacant lots is due to expire in February.

Delegated authority to the CEO can only be provided for a maximum of 6 months following a tender or auction process being undertaken. In the event that a delegation isn't provided all negotiations require Council Decisions for each stage of the negotiation. This obviously has the potential to both make negotiations a lengthy and drawn out process as well as resulting in it playing out in the public domain. Neither of these outcomes is generally conducive to attracting purchasers.

There is currently a total of 29 lots available for sale in Flinders, all other lots that were available in August 2024 have sold.

Officer's Comment

Submissions are rarely received for tenders issued for vacant land, especially in the situation where all lots have previously been available for purchase, as all of these have. This recommendation removes the need for Council to reconsider these lots prior to them being re-listed with real estate agents unless a submission is received. In the event that one or more tender submissions is received, this recommendation will allow all lots not involved in a submission to be listed with real estate agents while the tenders are being considered, minimising the time the lots are off the market.

It has been recommended that Council continue to rely upon the licensed valuations obtained from Opteon Property Group in August 2023 (Attachment A) as there has been little change in the market in the intervening time.

The final stages of having certificates of titles for these lots is currently being undertaken. Sales on these lots cannot be finalised until this occurs, contracts for sale can however be progressed in the interim, with settlement simply needing to be delayed until the titles are available.

Consultation

Elders Real Estate have recently taken over the marketing and sale of properties on behalf on the Shire (outside of tender periods) and provide feedback on the local market.

Financial Implications

Income from any sale of land is placed in the Land Development reserve to ensure that income from the sale of land assets doesn't get utilised on an operational expense or depreciating asset as per the intent of the Land Asset policy and procedures.

Asset Management Implications

Sale of these lots removes the Councils obligations to maintain them.

Statutory Implications

The statutory implications associated with this item are contained within:
Local Government Act 1995
Section 3.58 – Disposing of Property

Policy Implications

Sale of non-strategic freehold land and placement of fund in reserve for future land development or acquisition of strategic land is consistent with the Councils Public Land Asset Strategy.

Strategic Implications

Council Plan 2022 – 2032

Leadership

A financially sustainable and supportive organisation achieving operational excellence

Environmental Considerations

Nil

Attachments

- A. Valuation report - *Confidential*
- B. Listing and Sale Prices - *Confidential*

Officer's Recommendation

That Council

- 1. Direct the CEO to advertise all unsold lots as detailed below at 3. (excluding any lots that are under contract at the time the tender is advertised) for sale by tender.**
- 2. Confirm it believes that the valuation previously received from the Opteon Property Group In August 2023 still represents the current market for lots in the Esperance region and forms the basis for developing acceptable pricing for the lots with Flinders Stage 4.**
- 3. List all properties in the schedule within Attachment B at the Listing Prices identified.**
- 4. Delegate authority to the CEO to negotiate and accept offers on these listed properties at or above the Minimum Acceptable Sale Price identified in the schedule within Attachment B.**

Voting Requirement

Absolute Majority

Item: 12.4.2

Information Bulletin - February 2024

Author/s	Chantelle Hoffrichter	Executive Assistant
Authoriser/s	Roy Greive	Acting Chief Executive Officer

File Ref: D24/3812

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

A₁. Information Bulletin - February 2024

B₁. Council Priorities Summary - Corporate Performance - January 2024

Officer's Recommendation

That Council accepts:

- 1. Information Bulletin – February 2024**
- 2. Council Priorities Summary – Corporate Performance – January 2024**

Voting Requirement

Simple Majority

13. REPORTS OF COMMITTEES

Nil

14. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

Nil

15. MEMBERS QUESTIONS WITH OR WITHOUT NOTICE

16. URGENT BUSINESS APPROVED BY DECISION

17. MATTERS BEHIND CLOSED DOORS

Officer's Comment:

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

Item: 17.1

0548-23 Esperance Airport - Runway Upgrade Design

CONFIDENTIAL ITEM

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)).

18. PUBLIC QUESTION TIME

19. CLOSURE