



Audit & Risk Committee

Minutes of Tuesday 16 March 2021
UNCONFIRMED

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1. Official Opening

The Presiding Member opened the meeting at 7:30pm and welcomed Councillors and Staff . The Presiding Member also acknowledged the Traditional Owners of the land on which we meet the Whadjuk Noongar people.

2. Attendance, Apologies and Leave of Absence Previously Approved

Councillors

South East Ward

John Giardina
Janelle Sewell
Geoff Stallard

South West Ward

Lesley Boyd
Mary Cannon
Brooke O'Donnell - Presiding Member

North West Ward

Sue Bilich
Lisa Cooper
Dylan O'Connor

North Ward

Cameron Blair
Kathy Ritchie
Margaret Thomas JP (Mayor)

Members of Staff

Chief Executive Officer

Rhonda Hardy

Executive Team

Gary Ticehurst - Director Corporate Services
Brett Jackson - Director Asset Services
Peter Varelis - Director Development Services

Management Team

Alida Ferreira - Manager Financial Services
Nicole O'Neill - Manager Customer & Public Relations
Jamie Paterson – Manager Information Technology

Administration Support

Darrell Forrest - Governance Advisor
Waruni De Silva – Coordinator Financial Services
Birinder Singh – Finance Officer
Donna McPherson - Executive Assistant to the CEO

Members of the Public 0

Members of the Press Nil.

Apologies Nil.

Leave of Absence Previously Approved Nil.

3. Public Question Time

3.1 Nil.

4. Petitions/Deputations

4.1 Nil.

5. Confirmation of Minutes from Previous Meeting

5.1 That the Minutes of the Audit and Risk Committee Meeting held on 1 December 2020, as published and circulated, are confirmed as a true and accurate record of the proceedings.

Moved: **Cr Geoff Stallard**

Seconded: **Cr John Giardina**

Vote: **CARRIED UNANIMOUSLY (12/0)**

6. Announcements by the Member Presiding Without Discussion

6.1 Nil.

7. Matters for Which the Meeting may be Closed

7.1 Item 9.1.1 Information Systems Audit Results for the year ended 30 June 2020 – Confidential Attachment - **Information Systems Audit Results Report**

Reason for Confidentiality: Local Government Act 1995 (WA) Section 5.23 (2) (f) - "a matter that if disclosed, could be reasonably expected to - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; (ii) endanger the security of the local government's property; or (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety"

8. Disclosure of Interest

8.1. Disclosure of Financial and Proximity Interests

a. Members must disclose the nature of their interest in matter to be discussed at the meeting. (Section 5.56 of the *Local Government Act 1995*.)

b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Section 5.70 of the *Local Government Act 1995*.)

8.1.1 Nil.

8.2. Disclosure of Interest Affecting Impartiality

- a. Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee had given or will give advice.

8.2.1 Nil.

9. Reports to Committee

9.1. Reports

9.1.1. Information Systems Audit Results for the year ended 30 June 2020

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

Previous Items	N/A
Directorate	Corporate Services
Business Unit	Financial Services
File Reference	
Applicant	N/A
Owner	N/A

Attachments Nil

Confidential Attachments 1. Information Systems Audit Results Report

Reason for Confidentiality: *Local Government Act 1995 (WA) Section 5.23 (2) (f) - "a matter that if disclosed, could be reasonably expected to - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; (ii) endanger the security of the local government's property; or (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety"*

TYPE OF REPORT

Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
Executive	When Council is undertaking its substantive role of direction setting and oversight (eg accepting tenders, adopting plans and budgets)
✓ Information	For Council to note
Legislative	Includes adopting Local Laws, Town Planning Schemes and Policies. When Council determines a matter that directly impacts a person's rights and interests where the principles of natural justice apply. Examples include town planning applications, building licences, other permits or licences

issued under other Legislation or matters that could be subject to appeal to the State Administrative Tribunal

STRATEGIC PLANNING ALIGNMENT

Kalamunda Advancing Strategic Community Plan to 2027

Priority 4: Kalamunda Leads

Objective 4.1 - To provide leadership through transparent governance.

Strategy 4.1.1 - Provide good governance.

EXECUTIVE SUMMARY

1. The purpose of this report is to provide Council with the findings of the Information Systems Audit Results Report (Confidential Attachment 1).
2. The Information Systems Audit Results Report for the financial year ending 30 June 2020 was undertaken by the Office of the Auditor General
3. It is recommended that Council accepts the 2019/2020 Information Systems Audit Results Report (Confidential Attachment 1).

BACKGROUND

4. On 28 October 2017, the Local Government Amendment (Auditing) Act 2017 was proclaimed, giving the Auditor General the mandate to audit Western Australia's 139 local governments and 9 regional councils.

The Act allowed the Auditor General to conduct performance audits of local government entities from 28 October 2017. From the 2018/2019 financial year the City's audit will be performed by the Officer of the Auditor General (OAG).

DETAILS AND ANALYSIS

5. The OAG Information Systems Audit was conducted as part of their audit of the annual financial report for the year ending 30 June 2020.
6. In May 2020, City staff and the Chair of the Audit and Risk Committee met with relevant officers from the OAG, to discuss the audit plan. The Information Systems Audit field work was carried out from 17 August 2020 to 07 December 2020, with (Confidential Attachment 1) being the outcome of the Information Systems Audit.

7. OAG completed the audit field work, with the outcome as detailed in (Confidential Attachment 1). The City aims to implement all recommendations from OAG.

APPLICABLE LAW

8. *Local Government Act 1995 and Local Government Amendment (Auditing) Act 2017.*
Local Government (Financial Management) Regulations 1996.

APPLICABLE POLICY

9. There are no policy implications.

STAKEHOLDER ENGAGEMENT

10. The Administration worked closely with the Auditors.

External Referrals

11. Although no community engagement consultation is required, the findings of OAG are reported to Parliament and a report is published on the OAG website.

FINANCIAL CONSIDERATIONS

12. The Budget includes provision for the cost of having the accounts and the Annual Financial Report audited by an externally appointed registered auditor.

SUSTAINABILITY

13. Nil.

RISK MANAGEMENT

14.	Risk: With inefficient systems, processes, policies and procedures in place, the City could be susceptible to data breaches.		
	Consequence	Likelihood	Rating
	Significant	Likely	Major
	Action/Strategy		
	Employ qualified suitably skilled staff. Educate City staff on cyber issues. Test cyber defenses on a regular basis.		

Maintain controls and compliance with policy. Ensure an effective internal audit program.
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CONCLUSION

15. The Information Systems Audit field work was carried out in accordance with the planning summary from 17 August 2020 to 07 December 2020, with (Confidential Attachment 1) being the outcome of the IT system audit.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL

That Council ACCEPT the Information Systems Audit findings Report for the financial year ending 30 June 2020 (Confidential Attachment 1).

Moved: **Cr Geoff Stallard**

Seconded: **Cr Janelle Sewell**

Vote: **CARRIED UNANIMOUSLY (12/0)**

9.1.2. 2020 Compliance Audit Return

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

Previous Items	
Directorate	Office of the Chief Executive Officer
Business Unit	Governance and Legal
File Reference	
Applicant	City of Kalamunda
Owner	City of Kalamunda
Attachments	1. 2020 CAR [9.1.2.1 - 11 pages]

TYPE OF REPORT

Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
Executive	When Council is undertaking its substantive role of direction setting and oversight (eg accepting tenders, adopting plans and budgets)
Information	For Council to note
✓ Legislative	Includes adopting Local Laws, Town Planning Schemes and Policies. When Council determines a matter that directly impacts a person's rights and interests where the principles of natural justice apply. Examples include town planning applications, building licences, other permits or licences issued under other Legislation or matters that could be subject to appeal to the State Administrative Tribunal

STRATEGIC PLANNING ALIGNMENT

Kalamunda Advancing Strategic Community Plan to 2027

Priority 4: Kalamunda Leads

Objective 4.1 - To provide leadership through transparent governance.

Strategy 4.1.1 - Provide good governance.

EXECUTIVE SUMMARY

1. To consider and adopt the 2020 Compliance Audit Return (CAR) (Attachment 1)

2. The CAR focuses on areas considered by the Department of Local Government Sport and Cultural Industries (DLGSCI) as key compliance requirements of the *Local Government Act 1995* (the Act).
3. It is recommended Council adopt the 2020 CAR.

BACKGROUND

4. The CAR in its current format has been an annual requirement for every local government in Western Australia to complete in accordance with section 7.13 (1) (i) of the Act. It is required to be submitted by 31 March each year.
5. The CAR is designed to be a tool for local government, allowing it to identify those areas where legislative requirements have not been met and then implement processes to ensure that such instances of non-compliance do not continue.

DETAILS AND ANALYSIS

6. The Terms of Reference of the Audit and Risk Committee require the Committee to review and make recommendations to Council on the completed CAR.
7. The 2020 CAR covered 10 categories and 92 questions with an additional Optional Questions category which had 10 questions.
8. One item of non-compliance was identified with respect to the items examined in the 2020 CAR.
9. The issue of non-compliance involved the late submission of the Annual Financial Interest Returns by one staff member. The matter was reported to the DLGSCI, however it is not known at this time whether any action has been taken by the Department.

APPLICABLE LAW

10. *Local Government Act 1995.*

APPLICABLE POLICY

11. No applicable policy.

STAKEHOLDER ENGAGEMENT

12. Relevant Business Units provided input into the completion of the CAR, however no community consultation is required.

FINANCIAL CONSIDERATIONS

13. There are no financial implications arising from the CAR.

SUSTAINABILITY

Social Implications

14. Nil.

Economic Implications

15. Nil.

Environmental Implications

16. Nil.

RISK MANAGEMENT

17.

Risk: Failures within Administration result in detection of non-compliance.		
Consequence	Likelihood	Rating
Moderate	Possible	Medium
Action/Strategy		
Ensure improvements are introduced to eliminate non-compliance.		

Risk: That the Compliance Audit Return is not adopted as required by the legislation.		
Consequence	Likelihood	Rating
Moderate	Possible	Medium
Action/Strategy		
Sufficient information is provided that satisfies Council the Compliance Audit Return has been completed as required and should be adopted.		

CONCLUSION

18. Whilst the document presented to Council indicates all responses have been provided by one particular officer, this relates to the online input process for the CAR. Answers to various sections of the CAR have been provided by relevant Business Units.
19. Whilst there was one instance of non-compliance identified, the City continues to maintain its high standards of compliance with respect to those areas examined by the CAR.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL

That Council ADOPT the Compliance Audit Return for the year ending 31 December 2020 (Attachment 1).

Moved: **Cr Geoff Stallard**

Seconded: **Cr Janelle Sewell**

Vote: **CARRIED UNANIMOUSLY (12/0)**

9.1.3. Draft Policy Naming of Parks, Reserves, Streets and Infrastructure

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

Previous Items 163/2020
 Directorate
 Business Unit
 File Reference
 Applicant
 Owner

- Attachments
1. 1574- Geographic-names-policies- V 3- November-2020 [9.1.3.1 - 127 pages]
 2. Draft Policy Naming of parks, reserves, streets and infrastructure [9.1.3.2 - 4 pages]
 3. Engagement Report Naming of Locations 2020 [9.1.3.3 - 15 pages]

TYPE OF REPORT

Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
Executive	When Council is undertaking is substantive role of direction setting and oversight (eg accepting tenders, adopting plans and budgets)
Information	For Council to note
✓ Legislative	Includes adopting Local Laws, Town Planning Schemes and Policies. When Council determines a matter that directly impacts a person’s rights and interests where the principles of natural justice apply. Examples include town planning applications, building licences, other permits or licences issued under other Legislation or matters that could be subject to appeal to the State Administrative Tribunal

STRATEGIC PLANNING ALIGNMENT

Kalamunda Advancing Strategic Community Plan to 2027

Priority 1: Kalamunda Cares and Interacts

Objective 1.2 - To provide a safe and healthy environment for community to enjoy.

Strategy - 1.2.3 Provide high quality and accessible recreational and social spaces and facilities.

Strategy - 1.2.1 Facilitate a safe community environment.

Priority 3: Kalamunda Develops

Objective 3.4 - To be recognised as a preferred tourism destination.

Strategy 3.4.1 - Facilitate, support and promote, activities and places to visit.

Priority 4: Kalamunda Leads

Objective 4.1 - To provide leadership through transparent governance.

Strategy 4.1.1 - Provide good governance.

Priority 4: Kalamunda Leads

Objective 4.2 - To proactively engage and partner for the benefit of community.

Strategy 4.2.1 - Actively engage with the community in innovative ways.

EXECUTIVE SUMMARY

1. The purpose of this report is to consider the draft Policy Naming of parks, reserves, streets and infrastructure.
2. The City of Kalamunda (City) undertook consultation on the naming of parks and reserves in 2020.
3. The recommendation is to adopt the Policy for the naming of parks, reserves, streets and infrastructure for the purposes of public advertising.

BACKGROUND

4. The Forrestfield Football Club brought a proposal before Council on 11 August 2020 (10.4.6) to rename the John Reid Oval to the Terry Davidson Oval. The resolution was that Council:
 1. DEFER consideration of the request to rename John Reid Oval in Forrestfield and the Forrestfield Football Club advised accordingly.
 2. REQUEST a Policy is developed for the naming or renaming of any locations in the City of Kalamunda which is brought to Council for endorsement for the purposes of community consultation.
5. The *Land Administration Act 1997*, provides the Minister for Lands (the Minister) with the authority for officially approving all geographic features and place names in Western Australia.
6. The Geographic Names Committee provides recommendations to the Minister for Lands on naming matters for the state.
7. Through delegated authority, Landgate acts on the Minister's behalf to undertake the necessary administrative responsibilities.

DETAILS AND ANALYSIS

8. Names are the first point of reference used when referring to a spatial location. They are indispensable when used as public and personal references for location description and identification for example defence, emergency service responders and postal services, addresses, navigation.

9. Benefits of recording and preserving geographic names are associated with the past, present and future of a community. They form an integral part of personal identity by defining where people were born, live, have lived and from where their ancestors have come from.
10. In order to comply with relevant legislation and to provide an open and transparent naming process, policies and standards are required. (Appendix A: Copy of the Geographical).
11. The purpose of the Policy is to ensure a consistent approach for the City's requirements for the naming of parks, reserves, streets and infrastructure as set out by the Geographic Names Committee Policies and Standards for Geographical Naming in Western Australia. (See Appendix B: Draft Policy Naming of parks, reserves, streets and infrastructure).
12. The Criteria for assessment is proposed as follows:
 1. The naming of a park, reserve, street, field and infrastructure shall be determined by Council.
 2. A list of all names and their origins will be kept within a Geographic Names Register.
 3. Priority will be given to the naming of parks and reserves after an adjacent street or feature to maximise the identification of that park or reserve with an area.
 4. Components of recreational reserves (e.g. pavilions, ovals, gardens etc.) may:
 - a) be named in honour of community members who have contributed towards the establishment of the facility or towards the community in general. Such proposals may include forename/surname combinations; or
 - b) have commercial short-term names for the purposes of event promotion or sponsorship.
 5. All requests for the naming of a park, street, reserve, field or infrastructure must be identified within one of the following categories:
 - a) A figure of local historical note;
 - b) Geographic feature(s); or
 - c) Other acceptable theme(s).
 6. Requests for the naming of a park, street, reserve, field or infrastructure after a person must be made in writing and contain the following details of the person intended to be recognised:
 - a) Name;
 - b) Date of birth and year of death, if applicable;
 - c) (If applicable) Detailed information and supporting documentation (e.g. letters, newspaper articles, oral histories, photographs etc.) to demonstrate the person's significant contribution(s)/relevance to the local community:

A significant contribution could include:

 - i. Two or more terms of office on a local government council.

- ii. Twenty (20) or more years association with a local sporting or community group, such as Scouts, Apex, Rotary, School P & C etc.
 - iii. Action by an individual to protect, restore, enhance, or maintain an area that produces substantial long-term improvements for the community for the community or area.
 - iv. Evidence of works undertaken being of a pioneering nature for the benefit of the community;
 - d) (If applicable) Evidence of all efforts to gain consent from family members of the person who is being recognised in the name; and
 - e) (if applicable) supporting commentary when Noongar name is proposed.
 - 7. Names chosen for City parks, reserves, fields and infrastructure are expected to be permanent, and re-naming is discouraged. Renaming will only be considered in exceptional circumstances and where significant community support has been demonstrated.
 - 8. Nothing in this policy prevents Council from approving short term names for the purposes of event promotion or sponsorship.
 - 9. The Council shall in determining the application, to name a City facility, Street, Park, Reserve, Building or significant infrastructure:
 - (a) Give due consideration to any submissions received;
 - (b) Receive a confidential report from the Chief Executive Officer detailing all requests to apply a name; and
 - (c) approve of any application only by an Absolute Majority Decision.
13. All applications for naming reserves, parks, fields or buildings must be made in writing and assessed by the City regardless of which facility or who initiated the request.
- All applications shall be confidential and considered by the Council
- After consideration by Council of the application, approval is to be sought from the local community, facility users and the person being honoured or their family prior to forwarding the proposal to the Geographic Names Committee.
14. Requests to name the following shall be forwarded to the Geographic Names Committee, for approval if the name is:
- a) A feature name for a reserve or park
 - b) A building on an unnamed reserve.
- Requests to name the following shall be submitted to the Geographic Names Committee, for information only:
- a) Buildings on a named reserve.
 - b) General buildings in the community
- All proposals forwarded to the Geographic Names Committee shall include the following:

- a) A covering letter outlining Councils approval.
 - b) An outline of the person being honoured and justification statement.
 - c) The proposed name and the location of the facility being named, including a map
15. Once a proposed name is approved by Council, the local community and the Geographic Names Committee a plaque and/or sign should be prepared.
16. For naming of **reserves and parks** the following shall apply:
 - a) A plaque with appropriate wording shall be supplied and securely fixed adjacent to the reserve sign
 - b) A standard reserve sign shall be supplied and installed with the name of the person being honoured and the locality name in order to identify the facility's geographical location.
17. For naming of buildings the following shall apply:
 - a) A plaque with appropriate wording shall be supplied and securely fixed to the building with a sign naming the building.
 - b) At a strategic location within the building, a framed picture shall be provided, containing the testimonial details and photograph of the person after whom the building has been named.
18. The naming of Streets shall be in accordance with the Geographic Names Committee Policies and Standards for Geographical Naming in Western Australia.

APPLICABLE LAW

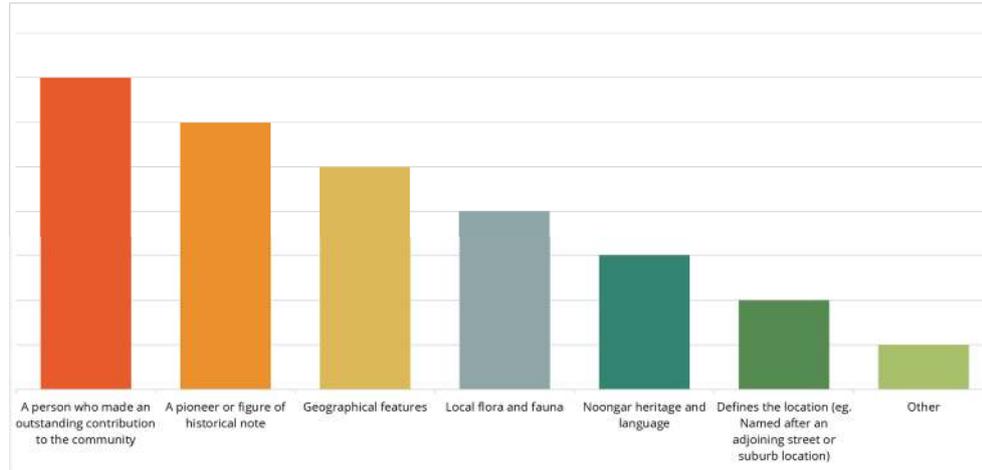
19. Local Government Act 1995
20. Land Administration Act 1997

APPLICABLE POLICY

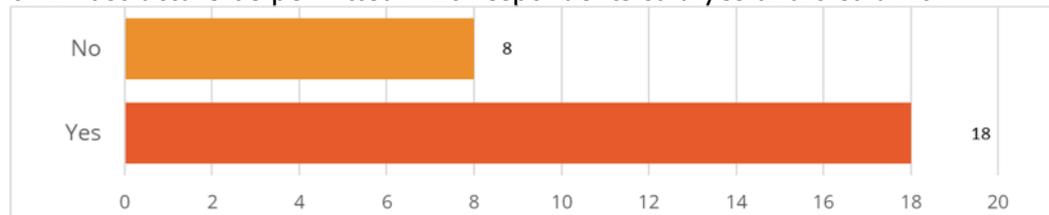
21. Service 5: Communication and Engagement

STAKEHOLDER ENGAGEMENT

22. A community survey was open from 8 October 2020 - 13 November 2020.
23. During the campaign the City's engage portal had 138 visits for this project, with 78 Informed Visitors, 112 Aware Visitors and 29 responses received from the Community. (Please see appendix C for a Copy of the Community Engagement Report.
24. When asked, "What, or who, should the City recognise when naming parks, reserves, streets and infrastructure? (Number your preferred options, with one (1) being your most preferred option)" community response was as follows:



25. When asked, "Should changing an existing name of a City park, reserve, field or infrastructure be permitted?" 18 respondents said yes and 8 said No.



26. In the Policies and Standards for Geographical Naming in Western Australia Version 03:2017, "Any change to an existing approved name is discouraged.

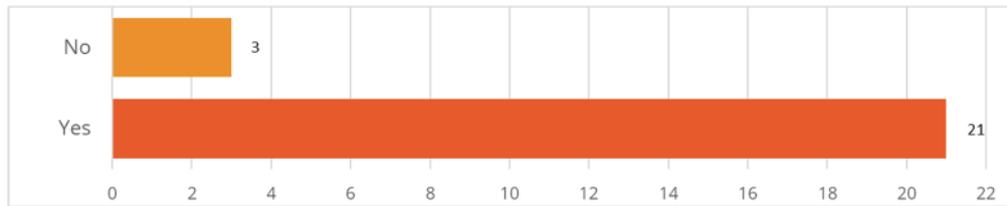
As all official names are meant to be enduring, any proposals to change the name of a feature, administrative boundary or road must include evidence of a compelling reason for such a change, for example the proposal is deemed to be in the public interest for safety reasons.

The changing of a name merely to correct or re-establish historical usage shall not be considered in itself a reason to change a name.

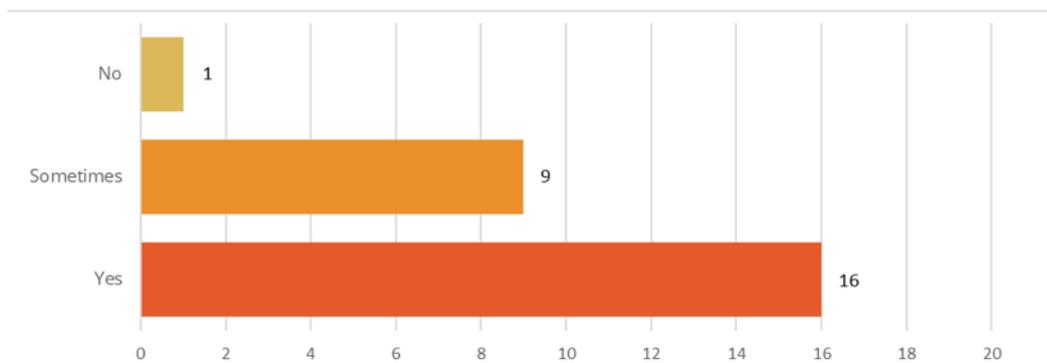
Evidence of community consultation and feedback from all relevant agencies and jurisdictions must be included with the submission.

All such requests will be required to be presented to Landgate for consideration. If Landgate determines that the name change is unnecessary or non-essential, yet there is enough community support for the change and it is compliant with the relevant naming policies and standards, it may be approved but it shall incur a service charge."

27. When those surveyed were asked, "Should a plaque be installed at the location to explain the origins of the name whenever practical?": Responses indicated 21 people supported this and 3 did not.

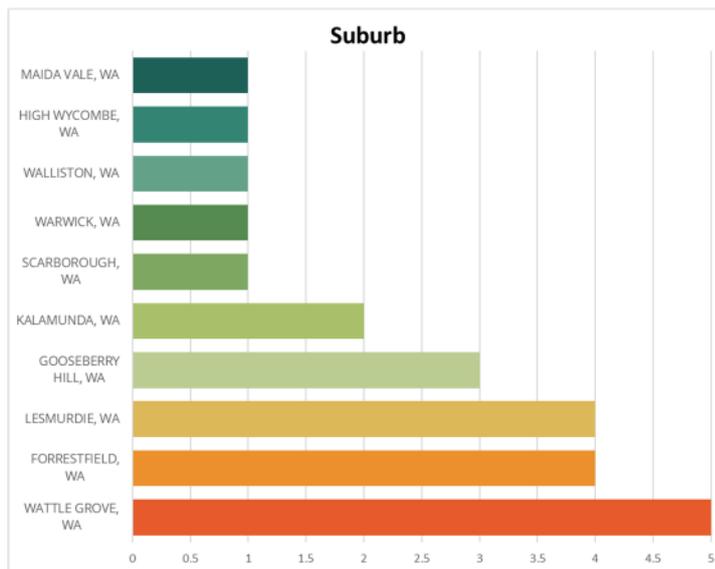


28. When respondents were asked, "Do you think the community should have the opportunity to vote, or provide input, on names of parks, reserves, fields or infrastructure? 16 people said yes, nine respondents said sometimes and one said no.

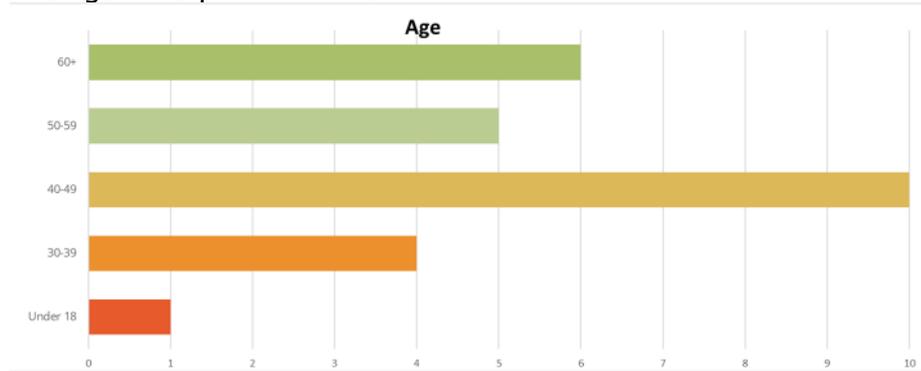


29. When asked, "Do you support the dual naming of parks, reserves, fields or infrastructure?," 15 respondents indicated they did and 11 did not.

30. Suburb analysis of respondents is as follows:



31. The age of respondents was:



FINANCIAL CONSIDERATIONS

32. Cost of plaques or signage need to be factored into operating costs, with signage assets having a 7 – 10 year life span. This is proposed as a part of any new building or development, and for existing to be a part of the Buildings maintenance.

SUSTAINABILITY

Social Implications

33. There is a strong social value in the naming of parks, reserves, streets and infrastructure.

Economic Implications

34. N/A

Environmental Implications

35. N/A

RISK MANAGEMENT

36.	<p>Risk: The City of Kalamunda continues to not have a Policy for the Naming of parks, reserves, streets and infrastructure.</p>		
	Consequence	Likelihood	Rating
	Moderate	Possible	Medium
	Action/Strategy		
	<p>A policy has been drafted. Where there is no local policy the City will utilize the Policies and Standards for Geographical Naming in Western Australia to make recommendations to Council in regards to any applications for naming.</p>		

CONCLUSION

37. The City supports the implementation of a policy to guide requests, processes, and recommendations in regard to the naming of parks, reserves, streets and infrastructure.
38. Officers have developed the policy to complement the work of the State Governments Policies and Standards for Geographical Naming in Western Australia.
39. The City has a number of unnamed reserves and the need to name new Parks, Reserves, Streets and Infrastructure, which will benefit from the formation of a policy.

Voting Requirements: Simple Majority

COMMITTEE RECOMMENDATION TO COUNCIL

That Council:

1. NOTE Governance Policy: Naming of parks, reserves, streets and infrastructure for the purposes of public advertising for a period of not less than 28 days.
2. NOTE the requirements of the Policies and Standards for Geographical Naming in Western Australia.
3. REQUEST the Chief Executive Officer write to the Forrestfield Football Club and advise the Policy: Naming of Parks, Reserves, Streets and Infrastructure will be for public advertised.

Moved: **Cr Janelle Sewell**

Seconded: **Cr Margaret Thomas**

Vote: **CARRIED UNANIMOUSLY (12/0)**

9.1.4. Code of Conduct - Council Members, Committee Members and Candidates

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

Previous Items	OCM 240/2020
Directorate	Office of the CEO
Business Unit	Governance
File Reference	
Applicant	
Owner	
Attachments	<ol style="list-style-type: none"> 1. City of Kalamunda Code of Conduct Feb 21 [9.1.4.1 - 10 pages] 2. Code of Conduct Regulations Explanatory Notes [9.1.4.2 - 6 pages] 3. Code of Conduct Complaint Form [9.1.4.3 - 2 pages]

TYPE OF REPORT

Advocacy	When Council is advocating on behalf of the community to another level of government/body/agency
✓ Executive	When Council is undertaking its substantive role of direction setting and oversight (eg accepting tenders, adopting plans and budgets)
Information	For Council to note
Legislative	Includes adopting Local Laws, Town Planning Schemes and Policies. When Council determines a matter that directly impacts a person's rights and interests where the principles of natural justice apply. Examples include town planning applications, building licences, other permits or licences issued under other Legislation or matters that could be subject to appeal to the State Administrative Tribunal

STRATEGIC PLANNING ALIGNMENT

Kalamunda Advancing Strategic Community Plan to 2027

Priority 4: Kalamunda Leads

Objective 4.1 - To provide leadership through transparent governance.

Strategy 4.1.1 - Provide good governance.

EXECUTIVE SUMMARY

1. The purpose of this report is for Council to consider the adoption of a new Code of Conduct.
2. Adoption of a new Code of Conduct is required following the gazettal of the *Local Government (Model Code of Conduct) Regulations 2021*, on 2 February 2021.
3. It is recommended that Council withdraw the previous Code of Conduct and adopt the new Code of Conduct – Council Members, Committee Members and Candidates.

BACKGROUND

4. The *Local Government (Model Code of Conduct) Regulations 2021* were gazetted on 2 February 2021 and took effect on 3 February 2021. This change immediately introduced a Model Code of Conduct that applies to every local government in Western Australia.
5. These regulations bring into effect sections 48 to 51 of the *Local Government Legislation Amendment Act 2019*. A detailed summary of these regulations is contained in Attachment 2 Model Code of Conduct – Explanatory Notes.
6. Public comment was recently sought by the Department of Local Government, Sport and Cultural Industries (the Department) about this regulation, the City provided comment in late 2020. At the 24 November 2020 OCM, Council resolved the following (in part):
"That Council:
ENDORSE the following comments being submitted to the Department of Local Government, Sport and Cultural Industries:
(a) The City of Kalamunda objects to
 - i. the proposed Local Government (Model Code of Conduct) Regulations and Model Code of Conduct.
 - ii. the cost and responsibility shifting that would be introduced through the proposed Local Government (Model Code of Conduct) Regulations and Model Code of Conduct.
 - iii. the removal of an independent, objective body from the consideration, investigation and judgement of allegations and breaches of the proposed Model Code of Conduct.
 - iv. to the inclusion of candidates for election in a Code of Conduct that applies to current elected members and committee members.

(b) The City of Kalamunda would support a Model Code of Conduct that provides some guidance and standardisation for local government but that does not include the provisions objected to in point (a).

DETAILS AND ANALYSIS

7. Each local government was previously required to develop their own code of conduct and manage behaviour in accordance with that code. The CEO undertook the role of Complaints Officer, registering all complaints, maintaining records, assessing the validity of the complaint, seeking additional evidence or information if required and liaising with the Mayor in accordance with the City's Code of Conduct.

The new regulations replace these individual codes by introducing a model code that applies to all Council Members, Committee Members and Candidates.

8. It also provides for a high-level process to deal with complaints to ensure a more consistent approach between local governments and across the sector. The intent of the model code is to address behaviour through education rather than sanctions.
9. Local governments are required to prepare and adopt the model code within three months of these regulations coming into effect (by 3 May 2021). In adopting the model code, local governments can include additional behaviours under Division 3 provided these are consistent with the model code.
10. Local governments may not amend Division 2 (Principles) or Division 4 (Rules of Conduct). Additional behaviour requirements can be included in Division 3 (Behaviours) if deemed appropriate by the local government. Any additions must be consistent with the model code of conduct, section 5.104(3) of the *Local Government Act 1995*.
11. In preparing the model code for adoption, local governments are encouraged to review their existing code and consider incorporating any additional behaviour requirements that are not represented in the model code. This may include specific dress standards or the appropriate use of technology.
12. In preparation for this report, the City's current Code of Conduct was analysed and there were no additional prohibited behaviours identified that could be included in the Model Code of Conduct. As a result, it is recommended that the Model Code of Conduct is adopted as written.

13. The purpose of the model code is to guide decisions, actions and behaviours. It also recognises that there is a need for a separate code for Council Members, Committee Members and Candidates (as opposed to an employee Code of Conduct) to clearly reflect community expectations of behaviour and ensure consistency between local governments.
14. The Model Code Regulations provide for:
- (a) Division 2, General Principals - to guide behaviour;
 - (b) Division 3, Behaviours - managed internally by local governments and
 - (c) Division 4, Rules of Conduct - breaches which are considered by the Standards Panel.
15. A new Code of Conduct for Council Members, Committee Members and Candidates for Local Government Elections containing the new Model Code of Conduct has been included as Attachment 1 for Council adoption.
16. **Complaints About Behaviour**
The *Local Government (Model Code of Conduct) Regulations 2021* state that:
- '11. Complaint about alleged breach***
(1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
(2) A complaint must be made –
(a) In writing in the form approved by the local government; and
(b) To a person authorised under subclause (3); and
(c) Within 1 month after the occurrence of the alleged breach.
(3) The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.
17. This Regulation means complaints of alleged breaches and behavioural requirements are required to be dealt with by the local government including investigating any complaints, determining validity of a complaint and at times determining any appropriate actions if the complaint is upheld.
18. As outlined in the background to this report, the City provided comment to the Department in 2020, recommending that the City should not be responsible for investigating complaints about its own Councillors.
- Elaborating on this feedback, the primary reason provided was the conflict of interest that would arise between the Chief Executive Officer (CEO) and any Councillor who was the focus of a complaint. Unfortunately, this feedback was not implemented in the final Regulation.

19. It is recommended that complaint officers are appointed to reduce the likelihood of conflicts of interest and to maximise objectivity and fairness. It is recommended that complaints officers are appointed as follows:
- i. Complaints against Councillors, Committee Members and Councillor Candidates that become Councillors, excluding complaints made by the Mayor – The Mayor to be appointed complaints officer.
 - ii. Complaints made by the Mayor against Councillors, Committee Members and Councillor Candidates that become Councillors - The Deputy Mayor to be appointed complaints officer.
 - iii. Complaints about the Mayor, excluding complaints made by the Deputy Mayor – The Deputy Mayor to be appointed complaints officer.
 - iv. Complaints about the Deputy Mayor, made by the Mayor; or complaints about the Mayor, made by the Deputy Mayor – A Committee made up of remaining Councillors, be appointed as the complaint’s officers.
20. It is proposed that the complaints officer be authorised to refer any complaints for investigation to an independent person who is appropriately experienced in assessing and investigating these types of complaints. This process will require administrative support by the CEO.
21. It is recommended that a Council policy be developed specifically dealing with the investigation of complaints for behavioural breaches. This future policy could provide guidance as to how an investigation would take place and how any decisions relating to the outcome of an investigation may be made. It is anticipated that having such a policy would provide fairness and transparency to the investigation process. A draft policy for this purpose will be presented to a future Audit &Risk Committee Meeting.
22. Council is also required to adopt a complaints form. The Department of Local Government, Sport and Cultural Industries have provided a model complaints form, provided as Attachment 3 to this report.

APPLICABLE LAW

23. *Local Government Act 1995*
Local Government (Model Code of Conduct) Regulations 2021

APPLICABLE POLICY

24. N/A

STAKEHOLDER ENGAGEMENT

25. As this is a mandated requirement, no community consultation has been undertaken.

FINANCIAL CONSIDERATIONS

26. Whilst there is no direct financial expenditure from adoption of the new Code of Conduct, there could be indirect expenditure if a complaint needs to be investigated.

SUSTAINABILITY

27. N/A

RISK MANAGEMENT

28.	Risk: Noncompliance with regulations will likely attract Departmental attention.		
	Consequence	Likelihood	Rating
	Major	Possible	High
	Action/Strategy		
	Ensure the Council has an adopted Code of Conduct.		

CONCLUSION

29. The proposed Code of Conduct is considered suitable for adoption by Council.

Voting Requirements: Absolute Majority

That Council:

1. WITHDRAW the current Code of Conduct – Elected Members.
2. Pursuant to section 5.104 of the *Local Government Act 1995*, ADOPT the new Code of Conduct for Council Members, Committee Members and Candidates, (Attachment 1).

3. Pursuant to the clause 11 (2) of the *Local Government (Model Code of Conduct) Regulations 2021* ADOPT the Complaint - Alleged Breach Form (Attachment 3).

4. Pursuant to Clauses 11(3) and 12 *Local Government (Model Code of Conduct) Regulations 2021*, AUTHORISE the following persons to receive and investigate complaints and receive withdrawals of complaints, relating to Council Members, Committee Members and Candidates as follows:
 - i. Complaints against Councillors, Committee Members and Councillor Candidates that become Councillors, excluding complaints made by the Mayor – The Mayor to be appointed complaints officer.
 - ii. Complaints made by the Mayor against Councillors, Committee Members and Councillor Candidates that become Councillors - The Deputy Mayor to be appointed complaints officer.
 - iii. Complaints about the Mayor, excluding complaints made by the Deputy Mayor – The Deputy Mayor to be appointed complaints officer.
 - iv. Complaints about the Deputy Mayor, made by the Mayor; or complaints about the Mayor, made by the Deputy Mayor – A Committee made up of remaining Councillors, be appointed as the complaint’s officers.

5. AUTHORISE the Complaints Officer, as outlined in point 4, to refer any complaints received requiring independent investigation to an independent, appropriately experienced, and qualified person.

6. NOTE the Chief Executive Officer will retain responsibility for the administration of complaints including record keeping, maintaining the complaints register, engagement and payment of an independent investigator if required.

7. REQUEST the Chief Executive Officer draft a policy to assist with the investigation of complaints for behavioural breaches.

8. Pursuant to section 5.104(7) of the Local Government Act 1995, NOTE the Chief Executive Officer will ensure the approved Code of Conduct is published on the City’s website as soon as practicable.

COMMITTEE RECOMMENDATION TO COUNCIL

That Council DEFER consideration of the Code of Conduct - Council Members, Committee Members and Candidates until the April 2021 Ordinary Meeting of Council.

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Janelle Sewell**

Vote: **CARRIED UNANIMOUSLY (12/0)**

10. Motions of Which Previous Notice has been Given

10.1. Fire Hazard Mitigation – March 2021

MOTION

Voting Requirements: Simple Majority

That Council REQUEST the Chief Executive Officer to prepare a report on the engagement of an external auditor to undertake an audit of the City's Fire Hazard Mitigation practices including but not limited to;

1. Current funding allocation.
2. Community engagement strategy/s.
3. Community education packages.
4. Staff training package.
5. Efficacy of timing and method of issuing Fire Hazard Reduction Notices and other communications to residents.
6. Benchmarking against other local governments practices including the City of Wanneroo and City of Swan.

Moved: **Cr Lesley Boyd**

Seconded: **Cr Geoff Stallard**

Vote:	<u>For</u>	<u>Against</u>
	Cr Geoff Stallard Cr Lesley Boyd Cr Mary Cannon Cr Dylan O'Connor Cr Cameron Blair	Cr John Giardina Cr Janelle Sewell Cr Brooke O'Donnell Cr Sue Bilich Cr Lisa Cooper Cr Kathy Ritchie Cr Margaret Thomas

LOST (5/7)

Rationale:

1. In 2011, close by we witnessed the Roleystone-Kelmscott Bushfires, and on 1 February this year the Wooraloo Bushfires. 95% of the City of Kalamunda area is prone to bushfire, therefore the risk to residents is high and ensuring mitigation is paramount.

2. Since 2018/19 there has been a 100% increase in the number of properties the City inspects, which has also resulted in an increase in work orders and non-compliance related infringements.
3. It is acknowledged by the City that in response to improved practices and reviews from recent major bushfires, the City's Fire Hazard Reduction Notice has the propensity to change from year to year to remain contemporary. Therefore, the communication strategy and engagement of the community is important to ensure and understand of the changing expectations.
4. Given the high risk to 95% of the City it is vital we are open to external review and if necessary, implementing reviewed practices.

Officer Comment:

The City does not support this motion for the reasons outlined below.

Fire Hazard Reduction Notice:

1. Pursuant to Section 33 of the Bush Fires Act 1954, the City issues a Fire Hazard Reduction Notice (the Notice) every year to put measures in place to prevent the outbreak, spread or extension of bush fire.
2. In support of the Notice, the City undertakes private property inspections to ensure compliance with the Notice.
3. Whilst over 90% of the City is within a designated Bushfire Prone Area, it is not correct to assume that 95% of the City is at high risk of bushfire. The City's adopted Bushfire Risk Management Plan and associated mapping rates the risks of each part of the City. Some parts are assessed as extreme or high risk while others are lower because of specific area characteristics while also being designed bushfire prone.

Fire Hazard Assessment Plan:

4. To guide the City's private property inspections, the City prepares an annual Fire Hazard Assessment Plan (the Plan). The purpose of the Plan is to outline the way the City will undertake private property inspections.

5. The Plan utilises previous non-compliance, complaints, and a comprehensive risk assessment to determine the priority of assessments throughout the City. The key intent of the Notice and the Plan is to reduce the overall risk profile of the City by ensuring all very high and extreme private properties are assessed before moving onto lower risk properties.
6. The Plan also utilises a combination of community engagement programs to support the assessments, which are focused on empowering residents to be fire ready before the 1 November assessment program. The focus of the engagement programs is to increase fire safe practices, asset preparedness and community resilience, while giving residents information on how to comply with the Notice.
7. The Plan is presented to Council every year prior to the commencement of the bushfire season.
8. A comprehensive presentation was also provided to Council at the 2 March 2021 Strategy Session in relation to the Notice, Plan, and inspections.

Response to Matters Outlined in the Notice of Motion:

9. In regard to the practices outlined to be audited, the City can advise as follows:
 - a. Current funding allocation: Approx. \$550,000 is allocated to private property fire mitigation every year.
 - b. Community engagement strategies / packages: Extensive community engagement programs are prepared prior to and during the fire season. A copy of the extensive Community Engagement Plan from last fire season is attached. The City welcomes feedback from Councillors as to suggested improvements that can be made in developing next year's Community Engagement Plan having regard for feedback that has been received from residents. The City also assimilates findings and improvements with information and feedback received from Councillors.
 - c. Staff training package: Section 11 of the Plan comprehensively outlines the City's training processes in relation to private property inspections.
 - d. Efficacy of timing and method of issuing the Notice and other communications to residents: The Notice is issued with the City's rates every year prior to the season commencing. In

addition, extensive community engagement programs are prepared prior to and during the fire season. A copy of the Community Engagement Plan from last fire season is attached.

- e. Local Government benchmarking: Each local government area is different and requires a tailored approach to fire prevention. Feedback received from the Department of Fire and Emergency Services (DFES) indicates that the City of Kalamunda has a comprehensive private property inspection process for ensuring compliance with the Notice.

Statistics from 2020/21 Fire Season (as of 9 March 2021):

Statistics from the 2020/21 Fire Season are outlined below.

No. of Assessments	No. of Work Orders	No. of Infringements	Escalated to Crs
3,944	1027 (26%)	82 (2%)	16 (0.4%)

Estimated Cost & Timeframe:

- 10. To undertake a detailed audit as recommended through the Notice of Motion, it is estimated to cost a total of approx. \$15,000 - \$20,000. That being approx. 60 – 80 hours of audit time by a audit professional with expertise in fire hazard mitigation. There is no budget allocation for this work and approval of unbudgeted funds would be necessary, thus requiring an Absolute Majority decision of Council.
- 11. It is also not unreasonable to consider that preparing an appropriate scope, seeking the necessary quotations, engaging an auditor and having them investigate and prepare a report would not see any further reporting to Council on the audit until after the issue of Fire Hazard Notice for 21/22. As such, any potential changes to the City's processes may not occur until 2022/23

Conclusion:

- 12. The City provides comprehensive information and oversight to Council through the following:
 - a. Presentations at Strategy Sessions prior to the fire season commencing and on an as needs basis throughout the season.
 - b. A weekly update on infringements and cautions issued through the Councillor Information Bulletin.
 - c. Formal presentation of the Plan to Council for noting prior to each season commencing.

- d. Providing Councillors detailed information on any specific issues that arise throughout the season.
13. The City is of the view that the statistics outlined above in conjunction with the comprehensive information and oversight provided to Council prior to and during the fire season does not warrant the cost of an independent audit of the City's fire mitigation practices. On this basis, the Notice of Motion is not supported.

Attachments:

1. Fire Hazard Reduction Notice 2020/21:
https://kalblob.blob.core.windows.net/kallibrary/docs/default-source/agenda-and-minutes/2020/attachments/ordinary-council-meeting-attachments---27-october-2020/10-1-2-2-fire-hazard-reduction-notice-2020-2021.pdf?sfvrsn=44beaa42_2
2. Fire Hazard Assessment Plan 2020/21:
https://kalblob.blob.core.windows.net/kallibrary/docs/default-source/agenda-and-minutes/2020/attachments/ordinary-council-meeting-attachments---27-october-2020/10-1-2-1-fire-hazard-assessment-plan-2020-2021.pdf?sfvrsn=4945b902_2
3. Community Engagement Plan 2020/21:
<https://kalblob.blob.core.windows.net/kallibrary/docs/default-source/fire-emergency-docs/preparedness/bushfire-preparedness-community-engagement-plan.pdf>
4. Presentation to Council at Strategy Session 2 March 2021:
<https://kalblob.blob.core.windows.net/kallibrary/docs/default-source/fire-emergency-docs/preparedness/fire-prevention.pdf>

11. Questions by Members Without Notice

11.1 Nil.

12. Questions by Members of Which Due Notice has been Given

12.1 Nil.

13. Urgent Business Approved by the Presiding Member or by Decision

13.1 Nil.

14. Meeting Closed to the Public

That the meeting close to the public.

Moved: **Cr Cameron Blair**

Seconded: **Cr Janelle Sewell**

Vote: **CARRIED UNANIMOUSLY (12/0)**

The meeting closed to the public at 8:24pm to receive a presentation on Confidential Attachment to Item 9.1.1 Information Systems Audit Results for the year ended 30 June 2020.

That the meeting open to the public.

Moved: **Cr Cameron Blair**

Seconded: **Cr Margaret Thomas**

Vote: **CARRIED UNANIMOUSLY (12/0)**

The meeting reopened to the public at 8:38pm.

15. Closure

There being no further business, the Presiding Member declared the Meeting closed at 8:41pm.

I confirm these Minutes to be a true and accurate record of the proceedings of this Council.

Signed: _____
Presiding Member

Dated this _____ day of _____ 2021.