



Shire of Cunderdin

Minutes of an Ordinary Council Meeting

Dear Council Member,

The Ordinary Meeting of the Cunderdin Shire Council was held on **Thursday 20th August 2020** in the Council Chambers, Lundy Avenue, Cunderdin WA, 6407 **commencing at 5.00pm**

Stuart Hobley
Chief Executive Officer
16 July 2020

1.	Declaration of Opening	3
2.	Record of Attendance, Apologies and Approved Leave of Absence	3
3.	Public Question Time	4
4.	Petitions, Deputations & Presentations	4
5.	Applications for Leave of Absence	4
6.	Confirmation of the Minutes of Previous Meetings	4
6.1	Ordinary Meeting of Council held on 16 th July 2020	4
6.2	Special Meeting of Council held on 6 th August 2020.....	4
7.	Declaration of Members and Officers Interests	4
8.	Announcements by President without Discussion	4
9	Finance & Administration	5
9.1	Financial Reports for July 2020.....	5
9.2	Accounts Paid –July 2020	6
9.3	Council Investments – As at 31st July 2020.....	8
9.4	Property and Rates – Revestment of Land into Crown Land	11
9.5	Shire of Cunderdin Audit Committee Minutes	15
9.6	Shire of Cunderdin Purchasing Policy.....	17
9.7	Local Government House Trust – Deed of Variation.....	20
9.8	Application to Erect a Plaque in the Memorial Rose Garden – Clifton and Daisy Jasper.....	23
9.9	Application to Erect a Plaque in the Memorial Rose Garden – John and Daisy MacLennan.....	25
9.10	Move Behind Closed Doors	28
9.11	Financial Hardship Application – 79 Main Street, Cunderdin	28
9.12	Cunderdin Primary Health Centre – Update	28
9.13	Move from behind closed doors	28
9.14	Urgent Conservation Works No 3 Pump Station Building.....	29
9.15	Chief Executive Officers Report.....	34
10.	Environmental Health and Building	36
10.1	Action Regarding Noise from a Generator – Lot 234 Mitchell St, Meckering	36
11.	Planning & Development.....	39
12.	Works & Services	39
13.	Urgent Items.....	39
14.	Scheduling of Meeting.....	39
14.1	September 2020 Ordinary Meeting	39
15.	Closure of meeting	39
16.	Certification	39

MINUTES

1. Declaration of Opening

The President declared the meeting open at 5:04 pm.

The Shire of Cunderdin disclaimer was read aloud.

The *Local Government Act 1995* Part 5 Division 2 Section 5.25 and Local Government (Administration) Regulations 1996 Regulation 13

“No responsibility whatsoever is implied or accepted by the Shire of Cunderdin for any act, omission or statement or intimation occurring during this meeting. It is strongly advised that persons do not act on what is heard at this Meeting and should only rely on written confirmation of Council’s decisions, which will be provided within ten working days of this meeting”.

Read by Cr Bernie Daly

2. Record of Attendance, Apologies and Approved Leave of Absence

2.1 Record of attendances

Councillors

Cr DA (Dennis) Whisson	Shire President
Cr AE (Alison) Harris	Deputy President
Cr TE (Todd) Harris	
Cr B (Bernie) Daly	
Cr W (Sam) Stewart	
Cr A (Tony) Smith	
Cr NW (Norm) Jenzen	
Cr J (Jayson) Goldson	

In Attendance

Stuart Hobley	Chief Executive Officer
Hayley Byrnes	Deputy Chief Executive Officer
Lauren Cole	Governance and Compliance Officer

Guests of Council

Nil

Members of the Public

2.2 Apologies

2.3 Leave of Absence Previously Granted

Nil

3. Public Question Time

Nil

4. Petitions, Deputations & Presentations

Nil

5. Applications for Leave of Absence

Nil

6. Confirmation of the Minutes of Previous Meetings

6.1 Ordinary Meeting of Council held on 16th July 2020

Resolution 6.1 OCM August 2020

That the Minutes of the Ordinary Council Meeting held on Thursday 16th July 2020 be confirmed as a true and correct record.

Moved: Cr AE (Alison) Harris

Seconded: Cr B (Bernie) Daly

Vote – Simple Majority

Carried: 8/0

6.2 Special Meeting of Council held on 6th August 2020

Resolution 6.2 OCM August 2020

That the Minutes of the Special Council Meeting held on Thursday 6th August 2020 be confirmed as a true and correct record.

Moved: Cr TE (Tony) Smith

Seconded: Cr J (Jayson) Goldson

Vote – Simple Majority

Carried: 8/0

Note to this item:

The President will sign the minute declaration on the previous minutes.

7. Declaration of Members and Officers Interests

- Cr A Harris declared a financial interest on item 9.12 Cunderdin Primary Health Centre - Update as she is employed by Karis medical group.
- Cr T Harris declared a financial interest on item 9.12 Cunderdin Primary Health Centre - Update as he is closely associated with someone employed by Karis medical group.
- Cr Sam Stewart declared a proximity interest on item 10.1 Action regarding Noise from a Generator – Lot 234 Mitchell St, Meckering.

8. Announcements by President without Discussion

Nil

9 Finance & Administration

9.1 Financial Reports for July 2020
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Location:	Cunderdin
Applicant:	Deputy Chief Executive Officer
Date:	7 th August 2020
Author:	Hayley Byrnes
Item Approved by:	Stuart Hobley, Chief Executive Officer
File Reference:	Nil
Attachment/s:	1 attachment – Monthly Report

Proposal/Summary

The financial reports as at 31 July 2020 are presented for consideration.

Background

The financial reports have been circulated to all Councillors.

Comment

Nil.

Consultation

Nil.

Statutory Environment

The *Local Government Act 1995* Part 6 Division 3 requires that a monthly financial report be presented to Council.

Policy Implications

Nil.

Financial Implications

All financial implications are contained within the reports.

Strategic Implications

Nil.

<u>Resolution 9.1 OCM August 2020</u>
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That Council receives the monthly financial reports for the period ending 31st July 2020.

Moved: Cr j (Jayson) Goldson

Seconded: Cr NW (Norm) Jenzen

Vote – Simple Majority

Carried: 8/0

9.2 Accounts Paid –July 2020

Location:	Cunderdin
Applicant:	Deputy Chief Executive Officer
Author:	Hayley Byrnes
Report Date:	7 th August 2020
Item Approved By:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	2 attachment
	- Creditors list of payments July 2020
	- Credit Card Statements for July 2020

Proposal/Summary

Council is requested to confirm the payment of Accounts totalling:

Total for Municipal -	\$317,847.34
Total for Trust -	\$0.00
TOTAL -	\$317,847.34

For June 2020 as listed in the Warrant of Payments for the period 1st to 31st July 2020.

Background

Nil.

Comment

Nil.

Consultation

Nil.

Statutory Environment

In accordance with Financial Management Regulations 12 & 13, a List of all accounts paid or payable shall be presented to Council (Refer Warrant of Payments attached).

Financial Management Regulations 12 & 13.

Policy Implications

Nil.

Financial Implications

All financial implications are contained within the reports.

Strategic Implications

Nil.

Resolution 9.2 OCM August 2020

1. That Council's payment of accounts amounting to \$317,847.34 being from Municipal Account for July 2020, as follows:

Municipal Account	\$	Total
Electronic Funds Transfer: EFT 4081 – 4144	\$293,262.22	
Direct Debit (Inc Bank Charges): DD1838.1- DD1869.11	\$4,173.12	
Cheques: 11628-11638	\$20,412.00	
TOTAL		\$317,847.34

be confirmed and noted; and,

2. That the Payments List as presented be incorporated in the Minutes of the Meeting.

Moved: Cr AE (Alison) Harris

Seconded: Cr NW (Norm) Jenzen

Vote – Simple Majority

Carried: 8/0

9.3 Council Investments – As at 31st July 2020

Location:	Cunderdin
Applicant:	Deputy Chief Executive Officer
Author:	Hayley Byrnes
Report Date:	7th August 2020
Item Approved By:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	1 Attachment- Bank Statements

Proposal/Summary

To inform Council of its investments as at 31st July 2020.

Background

The authority to invest money held in any Council Fund is delegated to the Chief Executive Officer. Council Funds may be invested in one or more of the following:

- Fixed Deposits;
- Commercial Bills;
- Government bonds; and
- Other Short-term Authorised Investments.

Council funds are to be invested with the following financial institutions:

- Major Banks & Bonds Issued by Government and/ or Government Authorities.

Comment

In addition to the Shire's Municipal Operating Accounts, the below investment accounts are held as at 31st July 2020.

COUNCIL ACCOUNTS					
Institution	Amount	Investment type/ Account details	Municipal Funds	Reserve Funds	Trust Funds
Westpac Bank	\$504,183.12	Municipal- 0000030	\$504,183.12		
Bendigo Bank	\$2,002,938.95	Municipal- 155971377	\$545,761.09	\$998,299.45	\$458,878.41
Westpac Bank	\$146.78	Business Cash Reserve 22-3647 0.50%	\$146.78		
Bendigo Bank	\$1,098.37	Bendigo Trust Account 164 488 686			\$1,098.37
Westpac Bank	\$0.00	Trust Working Account 12-2981			\$0.00
Westpac Bank	\$251,320.00	Westpac Term Deposit 0.65% Expires:31/10/2020	\$251,320.00		
TOTAL INVESTMENTS	\$2,759,687.22		\$1,301,410.99	\$998,299.45	\$459,976.78

In addition to the above Shire funds, the Shire administers the Cunderdin Community Centre Trust Account being Westpac Account 000 073 - \$ 96,971.65 and Bendigo Muni - \$458,878.41.

CUNDERDIN COMMUNITY TRUST DETAILS		
31 July 2020		
Opening Balance as per Bank Statement & Term Deposits	INVESTMENT ACC	96,970.83
	MUNI ACC	458,878.41
	TOTAL	543,783.02
Credits		0.82
Debits		0.00
Closing Balance as Per Bank Statements & Term Deposits	TOTAL	555,849.24
INCOMING		
<i>Interest (Investment account)</i>		0.82
		0.82
OUTGOING		
		0.00
Balance as at end of month	TOTAL	555,849.24

Consultation

Nil.

Statutory Implications

Financial Management Regulation 19.

Policy Implications

Nil.

Financial Implications

There are no financial implications in considering this item.

Strategic Implications

This item related to the Integrated Planning and Reporting Framework, which feeds into the Long Term Financial Plan when determining annual Council Budgets.

Resolution 9.3 OCM August 2020

That the report on Council investments as at 31st July 2020 be received and noted.

Moved: Cr TE (Todd) Harris

Seconded: Cr W (Sam) Stewart

Vote – Simple Majority

Carried: 8/0

9.4 Property and Rates – Revestment of Land into Crown Land

Location:	Cunderdin
Applicant:	Finance Officer
Date:	10 August 2020
Author:	Brooke Davidson
Item Approved by:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	NIL
File Reference:	A53679
Attachment/s:	2x Attachments (Maps)

Proposal/Summary

It is proposed that Council, pursuant to Section 6.74 of the Local Government Act 1995, utilise AMPAC Debt Recovery to apply in the form and manner prescribed to the Minister to have the land re-vested in the Crown in right of the State, land parcels contained within assessment A53679, which have rates and services in arrears for 3 or more years.

Background

The parcels of land are owned by Ivy Ethel Stone, who is deceased.

Council at its 15 February 2018 Ordinary Council Meeting resolved:

“That Council, pursuant to Section 6.64 (1)(b) of the Local Government Act 1995, proceed to sale of Assessments A53560, A53602, A53614, A53616, A53667, A53669, A53675, A54849 and A53679.”

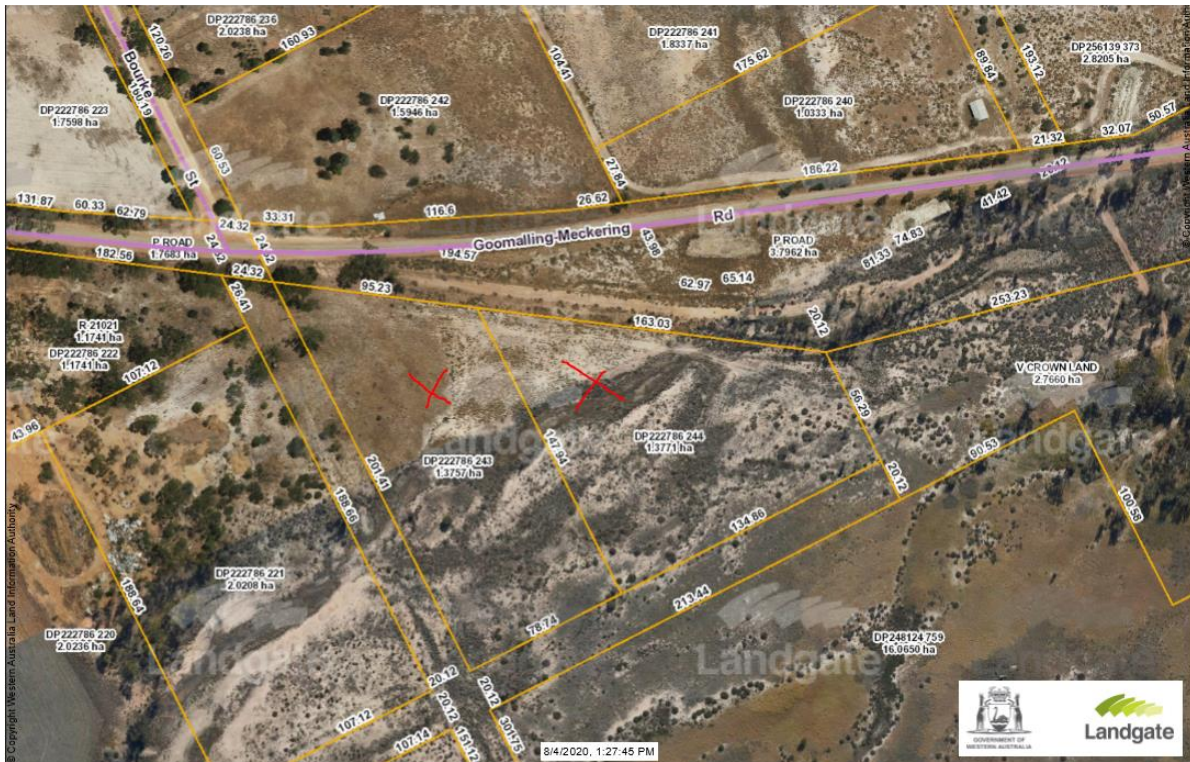
Accordingly, the abovementioned properties which have had rates outstanding of three or more years were referred to AMPAC for recovery action. Her known relatives, who may have an interest in the land, have been contacted and are not interested in the land.

Following legal service of documentation and advertising, an auction was held on the 10th August 2020, at the Ettamogah Pub Cunderdin. There were no bids on the property and it was passed in at auction.

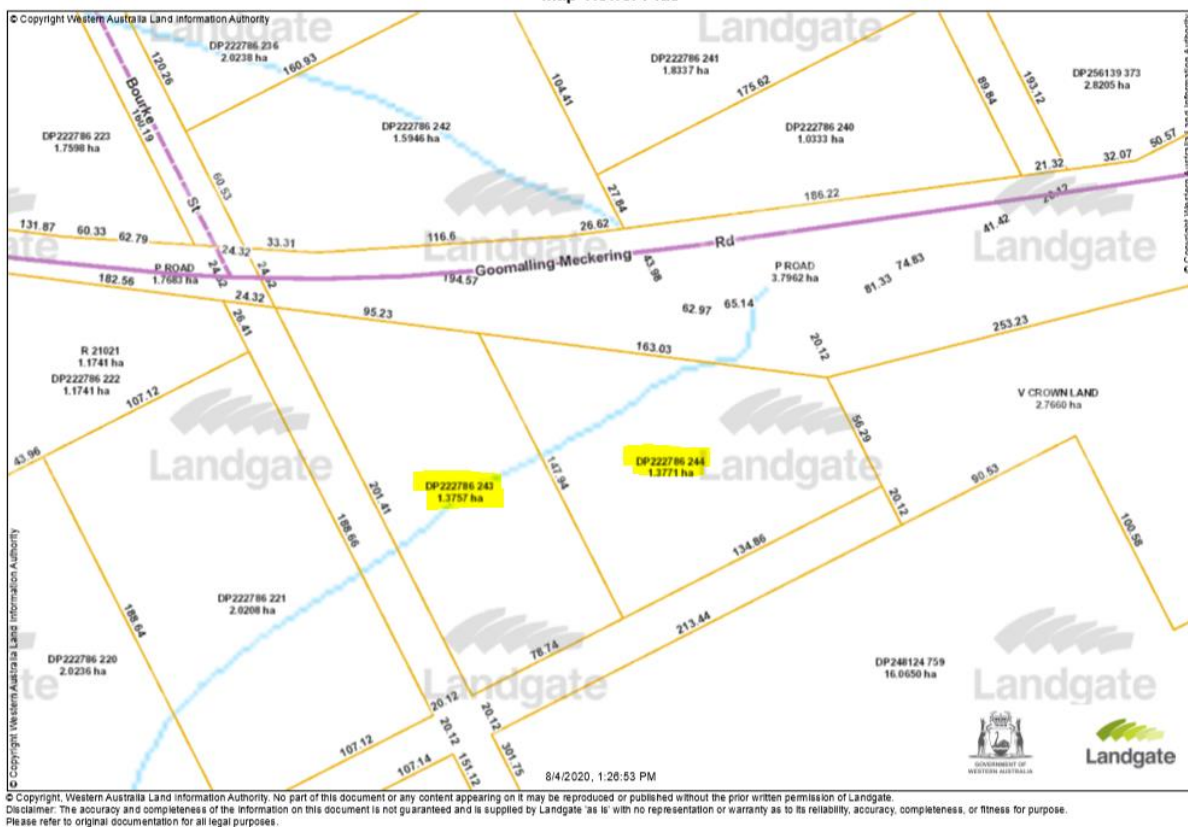
The following table provides further information regarding outstanding amounts and actions undertaken to date:

Property – Lot 243 and 244 on Plan 222786	
Assessment	A53679
Zoning/Area	General Agriculture – 2.7528 ha
Period Outstanding	In Excess of 5 years
Amount Outstanding	\$28,200.03
Payment	No payments made in our current system dating back to 30/04/2015
Recovery Action / Responses	April 2018: Referred to AMPAC Debt Recovery. A Probate search issued, returning a NIL result July 2018 : 3 Year sale rule commenced August 2018: Relatives contacted Shire – referred to AMPAC Debt Recovery Sept 2018: Skip Trace carried out to locate beneficiaries. Feb 2019: Letters written to known family to see if they have any objection to Council selling the land April 2019: Agenda Item at OCM, resolved to proceed with the sale of land

September 2019: Form 2 posted and Form 3 Affixed to property
October 2019: Form 4 advertised
Feb 2020: Form 5 Advertised in West Australian
May 2020: Auction Date – CANCELLED COVID-19 restrictions
June 2020: Form 5 Advertised in West Australian for new auction Date
10 Aug 2020: Auction – passed in at auction



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Comment

Given the high level of debt, minimum value of the land, building restrictions and the amount of time that has been afforded in searching for ratepayers to either clear or reduce this debt, it is appropriate to apply the relevant section of the *Local Government Act 1995* empowering the re-vestment of land provision in relation to unpaid rates and charges.

It is suggested that Council apply the provisions of Section 6.67 of the *Local Government Act 1995* and re-vest the properties to the Crown, which are in arrears for a period in excess of three (3) years.

The land has little to no value with no water or power connected and no fencing. As shown clearly on the satellite photo on the previous page, the majority of the lots are located in the catchment area and highly salt affected.

Council should also consider requesting that the blocks are not able to be sold again in the future.

Consultation

AMPAC Debt Recovery
Price Sierakowski Corporate
Austral Mercantile Collections

Statutory Implications

LOCAL GOVERNMENT ACT 1995 - SECT 6.74

6.74 . Power to have land re-vested in Crown if rates in arrears 3 years

(1) If land is —

- (a) rateable land; and
- (b) vacant land; and

(c) land in respect of which any rates or service charges have been unpaid for a period of at least 3 years,

the local government in whose district the land is situated may apply in the form and manner prescribed to the Minister to have the land re-vested in the Crown in right of the State.

(2) The Minister is to consider the application and the circumstances surrounding the application and may grant or refuse the application.

(3) If the application is granted the Minister is to execute a transfer or conveyance of the land to the Crown and is to deliver the transfer or conveyance to the Registrar of Titles or the Registrar of Deeds and Transfers, as the case requires, for registration.

(4) Upon the delivery of the transfer or conveyance Schedule 6.3 clause 8 has effect in relation to the exercise of the power referred to in subsection (1).

[Section 6.74 amended: No. 49 of 2004 s. 64(1); No. 47 of 2011 s. 16.]

Policy Implications

Nil.

Financial Implications

The outstanding amount for the assessment will not be recoverable and the rates and costs of legal proceedings will need to be written off.

Strategic Implications

CL5-Objective 4 Ensure sound long term financial management and deliver value for money.

IT5.5.4 Risk Management

Resolution 9.4 OCM August 2020

That Council authorises the Chief Executive Officer:

1. Having made reasonable efforts to do so, being unable to locate the owner of property A53679 is to, pursuant to Section 6.74 of the Local Government Act 1995, apply in the form and manner prescribed to the Minister to have the land re-vested in the Crown in right of the State, land parcels contained within assessment A53679 which have rates and services in arrears for 3 or more years.
2. That council request that the Department of Planning, Lands and Heritage ensure that these lots are not able to be sold to the public in the future.

Moved: Cr NW (Norm) Jenzen

Seconded: Cr TE (Todd) Harris

Vote – Simple majority

Carried: 8/0

9.5 Shire of Cunderdin Audit Committee Minutes

Location:	Shire of Cunderdin
Applicant:	Administration
Date:	13 th August 2020
Author:	Hayley Byrnes
Item Approved by:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Audit Committee Meeting Minutes Annual Financial Report – Interim Audit

Proposal/Summary

Council to receive the minutes of the Audit Committee Meeting held on Thursday 6th August 2020.

Background

The Audit committee meet on the 6th August 2020 to review the annual interim audit results for the year ending 30th June 2020.

The Shires auditor, Macri partners recently completed the Councils interim audit for the period ending 30 June 2020. The auditors were unable to attend the office due to Covid- 19 thus making this year's completion of the interim audit a very lengthy process.

The purpose of the audit is to evaluate the overall control environment and to obtain an understanding of the key business processes, risks and internal controls relevant to the audit of the annual financial statements.

The Auditor General signed off on the interim audit on the 23 June 2020.

Comment

The interim audit has identified a number of management control issues that are required to be addressed. The full report including all of the findings are included in the attachment.

The matters identified are either significant, moderate or minor. The report identified 9 matters this year of which three were significant, six were moderate. There were also 7 items from previous years of which one was significant, five were moderate and one was minor.

The administration has provided a response to each of the findings and this is contained within the report.

It should be noted that of the 16 matters for this year and last year 13 have already been addressed.

The Audit Committee resolved:

Resolution 5.1 Audit August 2020

That the Audit Committee receive the Interim Audit Results for the year ended 30 June 2020.

Consultation

Macri Partners
Office of the Auditor General
Audit Committee

Statutory Implications

Local Government Act 1995 Part 5 Division 2 Subdivision 3 - Section 5.22 (2)

The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.

Local Government Act 1995

- ***7.12A. Duties of local government with respect to audits***

- (1) *A local government is to do everything in its power to —*
 - (a) *assist the auditor of the local government to conduct an audit and carry out his or her other duties under this Act in respect of the local government; and*
 - (b) *ensure that audits are conducted successfully and expeditiously.*
- (2) *Without limiting the generality of subsection (1), a local government is to meet with the auditor of the local government at least once in every year.*
- (3) *A local government is to examine the report of the auditor prepared under section 7.9(1), and any report prepared under section 7.9(3) forwarded to it, and is to —*
 - (a) *determine if any matters raised by the report, or reports, require action to be taken by the local government; and*
 - (b) *ensure that appropriate action is taken in respect of those matters.*
- (4) *A local government is to —*
 - (a) *prepare a report on any actions under subsection (3) in respect of an audit conducted in respect of a financial year; and*
 - (b) *forward a copy of that report to the Minister, by the end of the next financial year, or 6 months after the last report prepared under section 7.9 is received by the local government, whichever is the latest in time.*

- *Local Government (Audit) Regulations 1996*
- *Local Government (Financial Management) Regulations 1996*

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Good Governance Framework.

Resolution 9.5 OCM August 2020

That Council:

1. Receive the Minutes of the Shire of Cunderdin Audit Committee Meeting held on 6th August 2020
2. Receive the Interim Audit Results for the year ending 30th June 2020.

Moved: AE (Alison) Harris

Seconded: J (Jayson) Goldson

Vote: Simple majority

Carried: 8/0

9.6 Shire of Cunderdin Purchasing Policy

Location:	Shire of Cunderdin
Applicant:	Administration
Date:	11 th August 2020
Author:	Lauren Cole
Item Approved by:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	1 Attachment

Proposal/Summary

It is proposed that Council consider and endorse adopting the attached Shire of Cunderdin Purchasing Policy. This policies will provide further guidance and consistency to all purchasing activities and to ensure alignment with the Shire of Cunderdin's strategic and operational objectives and Legislative requirements.

Background

Council last adopted and reviewed the Purchasing Policy in December 2018. The Policy is ordinarily reviewed every two (2) years.

As part of the recent Covid-19 legislation, the State Government has amended the *Local Government (Functions and General) Regulations 1996* to increase the Tender Threshold from \$150,000 to \$250,000. This is a permanent change to the threshold in Regulation 11.

Therefore, it is necessary for Council to amend its Policy to reflect the new threshold prescribed by Legislation.

The Purchasing Policy has been reviewed in light of the updated West Australian Local Government Association (WALGA) Model Purchasing Policy and internal review of purchasing processes.

Comment

The management team propose that it is a timely for Council to consider the Variation of the lowest Threshold in the Policy from \$1,500 to \$5,000 which relates to Purchases that can be made by Authorised Delegated Officers with one verbal Quotation.

The amendment is sought to alleviate the difficult encountered by Staff with Purchases that are over the \$1,500 Threshold and requiring two verbal Quotations. Many of these procurements involve local businesses and Contractors and a second Quotation needs to be sought from outside the district to comply with the current Policy. The regional business who are being asked for the second quote are aware that Council has a "Buy Local" policy and that the second quote is being sought for both comparison and Policy compliance reasons.

The seeking of the second quote often does not lead to "Better Value" being achieved and can prolong the purchasing process.

WALGA recently published an updated version of its Model Purchasing Policy template (available to Governance and/or Procurement subscribers) to address the recent amendments to the *Local Government (Functions and General) Regulations 1996* and have updated the 'Local Buy' policy principles to align with Premier McGowan and Minister Templeman's request for Local Government goods and services expenditure to be invested toward economic support of local businesses.

The recommended Revised Purchasing Policy has been based on the Principles included in the WALGA Model Policy.

The key amendments are provided below: -

Local Government (Functions and General) Regulations 1996

An increase to the tender threshold of \$250,000.

Removing the requirement to publicly invite tender during a state of emergency for:

- The supply of goods or services associated with a state of emergency and
- A contract renewal or extension of no more than 12 months when the original contract is to expire within three months.

Policy may be made, amended or revoked at any time by simple majority.

The general hierarchy of authority is –

1. Legislation – including regulations and local planning scheme
2. Local laws
3. Delegations – being under direct authority of legislation or local laws, and being made by absolute majority
4. Policy – as it outlines how the above three authorities are to be implemented and being made by simple majority

Although every policy is at Council's discretion, they are essential for the effective and efficient operation of the Shire.

Consultation

Stuart Hobley, Chief Executive Officer

Hayley Byrnes, Deputy Chief Executive Officer

Craig Robertson, Manager of Works and Services

Statutory Implications

Local Government Act 1995 –

- *S. 3.57 Tenders for providing goods or services*

Local Government (Financial Management) Regulations 1996 –

- R.11 When tenders have to be publicly invited.
- R.11 Purchasing policies for local government.

Policy Implications

This policy is intended to ensure that the Shire offers consistent and accountable process for the authorisation.

Delegations Register

3.7 Tender – authority to set specifications, criteria, call, accept, and vary

Financial Implications

There are no direct financial implications of adopting the proposed changes to the purchasing policy, however the proposed changes are aimed at ensuring that the Shire of Cunderdin obtains value for money in its purchasing in a legally and ethically compliant manner.

Strategic Implications

The Policy Manual is to enable the effective and efficient implementation of Council's instructions, adopted annual budget, and legislative and local law obligations.

Resolution 9.6 OCM August 2020

That Council adopted the revised Purchasing Policy to comply with the recent and foreshadowed amendments to the Local Government (Functions and General) Regulations 1996; and include the policy within the Policy Manual.

Moved: Cr AE (Alison) Harris

Seconded: Cr B (Bernie) Daly

Vote – Simple Majority

Carried: 8/0

9.7 Local Government House Trust – Deed of Variation

Location:	Cunderdin
Applicant:	WALGA
Date:	11 th August 2020
Author:	Lauren Cole
Item Approved by:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	2 x Attachment

Proposal/Summary

It is proposed that Council consider given formal consent via resolution to a variation to the Trust Deed for the Local Government House Trust (The Trust).

Background

Council is a unit holder and beneficiary to the Local Government Trust (The Trust), holding 4 Units as advised in WALGA's recent Quarterly Report Q4 2019.

The Trust is the Governance Body for Local Government House, being the WALGA's Headquarters located at 170 Railways Parade, West Leederville.

The Trust's Board of Management is seeking to vary the Trust Deed in order to assist the Trust's income tax exempt status. As stipulated by the Deed, the Trust requires consent of at least 75 per cent of all beneficiaries in order to execute this variation.

As a beneficiary, the Shire of Cunderdin is required to consent to the enclosed Deed of Variation supported by a resolution of Council; and to communicate this consent to us in writing.

Comment

The Local Government House Trust ("The Trust") exists primarily to provide building accommodation for the Western Australian Local Government Association. Since January 2014, the Trust has provided WALGA with accommodation at 170 Railway Parade West Leederville.

The current trust deed commenced in 1993 and was amended in 2002 to reflect the merger of the metropolitan and country associations into WALGA. The current Trust Deed pronounces WALGA as Trustee and unit holders as Beneficiaries, with the Trustee holding property and associated monies "upon Trust" and in proportion to the units provided.

Commencement date of the current deed is 17 February 1993, with a vesting date 79 years from commencement - which means that the Trust ends in 2072.

The Trust is exempt from income tax on the basis of being a State / Territory Body (STB) pursuant to *Division 1AB of the Income Tax Assessment Act 1936*.

Trust Deed Variation

Trust Deed amendments set out in the Deed of Variation are based on legal advice and are intended to assist the Trust's income tax exempt status by strengthening the position that the Trust is a State / Territory Body (STB). Legal advice identified that the Trustee's ability to retire and appoint a new Trustee might affect the Trust's classification as a State or Territory Body (STB). This view, while based upon highly technical grounds, is a risk nonetheless.

Subsequently the Deed of Variation aims to strengthen the position that the Trust is a STB through the following amendments:

1. removing the existing Trustee's power to retire and appoint a new Trustee (Clause 2.1 and 2.2 (22.3) of the Deed of Variation)
2. enabling the beneficiaries to appoint and remove a Trustee (Clause 2.2 (22.4) of the Deed of Variation), and
3. ensuring that the Board of Management is the 'governing body' of the Trust (Clause 2.3 of the Deed of Variation)

The three proposed amendments when applied to the relevant clauses inserted by the Deed of Variation dated 5 June 2002 will subsequently read as follows (proposed amendments shown in red text):

1. Variation 2.1 amends clause 22.1 to point to additional clause:
22.1 Any Trustee of the Trust may retire as Trustee of the Trust Subject to clause 22.3, the right to appoint any new or additional trustee or trustees of the Trust is hereby vested in the retiring or continuing trustee. A corporation or incorporated association may be appointed as Trustee of the Trust.
2. Variation 2.2 inserts two new clauses:
22.3 The retiring or continuing trustee shall only be entitled to appoint any new or additional trustee of the Trust with the consent of not less than 75% of the Beneficiaries.

22.4 The Beneficiaries may at any time by Special Resolution:
(a) remove a Trustee from the office as Trustee of the Trust; and
(b) appoint such new or additional Trustee.
3. Variation 2.3 insert a new clause 13A
13A Delegation to the Board of Management
Unless the Beneficiaries otherwise direct (such direction to be given by not less than 75% of the Beneficiaries), the Trustees shall delegate all of the powers authorities and discretions contained in subclauses (a) to (x) of clause 12 to the Board of Management. The Trustees shall, at the direction of the Board of Management, do such things as may be necessary to give effect to the exercise of a power, authority or discretion by the Board of Management.

The first two amendments outlined above remove powers granted to the Trustee in the 2002 Deed Variation resulting from the merger to a single Association representing WA Local Governments. These amendments which previously facilitated the transfer of trusteeship to the then new Western Australian Local Government Association are removed, but with the clarification that any appointment must be with the consent of the beneficiaries.

The final amendment intends to confirm that power rests with the Board of Management. As the Board of Management comprises Local Governments, this satisfies the requirements of a STB for tax purposes. This amendment reflects the actual operation of the Trustee in implementing the decisions of the Board of Management whilst retaining sufficient operational discretion to place and renew investments and pay suppliers.

These amendments provide greater power to beneficiaries through the Board of Management, and as such it is anticipated they will be considered acceptable.

Consultation

Nil.

Statutory Implications

Nil.

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

Cunderdin Community Strategic Plan

The Cunderdin Community Strategic Plan aims to manage growth sustainably through governance, leadership, and targeted service and economic growth. The goals to achieve the aim are:

Social

- Grow and build the population base.
- Improve community spirit, collectively caring for each other.
- Build an active community, increasing participation and ownership.

Environmental

- Maintain and enhance the natural environment and resources.
- Maintain and enhance the area's infrastructure.

Economic

- Strengthen local business and employment capacity.
- Support and encourage sustainable business growth.
- Position the area as a regional strategic location and transport hub.

Resolution 9.7 OCM August 2020

That Council supports the Deed of Variation to the Local Government House Trust Deed as proposed by "The Local Government House Trust".

Moved: Cr TE (Todd) Harris

Seconded: Cr W (Sam) Stewart

Vote – Simple Majority

Carried: 8/0

9.8 Application to Erect a Plaque in the Memorial Rose Garden – Clifton and Daisy Jasper

Location:	Cunderdin Memorial Rose Garden
Applicant:	Mrs Lynette Boucaut
Date:	11 th August 2020
Author:	Lauren Cole
Item Approved by:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	1 x Attachment

Proposal/Summary

It is proposed that Council consider an application submitted by Mrs Lynette Boucaut for a Rose Memorial Garden plaque.

Background

An applications was received on the 30th July 2020 from Mrs Lynette Boucaut for a rose and plaque to be placed in the Cunderdin Rose Memorial Garden in memory of her parents.

Rose Memorial Garden plaque with the inscription –

In Memory of
Clifton Dudley Jasper 04/01/1914 – 23/01/1970
Daisy (Peggy) Jasper 14/06/1918 – 15/05/1984
“TIMARU”

Comment

Back ground information received:

Clifton Dudley Jasper and Daisy (Peggy) Jasper.

Cliff was born on 04.01.1914 at midland Junction, the fifth son of six sons to Arthur John and Elizabeth Anne Jasper. Cliff was bought up on Leithvale Farm along with his brothers and attended South Cunderdin School.

He was the drummer in the famous “Jay bees” Jasper Brothers Band. His music teacher was Elizabeth Pascoe, who lived just down the road. It is believe she was the first music teacher in Cunderdin.

In 1926 over a period of time he purchased land from William Frew Kennedy, Adam and Alice Kitto and later from his Mother Elizabeth Anne Jasper, the final block to complete his “Timaru” Farm. Total 1557 Acres.

On 13th September 1939, he married Daisy (Peggy) Maclellan, born 14.06.1918. Daisy was a tailoress working for her Father John in Cunderdin.

Cliff joined the Australian Army World War Two in 1942. Service No. W73314

Cliff and Peggy has two daughters, Lynn (1942) and Coral (1946). Both born at Cunderdin Hospital. They travelled on Scarlett Bros bus (South Cunderdin) from Timaru Farm to C.D.H.S.

Cliff and Peggy were members and involved in most sports in Cunderdin. Bowls, Football, Golf to name a few. The girls the same with Netball, Basketball and Swimming.

Cliff joined and was a member on the Masonic Lodge 1944 – 1970.

In 1957 Cliff and Peggy built a new home at 3 Third Street Cunderdin for their retirement. Unfortunately Cliff became ill and both home and farm were sold in 1968. They moved to Mandurah, where their two daughters and grandchildren were located.

Cliff died on 23.01.1970 and Daisy 15.05.1984. Both are buried in Mandurah.

Consultation

Nil.

Statutory Implications

Nil.

Policy Implications

Policy Adopted 17 May 2007 –

All applications for inclusion in the Rose Memorial Garden are to be submitted to council for individual consideration. The application must be accompanied by a brief submission demonstrating the close association of the family, or individual, with the district. The initial cost of the plaque and rosebush will be borne by the applicant. Council will thereafter maintain the garden, including replacing plants and plaques as deemed necessary.

Financial Implications

Nil.

Strategic Implications

Cunderdin Community Strategic Plan

The Cunderdin Community Strategic Plan aims to manage growth sustainably through governance, leadership, and targeted service and economic growth. The goals to achieve the aim are:

Social

- Grow and build the population base.
- Improve community spirit, collectively caring for each other.
- Build an active community, increasing participation and ownership.

Environmental

- Maintain and enhance the natural environment and resources.
- Maintain and enhance the area's infrastructure.

Economic

- Strengthen local business and employment capacity.
- Support and encourage sustainable business growth.
- Position the area as a regional strategic location and transport hub.

Resolution 9.8 OCM August 2020

That Council:

- a) Approves the application submitted by Mrs Lynette Boucaut, subject to full cost recovery of providing the rose bush and plaque in accordance with Council policy.
- b) Advise Mrs Lynette Boucaut of (a) above.

Moved: Cr NW (Norm) Jenzen

Seconded: Cr W (Sam) Stewart

Vote – Simple Majority

Carried: 8/0

9.9 Application to Erect a Plaque in the Memorial Rose Garden – John and Daisy Maclellan

Location:	Cunderdin Memorial Rose Garden
Applicant:	Mrs Lynette Boucaut
Date:	11 th August 2020
Author:	Lauren Cole
Item Approved by:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	1 x Attachment

Proposal/Summary

It is proposed that Council consider an application submitted by Mrs Lynette Boucaut for a Rose Memorial Garden plaque.

Background

An applications was received on the 30th July 2020 from Mrs Lynette Boucaut for a rose and plaque to be placed in the Cunderdin Rose Memorial Garden in memory of her grandparents.

Rose Memorial Garden plaque with the inscription –

In Memory of
John Maclellan C.1887.Inverness – 09/07/1964
Daisy Urquhart Maclellan C.1890. Nairnshire – 25/06/1955

Comment

Back ground information received:

John and Daisy Maclellan.

John Maclellan was the third son, of six sons born in 1887 to James and Mary Maclellan of Inverness Scotland.

His future wife Daisy Urquhart Maclellan (nee Stewart) was born in c1890 Kilravock, Nairnshire – near Inverness.

Daisy travelled to WA with John's eldest brother Douglas as escort on the ship "Gothic" arriving on 28.01.1913. John and Daisy married on 01.02.1913 in Perth.

John and Douglas enlisted W.W.1. Douglas was killed in France and never returned to WA.

After the war John and Daisy moved to Cunderdin. His first Tailoring Shop was next to Stan Hughes Pharmacy. After a loss of a son early in their marriage, a daughter also named Daisy (Peggy) was born in 1918 while John was overseas. John joined the war after the loss of his son.

John and Daisy purchased a home in the main street of Cunderdin next to Scarlett Bros. There he operated his business from the front room of his house.

John's daughter Peggy left school at 14 years to join him at work as a tailoress. In 1949 after almost 30 years in the tailoring business he sold his business to Halbert Agency Stores.

John and Daisy bought a home on the Great Eastern Highway, Cnr Donovan st. For a short time he rented a shop under the verandah of the Community Hotel, next door to Ray Clarke Hairdresser.

When Daisy became ill he retired to take care of her. She died in 1955 and is buried in the Methodist Portion of the Cunderdin Cemetery.

John was a member of the Cunderdin Buffalo Lodge and the Golf Club. Their daughter Peggy was a Sunday school teacher at the Methodist Church in 1930. On the sale of his home on Great Eastern Highway, John moved in to live with his daughter Peggy and Cliff Jasper at 3 Third Street, Cunderdin.

Not content with retirement he became a buyer for the Men's Department at the Cunderdin Farmers Co-op three days a week. John returned twice to Inverness to visit family and friends in Scotland. John died in 1964 and was buried with his wife Daisy in the Cunderdin Methodist Cemetery.

Consultation

Nil.

Statutory Implications

Nil.

Policy Implications

Policy Adopted 17 May 2007 –

All applications for inclusion in the Rose Memorial Garden are to be submitted to council for individual consideration. The application must be accompanied by a brief submission demonstrating the close association of the family, or individual, with the district. The initial cost of the plaque and rosebush will be borne by the applicant. Council will thereafter maintain the garden, including replacing plants and plaques as deemed necessary.

Financial Implications

Nil.

Strategic Implications

Cunderdin Community Strategic Plan

The Cunderdin Community Strategic Plan aims to manage growth sustainably through governance, leadership, and targeted service and economic growth. The goals to achieve the aim are:

Social

- Grow and build the population base.
- Improve community spirit, collectively caring for each other.
- Build an active community, increasing participation and ownership.

Environmental

- Maintain and enhance the natural environment and resources.
- Maintain and enhance the area's infrastructure.

Economic

- Strengthen local business and employment capacity.
- Support and encourage sustainable business growth.
- Position the area as a regional strategic location and transport hub.

Resolution 9.9 OCM August 2020

That Council:

- a) Approves the application submitted by Mrs Lynette Boucaut, subject to full cost recovery of providing the rose bush and plaque in accordance with Council policy.
- b) Advise Mrs Lynette Boucaut of (a) above.

Moved: Cr NW (Norm) Jenzen

Seconded: Cr W (Sam) Stewart

Vote – Simple Majority

Carried: 8/0

9.10 Move Behind Closed Doors

Resolution 9.10 August 2020

That Council move behind closed doors in accordance with s.5.23 of the Local Government Act.

Moved: Cr B (Bernie) Daly

Seconded: Cr TE (Todd) Harris

Vote – Simple Majority

Carried: 8/0

9.11 Financial Hardship Application – 79 Main Street, Cunderdin

Resolution 9.11 OCM August 2020

That Council authorises the Chief Executive Officer:

1. Accept the Financial Hardship Application submitted by John Knight for Assessment A53097 being 79 Main Street, Cunderdin for a payment arrangement of \$50.00 per fortnight.
2. If Mr Knight financial situation changes in the future this arrangement be reviewed.

Moved: Cr B (Bernie) Daly

Seconded: Cr A (Tony) Smith

Vote – Simple majority

Carried: 8/0

Cr Alison Harris and Cr Todd Harris exited the meeting at 6.02 pm

9.12 Cunderdin Primary Health Centre – Update

Resolution 9.12 OCM August 2020

That the Shire enter into a new contract with the Karis Medical Group for the Provision of Medical Services in the Shire of Cunderdin and that the President and Chief Executive Officer be authorised to sign the Contract as attached (Attachment 1)

Moved: Cr B (Bernie) Daly

Seconded: Cr W (Sam) Stewart

Vote – Simple Majority

Carried: 6/0

9.13 Move from behind closed doors

Resolution 9.13 OCM August 2020

That Council move from behind closed doors in accordance with s.5.23 of the Local Government Act.

Moved: Cr NW (Norm) Jenzen

Seconded: Cr B (Bernie) Daly

Vote – Simple Majority

Carried: 6/0

Cr Alison Harris and Cr Todd Harris re-enter the meeting at 6:05

9.14 Urgent Conservation Works No 3 Pump Station Building

Location:	Cunderdin Museum
Applicant:	Cunderdin Museum Management Committee
Date:	13 th August 2020
Author:	Michelle Samson
Item Approved by:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	3 x Attachments

Proposal/Summary

The Cunderdin Museum Committee request for Shire of Cunderdin to allocate funding to complete the Engine Room floor and subfloor conservation works.

Background

The Engine Room is a main exhibition space which displays objects relevant to the original function and purpose of the pump station building and provides visitors with comprehensive interpretation of the Goldfields Water Supply Scheme.

The Engine Room is currently closed to visitors due to safety issues as the floor and subfloor structure are deemed unsafe by National Trust of WA and consultant Structural Engineer Martin Silk who undertook the site inspections of the floor and basement areas.

Project Funding Background

The museum applied for and were successful in obtaining funding of \$89,160 to undertake conservation works for the building through the Department of Industry Science, Energy and Resources Australian Heritage Grants program. The Shire of Cunderdin contributed \$22,290 towards the project using the museum reserve allocation account which totalled \$30,000. The reserve amount had been accrued over three years.

With the discovery of extensive corrosion to the steel sub floor structure, a grant variation was submitted and approved to amend the timeframes and the project to focus on repairing the engine room floor and the entrance canopy.

Conservation Works Project Original Budget

The project was valued at \$111,450 based on project costs prepared by Marlise Dossin Conservation Officer for National Trust of WA for the 2017 Conservation Plan for No 3 Pump Station.

Shire Cunderdin /Museum Reserve Account Funds	\$22,290
Australian Heritage Grant Funding	\$89,160
Total funds for project	\$111,450

Project Expenditure to Date – including pending payments

NTWA Project Management Consulting fee	\$22,000
Mortar Sample Analysis	\$880
Quoin Consulting site inspections, reporting, design and drawings	\$10,670
HW and Associates – Quantities Surveyor project estimates	\$1320
MSA Design Audit	\$770
Total expenditure	\$35,640
Remaining Project funds	\$75,810

Comment

National Trust have separated the project tender into two portions with portion 1 (essential) comprising of the western section of the engine room floor and basement area, and the entrance canopy. Portion 2 (desirable) is the remaining engine room area surrounding the Worthington pump engine. (Attachment Museum Plan)

If only portion 1 and the entrance canopy are repaired the remaining portion will remain closed off as it will be still unsafe for patrons. This will reduce access to the Worthington pump and other displayed objects in this section of the room. Portion 2 repairs will still need to be prioritised as critical works for 2020-21 financial year.

Tender Evaluation Process

National Trust of WA prepared tender documents and invited three suitably qualified contractors to quote on undertaking the repairs to the engine room floor and the entrance canopy. The submissions were evaluated by National Trust based on submissions for completing portion 1 only. All tenders received were over budget. (Attachment Tender Evaluation Report)

Evaluation Summary

The Contractor 1 submission is the preferred supplier however the overall tender price is over the remaining funds available to cover the costs. This shortfall will need to be addressed in order to proceed with the works.

Contractor 1 has provided a competitive price for completing portion 2 as part of the current project. If portion 2 is not repaired at this stage, the works will cost more to complete at a later stage as a separate project.

The Museum Committee have requested the Shire Council make funds available in the 2020-21 budget allocations to pursue grant funding opportunities to complete the conservation works required. It is preferred to address the urgent works now and stage the remaining masonry repairs and brick repointing in the chimney flue when suitable funding opportunities are sourced. These works although required are not considered critical to the building's safety to patrons and staff.

5. RECOMMENDATION

5.1 BASIS

After the evaluation process we recommend CLPM are recommended as the preferred tenderer within our budget range with some deletions (removing grease from steel and delete new handrail provisional sum) for a Contract Sum of \$77,054 ex gst.

The basis for this decision is as follows:

a). Quality

The panel has the expectation that CLPM will deliver the quality to a high standard. CLPM was the lowest qualitative rank as their submission was not as comprehensive as the others. However, CLPM scored 72% based on their submission.

b). Price

The CLPM clarified price (030720) is \$83,804. We suggest to meet the AHG budget, provisional sums \$3,250 and steel treatments \$3,500 be deleted (\$77,054) leaving a \$3,946 contingency. The Shire of Cunderdin is recommended to have 18% contingency , therefore The Shire should have an additional \$10,000 available for contingency to go on site with the Works (\$13,869).

Separable Portion 1 Budget:

Works -	\$81,000	
Additional Cunderdin \$-	\$10,000	to be allocated- essential
Comprising \$77,054 Contract + \$13,946 contingency		

Separable portion 2 Budget

Works-	\$14,252	
Contingency-	\$ 2,565	
Additional Cunderdin \$-	\$16,817	to be allocated if Cunderdin proceeds

Project milestone dates

No	Milestone description	Agreed completion date
1	Project Commencement <ul style="list-style-type: none"> - Structural Assessment and Mortar Analysis - Engage a suitably qualified engineer to complete a structural assessment report to assess and provide advice to the structural cracks in brickwork in north and east elevations. - Analyse the composition of mortar in the brickwork and use to determine an appropriate repointing mix. - Complete all required planning and documentation for the project scope of works 	Completed
2	Development Application <ul style="list-style-type: none"> - Obtain necessary planning approvals and building permits. - Undertake safety and risk assessments and arrange for power tiger tails and other safety considerations as identified 	29/5/2020 Completed
3	Tender Process and Contact Award <ul style="list-style-type: none"> - Engage suitably qualified and experienced contractors as per Shire of Cunderdin's purchasing policy to undertake scope of works as appropriate. 	9/6/2020 Completed (preferred contractor advised)
4	Close of Tender and assessment	30/6/2020 Completed
5	Award Contracted and contractor preparations	13/7/2020
6	Contractors to commence on site <ul style="list-style-type: none"> - Complete engine room floor and sub floor structure repairs.. 	3/8/2020
7	Conservation Works Complete	14/9/2020
5	Project Audit and funding acquittal	26/10/2020

No	Milestone description	Agreed completion date
	- Shire of Cunderdin to engage auditors for grant funding project audit and complete all tasks associated with project acquittal	

Consultation

Caroline Stokes – Conservation Architect National Trust of WA

Kelly Rippingale – Conservation Architect National Trust of WA

Policy Implications

Nil.

Financial Implications

The original project budget, the proposed variations and the revised totals are shown in the table below.

In summary, the revised project budget is:

Expenditure

Description	Grant	Variation	Revised Total
Architectural & Project Management (NT)	20,000	4,500	24,500
Motor Analysis	800	0	800
Structural Engineer	5,025	4,175	9,200
Quantity Surveyor	0	2,100	2,100
Building Surveyor	1,925	0	1,925
Prelims	12,000	0	12,000
Works	53,000	27,053	80,053
Contingency	16,000	0	16,000
Communications	200	0	200
Approvals	700	0	700
Audit	1,800	0	1,800
	111,450	37,828	149,278

Income

	Budget	Variation	Proposed Total
Australian Heritage Grant	89,160	0	89,160
Shire of Cunderdin	22,290	36,928	59,218
National Trust	0	900	900
	111,450	39,028	149,278

The Shire has budgeted \$48,000 in the 2020/21 Budget to complete the works. If the cost of the project proceeds as per the Revised Budget the Shire will be over budget by \$11,218.

The Revised Budget does include contingencies of 16,000 plus addition claim for \$4,500 from the National Trust.

The National Trust has advised the following:

As the scope of work has substantially increased with the required work to the Engine Room sub floor structure, additional time is needed to manage completion of this project and the National Trust has formally request an additional \$4,500 fees for architectural services needed for completing this project. The additional fees will cover management of sub consultants, grant variation proposals, documentation, tender negotiation and contract administration including further site visits.

The National Trust's architects are paid through project work and we must cover our time however our hourly rates are at cost and we will only charge for hours worked. The estimated time frame to get the project completed from now is 12 weeks.

The National Trust has committed \$900 towards the project and will be paid fees of \$20,000. The Shire could be expected to contribute \$59,218 to the project. This does not include the cost associated with the time expended on the project by the Museum Manager and other administration staff.

As this is a joint project between the Shire and the National Trust it is not unreasonable for the Shire to request that the National Trust absorb the additional cost.

Strategic Implications

Environmental

Manage resource consumption and reduce waste, preserve and protect buildings and places of heritage and indigenous significance

Resolution 9.14 OCM August 2020

That Council:

1. Commit to completing both Stage 1 and Stage 2 of the project and that if the Council contribution is expected to exceed \$48,000 then a further report be submitted to Council advising of a budget reallocation.
2. Advise the National Trust that due to the significant additional contribution from the Shire of Cunderdin that the National Trust should be responsible for the additional \$4,500 in management costs.

Moved: Cr B (Bernie) Daly

Seconded: Cr NW (Norm) Jenzen

Vote – Simple majority

Carried: 8/0

9.15 Chief Executive Officers Report

Location:	Cunderdin
Applicant:	Chief Executive Officer
Date:	12 August 2020
Author:	Stuart Hobley
Item Approved by:	Stuart Hobley, Chief Executive Officer
File Reference:	Nil
Attachment/s:	Nil

Proposal/Summary

To provide an update on the matters the Chief Executive Officer has been addressing over the past month.

Background

Community Trust Legal Advice

Council has received more advice from McLeods on the workings of the Community Trust. It is intended to have a Community Trust Meeting in the near future to discuss how to proceed on the advice received. Staff are currently differentiating between the amount of interest and capital that has been received over the years.

Hospital Site

After WA Country Health Service (WACHS) recent visit to Cunderdin they made a commitment to follow up on the transfer of the Old Hospital Site to the Shire. WACHS have advised that they are currently in negotiations with Department of Planning, Land and Heritage for the land to be transferred to the Shire at no cost.

Regional Airport Development Scheme

Due to the cost of the upgrade it was decided to not process with the grant submission at this point in time. As the grant required council to fund at least 25% of this project the quotes received indicated that the funds Council has available in reserve would not be sufficient enough to cover the in house portion.

Concept Planning Community Spaces

Community consultation has taken place in both Meckering on the 30th July and Cunderdin on the 31st July with regards to the Master Planning for the community spaces. We had a great turn out with 8 community members turning up to the Meckering consult and 12 community members joining for the Cunderdin consult. Both groups provided considerable input and a variety of ideas for the spaces.

The Staff are meeting with John Byrnes & Associates on Friday the 14th August to further develop the concept planning and to do site visits.

Local Government Act Update

The final report of the Local Government Review Panel has been released by the Minister of Local Government. The report includes 65 recommendations that will guide the development of a new local government act. The State Government is currently considering the report and its recommendations.

Meckering mobile/Internet black spot

Council has recently received communication from the CMT Seniors Committee regarding the lack of reliable mobile service in Meckering. A submission was sent on the 24th July to Mobile Black Spot to nominate Meckering as a site for development. The Mobile Black Spot Program has been implemented by the Australian Government to invest in telecommunication infrastructure to improve mobile coverage and connection across Australia. Unfortunately Round 5A of this project has now closed for applications. Council can still send submissions even if the application period has closed.

The Australian Government has now opened the Regional Connectivity Program (RCP) competitive grants opportunity and is calling for applications from interest entities. The RCP will provide up to \$53 million of targeted, place-based investments in telecommunication infrastructure projects. Staff are currently investigating who is require for the grant application to include Meckering in the project.

Wheatbelt Secondary Freight Network

Council has received the official advice that its WSFN funding for the Meckering Goomalling Road has been approved. All of the networks that were identified have now been officially ranked and there have been several changes. An update will be provided at the meeting. It should be noted that all WSFN attachments are confidential at this stage.

A Road Construction Supervisor position will be advertised shortly in preparation of the road construction to commence. This position is a short term contract that has been provided for within the project budget.

Comment

Nil.

Consultation

Nil.

Statutory Implications

Nil.

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

Nil.

Resolution 9.15 OCM August 2020

That the Chief Executives Officers Report be received.

Moved: Cr AE (Alison) Harris

Seconded: Cr J (Jayson) Goldson

Vote – Simple majority

Carried: 8/0

10. Environmental Health and Building

Cr Sam Stewart exited the meeting at 6.17pm

10.1 Action Regarding Noise from a Generator – Lot 234 Mitchell St, Meckering

Location:	Shire of Cunderdin
Applicant:	Building Surveyor and EHO
Date:	11 th August 2020
Author:	Tim Jurmann Building Surveyor and EHO
Item Approved by:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	N/A
Attachment/s:	Noise Report from the DWER dated 8.6.2020 (Note: Doctor's Certification kept private and confidential)

Proposal/Summary

For Council to review and determine what action is to be taken with regards to the concerns from an adjoining owner regarding noise from a generator located at Lot 234 Mitchell Street, Meckering.

Background

The Shire has received complaints from an adjoining owner that generator noise from Lot 234 Mitchell Street, Meckering is causing interruption to their enjoyment of their property, sleep disturbance and potential health issues.

Since the original complaint the owner has enclosed the generators within a metal shed and following further complaints, lined the shed with cool room foam and acoustic insulation.

Further noise testing has revealed that the noise levels still exceeded the required assigned noise levels listed under the Environmental Protection (Noise) Regulations 1997, (Noise Regulations).

This is outlined in the attached report from the Department of Water and Environmental Regulation, (DWER), dated the 8th of June, 2020 and shows the exceedance to range from 18.3 dB to 23.6 dB after penalties are applied.

The owner has since installed additional acoustic insulation to the ceiling of the shed, and it is unknown at this point what impact this has had on technical compliance.

Additional testing has not been arranged at this point as the adjoining owner has become increasingly concerned that the Department of Water and Environmental Regulation take around three, (3) months to complete a noise assessment.

Comment

Although the exceedance of the noise levels at first appears to be not greatly excessive, additional noise penalties are applied to the noise from the generator, because it is potentially impacting on a residential building, (Noise Sensitive Location), and due to the tonal nature of the noise.

It is commented in the Noise Report from the DWER, traffic noise can be clearly heard from the Great Eastern Highway and possibly the Meckering-Dowerin Road and Dowerin-Goomalling Road.

On an inspection by the Cunderdin CEO and Cunderdin Environmental Officer it was also noted that the traffic noise from these sources often appeared louder than the generator noise.

This cannot however be taken into account as an ameliorating factor. However should the traffic corridor noise source have been located within 450 meters of the receiver of noise then a reduction in noise impact may have been applied.

Mr Fleming has further submitted from his Doctor a certificate, that he needs the generator at times in order to maintain the continual running of his refrigerator to keep his essential prescription medication cool.

Mr Moore has also submitted a letter from his Doctor advising that any sleep deprivation caused by noise may also severely detrimental to his health.

Matters must always be considered on balance of technical compliance and affect upon the average person.

Particularly sensitivity to certain environmental conditions is not always an immediate cause for action, however it may be taken into consideration. Conversely, it must also be taken into consideration if there is potential mitigating action or solution that a sensitive receiver can take to protect themselves in the short term.

Similarly, however, there may be alternative solutions to maintaining required medication without causing distress to adjoining owners, particularly where technical noise levels are not being met.

At this point in time, no other noise complaints have been received regarding the noise levels of the generator.

The generator is not currently run on a continual basis, and is usually only run when the weather is at the higher or lower end of temperatures where it causes additional load on the existing solar system.

Notwithstanding this, there is the issue of potential technical non-compliance of noise levels of the generator, even after recent additional noise control measures have been installed.

In this regard, Mr Fleming has advised that he has limited financial capacity to introduce immediate further noise reduction measures, or increase in solar energy capacity.

He has however offered in the next three (3) months, to obtain additional solar panels and batteries to reduce the need for reliance on the current generator to exceptional backup circumstances.

Should this matter go before the State Administrative Tribunal (SAT), it is common for issues to be required to be negotiated out, or additional time be given for compliance. This is particularly the case if the Local Government is deemed to have not fully taken into account, the circumstances of a person who is being subjected to compliance enforcement. Such intervention by SAT may significantly extend the required compliance period beyond the periods set out in the recommendations below.

In regards to this, it should also be noted that Mr Fleming has been cooperative and made significant attempts to reduce the generator noise by enclosing the generator with a shed and lining the shed with foam and acoustic insulation.

Consultation

Department of Water and Environmental Regulation

Statutory Implications

There are no statutory implications associated with this Report, subject to legal advice being obtained, if required.

Policy Implications

There are no policy implications.

Financial Implications

There may be a cost of up to an estimated \$3,000.00 to obtain legal advice.

Strategic Implications

The Cunderdin Strategic Community Plan sets out the vision for the Shire's future and captures the community's aspirations and vision. The goals to achieve this are:

Social

- Grow and build the population base.
- Improve community spirit, collectively caring for each other.
- Build an active community, increasing participation and ownership.

Environmental

- Maintain and enhance the natural environment and resources.
- Maintain and enhance the area's infrastructure.

Economic

- Strengthen local business and employment capacity.
- Support and encourage sustainable business growth.
- Position the area as a regional strategic location and transport hub.

The recommendations in this report are considered to be consistent with the goals of the Cunderdin SCP.

Recommendation 10.1

That Council consider the following options for action, with respect to the operation of the generator at Lot 234, Mitchell Street, Meckering.

1. Require immediate cessation of the use of the generator until it can be demonstrated that it meets the assigned noise level limits under the Noise Regulations.

Or

2. Allow Mr Flemming a period of four (4) months to install additional solar power to minimise the need to operate the generator up to six, (6) times per year, and a further twelve, (12) months to obtain a smaller and quieter generator to back up the storage batteries when required.

Resolution 10.1 OCM August 2020

That Council consider the following options for action, with respect to the operation of the generator at Lot 234, Mitchell Street, Meckering.

1. Allow Mr Fleming a period of four (4) months to install additional solar power and obtain a quieter generator to back up the storage batteries when required.
2. That a further report be submitted to Council in four (4) months

Moved: Cr NW (Norm) Jenzen

Seconded: Cr B (Bernie) Daly

Vote – Simple Majority

Carried: 7/0

Cr Sam Stewart re-entered the Meeting at 6.38pm

11. Planning & Development

Nil.

12. Works & Services

Nil

13. Urgent Items

Nil

14. Scheduling of Meeting

14.1 September 2020 Ordinary Meeting

The next ordinary meeting of council is scheduled to take place on Thursday 17th September 2020 commencing at 5pm at the Cunderdin Shire Council Chambers, Cunderdin, WA 6407

15. Closure of meeting

There being no further business the Shire President will declare the meeting closed at 6:40 pm.

16. Certification

DECLARATION

I, Dennis Whisson, certify that the minutes of the Ordinary Council Meeting held on 20th August 2020 as shown were confirmed at the ordinary meeting of Council held on 17th September 2020.

Signed: _____

Date: _____