



## Minutes of Ordinary Council Meeting

Held on 25 September 2024 and commenced at 5:00pm  
Held at the Council Chambers in Donnybrook  
*(1 Bentley Street, Donnybrook)*

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**Authorised:**

A handwritten signature in black ink, appearing to be "Tim Clynych", is positioned to the right of the "Authorised:" label.

Tim Clynych, Chief Executive Officer (Temporary)

**Prepared:**

3 October 2024

**MEASURES OF CONSEQUENCE**

LEVEL	RATING	HEALTH & SAFETY	FINANCIAL	SERVICE INTERRUPTION	COMPLIANCE	REPUTATION	PROPERTY	ENVIRONMENT
1	Insignificant	Negligible injuries	Less than \$5,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, localised low impact on community trust, low profile or no media item	Inconsequential or no damage.	Contained, reversible impact managed by on site response
2	Minor	First aid injuries	\$5,000 - \$20,000 Or < 5% variance in cost of project	Temporary interruption to an activity – backlog cleared with existing resources	Some temporary non compliances	Substantiated, localised impact on community trust or low media item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response
3	Moderate	Medical type injuries	\$20,001 - \$100,000 Or > 5% variance in cost of project	Interruption to Service Unit(s) deliverables – backlog cleared by additional resources	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact on community trust or moderate media profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies
4	Major	Lost time injury	\$100,001 - \$1M	Prolonged interruption of Service Unit core service deliverables – additional resources; performance affected	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, widespread high impact on community trust, high media profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies
5	Catastrophic	Fatality, permanent disability	More than \$1M	Indeterminate prolonged interruption of Service Unit core service deliverables	Non-compliance results in criminal charges or significant damages or penalties	Substantiated, public embarrassment, widespread loss of community trust, high widespread multiple media profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact

### MEASURES OF LIKELIHOOD

LEVEL	RATING	DESCRIPTION	FREQUENCY
5	Almost Certain	The event is expected to occur in most circumstances	More than once per year
4	Likely	The event will probably occur in most circumstances	At least once per year
3	Possible	The event should occur at some time	At least once in 3 years
2	Unlikely	The event could occur at some time	At least once in 10 years
1	Rare	The event may only occur in exceptional circumstances	Less than once in 15 years

### RISK MATRIX

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	MODERATE (5)	HIGH (10)	HIGH (15)	EXTREME (20)	EXTREME (25)
Likely	4	LOW (4)	MODERATE (8)	HIGH (12)	HIGH (16)	EXTREME (20)
Possible	3	LOW (3)	MODERATE (6)	MODERATE (9)	HIGH (12)	HIGH (15)
Unlikely	2	LOW (2)	LOW (4)	MODERATE (6)	MODERATE (8)	HIGH (10)
Rare	1	LOW (1)	LOW (2)	LOW (3)	LOW (4)	MODERATE (5)

### RISK ACCEPTANCE CRITERIA

RISK RANK	DESCRIPTION	CRITERIA FOR RISK ACCEPTANCE	RESPONSIBILITY
LOW	Acceptable	Risk acceptable with adequate controls, managed by routine procedures and subject to annual monitoring	Operational Manager
MODERATE	Monitor	Risk acceptable with adequate controls, managed by specific procedures and subject to semi-annual monitoring	Operational Manager
HIGH	Urgent Attention Required	Risk acceptable with excellent controls, managed by senior management / executive and subject to monthly monitoring	Director / CEO
EXTREME	Unacceptable	Risk only acceptable with excellent controls and all treatment plans to be explored and implemented where possible, managed by highest level of authority and subject to continuous monitoring	CEO / Council

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## 1. Declaration of Opening / Announcement of Visitors

### **Acknowledgement of Country:**

The Shire President acknowledged the continuing connection of Aboriginal people to Country, culture and community, including traditional custodians of this land, the Wardandi and Kaneang People of the Noongar Nation, paying respects to Elders, past and present.

The Shire President declared the meeting open at 5:02pm and welcomed the public gallery.

The Shire President advised that the meeting is being live streamed and recorded in accordance with Council Policy EM/CP-2. The President further stated the following:

*“This meeting is being livestreamed and digitally recorded in accordance with Council Policy. Members of the public are reminded that no other visual or audio recording of this meeting by any other means is allowed without the permission of the chairperson. Whilst every endeavour has been made to only record those who are actively participating in the meeting, loud comments or noises from the gallery may be picked up on the recording.”*

## 2. Attendance

### **Councillors Present:**

Cr Vivienne MacCarthy

Cr Lisa Glover

Cr Alexis Davy

Cr Peter Gubler (arrived  
5:03pm)

Cr Anita Lindemann

Cr Anne Mitchell

Cr Deanna Shand

### **Staff Present:**

Tim Clynych, Chief Executive Officer (Temporary)

Maurice Battilana, Acting Director Finance and Corporate

Loren Clifford, Manager Corporate Services

Samantha Farquhar, Administration Officer Corporate Services

### **Other Members Present:**

Public Gallery: 1

Livestream Viewers: 43

2.1. Apologies

Ross Marshall, Director Operations

Cr Grant Patrick

Cr John Bailey

2.2. Approved Leave of Absence

Nil.

2.3. Application for Leave of Absence

Cr Shand has requested a leave of absence for the October Ordinary Council Meeting.

<b>COUNCIL RESOLUTION:</b> 150/09-24	
<b>MOVED BY:</b> Cr Lisa Glover	<b>SECONDED BY:</b> Cr Anne Mitchell

**That Council:**

- 1. Approve Cr Deanna Shand’s request for a leave of absence for the Ordinary Council Meeting held on 23 October 2024.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0</b>

3. Announcements from the Presiding Member

Our young people have been having significant impact in developing community. The Shire and high school students have been collaborating through the Innovation Academy (run by Manea Senior College) in a program designed to connect young people with industry to solve real-world problems. These young locals have been energetic drivers across a number of projects in our Shire, including the Youth Space Project in Donnybrook, establishing a Youth Reference Group, organising the very successful ‘Brook Fest music event held earlier this year, and they have also worked to embed the dismantle bike rescue courses within the local school curriculum.

I am very pleased to say that through their leadership and hard work, they have been awarded first place at the Awards Ceremony held by the Innovation Academy at Manea Senior College, attracting \$1,000 in prize money. Our local youth were competing against 15 other groups of students from Bunbury and the South West, all of whom had delivered amazing projects.

The award recognised their efforts for the following work: production of a short film about the Youth Space Project, building their own website, portfolio and social media pages, and procuring up to \$6,000 in grant funding. Their hard work doesn't end there, and there are many other great initiatives and projects that they are planning to achieve.

On behalf of all Councillors, I would like to congratulate these young leaders. Well done to all students and other youths who have been involved.

On this day we acknowledge local community members who make a notable contribution to the well-being of our local community.

If you would like to recognise a community member for their efforts, please take the time to nominate them in any of the four categories as:

- Community Citizen of the Year
- Young Community Citizen of the Year
- Senior Community Citizen of the Year
- Active Citizenship (Group or Event)

Nominations close on 31 October 2024.

This year's theme, "Now and Then", presents an opportunity to showcase our heritage and to compare this photographically with where we are now. The top 12 photos will be included in the 2025 Calendar. Entry is free and open to all residents and will close in just three days on 30<sup>th</sup> September 2024,

You can find more details on both the Community Citizen of the Year Awards and Photography Competition on the Shire website, or by contacting the Administration Office. For the last eleven or twelve months our Council and Shire Executive have been absorbing the knowledge and expertise of two, very experienced CEO's.

Following a stint as Temporary Director of Finance & Corporate, CEO Tim Clynych replaced CEO Garry Hunt in July this year. Since then, Tim has continued the forward momentum of many improvements in our operations, governance, processes and controls. Three months has flown by, and you will be vacating the role in two week's time. You have been very helpful to me and to my fellow Councillors, especially in the area of standing orders and providing guidance in our meetings and more generally in navigating the many aspects of Local Government.

I'm mindful that you came to our Shire direct from your placement as Temporary CEO at Wickepin, and prior to that more than 20 years as CEO at Bridgetown and I hope that you now have the opportunity for a break before you on to the next Council that sends out their call for help.

On behalf of all Councillors and our Community, thank you for your contribution to our Shire.



#### 4. Declarations of Interest

Division 6: Sub-Division 1 of the *Local Government Act 1995*. Care should be taken by all Councillors to ensure that an interest is declared and that they refrain from voting on any matter, which is considered to come within the ambit of the Act.

Cr Peter Gubler declared an indirect financial interest regarding item 9.1.2 as he may transport guests.

Cr Patrick declared an impartiality interest regarding item 9.2.6 as a member of his household previously worked for one of the listed applicants.

Tim Clynych declared a financial interest regarding item 11.1.1 as the subject matter concerns his employment with the Shire.

Cr Lisa Glover declared a financial, proximity, indirect financial, and impartiality interest regarding item 12.1.1, as her property is adjoining the reserve, her property is a financial investment, is co-owned by her husband, and Cr Glover is also a member of the tennis club.

#### 5. Public Question Time

##### 5.1. Responses to previous public questions that were taken on notice

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Nil.

##### 5.2. Public Question Time

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Nil.

#### 6. Presentations

##### 6.1. Petitions

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A petition was received from Ms Angela Brooke regarding the 2024/2025 hire charges for the Donnybrook Seniors Seminar room. This petition will be presented at the October Ordinary Council Meeting.

##### 6.2. Presentations

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Nil.

##### 6.3. Deputations

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Nil.

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<b>COUNCIL RESOLUTION:</b> 151/09-24		
<b>MOVED BY:</b>	Cr Anita Lindemann	<b>SECONDED BY:</b> Cr Deanna Shand

**Council suspend Clause 8.2 of the *Meeting Procedures Local Law 2017* to permit all Councillors to remain seated while speaking.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0</b>

Adoption by Exception

<b>COUNCIL RESOLUTION:</b> 152/09-24		
<b>MOVED BY:</b>	Cr Anne Mitchell	<b>SECONDED BY:</b> Cr Anita Lindemann

**That Council adopt the following items ‘En-bloc’ and resolves in accordance with each of the Executive Recommendations:**

- 7.1 Ordinary Council Meeting Minutes held 28 August 2024**
- 8.1 South West Regional Road Group Meeting Minutes held 27 July 2024**
- 8.2 Local Emergency Management Committee Meeting Minutes held on 20 August 2024**
- 8.3 South West Country Zone Meeting held 23 August 2024**
- 9.1.3 Shire of Donnybrook Balingup Interim Local Recovery Plan Update**
- 9.2.1 Schedule of Accounts Paid as at 31 August 2024**
- 9.2.2 Statement of Financial Activity Report as at 31<sup>st</sup> July 2024**
- 9.2.3 Nomination of WALGA 2024 Annual General Meeting Voting Delegates**
- 9.2.4 Adoption of Changes to Council Policy EM/CP-5-Elected Member Allowances and Entitlements**
- 9.2.6 Windy Arbor Pty Ltd – Lease Assignment**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0</b>

## 7. Confirmation of Minutes

### 7.1. Ordinary Council Meeting held on 28 August 2024

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Minutes of the Ordinary Council Meeting held 28 August 2024 are attached as [Attachment 7.1\(1\)](#).

#### **Executive Recommendation:**

**That the Minutes from the Ordinary Council Meeting held 28 August 2024 be confirmed as a true and accurate record.**

<b>COUNCIL RESOLUTION:</b> 153/09-24	
<b>MOVED BY:</b> Cr Anne Mitchell	<b>SECONDED BY:</b> Cr Anita Lindemann

**That the Minutes from the Ordinary Council Meeting held 28 August 2024 be confirmed as a true and accurate record.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0 by En-bloc resolution 152/09-24</b>

8. Reports of Committees

8.1. South West Regional Road Group Meeting held on 27 July 2024

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Minutes of the South West Regional Road Group Meeting held 27 July 2024 are attached at Attachment 8.1(1)

**Executive Recommendation:**

**That the Minutes from the South West Regional Road Group Meeting held 20 August 2024 be received.**

<b>COUNCIL RESOLUTION:</b> 154/09-24	
<b>MOVED BY:</b> Cr Anne Mitchell	<b>SECONDED BY:</b> Cr Anita Lindemann

**That the Minutes from the South West Regional Road Group Meeting held 20 August 2024 be received.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0 by En-bloc 152/09-24</b>

8.2. Local Emergency Management Committee Meeting held on 20 August 2024

Minutes of the Local Emergency Management Committee Meeting held 20 August 2024 are attached at Attachment 8.2(1)

**Executive Recommendation:**

**That the Minutes from the Local Emergency Management Committee Meeting held 20 August 2024 be received.**

<b>COUNCIL RESOLUTION:</b> 155/09-24	
<b>MOVED BY:</b> Cr Anne Mitchell	<b>SECONDED BY:</b> Cr Anita Lindemann

**That the Minutes from the Local Emergency Management Committee Meeting held 20 August 2024 be received. by En-bloc 152/09-24**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0 by En-bloc 152/09-24</b>

8.3. South West Country Zone Meeting held on 23 August 2024

Minutes of the South West Country Zone Meeting held 23 August 2024 are attached at Attachment 8.3(1)

**Executive Recommendation:**

**That the Minutes from the South West Country Zone Meeting held 23 August 2024 be received.**

<b>COUNCIL RESOLUTION:</b> 156/09-24	
<b>MOVED BY:</b> Cr Anne Mitchell	<b>SECONDED BY:</b> Cr Anita Lindemann

**That the Minutes from the South West Country Zone Meeting held 23 August 2024 be received.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0 by En-bloc 152/09-24</b>

## 9. Reports of Officers

### 9.1. Director Operations

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#### 9.1.1 Request for Consent to Mine - Reserve 2052 and Reserve 22860 - **WITHDRAWN**

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##### Report Details:

**Prepared by:** Principal Planner

**Manager:** Manager Development Services

**Applicant:** Kulu Gold Limited

**Location:** Lot 515, 516, 517 and 518 (Reserve 2052) Sandhills Road, Brookhampton and  
Lot 363 and 392 (Reserve 22860) Thomson Road, Donnybrook

**File Reference:** A3475 and A3252  
(IND 01/1)

**Voting Requirement:** ~~Simple Majority~~

##### Attachment(s):

~~9.1.1(1) Letter from DMIRS requesting comment relating to Reserve 2052~~

~~9.1.1(2) Letter from DMIRS requesting comment relating to Reserve R22860~~

~~9.1.1(3) Crown Land Reserve Reports~~

Note this item has been withdrawn by the Chief Executive Officer.

At the Agenda Briefing Session held on 18 September 2024 several questions on this item were asked by Councillors. Responses to those questions were unable to be obtained prior to release of this Agenda, consequently the item has been withdrawn. It is intended that a new item on this matter will be presented to the October meeting of Council.

Cr Gubler declared an indirect financial interest and left the Council Chamber at 5:12pm.

### 9.1.2. The Wild Campout – Event Application

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#### Report Details:

**Prepared by:** Senior Community Development Officer

**Manager:** Manager Development Services

**Applicant:** Jeremy Bos, Royal Jelly Productions Pty Ltd

**Location:** Lot 945 Southampton Road, Balingup

**File Reference:** A4987

**Voting Requirement:** Simple Majority

#### Attachment(s):

9.1.2(1) The Wild Campout Site Maps

#### Executive Recommendation

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##### That Council:

1. Considers the event application, The Wild Campout, as temporary works and use and therefore exempt from development approval under clause 61(1)(a)(17) and 61(2)(f) of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the period 26 December 2024 until 4 January 2025.
2. Approves the event, The Wild Campout, to be held at Linga Longa, Lot 945 Southampton Road Balingup from 29 December 2024 until 2 January 2025 subject to the following conditions:
  - a) A maximum accommodation number of 1,200 patrons and 1,600 people on site at any one time;
  - b) Event organiser to provide evidence of minimum \$20 million public liability insurance to the satisfaction of the Shire;
  - c) Provision of a risk management plan that has been developed in accordance with AS/NZS ISO 31000:2009 Risk Management;
  - d) Provision of an emergency management plan that has been developed to comply with the intent of AS 3745:2010, Planning for Emergencies in Facilities is to be submitted and subject to separate written approval from the Shire. This is to include a fire management plan and actions to be considered should a Fire Danger Rating of Extreme or Catastrophic be declared;
  - e) All electrical equipment is to be tested and tagged by an appropriately qualified persons;
  - f) All temporary generator installations earthed in accordance with Australian Standards, as appropriate. A Form 5 “Certificate of Electrical Compliance” required to be submitted by a licensed electrical contractor for all temporary power installations prior to the commencement of the event;
  - g) A minimum of 25 additional temporary unisex toilets to provided and placed so that they are within 90 metres of any camp site;

- h) All toilets are to be serviceable for the duration of the event and all temporary toilets are to be located in a manner to facilitate servicing/replenishment for the duration of the event;
- i) Event grounds are to have adequate lighting after dark;
- j) Lighting to achieve a minimum of 40 Lux, to be provided in in or above temporary toilets to facilitate safe use after dark;
- k) All temporary structures (including tents, gazebos and marquees) must be suitably secured to prevent movement in wind gusts and not used if winds exceed manufacturer specified rating;
- l) For the stage and any tent or marquee greater than 55m<sup>2</sup> the event organiser is to provide a Certificate of Structural Adequacy from a practising structural engineer or authorised installer, confirming structural adequacy of temporary structures installed;
- m) Camping for event attendees is permitted for four (4) nights and subject to separate written approval from the Shire;
- n) Separate approval under Regulation 18 of the *Environmental Protection (Noise) Regulations 1997* is to be obtained from the Shire;
- o) The application required under Regulation 18 of the *Environmental Protection (Noise) Regulations 1997* is to include a Noise Management Plan;
- p) A first aid post with a minimum of four qualified first aid officers is required to be provided and adequately sign posted for the duration of the event;
- q) Adequate potable water is to be available for free to event attendees including campers;
- r) Applicant to submit a Traffic Management Plan (TMP) and Traffic Guidance Scheme (TGS's) prepared by an appropriately qualified person, showing temporary warning signs and method of traffic management to control traffic along Southampton and Cassia Roads for the duration of the event. This TMP is subject to separate written approval from the Shire prior to commencement of the event;
- s) An accredited traffic management provider must be in control of all Traffic Management for the duration of the event. All aspects of the TMP must be adhered to at all time and traffic controllers must be fully accredited for the tasks they are undertaking;
- t) Fires, fireworks or any other pyrotechnic display are not permitted for the duration of the event;
- u) The event organiser is to ensure there are sufficient waste receptacles provided to ensure all waste generated by the event is disposed of thoughtfully without any rubbish or debris deposited on neighbouring properties;
- v) Notification to residents within 2 km of the event site is to be undertaken by the Shire, at the applicant's cost;
- w) Event organiser to submit a list of all food vendors to the Shire for separate approval. The following information, for each food vendor, is also required to be submitted:
  - A copy of the vendors 'Food Business Registration Certificate (*Food Act 2008*)' from their "home" Shire (if not from the Shire of Donnybrook Balingup);
  - A copy of the vendors Certificate of Currency product and public liability insurance, providing minimum cover of \$10 million; and;



- x) An event debrief meeting is to be arranged with the Shire before the end of February 2025, with relevant festival staff to be available to contribute. A list of complaints, issues and successes to be available for discussion.**

### Strategic Alignment

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The following outcomes from the Council Plan relate to this proposal:

- Outcome:** 2 - A safe and healthy community.
- Objective:** 2.2 - Facilitate, encourage and support a diverse range of festivals, community events, arts and cultural activities.
  
- Outcome:** 9 - A thriving economy.
- Objective:** 9.2 - Attract and retain a diverse mix of businesses and investment opportunities.
  
- Outcome:** 10 - A popular destination for visitors and tourists.
- Objective:** 10.1 - Encourage more people to stop, shop and experience the Shire of Donnybrook Balingup.

### Executive Summary

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Following the Shire's experiences regarding the Meliora Festival held over New Year's 2023/2024, the Shire is currently developing an Events Policy. Until this policy has been adopted it is considered that multi-day music festivals should be referred to Council for determination.

While there is currently a development application being advertised for public comment for a number of land uses at this venue, multi day music festivals are not included with the landowner's preference that third party providers obtain specific event approval. This has been the case for previous events of this nature held at the property.

It is recommended that The Wild Campout be conditionally approved.

### Background

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Royal Jelly Productions have held The Wild Campout at Linga Longa in 2018, 2019, 2020 and 2022. It is a New Years Eve celebration featuring music and camping over three days.

This year the applicant proposes to permit a limited number of campers (up to 500) early access, resulting in camping for up to four days for some campers. The set up for the event is to commence from 26 December and be completed by 30 December 2024. Campers from the early access area will not be permitted access into the main festival area until all high-risk activities have been completed, instead having access to a food and non-alcoholic beverage vendor, light entertainment and art

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activation closer to their camping area. Pack down will commence from 2 January and is anticipated to be completed by 4 January 2025.

It will be a public, ticketed event with a cap of 1,200 patrons and up to 400 people comprising volunteers, contractors, artists, performance and food and beverage vendors. The applicant anticipates the use of some local volunteers so not all 400 people are likely to camp on site. Food will be provided via food trucks and it is proposed to be a BYO alcohol event with no pass outs once entry has been obtained. Swimming is proposed within the existing site dam.

There will be three stages on site as summarised below:

	<b>Main Stage</b>	<b>The Hive</b>	<b>Pop Up</b>
<b>Entertainment description</b>	DJ's playing recorded music with some acts having accompanying live elements (brass, percussion, strings).	Live music and performances.	DJ and background music for interactive, themed sport carnival to be held within the beach area.
<b>Operating Times</b>			
<b>Day 1 (30 Dec)</b>	5:00 pm – 2:00 am (9 hours)	2:00 pm – 1:30 am (11.5 hours)	Not operating
<b>Day 2 (31 Dec)</b>	2:00 pm – 2:00 am (12 hours)	10:00 am – 10:30 pm (12.5 hours)	
<b>Day 3 (1 Jan)</b>	5:00 pm – 9:30 pm (4.5 hours)	Kids activities and cinema only	11:00 am – 5:00 pm (6 hours)

Along with their completed event application form Royal Jelly Productions have provided the following information in support of their event application:

- A site plan ([refer Attachment 9.1.2\(1\)](#))
- A camping site plan
- HIVE layout plan
- Jelly HQ plan
- Main gate traffic plan
- Mainstage layout and design
- Power and lighting plan

It is considered that there are adequate parking bays and camping areas for the proposed number of attendees and support staff.

## Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Possible	Moderate	Moderate (9)
Risk Description:	Negative community experience; risk to attendants.		
Mitigation:	Event conditions.		
Risk:	Likelihood:	Consequence:	Risk Rating:
Health	Rare	Catastrophic	Moderate (5)
Risk Description:	Serious injury to attendants.		
Mitigation:	Risk management plans, presence of appropriately qualified first aiders and lifeguards.		
Risk:	Likelihood:	Consequence:	Risk Rating:
Compliance	Possible	Major	High (12)
Risk Description:	Event set up and operation not in accordance with approval. Offsite impacts. Risk to patrons.		
Mitigation:	Event conditions and compliance site visits in the lead up to the event.		

## Financial Implications

The event assessment process is a collaborative effort between Shire staff across the Operations Directorate, who each provide recommendations specific to their area of expertise. Application fees are not intended to fully recover the costs associated with the event assessment process.

This event attracts the following fees (as per Council's adopted fees and charges):

Item	Rate
Event Application Fee	\$500
Application Fee Temporary Camping	\$100
Water sampling fee (if requested)	\$188 (per sample)
Application fee Regulation 18	\$1,000
Notification letters	To be determined

## Policy Compliance

Nil. As an event policy has yet to be finalised, this application is being referred to Council for determination.

## Statutory Compliance

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Under clause 61(1)(a)(17) and 61(2)(f) of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, events can be considered as exempted development where they meet the definition of “temporary works” and “temporary use”. Temporary works are defined as “the works are in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period”; and temporary use is defined as “the use is in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period”.

Events in Western Australia are assessed under the following legislation:

- *Health (Public Buildings) Regulations 1992* (primary legislation);
- *Caravan Parks and Camping Grounds Regulations 1997* (Temporary camping);
- *Regulation 18 Environmental Protection (Noise) Regulations 1997* (noise exemptions);
- *Food Act 2008* (Temporary food business/mobile food operator); and;
- *Bush Fires Act 1954* (Total Fire Bans and Harvest Vehicle Movement Bans).

## Consultation

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Due to the temporary nature of an event, community engagement regarding events is routinely limited to informing the community rather than seeking their feedback for consideration prior to approving an event. It is proposed that a mailout is conducted, at the applicant’s cost, to residents within a 2-kilometre radius, notifying them of this event. This notification will include start and finish times as well as key contact information to assist with any complaint management.

## Officer Comment

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Royal Jelly Productions have run The Wild Campout four times since 2018 with incremental increases in patrons from 500 patrons in 2018 to 1,200 in 2022. The Shire has had very little feedback from community members regarding the event, with anecdotal information suggesting a past noise complaint has resulted in reorientation of the stage layout for subsequent events. Notwithstanding, it is considered important that noise is addressed particularly given the duration of this event.

Generally, noise emitted from any premises must comply with the provisions of the *Environmental Protection (Noise) Regulations 1997*. The Regulations reference assigned levels, when received at a receiving premises. Regulation 18 allows the Chief Executive Officer of the local government to approve an event if satisfied that “its noise emissions would exceed the assigned noise levels, but would lose its character or usefulness if it had to meet the assigned levels”.

It is widely accepted that music festivals would lose its character if it had to meet the assigned levels. In relation to noise, the Department of Health’s “Guidelines for concerts, events and organised gatherings” includes the following:

*Noise management plans should consider measures that will reduce the event's noise impact on the community, such as maximum sound levels at the mixing desk and noise sensitive premises. Outdoor music concerts and festivals need to operate at sound levels of at least 95 dB(A) at the mixing desk to achieve an acceptable atmosphere. The sound mixing operators for many of the artists may wish to operate at higher levels, typically up to 105 dB(A) at the mixing desk. In most cases, this is unnecessary and a limit of 100 dB(A) at the desk is acceptable. Noise levels are measured as 1-minute LAeq (average) sound levels.*

*Time and duration of the event*

*Control over the start and finish times and duration of the event will reduce the noise impact on noise sensitive occupiers. Events should generally be held at reasonable hours of the day such as from 9.00 am to 11.00 pm. Event duration should not exceed 6 hours. Sound check, or practice times should also be limited to no more than 1 to 2 hours and not before 9.00 am or after 10.00 pm. Longer event duration and later hours may be acceptable if it is demonstrated the community does not object or specific noise amelioration measures are implemented.*

While the applicant has not provided specific sound levels to be monitored, they have indicated that stage outputs are to be monitored by experienced sound technicians. Given the location of the site and past performance, it is not considered necessary that the applicant provide a formal Noise Prediction Model. However, it is still considered that the noise levels, particularly in the early hours of the morning, will exceed the assigned levels when received at a noise sensitive premises within this rural setting. It is therefore recommended that a condition be included to require the applicant obtain a Regulation 18 approval specific to this event.

Southampton and Cassia Roads pass by/through the event venue. While the applicant has provided a main gate traffic plan, given the area traversers public roads it is recommended that the applicant provide a formal Traffic Management Plan. These are required to be completed by appropriately qualified persons who would be able to provide an assessment as to the most appropriate way to manage through traffic as well as traffic generated by the event. A condition is therefore recommended.

The event organisers are aware that Linga Longa have recently reviewed their Bushfire Management Plan as part of their current development application which will provide valuable insight in relation to bushfire management relevant to this site. For entertainment venues with occupancy of more than 1,000 people there is a requirement under the *Health (Public Buildings) Regulations 1992* for an emergency plan to be prepared in accordance with *AS 3745:2010, Planning for Emergencies in Facilities*. The Department of Health's "Guidelines for concerts, events and organised gatherings" recommends that event managers consider the following emergencies within their emergency plan:

- Crowd crush
- Fire
- Flood or flash flood

- Severe weather
- Civil disturbance
- Loss of key supplier or customer
- Explosion
- Biological agent release (bioterrorism)
- Communications failure

A condition is therefore recommended, with fire specifically referenced for consideration within the resultant plan.

This event attracts the following fees (as per Council’s adopted fees and charges):

Item	Rate
Event Application Fee	\$500
Application Fee Temporary Camping	\$110
Water sampling fee (if requested)	\$188 (per sample)
Application fee Regulation 18	\$1,000
Notification letters	To be determined

<b>COUNCIL RESOLUTION:</b> 157/09-24	
<b>MOVED BY:</b> Cr Anita Lindemann	<b>SECONDED BY:</b> Cr Alexis Davy

**That Council:**

1. **Considers the event application, The Wild Campout, as temporary works and use and therefore exempt from development approval under clause 61(1)(a)(17) and 61(2)(f) of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the period 26 December 2024 until 4 January 2025.**
2. **Approves the event, The Wild Campout, to be held at Linga Longa, Lot 945 Southampton Road Balingup from 29 December 2024 until 2 January 2025 subject to the following conditions:**
  - a) **A maximum accommodation number of 1,200 patrons and 1,600 people on site at any one time;**
  - b) **Event organiser to provide evidence of minimum \$20 million public liability insurance to the satisfaction of the Shire;**
  - c) **Provision of a risk management plan that has been developed in accordance with AS/NZS ISO 31000:2009 Risk Management;**
  - d) **Provision of an emergency management plan that has been developed to comply with the intent of AS 3745:2010, Planning for Emergencies in Facilities is to be submitted and subject to separate written approval from the Shire. This is to include a fire management plan and actions to be considered should a Fire Danger Rating of Extreme or Catastrophic be declared;**
  - e) **All electrical equipment is to be tested and tagged by an appropriately qualified persons;**

- f) All temporary generator installations earthed in accordance with Australian Standards, as appropriate. A Form 5 “Certificate of Electrical Compliance” required to be submitted by a licensed electrical contractor for all temporary power installations prior to the commencement of the event;
- g) A minimum of 25 additional temporary unisex toilets to provided and placed so that they are within 90 metres of any camp site;
- h) All toilets are to be serviceable for the duration of the event and all temporary toilets are to be located in a manner to facilitate servicing/replenishment for the duration of the event;
- i) Event grounds are to have adequate lighting after dark;
- j) Lighting to achieve a minimum of 40 Lux, to be provided in in or above temporary toilets to facilitate safe use after dark;
- k) All temporary structures (including tents, gazebos and marquees) must be suitably secured to prevent movement in wind gusts and not used if winds exceed manufacturer specified rating;
- l) For the stage and any tent or marquee greater than 55m<sup>2</sup> the event organiser is to provide a Certificate of Structural Adequacy from a practising structural engineer or authorised installer, confirming structural adequacy of temporary structures installed;
- m) Camping for event attendees is permitted for four (4) nights and subject to separate written approval from the Shire;
- n) Separate approval under Regulation 18 of the *Environmental Protection (Noise) Regulations 1997* is to be obtained from the Shire;
- o) The application required under Regulation 18 of the *Environmental Protection (Noise) Regulations 1997* is to include a Noise Management Plan;
- p) A first aid post with a minimum of four qualified first aid officers is required to be provided and adequately sign posted for the duration of the event;
- q) Adequate potable water is to be available for free to event attendees including campers;
- r) Applicant to submit a Traffic Management Plan (TMP) and Traffic Guidance Scheme (TGS’s) prepared by an appropriately qualified person, showing temporary warning signs and method of traffic management to control traffic along Southampton and Cassia Roads for the duration of the event. This TMP is subject to separate written approval from the Shire prior to commencement of the event;
- s) An accredited traffic management provider must be in control of all Traffic Management for the duration of the event. All aspects of the TMP must be adhered to at all time and traffic controllers must be fully accredited for the tasks they are undertaking;
- t) Fires, fireworks or any other pyrotechnic display are not permitted for the duration of the event;
- u) The event organiser is to ensure there are sufficient waste receptacles provided to ensure all waste generated by the event is disposed of thoughtfully without any rubbish or debris deposited on neighbouring properties;
- v) Notification to residents within 2 km of the event site is to be undertaken by the Shire, at the applicant’s cost;

- w) Event organiser to submit a list of all food vendors to the Shire for separate approval. The following information, for each food vendor, is also required to be submitted:
- A copy of the vendors 'Food Business Registration Certificate (*Food Act 2008*)' from their "home" Shire (if not from the Shire of Donnybrook Balingup);
  - A copy of the vendors Certificate of Currency product and public liability insurance, providing minimum cover of \$10 million; and;
- x) An event debrief meeting is to be arranged with the Shire before the end of February 2025, with relevant festival staff to be available to contribute. A list of complaints, issues and successes to be available for discussion.

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 6/0</b>

Cr Gubler re entered the Council Chamber at 5:14pm.



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### 9.1.3. Shire of Donnybrook Balingup Interim Local Recovery Plan Update

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#### Report Details:

**Prepared by:** Community Emergency Services Manager

**Manager:** Ross Marshall, Director Operations

**File Reference:** CSV 20

**Voting Requirement:** Simple Majority

**Attachment(s):**

9.1.2(1) Updated Local Recovery Plan

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#### Executive Recommendation

**That Council:**

1. **Adopts the updates to the Local Recovery Plan as endorsed by the Local Emergency Management Committee.**
2. **Requests that the Chief Executive Officer forward an updated copy of the Local Recovery Plan to the District Emergency Management Advisor for noting.**

---

#### Strategic Alignment

The following outcomes from the Council Plan relate to this proposal:

**Outcome:** 3 - The natural environment is well managed for the benefit of current and future generations.

**Objective:** 3.2 - Develop community readiness to cope with natural disasters and emergencies.

**Item:** 3.2.4 - Provide support for emergency services volunteers.

---

#### Executive Summary

The Shire of Donnybrook Balingup has undertaken an interim review of the Local Recovery Plan.

In Preparation for the 2024/25 bushfire season, the current Local Recovery Plan was provided to the Shire's Local Emergency Management Committee and relevant Shire Staff for review, to ensure that the information and terminology within the document accurately reflect current practices.

---

#### Background

The Shire's Local Emergency Management Committee consists of numerous stakeholders who are responsible for contributing to the development of the Shire's Local Emergency Management Arrangements, which includes the Local Recovery Plan.

Due to the wide range of stakeholders that contribute to the Recovery Plan outcomes, it was identified that some terminology and procedures within the plan were outdated and would benefit from an interim review.

Each agency from the Shire's Local Emergency Management Committee was invited to review the document and provide feedback as displayed below:

Page Number	Amendment
6	Change 'Department of Communities' to 'Regional Coordinator Bunbury'
11	Correct spelling error – 'Opeartions' amended to 'Operations'
14	'Welfare Centre' updated to 'Evacuation Centre'
14	'Welfare Services' deleted and updated to 'emergency relief and support services'
19	Title: 'Arrangements' corrected to 'Arrangements'
19	Paragraph 4 - update document title to updated version 'Local Emergency Relief and Support Plan – Shire of Donnybrook Balingup
19	Existing Plans and Arrangements – update document title to updated version 'Local Emergency Relief and Support Plan'
22	Change venue from Balingup Fire Station to Balingup Recreation Centre
36	5.2 Update term 'Welfare Agencies' to 'Support Agencies'
37	5.3 Update title to 'Emergency Support and Health Services'
37	Update terminology – remove term 'welfare' amend to 'emergency relief and support'
37	Update name of plan to 'State Support Plan – Emergency Relief and Support'
37	Update dot point 2 – 'State Support Plan – Emergency Relief and Support'
37	Update dot point 3 – 'Local Emergency relief and Support Plan'
64	Update terminology – delete 'welfare' update terminology 'emergency relief and support services'
64	Update terminology to 'emergency food, emergency clothing and personal requisites' to align with State EM Plan section 5.5.4
64	Delete paragraph referring to State EM Plan 6.10 (now obsolete)
Throughout Document	Update 'Balingup Community Advisory Committee' to Balingup Progress Association and Balingup Resilience Committee'

At its August meeting, the Local Emergency Management Committee was provided a summary of the suggested amendments for consideration. The committee resolved to endorse the above amendments to Council as per the following resolution:

**“RECOMMENDATION**

*“That the Local Emergency Management Committee endorse the amendments to the Shire of Donnybrook Balingup Recovery Plan.*

*Carried: 15/0”*

## Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Likely	Moderate	Moderate (8)
Risk Description:	Poor organisation in the recovery space		
Mitigation:	Perform regular reviews and updates to recovery plans		
Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Likely	Moderate	Moderate (8)
Risk Description:	Negative community experience		
Mitigation:	Ensure recovery plan outcomes are achievable and relevant		

## Financial Implications

Nil.

## Policy Compliance

Nil.

## Statutory Compliance

*Emergency Management Act 2005.*

## Consultation

The Shire's Local Emergency Management Committee consisting of the following agencies were invited to review the Local Recovery Plan:

Balingup Progress Association	Department of Biodiversity, Conservation and Attractions
Department of Communities	Department of Fire and Emergency Services
District Emergency Management Advisor	Donnybrook SES
Donnybrook Volunteer Fire and Rescue Service	Main Roads WA
Shire of Donnybrook Balingup	St John Ambulance
Water Corporation	WA Police
Shire of Donnybrook Balingup Bushfire Service	Community Home Care
Department of Primary Industries and Regional Development	Donnybrook Hospital
Red Cross	St John Ambulance
Tuia Lodge	WA Country Health service
Western Power	

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### Officer Comment

The Shire identified that an interim review of the Local Recovery Plan would be beneficial in preparation for the 2024/25 bushfire season.

Whilst it is not mandatory to perform interim updates of the Local Recovery Plan, it was determined that it would be best practice to ensure that the Shire's Local Emergency Management Arrangement documents remain current and accurate.

<b>COUNCIL RESOLUTION:</b> 158/09-24	
<b>MOVED BY:</b> Cr Anne Mitchell	<b>SECONDED BY:</b> Cr Anita Lindemann

### That Council:

1. **Adopts the updates to the Local Recovery Plan as endorsed by the Local Emergency Management Committee.**
2. **Requests that the Chief Executive Officer forward an updated copy of the Local Recovery Plan to the District Emergency Management Advisor for noting.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0 by En-bloc 152/09-24</b>

## 9.2. Director Finance and Corporate

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### 9.2.1. Schedule of Accounts Paid as at 31 August 2024

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#### Report Details:

**Prepared by:** Finance Officer

**Manager:** Manager Financial Services

**File Reference:** FNC

**Voting Requirement:** Simple Majority

#### Attachment(s):

9.2.1(1) Schedule of Accounts Paid Under Delegation

#### Executive Recommendation

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##### That Council:

**Receive the accounts for payment report for the period ended August 2024 as per Attachment 9.2.1**

#### Strategic Alignment

---

The following outcomes from the Council Plan relate to this proposal:

**Outcome:** 12 - A well respected, professionally run organisation.

**Objective:** 12.1 - Deliver effective and efficient operations and service provision.

**Item:** Nil.

#### Executive Summary

---

That in accordance with Regulation 13 (3) of the *Local Government (Financial Management) Regulations 1996*, Council receive the "Schedule of Accounts Paid" covering the period 1 August 2024 to 31 August 2024, the schedule contains details of the following transactions:

#### 1 Municipal Account – payments totalling \$2,570,087.30.

Credit Card payments	3568-3576
EFT Payments	EFT29160A – EFT29290B
Cheque Payments	53804 – 53806
Direct Debit payments	DD27907 & 27927

## Background

In accordance with Delegation 1.2.23 – payments from the Municipal or Trust funds adopted by Council on 30 August 2023, the Chief Executive Officer is authorised to incur expenditure in accordance with the Annual Budget provisions and limited over-expenditure subject to subsequent budget amendments. In doing so, section 13 of the *Financial Management Regulations 1996* is to be adhered to with a list of accounts for approval to be presented to Council each month.

## Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Financial Impact	Unlikely	Minor	Low (2)
Risk Description:	Additional checks and balances of accounts paid by the Shire.		
Mitigation:	Monthly reporting on accounts paid.		
Compliance	Unlikely	Minor	Low (2)
Risk Description:	Meeting legislative requirement of financial reporting to the Council		
Mitigation:	Monthly reporting on accounts paid.		

## Financial Implications

All liabilities settled have been in accordance with the annual budget provisions.

## Policy Compliance

- FIN/CP-4 Purchasing
- FIN/CP-5 Regional Price Preference
- FIN/CP-7 Credit Card

## Statutory Compliance

*Local Government Act 1995*

*Local Government (Financial Management) Regulations 1996*

Where the local government has delegated the CEO the exercise of its power to make payments from the municipal fund or the trust funds, Regulation 13 requires that a list of accounts paid by the CEO is to be prepared each month showing for each account paid:

- (a) The payee's name; and
- (b) The amount of the payment; and
- (c) The date of the payment; and
- (d) Sufficient information to identify the transaction.

This list of accounts is to be:

- (a) Presented to Council at the next ordinary meeting of the Council after the list is prepared; and
- (b) Recorded in the minutes of that meeting.

### Consultation

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Relevant staff have been consulted and have authorised the payments.

### Officer Comment

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For a detailed listing of payments see [Attachment 9.2.1](#)

Please raise any queries prior to the meeting to enable questions to be investigated and a response prepared.

<b>COUNCIL RESOLUTION:</b> 159/09-24	
<b>MOVED BY:</b> Cr Anne Mitchell	<b>SECONDED BY:</b> Cr Anita Lindemann

### That Council:

**Receive the accounts for payment report for the period ended August 2024 as per** [Attachment 9.2.1](#)

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0 by En-bloc 152/09-24</b>

## 9.2.2. Statement of Financial Activity report as at 31<sup>st</sup> July 2024

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### Report Details:

**Prepared by:** Acting Manager Financial Services

**Manager:** Acting Director Finance & Corporate

**File Reference:** Nil.

**Voting Requirement:** Simple Majority

### Attachment(s):

9.2.2(1) Statement of Financial Activity July 2024

### Executive Recommendation

**That Council receive the Statement of Financial Activity report for the period ending 31<sup>st</sup> July 2024 as per Attachment 9.2.2(1).**

### Strategic Alignment

The following outcomes from the Council Plan relate to this proposal:

**Outcome:** 12 - A well respected, professionally run organisation.

**Objective:** 12.1 - Deliver effective and efficient operations and service provision.

**Item:** Nil.

### Executive Summary

Pursuant to Section 6.4 of the *Local Government Act 1995 (the Act)* and Regulation 34(4) of the *Local Government (Financial Management) Regulations 1996 (the Regulations)*, a local government is to prepare, on a monthly basis, a monthly financial report presented to Council details the Shire's performance in relation to its adopted/amended budget and actuals.

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the Shire's financial performance for the period ending 31<sup>st</sup> July 2024.

### Background

The Regulations detail the form and manner in which the monthly financial report is to be presented to the Council, and is to include the following:

- Annual budget estimates.
- Budget estimates to the end of the month in which the statement relates.
- Actual amounts of revenue and expenditure to the end of the month in which the statement relates.
- Material variances between budget estimates and actual revenue/expenditure.
- Net current assets at the end of the month to which the statement relates.



Additionally, and pursuant to Regulation 34(5) of the Regulations, a local government is required to adopt a material variance reporting threshold in each financial year.

At its Special Meeting of Council on 18<sup>th</sup> September 2024 it was recommended Council adopt the following material variance reporting thresholds for the 2024/25 financial year:

*A material variance for reporting of \$10,000, for 2024/2025, pursuant to Regulation 34(5) of the Local Government (Financial Management) Regulations 1996.*

### Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Financial Impact	Unlikely	Moderate	Moderate (6)
Risk Description:	Monetary loss that may or may not be managed within existing budget or may not impact a program or services		
Mitigation:	Reporting financials monthly		
Compliance	Unlikely	Minor	Low (4)
Risk Description:	Meeting legislative requirement of financial reporting to the Council		
Mitigation:	Monthly reporting on financial reports.		

### Financial Implications

#### Budget

There are no financial implications relevant to this proposal.

#### Long Term

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

### Policy Compliance

Nil.

### Statutory Compliance

Section 6.4 of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Financial Management) Regulations 1996* detail the form and manner in which a local government is to prepare financial activity statements.

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### Consultation

The Shire's Executive Team, Department Managers and Finance staff monitor the Shire's monthly revenue and expenditure.

Approved budget amendments are recorded in the financial statements to always reflect the Shire's current budget and financial position.

### Officer Comment

Due to end of financial year processing, presentation of the July 2024 Financial Activity Statements to Council was deferred to the September 2024 ordinary meeting. Also, with the timing of preparing the report for inclusion in the September agenda and the lateness of the 2024/2025 budget being adopted the figures shown in the Financial Activity Statements are compared to **draft** budget amounts only. Material variance reporting will have anomalies due to the budget timing data yet to be included at the time this Agenda Report was completed. This will be addressed at subsequent Financial Reports to Council once the 2024/2025 Budget is adopted and timing data updated.

<b>COUNCIL RESOLUTION:</b> 160/09-24	
<b>MOVED BY:</b> Cr Anne Mitchell	<b>SECONDED BY:</b> Cr Anita Lindemann

**That Council receive the Statement of Financial Activity report for the period ending 31<sup>st</sup> July 2024 as per Attachment 9.2.2(1).**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0 by En-bloc 152/09-24</b>

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### 9.2.3. Nomination of WALGA 2024 Annual General Meeting Voting Delegates

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#### Report Details:

<b>Prepared by:</b>	Administration Officer – Corporate Services		
<b>Manager:</b>	Manager Corporate Services		
<b>Location:</b>	Shire of Donnybrook Balingup		
<b>File Reference:</b>	DEP 22/4D	<b>Voting Requirement:</b>	Simple Majority
<b>Attachment(s):</b>	9.2.3(1) WALGA AGM Agenda 2024		

#### Executive Recommendation

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##### That Council:

1. Nominates the following two delegates for the 2024 Annual General Meeting of the WA Local Government Association to be held on Wednesday 9 October 2024 at Perth Convention and Exhibition Centre.
  - 1.1 Cr Davy and
  - 1.2 Cr Glover.
2. Notes that no Councillors will be nominated as proxy voting delegates for the 2024 Annual General Meeting.
3. Requests the Chief Executive Officer to advise the WA Local Government Association (WALGA) of Council's nominees.
4. Requests the two delegates vote on the proposed motions as follows:
  - 4.1 Vote For Motion 7.1 Amendments to the *Cat Act 2011* - Allow Local Governments to Make Local Laws to Contain Cats to The Owner's Property; and
  - 4.2 Vote Against Motion 7.2 Advocacy for Legislative Reforms to Counter Land-Banking
  - 4.3 Vote For Motion 7.3 Advocacy for Expansion of Differential Rating to Include Long Term Unoccupied Commercial Buildings (Property Activation Levy); and
  - 4.4 Vote Against Motion 7.4 Action on Asbestos for Western Australia; and
  - 4.5 Vote Against Motion 7.5 Addressing the Impracticality of Local Governments Funding Department of Communities and Government Regional Officer Housing; and
  - 4.6 Vote For Motion 7.6 Advocacy for Accessibility.
5. Notwithstanding Part 4, voting delegates are given authority to vote on motions or amendments contrary to the positions determined by Council where new information is provided in the debate. In the event of this occurring the voting delegates are to provide a report to the Chief Executive Officer for distribution to Councillors, explaining the reasons and circumstances of those decisions.

## Strategic Alignment

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The following outcomes from the Council Plan relate to this proposal:

**Outcome:** 11 - Strong, visionary leadership.

**Objective:** 11.1 - Provide strategically focused, open and accountable governance.

## Executive Summary

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The Annual General Meeting (AGM) provides an opportunity for members to review WALGA's annual financial statements, the President's annual report, and to consider any motions submitted by the executive or Council Members, this year there are six (6) motions Council's delegates will need to vote on. The AGM will be held on Wednesday, 9 October 2024, at the Perth Convention and Exhibition Centre, in conjunction with the Local Government Convention 2024.

## Background

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The Western Australian Local Government Association (WALGA) has announced that the Annual Local Government Convention will take place in Perth from Tuesday, 8 October to Thursday, 10 October 2024.

At its Ordinary Council Meeting held 24 July 2024, Council resolved the following:

*"COUNCIL RESOLUTION 130/24*

*That Council:*

*1. Authorise the attendance of the following Elected Members to attend the Local Government Convention to be held in Perth from Tuesday, 8 October to Thursday, 10 October 2024:*

*1.1. Cr Patrick; and*

*1.2. Cr Davy; and*

*1.3. Cr Glover.*

As part of Local Government Week, the Annual General Meeting (AGM) of WALGA will be held on Wednesday, 9 October 2024. Council is entitled to be represented by two voting delegates at the AGM. Each Council is entitled to appoint two voting delegates and two proxy delegates to represent them at WALGA's Annual General Meeting (AGM). The Chief Executive Officer (CEO) has received a request from WALGA for Council to submit its nominated voting delegates by Friday, 27 September 2024.

Cr Patrick has since informed the CEO that he is unable to attend.

The 2024 WALGA AGM Agenda has six (6) motions submitted by other councils for consideration.

## Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Compliance	Possible	Insignificant	Low (1)
Risk Description:	Council does not nominate voting delegates to vote on the matters being considered by WALGA.		
Mitigation:	The nominating of two suitable voting delegates.		
Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Possible	Insignificant	Low (3)
Risk Description:	Council's delegates vote contrary to the position of Council or without knowledge of Council's preferred position		
Mitigation:	Council to provide guidance to its delegates.		

## Financial Implications

Attendance at the AGM is free for all Elected Members and officers from Local Governments, but it is necessary to register the designated voting delegates and proxies in advance.

## Policy Compliance

Council Policy EXE/CP-5 Attendance at Events and Functions applies to this matter.

## Statutory Compliance

Nil.

## Consultation

Nil.

## Officer Comment

The Council should be aware that the absence of nominated proxy voting delegates will result in the inability to cast a vote on any motions presented at the AGM if one of the designated voting delegates is unable to attend.

Council's representation at the WALGA Annual General Meeting will contribute to the potential development of policy and future planning processes to assist the Shire's strategic capacity to provide good governance, service, and facilities for its greater community.

During the AGM, Council’s voting delegates will be called upon to vote on the various motions contained within the Agenda Papers. Motions for consideration are contained in the attachment, together with member comments and secretariat (WALGA) comment.

Council’s voting delegates at the AGM will be directed to vote in accordance with the Council resolutions, unless new information arises during the debate which, in the opinion of the voting delegates, changes the prospective position of Council (this also includes the consideration of any amendments moved at the AGM).

The 2024 WALGA AGM Agenda ([Attachment 9.2.3\(1\)](#)) has six (6) motions submitted by the executive or Council Members for Council consideration. The motions and comments have been provided below, together with Shire officer comments in support or opposition of the proposed motions.

In addition to the 6 member motions there are a number of “procedural” items (adoption of AGM Standing Orders, Adoption of Annual Report and Confirmation of 2023 AGM Minutes) that voting delegates are authorized to vote on.

Motion	Executive Comments:
<p><b>7.1 Amendments to the Cat Act 2011 - Allow Local Governments to Make Local Laws to Contain Cats to The Owner’s Property (Composite Motion from Shire of Esperance and Shire of Dardanup).</b></p>	<p>It is recommended Council delegates support this motion.</p> <p>The motion is simply seeking amendments to the Cat Act to provide local governments with the discretion to make a new Cat Local Law or amend a current Cat Local Law to introduce requirements for cat owners to contain cats on their property. The process to make or amend a local law has its own community consultation requirements.</p> <p>The subject of wandering cats and responsible cat ownership is commonly raised by community members and there is often an expectation that local governments have the legislative capacity to impose controls.</p> <p>The arguments often used to support the introduction of increased controls on cats include:</p> <ul style="list-style-type: none"> <li>• Protection of wildlife</li> <li>• Reduction of public nuisance</li> <li>• Cat safety</li> <li>• Reducing stray and feral cat populations</li> <li>• Improving neighbour relationships</li> <li>• Making cat ownership legal responsibilities consistent with dog ownership</li> </ul>
<p><b>7.2 Advocacy for Legislative Reforms to Counter Land-Banking (Motion from Town of Bassendean)</b></p>	<p>It is recommended Council delegates not support this motion however it is recognised that the content of debate on this motion may reveal new information that causes the delegates to support it.</p> <p>In assessing whether Council should support or oppose the proposal addressing land-banking practices, it is important to weigh the proposal's</p>

Motion	Executive Comments:
	<p>potential impacts on community wellbeing, economic prosperity, and broader town planning goals. The proposal seems designed to discourage speculative land-holding practices (land-banking) that can hinder development, limit housing availability, and negatively affect community growth.</p> <p>Arguments in support of the motion include:</p> <ul style="list-style-type: none"> <li>• The measures outlined discourage land-banking, ensure more timely development, help keep housing available and neighbourhoods vibrant.</li> <li>• Prohibiting the premature demolition of habitable housing aligns with sustainable development goals. It prevents vacant lots from lying unused, often leading to urban blight or increased maintenance costs. By requiring a development application before demolition, the proposal ensures that the intention behind demolishing housing is clear and part of a broader development plan. Housing stock and community vibrancy would be retained, reducing vacant lots.</li> <li>• Imposing time limits on development after demolition ensures that projects are completed in a reasonable period, preventing speculative land-banking where land lies vacant for long durations. This assists in ensuring that surrounding properties aren't disrupted by prolonged periods of inactivity following demolitions, thus helping maintain property values and aesthetic appeal.</li> <li>• Implementing penalty fees for failing to meet project timelines adds an incentive for developers to follow through with their projects in a timely manner. It also compensates the local government for any increased costs associated with delayed developments. This can help prevent unsightly or underutilized spaces from remaining dormant for extended periods, improving liveability.</li> <li>• Creating a register of unoccupied residential properties provides transparency, while applying rates or levies on unoccupied properties disincentivizes land-banking.</li> </ul> <p>Arguments in opposition of the motion include:</p> <ul style="list-style-type: none"> <li>• The creation of new systems, such as a mandatory register of unoccupied properties and the enforcement of time limits on development projects, could require significant additional resources for monitoring compliance, issuing penalties, and maintaining the register.</li> <li>• Implementing and managing these new requirements could impose costs on the local government. This might include software for the register, legal processes to enforce penalties, and the need for inspections to ensure compliance with demolition and development timelines.</li> </ul>

Motion	Executive Comments:
	<ul style="list-style-type: none"> <li>• Developers and investors could view the proposal as too restrictive or punitive, particularly with the introduction of penalties for non-compliance with development timelines and additional levies on vacant properties. Some developers may prefer flexibility in project timelines due to the unpredictability of construction, financing, and market conditions. If the penalties and restrictions are perceived as too harsh, they might discourage investment in the area.</li> <li>• Even well-intentioned developers sometimes face unexpected delays due to supply chain issues, labour shortages, financing problems, or environmental concerns. Imposing rigid time limits on development could penalize developers who face legitimate obstacles beyond their control, creating an unfair burden.</li> <li>• There is a potential risk that the new requirements could be viewed as excessive regulation, which could lead to criticisms that the government is overreaching or micromanaging private property decisions.</li> <li>• Developers might pass the costs of compliance (penalty fees, additional levies, or the costs of speeding up development) onto future buyers or renters, potentially increasing housing prices rather than making housing more affordable.</li> </ul>
<p><b>7.3 Advocacy for Expansion of Differential Rating to Include Long Term Unoccupied Commercial Buildings (Property Activation Levy) (Motion from Town of Bassendean)</b></p>	<p>It is recommended Council delegates support this motion.</p> <p>The motion is seeking to commence a consultative process for WALGA to review its current advocacy position on differential rating, specifically to consider amending the advocacy position to allow local governments the ability to apply a differential rate to long term unoccupied commercial buildings.</p> <p>The motion proposes WALGA amend its advocacy position and refer it to all West Australian local governments for comment, and that a subsequent report be made available for consideration by WALGA Zones. Council will be able to determine its position if and when this process occurs.</p>
<p><b>7.4 Action on Asbestos for Western Australia (Motion from Shire of Dundas)</b></p>	<p>It is recommended Council delegates not support this motion however it is recognised that the content of debate on this motion may reveal new information that causes the delegates to support it.</p> <p>It isn't clear in the information provided with the motion under what circumstances the Shire of Dundas is seeking assistance from State and Federal governments. The responsibility for asbestos management and disposal rests with the owner of the property. This includes local governments and their building maintenance obligations.</p> <p>Local governments also deal with illegal disposal of asbestos, where disposed on its property, such as vacant vested reserves and waste management facilities.</p>



Motion	Executive Comments:
<p><b>7.5 Addressing the Impracticality of Local Governments Funding Department of Communities and Government Regional Officer Housing (Motion from Shire of Dundas)</b></p>	<p>It is recommended Council delegates not support this motion however it is recognised that the content of debate on this motion may reveal new information that causes the delegates to support it.</p> <p>Local governments aren't compelled to enter partnerships with State agencies for development of housing. Any such proposal should be supported by a business case or similar financial assessment that addresses the construction costs, whole of life costs and risks of the investment.</p>
<p><b>7.6 Advocacy for Accessibility (motion from Town of Victoria Park)</b></p>	<p>It is recommended Council delegates support this motion.</p> <p>As per the Secretariat comments in the AGM agenda, the goal of the National Construction Code (NCC) is to enable the achievement of nationally consistent, minimum necessary standards of relevant safety (including structural safety and safety from fire), health, amenity and sustainability objectives efficiently. The NCC has traditionally included a part focused on access for people with a disability, setting out deemed-to-comply solutions and general building requirements for buildings based on their classification, for class 2-9 buildings.</p> <p>New requirements introduced into the NCC in 2022 apply to all dwelling types and are intended to increase the stock of housing that is adaptable and better able to meet the needs of older people and people with mobility limitations. However, the WA Government has determined that the mandatory liveable (accessible) housing provisions would not be applied.</p> <p>The Disability Services Act requires local and State government agencies to develop and implement a Disability Access and Inclusion Plan (DAIP) to assist in the promotion of access and inclusion of people with disability, and to achieve access and inclusion outcomes. DAIPs act as a framework for the implementation of strategies and initiatives to ensure people with disability are supported to have the same opportunities as others to access services, facilities and information. They can be an important tool to make a tangible difference to the lives of people with disability in Western Australia.</p> <p>The decision by the WA Government to not apply the mandatory liveable (accessible) housing provisions appears contrary to the objectives enshrined under the Disability Services Act.</p>

<b>COUNCIL RESOLUTION:</b> 161/09-24		
<b>MOVED BY:</b>	Cr Anne Mitchell	<b>SECONDED BY:</b> Cr Anita Lindemann

**That Council:**

1. Nominates the following two delegates for the 2024 Annual General Meeting of the WA Local Government Association to be held on Wednesday 9 October 2024 at Perth Convention and Exhibition Centre.
  - 1.1 Cr Davy and
  - 1.2 Cr Glover.
2. Notes that no Councillors will be nominated as proxy voting delegates for the 2024 Annual General Meeting.
3. Requests the Chief Executive Officer to advise the WA Local Government Association (WALGA) of Council’s nominees.
4. Requests the two delegates vote on the proposed motions as follows:
  - 4.1 Vote For Motion 7.1 Amendments to the *Cat Act 2011* - Allow Local Governments to Make Local Laws to Contain Cats to The Owner’s Property; and
  - 4.2 Vote Against Motion 7.2 Advocacy for Legislative Reforms to Counter Land-Banking
  - 4.3 Vote For Motion 7.3 Advocacy for Expansion of Differential Rating to Include Long Term Unoccupied Commercial Buildings (Property Activation Levy); and
  - 4.4 Vote Against Motion 7.4 Action on Asbestos for Western Australia; and
  - 4.5 Vote Against Motion 7.5 Addressing the Impracticality of Local Governments Funding Department of Communities and Government Regional Officer Housing; and
  - 4.6 Vote For Motion 7.6 Advocacy for Accessibility.
5. Notwithstanding Part 4, voting delegates are given authority to vote on motions or amendments contrary to the positions determined by Council where new information is provided in the debate. In the event of this occurring the voting delegates are to provide a report to the Chief Executive Officer for distribution to Councillors, explaining the reasons and circumstances of those decisions.

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0 by En-bloc 152/09-24</b>

## 9.2.4. Adoption of changes to Council Policy EM/CP-5- Elected Member Allowances and Entitlements

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### Report Details:

**Prepared by:** Manager Corporate Services

**Manager:** Acting Director Finance and Corporate

**File Reference:** ADM 11/1

**Voting Requirement:** Simple Majority

### Attachment(s):

9.2.4(1) Draft Council Policy EM/CP-5- Elected Member Allowances and Entitlements

### Executive Recommendation

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#### That Council:

1. **Adopts the draft Council Policy EM/CP-5- Elected Member Allowances and Entitlements, noting the amendments to the payment frequency from quarterly in arrears to paid monthly in arrears, as well as minor grammatical changes.**

### Strategic Alignment

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The following outcomes from the Council Plan relate to this proposal:

**Outcome:** 11 - Strong, visionary leadership.

**Objective:** 11.1 - Provide strategically focused, open and accountable governance.

**Item:** Nil.

### Executive Summary

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Elected Members have requested that the payment frequency of all Elected Member Allowances and Entitlements be paid monthly instead of quarterly. Council is requested to adopt the changes made to Council Policy EM/CP-5- Elected Member Allowances and Entitlements ([Attachment 9.2.4\(1\)](#)) to allow for this.

### Background

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Council first adopted an Elected Member Allowances and Entitlements policy at its Ordinary Council meeting held 26 June 2019 (Resolution 84/19), with further minor amendments made at its Ordinary Council meeting held 21 December 2021 (Resolution 213/21) to renumber the policy and add a scope to the policy.

Council discussed the Elected Member Allowances and Entitlements at its Budget workshop #11, on 3 July 2024, where Elected Members raised the query regarding changes to the payment frequency.

## Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Service Interruption	Rare	Insignificant	Low (1)
Risk Description:	More frequent payments could delay or add more time to the creditor's payment run process.		
Mitigation:	Streamline payment processes.		

## Financial Implications

Nil.

## Policy Compliance

### *Council Policy EXE/CP-8- Policy Framework*

Amendments made to Council Policy EM/CP-5- Elected Member Allowances and Entitlements are in line with the requirements of the Council Policy EXE/CP-8- Policy Framework.

## Statutory Compliance

Nil.

## Consultation

Council discussed the Elected Member Allowances and Entitlements at its Budget workshop #11, on 3 July 2024, where Elected Members raised the query regarding changes to the payment frequency.

## Officer Comment

Council is requested to adopt the draft Council Policy EM/CP-5- Elected Member Allowances and Entitlements ([Attachment 9.2.4\(1\)](#)) which has been amended to allow for the payment frequency to be monthly instead of quarterly.

Council should note that are minor grammatical changes were made including changes to replace gender-specific pronouns ('her' or 'she') with the gender-neutral pronoun 'they'.

The next quarterly payment (July-September quarter) is scheduled for 3 October 2024. If Council adopt these changes, they can expect their monthly payments to be incorporated into the first payment run of each month commencing 14 November 2024.

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<b>COUNCIL RESOLUTION:</b> 162/09-24	
<b>MOVED BY:</b> Cr Anne Mitchell	<b>SECONDED BY:</b> Cr Anita Lindemann

**That Council:**

- 1. Adopts the draft Council Policy EM/CP-5- Elected Member Allowances and Entitlements, noting the amendments to the payment frequency from quarterly in arrears to paid monthly in arrears, as well as minor grammatical changes.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0 by En-bloc 152/09-24</b>

### 9.2.5 Annual Concession on Split Local Government Boundary

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#### Report Details:

<b>Prepared by:</b>	Rates Officer		
<b>Manager:</b>	Maurice Battilana, Acting Director Finance and Corporate		
<b>Location:</b>	Shire of Donnybrook Balingup		
<b>File Reference:</b>	A1394	<b>Voting Requirement:</b>	Absolute Majority
<b>Attachment(s):</b>	Nil.		

#### Executive Recommendation

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##### That Council:

1. Grant a concession of 58%, on rates for Lot 8314 Greenbushes Grimwade Road, North Greenbushes (A1394), effective from 1 July 2024, noting the reason being:
  - 1.1. That the land parcel is intersected by the boundary between the Shire of Donnybrook-Balingup and Shire Bridgetown-Greenbushes boundary, with 58% of the land parcel located within the Shire of Bridgetown Greenbushes boundary.

#### Strategic Alignment

---

The following outcomes from the Council Plan relate to this proposal:

<b>Outcome:</b>	11 - Strong, visionary leadership.
<b>Objective:</b>	11.1 - Provide strategically focused, open and accountable governance.
<b>Item:</b>	Nil.

#### Executive Summary

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The purpose of this report is for Council to consider a concession on rates for Lot 8314 Greenbushes-Grimwade Road, North Greenbushes (A1394). Due to the land parcel being intersected between the Shire of Donnybrook-Balingup and Shire Bridgetown-Greenbushes boundaries, with 58% of the land parcel located within the Shire of Bridgetown Greenbushes boundary.

## Background

Council has previously been requested to consider applications for rate concessions on properties intersected by the boundaries of the Shire of Donnybrook Balingup, the Shire of Boyup Brook, and the Shire of Bridgetown Greenbushes.

At its Ordinary Council Meeting held 24 April 2013, Council considered an approach from the Shire of Boyup Brook to initiate a Shire boundary adjustment to resolve the issue of the intersecting boundary. Council considered the application and resolved the following;

**“COUNCIL DECISION**

*That the CEO write to the Shire of Boyup Brook advising that it would not be in favour of a Shire boundary adjustment but would be prepared to offer a 50% rating concession and a 50% concession on any waste management charges currently levied on the affected properties, specifically crown grants 11859 (A4390), 12087 (A4389) and 4522 (A2491). The provision of these concessions is subject to the Shire of Boyup Brook providing a 50% concession to the affected landowners for land situated within the Boyup Brook Shire.”*

Since 2020, Council has issued an annual rates concession of 58% on this particular property, which is the last remaining property affected by this boundary intersection.

At its Ordinary Council meeting held 23 August 2023 Council resolved the following:

**“COUNCIL RESOLUTION 102/23**

*That Council (the Commissioner) grant a concession of 58% on the 2023/2024 rates charged against Lot 8314 Greenbushes-Grimwade Road, North Greenbushes (A1394), effective 1 July 2023.”*

The Rates Assessment Council is requested to consider in this application is:

**Assessment:** A1394  
**Address:** Lot 8314, Greenbushes-Grimwade Road, North Greenbushes  
**Lot and Plan:** 8314 P157864

## Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Likely	Insignificant	Low (4)
Risk Description:	Annual rates concession on split local government boundary not approved.		
Mitigation:	Approve the rate concession.		

## Financial Implications

If Council grants the concession, there would be a reduction in revenue of \$966.86. The 2024/2025 Draft Budget makes provision for concessions relating to this property.

Assessment	Based on 2024/25 Draft Budget Figures		Reduction in Revenue (Proposed Concession)	
	Valuation	Rates Levied	Rates Concession %	Rates Concession \$
A1394	\$216,000	\$1,667.00	58%	\$966.86

## Policy Compliance

Nil.

## Statutory Compliance

### Local Government Act 1995

S6.28 of the *Local Government Act 1995* (the Act) requires a Local Government to rate in accordance with the valuation provided by the Valuer General these valuations are required to be applied to a property by the local government, without amendment.

Council has the authority to resolve to grant discounts and concessions per s6.47 and s6.12 of the Act.

## Consultation

Nil.

## Officer Comment

The Valuer General (VG) has provided both Shires with a pro-rata property valuation equivalent to the apportioning land parcel within each Shire's boundary.

Assessment	Lot	Area (ha)			Valuation 2024/2025		
		Donnybrook Balingup	Other Shire	Total Area (ha)	Donnybrook Balingup	Other Shire	Total Valuation
A1394	8314	48.5	67.9	116.4	216,000	341,000	557,000

The Shire rates the properties in accordance with s6.28(4) of the *Local Government Act 1995* (the Act), where it is required to apply the valuations supplied by the Valuer General.

It is recommended that Council grants the rates concession pursuant to Section 6.47 of the *Local Government Act 1995*, on rates for Lot 8314 Greenbushes Grimwade Road, North Greenbushes (A1394).



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<b>COUNCIL RESOLUTION:</b> 163/09-24	
<b>MOVED BY:</b> Cr Lisa Glover	<b>SECONDED BY:</b> Cr Alexis Davy

**That Council:**

1. **Grant a concession of 58%, on rates for Lot 8314 Greenbushes Grimwade Road, North Greenbushes (A1394), effective from 1 July 2024, noting the reason being:**
  - 1.1. **That the land parcel is intersected by the boundary between the Shire of Donnybrook-Balingup and Shire Bridgetown-Greenbushes boundary, with 58% of the land parcel located within the Shire of Bridgetown Greenbushes boundary.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried by Absolute Majority: 7/0</b>

## 9.2.6 Windy Arbor Pty Ltd- Lease Assignment

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### Report Details:

<b>Prepared by:</b>	Governance Coordinator		
<b>Manager:</b>	Loren Clifford, Manager Corporate Services		
<b>Applicant:</b>	Windy Arbor Pty Ltd		
<b>Location:</b>	Goods Shed, 2 Collins Street, Donnybrook WA		
<b>File Reference:</b>	L108	<b>Voting Requirement:</b>	Simple Majority

### Attachment(s):

9.2.6(1)	Draft Deed of Assignment of Lease - <b>Confidential</b>
9.2.6(2)	Lease of Goods Shed
9.2.6(3)	Assignees Financial Documents- <b>Confidential</b>

### Executive Recommendation

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#### That Council:

- 1. Authorises the Chief Executive Officer and Shire President to execute the Deed of Assignment of Lease (Confidential Attachment 9.2.6(1)) subject to any non-substantive changes approved by the Chief Executive Officer, and other appropriate documentation for the lease assignment from Windy Arbor Pty Ltd to Mac and Wood Pty Ltd for the Goods Shed, 2 Collins Street, Donnybrook WA, subject to:**
  - 1.1. The draft deed be amended to insert a clause specifically stating that the assignment is subject to and conditional upon the repayment of the outstanding amounts.**
  - 1.2. All amounts payable due and payable have been paid and there is no existing unremedied breach in accordance with Lease clause 18.3(b) (Attachment 9.2.6(2)).**
  - 1.3. The prior written consent of the Minister for Lands being obtained in accordance with Lease clause 18.1 (Attachment 9.2.6(2)).**

### Strategic Alignment

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The following outcomes from the Council Plan relate to this proposal:

<b>Outcome:</b>	12 - A well respected, professionally run organisation.
<b>Objective:</b>	12.1 - Deliver effective and efficient operations and service provision.
<b>Item:</b>	Nil.

## Executive Summary

The Shire was contacted on 9 July 2024 by legal representatives for Windy Arbor Pty Ltd, Tolson & Co. Barristers and Solicitors, to request consent of an assignment of lease to Mac and Wood Pty Ltd for the Goods Shed, located at 2 Collins Street, Donnybrook WA.

Council is requested to consider the lease assignment from Windy Arbor Pty Ltd to Mac and Wood Pty Ltd for the Goods Shed, 2 Collins Street, Donnybrook, authorising the Chief Executive Officer and Shire President to execute the Deed of Assignment of Lease ([Confidential Attachment 9.2.6\(1\)](#)) and related documentation, subject to the prior written consent being obtained from the Minister for Lands.

## Background

Windy Arbor Pty Ltd (Windy Arbor) operates the licensed café business known as Park Donnybrook from the leasehold premises, leased by Windy Arbor (Lessee) from the Shire of Donnybrook Balingup (Lessor) under a registered lease dated 30 June 2021 ([Attachment 9.2.6\(2\)](#)). The premises, known as the Goods Shed, located at 2 Collins Street, Donnybrook, is located on a portion of Crown Reserve 47814 with the responsible agency being Department of Planning Lands and Heritage (DPLH). The management order is vested with the Shire with the purpose of Recreation and Tourism. The Shire has the power to lease for any term not exceeding 21 years subject to the consent of the Minister for Lands.

On 4 June 2024, Windy Arbor entered into an agreement for the sale of a business as a going concern, subject to conditions, with Mac and Wood Pty Ltd (Mac and Wood), with the proposal for assignment of lease of the premises in accordance with the Lease requirements. The Shire was contacted on 9 July 2024 by legal representatives for Windy Arbor, Tolson & Co. Barristers and Solicitors, to request consent for an assignment of lease from Windy Arbor to Mac and Wood.

## Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Unlikely	Moderate	Moderate (6)
Risk Description:	The Shire's reputation may be negatively impacted if the Assignee does not uphold the terms of the Lease or engages in undesirable activities.		
Mitigation:	Lawyers have drafted the Lease assignment to ensure compliance with relevant legislation and to ensure due diligence concerning the assignment considerations.		

## Financial Implications

All costs for the lease assignment incurred by the Shire as Lessor are required to be paid by the Lessee in accordance with the provisions of the Lease.

## Policy Compliance

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Nil.

## Statutory Compliance

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The Lease between the Shire and Windy Arbor ([Attachment 9.2.6\(2\)](#)) and the draft Deed of Assignment of Lease ([Confidential Attachment 9.2.6\(1\)](#)) have been prepared by McLeod's Lawyers (McLeod's) to ensure compliance with relevant legislation, including the *Land Administration Act 1997*, *Transfer of Land Act 1893*, *Commercial Tenancy (Retail Shops) Agreements Act 1985*, and *Local Government Act 1995*.

## Consultation

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The Shire's appointed lawyers, McLeod's, have coordinated with the Lessee's and Assignee's legal representatives to ensure due diligence concerning the lease assignment. The Shire's Chief Executive Officer and Manager Corporate Services met with the Assignee on 6 August 2024 to discuss the Lease assignment requirements, including the management obligations in relation the Interpretive Centre.

The Shire has acquired financial documents ([Confidential Attachment 9.2.6\(3\)](#)) from Mac and Wood Pty Ltd to assess the suitability and financial stability of the proposed assignees, in accordance with lease conditions. After a review within available resources, staff believe that Mac and Wood Pty Ltd are respectable and financially sound, however the final determination is best made by the Council.

The Shire has also consulted with the Assignee's settlement agent to ensure that the settlement process will incorporate all the requirements of the deed.

## Officer Comment

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### Reason for Assignment

Windy Arbor (Lessee) have sold their business to Mac and Wood (Assignee). The Contract of Sale is conditional upon the buyer receiving written consent from the Shire (Lessor) to an assignment of the Lease.

### Lease Requirements

In accordance with Lease clause 18.1, the prior written consent of the Shire, the Minister for Lands and any other person whose consent is required under the Lease or at law, is required for the assignment of lease. Amongst other requirements, in accordance with Lease clause 18.3(b) the Shire as Lessor may not unreasonably withhold its consent to the lease assignment if all amounts payable due and payable have been paid and there is no existing unremedied breach, whether notified to the Shire or not, of any of the Lessee's Covenants of the Lease.

The draft Deed of Assignment of Lease ([Confidential Attachment 9.2.6\(1\)](#)), prepared by McLeod’s Lawyers, sets out the terms and conditions of the assignment of the Lease. It contains representations, warranties and covenants, including a covenant by the Assignee with the Shire to pay all amounts payable and to perform and observe all the Lessee’s Covenants.

It is recommended that Council consider the request for consent of lease assignment from Windy Arbor to Mac and Wood for the Goods Shed, 2 Collins Street, Donnybrook, authorising the Chief Executive Officer and Shire President to execute the Deed of Assignment of Lease ([Confidential Attachment 9.2.6\(1\)](#)) as per the Executive Recommendation.

<b>COUNCIL RESOLUTION:</b> 164/09-24	
<b>MOVED BY:</b> Cr Anne Mitchell	<b>SECONDED BY:</b> Cr Anita Lindemann

**That Council:**

- 1. Authorises the Chief Executive Officer and Shire President to execute the Deed of Assignment of Lease ([Confidential Attachment 9.2.6\(1\)](#)) subject to any non-substantive changes approved by the Chief Executive Officer, and other appropriate documentation for the lease assignment from Windy Arbor Pty Ltd to Mac and Wood Pty Ltd for the Goods Shed, 2 Collins Street, Donnybrook WA, subject to:**
  - 1.1. The draft deed be amended to insert a clause specifically stating that the assignment is subject to and conditional upon the repayment of the outstanding amounts.**
  - 1.2. All amounts payable due and payable have been paid and there is no existing unremedied breach in accordance with Lease clause 18.3(b) ([Attachment 9.2.6\(2\)](#)).**
  - 1.3. The prior written consent of the Minister for Lands being obtained in accordance with Lease clause 18.1 ([Attachment 9.2.6\(2\)](#)).**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0 by En-bloc 152/09-24</b>

9.3 Chief Executive Officer

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Nil.

10. Elected Member Motions of which previous notice has been given

Nil.

11. New Business of an urgent nature introduced by Decision of the Meeting

<b>COUNCIL RESOLUTION:</b> 165/09-24	
<b>MOVED BY:</b> Cr Lisa Glover	<b>SECONDED BY:</b> Cr Deanna Shand

**That Council accept Item 11.1.1 as urgent business.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried by Absolute Majority : 7/0</b>

Tim Clynch declared a financial interest and left the Council Chambers at 5:17pm.

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### 11.1.1. Extension Of Temporary Chief Executive Officer Clynch's Contract

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#### Report Details:

**Prepared by:** Manager Corporate Services

**Manager:** Acting Director Finance and Corporate

**File Reference:** EMP 890

**Voting Requirement:** Absolute Majority

#### Attachment(s):

11.1.1(1) Draft Contract Extension Letter – Temporary CEO

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#### Executive Recommendation

**That Council accept Item 11.1.1 as urgent business.**

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#### Executive Recommendation

**That Council:**

- 1. Authorises the Shire President to execute the attached letter of offer (Attachment 11.1.1(1), to extend the Temporary Chief Executive Officer's term of employment until 11 October 2024, to provide a handover for incoming Chief Executive Officer, Nick O'Connor, noting all other conditions of employment will remain the same.**

---

#### Strategic Alignment

The following outcomes from the Council Plan relate to this proposal:

**Outcome:** 12 - A well respected, professionally run organisation.

**Objective:** 12.1 - Deliver effective and efficient operations and service provision.

**Item:** Nil.

---

#### Executive Summary

Council approval is recommended to authorise the Shire President to execute the attached letter of offer (Attachment 11.1.1(1), to extend the Temporary Chief Executive Officer's term of employment until 11 October 2024, to provide an adequate handover for Nick O'Connor, the new incoming permanent Chief Executive Officer.

Council should note all other conditions in Mr Clynch's employment contract will remain the same.

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#### Background

At its Special Council Meeting held on 26 June 2024 Council resolved to appoint Mr Nick O'Connor as the permanent CEO, at its same meeting Council resolved to appoint Mr Timmothy Clynch to the position of Temporary Chief Executive Officer until the permanent CEO commences. Nick's employment commences 8 October 2024. This does not allow for an appropriate handover period.



## Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Service Interruption	Rare	Insignificant	Low (1)
Risk Description:	New CEO, commencing on 8 October is not provided with an appropriate handover.		
Mitigation:	Extend Tim Clynych's contract term for four days to deliver an appropriate handover.		

## Financial Implications

Pursuant to Section 7A of the *Salaries and Allowances Act 1975*, was used to determine the total reward package negotiated in Mr Clynych's Contract of Employment.

## Policy Compliance

### **Council Policy HR/CP-4- Temporary Employment or Appointment of CEO**

In accordance with Section 5.39C of the *Local Government Act 1995*, the Council Policy HR/CP-4-Temporary Employment or Appointment of CEO details the Shire's processes for appointing an Acting or Temporary Chief Executive Officer (CEO) for periods of less than 12 months of planned or unplanned leave or an interim vacancy in the substantive office.

Clause 4.16 the Council Policy HR/CP-4-Temporary Employment or Appointment of CEO outlines the remuneration and benefits for the Temporary CEO.

Clause 4.17 the Council Policy HR/CP-4-Temporary Employment or Appointment of CEO outlines that subject to relevant advice, the Council retains the right to terminate or change, by resolution, any Acting or Temporary CEO appointment.

## Statutory Compliance

### Local Government Act 1995

Section 5.39C sets the requirements for Council to adopt a policy for temporary employment or appointment of CEO.

### Section 5.40, **Principles affecting employment by local governments.**

*The following principles apply to a local government in respect of its employees —*

- (a) employees are to be selected and promoted in accordance with the principles of merit and equity; and*
- (b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage; and*
- (c) employees are to be treated fairly and consistently; and*
- (d) there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the Equal Opportunity Act 1984 or on any other ground; and*

- (e) employees are to be provided with safe and healthy working conditions in accordance with the Work Health and Safety Act 2020; and
- (f) such other principles, not inconsistent with this Division, as may be prescribed.

Salaries and Allowances Act 1975

Section 7A of the *Salaries and Allowances Act 1975* ('the SA Act') requires the Salaries and Allowances Tribunal ('the Tribunal') to "inquire into and determine, the amount of remuneration, or the minimum and maximum amounts of remuneration, to be paid or provided to chief executive officers of local governments".

**Consultation**

Mr Clynch consulted with, Mr O'Connor and the Shire President.

**Officer Comment**

The employment contract between Mr Timothy Clynch and the Shire expires on 7 October 2024. Clause 2.2 Extension of Term of the employment contract allows for the contract to be extended. Clause 2.2.2 states the contract is renewable, and the Term may be extended, by agreement between the parties. Mr Clynch has conveyed to the Council his willingness to extend his tenure until 11 October 2024 to provide an appropriate handover.

<b>COUNCIL RESOLUTION:</b> 166/09-24	
<b>MOVED BY:</b> Cr Lisa Glover	<b>SECONDED BY:</b> Cr Deanna Shand

**That Council:**

1. **Authorises the Shire President to execute the attached letter of offer (Attachment 11.1.1(1), to extend the Temporary Chief Executive Officer’s term of employment until 11 October 2024, to provide a handover for incoming Chief Executive Officer, Nick O’Connor, noting all other conditions of employment will remain the same.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0</b>

Tim Clynch returned to the Council Chamber at 5:20pm.

<b>COUNCIL RESOLUTION:</b> 167/09-24	
<b>MOVED BY:</b> Cr Lisa Glover	<b>SECONDED BY:</b> Cr Anita Lindemann

**That Council accept Item 11.1.2 as urgent business.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0</b>

### 11.1.2. Cessation of Custom Kill Services in South-West

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#### Report Details:

**Prepared by:** Tim Clynch, Chief Executive Officer (Temporary)

**Manager:** Tim Clynch, Chief Executive Officer (Temporary)

**File Reference:** CNL 33 **Voting Requirement:** Simple Majority

**Attachment(s):**

Nil.

#### Executive Recommendation

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**That Council accept Item 11.1.2 as urgent business.**

#### Executive Recommendation

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**That Council request the support of the Warren Blackwood Alliance of Councils and WALGA (via the South-West Country Zone) to advocate to the Minister for Agriculture for the Western Australian Government to support local, small-scale farmers in their efforts to locate or develop an alternative custom kill service provider in the South-West Region.**

#### Strategic Alignment

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The following outcomes from the Council Plan relate to this proposal:

**Outcome:** 9 - A thriving economy.

**Objective:** 9.2 - Attract and retain a diverse mix of businesses and investment opportunities.

**Item:** Nil.

#### Executive Summary

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At the conclusion of the Agenda Briefing Session held on 18 September 2024 Cr Davy raised the possibility of Council considering an item of urgent business relating to the establishment of an advocacy position and process for the subject of addressing the recent decision by a south-west abattoir to cease providing livestock custom kill services. The content of this item has primarily been sourced from Cr Davy.

The Executive Recommendation is solely focused on advocacy around the Western Australian Government working with local and regional farmers to develop an alternative custom kill provider in the South-West Region. There is no intent in the Executive Recommendation to seek review of the commercial decision made by the abattoir company.

**Background**

On 15 September 2024, the Dardanup Butchering Company (DBC) announced to their customers that, as of 11 October 2024, they would no longer be offering custom kills. DBC has provided this valuable and much appreciated service for decades. This service allows local farmers to have full traceability for their animals, have them killed, chilled, and transported to local butcher for processing, packaging and supply to customers, restaurants or to take directly to markets. This service enables paddock to plate consumption, it means people can know the farmer, how the animal was raised, buy local and it means that local farmers can showcase the meat raised in our region.

Feedback from stakeholders indicates that a viable solution is possible. For example, mobile abattoirs are permissible in WA, no one has gone through the process yet, but a mobile abattoir built in WA has been in use in Victoria and Southern NSW for the last 4 years. It is understood that local farmers have called for an audience with the Minister for Agriculture and the Department of Health to actively work towards an acceptable solution for all parties.

**Risk Management**

Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Unlikely	Insignificant	Low (2)
Risk Description:	Concerns that Council’s advocacy position could be interpreted as a criticism of private enterprise withdrawing from custom kill services		
Mitigation:	The advocacy position is to be focused on finding solutions to the lack of custom kill services in the aftermath of private enterprise withdrawing from providing such a service		

**Financial Implications**

Nil.

**Policy Compliance**

Nil.

**Statutory Compliance**

Nil.

**Consultation**

Nil.

**Officer Comment**

Advocacy is proposed via the Warren Blackwood Alliance of Councils and the WALGA South-West Country Zone. The reason this item is considered as ‘urgent business’ is to ensure that this matter can be considered at the next meetings of the Warren Blackwood Alliance of Councils (1 October) and the South-West Country Zone (22 November).

Small businesses, resilient communities and economic prosperity are all important issues in our Shire. The Shire can play a role in advocating for small businesses, such as small-scale, local farmers, like Marigold Lamb or small, local businesses, like Donnybrook Butchers that offer the cut and pack services for these custom kills.

Resilient communities need young people and food security. Young people are moving away from farming communities, investors are moving in, and most smaller farms are no longer commercially viable. The average age of farmers in Australia is 63 and this is an increasing trend. If we want more young people with families moving to farming communities we need lower barriers of entry, and access for small scale farmers directly into the market. The vertical integration of DBC’s business reinforces the “get big or get out” mantra and has been the trend over the last few decades as the vast majority of local abattoirs have closed. The recent pandemic served as a stark reminder that short, local supply chains are essential to resilient communities.

It is considered this is a matter that has enough local significance for Council to take on an advocacy role. Supporting small business, buying local and growing WA’s food industries are State priorities and therefore adopting an advocacy position shouldn’t be regarded as contentious. Agriculture is the highest value industry in our Shire, so the issue is certainly relevant.

<b>COUNCIL RESOLUTION:</b> 168/09-24	
<b>MOVED BY:</b> Cr Alexis Davy	<b>SECONDED BY:</b> Cr Anita Lindemann

**Council suspend Clause 8.10 of the *Meeting Procedures Local Law 2017* to allow all Councillors to speak more than once.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0</b>

<b>COUNCIL RESOLUTION:</b> 169/09-24	
<b>MOVED BY:</b> Cr Lisa Glover	<b>SECONDED BY:</b> Cr Anita Lindemann

**That Council reinstate 8.10 of the standing orders**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0</b>

<b>COUNCIL RESOLUTION:</b> 170/09-24	
<b>MOVED BY:</b> Cr Alexis Davy	<b>SECONDED BY:</b> Cr Anita Lindemann

**That Council request the support of the Warren Blackwood Alliance of Councils and WALGA (via the South-West Country Zone) to advocate to the Minister for Agriculture for the Western Australian Government to support local, small-scale farmers in their efforts to locate or develop an alternative custom kill service provider in the South-West Region.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Cr MacCarthy
<b>Carried: 6/1</b>

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## 12. Meetings Closed to the Public

### 12.1. Matters for which the Meeting may be closed

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#### 12.1.1 RFT 03/2425 VC Mitchell Park, Carpark Upgrade

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This report is confidential in accordance with Section 5.23(c) of the *Local Government Act 1995*, which permits the meeting to be closed to the public.

- (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.

<b>COUNCIL RESOLUTION:</b> 171/09-24	
<b>MOVED BY:</b> Cr Lisa Glover	<b>SECONDED BY:</b> Cr Anita Lindemann

**That the meeting be closed in accordance with section 5.23(c) of the *Local Government Act 1995* to discuss the following confidential items:**

#### **12.1.1 RFT 03/2425 VC Mitchell Park, Carpark Upgrade**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0</b>

The meeting was closed to the public at 5:47pm.

Cr Glover declared a financial, proximity, indirect financial, and impartiality interest and left the Council Chamber at 5:50pm.



Cr Glover re entered the Council Chamber at 5:52pm.

<b>COUNCIL RESOLUTION:</b> 173/09-24	
<b>MOVED BY:</b> Cr Alexis Davy	<b>SECONDED BY:</b> Cr Anita Lindemann

**That the meeting be re opened to the public.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Glover, Cr Gubler, Cr Lindemann, Cr Shand
<b>Against:</b> Nil.
<b>Carried: 7/0</b>

The meeting was re opened to the public at 5:52pm.

12.2. Public reading of Resolutions that may be made public

<b>COUNCIL RESOLUTION:</b> 172/09-24	
<b>MOVED BY:</b> Cr Anita Lindemann	<b>SECONDED BY:</b> Cr Peter Gubler

**That Council:**

- 1. Requests the Chief Executive Officer to award the contract for RFT 03-2425 – VC Mitchell Park Carpark Upgrade, to DBCEC WA PTY LTD, for their submitted total lump sum price.**
- 2. Requests the Chief Executive Officer to advise DBCEC WA PTY LTD that the Council has determined not to award any of the “Optional Extra 1 – Works” requested within RFT 03-2425 – VC Mitchell Park Carpark Upgrade, with the contract to be established in point 1.**
- 3. Requests the Chief Executive Officer to publish this Council decision in the minutes of the 25 September 2024 Ordinary Meeting of Council.**

<b>For:</b> Cr MacCarthy, Cr Davy, Cr Mitchell, Cr Gubler, Cr Lindemann
<b>Against:</b> Nil.
<b>Carried: 5/0</b>

13. Closure

The Shire President advised that the next Agenda Briefing Session will be held on 16 October 2024 at 5:00PM, in the Shire of Donnybrook Balingup Council Chamber.

The Shire President declared the meeting closed at 5:53pm.

These minutes were confirmed as a true and accurate record at the Ordinary Council Meeting held 23 October 2024.



Vivienne MacCarthy  
**President – Shire of Donnybrook Balingup**