



PILBARA
REGIONAL
COUNCIL

Ordinary Council Meeting AGENDA

Notice is hereby given that an
Ordinary Meeting of Council will be held
at WALGA, 170 Railway Parade
West Leederville WA 6007
on 7 December 2018 at 10:30pm

DISCLAIMER

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Our Vision

Efficient, cooperative and sustainable local government across the Pilbara, contributing to a region of social and economic prosperity.

Our Mission

To be a passionate and influential advocate for the Pilbara region. To improve efficiency and governance through regional service delivery. To partner with industry to ensure that our members receive equitable economic return.

Our Key Focus Areas

We aim to achieve our Vision through consistent delivery in our four Key Focus Areas, the core components of our business.

| | | | |
|---|--|--|--|
| | | | |
| REGIONAL SERVICE DELIVERY | A VOICE FOR THE PILBARA | EFFICIENCY & EFFECTIVENESS | ECONOMIC VALUE |
| <p>We work with our members to improve efficiencies across the region, through a best-practice approach to bureau service delivery.</p> | <p>We provide regional advocacy for the Pilbara to facilitate positive change in the region and champion the interests of our member councils.</p> | <p>We strive to be an effective and efficient organisation in project management, local government compliance and engagement with members.</p> | <p>We deliver economic value by identifying opportunities for economies of scale and targeted funding to enhance member councils' compliance, capacity and capability.</p> |

Our Values

| | | | |
|--|--|--|---|
| <p>ACCOUNTABILITY</p> <p>We hold ourselves fully accountable to our stakeholders, and for all that we do.</p> | <p>HONESTY</p> <p>We are honest at all times, including about our capacity and unique capabilities.</p> | <p>INNOVATION</p> <p>We see things differently and aren't afraid to challenge the status quo.</p> | <p>EXCELLENCE</p> <p>We deliver outcomes for the region that are considered excellent by our stakeholders.</p> |
| <p>ENTHUSIASM</p> <p>We are passionate and enthusiastic about our work and our colleagues.</p> | <p>COLLABORATION</p> <p>We work willingly with others to share knowledge and deliver value.</p> | <p>RESPECT</p> <p>We value the opinions of others, and approach all with dignity and respect.</p> | <p>INTEGRITY</p> <p>We hold ourselves to a strong ethical standard, and expect the same from others</p> |

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1. ADMINISTRATIVE MATTERS

1.1. Official Opening

The Chairperson will declare the Ordinary Meeting of Council open.

1.2. Acknowledgement of Traditional Owners

The PRC acknowledges the traditional owners of the land on which we meet, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to their elders both past and present.

1.3. Attendance

| | | |
|-------------------------------|--|---|
| Councillors: | Cr Lynne Craigie Cr Peter Foster Cr Peter Long Cr Daniel Scott Cr Kerry White Cr Anita Grace Cr Camilo Blanco Cr Louise Newbery | President, Shire of East Pilbara and Chairperson, PRC Councillor, Shire of Ashburton, Deputy Chairperson, PRC Mayor, City of Karratha Councillor, City of Karratha President, Shire of Ashburton, WALGA Zone rep. Councillor, Shire of East Pilbara Mayor, Town of Port Hedland Councillor, Town of Port Hedland |
| PRC Staff: | Mr Allen Cooper | Acting CEO, PRC |
| Guests: | Mr Chris Adams Mr Rob Paull Mr Jeremy Edwards Mr David Pentz | CEO, City of Karratha CEO, Shire of Ashburton CEO, Shire of East Pilbara CEO, Town of Port Hedland |
| Members of the Public: | | |
| Apologies: | | |
| Absent: | | |
| Leave of Absence: | | |

| Meeting Type | Date | Location | Cr Long | Cr White | Cr Foster | Cr Craigie | Cr Grace | Cr Blanco | Cr Newberry | Cr Scott |
|--------------|----------|----------|----------|----------|-----------|------------|----------|-----------|-------------|----------|
| OCM | 31/10/17 | WALGA | X | X | X | X | X | X | - | - |
| OCM | 05/12/17 | WALGA | X | X | X | X | X | X | X | X |
| OCM | 22/02/18 | WASL | X | X | X | X | X | X | Cr Arif | X |
| SCM | 26/03/18 | CCC | X | X | Cr Rumble | X | X | X | X | X |
| OCM | 01/05/18 | Crown | X | X | X | X | X | X | X | X |
| OCM | 25/06/18 | LGIS | X | X | X | X | X | Late | Late | - |
| OCM | 29/08/18 | WALGA | Cr Cucel | X | Cr Diaz | X | X | X | X | X |
| SCM | 05/10/18 | Teleconf | X | X | Cr Rumble | X | X | X | X | X |
| SCM | 19/10/18 | SLWA | X | X | Cr Rumble | X | X | X | X | X |

| | | | | | | | | | | |
|-----|----------|-------|---|---|---|---|---|---|---|---|
| OCM | 08/11/18 | WALGA | X | X | X | X | X | X | X | X |
| OCM | 07/12/18 | WALGA | | | | | | | | |

1.4. Application(s) for leave of absence

Nil received.

2. PUBLIC QUESTION TIME

The Chairperson will call for questions from members of the public attending the meeting.

3. DECLARATIONS BY MEMBERS

3.1. Oath(s) of office

Form in Attachment 3.1.1

3.2. Due consideration by Councillors of the agenda

Councillors should give due consideration to all matters contained in the Agenda presently before the meeting.

3.3. Declaration(s) of conflict of interest

Form in Attachment 3.3.1

Councillors to Note:

A member who has an Impartiality, Proximity or Financial Interest in any matter to be discussed at a Council or Committee Meeting, that will be attended by the member, must disclose the nature of the interest:

- (a) In a written notice given to the Chief Executive Officer before the Meeting or;
- (b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- (a) Preside at the part of the Meeting, relating to the matter or;
- (b) Participate in or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member can do so under Section 5.68 or Section 5.69 of the Local Government Act 1995.

These notes are included in each agenda for the time being so that Councillors may refresh their memory.

A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measure in money terms. There are exceptions in the Local Government Act 1995 but they should not be relied on without advice, unless the situation is very clear.

If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc.), and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.

If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.

If in doubt declare.

If written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it MUST be given when the matter arises in the Agenda, and immediately before the matter is discussed.

Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The only exceptions are:

Where the Councillor discloses the extent of the interest, and Council carries a motion under s.5.68(1)(b)(ii) or the Local Government Act; or

Where the Minister allows the Councillor to participate under s.5.69 (3) of the Local Government Act, with or without condition

4. DEPUTATIONS / PRESENTATION

4.1. Clyde & Co

A representative from Clyde & Co will provide an update to Council on current legal action matters.

5. CONFIRMATION OF PREVIOUS MINUTES

5.1. Ordinary Council Meeting held on 8 November 2018

| | |
|--------------------------------|--|
| Responsible Officer: | Acting CEO |
| Action Officer: | Acting CEO |
| Disclosure of Interest: | Nil |
| Attachment(s): | 5.1.1 PRC OCM – 8 November 2018 – Unendorsed / Unconfirmed Minutes |

Comments/Discussion

No questions relating to the minutes have been received on notice by the Chairperson or the PRC A/CEO prior to the meeting.

Officer's Recommendation

That the minutes of the Pilbara Regional Council Special Meeting of Council held on 8 November 2018 be confirmed as a true and correct record of proceedings.

| | |
|----------------------------|-----------------|
| Resolution No: | FY19-51 |
| Voting Requirement: | Simple Majority |
| Moved: | |
| Seconded: | |
| Result: | |

6. EXECUTIVE REPORTS

6.1. Response to questions taken on notice

No questions taken on notice were received by the executive.

6.2. Business and action items arising from meetings

| | |
|--------------------------------|-------------------------|
| Responsible Officer: | Acting CEO |
| Action Officer: | Acting CEO |
| Disclosure of Interest: | Nil |
| Attachment(s): | 6.2.1 – Action Register |

| Resolution no./Item no. | Meeting | Action Arising | Completed/Carried Forward |
|--|--------------------|---|---|
| Item 5.7 Advocacy | - | PRC CEO to regularly keep Councillors updated on progress made against advocacy objectives. | Standing item |
| Item 5 Confirmation of Previous Meeting Minutes | 17 May 2017 | Chairperson requested that CEO to email digital minutes from PRC meeting to all member Crs. | Standing item |
| Various | 8 November 2018 | Refer to Action register 6.2.1 | Refer to Action register 6.2.1 |

Officer's Recommendation

That Council receive the progress update as presented.

| | |
|----------------------------|-----------------|
| Resolution No: | FY19-52 |
| Voting Requirement: | Simple Majority |
| Moved: | |
| Seconded: | |
| Result: | |

6.3. WALGA State Council President's report

| | |
|--------------------------------|--|
| Responsible Officer: | PRC Chairperson |
| Action Officer: | PRC Chairperson |
| Disclosure of Interest: | Nil |
| Attachment(s): | 6.3.1 – President's report December 2018 |

Purpose

To provide a summary of issues affecting the broader local government sector.

Chairperson's report

WALGA representative will speak to the most recent State Council President's Report.

Officer's Recommendation

That Council receive the President's verbal report as presented.

| | |
|----------------------------|-----------------|
| Resolution No: | FY19-53 |
| Voting Requirement: | Simple Majority |
| Moved: | |
| Seconded: | |
| Result: | |

6.4. Chairperson's report

| | |
|--------------------------------|-----------------|
| Responsible Officer: | PRC Chairperson |
| Action Officer: | PRC Chairperson |
| Disclosure of Interest: | Nil |
| Attachment(s): | Nil |

Purpose

To provide a summary of the Chairperson's activities.

Chairperson's report

The Chairperson will deliver a verbal update to the meeting.

Officer's Recommendation

That Council receive the Chairperson's verbal report as presented.

| | |
|----------------------------|-----------------|
| Resolution No: | FY19-54 |
| Voting Requirement: | Simple Majority |
| Moved: | |
| Seconded: | |
| Result: | |

6.5. Acting CEO report

| | |
|--------------------------------|--------------------------------|
| Responsible Officer: | Acting Chief Executive Officer |
| Action Officer: | Acting Chief Executive Officer |
| Disclosure of Interest: | Nil |
| Attachment(s): | Nil |

Purpose

To provide a summary of the PRC's activities for the period since the last OCM.

A/CEO report

The Acting CEO will deliver a verbal update to the meeting.

Officer's Recommendation

That Council receive the Acting CEO verbal report as presented.

| | |
|----------------------------|-----------------|
| Resolution No: | FY19-55 |
| Voting Requirement: | Simple Majority |
| Moved: | |
| Seconded: | |
| Result: | |

6.6. Monthly financial reports and warrants of payments

| | |
|--------------------------------|---|
| Responsible Officer: | Acting Chief Executive Officer |
| Action Officer: | PRC Administration |
| Disclosure of Interest: | Nil |
| Attachment(s): | 6.6 - Monthly Financial Report and Warrants of Payments |

Purpose

To seek Council’s consideration and adoption of the Statements of Financial Activity.

Background

The PRC Council is required to review and approve the PRC expenditure and financial position on a regular basis. The PRC’s financial system is Xero, which generates Monthly Financial Reconciliations that show the PRC’s expenditure and financial position on a monthly basis. Excel spreadsheets are used to provide statutory compliant reporting based on the Xero output. To enable the reporting of material variances to be consistent and compliant with the Local Government Financial Management Regulations (FMR 34) the Council adopted the material variance threshold of plus/minus 10% at sub-program and /or individual project level as per FM 34(1)(d), for the financial year in accordance with Australian Accounting Standards (AAS 5).

The Local Government Act Financial Regulations require that a statement of financial activity, including reporting on revenue and expenditure, an explanation of the composition of net current assets and an explanation of any material variances between actual and (now) revised budget allocations be presented to Council to consider for inclusion in the minutes of the meeting.

Reporting Period:

The following financial statements for the periods encompassing 01 November 2018 to 30 November 2018 are attached.

1. Comprehensive Income Statement by Program;
2. Comprehensive Income Statement by Nature/Type;
3. Statement of Financial Position;
4. Statement of Changes in Equity;
5. Statement of Cash Flows;
6. Statement of Financial Activity;
7. Statement of Current Assets and Current Liabilities;
8. Supporting Schedules detailing income and expenditure.

The following table is a summary of the Financial Activity Statement Report compared to the budget:

Comments/Discussion

It has been a customary practice that whilst being a leader in the community, we meet our terms of credit as established between suppliers and aspire to obtain discounts where practicable. Payments have been approved by authorised officers in accordance with agreed delegations and policy frameworks.

| 2018-2019 (for the month ended 30 Nov 2018) | Adopted Budget | YTD Budget | YTD Actual | Year to Date Variance | Impact on Surplus |
|--|----------------|---------------|---------------|--------------------------|----------------------|
| Revenue | \$593,943 | \$593,943 | \$555,558 | (-\$38,385) | ↓ |
| Expense | (-\$1,271,348) | (-\$882,304) | (-\$920,394) | (-\$38,090) | ↓ |
| Surplus/(Deficit) 18/19 | (-\$677,405) | (-\$288,361) | (-\$364,836) | | |

Policy Implications

Council policy P-012 applies to this report.

Staffs are required to ensure that they comply with P-012 – Purchasing policy and that budget provision is available for any expenditure commitments.

Consultation

Officers have been involved in the approvals of any requisitions, purchase orders, invoicing and reconciliation matters.

Legislative Implications

Local Government (Financial Management) Regulations 1996, reg. 13 & 34.

Financial Implications

Payments are made under delegated authority and are within defined and approved budgets.

Strategic Implications

This item is relevant to the PRC's approved Strategic Community Plan and Corporate Business Plan.

Key Focus Area: *Efficient & Effectiveness*

Strategic Outcome: *We promote good governance and meet all compliance requirements.*

Strategy: *We will fairly and transparently report back to our stakeholders on activities and performance.*

Risk Management considerations

Favourable terms of trade reduce the risk of penalties, loss of quality services.

Impact on capacity

There is no impact on capacity or resourcing to carry out the Officer's recommendation.

Options

1. Option 1: As per Officer's recommendation.
2. Option 2: That Council by Simple Majority pursuant to Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Administration) Regulations 1996 resolves to RECEIVE the Financial Report and Warrant of Payments for the nominated financial period.
3. Option 3: That Council by Simple Majority pursuant to Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Administration) Regulations 1996 resolves to NOT RECEIVE the Financial Report and Warrant of Payments for the nominated financial period.

Officer's Recommendation

That Council by Simple Majority pursuant to Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Administration) Regulations 1996 resolves to RECEIVE Financial Report and Warrant of Payments for the nominated financial period as presented.

Resolution No: FY19-56
Voting Requirement: Simple Majority
Moved:
Seconded:
Result:

7. MATTERS FOR DECISION

7.1. Independent Auditor's Report (FY18)

| | |
|--------------------------------|---|
| Responsible Officer: | Acting Chief Executive Officer |
| Action Officer: | Acting Chief Executive Officer |
| Disclosure of Interest: | Nil |
| Attachment(s): | 7.1.1 - Independent Auditor's Report (to be tabled at the meeting by the OAG) 7.1.2 – Management Representation Letter (draft, unsigned attached) (final version to be signed by the OAG on or after the OCM). |

Purpose

To present the Independent Auditor's Report to Council.

Background

An auditor is required to examine the accounts and annual financial report submitted for audit and, by the 31 December next following financial year to which the accounts and report relate or such later date as may be prescribed to prepare a report and forward a copy of that report to the mayor or president, CEO of the local government and to the Minister.

Policy Implications

Nil

Consultation

Butler Settineri (External Auditors).
Office of the Auditor General (OAG).

Legislative Implications

In accordance with the *Local Government Act 1995*:

s7.2 Audit

The accounts and annual financial report of a local government for each financial year are required to be audited by an auditor appointed by the local government.

Financial Implications

There are no financial implications.

Strategic Implications

This item is relevant to the PRC's approved Strategic Community Plan and Corporate Business Plan.

| | |
|--------------------|---|
| Key Focus Area: | <i>Efficiency & Effectiveness</i> |
| Strategic Outcome: | <i>We promote good governance and meet all compliance requirements.</i> |
| Strategy: | <i>We will continually review internal systems and processes to improve operational efficiency and effectiveness.</i> |

Risk Management considerations

There is no risk management consideration applicable.

Impact on capacity

There is no impact on capacity or resourcing to carry out the Officer's recommendation.

Relevant precedents

The Annual Report, Annual Financial Report and the Audit Opinion is considered by Council each year.

Options

- Option 1: As per Officer's recommendation.
- Option 2: That Council resolves to defer consideration of this item pending further information.
- Option 3: Any other option that Committee deems appropriate.

Officer's Recommendation

That Council by simple majority resolves to receive and endorse the Independent Auditor's Report.

Resolution No: FY19-57
Voting Requirement: Simple Majority
Moved:
Seconded:
Result:

7.2. Annual Financial Report (FY18)

| | |
|--------------------------------|--|
| Responsible Officer: | Acting Chief Executive Officer |
| Action Officer: | Acting Chief Executive Officer |
| Disclosure of Interest: | Nil |
| Attachment(s): | 7.2.1 – Financial report for year ending 30 June 2018 (draft version sent to the OAG, not yet approved by OAG) |

Purpose

To present the Annual Financial Report for the year ended 30 June 2018.

Background

The PRC is to remit a copy of the annual financial report to the Department of Local Government, Sport and Cultural Industries no later than 31 December after that financial year.

Comments

The OAG requested the following changes to the FY18 annual financial report:

1. Disclose that the financial statements have been prepared on a liquidation basis
2. Recognise provision for Lease commitment.
3. Reversal of previously recognised LSL provision, as the PRC staff is no longer expected to accrue more beyond 28 December.
4. Wordings on the note/formattings particularly:
 - a. Going concern
 - b. New note regarding subsequent events (informing readers that the council has decided to wind up PRC).

Changes were made and issued to the OAG and external auditor for confirmation and approval.

Policy Implications

There are no policy implications.

Consultation

Butler Settineri (External Auditors).
Office of the Auditor General (OAG).

Legislative Implications

In accordance with *Local Government Act 1995* s5.53 (1) The local government is to prepare an annual report for each financial year.

In accordance with *Local Government Act 1995* s5.54 (1) Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.

* *Absolute majority required.*

(2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.

Financial Implications

There are no financial implications.

Strategic Implications

This item is relevant to the PRC's approved Strategic Community Plan and Corporate Business Plan.

Key Focus Area: *Efficiency & Effectiveness*
Strategic Outcome: *We promote good governance and meet all compliance requirements.*
Strategy: *We will continually review internal systems and processes to improve operational efficiency and effectiveness.*

Risk Management considerations

There is no risk management consideration applicable.

Impact on capacity

There is no impact on capacity or resourcing to carry out the Officer's recommendation.

Relevant precedents

The Annual Report, Annual Financial Report and the Audit Opinion is considered by Council each year.

Options

- Option 1: As per Officer's recommendation.
- Option 2: That Council resolves to defer consideration of this item pending further information.
- Option 3: Any other option that Council deems appropriate.

Officer's Recommendation

That Council by absolute majority resolves to:

1. Receive and endorse the Annual Report for the year ended 30 June 2018, and
2. Instruct the A/CEO to submit a copy to the Department of Local Government, Sport and Cultural Industries no later than 31 December 2018.

Resolution No: FY19-58
Voting Requirement: Absolute Majority
Moved:
Seconded:
Result:

7.3. Disposal of PRC assets

| | |
|--------------------------------|--------------------------------|
| Responsible Officer: | Acting Chief Executive Officer |
| Action Officer: | Acting Chief Executive Officer |
| Disclosure of Interest: | Nil |
| Attachment(s): | 7.3.1. Asset register |

Purpose

To seek Council's approval for the disposal methods of certain PRC assets.

Background

The PRC is winding up on 28 December 2018. A number of assets are noted on the register, some have received interest from third parties and could be disposed of prior to the wind up. Disposal methods are to be considered in this agenda by Council.

Comments

Nil

Policy Implications

CEO delegated authority #12 applies to this report:

Conditions and Exceptions of Chief Executive Officer:

- Limit to \$5,000 for the deposition of land to the value of \$5,000 in accordance with s30(2)(a) and (c) of the Local Government (Functions and General) Regulations 1996.
- Limit to \$20,000 for property other than land in accordance with s30(3) of the Local Government (Functions and General) Regulations 1996.

Consultation

This matter has been discussed with:

- PRC Acting CEO
- WALGA - Governance

Legislative Implications

Local Government Act 1995 Section 3.58 – Disposal of property, is relevant to this report. This section states:

3.58. Disposing of property

(1) In this section —

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

property includes the whole or any part of the interest of a local government in property, but does not include money.

(2) Except as stated in this section, a local government can only dispose of property to —

(a) the highest bidder at public auction; or

- (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
- (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;
- and
- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
- (a) the names of all other parties concerned; and
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition —
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.
- (5) This section does not apply to —
- (a) a disposition of an interest in land under the *Land Administration Act 1997* section 189 or 190; or
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

Local Government (Functions and General) 1995 Section 30, is relevant to this report. This section states:

30. Dispositions of property excluded from Act s. 3.58

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
- (2) A disposition of land is an exempt disposition if —
- (a) the land is disposed of to an owner of adjoining land (in this paragraph called the *transferee*) and —
 - (i) its market value is less than \$5 000; and
 - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;
- or
- (b) the land is disposed of to a body, whether incorporated or not —
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;
- or

(c)the land is disposed of to —

- (i)the Crown in right of the State or the Commonwealth; or
- (ii)a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or
- (iii)another local government or a regional local government;

or

- (d)it is the leasing of land to an employee of the local government for use as the employee’s residence; or
- (e)it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land; or
- (f)it is the leasing of land to a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession to be used for carrying on his or her medical practice; or
- (g)it is the leasing of residential property to a person.

(2a)A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been —

- (a)put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government; or
- (b)the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable; or
- (c)the subject of Statewide public notice under section 3.59(4) of the Act, and if the business plan referred to in that notice described the property concerned and gave details of the proposed disposition including —
 - (i)the names of all other parties concerned; and
 - (ii)the consideration to be received by the local government for the disposition; and
 - (iii)the market value of the disposition as ascertained by a valuation carried out not more than 12 months before the proposed disposition.

(2b)Details (see section 3.58(4) of the Act) of a disposition of property under subregulation (2a) must be made available for public inspection for at least 12 months from the initial auction or tender, as the case requires.

(3)A disposition of property other than land is an exempt disposition if —

- (a)its market value is less than \$20 000; or
- (b)the entire consideration received by the local government for the disposition is used to purchase other property, and where the total consideration for the other property is not more, or worth more, than \$75 000.

Financial Implications

The FY19 budget does not make any allocation for asset disposal.

The total realisable value of all assets on the register is: \$19,010.

Strategic Implications

This item is relevant to the PRC’s approved Strategic Community Plan and Corporate Business Plan.

Key Focus Area: *Efficiency & Effectiveness*
 Strategic Outcome: *We promote good governance and meet all compliance requirements.*
 Strategy: *We will continually review internal systems and processes to improve operational efficiency and effectiveness.*

Risk Management considerations

There is currently no plan for assets that have not been disposed of post 28 December 2018.

Impact on capacity

There is no impact on capacity or resourcing to carry out the Officer's recommendation.

Relevant precedents

Nil

Options

- Option 1: As per Officer's recommendation.
- Option 2: Donate all assets to charity.
- Option 3: Divide the assets between Councils and allow them to donate to an appropriate local schools/charity at their discretion.
- Option 4: Any other option that Council deems appropriate.

Officer's Recommendation

That Council by simple majority resolves to authorise the PRC A/CEO to:

- Donate the existing iPads already located with the Visitor Centres to those Visitor Centres;
- Negotiate a fair value for the assets with the interested parties noted in the register;
- Exercise his discretion for assets that are not on the asset register;
- Divide any outstanding assets by 17th December 2018 between Councils and allow them to donate to an appropriate local schools/charity at their discretion. Costs of freight to be covered by the PRC.

Resolution No: FY19-59
Voting Requirement: Simple Majority
Moved:
Seconded:
Result:

7.4. Council Expense Approval - HWL Ebsworth

| | |
|--------------------------------|-----------------------------------|
| Responsible Officer: | Acting Chief Executive Officer |
| Action Officer: | Acting Chief Executive Officer |
| Disclosure of Interest: | Nil |
| Attachment(s): | 7.4.1 – Invoice from HWL Ebsworth |

Purpose

To seek Council's approval for an expense incurred by the Chairperson on behalf of the Pilbara Regional Council.

Background

The PRC Chairperson sought some independent legal advice from HWL Ebsworth with regards to a Confidential Employment Matter on behalf of the organisation. The invoice amounts to \$1,250.15.

Comments

Councillors do not have authority to incur a debt on behalf of the organisation. Therefore, reimbursement of the expense incurred seeking legal advice is being requested by the Chairperson.

Policy Implications

Council policy P-012 applies to this report.

This policy sets financial thresholds for procurement of direct services.

This policy also requires that budget provision is available for an expenditure commitment.

Consultation

This matter has been discussed with:

- PRC Acting CEO
- PRC Chairperson

Legislative Implications

There is no mechanisms for elected members to incur an expense directly under the Local Government Act 1995.

Local Government Act 1995 Section 6.8 – Expenditure from municipal fund not included in annual budget, is relevant to this report. This section states:

1. A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure –

- a) is incurred in a financial year before the adoption of the annual budget by the local government; or
- b) is authorised in advanced by resolution*¹ or
- c) is authorised by the mayor or president in an emergency.

* Absolute majority required.

Financial Implications

The expense fits within the existing, Council endorsed FY19 budget.

Strategic Implications

This item is relevant to the PRC's approved Strategic Community Plan and Corporate Business Plan.

Key Focus Area: *Efficiency & Effectiveness*
Strategic Outcome: *We promote good governance and meet all compliance requirements.*
Strategy: *We will continually review internal systems and processes to improve operational efficiency and effectiveness.*

Risk Management considerations

There is no risk management consideration applicable.

Impact on capacity

There is no impact on capacity or resourcing to carry out the Officer's recommendation.

Relevant precedents

PRC Council previously authorised Council expenses to a maximum value of \$30,000 for independent legal opinion and HR advice from McLeods in relation to the CEO's contract (8 August 2018 SCM, resolution FY19-05).

The Shire of Ashburton engaged with McLeods directly on 18 October 2018 (billed to the PRC).

The Town of Port Hedland sought and received email advice from McLeods directly on 30 October 2018 (billed to the PRC).

Options

- Option 1: As per Officer's recommendation.
- Option 2: That Council resolves to defer consideration of this item pending further information.
- Option 3: Any other option that Council deems appropriate.

Officer's Recommendation

That Council by absolute majority resolves to authorise the PRC A/CEO to incur the expense as per Attachment 5.3.1 on behalf of Council.

Resolution No: FY19-60
Voting Requirement: Absolute Majority
Moved:
Seconded:
Result:

7.5. Council Expense Approval – Local Government Insurance Services (LGIS)

| | |
|--------------------------------|--------------------------------|
| Responsible Officer: | Acting Chief Executive Officer |
| Action Officer: | Acting Chief Executive Officer |
| Disclosure of Interest: | Nil |
| Attachment(s): | Nil |

Purpose

To seek Council's approval for a proposed expense to be incurred with LGIS.

Background

As the current legal action, Anthony Friday V Pilbara Regional Council will continue after the closure of the PRC the ongoing cover is required to ensure Councils interests are properly represented.

Comments

Nil

Policy Implications

Council policy P-012 applies to this report.

This policy sets financial thresholds for procurement of direct services.

This policy also requires that budget provision is available for an expenditure commitment.

Consultation

This matter has been discussed with:

- PRC Acting CEO
- LGIS

Legislative Implications

Local Government Act 1995 Section 6.8 – Expenditure from municipal fund not included in annual budget, is relevant to this report. This section states:

1. A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure –
 - a) is incurred in a financial year before the adoption of the annual budget by the local government; or
 - b) is authorised in advanced by resolution* or
 - c) is authorised by the mayor or president in an emergency.

* Absolute majority required.

Financial Implications

LGIS / Chubb have provided an premium indication for Councillors and Officers run off cover.

7 years run off will be \$7,500 plus GST, paid as a one-off cost.

The expense discussed in this item was not contemplated in the FY19 budget.

The Insurance GL traditionally hosts insurance costs for the PRC. A budget of \$16,489 was endorsed as part of the FY19. Spending YTD is \$17,738.43 (7.6% overspend).

The proposed \$7,500 expense will take the budget overspend to a 53%.

Strategic Implications

This item is relevant to the PRC's approved Strategic Community Plan and Corporate Business Plan.

Key Focus Area: *Efficiency & Effectiveness*
Strategic Outcome: *We promote good governance and meet all compliance requirements.*
Strategy: *We will continually review internal systems and processes to improve operational efficiency and effectiveness.*

Risk Management considerations

There is no risk management consideration applicable.

Impact on capacity

There is no impact on capacity or resourcing to carry out the Officer's recommendation.

Relevant precedents

Nil.

Options

- Option 1: As per Officer's recommendation.
- Option 2: That Council resolves to defer consideration of this item pending further information.
- Option 3: Any other option that Council deems appropriate.

Officer's Recommendation

That Council by simple majority resolves to authorise the PRC A/CEO to incur the expense with LGIS as noted in this item.

Resolution No: FY19-61
Voting Requirement: Absolute Majority
Moved:
Seconded:
Result:

7.6. Relinquishment of Bank Guarantees due to PRC closure

| | |
|--------------------------------|--------------------------------|
| Responsible Officer: | Acting Chief Executive Officer |
| Action Officer: | Acting Chief Executive Officer |
| Disclosure of Interest: | Nil |
| Attachment(s): | Nil |

Purpose

To seek Council's approval for relinquish and return three bank guarantees held by the PRC.

Background

The PRC holds three bank guarantees as security for three project defects and liabilities period.

The PRC will be closing its operation on 28 December 2018.

Comments

Nil

Policy Implications

Nil

Consultation

This matter has been discussed with:

- PRC Acting CEO
- PRC Deputy CEO

Legislative Implications

Nil

Financial Implications

The following bank guarantees are held by the PRC:

| Guarantor | Value | Project | Expiry date | Purpose |
|---|-------------|-----------------------------------|------------------|--------------------------------------|
| Rosefish Holdings Pty Ltd ACN 143 762 476 (Poolgrave) | \$3,254.90 | Karratha Hedland Signs | 30 December 2019 | 12 months Defects & Liability period |
| Rosefish Holdings Pty Ltd ACN 143 762 476 (Poolgrave) | \$14,794.45 | National Park and Warlu Way Signs | 31 July 2019 | 12 months Defects & Liability period |
| Rosefish Holdings Pty Ltd ACN 143 762 476 (Poolgrave) | \$2,244.55 | Regional Entry Signs | 30 December 2018 | 12 months Defects & Liability period |

Strategic Implications

This item is relevant to the PRC's approved Strategic Community Plan and Corporate Business Plan.

Key Focus Area: *Efficiency & Effectiveness*
 Strategic Outcome: *We promote good governance and meet all compliance requirements.*

Strategy: *We will continually review internal systems and processes to improve operational efficiency and effectiveness.*

Risk Management considerations

If bank guarantees are transferred to another entity, this organization will not have the appropriate authority to relinquish and release the security.

Impact on capacity

There is no impact on capacity or resourcing to carry out the Officer's recommendation.

Relevant precedents

Nil

Options

- Option 1: As per officer's recommendation
- Option 2: That Council resolves to defer consideration of this item pending further information.
- Option 3: Any other option that Council deems appropriate.

Officer's Recommendation

That Council by absolute majority agrees to relinquish the three bank guarantees and return them to the appropriate supplier.

Resolution No: FY19-62
Voting Requirement: Absolute Majority
Moved:
Seconded:
Result:

7.7. PRC Office Lease – Delegated authority to negotiate

| | |
|--------------------------------|--------------------------------|
| Responsible Officer: | Acting Chief Executive Officer |
| Action Officer: | Acting Chief Executive Officer |
| Disclosure of Interest: | Nil |
| Attachment(s): | Nil |

Purpose

To seek Council's approval for delegate authority to the Acting CEO to continue negotiating with the leasing agent.

Background

The PRC will be closing its operation on 28 December 2018.

At the 8 November 2018 OCM Council resolved to:

- **Requests** that the Acting CEO get real time figures of remainder of lease and pay outs for early termination of and also to explore sub lease possibilities including penalties.
 - If feasible, to look at obtaining a sublet tenant, the timeframe for this is to 28 February 2019.
 - If not leased by this time, the lease is to be paid out following advice to the individual Councillors.
- **Requests** a progress report on the feasibility to be provided to the 7 December 2018 meeting of Council.

Resolution FY19-41

Comments

The premises lease at 2/662 Newcastle Street, Leederville WA 6007 could be novated to the four member local governments of the PRC as equal parties, which parties may then subsequently seek to novate that lease or leases.

The lease agent was notified of the wind up on 11 October 2018 and again on 19 November 2018.

The PRC was reminded of the existing 5 year lease agreement and requested make a substantial offer to the Landlord.

The PRC made an offer of ~3 months rent which was rejected.

The OAG requested for the FY18 annual financials to be restated on a liquidation basis, and to include the lease as a current liability (\$142,580.67).

Policy Implications

Nil

Consultation

This matter has been discussed with:

- PRC Acting CEO
- Realmark (Leasing agent)

Legislative Implications

Nil

Financial Implications

5-year lease expiring 31/8/21.

The forecasted pay out cost is ~\$113,849.72 + GST.

| | |
|--------------------------------------|---------------------------|
| 1/1/19 – 31/8/19 | \$18,765.36 |
| 1/9/19 – 31/8/20 | \$23,714.75 |
| 1/9/20 – 31/8/21 | \$23,975.61 |
| Total rent | \$66,455.72 + GST |
| + CPI (~1.2% x 3 years) | \$2,394 |
| + Outgoings (~15,000/year x 3 years) | \$45,000 |
| Total lease pay out | \$113,849.72 + GST |

Realmark holds a bank guarantee (\$11,354 + GST) as per lease agreement.

Strategic Implications

This item is relevant to the PRC's approved Strategic Community Plan and Corporate Business Plan.

Key Focus Area: *Efficiency & Effectiveness*

Strategic Outcome: *We promote good governance and meet all compliance requirements.*

Strategy: *We will continually review internal systems and processes to improve operational efficiency and effectiveness.*

Risk Management considerations

The OAG requested for the FY18 annual financials to be restated on a liquidation basis, and to include the lease as a current liability.

PRC Council endorsed FY19 budget does not make a provision for the full lease payout amounts paid is likely to result in a Budget overspent by 28 December.

Realmark can make a claim against the existing bank guarantee held (\$11,354 + GST) as per lease agreement.

Impact on capacity

There is no impact on capacity or resourcing to carry out the Officer's recommendation.

Relevant precedents

Nil

Options

- Option 1: As per officer's recommendation
- Option 2: That Council resolves to defer consideration of this item pending further information.
- Option 3: Any other option that Council deems appropriate.

Officer's Recommendation

That Council by absolute majority delegate authority to the Acting CEO to continue negotiations with the leasing agent (Realmark). Limit on this Delegation \$_____ and within the 2018/19 budget restrictions.

Resolution No: FY19-63
Voting Requirement: Absolute Majority
Moved:
Seconded:
Result:

8. CONFIDENTIAL MATTERS

| | |
|--------------------------------|--|
| Responsible Officer: | PRC Chairperson |
| Action Officer: | PRC Chairperson |
| Disclosure of Interest: | Nil |
| Attachment(s): | Refer to individual confidential items |

Legislative Implications

Under the Local Government Act 1995, Part 5, and Section 5.23, states in part:

(2) If a meeting is being held by a Council or by a committee referred to in subsection (1)(b), the Council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of 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; or
 - (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; or
 - (III) Prejudice the maintenance or enforcement of any 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 1981; and
- (h) such other matters as may be prescribed.

Officer's Recommendation

In accordance with Section 5.23(2) of the Local Government Act 1995, that Council move in-camera to discuss confidential items.

| | |
|----------------------------|-----------------|
| Resolution No: | FY19-64 |
| Voting Requirement: | Simple Majority |
| Moved: | |
| Seconded: | |
| Result: | |

The purpose of this confidential item is to discuss:

1. Warlu Way signage contract settlement offer
2. Post wind-up responsibilities

Resolution

The Council resolve to _____.

Resolution No: FY19-65
Voting Requirement: Simple Majority
Moved:
Seconded:
Result:

Officer's Recommendation

That Council resolve to move ex-camera.

Resolution No: FY19-66
Voting Requirement: Simple Majority
Moved:
Seconded:
Result:

9. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

**11. URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY
DECISION**

12. CLOSURE

12.1. Date of the next meeting

The next Ordinary meeting of Council is to be held on _____ in _____, starting at _____.

| | |
|----------------------------|-----------------|
| Resolution No. | FY19-67 |
| Voting Requirement: | Simple Majority |
| Moved: | |
| Seconded: | |
| Result: | |

12.2. Closure

The Chairperson will declare the meeting closed.