



# MINUTES

## ORDINARY MEETING OF COUNCIL

held on

**Thursday, 19 October 2023 at 1:30pm**

at the

**Shire of Morawa Council Chambers,  
26 Winfield Street, Morawa**



WESTERN AUSTRALIA'S  
**WILDFLOWER COUNTRY**

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## DISCLOSURE OF FINANCIAL/ IMPARTIALITY/ PROXIMITY INTERESTS

*Local Government Act 1995 – Section 5.65, 5.70 and 5.71 Local Government (Administration) Regulation 34C*

<i>This form is provided to enable members and officers to disclose an Interest in a matter in accordance with the regulations of Section 5.65, 5.70 and 5.71 of the Local Government Act and Local Government (Administration) Regulation 34C</i>			
Name of person declaring the interest			
Position			
Date of Meeting			
Type of Meeting (Please circle one)	Council Meeting/ Committee Meeting/ Special Council Meeting Workshop/ Public Agenda Briefing/ Confidential Briefing		
Interest Disclosed			
Item Number and Title			
Nature of Interest			
Type of Interest (please circle one)	Financial	Proximity	Impartiality
Interest Disclosed			
Item Number and Title			
Nature of Interest			
Type of Interest (please circle one)	Financial	Proximity	Impartiality
Interest Disclosed			
Item Number and Title			
Nature of Interest			
Type of Interest (please circle one)	Financial	Proximity	Impartiality

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Important Note:**

Should you declare a **Financial** or **Proximity** Interest, in accordance with the Act and Regulations noted above, you are required to leave the room while the item is being considered.

For an **Impartiality** Interest, you must state the following prior to the consideration of the item:

*“With regard to agenda item (read item number and title), I disclose that I have an impartiality interest because (read your reason for interest). As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”*

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**Item 1 Opening of Meeting**

The President declared the meeting open at 1:30pm.

**Item 2 Acknowledgement of Traditional Owners and Dignitaries**

The President acknowledges the traditional custodians, the Yamatji people, and recognises the contribution of Yamatji elder's past, present and future, in working together for the future of Morawa.

**Item 3 Recording of Attendance****3.1 Attendance****Council**

President (Presiding Member) Councillor Karen Chappel  
Deputy President Councillor Ken Stokes  
Councillor Debbie Collins  
Councillor Yvette Harris  
Councillor Shirley Katona  
Councillor Mark Coaker

**Staff**

Chief Executive Officer Scott Wildgoose  
Executive Manager Corporate & Community Services Jackie Hawkins

**Members of the Public**

Students and Teacher from the Morawa District High School:  
Blayke Twomey  
Tyler Robinson  
Samantha Tomlinson  
James Olsen  
Iona Scott  
Anchisa Westerink  
Peta Humphreys  
Matthew Olsen  
Mrs Hayley Mitchell

**3.2 Apologies**

Councillor Jane Coaker

**3.4 Approved Leave of Absence**

Nil

### 3.5 Disclosure of Interests

Agenda Item 15.2 Confidential Item – CEO Performance Review Evaluation		
Disclosing Member	Nature of Interest	The Nature being
Scott Wildgoose	Impartiality Interest	The item is relating to the Performance Review of the CEO, Scott Wildgoose.

#### Item 4 Applications for Leave of Absence

Nil

#### Item 5 Response to Previous Questions

Nil

#### Item 6 Public Question Time

##### 6.1 Public Question Time

- 6.1.1 **Miss Peta Humphrey** asked – “We’ve just celebrated 100 years of MDHS and looked back at how much things have changed since our school was opened. Where do you see Morawa in 100 years and what is the Shire doing to plan for future technological advancements?”

*The Shire President firstly congratulated the school on this amazing milestone and reflected that many Councillors would think back fondly on their time at MDHS.*

*Morawa has changed a lot in 100 years, and it is very difficult to predict 100 years into the future. However, in 2022 the Shire consulted the Community including students and teachers from the school to develop the strategic community plan with a vision of where Morawa is heading over the next decade. Over the next 10 years, we would hope to see improved aesthetics, greening, and activation across the townsite, improved roads across the district, and a greater capacity for recycling and more renewable energy use.*

*All of these ideas are linked to community aspirations for Morawa and over the next 100 years it would be great to see us moving in this new direction and welcoming as many new residents as possible.*

- 6.1.2 **Miss Iona Scott** asked – “Our school is made up of students from around the local area. Is there anything the Shire does or plans to do to bring together the surrounding communities? Do you work with the other Shire's at all?”

*The Shire President advised that as well as being the President of the Shire of Morawa, they also Chair the Northern Country Zone, which is a collection of local shires (Perenjori, Three Springs, Carnamah, Coorow, Irwin, Geraldton, Chapman Valley, Mingenew)*



*coming together to discuss issues that are common across our boundaries or that are affecting the State as a whole.*

*The Shire also partners with other Shires to structure regionally relevant road projects through the regional road group network, and shares a Community Emergency Services Manager, with the Shires of Perenjori, Yalgoo, and Murchison.*

*Historically the Shire has also actively participated in cross boundary groups or associations focused on education, tourism, road safety, emergency services, and other areas that are common issues or opportunities across the region.*

*The Shire works closely with the School, local elders, and neighbouring communities to deliver the NAIDOC event, and opens all of its events to residents from all areas.*

*At this stage the Shire has no set plan to bring together the surrounding communities, but we are committed to having strong partnerships and alliances to ensure we can collaborate as much as possible to maximise community benefits.*

## **6.2 Public Statement Time**

Nil

## **6.3 Petitions/Deputations/Presentations/Submissions**

Nil

## **Item 7 Questions from Members without Notice**

Nil

## **Item 8 Announcements by Presiding Member without Discussion**

The Shire President addressed the room:

*“On behalf of the Shire of Morawa and the community I wish to acknowledge the contribution of our 3 retiring Councillors.*

*Cr Jane Coaker 2015-2023, Cr Shirley Katona 2018-2023 and Cr Yvette Harris 2019-2023.*

*The combined contribution and commitment to Morawa has been invaluable, I thank Jane, Shirley, and Yvette for all they have given, and wish them all the best in the future.”*

President's Meetings for the month of August 2023.

Date	Details of Meeting
1 September 2023	State Road Funds to Local Government Advisory Committee
4 September 2023	Meeting with Hon Darren Chester MP and Senator the Hon Carol Brown
5 September 2023	ALGA Board Meeting
8 September 2023	Meeting with the Minister for Local Government, the Hon David Michael MLA
11 September 2023	LGIS Board Workshop
12-13 September 2023	WALGA State Council Meeting, Katanning
14 September 2023	Shire of Morawa – Ordinary Council Meeting
17-20 September 2023	WALGA Convention 2023
18 September 2023	Heads of Agency Breakfast with various State Government Departments
18 September 2023	WALGA Annual General Meeting
25 September 2023	National Emergency Management Agency – High Risk Season Outlook Forum

<p><b>Item 9 Declaration by all Members to have given due consideration to All Matters Contained in the Business Paper before the Meeting</b></p>
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The Elected Members to declare that they had given due consideration to all matters contained in the agenda.

- President (Presiding Member) Councillor Karen Chappel
- Deputy President Councillor Ken Stokes
- Councillor Debbie Collins
- Councillor Yvette Harris
- Councillor Shirley Katona
- Councillor Mark Coaker

**Item 10 Confirmation of Minutes of Previous Meeting**

The Minutes of the 14 September 2023 Ordinary Council Meeting were provided under separate cover via the Shire of Morawa's secure portal to all Councillors on 15 September 2023.

**OFFICER'S RECOMMENDATION/RESOLUTION****231001****Moved: Cr Stokes****Seconded: Cr Collins****That Council confirm that:**

- 1. the Minutes of the Ordinary Council Meeting held 14 September 2023 are a true and correct record.**

**CARRIED BY SIMPLE MAJORITY 6/0*****Disclaimer***

*Members of the public are cautioned against taking any action on Council decisions, on items in this agenda in which they may have an interest, until formal notification in writing from the Shire has been received. Decisions made at this meeting can be revoked pursuant to the Local Government Act 1995.*

**Item 11 Reports of Officers****11.1 Chief Executive Officer****11.1.1 Actions Performed under Delegated Authority for September 2023**

**Author:** Executive Assistant

**Authorising Officer:** Chief Executive Officer

**Disclosure of Interest:** The Author/Authorising Officer declares that they do not have any conflict of interest in relation to this item.

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**OFFICER'S RECOMMENDATION/RESOLUTION****231002****Moved: Cr Harris****Seconded: Cr Katona**

**That with respect to Actions Performed under Delegated Authority for September 2023, Council:**

- 1. Accept the Report.**

**CARRIED BY SIMPLE MAJORITY 6/0**

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**PURPOSE**

To report back to Council, actions performed under delegated authority from the period 01 September 2023 to 30 September 2023.

**DETAIL**

To increase transparency this report has been prepared for Council and includes all actions performed under delegated authority for –

- Development Approvals;
- Building Permits;
- Health Approvals;
- One off delegations to the Chief Executive Officer;
- Dangerous Goods;
- Affixing of Common Seal;
- Other Delegations as provided for in the Delegations Register.

The following outlines the actions performed within the Shire relative to Delegated Authority from the period 01 September 2023 to 30 September 2023 ('the period') and are submitted to Council for information.

**Bushfire**

No delegated decisions were undertaken by Shire pursuant to bushfire matters during the period.

**Caravan parks and campgrounds**

No delegated decisions were undertaken by Shire pursuant to caravan parks and camping grounds during the period.

**Common Seal**

No Common Seal actions were undertaken by the Shire during the period.

**Dangerous Goods Safety Act 2004**

No delegated decisions were undertaken by Shire pursuant to Dangerous Goods Safety matters during the period.

**Food Act 2008**

No delegated decisions were undertaken by Shire pursuant to the Food Act matters during the period.

**Hawkers, traders, and stall holders**

No delegated decisions were undertaken by Shire pursuant to hawkers, traders, and stall holders during this period.

**Liquor Control Act 1988**

No delegated decisions were undertaken by Shire pursuant to liquor matters during the period.

**Lodging houses**

No delegated decisions were undertaken by Shire pursuant to lodging house matters during the period.

**Public Buildings**

<b>Date of decision</b>	<b>Decision Ref.</b>	<b>Decision details</b>	<b>Applicant</b>	<b>Other affected person(s)</b>
14/09/2023	Approved	Application for Public Event Approval	Morawa Speedway	

**Septic Tank Approvals**

No delegated decisions were undertaken by Shire pursuant to the Health Act 1911 and Health (Treatment of Sewage and Disposal of Effluent Waste) Regulations 1974 during the period.

**Planning Approval**

No delegated decisions were undertaken by Shire pursuant to *Planning & Development Act 2005* during the period.

**Building Permits**

<b>Date of decision</b>	<b>Decision Ref.</b>	<b>Decision details</b>	<b>Applicant</b>	<b>Other affected person(s)</b>
19/09/2023	23/15	Building Permit	Ellett Construction Services Pty Ltd	

**Other Delegations**

<b>Date of decision</b>	<b>Decision Ref.</b>	<b>Decision details</b>	<b>Applicant</b>	<b>Other affected person(s)</b>
18/09/2023	Approved	Firework Event Notice	Morawa Speedway	

**LEVEL OF SIGNIFICANCE**

Low – report provided to Council for information purposes.

**CONSULTATION**

Nil

**LEGISLATION AND POLICY CONSIDERATIONS**

*Building Act 2011*

*Bushfire Act 1954*

*Dangerous Goods Safety (Explosives) Regulations 2007*

*Health Act 1991*

*Health Act 1911*

*Health (Public Buildings) Regulations 1992*

*Liquor Control Act 1988*

*Local Government Act 1995*

*Planning & Development Act 2005*

*Shire of Morawa Local Planning Scheme No. 2*

*Shire of Morawa Cemeteries 2018 - Local Law*

*Shire of Morawa Dogs 2018 - Local Law*

*Shire of Morawa Extractive Industries 2018 - Local Law*

*Shire of Morawa Fencing 2018 Local Law*

*Shire of Morawa Health 2004 - Local Law*

*Shire of Morawa Public Places and Local Government Property 2018 - Local Law*

*Shire of Morawa Meeting Procedures 2012 - Local Law*

*Shire of Morawa Waste 2018 - Local Law*

*Shire of Morawa Delegations Register (2020)*

**FINANCIAL AND RESOURCES IMPLICATIONS**

There are no known financial implications relating to this Item.

**RISK MANAGEMENT CONSIDERATIONS**

There are no known risk management implications relating to this Item.

**ATTACHMENTS**

*Nil*

**11.1.2 Tennis Court Renewal Project**

**Author:** Executive Manager Corporate & Community Services

**Authorising Officer:** Chief Executive Officer

**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

**OFFICER'S RECOMMENDATION/RESOLUTION****231003****Moved: Cr Collins****Seconded: Cr Harris****That Council:**

- 1. In principle supports the Tennis Court renewal project and an application for CSRFF funding associated with Court renewal.**
- 2. Directs the CEO to use Shire resources to scope and cost the project to support the grant application and subsequent tender applications.**
- 3. Direct the CEO to include a \$35,000 budget allocation in the Budget Review that comes to Council in November to ensure funds are available for the completion of detailed plans to support the project.**

***CARRIED BY SIMPLE MAJORITY 6/0*****PURPOSE**

For Council to assess a request for financial and in-kind support from Morawa Tennis Club in relation to their upgrade works.

**DETAIL**

The Morawa Tennis Club has been operating for a number of years, currently have 50+ members and run tennis sessions during the summer months.

The club currently operates from the Morawa Sports Complex where the tennis courts were installed as part of the development of the complex. The synthetic surface used for tennis courts generally has a life cycle of 15 years, the current surface has been down since 2009 at which time the base was not updated and with no maintenance work being done on the surface it is reaching the end of its useful life.

The current surface has been affected in some areas by roots from the trees around the area. This has meant that court 3 has been unable to be used due to safety issues around the damaged surface and with the continued degradation of the surface other courts may soon be unusable.

The Tennis Club have been investigating the clubs' requirements as to whether a resurface with the base repaired would suffice, a complete resurfacing including removing the base and



reinstalling, or moving the courts to another location. The Club after having had discussions with engineers have determined that financially they cannot afford to do a full replacement or relocation and are therefore wanting support from the Council for the repairs to the base and replacement of the surface.

The club are looking to apply for grant funding during 2023-24 with the project to be completed during 2024-25. With the project costs estimated to be around \$300,000, including approximately \$35,000 to do a set of detailed plans for the project which will be needed for the CSRFF Funding and tendering purposes. Quality pre-project plans will be important to ensure the end result is of a suitable quality.

The club believe 2023 will be the last year the courts are useable and as such are seeking Shire support to progress the renewal project.

CSRFF guidelines state: “Resurfacing of existing sports surfaces. It is expected that facility managers will budget for these items as part of the ongoing operation of the facility, frequently over 7 to 10 years, and will be considered a low priority for funding. If successful, the project is likely to attract reduced funding of 16.66%. In competitive rounds it is unlikely that these projects will receive funding.”

The Shire’s Corporate Business Plan 2023-2033 factored in a tennis court resurfacing project in the 2024/2025 financial year, with a Shire contribution of approximately \$150,000. If the project cost is \$300K and the State Contribution is only 16.66% (\$50K), the \$250K would need to be split between the club and the Shire. Thus the \$150K contribution estimate would be fairly accurate.

The club has requested the Shire’s assistance with the grant application and project specification development. The next step of the process if Council is comfortable with the 2024-2025 project allocation, would be to scope up the project and develop a QS estimate to firm up the grant application. The club have request that the Shire assist in this area an cover these upfront costs as part of their project contribution. It would make sense for this to occur as the Shire has better access to cashflow and established relationships with consultants in these areas, and the tennis courts are ultimately a Shire asset so the Shire has a vested interest in ensuring the project is delivered to a high standard.

## **LEVEL OF SIGNIFICANCE**

Medium significance – Tennis is a major social and physical outlet during the summer months and the current courts are reaching end of useful life. The club have been taking proactive steps on this project over the last 12 months but require Shire expertise, funding, and assistance to bring the project to life. If the renewal project is not supported, then the club are unable to apply for CSRFF funding in February 2024. If the Shire is unable to support the design component then the club may be financially unable to contribute to project delivery.

## **CONSULTATION**

Senior Management Team  
Morawa Tennis Club

## **LEGISLATION AND POLICY CONSIDERATIONS**

N/A

**Strategic Community Plan 2022 - 2032**

Occupy a Safe and Healthy living space:  
3. Increase active living.

Be future focused in all we do:  
1. Ensure the Shire and its assets are well resourced and sustainable.

**FINANCIAL AND RESOURCES IMPLICATIONS**

The overall project cost of \$300,000 includes the volunteer labour costs of approximately \$30,000 that will be supplied by the Tennis Club, and design costs. However, these costs are estimated and not based on a design specification or tender process.

The allocation in the 2023-2024 year of \$35,000 is needed to scope and cost the project for the grant application and can be included in the budget review process, likely taken from engineering consultancy or strategic planning budgets.

**RISK MANAGEMENT CONSIDERATIONS**

The key risks associated with this project are:

1. The courts may fail this season before any analysis or grant application can be undertaken.
2. The club may be unable to contribute their 41.67% project contribution, depending on the project cost estimate.
3. The actual project cost may far exceed estimates based on the current market uncertainty.

However, all the risks associated with this project are external to the current decision to agree that the project is warranted and conduct the appropriate project pre-planning due diligence.

**CONCLUSION**

That Council should provide in principal support towards the tennis court renewal project, confirm that Council is still comfortable with the proposed cost allocation in the corporate business plan, and undertake the necessary project scoping and due diligence to ensure the project is well designed and delivers a quality end result.

**ATTACHMENTS**

*Attachment 1 – 11.1.2a Letter from Morawa Tennis Club*

*Attachment 2 – 11.1.2b Letter from Porter Consulting Engineers*

*Attachment 3 – 11.1.2c Quote from Sports Surfaces*

**11.1.3 Decision regarding Tender RFT-01-2324 Morawa Yalgoo Road Upgrade**

**Author:** Chief Executive Officer

**Authorising Officer:** Chief Executive Officer

**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

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**OFFICER'S RECOMMENDATION/RESOLUTION****231004****Moved: Cr M Coaker****Seconded: Cr Collins**

**That Council:**

- 1. Confirms that the tender process conducted was sufficient and compliant with all requirements under the Local Government (Function and General) Regulations 1996.**
- 2. Under Regulation 18 (5) of the Local Government (Function and General) Regulations 1996, resolves to decline to accept any of the tenders submitted.**
- 3. Under Section 5.42 of the Local Government Act delegates authority to the Chief Executive Officer to enter into a contract with a suitably qualified supplier to undertake upgrade works on Morawa Yalgoo Road in line with relevant road work specifications used in RFT-01-2324 and Regional Road Group grant requirements, subject to:**
  - a. The contract being entered into within six months of this resolution.**
    - i. Such that the purchase is deemed to be tender exempt under Regulation 11 (2c) of the Local Government (Function and General) Regulations 1996**
  - b. That the contract consideration must be within 10% of the Shire's current adopted budget for Morawa Yalgoo Road upgrade works**
  - c. The CEO applying appropriate value for money principles to the procurement process.**

***CARRIED BY ABSOLUTE MAJORITY 6/0***

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**PURPOSE**

For Council to review the process and submissions in relation to Tender RFT-01-2324 Morawa Yalgoo Road Upgrade

**DETAIL**

The Shire of Morawa undertook a public tender process in relation to road works on Morawa-Yalgoo Road for the 2023-2024 financial year. The decision to outsource the works was made due to the complexity of the other regional road group funded project and other road projects, and annual maintenance commitments meaning the Shire's internal labour and machinery resources were limited. The funding for the work is required to be acquitted by 30 June 2024; and the tender requires all physical work to be completed by 8 April 2024.

The Shire engaged Greenfields Technical Services to scope the works and prepare the tender specification document.

The Request for Tender (RFT) was arranged and placed by the Shire in The West Australian newspaper on Saturday 2 September 2023. The RFT specified that all tenders were to be submitted no later than 2.00 pm AWST Tuesday 26 September 2023 to the Shire's electronic tender box or by register post to the Shire's mail box. This was greater than the 14 days minimum requirement under Regulations.

The tender specification requested submissions to undertake an 8m wide seal on Morawa Yalgoo Road for SLK 31.79 to SLK 36.29 (4.5km). These road works were associated with the annual regional road group allocations.

The works comprise clearing, topsoil stripping, widening of the existing narrow road formation, construction of embankment foundation, subgrade and gravel pavement construction, upgrades to existing drainage elements, construction of a two-coat bitumen spray seal and sourcing and supplying all materials including borrow fill material, gravel materials, and construction water.

Submissions were opened with two representatives of the Shire at the Shire's office shortly after the closing time. The Shire subsequently sent copies of the received tenders to Greenfield for evaluation. The assessment panel for this Tender consisted of the CEO, EMCCS, Team Leader Roads, and Joshua Kirk of Greenfields Technical Services.

The current and future SLKs of Morawa Yalgoo Road are more complicated than historical works undertaken in house as the existing seal has begun to fail thus the project requires removal and reconstruction, and two coat seals across the whole 8m as opposed to the previous shoulder widening and single coat seal across the full width. Whilst the Shire factored this complexity into km completion estimations, it is evident by the tenders received that outsourcing the works will not deliver the 4.5km as proposed under the regional road group budgets.

Six (6) tender submissions were received:

- Comiskey's Contracting (Comiskey)
- Downer (Downer)
- Fulcher Contractors (Fulcher)
- Red Dust Holdings (RDH)
- Rowe Contracting (Rowe)
- WCP Civil (WCP)

Additionally, Comiskey submitted two alternative tenders and Downer submitted one alternative tender.

The attached evaluation report (Confidential Attachment 2) prepared by Greenfields Technical Services, supported by the Shire officers on the evaluation panel, denotes that all tender submissions were compliant with the compliance criteria and all tenderers have experience and resources to complete the required work.

However, all quotations significantly exceeded the Shire's adopted budget, and the Shire cannot accept any of the tenders in their current format without significant budget implications. As such the author is recommending that no tender be accepted and that the CEO be delegated to undertake negotiations, and procurement activities necessary to enter a contract to complete as much of the necessary works as possible within 10% of the adopted budget, within 6 months of this tender process under tender exemption regulations.

Given the Shire received a high level of interest in this work and received six well prepared and detailed tender submission as well as three alternate submissions, it can be assumed that the submissions reflect a fair view of the current market and there would be no benefit to be gained from a further tender process being conducted.

The Shire makes a commitment each year to expend all regional road group grant funds and is already undertaking works on Nanekine Road in house, hence it is time critical that action is taken that will allow Morawa Yalgoo Road to be completed by June 2024.

## **LEVEL OF SIGNIFICANCE**

High Significance – Morawa Yalgoo Road represents a significant ongoing road upgrade project and is funded annually under the regional road group program. The road works take a number of months and the two coat seals need to be undertaken at the right time, hence a contractor needs to be engaged sooner rather than later to undertake these works.

## **CONSULTATION**

Greenfields Technical Services  
Shire Selection panel

## **LEGISLATION AND POLICY CONSIDERATIONS**

### Section 3.57 of the Local Government Act 1995 – Tenders for Providing Goods or Services

(1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.

(2) Regulations may make provision about tenders.

### Local Government (Function and General) Regulations 1996 – Division 2 – Tenders for Providing Goods or Services

Regulation 11. When tenders have to be publicly invited

- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless sub regulation (2) states otherwise.
- (2) Tenders do not have to be publicly invited according to the requirements of this Division if — (a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or (aa) the supply of the goods or services is associated with a state of emergency or a COVID-19 declaration; or (b) the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program; or [(ba) deleted] (c) within the last 6 months — (i) the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment; or ...

Regulation 14, 15, 16 prescribe the content, advertising requirements, and opening procedures for tenders. The Shire complied with all necessary requirements with this tender.

**Regulation 18. Rejecting and accepting tenders**

- (1) A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.
- (2) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.
- (3) If, under regulation 23(4), the CEO has prepared a list of acceptable tenderers for the supply of goods or services, a tender submitted by a person who is not listed as an acceptable tenderer is to be rejected.
- (4) Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.
- (4a) To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.
- (5) The local government may decline to accept any tender.
- (6) If a local government has accepted a tender but acceptance of the tender does not create a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree not to enter into a contract in relation to the tender, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.
- (7) If a local government has accepted a tender and acceptance of the tender creates a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree to terminate the contract, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.

**Regulation 19. Tenderers to be notified of outcome**

The CEO is to give each tenderer notice in writing containing particulars of the successful tender or advising that no tender was accepted.

**Regulation 20. Variation of requirements before entry into contract**

- (1) If, after it has invited tenders for the supply of goods or services and chosen a successful tenderer but before it has entered into a contract for the supply of the goods or services required, the local government wishes to make a minor variation in the goods or services required, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.
- (2) If —
  - (a) the chosen tenderer is unable or unwilling to enter into a contract to supply the varied requirement; or
  - (b) the local government and the chosen tenderer cannot agree on any other variation to be included in the contract as a result of the varied requirement, that tenderer ceases to be the chosen tenderer and the local government may, instead of again inviting tenders, choose the tenderer, if any, whose tender the local government considered it would be the next most advantageous to it to accept.
- (3) In sub regulation (1) — minor variation means a variation that the local government is satisfied is minor having regard to the total goods or services

that tenderers were invited to supply.

#### 21A. Varying a contract for the supply of goods or services

If a local government has entered into a contract for the supply of goods or services with a successful tenderer, the contract must not be varied unless —

- (a) the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or
- (b) the variation is a renewal or extension of the term of the contract as described in regulation 11(2)(j), (ja) or (jb).

#### Strategic Community Plan 2022 - 2032

Be future focused in all we do:

1. Ensure the Shire and its assets are well resourced and sustainable.

#### FINANCIAL AND RESOURCES IMPLICATIONS

All tenders received were well above the Shire's current budget, as such accepting any tenders in their current form would not be feasible and would significantly impact upon the Shire's finances. The 10% budget variation capability given to the CEO in negotiations should be manageable within budget review processes, however more than 10% could begin to impact upon funds available for road maintenance or other planned capital projects.

#### RISK MANAGEMENT CONSIDERATIONS

The main risk associated with the recommended approach is related to the CEO being unable to find a contractor willing to undertake works for the budgeted amount. If this occurs, the Shire may need to develop an alternate plan to utilise regional road group funds. Given the budget available, the CEO is confident a contractor can be found however, the likelihood is that the works delivered will be well below expectations in terms of distance. This will need to be factored in to future RRG estimates such that the Shire may complete less KMs each year for the allocated budget, thus the completion of Morawa Yalgoo Road to the Yalgoo boundary may take longer than originally expected.

#### CONCLUSION

That all tenders received were deemed to be compliant however prices quoted were well above budget expectations, as such it is recommended that no tenders be accepted, and that the CEO be delegated authority to undertake a tender exempt process to enter into a suitable contract to

#### ATTACHMENTS

*Attachment 1 – 11.1.3a RFT-01-2324 Morawa Yalgoo Rd Upgrade*

*Attachment 2 – 11.1.3b RFT-01-2324 Tender Assessment Report (Commercial in Confidence Information – Confidential Attachment)*

## 11.2 Executive Manager Corporate & Community Services

### 11.2.1 Statement of Financial Activity – September 2023

**Author:** Senior Finance Officer

**Authorising Officer:** Executive Manager Corporate & Community Services

**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

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#### OFFICER'S RECOMMENDATION/RESOLUTION

231005

Moved: Cr Stokes

Seconded: Cr M Coaker

That Council receive:

1. the Monthly Financial Report including the Statement of Financial Activity for the period ending 30 September 2023.
2. the Bank Reconciliation Report for period ending 30 September 2023.
3. the attached List of Payments for the period ending 30 September 2023.
4. with respect to the Chief Executive Officer authorisations and reporting to Council;  
4.1 Reimbursement applications made by the Chief Executive Officer for the period ending 30 September 2023.

**CARRIED BY SIMPLE MAJORITY 6/0**

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#### PURPOSE

The Monthly Financial Report is prepared to provide Council with a comprehensive report on the financial position on a monthly basis.

The Monthly Financial Report includes the Statement of Financial Activity Report, Bank Reconciliation Report and the List of Payments made during the reporting month.

#### DETAIL

In accordance with the provisions of Section 6.4 of the *Local Government Act 1995* and Regulation 34(1) of the *Local Government (Financial Management) Regulations 1996*, a local government is to prepare each month a Statement of Financial Activity (**Attachment 1**) reporting on the revenue and expenditure as set out in the Annual Budget each month.

Under the regulations the report must include the following items,

- Annual Budget estimates
- Budget estimates to the end of the month to which the statement relates,
- Actual amounts of expenditure, revenue, and income.



- Material variances between budget and actual
- Net current assets
- The report is to be accompanied by documents containing an explanation of the net current assets, material variances and other relevant supporting documentation.

As part of the monthly report a bank reconciliation report will be completed and included as **Attachment 2**. The summary of the report for 30 September 2023 is as follows:

Account	Balance
Municipal Account	4,273,904.23
Municipal Online Account	544,455.99
Trust Account	1,525.11
Reserve Account	4,642,641.95
Term Deposits (Reserves)	2,100,000.00
<b>Total Cash &amp; Investments</b>	11,562,527.28

Pursuant to Section 5.42 of the *Local Government Act 1995*, Council has resolved to delegate to the Chief Executive Officer the authority to make payments from the municipal and trust funds.

As a result of this delegation there is a requirement under the *Local Government (Financial Management) Regulations 1996* – Reg 13(3) for a list of payments to be prepared and presented to Council.

The list of accounts paid for the period 1 September 2023 to 30 September 2023 is presented as an attachment to this report (**Attachment 3**) and is summarised in the table below.

Bank	Payment Description	Amount
Municipal	Electronic Funds Transfers (EFT)	575,742.42
Municipal	Cheques No:	7,997.79
Municipal	Direct Debit Transactions	177,543.54
Municipal	Bank Transfers / Payroll / Other Payments	32,837.62
Municipal	Corporate Credit Cards	4,427.56
Trust	Electronic Funds Transfers (EFT)	0.00
	<b>TOTAL</b>	\$798,548.93

### Reimbursement Applications

There have been \$0 of reimbursements claimed and 5 days of leave taken by the Chief Executive Officer during the month of September 2023.

### LEVEL OF SIGNIFICANCE

Low significance - report is presented to Council for information purposes only.

### CONSULTATION

Chief Executive Officer  
Executive Manager Corporate & Community Services

### OFFICER'S COMMENTS

1. Rates Arrears 30.06.23 of \$556,973 reduction of \$99,085 balance now \$457,888 at 30.09.23
2. Rates levied for 2023–2024 of \$3,447,815 less collections to date of \$2,640,568, net balance owing current Rates \$807,247
3. Credit Payments down by \$99,000 compared to previous month and Sundry Creditors Control less than \$1k at 30.09.23.
4. Increase in Municipal Bank activity for the month of September due to increase in collections of Rates Instalment 1 closing date. Municipal bank balance of \$4,273,904 at 30.09.23.
5. The Amount of \$2,500,000 moved to the Telenet Saver at call interest on 6.10.23.

## **LEGISLATION AND POLICY CONSIDERATIONS**

Section 5.42 *Local Government Act 1995* Delegation of some powers and duties to the CEO.

Section 2.7 of the *Local Government Act 1995* states:

Role of council

- (1) The council —
  - (a) governs the local government's affairs; and
  - (b) is responsible for the performance of the local government's functions.
- (2) Without limiting subsection (1), the council is to —
  - (a) oversee the allocation of the local government's finances and resources; and
  - (b) determine the local government's policies.

*Local Government (Financial Management) Regulations 1996*

Regulations 34(1)

- (1) A local Government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d) for each month.

Regulation 13

- (1) If the local government has delegated authority to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month.
  
- (3) A list prepared under sub regulation (1) or (2) is to be –
  - (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
  - (b) recorded in the minutes of that meeting

Procurement Policy

Use of Corporate Credit Card Policy

CEO Leave Authorisations and Other Approvals Policy

## **Strategic Community Plan 2023 - 2032**

Be future focused in all we do:

1. Ensure the Shire and its assets are well resourced and sustainable.

## **FINANCIAL AND RESOURCES IMPLICATIONS**

As presented.

**RISK MANAGEMENT CONSIDERATIONS**

The risks identified as part of this report being inaccurate information is mitigated by Council receiving financial statements on a monthly basis and in the form that is in accordance with the Local Government Act 1995 and associated regulations in the format called Statutory Reporting and is considered Low Risk.

**CONCLUSION**

Council is requested to receive the attached Monthly Financial Report that contains the Statement of Financial Activity, the Bank Reconciliation report, the list of accounts paid by the Chief Executive Officer and the list of any work-related expenses/reimbursements submitted by the Chief Executive Officer.

**ATTACHMENTS**

*Attachment 1 - 11.2.1a Monthly Financial Report for the period ending 30 September 2023*

*Attachment 2 – 11.2.1b Bank Reconciliation for the period ending 30 September 2023*

*Attachment 3 – 11.2.1c List of Accounts Paid for the period ending 30 September 2023*

**Item 12 Reports from Committees****12.1 September 2023 Minutes of WALGA State Council Meeting**

**Author:** Chief Executive Officer

**Authorising Officer:** Chief Executive Officer

**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

**OFFICER'S RECOMMENDATION/RESOLUTION**

**231006 Moved: Cr Collins Seconded: Cr Katona**

**That Council receive:**

1. the Minutes of the WALGA State Council Meeting held 13 September 2023.

***CARRIED BY SIMPLE MAJORITY 6/0***

*Attachment 1 – 12.1a Minutes of WALGA State Council Meeting, 13 September 2023*

**12.2 Minutes of WALGA 2023 Annual General Meeting**

**Author:** Chief Executive Officer

**Authorising Officer:** Chief Executive Officer

**Disclosure of Interest:** The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

**OFFICER'S RECOMMENDATION/RESOLUTION**

**231007 Moved: Cr Harris Seconded: Cr Collins**

**That Council receive:**

1. the Minutes of the WALGA 2023 Annual General Meeting held 18 September 2023.

***CARRIED BY SIMPLE MAJORITY 6/0***

*Attachment 1 – 12.2a Minutes of WALGA 2023 Annual General Meeting, 18 September 2023*

**Item 13 Motions of Which Previous Notice Has Been Given**

Nil

**Item 14 New Business of an Urgent Nature**

Nil

**Item 15 Matters for Which the Meeting May Be Closed (Confidential Items)****Author:** Executive Manager Corporate & Community Services**Authorising Officer:** Chief Executive Officer**Disclosure of Interest:** The CEO has a conflict of interest in relation to Item 15.2 given it is a review directly related to his performance, however the regulations stipulate that the process should be by agreement.**OFFICER'S RECOMMENDATION/RESOLUTION**

231008

Moved: Cr Stokes

Seconded: Cr Katona

**That Council:**

That Council closes the meeting to the public under section 5.23 (2)(a) and (c) of the *Local Government Act 1995* and the *Shire of Morawa Meeting Procedures Local Law 2012 s 6.2* so that it can consider the following Items:

- 15.2 Confidential Item – CEO Performance Review Evaluation

**CARRIED BY SIMPLE MAJORITY 6/0****PURPOSE**

This item seeks Council's approval under s5.23 (2) of the *Local Government Act 1995* to move into camera or closed session to consider confidential matters.

**DETAIL**

Under s5.23 (2) of the *Local Government Act 1995*, Council must resolve to move into camera or closed session. The following Items are 'confidential matters' as addressed below:

- 15.2 Confidential Item – CEO Performance Review Evaluation

**LEVEL OF SIGNIFICANCE**

High – Confidential Items

**CONSULTATION**

Senior Management Team

**LEGISLATION AND POLICY CONSIDERATIONS**

Local Government Act 1995

Under section 5.23 (2) of the *Local Government Act 1995*, part of a council meeting may be closed, if the meeting deals with any of the following:

- (a) *a matter affecting an employee or employees;*
- (b) *the personal affairs of any person;*
- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
- (e) *a matter that if disclosed, would reveal —*
  - (i) *a trade secret;*
  - (ii) *information that has a commercial value to a person;*
  - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;*
- (f) *a matter that if disclosed, could be reasonably expected to —*
  - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;*
  - (ii) *endanger the security of the local government's property;*
  - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety;*
- (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*
- (h) *such other matters as may be prescribed.*

**Shire of Morawa Meeting Procedures Local Law 2012**

The key parts include:

6.2 Meetings not open to the public;

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried— (a) the presiding member is to direct everyone to leave the meeting except— (i) the members; (ii) the CEO; and (iii) any officer specified by the presiding member; and (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.

- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.9 is to be suspended until the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice.
- (7) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including a vote of a member to be included in the minutes.

**Strategic Community Plan 2022 to 2032)**

***Be future focused in all we do:***

Ensure the Shire and its assets are well resourced and sustainable.

**FINANCIAL AND RESOURCES IMPLICATIONS**

Any known financial implications are addressed in the respective reports.

**RISK MANAGEMENT CONSIDERATIONS**

There are no known risk management implications in relation to this item.

**CONCLUSION**

That Council closes the meeting to the public under section 5.23 (2) of the *Local Government Act 1995* and the *Shire of Morawa Meeting Procedures Local Law 2012* s 6.2 so that it can consider the reports as addressed.

**ATTACHMENTS**

*Nil*

*1:39pm – Scott Wildgoose, Jackie Hawkins and all members of the public left the Council Chambers*

**15.2 Confidential Item – CEO Performance Review Evaluation**

**Author:** Executive Manager Corporate & Community Services

**Authorising Officer:** Chief Executive Officer

**Disclosure of Interest:** The Author declares that they do not have any conflicts of interest in relation to this item.

The Authorising Officer, The Chief Executive Officer, declares an interest in relation to this matter and advises Council they have authorised the report for process purposes only.

**OFFICER'S RECOMMENDATION/RESOLUTION**

231009

Moved: Cr Stokes

Seconded: Cr Harris

That Council:

1. Notes the Salaries and Allowances Tribunal Determination of 6 April 2023 (effective 1 July 2023).
2. Notes the outcomes of the Elected Member Performance Review and Survey undertaken in October 2023 with the Chief Executive Officer being assessed at 'Exceeds Expectations' in this year's performance appraisal.
3. Adopts the below Key Result Areas (Goals) for the next 12 months in addition to the CEOs standard position description functions and responsibilities, and, that the Shire President in a written document advise the CEO of the Council's key result areas:

<b>Key Result Area (Goals)</b>		<b>Measured by</b>	<b>When</b>
<b>KRA 1</b>	<b>Ensure effective and efficient Asset Management - continue finalisation of Shire's critical Asset Maintenance Plans.</b>	<i>Undertake a staged approach ensuring practical asset management Plans are reviewed and in place – Priority areas being: Road Maintenance. Sewerage. Administration Building. Medical Centre.</i>	<i>By May 2024 By January 2025 By June 2025 By June 2025</i>
<b>KRA 2</b>	<b>Ensure compliance and good governance - implement legislative changes aligned to the Local Government Act Reforms that can affect the Shire.</b>	<i>Action Plan developed. Regular updates to Council as necessary – Ongoing.</i>	<i>3 Months after reform updated published by the DLGSC.</i>
<b>KRA 3</b>	<b>Manage Shire Risks - Implement the updated Risk Management Framework .</b>	<i>Embed the Risk Management Framework.</i>	<i>By August 2024.</i>



<b>KRA 4</b>	<b>Ensure effective and efficient service delivery – specific focus on waste management and front counter customer service for the Shire.</b>	<i>Finalise development of the Shire's Waste Management Plan.</i>  <i>Develop a customer service Wiki (FAQ online answers for customer service)</i>	<i>Before – June 2024.</i>  <i>By May 2024.</i>
<b>KRA 5</b>	<b>Specific Project implementation.</b>	<i>Finalising funding childhood centre and progress project</i>	<i>By September 2024.</i>

4. Notes that the superannuation Guarantee Levy has increased from 10.5% to 11% effective 1 July 2023, and accept that the rate is set to increase to 11.5% on 1 July 2024, and approve for this increase to automatically apply to the CEOs contract when it becomes mandated.
5. Requests that the Shire President finalise the Contract of Employment amendments as required on behalf of Council.
6. Schedules the next review of the Chief Executive Officers performance and total remuneration package (TRP) for consideration by Council no later than November 2024.
7. Note that Strategic Leadership Consultants were engaged for a two-year term and will undertake the 2024 review.
8. Complies, as per Division 3 of the Local Government (Administration) Regulations Schedule 2 clause 18, by resolution of an absolute majority of the Council, endorse this review and as per clause 19, requests the Shire President to notify the Chief Executive Officer in writing of the results of this performance review.

**CARRIED BY ABSOLUTE MAJORITY 6/0**

#### **COUNCIL RESOLUTION – ADDITION TO SUBSTANTIVE RESOLUTION**

**231010**

**Moved: Cr Katona**

**Seconded: Cr Harris**

**That Council:**

1. Amend the CEO's total remuneration package to remove the superannuation matching from the CEO's contract and add the current matching component of \$8,941.85 to the CEO's base salary.
2. Increase the CEO regional isolation allowance from \$20,000 per annum to \$30,000 per annum.
3. Amend section 9.2(1) of the CEO's employment contract such that the CEO's entitled paid annual leave each year increases from 5 weeks to 6 weeks.

4. Requests that the Shire President finalise the Contract of Employment amendments as required on behalf of Council.

**CARRIED BY ABSOLUTE MAJORITY 6/0**

**Reason for Change**

*Given the CEO achieved exceeds expectations outcomes in his performance review, Council all agreed that the CEO's performance warranted improvements to his total remuneration package, and as such moved an addition to the Officer Recommendation.*

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*2:00pm – Scott Wildgoose re-entered Council Chambers and the Shire President notified him of Council's resolutions and the outcome of his performance review.*

**15.3 Reopening of the Meeting to the Public****OFFICER'S RECOMMENDATION/RESOLUTION****231010****Moved: Cr Stokes****Seconded: Cr M Coaker**

**That Council reopens the meeting to the public.**

***CARRIED BY SIMPLE MAJORITY 6/0***

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*2:10pm – Jackie Hawkins and all members of the public re-entered the Council Chambers*

**Item 16 Closure****16.1 Date of Next Meeting**

The date of the next Ordinary Meeting of Council will be on Thursday, 16 November 2023 commencing at 5:30pm, in the Council Chambers.

A Special Meeting of Council will be held on Monday, 23 October 2023 commencing at 5:30pm, in the Council Chambers.

**16.2 Closure**

There being no further business, the President declared the meeting closed at 2:12pm.