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14.3 Closure of Port Hedland Cemetery (*File No. 05/08/0011*)

Author	Senior Records Officer
Authorising Officer	Director Corporate and Performance
Disclosure of Interest	The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

REVOKE PREVIOUS DECISION

To consider revoking the decision listed in Officer's Recommendation 1 below, one third of Elected Members must support the revocation. Due to the suspension of Council, the Department of Local Government, Sport and Cultural Industries have advised that the function of the Commissioner is to act as the Council in accordance with section 2.38(2) of the *Local Government Act 1995* and therefore the Commissioner can revoke the Council Decision in accordance with regulation 10 of the *Local Government (Administration) Regulations 1996*.

The Commissioner is to show his hand in support of the revocation. The Commissioner raised his hand:

1. _____

OFFICER'S RECOMMENDATION 1

That Council revoke decision CM201819/056 of the Ordinary Council Meeting held 24 October 2018, which reads:

"That Council authorise the Chief Executive Officer to send a notification to the Department of Local Government, Sport and Cultural Industries requesting that the Port Hedland Cemetery continue to stay open and prepare for burials"

ABSOLUTE MAJORITY VOTE REQUIRED

OFFICER'S RECOMMENDATION 2

That Council authorise the Chief Executive Officer to send a notification to the Department of Local Government, Sport and Cultural Industries requesting that the Port Hedland Cemetery be formally closed.

SIMPLE MAJORITY VOTE REQUIRED

PURPOSE

The purpose of this report is for Council to consider the issues in regards to changing Port Hedland Cemetery (PHC) (often referred to as Pioneer Cemetery) from active use and request that a decision be made to formally close the cemetery.

DETAIL

Council was presented with information by the ICT Manager in April 2018, informing Council that the PHC was not officially closed, and requested that a decision be made on whether to re-open or officially close the cemetery. Council requested that a description of costs to reopen the PHC and a comparison with other cemeteries in the area for charges be provided before a decision would be made.

The request to close the PHC was first presented at the Ordinary Council Meeting held on 23 May 2018, asking that Council authorise the Chief Executive Officer to send a notification to the Department of Local Government and Communities requesting the PHC be closed. This report demonstrated the financial implications, risks associated with either opening or closing the PHC, and research proving that the cost to reopen would be high. Council moved the following motion that was passed by a vote 6/0:

“That Council defer item 11.1.3 ‘Closure of Port Hedland Cemetery’ pending the receipt and review of an Archaeologist Report undertaken at the Port Hedland Cemetery.”

At the Ordinary Council Meeting held on 24 October 2018, Council resolved to keep the PHC open by putting a new motion forward that was passed by a vote 5/4:

“That Council authorise the CEO to send a notification to the Department of Local Government, Sport and Cultural Industries requesting that the Port Hedland Cemetery continue to stay open and prepare for burials”.

As described in more detail under ‘Financial and Resources Implications’, to reopen the PHC the estimated cost would be \$1.3M, as opposed to the estimated cost of \$10K to close the cemetery.

The risks associated with the above decision remain current and therefore the Town is re-presenting for Council consideration.

Port Hedland Cemetery Status

Port Hedland Cemetery was originally on Reserve 7987 which was proclaimed in 1903 and cancelled in 1965, Reserve 27693 replaced this reserve on the PHC site. The current reserve remains open, research shows that the Town has never had permission to bury people or to allow memorials to be placed on the site. This was discovered in 2000 and at this time the Town of Port Hedland (the Town) was given a Management Order vesting the PHC as a site for historical graves.

*Community Concerns*Burials at Port Hedland Cemetery

It is worthwhile to note that even if the cemetery is proclaimed closed, further burials can still take place by applying to the Minister for Local Government, Sport and Cultural Industries for permission to allow a burial outside a proclaimed cemetery. An example is the late Honorary Freeman and War Veteran Mervyn Stanton was the last person to be buried in the Port Hedland Cemetery in 2017.

According to the Department's website, applications to the Minister can be approved within two days if all of the necessary information and documents are attached.

Disturbance of existing gravesites

If PHC is to be re-opened there is a high risk of disturbing existing gravesites that are unmarked. Disturbance of existing gravesites will cause distress to families of those buried at PHC and may cause distress to the community at large.

Demand

The average burial rate for the past decade has been 19.8 individuals per year within the boundaries of Port Hedland. There is sufficient space at South Hedland Cemetery at the current rate of burial to not require any further plots prepared until 2055.

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 "Significant Decision Making", this matter is considered to be of low significance. This is due to the general acceptance that the Port Hedland Cemetery has been 'closed' since 1968.

CONSULTATION

Internal

- Update between Director of Corporate and Performance and Commissioner Riebeling 14/08/2019
- Briefing of the Executive Leadership team

External Agencies

- Port Hedland Historical Society
- State Law Publisher
- Landgate
- State Records Office
- Attorney Generals Department
- National Native Tribunal
- Department of Local Government, Sport and Cultural Industries
- Metropolitan Cemeteries Board
- Department of Planning, Lands and Heritage

Community

- The Port Hedland Historical Society sent a letter of support for the reopening of the PHC on 1 May 2018.

LEGISLATION AND POLICY CONSIDERATIONS

Part II of the *Cemeteries Act 1986* applies in relation to this item.

Regulation 10(1)(b) of the *Local Government (Administration) Regulations 1996* outlines the requirements for revoking a decision of Council.

Regulation 10(2)(b) of the *Local Government (Administration) Regulations 1996* requires that any revocation or change to a decision is to be made by absolute majority.

FINANCIAL AND RESOURCES IMPLICATIONS

It has been estimated that it would cost \$1.3M to adequately resume active burials at PHC. This includes required testing, surveys, creation and action on a new Masterplan for the site (please note South Hedland Cemetery has a current approved master plan).

In order to close the PHC the estimated cost is \$10K for a digital layer to be created of PHC and linked to the Corporate Recordkeeping system.

NOTE: It is possible that extra costs could be incurred if it is decided to go ahead and amalgamate the two Lots that comprise the PHC.

Additional to the above, extra costs in relation to PHC include the following:

- Current annual maintenance for PHC as a closed cemetery is \$28K
- Estimated annual maintenance for an actively used PHC is \$56K

Please note that if the PHC were to reopen for burials there would be no possible way to recover the costs of the masterplan production or increased annual maintenance.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following sections of the Council's Strategic Community Plan 2018 – 2028 are applicable in the consideration of this item:

- 1.d.1** The present and future facilities and requirements of the Town are planned for and developed in-line with relevant facility standards and community needs
- 4.b.1** Sound long-term financial planning is implemented

The adopted Strategic Community Plan indicates that the community is comfortable with maintaining the current service levels. This feedback is based on one cemetery being available to the community, given it was widely accepted that the PHC was closed.

There are no significant identifiable environmental, social or economic impacts relating to this item.

RISK MANAGEMENT CONSIDERATIONS

There is a reputational risk associated with this item because there is a possibility of reopening a grave accidentally when interring a new person. If this practice became known to local media, the risk rating could be considered to be medium (9), which is determined by a likelihood of possible (3) and a consequence of moderate (3).

The reopening of the PHC was not identified as a community priority in the Strategic Community Plan. In fact, the Strategic Community Plan indicates the community is comfortable with maintaining the current service levels as the PHC was widely accepted as closed. Accordingly, there is a reputational risk associated with this item, as the community may perceive the budget is not being appropriately allocated in accordance with the community's priorities. The risk rating could be considered to be high (12), which is determined by a likelihood of possible (3) and a consequence of major (4).

There is another reputational risk associated with this item due to Native Title Claim not being resolved for several years. The risk rating could be considered to be high (12), which is determined by a likelihood of possible (3) and a consequence of major (4).

There is a financial risk associated with this item because there is no change to services and the financial implication of closure is minimal. The risk rating could be considered to be low (1), which is determined by a likelihood of rare (1) and a consequence of insignificant (1).

These risks will be eliminated by the adoption of the officer's recommendation.

OPTIONS

Option 1 – Uphold the Council's decision to reopen the PHC

Option 2 – Officially close the PHC

CONCLUSION

Due to the items discussed above and the financial implications of re-opening the Port Hedland Cemetery for active use, it is recommended that the decision be made to formally close the Port Hedland Cemetery.

ATTACHMENTS

1. Notice of Motion