

Date: 15 July 2022

To: Shire President
Deputy Shire President
Councillors



NOTICE AND AGENDA - ORDINARY COUNCIL MEETING

An Ordinary Council Meeting of the Shire of Nungarin will be held in the Council Chambers on 20 July 2022 at 4:30pm to consider and resolve the matters set out in the attached agenda.

A handwritten signature in black ink that reads "Long".

Leonard Long
Chief Executive Officer

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Any person or entity who has an application before the Shire must obtain, and should only rely on, written notice of the Shire's decision and any conditions attaching to the decision, and cannot treat as an approval anything said or done at a Council or Forum meetings.

Any advice provided by an employee of the Shire on the operation of a written law, or the performance of a function by the Shire, is provided in the capacity of an employee, and to the best of that person's knowledge and ability. It does not constitute, and should not be relied upon, as a legal advice or representation by the Shire. Any advice on a matter of law, or anything sought to be relied upon as a representation by the Shire should be sought in writing and should make clear the purpose of the request.

PUBLIC QUESTION TIME

1. The order of business allows for a Public Question time at the beginning of the meeting.
2. If you wish to ask a question about an agenda item before it is considered then it is recommended to be made at the Public Question Time item on the agenda in accordance with Council's Procedures and Guidelines for Public Question Time.
3. The visual or vocal recording of Council meeting proceedings is expressly prohibited, unless the prior approval of the Council has been given.

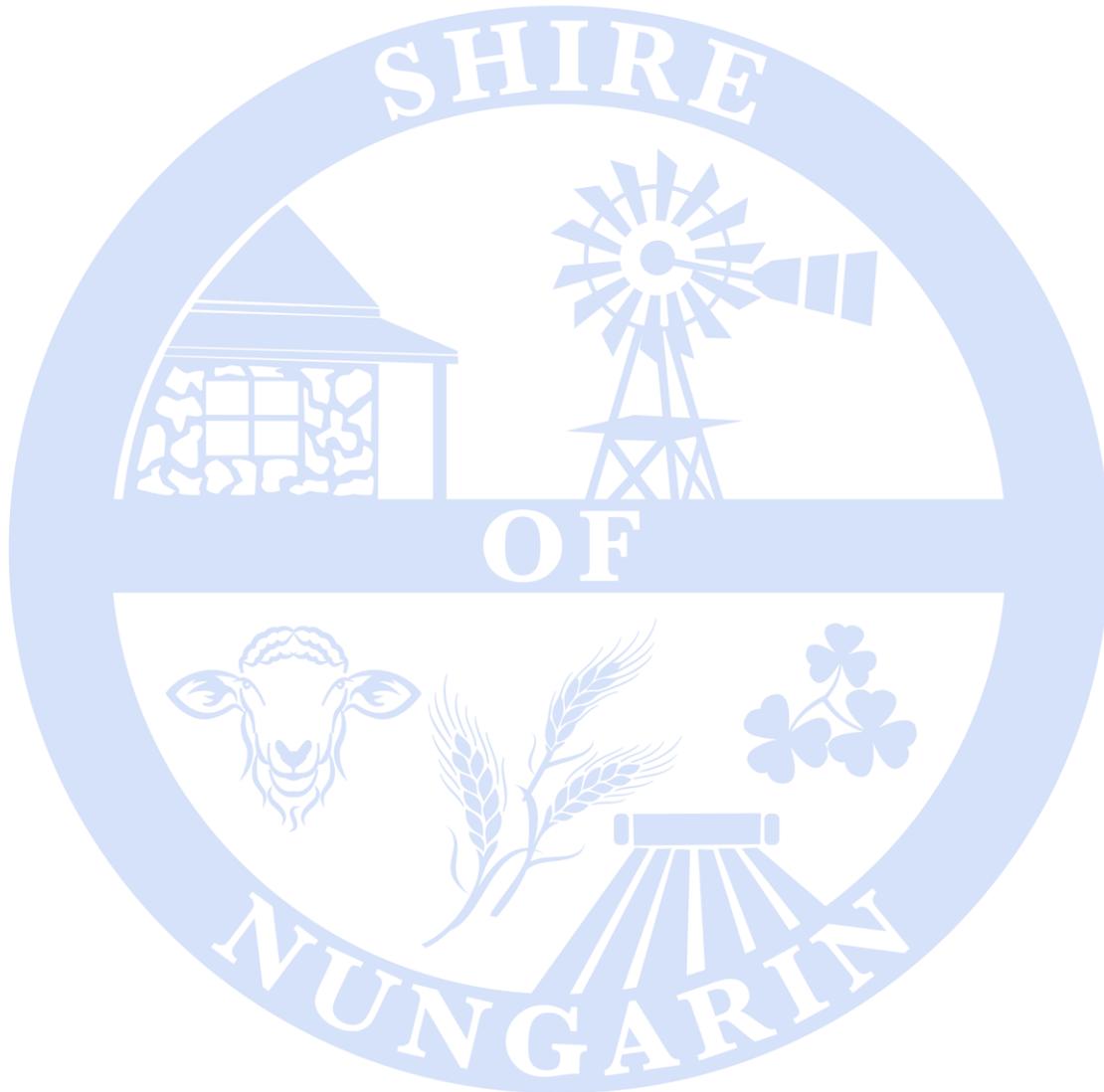


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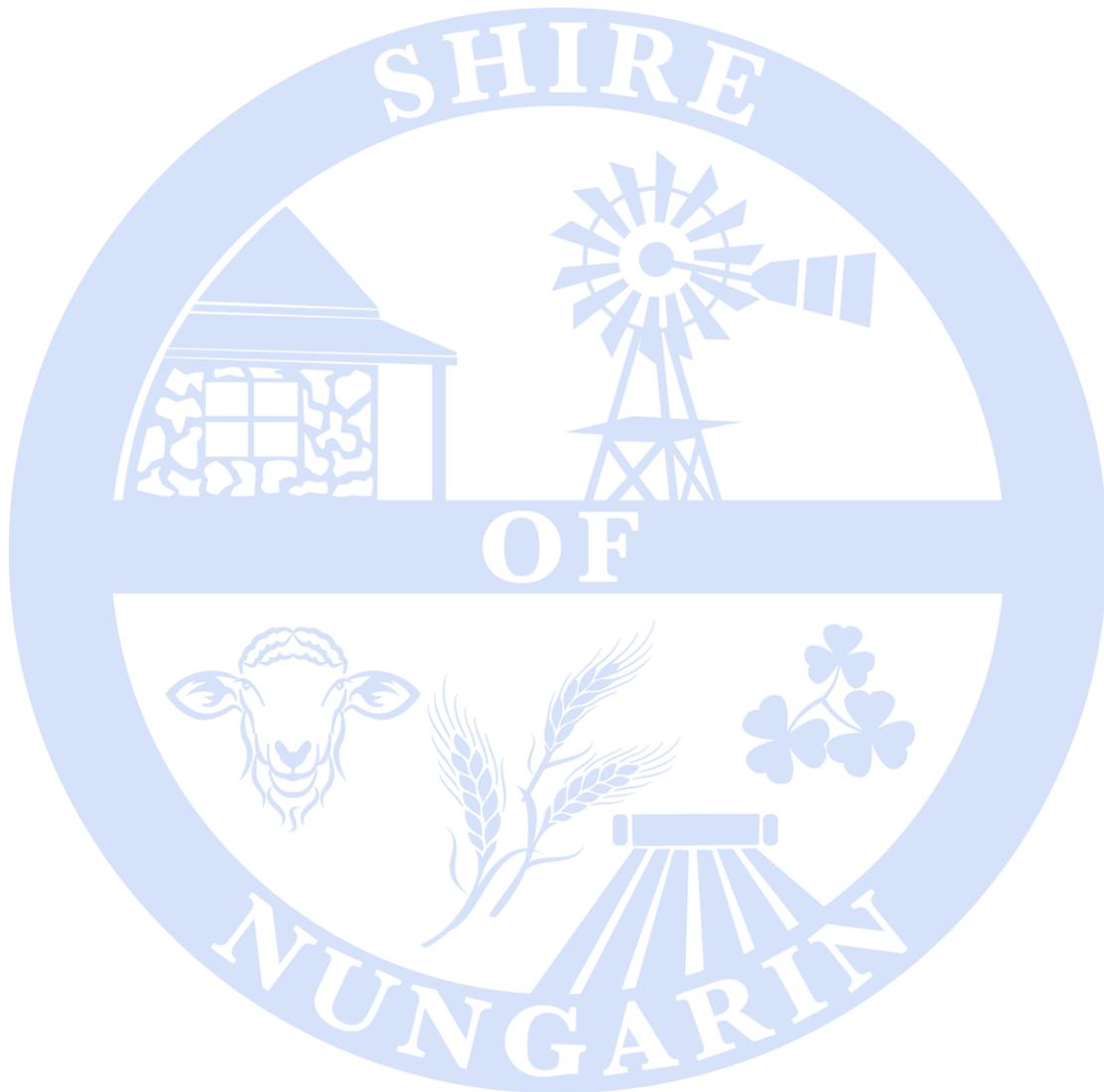
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AGENDA

1. DECLARATION OF OPENING

The Presiding Member declared the meeting open at ___pm.

Affirmation of Civic Duty and Responsibility as read

I make this Affirmation in good faith on behalf of Councillors and Officers of the Shire of Nungarin. We collectively declare we will duly, faithfully, honestly and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgment and ability.

Acknowledgement of Traditional Custodians as read

We wish to acknowledge the Traditional Custodians of the land we are meeting on, the Njaki Njaki Nyoongar people, and recognise the contribution of Elders past, present and future.

2. ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

2.1 ATTENDANCE

Councillors

Shire President	Cr P de Lacy
Deputy Shire President	Cr G Coumbe
Elected Member	Cr RE O’Connell (Electronic as approved by the Shire President)
Elected Member	Cr K Dayman
Elected Member	Cr J Davis
Elected Member	Cr W Lee
Elected Member	Cr M Caughey

Council Officers

Chief Executive Officer Mr L Long

Observers / Visitors

2.2 APOLOGIES

2.3 REQUEST FOR LEAVE OF ABSENCE

3. DEPUTATIONS AND PETITIONS

3.1 DEPUTATIONS

3.2 PETITIONS

4. PUBLIC QUESTION TIME

- a. Public Question Time provides the public with an opportunity to put questions to the Council. Questions should only relate to the business of the Council and should not be a statement or personal opinion.
- b. During the Council meeting, after Public Question Time no member of the public may interrupt the meeting’s proceedings or enter into conversation.
- c. Whenever possible, questions should be submitted in writing at least 48 hours prior to the start of the meeting.
- d. All questions should be directed to the President and only questions relating to matters affecting Council may be answered at an Ordinary Council Meeting, and at a Special Council Meeting only questions that relate to the purpose of the meeting may be answered. Questions may be taken on notice and responded to after the meeting, at the discretion of the Presiding Member.
- e. The Presiding member will control Question Time and ensure each person wishing to ask a question states their name and address before asking the question. If the question relates to an item on the agenda, the item number should also be stated. In general, persons seeking to ask questions will be given two (2) minutes within which to address their question to Council. The Presiding Member may shorten or lengthen this time at their discretion.

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4.2 PUBLIC QUESTION TIME

5. DECLARATIONS OF INTEREST

5.1 FINANCIAL AND PROXIMITY INTEREST

5.2 DISCLOSURES OF INTEREST THAT MAY CAUSE A CONFLICT

6. ANNOUNCEMENT BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

7. PREVIOUS COUNCIL MEETING MINUTES

7.1 ORDINARY COUNCIL MEETING – 15 June 2022

OFFICER RECOMMENDATION.../07/22

That the Minutes of the Ordinary Council Meeting held on 15 June 2022 be confirmed as being a true and accurate record.

Moved:

Seconded:

..... / ...

8. OFFICER REPORTS

8.1 LISTING OF PAYMENTS FOR THE MONTH OF JUNE 2022	
File Ref:	10.13 Payment Listings
Previous Items:	Nil
Applicant:	Nil
Author and Title:	Vanessa Seward, Executive Assistant
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Attachment Number	8.1A – Payment List

OFFICER RECOMMENDATION .../07/22

That Council Resolves to:

1. Receive the following payments made throughout the month of June 2022:

Municipal	Cheque	\$ 26,436.09
	EFT	\$ 187,286.47
	Direct Debit	\$ 26,354.12
	Credit Card	\$ 198.85
		\$ 240,275.53
Trust	Cheque –	Nil
	Grand Total	\$ 240,275.53

Moved:

Seconded:

..... / ...

IN BRIEF

The purpose of this report is to present the listing of payments made from the Shire’s Municipal and Trust funds throughout the month of June 2022.

BACKGROUND

The attached appendix lists the payments from Council Municipal and Trust funds for the month applicable as per requirements of the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996*.

As per Regulation 13 of the *Local Government (Financial Management) Regulations 1996* the following information is required to be presented to Council;

- The Payee’s name;
- The amount of the payment;
- The date of the Payment; and
- Sufficient information to identify the transaction

REPORT DETAIL

As Council has delegated authority to the Chief Executive Officer to execute payments from the municipal fund and the trust fund a list of accounts paid are required to be submitted to Council showing the prescribe information.

SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023

Focus Area	Civic Leadership
Aspiration	A strong local democracy with an actively engaged community and effective partnership.
Objective	Annually review compliance methods.

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

As per Regulation 13 of the *Local Government (Financial Management) Regulations 1996* the following is required;

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared
 - (a) the payee’s name;
 - (b) the amount of the payment;
 - (c) the date of the payment; and
 - (d) sufficient information to identify the transaction.

- (2) A list of accounts for approval to be paid is to be prepared each month showing
 - (a) for each account which requires council authorisation in that month
 - (i) the payee’s name;
 - (ii) the amount of the payment; and
 - (iii) sufficient information to identify the transaction.
 - (b) the date of the meeting of the council to which the list is to be presented.

- (3) A list prepared under sub regulation (1) or (2) is to be —
 - (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
 - (b) recorded in the minutes of that meeting.

SUSTAINABILITY AND RISK CONSIDERATIONS

Economic – (Impact on the Economy of the Shire and Region)

Nil

Social – (Quality of life to community and / or affected land owners)

Nil

Policy Implications

Nil

Risk Management Implications

Risk Level	Comment
Medium	If the required information is not presented to Council in accordance with the Local Government (Financial Management) Regulation 1996 it may result in a qualified audit report and an unclear compliance return submitted to the Department of Local Government, Sport & Cultural Industries.

CONSULTATION

Nil

RESOURCE IMPLICATIONS

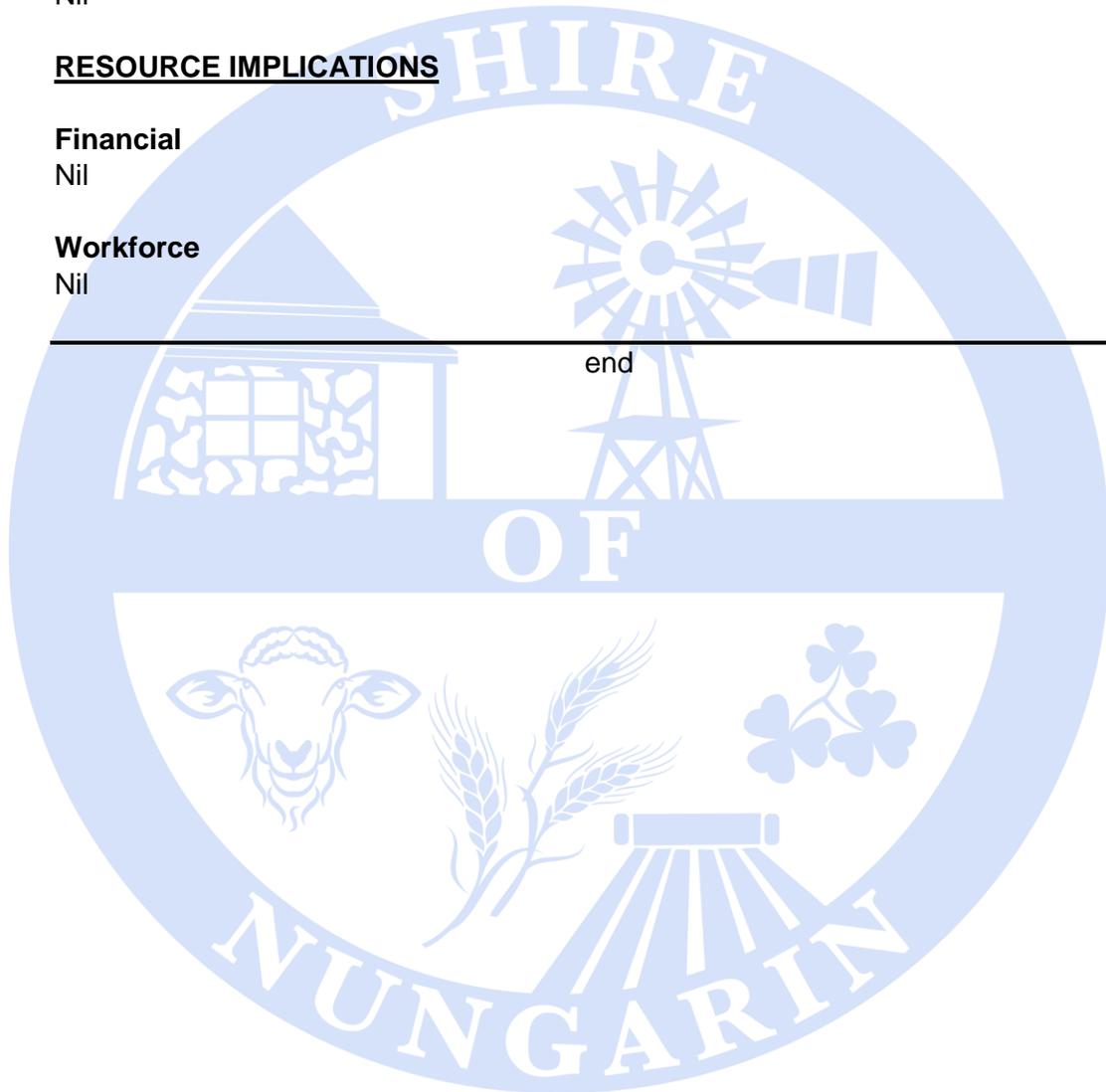
Financial

Nil

Workforce

Nil

end



8.2 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 30 JUNE 2022	
File Ref:	10.2.1 Annual Financial Statements 2021/22
Previous Item Ref:	Nil
Applicant:	Nil
Author and Title:	Leonard Long, Chief Executive Officer Darren Long, Financial Consultant
Declaration of Interest:	Nil
Voting Requirements	Simple Majority
Attachment Number:	8.2A – Monthly Statement

OFFICER RECOMMENDATION .../07/22

That Council Resolves to:

1. **Receives the monthly financial activity statement for the period ending 30 June 2022.**

Moved:

Seconded:

..... / ...

IN BRIEF

The purpose of this report is to present the financial position of Council as at the reporting date as per requirements of the *Local Government Act 1995* and the *Local Government (Financial Management) Regulation 1996*.

BACKGROUND

The *Local Government Act 1995* in conjunction with regulation 34(1) of the *Local Government (Financial Management) Regulations 1996* requires a monthly Statement of Financial Activity to be presented to Council detailing the prescribed information within 2 months after the end of the month to which the statement relates.

REPORT DETAIL

The Shire prepares the monthly financial statements in the statutory format along with other supplementary financial reports consisting of:

- (a) Statement of Comprehensive Income by Function/Program;
- (b) Statement of Comprehensive Income by Nature/Type;
- (c) Statement of Financial Activity;
- (d) Summary of Net Current Asset Position;
- (e) Statement of Explanation of Material Variances;
- (f) Statement of Financial Position;
- (g) Statement of Cash Flows;
- (h) Detailed Operating and Non-Operating Schedules;
- (i) Statement of Cash Back Reserves;
- (j) Loan Borrowings Statement; and
- (k) Trust Statement.

MATERIAL VARIANCE COMMENTARY ON YEAR TO DATE

Regulation 34 of the *Local Government (Financial Management) Regulations 1996* require local governments to prepare annual budget estimates and month by month budget estimates so that comparatives can be made to Year to Date (YTD) Actual amounts of expenditure, revenue and income.

At its budget meeting, Council adopted a material variance threshold of \$5,000 or 10%. For interpretation purposes, this means any variance at Function/Program level that is greater than 10% and exceeds \$5,000 in value is reported on and commentary is provided to explain the YTD budget estimate to YTD actual variance. The material variance is shown on the Statement of Financial Activity, in accordance with the *Local Government (Financial Management) Regulations 1996*. The material variance commentary is now provided in a separate statement, called the Statement of Explanation of Material Variances.

The Statement of Financial Activity as at 30 June 2022 shows a closing surplus of \$1,507,163. A substantial amount of this surplus (\$1,038,453) is due to the advance paid general purpose and local road grants for 2022/2023 by the Commonwealth Government.

Figures are subject to change due to year-end adjustments and any audit adjustments.

SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023

Focus Area	Civic Leadership
Aspiration	A strong local democracy with an actively engaged community and effective partnership.
Objective	Annually review compliance methods.

OTHER STRATEGIC LINKS

Shire of Nungarin 2021/22 Annual Budget

STATUTORY ENVIRONMENT

Section 6.4 of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Finance) Regulations 1996*.

Local Government (Financial Management) Regulations 1996:
Regulation 34 states:

- (1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d) for that month in the following detail:
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
 - (b) budget estimates to the end of month to which the statement relates;
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c);

- (e) the net current assets at the end of the month to which the statement relates.

Sub regulations 2, 3, 4, 5, and 6 prescribe further details of information to be included in the monthly statement of financial activity.

SUSTAINABILITY AND RISK CONSIDERATIONS

Economic – (Impact on the Economy of the Shire and Region)

Nil

Social – (Quality of life to community and / or affected land owners)

Nil

Policy Implications

Nil

Risk Management Implications

Risk Level	Comment
Medium	Inadequate financial performance monitoring could lead to over/under budget expenditure which could affect council’s financial position and/or financial ratios.

CONSULTATION

Shires Financial Consultant

RESOURCE IMPLICATIONS

Financial

Nil

Workforce

Nil

end

8.3 INVESTMENT REPORT AS AT 30 JUNE 2022	
File Ref:	10.10.1 Annual Investment Reports 2021/22
Previous Item Ref:	Nil
Applicant:	Nil
Author and Title:	Leonard Long, Chief Executive Officer Darren Long, Financial Consultant
Declaration of Interest:	Nil
Voting Requirements	Simple Majority
Attachment Number:	Nil

OFFICER RECOMMENDATION .../07/22

That Council Resolves to:

1. Receive the Investment Report as at 30 June 2022.

Moved:

Seconded:

..... / ...

IN BRIEF

The purpose of this report is to present the status of Council's investments accounts.

BACKGROUND

Money held in the Municipal Fund of the Shire of Nungarin that is not required for the time being may be invested in accordance with the Local Government Act 1995 and the Trustees Act 1962 Part III.

REPORT DETAIL

The table below details the investments held by the Shire as at 30 June 2022:

INVESTMENT REGISTER						
1 JUNE 2022 TO 30 JUNE 2022						
COMMONWEALTH BANK – FIXED TERM DEPOSIT						
ACCOUNT N°	DATE OF MATURITY	INTEREST RATE	OPENING BALANCE	INTEREST EARNED TO 30.06.2022	INVESTMENT TRANSFERS	CLOSING BALANCE 30.6.2022
38132004.26	17/06/2022	0.43%	\$645,524.84	\$912.58	(\$646,437.42)	\$0.00

SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023

Focus Area	Civic Leadership
Aspiration	A strong local democracy with an actively engaged community and effective partnership.
Objective	Annually review compliance methods.

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

6.14. Power to invest

- (1) Money held in the municipal fund or the trust fund of a local government that is not, for the time being, required by the local government for any other purpose may be invested as trust funds may be invested under the *Trustees Act 1962* Part III.
- (2A) A local government is to comply with the regulations when investing money referred to in subsection (1).
- (2) Regulations in relation to investments by local governments may —
 - (a) make provision in respect of the investment of money referred to in subsection (1); and
 - ~~[(b) deleted]~~
 - (c) prescribe circumstances in which a local government is required to invest money held by it; and
 - (d) provide for the application of investment earnings; and
 - (e) generally, provide for the management of those investments.

Local Government (Financial Management) Regulations 1996

19. Investments, control procedures for

- (1) A local government is to establish and document internal control procedures to be followed by employees to ensure control over investments.
- (2) The control procedures are to enable the identification of —
 - (a) the nature and location of all investments; and
 - (b) the transactions related to each investment.

19C. Investment of money, restrictions on (Act s. 6.14(2)(a))

- (1) In this regulation —

authorised institution means —

 - (a) an authorised deposit-taking institution as defined in the *Banking Act 1959 (Commonwealth)* section 5; or
 - (b) the Western Australian Treasury Corporation established by the *Western Australian Treasury Corporation Act 1986*;

foreign currency means a currency except the currency of Australia.

- (2) When investing money under section 6.14(1), a local government may not do any of the following —
- (a) deposit with an institution except an authorised institution;
 - (b) deposit for a fixed term of more than 12 months;
 - (c) invest in bonds that are not guaranteed by the Commonwealth Government, or a State or Territory government;
 - (d) invest in bonds with a term to maturity of more than 3 years;
 - (e) invest in a foreign currency.

SUSTAINABILITY AND RISK CONSIDERATIONS

Economic – (Impact on the Economy of the Shire and Region)

Nil

Social – (Quality of life to community and / or affected land owners)

Nil

Policy Implications

Council Policy 3.07 applies to the investment of surplus funds.

Risk Management Implications

Risk Level	Comment
Moderate	Inadequate financial performance could lead to the loss of potential income through interest earned from investment accounts.

CONSULTATION

Nil

RESOURCE IMPLICATIONS

Financial

Nil

Workforce

Nil

end

8.4 PROPOSED ROAD CLOSURE – PORTION OF MITCHELL TERRACE	
File Ref:	26.11 Road Closures
Previous Item Ref:	Nil
Applicant:	Nil
Author and Title:	Leonard Long, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements	Simple Majority
Attachment Number:	8.4A – Proposed Road Closure Plan

OFFICER RECOMMENDATION .../07/22

That Council Resolves to:

- 1. Advertise the proposal to close a portion of Mitchell Terrace reserve, as shown on *attachment 8.4A* for a period of 35 days seeking public comment.**
- 2. Request comments from Service Providers, Department of Fire and Emergency Services and Government Departments.**
- 3. Receives a further report on this matter following the advertising period.**

Moved:

Seconded:

..... / ...

IN BRIEF

Council is requested to consider the closure of portion of Mitchell Terrace ***attachment 8.4A*** adjacent to the Nungarin Recreation Centre.

In order to initiate the road closure (through the Department of Planning, Lands and Heritage), the Shire is required to advertise the proposal to adjacent land owners, service providers and government agencies.

Following the advertising period, a report will be brought back to Council to consider any submissions received.

BACKGROUND

Historically the existing Nungarin Caravan Base was constructed within the Mitchell Terrace Road reserve. Council recently endorsed the redevelopment / upgrade of the Nungarin Caravan Base which will result in significant infrastructure being constructed. To enable the continued development of the Nungarin Caravan Base it is prudent to ensure the land tenure is resolved. As such it is recommended the portion of Mitchell Terrace ***attachment 8.4A*** is closed.

REPORT DETAIL

The proposed road closure will facilitate the continued development of the Nungarin Caravan Base. Should the portion of road be successfully closed the Department of Planning, Lands and Heritage will be requested to “re-vest” the closed portion of road reserve to Council for Caravan Park, Chalets, Caretakers Dwelling and Recreational Purposes.

SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023

Focus Area	Economic
Aspiration	A diverse business environment with equitable telecommunications and infrastructure. We are uniquely Nungarin in providing a memorable visitor experience.
Objective	Promote and develop a thriving tourism sector

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

- *Land Administration Act 1997, s58*
- *Local Government Act 1995, s3.50*

SUSTAINABILITY AND RISK CONSIDERATIONS**Economic – (Impact on the Economy of the Shire and Region)**

The road closure will enable the continued development of the Nungarin Caravan Base, this will potentially see the increase in tourism resulting in a positive economic impact on the Shire.

Social – (Quality of life to community and / or affected land owners)

Nil

Policy Implications

Nil

Risk Management Implications

Risk Level	Comment
High	The Nungarin Caravan Base is already constructed within the road reserve and is a safety risk for both users of the caravan park and the road. The Closure of the road will resolve this conflict.

CONSULTATION

Should Council resolve as recommended, the proposed road closure will be advertised as required.

RESOURCE IMPLICATIONS

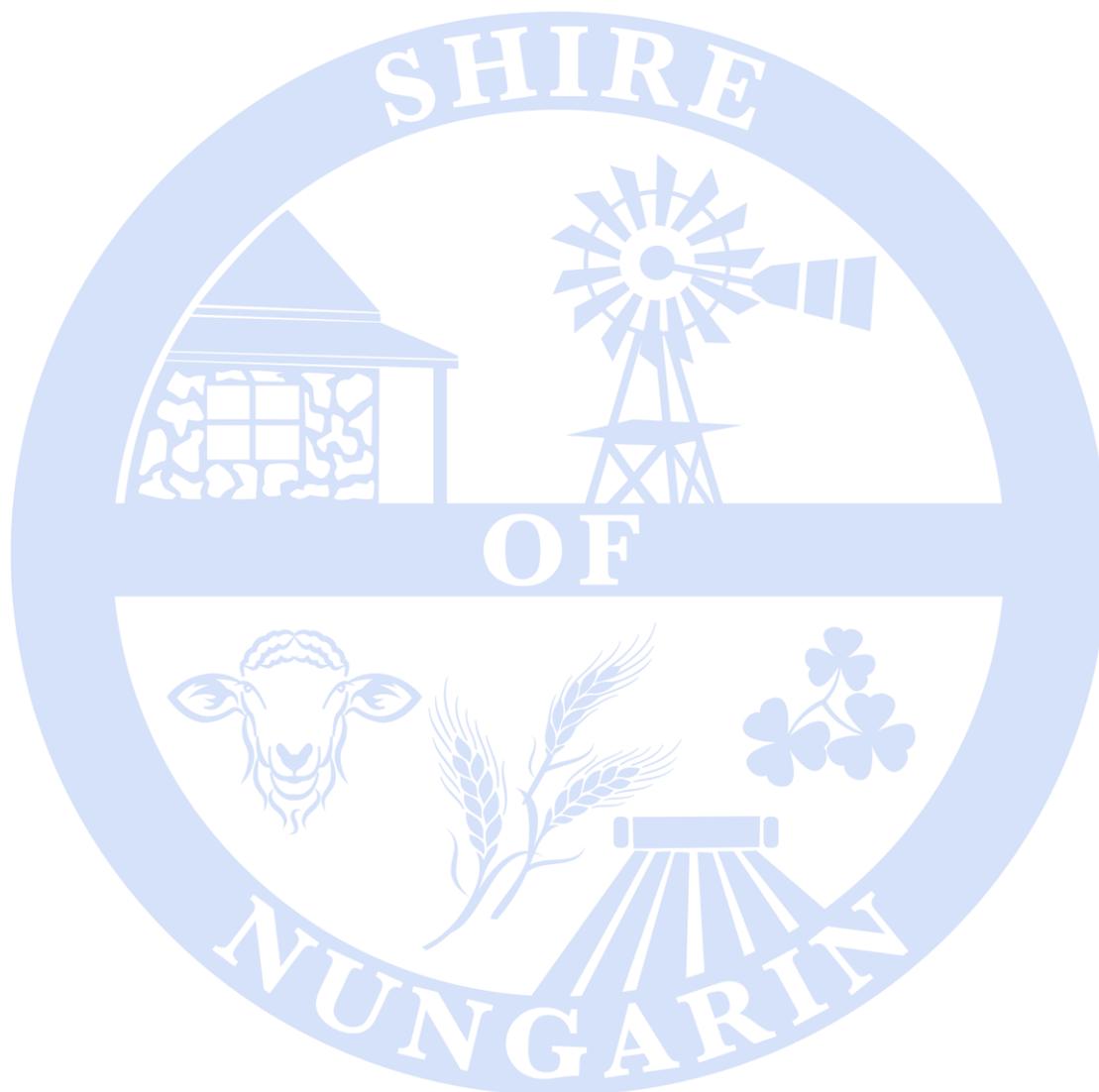
Financial

Nil

Workforce

Nil.

end



8.5 REIMBURSEMENT OF FUNDS FOR BOUNDARY FENCE BETWEEN LOT 48 AND LOT 501 FIRST AVENUE	
File Ref:	A1121 & A1076
Previous Item Ref:	Nil
Applicant:	Nil
Author and Title:	Leonard Long, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements	Simple Majority
Attachment Number:	Nil

OFFICER RECOMMENDATION/07/22

That Council Resolves to:

1. Approve the payment of the excess to a maximum amount of \$500, from GL209304, for the replacement of the boundary fence between Lot 48 and Lot 501, First Avenue, subject to
 - a. The owner of Lot 501 providing proof of the payment of the excess; and
 - b. The completion of the replacement of the boundary fence between Lot 48 and Lot 501, First Avenue.

Moved:

Seconded:

..... / ...

IN BRIEF

The owner of Lot 501 has through their private insurance claimed the replacement of the existing asbestos boundary fence. In the absence of a policy on how to deal with “adjoining fences” Council is requested to consider reimbursing the owner of Lot 501 the amount of the excess pay to a maximum of \$500.

BACKGROUND

The boundary fence between Lot 48 and Lot 501, First Avenue has suffered storm damage and is currently held up with ropes tied to the owner of Lot 501 house.

In terms of the Dividing Fences Act 1961, Part III – Repair of dividing fences s14 “*When a dividing fence is in need of repair the owners of land on either side of the fence are liable, subject to the provisions of section 15, to join in or contribute in equal proportions to the repair of the fence.*”

Notwithstanding the above, the *Dividing Fences Act 1961*, does not apply to the Crown or land for public purposes under the control of local governments. Because the land in question is vacant land owned by the Shire, it is deemed to be for public purposes, and as such is not subject to the *Dividing Fences Act 1961*.

REPORT DETAIL

The existing fence is an asbestos fence and following storm damage is in a state of disrepair, and is currently secured by rope to the owner of Lot 501, to prevent it from falling over.

In normal circumstances where the two adjoining properties are privately owned, each owner would be responsible for 50% of the cost of repairing or replacing a fence and in this case the cost of removing the asbestos fence.

The replacement of the fence with a modern fence will improve the aesthetics of both properties and will increase the overall land value. Considering the benefit, the Council receives from the new fence it is considered to be good community relations to pay a contribution to the cost of the fence, in this regard to excess.

SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023

Focus Area	Social
Aspiration	Our Shire is healthy and happy, contributing to our progress, with accessible places and spaces and our transport is well connected and safe.
Objective	A welcoming community that cares and looks after each other.

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

- *Dividing Fences Act 1961*

SUSTAINABILITY AND RISK CONSIDERATIONS

Economic – (Impact on the Economy of the Shire and Region)

Nil

Social – (Quality of life to community and / or affected land owners)

Nil

Policy Implications

Nil

Risk Management Implications

Risk Level	Comment
Medium	Should Council resolve not to contribute it could suffer reputational damage from the community’s perspective.

CONSULTATION

- LGIS

RESOURCE IMPLICATIONS

Financial

The proposed contribution is capped at \$500 and will be included in the 2022/23 budget preparations.

Workforce

Nil

end



8.6 APPOINTMENT OF CONTRACTOR TO SUPPLY CARAVAN BASE ABLUTIONS	
File Ref:	4.4.1
Previous Item Ref:	Nil
Applicant:	Nil
Author and Title:	Leonard Long, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements	Simple Majority
Attachment Number:	Nil

OFFICER RECOMMENDATION .../07/22

That Council Resolves to:

- 1. Approve the appointment of Modus Australia to supply only, the Byron Tourist Village Toilet Building as per quote MA5802-D for the amount of \$120,013.00;**
- 2. Authorise the Chief Executive Officer to issue a Purchase Order for the amount in (1.) above and to sign all contractual agreements pertaining to the supply of the Byron Tourist Village Toilet Building**

Moved:

Seconded:

..... / ...

IN BRIEF

Council is requested to consider the appointment of Modus Australia to supply a new abluion / laundry for the Nungarin Caravan Base. In terms of the Procurement and Tender Policy: 1.22, a detailed report is to be prepared for Council's consideration.

BACKGROUND

Council recently adopted the Caravan Base Master Development Plan as well as the Development Phase Plan. The Development Phase Plan indicates phase 1 as being the development of the abluion / laundry and the required infrastructure.

As a result of the Local Roads and Community Infrastructure grant, the Shire is now able to proceed with the phase 1 of the Caravan Base Master Development Plan.

In terms of the Procurement and Tender Policy 1.22, any works, development or services estimated between the value of \$100,000 - \$249,000, must have at least three written quotations from suppliers by formal invitation. In this regard a formal request outlining the specifications was emailed to the following:

- Modus Australia;
- ModularWA; and
- Modular Group of Companies.

The formal request for quotation required quotations to be submitted no later than 4:00pm 3 December 2021. Only one submission was received, that being the quotation from Modus Australia.

REPORT DETAIL

The ablation / laundry facility, will comprise of five (5) unisex ambulant ablutions, unisex disabled ablation and a laundry. In keeping with the military theme, it is recommended the colour of the building walls be “Cove” and the roof “Mangrove”. The quotation from Modus Australia is for the supply of the ablation only and the Shire will need to engage a builder to install the ablation which will include the electrical supply and sewer connection. However, the construction of an appropriate size septic system will be undertaken by another contractor once approval has been obtained from the Department of Health.



SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023

Focus Area	Economic
Aspiration	A diverse business environment with equitable telecommunications and infrastructure. We are uniquely Nungarin in providing a memorable visitor experience.
Objective	Promote and develop a thriving tourism sector

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

- *Local Government Act 1995; and*
- *Local Government (Administration) Regulations 1996.*

SUSTAINABILITY AND RISK CONSIDERATIONS**Economic – (Impact on the Economy of the Shire and Region)**

The development of an ablution / laundry will greatly improve the aesthetics of the Nungarin Caravan Base and make it more appealing to visitors. This would result in additional visitors possibly staying longer which in turn would have economic benefits to the Shire.

Social – (Quality of life to community and / or affected land owners)

Nil

Policy Implications

- Procurement and Tender Policy 1.22
“The Chief Executive Officer may raise a purchase order in accordance with the Procurement Thresholds and Requirements set out in 5.4 of this Procurement Policy to the maximum of \$100,000 (Excl GST).”

Risk Management Implications

Risk Level	Comment
Medium	Should Council resolve not to appoint the contractors, the process will be required to start new. This may have implications on the ability to finalise this project within the allocated funding timeframe.

CONSULTATION

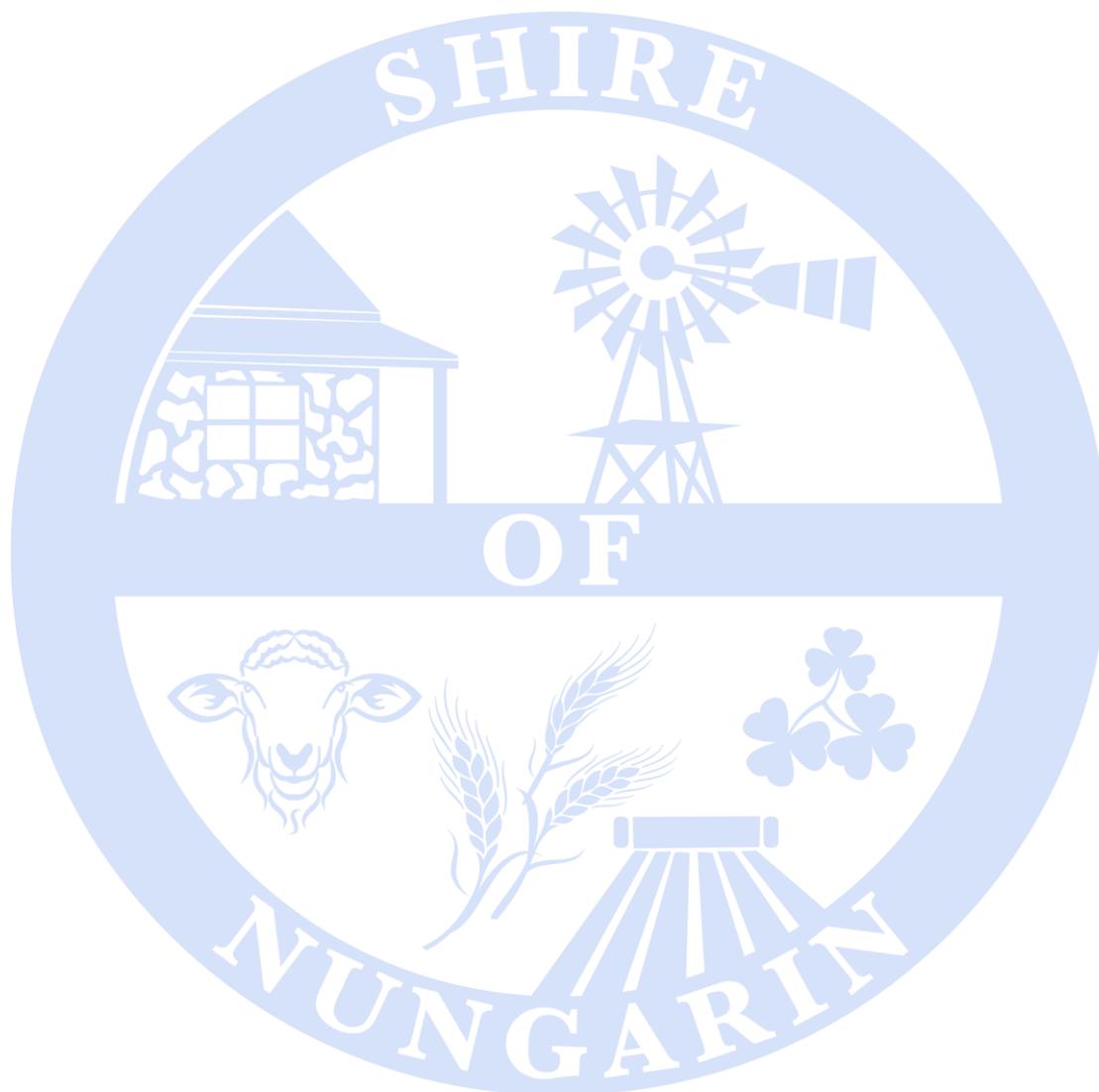
The ablution / laundry was included in the community consultation of the Nungarin Caravan Base Development Plan.

RESOURCE IMPLICATIONS**Financial**

The supply, construction and infrastructure has been included in the 2022/ 23 budget.

Workforce
Nil

end



8.7 PROPOSED SALE OF COUNCIL OWNED LAND	
File Ref:	4
Previous Item Ref:	Nil
Applicant:	Nil
Author and Title:	Leonard Long, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements	Absolute Majority
Attachment Number:	Nil

OFFICER RECOMMENDATION .../07/22

That Council Resolves to:

1. **Approve the listing of the following lots for sale at market valuations:**
 - a. Lot 188 (46) Danberrin Road
 - b. Lot 61 (48) First Avenue
 - c. Lot 76 (18) First Avenue
 - d. Lot 19 Elabbin
 - e. Lot 20 Elabbin
 - f. Lot 104 (39) Second Avenue
 - g. Lot 22 (14) Railway Avenue
 - h. Lot 23 (12) Railway Avenue
 - i. Lot 24 (10) Railway Avenue.

2. **Following compliance with s3.58(3) of the Local Government Act 1995, formally consider any “Offer to Purchase”.**

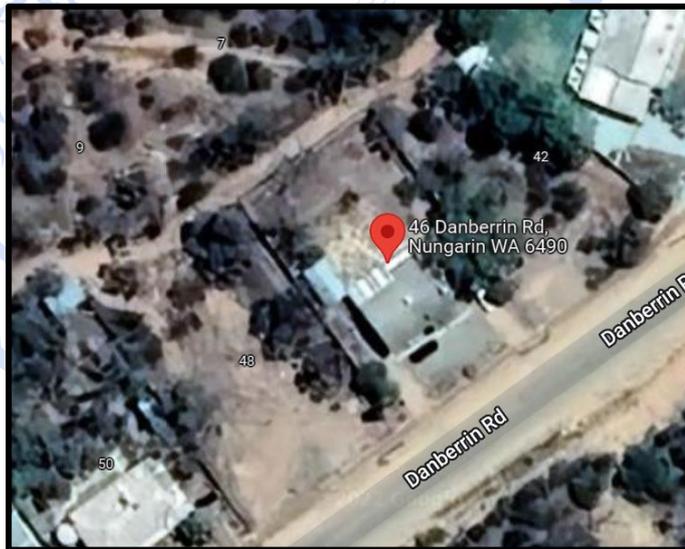
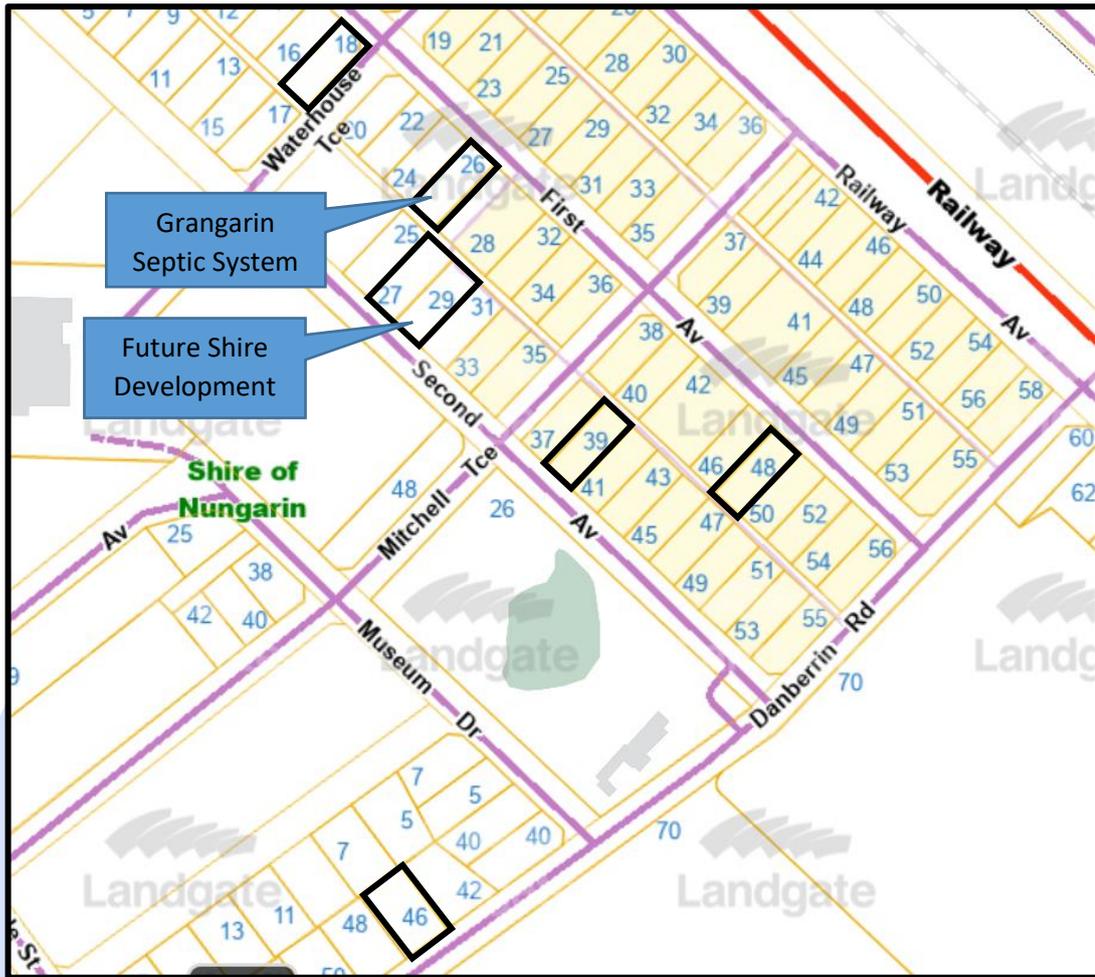
3. **Allocate proceeds received from the sale of the lot in (1.) above to the Building Reserve GL 102030.**

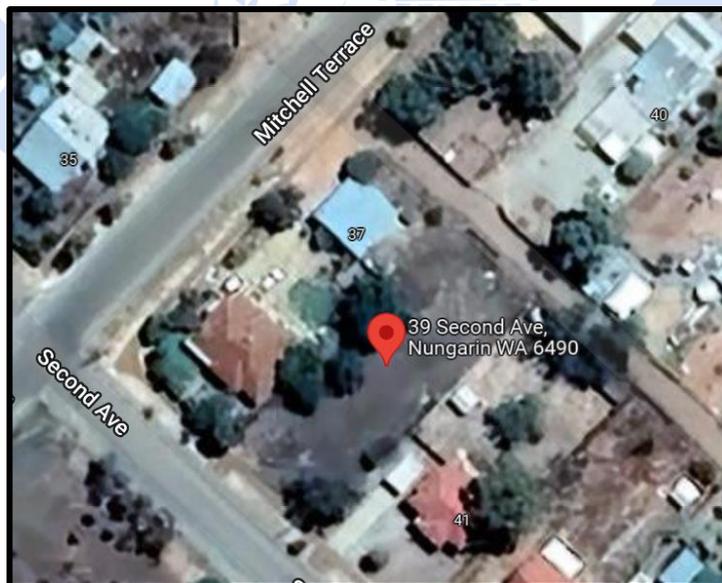
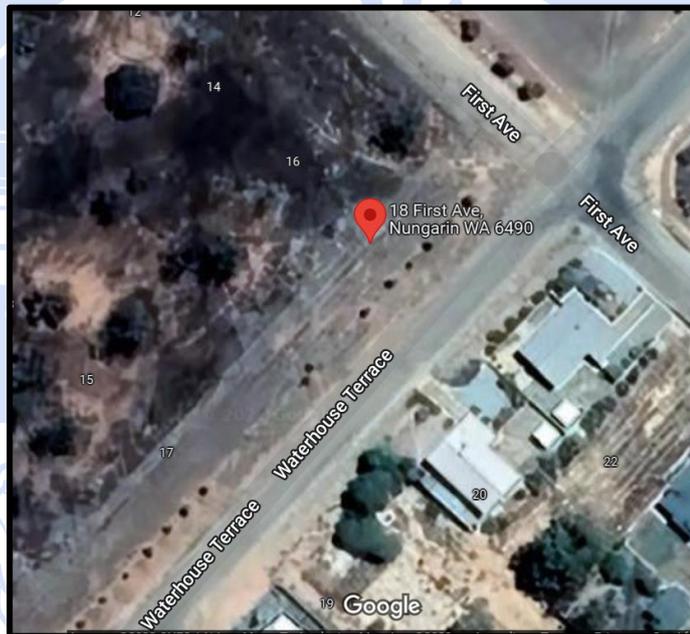
Moved:
Seconded:

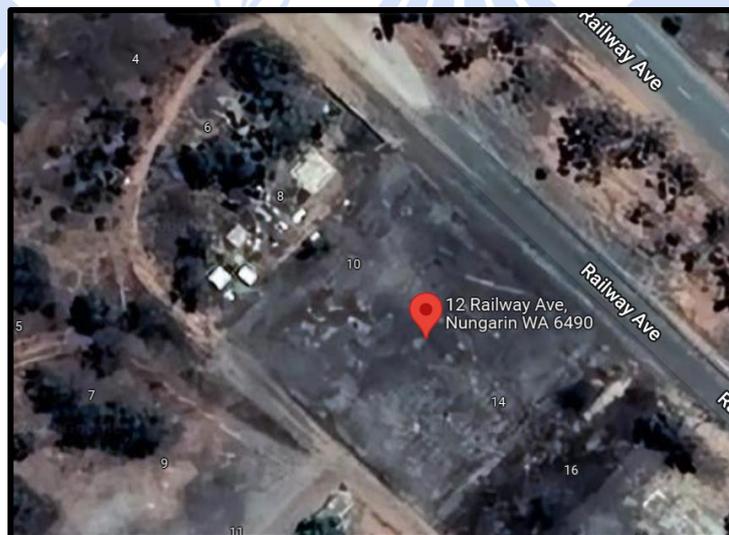
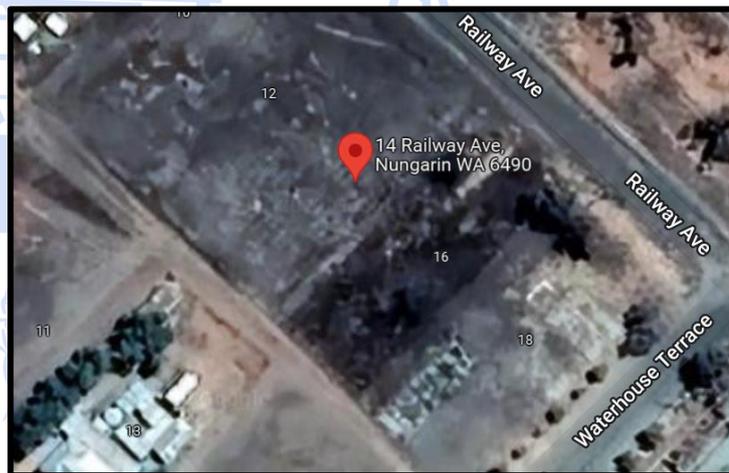
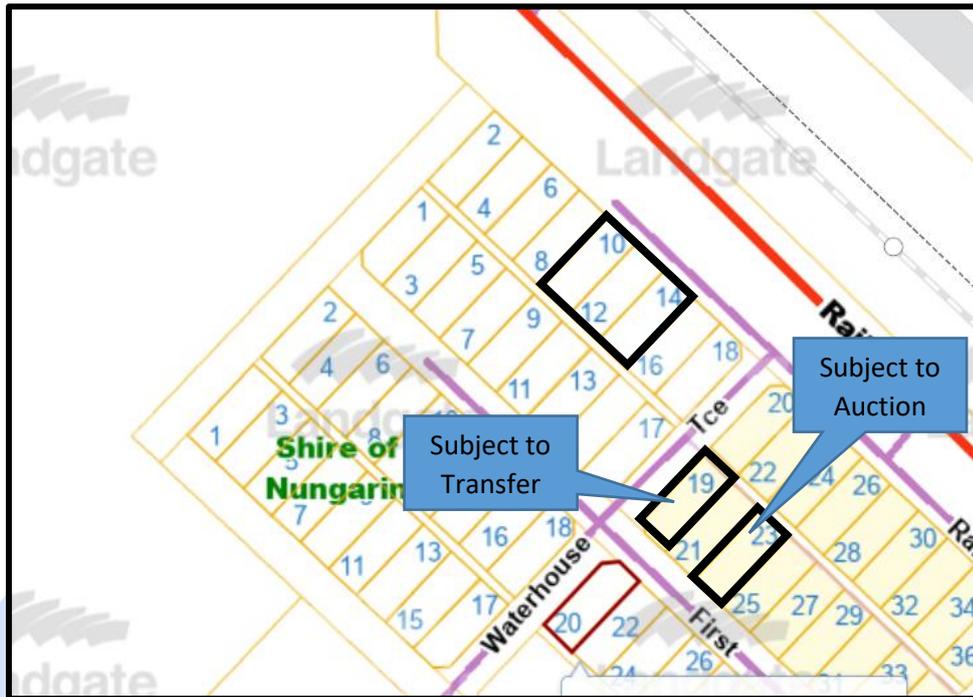
Absolute Majority Required
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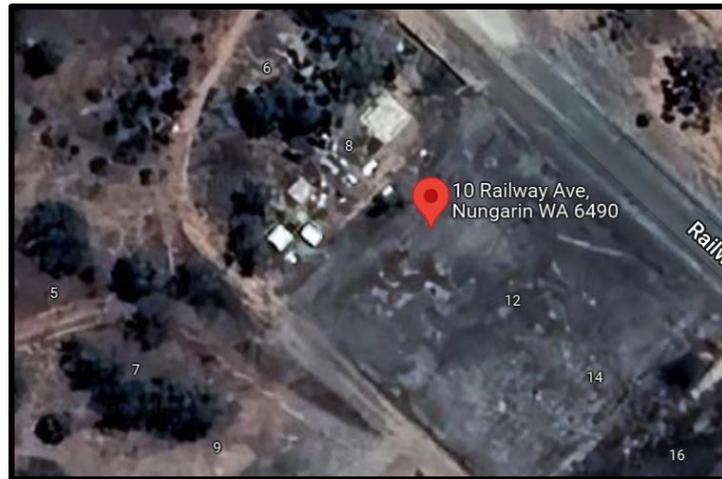
IN BRIEF

Council is requested to consider the sale of lots that are excess to the Shire needs as well as the sale of two developed lots where the dwellings are nearing the end of their life expectancy.









BACKGROUND

Over the years the Shire has obtained a number of properties due to non-payment of rates. These properties are in excess of the Shire needs should additional housing be required.

The property at 46 Danberrin Road (previously the Shire Cleaner house) is an old type asbestos house and will in the near future required significant maintenance i.e.

replacement of the asbestos roof which will be at a high cost. Further, the property at 61 First Avenue (previously the Agcare house) needs a complete refurbishment and also contains asbestos, making any maintenance of the building expensive.

REPORT DETAIL

All the lots proposed for sale with the exception of Lot 188 (46) Danberrin Road and Lot 61 (48) First Avenue are vacant lots.

Lot 188 (46) Danberrin Road, is a three-bedroom one-bathroom dwelling and has over the past couple of years had some renovations done. However, the dwelling is constructed out of asbestos including the roof which will in the near future need to be either restored or replaced. Being asbestos, this will be costly as only specialised contractors with an asbestos handling licence will be permitted to undertake the work which may exceed the actual value of the property.

Lot 61 (48) First Avenue, is a three-bedroom one-bathroom dwelling and has had minimal maintenance done over the years. This has resulted in the need for the dwelling to be significantly renovated to bring it up to an acceptable standard. As with the dwelling at Lot 188, this dwelling also has asbestos although not in the roof, nonetheless it would still be a costly exercise to renovate the house.

The alternative to renovating the properties is to demolish them and rebuild. However, due to the asbestos present in both dwellings a specialised contractor with an asbestos handling licence will be required to undertake the demolition, and would be a costly exercise.

It is recommended the properties listed are all sold, which in turn will generate albeit small, additional rates income for the Shire, but more importantly will provide Council the funds to possibly look at developing a new modern dwelling in the future.

It is proposed to retain two (2) vacant lots for possible future development by the Council, being Lot 99 (29) Second Avenue and Lot 98 (27) Second Avenue.

SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023

Focus Area	Economic
Aspiration	A diverse business environment with equitable telecommunications and infrastructure. We are uniquely Nungarin in providing a memorable visitor experience.
Objective	Assist in providing housing affordability and choice

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995 (LG Act)

The statutory requirements for the disposal of local government property is found in s3.58 of the LG Act.

Unless the sale is exempt, the Shire can dispose of the land in one (1) of three (3) ways:

- At a public auction;
- Via a public tender process;
- By ‘private treaty’ (i.e. a sale to an individual privately).

Public Auction - If the sale is conducted by auction, the land must be sold to the highest bidder. The *Auction Sales Act 1973* deals with the legalities of a sale by auction.

Tender - If the sale is conducted by public tender, the Shire may determine what is the “most acceptable tender, whether or not it is the highest tender”. In the sale of land, generally, the highest tender would be the most acceptable – although there may be cases where the tender is conditional, and the Shire may consider that the terms of the condition(s) mean the tender is not the most acceptable. Part four of the *Local Government (Functions and General) Regulations* deals with the requirements for public tenders where the local government calls for tenders for the supply of goods or services under s.3.57 of the Act.

Private Treaty - A sale by private treaty is the most complicated option. It requires, in summary:

- Ascertaining the market value of the property through a valuation carried out not more than 6 months before the proposed disposition.
- Reaching a conditional agreement with a proposed purchaser (which may or may not reflect the market valuation).
- Giving 2 weeks’ local public notice of the proposed disposition, describing the property concerned and the details of the proposed disposition (which must include the other party’s details, the market valuation and the amount at which the Shire proposes to sell).
- Council then considers any submissions made to it before the date specified in the notice, and then records its decision and the reasons for it in the minutes.

SUSTAINABILITY AND RISK CONSIDERATIONS

Economic – (Impact on the Economy of the Shire and Region)

The sale of the subject properties would have a positive impact on the economy of the Shire firstly by releasing additional residential lots and secondly by using the funds obtained towards constructing a modern dwelling.

Social – (Quality of life to community and / or affected land owners)

Nil

Policy Implications

Nil

Risk Management Implications

Risk Level	Comment
Medium	The vacant lots are surplus to the Shire’s needs and cost the Shire money to manage. In regard to the two dwellings, these having asbestos will require ongoing funds as a result.

CONSULTATION

At this stage, no consultation is required. However, prior to accepting an “Offer to Purchase” the *Local Government Act 1995* requires a notice be published for a period no less than 2 weeks notifying of the potential sale. Thereafter, Council is required to consider all submissions received prior to considering the offer.

RESOURCE IMPLICATIONS

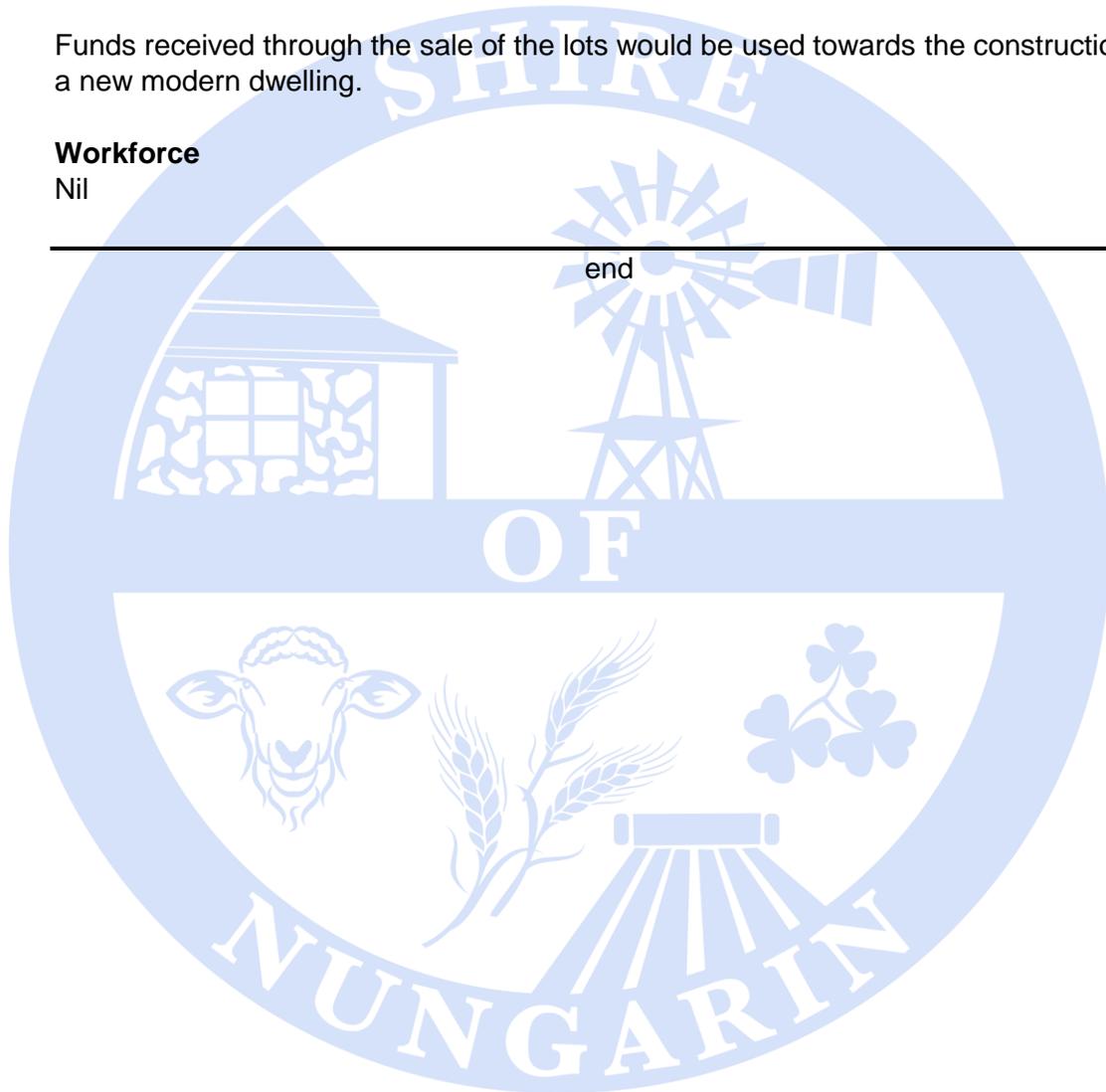
Financial

Funds received through the sale of the lots would be used towards the construction of a new modern dwelling.

Workforce

Nil

end



8.8 USE OF SHIRE COMMON SEAL – TRANSFER OF LOT 38 (19) FIRST AVENUE	
File Ref:	A1062
Previous Item Ref:	OCM Res 6784/12/21
Applicant:	Nil
Author and Title:	Leonard Long, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements	Absolute Majority
Attachment Number:	Nil

OFFICER RECOMMENDATION/07/22

That Council Resolves to:

1. Authorise the Shire President and Chief Executive Officer to apply the Shire Common Seal and sign all required documents associated with the transfer of Lot 38 (19) First Avenue.
2. Authorise the Chief Executive Officer on the finalisation of the transfer of the lot in (1.) above list the property for sale at market valuation.
3. Following compliance with s3.58(3) of the Local Government Act 1995, formally consider any “Offer to Purchase”.
4. Allocate proceeds received from the sale of the lot in (1.) above to the Building Reserve GL 102030

Moved:

Seconded:

Absolut Majority Required

..... / ...

IN BRIEF

Council is requested to consider the use of Shire Common Seal and the sale of the property.



BACKGROUND

Lot 38 (19) First Avenue, has been obtain from the executor of the estate due to unpaid rates.

REPORT DETAIL

The executor did not challenge the outstanding rates and has voluntarily handed the property over to Council.

The property is mostly vacant with a couple of dilapidated structures located at the rear of the property. Once transfer has been finalised the property will be cleared and tidied up, with all structure thereon demolished.

SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023

Focus Area	Economic
Aspiration	A diverse business environment with equitable telecommunications and infrastructure. We are uniquely Nungarin in providing a memorable visitor experience.
Objective	Assist in providing housing affordability and choice

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT*Local Government Act 1995 (LG Act)*

The statutory requirements for the disposal of local government property is found in s3.58 of the LG Act.

Unless the sale is exempt, the Shire can dispose of the land in one (1) of three (3) ways:

- At a public auction;
- Via a public tender process;
- By 'private treaty' (i.e. a sale to an individual privately).

Public Auction - If the sale is conducted by auction, the land must be sold to the highest bidder. The *Auction Sales Act 1973* deals with the legalities of a sale by auction.

Tender - If the sale is conducted by public tender, the Shire may determine what is the "most acceptable tender, whether or not it is the highest tender". In the sale of land, generally, the highest tender would be the most acceptable – although there may be cases where the tender is conditional, and the Shire may consider that the terms of the condition(s) mean the tender is not the most acceptable. Part four of the *Local Government (Functions and General) Regulations* deals with the requirements for public tenders where the local government calls for tenders for the supply of goods or services under s.3.57 of the Act.

Private Treaty - A sale by private treaty is the most complicated option. It requires, in summary:

- Ascertaining the market value of the property through a valuation carried out not more than 6 months before the proposed disposition.
- Reaching a conditional agreement with a proposed purchaser (which may or may not reflect the market valuation).
- Giving 2 weeks’ local public notice of the proposed disposition, describing the property concerned and the details of the proposed disposition (which must include the other party’s details, the market valuation and the amount at which the Shire proposes to sell).
- Council then considers any submissions made to it before the date specified in the notice, and then records its decision and the reasons for it in the minutes.

SUSTAINABILITY AND RISK CONSIDERATIONS

Economic – (Impact on the Economy of the Shire and Region)

The sale of the subject properties would have a positive impact on the economy of the Shire firstly by releasing additional residential lots and secondly by using the funds obtained towards constructing a modern dwelling.

Social – (Quality of life to community and / or affected land owners)

Nil

Policy Implications

Nil

Risk Management Implications

Risk Level	Comment
Medium	The vacant lot will be surplus to the Shire’s needs and cost the Shire money to manage with no return.

CONSULTATION

At this stage, no consultation is required. However, prior to accepting an “Offer to Purchase” the *Local Government Act 1995* requires a notice be published for a period no less than 2 weeks notifying of the potential sale. Thereafter, Council is required to consider all submissions received prior to considering the offer.

RESOURCE IMPLICATIONS

Financial

Nil

Workforce

Nil

end

8.9 WHEATBELT SECONDARY FREIGHT NETWORK GOVERNANCE PLAN	
File Ref:	26.8
Previous Item Ref:	OCM Res 6216 of 19 June 2019 OCM Res 6261 of 18 September 2019
Applicant:	Nil
Author and Title:	Leonard Long, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements	Simple Majority
Attachment Number:	8.9A – Draft Governance Document

OFFICER RECOMMENDATION/07/22

That Council Resolves to:

1. **Endorse the Wheatbelt Secondary Freight Network Governance Plan attachment 8.9A with the following recommendations:**
 - a. **Clause 10.1 Role and Responsibilities, dot point 14, replace the word “periodic” with “annual”.**
 - b. **Clause 11.2.3 Voting and Decision Making, first paragraph, last sentence, should read “If there is no majority, then the matter shall be referred to the Steering Committee for consideration.”**
 - c. **Clause 12.1 Program Director, second last paragraph, replace the work “periodic” with “annual”.**

Moved:

Seconded:

..... / ...

IN BRIEF

Council is requested to consider changing the date for the 14th December 2022 Ordinary Council Meeting.

BACKGROUND

The Wheatbelt Secondary Freight Route (WSFR) network in the Main Roads WA Wheatbelt region comprises some 4,400km of Local Government managed roads that connect with State and National highways to provide access for heavy vehicles into the region.

These roads are intended to enable large, high productivity trucks safe and cost-effective access to business. The WSFR project is developing a business case, with the supporting evidence and documentation required, to seek the addition of a program of road improvements across the network be added to the Infrastructure Australia Priority List.

The original Governance document was “received” by Council at is September 2019 Ordinary Council Meeting. However, over time this document has become outdated

and no longer considered appropriate. As such the current governance document **attachment 8.9A** has been developed for Council consideration.

REPORT DETAIL

On review of the draft governance plan (**attachment 8.9A**), it is considered to be a vast improvement on the original document and is now a robust document providing clear and concise direction on the roles and procedures relating to the Steering Committee, Technical Committee, Program Director and the Project Manager.

However, the following minor amendments / considerations need to be raised:

Clause 10.1 Role and Responsibilities, dot point 14, as well as clause 12.1 Program Director, refers to “periodic” requirement for performance and development reviews. Whilst it is understood these positions are not governed under the *Local Government Act 1995* (the Act), it is recommended as consistent as possible with the Act by replacing the word “periodic” with “annual”. This will provide a clear direction to the relevant committee responsible for the performance review.

With regard to clause 11.2.3 Voting and Decision Making, first paragraph, last sentence. It is considered, problematic for the Chairperson who in this case would be the Project Director to have a casting vote.

If the Technical Committee cannot resolve a situation through the voting requirements outlined in the document, it should not be left to an “employee” to have the casting vote. It is considered to be more appropriate if in such a situation the matter be referred to the Steering Committee to resolve.

SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023

Focus Area	Civic Leadership
Aspiration	A strong local democracy with an actively engaged community and effective partnership.
Objective	A Shire that prospers through partnerships and good governance

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Nil

SUSTAINABILITY AND RISK CONSIDERATIONS

Economic – (Impact on the Economy of the Shire and Region)

Nil

Social – (Quality of life to community and / or affected land owners)

Nil

Policy Implications

Nil

Risk Management Implications

Risk Level	Comment
Medium	The WSFN is a large project and without a strong governance plan could be open to misinterpretation.

CONSULTATION

Nil

RESOURCE IMPLICATIONS

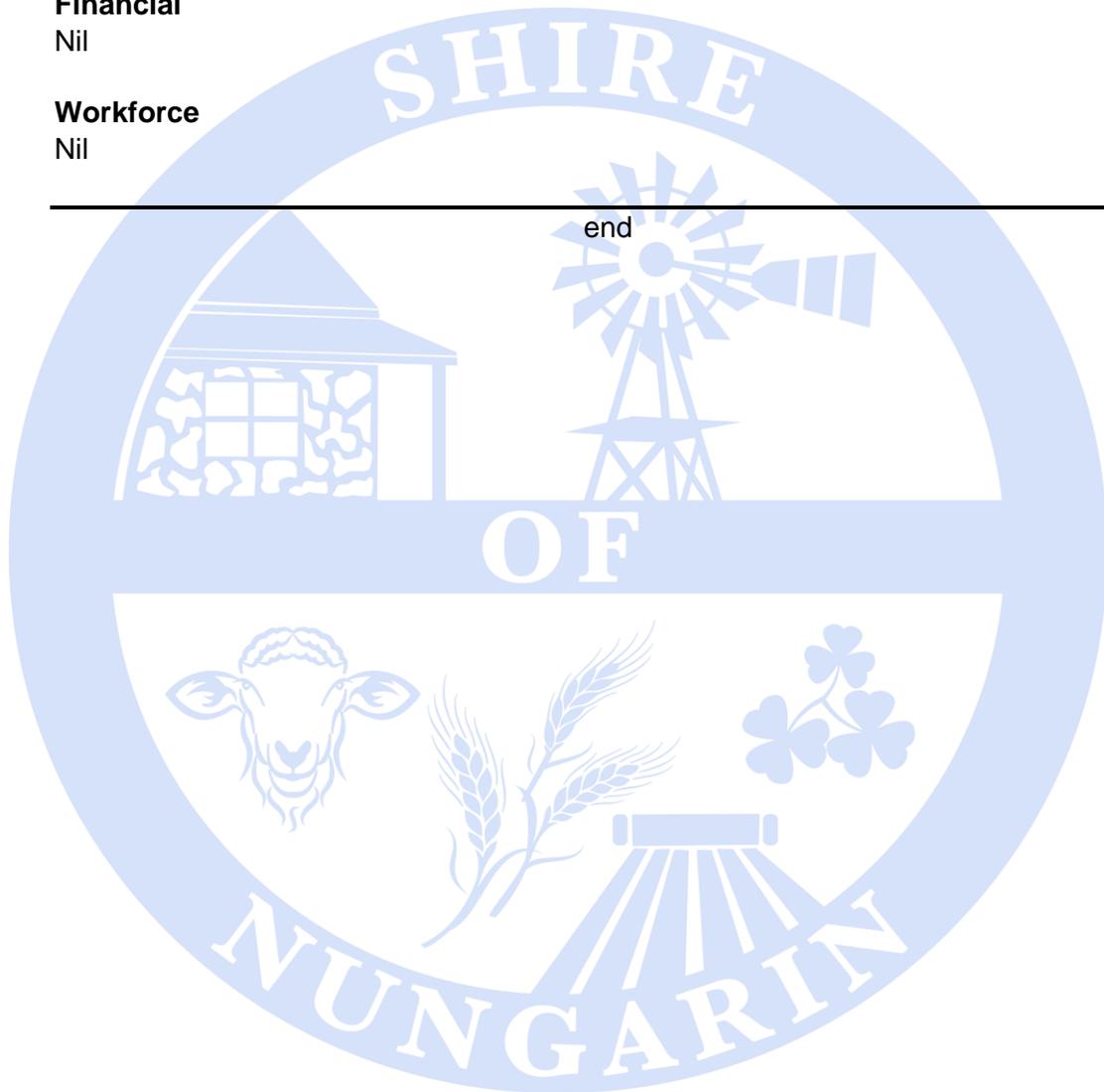
Financial

Nil

Workforce

Nil

end



8.10 REQUEST TO WAIVE HIRE FEES ASSOCIATED WITH THE HOMEGROWN MUSIC FESTIVAL	
File Ref:	24.2.4.2
Previous Item Ref:	OCM Res 6732 of 18 August 2021
Applicant:	Nil
Author and Title:	Leonard Long, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements	Simple Majority
Attachment Number:	Nil

OFFICER RECOMMENDATION/07/22

That Council Resolves to:

1. Approves the request from the HomeGrown Music Festival event organiser to waive the hire fee for the recreation centre building, recreation oval and portable toilets, subject to the payment of all the required bonds prior to the event.
2. Request the HomeGrown Music to recognise the Shire of Nungarin as a sponsor of the event on all advertising material

Moved:

Seconded:

..... / ...

IN BRIEF

Council is requested to consider waiving the hire fee associated with hiring Council facilities required to host the annual HomeGrown Music Festival.

BACKGROUND

A request has been received from the event organisers for the HomeGrown Music Festival to be held at the Nungarin Recreation grounds in October 2022, to waive the hire fee imposed through the approved Fees and Charges.

REPORT DETAIL

New events generally carry a high risk of not been as successful as hoped. The initial outlay to host a music event is high due to the cost of hiring bands as well as the equipment and security at the event. Being only the second year there are a number of unknowns associated with the potential attendance of the event.

Events such as the HomeGrown Music Festival are good for the economy of the Town due to the volume of festival patrons attracted to town, who use the local shop and or pub. It also showcases other attractions in town like the Nungarin Heritage Machinery and Army Museum.

Officers believe it is important for the Council to support any event held in town and as such recommend the waiver of hire fees. However, Officers do not support the waiver

of any bonds due to the potential of damage to the facility, and the fact that should the facility and grounds be returned and provided the bonds will be refunded.

SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023

Focus Area	Social
Aspiration	Our Shire is healthy and happy, contributing to our progress, with accessible places and spaces and our transport is well connected and safe.
Objective	Plan and deliver sport and recreation, public and community events.

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Nil

SUSTAINABILITY AND RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

The economy of the Shire will benefit from the event, due to the number of people the event attracts to town who are likely to spend money in town.

Social - (Quality of life to community and/or affected landowners)

Due to the relative remote location of Nungarin an event such as being proposed will provide both the immediate community as well as the surrounding community an additional social event to attend.

Policy Implications

Nil

Risk Management Implications

Risk Level	Comment
Moderate	Events as proposed could attract large numbers of people. Waiving the bond is considered a risk due to potential damage.

CONSULTATION

Nil

RESOURCE IMPLICATIONS

Financial

Using the current 2021/22 fees and charges the cost to the Shire will be \$1,387.

Workforce

Nil

end

8.11 REQUEST TO WAIVE HIRE FEES ASSOCIATED WITH THE MANGOWINE MUSIC CONCERT	
File Ref:	24.2.3.3
Previous Item Ref:	OCM Res 6753 of 15 September 2021
Applicant:	Nil
Author and Title:	Leonard Long, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements	Simple Majority
Attachment Number:	Nil

OFFICER RECOMMENDATION .../07/22

That Council Resolves to:

- 1. Approve the request from the Mangowine Concert Committee to:

 - a. Host the annual Mangowine Concert at the Mangowine Homestead in October 2022.**
 - b. Waive the fee for the hire of the community bus for the event.**
 - c. Waive the fee for the Shire to print the program for the event.**
 - d. Waive the hire fee for the use of the Blue Room at the recreation centre by the Curtin Volunteers.**
 - e. Pay a maximum of \$300 towards meals for the Curtin Volunteers.****
- 2. Advise the Mangowine Concert Committee that a refundable bond of \$300 is payable prior to the event.**
- 3. Request the Mangowine Concert Committee to recognise the Shire of Nungarin as a sponsor of the event on all advertising material.**

Moved:

Seconded:

..... / ...

IN BRIEF

Council is requested to consider waiving fees associated with hiring Council facilities and Community bus required to host the annual Mangowine Music Festival.

BACKGROUND

A verbal request has been received from the Mangowine Concert Committee to waive certain fees contained in the approved fees and charges and to contribute financially towards the meals required for the volunteers.

REPORT DETAIL

The Mangowine music festival is a well know event throughout the regional area as well as the Perth Metropolitan area. The event attracts hundreds of patrons to Nungarin and provides a strong economic boost to the town.

The cost of hosting such an event is considerably high and can only be hosted through sponsorships.

It is considered important for the Council to support events such as the Mangowine Music Festival through the waiver of fees. However, Officers do not support the waiver of any bonds due to the potential of damage to the facility and equipment, as the bonds will be refunded should the facility and equipment be returned without any damage.

SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023

Focus Area	Social
Aspiration	Our Shire is healthy and happy, contributing to our progress, with accessible places and spaces and our transport is well connected and safe.
Objective	Plan and deliver sport and recreation, public and community events.

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

Nil

SUSTAINABILITY AND RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

The economy of the Shire will benefit from the event, due to the number of people the event attracts to town who are likely to spend money in town.

Social - (Quality of life to community and/or affected landowners)

Due to the relative remote location of Nungarin an event such as being proposed will provide both the immediate community as well as the surrounding community an additional social event to attend.

Policy Implications

Nil

Risk Management Implications

Risk Level	Comment
Moderate	Events as proposed could attract large numbers of people. Waiving the bond is considered a risk due to potential damage.

CONSULTATION

Nil

RESOURCE IMPLICATIONS

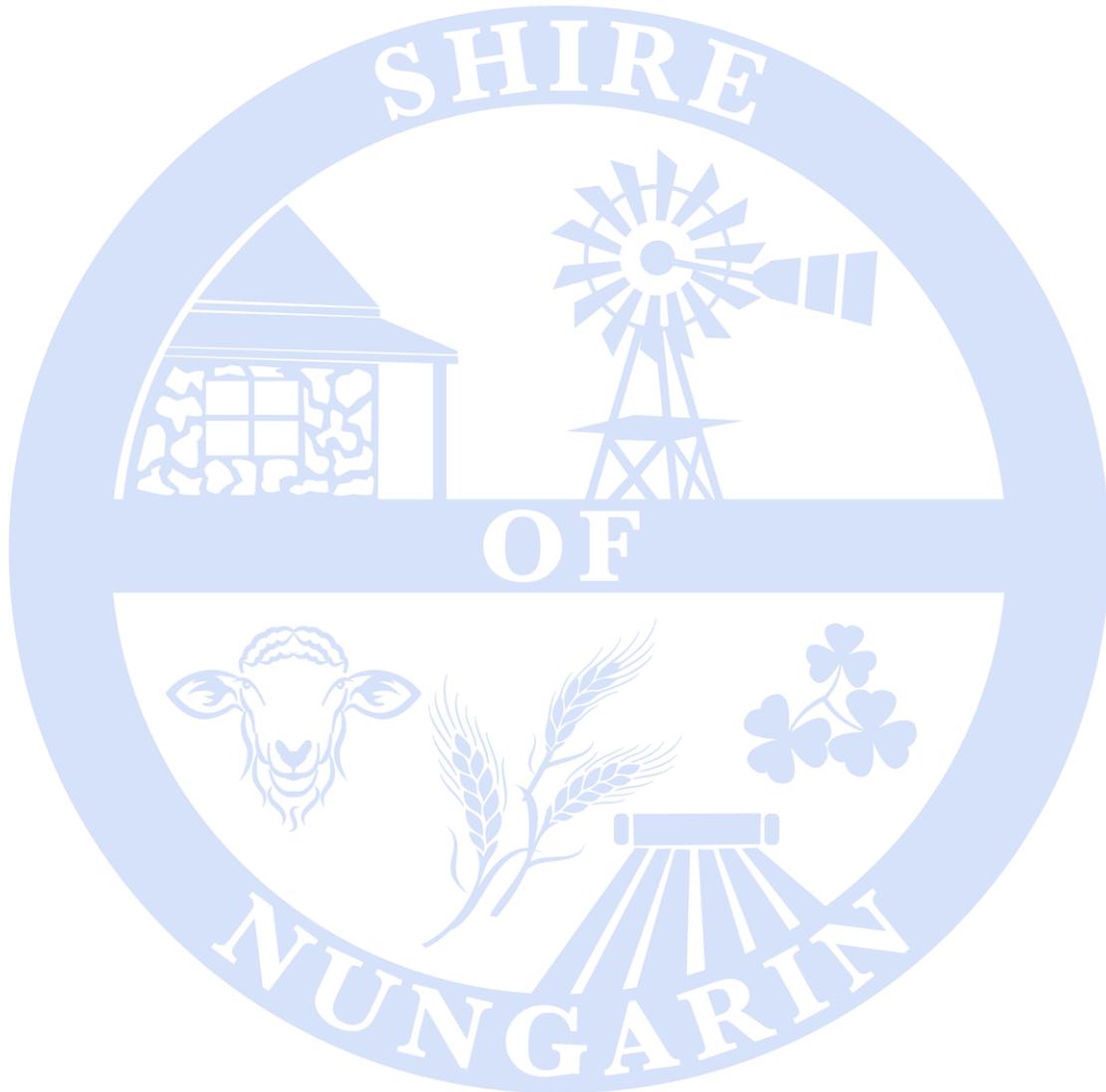
Financial

The Shire currently contributes \$6,000 in in-kind assistance the approval of the current request will add an additional \$531. If supported, the bond payable to the Shire will be \$300.

Workforce

Nil

end



8.12 WALGA PROPOSED ADVOCACY POSITION ON ARRANGEMENTS FOR VOLUNTEER BUSHFIRE BRIGADES	
File Ref:	8.3
Previous Item Ref:	Nil
Applicant:	Nil
Author and Title:	Leonard Long, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements	Simple Majority
Attachment Number:	8.12A – WALGA Advocacy Position

OFFICER RECOMMENDATION .../07/22

That Council Resolves to:

1. Advise WALGA that having considered the proposed Advocacy Position paper prepared by WALGA have determined the Shire of Nungarin does not have the capacity, capability or resources to sufficiently manage a Bush Fire Brigade and the preference would be Option 4 – Transfer.
2. Request the Chief Executive Officer to notify WALGA of the Council’s preference notes in (1.) above.

Moved:
 Seconded:
 / ...

IN BRIEF

For Council to consider a Western Australian Local Government Association (WALGA) advocacy position in relation to the management of Volunteer Bushfire Brigades.

BACKGROUND

WALGA have produced the “Arrangements for Management of Volunteer Bush Fire Brigades: Proposed Advocacy Position” paper (attached), and has sought Local Government’s views.

The implementation of the *Work Health and Safety Act 2020*, has raised concerns with the appropriateness of Local Governments being the responsible entity for the management of Volunteer Bushfire Brigades.

In addition, the State Government is currently drafting the *Consolidated Emergency Services Act*, which consolidates the *Fire Brigades Act 1942*, *Bush Fires Act 1954* and *Fire and Emergency Services Act 1998* into a single piece of legislation, anticipated to be released as a Green Bill in early 2023.

Therefore, WALGA consider consultation on a new Advocacy Position with respect to management of BFBs appropriate at this time. WALGA's Infopage is also attached for Councillors information.

REPORT DETAIL

Current Arrangements

FESA (now the Department of Fire and Emergency Services (DFES)) was established in 1999 for the purpose of improving coordination of the State's emergency services, replacing the Fire Brigades and Bush Fires Boards. DFES provides strategic leadership for emergency services across WA. DFES manages the career fire and rescue service, as well as a number of volunteer emergency services: Volunteer Fire and Emergency Services (VFES); Volunteer Fire and Rescue Service (VFRS); State Emergency Services (SES); and Marine Rescue Western Australia.

Western Australia is the only state within which Local Governments manage bushfire volunteers (pursuant to the Bush Fire Act 1954), with all other States bushfire volunteers managed by either a State agency or independent body. It is understood, due to its long association, Local Governments and Bush Fire Brigades have formed a good working relationship, allowing brigades to operate autonomously for the most part, and allowing local knowledge and expertise to guide the direction of bush fire management.

Whilst each Local Government relationship with its Bush Fire Brigades will differ, it is important that whatever form the new management structure looks like, the ability for local input from brigades and volunteers is protected

Emergency Management Survey

In 2021, WALGA undertook an Emergency Management Survey, where Local Governments were asked about their level of satisfaction with current arrangements for managing BFBs. 92 Local Governments (69 of which manage BFBs) provided the following feedback:

- 93% were not wholly satisfied with the current arrangements for the management of BFBs; and
- 51% expressed that their Local Government does not support the requirements for Local Governments to manage BFBs.

Euan Ferguson Special Inquiry – Waroona/Yarloop Fires

After the 2016 Waroona/Yarloop bushfires, Mr. Euan Ferguson AFSM was appointment to undertake an inquiry into the events of that incident, with the "Report of the Special Inquiry into the January 2016 Waroona Fire" (Ferguson Report), detailing his findings. Whilst a number of recommendations were made, of importance to this matter was Recommendation 153, which recommends establishment of a Rural Fire Service:

Recommendation 15: The State Government to create a Rural Fire Service to enhance the capability for rural fire management and bushfire risk management at a State, regional and local level. The proposed Rural Fire Service will:

- *be established as a separate entity from the Department of Fire and Emergency Services or, alternatively, be established as a sub-department of the Department of Fire and Emergency Services;*
- *have an independent budget;*
- *be able to employ staff;*
- *have a leadership structure which, to the greatest degree possible, is regionally based and runs the entity;*
- *be led by a Chief Officer who reports to the responsible Minister on policy and administrative matters; and to the Commissioner for Fire and Emergency Services during operational and emergency response;*
- *have responsibilities and powers relating to bushfire prevention, preparedness and response; and*
- *operate collaboratively with the Department of Fire and Emergency Services, the Department of Parks and Wildlife, Local Government and volunteer Bush Fire Brigades.*

In creating the Rural Fire Service, the State Government to consider whether back office and corporate support services could be effectively provided by an existing Department, such as the Department of Fire and Emergency Services or the Department of Parks and Wildlife. The State Government to review the creation of the Rural Fire Service two years after its establishment, to assess whether its structure and operations are achieving the intended outcome.

On page 12 of the Ferguson Report, it states:

“It is my view that there exists a need to effect fundamental changes to the system of rural fire management in Western Australia. My conclusion, which has been very carefully considered, is that the current system for managing bushfire in Western Australia is failing citizens and the government.”

In 2017 the State Government hosted a bushfire mitigation summit at which a number of options were considered by stakeholders:

- a rural fire service operated within DFES;
- a rural fire service operated within DFES with autonomy; and
- a dedicated rural fire service that operated independently.
- Options to transfer the management of all BFBs under one umbrella – DFES or other – were also explored.

In 2018 a Rural Fire Division was established under DFES in response to the inquiry, however it seems to be a support mechanism as opposed to a responsible entity at this stage. This is likely due to the requirement for a legislative change to remove Local Governments as the responsible agency and/or establish the Rural Fire Division or another entity as the responsible agency.

Work Health and Safety Act 2020

The Ferguson Report describes the complexities and risks associated with bushfire fighting as follows:

“Hindsight is a wonderful thing. But we must act with disciplined caution when exercising this hindsight. It must always be remembered that those who were key players in this fire emergency were not afforded such luxury. Many individuals, be they citizens or members of agencies or in community teams, worked in extreme and challenging conditions. Many were hot, hungry, dehydrated and sometimes sick with worry and exhaustion. Dangers were ever present. Fast decisions had to be made with information that was incomplete and sometimes conflicting. There were many unknowns. People made decisions. Assumptions changed. Best laid plans failed. Teams used their initiative and adjusted. Even the most straightforward of tasks became complex. Emergency and essential services worked to create order out of chaos. Everyone worked against time and the progression of the fire.

It would be easy to look at any shortcomings and be tempted to fall into the trap of finding fault and allocating blame. This must be resisted. In striving for excellence in bushfire emergency management, it must be recognised that there are many parts of the system: the fire, the weather, the terrain and the actions and reactions of people that are subject to sudden and unpredictable change. Under these conditions, much is unknown. Almost everything is shrouded by uncertainty. People make judgements and those judgements are not infallible. Errors can and do occur, despite the best intentions and best efforts of people.”

Whilst the Ferguson Report was not intended to find fault or place blame, the new *Work Health and Safety Act 2020* (WHS Act) is. The WHS Act is specifically designed and written to provide standards and responsibilities for health and safety, in order to provide a path for finding fault, allocating blame and then punishing those who are at fault.

The key features of the WHS Act are provided in the following extract from the “Overview of Western Australia’s *Work Health and Safety Act 2020*” put out by the Department of Mines, Industry Regulation and Safety, and Worksafe:

- The primary duty holder is the ‘person conducting a business or undertaking’ (PCBU) which is intended to capture a broader range of contemporary workplace relationships.
- A primary duty of care requiring PCBUs to, so far as is reasonably practicable, ensure the health and safety of workers and others who may be affected by the carrying out of work.
- Duties of care for persons who influence the way work is carried out, as well as the integrity of products used for work, including the providers of WHS services.
- A requirement that ‘officers’ exercise ‘due diligence’ to ensure compliance.
- The new offence of industrial manslaughter, which provides substantial penalties for PCBUs where a failure to comply with a WHS duty causes the death of an individual, in circumstances where the PCBU knew the conduct could cause death or serious harm.
- The voiding of insurance coverage for WHS penalties, and imposition of penalties for providing or purchasing this insurance.
- The introduction of WHS undertakings, which are enforceable, as an alternative to prosecution.

- Reporting requirements for ‘notifiable incidents’ such as the serious illness, injury or death of persons and dangerous incidents arising out of the conduct of a business or undertaking.
- A framework to establish a general scheme for authorisations such as licences, permits and registrations (for example, for persons engaged in high-risk work or users of certain plant or substances), including provisions for automated authorisations.

The WHS Act requires employers, or PCBU’s to provide a safe workplace for “workers”, and defines workers to be:

- any person who carries out work for a PCBU, including work as an employee, contractor, subcontractor, self-employed person, outworker, apprentice or trainee, work experience student, employee of a labour hire company placed with a ‘host employer’ and **volunteers**.

The *Bush Fires Act 1954* (BF Act) deems a Volunteer Fire Fighter to be:

- *a bush fire control officer, a person who is a registered member of a bush fire brigade established under this Act or a person working under the direction of that officer or member.*

The Shire of Nungarin currently has 3 (fully trained) 7 (untrained), registered bush fire brigade volunteers. However, as per the BF Act, during an incident, any person acting under the direction of a bush fire control officer or brigade member is classed as a volunteer. As such, the Shire as a body corporate, and the Executive Shire staff as individuals, are responsible for providing a safe workplace for registered volunteers as well as any number of un-registered persons who attend an incident to assist under direction.

This type of scenario places a substantial level of responsibility on the Shire and its executive staff when considering the high-risk nature of bush firefighting coupled with a large number of un-registered persons who may attend a bush fire under direction, of which the Shire and executive staff are responsible for their safety.

Volunteer Insurance

Whilst Local Governments remain the responsible agency for Bush Fire Volunteers, they remain responsible for providing compensation for injury caused to present and former volunteers as a result of their duties. The commercial insurance market ceased writing injury insurance for volunteers in 2012, therefore a self-insurance mutual scheme was implemented to ensure that Local Governments continue to meet this obligation.

Since 2012, due to the high cost of claims, the aggregate limit of liability has increased from \$250,000 to \$750,000. In addition, the annual cost of insurance has nearly doubled (92%) from \$47.50 to \$91.20 per volunteer, and it is expected that this trend will continue.

WALGA Proposed Advocacy Position Statement

WALGA have identified four advocacy options for the future management of Bush Fire Brigades, as follows:

1. **Status quo** - continue with the current arrangements for management of BFBs whereby the majority are managed by Local Government and transfer arrangements are negotiated on an ad hoc basis between DFES and Local Governments (or their BFBs).
2. **Improvements** - continue with the current arrangements for Local Government management of BFBs with additional support provided by the State Government with respect to increased funding and better access to training resources and other support.
3. **Hybrid Model** - Local Government continues to manage BFBs where they have the capacity, capability and resources to do so; however, where they do not have the capacity, capability and resources, responsibility for management of BFBs is transferred to DFES.
4. **Transfer** - Responsibility for management of all BFBs is transferred to the State Government, consistent with the arrangements in other States and Territories.

WALGA's preferred position is to support a **hybrid model** for the management of BFBs.

WALGA state:

A hybrid model would enable the continued management of BFBs by those Local Governments with capacity, capability and resources to do so, while providing a framework for the transfer of the management of BFBs to the State Government where a Local Government does not.

Whatever the arrangements for future management of BFBs, it is apparent that Local Governments with responsibility for management of BFBs require additional support and resourcing which should be provided by the State Government, including:

- development of a suite of guidelines and resources to assist Local Governments in their management of BFBs, particularly with respect to the discharge of obligations under the *Work Health and Safety Act 2021*;
- expansion of the Community Emergency Services Manager Program (CESM) so that every Local Government with responsibility for managing BFBs has access to the Program if they wish to participate;
- universal access to DFES training for BFBs; and
- development of mandatory and minimum training requirements including recognition of competency for volunteers.

WALGA's proposed Advocacy positions is as follows:

1. The Association advocates that the State Government must provide for:

- a. A clear pathway for Local Governments to transfer responsibility for the management of Bush Fire Brigades to the State Government when ongoing management is beyond the capacity, capability and resources of the Local Government;
 - b. The co-design of a suite of relevant guidelines and materials to assist those Local Governments that manage Bush Fire Brigades;
 - c. Mandatory and minimum training requirements for Bush Fire Brigade volunteers supported by a universally accessible training program managed by the Department of Fire and Emergency Services (DFES); and
 - d. The recognition of prior learning, experience and competency of Bush Fire Brigade volunteers.
2. That a Working Group comprising representatives of WALGA and DFES be established to develop a process and timeline for the transfer of responsibility for Bush Fire Brigades in accordance with 1(a).
 3. Where management of Bush Fire Brigades is transferred to DFES in accordance with 1(a), DFES should be resourced to undertake the additional responsibility.

As detailed in the Ferguson Report, fighting bushfires is a high-risk activity, undertaken by volunteers, some register, others un-registered, under direction of a Fire Control Officer or Brigade Member.

The *Work Health and Safety Act 2020* has placed significant responsibility on the Local Governments and their Executive Staff to ensure a safe working environment for its workers, of which includes volunteers.

Given the safety implications of volunteers, both registered and un-registered, undertaking high-risk activities, it is not considered that Local Government are best placed to manage these ongoing risks.

As detailed in the Ferguson report, it is the officer's opinion that a Rural Fire Service, or similar type entity should be established as the sole responsible agency for the management of rural and bush fire management. An entity that is adequately resourced to be able to provide the plant, equipment and training required to manage these risks.

At present there is an overlap between the Department of Fire and Emergency Services (DFES) and Local Government in relation to Bush Fire Brigades. DFES seem to assume the role of managing the plant and equipment resourcing; and training and education needs of brigades, with the Shire responsible for the safety risks.

This has most likely evolved over time due to DFES being best placed to provide those resources and services. It is therefore another indication that a state government managed entity would be best placed to manage the volunteer bush fire brigades.

The ability for local brigades to continue to provide input into the ongoing management of bush fires is paramount for any future management structure. As such, the Hybrid Model proposed by WALGA holds merit in that it allows Local Governments to either maintain control; or, hand over control of Bush Fire Brigades.

SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023

Focus Area	Civic Leadership
Aspiration	A strong local democracy with an actively engaged community and effective partnerships.
Objective	A Shire that prospers through partnerships and good governance.

OTHER STRATEGIC LINKS

Nil

STATUTORY ENVIRONMENT

- Works Health and Safety Act 2020
- Bush Fires Act 1954

SUSTAINABILITY AND RISK CONSIDERATIONS

Economic - (Impact on the Economy of the Shire and Region)

Nil

Social - (Quality of life to community and/or affected landowners)

Nil

Policy Implications

Nil

Risk Management Implications

Risk Level	Comment
Extreme	Under the new WHS Act the Shire and Executive Staff are placed in a very vulnerable position being responsible for the safety of volunteers. This is further exacerbated by the fact the Shire does not have the resources to be able to efficiently run a BFB.

CONSULTATION

Nil

RESOURCE IMPLICATIONS

Financial

Up to \$10 Million in uninsurable organisational maximum penalties for the most serious failures to comply with the new WHS Act 2020.

WALGA Local Governments are responsible for providing compensation for injury caused to present and former BFB volunteers as a result of their duties. The commercial insurance market ceased writing injury insurance for volunteers in 2012,

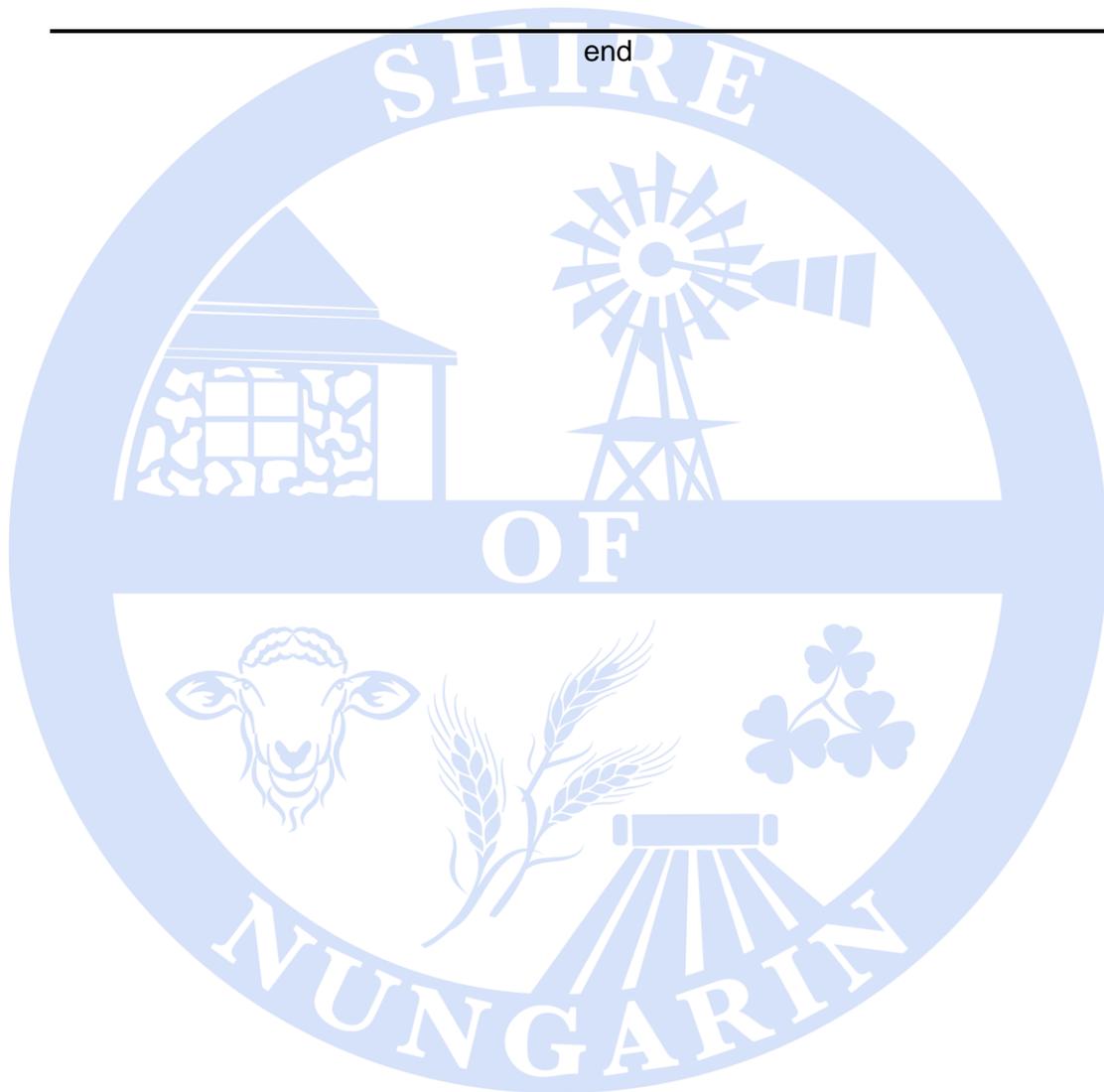
therefore a self-insurance mutual scheme was implemented to ensure that Local Governments continue to meet this obligation.

Since 2012, due to the high cost of claims, the aggregate limit of liability has increased from \$250,000 to \$750,000. In addition, the annual cost of insurance has nearly doubled (92%) from \$47.50 to \$91.20 per volunteer, and it is expected that this trend will continue.

Workforce

Nil

end



9. DELEGATES REPORTS

(Elected member who are delegates to other Forums may present a verbal or written report)

9.1 Cr O’Connell (APPENDIX 9.1A)

10. NEW BUSINESS OF AN URGENT NATURE

(New business of an urgent nature approved by the Presiding Member)

11. CONFIDENTIAL ITEMS OF BUSINESS

12. CLOSURE

The being no further business the meeting closed at

 Presiding Member

 Date

