



**MINUTES**  
Ordinary Council Meeting  
22 May 2024

Shire of Victoria Plains  
Council Chambers, Calingiri  
AND  
via E-Meeting Protocol

Commencing – 2.06pm

## **DISCLAIMER:**

The recommendations contained in this document are officers' recommendations only and should not be acted upon until Council has resolved to adopt those recommendations.

The resolutions of Council should be confirmed by perusing the minutes of the Council meeting at which these recommendations were considered. Resolutions are not considered final until the minutes of the meeting are confirmed or advised in writing by the CEO or authorised person.

Members of the public should also note that they act at their own risk if they enact any resolution prior to receiving official written notification of Council's decision.

### Recording of Meeting

Members of the public are advised that meetings of Council are audio recorded to assist with ensuring an accurate record of the meeting is provided for the formal minutes of the meeting. In terms of the Privacy Act 1998 this may involve the recording of personal information provided at the meeting. The provision of any information that is recorded is voluntary, however if any person does not wish to be recorded they should not address or request to address the meeting. By remaining in this meeting, you consent to the recording of the meeting.

You are not permitted to record this meeting with any recording device, unless you have the express authorisation of the Council of the Shire of Victoria Plains.

### **E – Disclaimer**

It is the Presiding Member's responsibility to preserve order in the meeting and this can be more difficult in an eMeeting. Therefore, each Council Member must consistently and respectfully follow the Local Government's Meeting Procedures Local Law, any additional eMeeting guidance provided by the Local Government and support the Presiding Member in their conduct of the eMeeting.

The pace of an eMeeting should be slow and orderly. The following practices will help avoid confusion and support effective eMeetings:

Speak clearly and slowly, as connections may be distorted or delayed;

Always state your name to indicate to the Presiding Member that you wish to speak. Restate your name if the Presiding Member has not heard you at first;

In debate, only speak after the Presiding Member has acknowledged you. Then state your name, so that others know who is speaking;

Follow the Presiding Member's directions and rulings;

If you are unclear about what is happening in an eMeeting, immediately state your name to draw the Presiding Member's attention and enable you to then seek clarification from the Presiding Member;

Avoid looking for opportunities to call Points of Order; instead, politely and respectfully gain the Presiding Member's attention and explain any deviation from your Meeting Procedures, the Local Government Act or any other relevant matter.

**Commonly-used abbreviations**

AAS / AASB	Australian Accounting Standard / Australian Accounting Standards Board
BF Act	Bush Fire Act 1954
BFB	Bush fire brigade
CEO	Chief Executive Officer
CDO	Community Development Officer
DBCA	Dept of Biodiversity, Conservation and Attractions
DFES	Dept of Fire and Emergency Services
DPLH	Dept of Planning, Lands and Heritage
DWER	Dept of Water and Environmental Regulation
EHO	Environmental Health Officer
EFT	Electronic Funds Transfer
FAM	Finance and Administration Manager
JSCDL	Parliamentary Joint Standing Committee on Delegated Legislation
LEMA	Local Emergency Management Arrangements
LEMC	Local Emergency Management Committee
LG Act	Local Government Act 1995
LGGC	WA Local Government Grant Commission
LPP	Local Planning Policy
LPS	Local Planning Scheme
MOU	Memorandum of Understanding
MRWA	Main Roads WA
NNTT	National Native Title Tribunal
OAG	Office of Auditor General
OCM	Ordinary Council Meeting
PTA	Public Transport Authority
RRG	Regional Roads Group
RTR	Roads to Recovery
SAT	State Administrative Tribunal
SEMC	State Emergency Management Committee
SGC	Superannuation Guarantee Contribution
SJAA	St John Ambulance Association
SWALSC	South West Aboriginal Land and Sea Council
WAEC	WA Electoral Commission
WALGA	WA Local Government Association
WSM	Works and Services Manager
WSFN	Wheatbelt Secondary Freight Network
EPA	Environmental Protection Authority
DPIRD	Department of Primary Industries and Regional Development
HCWA	Heritage Council of Western Australia
WAPC	Western Australian Planning Commission
WDC	Wheatbelt Development Commission

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# AGENDA NOTICE

Dear President and Councillors

**NOTICE** is given that the next Ordinary Meeting of the Shire of Victoria Plains Council Will be held in the Calingiri Shire Chambers and/or via E-meeting Protocol on **22 May 2024** commencing at 2.06pm

Sean Fletcher  
Chief Executive Officer

## 1. DECLARATION OF OPENING

### 1.1 Opening

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### 1.2 Announcements by Shire President

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## 2. REMOTE ATTENDANCE BY ELECTED MEMBERS

**THAT:**

- Under regulation 14C (2)(b) of the Admin Regulations, the Shire President can approve Elected Member attendance by electronic means;
- In doing so, under r.14C (5) the Shire President must have regard as to whether the location that the Elected Member intends to attend the meeting, and the equipment intended to be used to attend the meeting, are suitable;
- Electronic means includes, as per r.14CA(2) by telephone or video conference;
- Suitable equipment would include an electronic device that can hold a Teams meeting, and perhaps, the use of headphones;
- In accordance with r.14CA (5) the Elected Member must declare that they are able to maintain confidentiality during the meeting. Under r.14CA(7), the declaration by the Elected Member is recorded in the minutes of the meeting;
- Summarily, according to Departmental guidance, a suitable location is one that is quiet and private e.g. a private room in your house. If there are other people at the location at the time of the meeting, an Elected Member may be required to close a door and wear headphones.

**Approval to Attend and Declaration of Confidentiality**

Nil

**3. RECORD OF ATTENDANCE**

Members present	Cr P Bantock – Shire President Cr S Woods – Deputy Shire President Cr D Lovelock Cr R Johnson
Staff attending	CEO – Mr S Fletcher DCEO – Mr C Ashe WSM – Mr S Brenzi Council Support Officer – Mrs J Klobas
Apologies	Cr S Penn
Approved leave of absence	N/A
Members of the public	Mr B Harridge

**4. DISCLOSURES OF INTEREST**

*Refer – Local Government Act, Regulations, Code of Conduct, and Declaration Forms in Councillor folders.*

Type	Item	Person / Details
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4.1	Financial	<p>Cr P Bantock declared a financial interest in item 12.2 “<i>Dr Maurice Walsh v Shire of Victoria Plains – Industrial Magistrates Court M 23 of 2024</i>” Respondent in the claim as Shire President, covered by Management liability Councillor policy”.</p> <p>CEO declared a financial interest in item 12.2 “<i>Dr Maurice Walsh v Shire of Victoria Plains – Industrial Magistrates Court M 23 of 2024</i>” due to “<i>Closely associated person; Benefit</i>”.</p> <p>DCEO declared a financial interest in item 12.2 “<i>Dr Maurice Walsh v Shire of Victoria Plains – Industrial Magistrates Court M 23 of 2024</i>” due to “<i>legal representation</i>”</p>
4.2	Proximity	<p>Cr S Woods declared a proximity interest in item 9.7 “<i>Proposed Revesting and Change of Purpose to Crown Reserve 17655</i>”, due to “<i>Neighbouring Property. Director of Company that owns and manages the adjoining property on southern and eastern side.</i>”</p>
4.3	Impartiality	<p>Cr P Bantock declared an impartiality interest in item 12.2 “<i>Dr Maurice Walsh v Shire of Victoria Plains – Industrial Magistrates Court M 23 of 2024</i>” due to Member and volunteer of Mogumber Outback Club Inc.</p>

## 5. PUBLIC QUESTION TIME

*Refer – Local Government Act, Regulations, Local Law and Submission Form & Guidelines circulated.*

### 5.1 Public Questions With Notice

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*Public Question Time was opened to the floor at 2.09pm.*

Mr B Harridge, New Norcia

- Q1. Has the Shire Notified the Water Corporation of a pile of that human sewerage that sat there for 12 months and was only spread over Easter. This is close to my home. Still hasn't been buried beneath the surface.
- A1. The CEO advised that yes, Environmental Health Officer has notified the Water Corporation of the issue.
- Q2. A large area that was spread is on approximately a 70 degree incline. This will certainly wash into the Moore River, as some is only 250 metres from the River. So will the Shire follow up on this?
- Q2. Yes, the Shire will follow up.

### 5.2 Public Questions Without Notice

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*Public question time closed at 2.11 pm.*

## 6. PRESENTATIONS AND DEPUTATIONS

### 6.1 Presentations

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Nil

### 6.2 Deputations

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Nil

## 7. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

**8. MINUTES OF MEETINGS**

**8.1 Confirmation of Council Meeting Minutes**

**2405-01 Officer Recommendation / Council Resolution**

**Moved: Cr R Johnson**

**Seconded: Cr S Woods**

That the Minutes of the following meeting:

- *Ordinary Council Meeting held 24 April 2024,*

as circulated, be **CONFIRMED** as a true and correct record,

**CARRIED BY UNANIMOUS DECISION OF COUNCIL**

<b>Vote For</b>	<b>Vote Against</b>
Cr P Bantock	
Cr S Woods	
Cr D Lovelock	
Cr R Johnson	

CONFIRMED PUBLIC MINUTES



**9. REPORTS REQUIRING DECISION****9.1 Accounts for Endorsement – April 2024**

<b>File reference</b>	2348-6998		
<b>Report date</b>	07 May 2024		
<b>Applicant/proponent</b>	Nil		
<b>Officer disclosure of interest</b>	Nil		
<b>Previous meeting references</b>	Nil		
<b>Prepared by</b>	Glenn Deocampo – Coordinator Financial Services		
<b>Senior Officer</b>	Colin Ashe – Deputy Chief Executive Officer		
<b>Authorised by</b>	Sean Fletcher – Chief Executive Officer		
<b>Attachments</b>			
Attachment 1	Page	2	Public schedule to Agenda

**PURPOSE**

This Item presents the attached List of Accounts Paid, paid under delegated authority, for April 2024.

**BACKGROUND**

As per Local Government Act and Financial Management Regulations.

**COMMENT**

Each month Council is to be advised of payments made during the preceding month, the amount, payee, date and reason for payment.

Please note a serial column has been added to the payment listing for ease of referencing specific line payment queries raised by council.

**CONSULTATION**

None

**STATUTORY CONTEXT**

*Local Government Act 1995* –

- s.6.8(2)(b) – expenditure is to be reported to the next ordinary meeting of Council

*Local Government (Finance) Regulations 1996* –

- r.13 Payments for municipal fund or trust fund
  - (1) the Chief Executive Officer is to provide a list of accounts paid from the Municipal fund or Trust fund, a list of all accounts paid each month showing for each account paid –
    - a) The payee's name
    - b) The amount of the payment
    - c) The date of the payment
    - d) Sufficient information to identify the transaction
  - (2) the listing to be presented to the Council at the next ordinary meeting of Council after preparation.

**CORPORATE CONTEXT**

Delegations Register –

- 3.2 – Municipal Fund and Trust Fund – Payments from Bank Accounts
  - o CEO authorised, subject to conditions
  - o compliance with legislation and procedures
  - o Minimum of 2 signatories with varying level of authorisation

**Strategic Business Plan/Corporate Business Plan**

STRATEGIC PRIORITIES	WE KNOW WE ARE SUCCEEDING WHEN
<b>4. CIVIC LEADERSHIP</b>	
4.3 Proactive and well governed Shire	External audits and reviews confirm compliance
	We have sound financial management policies and attract external funding to help achieve our goals
	Councilors attend training and feel supported in their role
	Council is supported by a skilled team

Strategic Priority 4.3 is relevant as part of sound financial management policies.

**Policy Implications**

Policy Manual –

- 3.1 Purchasing Framework

**Other Corporate Document**

- N/A

**Risk Analysis**

Consequence	Consequence Rating:	Likelihood Rating:	Risk Rating	Risk Acceptance/ Controls	Mitigation and Outcome
<b>Compliance</b>	Extreme (5)  Non-compliance results in litigation, criminal charges or significant damages or penalties to Shire/Officers	Unlikely (2)  The event could occur at some time	High (10)	Senior Management Team / CEO  Risk acceptable with excellent controls, managed by senior management / executive and subject to monthly monitoring	Policies and processes including preparation by Finance staff and two-step process for payment will ensure that the residual risk is moderate.

**FINANCIAL IMPLICATIONS**

All payments are in accordance Council’s adopted budget.

**VOTING REQUIREMENTS**

Absolute Majority Required: No

**2405-02 Officer Recommendation / Council Resolution**

**Move: Cr R Johnson**

**Seconded: Cr D Lovelock**

That the payments made for April 2024 from the Municipal Bank Account/Trust Bank Account as per the attached listing and summarised below, be **ENDORSED**:

Payment type	References from – to	\$ Amount
Creditor EFT Payments**	13102 – 13164	703,833.75
Creditor Cheque Payments	Nil	0.00
Direct Debit Payments**	DD14726-DD14777	58,718.89
Salaries & Wages EFT	PE 10/04/24, PE 24/04/2024	118,128.55
Credit Card–Bendigo Bank- Fuel Card – Wright Express	DD14797.1	8,487.56
	DD14797.2	212.52
Trust Payments		0.00
<b>TOTAL</b>		<b>\$889,381.27</b>

Local Spending	\$	%
Local Supplier	24,925.92	2.80
Payroll	118,128.55	13.28
<b>Total</b>	<b>143,054.47</b>	<b>16.08</b>

\*\*includes salary and wages deductions, and SGC

**CARRIED BY UNANIMOUS DECISION OF COUNCIL**

Vote For	Vote Against
Cr P Bantock	
Cr S Woods	
Cr D Lovelock	
Cr R Johnson	

**9.2 Monthly Financial Statements – April 2024**

<b>File reference</b>	2348-7437		
<b>Report date</b>	13 May 2024		
<b>Applicant/proponent</b>	Shire of Victoria Plains		
<b>Officer disclosure of interest</b>	Nil		
<b>Previous meeting references</b>	Nil		
<b>Prepared by</b>	Colin Ashe, DCEO		
<b>Authorised by</b>	Sean Fletcher, CEO		
<b>Attachments</b>			
Attachment 1	Page	11	Monthly Financial Statements – 30 Apr 2024

**PURPOSE**

To receive the monthly financial statements for the period ending 30 Apr 2024.

**BACKGROUND**

Section 6.4 of the Local Government Act 1995 requires a Local Government to prepare financial reports.

The Local Government (Financial Management) Regulations 34 & 35 set out the form and content of the financial reports which have been prepared for the periods as above and are presented to Council for approval.

**COMMENT**

The Apr 24 Monthly Financial Statements have been prepared by shire staff as part of the transition from previously contractor provisioning.

Overall, the shire is still tracking with a positive bank balance however cashflow issues are emerging due to a number of factors, the primary one being expenditure on the Calingiri – New Norcia Road and Toodyay Bindi Bindi Road Intersection, grant funding for Plant Replacement that was not successful and some legacy funding on the Mogumber – Yarrawindah Road which required, in effect the shire to fully fund.

There are some offset funding has now been received in May 24 however others such as LRCI Ph 3 of \$76,282 will not be received this FY meaning the shire will have carry this into 24-25.

**STATEMENT OF FINANCIAL ACTIVITY:**

The month of Apr 24 references an actual deficit of **(\$474,077)** as shown on the Statement of Financial Activity which is a 43% improvement from Mar 24. This is calculated by removing all the non-cash items such as depreciation to arrive at a liquidity position and reconciled in Note 1 through a Current Assets and Liabilities position on the Balance Sheet.

The deficit improvement is primarily due to:

- MRWA invoicing for RRG and Intersection project of \$111,721 and \$211,472 respectively.
- CBH invoicing for the Intersection project of \$300,000.
- Transfer of Reserve Funding for Plant Replacement of \$395,295.

Whilst noting the improvement, there is still an actual deficit which can be attributed to:

- Capital Expenditure in both Road Construction in excess of grant funding income.
- Plant Replacement where Capital Grants have not been successful as contributing funding.

The comparison of YTD budget deficit of **(\$454,941)** takes into account budgeted grant funding that has not been received and some accounting transactions that are usually completed at year end (for convenience) such as contingent liabilities that have now been extinguished. This will form part of an early review next month in order to provide a more robust current position.

As indicated, whilst some considerable funding has been invoiced, some of the offset is still to be received and others such as LRCI Phase 3 will not be this FY. This, coupled with the backlog of road projects that had to be completed without quarantined funding means management need to closely monitor cashflow. Unless the shire receives funding (such as Grants Commission) it will likely be in overdraft at 30 Jun 24.

## NOTES TO ACCOUNT

The following provides a summary and explanation of the major notes in the Apr 24 Financial Statement.

### Note 2 Cash and Financial Assets:

The current total cash position balance is \$1,519,860 with an Unrestricted Municipal Bank Balance of \$255,466 and \$1,264,394 in Restricted Cash, the latter comprising:

- \$879,331 in Reserves.
- \$385,063 major grant funding received and quarantined.

The Unrestricted Municipal Bank balance demonstrates the potential cashflow risk that management needs to monitor closely in the coming months. To meet short term liquidity, funds have been transferred from restricted assets in May 24 and may not be able to be replenished before EOFY demonstrating the cashflow risk and likely deficit is now a reality.

### Note 4 – Debtors:

An overall balance of \$832,235 of which 8% relates to rates receivable and 92% sundry debtors including GST receivable.

Rates outstanding of \$48,867 comprises of:

- \$10,789 or 22% that were on instalments and collection on hold that will need further action.
- \$19,043 or 39% are with debt collectors.

- \$15,864 or 32% have arrangement plans or on hold.
- A collection rate of 98.6% of rates levied for 23-24.

Sundry Debtors of \$766,279 noting:

- 99% is current (i.e. due within 30 days) and includes MRWA and CBH road construction invoicing totalling \$655,512.
- Whilst invoiced, the cash has not been received as at 30 Apr 24 contributing to cashflow issues.

#### **Note 5 Reserves:**

Current balance is \$879,331 with major transfers transacted for Plant Replacement which has offset some of the capital cost. \$827,429 has been rolled over in a term deposit at 4% interest, maturing 05 Jun 2024.

#### **Note 7 – Capital Program**

The entire capital program is virtually complete with status on following activities still outstanding:

- 13 Lambert Flooring – deferred to 24-25.
- Mogumber Hall – contract has been signed and invoiced received for first progress payment, but this job will be partially carried over into 24-25.
- Fire Fighting Units - planned to be completed by 30 Jun 24.
- Prime Mover Float Refurbishment – planned to be completed by 30 Jun 24.
- Tag Trailer – purchase in progress and will be completed before 30 Jun 24.
- Roller Padfoot Shells – no longer required.
- Animal Pound Shelter – subject to successful grant funding.
- Calingiri- New Norcia Road Intersection – no further work planned for 23-24.
- Wongan, Calingiri- Carani East Road (Blackspot) - planned to be completed by 30 Jun 24.
- Mogumber-Yarawindah Rd – line marking to be completed.
- Mogumber-Yarawindah Rd Geotechnical Investigation – funding restricted and carried over to 24-25.
- LRCI Phase 4 – funding restricted and carried over to 24-25.
- E-Waste Transfer Station – partially completed with the balance of work (and restricted funding) carried over to 24-25.
- RV Dump Point - planned to be completed by 30 Jun 24.
- Piawaning Desalination Bore / Plant - planned to be completed by 30 Jun 24.

#### **Note 10 – Grants and Subsidies**

During Apr 24 capital grant funding of \$646,472 was raised or received into the Municipal Account for:

\$135,000 – Waste sorting grant.

\$300,000 – CBH contribution to Intersection project.

\$211,472 – MRWA progress payment for Intersection project.

\$111,721 – MRWA final RRG payment.

**Note 11 – Restricted Funding**

As at 30 Apr 24 (\$132,628) needs to be transferred from the Municipal Account to cash back all funding that has been received and not been expended. This position is likely to worsen in May 24 as this funding has been used to assist with cashflow. It is hoped that by 30 Jun 24 additional funding will crystalise in order to do this.

**Note 12 – LRCI Program**

Phase 1 – completed.

Phase 2 – completed.

Phase 3 – completed.

Phase 4 – originally budget to fund sections of the Mogumber-Yarrowindah Rd but no longer required. Funds will be placed in Restricted Funding and form part of the 2024-25 budget.

Phase 4B – completed.

**Note 14 – Material Variances**

This provides an explanation of variances in excess of 10% and \$10,000 as per council policy. The major negative variance is grant funding which will be investigated during the month of May 24 but is likely to be internal book entries.

Due to the additional capital expenditure in Plant Replacement without offsetting grant funding it is recommended that a budget adjustment is made to Plant Replacement transfers as follows:

Budgeted transfer from Plant Replacement Reserve - \$300,000

Revised transfer from Plant Replacement Reserve - \$395,000

**CONSULTATION**

Coordinator Financial Services

CEO

**STATUTORY CONTEXT**

Local Government (Financial Management) Regulations 1996 –

- r.34 – financial activity statement required each month and details of what is to be included.

**CORPORATE CONTEXT**

Delegations Register –

Section 3 – Financial Management

**Strategic Business Plan/Corporate Business Plan**

STRATEGIC PRIORITIES		WE KNOW WE ARE SUCCEEDING WHEN	
<b>4. CIVIC LEADERSHIP</b>			
4.3 Proactive and well governed	External audits and reviews confirm compliance		

Shire	We have sound financial management policies and attract external funding to help achieve our goals
	Councilors attend training and feel supported in their role
	Council is supported by a skilled team

Strategic Priority 4.3 is relevant as part of sound financial management policies.

**Policy Implications**

Policy Manual –

- 3 Financial Management

**Other Corporate Document**

- N/A

**Risk Analysis**

Consequence	Consequence Rating:	Likelihood Rating:	Risk Rating	Risk Acceptance/ Controls	Mitigation and Outcome
Compliance	Extreme (5)  Non-compliance results in litigation, criminal charges or significant damages or penalties to Shire/Officers	Unlikely (2)  The event could occur at some time	High (10)	Senior Management Team / CEO  Risk acceptable with excellent controls, managed by senior management / executive and subject to monthly monitoring	Policies and processes including preparation by Finance staff ensure that the residual risk is moderate.

**FINANCIAL IMPLICATIONS**

Yes -As per comments section.

**VOTING REQUIREMENTS**

Absolute Majority Required: Yes



**2405-03 Officer Recommendation / Council Resolution**

**Moved: Cr D Lovelock**

**Seconded: Cr S Woods**

That Council;

1. **RECEIVE** the 30 Apr 2024 Monthly Financial Reports as presented.
2. **APPROVES** a budget amendment of transfer from Plant Replacement Reserve totalling \$395,000.

**CARRIED BY UNANIMOUS DECISION OF COUNCIL**

<b>Vote For</b>	<b>Vote Against</b>
Cr P Bantock	
Cr S Woods	
Cr D Lovelock	
Cr R Johnson	

CONFIRMED PUBLIC MINUTES

### 9.3 Council Policy Manual Part 3 Financial Management – Debt Management Policy Amendment

<b>File reference</b>	2348-6519		
<b>Report date</b>	03 May 2024		
<b>Applicant/proponent</b>	NIL		
<b>Officer disclosure of interest</b>	NIL		
<b>Previous meeting references</b>	N/A		
<b>Prepared by</b>	Colin Ashe, DCEO		
<b>Authorised by</b>	Sean Fletcher, CEO		
<b>Attachments</b>			
Attachment 1	Page	31	3.6 Debt Management Policy

#### PURPOSE

That Council approve the amendment to the Debt Management Policy to incorporate a payment up front and maintain a confidential bad debtor list.

#### BACKGROUND

Council Debt Management Policy was reviewed in Feb 23 and its objective is *'to assist the CEO with conducting debt collection in a clear, efficient and consistent manner to improve transparency and reduce the likelihood of unrecoverable debts'*.

The policy covers both sundry and rate debtors and whilst there are a number of avenues for rate debt recovery through the Local Government Act 1995, sundry debtors are a different matter. A recent failed effort to recover a sundry debt, despite best efforts including referral to the shire's debt collectors has resulted in the need for a change in policy.

#### COMMENT

Normal process for sundry debtors, private works for example, is for the shire to provide a quote to the customer which if accepted is signed by the customer agreeing to the charge and on completion of the work is invoiced accordingly.

If the invoice remains unpaid after the due date, 3 reminder letters are sent at 30, 60 and 90 day intervals, the last reminder worded strongly with reference to debt collection. Prior to debt collection referral, a courtesy phone call is made by shire staff in a final attempt to avoid legal action.

In most cases invoices are paid.

In a recent case however, the debtor process has been followed and then referred to the shire's debt collector whom also sent out additional letters to recover the debt (at no cost). The outstanding balance still remains unpaid and advice from the debt collectors is that it would be uneconomical to pursue it any further.

The debt collectors indicated a threshold of approximately \$600 would be the likely value to make it economically viable.

In order to ensure recovery of monies owed and ensure the objective of the Debt Management Policy can be achieved it is proposed that for shire services up to \$550 (Incl. GST) is to be prepaid.

Accordingly it is recommended that the following clause under General Debts in 3.6 Debt

Management Policy be inserted;

**For any shire work or service not requiring a bond or deposit up to \$550 including GST may be requested to be prepaid before works or services are carried out.**

**A confidential bad debtor list is to be maintained and payment up front will be required before any works or services are carried out, regardless of the amount.**

If the quoted cost is in excess of this amount, then normal process will apply and if defaulted on, the debt collection will be instigated in due course.

**CONSULTATION**

Mr Sean Fletcher, Chief Executive Officer.  
Mr Silvio Brenzi, Works and Services Manager.  
Ms Naomi Auhl, Debtors Officer.

**STATUTORY CONTEXT**

Regulation 5 of the Local Government (Financial Management) Regulations 1996 requires:

Efficient systems and procedures are to be established by the CEO of a local government -  
(a) for the proper collection of all money owing to the local government.

**CORPORATE CONTEXT**

**Strategic Business Plan/Corporate Business Plan**

STRATEGIC PRIORITIES	WE KNOW WE ARE SUCCEEDING WHEN
<b>4. CIVIC LEADERSHIP</b>	
4.3 Proactive and well governed Shire	External audits and reviews confirm compliance
	We have sound financial management policies and attract external funding to help achieve our goals
	Councilors attend training and feel supported in their role
	Council is supported by a skilled team

Strategic Priority 4.3 will be facilitated to ensure sound financial management policies.

**Delegation**

N/A

**Policy Implications**

Section 3 – Financial Management

**Other Corporate Document**

N/A

**Risk Analysis**

Consequence	Consequence Rating:	Likelihood Rating:	Risk Rating	Risk Acceptance/ Controls	Mitigation and Outcome
Compliance	Major (4)  Non-compliance results in termination of services or imposed penalties to Shire/Officers	Possible (3)  The event should occur at some time	High (12)	Senior Management Team / CEO  Risk acceptable with excellent controls, managed by senior management / executive and subject to monthly monitoring	Ensuring any recommendations are implemented will ensure that the residual risk is low.

**FINANCIAL IMPLICATIONS**

NIL

**VOTING REQUIREMENTS**

Absolute majority required: No

**2405-04 Officer Recommendation / Council Recommendation**

**Moved: Cr S Woods**

**Seconded: Cr D Lovelock**

That Council **APPROVES** amendment to 3.6 Debt Management Policy to include;

*For any shire work or service not requiring a bond or deposit up to \$550 including GST may be requested to be prepaid before works or services are carried out.*

*A confidential bad debtor list is to be maintained and payment up front will be required before any works or services are carried out, regardless of the amount.*

**CARRIED BY UNANIMOUS DECISION OF COUNCIL**

Vote For	Vote Against
Cr P Bantock	
Cr S Woods	
Cr D Lovelock	
Cr R Johnson	

**2405-05 Council Resolution**

**Moved: Cr D Lovelock**

**Seconded: Cr S Woods**

That Council adjourn for afternoon tea at 2.23pm.

**CARRIED BY UNANIMOUS DECISION AND ABSOLUTE MAJORITY OF COUNCIL**

Vote For	Vote Against
Cr P Bantock	
Cr S Woods	
Cr D Lovelock	
Cr R Johnson	

Council resumed at 2.41pm.

## 9.4 Council Policy Manual Part 3 Financial Management – Purchasing Framework

<b>File reference</b>	2348-6518		
<b>Report date</b>	03 May 2024		
<b>Applicant/proponent</b>	NIL		
<b>Officer disclosure of interest</b>	NIL		
<b>Previous meeting references</b>	N/A		
<b>Prepared by</b>	Colin Ashe, DCEO		
<b>Authorised by</b>	Sean Fletcher, CEO		
<b>Attachments</b>			
Attachment 1	Page	34	3.1 Purchasing Framework

### PURPOSE

That Council approve the amendment to the Purchasing Framework to provide clarity on the options and need for presentation to council for a decision.

### BACKGROUND

Councils Purchasing Framework was reviewed in Apr 23 and in particular was amended to incorporate new threshold limits of \$250,000.

The Local Government (Functions and General) Regulations 1996 (reg 11 and 11A) state where purchases are \$250,000 or less, a purchasing policy is to be implemented and for purchases in excess of \$250,000, Conduct a public tender process or use WA Local Government Association Preferred Supplier Panel or State Government Common Use Agreement objective.

### COMMENT

There is a need to realign the policy to correctly reflect the purchasing thresholds of The Local Government (Functions and General) Regulations 1996 (reg 11 and 11A) and provide clarity there is no requirement for a council decision on if using the WA Local Government Association Preferred Supplier Panel.

Accordingly the following is recommended for insertion and amendment:

#### 3.1 Purchasing Framework paragraph 3:

*Request for Quote (RFQ) up to the threshold of \$250,000 are not required to be presented for council decision.*

*Procurements in excess of \$250,000 can be sourced through the WA Local Government Association Preferred Supplier Panel which is exempt from the need to publicly invite tenders and does not require a decision from council. However from time to time Officers may seek a decision from council under certain circumstances.*

*Otherwise a public tender can be conducted.*

#### **Schedule 3.1(b) – Purchasing Thresholds and Requirements**

**Current:**

Anticipated Value of Purchase Excl. GST	Requirement	Documentation	Evaluation Panel
\$100,001 \$249,999	Seek three written quotations containing price and specification of goods and services	<b>Required</b> <ul style="list-style-type: none"> <li>Written specification</li> <li>Written assessment criteria</li> <li>Written quotations received</li> <li>Evaluation panel</li> </ul> <b>Recommended</b> As the cost approaches \$250,000, it would be prudent to conduct a public tender	Two Employees
\$250,000 and above	Conduct a public tender process or WALGA Preferred Supplier / State Government Common Use Agreement Refer to Council for decision unless prior delegation to CEO	<b>Required</b> <ul style="list-style-type: none"> <li>Written specification</li> <li>Written assessment criteria</li> <li>Written quotations received</li> </ul> Evaluation panel	Two Employees or One Employee and One external person

**WALGA Preferred Supplier or State Government Common Use Agreement Thresholds**

Less than \$250,000	As per General threshold	As per General Thresholds	As per General Thresholds
\$250,000 and above	Seek a single or up to three quotations containing price and specification of goods and services depending on the risk and knowledge of both the Officer and Supplier. Refer to Council for decision unless prior delegation to CEO	As per General Thresholds	As per General Thresholds

**Amended:**

Anticipated Value of Purchase Excl. GST	Requirement	Documentation	Evaluation Panel
<b>\$100,001</b> <b>\$250,000</b>	Seek three written quotations containing price and specification of goods and services	<b>Required</b> <ul style="list-style-type: none"> <li>Written specification</li> <li>Written assessment criteria</li> <li>Written quotations received</li> <li>Evaluation panel</li> </ul> <b>Recommended</b> Use of WALGA preferred Supplier Panel – RFQ.	Two Employees
<b>\$250,001 and above</b>	Conduct a public tender process or WALGA Preferred Supplier / State Government Common Use Agreement Refer to Council for decision only if public tender conducted.	<b>Required</b> <ul style="list-style-type: none"> <li>Written specification</li> <li>Written assessment criteria</li> <li>Written quotations received</li> </ul> Evaluation panel	Two Employees or One Employee and One external person

**WALGA Preferred Supplier or State Government Common Use Agreement Thresholds**

<b>Up to \$250,000</b>	As per General threshold	As per General Thresholds	As per General Thresholds
<b>\$250,001 and above</b>	Seek a single or up to three quotations containing price and specification of goods and services depending on the risk and knowledge of both the Officer and Supplier. No requirement to present to Council decision.	As per General Thresholds	As per General Thresholds

**CONSULTATION**

Mr Sean Fletcher, Chief Executive Officer.

**STATUTORY CONTEXT**

Regulation 11 and 11A of the Local Government (Functions and General) Regulations 1996

**CORPORATE CONTEXT**

**Strategic Business Plan/Corporate Business Plan**

<b>STRATEGIC PRIORITIES</b>		<b>WE KNOW WE ARE SUCCEEDING WHEN</b>	
<b>4. CIVIC LEADERSHIP</b>			
4.3 Proactive and well governed Shire	External audits and reviews confirm compliance		
	We have sound financial management policies and attract external funding to help achieve our goals		
	Councilors attend training and feel supported in their role		
	Council is supported by a skilled team		

Strategic Priority 4.3 will be facilitated to ensure sound financial management policies.

**Delegation**

N/A

**Policy Implications**

Section 3 – Financial Management

**Other Corporate Document**

N/A

**Risk Analysis**

Consequence	Consequence Rating:	Likelihood Rating:	Risk Rating	Risk Acceptance/ Controls	Mitigation and Outcome
Compliance	Major (4)  Non-compliance results in termination of services or imposed penalties to Shire/Officers	Possible (3)  The event should occur at some time	High (12)	Senior Management Team / CEO  Risk acceptable with excellent controls, managed by senior management / executive and subject to monthly monitoring	Ensuring any recommendations are implemented will ensure that the residual risk is low.

**FINANCIAL IMPLICATIONS**

NIL

**VOTING REQUIREMENTS**

Absolute majority required: No

**2405-06 Officer Recommendation / Council Resolution****Moved: Cr S Woods****Seconded: Cr R Johnson**That Council **APPROVES** amendment to 3.1 Purchasing Framework as follows;**3.1 Purchasing Framework paragraph 3:**

Request for Quote (RFQ) up to the threshold of \$250,000 are not required to be presented for council decision.

Procurements in excess of \$250,000 can be sourced through the WA Local Government Association Preferred Supplier Panel which is exempt from the need to publicly invite tenders and does not require a decision from council. However from time to time Officers may seek a decision from council under certain circumstances.

Otherwise a public tender can be conducted.

**Schedule 3.1(b) – Purchasing Thresholds and Requirements**

Anticipated Value of Purchase Excl. GST	Requirement	Documentation	Evaluation Panel
\$100,001 \$250,000	Seek three written quotations containing price and specification of goods and services	<b>Required</b> <ul style="list-style-type: none"> <li>• Written specification</li> <li>• Written assessment criteria</li> <li>• Written quotations received</li> <li>• Evaluation panel</li> </ul> <b>Recommended</b> Use of WALGA preferred Supplier Panel – RFQ.	Two Employees



<b>\$250,001 and above</b>	Conduct a public tender process or WALGA Preferred Supplier / State Government Common Use Agreement Refer to Council for decision unless prior delegation to CEO	<b>Required</b> <ul style="list-style-type: none"> <li>• Written specification</li> <li>• Written assessment criteria</li> <li>• Written quotations received</li> </ul> Evaluation panel	Two Employees or One Employee and One external person
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**WALGA Preferred Supplier or State Government Common Use Agreement Thresholds**

<b>Up to \$250,000</b>	As per General threshold	As per General Thresholds	As per General Thresholds
<b>\$250,001 and above</b>	Seek a single or up to three quotations containing price and specification of goods and services depending on the risk and knowledge of both the Officer and Supplier. Refer to Council for decision unless prior delegation to CEO	As per General Thresholds	As per General Thresholds

**CARRIED BY UNANIMOUS DECISION OF COUNCIL**

<b>Vote For</b>	<b>Vote Against</b>
Cr P Bantock	
Cr S Woods	
Cr D Lovelock	
Cr R Johnson	

CONFIRMED PUBLIC MINUTES

## 9.5 CEO's May 2024 Quarterly KPI Report

<b>File reference</b>	2348-7477		
<b>Report date</b>	15 May 2024		
<b>Applicant/proponent</b>	Shire of Victoria Plains		
<b>Officer disclosure of interest</b>	Financial – Matters to do with Mr Fletcher's performance		
<b>Previous meeting references</b>	OCM 18 February 2024 – 12.1 2302-05		
<b>Prepared by</b>	Sean Fletcher, CEO		
<b>Senior Officer</b>	N/A		
<b>Authorised by</b>	Sean Fletcher, CEO		
<b>Attachments</b>			
Attachment 1	Page	42	CEO KPI Report – May Quarter

### PURPOSE

For Council to accept the quarterly update regarding the status on the progress of the CEO's KPIs.

### BACKGROUND

Presented for Council is the May quarterly update regarding the KPIs for the Shire CEO, Mr Sean Fletcher (Refer to Attachment 1).

### Current Provisions

- It is a requirement of the Act that CEO performance reviews are conducted annually.
- The Model Standards for CEO recruitment and selection, performance review and termination require that a local government must review the performance of the CEO against contractual performance criteria.
- Additional performance criteria can be used for performance review by agreement between both parties.

### Future Amendments to the Act

- To provide for minimum transparency, it is proposed to mandate that the KPIs agreed as performance metrics for CEOs:
  - be published in council meeting minutes as soon as they are agreed prior to (before the start of the annual period);
  - the KPIs and the results be published in the minutes of the performance review meeting (at the end of the period);
  - the CEO has a right to provide written comments to be published alongside the KPIs and results to provide context as may be appropriate (for instance, the impact of events in that year that may have influenced the results against KPIs);
  - Councils will be able to seek the Chief Inspector's (The Office of the Inspector) approval not to publish a specific CEO KPI, if there is a clear public interest reason for doing so.

### KPI Process

The current CEO's contract was agreed by Council and then signed by both parties, taking effect from 16 February 2023. Mr Fletcher successfully completed his probationary period during August 2023. He then had a successful performance review on 18 February 2024, where both parties agreed to 14 KPIs spread across six Key Result Areas (KRAs) as follows:

**COMMENT**

The requirement regarding the publication of the CEO KPIs and performance report is yet to come into effect, but the author (as CEO) is happy for the agreed KPIs and quarterly reporting against these KPIs to be published in the ordinary council meeting agendas for information.

Mr Fletcher is acting in good faith with the report that he has prepared. It should be noted that one KPI has been achieved so far:

*Results of the annual Department of Local Government Compliance Return (CAR) submitted to Council. The review of the CAR was completed in March 2024.*

Good progress has been made regarding the remaining KPIs, with key items being:

- *Ensure Budget is presented to Council for adoption;*
- *Implement Capital Program as per budget and adopted Corporate Business Plan*
- Implement CBP (Implementation Plan) Strategic Priority Area of:
  - Community
  - Economy
  - Environment
  - Civic Leadership
  - Strategic Risks
- *Ensure appropriate Social Media presence*
- *Ensure Community is kept informed of important Shire matters and Council outcomes*

**CONSULTATION**

Appropriate staff that assist the CEO deliver key outcomes

**STATUTORY CONTEXT****Local Government Act**5.38. Annual review of employees' performance

(b) A local government must review the performance of the CEO if the CEO is employed for a term of more than 1 year.

(3) A review under subsection (1) must be conducted at least once in relation to each year of the person's employment.

5.39 Contracts for CEO and Senior Employees

(b) Subject to subsection(1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section (1a) refers to acting CEOs, who are staff may perform this role for up to 12 months without a contract.

(2)(b) A CEO's contract cannot exceed 5 years and (4) is renewable.

(7) A CEO is to be paid or provided with such remuneration as is determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975* section 7A.

- (8) A local government is to ensure that subsection (7) is complied with in entering into, or renewing, a contract of employment with a CEO.

The KRAs (key performance indicators) form part of the CEO's contract and are the basis of the annual assessment of the CEO.

## **CORPORATE CONTEXT**

### **Strategic Community Plan and Corporate Business Plan**

- Strategy 5.4: Measures to improve organisational efficiency
- 5.4.3 Maintain controls to promote a high level of legislative compliance throughout the organisation

### **Policy 2.6: - Standards for CEO Recruitment, Performance and Termination**

#### **Division 3 – The Adopted Standards – Broad Framework**

##### **16 Performance review process to be agreed between local government and CEO**

- (1) The local government and the CEO **must agree** on —
- (a) the process by which the CEO's performance will be reviewed; and
  - (b) any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.
- (2) Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 17, 18 and 19.
- (3) The matters referred to in subclause (1) must be set out in a written document.

##### **17 Carrying out a performance review**

- (1) A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.
- (2) The local government must —
- (a) collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and
  - (b) review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

##### **18 Endorsement of performance review by local government**

Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

##### **19 CEO to be notified of results of performance review**

After the local government has endorsed a review of the performance of the CEO under clause 18, the local government must inform the CEO in writing of —

- (a) the results of the review; and
- (b) if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.

## Risk Management

Consequence	Consequence Rating:	Likelihood Rating:	Risk Rating	Risk Acceptance	Mitigation and Outcome
<p><b>Compliance</b></p> <p><b>CEO performance review must be conducted annually</b></p> <p><b>The standards regarding the CEO performance review are based on the principles of fairness, integrity and impartiality</b></p>	<p>Extreme (5)</p> <p>Non-compliance results in litigation, criminal charges or significant damages or penalties to Shire/Officers</p>	<p>Likely (4)</p> <p>The event will occur at least once per year</p>	<p>Extreme (20)</p>	<p>CEO &amp; Council</p> <p>Risk acceptable with excellent controls, managed by routine procedures subject to annual monitoring</p> <p>Effective: Processes (Controls) operating as intended and / or aligned to Policies &amp; Procedures; are subject to ongoing maintenance and monitoring and are being continuously reviewed and tested.</p>	<p>By Council and the CEO adhering to the CEO Standards, there is little chance of breaching the level of compliance required and so the mitigated risk is low.</p>

### FINANCIAL IMPLICATIONS

N/A

### VOTING REQUIREMENTS

Absolute majority required: **Yes**

<b>2405-07</b>	<b>Council Resolution</b>
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**Moved: Cr D Lovelock**

**Seconded: Cr S Woods**

That Council **ACCEPTS** the May 2024 Quarterly Report regarding the status of the KPIs for the Shire CEO, Mr Sean Fletcher.

**CARRIED BY UNANIMOUS DECISION AND ABSOLUTE MAJORITY OF COUNCIL**

Vote For	Vote Against
Cr P Bantock	
Cr S Woods	
Cr D Lovelock	
Cr R Johnson	

**9.6 Review of Delegation Register(s) 2023-2024**

<b>File reference</b>	2348-7473		
<b>Report date</b>	15 May 2024		
<b>Applicant/proponent</b>	Council; CEO		
<b>Officer disclosure of interest</b>	Nil		
<b>Previous meeting references</b>	28 June 2023: 2306-04		
<b>Prepared by</b>	Sean Fletcher, CEO		
<b>Senior Officer</b>	N/A		
<b>Authorised by</b>	CEO		
<b>Attachments</b>			
Attachment 1	Page	49	Delegations Register 2023/2024 – Final Draft for Adoption

**PURPOSE**

The purpose of this report is to:

- Assist Council complete its 2023/2024 review of the delegations applicable to the CEO and the Committees of Council; and
- Confirm that the CEO has completed the review of the delegations he makes to others.

**BACKGROUND**

Under Section 5.42(2) of the Local Government Act, at least once every financial year, delegations are to be reviewed by the delegator. Regarding the Shire of Victoria Plains, this means that once each financial year:

- Council must review its delegations to the CEO and to the Committees of Council;
- The CEO must review their delegations to others. These delegations consist of two types:
  - On delegations from Council to the CEO and from the CEO to staff/others regarding the Local Government Act or other legislation; and
  - On delegations from the CEO regarding specific powers the CEO has under the Local Government Act or other legislation to staff/others.

The purpose of a delegation is to provide for administrative efficiencies including passing on to the CEO and the Committees of Council the Council's authority allowing certain matters of administration to occur as it cannot carry out the administration function itself. Both the Local Government Act and the Model Codes of Conduct Regulations along with the Shire's Code of Conduct for Elected Members, Committee Members and Candidates provide for this requirement.

The Shire of Victoria Plains, like many local governments, has a single delegation register to cover both Council and the CEO. Each delegation is set out so that:

- The Primary Delegation is mentioned first. This confirms that the Council is delegating its authority to the CEO or a Committee;
- The Sub-Delegation. This action confirms that the CEO is delegating the authority to another officer. Council has no say regarding who the CEO can on-delegate to;
- The rest of the delegation confirms how the delegated authority will be applied including any restrictions or limitations.

The author and the PA to the CEO have now completed the 2023/2024 review on behalf of Council the delegations from Council to CEO and delegations from the CEO to others.

**COMMENT**

It was planned to use the WALGA model for the 2023/2024 review, however, due to the scope of work required and the search for appropriate software to manage the delegation registers, the existing format has been retained.

At the Council briefing session on 13 May 2024, the author did mention that there was only one change required to the delegations from the Council to CEO. This was Delegation 3.6 Write Off of Rates and Sundry Debts. This involved changing the write off amount from \$200 to \$500. However, on reviewing this matter further, the author noticed that Council had approved this change at the adoption of the last review at the June 2023 OCM. This is noted as follows under Resolution 2.a.iii:

**BY ABSOLUTE MAJORITY****2306-04 Officer Recommendation / Council Resolution****Moved: Cr S Woods****Seconded: Cr D Lovelock**

That Council

1. In accordance with s.5.46(2) of the *Local Government Act 1995* **CONFIRMS** it has completed the review for the 2022-2023 Financial Year regarding the delegations it has made under Division 4.
2. **CONFIRMS** by **absolute majority** the changes made to the delegations to the CEO as set out in Attachment 1 Explanatory Memorandum Review of Delegations June 2023 and Sections 1 – 18 in the Delegations Register 2022 – 2023 in Attachment Two. This includes:
  - a. Deleting, amending or revoking the following Delegations as follows:
    - i. amending Delegation 1.1.1 *Local Government Act 1995* – deleting the reference to the Building Regulations 2012 and Clause 5 – Local Laws;
    - ii. amending Delegation 1.1.2 – by including a full description of r.70(2) and improving the setting out of the text;
    - iii. increasing the amount approved for write-off from \$200 - \$500;

With the above clarification, this means that there are no changes to the delegation registers and the review is now complete.

**The Review for 2024/2025**

As explained at the Council briefing session on 13 May 2024, the next review will consist of:

- Changing the delegations into the WALGA format (some are already in this format). This will be workshopped with Council;
- Implementing suitable software that manages the delegation function. It requires the WALGA format to allow this to happen.

**CONSULTATION**

- Ms Candice Watson: PA to the CEO
- Mr Colin Ashe: Deputy CEO
- Council Briefing Session 13 May 2024

**STATUTORY CONTEXT**

**5.42. Delegation of some powers and duties to CEO**

- (1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under —
    - (a) this Act other than those referred to in section 5.43; or
    - (b) the *Planning and Development Act 2005* section 214(2), (3) or (5).
- \* *Absolute majority required.*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

**5.43. Limits on delegations to CEO** – includes those matters that cannot be delegated to the CEO and hence other staff and committees of council e.g. any matter requires an absolute majority by council, appointing an auditor, borrowing money.

**5.44. CEO may delegate powers and duties to other employees** – CEO can undertake sub-delegations.

**5.45. Other matters relevant to delegations under this Division** – Confirmation of the Interpretation Act re time, amending or revoking delegations must be by absolute majority and the concept of acting through.

**5.46. Register of, and records relevant to, delegations to CEO and employees** - CEO is to keep a register of Council delegations to CEO and CEO delegations to employees. Delegator is to review the delegations made once every financial year.

**CORPORATE CONTEXT**

**Corporate Business Plan**

<b>Civic Leadership</b>		<i>to better allocate scarce resources and effectively interact with the community</i>
5.1	Implement measures to improve relationship and communication between Council and community	<ul style="list-style-type: none"> <li>• <i>Implementation of initiatives to better connect Council with the community and associated matters.</i></li> </ul>
5.2	Improve elected member performance	
5.3	Develop an advocacy and lobbying capacity	
5.4	Measures to improve organisational efficiency	

Under 5.4, correct delegations in place lead to overall improved efficiency of the organisation.

**Risk Management (Risk Governance Framework)**

<b>Consequence:</b>	<b>Likelihood:</b>	<b>Risk</b>	<b>Risk Acceptance</b>	<b>Outcome</b>
<b>Compliance</b>	<b>Likely</b>			
<b>Major (5) ie Imposed</b>	At least once per year (4)	E (20)	Council/CEO Controls are	Council has successfully reviewed its delegations for the last four years and the



<p><b>penalties to Shire/Officers</b></p> <p>Failure to delegate properly has been a key focus and finding in previous inquiries into councils and officers</p>	<p>A review of delegations must be completed once each financial year</p>		<p>adequate at this point in time, although advising governance of new staff appointments requiring a delegation need to be improved (timing)</p>	<p>CEO has implemented instruments of delegation, hence the risk is currently low.</p>
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**FINANCIAL IMPLICATIONS**

Nil

**VOTING REQUIREMENTS**

Absolute majority required: Yes

**BY ABSOLUTE MAJORITY**

**2405-08 Officer Recommendation / Council Resolution**

**Moved: Cr R Johnson**

**Seconded: Cr S Woods**

That Council

1. In accordance with s.5.46(2) of the *Local Government Act 1995* **CONFIRMS** it has completed the review for the 2023-2024 Financial Year regarding the delegations it has made under Division 4.
2. **ACKNOWLEDGES** the CEO’s advice that he has completed the review of his delegations to others:
  - a. In accordance with 5.46(2) of the *Local Government Act 1995* made under Division 4 for the 2023-2024 Financial Year.
  - b. In accordance with other legislation.

**CARRIED BY UNANIMOUS DECISION AND ABSOLUTE MAJORITY OF COUNCIL**

Vote For	Vote Against
Cr P Bantock	
Cr S Woods	
Cr D Lovelock	
Cr R Johnson	

Cr S Woods declared a proximity interest in item 9.7 “Proposed Revesting and Change of Purpose to Crown Reserve 17655” and withdrew from the meeting at 2.50pm.

## 9.7 Proposed Re-Vesting and Change of Purpose to Crown Reserve 17655

<b>File reference</b>	2348-7479
<b>Report date</b>	14 May 2024
<b>Applicant/Proponent</b>	Water Corporation
<b>Officer disclosure of interest</b>	Nil
<b>Previous meeting references</b>	Nil
<b>Prepared by</b>	Joe Douglas – Town Planner
<b>Senior Officer</b>	N/A
<b>Authorised by</b>	Mr Sean Fletcher –CEO
<b>Attachments</b>	
Attachment 1 – Page 161 Email from Water Corporation & Landgate Reserve Reports & Plans.	

### PURPOSE

Consideration of a proposal to re-vest and change the purpose of Crown Reserve 17655 Fordham Road, Wyening for the benefit and use of the Shire of Victoria Plains.

### BACKGROUND

The Water Corporation has contacted the Shire querying if it is interested in securing the management order for Crown Reserve 17655 Fordham Road, Wyening to accommodate the future possible needs of the local community.

It is understood Crown Reserve 17655 is surplus to the Water Corporation’s future operational requirements with the Corporation proposing to relinquish its current interest in the land under the *Land Administration Act 1997*.

Crown Reserve 17655 is located approximately 8 kilometres south-east of the Calingiri townsite in the locality of Wyening, comprises three (3) individual lots with a total combined area of approximately 247.9784 hectares, and is formally known as the ‘Glendale Nature Reserve’ (see Attachment 1).

The subject land is a ‘C’ class reserve that is currently vested in the Water Corporation under the *Land Administration Act 1997* for water supply and conservation purposes (see Attachment 1).

The subject land has direct frontage and access to Fordham Road along its western side boundary which is an unsealed local road under the care, control and management of the Shire. A small portion of an operational railway reserve also traverses and severs the land in its south-western corner.

The subject land is gently to moderately sloping and contains large stands of native vegetation throughout. There is also evidence of environmental rehabilitation work (i.e. tree planting) in various locations on the land that were previously cleared of all native vegetation.

The Water Corporation has constructed a large water storage dam centrally in the northern part of the subject land, access to which is obtained via an existing access track within the land’s

designated boundaries which is connected to another access track in Crown Reserve 46238 that provides a direct connection to Fordham Road (see Attachment 1). Reserve 46238 also contains what appears to be a water storage tank and pump station at its eastern end, including a heavy vehicle turnaround area adjacent to these improvements.

The subject land has not been designated by the Department of Water and Environmental Regulation as being contaminated or flood prone. It does however contain a number of superficial natural drainage lines and a portion of the Bolgart Brook, all of which flow directly to/from the existing water storage dam.

The property has been designated by the Fire and Emergency Services Commissioner as being bushfire prone which may have implications for any future possible habitable type development.

The subject land does not contain any buildings or places of Aboriginal or European cultural heritage significance. Despite this fact, the Water Corporation has advised the Department of Planning, Lands and Heritage (DPLH) may assess the aboriginal cultural heritage value of the land which may result in values being identified that will be considered as part of any proposed transfer of the management order to the Shire.

Existing adjoining and other nearby land uses are predominantly rural in nature comprising broadacre agricultural activities on lots ranging in size from 24 to 268 hectares. Notable exceptions to this are:

- Crown Reserve 17138 located immediately north which is an old school site under the care control and management of the Education Department;
- A railway reserve located immediately west which is under the care control and management of the Public Transport Authority;
- Unconstructed local road reserves along the full length of the land's western side boundaries which are under the care, control and management of the Shire; and
- Lot 8604 on Deposited Plan 129634 immediately south which is undeveloped privately owned land that contains large stands of native vegetation.

#### **COMMENT**

Crown Reserve 17655 is classified 'Public Open Space' reserve in the Shire of Victoria Plains Local Planning Scheme No.5 (LPS5).

Council's stated objectives for the development and use of any land classified 'Public Open Space' reserve are as follows:

- *To set aside areas for public open space, particularly those established under the Planning and Development Act 2005 s.152; and*
- *To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage.*

Discussions with the Shire's Chief Executive Officer have confirmed the following uses of the land by the Shire would be preferred as part of any new management order approved by the Minister:

- Public open space for passive recreational purposes by the local community;
- Environmental conservation including offsets for future clearing permit applications to the Department of Water and Environmental Regulation for other projects in the Shire where native vegetation clearing works are required and cannot be avoided; and

- Community water supply purposes, particularly during periods of drought, road building purposes and emergency management purposes.

The subject land's current reserve classification in LPS5 may need to be amended in the future to reflect the Shire's preferred use of the land if the Minister for Lands ultimately approves the proposed transfer of the land to the Shire under a new management order. This could be achieved as part of the future required review of LPS5 or a standalone amendment to LPS5 if this is deemed as being necessary.

When considering the proposal to accept a new management order for the subject land Council should also be mindful of the following key points:

- i) The need to ensure vehicle access is freely available via the land's frontage to Fordham Road which can only be practically and affordably achieved via Crown Reserve 46238 which is also controlled and managed by the Water Corporation for water supply purposes (see Attachment 1;
- ii) The preference to maintain access to and use of the existing water storage tank and pump station at the eastern end of Crown Reserve 46238, including the heavy vehicle turnaround area adjacent to these improvements. It should be noted the Water Corporation has not included Crown Reserve 46238 in its divestment offer to the Shire which may simply be an oversight by the Corporation;
- iii) The need to ensure the water storage tank and pump station on Crown Reserve 46238 are in good working order and fit-for-purpose; and
- iv) The need to ensure all boundary firebreaks have been constructed and maintained in accordance with the Shire's annual Fire Hazard Reduction Notice.

These issues can and will form part of any further discussions and negotiations with the Water Corporation to ensure the Shire's interests are suitably protected and the subject land does not give rise to any extraordinary, unforeseen costs.

Given the many strategic benefits of securing a formal interest in the subject land under the *Land Administration Act 1997*, it is recommended Council authorise the Shire Administration to advise the Water Corporation it is willing to consider accepting a new management order in respect of Crown Reserve 17655 subject to further discussions and negotiations with the Corporation and the Lands Division of the Department of Planning, Lands and Heritage to address the various concerns raised above and anything else that may be identified following further detailed investigation.

## **CONSULTATION**

Public consultation and referral to State government agencies and key essential service providers was not required nor deemed necessary. The proposal has, however, been the subject of discussions with the Water Corporation and internally by Shire staff.

## **STATUTORY CONTEXT**

- *Shire of Victoria Plains Local Planning Scheme No.5*
  - Part 2, Clause 14 – 'Local Reserves'
- *Land Administration Act 1997*
  - Part 4, Section 46 – Care, control and management of reserves;
  - Part 4, Section 49 – Plan for managed reserve; and
  - Part 4, Section 50 – Management order, revocation of.

## CORPORATE CONTEXT

### Shire of Victoria Plains Local Planning Strategy

The proposal is consistent with the following elements of the Shire of Victoria Plains Local Planning Strategy (2012):

- **Natural Resource Management**

Objective: To protect and enhance the Shire's natural resources through responsible management.

- **Catchment and Water Management**

Objective: To protect catchment areas from undesirable activities that may impact groundwater reserves and consequential impacts on flora and fauna.

### Integrated Strategic Plan 2022-2032

The proposal is consistent with the following elements of the *Shire of Victoria Plains Integrated Strategic Plan 2022 – 2032*:

- **Community**

*Strategic Priority 1.3 - Recreational, social and heritage spaces are safe and are activated.*

- **Economy**

*Strategic Priority 2.3 - Visitors have a positive experience across our communities.*

- **Environment**

*Strategic Priority 3.2 - Conservation of our natural environment and resources.*

- **Civic Leadership**

*Strategic Priority 4.1 - Forward planning and implementation of plans to achieve community priorities.*

### Delegation

Not applicable

### Policy Implications

There are no policy implications.

### Other Corporate Document

Not applicable

### Risk Analysis

The key risks associated with the proposal include the Shire's ability to secure and maintain vehicle access to/from the local road network via Crown Reserve 46238, continued access to and use of the existing water storage tank and pump station at the eastern end of Crown Reserve 46238 including the heavy vehicle turnaround area, the serviceability of the existing water storage tank and pump station on Crown Reserve 46238, and the suitability of all current bushfire management arrangements (i.e. compliance with the Shire's annual Fire Hazard Reduction Notice).

All risks will be identified and assessed by the Shire Administration in due course through further discussions and negotiations with the Water Corporation and the Lands Division of the Department of Planning, Lands and Heritage.

### FINANCIAL IMPLICATIONS

There are no immediate financial implications for the Shire aside from the administrative costs

associated with dealing with the Water Corporation’s request which are provided for in Council’s annual budget. Should Council finally agree to accept a management order in respect of the subject land fees will be payable to the Department of Planning, Lands and Heritage and Landgate to formalise the management order, the total cost of which is likely to be in the order of \$1,500 to \$2,000 excluding GST. The Shire will also assume full responsibility for all costs associated with the future development and use of the land including its ongoing management and maintenance.

**VOTING REQUIREMENTS**

Absolute majority required: No

**2405-09 Officer Recommendation / Council Resolution**

**Moved: Cr D Lovelock**

**Seconded: Cr R Johnson**

That Council **RESOLVE** to authorise the Shire Administration to advise the Water Corporation it is willing to consider accepting a new management order in respect of Crown Reserve 17655 Fordham Road, Wyening **SUBJECT** to further discussions and negotiations with the Water Corporation and the Lands Division of the Department of Planning, Lands and Heritage.

**CARRIED BY UNANIMOUS DECISION OF COUNCIL**

Vote For	Vote Against
Cr P Bantock	
Cr D Lovelock	
Cr R Johnson	

Cr Woods returned to the meeting at 2.58pm.

CONFIRMED PUBLIC MINUTES

**10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**11. NEW BUSINESS OF AN URGENT NATURE REQUIRING DECISION***Admitted by resolution of Council*

Nil

**12. MEETING CLOSED TO PUBLIC****12.1 Meeting Closed to Public**

<b>File reference</b>			
<b>Report date</b>	16 May 2024		
<b>Applicant/proponent</b>	SoVP		
<b>Officer disclosure of interest</b>	Nil		
<b>Previous meeting references</b>			
<b>Prepared by</b>	J Klobas, Council Support Officer		
<b>Authorised by</b>	CEO		
<b>Attachments</b>			
Attachment 1	Page		Nil

**PURPOSE**

For Council to move “in camera” (behind closed doors) and consider a matter regarding Dr Maurice Walsh v Shire of Victoria Plains – Industrial Magistrates Court M 23 of 2024 under item 12.2.

**BACKGROUND**

Under section 5.23 (2)(a)(b)(d) ( of the Local Government Act, Council may close a meeting, or part of a meeting if it deals with

- (a) a matter affecting an employee or employees;
- (b) the personal affairs of any person; and
- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.

**COMMENT**

Reference Policy 1.6 Legal Representation for Elected Members and Employees.

**CONSULTATION**

CEO

Council Support Officer

**STATUTORY CONTEXT**

As per the background to this item.

**CORPORATE CONTEXT**

N/A

**FINANCIAL IMPLICATIONS**

N/A

**VOTING REQUIREMENTS**

Absolute majority required: No

**2405-10 Officer’s Recommendation / Council Resolution**

**Moved: Cr R Johnson**

**Seconded: Cr S Woods**

That Council **CLOSE** the meeting under section 5.23 (2)(a), (b) and (d) of the Local Government Act to consider a matter under item 12.2 regarding Dr Maurice Walsh v Shire of Victoria Plains – Industrial Magistrates Court M 23 of 2024 under item 12.2 at 2.59pm.

**CARRIED BY UNANIMOUS DECISION OF COUNCIL**

Vote For	Vote Against
Cr P Bantock	
Cr S Woods	
Cr D Lovelock	
Cr R Johnson	

CONFIRMED PUBLIC MINUTES



Cr P Bantock having declared a financial interest in item 12.2 due to “*Respondent in the claim as Shire President, covered by Management liability Councillor policy*” and further declaring an impartiality interest in this item due to “*Member and volunteer of Mogumber Outback Club Inc*”. withdrew from the meeting at 3.00pm, concurrently withdrawing from the Presiding Chair.

The Deputy Shire President, Cr S Woods, assumed the Presiding Chair at 3.00 pm.

The CEO declared a financial interest in item 12.2 due to “*Closely associated person; Benefit*”.

The DCEO declared a financial interest in item 12.2 due to “*Legal representation*”.

## 12.2 Dr Maurice Walsh v Shire of Victoria Plains – Industrial Magistrates Court M 23 of 2024

<b>File reference</b>	2348-6385		
<b>Report date</b>	1 May 2024		
<b>Applicant/proponent</b>	CEO, Mr Sean Fletcher		
<b>Officer disclosure of interest</b>	Financial		
<b>Previous meeting references</b>	Nil		
<b>Prepared by</b>	Mr Sean Fletcher, CEO		
<b>Senior Officer</b>	N/A		
<b>Authorised by</b>	Mr Sean Fletcher, CEO		
<b>Attachments</b>			
Attachment 1	Page		To be provided at the Council Meeting

### VOTING REQUIREMENTS

Absolute majority required: No

### 2405-11 Council Resolution

Moved: Cr D Lovelock

Seconded: Cr R Johnson

That Council **SUSPEND** standing orders 8.9 and 8.10 of the Shire’s *Local Laws* at 3.03pm.

**CARRIED BY UNANIMOUS DECISION OF COUNCIL**

Vote For	Vote Against
Cr S Woods	
Cr D Lovelock	
Cr R Johnson	

The CEO withdrew from the meeting at 3.05pm, rejoining at 3.19pm.

WSM withdrew from the meeting at 3.11 pm, rejoining at 3.17pm

DCEO withdrew from the meeting at 3.14pm, rejoining at 3.15pm.

DCEO withdrew from the meeting at 3.16pm, rejoining at 3.17pm.

**2405-12 Council Resolution**

**Moved: Cr R Johnson**

**Seconded: Cr D Lovelock**

That Council **RESUME** standing orders 8.9 and 8.10 of the Shire’s *Local Laws* at 3. 51pm.

**CARRIED BY UNANIMOUS DECISION OF COUNCIL**

<b>Vote For</b>	<b>Vote Against</b>
Cr S Woods	
Cr D Lovelock	
Cr R Johnson	

**2405-13 Council Resolution**

**Moved: Cr R Johnson**

**Seconded: Cr D Lovelock**

That Council

1. In accordance with Policy 1.6, endorses the CEO actions to **ENGAGE** Kennedys (law firm) to defend the claim M23 of 2024 in the Industrial Magistrates Court: Dr Maurice Walsh vs the Shire of Victoria Plains. As per Policy 1.6, this was urgent legal advice and the amount the CEO may authorise under this policy is \$10,000.
2. **NOTES** that the Shire holds a Chubb Elite Plus Management Liability Councillors & Officers Policy (Policy No 05CH005534) for the Policy Period 30 June 2023 to 30 June 2024 (the Policy):
  - a. Based on the information provided and facts known to date, LGIS has confirmed Insuring Clause 4.1 has been triggered. Accordingly, based on the information provided to them, Chubb will pay on behalf of the Shire, Loss on account of the Employment Claim made by the Claimant, subject to the Policy terms and conditions.
  - b. There is a \$5,000,000 Limit of Liability and a cost inclusive Retention Fee of \$12,500 which applies under the Policy for each and every Claim pursuant to Insuring Clause 4.1. For clarity, the Shire will be liable for the first \$12,500 of Loss which includes Defence Costs, regardless of the number of respondents to the claim.
  - c. LGIS understands that Kennedys Perth has been instructed to act on the Shire’s behalf. Chubb confirms it agrees with the engagement of Kennedys and notes that a 20% reduction will apply to the Retention Fee, as set out in Point 2.b above, if the Shire follows the advice of the panel law firm, Kennedys Lawyers, and engages with Kennedys in order to defend claim M23 of 2024. This means that the revised Retention will be \$10,000 and is the only cost that the Shire will be responsible for.
3. In considering Points 1 and 2, Council **APPROVES** the CEO to continue to defend the claim M23 of 2024 in the Industrial Magistrates Court: Dr Maurice Walsh vs the Shire of Victoria

Plains Shire (including the respondents of the Chief Executive Officer, the Deputy Chief Executive Officer and the Shire President).

**CARRIED BY UNANIMOUS DECISION OF COUNCIL**

<b>Vote For</b>	<b>Vote Against</b>
Cr S Woods	
Cr D Lovelock	
Cr R Johnson	

*The Shire President returned to the meeting and resumed the Presiding Chair at 3.52pm.*

*The Resolution was taken as being read.*

CONFIRMED PUBLIC MINUTES

**2405-14 Council Resolution**

**Moved: Cr R Johnson**

**Seconded: Cr S Woods**

Council **MOVE** out of Confidential Session at 3.54pm.

**CARRIED BY UNANIMOUS DECISION OF COUNCIL**

<b>Vote For</b>	<b>Vote Against</b>
Cr P Bantock	
Cr S Woods	
Cr D Lovelock	
Cr R Johnson	

CONFIRMED PUBLIC MINUTES

### 13. CLOSURE OF MEETING

There being no further business, the Presiding Member declared the meeting closed at 3.54pm.

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### CERTIFICATION

These minutes were confirmed at the Ordinary Council Meeting held on 26 June 2024.

Signed JABawtack  
(Presiding member at the meeting which confirmed the minutes)

Date 26 June 2024

**Council Minutes are unconfirmed until they have been adopted at the following meeting of Council.**

CONFIRMED PUBLIC MINUTES