



SHIRE OF
DOWERIN
TIN DOG TERRITORY

MINUTES

Ordinary Council Meeting

Held in Council Chambers
13 Cottrell Street, Dowerin WA 6461
Tuesday 17 March 2020



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Shire of Dowerin
Ordinary Council Meeting
Tuesday 17 March 2020



1. Official Opening / Obituaries

The President welcomed those in attendance and declared the meeting open at 2.00pm.

2. Record of Attendance / Apologies / Leave of Absence

Councillors:

Cr DP Hudson	President
Cr AJ Metcalf	Deputy President
Cr JC Chatfield	
Cr LG Hagboom	
Cr LH Holberton	
Cr JC Sewell	
Cr RI Trepp	From 2.01pm
Cr BA Ward	

Staff

Ms R McCall	Chief Executive Officer
Ms C Delmage	Manager Corporate & Community Services
Mr G Brigg	Manager Works & Assets
Ms V Green	Executive & Governance Officer

Members of the Public: Mr D Maxwell, Mrs M Maxwell (until 2.01pm)

Apologies: Nil

Approved Leave of Absence: Nil

3. Public Question Time

Nil

4. Disclosure of Interest

Nil

5. Applications for Leave of Absence

Nil

6. Petitions and Presentations

A presentation was made to Mr Douglas Maxwell in acknowledgement of 23 years of service as an employee to the Shire of Dowerin, following which Council hosted an afternoon tea for Mr Maxwell.

Voting Requirements



Simple Majority



Absolute Majority

Tabled at the Meeting as Attachment 8.2A

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation/Resolution

Moved: Cr Ward

Seconded: Cr Sewell

0157

That, pursuant to Sections 5.22(2) and 3.18 of the *Local Government Act 1995*, Council receives the Minutes of the:

1. Local Emergency Management Committee Meeting (unconfirmed) held on 3 March 2020, as presented in Attachment 8.1A; and
2. Audit & Risk Committee Meeting (unconfirmed) held on 17 March 2020, as presented in Attachment 8.2A.

CARRIED 8/0

9.

Announcements by the President Without Discussion

The President advised Council:

1. Of the retirement of Councillor Ricky Storer from the Shire of Koorda as a Councillor and Shire President, including as Chair of the Wheatbelt Secondary Freight Network. It was recommended that a letter of thanks be sent to Councillor Storer;
2. He, along with the CEO, participated in a COVID-19 webinar conducted by WALGA and attended by the Hon David Templeman MLA Minister for Local Government, Hon Roger Cook MLA Minister for Health and Dr Andrew Robertson, Chief Health Officer. The webinar advised of the need to reduce social contact which is aimed at reducing the spread of the virus throughout the state thus easing the impact on the health system; and
3. The Dowerin Field Days for 2020 had been cancelled, along with ANZAC Day events due to the corona virus. There is currently a limit on events with attendees of 500 people however this may decrease further as time goes on.

10. OFFICER'S REPORTS – CORPORATE AND COMMUNITY SERVICES

10.1 Financial Activity Statements

<h1>Corporate & Community Services</h1>		 SHIRE OF DOWERIN TIN DOG TERRITORY
Date:	10 March 2020	
Location:	Not Applicable	
Responsible Officer:	Cherie Delmage, Manager Corporate & Community Services	
Author:	As above	
Legislation:	<i>Local Government Act 1995; Local Government (Financial Management) Regulations 1996</i>	
SharePoint Reference:	Organisation/Financial Management/Reporting/Financial Statements/2019-2020 Monthly Financial Statements	
Disclosure of Interest:	Nil	
Attachments:	Attachment 10.1A - Financial Activity Statements	

Purpose of Report

Executive Decision

Legislative Requirement

Summary

For Council to receive the Statement of Financial Activity, which includes the Detailed Schedules, Statement of Financial Position, Current Ratios and Investment Register for the period ending 29 February 2020.

Background

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

Regulations 34 & 35 of the *Local Government (Financial Management) Regulations 1996* set out the form and content of the financial reports, which have been prepared and are presented to Council.

Comment

In order to fulfil statutory reporting requirements, and to provide Council with a synopsis of the Shire of Dowerin's overall financial performance on a year to date basis, the following financial information is included in the Attachment.

Statements of Financial Activity – Statutory Reports by Program and Nature or Type

The Statements of Financial Activity provide details of the Shire's operating revenues and expenditures on a year to date basis. The reports further include details of non-cash adjustments and capital revenues and expenditures, to identify the Shire's net current position; which reconciles with that reflected in the associated Net Current Position note (Note 3).

Capital Acquisitions

This report provides year to date budget performance in respect of the capital expenditure activities and their funding sources. Individual project information can be found at Note 13.

Note 1 – Significant Accounting Policies

This note provides details of the accounting policies relating to the Shire's accounts.

Note 2 - Explanation of Material Variances

Council adopted (in conjunction with the Annual Budget) a material reporting variance threshold of 5% or \$10,000, whichever is the greater. This note explains the reasons for any material variances identified in the Statements of Financial Activity at the end of the reporting period.

Note 3 - Net Current Funding Position - Statutory Requirement

This note provides details of the composition of the net current asset position on a year to date basis and reconciles with the closing funding position as per the Statement of Financial Activity.

Note 4 – Cash and Investments

This note provides Council with the details of the actual amounts in the Shire's bank accounts and/or investment accounts as at reporting date.

Note 5 – Budget Amendments

This note provides Council with a list of all budget amendments to date.

In accordance with Regulation 33A of the *Local Government (Financial Management) Regulations 1996*, Council reviewed the 2019/20 Budget at its February 2020 meeting and adopted the recommended amendments (CMRef 0138).

The review was extensive and comprehensive with the impact being that the 2019/20 Budget has an anticipated carried forward balance of Nil.

Note 6 – Receivables

This note provides Council with the sundry debtors outstanding as at reporting date.

Note 7 - Cash Backed Reserves

This note provides summary details of transfers to and from reserve funds, and associated interest earnings on reserve funds, on a year to date basis.

Note 8 – Capital Disposals

This note gives details of the capital asset disposals during the year.

Note 9- Rating Information

This note provides details of rates levied during the year.

Note 10 – Information on Borrowings

This note shows the Shire's current debt position and lists all borrowings.

Note 11 – Grants and Contributions Received

This note provides information on the operating and non-operating grants received.

Note 12 – Trust Funds

This note shows the balance of funds held by the Shire in its Trust Fund on behalf of another person/entity.

Note 13- Capital Acquisitions

This note details the capital expenditure program for the year.

Consultation

Rebecca McCall, Chief Executive Officer

Megan Shirt, Consultant

Cherie Delmage, Manager Corporate & Community Services

Policy Implications

The Shire of Dowerin has a comprehensive suite of financial management policies. Finances have been managed in accordance with these policies.

Strategic Implications

Strategic Community Plan

Community Priority: Our Leaders

Objective: A thriving and progressive rural community enabled by innovation in leadership, a focus on continuous improvement and adaptability to evolving community needs

Outcome: 2 & 3

Reference: L3, L4 & L5

Asset Management Plan

Nil

Long Term Financial Plan

Nil

Statutory Implications

Council is required to adopt monthly statements of financial activity to comply with Regulation 34(1) of the *Local Government (Financial Management) Regulations 1996*.

Risk Implications

Timely preparation of the monthly financial statements within statutory guidelines is vital to good financial management. Failure to submit compliant reports within statutory time limits will lead to non-compliance with the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996*.

Financial Implications

Nil

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation/Resolution

Moved: Cr Ward

Seconded: Cr Sewell

0158 That, pursuant to Regulation 34(4) of the *Local Government (Financial Management) Regulations 1996*, Council receives the statutory Financial Activity Statement report for the period ending 29 February 2020, as presented in Attachment 10.1A.

CARRIED 8/0

10.2 List of Accounts Paid

<h2>Corporate & Community Services</h2>		 SHIRE OF DOWERIN TIN DOG TERRITORY
Date:	11 March 2020	
Location:	Not Applicable	
Responsible Officer:	Cherie Delmage, Manager Corporate & Community Services	
Author:	Kathy Brigg, Accounts Finance Officer	
Legislation:	<i>Local Government Act 1995; Local Government (Financial Management) Regulations 1996</i>	
SharePoint Reference:	Organisation/Financial Management/Reporting/Financial Statements and Credit Cards	
Disclosure of Interest:	Nil	
Attachments:	Attachment 10.2A - List of Accounts Paid	

Purpose of Report



Executive Decision



Legislative Requirement

Summary

This Item presents the List of Accounts Paid, paid under delegated authority, for February 2020.

Background

Nil

Comment

The List of Accounts Paid as presented has been reviewed by the M CCS.

Consultation

Rebecca McCall, CEO

Cherie Delmage, M CCS

Kathy Brigg, Finance Officer

Policy Implications

The Shire of Dowerin has a comprehensive suite of financial management policies. Finances have been managed in accordance with these policies. Payments have been made under delegated authority.

Strategic Implications

Strategic Community Plan

Community Priority: Our Leaders

Objective: A thriving and progressive rural community enabled by innovation in leadership, a focus on continuous improvement and adaptability to evolving community needs

Outcome: 2 & 3

Reference: L3, L4 & L5

Asset Management Plan

Nil

Long Term Financial Plan

Nil

Statutory Implications

Regulation 12 & 13 of the *Local Government (Financial Management) Regulations 1996* requires that a separate list be prepared each month for adoption by Council showing creditors paid under delegated authority.

Risk Implications

Council would be contravening to the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996* if this item was not presented.

Financial Implications

Funds expended are in accordance with Council's adopted 2019/20 Budget.

Voting Requirements

Simple Majority

Absolute Majority

Officer's Recommendation/Resolution

Moved: Cr Metcalf

Seconded: Cr Trepp

0159 That, in accordance with Regulation 12 & 13 of the *Local Government (Financial Management) Regulations 1996*, Council receives the report from the Chief Executive Officer on the exercise of delegated authority in relation to creditor payments from the Shire of Dowerin Municipal Fund, as presented in Attachment 10.2A, and as detailed below:

List of Accounts Paid - February 2020	
EFT7450 To EFT7485	\$49,303.12
DD10871, DD10829 to DD10881; Superannuation	\$12,518.66
Cheque 10776 to 10779 (10776 Cancelled)	\$32,867.41
DD130862; Bank Fees	\$223.98
DD10871; NAB Credit Card; February 2020	\$3,307.08
DD10876; Puma Energy Fuel; February 2020	\$1,818.74
Net Payroll; PPE 05 February 2020	\$49,733.25
Net Payroll; PPE 19 February 2020	\$58,137.19
EFT7450 To EFT7485	\$49,303.12
TOTAL	\$207,909.43

CARRIED 8/0

10.3 Recalcitrant Rates Debtors

Corporate & Community Services



Date:	3 March 2020
Location:	Nil
Responsible Officer:	Cherie Delmage, Manager Corporate & Community Services
Author:	Louise Sequerah, Acting Rates Officer
Legislation:	<i>Local Government Act 1995; Local Government (Financial Management) Regulations 1996</i>
SharePoint Reference:	Organisation/Rates and Evaluations/Reporting/2019 Recalcitrant Rates Debtors
Disclosure of Interest:	Nil
Attachments:	Attachment 10.3A - Recalcitrant Rates Debtors Report

Purpose of Report



Executive Decision



Legislative Requirement

Summary

This month's recalcitrant rates debtors report details non-pensioner assessments, not paying on an arrangement with a previous year's balance of more than \$100.

Background

It is best practice for Council to have less than 4% of the rates levied outstanding at the end of the financial year.

Comment

Due to the low value of the properties and likelihood of the properties not selling at auction, a review of further legal action is currently being taken.

In most instances a further \$5,000 to \$7,000 will be required to have the property transferred to the Shire. Once transferred, any outstanding rates and charges will need to be written off.

As Council will have no use for these properties, the effectiveness of this process does not warrant the cost.

These assessments are currently under review to ascertain what other actions can be taken to recover the outstanding rates and charges.

Consultation

Louise Sequerah, Acting Rates Officer

Cherie Delmage, Manager Corporate & Community Services

Lauren Marsh, Senior Account Manager - AMPAC Debt Recovery

The above Officers have had ongoing consultation as to the process and Council's policy in relation to the recovery of outstanding rates and charges.

Policy Implications

Nil

Strategic Implications

Strategic Community Plan

Community Priority: Our Leaders

Objective: A thriving and progressive rural community enabled by innovation in leadership, a focus on continuous improvement and adaptability to evolving community needs

Outcome: 2 & 3

Reference: L3, L4 & L5

Asset Management Plan

Nil

Long Term Financial Plan

Nil

Statutory Implications

Local Government Act 1995

Risk Implications

By actioning debt recovery, Council minimises the risk of future defaults and loss of income for the Shire. Associated costs are charged to the ratepayer's account.

Local governments have the power to have property re-vested if the debt remains unpaid for 3 years.

A review of the cost of recovery is currently being taken to provide Council with the most cost-effective outcome.

Financial Implications

It is estimated that \$72,570.56 of the outstanding balance will be considered bad debt and will be unrecoverable.

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation/Resolution

Moved: Cr Chatfield

Seconded: Cr Holberton

0160 That Council receives the report of Recalcitrant Rates Debtors, as presented in Attachment 10.3A.

CARRIED 8/0

10.4 Assessment A229 – Request to be Declared Exempt from Rates

Corporate & Community Services



Date:	15 February 2020
Location:	Lot 58 on Plan 139045, known as Lot 58 Dowall Street, Minnivale WA 6462
Responsible Officer:	Cherie Delmage, Manager Corporate & Community Services
Author:	Louise Sequerah, Acting Rates Officer; Vanessa Green, Executive & Governance Officer
Legislation:	<i>Local Government Act 1995</i>
SharePoint Reference:	Organisation/Rates & Valuations/Exemptions/A229
Disclosure of Interest:	Nil
Attachments:	Nil

Purpose of Report

Executive Decision

Legislative Requirement

Summary

This Item presents a proposal to Council to request the land associated with Assessment A229 as being exempt from rates.

Background

As part of a review of rates assessments it was observed that Assessment A229, being Lot 58 on Plan 139045, known as Lot 58 Dowall Street, Minnivale WA 6462, was not being charged rates and services.

A Gross Rental Valuation of \$165 has been applied by Landgate indicating that the property should be charged the minimum levy. No records exist to indicate an exemption on rates and charges has been sought. However, in 2013 rates and charges were written off with a comment "Bankrupt or Write-off Rates". No rates and charges have been raised since.

A Title Search identified the property being in the name of Mr John Patrick O'Loghlen.

The Water Corporation were contacted and advised it last rated Assessment A229 in 2006 but cancelled the account in 2012. The Water Corporation identify the owner as Mr John Patrick O'Loghlen, with the postal address being listed as Debt Collection C/- Water Corporation.

In May 2019 a Skip Trace was performed on the owners of the assessment.

Mr John Patrick O'Loghlen died in 1980. He was married to Mrs Dorothy Anne O'Loghlen (nee Cottrell) however she passed away in 2001. Their children Esther, Margaret, Joseph and Gertrude Veronica O'Loghlen are all also deceased.

Comment

As the owners and their direct descendants are all deceased, staff believe this will be sufficient grounds under Section 6.26 of the *Local Government Act 1995* to seek a rating exemption for Assessment A229 from the Minister of Local Government.

Consultation

Louise Sequerah, Acting Rates Officer
Cherie Delmage, Manager Corporate & Community Services
Marina Sucur, LG Hotline, Department of Local Government

Policy Implications

Nil

Strategic Implications

Strategic Community Plan

Community Priority: Our Leaders

Objective: A thriving and progressive rural community enabled by innovation in leadership, a focus on continuous improvement and adaptability to evolving community needs

Outcome: 2 & 3

Reference: L3, L4 & L5

Asset Management Plan

Nil

Long Term Financial Plan

Nil

Statutory Implications

Section 6.26 of the *Local Government Act 1995* is applicable and states:

"6.26. Rateable land

- (1) *Except as provided in this section all land within a district is rateable land.*
 - (2) *The following land is not rateable land –*
 - (a) *land which is the property of the Crown and –*
 - (i) *is being used or held for a public purpose; or*
 - (ii) *is unoccupied, except –*
 - (I) *where any person is, under paragraph (e) of the definition of owner in section 1.4, the owner of the land other than by reason of that person being the holder of a prospecting licence held under the Mining Act 1978 in respect of land the area of which does not exceed 10 ha or a miscellaneous licence held under that Act; or*
 - (II) *where and to the extent and manner in which a person mentioned in paragraph (f) of the definition of owner in section 1.4 occupies or makes use of the land;*
- and*
- (b) *land in the district of a local government while it is owned by the local government and is used for the purposes of that local government other than for purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the local government; and*
 - (c) *land in a district while it is owned by a regional local government and is used for the purposes of that regional local government other than for the purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the regional local government; and*

- (d) *land used or held exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious brotherhood or sisterhood; and*
 - (e) *land used exclusively by a religious body as a school for the religious instruction of children; and*
 - (f) *land used exclusively as a non-government school within the meaning of the School Education Act 1999; and*
 - (g) *land used exclusively for charitable purposes; and*
 - (h) *land vested in trustees for agricultural or horticultural show purposes; and*
 - (i) *land owned by Co-operative Bulk Handling Limited or leased from the Crown or a statutory authority (within the meaning of that term in the Financial Management Act 2006) by that co-operative and used solely for the storage of grain where that co-operative has agreed in writing to make a contribution to the local government; and*
 - (j) *land which is exempt from rates under any other written law; and*
 - (k) *land which is declared by the Minister to be exempt from rates.*
- (3) *If Co-operative Bulk Handling Limited and the relevant local government cannot reach an agreement under subsection (2)(i) either that co-operative or the local government may refer the matter to the Minister for determination of the terms of the agreement and the decision of the Minister is final.*
- (4) *The Minister may from time to time, under subsection (2)(k), declare that any land or part of any land is exempt from rates and by subsequent declaration cancel or vary the declaration.*
- (5) *Notice of any declaration made under subsection (4) is to be published in the Gazette.*
- (6) *Land does not cease to be used exclusively for a purpose mentioned in subsection (2) merely because it is used occasionally for another purpose which is of a charitable, benevolent, religious or public nature.”*

This Item seeks to have the land associated with Assessment A229 declared exempt under Section 6.26(2)(k).

Section 6.12 of the Local Government Act 1995 is also applicable and states:

“6.12. Power to defer, grant discounts, waive or write off debts

- (1) *Subject to subsection (2) and any other written law, a local government may —*
 - (a) *when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or*
 - (b) *waive or grant concessions in relation to any amount of money; or*
 - (c) *write off any amount of money,*

which is owed to the local government.

** Absolute majority required.*

- (2) *Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.*
- (3) *The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.*
- (4) *Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.”*

This item seeks to write off the outstanding balance on Assessment A229 under Section 6.12(1)(c). An Absolute Majority resolution of Council is required.

Risk Implications

By formalising the exempt status of Assessment A229 Council reduces the risk of acting in contradiction to the *Local Government Act 1995*.

Financial Implications

If Council endorses the Officer's Recommendation to write off the outstanding balance of \$277.62 against Assessment A229, this will result in a reduction of revenue relating to the skip trace searches, ESL and overdue interest for 2019/20.

Advertising in the Government Gazette will be required at a cost of approximately \$500 with the cost allocated to GL: 20114 RATES; Debt Collection Expenses.

Voting Requirements

Simple Majority

Absolute Majority

Officer's Recommendation/Resolution

Moved: Cr Trepp

Seconded: Cr Sewell

0161 That, in accordance with Sections 6.12 and 6.26 of the *Local Government Act 1995*, Council:

1. Requests the Chief Executive Officer to seek the approval of the Minister for Local Government to have Assessment A229, being Lot 58 on Plan 139045 (Lot 58 Dowall Street, Minnivale WA 6462), declared exempt from rates; and
2. Approves the write off in the amount of \$277.64 which is outstanding on Assessment A229 against GL: 20118 RATES; Rates Write Off.

CARRIED BY ABSOLUTE MAJORITY 8/0

10.5 Debt Recovery - Request to Write-off Unrecoverable Debts

Corporate & Community Services



Date:	14 February 2020
Location:	Not applicable
Responsible Officer:	Cherie Delmage, Manager Corporate & Community Services
Author:	As above
Legislation:	<i>Local Government Act 1995</i>
SharePoint Reference:	Nil
Disclosure of Interest:	Nil
Attachments:	Nil

Purpose of Report

Executive Decision

Legislative Requirement

Summary

The Item seeks approval from Council to write-off an outstanding sundry debtor that is considered unrecoverable.

Background

At the time of budget preparation each year, the consideration of unrecoverable debts is to be considered and a reasonable amount included in the budget as a provision for doubtful debts. This amount must be supported by the details of which debts are considered doubtful and why.

Bad debts can only be written off in accordance with Section 6.12 of the *Local Government Act 1995*.

As per Council procedure, all sundry debtors with a value over \$200 must receive Council approval to be written off. Council's Debt Collection Procedure outlines as follows:

'Recommendations for the write-off of a bad debt will be made to the CEO following discussion with the MCCS and confirmation that a full and appropriate debt recovery process has occurred along with the cost benefit analysis of undertaking further debt collection. Prior to any debt being written off, finance staff must provide evidence that all debt recovery procedures have been followed and that there is little to no likelihood of the debt being recovered. The CEO has delegated authority to write off any sundry debtor bad debt to the amount of \$200.

Any outstanding debts over the amount of \$200 considered unrecoverable will be referred to Council for a decision.'

Delegation 2.4 - Write-Off of Money Owing delegates authority to the CEO to write off debts (excluding rates and service charges) up to a value of \$500. This Delegation is provided under Section 6.12(1)(b)&(c), in conjunction with Section 5.42, of the *Local Government Act 1995*, noting the limits on delegations provided in Section 5.43.

The outstanding invoice was raised on 8 November 2018 in the amount of \$5,830.50. The charges are for 'water drawn from the valve at the intersection of Turriff and Rabbit Proof Fence Roads'.

Standard debt recovery procedures such as reminder invoices, final notices and follow up phone calls were undertaken.

On 11 January 2019, the company trading as 'Coalcliff Pty Ltd' was placed into liquidation and as such, there is no recourse to recover this debt.

Comment

In this instance, it is not considered viable to undertake any further attempt at debt recovery as additional costs will be incurred by the Shire without the possibility of recovery.

Consultation

Samantha Williams, Finance Officer

Cherie Delmage, Manager Corporate & Community Services

Rebecca McCall, Chief Executive Officer

Policy Implications

Nil

Strategic Implications

Strategic Community Plan

Community Priority: Our Leaders

Objective: A thriving and progressive rural community enabled by innovation in leadership, a focus on continuous improvement and adaptability to evolving community needs

Outcome: 2 & 3

Reference: L3, L4 & L5

Asset Management Plan

Nil

Long Term Financial Plan

Nil

Statutory Implications

Section 6.12 of the Local Government Act 1995 is also applicable and states:

"6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may –
 - (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or*
 - (b) waive or grant concessions in relation to any amount of money; or*
 - (c) write off any amount of money,*which is owed to the local government.*

** Absolute majority required.*

- (2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.*
- (3) The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.*
- (4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power."*

This item seeks to write off the outstanding balance under Section 6.12(1)(c). An Absolute Majority resolution of Council is required.

Risk Implications

Nil

Financial Implications

At budget preparation time each year, calculations regarding the likelihood of any unrecoverable debts is to be determined and a provision made in the annual budget. At the time of preparing the 2019/20 Budget, the provision of \$2,915.25 was considered sufficient as staff were unaware that Coalcliff would be placed into liquidation.

The expense of \$5,830.50 will offset by GL: 93013 Provision for Doubtful Debts and revenue will be reduced by the same amount.

Whilst all attempts to recover debts is made and the write-off of debt is considered to be an action of last resort, once it has been determined that the debt is unable to be recovered, it is good financial practice to undertake the required steps to ensure Council's financial reporting is as accurate and relevant as possible.

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation/Resolution

Moved: Cr Metcalf

Seconded: Cr Ward

0162

That, pursuant to Section 6.12 of the *Local Government Act 1995*, Council:

1. Writes off the amount of \$5,830.30 being for Debtor C71 as the debtor is now in liquidation and the debt is considered unrecoverable; and
2. Allocates the amount of \$5,830.50 against GL: 93013 Provision for Doubtful Debts.

CARRIED BY ABSOLUTE MAJORITY 8/0

11. OFFICER'S REPORTS – GOVERNANCE AND COMPLIANCE

11.1 2019 Compliance Audit Return

<h2>Governance & Compliance</h2>		 SHIRE OF DOWERIN TIN DOG TERRITORY
Date:	24 February 2020	
Location:	Not Applicable	
Responsible Officer:	Rebecca McCall, Chief Executive Officer	
Author:	Vanessa Green, Executive & Governance Officer	
Legislation:	<i>Local Government Act 1995; Local Government (Audit) Regulations 1996</i>	
Sharepoint Reference:	Organisation/Governance/Committees/2020 March Audit & Risk Committee Meeting Organisation/Corporate Management/Reporting/2019 Compliance Audit Return	
Disclosure of Interest:	Nil	
Attachments:	Attachment 11.1A – 2019 Compliance Audit Return	

Purpose of Report



Executive Decision



Legislative Requirement

Summary

This Item presents the 2019 Compliance Audit Return (CAR) to Council for consideration and, if satisfactory, adoption.

Background

Each year every local government is required to carry out a compliance audit in relation to the period 1 January to 31 December against the requirements of the CAR.

After the CAR has been reviewed by the Audit & Risk Committee and presented to Council, a copy certified by the President and CEO along with the relevant section of the minutes and any additional information explaining or qualifying the CAR, is to be submitted to the Department of Local Government, Sport and Cultural Industries (DLGSC) by 31 March.

The CAR for the period 1 January 2019 to 31 December 2019 has been completed and is included as an Attachment.

Comment

The CAR is one of the tools available to the Audit & Risk Committee and Council in its governance monitoring role. The CAR also forms part of the DLGSC's monitoring program. The 2019 CAR once again places emphasis on the need for the Audit & Risk Committee and Council to be aware of and acknowledge instances of non-compliance or where full compliance was not achieved. In addition, the CAR requires Council to endorse details of remedial action either taken or proposed to be taken to prevent future like occurrences.

The 2019 CAR contains questions relating to:

1. Commercial Enterprises by Local Governments (5 questions);
2. Delegation of Power/Duty (13 questions);
3. Disclosure of Interest (19 questions);
4. Disposal of Property (2 questions);
5. Elections (Gift Register) (2 questions);
6. Finance (14 questions);
7. Integrated, Planning and Reporting (7 questions);
8. Local Government Employees (5 questions);
9. Optional Questions (4 questions); and
10. Tenders for Providing Goods and Services (27 questions).

The 2019 CAR has been completed in-house and identified three areas of non-compliance. These areas, and the remedial action taken to ensure they do not occur again, are detailed in the following table:

Category	Question	Response	Comment	Remedial Action
Local Government Employees	Were all vacancies for the position of CEO and other designated senior employees advertised and did the advertising comply with s.5.36(4), 5.37(3) and Admin Reg 18A?	No	Manager Corporate & Community Services position advertised 16 March 2019 in West Australian, on Seek & LG Assist, however the advertisement did not comply with Reg18A(2)(d) as it did not contain the duration of the proposed contract	The template for advertising senior employee positions has been amended to include a provision of the duration of the proposed contract
Tenders for Goods & Services	Did the information recorded in the local government's tender register about panels of pre-qualified suppliers, comply with the requirements of F&G Reg 24AG?	No	Amount of consideration for each received tender as required by Reg24AG(2) was not included	The tender register template has been amended to include a provision for the consideration of each tender received
Disclosure of Interest	Were disclosures under section 5.65 or 5.70 recorded in the minutes of the meeting at which the disclosure was made?	No	CEO Performance Appraisal Item to November 2019 Meeting, the CEO made a disclosure of direct Financial Interest by completing the relevant declaration form and reporting the interest in the report presented to Council however the minute secretary did not include this disclosure in the Minutes	This is a case of unintentional human error. The minute secretary is well aware of the legislated disclosure requirements and will double check all minutes to ensure all disclosures are recorded accurately

The 2019 CAR included 104 questions. Of these, 101 were able to be answered on the basis of complying with the legislative requirements resulting in a 97% success rate. This compares with 94.7% compliance in 2018 over 95 questions and 98.9% over 94 questions in 2017.

The 2019 CAR demonstrates the Shire's ongoing commitment to statutory compliance and adequate response to non-compliance throughout the organisation.

It should be noted that the Audit & Risk Committee are to consider the 2019 Compliance Audit Return at its meeting scheduled for 10.30am on Tuesday 17 March 2020. If the Committee

resolves differently to the Officer's Recommendation it will be tabled at the Council Meeting. The final determination will be reflected as a Committee & Council Resolution in the Minutes.

Consultation

Audit & Risk Committee 17 March 2020

Senior Management Group

Policy Implications

Nil

Strategic Implications

Strategic Community Plan

Community Priority: Our Leaders

Objective: A thriving and progressive rural community enabled by innovation in leadership, a focus on continuous improvement and adaptability to evolving community needs

Outcome: 2 & 3

Reference: L3, L4 & L5

Asset Management Plan

Nil

Long Term Financial Plan

Nil

Statutory Implications

Section 7.13(1)(i) of the *Local Government Act 1995* requires local governments to carry out a compliance audit in a manner specified by Regulation.

Regulation 14 of the *Local Government (Audit) Regulations 1996* is applicable and states:

"14. Compliance audits by local governments

- (1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.*
- (2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.*
- (3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.*
- (3) After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be –*
 - (a) presented to the council at a meeting of the council; and*
 - (b) adopted by the council; and*
 - (c) recorded in the minutes of the meeting at which it is adopted."*

Regulation 15 of the *Local Government (Audit) Regulations 1996* requires a certified copy of the CAR to be provided to the DLGSC by 31 March:

"15. Certified copy of compliance audit return and other documents to be given to Departmental CEO

- (1) After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with –*
 - (a) a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and*

(b) any additional information explaining or qualifying the compliance audit, is to be submitted to the Departmental CEO by 31 March next following the period to which the return relates.

(2) In this regulation –

certified in relation to a compliance audit return means signed by –

(a) the mayor or president; and

(b) the CEO.”

Risk Implications

The Audit & Risk Committee would be contravening the *Local Government Act 1995* and the *Local Government (Audit) Regulations 1996* if this item was not considered.

The CAR covers a robust area of risk assessment and compliance with auditing in compliance with the *Local Government Act 1995* and associated Regulations. The objective of the CAR is to identify risks to the organisation where non-compliant activities may have taken place enabling processes and procedures to be developed or reviewed and amended, if required.

Financial Implications

Nil

Audit & Risk Committee Meeting Comment

The Committee raised a number of queries in relation to the CAR, specifically:

Query	Response/Comment
Disposal of Property - whether this related to the disposal of Shire residences	Yes, the disposal involved the sale of four properties
Gathering of evidence to support the answers provided in the CAR	Although the CAR was conducted in house the CEO advised the Committee that it was not just a box ticking exercise and that staff were required to produce evidence of compliance against each question. It was also noted that the staff member responsible for completing the CAR had not been an employee for part of the reporting period
Tenders for Providing Goods & Services - Question 2	It was suggested this be changed to N/A rather than Yes, as the Shire had not entered into multiple contracts

Officer's Recommendation to Audit & Risk Committee

That, in accordance with Regulations 14 and 15 of the *Local Government (Audit) Regulations 1996*, the Audit & Risk Committee:

1. Receives the 2019 Compliance Audit Return, as presented in Attachment 7.1A, noting the remedial action taken to address the three areas of non-compliance; and
2. Recommends to Council that it adopts the 2019 Compliance Audit Return and submits it to the Department of Local Government, Sport & Cultural Industries prior to 31 March 2020.

Audit & Risk Committee Resolution

Moved: Mr Whiteaker

Seconded: Cr Ward

0151 That, in accordance with Regulations 14 and 15 of the *Local Government (Audit) Regulations 1996*, the Audit & Risk Committee:

1. Receives the 2019 Compliance Audit Return, as presented in Attachment 7.1A (and as amended), noting the remedial action taken to address the three areas of non-compliance; and
2. Recommends to Council that it adopts the amended 2019 Compliance Audit Return and submits it to the Department of Local Government, Sport & Cultural Industries prior to 31 March 2020.

CARRIED BY ABSOLUTE MAJORITY 4/0

Reason

The CAR, as presented to the Committee, would be amended at Tenders for Providing Goods & Services Question 2 from Yes to N/A.

Officer's Comment

As a result of the Audit & Risk Committee resolution amending the CAR as presented to it, the amendment was made and Attachment 11.1A replaced with the amended CAR which was presented to Council at the meeting.

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation/Resolution

Moved: Cr Metcalf

Seconded: Cr Trepp

0163

That, in accordance with Regulations 14 and 15 of the *Local Government (Audit) Regulations 1996*, Council:

1. Adopts the 2019 Compliance Audit Return, as presented in Attachment 11.1A, noting the remedial action taken to address the three areas of non-compliance; and
2. Authorises the President and Chief Executive Officer to sign the certification of the 2019 Compliance Audit Return and submit a copy of the 2019 Compliance Audit Return to the Department of Local Government, Sport and Cultural Industries by 31 March 2020.

CARRIED BY ABSOLUTE MAJORITY 8/0

11.2 Business Continuity Plan

Governance & Compliance



Date:	4 March 2020
Location:	Not Applicable
Responsible Officer:	Rebecca McCall, Chief Executive Officer
Author:	Vanessa Green, Executive & Governance Officer
Legislation:	<i>Local Government Act 1995; Local Government (Audit) Regulations 1996</i>
Sharepoint Reference:	Organisation/Financial Management/Internal Audit Systems & Controls/Business Continuity Plan
Disclosure of Interest:	Nil
Attachments:	Attachment 11.2A - Business Continuity Plan

Purpose of Report



Executive Decision



Legislative Requirement

Summary

This Item presents the Business Continuity Plan (BCP) to Council for consideration and, if satisfactory, adoption.

Background

The Shire of Dowerin's Risk Management Governance Framework forms the policies and procedures to ensure the commitment and objectives regarding managing uncertainty that may impact the Shire's strategies, goals and objectives. The framework includes a risk profiling tool identifying issues, actions, controls and treatments. Business disruption is identified as a risk profile:

Key Control:	Business & Community Disruption
Control Type:	Adequate
Action:	Finalise Draft Business Continuity Plan

Comment

The Shire of Dowerin BCP is aimed at ensuring the continuity of business operations, with minimal disruption, in the event of a disaster. Without such a plan the Shire may struggle to manage such as event amidst the confusion that often follows a disaster.

The BCP will provide a structured approach to business continuity and disaster recovery planning. Through the provision of preventative measures and recovery procedures, the impact of any potential disaster may be significantly reduced.

It should be noted that the Audit & Risk Committee are to consider the Business Continuity Plan at its meeting scheduled for 10.30am on Tuesday 17 March 2020. If the Committee resolves

differently to the Officer's Recommendation it will be tabled at the Council Meeting. The final determination will be reflected as a Committee & Council Resolution in the Minutes.

Consultation

Audit & Risk Committee 17 March 2020

Senior Management Group

Policy Implications

Policy 2.2 – Risk Management Policy

Strategic Implications

Strategic Community Plan

Community Priority: Our Leaders

Objective: A thriving and progressive rural community enabled by innovation in leadership, a focus on continuous improvement and adaptability to evolving community needs

Outcome: 2 & 3

Reference: L3, L4 & L5

Asset Management Plan

Nil

Long Term Financial Plan

Nil

Statutory Implications

Regulation 17 of the *Local Government (Audit) Regulations 1996* requires the CEO to review the appropriateness and effectiveness of a local government's systems and procedures in relation to risk management, internal control and legislative compliance.

The BCP is an informing plan to these systems and procedures.

Risk Implications

The BCP provides a structured approach to business continuity and disaster recovery. Through the provision of preventative measures and recovery procedures, the impact of any potential disaster may be significantly reduced.

Financial Implications

There were no financial implications for this process as the BCP has been developed in-house. The actions included in the BCP will have financial implications to Council, however these are unknown and will depend on the scenario in which the BCP is to be put into effect.

Audit & Risk Committee Resolution

Moved: Mr Whiteaker

Seconded: Cr Trepp

0152 That, in accordance with Regulation 17 of the *Local Government (Audit) Regulations 1996*, the Audit & Risk Committee:

1. Receives the Business Continuity Plan, as presented in Attachment 7.2A; and
2. Recommends to Council that it adopts the Business Continuity Plan.

CARRIED 4/0

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation/Resolution

Moved: Cr Ward

Seconded: Cr Holberton

0164 That, in accordance with Regulation 17 of the *Local Government (Audit) Regulations 1996*, Council adopts the Business Continuity Plan, as presented in Attachment 11.2A.

CARRIED 8/0

11.3 Risk Dashboard Quarterly Report – March 2020

Governance & Compliance



Date:	5 March 2020
Location:	Not Applicable
Responsible Officer:	Rebecca McCall, CEO
Author:	As Above
Legislation:	<i>Local Government Act 1995</i>
Sharepoint Reference:	Compliance/Risk Management/Reporting
Disclosure of Interest:	Nil
Attachments:	Attachment 11.3A - Risk Dashboard Quarterly Report – March 2020

Purpose of Report



Executive Decision



Legislative Requirement

Summary

This Item presents the Risk Dashboard Quarterly Review to Council for consideration and, if satisfactory, adoption.

Background

The Shire of Dowerin's Risk Management Policy, in conjunction with the Risk Management Framework, sets out the Shire's approach to the identification, assessment, management and monitoring of risks.

Appropriate governance of risk management within the Shire provides:

1. Transparency of decision making;
2. Clear identification of the roles and responsibilities of the risk management functions; and
3. An effective governance structure to support the Risk Management Framework.

The Audit & Risk Committee and Council has a role to play and its responsibilities include:

1. Regular review of the appropriate and effectiveness of the Risk Management Framework;
2. Support Council to provide effective corporate governance;
3. Oversight of all matters that relate to the conduct of external audits; and
4. Must be independent, objective and autonomous in deliberations.

It is essential to monitor and review the management of risks as changing circumstances may result in some risks increasing or decreasing in significance. By regularly reviewing the effectiveness and efficiency of controls and appropriateness of treatment/action options selected, it can be determined if the organisation's resources are being put to the best use possible. During the quarterly reporting process, management are required to review any risks within their area and follow up controls and treatments/actions that are mitigating those risks.

Comment

The reviewed Risk Dashboard is included as an Attachment for Council's perusal and comment. Recommendations provided through the independent audit of the financial management systems and supporting report to the Regulation 17 report is included in the profile themes outlining actions and due date.

It should be noted that the Audit & Risk Committee are to consider the Risk Dashboard at its meeting scheduled for 10.30am on Tuesday 17 March 2020. If the Committee resolves differently to the Officer's Recommendation it will be tabled at the Council Meeting. The final determination will be reflected as a Committee & Council Resolution in the Minutes.

Consultation

Audit & Risk Committee 17 March 2020

Michael Sparks, Senior Risk Consultant - Risk and Governance Services, LGIS

Rebecca McCall, Chief Executive Officer

Cherie Delmage, Manager Corporate & Community Services

Vanessa Green, Executive & Governance Officer

Policy Implications

Policy 2.2 - Risk Management Policy is applicable.

Strategic Implications

Strategic Community Plan

Community Priority: Our Leaders

Objective: A thriving and progressive rural community enabled by innovation in leadership, a focus on continuous improvement and adaptability to evolving community needs

Outcome: 3

Reference: L5

Asset Management Plan

Identified key controls and actions associated with asset management are factored into the Asset Management Plan.

Long Term Financial Plan

Identified key controls and actions associated with financial management are factored into the Long Term Financial Plan.

Statutory Implications

The *Local Government Act 1995* and Regulations 16 and 17 of the *Local Government (Audit) Regulations* is applicable.

Risk Implications

The Shire of Dowerin has adopted a 'Three Lines of Defence' model for the management of risk. This model ensures roles, responsibilities and accountabilities for decision making are structured to demonstrate effective governance and assurance. By operating within the approved risk appetite and framework, Council, management and the community will have assurance that risks are managed effectively to support the delivery of the strategic, corporate and operational plans.

11.4 Integrated Planning and Reporting - Corporate Business Plan - Quarterly Monitoring Review - February 2020

Governance & Compliance



Date:	5 March 2020
Location:	Not Applicable
Responsible Officer:	Rebecca McCall, CEO
Author:	As Above
Legislation:	<i>Local Government Act 1995</i>
SharePoint Reference:	Corporate Management/Reporting/Integrated Planning & Reporting Quarterly Monitoring Review
Disclosure of Interest:	Nil
Attachments:	Attachment 11.4A - Corporate Business Plan - Quarterly Monitoring Review - February 2020

Purpose of Report



Executive Decision



Legislative Requirement

Summary

This Item presents the Integrated Planning & Reporting (IPR) Corporate Business Plan Quarterly Monitoring Review for February 2020 to Council for consideration and, if satisfactory, adoption.

Background

In 2013 the Shire of Dowerin prepared three components of its first suite of plans to meet the requirements of Western Australia's IPR framework.

Council has the responsibility to make strategic decisions, set policy and direction, provide oversight, and monitoring to ensure the adopted plans are achieved on behalf of its community. The CEO and the Administration's IPR responsibilities are to support Council through:

1. The design of the planning and monitoring processes;
2. Providing Council with the best available information to make decisions;
3. Following through to implement plans with the allocated resources; and
4. Tracking performance and reporting progress to Council.

The IPR planning and monitoring cycle is continuous. The planning cycle requires all local governments to undertake a major strategic review every four years. This meant the Shire of Dowerin's first Strategic Review was undertaken in 2017/18. Council's IPR Suite of Plans includes:

Name of Plan	Month Adopted
Reviewed Strategic Community Plan	Adopted March 2018
Asset Management Plan	Adopted May 2018

Long Term Financial Plan	Adopted May 2018
Reviewed Corporate Business Plan	Adopted March 2019
Reviewed Workforce Plan	Adopted May 2019

Comment

With the implementation of the IPR Suite of Plans, monitoring is undertaken through the IPR Framework Process Plan outlining Dowerin's Baseline Report to include:

1. Theme;
2. Objective;
3. Outcome;
4. Strategy; and
5. Key Actions.

The Corporate Business Plan Quarterly Monitoring Review - February 2020 is presented to Council for its perusal.

Consultation

Nil

Policy Implications

Nil

Statutory Implications

Section 5.56(1) of the *Local Government Act 1995* requires all local governments to produce plans for the future. The IPR Framework was introduced in Western Australia as part of the State Government's Local Government Reform Program.

Strategic Implications

Strategic Community Plan

Community Priority: Our Leaders

Objective: A thriving and progressive rural community enabled by innovation in leadership, a focus on continuous improvement and adaptability on involving community needs.

Outcome: 3

Reference: L6.2

Asset Management Plan

Identified strategies and key actions will impact on the Asset Management Plan. Annual reviews of the Asset Management Plan will accommodate aligned strategies and key actions.

Long Term Financial Plan

Identified strategies and key actions will impact on the Long Term Financial Plan. Annual reviews of the Long Term Financial Plan will accommodate aligned strategies and key actions.

Risk Implications

The adoption, implementation and monitoring of the IPR Suite of Plans provides a mechanism to:

1. Deliver accountable and measurable outcomes; and
2. Deliver services and manage assets that can sustain the community.

Management of systems with the rigour of process and integrity of data to accurately reflect asset management costs.

Financial Implications

There are financial implications to Council in relation to this item as the IPR Suite of Plans recognise outcomes. Identified outcomes from the IPR Suite of Plans are factored into the Council's Strategic Resource Plan 2018-2028.

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation/Resolution


Moved: Cr Ward

Seconded: Cr Trepp

0166 That, in accordance with Section 5.56(1) of the *Local Government Act 1995*, Council receives the Corporate Business Plan - Quarterly Monitoring Review - February 2020, as presented in Attachment 11.4A.

CARRIED 8/0

11.5 Local Government House Trust – Deed of Variation

<h2 style="color: red;">Governance & Compliance</h2>		 SHIRE OF DOWERIN TIN DOG TERRITORY
Date:	11 March 2020	
Location:	Not Applicable	
Responsible Officer:	Rebecca McCall, CEO	
Author:	Vanessa Green, Executive & Governance Officer	
Legislation:	<i>Income Tax Assessment Act 1936</i>	
SharePoint Reference:	Organisation/Corporate Management/Government Liaison/2020 WALGA	
Disclosure of Interest:	Nil	
Attachments:	Attachment 11.5A - Deed of Variation	

Purpose of Report



Executive Decision



Legislative Requirement

Summary

This Item presents the proposed Deed of Variation to the Trust Deed for the Local Government House Trust (the Trust) to Council for consideration and, if satisfactory, endorsement.

Background

The Trust is a unit trust created for the purpose of providing building accommodation for WALGA. The Trust's Board of Management is seeking a variation to the Trust Deed in order to assist the Trust's income tax exempt status. As stipulated by the Trust Deed, the Trust requires consent of at least 75% of all beneficiaries in order to execute the Deed of Variation. The Shire of Dowerin is a unit holder and beneficiary to the Trust and as a beneficiary, is requested to consent to the proposed Deed of Variation by a resolution of Council.

Since January 2014, the Trust has provided WALGA with accommodation at 170 Railway Parade, West Leederville.

The current Trust Deed commenced in 1993 and was amended in 2002 to reflect the merger of the metropolitan and country associations into WALGA. The Trust Deed has a vesting date of 79 years from commencement, which means that the Trust ends in 2072. The current Trust Deed pronounces WALGA as Trustee and unit holders as Beneficiaries, with the Trustee holding property and associated monies "upon Trust" and in proportion to the units provided.

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

Comment

The Chief Executive Officer of WALGA, Mr Nick Sloan, has provided the following advice in relation to the proposed variation to the Trust Deed:

“Trust Deed amendments set out in the Deed of Variation are based on legal advice and are intended to assist the Trust’s income tax exempt status by strengthening the position that the Trust is a State/Territory Body (STB).

Legal advice identified that the Trustee’s ability to retire and appoint a new Trustee might affect the Trust’s classification as a State or Territory Body (STB). This view, while based upon highly technical grounds, is a risk nonetheless.

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

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

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

- 1. Variation 2.1 amends clause 22.1 to point to additional clause:*

22.1 Any Trustee of the Trust may retire as Trustee of the Trust. ~~The Subject to clause 22.3, the right to appoint any new or additional trustee or trustees of the Trust is hereby vested in the retiring or continuing trustee. A corporation or incorporated association may be appointed as Trustee of the Trust.~~

- 2. Variation 2.2 inserts two new clauses:*

22.3 The retiring or continuing trustee shall only be entitled to appoint any new or additional trustee of the Trust with the consent of not less than 75% of the Beneficiaries.

22.4 The Beneficiaries may at any time by Special Resolution:

- (a) remove a Trustee from the office as Trustee of the Trust; and*
- (b) appoint such new or additional Trustee.*

- 3. Variation 2.3 insert a new clause 13A*

13A Delegation to the Board of Management

Unless the Beneficiaries otherwise direct (such direction to be given by not less than 75% of the Beneficiaries), the Trustees shall delegate all of the powers authorities and discretions contained in subclauses (a) to (x) of clause 12 to the Board of Management. The Trustees shall, at the direction of the Board of Management, do such things as may be necessary to give effect to the exercise of a power, authority or discretion by the Board of Management.

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

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

These amendments are intended to provide greater power to beneficiaries through the Board of Management. Staff have considered the proposed amendments to the Trust Deed and do not believe the variation will have any impact or pose any risk to the Shire and therefore recommended to Council that it consents to the proposed Deed of Variation, as provided as an Attachment.

Consultation

Nil

Policy Implications

Nil

Statutory Implications

Nil

Strategic Implications

Strategic Community Plan

Community Priority: Nil

Objective: Nil

Outcome: Nil

Reference: Nil

Asset Management Plan

Nil

Long Term Financial Plan

Nil

Risk Implications

Nil

Financial Implications

Nil

Voting Requirements



Simple Majority



Absolute Majority

Officer's Recommendation/Resolution

Moved: Cr Metcalf

Seconded: Cr Holberton

0167

That, in accordance with Section 3.1 of the *Local Government Act 1995*, Council consents to the Deed of Variation to the Local Government House Trust, as presented in Attachment 11.5A.

CARRIED 8/0

12. OFFICER'S REPORTS – WORKS AND ASSETS

Nil Items to report.

13.	Urgent Business Approved by the Person Presiding or by Decision
	Nil
14.	Elected Members' Motions
	Nil
15.	Matters Behind Closed Doors
	Nil
16.	Closure

There being no further business the President thanked those in attendance and declared the meeting closed at 3.12pm.