



Ordinary Council Meeting Minutes
Wednesday, 25 October 2023



GORDON MACMILE
CHIEF EXECUTIVE OFFICER

Acknowledgement of Country

We wish to acknowledge the traditional custodians of the land we are meeting on, the Wadandi people. We wish to acknowledge and respect their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their culture; and to Elders past and present, their descendants who are with us today, and those who will follow in their footsteps.

Our Vision

A future focused and resilient community that benefits from good governance, responsive services and appropriate facilities to deliver positive social, environmental and economic outcomes for everyone.

Our Values

Respect

We are respectful in all that we do, and all interactions we have, while being inclusive and mindful of differences.



Honesty

We are truthful, trustworthy and genuine in all that we say and do.



Teamwork

We are cooperative, collaborative and united while working towards common goals of our Shire.



Accountability

We are transparent in all that we do, and stay true to our word by taking responsibility for our actions.



Empathy

We are kind and show understanding of people's circumstances, perspectives and differences.





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1. Declaration of Opening/Announcement of Visitors

The Chief Executive Officer opened the meeting at 6:00pm and made the following Acknowledgement of Country and statement:

'We wish to acknowledge the traditional custodians of the land we are meeting on, the Wadandi people. We wish to acknowledge and respect their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures; and to Elders, past, present and emerging.'

DECLARATION OF RECENTLY ELECTED COUNCILLORS

The *Local Government Act 1995* Section 2.29(1) indicates that a person elected as an elected mayor or president or as a Councillor has to make a declaration in the prescribed form before acting in the office.

The five Councillors declared elected on 21 October 2023 are required to make the declaration before participating in any part of the Ordinary Meeting.

Mr Bill Spurr, JP and Freeman of the Shire of Capel, officiated the declaration, with photographs taken by the Shire.

The following Councillors made their Declarations to the Shire:

Cr John Fergusson.
Cr Rosina Mogg.
Cr Kieran Noonan.
Cr Theresa Sharp.
Cr Sebastian Schiano.

ELECTION OF PRESIDENT

The *Local Government Act 1995* Schedule 2.3, Division 1, Section 4 indicates in part that:

1. The Council is to elect a Councillor to fill the office of President.
2. The election is to be conducted by the Chief Executive Officer in accordance with the procedures prescribed.
3. Nominations are to be given to the Chief Executive Officer in writing before the meeting or during the meeting before the close of nominations.
4. Nominations close at the meeting at a time announced by the Chief Executive Officer, which is sufficient time after the announcement by the Chief Executive Officer that nominations are about to close to allow for any nominations made to be dealt with.

The Chief Executive Officer held an Election for the role of Shire President. A total of three (3) nominations were received (Cr Kitchen, Cr Mogg, Cr Terrantroy) by the Chief Executive Officer at the close and following the count of the ballot, the following Councillor was elected to Shire President:

Cr Douglas Kitchen

The Shire President to assumed role of the Presiding Member.



ELECTION OF DEPUTY PRESIDENT

The *Local Government Act 1995* Schedule 2.3, Division 2, Section 8 indicates in part that:

- The Council is to elect a Councillor (other than the Mayor or President) to fill the office of Deputy President
- The election is to be conducted in accordance with the procedures prescribed by the Mayor or President, or if he or she is not present, by the Chief Executive Officer.
- Nominations are to be given to the person conducting the election in writing before the meeting or during the meeting before the close of nominations.
- Nominations close at the meeting at a time announced by the person conducting the election, which is sufficient time after the announcement by that person that nominations are about to close to allow for any nominations made to be dealt with.
- If a Councillor is nominated by another Councillor, the person conducting the election is not to accept the nomination, unless the nominee has advised the person conducting the election, orally or in writing, that he or she is willing to be nominated for the office.

The Chief Executive Officer held an Election for the role of Shire President. A total of four (4) nominations were received (Cr McCleery, Cr Mogg, Cr Terrantroy, Cr Schiano) by the Presiding Member at the close and following the count of the ballot, the following Councillor was elected to Deputy Shire President:

Cr Sebastian Schiano

ALLOCATION OF COUNCILLOR SEATING WITHIN THE COUNCIL CHAMBER

The Shire of Capel Standing Orders Local Law 2016 Clause 7.2 indicates that at 'the first meeting held after each ordinary elections day the Chief Executive Officer is to allot by random draw, a position at the Council table to each Councillor and the Councillor is to occupy that position when present at meetings of the Council, until such time as there is a call by a majority of Councillors for a re-allotment of positions.'

Allocation of Councillor seating will be undertaken for all positions, except for those reserved for the orderly conduct of meetings being President, Deputy President, CEO and Minute Taker.

The Chief Executive Officer held a random draw for the seating positions of the Council Chamber.

Following the draw, Councillors assumed their allocated seats.



2. Record of Attendance/Apologies/Leave of Absence (Previously Approved)

PRESENT:

Councillor - Shire President	D Kitchen
Councillor - Deputy President	S Schiano
Councillor	A Dillon
Councillor	J Fergusson
Councillor	P McCleery
Councillor	R Mogg
Councillor	K Noonan
Councillor	T Sharp
Councillor	C Terrantroy
Chief Executive Officer	G MacMile
Director Community and Corporate	S Chamberlain
Director Infrastructure and Development	T Gillett
Strategic Governance and Risk Coordinator	T Shipley

LEAVE OF ABSENCE: Nil

APOLOGIES: Nil

MEMBERS OF PUBLIC - Gallery: 17

3. Response to Previous Public Questions Taken on Notice

Nil



4. Public Question Time

Public Question Time began at 6:54pm

B Hearne – Peppermint Grove Beach

Background:

My question relates to Item 15.1 the financial report with the officer's recommendation that

Council receives the report. Can I refer Councillors to page 75 of your agenda headed Capital Works Budget.

Following substantial capital works carryovers of budgeted, scheduled and uncompleted capital works in previous financial years to this financial year 2023/24, year to date expenditure to 30 August 2023 appears to be somewhere around 50% underspent in the two months when compared with budget estimates, with major expenditure, other than for the Gelorup fire station, limited to the purchase of 3 passenger vehicles, a truck and a excavator.

Question 1:

The report on pages 75-78 provides an excellent detailed description of each project the Shire has budgeted to complete in 2023/24. As most projects have shown no advancement why hasn't column 6, the comment column, been completed for all the projects to include details such as, the project start date, perhaps reasons for delay, or even a comment such as, assessing tenders with work to commence on a particular date?

CEO Response:

Thank you Mr. Hearn for the question. Several of the road, footpath, bridge and drainage projects are all spring / summer based projects and subject to Shire procurement protocols post annual budget adoption, which is the main reason the August 2023 (period 2) financial statements do not report major capital spends during this reporting period. These capital projects are currently in tendering and procurement phases, with works and expenditure to be reported in later periods.

Your suggestion is noted regarding providing additional information in the comment column in the interests of more informative reporting and community awareness. Shire Officers will consider how this can be incorporated into future reporting.



Question 2:

Was there any planned capital works expenditure even for September 2023 for the projects listed in the capital works report? If so, why hasn't the planned spend been included in the final column in the report headed planned spend for the next month?

CEO Response:

Capital expenditure which was expensed in September 2023 will be reported in the September 2023 Financial Statements and presented in the November 2023 Ordinary Council Meeting agenda.

Previously, Officer had used the final column, headed 'planned spend for the next month' to flag financial transactions which may be a deviation from the anticipated for cashflow purposes.

Again, Officer will look to incorporate this information in future reporting.

Question 3:

It is now October 25 and we are looking at expenditure figures to August 31st. With Agenda papers published on the web site on October 17 why can't we include a financial report up to September 30 rather than being nearly 6-8 weeks behind every time I, an interested ratepayer seeking value for money, and Councillors gets to look at a financial report?

CEO Response:

The Shire has sought to publish Ordinary Council Meeting agendas two weeks prior to the meeting taking place, which is earlier than the Act stipulates, allowing Councillors and the community additional time to review all documentation.

The early presentation of the agenda does impact on the time available to finalise the previous month's Financial Statements and include this item in the agenda cycle, but given the Act requires Monthly Financial Statements to be presented to the Council within two months of the month finalising, the Shire processes are compliant.

Question 4:

Can assurance be given that the \$4.5 million road program and the \$1.3 million non-road program, that includes paths, bridges and drainage infrastructure, and accounts for only 50% of the capital works budget, will be completed this fiscal? If not, why not?



CEO Response:

The Shire always plans for the adopted capital work's program to be delivered on time and on budget, while acknowledging that the previous two years' programs saw a carryforward with some of the planned projects, which in most cases, was unavoidable due to staff resource shortages.

Additionally, Shire projects are susceptible to a series of constraints often outside of our control, which may hinder our ability to deliver a full complement of capital projects. These being:

- Clearance permits.
- Third party approvals e.g., MRWA, ATCO etc.
- On budget procurement responses yielding competitive tender outcomes.
- Continuity in physical resourcing to manage and deliver and capital work's program.
- Competitive contractor environment with reduced availability and response timeframes.

The Shire plans to deliver this year's Capital program and any factors that may impact on that outcome, will be reported at the time they are known.

Question 5:

The budget provision, for some of the prior year capital works carried over projects, now in the 2023/24 budget, had to be increased by nearly 50%. As we are now 4 months into this fiscal period are capital works contract prices, particularly for the road program, softening or are we still experiencing the impacts of high inflation that may result in further cost increases?

CEO Response:

Pricing is starting to stabilise, albeit at an increased rate when reflecting on costs pre-COVID.

As mentioned earlier, the contractor / labour hire market remains competitive with major state projects underway locally and regional mining organisations increasing their operations and requiring additional staff / contractors.

The budget for capital work's program for 2023-24 was designed with a financial buffer which would enable projects to absorb a cost escalation of 50.00%, minimising the risk of project deferrals.

The capital works tenders we have received to date for this financial year are within budget, allowing the works to commence in line with negotiated contractor availability.



Question 6:

Can the visual graph on page 33 of the agenda be updated to reflect when expenditure is likely to occur rather than just showing what looks to be a graph drawn with a straight line progression?

CEO Response:

The Shire is statutorily obligated to report the financial performance of operating and capital expenditure.

The current process of forecasting the spending trend of capital expenditure is under review with the intent to procure a more sophisticated financial management system through the Shire's Enterprise Resourcing Platform project.

Access to more advanced financial software would allow Officers to track the progress of expenditure across the organisation in a more flexible and sophisticated approach, whilst improving the transparency of reporting outcomes to the community.

Question 7:

Is the capital works section of the financial report utilised by staff to monitor progress with regard to implementation? If not, what additional information do they have at their disposal that is not provided to councillors and the public?

CEO Response:

Officers do track expenditure through utilising a blend of data contained in the financial reports and data that is generated through departmental operational planning schedules, which are internal working documents.

Question 8:

It is noted that the year to date Employee Costs (page 38) of the financial report are overspent by some \$52,000 after 2 months. Is this a trend for 2023/24 or just a one off aberration?

CEO Response:

This reported transaction is an anomaly and relates to a pending journal transfer seeing this amount capitalised against Contracts and Materials and not Salaries and Wages.

Public Question Time concluded at 7:04pm.



5. Application for Leave of Absence

Nil

6. Declarations of Interest

Nil

7. Notice of Items to be Discussed Behind Closed Doors

Nil

8. Confirmation of Minutes

8.1. Ordinary Council Meeting - 27 September 2023

Voting Requirements

Simple Majority

OC/2023/183 - Officer's Recommendation / Council Decision - 8.1

Moved Cr McCleery, Seconded Cr Terrantroy.

That the Minutes of the Ordinary Council Meeting - 27 September 2023 be confirmed as a true and correct record.

Carried 9 / 0

For - Cr Dillon, Cr Fergusson, Cr Kitchen, Cr McCleery, Cr Mogg, Cr Noonan, Cr Schiano, Cr Sharp and Cr Terrantroy

Against - Nil

9. Announcements by Person Presiding Without Discussion

There is a Late Item in new Business of an Urgent Nature – 16.1 Tender 23/39 Microsoft Licensing Cloud Provider.

Thank you to Mr. Spurr, Freeman of the Shire of being in attendance this evening and for conducting tonight's elections.

Thank you to previous Councillors Dave Clews and Kaara Andrew for their time on Council.



10. Petitions/Deputations/Presentations

Nil

11. Motions of Which Previous Notice has Been Given

Nil

12. Questions of Which Previous Notice has Been Given

Nil



13. Chief Executive Officer Reports

13.1. Appointment of Members to Committees of Council

Author	Strategic Governance and Risk Coordinator, Tahlia Shipley
Authorising Officer	Chief Executive Officer, Gordon MacMile
Nature of the Decision	Executive/Strategic Legislative
Attachments	Nil
Confidential Status	<i>This item is not a confidential matter.</i>

Proposal

Appoint members and deputies for a two-year term to the following Shire of Capel Committees of Council:

- Audit and Risk Committee;
- Climate Change Adaptation and Sustainability Committee;
- Bush Fire Advisory Committee; and
- Capel Economic Development Advisory Committee.

Officer's Recommendation 1

That Council appoint the following five (5) Councillors to the Audit and Risk Committee for a period ending on the ordinary election day in October 2025:

- Cr ...
- Cr ...
- Cr ...
- Cr ...
- Cr ...

Officer's Recommendation 2

That Council appoint the following five (5) Councillors to the Climate Adaptation and Sustainability Committee for a period ending on the ordinary election day in October 2025.

- Cr ...
- Cr ...
- Cr ...
- Cr ...
- Cr ...



Officer's Recommendation 3

That Council appoint the following members to the Bush Fire Advisory Committee for a period ending on the ordinary election day in October 2025:

- | | |
|--|-----------------|
| • Chief Bush Fire Control Officer | Chris Scott |
| • Deputy Bush Fire Control Officer (Central) | Barry Bell |
| • Deputy Bush Fire Control Officer (North) | Jeff McDougall |
| • Deputy Bush Fire Control Officer (East) | Daniel Tait |
| • Deputy Bush Fire Control Officer (South) | Mark Roberts |
| • Boyanup Brigade | Don Wetherall |
| • Capel Brigade | Trevor James |
| • Elgin Brigade | Brad Scott |
| • Gelorup Brigade | Neil Rowlandson |
| • Stirling Brigade | Ian Cocker |
| • Council Delegate | Cr... |
| • Council Proxy | Cr... |

Officer's Recommendation 4

That Council appoints the following members to the Capel Economic Development Advisory Committee for a period ending on the ordinary election day in October 2025:

- | | |
|--|---------------------|
| • Councillor | Cr... |
| • Councillor | Cr... |
| • Councillor | Cr... |
| • Councillor - Proxy | Cr... |
| • South West Development Commission Representative: | Pip Kirby |
| • Bunbury Geographe Chamber of Commerce and Industry: | Julie Broad |
| • Regional Development Australia (Sout West) Representative: | Charles Jenkinson |
| • CEO, Bunbury Geographe Economic Alliance: | Brant Edwards |
| • President, Capel Chamber of Commerce: | George Goldner |
| • Local Business Representative, Bendigo Bank: | Cassandra Armstrong |
| • Local Business Representative, Iluka: | Garry Green |
| • Local Business Representative, Boyanup Store: | Alan McGeoch |

Background

The Shire has a committee system that assists Council exercise the duties and powers under the provisions of the *Local Government Act 1995* (the Act), other legislation and regulation. The committees make recommendations to Council on their specific area of responsibility, in accordance with their relevant Terms of Reference. The Audit Committee and Climate Adaptation Committee are formed under section 5.8 the *Local Government Act 1995* and the Bush Fire Advisory Committee is convened under the *Bush Fires Act 1954*.

Following every Local Government Ordinary Election, the re-establishment of members to the committee is decided through the Council.



Previous Council Decisions

- The following decisions were made at the 27 October 2021 Ordinary Meeting:

(OC214/2021) 'That Council appoint Cr Andrew, Cr Kitchen, Cr Mogg, Cr Noonan and Cr Terrantry to the Audit Committee for a period ending on the ordinary election day in October 2023.'

(OC217/2021) 'That Council appoint Cr Clews, Cr McCleery, Cr Mogg, Cr Schiano and Cr Terrantry to the Climate Adaptation and Sustainability Committee for a period ending on the ordinary election day in October 2023.'

(OC220/2021) 'That Council appoint Cr Kitchen as the Member and Cr Dillon as the Deputy to the Bush Fire Advisory Committee for a period ending on the ordinary election day in October 2023.'

- The following decision was made at the 24 November 2021 Ordinary Meeting:

(OC247/2021) 'That Council appoints Cr Noonan (Chair), Cr Mogg (Deputy Chair), Cr Terrantry (Member) and Cr Andrew as proxy to the Capel Economic Development Advisory Committee for a period ending on the ordinary election day in October 2023.'

An administrative oversight was made in 2021 during the appointments of members to the Bush Fire Advisory Committee and the Economic Development Advisory Committee in relation to the external members. All members are to be appointed by Council (not just the Elected Member representatives) in accordance with the *Local Government Act 1995*. However, as the external member names did not form part of the decision of Council, they were not formally appointed.

Neither of these committees do not have delegated power from the Council to make decisions on their behalf, therefore no decisions that were made between the period of 2021 – 2023 that need to be re-endorsed. All legal binding decisions were made by the Council.

Decision Framework

Shire of Capel Strategic Community Plan 2023-2033

Direction 4 - Deliver good leadership, governance and decision-making

4.1 Effective and compliant governance

4.2 Informed and transparent decision making

Direction 6 - Effective communication, engagement and relationship development

6.1 Greater trust and the development of positive relationships within the Shire and with the community

6.2 Improved cross sector relationships and collaboration

Corporate Business Plan 2023-2027

GOV 27 - **Committee Framework** - Review Shire committee framework

GOV 28 - **Council Documentation** - Operation of Agenda Preparation System

GOV 29 - **Council/Committee Timeframes** - Realign delivery of Council / Committee agendas and associated briefings / site visits to provide for increased preparation time and improved understanding / decision-making



Statutory Framework

Local Framework

Shire of Capel Standing Orders Local Law 2016

Part 14 – Committees of the Council

State Framework

Local Government Act 1995

5.8. Establishment of committees

A local government may establish* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

** Absolute majority required.*

5.10. Committee members, appointment of

- (1) A committee is to have as its members –
- (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and
 - (b) persons who are appointed to be members of the committee under subsection (4) or (5).

** Absolute majority required.*

- (2) At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.
- (3) Section 52 of the *Interpretation Act 1984* applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the council.
- 4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.
- (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish –
- (a) to be a member of the committee; or



(b) that a representative of the CEO be a member of the committee, the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

5.11A. Deputy committee members

(1) The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.

* *Absolute majority required.*

1.11. Committee membership, tenure of

(1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until –

(a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or

(b) the person resigns from membership of the committee; or

(c) the committee is disbanded; or

(d) the next ordinary elections day, whichever happens first.

(2) Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until –

(a) the term of the person's appointment as a committee member expires; or

(b) the local government removes the person from the office of committee member, or the office of committee member otherwise becomes vacant; or

(c) the committee is disbanded; or

(d) the next ordinary elections day, whichever happens first.

5.12. Presiding members and deputies, election of

(1) The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule –

(a) to "office" were references to "office of presiding member"; and

(b) to "council" were references to "committee"; and

(c) to "councillors" were references to "committee members".

Federal Framework

There are no federal frameworks relevant to this item.

Policy Framework

The following Shire Policies apply:

- There are no Council policies relevant to this item.



Implications

Risk Implications

Risk	Likelihood	Consequence	Mitigation
Risk 1 Legislative Compliance Rating: Medium	Unlikely	Moderate	Appointment of a committee to enact the Shire’s requirements.
Risk Description: Failure to appoint members to committees may result in non-compliance. Particularly with the Audit and Risk Committee, as there are requirements with auditors.			
Risk 2 Reputation Rating: Low	Unlikely	Minor	Appointment of members to committees.
Risk Description: Failure to appoint members may have poor reputation on the Shire’s ability to consider subject specific issues (e.g. sustainability)			
Risk 3 Service Delivery Rating: Low	Possible	Moderate	Appointment of members will see continuity of business.
Risk Description: Failure to appoint members may see a delay in service delivery, as some items require consideration by the Shire’s committees.			
Opportunity: A compliant and functional committee structure that assists the Council in providing recommendations on subject specific matters.			

Financial Implications

Budget

There are no financial implications relevant to this proposal.

Long Term

As no assets/infrastructure are being created, there are no long term financial implications relevant to this proposal.

Sustainability Implications

Climate Change and Environmental

The Climate Change Adaptation and Sustainability Committee forms one of the recommended Committees relating to this item.

Social

There are no relevant social implications relevant to this item.



Economic

The Economic Development Advisory Committee forms one of the recommended Committees relating to this item.

Asset

There are no relevant asset implications relevant to this item.

Consultation/Engagement

External Consultation

Consultation with the Shire's local Bush Fire Brigade Captains, the Chief Bush Fire Control Officer, and Deputy Bush Fire Control Officers was undertaken to confirm the appropriate members of the Bush Fire Advisory Committee.

Internal Consultation

Consultation between the Strategic Governance and Risk Coordinator and the Executive Management Team was undertaken to confirm the recommended appointments.

Officer Comment

The Chief Executive Officer will provide an expression of interest document to individual Councillors to facilitate the equitable appointment to the Committees of Council.

Where more Councillors nominate than the number of positions available on the Committee require, a secret ballot will be conducted. The Councillors who are successfully elected by the ballot, will need to be appointed by an absolute majority decision of the Council.

Section 5.10(2) of the Act details that each Councillor is entitled to be a member of at least one committee where the membership involves Council members only, Council members and employees and Council members, employees and other persons.

Once the Committee appointments have been approved through Council, the Presiding Member and Deputy Presiding Member for each Committee will be conducted through an optional preferential vote held at the first Committee meeting.

An expression of interest for the Audit and Risk Committee Independent Member will be conducted by the Shire Administration. A report will be provided to the December 2023 Audit and Risk Committee Meeting with a recommendation to be made to the Council of the appointment of the independent member.

Summary

The Council are required to determine the appointments of the Shire's Committees of Council for continuity of the individual functions of the Committees.



Voting Requirements

Absolute Majority

Officer's Recommendation – 13.1.

The Presiding Member moved all four recommendations on-block.

Seconded Cr Dillon.

OC/2023/184 - Procedural Motion / Council Decision - 13.1

Moved Cr Schiano, Seconded Cr Noonan.

In accordance with Shire of Capel Standing Orders Local Law 15.2 (1) part 10 debate of motions be suspended to allow discussion.

Carried 9 / 0

For - Cr Dillon, Cr Fergusson, Cr Kitchen, Cr McCleery, Cr Mogg, Cr Noonan, Cr Schiano, Cr Sharp and Cr Terrantroy

Against - Nil

OC/2023/185 - Procedural Motion / Council Decision - 13.1

Moved Cr Kitchen, Seconded Cr Dillon.

That Standing Orders Part 10 Debate of Motions be resumed.

Carried 9 / 0

For - Cr Dillon, Cr Fergusson, Cr Kitchen, Cr McCleery, Cr Mogg, Cr Noonan, Cr Schiano, Cr Sharp and Cr Terrantroy

Against - Nil

With the consent of the Seconder, the Mover (Presiding Member) added the names of all Committee Members to all four Recommendations.



Officer's Recommendation 1

OC/2023/186 - Officer's Recommendation 1 / Council Decision – 13.1

Moved Cr Kitchen, Seconded Cr Dillon.

That Council appoint the following five (5) Councillors to the Audit and Risk Committee for a period ending on the ordinary election day in October 2025:

- **Cr McCleery**
- **Cr Kitchen**
- **Cr Terrantroy**
- **Cr Mogg**
- **Cr Dillon**

Carried 9/0

For - Cr Dillon, Cr Fergusson, Cr Kitchen, Cr McCleery, Cr Mogg, Cr Noonan, Cr Schiano, Cr Sharp and Cr Terrantroy

Against - Nil

Officer's Recommendation 2

OC/2023/187 - Officer's Recommendation 2 / Council Decision – 13.1

Moved Cr Kitchen, Seconded Cr Dillon.

That Council appoint the following five (5) Councillors to the Climate Adaptation and Sustainability Committee for a period ending on the ordinary election day in October 2025.

- **Cr McCleery**
- **Cr Schiano**
- **Cr Fergusson**
- **Cr Sharp**
- **Cr Mogg**

Carried 9/0

For - Cr Dillon, Cr Fergusson, Cr Kitchen, Cr McCleery, Cr Mogg, Cr Noonan, Cr Schiano, Cr Sharp and Cr Terrantroy

Against - Nil



Officer's Recommendation 3

OC/2023/188 - Officer's Recommendation 3 / Council Decision – 13.1

Moved Cr Kitchen, Seconded Cr Dillon.

That Council appoint the following members to the Bush Fire Advisory Committee for a period ending on the ordinary election day in October 2025:

-
- **Chief Bush Fire Control Officer** **Chris Scott**
- **Deputy Bush Fire Control Officer (Central)** **Barry Bell**
- **Deputy Bush Fire Control Officer (North)** **Jeff McDougall**
- **Deputy Bush Fire Control Officer (East)** **Daniel Tait**
- **Deputy Bush Fire Control Officer (South)** **Mark Roberts**
- **Boyanup Brigade** **Don Wetherall**
- **Capel Brigade** **Trevor James**
- **Elgin Brigade** **Brad Scott**
- **Gelorup Brigade** **Neil Rowlandson**
- **Stirling Brigade** **Ian Cocker**
- **Council Delegate** **Cr Kitchen**
- **Council Proxy** **Cr Dillon**

Carried 9/0

For - Cr Dillon, Cr Fergusson, Cr Kitchen, Cr McCleery, Cr Mogg, Cr Noonan, Cr Schiano, Cr Sharp and Cr Terrantroy

Against - Nil



Officer's Recommendation 4

OC/2023/189 - Officer's Recommendation 4 / Council Decision – 13.1

Moved Cr Kitchen, Seconded Cr Dillon.

That Council appoints the following members to the Capel Economic Development Advisory Committee for a period ending on the ordinary election day in October 2025:

- | | |
|--|---------------------|
| • Councillor | Cr McCleery |
| • Councillor | Cr Noonan |
| • Councillor | Cr Fergusson |
| • Councillor - Proxy | Cr Schiano |
| • South West Development Commission Representative: | Pip Kirby |
| • Bunbury Geographe Chamber of Commerce and Industry: | Julie Broad |
| • Regional Development Australia (Sout West) Representative: | Charles Jenkinson |
| • CEO, Bunbury Geographe Economic Alliance: | Brant Edwards |
| • President, Capel Chamber of Commerce: | George Goldner |
| • Local Business Representative, Bendigo Bank: | Cassandra Armstrong |
| • Local Business Representative, Iluka: | Garry Green |
| • Local Business Representative, Boyanup Store: | Alan McGeoch |

Carried 9/0

For - Cr Dillon, Cr Fergusson, Cr Kitchen, Cr McCleery, Cr Mogg, Cr Noonan, Cr Schiano, Cr Sharp and Cr Terrantroy

Against - Nil



13.2. Appointment of Members to External Committees

Author	Strategic Governance and Risk Coordinator, Tahlia Shipley
Authorising Officer	Chief Executive Officer, Gordon MacMile
Nature of the Decision	Executive/Strategic Legislative
Attachments	Nil
Confidential Status	<i>This item is not a confidential matter.</i>

Proposal

Appoint members and deputies for a two-year term to external committees that seek a representative from the Shire of Capel.

Officer's Recommendation

That Council appoint the following members and deputies for a two-year term to the external committees as follows:

- Boyanup and Districts Farmers Markets Committee - Cr_____
- Boyanup Foundation - Cr_____ and Cr_____
- Boyanup Hall Committee - Cr_____ and Cr_____
- Boyanup Memorial Park and Sports Council - Cr_____ and Cr_____
- Boyanup Progress Association - Cr_____
- Capel Chamber of Commerce - Cr_____ and Deputy Cr_____
- Capel Land Conservation District Committee - Cr_____ and Deputy Cr_____
- Development Assessment Panel (DAP) - Cr_____ and Cr_____, Deputy Cr_____ and Deputy Cr_____
- Disability Access and Inclusion Reference Group - Cr_____ and Cr_____
- GeoCatch (Geographe Catchment Council) - Cr_____ and Deputy Cr_____
- Gelorup Community Centre Management Committee - Cr_____ and Deputy Cr_____
- Local Emergency Management Committee – Shire President _____ (Chair), Cr_____ and Cr_____
- Peppermint Grove Beach Community Association - Cr_____
- Peron Naturaliste Partnership Cr_____ and Deputy - Cr_____
- State Administrative Tribunal (SAT) - Cr_____ and Cr_____
- South West Regional Road Group - Cr_____ and Cr_____
- South West Zone WA Local Government Association – Shire President, _____ and Cr_____
- Trails Working Group - Cr_____ and Deputy Cr_____



Background

The Council provides Councillors as delegates on external community and regional committees, working or reference groups as an effective method of providing representation and community consultation on projects and areas of interest.

Previous Council Decisions

27 October 2021 (OC223/2021):

'That Council appoint the following members and deputies for a two year term to the external committees as follows:

- Boyanup and Districts Farmers Markets Committee – Cr Mogg
- Boyanup Foundation – Cr Mogg and Cr Clews
- Boyanup Hall Committee – Cr Kitchen and Cr Schiano
- Boyanup Memorial Park and Sports Council – Cr Dillon and Cr Terrantroy
- Boyanup Progress Association – Cr Noonan
- Capel Chamber of Commerce – Cr Dillon and Deputy Cr Schiano
- Capel Land Conservation District Committee – Cr Kitchen and Deputy Cr Dillon
- Development Assessment Panel (DAP) – Cr Andrew and Deputy Cr Schiano, Cr McCleery and Deputy Cr Terrantroy
- Disability Access and Inclusion Reference Group – Cr Terrantroy and Cr Dillon.
- GeoCatch (Geographe Catchment Council) – Cr Mogg and Deputy Cr McCleery
- Gelorup Community Centre Management Committee – Cr Noonan and Deputy Cr Andrew
- Local Emergency Management Committee - Cr Kitchen (Chair), Cr McCleery and Cr Andrew
- Peppermint Grove Beach Community Association – Cr Dillon
- Peron Naturaliste Partnership – Cr Mogg and Deputy Cr McCleery
- State Administrative Tribunal (SAT) – Cr Andrew and Cr Terrantroy
- South West Regional Road Group – Cr McCleery and Cr Mogg
- South West Zone WA Local Government Association Cr Kitchen and Cr Schiano
- Trails Working Group – Cr Mogg and Deputy Cr McCleery
- Kaatijinup (kard ajin up) Biodiversity Park (FAWNA) – Cr Mogg and Deputy Cr Noonan'

Decision Framework

Shire of Capel Strategic Community Plan 2023-2033

Direction 1 - Strengthen and enhance the well-being of our community

1.1 A more engaged community

1.2 A capable community that drives community activation and participation

1.3 An inclusive community

Direction 4 - Deliver good leadership, governance and decision-making

4.1 Effective and compliant governance

4.2 Informed and transparent decision making

4.5 Improved customer engagement

Direction 6 - Effective communication, engagement and relationship development

6.1 Greater trust and the development of positive relationships within the Shire and with the community



Corporate Business Plan 2023-2027

The Corporate Business Plan actions are not applicable to this item.

Statutory Framework

Local Framework

There are no local frameworks relevant to this item.

State Framework

5.10. Committee members, appointment of

- (1) A committee is to have as its members –
 - (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and
 - (b) persons who are appointed to be members of the committee under subsection (4) or (5).

** Absolute majority required.*
- (2) At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.
- (3) Section 52 of the *Interpretation Act 1984* applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the council.
- 4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.
- (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish –
 - (a) to be a member of the committee; or
 - (b) that a representative of the CEO be a member of the committee, the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

5.11A. Deputy committee members

- (1) The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.

** Absolute majority required.*



1.11. Committee membership, tenure of

- (1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person’s membership of the committee continues until –
 - (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO’s representative, as the case may be; or
 - (b) the person resigns from membership of the committee; or
 - (c) the committee is disbanded; or
 - (d) the next ordinary elections day, whichever happens first.

- (2) Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person’s membership of the committee continues until –
 - (a) the term of the person’s appointment as a committee member expires; or
 - (b) the local government removes the person from the office of committee member, or the office of committee member otherwise becomes vacant; or
 - (c) the committee is disbanded; or
 - (d) the next ordinary elections day, whichever happens first.

Federal Framework

There are no federal frameworks relevant to this item.

Policy Framework

The following Shire Policies apply:

- Attendance at Events
- Travel Expenses

Implications

Risk Implications

Risk	Likelihood	Consequence	Mitigation
Risk 1 Reputation Rating: Medium	Possible	Moderate	Providing community groups the certainty and connection to Council.
Risk Description: Failure to appoint members to external committees does not provide the community with the additional opportunity to be heard and consulted.			
Opportunity: An open and connected communication opportunity with community groups.			



Financial Implications

Budget

There are no financial implications relevant to this proposal.

Long Term

As no assets/infrastructure are being created, there are no long term financial implications relevant to this proposal.

Sustainability Implications

Climate Change and Environmental

There are no relevant climate change and environmental implications relevant to this item.

Social

Council representatives on the committees provides support to the community through consultation and engagement.

Economic

There are no relevant economic implications relevant to this item.

Asset

There are no relevant asset implications relevant to this item.

Consultation/Engagement

External Consultation

Committees that have had previous representation from Councillors were contacted to confirm that this arrangement was still desired.

Internal Consultation

Consultation between the Governance, Community Development and Safety and Customer Relations teams was undertaken to establish whether further amendments to the list of committees/groups is required.

Officer Comment

The Chief Executive Officer will provide an expression of interest document to individual Councillors to facilitate the nomination process to the external committees.

Where more Councillors nominate than positions available on the external Committee, a secret ballot will be conducted. The Councillors who are successfully elected by the ballot, will need to be appointed by an absolute majority decision of the Council.



Summary

Council can determine appointments to the external committees/groups for representation and advocacy to the Shire.

Voting Requirements

Absolute Majority

Officer's Recommendation – 13.2.

Moved Cr Kitchen, Seconded Cr Terrantroy

That Council appoint the following members and deputies for a two-year term to the external committees as follows:

- Boyanup and Districts Farmers Markets Committee - Cr _____
- Boyanup Foundation - Cr _____ and Cr _____
- Boyanup Hall Committee - Cr _____ and Cr _____
- Boyanup Memorial Park and Sports Council - Cr _____ and Cr _____
- Boyanup Progress Association - Cr _____
- Capel Chamber of Commerce - Cr _____ and Deputy Cr _____
- Capel Land Conservation District Committee - Cr _____ and Deputy Cr _____
- Development Assessment Panel (DAP) - Cr _____ and Cr _____, Deputy Cr _____ and Deputy Cr _____
- Disability Access and Inclusion Reference Group - Cr _____ and Cr _____
- GeoCatch (Geographe Catchment Council) - Cr _____ and Deputy Cr _____
- Gelorup Community Centre Management Committee - Cr _____ and Deputy Cr _____
- Local Emergency Management Committee – Shire President _____ (Chair), Cr _____ and Cr _____
- Peppermint Grove Beach Community Association - Cr _____
- Peron Naturaliste Partnership Cr _____ and Deputy - Cr _____
- State Administrative Tribunal (SAT) - Cr _____ and Cr _____
- South West Regional Road Group - Cr _____ and Cr _____
- South West Zone WA Local Government Association – Shire President and Cr _____
- Trails Working Group - Cr _____ and Deputy Cr _____



OC/2023/190 - Procedural Motion / Council Decision - 13.2

Moved Cr Schiano, Seconded Cr Sharp.

In accordance with Shire of Capel Standing Orders Local Law 15.2 (1) part 10 debate of motions be suspended to allow discussion.

Carried 9 / 0

For - Cr Dillon, Cr Fergusson, Cr Kitchen, Cr McCleery, Cr Mogg, Cr Noonan, Cr Schiano, Cr Sharp and Cr Terrantroy

Against - Nil

OC/2023/191 - Procedural Motion / Council Decision - 13.2

Moved Cr Kitchen, Seconded Cr Dillon.

That Standing Orders Part 10 Debate of Motions be resumed.

Carried 9 / 0

For - Cr Dillon, Cr Fergusson, Cr Kitchen, Cr McCleery, Cr Mogg, Cr Noonan, Cr Schiano, Cr Sharp and Cr Terrantroy

Against - Nil

With the consent of the Seconder, the Mover (Presiding Member) added the names of all External Committee Members to the Recommendation.



OC/2023/192 - Officer's Recommendation / Council Decision – 13.2

Moved Kitchen, Seconded Terrantroy.

That Council appoint the following members and deputies for a two-year term to the external committees as follows:

- **Boyanup Foundation – Cr Mogg and Cr Kitchen**
- **Boyanup Hall Committee – Cr Kitchen and Cr Dillon**
- **Boyanup Memorial Park and Sports Council – Cr Dillon and Cr Terrantroy**
- **Boyanup Progress Association – Cr Schiano**
- **Capel Chamber of Commerce – Cr Fergusson and Deputy Cr Schiano**
- **Capel Land Conservation District Committee – Cr Sharp and Deputy Cr Kitchen**
- **Development Assessment Panel (DAP) – Cr McCleery and Cr Fergusson, Deputy Cr Schiano and Deputy Cr Noonan**
- **Disability Access and Inclusion Reference Group – Cr Kitchen and Cr Sharp**
- **GeoCatch (Geographe Catchment Council) – Cr Fergusson and Deputy Cr McCleery**
- **Gelorup Community Centre Management Committee – Cr Sharp and Deputy Cr Dillon**
- **Local Emergency Management Committee – Shire President, Cr Kitchen (Chair), Cr Dillon and Cr Sharp**
- **Peppermint Grove Beach Community Association – Cr Fergusson**
- **Peron Naturaliste Partnership Cr Fergusson and Deputy – Cr Noonan**
- **State Administrative Tribunal (SAT) – Cr Kitchen and Cr Mogg**
- **South West Regional Road Group – Cr McCleery and Deputy, Cr Mogg**
- **South West Zone WA Local Government Association – Shire President, Cr Kitchen and Cr Terrantroy**
- **Trails Working Group – Cr Noonan and Deputy Cr Kitchen**

Carried 9 / 0

For - Cr Dillon, Cr Fergusson, Cr Kitchen, Cr McCleery, Cr Mogg, Cr Noonan, Cr Schiano, Cr Sharp and Cr Terrantroy

Against - Nil



14. Infrastructure and Development Reports

Nil



15. Community and Corporate Reports

15.1. Financial Reports 31 August 2023

Author	Manager Finance, Andrew Mattaboni
Authorising Officer	Director Community and Corporate Services, Samantha Chamberlain
Nature of the Decision	Legislative
Attachments	1. Financial Report 2308 [15.1.1 - 43 pages]
Confidential Status	<i>This item is not a confidential matter.</i>

Proposal

Provide the monthly financial statements for the period ending on 31 August 2023.

Officer's Recommendation

That the Council receives the monthly financial statements for the period ending on 31 August 2023.

Background

The *Local Government (Financial Management) Regulations 1996* prescribe the requirement to prepare financial reports monthly and prescribe the content and format.

Previous Council Decisions

Financial Statement for month ending 31 July 2023 (27 September 2023 Ordinary Council Meeting).

Decision Framework

Shire of Capel Strategic Community Plan 2023-2033

Direction 4 - Deliver good leadership, governance, and decision-making:

4.1 Effective and compliant governance.

4.2 Informed and transparent decision making.

Direction 6 - Effective communication, engagement and relationship development:

6.1 Greater trust and the development of positive relationships within the Shire and with the community.

Corporate Business Plan 2023-2027

FIN 1 – **Annual and Monthly and Financial Reporting** - Statutory reporting of income and expenditures to the Council and regulatory authorities.



Statutory Framework

Local Framework

There are no local frameworks relevant to this item.

State Framework

Local Government (Financial Management) Regulations 1996 r34.

Federal Framework

There are no federal frameworks relevant to this item.

Policy Framework

The following Shire Policies apply:

- Budget Management - Capital Acquisitions and Works.
- Financial Reports.

Implications

Risk Implications

Risk	Likelihood	Consequence	Mitigation
Risk 1 Financial Rating: Medium	Unlikely	Moderate	Report financials monthly
Risk Description: Monetary loss that may or may not be managed within existing budget or may not impact a program or service.			

Financial Implications

Budget

There are no financial implications relevant to this proposal.

Long Term

As no assets/infrastructure are being created, there are no long term financial implications relevant to this proposal.



Officer's Comment

The financial monitoring for the month of August 2023 has been completed, analysing income and expenditure trends through the following financial mechanisms:

1. Assessed Rate Levy and Debtor balances which has been brought to account.
2. The Depreciation calculation year to date.
3. Annual comparison of Operating Revenue
4. Annual comparison of Operating Expenditure.
5. Liquidity year to date.
6. Rate of return-on-investment position.
7. Capital spends year to date.

The attached financial statements provide the granular data for the following analysis on the Shire's financial performance for August 2023. The attachments consist of:

1. Statement of Financial Activity.
2. Statement of Financial Position.
3. Notes to and Forming Part of the Financial Report.
4. Year to Date Variance Analysis.
5. Capital Works Program.
6. Cash on Hand and Investments.

The Statement of Financial Activity shows operating revenue and expenditure by statutory program and by nature and type, as well as expenditure and revenue from financing and investing activities - comparing actual results for the period with the annual adopted budget and the year-to-date revised budget.

For trend analysis purposes, the previous year's annual results and current year forecasts are also presented in the graphs.

August 2023 Financial Analysis Summary

The *Local Government (Financial Management) Regulations 1996 34(4)(a)* require a statement of financial activity be presented at an ordinary meeting of the council within 2 months after the end of the relevant month.

Transactions are still being processed into the 2022/23 financial year, with accruals processing, transacting Creditor invoices received which need to be recognised against operations completed in the previous financial year. The audit process for the 2022/23 financial year is in progress.

The revaluation of infrastructure assets entries has been entered into the 2022/23 financial year and the issuing of rates completed in the August 2023 month. The depreciation calculation has not been run due to 2022/23 audit still to be completed.

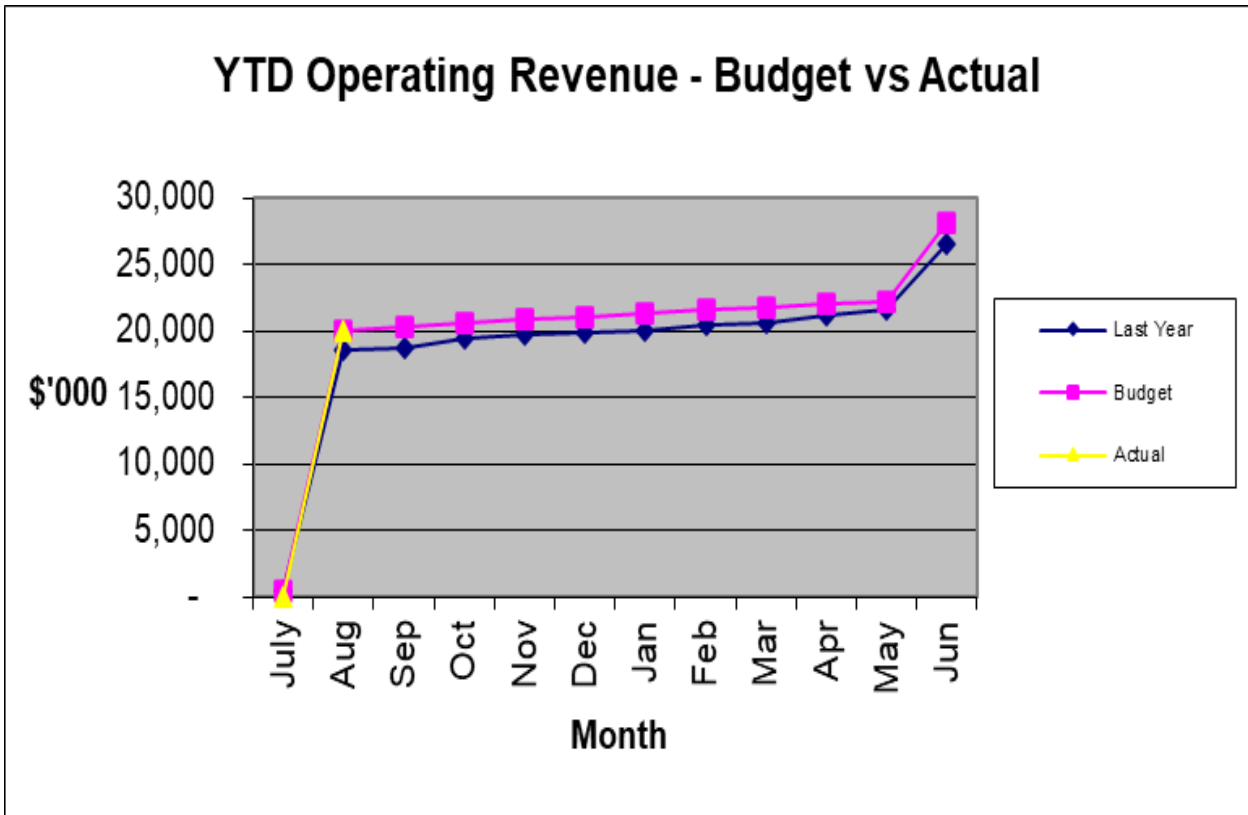
Compared to the 2023/24 Annual Budget, approximately 71.23% of Operating Revenue has been brought to account and 9.46% of the Operating Expenditure has been spent.

The 2023/24 Annual Budget was adopted by the Council on 2 August 2023 with rates levied during the month of August 2023. The following graphs compare actual Operating Revenue and Operating Expenditure against the 2023/24 Annual Budget on a year-to-date basis.



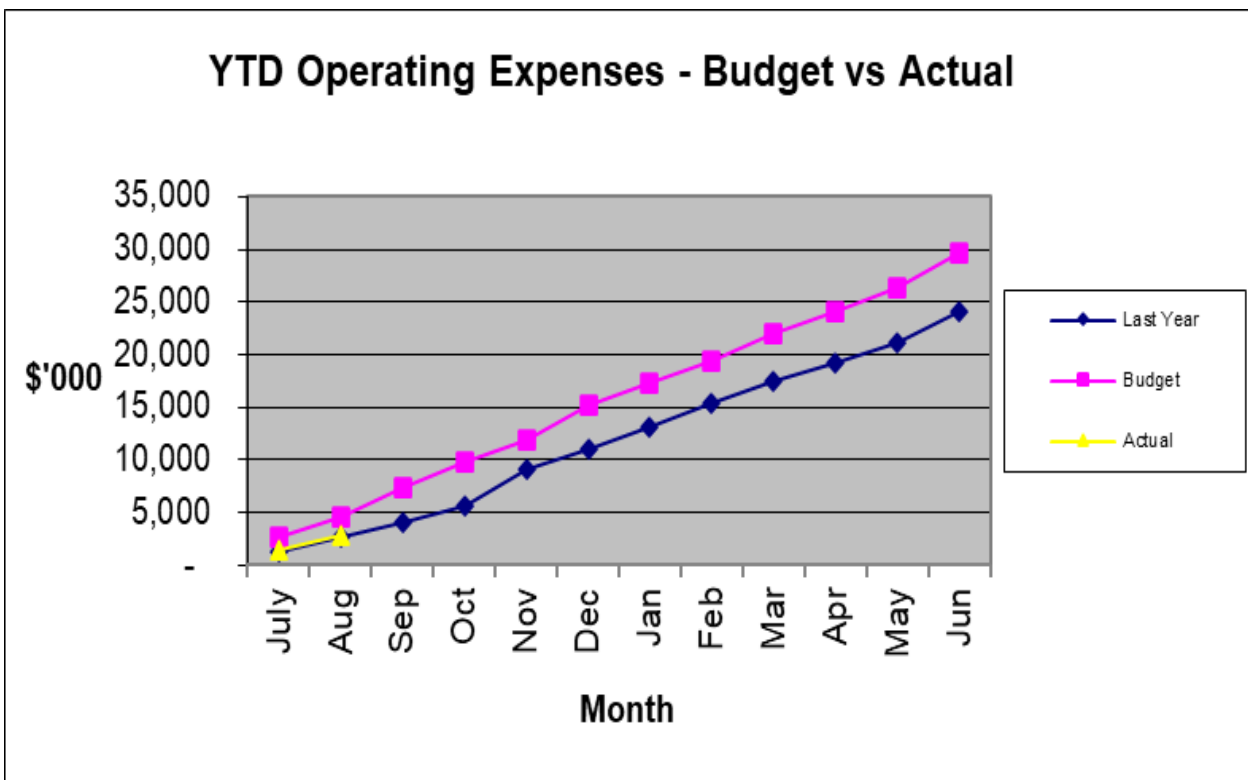
Year to date actual revenue compared to budget and last year.

Graph 1.



Year to date actual expenditure compared to budget and last year.

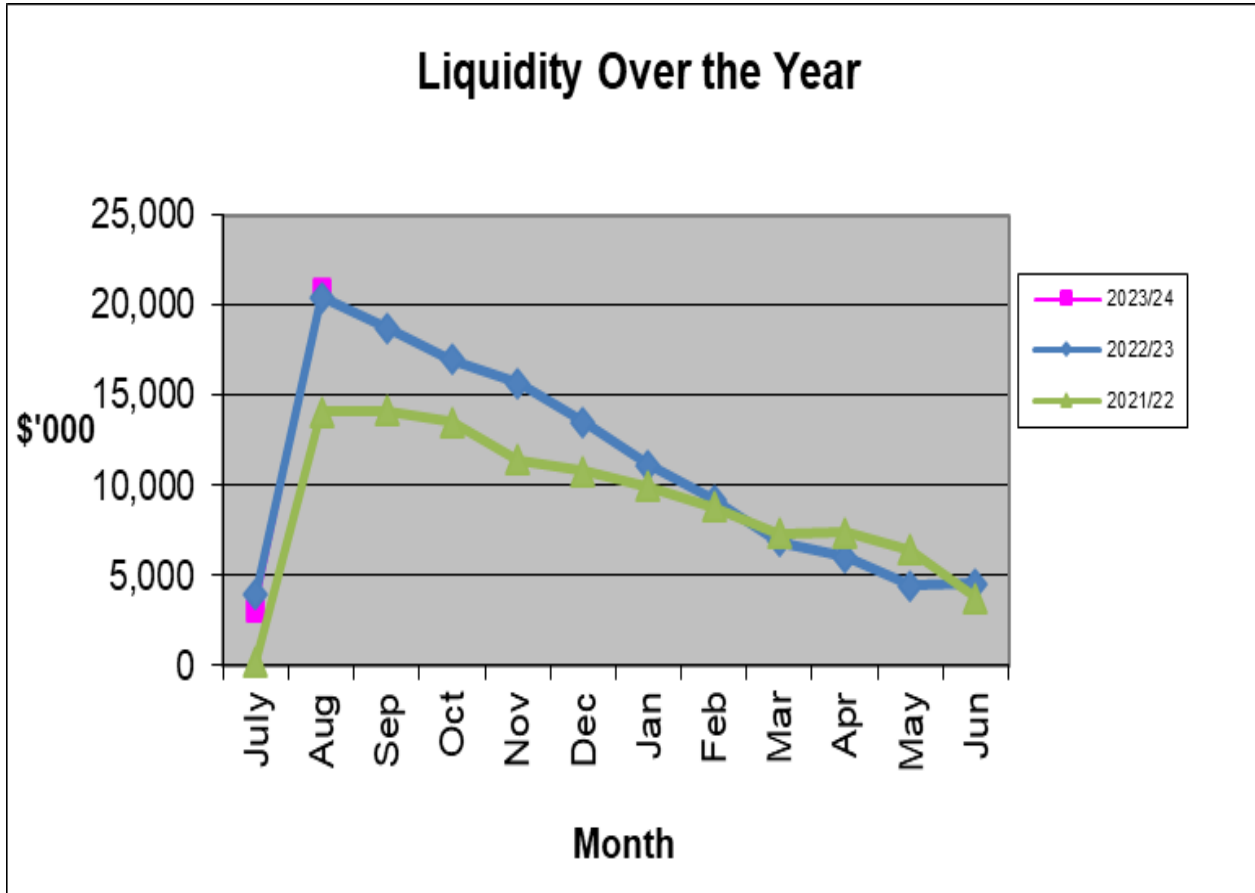
Graph 2.





The liquidity graph compares the current year's net current assets position against the two previous years.

Graph 3.



Overview of above analysis

The Shire's municipal cash and investments position for the month of August 2023 has increased by \$2,065,448.00 compared to July 2023.

The municipal cash position is an amount of \$23,671,464.00 of which \$19,015,896.00 is restricted for specific purposes as shown at Note 3 in the attachments.

The increase in the cash position was due to the receipt of rate payments and grant income received during the month of August 2023.

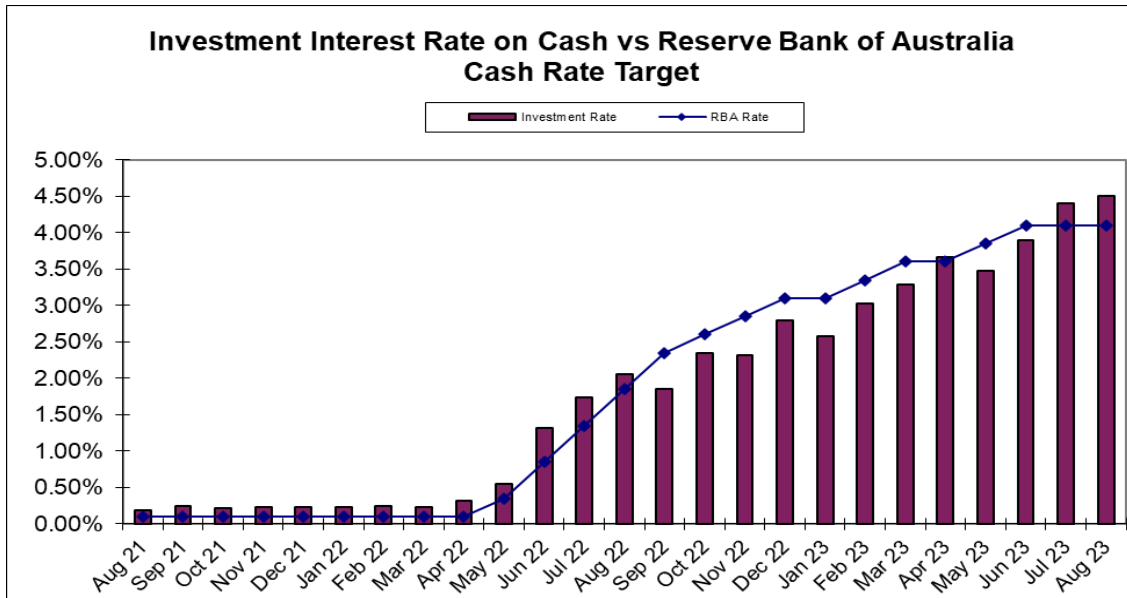
The amount of interest income received is \$9,522.00 which is below the year to date budget due to accrual reversals and timing of term deposit renewals.

At present, the average investment rate of return is 4.51%. This is above the August 2023 RBA cash rate of 4.10%. There was no change in the Reserve Bank's cash rate target of 4.10% as of 6 September 2023.



The below analysis charts the movement in investment and applied interest rates.

Graph 4.

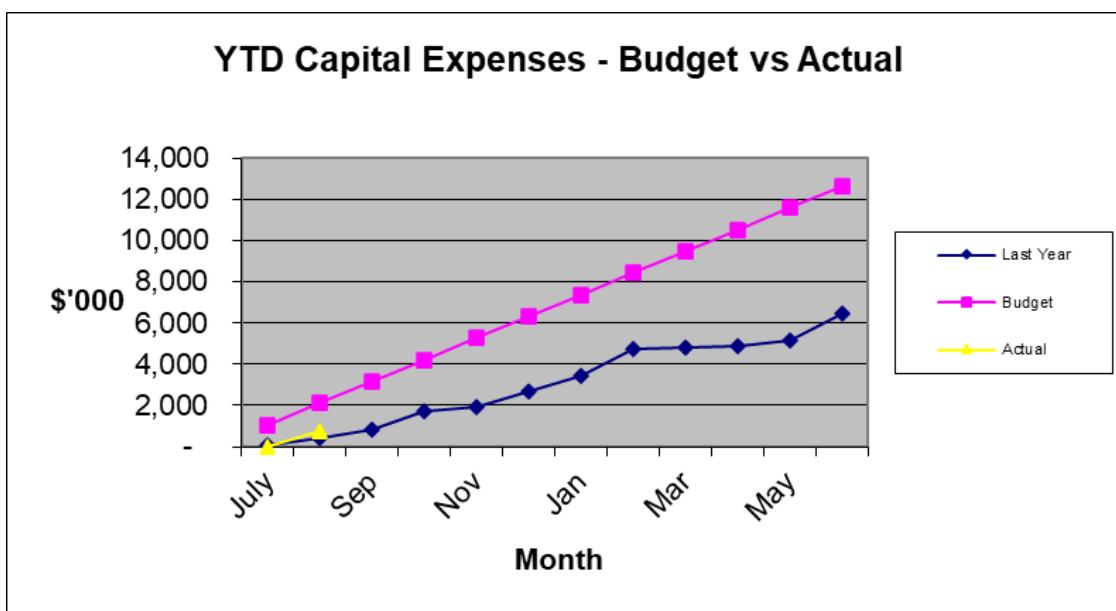


The August review of capital expenditure items totalled \$776,577.00 and was distributed across the following projects/purchases:

- \$ 9,950.00 Roads.
- \$ 1,300.00 Paths.
- \$ 1,753.00 Parks Infrastructure.
- \$ 308,892.00 Bush Fire Brigade Building.
- \$ 95,879.00 Vehicles.
- \$ 358,803.00 Plant.

The following graph compares the actual capital expenditure against the 2023/24 budget on a year-to-date basis and includes the prior year actual for comparative purposes.

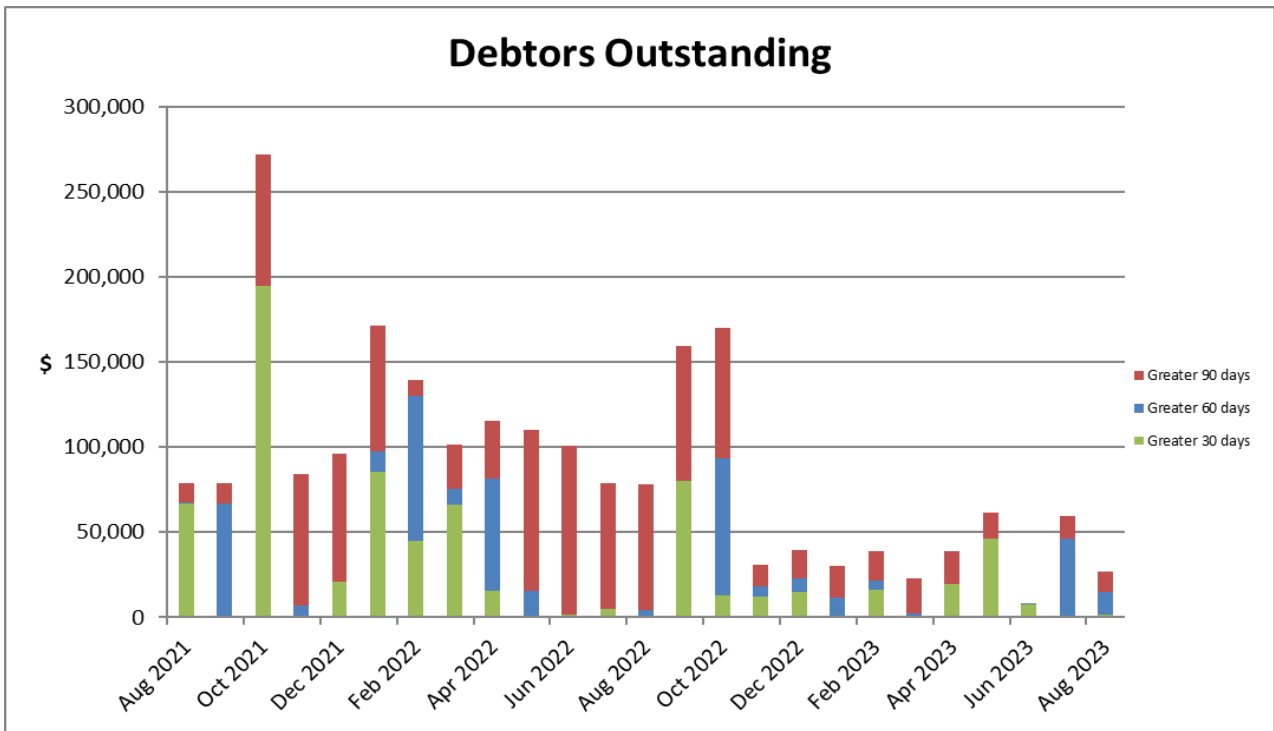
Graph 5.





The following graph illustrates the Council’s current level of general debt recovery for 30-60 days, 61-90 days and greater than 90 days.

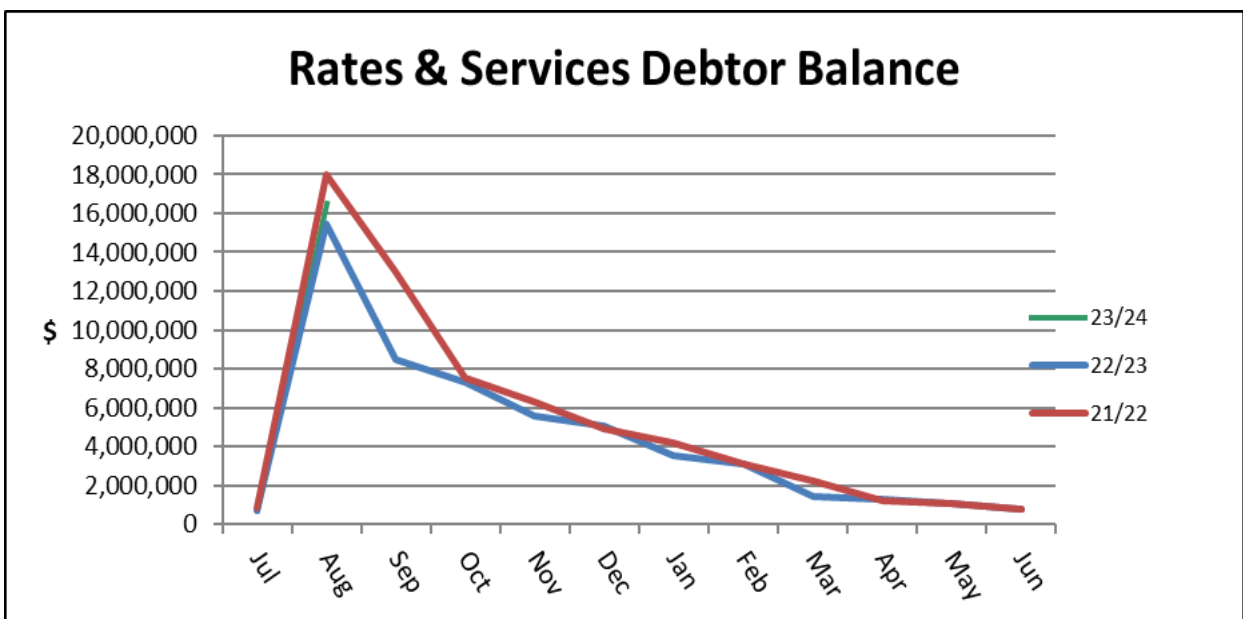
Graph 6.



The following graph illustrates the Council’s current level of rate debtors’ recovery and compares this with previous years. The amount includes both current and in arrears rates and services debtor balance.

Given rates were levied during August 2023, the income derived from this activity will be presented in the August Financial Statements.

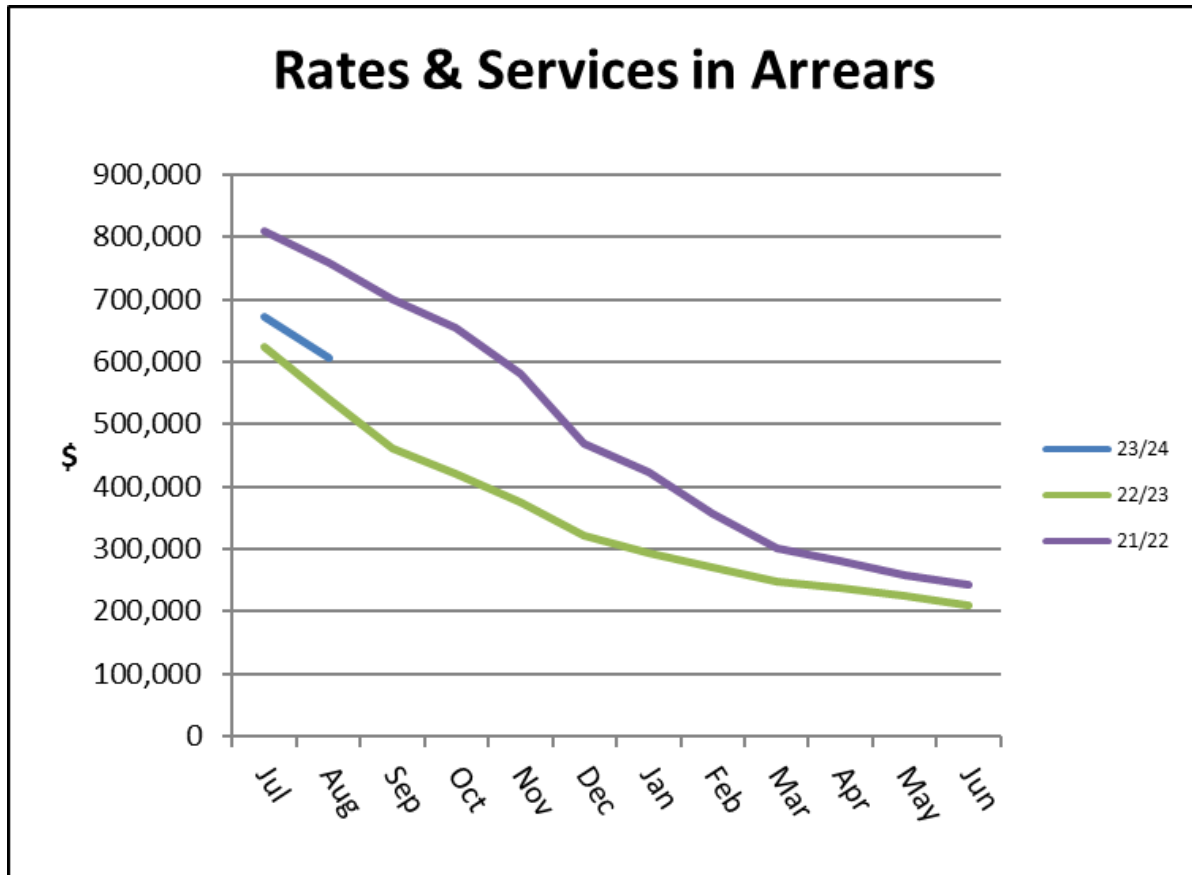
Graph 7.





The following graph shows the level of rates and services in arrears for the last three years. Rates and services in arrears at the start of each financial year as a percentage of the rates and services debtor balance has been: 2023/24 3.68%, 2022/23 3.51% and 2021/22 4.22%.

Graph 8.



The Council’s financial ratios are disclosed in Note 19 of the attached Financial Statements.

Summary

This report monitors the Shire’s financial position for the month of August 2023 and tracks the progress against the budget set at the start of the 2023/24 financial year.

A determination of the Shire’s August 2023 financial position has been analysed comparing year to date actual and budget, with variances explained as:

- 1) Operating revenue decreases (Interest revenue).
- 2) Operating expenditure decrease (Timing of expenditure on contractors and depreciation).
- 3) Non-cash exclusions (Depreciation).
- 4) Capital expenditure below budget (Timing of expenditure).
- 5) Asset disposal below budget (Timing of disposals).

The August financial statements show the forecast year end 2023/24 Net Current Asset position of \$0.00. This is the balance projected within the 2023/24 Annual Budget.



Voting Requirements

Simple Majority.

Officer's Recommendation – 15.1.

OC/2023/193 - Officer's Recommendation / Council Decision - 15.1

Moved Terrantroy, Seconded Cr Mogg.

That the Council receive the monthly financial statements for the period ending on 31 August 2023.

Carried 9 / 0

For - Cr Dillon, Cr Fergusson, Cr Kitchen, Cr McCleery, Cr Mogg, Cr Noonan, Cr Schiano, Cr Sharp and Cr Terrantroy

Against - Nil



16. New Business of an Urgent Nature

16.1. RFQ 23-39 - Microsoft Licensing Cloud Solution Provider

Author	Manager Business and Technology Services, James Meakes
Authorising Officer	Director of Community and Corporate, Samantha Chamberlain
Nature of the Decision	Contractual
Attachments	16.1.1 RFQ 23-39 Shire of Capel – 2023-24 Microsoft Licensing Cloud Solution Provider (CSP) 16.1.2 RFQ 23-39 Evaluation Summary & Price Comparison
Confidential Status	<i>This item is not a confidential matter.</i>

Proposal

Award RFQ 23-39 – Microsoft Licensing Cloud Solution Provider to the preferred Respondent.

Officer's Recommendation

That Council endorses Crayon Australia Pty Ltd as the successful quotation for the Shire of Capel Request for Quotation 23-39 – Microsoft Licensing Cloud Solution Provider for the provision of:

1. Microsoft Cloud Based products under a Cloud Service Provider (CSP) agreement for a period of one year with the ability to renegotiate contracts for a second and third year; and
2. On Premises Products Microsoft Products & Services Agreement (MPSA) for a period of three years.

Background

The Shire of Capel utilises Microsoft software products for many of the primary day to day computer operations, with these software packages licensed to the Shire through agreements with intermediary or 'partner' organisations.

For the past 3 years, the Shire of Capel has been in an Enterprise Agreement (EA) with the Shires of Manjimup and Nannup, with this arrangement expiring on 31 October 2023. Due to delays in vendor responses and differing procurement processes between Councils, we were unable to reform the tripartite procurement arrangement in time before the license expires (31 October 2023).

As such each local government commenced an individual Request for Quotation (RFQ) process.

The RFQ process was undertaken by inviting pre-vetted organisations to make a submission under the Western Australian Local Government Association (WALGA) Preferred Supplier Program (PSP).



Shire Officers, with the assistance of an external licensing specialist, expected that the licensing would be a single agreement for one year allowing all parties to reform the EA. Based on this information and the completion of an estimated value assessment that considered current and previous contract costs, budgeted costs and 'whole of life' contract costs, it was determined that a formal RFQ process could be used.

However, after recently receiving the RFQ submissions, it was discovered that a part of the license components (on-premises elements) is only offered by Microsoft as a three-year agreement.

Decision Framework

Shire of Capel Strategic Community Plan 2023-2033

Direction 4 - Deliver good leadership, governance and decision-making

4.1 Effective and compliant governance

4.2 Informed and transparent decision making

4.4 Increased attraction and retention of high-quality staff to deliver optimal services to the community

Corporate Business Plan 2023-2027

BTECH 23 – ALL – Licensing and contract management

Statutory Framework

Local Framework

There are no local frameworks relevant to this item.

State Framework

Section 3.57 of the *Local Government (Functions and General) Regulations 1996* applies:

- (2) Tenders do not have to be publicly invited according to the requirements of this Division if –
 - (b) the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program.

Federal Framework

There are no federal frameworks relevant to this item.

Policy Framework

The following Shire Policies apply:

- Purchasing Policy.



Implications

Risk Implications

Risk	Likelihood	Consequence	Mitigation
Risk 1 Legislative Compliance Rating: Medium	Possible	Moderate	The council considers the quoted amount due to exceeding the organisation’s delegated threshold.
Risk Description: Failure to endorse quotation amount through Council will result in potential non-compliance through the procurement process and potential operational requirements.			
Risk	Likelihood	Consequence	Mitigation
Risk 2 Service Delivery Rating: High	Almost Certain	Severe	Continuation of Microsoft licensing agreement.
Risk Description: Failure to continue Microsoft License would result in loss of electronic communication to entire organisation and no access of main documentation service.			
Risk 3 Reputation Rating: High	Almost Certain	Severe	Continuation of Microsoft licensing agreement for business continuity.
Risk Description: Loss of electronic communication to community and stakeholders will result in poor reputation on the Shire.			
Opportunity: The ongoing licensing for the organisation’s Microsoft software for business continuity and effective operations.			

Financial Implications

Budget

The 2023-24 Annual Budget has allocated an amount of \$100,000.00 to fund year one of the new contractual agreement, with the annualised tender value coming in below this amount at \$97,403.63.

Long Term

Given the MPSA is fixed for a term of three years with an estimated full contract cost of \$274,501.13 (combined CSP and MPSA), costs associated to years’ two and three will be included in the Shire’s Long Term Financial Plan and future budget setting processes.



Whole of Life

The whole of life cost of the contract for provision of the CSP and MPSA is estimated to be \$274,501.13. This is subject to change over the 3-year period due to organisational requirements of products, user accounts and potential price negotiations within the contract.

Sustainability Implications

Social

The Microsoft agreement is critical to the Shire's operation, failure to provide this license to the organisation will cease many operations.

The social implication will be significant as the license holds products such as the Shire's electronic communication platform (Office Outlook), as well as access to most key products the Shire utilises. Failure to provide these products to the organisation will have a catastrophic effect on the delivery of services for the Shire.

Other sustainability implications will be affected by the cease of service delivery through software products. Failure to report, communicate and provide information to external stakeholders and the community will affect all areas of the organisation, including economic, asset and environmental.

Consultation/Engagement

External Consultation

This Request has been developed with external consultation from the following:

- Officers from the Shire of Manjimup.
- Officers from the Shire of Nannup.
- Consultancy services from an external licensing specialist.

Internal Consultation

This Request has been developed internally with the following officers providing input:

- Executive Team.
- Manager Business & Technology Services.
- Procurement Officer.

Officer Comment

Request for Quotation (RFQ)

The procurement process was undertaken by the Shire inviting four organisations to quote under the WALGA Preferred Supplier Program (PSP) via Vendor Panel. This approach was taken to seek responses from WALGA pre-vetted suppliers who specialise in these services and offer discounted pricing for Local Governments under the Information & Communication Technologies (PSP001) PSP contract.



To ensure the cost analysis was fair and equitable across the submissions, respondents were required to complete and submit a pre-determined price schedule for the services requested.

Assessment Process

Once the quotation closed, a scoring and ranking process was undertaken with four Shire Officers conducting independent assessments of the two quotations received.

A weighted price component and non-weighted compliance criteria was set, with a score and rank allocated to each criterion.

The compliance criteria review was based on an in-depth individual assessment of the following for each respondent:

- Compliance with the Specification detailed in the RFQ document.
- Verification of submitted pricing that conforms with the specification.
- Submission of business registration and verification of a clear legal entity.
- Review for alternate quotations made.
- Compliance with the delivery date for the provision of services.
- Submission of relevant insurance details.
- Completion of a detailed Risk Assessment.

The assessment was undertaken, the scores and ranking were tallied across the predetermined compliance criteria and weighted price component.

These were put into a price comparison spreadsheet to ensure completeness, conformance with the specification and to apply the weighted price component to enable scoring and ranking.

Both responses received were deemed by the Assessment Panel to meet the compliance criteria.

Upon application of the weighted pricing component, Crayon Australia was ranked highest of the two respondents.

The combination of meeting the compliance criteria and ranking highest in the weighted price component has led to Crayon Australia being recommended as the overall preferred candidate.

Recommended Procurement

The Officer's Recommendation outlines the two portions of the agreement being the Cloud Service Provider (CSP) and the Premises Products Microsoft Products & Services Agreement (MPSA).

The CSP is only recommended to be entered into for the period of 1 year as that is the maximum time limit this service can be provided for at a time. Following the conclusion of the first year, the Shire will commence contract negotiations for the CSP portion for a second and third year in order to achieve best value outcomes for the organisation.

The On Premises elements will be contracted for three years as previously detailed.

Should the decision be made to re-contract Crayon Australia for consecutive years (two and three) for the CSP portion, the combined value of the contract is estimated to exceed the Chief Executive Officer's purchasing delegation (Delegation 1.2.20 Tenders).



Summary

Council is requested to consider the endorsement for the Microsoft Agreement for the continuation of our Microsoft Licensing needs. The item has been brought to Council as a late item due to the risk and urgency of the purchase as described within the background of this report.

Additionally, this item has been presented to the Council to determine, as the estimate 'whole of life' contract cost may exceed the Chief Executive Officer's purchasing delegation (Delegation 1.2.20 Tenders).

Voting Requirements

Simple Majority.

Officer's Recommendation – 16.1.

OC/2023/194 – Officer's Recommendation / Council Decision - 13.1

Moved Cr McCleery, Seconded Cr Schiano.

That Council endorses Crayon Australia Pty Ltd as the successful quotation for the Shire of Capel Request for Quotation 23-39 – Microsoft Licensing Cloud Solution Provider for the provision of:

- 1. Microsoft Cloud Based products under a Cloud Service Provider (CSP) agreement for a period of one year with the ability to renegotiate contracts for a second and third year; and**
- 2. On Premises Products Microsoft Products & Services Agreement (MPSA) for a period of three years.**

Carried 9 / 0

For - Cr Dillon, Cr Fergusson, Cr Kitchen, Cr McCleery, Cr Mogg, Cr Noonan, Cr Schiano, Cr Sharp and Cr Terrantroy

Against - Nil



17. Public Question Time

Nil

18. Motions Without Notice (Absolute Majority by Council)

Nil

19. Notices of Motion for Consideration at the Next Ordinary Meeting of the Council

Nil

20. Items for Consideration Behind Closed Doors

Nil

21. Meeting Closure

There being no further business, the Presiding Member declared the meeting closed at 8:07pm.