



**murchisonshire**

*Ancient land under brilliant skies*

Agenda for the Ordinary Meeting of the

Murchison Shire Council

To be held in the Council Chambers, Carnarvon Mullewa Road, Murchison,  
on Saturday **17 December 2022**, commencing at 12 Noon.

*Ancient land under brilliant skies*

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## ATTACHMENTS

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## 1 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

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Shire President declared the meeting open at

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## 2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

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### Present

#### Councillors

Cr R Foulkes-Taylor  
Cr A Whitmarsh  
Cr Q Fowler  
Cr E Foulkes-Taylor  
Cr M Fowler  
Cr G Mead

#### Staff

Bill Boehm – CEO  
William Herold – Works Manager  
Travis Bate (RSM) – Financial Accountant

#### Apologies

Steven Cosgrove – Community Manager DCEO

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## 3 CONFIRMATION OF MINUTES

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### 3.1 Ordinary Council Meeting – 24 November 2022

#### Background

Minutes of the Ordinary Meeting of Council have previously been circulated to all Councillors.

#### Recommendation

That the minutes of the Ordinary Council meeting held on 24 November 2022 be confirmed as an accurate record of proceedings.

#### Voting Requirements:

Simple Majority

|                         |                     |                |
|-------------------------|---------------------|----------------|
| <b>Council Decision</b> |                     |                |
| <b>Moved: Cr</b>        | <b>Seconded: Cr</b> |                |
| <b>Carried/Lost</b>     | <b>For</b>          | <b>Against</b> |

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## 4 DISCLOSURE OF INTERESTS

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## 5 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

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Nil

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## **6 STANDING ORDERS**

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### Matter for Consideration

It has been customary practice in the interests of a productive meeting in relation to the Conduct of Members during debates for the Council suspend Standing Orders 8.2 (Limitation on Number of speeches) and 8.3 (Duration of Speeches) under Local Law 2001. To facilitate this, the following recommended resolution is required.

### **Recommendation**

That the following Local Law-Standing Orders 2001 be stood down:

- 8.2 Limitation on the number of speeches
- 8.3 Duration of speeches

### Voting Requirements

Simple Majority

|                         |                     |                |
|-------------------------|---------------------|----------------|
| <b>Council Decision</b> |                     |                |
| <b>Moved: Cr</b>        | <b>Seconded: Cr</b> |                |
| <b>Carried/Lost</b>     | <b>For</b>          | <b>Against</b> |

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## **7 PUBLIC QUESTION TIME**

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## **8 NEXT MEETING**

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Yet to be set. Refer item 19.1 where it is proposed to be Thursday 23 February 2023

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## **9 APPLICATIONS FOR LEAVE OF ABSENCE**

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## **10 URGENT BUSINESS**

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## **11 NOTICE OF ITEMS TO BE DISCUSSED BEHIND CLOSED DOORS**

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Item 17.1.1 Account Listings Paid since the last list was presented to Council

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## **12 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

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## **13 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**

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## **14 ANNOUNCEMENTS CONCERNING MEETINGS ATTENDED**

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### **14.1 Shire President**

8.12.22

Along with Cr Whitmarsh I attended the Aboriginal Cultural Heritage Act Co Design workshop in Geraldton yesterday.

I find the way this process has been handled a bit backwards in that our State Govt passed the legislation without much detail of what was in it available and then passed it over to the relevant Department (DPLH) to sort out all the detail.

Around 50 people attended with reps from Local Govt, the various aboriginal groups and active individuals from the Gtn area along with NRM plus a few interested observers.

The plan is that aboriginal individuals can make submissions to the relevant Prescribed Body Corporates (PBC's) to become a member of the Local Aboriginal Cultural Heritage Services (LACHS).

These LACHS will then be the entity that proponents of new activity (such as mining companies, Shires, developers, Pastoralists etc) in potentially sensitive areas will need to engage to see if the proposed activities are acceptable.

If there is no LACHS for an area then local "knowledge holders" can also be engaged for heritage assessment.

I feel the most important thing for our Shire will be to try and build a decent relationship with the relevant LACHS or knowledge holders for this region.

Should a situation arise where the LACHS and proponent of activity not be able to reach an agreeable solution then the Minister will have the final say.

There is heaps of different aspects to this new Cultural Heritage act and I would encourage everyone to at least have a read of some of the basics to get some level of awareness of what is proposed.

This new system comes into effect on July the 1<sup>st</sup>.

I feel that initially the PCB's and LACHS will get completely swamped and overloaded with the workload they are being expected to undertake. Unless the State Govt commits serious resources to build up the capacity of these bodies then I can't see how they will cope and be able to process requests in any reasonable time frame.

Hopefully over time the new system will have a few of the initial problems ironed out and there may be some room for a cohesive way forward, I just think it could take a while.

### **14.2 Councillors**

#### **Cr A Whitmarsh**

8.12.22

Not much more to add to Rossco's comment and reiterate the point about everyone getting to know the legislation. Below is a link (maybe put in the next monologue or a community email to a site that goes through a lot of the basics:

<https://www.wa.gov.au/organisation/department-of-planning-lands-and-heritage/aboriginal-cultural-heritage-act-2021-co-design-process>

Also keep an eye out for changes to the Land Administration Act as well, which is supposed to be presented to parliament this quarter. Sandy has just received information about it, but hasn't studied the detail yet. Only just got back from their trip.

#### **Others**

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## **15 REPORTS OF COMMITTEES**

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Nil

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## 16 WORKS

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### 16.1 Works Report

File: 12.42  
Author: William Herold – Works Manager  
Interest Declared: No interest to disclose  
Date: 13 December 2022  
Attachments:

#### Construction Crew

The construction crew will wrap up proceedings for this year on about Wednesday 14<sup>th</sup> December. Since last council meeting they have moved over to Tallering and completed 3 relatively short re-sheet jobs. Some gear will come into the Settlement for maintenance and repair. I would like to take this opportunity to congratulate Mark and the crew on the work they have done getting the south end of the Carnarvon-Mullewa Road sheeted and prepared for sealing. They can be extremely proud of the result.

#### Maintenance Crew

Mike and Neil have patch graded from the MRO turnoff to Beringarra, patch graded the Beringarra-Byro Road and are working from the north boundary of the Carnarvon-Mullewa Road to hopefully be back in the Settlement by the Christmas break. Like the construction crew they have had a busy and productive year, my thanks to both.

#### Beringarra-Cue Road

By the time the Christmas break arrives there should be around 15km left to be converted back to unsealed pavement. The standard of work that has been put out by Rowe Contractors is absolutely outstanding on both the pavement and the correction of drainage. Justin and his team should be congratulated on a job very well done.

#### Flood Damage

##### *Squires Resources (Package 1)*

Since council last met Muggon Road and Mt Narryer Access Road have been completed. They have returned from their RDO and started on the Kalli-Cue Road working west towards the Boolardy-Kalli Road and arriving at the Beringarra-Pindar Road before heading off on the Christmas break.

##### *Them Earthmoving (Package 2)*

Started on the west end of the Byro-Woodleigh Road and will hopefully complete this by the time they break for Christmas.

#### Main Road WA Reserve Project

At the September Council Meeting Council was advised that all Main Roads Funding Application for 2023/24 had been reviewed and accepted by Main Roads program as reviewed were accepted. A request for additional Reserve Projects to be submitted was also endorsed. This means that at this stage all projects submitted by all Shires, which includes our two projects, are likely to be funded. There is also good value in applying for a reserve project for a similar widening project.

Accordingly, an application for Main Roads WA funds for an additional Reserve Project for 2023/24 has been submitted for widening and rehabilitation works on various segments on the Carnarvon-Mullewa Road from SLK 214.317 to SLK 230.343 between Billabalong Homestead and the Ballinyoo Bridge. Total actual length 2.25km.

#### Summary

Lastly, I would like to thank the Council for their time and input over the last year and wish all residents and staff a blessed Christmas and happy new year, a special mention to our ladies in the office without whom all comes to a grinding halt. Safe travels to all.

**Recommendation**

That the Works Report be noted.

Voting Requirements

Simple Majority

|                         |                     |                |
|-------------------------|---------------------|----------------|
| <b>Council Decision</b> |                     |                |
| <b>Moved: Cr</b>        | <b>Seconded: Cr</b> |                |
| <b>Carried/Lost</b>     | <b>For</b>          | <b>Against</b> |

## 16.2 Roads 2040

File: 12.42  
Author: Bill Boehm – Chief Executive Officer  
Interest Declared: No interest to disclose  
Date: 13 December 2022  
Attachments: 16.2.1

### Matter for Consideration

Submissions to Main Roads WA regarding an update of the Roads 2040 Strategy Document.

### Background

#### *Roads 2040*

The Roads 2020 Regional Road Development Strategies, released during 1997 and 1998, were an initiative of the 1992 Memorandum of Understanding between the State Government and the Western Australian Local Government Association, then known as the Western Australian Municipal Association. The Memorandum of Understanding requires that the road development strategies be reviewed at five yearly intervals to assess the effects of changing circumstances.

The Roads 2025 Regional Road Development Strategy, for the Wheatbelt North Region, constituted the first review of the Roads 2020 Regional Road Development Strategy. Local Governments within the Wheatbelt North Region were consulted and engaged in the process of reviewing and defining the Roads 2025 road network. Local Governments reviewed and updated the Roads 2025 documents to produce Roads 2030 in 2013.

The latest iteration *Regional Strategies for Significant Local Government Roads (Roads 2040)* are live documents which allow amendments from the Regional Road Groups. An overall review will take place approximately every five years.

Only projects on local roads in the *Roads 2040* will be eligible for *Road Project Grant* funding under the *State Road Funds to Local Government Agreement*.

#### *Mid-West Regional Road Group*

In June 2022 the Mid-West Regional Road Group comprising representatives from each Council in the Coastal, North Midlands and Murchison Sub group held a ROADS 2040 Workshop to review a draft Roads 2040 document in terms of the following.

- ~ Assessment of existing road/route(s)
- ~ Assessment of connectivity of existing road/route(s)
- ~ Proposed new road/route(s), if applicable
- ~ Evaluated Roads 2040 criteria, if necessary.

The Group noted that back in 1999, the Mid-West RRG adopted a road category definition to the significant local government roads. The definition was to distinguish between whether a road/route is major which was defined as a Category 1 road or minor which was defined as a Category 2.

Category 1 (major) is where a closure is a significant event and repair works cannot be deferred. This category garners thirty (30) points in the scoring matrix.

Category 2 (minor) is where short-term closure is tolerable and repair works can be deferred. This category garners fifteen (15) points in the scoring matrix.

For consistency purposed with other regions the category definition was omitted from the Draft ROADS 2040, which now basically means all road/routes garner thirty points. The Draft Roads 2040 documents are the current and only working Regional Road Development Strategies documents. Therefore, for 2023/24 Road Project Grant submissions reference to a category two road will be removed, essentially meaning all road/route(s) to garner 30 points.



Considering the above, the general feel from the group was that if a road/route is listed in the ROADS 2040 then it is significant. If, after assessing the 2023/24 submissions, the Technical Working Group feels the need to re-establish a major/minor road/route scoring system or similar, they will make a recommendation to the sub-groups for consideration.

Although this group has agreed to what roads/routes are strategic, they are only given ‘In Principle Approval’ as they are still subject to the review/scrutiny of the Technical Work Group.

Importantly additional road/amendment to the ROADS 2040 document may require Council’s endorsement prior to submitting applications for the roads amended.

#### Murchison Aspects

A copy of an overall Main Roads Route delineation is attached. Also included is an extract of the current draft Roads 2040 Strategy Document.

To a large extent, apart from updating the current text no major changes are required.

However, as articulated at the June 2022 meeting of the Mid-West Regional Road Group Representatives the following amendments were raised.

| Shire           | Road                 | Comments |  |
|-----------------|----------------------|----------|--|
| Murchison Shire | Twin Peak Wooleen Rd | Addition | Completes the Cue Murchison Route  |
| Murchison Shire | Boolarady Wooleen Rd | Addition | Completes the Cue Murchison Route  |
| Murchison Shire | Beringarra-Byro Rd   | Addition | Connection to Carnarvon Mullewa Rd   |
| Cue Shire       | Beringarra-Cue Rd    | Addition | RAV 10/ The Beringarra Rd from Cue provides links to Dalgaranga Rd which is a connector road to Yalgoo and tourist route to WALGA rock. Kalli Road which is a connector road to Murchison. |

Should we wish to have any roads/routes included/amended in the ROADS 2040 document that are listed in the meeting minutes a submission will need to be submitted to Main Roads WA by 20 January 2022 for the Technical Working Groups review/recommendation.

#### Comment

As indicated above it is suggested that submissions be placed to support changes to our network and also support the Shire of Cue by adding on our section of the Beringarra-Cue Road. Reviewing and updating the description on all of our roads should also be undertaken.

Whilst these suggestions may or may not be taken up by the Technical Working Group it is considered important from a regional connectivity basis. It may also lead to higher scoring in the future should projects be submitted, although given our low traffic this may not come to pass.

**Recommendation**

That Council authorise the CEO to update information for all of the Shire' Roads currently included in the draft Roads 2040 Strategy Document and also add in the Twin Peak Wooleen Rd, Boolardy Wooleen Rd, Beringarra-Byro Rd and Beringarra-Cue Rd as part of a submission to Main Rads WA

Voting Requirements

Simple Majority

|                         |                     |                |
|-------------------------|---------------------|----------------|
| <b>Council Decision</b> |                     |                |
| <b>Moved: Cr</b>        | <b>Seconded: Cr</b> |                |
| <b>Carried/Lost</b>     | <b>For</b>          | <b>Against</b> |

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## 17 FINANCE

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### 17.1 Accounts Paid since the last list was presented to Council

File: 4.37.1  
Author: Bill Boehm – Chief Executive Officer  
Interest Declared: No interest to disclose  
Date: 13 December 2022  
Attachments: 17.1.1 EFT & Cheque Details for November 2022 (Elected Members Only)

#### Matter for Consideration

The *Local Government (Financial Management) Regulations 1996 Regulation 13* requires that if the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, then the CEO is to prepare a list of accounts paid by the CEO for each month and present this to the next ordinary meeting of the Council after the list has been prepared and have this list recorded in the minutes of the meeting.

A list of payments presented in accordance with *Regulation 13* of the *Local Government (Financial Management) Regulations 1996* made since the last report to Council is attached.

#### Strategic Implications

None

#### Policy Implications

None

#### Budget/Financial Implications

Nil

#### Consultation

Nil

#### **Recommendation**

- 1 That that pursuant to LGA s5.23(2)(b) & (e) of the *Local Government Act 1995* that attachment 17.1.1 EFT & Cheque Details for November 2022 be discussed behind closed doors
- 2 That Council receive and note attachment 17.1.1 EFT & Cheque Details for November 2022 and that the accounts since the last report to Council, as provided to Councillors be recorded in the minutes as being presented to Council

#### Voting Requirements

Recommendation 1 Absolute Majority  
Recommendation 2 Simple Majority

#### **Item to be Discussed behind closed doors**

|                         |                     |                |
|-------------------------|---------------------|----------------|
| <b>Council Decision</b> |                     |                |
| <b>Moved: Cr</b>        | <b>Seconded: Cr</b> |                |
| <b>Carried</b>          | <b>For</b>          | <b>Against</b> |

*The meeting was moved to behind closed doors at*

**Motion to open the meeting to the public**

|                         |                     |                |
|-------------------------|---------------------|----------------|
| <b>Council Decision</b> |                     |                |
| <b>Moved: Cr</b>        | <b>Seconded: Cr</b> |                |
| <b>Carried/Lost</b>     | <b>For</b>          | <b>Against</b> |

*The meeting was moved out of closed doors at*

**Decisions Disclosed from the Closed Section of Meeting associated with Attachment Item 17.1**

|                         |                     |                |
|-------------------------|---------------------|----------------|
| <b>Council Decision</b> |                     |                |
| <b>Moved: Cr</b>        | <b>Seconded: Cr</b> |                |
| <b>Carried/Lost</b>     | <b>For</b>          | <b>Against</b> |

## 17.2 Financial Activity Statements 30 November 2022

File: 2.6  
Author: Travis Bate (RSM) – Financial Accountant  
Interest Declared: No interest to disclose  
Date: 13 December 2022  
Attachments: 17.2.1 Monthly Management Financial Report November 2022

### Matter for Consideration

The Local Government (Financial Management) Regulations 1996 Regulation 34 requires that local government report monthly and prescribes what is required to be reported. Council is required to consider and receipt the Monthly Financial Statements.

### Comment

These statements are being presented to meet a statutory obligation to have each month's end and report presented within the following two months.

### Budget/Financial Implications:

Reports showing year to date financial performance allow monitoring of actual expenditure, revenue and overall results against budget targets.

### Consultation

RSM Australia

### **Recommendation**

That Council note the financial statements as presented for the period ending 30 November 2022 as attached.

### Voting Requirements

Simple Majority

|                         |                     |                |
|-------------------------|---------------------|----------------|
| <b>Council Decision</b> |                     |                |
| <b>Moved: Cr</b>        | <b>Seconded: Cr</b> |                |
| <b>Carried/Lost</b>     | <b>For</b>          | <b>Against</b> |

### 17.3 Beringarra-Cue Road Budget Amendment

File: 2.6  
Author: Bill Boehm - Chief Executive Officer  
Interest Declared: No interest to disclose  
Date: 13 December 2022  
Attachments: Nil

#### Matter for Consideration

Adjustment to the budget to account for works undertaken on the Beringarra-Cue Road funded from the Beringarra-Cue Road Reserve.

#### Comment

At the time the 2022/23 budget was adopted the exact extent of work required to be programmed for the year on the Beringarra-Cue Road to convert the road back to gravel and to reinstate drainage was not able to be clearly defined. Essentially the extent of work is determined through onsite inspection with the Works Manager and Contractor.

At the time the budget was adopted budget an amount of \$850,000 was foreshadowed to be funded from the Beringarra-Cue Reserve. Thus far \$1,133,781 has been spent but at this stage the transfer of funds from the Reserve has not been undertaken.

In the normal course of events the budgeted reserve transfer would be undertaken during the year as works are progressively carried out, with any adjustments made at the mid-year budget review or at the end the year. Finance staff have advised that currently whilst there are a number of funding claims outstanding that we expect to receive soon it would be prudent from a cashflow perspective to transfer the entire amount out now and increase the transfer from the Beringarra- Cue Road Reserve to cover the increased expenditure.

#### Budget/Financial Implications

There will be no impact on the surplus / deficit at the end of the year as works undertaken will be funded from the Beringarra-Cue Road Reserve. The Beringarra-Cue Road Reserve would alter as follows.

| <b>Beringarra-Cue Road Reserve (\$)</b> | <b>Opening Balance<br/>1 Jul 2022</b> | <b>Transfers<br/>From</b> | <b>Transfers<br/>To</b> | <b>Closing Balance<br/>30 Jun 2023</b> |
|---|---------------------------------------|---------------------------|-------------------------|--|
| Budget                                  | 3,457,923                             | (850,000)                 | 24,000                  | 2,631,923                              |
| Budget Amendment as at (17.12.22)       | 3,457,923                             | (1,333,781)               | 24,000                  | 2,148,142                              |

#### Consultation

Travis Bate Financial Accountant -RSM Australia

#### **Recommendation**

That Council amends the 2022/23 budget to include the transfer of funds from the Beringarra-Cue Road Reserve to cover all expenses associated with works undertaken during the year to convert the Beringarra-Cue Road back to gravel and to reinstate drainage.

#### Voting Requirements

Absolute Majority

|                         |                     |                |
|-------------------------|---------------------|----------------|
| <b>Council Decision</b> |                     |                |
| <b>Moved: Cr</b>        | <b>Seconded: Cr</b> |                |
| <b>Carried/Lost</b>     | <b>For</b>          | <b>Against</b> |

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## 18 DEVELOPMENT

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### 18.1 Aboriginal Cultural Heritage Act Update

|                    |   |
|--------------------|---|
| File:              | 10.6  |
| Author:            | Bill Boehm – Chief Executive Officer  |
| Interest Declared: | No interest to disclose   |
| Date               | 13 December 2022  |
| Attachments:       | 18.1.1 Murchison Aboriginal Cultural Heritage Bill 2020 Submission<br>18.1.2 Phase 3 Co-design Documents Extracts<br>18.1.3 Murchison Examples Aboriginal Cultural Heritage Clarification |

#### Matter for Consideration

An update report on the implementation of the Aboriginal Cultural Heritage Act 2021 as outlined in the current Phase 3 Co-Design Workshop Process

#### Background

At the October 2020 Council Meeting in relation to the then Aboriginal Cultural Heritage Bill Council resolved as follows.

*“That the Shire of Murchison presents the motion to the Zone and that the Murchison Country Zone of WALGA consider using the Shire of Murchison’s submission regarding the Aboriginal Cultural Heritage Bill as a template to form the basis of the Zone’s submission to WALGA.”*

A copy of that submission which was agreed to at the 20 September 2020 Council Meeting is attached

#### Update

Since this time the Aboriginal Cultural Heritage Act 2021 became legislation with Assent 22 December 2021. However, it does not become operational until it is proclaimed along with the Regulations. This is scheduled for 1 July 2023.

Amongst other things the Act provides for the following

- ~ Definition of Aboriginal Cultural Heritage which as outlined in Section 12 of the Act is fairly broad. It encapsulates tangible elements that are important to the Aboriginal people as recognised through spiritual, historical, scientific or aesthetic values as part of Aboriginal tradition. It includes an Aboriginal place, object, group of areas or ancestral remains. ACH is located in an area if that area is or is part of an Aboriginal place cultural landscape or if there are ancestral remains
- ~ Aboriginal people empowered to determine what ACH is protected (Part 1)
  - o Existing registered sites and lodged places transition to new Directory
- ~ Establishment of the Aboriginal Cultural Heritage Council (ACH Council) the power to determine what Aboriginal Cultural Heritage (ACH) is protected. This has now occurred with inaugural meeting of the Council held on 14 October 2022
- ~ ACH Council (Part 2)
  - o two Aboriginal co-chairs (M&F); up to nine additional members; majority Aboriginal
  - o designates LACHS, approves permits & agreed plans, recommendations to Minister
- ~ Establishment of Local Aboriginal Cultural Heritage Services (LACHS) (Part 2) with an active role for Aboriginal people in heritage management
  - o one-stop shop for proponents; role in negotiating Aboriginal Cultural Heritage Plans (ACHMP’s)
  - o funding for capacity building; able to charge fee for service for ACHMPs
- ~ Aboriginal ancestral remains and secret and sacred objects (SSO) (Part 3)
  - o ancestral remains must be returned to rightful custodians
  - o SSO reported to Council; government must return; can’t be sold/removed from WA
- ~ Protected Areas for ACH of Outstanding Significance (Part 4)
  - o Existing 78 Protected Areas transition under new Act

- Exclusive vesting with Minister removed to allow Aboriginal groups to manage
- ~ Minister able to issue new Orders (Part 7)
  - Stop Activity and Prohibition Orders where unauthorised harm or new information
  - Remediation Orders for harmed ACH to be restored
- ~ ACH Protection Agreements (Part 8)
  - recognition, protection, conservation, restoration or management;
  - can be endorsed by Council
- ~ ACH Directory to replace Register of Aboriginal Sites (Part 9)
  - ACH, Protected Areas, ACH Permits & Plans, LACHS, Knowledge Holders
  - Duty to report ACH (except Aboriginal people and if requested by Aboriginal people)
- ~ Offences & Securing Compliance (Parts 5 & 10)
  - Maximum penalty of \$10M; statute of limitations period increased to 6 years
  - Appointment of Inspectors and Aboriginal Inspectors
  - Compensation to Aboriginal people if ACH is harmed without authorisation

The Act and its operating are reasonably complex, have significant implications that apply state-wide and therefore impact differently depending on location and the extent of local knowledge of cultural heritage and whether there is an existing Aboriginal Group or Native Title holders in existence.

The Government has instituted a co-design process to address this aspect but also as a means to fine tune operational details that will ultimately be captured by Regulation's when the Act and Regulations are proclaimed. Workshops have been conducted on line and at various locations throughout the State.

As outlined under Items 14.1 and 14.2 of the Agenda Cr's R Foulkes-Taylor and A Whitmarsh recently attended a Workshop in Geraldton, whilst I recently attended two on-line workshops as part of the Phase 3 Co-design Process. An extract copy of the detailed presentation is attached.

The entire process is a multi-layered one including the following

- ~ Establishment of an ACH
- ~ Establishment of Knowledge Holder Guidelines
- ~ ACH Management Plan Template and Guiding Notes
- ~ Prescribed Timeframes
- ~ LACHS Service Fee Guidelines
- ~ Protected Area Order Guidelines
- ~ State Significance Guidelines

Under the ACH Code guidelines are provided outlining the requirements when undertaking a due diligence assessment (DDA) for a proposed activity prior to undertaking any work which may damage ACH. It is the responsibility of a proponent to undertake a DDA and document the results. Apart from being a requirement it will also significantly mitigate any issues later and be a defence should ACH be disturbed.

As indicated in the attached Extract of Phase 3 Co-design Documents, Activities have been categorised as follows:

| Tier Category   | Description  | Approval Pathway  |
|---|--|---|
| <b>Exempt Activity</b><br>Activities specified in the ACH Act | Small Scale Residential<br>Emergency Services<br>Recreational Activities | Does not require Approval<br><br>Proponents encouraged to avoid ACH |



| Tier Category  | Description                                    | Approval Pathway   |
|--|--|--|
| <b>Tier 1</b><br>Activities will be specified in the Regulations | Minimal Ground Disturbance Activities          | Does not require Approval<br><br>Proponents takes all reasonable steps possible to avoid or minimise risk of harm to ACH   |
| <b>Tier 2</b><br>Activities will be specified in the Regulations | Low Ground Disturbance Activities              | Requires issue of ACH Permit by ASCH Council<br><br>Proponents takes all reasonable steps possible to avoid or minimise risk of harm to ACH  |
| <b>Tier 3</b><br>Activities will be specified in the Regulations | Moderate to High Ground Disturbance Activities | Where Aboriginal Party and Proponent reach agreement ACH Council approves ACH Management Plan<br><br>Where Aboriginal Party and Proponent are unable to reach agreement, it is the decision of the Minister whether or not to authorise an ACH Management Plan |

Work is currently being carried out to further clarify the above. Whilst this is still work in progress as indicated in the attachments a detailed more expansive list is provided.

For instance, the following activities are exempt

| Other exempt activities   |
|---|
| <ul style="list-style-type: none"> <li>• <b>Travel on an existing road or track</b> [s 100 Exempt activity (c)]</li> <li>• <b>The taking of photographs for a recreational purpose</b> [s 100 Exempt activity (d)]</li> <li>• A temporary camp limited to use of swags, tents, camper trailers and caravans for accommodation</li> <li>• General maintenance and lifestyle activities associated with a dwelling and/or activity conducted on completely modified landforms including:               <ul style="list-style-type: none"> <li>○ Gardening</li> <li>○ Fixing fences</li> </ul> </li> <li>• Aerial transportation that does not require clearing at landing site</li> <li>• Maintenance of existing infrastructure with no new or additional ground disturbance *</li> <li>• Undertaking a like for like activity or less **</li> </ul> <p>A definition of what constitutes new or additional ground disturbance and what is Like for Like is shown as follows</p> <p><b>Definitions:</b></p> <p><b>*New and additional ground disturbance</b> - Any disturbance that is not consistent with the existing extent of surface or subsurface disturbance at the time the activity is proposed to take place. This will include disturbing the adjacent ground that is previously undisturbed, or disturbing subsurface ground at a depth where cultural material may exist.</p> <p><b>** 'Like for like' or less</b> - Like for Like activities are proposed ground disturbance activities that will result in development that, in essence, is the same or lesser type, kind or form in the context of:</p> <ol style="list-style-type: none"> <li>I. scale;</li> <li>II. structure;</li> <li>III. profile; and</li> <li>IV. extent;</li> </ol> <p>No or minimal level of ground disturbance with handheld equipment</p> <ul style="list-style-type: none"> <li>• Removal of material up to and including 4 kilograms</li> <li>• Ground excavation with a surface area smaller than 0.04 metres square</li> <li>• Ground excavation with a depth up to and including 0.5 metre</li> </ul> |

### Potential Application

In order to seek clarification a few local examples were provided to a WALGA consultation workshop. A copy of this is attached.

Feedback obtained indicated that firstly the interpretation of definition was correct and secondly that with respect to the examples most will not require approval. Essentially this is because works are being carried out on ground that has at some time in the past has been disturbed and as such fall under the exemption of maintenance of existing infrastructure with no new or additional ground disturbance. What interpretation applies off beyond this area is unknown or with respect to new cut off drains remains unclear. Clarification would be useful.

However, as it stands now this definition could made a bit clearer.

There are many aspects involve in the implementation which will need to be worked through over time some. For instance.

- ~ All Aboriginal engagement will be through an interested aboriginal party which can be a LACHS or if one has not been identified the native title party or if no native title party exists, the relevant native title representative body.
- ~ There are circumstances where ACH is permitted to be destroyed. Eg water sampling.
- ~ Water extraction with no ground disturbance is a Tier 1 Activity
- ~ As shown in the attached flow charts included in the attachments the processes involved are quite nuanced
- ~ Cultural material is assumed to cease to exist at a depth of 10m.

### Previous Submission Comments

Councils 2020 Submission as attached in relation to the 2020 Bill included several matters. Comments in relation to how these have been addressed in response to the heading in the submission bare shown as follows:

- 1 *Avoidance of spurious type objections / Penalties for false claims.*  
There is a formal process associated with the permit system where the AH Council has a final say
- 2 *That all stakeholders need to have a part in the new legislation*  
This is well laid out
- 3 *That an extended period of enforcement is of concern (what is correct today may be penalised in five years' time).*  
There is a self-assessment due diligence process as well as a permit system in place.
- 4 *That some level of exemption or a reduced fee paid for by state or local government for any surveys done for public works.*  
Whilst the issue of reduced fees for local government has not been addressed there are a range of exemptions which should cover much of our regular roadworks activities. Travel on existing tracks and water extraction seems to have been addressed. A blanket roadworks exemption has not been taken up.
- 5 *All cultural heritage surveys conducted such that each survey is the first and final one.*  
Once undertaken and accepted these should be publicly available.
- 6 *Clarifications on what is cultural/heritage site if not identified straight away*  
This is very much upon top the local LACHS to determine
- 7 *Clarification on why approved permits are not longer than two years*  
Work in progress
- 8 *That a state library is established for any heritage work carried out, therefor eliminating duplications.*  
Doesn't seem to have been addressed but may later depending on the administrative arrangements that will need to be put in place.
- 9 *That a robust system of decision making, and appeals is available to all stakeholders.*  
On the surface this should exist although In would expect that initially resource wise this will be an issue
- 10 *Permit System*  
The onus remains on the proponent but there are a range of exemptions available but due diligence assessment is required.

Overall Comment

The introduction of this legislation will likely have a profound impact in the consideration and advancement of cultural heritage into the way we all operate. This will take some time to develop until operations are bedded down and resources are provided, especially for Aboriginal groups. It will also require everyone to work together with Aboriginal people and in the process hopefully create a better understanding generally. Given the range of exemptions that appear to be in play, so long as these are clear for everyone then for the most part it should be manageable, albeit with additional effort.

Submissions

Submissions on the process thus far can be made to the Department of Planning, Lands and Heritage by 6 January 2023. WALGA have been an active participant in the co design process and will be putting a sector wide submission. Unless there is anything additional WALGA seem to have a good grasp of the situation.

Consultation

WALGA Aboriginal Cultural Heritage Act Phase 3 Co-Design Working Group

Statutory Environment

Aboriginal Cultural Heritage Act 2021 and regulations when proclaimed

Policy Implications

Nil

Strategic Implications

|   |  |
|---|--|
| Vision Statement                        | <i>Working together to preserve the unique character of the Shire, supporting diverse and sustainable lifestyle and economic opportunities.</i>                        |
| Economic Objective 1                    | <i>To develop the region’s economic potential to encourage families and businesses to stay in the area.</i>  |
| Strategies                              |  |
| Maintenance and Upgrade of Road Network | <i>To develop, maintain and improve an efficient road system to support the transport requirements associated with the pastoral and mining industries and tourism.</i> |

Financial Implications

Some additional implementation costs will be required

**Recommendation**

That Council notes the Chief Executive Officer’s Aboriginal Cultural Heritage Act Update Report

Voting Requirements

Simple Majority

|                         |                     |                |          |
|-------------------------|---------------------|----------------|----------|
| <b>Council Decision</b> |                     |                |          |
| <b>Moved: Cr</b>        | <b>Seconded: Cr</b> |                |          |
| <b>Carried</b>          | <b>For</b>          | <b>Against</b> | <b>0</b> |

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## 19 ADMINISTRATION

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### 19.1 2023 Meeting Dates

|                    |                                      |
|--------------------|--------------------------------------|
| File:              | 4.16                                 |
| Author:            | Bill Boehm – Chief Executive Officer |
| Interest Declared: | No interest to disclose              |
| Date               | 13 December 2022                     |
| Attachments:       | Nil                                  |

#### Matter for Consideration:

Council to consider the meeting dates for Ordinary Council Meetings for 2023.

#### Background

The precedent is that Ordinary Council meetings are held on the fourth Thursday in each month commencing at 12 noon, with the exceptions of January, when a recess is traditionally observed and December which is to be held on the same day as the Shire Community Christmas Tree thereby allowing for the Christmas break.

In 2021 this precedent was varied slightly to facilitate Cr E Foulkes-Taylor's commitments as a Board Member with the Mid West Regional Development Commission. (MWDC)

#### Comment

I have been advised by Cr E Foulkes-Taylor that MWDC Meeting dates do not clash with Council's traditional meeting dates, so a retention of the 2022 cycle is proposed as outlined in the recommendation.

#### Statutory Environment

*Regulation 12(1) of the Local Government (Administration) Regulations 1996 requires that:*

- (1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which
  - (a) the ordinary council meetings; and*
  - (b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months.**

#### Strategic Implications

Nil

#### Policy Implications

Nil

#### Financial Implications

Nil

#### Consultation

Nil

**Recommendation**

That Council gives local public notice of its Ordinary Meetings of Council for 2022 as follows:

*Murchison Shire 2023 Ordinary Council Meetings*

The following ordinary Council meetings are open to the public commencing at 12 Noon on the dates as shown below. All meetings are held in Council Chambers, Murchison Settlement, WA.

|                           |                            |
|---------------------------|----------------------------|
| January 2023 (No meeting) | Thursday 27 July 2023      |
| Thursday 23 February 2023 | Thursday 24 August 2023    |
| Thursday 23 March 2023    | Thursday 28 September 2023 |
| Thursday 27 April 2023    | Thursday 26 October 2023   |
| Thursday 25 May 2023      | Thursday 23 November 2023  |
| Thursday 22 June 2023     | Saturday 16 December 2023  |

Voting Requirements

Simple Majority

|                         |                     |                |
|-------------------------|---------------------|----------------|
| <b>Council Decision</b> |                     |                |
| <b>Moved: Cr</b>        | <b>Seconded: Cr</b> |                |
| <b>Carried/Lost</b>     | <b>For</b>          | <b>Against</b> |

## 19.2 WYAC Land Tenure Request

File: 11.24  
Author: Bill Boehm – Chief Executive Officer  
Interest Declared: No interest to disclose  
Date: 13 December 2022  
Attachments: 19.2.1 Wajarri Yamaji Aboriginal Corporation (WYAC) Land Tenure Request

### Matter for Consideration

Consideration of a request from the Wajarri Yamaji Aboriginal Corporation (WYAC) advising of their intention to acquire a grant of freehold or perpetual crown leasehold tenure for Lot 31 on DP220344 on the corner of the Beringarra-Pindar and Manfred Road, and seeking advice from Council if there are any matters that it would like to bring to their attention including advice as to the rateability of the land should they be successful,

### Outline

A copy of the request and location plans is attached. In this advice has been provided that

- 1 The availability of the land arises as a result of the land not forming part of SKA Project and not part of the new crown lease and that on surrender of the Boolardy Pastoral Lease Lot 31 will become vacant/unallocated crown land
- 2 WYAC seeks to secure tenure for the benefit of Wajarri Yamaji people
- 3 WYAC is required to advise the Department of Lands, Heritage (DPLH) that it has consulted with the Shire as to whether it has any information on planning or other proposals in the Shire area which may assist or affect WYAC' s request
- 4 WYAC are looking at options to incorporate Lot 31 including incorporating Lot 31 into the existing Pia Wadjari Reserve or granting of a freehold or perpetual crown lease.
- 5 WYAC are seeking to ascertain from Council as to whether as a not-for-profit entity the land would be ratable under *section 6.26 of the Local Government Act 1995*

### Comments

From the information provided, it appears the WYAC is contemplating that the future management order / freehold title over Lot 31 will fall under the rating exemption provided for under Section 6.26(2)(g) of the *Local Government Act*.

The general advice that the basis for determining rateability under this section of the Act should be based upon an application from the land occupier / owner and at that this stage is premature to advise on the rateability of Lot 31 until the organisation is granted tenure and is then able to indicate to the Shire the intended purpose of the subject land. This will be an important factor in the evaluation of any future rate exemption application.

Under the Shire of Murchison Local Planning Scheme, the land is zoned Pastoral. Main provisions are as follows

#### 5.7 Pastoral Zone

- 5.7.1 For Pastoral zoned land outside of the Special Control Area – Inner Zone Australian Radio Quiet Zone WA, an application for planning approval is not required for the following development or use of the land in the Pastoral zone:
- a) Pastoral uses
  - b) Mining including uses ancillary thereto
  - c) Radio-astronomy including uses ancillary thereto

In this instance provisions within the Special Control Area – Inner Zone Australian Radio Quiet Zone, meaning that CSIRO will need to be advised of any application for any dwellings and other buildings for and associated with the use of the land for pastoral purposes and for any other non-pastoral development or use.

With respect to options for any prospective form of land tenure the Council may have a view especially given the close proximity to PIA Wadjari Reserve

Consultation

WALGA

**Recommendation**

That in relation the Wajarri Yamaji Aboriginal Corporation (WYAC) intention acquire a tenure for Lot 31 on DP220344 that Council advise as follows:

- 1 That Council supports WYAC’s proposal to acquire a tenure for Lot 31 on DP220344 for the benefit of Wajarri Yamaji people
- 2 That under section 6.26 of the *Local Government Act 1995* the basis for determining ratability is based upon an application from the land occupier / owner and at that this stage it is premature to provide definitive advice until WYAC is granted tenure and is then able to indicate to the Shire the intended purpose of the subject land.
- 3 Under the provisions of the Shire of Murchison Local Planning Scheme, the land is zoned Pastoral and is also within the Special Control Area – Inner Zone Australian Radio Quiet Zone WA and as such CSIRO will need to be advised of any application for any dwellings and other buildings for and associated with the use of the land for pastoral purposes and for any other non-pastoral development or use

*Note if Council agrees that it has a preference that future land tenure be aligned to the PIA Wadjari Community the following could be added*

- 4 *That whilst the form of land tenure is a matter for WYAC Council sees some potential advantages if it can be aligned to the Pia Wadjari Reserve as in part it could assist in the development of the Pia Wadjari Community and also strengthen the current local partnerships with the Council, CSIRO and others.*

Voting Requirements

Simple Majority

|                         |                     |                |
|-------------------------|---------------------|----------------|
| <b>Council Decision</b> |                     |                |
| <b>Moved: Cr</b>        | <b>Seconded: Cr</b> |                |
| <b>Carried/Lost</b>     | <b>For</b>          | <b>Against</b> |

### 19.3 Document Authorisations

File: 14.20  
Author: Bill Boehm – Chief Executive Officer  
Interest Declared: No interest to disclose  
Date: 13 December 2022  
Attachments: 19.3.1 Draft Policy Common Seal

#### Matter for Consideration

Review and Revision of current practices pertaining to the Authorisation of Documents

#### Background

Council's current practice enabling the Use of the Common Seal is by a delegated authority under the Register of Delegations adopted on 23 May 2019 as follows.

|                          |  |
|--------------------------|--|
| Function to be performed | To give permission to the President and CEO to affix the Common Seal of the Shire of Murchison to relevant legal documents.  |
| Delegated by:            | The Shire of Murchison Council   |
| Delegated to:            | Chief Executive Officer and Shire President  |
| Sub-delegation to:       | Nil  |
| Conditions               | <ul style="list-style-type: none"><li>• Where the document is the initial document, it must be approved by council prior to affixing the seal.</li><li>• Where it is a renewal or extension of an existing document and there is no significant variation in clauses or conditions the seal may be affixed without prior referral to Council.</li><li>• The Common Seal is to be kept in the safe.</li></ul> |
| Statutory reference      | The Act does not make reference to this matter.  |

Strictly speaking the use of a delegation as outlined above is incorrect as outlined below under the legislative requirements. The fixing of a seal is not power of the Council which can be delegated but authorisation to apply the seal to something that Council has already decided to do.

For most documents, there is no legal requirement for the Common Seal to be affixed if Council has resolved to authorise a person to sign the document. [s.9.49A(4)] of the *Local Government Act 1995*. It is however acknowledged that through custom or historical practices there are circumstances where external parties may expect the Council Common Seal to be affixed.

Recently as a case in point, the Department of Transport has provided a new agreement for a further 5-year term for the provision of Licensing Services. The new agreement is required to be signed and the common seal affixed at this meeting, hence this Agenda Item.

#### Legislative

##### *Local Government Act 1995*

##### 9.49A. Execution of documents

- (1) A document is duly executed by a local government if —
  - (a) the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or
  - (b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.
- (2) The common seal of a local government is not to be affixed to any document except as authorised by the local government.



- (3) The common seal of the local government is to be affixed to a document in the presence of —
- (a) the mayor or president; and
  - (b) the CEO,
- each of whom is to sign the document to attest that the common seal was so affixed.
- (4) A local government may, by resolution, authorise the CEO, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.
- (5) A document executed by a person under an authority under subsection (4) is not to be regarded as a deed unless the person executes it as a deed and is permitted to do so by the authorisation.
- (6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary is shown.
- (7) When a document is produced bearing a seal purporting to be the common seal of the local government, it is to be presumed that the seal is the common seal of the local government unless the contrary is shown.

Comments

As outlined under s9.49(4) of the Act it is considered prudent to authorise the CEO, sign documents on behalf of the local government. At this stage it is not contemplated extending this to another staff member, but this could be revisited at a later date if required.

A policy has also been developed to clarify when and under what circumstances the common seal is to be affixed.

The main consideration is that regardless of the method of execution, in each case the execution follows a Council decision on the subject matter or a decision of the Officer acting under a delegated authority.

Attached is a draft Common Seal Policy. The recommendation below endorses this policy as well as formally authorising the CEO to sign documents on Council’s behalf.

Consultation

WALGA

**Recommendation**

That Council resolve as follows.

- 1 That pursuant to s9.49(4) of the *Local Government Act 1995* that Council authorises the Chief Executive Officer to sign documents on behalf of the Council where that document is a means to put into effect a decision or resolution of the Council.
- 2 That Council adopts Policy 1.13 Common Seal as attached

Voting Requirements

Simple Majority

|                         |                     |                |
|-------------------------|---------------------|----------------|
| <b>Council Decision</b> |                     |                |
| <b>Moved: Cr</b>        | <b>Seconded: Cr</b> |                |
| <b>Carried/Lost</b>     | <b>For</b>          | <b>Against</b> |

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## 20 CEO ACTIVITY REPORT

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File:  
Author: Bill Boehm – Chief Executive Officer  
Interest Declared: No interest to disclose  
Date: 13 December 2022  
Attachments: Nil

### General

Despite the period preceding the December Period being short as indicated some important work has been undertaken

As this is the last Council Meeting for the year, I would like to formally thank all Councillors and staff for working so constructively and cooperatively in what continues to see significant and positive change. Support for Kaye continues to be invaluable and much appreciated.

Office Staff Vicki and departed Racheal with Lisa from the Depot have been a supportive team with drive in drove out Travis Bate's financial expertise invaluable. Stevens successful work has seen a positive growth in a range of community economic development areas with the Roadhouse and Caravan under Nick, Pix and a raft of casuals including Jack and Winnie, continuing to receive positive reviews. I think the November / December Monologue provides an excellent year end summary to be proud of and pleased that Will's Works Crews are so heavily featured as they continue with excellent work. 2023 looks very positive.

| Date                      | Activity  |
|---------------------------|---|
| 22.11.2022                | Travel back from Yalgoo from MEG Meeting. Meeting with Works Manager. General Administration Work   |
| 23.11.2022                | Monologue Work. Meeting and update briefing with Works Manager. Work on SKA Year 1 Works Program. Telephone discussion with Shire President.  |
| 24.11.2022                | Council Preparation. Attend Workshop & Council Meeting. Monologue Work  |
| 25.11.2022                | Council Meeting Follow up. TOIL   |
| 28.11.2022                | Attend Works Tool Box Meeting at Depot. Meeting with Works Manager. Brief Meeting with Cr M Fowler. Performance Review Work. Telephone discussion within Josh Kirk Greenfields relating to Main Roads WA Regional Roads Group Reserve Projects Submission |
| 29.11.2022                | Performance Review briefing and work. Meeting with Works Manager and Depot Officer. Council follow up actions   |
| 30.11.2022                | Performance Review briefing and work. Meeting with Works Manager and Depot Officer. Council Agenda Preliminary Prep. Skype Meeting with Gabrielle O'dwyer Water Corp regarding water supply   |
| 1.12.2022                 | Attend via Teams Phase 3 Co design document workshop on Aboriginal Cultural Heritage Act 2021. Meetings with Administration Officer, Depot Officer and Community Manager DCEO   |
| 2.12.2022                 | Performance Review Work. Council Meeting follow up actions. End of year prep. Teams Meeting with GHD regarding water supply   |
| 3.12.2022 to<br>5.12.2022 | General Administration End of Year Prep   |
| 6.12.2022                 | Cultural Heritage Road related Pics. Work on Cultural Heritage Road Examples. Prepare draft purchasing template.  |
| 7.12.2022                 | Work on Cultural Heritage Road Examples. Audit and LRCIP Audit Work. Brief Teams Meeting with Auditor. Performance Review Work  |
| 8.12.2022                 | Provide briefing and commentary to ACIL regarding Carnarvon-Mullewa Rd Cost Benefit analysis. Telephone discussion over governance matters with Lynn Fogg at WALGA  |
| 9.12.2022                 | Agenda Prep. Attend via Teams Phase 3 Co design document workshop on Aboriginal Cultural Heritage Act 2021. Touch base with Shire President   |
| 10.12.2022                | Performance Review Work. Agenda Work  |

| Date                        | Activity   |
|-----------------------------|--|
| 11.12.2022                  | Agenda Work  |
| 12.12.2022                  | Finance Officer Recruitment. Performance Review Work. Telephone discussions with Shire President |
| 13.12.2022 to<br>14.12.2022 | Agenda Prep.   |

**Recommendation**

That Council note the CEO's Activity Report.

Voting Requirements

Simple Majority

| <b>Council Decision</b> |                     |                |
|-------------------------|---------------------|----------------|
| <b>Moved: Cr</b>        | <b>Seconded: Cr</b> |                |
| <b>Carried/Lost</b>     | <b>For</b>          | <b>Against</b> |

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**21 OTHER ITEMS TO BE DISCUSSED BEHIND CLOSED DOORS**

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Nil

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**22 MEETING CLOSURE**

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*The Shire President closed the meeting at.*