

Shire of Esperance

ORDINARY COUNCIL

TUESDAY 27 AUGUST 2019

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.

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SHIRE OF ESPERANCE

MINUTES

**ORDINARY COUNCIL MEETING HELD IN COUNCIL CHAMBERS ON
27 August 2019.
COMMENCING AT 4PM**

1. OFFICIAL OPENING

The Shire President declared the meeting open at 4.00pm

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

2. ATTENDANCE

Members

Cr V Brown	President	Rural Ward
Cr N Bowman	Deputy President	Rural Ward
Cr J Parsons		Town Ward
Cr R Padgurskis		Town Ward
Cr S McMullen		Town Ward
Cr S Payne		Town Ward
Cr L McIntyre		Town Ward
Cr D Piercey, JP		Town Ward
Cr B Parker		Rural Ward

Shire Officers

Mr W M (Matthew) Scott	Chief Executive Officer
Mr S Burge	Director Corporate Resources
Mr M Walker	Director Asset Management
Mr T Sargent	Director External Services
Mr R Hindley	Manager Strategic Planning & Land Projects
Miss A McArthur	Administration Officer - Executive Services

Members of the Public & Press

Dr K Nieukerke	Observer
Mr D Miller	Observer
Ms J Burton	Esperance Express
Ms E Smith	ABC Esperance/Goldfields

3. APOLOGIES & NOTIFICATION OF GRANTED LEAVE OF ABSENCE

Nil

4. APPLICATIONS FOR LEAVE OF ABSENCE

MOTION

Moved: Cr Bowman
Seconded: Cr Parker

O0819-156

That Council accept the following application for leave of absence:
Cr McIntyre 9 October until 24 October 2019

**CARRIED
F9 - A0**

5. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

Nil

6. DECLARATION OF MEMBERS INTERESTS

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

Cr Payne declared a financial interest in item 12.3.1 as she owns a competing lot in Myrup Fly-In Estate.

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

Cr Parsons declared a proximity interest as his business fronts the proposed landscaping.

Cr McMullen declared a proximity interest as his business fronts the proposed landscaping.

6.3 Declarations of Impartiality Interests – Admin Regulations Section 34c

Cr Bowman declared an impartiality interest in item 12.1.2 as she is friends with the neighbour of the applicant.

Cr Brown declared an impartiality interest in item 12.3.4 as she is a member of the Condingup community.

Cr Brown declared an impartiality interest in item 12.3.6 as she owns a property in Merivale.

7. PUBLIC QUESTION TIME

1. Dr K Nieuwerkerke – Waste & Recycling Situation

Dr Nieuwerkerke provided his questions in advance of the meeting. Dr Nieuwerkerke was happy for the questions not to be read aloud and taken on notice.

The following questions were taken on notice by the Chief Executive Officer. A response will be provided to Dr Nieuwerkerke in writing and will be included in the September Ordinary Council Meeting Agenda as per Section 3.3 of the Standing Orders.

I would like to get an appreciation of Shire's Waste and Recycling situation; in particular, I want to understand the mix of various waste categories (landfill, steel, paper, glass & cans, green waste) and how these have changed in recent times.

To put this in perspective; there are stories in The Age, how Victoria is struggling with recycling since China closed its doors on most recycling from Australia and some of this being diverted to landfill.

Esperance has had an increased focus on re-cycling and I trust the Shire is measuring its impact and will be adjusting according. Hence I would like to know (in tonnage per year – 5 years, 2 years and 1 year ago)

- Total waste
- Recycled waste (amounts for each)
 - steel
 - paper
 - glass
 - cans
 - green waste
- Landfill (I presume the difference between the two categories....)

I would also like to know where the recycled Esperance waste now goes to for processing (Perth, other?). Can the Shire advise what is done with it/made from it.

What option is Shire pursuing to have recyclable waste processed locally or in conjunction with other Shires?

What is the implication of more recycling on the likely time span for the planned facility at Merivale Rd (e.g. less waste, longer to fill the capacity of the new site)?

Would Council be willing to introduce skip bins for people to place bulk waste (mattresses, etc.) in? These skip bins could be rotated around the various areas/suburbs. It may alleviate/reduce some of the illegal dumping that is taking place.

8. PUBLIC ADDRESSES / DEPUTATIONS

1. Ms J Burton

Ms Burton expressed her gratitude to Council as an Esperance resident and not a representative of the Esperance Express. She stated that this could be the last Esperance Shire Council Meeting she attends, and wanted to thank Council for their patience and kindness during the difficult times they have faced. Ms Burton wishes Council all the best in the future and acknowledged they do a fantastic job.

Cr Brown stated on behalf of Council she would like to wish Ms Burton the best of luck on her new journey.

9. PETITIONS

Nil

10. CONFIRMATION OF MINUTES

Moved: Cr McIntyre
Seconded: Cr Bowman

O0819-157

That the Minutes of the Ordinary Council Meeting of the 23 July 2019, and the Special Council Meeting of the 30 July 2019 be confirmed as true and correct records.

**CARRIED
F9 - A0**

11. DELEGATES' REPORTS WITHOUT DISCUSSION

Cr Lara McIntyre

- 27 Jul Attended the Bay of Isle Leisure Centre Pool Party Reopening
- 28 Jul Participated in the Pink Lake Tree Planting Day
- 2 Aug Attended Community meeting regarding signage at Dempster Head

Cr Basil Parker

- 7-9 Aug Attended Local Government Week

Cr Shelley Payne

- 26 Jul Attended WALGA Training - Dealing with Conflict
- 7 Aug Attended Breakfast with Minister Templeman
- 7 Aug Attended WALGA Annual General Meeting & awarded Diploma of Local Government

Cr Natalie Bowman

- 24 Jul Met with Graham Cooper and Matthew Scott re support for all accessible floating pontoon
- 24 July Media meeting
- 6 Aug Attended Mayors and President's reception at WALGA convention
- 7 Aug Attended Breakfast with Minister Templeman
WALGA Awards Presentation
LGIS report
Minister's address
WALGA AGM
Local Government Week opening
- 8 Aug Session 1 Lord Sebastian Coe - dealing with change
Session 2 Strengthening Local Government
session 3 Community Opportunity on Common Ground
Session 4 Local Government Showcase
Conference Dinner
- 9 Aug Conference Breakfast
Session 5 State and Federal Political Insights
Session 6 Local Solutions for Local Issues
Session 7 Reframing Rural Fire
session 8 Governments WARR on Waste
- 11 Aug Community Walk and Talk in the Bush tucker Garden
- 15 Aug Bushfire recovery Book launch
- 16 Aug Activ Morning tea
- 19 Aug Welcome home reception for French exchange students
- 23 Aug Spoke at ECCI Women in Leadership network lunch

Cr Steve McMullen

- 29 Jul GSG Redevelopment Master Plan
- 7 Aug GVROC Dinner
- 8 Aug Session 1 Lord Sebastian Coe - dealing with change
Session 2 – Strengthening Local Government – Panel Discussion
City of Perth Surveillance Centre – Field Trip
Session 4 – Local Government Showcase
- 9 Aug Convention Breakfast with Rodney Eade
Session 7 – Integrity and Local Law-making
Session 8 – Social Media and Local Government: How to balance the risks and rewards
Closing speaker
- 19 Aug Welcome home Reception – French Exchange Students
- 21 Aug Clontarf Employment Network

Cr Dale Piercey

26 Jul Attended WALGA Training - Dealing with Conflict
7 Aug Attended Breakfast with Minister Templeman

Cr Victoria Brown

27 Jul Attended reopening BOILC pool party
29 Jul Met with Lotterywest staff Kathleen Toomath and Kate Grosso
31 Jul Attended morning tea at the museum to thank the volunteers
1 Aug Attended Regional Council Alliance WA meeting and met with Marcus Falkiner Aust Golden Outback
2 Aug Met with Jordan Prince Wright and crew of Before Dawn
5 Aug Met with Matt Flavel and team from Australian Federal Treasury
6-9 Aug Attended Local Government Week including Mayors & Presidents forum, WALGA AGM, GVROC meeting, Minister Templeman's address to LG, and sessions on Collaboration for Prosperity, Waste Avoidance and Outcome Measurements
11 Aug Attended Hepburn Medal Awards
14 Aug Chaired LEMC meeting
15 Aug Attended Bushfire Recovery Book Launch
16 Aug Attended morning tea with residents at Activ's Reid House.
19 Aug Attended reception for Livinia Florisson and Gabriella Botha on their return from French exchange program in Ile de Re
23 Aug Spoke at ECCI Women in Leadership Forum at museum

12. MATTERS REQUIRING A DETERMINATION OF COUNCIL

12.1 EXTERNAL SERVICES

12.1.1 Budget Variation - Grant Funding - Unallocated Crown Land (UCL) Mitigation

Moved: Cr Bowman

Seconded: Cr Parker

00819-158

Council Resolution

That Council:

1. The \$30,000.00 grant from the Rural Fire Division, through the South East Fire Working Group, be accepted, managed and expended on behalf of Dept Parks and Wildlife to undertake fire mitigation work within Unallocated Crown Land.
2. Approve budget variation as follows;

Description		Budget Figure	Amended Figure	Variation
Fire Prevention – Grants, Subsidies and Contractors	01-4090-115-155	0	(\$30,000)	(\$30,000)
UCL Mitigation Works	W3377	0	\$30,000	\$30,000
Net result				0

**CARRIED
F9 - A0**

12.1.2 Development Application - Proposed Outbuilding - Lot 114 Tranquil Drive, Windabout

This item was withdrawn due to the applicants submitting an application for a residential dwelling on the same property, meaning the item can be dealt by delegated authority.

12.1.3 Development Application - Recreation Private (Acacia Gardens) - Lot 406 (556) Keenan Road, Pink Lake

Officers Recommendation

That Council approve Development Application 10.2018.3896.1 for the purpose of Recreation – Private at Lot 406 (556) Keenan Road, Pink Lake subject to the following conditions:

1. Development shall be carried out and fully implemented in accordance with the details indicated on the stamped approved plan(s) unless otherwise required or agreed in writing by the Shire of Esperance (Planning Services).
2. The land and buildings the subject of this approval shall be used for the purposes of Recreation - Private in accordance with the following definition only and for no other purpose unless otherwise approved in writing by the Shire of Esperance (Planning Services):

recreation — private means premises that are —

 - (a) used for indoor or outdoor leisure, recreation or sport; and
 - (b) not usually open to the public without charge;
3. The lot is identified as containing the Proteaceae Dominated Kwongkan Shrubland ecological community, listed as endangered under the *Environmental Protection and Biodiversity Conservation Act 1999*, the removal of vegetation will not be supported prior to the proponent satisfying the requirements of the Department of the Environment and Energy.
4. Prior to the commencement of the use, a Bushfire Attack Level Assessment is to be undertaken by an Accredited Bush Fire Attack Level (BAL) Assessor and all recommendations implemented.
5. The approved development shall provide a permanent water supply of not less than 10,000 litres for bush fire fighting purposes. A building permit is required for a water storage tank with a capacity of over 5,000 Litres.
6. The approved development shall provide a supply of potable water adequate to meet the needs of the development. A building permit is required for a water storage tank with a capacity of over 5,000 Litres.
7. The approved development is to comply with the provisions of Australian Standard 3959 – Construction of Buildings in Bushfire Prone Areas.
8. The driveway/accessway shall be constructed and maintained to an all-weather standard (e.g. gravel, crushed rock) to facilitate access to the development by 2 wheel drive vehicles.
9. The development is limited to a maximum of 50 persons attending the site in any one day and a log book of attendance is to be kept and made available to the Shire of Esperance on request.
10. No food is to be prepared on the site for the Recreation - Private with food sales being restricted to hot and cold beverages and pre-packaged foods only.
11. A minimum of 25 car parking bays and any applicable accessible bays are to be provided on-site in accordance with the requirements of Australian Standard AS2890.1:2004 Parking Facilities – Off-street Car Parking, Australian Standard 2890.6 and the Building Code of Australia.

12. The use of the site for Recreation - Private is limited to daylight hours only.
13. As the proposed development is located within the Priority 2 area of a public drinking water source area only one on site effluent disposal system is permitted and furthermore effluent disposal is limited by Water Quality Protection Note 25 Land Use Compatibility in Public Drinking Water Source Areas and Water Quality Protection Note No. 70 – Wastewater treatment and disposal – domestic systems.
14. Prior to any application for a Building Permit or BUILDING APPROVAL BEING RECEIVED, an Application to construct or install an Apparatus for treatment of Sewage to upgrade the current system or installation of any new type of system will be required. Application is found at:

https://www.esperance.wa.gov.au/sites/default/files/publication/files/septic-application_1_1.pdf
15. Prior to the application for a Building Permit, a soil stabilisation, erosion and dust, sand drift and/or wind borne material control plan shall be submitted to and approved by the Shire of Esperance (Asset Management Division/Environmental Health Services). The plan so approved shall be implemented for the duration of the site works and subsequent building construction activities on the site are to occur in accordance with the approved plan.
16. All future development, including signage, is to possess a valid development approval.
17. The provision of all services, including augmentation of existing services, necessary as a consequence of any proposed development shall be at the cost of the developer and at no cost to the Shire of Esperance.
18. The development hereby approved must not cause the emission of noise, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, chemicals and/or any other type of emission that may potentially impact on environmental and/or public health and are to be mitigated within the boundaries of the premise and must not impact on public health and/or cause nuisance.
19. The works involved in the implementation of the development must not cause sand drift and/or dust nuisance. In the event that the Shire of Esperance is aware of, or is made aware of, the existence of a dust problem, measures such as installation of sprinklers, use of water tanks, mulching, or other land management systems as appropriate may be required to be installed or implemented to prevent or control dust nuisance, and such measures shall be installed or implemented within the time and manner directed by the Shire of Esperance (Environmental Health Services).
20. The proposed operations, during and after construction, are required to comply with the *Environmental Protection (Noise) Regulations 1997*.
21. All stormwater and drainage run off from all roofed and impervious areas is to be retained on-site to the satisfaction of the Shire of Esperance (Building Services).
22. All fencing shall be in accordance with the Shire of Esperance Local Law Relating to Fencing.

AND the following advice notes:

1. THIS IS NOT A BUILDING PERMIT. An application for a building permit is required to be submitted and approved by the Shire of Esperance (Building Services) prior to any works commencing on-site.
2. THIS IS NOT A BUILDING APPROVAL CERTIFICATE. An application for a building

approval certificate is required to be submitted and approved by the Shire of Esperance (Building Services).

3. Owners, builders and developers undertaking development of any kind are advised of their responsibility to comply with the requirements of the *Disability (Access to Premises – Buildings) Standards 2010* and the *Disability Discrimination Act 1992*.
4. The development is to comply with the *Building Code of Australia, Building Act 2011, Building Regulations 2012* and the *Local Government Act 1995*.
5. The approved use/development is required to comply with the *Health (Public Buildings) Regulations 1992*.
6. Application for Public Building Approval shall be made to the Shire of Esperance's Environmental Health Services for assessment and approval prior to the commencement of development. The application is to include:

Two (2) sets of scaled plans (minimum of 1:100) and specifications shall be submitted to Environmental Health Services and shall include the following information:

- location and width of emergency exits;
- location of emergency exit signage;
- location and number of sanitary facilities;
- emergency lighting; and
- intended use of each public building area.

A final inspection of the premises will be required to be carried out by Environmental Health Services prior to commencing operation.

The building must not be opened to the public until a Certificate of Approval or a Variation of Certificate of Approval has been issued by the Shire Esperance in accordance with section 178 of the *Health (Miscellaneous Provisions) Act 1911*.

The *Health (Public Buildings) Regulations 1992* contain construction requirements that may be in addition to requirements contained in the Building Code of Australia. The applicant should ensure that relevant requirements in these Regulations have been incorporated into the development design from the outset. Neglecting to do so may result in costly post-construction alterations or delays to the development process.

Further information can be obtained from Shire of Esperance (Environmental Health Services). The development the subject of this development approval is required to comply with the Shire Esperance Health Local Laws 2009.

7. The development is defined as a "Food Business" under the *Food Act 2008*. The development must comply with the *Food Act 2008* and *Food Regulations 2009* and the *Australian New Zealand Food Standards Code*.
8. In accordance with the provisions of the *Food Act 2008* and *Food Regulations 2009* an application to register the food business hereby permitted must be submitted and approved by the Shire of Esperance (Health Services) prior to the commencement of operations.
9. Prior to commencement of development, an Application to Fit out of the food premises shall be submitted to and approved by Shire of Esperance (Environmental Health Services). Application information required is to be in line with Shire of Esperance Food Premise Design, Construction & Fit-Out Guide.

A final inspection of the premises will be required to be carried out by Environmental Health Services prior to commencing operation.

10. A food business not connected to an approved water scheme requires a water supply service to the satisfaction of Health Services and will require regular water monitoring to ensure potability and compliance with the *Australian Drinking Water Guidelines No 6*.
11. The approved development is required to comply with the following legislation (as amended from *time to time*):
 - *Health (Miscellaneous Provisions) Act 1911*
 - *Occupational Safety and Health Regulations 1996*
 - *Sewerage (Lighting, Ventilation & Construction) Regulations 1971*
 - *Health (Smoking in Enclosed Public Places) Regulations 1999;*
12. It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Esperance will take no responsibility for incorrectly located buildings.
13. It is the responsibility of the developer to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.
14. Horizon Power has requested the Shire to advise Applicants that Horizon Power has certain restrictions regarding the installation of conductive materials near its network assets. Applicants are advised to contact Horizon Power's Esperance office to ascertain whether any of Horizon Power's restrictions affect their proposed development.
15. The developer is to liaise with Shire of Esperance (Statutory Compliance) to determine any requirement for additional approvals for any signage proposed to be erected on site.
16. It is the responsibility of the Applicant to ensure that all required approvals and permits are in place prior to the commencement of any works on or usage of the site.
17. The landowner is to be aware that mosquitoes can breed in tanks containing water, including rainwater tanks, if the tanks are not well maintained and properly constructed. It is strongly encouraged that the landowner ensures water tanks and openings are sealed and inlets covered with mosquito-proof mesh as mosquitoes are a possible vector of disease.
18. In relation to Condition 3 the Shire of Esperance understands that the subject land may contain *Proteaceae Dominated Kwongan Shrubland* which is a matter of national environmental significance. A person proposing to take an action that is likely to have a significant impact on a matter of national environmental significance must refer their proposal to the Department of the Environment and Energy (Commonwealth) for assessment and approval under the *Environment Protection and Biodiversity Conservation Act 1999* before it can proceed. Substantial penalties apply to a person who takes such an action without approval. If you are uncertain about which matters of national environmental significance might be present, a Protected Matters Report can be created at

<http://www.environment.gov.au/epbc/protected-matters-search-tool>

This report will list all matters of national environmental significance that may occur in the proposed development area.

Not all actions affecting matters protected by the Act will have a significant impact and require approval. Guidelines for determining if the impact of an action is likely to be significant are available from the Department's website at

www.environment.gov.au/epbc/guidelines-policies.html

If you have any questions about your obligations under the Environment Protection and Biodiversity Conservation Act 1999, or wish to discuss your proposal, you may contact the Department of the Environment and Energy. Further information, including contact details, is available at:

<http://www.environment.gov.au/epbc/publications/pre-referral-meeting-guidance>

Moved: Cr Bowman

Seconded: Cr McIntyre

O0819-159

Council Resolution

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5. The approved use/development is required to comply with the *Health (Public Buildings) Regulations 1992*.
6. Application for Public Building Approval shall be made to the Shire of Esperance's Environmental Health Services for assessment and approval prior to the commencement of development. The application is to include:

Two (2) sets of scaled plans (minimum of 1:100) and specifications shall be submitted to Environmental Health Services and shall include the following information:

- location and width of emergency exits;
- location of emergency exit signage;
- location and number of sanitary facilities;
- emergency lighting; and
- intended use of each public building area.

A final inspection of the premises will be required to be carried out by Environmental Health Services prior to commencing operation.

The building must not be opened to the public until a Certificate of Approval or a Variation of Certificate of Approval has been issued by the Shire of Esperance in accordance with section 178 of the *Health (Miscellaneous Provisions) Act 1911*.

The *Health (Public Buildings) Regulations 1992* contain construction requirements that may be in addition to requirements contained in the Building Code of Australia. The applicant should ensure that relevant requirements in

these Regulations have been incorporated into the development design from the outset. Neglecting to do so may result in costly post-construction alterations or delays to the development process.

Further information can be obtained from Shire of Esperance (Environmental Health Services). The development the subject of this development approval is required to comply with the Shire Esperance Health Local Laws 2009.

7. The development is defined as a "Food Business" under the *Food Act 2008*. The development must comply with the *Food Act 2008* and *Food Regulations 2009* and the *Australian New Zealand Food Standards Code*.

8. In accordance with the provisions of the *Food Act 2008* and *Food Regulations 2009* an application to register the food business hereby permitted must be submitted and approved by the Shire of Esperance (Health Services) prior to the commencement of operations.

9. Prior to commencement of development, an Application to Fit out of the food premises shall be submitted to and approved by Shire of Esperance (Environmental Health Services). Application information required is to be in line with Shire of Esperance Food Premise Design, Construction & Fit-Out Guide.

A final inspection of the premises will be required to be carried out by Environmental Health Services prior to commencing operation.

10. A food business not connected to an approved water scheme requires a water supply service to the satisfaction of Health Services and will require regular water monitoring to ensure potability and compliance with the *Australian Drinking Water Guidelines No 6*.

11. The approved development is required to comply with the following legislation (as amended from time to time):

- *Health (Miscellaneous Provisions) Act 1911*
- *Occupational Safety and Health Regulations 1996*
- *Sewerage (Lighting, Ventilation & Construction) Regulations 1971*
- *Health (Smoking in Enclosed Public Places) Regulations 1999;*

12. It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Esperance will take no responsibility for incorrectly located buildings.

13. It is the responsibility of the developer to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.

14. Horizon Power has requested the Shire to advise Applicants that Horizon Power has certain restrictions regarding the installation of conductive materials near its network assets. Applicants are advised to contact Horizon Power's Esperance office to ascertain whether any of Horizon Power's restrictions affect their proposed development.

15. The developer is to liaise with Shire of Esperance (Statutory Compliance) to determine any requirement for additional approvals for any signage proposed to be erected on site.

16. It is the responsibility of the Applicant to ensure that all required approvals and permits are in place prior to the commencement of any works on or usage of the site.
17. The landowner is to be aware that mosquitoes can breed in tanks containing water, including rainwater tanks, if the tanks are not well maintained and properly constructed. It is strongly encouraged that the landowner ensures water tanks and openings are sealed and inlets covered with mosquito-proof mesh as mosquitoes are a possible vector of disease.
18. In relation to Condition 3 the Shire of Esperance understands that the subject land may contain *Proteaceae Dominated Kwongan Shrubland* which is a matter of national environmental significance. A person proposing to take an action that is likely to have a significant impact on a matter of national environmental significance must refer their proposal to the Department of the Environment and Energy (Commonwealth) for assessment and approval under the *Environment Protection and Biodiversity Conservation Act 1999* before it can proceed. Substantial penalties apply to a person who takes such an action without approval. If you are uncertain about which matters of national environmental significance might be present, a Protected Matters Report can be created at

<http://www.environment.gov.au/epbc/protected-matters-search-tool>

This report will list all matters of national environmental significance that may occur in the proposed development area.

Not all actions affecting matters protected by the Act will have a significant impact and require approval. Guidelines for determining if the impact of an action is likely to be significant are available from the Department's website at

www.environment.gov.au/epbc/guidelines-policies.html

If you have any questions about your obligations under the Environment Protection and Biodiversity Conservation Act 1999, or wish to discuss your proposal, you may contact the Department of the Environment and Energy. Further information, including contact details, is available at:

<http://www.environment.gov.au/epbc/publications/pre-referral-meeting-guidance>

CARRIED
F9 - A0

Reason: Council wanted to reduce the amount of parking bays required on the property.

Mr Hindley left the Chamber at 4.16pm and did not return.

12.2 ASSET MANAGEMENT

12.2.1 Esperance 2050 Cycling Strategy

Moved: Cr Piercey

Seconded: Cr Brown

O0819-160

Council Resolution

That Council:

- 1. Endorses the Esperance 2050 Cycling Strategy developed by the Department of Transport, in collaboration with Shire officers, and**
- 2. Considers the priority actions identified within the Strategy for inclusion in the:**
 - a. Next Long Term Financial Plan review; and**
 - b. Annual Capital Works Programs.**

**CARRIED
F9 - A0**

Cr Parsons & Cr McMullen declared their proximity interests and left the chamber at 4.18pm.

12.2.2 CBD Landscaping

Officers Recommendation

That Council endorse the Esperance CBD Landscaping design to guide the implementation and upgrading of Landscaping in the Esperance CBD.

MOTION

Moved: Cr Payne

Seconded: Cr Piercey

That Council lay this matter of the table to allow for input from local businesses and the public.

**LOST
F2 – A5**

(Against Cr McIntyre, Cr Parker, Cr Brown,
Cr Bowman & Cr Padgurskis)

MOTION

That Council endorse the Esperance CBD Landscaping design to guide the implementation and upgrading of Landscaping in the Esperance CBD.

AMENDMENT

Moved: Cr Payne

Seconder:

That Council replace the word *endorse* with *accept* and include the word *concept* before *design*.

The amendment was approved by the mover and seconder of the motion, therefore the amendment became the substantive motion..

Moved: Cr Bowman
Seconded: Cr McIntyre

O0819-161

Council Resolution

That Council accept the Esperance CBD Landscaping concept design to guide the implementation and upgrading of Landscaping in the Esperance CBD.

**CARRIED
F7 - A0**

Reason: Council wanted to replace the word endorse with accept and include the word concept before design.

Cr Parsons & Cr McMullen returned to the Chamber at 4.35pm

Cr Payne declared her financial interest and left the Chamber at 4.36pm.

12.3 CORPORATE RESOURCES

12.3.1 Lease Renewal Request - Goldfields Air Services - Car Hire Desk 3 Airport Terminal

Moved: Cr McIntyre
Seconded: Cr Bowman

O0819-162

Council Resolution

That Council agrees to;

- 1. Lease the portion of Esperance Airport Terminal building, Lot 15 Coolgardie-Esperance Highway Gibson, known as Car Hire Desk 3 to Goldfields Air Services;**
- 2. The term of the lease being 12 months;**
- 3. Lease rental being \$1,412.37 Inc GST;**
- 4. Landing fees being charged as per the Shire Schedule of Fees and Charges, with practice approach charges waived for training aircraft;**
- 5. Hire fees for use of the meeting room being \$20 per half day or part thereof, up to 25 half days per annum. Any usage over 25 half days per annum being charged as per the Shire's Schedule of Fees and Charges;**
- 6. Aircraft parking fees being \$699.63 Inc GST per annum, per aircraft;**
- 7. Terminal service fees being waived for scenic flight passengers; and**
- 8. The disposition being advertised in accordance with Section 3.58 of the *Local Government Act 1995* for Disposal of Property.**

**CARRIED
F8 - A0**

Cr Payne returned to the Chamber at 4.38pm.

12.3.2 Reconciliation Action Plan

Officer's Recommendation

That Council endorse the final amended Reconciliation Action Plan.

MOTION

Moved: Cr Payne

Seconded: Cr Piercey

That Council lay this matter on the table to allow for discussion with relevant Stakeholders.

AMENDMENT

Moved: Cr McIntyre

Seconded:

That Council lay this matter of table until the Shire President and CEO have met with the Corporate Manager and two Directors of Esperance Nyungar Aboriginal Corporation (ENAC).

The amendment was approved by the mover and seconder of the motion, therefore the amendment became the substantive motion..

Moved: Cr Payne

Seconded: Cr Piercey

O0819-163

Council Resolution

That Council lay this matter of table until the Shire President and CEO have met with the Corporate Manager and two Directors of Esperance Nyungar Aboriginal Corporation (ENAC).

**CARRIED
F9 - A0**

Reason: Council wanted liaise and respond to current issues with ENAC, before making a decision.

12.3.3 Reconciliation Action Plan Working Group Terms of Reference

Moved: Cr McIntyre

Seconded: Cr Parsons

O0819-164

Officer's Recommendation

That Council agrees to:

1. Adopt the Reconciliation Action Plan Working Group Terms of Reference and create the Reconciliation Action Plan Working Group as a committee of Council; and
2. Instruct the Chief Executive Officer to advertise the community representative positions of the Reconciliation Action Plan Working Group following Council elections in October 2019 and prepare a report to Council.

Council Resolution

That Council lay this matter of table until the Shire President and CEO have met with the Corporate Manager and two Directors of Esperance Nyungar Aboriginal Corporation (ENAC).

**CARRIED
F9 - A0**

Reason: Council wanted liaise and respond to current issues with ENAC, before making a decision.

12.3.4 Condingup Bush Fire Brigade Shed Lease

Moved: Cr Bowman

Seconded: Cr Parsons

O0819-165

Council Resolution

That Council agrees to;

- 1. Enter into a lease with Denise and Samuel Baxter for portion of Lot 184 Ridgелands Road Condingup;**
- 2. The term of the lease being 15 years or until the property is sold;**
- 3. Annual rent to be \$1, payable as and when demanded;**
- 4. The lease being drawn up using the Community and Sporting Group Lease Template; and**
- 5. No caveat being lodged against the title of the property.**

**CARRIED
F9 - A0**

Mr Sargent left the Chamber at 4.55pm.

12.3.5 Audit Report - Adverse Financial Ratio Trends

Moved: Cr Brown

Seconded: Cr McMullen

O0819-166

Council Resolution

That Council note the action that is taken through the Long Term Financial Plan to address the financial ratios that do not meet the Department of Local Government, Sport and Cultural Industries basic standard.

**CARRIED
F9 - A0**

Mr Sargent returned to the Chamber at 5.56pm.

12.3.6 Merivale Fire Brigade Lease

Moved: Cr Parker

Seconded: Cr Brown

O0819-167

Council Resolution

That Council agrees to;

- 1. Surrender the existing lease with DR & PB Smallwood for portion of Lot 1740 Merivale Road, Merivale;**
- 2. Enter into a new lease with David Gray and Sandra Voight for portion of Lot 1740 Merivale Road, Merivale;**
- 3. The term of the lease being 15 years or until the property is sold;**

4. Annual rent to be \$1, payable as and when demanded;
5. The new lease being drawn up using the Community and Sporting Group lease template; and
6. Including a provision within the lease to access the premises using the existing access road and retaining the ability to park vehicles adjacent to the brigade shed.

CARRIED
F9 - A0

12.3.7 Financial Services Report - July 2019

Moved: Cr Bowman

Seconded: Cr Parker

O0819-168

Council Resolution

That the report entitled Monthly Financial Management Report (incorporating the Statement of Financial Activity) for the month of July 2019 as attached be received.

CARRIED
F9 - A0

12.4 EXECUTIVE SERVICES

12.4.1 Request for Fee Waiver - Esperance Nyungar Aboriginal Corporation

Moved: Cr Bowman

Seconded: Cr Padgurskis

O0819-169

Council Resolution

That Council decline the request from Esperance Nyungar Aboriginal Corporation for a waiver of the 2019/20 brochure racking fee at the Esperance Visitor Centre.

CARRIED
F8 – A1
(Against Cr Payne)

12.4.2 Proposed Additions - Delegated Authority Register 2019/2020

Moved: Cr McIntyre

Seconded: Cr Parker

O0819-170

Council Resolution

That Council endorse the proposed delegations (Attachment A) and include them in the *Delegated Authority Register 2019/2020 - Council to Chief Executive Officer & Authorised Persons*.

CARRIED
F9 - A0

12.4.3 Information Bulletin - July 2019

Moved: Cr McMullen

Seconded: Cr Bowman

O0819-171

Council Resolution

That Council accepts the Information Bulletin for July 2019 and;

- 1. Delegations Discharge - Corporate Resources**

**CARRIED
F9 - A0**

13. REPORTS OF COMMITTEES

Nil

14. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

Nil

15. MEMBERS QUESTIONS WITH OR WITHOUT NOTICE

Nil

16. URGENT BUSINESS APPROVED BY DECISION

MOTION

Moved: Cr McIntyre

Seconded: Cr McMullen

O0819-172

Council Resolution

That Council accept the following late items:

- 16.1 2019/2023 Corporate Business Plan**
- 16.2 Submission to the Select Committee into Local Government**

**CARRIED
F9 - A0**

16.1 2019/2023 Corporate Business Plan

Moved: Cr Parsons

Seconded: Cr McMullen

O0819-173

Council Resolution

That Council

- 1. Receive the Corporate Business Plan 2019/20 – 2022/2023**
- 2. Requests the Chief Executive Officer give local public notice of the reviewed plan as per the requirements of the *Local Government Act 1995*.**

**CARRIED
F9 - A0**

16.2 Submission to the Select Committee into Local Government

Moved: Cr Brown
Seconded: Cr McMullen

O0819-174

Council Resolution

That Council endorse the attached draft submission to be finalised and forwarded to the Select Committee into Local Government.

CARRIED
F7 – A2
(Against Cr Payne & Cr Piercey)

Dr Nieukerke, Mr Miller, Ms Burton & Ms Smith left the Chamber at 5.14pm and did not return.

17. MATTERS BEHIND CLOSED DOORS

Moving behind closed doors

Moved: Cr Bowman
Seconded: Cr McIntyre

O0819-175

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 Shire of Esperance Enterprise Agreement 2019

This report is considered confidential in accordance with the Local Government Act 1995, as it relates to a matter affecting an employee or employees (Section 5.23(2)(a)); and 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)).

17.2 Residential Land Tender

This report is considered confidential in accordance with the Local Government Act 1995, as it relates to 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)).

17.3 Request for Tender 0212-19 Esperance Seafront Caravan Park Lease

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)).

17.4 Proposed Drainage Works Gibson Road

This report is considered confidential in accordance with the Local Government Act 1995, as it relates to 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)).

CARRIED
F9 - A0

Cr Brown left the chamber at 5.14pm.

Cr Brown returned to the chamber at 5.15pm

17.1 Shire of Esperance Enterprise Agreement 2019

Moved: Cr Bowman

Seconded: Cr Brown

O0819-176

Council Resolution

That Council note the proposed Shire of Esperance Enterprise Agreement 2019.

CARRIED
F9 - A0

17.2 Residential Land Tender

Moved: Cr Brown

Seconded: Cr Parker

O0819-177

Council Resolution

That Council

1. Direct the CEO to advertise all unsold lots within Flinders Stage 2 and Lots 861 and 862 Hockey Place (excluding any lots that are under contract at the time the tender is advertised) for sale by tender.
2. Confirm it believes that the valuations it received from Herron Todd White for the Flinders Lots and Opteon Property Group for the Hockey Place Lots, both undertaken in February 2017, continue to be a fair indication of the value of the unsold lots.
3. Relist all lots that don't receive an offer through the tender process at the following prices:

LOT	SIZE (SQM)	Listing Price
Flinders		
214	762	\$180,000
226	766	\$175,000
227	766	\$175,000
228	766	\$175,000
237	817	\$180,000
239	836	\$190,000
240	836	\$190,000
241	836	\$190,000
242	836	\$185,000
243	836	\$190,000
244	836	\$190,000
245	836	\$190,000
248	836	\$195,000
249	836	\$190,000
266	768	\$180,000
271	801	\$180,000
275	801	\$180,000
276	760	\$180,000

277	760	\$180,000
281	760	\$180,000
Hockey Place		
861	567	\$170,000
862	571	\$175,000

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 E (Listing and Sale Prices).

CARRIED
F9 - A0

17.3 Request for Tender 0212-19 Esperance Seafront Caravan Park Lease

Moved: Cr Bowman

Seconded: Cr McIntyre

O0819-178

Council Resolution

That Council:

- Award the Request for Tender 0212-19 Esperance Seafront Caravan Park Lease to RAC Parks & Resorts as per the Offer received that included the upfront opportunity component, subject to Department of Planning, Lands and Heritage approval;
- Delegates the CEO to:
 - Negotiate and execute a lease agreement between the Shire of Esperance and RAC Parks & Resorts consistent with the offer received, subject to no material changes; and
 - Negotiate and execute a contract extension with Brocam Pty Ltd for the Management of the Esperance Seafront Caravan Park, until the commencement date of the new lease.
- Approve a budget variation for the additional management time of the Esperance Seafront Caravan Park as follows:

Description		Budget Figure	Amended Figure	Variation
Shire Caravan Park Income	4210-105	(350,700)	(600,000)	(249,300)
Shire Caravan Park Admin Expenses	4210-350	146,373	250,000	103,627
Shire Caravan Park Operations	4210-460	57,928	100,000	42,072
Shire Caravan Park Grounds Maintenance	4210-550	6,604	11,000	4,396
Net result				(99,205)

CARRIED
F9 - A0

17.4 Proposed Drainage Works Gibson Road

Moved: Cr Parsons

Seconded: Cr Piercey

O0819-179

Council Resolution

That Council:

1. Authorise the CEO to commission the following investigations for the purpose of determining the potential impact of Proposed Works on Gibson Road and to allow a detailed scope of works:
 - a. A feature survey for a width of 40 metres each side of the centerline of Gibson Road, between Chainage 3640m and 8240m;
 - b. A hydrological and hydraulic study on the impact of the Proposed Works; and
 - c. Preparation of an engineering design for the Proposed Works, (collectively, the "Investigations").
2. Request the CEO to arrange a Special Meeting of Council to be held by no later than 15 October 2019 to consider the outcomes of these Investigations for possible authorisation and commencement; and
3. Notes and accepts that the LGISWA, acting as the insurer for the Shire of Esperance, will manage any remaining aspect of Mr Nils Blumann's claim against the Shire of Esperance consistently with the LGISWA's rights and obligations under the Shire of Esperance's insurance arrangements

**CARRIED
F9 - A0**

Coming from behind closed doors

Moved: Cr Bowman

Seconded: Cr McIntyre

O0819-180

That the meeting come from behind closed doors.

**CARRIED
F9 - A0**

18. PUBLIC QUESTION TIME

Nil

19. CLOSURE

The President declared the meeting closed at 5.30pm.

These Minutes were confirmed at a meeting held on _____

Signed _____

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

Dated _____