



# **CONFIRMED MINUTES**

**OF THE**

**SPECIAL MEETING OF COUNCIL**

**9 JUNE 2022**

These minutes were confirmed at a meeting held 30 June 2022 and signed below by the Presiding Person, at the meeting these minutes were confirmed.

A handwritten signature in black ink, appearing to be 'J. Lee', is written over a horizontal line.

Signed:

**SHIRE OF BROOME**  
**SPECIAL MEETING OF COUNCIL**  
**THURSDAY 9 JUNE 2022**  
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**MINUTES OF THE SPECIAL MEETING OF COUNCIL OF THE SHIRE OF BROOME,  
HELD IN THE COUNCIL CHAMBERS, CORNER WELD AND HAAS STREETS, BROOME,  
ON THURSDAY 9 JUNE 2022, COMMENCING AT 4:00PM.**

**1. OFFICIAL OPENING**

*The Chairperson welcomed Councillors, officers and members of the public and declared the meeting open at 4:10PM.*

**2. ATTENDANCE AND APOLOGIES**

**ATTENDANCE**

<b>Councillors:</b>	Cr D Male Cr P Matsumoto Cr C Mitchell Cr P Taylor Cr N Wevers	Deputy Shire President (Chair)
<b>Apologies:</b>	Cr H Tracey Cr B Rudeforth Cr E Foy	Shire President
<b>Leave of Absence:</b>	Nil	
<b>Officers:</b>	Mr S Mastrolembo Mr J Hall Mr J Watt Mr K Williams Mr D Kennedy  Ms L French Mr G McKnight  Ms K Cookson  Ms B Macmillan	Chief Executive Officer Director Infrastructure (Via eMeeting) Director Corporate Services Director Development Services Manager Governance, Strategy and Risk Manager Financial Services Marketing & Communications Coordinator Senior Administration & Governance Officer Manager People and Culture (Via eMeeting)
<b>Public Gallery:</b>	B Maddison	

**3. DECLARATIONS OF FINANCIAL INTEREST / IMPARTIALITY**

<b>FINANCIAL INTERESTS (s5.60A)</b>			
<b>Officer</b>	<b>Item No</b>	<b>Item</b>	<b>Nature of Interest</b>
Mr Sam Mastrolembo, Chief Executive Officer	5.4.1	Chief Executive Officer Performance Review - Consultant Selection	"As the CEO, the appointed consultant through this Council decision will be managing my annual performance review, which may impact terms and conditions of my employment"

**4. PUBLIC QUESTION TIME**

Nil.

**5. REPORTS FROM OFFICERS****5.1 PEOPLE**

There are no reports in this section.

## 5.2 PLACE

### 5.2.1 TEMPORARY OVERNIGHT CAMPING BY TRAVELLERS IN SELF-CONTAINED CARAVANS/RECREATIONAL VEHICLES (RVs) IN THE CABLE BEACH SURF CLUB CARPARK

<b>LOCATION/ADDRESS:</b>	Portion of Reserve 36477 - Cable Beach Surf Club Carpark (southern section)
<b>APPLICANT:</b>	Nil
<b>FILE:</b>	ENH51
<b>AUTHOR:</b>	Director Development Services
<b>CONTRIBUTOR/S:</b>	Nil
<b>RESPONSIBLE OFFICER:</b>	Director Development Services
<b>DISCLOSURE OF INTEREST:</b>	Nil

#### **SUMMARY:**

This report proposes permitting overnight (5pm-7am) camping by travellers in self-contained caravans/recreational vehicles (RVs) in the southern section of the Cable Beach Surf Club carpark (portion of Reserve 36477). The purpose of repeating the RV overnight stay is to temporarily support travellers who have not been able to source accommodation upon their arrival in Broome.

This will permit camping for a maximum of 3 nights in any 28 consecutive nights during the period when the Temporary Approved Facilities (overflow caravan parks) are permitted to open as part of the 2022 peak tourist season, subject to demand.

#### **BACKGROUND**

##### Previous Considerations

OMC 12 April 2021    Item 9.2.6

The 2021 tourist season in Broome saw increased number of vehicle-based travellers seeking accommodation in both permanent and temporary caravan parks and camping grounds compared to previous years.

There are six Permanent Caravan Parks located in the Broome townsite and an additional two Permanent Caravan Parks within 33km of the townsite by road. These facilities provide over 2,500 caravan and camping sites that can be used to accommodate travellers.

OMC 27 May 2021    Item 9.2.8

A trial permitting overnight (5pm-7am) free camping by travellers in self-contained caravans/recreational vehicles (RVs) in the southern section of the Cable Beach Surf Club carpark (portion of Reserve 36477) was implemented to address shortfalls in overflow camping. The purpose of the trial was to temporarily support travellers who have not been able to source accommodation upon their arrival in Broome.

#### **COUNCIL RESOLUTION:**

**(REPORT RECOMMENDATION)**

**Minute No. C/0521/012**

**Moved: Cr C Mitchell** **Seconded: Cr B Rudeforth**

**That Council:**

- 1. Approve a temporary trial permitting overnight free camping (5pm-7am) by travellers in self-contained caravans / recreational vehicles (RVs) for a maximum of 3 nights in any 28 consecutive nights in the southern section of the Cable Beach Surf Club carpark, being a portion of Reserve 36477, during the period that Temporary Approved Facilities are approved by the Shire of Broome to operate during the 2021 peak tourist season;**
- 2. Permit people to camp in compliance with approved Conditions of Use in a fully self contained caravan / RV in the nominated area of Reserve 36477 as part of the trial as identified in Attachment 1;**
- 3. Approve the trial for an initial 4-week period and authorise the Chief Executive Officer to reduce or extend the length of the trial as deemed necessary;**
- 4. Requests the Chief Executive Officer to remove or install any signage necessary to give effect to the trial during the trial period; and**
- 5. Requests the Chief Executive Officer to present a report to Council at the conclusion of the 2021 peak tourist season with regards to the trial and recommendations for the 2022 peak tourist season.**

**CARRIED UNANIMOUSLY 6/0**

An initial review of the trial was provided to Council in a workshop in October 2021, and Council was also provided with further information at a workshop in April this year.

The trial was approved and permitted camping for a maximum of 3 nights in any 28 consecutive nights and ran initially for four weeks during the period when the Temporary Approved Facilities (overflow caravan parks) were permitted to open as part of the 2021 peak tourist season.

Historically, under the Shire of Broome's Operation of Temporary Caravan and Camping Facilities Policy, Temporary Approved Facilities are approved to accommodate travellers in peak periods when Permanent Caravan Parks are at or near capacity.

These temporary facilities have operated at the Broome Pistol Club, Broome PCYC and Broome Seventh Day Adventist Church. A small camping ground (Mango Campground) was also operated for part of the year to support vehicle-based backpacker style visitors.

PCYC and Mango Camp have closed permanently and will not be offering overflow camping.

Temporary Facilities	Up To 2021 Seasons Max. Sites	21/ 2022 Season Max. Sites
Broome Pistol Club	65	65
Seventh Day Adventist Church	32	32
Broome PCYC	60	CLOSED

Mango Campground	30	CLOSED
<b>Total Sites</b>	<b>187</b>	<b>97</b>

These closures represent a 52% decrease in available overflow spaces on 2020 availability. Additionally Roebuck Bay Caravan Park (owned by Council and leased by Discovery Parks) is currently being redeveloped, further reducing available caravan and camping spaces.

## COMMENT

The trial in 2021 was generally considered to be successful with nearly 500 participants provided with temporary camp sites, 8 vehicles staying longer than permitted, and seven infringements issued for non-compliance for the duration of the trial. Trial numbers are shown in the table below:

1 July to 6 September 2020 (67 nights)	
Participants	478 vehicles
Total nights of stay	720
>3 nights	8
3 nights	44
2 nights	131
1 night	295

Current demand is uncertain, and anecdotal indications show potentially lower numbers of drive-in visitors and higher numbers of fly in visitors. Caravan Parks have indicated high occupancy levels in July and September especially, while several high-profile caravan parks are currently at 90% occupancy, several are presently only at 50-70% occupancy.

Given the combination of an expected increase in vehicle-based travellers visiting Broome again in the 2022 tourist season (compared to previous years) and a net reduction in available Temporary Approved Facility caravan/ camping sites, consideration has again been given to identifying alternative sites for a proposed limited free-camping location, for fully self-contained caravans/ RVs for the 2022 tourist season if required.

Two locations within the townsite of Broome are considered appropriate:

Location	Pros	Cons
Broome Visitor Centre carpark	<ul style="list-style-type: none"> <li>• Size of available area</li> <li>• Proximity to Chinatown precinct</li> <li>• Sealed carpark surface</li> <li>• Additional activation of the precinct</li> <li>• Passive surveillance in the precinct</li> </ul>	<ul style="list-style-type: none"> <li>• Possible antisocial behaviour issues</li> </ul>
Cable Beach Surf Club carpark	<ul style="list-style-type: none"> <li>• Proximity to Cable Beach</li> <li>• Proximity to nearby services</li> </ul>	<ul style="list-style-type: none"> <li>• Proximity to Permanent Caravan Parks</li> </ul>

	<ul style="list-style-type: none"> <li>• Sealed carpark surface</li> <li>• Size of available area</li> </ul>	
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Of the locations identified, the Cable Beach Surf Club carpark is still considered to be the most suitable site. The carpark is close to the beach, the Cable Beach Store, café's, restaurants and other activities located in the Cable Beach Precinct and is located close to a main transport route.

It is proposed that the Shire again provide these facilities during the time that the Temporary Approved Facilities are permitted to open as part of the 2022 peak tourist period. This timing and parameters should ensure minimal business impact on the Permanent Caravan Parks.

The temporary overnight facility is again proposed to be located in the southern section (refer **Attachment 1**) of the Cable Beach Surf Club carpark (portion of Reserve 36477) and will involve:

- overnight camping by travellers in fully self-contained caravans/ RVs;
- camping permitted from 5pm to 7am daily;
- camping permitted for a maximum of 3 nights in any 28 nights;
- from 7am to 5pm daily any vehicles remaining in the approved area must be parked within the bounds of a marked parking stall (as per the Parking Local Law) and not be set up to camp; and
- All fees and charges are paid and current.

The proposed maximum stay length of 3 nights in any 28 nights is to ensure compliance with the requirements of the *Caravan Parks and Camping Grounds Act 1995*. The length of stay will provide travellers who have not secured space in a Permanent Caravan Park or Temporary Approved Facility with somewhere to stay while they arrange a site in an approved facility.

The proposed daily time limitation on how long people can camp in the trial area (5pm-7am) and the requirement to park within the bounds of a marked parking stall outside of the approved camping hours should ensure that parking stalls are available for use for parking in the precinct during daytime hours. It is also proposed that caravans should not be unhitched as this presented issues last year with caravans being left in bays during busy periods outside permitted times.

The time limitation and cost recovery fees should also encourage area users to actively seek accommodation in a Permanent Caravan Park or Temporary Approved Facility to extend their stay in Broome.

The Shire of Broome *Local Government Property and Places Local Law 2016* requires people who wish to camp on a public place to obtain a permit. Solutions to meet permit application requirements are currently being investigated for implementation at the commencement of the overflow area.

It is possible an online product, such as the use of QR codes and/or SpaceToGo to rapidly facilitate online payments and instant receipting could be used to satisfy the permit requirements. Should no electronic solution be available Rangers will collect fees, as they would be required to attend every morning to collect permits.

In addition to the requirement for a permit, each camper within the area will be required to comply with a set of Conditions of Use. Signage will be installed at the location that identifies



the approved R/V area and the Conditions of Use. The Conditions of Use will also be emailed with the receipt and posted on the Shire of Broome website.

The Conditions of Use are listed below noting that these may be changed prior to the to ensure the proper and orderly use of the site:

1. Overnight camping is permitted only from 5pm to 7am, daily;
2. Camping is permitted for a maximum of 3 nights in any 28 nights;
3. All fees are paid and current;
4. Camping must only occur in a fully self-contained caravan or RV that includes their own on-board toilet and shower facilities;
5. Tents, camper trailers, mini vans, back packer vans or the like are not permitted;
6. All wastes are to be retained in the vehicle for disposal at established dump points;
7. No fires are permitted, including fires for cooking;
8. No amplified music is permitted;
9. Pets must be kept on a leash and restrained at all times;
10. Animal waste, must be collected and disposed of to refuse;
11. Portable generators are not permitted;
12. Between 7am-5pm daily, any vehicles remaining in the trial area must be parked within the bounds of a marked parking stall and not set up to camp. If a vehicle cannot fit within a marked parking stall during this time it must leave the approved trial area;
14. All campers must follow reasonable directions from Shire of Broome staff at all times; and
15. Non-compliance with Conditions of Use will result in campers being directed to leave the area. Infringements may apply.

It is proposed that the R/V overflow area be advertised on the Shire of Broome website and also via a platform/ mobile apps such as CamperMate and Wikicamps. These listings will include details of the area to be used, Conditions of Use and any other relevant restrictions and information.

Ranger Services will monitor the area to ensure travellers are only camping in the approved area, the maximum length of stay is not exceeded, and the area is being used in compliance with the Conditions of Use.

The overnight overflow facility will only be commenced should capacity be reached at all caravan parks in accordance with the Shire of Broome's Operation of Temporary Caravan and Camping Facilities Policy, and if alternate overflow facilities are also at capacity. Weekly assessment will be undertaken to ensure that the need for the facility remains relevant, and any indication of availability in existing commercial and overflow caravan parks will trigger closure.

Officers are recommending that the Chief Executive Officer is given authorisation to cease, or alternately extend, the trial dependant on its success. Authorisation is recommended to ensure officers can respond appropriately should compliance or other issues become apparent during the trial.

## **CONSULTATION**

The proposal has been discussed with the Manager of the Broome Visitor Centre, who was generally supportive.

Discussions with all Caravan Park operators indicate general support subject to conditions that limit operations to periods of peak occupancy. This is consistent with the previous year's operation and proposed operation this year.

Correspondence will be sent to the operators of the Permanent Caravan Parks in Broome providing details of the Cable beach carpark overflow area if approved.

## STATUTORY ENVIRONMENT

### **Caravan Parks and Camping Grounds Act 1995** **Caravan Parks and Camping Grounds Regulations 1997**

#### 11. Camping other than at caravan park or camping ground

##### (1) A person may camp —

- (a) for up to 3 nights in any period of 28 consecutive days on land which he or she owns or has a legal right to occupy, and may camp for longer than 3 nights on such land if he or she has written approval under subregulation (2) and is complying with that approval; or
- (b) for up to 24 consecutive hours in a caravan or other vehicle on a road side rest area; or
- (c) for up to 24 consecutive hours in a caravan or other vehicle on a road reserve in an emergency, unless to do so would cause a hazard to other road users or contravene any other written law with respect to the use of the road reserve; or
- (d) on any land which is —
  - (i) held by a State instrumentality in freehold or leasehold; or
  - (ii) dedicated, reserved, or set apart under the Land Administration Act 1997 or any other written law, and placed under the care, control or management of a State instrumentality, in accordance with the permission of that instrumentality; or
- (e) on any unallocated Crown land or unmanaged reserve, in accordance with the permission of the Minister within the meaning of the Land Administration Act 1997, or a person authorised by the Minister to give permission under this paragraph

##### (3) In this regulation —

**emergency** means a situation where to move the caravan or other vehicle to a more suitable area would constitute an immediate and serious hazard due to the condition of the caravan or other vehicle, or a vehicle towing the caravan, or of the driver, or passengers, of any such vehicle;

**permit** means a building permit or a demolition permit as defined in the Building Act 2011 section 3;

**road side rest area** means an area designated by a traffic sign erected in accordance with a written law, as an area which may be used for 24 hours for —

- (a) resting; or
- (b) stopping; or
- (c) camping, in a vehicle;

**State instrumentality** has the same meaning as it has for the purposes of the Land Administration Act 1997;

**unallocated Crown land** has the same meaning as it has for the purposes of the Land Administration Act 1997;

**unmanaged reserve** has the same meaning as it has for the purposes of the Land Administration Act 1997.

**Shire of Broome Local Government Property and Places Local Law 2016****3.3 Permit required to camp outside a facility**

- (3) A person must not without a permit –
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping in a public place;
  - (b) undertake camping in a public place;
  - (c) erect any tent, camp, hut or similar structure in a public place other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day; or
  - (d) park a vehicle in a public place for the purpose of camping in or around the vehicle.

**3.5 Application for permit**

- (1) Where a person is required to obtain a permit under this local law, that person must apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law must –
  - (a) be in the form determined by the local government;
  - (b) be signed by the applicant;
  - (c) provide the information required by the form; and
  - (d) be forwarded to the CEO together with the application fee.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

**POLICY IMPLICATIONS**

The Shire of Broome's Operation of Temporary Caravan and Camping Facilities Policy aims to maximise the visitor numbers in Broome in the period of peak demand, when options for caravan users and campers can be otherwise limited.

The Policy stipulates that if accommodation in Permanent Caravan Park Facilities approaches maximum occupancy due to high demand, the Shire may grant a Temporary Licence to a Temporary Approved Facility to accommodate travellers who are unable to secure accommodation in a Permanent Caravan Park.

Aligning with the Policy, the overflow area 3-night stays by self-contained caravans / RVs with the period the Temporary Approved Facilities are permitted to operate.

**FINANCIAL IMPLICATIONS**

Currently there is no fee listed in the adopted 2021/2022 Fees and Charges for a permit to camp in a public place. It is proposed to introduce a fee into the 2022/2023 of \$20 per night up to \$60 for 3 nights for the proposed self-contained overflow. Accordingly, it is not proposed to commence the self-contained overflow RV camping until the budget is adopted, anticipated to be the end of June.

Providing a fee for self-contained travellers will hopefully encourage users to seek vacancies at permanent caravan facilities sooner and limit any financial impact on both Permanent Caravan Park and Temporary Caravan Park operators and allow some level of cost recovery for the Shire.

The temporary overflow area did have significant impact on Ranger Services operations in 2021 with Rangers having to patrol the area two to three times per day to ensure the Conditions of Use were being complied with. Signage will also again need to be installed at the location. The cost of the signage will again be funded out of the current operational budget.

## **RISK**

In 2021 there was a reputational risk involved for the Shire of Broome due to the financial impact free camping may have had on Permanent Caravan Parks and Temporary Facilities.

In 2022 some of this risk will be mitigated by applying a fee and again limiting to only self-contained caravans / RVs being permitted to participate; they will be required to be effectively vacated by campers between the hours of 7am and 5pm daily.

Additionally, aligning with the Shire's Operation of Temporary Caravan and Camping Facilities Policy mitigates any potential impacts on Permanent Caravan Park Operators.

There are 90 less sites available in the Temporary Approved Facilities compared to previous years with Broome PCYC and Mango Campground not opening for the 2022 season.

Shire of Broome Rangers will be required to undertake monitoring of the area including compliance with the Conditions of Use and other associated compliance risks, including littering.

## **STRATEGIC ASPIRATIONS**

**People – We will continue to enjoy Broome-time, our special way of life. It's laid-back but bursting with energy, inclusive, safe and healthy, for everyone.**

***Outcome Two - Everyone has a place to call home:***

2.1 Promote access to safe, affordable accommodation to meet all needs, including itinerants, homeless people, those at risk, youth and the elderly.

**Place – We will grow and develop responsibly, caring for our natural, cultural and built heritage, for everyone.**

***Outcome Six - Responsible growth and development with respect for Broome's natural and built heritage:***

6.1 Promote sensible and sustainable growth and development.

**Prosperity – Together, we will build a strong, diversified and growing economy with work opportunities for everyone.**

***Outcome Nine – A strong, diverse and inclusive economy where all can participate:***

9.1 Increase Broome's domestic and international trade in tourism, agriculture, aquaculture, minerals and energy, culture and the arts, conservation economy and other emerging industries.

## VOTING REQUIREMENTS

*Simple Majority*

### **COUNCIL RESOLUTION:**

**(REPORT RECOMMENDATION)**

**Minute No. C/0622/042**

**Moved: Cr C Mitchell**

**Seconded: Cr P Matsumoto**

**That Council:**

- 1. Approve from 1 July 2022 a temporary Cable Beach caravan and camping overflow area permitting overnight camping (5pm-7am) by travellers in self-contained caravans/recreational vehicles (RVs) for a maximum of 3 nights in any 28 consecutive nights in the southern section of the Cable Beach Surf Club carpark, being a portion of Reserve 36477, during the period that Temporary Approved Facilities are approved by the Shire of Broome Chief Executive Officer to operate during the 2022 tourist season.**
- 2. Permit people to camp in compliance with approved Conditions of Use in a fully self-contained caravan / RV in the nominated area of Reserve 36477 as identified in Attachment 1.**
- 3. Approve the overflow area for an initial 4-week period and authorise the Chief Executive Officer to reduce or extend the length of the trial as deemed necessary.**
- 4. Requests the Chief Executive Officer to remove or install any signage necessary to give effect to the temporary overflow area during the designated overflow time period.**

**CARRIED UNANIMOUSLY 5/0**

## Attachments

1. Proposed 2022 caravan and RV overflow camping area



### 5.3 PROSPERITY

#### 5.3.1 COUNCIL CONSIDERATION OF PUBLIC SUBMISSIONS ON INTENTION TO IMPOSE DIFFERENTIAL RATES AND MINIMUM PAYMENTS FOR THE 2022-23 ANNUAL BUDGET

<b>LOCATION/ADDRESS:</b>	Nil
<b>APPLICANT:</b>	Nil
<b>FILE:</b>	ARA01; ARA12
<b>AUTHOR:</b>	Finance Officer - Rates
<b>CONTRIBUTOR/S:</b>	Coordinator Financial Services
<b>RESPONSIBLE OFFICER:</b>	Director Corporate Services
<b>DISCLOSURE OF INTEREST:</b>	Nil

**SUMMARY:** The report presents to Council the submissions received for consideration following the statutory local public notice period before adopting the 2022-23 Annual Budget. Council is also requested to authorise the Chief Executive Officer to apply to the Minister for Local Government to approve the differential rates that require exemption from section 6.33(3) of the *Local Government Act 1995*.

#### BACKGROUND

##### Previous Considerations

OMC 12 May 2022

Item 5.3.1

Under section 6.36 of the *Local Government Act 1995* (the Act), a local government must, before imposing any general differential rates or minimum payments, give local public notice of its intention to do so and invite submissions over a period of not less than 21 days.

Following the 12 May Special Meeting of Council (SMC), a public notice inviting submissions on proposed differential rates was advertised in the 14 May 2022 edition of The West Australian Newspaper, with the 21 day submission period ending on the 6 June 2022. Public notices were also placed on noticeboards located at the Shire of Broome Administration Centre and Library, and the Shire of Broome Facebook page. A media release about the intention to impose differential rates and minimum payments was also published on the Shire's website and in the Shire News excerpt in the Broome Advertiser.

The Shire also wrote to the 23 properties in the UV – Commercial Rural rating category, inviting public comments on the proposed differential rates according to the Department of Local Government, Sport and Cultural Industries (DLGSC) requirement for rating categories with less than 30 ratepayers.

In addition to the required local public notice, Ministerial approval is required if a differential rate is more than twice the lowest differential rate in either UV or GRV properties (s6.33 of the Act). Approval will be sought for the GRV Vacant category which is more than twice the base GRV Residential rate, and the UV Commercial Rural and UV Mining categories which are both more than twice the base UV Rural rate.

The Minister requires evidence of Council consideration of any submissions received before accepting the Shire's application for exemption from section 6.33 of the Act.

At the SMC held 12 May 2022, Council resolved the following:

**COUNCIL RESOLUTION:**

**(REPORT RECOMMENDATION)**

**Minute No. C/0522/001**

**Moved: Cr N Wevers**

**Seconded: Cr P Taylor**

**That Council:**

1. ***Publishes a local public notice proposing the 2022/23 differential general rates and minimum payments set out in the table below and invites electors or ratepayers to lodge submissions about this proposal within 21 days from the date of notice:***

<b>DIFFERENTIAL RATE CATEGORY</b>	<b>RATE IN THE DOLLAR (cents)</b>	<b>MINIMUM PAYMENT</b>
<b>Residential (GRV)</b>	<b>8.31127</b>	<b>\$1,268</b>
<b>Vacant (GRV)</b>	<b>17.5995</b>	<b>\$1,268</b>
<b>Commercial (GRV)</b>	<b>11.0873</b>	<b>\$1,268</b>
<b>Tourism (GRV)</b>	<b>13.4671</b>	<b>\$1,268</b>
<b>Mining (UV)</b>	<b>13.709</b>	<b>\$520</b>
<b>Rural (UV)</b>	<b>0.81052</b>	<b>\$1,268</b>
<b>Commercial Rural (UV)</b>	<b>3.38859</b>	<b>\$1,268</b>

2. ***Adopts the Objects and Reasons presented in Attachment 2 for each of the proposed differential general rates and minimum payments in point 1 above; and***
3. ***Following the close of the public submission period, requests the Chief Executive Officer to report back to Council, presenting any submissions for formal consideration before seeking Minister's Approval under section 6.33(3) of the Local Government Act 1995 to impose differential rates which are more than twice the lowest differential rate.***

**CARRIED UNANIMOUSLY 6/0**

The report presented to Council at the 12 May 2022 SMC summarised the following matters:

1. The 2022-23 budget process to date, including revenue required to be raised from rates as per the 2022-23 draft budget;
2. The proposed rating categories and corresponding valuations;
3. The proposed rate in the dollar for each rating category reflecting a general 4% increase in rate yield from the preceding year;
4. The proposed minimum payments for each rating category. Once again, the UV Mining category is set at a lower level to ensure compliance with section 6.35 of the Act;
5. An illustration of the proposed differential rates and minimum payments required to be raised to balance the 2022-23 budget;
6. The requirement to advertise certain rating information through public notice; and
7. The requirement to consider submissions received in relation to the proposed rates.

**COMMENT**

Submissions



2 submissions were received during the notice period and are summarised below for Council consideration.

*Submission 1: McMahon Mining Title Services Pty Ltd*

*"Thank you for the opportunity to make a submission regarding the proposed rates for 2022-23.*

*We note that valuations provided by the Valuer General are used in calculating mining tenement rates, and these valuations based on the rent imposed by the Department of Mines, Industry Regulation and Safety. Any increases in the rent, therefore, result in an increase in valuations and in turn an automatic increase in rates.*

*Effective from 1 July 2021, the Department increased the rent rate for exploration licences by 2.17%, prospecting licences by 3.54% and mining leases by 10%. With the Shire proposing an increase in the UV Mining rate in the dollar for 2022-23 from 0.119883 to 0.13709, together with an increase to the minimum rate, a significant increase in the actual rates levied will occur as illustrated in the table below:*

		2021/22 RID	0.119883	2022/23 Proposed RID	0.13709
	2021 Rates	2022 Rates - no change in RID	Percentage increase in rates - no change in RID	2022 Rates - proposed increase to RID	Percentage increase in rates - proposed increase to RID
P (200Ha)	\$359.65	\$395.61	10%	\$452.40	25.8%
E (10sbk)	\$422.59	\$437.57	4%	\$500.38	18.4%
M (100Ha)	\$1,198.83	\$1,318.71	10%	\$1,507.99	25.8%

*The exploration and mining industry is one of the most significant contributors to the State's economy. It has played an integral role in the development and enduring strength of this State, creating jobs and opportunities across the State but particularly in remote and regional parts of Australia. The industry is undoubtedly critical to the continued economic recovery of the State and country which has been severely impacted by the COVID-19 crisis. While the resources sector is slowly recovering, it continues to be constrained by the ongoing labour, supply and capital shortages stemming from the pandemic and recent world events.*

*To support the continued contributions made by the resources sector to the State economy it is critical that all government fees are set so as to reduce the cost of doing business in the State in the face of ever increasing international competition wherever possible, and increase and incentivise investment in local exploration to discover vital new resources which benefit the whole of the State.*

The respondent is neither a ratepayer nor an elector of the Shire. The respondent is a consulting company that acts for several exploration and prospecting companies in WA. A search of the Shire's database showed that Kimberley Mining Australia Pty Ltd uses the respondent's address as its mailing address. Kimberley Mining Australia Pty Ltd has 2 mining tenements (assessment A300737 and A300742) and 1 exploration tenement (assessment A304054).

The submission was primarily an objection to the proposed rate increase due to the increase in valuation already imposed by the Valuer General and did not raise concerns regarding the differential rating Objects and Reasons. Specifically, the submission did not make any opposition to the Objects and Reasons with regard to the UV – Mining category.

The following table summarises the properties currently classified under the UV – Mining category:

<b>Licence Type</b>	<b>Property Count</b>	<b>Rateable Value</b>	<b>Rates Revenue</b>
Mining	28	\$798,050	\$113,984.86
Petroleum Exploration Permit	7	\$124,366	\$17,187.13
Exploration	15	\$162,460	\$22,835.70
Petroleum Production Licence	2	\$66,509	\$9,117.72
Others	1	\$6006	\$823.36
General Purpose	1	\$985	\$520
<b>Total</b>	<b>54</b>	<b>\$ 1,158,376</b>	<b>\$164,468.77</b>

The proposed 2022-23 rates model contains 54 properties rated as UV Mining, of which 22 will attract the minimum payment of \$520. The total rates generated from mining properties account for 0.62% of 2022-23 rate yield versus 0.61% in 2021-22, which means that resource companies in Broome, in general, would contribute to a similar share of the total rates to be raised in the next financial year.

While it is acknowledged that the three related UV Mining properties will experience an increase in rates due to the increased rate in the dollar, this is required to partially offset the significant valuation increases experienced in the GRV differential rating categories. The Shire utilises this approach when dealing with revaluations and has applied the same method to past revaluation processes, including revaluations specific to UV properties. This approach delivers an equitable outcome, spreading the impact of revaluations across the entire ratebase rather than have the increased costs associated with valuation increases borne solely by the properties impacted.

Council also recognises the hardship continued to be experienced by ratepayers and the contribution made by resource companies in the future economic recovery of the State during the COVID-19 pandemic and recent world events. Council, therefore, aimed to limit any rates increases to a minimum which resulted in total rates of \$25M in 2022-23, which is 4% higher than the prior year's \$23.8M. Property rates, however, are shared by the ratepayers based on valuations provided by the Valuer General and each year some properties may experience an increase or decrease.

Officers do not believe that the submission warrants any amendments to the proposed differential rating Objects and Reasons. Officers will respond to the submission by providing the above explanation.

*Submission 2: Anna Plains Cattle Company Pty Ltd*

*“Reference is made to correspondence received from you in regard to differential rates for 2022/23. I note that the Shire intends to increase the rate in the dollar for UV Commercial-Rural – the rating category for Anna Plains Station.*

*This is grossly unfair as the Shire of Broome provides no services to Anna Plains Station despite a large impost of Shire rates. Please reduce the rate in the dollar to reflect the services provided by the Shire to Anna Plains Station."*

The respondent raised concerns regarding the justification of the proposed UV Commercial-Rural rating category increase arguing that the Shire currently provides no services that benefit the station.

Officers note that despite common misconception, rates are not derived on a fee for service basis and are effectively a land tax tied to the value of a property. Regardless of the local government, the requirement to pay rates would remain. In reviewing north west Council's it is noted that few have their proposed rates advertised at this point, however comparing 2021-22 RID's for the category indicates that the Shire applies the lowest RID's in the region and the 3<sup>rd</sup> lowest minimum payment:

Local Government	UV Category	2021-22 Rate in the \$ (RID)	2021-22 Minimum Rate
Shire of Broome	UV Commercial Rural	3.3246c	\$520
Shire of Derby West Kimberley	General	7.2800c	\$610
Shire of Wyndham East Kimberley	Pastoral	5.700c	\$1,123
Shire of Ashburton	Pastoral	18.5000c	\$1,263
Shire of East Pilbara	Pastoral	14.1450c	\$358
City of Karratha	Pastoral	10.4571c	\$328
Town of Port Hedland	Pastoral	11.3001c	\$1,900

While the proposed 2022-23 RID increase pushes the RID slightly higher (to 3.38859c) the RID is still well below corresponding RID's in other Pilbara and Kimberley local governments.

#### *2020 Pastoral Property Revaluations*

Pastoral properties were significantly impacted by the Valuer General's 2020 revaluation process with increases in the vicinity of 300% applied. Council responded to these increases with a concessional 5 year approach designed to reduce the impact of the valuation increases on pastoral properties.

Subsequent objections from pastoral properties resulted in the Valuer General reducing all property valuations in 2022, and the Shire has also subsequently removed the concessional approach from rate determinations. The total valuation of UV Commercial Rural properties reduced from \$13.24M in 2021-22 down to \$10.53M in 2022-23. While there is a proposed increase in the RID in 2022-23, the corresponding decrease in valuations will effectively reduce the yield from the category from \$431,863 down to \$359,146. This reflects the reduction in the proportional category yield from 1.83% of the total rates yield in 2021-22 down to 1.44% of the total rates yield in 2022-23.

In terms of year on year comparison, rates levied on pastoral properties in the UV Commercial Rural category in 2022-23 will be lower than rates levied in 2021-22 based on the upheld valuation objections. Given the changes to valuations from 2019 through to 2022 it would be difficult for pastoral properties to ascertain the effective change to their rates over the period.

The submission received from Anna Plains Cattle Company was primarily an objection to the proposed rate increase as opposed to the differential rating objects and reasons. Officers will respond to the submission providing details of Shire services and projects which directly or indirectly benefit pastoralists. Officers do not feel that the submission warrants any amendments to the proposed differential rating objects and reasons.

### Ministerial Approval

Ministerial approval must be sought under section 6.33 of the Act for the proposed GRV Vacant rating category, as the rate in the dollar for this category is more than twice the GRV Residential rate.

A separate application for approval under section 6.33 of the Act must also be sought for UV Mining and UV Commercial differential rating categories which are more than twice the lowest UV Rural general rate.

Officers recommend that Council authorise the Chief Executive Officer (CEO) to apply to the Minister seeking approval under section 6.33 of the Act for the proposed rate in the dollar for the GRV Vacant, UV Mining and UV Commercial differential rating categories.

### Rate Growth

Based on a recent review of 2021-22 actual rates revenue, interim rates for 2022-23 have been budgeted at \$100,000 reflecting growth in the ratepayer base, and this is included in the rates model.

### Conclusion

In conclusion, it is recommended after consideration of the submissions received, that Council adopts the Objects and Reasons, differential rates and minimum rates strategy as previously advertised and seeks Ministerial approval to impose differential rates for those rates that are more than twice the lowest differential rate as required under section 6.33(3) of the Act.

## **CONSULTATION**

Consultation has been conducted with the DLGSC relating to the proposed differential rates and minimum payment.

Letters were sent to all 23 properties in the UV – Commercial Rural rating category inviting comments on the proposed differential rates, as there are less than 30 ratepayers in this rating category. One submission was received from a property owner in this category.

Local public notice was provided and direct correspondence issued to property owners as outlined above under section 6.36 of the Act. Two submissions were received during the 21-day statutory notice period and are summarised above.

## **STATUTORY ENVIRONMENT**

### **Local Government Act 1995**

#### S6.28 *Basis of Rates*

- 1). *The Minister is to -*
  - (a) *determine the method of valuation of land to be used by a local government as the basis for a rate; and*

- (b) publish a notice of the determination in the government gazette.
- 2). In determining the method of valuation of land to be used by a local government the Minister is to have regard to the general principle that the basis for a rate on any land is to be –
  - (a) where the land is used predominantly for rural purposes, the unimproved value of the land, and
  - (b) where the land is used predominantly for non-rural purposes, the gross rental value of the land.

#### S6.32. Rates and service charges

- (1) When adopting the annual budget, a local government —
  - (a) in order to make up the budget deficiency, is to impose\* a general rate on rateable land within its district, which rate may be imposed either —
    - (i) uniformly; or
    - (ii) differentially;
 and
  - (b) may impose\* on rateable land within its district —
    - (i) a specified area rate; or
    - (ii) a minimum payment;
 and
  - (c) may impose\* a service charge on land within its district.
 \* Absolute majority required.

- (2) Where a local government resolves to impose a rate it is required to —
  - (a) set a rate which is expressed as a rate in the dollar of the gross rental value of rateable land within its district to be rated on gross rental value; and
  - (b) set a rate which is expressed as a rate in the dollar of the unimproved value of rateable land within its district to be rated on unimproved value.

- (3) A local government —
  - (a) may, at any time after the imposition of rates in a financial year, in an emergency, impose\* a supplementary general rate or specified area rate for the unexpired portion of the current financial year; and
  - (b) is to, after a court or the State Administrative Tribunal has quashed a general valuation, rate or service charge, impose\* a new general rate, specified area rate or service charge.
 \* Absolute majority required.

- (4) Where a court or the State Administrative Tribunal has quashed a general valuation the quashing does not render invalid a rate imposed on the basis of the quashed valuation in respect of any financial year prior to the financial year in which the proceedings which resulted in that quashing were commenced.

#### S6.33 Differential general rates

- 1). A local government may impose differential general rates according to any or a combination, of the following characteristics -
  - (a) the purpose for which the land is zoned under a local planning scheme in force under the Planning and Development Act 2005;
  - (b) the predominant purpose for which the land is held or used as determined by the local government;

- (c) whether or not the land is vacant land; or
  - (d) any other characteristic or combination of characteristics prescribed.
- (3) In imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it.

#### S6.35. Minimum payment

- (1) Subject to this section, a local government may impose on any rateable land in its district a minimum payment which is greater than the general rate which would otherwise be payable on that land.
- (2) A minimum payment is to be a general minimum but, subject to subsection (3), a lesser minimum may be imposed in respect of any portion of the district.
- (3) In applying subsection (2) the local government is to ensure the general minimum is imposed on not less than —
- (a) 50% of the total number of separately rated properties in the district; or
  - or
  - (b) 50% of the number of properties in each category referred to in subsection (6),
- on which a minimum payment is imposed.
- (4) A minimum payment is not to be imposed on more than the prescribed percentage of —
- (a) the number of separately rated properties in the district; or
  - (b) the number of properties in each category referred to in subsection (6),
- unless the general minimum does not exceed the prescribed amount.
- (5) If a local government imposes a differential general rate on any land on the basis that the land is vacant land it may, with the approval of the Minister, impose a minimum payment in a manner that does not comply with subsections (2), (3) and (4) for that land.
- (6) For the purposes of this section a minimum payment is to be applied separately, in accordance with the principles set forth in subsections (2), (3) and (4) in respect of each of the following categories —
- (a) to land rated on gross rental value; and
  - (b) to land rated on unimproved value; and
  - (c) to each differential rating category where a differential general rate is imposed.

#### S6.36. Local government to give notice of certain rates

- (1) Before imposing any differential general rates or a minimum payment applying to a differential rate category under section 6.35(6)(c) a local government is to give local public notice of its intention to do so.
- (2) A local government is required to ensure that a notice referred to in subsection (1) is published in sufficient time to allow compliance with the requirements specified in this section and section 6.2(1).
- (3) A notice referred to in subsection (1) —
- (a) may be published within the period of 2 months preceding the commencement of the financial year to which the proposed rates are to apply on the basis of the local government's estimate of the budget deficiency; and
  - (b) is to contain —

- (i) details of each rate or minimum payment the local government intends to impose; and
  - (ii) an invitation for submissions to be made by an elector or a ratepayer in respect of the proposed rate or minimum payment and any related matters within 21 days (or such longer period as is specified in the notice) of the notice; and
  - (iii) any further information in relation to the matters specified in subparagraphs (i) and (ii) which may be prescribed;
- and
- (c) is to advise electors and ratepayers of the time and place where a document describing the objects of, and reasons for, each proposed rate and minimum payment may be inspected.
- (4) The local government is required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification.

## **POLICY IMPLICATIONS**

Rating Policy

## **FINANCIAL IMPLICATIONS**

The proposed differential rates and minimum payments for the 2022-23 financial year will raise an estimated rates revenue of \$25M. A detailed rates model is in **Attachment 2**, featuring the rate in the dollar and minimum payment for all rating categories as per Council resolution C/0522/002, and valuations applying from 1 July 2022 received from the Valuer General for all properties within the Shire of Broome.

## **RISK**

Risks associated with the consideration of submissions received and the general endorsement of the proposed rates model include:

- Rejection of the proposed differential rates, minimum payment and associated statement of objects and reasons by the DLGSC, which could result in delays in adopting the 2022-23 annual budget.
- Delay in the timing of issuance of the annual rates notices, leaving less time for ratepayers to pay rates by 30 June 2023.

These risks are assessed as extreme. The treatment and mitigation of these risks have been identified through controls including analysis and review of the rate-setting strategy, compliance with all related legislation and DLGSC guidelines and consultation with DLGSC and ratepayers.

## **STRATEGIC ASPIRATIONS**

**Prosperity – Together, we will build a strong, diversified and growing economy with work opportunities for everyone.**

**Outcome Twelve – A well informed and engaged community:**

12.1 Provide the community with relevant, timely information and effective engagement.

**Outcome Thirteen - Value for money from rates and long term financial sustainability:**

13.1 Plan effectively for short and long term financial sustainability.

## VOTING REQUIREMENTS

*Simple Majority*

### **COUNCIL RESOLUTION:**

**(REPORT RECOMMENDATION)**

**Minute No. C/0622/043**

**Moved: Cr P Taylor**

**Seconded: Cr N Wevers**

**That Council:**

1. **Notes the submissions received in response to Council's intention to impose the 2022-23 differential rates and minimum payments under section 6.36(4) of the Local Government Act 1995 during the public submission period of 21 days;**
2. **Endorses the following proposed Differential General Rates and Minimum Payments for 2022-23:**

<b>DIFFERENTIAL RATE CATEGORY</b>	<b>RATE IN THE DOLLAR (cents)</b>	<b>MINIMUM PAYMENT</b>
<b>Residential (GRV)</b>	<b>8.31127</b>	<b>\$1,268</b>
<b>Vacant (GRV)</b>	<b>17.5995</b>	<b>\$1,268</b>
<b>Commercial (GRV)</b>	<b>11.0873</b>	<b>\$1,268</b>
<b>Tourism (GRV)</b>	<b>13.4671</b>	<b>\$1,268</b>
<b>Rural (UV)</b>	<b>0.81052</b>	<b>\$1,268</b>
<b>Commercial Rural (UV)</b>	<b>3.38859</b>	<b>\$1,268</b>
<b>Mining (UV)</b>	<b>13.709</b>	<b>\$520</b>

3. **Adopts the Objects and Reasons for each of the proposed differential general rates and minimum payments in point 2 above as contained in Attachment 1; and**
4. **Requests the Chief Executive Officer to seek the Minister for Local Government's approval under section 6.33 of the Local Government Act 1995 to impose differential rates for the:**
  - (a) **GRV Vacant differential rating category, which is proposed to be more than twice the lowest GRV Residential differential rate; and**
  - (b) **UV Commercial Rural and UV Mining differential rating categories, which are proposed to be more than twice the lowest UV Rural differential rate.**

**CARRIED UNANIMOUSLY 5/0**

### **Attachments**

1. 2022-23 Rating Objects and Reasons Endorsed 12 May 2022
2. 2022-23 Rates Model for Budget Adoption





## **Objectives and Reasons for the Differential Rates and Minimum Payments for the 2022/23 Financial Year**

*Under section 6.36 of the Local Government Act 1995, the Objects and Reasons for implementing Differential Rates must be published by the Shire of Broome.*

### **Overall Objective**

The purpose of the levying of rates is to meet the Shire's budget requirements each financial year to deliver services and community infrastructure. The Valuer-General provides the property valuations as the basis for the calculation of rates each year. Section 6.33 of the *Local Government Act 1995* provides the ability to differentially rate properties based on zoning or land use as determined by the Shire of Broome. Properties are grouped according to town planning zonings or predominant land use. Each rating category has a separately calculated rate in the dollar to achieve equity across all sectors.

Council has considered the Key Values contained within the Rating Policy Differential Rates (s.6.33) released by the Department of Local Government, Sport and Cultural Industries, being:

- Objectivity
- Fairness and Equity
- Consistency
- Transparency and administrative efficiency

A copy of this policy can be obtained from this link:

<https://www.dlgsc.wa.gov.au/department/publications/publication/rating-policy-differential-rates>.

Council determines the required rates yield by reviewing all revenue sources, expenditure and efficiency measures. As part of its budget deliberations, it is assumed that the Shire's operations will return to the same levels before the COVID-19 pandemic. A budget deficiency of \$24.7M has been identified for the financial year 2022/23, and a general 3% increase in the rate-in-dollar would yield the required rates to fund this deficit. There being no changes to the rating categories, the consistency and equitable distribution of the rates are maintained from one year to the next.

The Shire's Long-Term Financial Plan (LTFP) targeted a 1.85% increase in the 2022/23 financial year rates. The rate yield of \$24.95M is higher (2.15%) than the revenue projected in Shire's LTFP. It will fund the Capital Works Program as per the Shire's latest Corporate Business Plan.

- Plant Replacement - \$1.725M
- Parks and Gardens - \$876K
- Renewal of Various Buildings - \$827K
- Road Upgrades - \$1.69M
- Cable Beach Foreshore Upgrades Stage 1 – \$12.35M

- BRAC Gym and Fitness Facility - Detailed Design / Tender Package - \$467K
- Capital Works Program Projects - Upgrade - Black Spot & DAIP - \$794K
- Broome Lighting Upgrades – 100K
- Place Activation Plan - \$90K
- ICT Hardware Renewal – \$108K
- Broome Museum Business Case - \$75K
- Precinct Structure Plan - \$75K
- Tennis Court Lighting Renewal - \$198K
- Broome Public Library Feasibility – \$50K
- Various Footpath Upgrades - \$311K
- Carpark Upgrades - \$43K
- Quarterly Marketing Campaigns - \$30K
- Drainage Improvements - \$29K
- Implement the Youth Plan – \$22K
- Civic Center AV Renewal (ICT Strategic Hardware) - \$20K
- Conservation of Shire Art Collection - \$20K
- Review and development of a Disability Access and Inclusion plan - \$20K
- Library Management System (ICT Strategic Software) - \$16K
- Taiji Sister City visit – \$12K
- Brac Water Fountain and Entrance - \$11K
- Asset Management Plan Review – \$10K

Council has reviewed its expenditure and considered efficiency measures as part of its budget deliberations. In particular, the following actions have been undertaken:

Efficiency Measures:

- reviewed position descriptions and remuneration as vacancies arise;
- renewal of Shire assets based on adopted Asset Management Plan;
- encouraged certain staff to take advantage of remote area housing through the Shire leases, therefore, minimising the need for staff housing stock;
- continued use of local suppliers whenever possible and appropriate;
- conduct of three budget reviews each financial year;
- continued to outsource waste collection and recycling education cost-effectively;
- bush fire mitigation strategies and compliance measures were put in place to reduce the scope of recurring work;
- disposal of the under-utilised and maintenance-demanding light fleet and plant;
- installation of LED street lighting and energy-efficient fixtures throughout Shire facilities;
- review of property and building valuations to improve accuracy of depreciation and insurance costs;
- contractor inductions to reduce exposure to occupational health and safety risks;
- conducted several internal audits of governance and legislative compliance;
- a robust review of insurance services and identify opportunities to self-insure;
- changed the provision of pre-cyclone clean-up activities to become less resource-intensive but still responsive to safety objectives of pre-cyclone preparations;
- revisiting the resourcing of GIS services;
- contracting life saving services on Cable Beach to reduce costs and overheads;
- reduced some facility opening hours in line with service review findings regarding usage patterns; and
- after hours shut-off switch at Administration Building to limit unnecessary air-conditioning when the building is not occupied.











## 5.4 PERFORMANCE

**Sam Mastrolembro, the Chief Executive Officer declared a Financial Interest in Item 5.4.1, the reason being “As the CEO, the appointed consultant through this Council decision will be managing my annual performance review, which may impact terms and conditions of my employment”**

**The Chief Executive Officer left the chambers at 4:17pm**

### 5.4.1 CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW - CONSULTANT SELECTION

<b>LOCATION/ADDRESS:</b>	Nil
<b>APPLICANT:</b>	Nil
<b>FILE:</b>	PO34374
<b>AUTHOR:</b>	Manager People and Culture
<b>CONTRIBUTOR/S:</b>	Nil
<b>RESPONSIBLE OFFICER:</b>	Director Corporate Services
<b>DISCLOSURE OF INTEREST:</b>	Nil

#### SUMMARY:

In accordance with the *Local Government Act 1995*, and the Chief Executive Officer's employment contract, a review of performance is to be undertaken each year. This report requests Council to consider and endorse the appointment of a consultant to assist with the performance review for the Chief Executive Officer.

#### BACKGROUND

##### Previous Considerations

Each year the Chief Executive Officer (CEO) is to undergo a performance and remuneration review and evaluation by Council, in accordance with section 5.38 of the *Local Government Act 1995* and in accordance with the CEO's contract of employment.

#### COMMENT

The Shire's Manager People and Culture sought quotations from five consultancies who have experience undertaking CEO performance reviews for local governments, with three consultants submitting a quote for consideration. The scope of service and quotations were based on the following information provided to them, as per Council's Chief Executive Officer Performance Review Policy:

- a) Prepare and distribute an electronic questionnaire to all current Elected Members to provide feedback on:
  - i. The extent to which the CEO is considered to have achieved the Key Performance Indicators (KPI's) and measurements that applied during the review period;
  - ii. the CEO's responsibilities during the review period;
  - iii. the extent to which the CEO is considered to have modelled the Shire values during the review period;
  - iv. the organisation's performance during the review period; and



- v. suggested KPI's for the upcoming review period.
- b) Prepare and distribute an electronic questionnaire to the CEO to provide a self assessment/feedback on:
  - i. The extent to which they have achieved the KPI's and measurements that applied during the review period;
  - ii. their responsibilities during the review period;
  - iii. the extent to which they have to have modelled the Shire values during the review period;
  - iv. the organisation's performance during the review period; and
  - v. suggested KPI's for the upcoming review period
- c) Conduct a review of the CEO's remuneration package in line with the Salaries and Allowance Tribunal (SAT) determinations;
- d) Convene and attend at least one meeting between the consultant and the CEO to discuss the feedback received;
- e) Convene and attend at least one meeting between the consultant and the Panel to discuss the feedback received;
- f) Convene and attend at least one meeting between the consultant, the Panel and the CEO to discuss the feedback received;
- g) Provide to the Panel and the CEO an Annual Performance Review report incorporating the results of the review exercise; and
- h) Conduct a review of the CEO's KPI's and recommend draft KPI's and measurements for the upcoming review period in discussion with the CEO and the Panel.

All three submitted quotations are attached as per the confidential attachments.

## **CONSULTATION**

All three quotations were provided to the CEO Performance Review Panel for their review. Two panel members agreed on the preferred respondent, as detailed in the confidential attachment: CEO Performance Review Brief Evaluation Report. The third panel member was unable to provide their response.

Following appointment by Council, the CEO Performance Review Panel and Manager People and Culture will consult directly with the selected consultant to advise them of their appointment and to schedule the required actions/meetings for the review process.

## **STATUTORY ENVIRONMENT**

### **Local Government Act 1995**

#### **5.38. Annual review of employees' performances**

- (1) *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) or (2) must be conducted at least once in relation to each year of the person's employment. The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.*

#### **5.39. Contracts for CEO and senior employees**

- (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.*

**5.39A Model standards for CEO recruitment, performance and termination**

- (1) Regulations must prescribe model standards for local governments in relation to the following —
  - (a) the recruitment of CEOs;
  - (b) the review of the performance of CEOs;
  - (c) the termination of the employment of CEOs.
- (2) Regulations may amend the model standards.

**5.41. Functions of CEO**

*The CEO's functions are to —*

- (a) *advise the council in relation to the functions of a local government under this Act and other written laws; and*
- (b) *ensure that advice and information is available to the council so that informed decisions can be made; and*
- (c) *cause council decisions to be implemented; and*
- (d) *manage the day to day operations of the local government; and*
- (e) *liaise with the mayor or president on the local government's affairs and the performance of the local government's functions; and*
- (f) *speak on behalf of the local government if the mayor or president agrees; and*
- (g) *be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and*
- (h) *ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- (i) *perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.*

**Local Government (Administration) Regulations 1996****18.D Performance review of CEO, local government's duties**

*Performance review of CEO, local government's duties as to A local government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.*

**POLICY IMPLICATIONS**

Council appointing a consultant is in line with the *Council Policy Chief Executive Officer Performance Review*.

**FINANCIAL IMPLICATIONS**

The CEO's performance review is an annual occurrence and is budgeted in Account 142048 HRM Consultancy. All three quotes received are within budget.

**RISK**

Risk associated with non-compliance with the Local Government Act 1995.

Risk associated with non-compliance with the CEO's contract of Employment.

**STRATEGIC ASPIRATIONS**

**Performance – We will deliver excellent governance, service and value, for everyone.**

**Outcome Eleven – Effective leadership, advocacy and governance:**

11.1 Strengthen leadership, advocacy and governance capabilities.

**Outcome Fourteen – Excellence in organisational performance and service delivery:**

14.3 Monitor and continuously improve performance levels.

**Outcome Fifteen – An engaged and effective workforce that strives for service excellence:**

15.1 Support employee wellness and foster a positive workplace culture.

**VOTING REQUIREMENTS**

*Simple Majority*

**COUNCIL RESOLUTION:**

**(REPORT RECOMMENDATION)**

**Minute No. C/0622/044**

**Moved: Cr D Male**

**Seconded: Cr C Mitchell**

***That Council appoint Hammond Woodhouse Advisory to assist Council in the performance review process of the Chief Executive Officer, Mr Sam Mastrolembo, based on the evaluation report and quotations indicated in the confidential 'Chief Executive Officer Annual Performance Review' attachments.***

**CARRIED UNANIMOUSLY 5/0**

**Attachments**

1. CEO Performance Review Quote 1 (*Confidential to Councillors and Directors Only*)  
***This attachment is confidential in accordance with section 5.23(2) of the Local Government Act 1995 section 5.23(2)(c) as it contains "a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting".***
2. CEO Performance Review Quote 2 (*Confidential to Councillors and Directors Only*)  
***This attachment is confidential in accordance with section 5.23(2) of the Local Government Act 1995 section 5.23(2)(c) as it contains "a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting".***
3. CEO Performance Review Quote 3 (*Confidential to Councillors and Directors Only*)  
***This attachment is confidential in accordance with section 5.23(2) of the Local Government Act 1995 section 5.23(2)(c) as it contains "a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting".***
4. CEO Performance Review Brief Evaluation Report (*Confidential to Councillors and Directors Only*)  
***This attachment is confidential in accordance with section 5.23(2) of the Local Government Act 1995 section 5.23(2)(c) as it contains "a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting".***

***The Chief Executive Officer returned to the chambers at 4:24pm.***

**6. MEETING CLOSED TO PUBLIC**

Nil

**7. MEETING CLOSURE**

There being no further business the Chairperson declared the meeting closed at 4.25pm.