

**ORDINARY
COUNCIL MEETING**

**UNCONFIRMED
MINUTES**

**17th FEBRUARY 2023
ALLEN CENTRE
KALBARRI**

1.00PM

**SHIRE OF NORTHAMPTON
MAURICE BATTILANA
ACTING CHIEF EXECUTIVE OFFICER**





SHIRE OF NORTHAMPTON

DISCLAIMER

No responsibility whatsoever is implied or accepted by the **Shire of Northampton** for any act, omission, statement or intimation occurring during Council/Committee meetings or during formal/informal conversations with staff. The **Shire of Northampton** disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission, statement or intimation occurring during Council/Committee meetings, discussions or any decision recorded in the unconfirmed minutes of Council or Committee's of Council. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that persons or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for licence, any statement, limitation or approval made by a member or officer of the **Shire of Northampton** during the course of any meeting is not intended to be and is not taken as notice of approval from the **Shire of Northampton**. The **Shire of Northampton** warns that anyone who has lodged an application with the **Shire of Northampton** must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the **Shire of Northampton** in respect of the application.

Signed _____

Date 10th February 2023

MAURICE BATTILANA
ACTING CHIEF EXECUTIVE OFFICER

- 1 DECLARATION OF OPENING
- 2 ACKNOWLEDGEMENT OF COUNTRY
- 3 PRESENT
- 3.1 PREVIOUSLY APPROVED LEAVE OF ABSENCE
- 3.2 APOLOGIES
- 4 QUESTION TIME
- 5 DISCLOSURE OF INTEREST
6. CONFIRMATION OF MINUTES
- 6.1 ORDINARY MEETING HELD ON FRIDAY 16TH DECEMBER 2022
- 6.2 BUSINESS ARISING FROM MINUTES
- 7 RECEIVAL OF MINUTES
- 7.1 AUDIT COMMITTEE MEETING FRIDAY 17TH FEBRUARY 2023
- 7.2 BUSINESS ARISING FROM MINUTES
- 8 WORKS & ENGINEERING REPORT
- 8.1 INFORMATION ITEMS MAINTENANCE/CONSTRUCTION WORKS PROGRAM
- 9 HEALTH AND BUILDING REPORT
- 9.1 BUILDING STATISTICS FOR THE MONTH OF DECEMBER 2022 AND JANUARY 2023
- 10 TOWN PLANNING REPORT
- 10.1 PROPOSED REALIGNMENT (CLOSURE OF PORTIONS) OF COOLCALALAYA ROAD, COOLCALALAYA – LOTS 5138-5140, 5142, 5144 AND 5145 ON DEPOSITED PLAN 232552
- 10.2 PROPOSED AGROFORESTRY (HARDWOOD EUCALYPTUS) TREE FARM – “BANKINA” LOTS 5005, 5059, 5064, 5065, 5067 & 5068 (NO. 3810) BALLA-WHELARRA ROAD, BINNU
- 10.3 PROPOSED DEVELOPMENT APPROVAL AND LICENSE AGREEMENT – MOBILE FOOD VEHICLE – THE BAO SHED – RESERVE 25307 GREY STREET, KALBARRI AND COMMERCIAL PARKING AND STORAGE OF FOOD VAN UPON LOT 276 (NO. 107) EXPLORER AVENUE, KALBARRI
- 10.4 SUMMARY OF PLANNING INFORMATION ITEMS
- 11 FINANCE AND ADMINISTRATION REPORT

11.1	ACCOUNTS FOR PAYMENT
11.2	MONTHLY FINANCIAL STATEMENTS – DECEMBER 2022 AND JANUARY 2023
12	ADMINISTRATION AND CORPORATE REPORT
12.1	MURCHISON RIVER CARAVAN PARK – LEASE REASSIGNMENT
12.2	ANNUAL ELECTORS MEETING
12.3	LOCAL GOVERNMENT ELECTION PROCESS
13	PRESIDENT’S REPORT
14	DEPUTY PRESIDENT’S REPORT
15	COUNCILLORS REPORTS
15.1	CR GIBB
15.2	CR PIKE
15.3	CR SUCKLING
15.4	CR BURGESS
16	NEW ITEMS OF BUSINESS
17	NEXT COUNCIL MEETING
18	CLOSURE

ORDER OF BUSINESS

1 OPENING

The President thanked all Councillors and staff present for their attendance and declared the meeting open at 1.00pm.

2 ACKNOWLEDGEMENT OF COUNTRY

We would like to respectfully acknowledge the Yamatji People who are the Traditional Owners and First People of the land on which we meet. We would like to pay our respects to the Elders past, present and future for they hold the memories, the traditions, the culture and hopes of the Yamatji People.

3 PRESENT

Elected Members		In	Out
Cr Liz Sudlow (President)	Northampton	1-00pm	2-41pm
Cr Rob Horstman (Deputy President)	Northampton	1-00pm	2-41pm
Cr Ros Suckling	Northampton	1-00pm	2-41pm
Cr Des Pike	Kalbarri	1-00pm	2-41pm
Cr Richard Burges	Kalbarri	1-00pm	2-41pm
Cr Trevor Gibb	Kalbarri	1-00pm	2-41pm
Officers			
Maurice Battilana (Acting Chief Executive Officer)		1-00pm	2-41pm
Grant Middleton (Deputy Chief Executive Officer) (Teleconference Attendance)		1-00pm	2-41pm
Neil Broadhurst (Manager Works and Technical Services)		1-00pm	2-41pm
Michelle Allen (Planning Officer)		1-00pm	2-41pm
Sonya Hasleby (Executive Support Officer)		1-00pm	2-41pm
Visitors			
Ann Russell (observer)		1-00pm	1-22pm
Frank Layne (observer)		1-00pm	1-22pm
1 x observer		1-00pm	1-55pm
Honor Ash		1-00pm	1-20pm
Wayne Stevenson		1-00pm	1-20pm
Rose Ralph		1-00pm	1-19pm

3.1 PREVIOUSLY APPROVED LEAVE OF ABSENCE

Cr T Hay Northampton Ward

3.2 APOLOGIES

Nil

4 QUESTION TIME

Rosemary Ralph

Question 1:

How are mobile food permit fees calculated and what are they based on? Is there opportunity to review the rate of these fees?

Response M Allen (Planning Officer):

Mobile Food Vehicle Permit fees are set within the Shire's Local Planning Policy and can be paid quarterly, six monthly or annually. The fee rate has been set previously in the policy and is in line with the fees of other similar local government's for such permits. Opportunity to provide formal comment on the fee rate can be made at any time to the Shire's Planning Department.

Question 2:

How is compliance of mobile food vans addressed, such as disposal of rubbish and is notice made of how often they trade in comparison to their approval times?

Response M Allen (Planning Officer):

The matter of compliance of any food business is undertaken by Shire Officers in the course of their duties. The matter of trading times of a mobile food business is considered at the time of annual renewal and right throughout the year if an issue is raised.

Honor Ash

Question:

Why are food vans trading at Sally's Tree when it is not in the policy?

Response M Allen (Planning Officer):

According to the Shire's Local Planning Policy *Mobile Food Vehicles* the Sally's Tree location is not a pre-approved location. However, provisions within the LPP allows the trading of mobile food vehicles at alternative locations at Council's discretion. This provision has recently been invoked by Council due to the impact of Cyclone Seroja and following complaints by locals and visitors about the lack of available food options within the townsite of Kalbarri. MFV applications are renewed annually and associated trading locations are reviewed at this time also.

Frank Layne

Question:

Are Electric Vehicle charging Stations a money raising business or a service provided by Council? Who is maintaining it and who is paying for it?

Response Cr Sudlow (President:

The Shire President provided an overview on the process for installation of EV Charging Stations around Western Australia and particularly the process undertaken in Kalbarri and advised that Council had recently stopped the installation in Kalbarri and were liaising with Synergy.

5 DISCLOSURE OF INTEREST

Moved Cr BURGESS seconded Cr SUDLOW

Nil

6 CONFIRMATION OF MINUTES

6.1 ORDINARY COUNCIL MEETING FRIDAY 16th DECEMBER 2022

Moved Cr HORSTMAN, seconded Cr SUCKLING

That the minutes of the Ordinary Meeting of Council held on Friday 16th December 2022 be confirmed as true and correct.

CARRIED 6/0
Minute Reference 02/23-01

6.2 BUSINESS ARISING FROM MINUTES

Nil

6.3 CONFIRMATION OF MINUTES – SPECIAL MEETING OF COUNCIL MONDAY 13th FEBRUARY 2023

Moved GIBB, seconded Cr PIKE

That the minutes of the Special Meeting of Council held on the 13th February 2023 be confirmed as a true and correct record.

CARRIED 6/0
Minute Reference 02/23-02

7 RECEIVAL OF MINUTES

7.1 AUDIT COMMITTEE MEETING OF COUNCIL 17th FEBRUARY 2023

Moved Cr SUCKLING, seconded Cr HORSTMAN

That the minutes of the Audit committee Council Meeting held on Friday 17th February be received and officer's recommendations be endorsed.

1. That the Council adopts the recommendation of the Shire of Northampton Audit Committee to adopt the Compliance Audit Return 2022.

2. That Council receives the Risk Management Compliance Calendar as presented.

CARRIED 6/0
Minute Reference 02/23-03

7.2 BUSINESS ARISING FROM MINUTES

Nil

1-19pm – Rose Ralph left the meeting.

1-20pm – Honor Ash & Wayne Stevenson left the meeting.

1-22pm – Ann Russell and Frank Layne left the meeting.

OFFICER REPORTS

8 WORKS & ENGINEERING REPORT

8.1 INFORMATION ITEMS – MAINTENANCE/CONSTRUCTION WORKS PROGRAM

8.1 INFORMATION ITEMS – MAINTENANCE/CONSTRUCITON WORKS PROGRAM

Noted

9. HEALTH AND BUILDING REPORT

9.1 BUILDING STATISTICS FOR MONTH OF DECEMBER 2022 AND JANUARY 2023

9.1 BUILDING STATISTICS FOR MONTH OF DECEMBER 2022 AND JANUARY 2023

Noted.

10 TOWN PLANNING REPORT

10.1 PROPOSED REALIGNMENT (CLOSURE OF PORTIONS) OF COOLCALALAYA ROAD, COOLCALALAYA – LOTS 5138-5140, 5142, 5144 AND 5145 ON DEPOSITED PLAN 232552

10.2 PROPOSED AGROFORESTRY (HARDWOOD EUCALYPTUS) TREE FARM – “BANKINA” LOTS 5005, 5059, 5064, 5065, 5067 & 5068 (NO. 3810) BALLA-WHELARRA ROAD, BINNU

10.3 PROPOSED DEVELOPMENT APPROVAL AND LICENSE AGREEMENT – MOBILE FOOD VEHICLE – THE BAO SHED – RESERVE 25307 GREY STREET, KALBARRI AND COMMERCIAL PARKING AND STORAGE OF FOOD VAN UPON LOT 276 (NO. 107) EXPLORER AVENUE, KALBARRI

10.4 SUMMARY OF PLANNING INFORMATION ITEMS

Council at the time resolved to list for consideration a provision of \$50,000 in the 2012/13 Budget however this provision was deleted when adopting that budget.

The matter of the alignment has again been raised by the Department of Biodiversity, Conservation and Attractions (DBCA) to allow areas of bushland under a restrictive covenant with the Department of Biodiversity, Conservation and Attractions however the actual road reserve and constructed road needs to be rectified to allow the restrictive covenant to progress.

The DBCA provided advice that Mr Porter indicated that in 1990 he gave land to the Shire to make the road suitable for road train use and relocate the road from flood prone areas however at the time the actual property boundaries to reflect the above changes on a correct road reserve was not undertaken.

The Department of Planning Lands and Heritage also advise that as there has been no request from the Shire of Northampton (Shire) to close portions of Coolcalalaya Road and dedicate an alternate route through the Lots owned by Mr Porter, it is the position of DPLH that the redundant portions of dedicated road should be formally closed and amalgamated into the land owned by Mr Porter. Action to initiate road closure and dedication rests with the Shire.

Council at their Ordinary Meeting held on 18 February 2022 resolved:

That Council progress with survey and subdivision to re-align the road reserve onto the actual constructed road where this occurs along the Coolcalalaya Road, and appoint HTD Surveyors to undertake the required survey and subdivision process at an estimated cost of \$ 35,000 and this be declared authorised expenditure.

However, a resolution to resolve to advertise the proposed road closure in accordance with section 58 of the *Land Administration Act 1997* (LAA) has not yet occurred and is now subject of this report and recommendation.

COMMUNITY & GOVERNMENT CONSULTATION:

Should Council resolve to publicly advertise its intention to close portions of Coolcalalaya Road to facilitate its realignment, the following actions shall take place in accordance with section 58 of the *Land Administration Act 1997* (LAA) and section 9 of the *Land Administration Regulations 1998*:

- Advertising in local newspaper.
- Referrals to service providers such as Water Corporation, Western Power and Telstra).

Section 58(3) requires a minimum advertising period of 35 days along with consideration of any objections made during that period.

FINANCIAL IMPLICATIONS:

Minor costs will be incurred by Council during the advertising process. Previous budget allocations were made for the cost of surveying.

STATUTORY IMPLICATIONS:

State: Planning and Development Act 2005
Land Administration Act 1997

Section 58 of the Land Administration Act 1997 outlines the process for closing roads, while section 9 of the Land Administration Regulations 1998 outlines the requirements for Local Government in requesting to close a road permanently:

9. Local government request to close road permanently (Act s. 58(2)), requirements for For the purposes of preparing and delivering under section 58(2) of the Act a request to the Minister to close a road permanently, a local government must include with the request —
- (a) written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require; and
 - (b) sketch plans showing the location of the road and the proposed future disposition of the land comprising the road after it has been closed; and
 - (c) copies of any submissions relating to the request that, after complying with the requirement to publish the relevant notice of motion under section 58(3) of the Act, the local government has received, and the local government's comments on those submissions; and
 - (d) a copy of the relevant notice of motion referred to in paragraph (c); and
 - (e) any other information the local government considers relevant to the Minister's consideration of the request; and
 - (f) written confirmation that the local government has complied with section 58(2) and (3) of the Act.

The subject land that will form part of the road closure and realignment will also need to be rezoned at some point in the future. A record of this will be kept so as to update the Scheme Maps when the road closure is finalised.

POLICY/PROCEDURE IMPLICATIONS:

Nil

STRATEGIC IMPLICATIONS:

Nil

COMMENT:

The process to realign Coolcalalaya Road commenced in 2022, however, in order to proceed further Council needs to resolve to advertise the proposed road closure/s in accordance with section 58 of the *Land Administration Act 1997*.

Should Council resolve to publicly advertise its intention to close those portions of the road specified (refer **Appendix 1**), all submissions received during the advertising period will be presented to Council for consideration. At this time, Council will be asked to consider making a formal resolution of its intention to close the portions of road reserve to facilitate the realignment of Coolcalalaya Road, and this will lead to a formal application for Road Closure being lodged with the Department of Planning Lands and Heritage.

Therefore, it is recommended that Council formally resolve to advertise the proposed road closure/s in accordance with the *Land Administration Act 1997*.

RISK ASSESSMENT:

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response
Moderate (3)	Medical type injuries	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies
Major (4)	Lost time injury	\$50,001 - \$150,000	Prolonged interruption of services – additional resources; performance affected < 1 month	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies
Catastrophic (5)	Fatality, permanent disability	More than \$150,000	Indeterminate prolonged interruption of services – non-performance > 1 month	Non-compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact

VOTING REQUIREMENT:

Simple Majority required

COUNCIL RESOLUTION/STAFF RECOMMENDATION 10.1

Moved Cr BURGESS, seconded Cr PIKE

That Council publicly advertise its intention to close those portions of Coolcalalaya Road Reserve, where it passes through Lots 5138-5140, 5142, 5144 & 5145 on Deposited Plan 232552 as shown as an attachment to the February 2023 Ordinary Council Meeting (Appendix 1) for a period of 35 days in accordance with the section 58 of the *Land Administration Act 1997*.

CARRIED 6/0
Minute Reference 02/23-04

**10.2 - PROPOSED AGROFORESTRY (HARDWOOD EUCALYPTUS) TREE FARM –
‘BANKINA’ LOTS 5005, 5059, 5064, 5065, 5067 & 5068 (NO. 3810) BALLA-
WHELARRA ROAD, BINNU**

Location	Lots 5005, 5059, 5064, 5065, 5067 and 5068 (No. 3810) Balla-Whelarra Road, Binnu
Applicant	Outback Carbon Pty Ltd
Owner/Lessee	N J Humphries
File Reference	10.8.1.3 / A2259
Date of Report	9 February 2023
Reporting Officer	Michelle Allen, Planning Officer
Responsible Officer	Hayley Williams, Consultant Planner

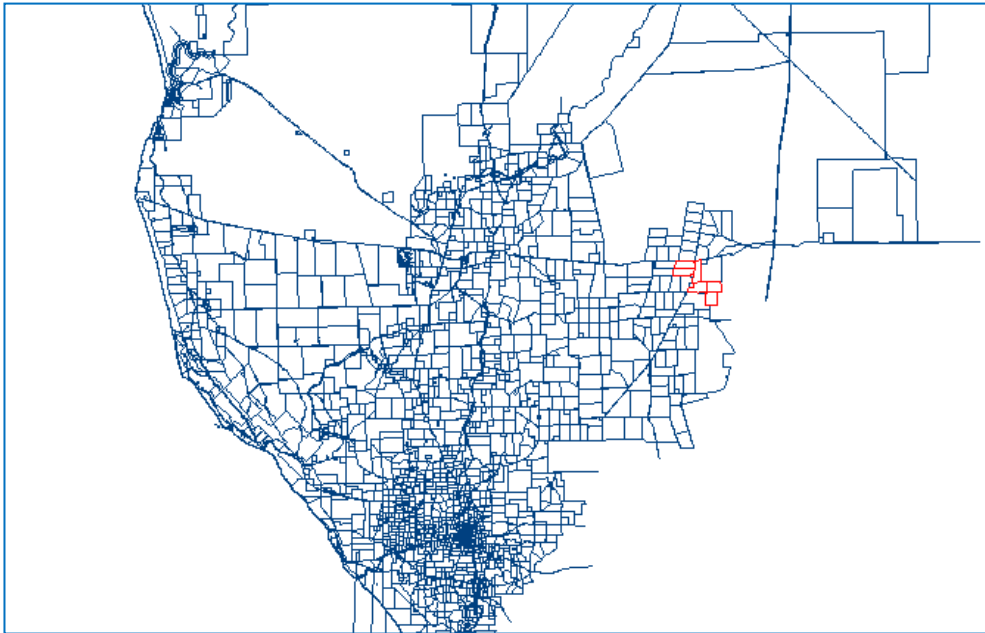
SUPPORTING DOCUMENTS:

Reference	Description	In Report	Separate Cover
Appendix 1	Application Letter	✓	
Appendix 2	Email explanation of land areas within Shires	✓	
Appendix 3	Schedule of Submissions	✓	
Appendix 4	Extract from High Quality Land Mid West Region (DPIRD)	✓	
Appendix 5	High Quality Agricultural Lands Shire of Northampton	✓	

BACKGROUND:

An Application for Development Approval was received on 16 December 2022 with the Applicant applying to the Shire of Northampton, with the current landowner’s consent, seeking Council’s determination of a Hardwood Eucalyptus Tree Farm proposal before purchasing the property.

Figure 10.2(a) – Lots 5005, 5059, 5064, 5065, 5067 & 5068 (No. 3810) Balla-Whelarra Road, Binnu ('Bankina')



'Bankina' is located in the eastern parts of two local government areas being the Shire of Northampton and the Shire of Chapman Valley and has a total area of 4449 hectares. Approximately 3800 hectares of the property is proposed as the total carbon project area of the entity. Furthermore, it is noted that 2389 hectares of the property is located in the Shire of Northampton and 2060 hectares is located within the Shire of Chapman Valley. This equates to 54% of the 'Bankina' property being located within the Shire of Northampton.

Approximately 425-535 hectares of the Northampton project area is proposed to be planted to trees. The applicant has advised that approximately 1000 hectares of the highest quality productive agricultural land of 'Bankina' is proposed to be sold for this purpose (which is estimated to be 500 hectares in the Shire of Northampton and 500 hectares in the Shire of Chapman Valley.)

The Proposal:

The Applicant, with the current landowner's approval, is seeking Council's determination on a proposal to establish a tree farm on land located in the eastern part of the Shire of Northampton for the purpose of creating Australian Carbon Credit Units and high quality hardwood whilst still maintaining agricultural activities on the property.

The total area of the farm within the Shire of Northampton is 2389 hectares and approximately 425 to 532 hectares will be included as the carbon project area. Following purchase of the property a re-alignment of boundaries is planned on 'Bankina' and it is proposed that approximately 500 hectares of the property located within the Shire of Northampton will be sold.

It is proposed that between 20 – 25 percent of the arable area will be planted to trees in a row configuration with the remaining inter-rows (which equates to 75-80 percent of the remaining arable area) to be cropped or established with improved grasses and legumes for future grazing opportunities. Currently there are no improved pastures on the property and little or no fencing exists. If the Applicant successfully purchases the property, a high standard boundary fence around the whole property and improved water supply and storage infrastructure is proposed.

The area proposed to be established with trees in the agroforestry/tree farm proposal is between 425 - 532 hectares and as such the volume of timber produced will not require onerous or intensive traffic movements at harvest times. The Applicant proposes that the volume of heavy vehicle movements on public roads will be less intensive than a traditional broad acre cropping harvest period.

It is anticipated the trees will be retained for approximately 40 years before harvest and used for high quality hardwood timber products, biochar and/or biofuels. The carbon permanence period will be 25 years and the tree and carbon crops will be complementary to the predominant traditional agricultural land uses in the area.

The tree farm area and configuration will comply with the Guidelines for Plantation Fire Protection (2011) with farm design following existing roads and natural features, where practicable. Site topography, road direction, access to water and planting direction in relation to fire control will also form part of the development design.

In consideration of the proposal the following information is provided:

Lot Size (within Northampton)	2389 hectares (Total area – 6 lots)
Zoning	Rural
Existing Development	Rural and Remnant Vegetation
Existing Services	Telephone, Water, Gas
Access and Frontage	Balla-Whelarra Road
Vegetation	Vegetated in parts
Surrounding Land Uses	Rural and Remnant Vegetation

COMMUNITY & GOVERNMENT CONSULTATION:

The application was advertised for a period of 21 days from 4 January to 28 January 2023 in accordance with Section 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* with a notice placed in the Geraldton Guardian, on the Shire website and available at both the Northampton and Kalbarri Shire Offices.

The application was also forwarded to four adjacent and adjoining landowners and the following governmental agencies and key stakeholders for consideration:

- Department of Planning, Lands and Heritage;
- Department of Fire and Emergency Services;
- Main Roads WA;
- Department of Primary Industry and Regional Development;
- Department of Water and Environmental Regulation; and

- Department of Biodiversity, Conservation and Attractions.

A total of five submissions were received with one (1) objection forthcoming in relation to the proposed application. A schedule of submissions is provided at **Appendix 2**.

FINANCIAL IMPLICATIONS:

The Applicant has paid a development application fee of \$2985-00. In addition to this, should Council determine to refuse this application and the Applicant proceeds to exercise their right of appeal, costs are likely to be imposed on the Shire through its involvement in the appeal process.

STATUTORY IMPLICATIONS:

State: Planning and Development Act 2005

Local: Shire of Northampton Local Planning Scheme No. 10 - Northampton

The land is zoned 'Rural' under *Local Planning Scheme No. 10 – Northampton* with the objectives of the zone being:

- *To provide for the maintenance or enhancement of specific local rural character.*
- *To protect board acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.*
- *To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage.*
- *To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone.*
- *To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.*

The use 'Tree Farm' is listed as a 'D' use in the Scheme which means that the use is not permitted unless the local government has exercised its discretion by granting development approval. A 'Tree Farm' is defined within the Scheme as follows:

'Tree Farm' means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the Carbon Rights Act 2003 section 5'.

POLICY/PROCEDURE IMPLICATIONS:

State: SPP 3.7 – Planning in Bushfire Prone Areas

Local: Shire of Northampton Local Planning Strategy - May 2022

*Shire of Northampton Local Planning Policy - Agroforestry
Guidelines for Plantation Fire Protection (DFES 2011)*

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

The intent of this State policy is to implement effective, risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure.

The objectives of the policy are to:

- *Avoid any increase in the threat of bushfire to people, property and infrastructure. The preservation of life and the management of bushfire impact are paramount.*
- *Reduce vulnerability to bushfire through the identification and consideration of bushfire risks in decision-making at all stages of the planning and development process.*
- *Ensure that higher order strategic planning documents, strategic planning proposals, subdivision and development applications take into account bushfire protection requirements and include specified bushfire protection measures.*
- *Achieve an appropriate balance between bushfire risk management measures and biodiversity conservation values, environmental protection and biodiversity management and landscape amenity, with consideration of the potential impacts of climate change.*

As there will be no landowner permanently on site and to comply with the State planning policy when developing the Bushfire/Fire Management Plan for the Tree Farm, it is considered a bushfire hazard assessment be undertaken by a suitably qualified Bushfire Practitioner and be included as part of the Plan.

Shire of Northampton Local Planning Strategy

The Shire's Local Planning Strategy applies to the Northampton townsite and immediate surrounds and forms the basis for development of a long-term strategic plan for the future development and growth of the Shire. The Strategy identifies key issues within the area as follows:

2.1.5 economy & employment

- *Protect high quality agricultural land and promote expansion and diversification of the rural economy to ensure a sustainable economic and employment base for the Shire.*
- *Support opportunities for intensive agriculture including intensive animal husbandry and intensive rural and organic based industries in locations close to major population centres and major transport routes.*

The Strategy also addresses key issues identified under four key outcome areas for the Shire and specifically Agriculture and Rural Industry, as follows:

agriculture & rural industry

Objective	1. To protect, promote and encourage the continuation and diversification of agriculture and related rural based industries within the Shire as a key long term economic driver of the region.
------------------	---

Key Issues	<ul style="list-style-type: none"> □ <i>The Shire of Northampton has one of the largest farming areas of the Northern Agriculture Region, containing extensive areas of high quality agricultural land that need to be protected from further fragmentation as well as encroachment from incompatible land uses so as to support, expand and diversify agricultural activities in the region.</i> □ <i>Support existing and future primary production through the protection of rural land, particularly priority agricultural land and land required for animal premises and/or the production of food.</i> □ <i>Protect high quality agricultural land and promote expansion and diversification of the rural economy to ensure the long term sustainability of the economic and employment base of Shire.</i> □ <i>Provide opportunities for intensive agriculture including intensive animal husbandry and intensive rural and organic based industries to expand into the Shire in locations close to major population centres and major transport routes.</i> □ <i>Large supplies of groundwater to support intensive agriculture are limited in the region. Further investigation of a sustainable water supply is needed.</i>
-------------------	--

Strategies	Actions
1.1 Protect High Quality Agricultural land and promote and facilitate the expansion and diversification of the rural economy.	<p>a. Include within the Scheme provisions for protecting High Quality Agricultural land from fragmentation and incompatible land uses in accordance with WAPC Policy.</p> <p>Include within the Scheme provisions which facilitate and support the diversification and intensification of on-farm agriculture.</p>
1.2 Provide for intensive agriculture and rural industries in locations close to major population centres and on major transport routes.	b. Investigate s an appropriate location to provide for predominately Intensive Agriculture, Animal Husbandry and Rural Industry uses, subject to consideration of traffic and road access, water supplies, environmental impacts and proximity to populated settlements.
1.3 Discourage the introduction of sensitive land uses within these areas so as to limit the constraints	c. Introduce the land use definition of Rural Industry into the Scheme with flexible permissibility for rural zoned land.

on intensive agriculture and rural industry.	d. In order to support the development of intensive agriculture and rural industries a secure fit for purpose water supply needs to be identified.
1.4 Protect prime and priority agricultural lands from rural living subdivision.	<p>e. Do not support proposals to subdivide rural land unless consistent with WAPC’s State Planning Policy 2.5 and Development Control Policy 3.4.</p> <p>f. Oppose any rural living rezoning and subdivision except in consolidated areas designated under this Local Planning Strategy as referenced under Section 2.6 - People & Housing.</p>

The proposed Tree Farm is considered to meet the objectives and key actions of the Local Planning Strategy. The proposed development is located on land that is not considered to be High Quality Agricultural Land. Therefore, the diversification of use in this location is supported as it will enable the continuation of agricultural activities within the locality.

Shire of Northampton Local Planning Policy – Agroforestry

The application has been lodged under the Shire’s ‘Agroforestry’ Local Planning Policy.

The objectives of the Policy are as follows:

- *Achieve a consistent, efficient, and equitable system for assessing and approving tree crop applications.*
- *Actively encourage the establishment of tree crops in appropriate locations across the Shire of Northampton.*
- *Actively encourage tree crops in areas subject to land degradation, including areas of high salinity, water logging, and high levels of chemical contamination where there are clear natural resource management benefits.*
- *Tree crops are to be complementary and ancillary to the predominant traditional agricultural land uses of the area.*
- *Consider impacts on local road infrastructure and fire risk/management issues in all applications.*
- *Consider the visual impact of tree crops in close proximity and/or viewing distance to town sites, roads of local and regional significance, and areas of scenic beauty.*
- *Encourage operators, managers, government and non-government agencies, investors, and land holders to work in partnership wherever possible.*
- *Encourage operators to abide by the Industry Code of Practice, relevant legislation, State Strategy for Plantations and Farm Forestry and this policy.*

- *Outline the matters required to be addressed for assessment to be undertaken under the planning system and other legislation.*
- *The Council recognises that other matters, not listed above, may be raised during assessment of applications, such as submissions by third parties, which will be noted but not necessarily used in determining an application. As such matters may be covered by other legislation, fall under the responsibility of other agencies, or may not be considered relevant or valid planning considerations.*

A Local Planning Policy shall not bind Council in respect of any application for Planning Approval but Council shall take into account the provisions of the policy and objectives which the policy was designed to achieve before making its decision.

Guidelines for Plantation Fire Protection

The objective of the Department of Fire and Emergency Services *Guidelines for Plantation Fire Protection* provides “*both local government and the plantation industry with a set of best practice fire protection standards for plantation that aim to protect human life and local community interests, while minimizing fire risk to plantation assets.*”

Further detail is provided within the publication and *Section 2 Planning for Plantation Fire Management* which outlines specific conditions to be included by Applicants when developing their Bushfire/Fire Management Plans.

STRATEGIC IMPLICATIONS:

State: DPIRD Resource Management Technical Report 386 – Identification of high quality agricultural land in the Mid West region; - Stage 1 Geraldton Planning Region

DPIRD Report – Identification of high quality agricultural land in the Mid West region

In April 2013, the Department of Primary Industries and Regional Development (known at the time as the Department of Agriculture and Food) prepared a report titled *Identification of high quality agricultural land in the Mid West Region*. This report seeks to enable broadacre agriculture industry’s continued access to large areas of good quality land receiving enough reliable rainfall to produce crops and pastures. The project developed a methodology to identify high quality agricultural land (HQAL) that exhibited a combination of qualities that are valuable to the agricultural industry and worthy of protection for production into the future.

A series of maps and accompanying tables were generated which depicted and characterised agricultural land in a way that planners and investors could understand. Detailed maps showing the region’s potential for broadacre and irrigated agriculture derived from existing information on soils, land capability, water resources and rainfall were produced with one showing High Quality Agricultural Lands in the Shire of Northampton at **Appendix 4**.

A map is also attached (see **Appendix 5**) that shows that the location of the land identified within this development application area as marginal country located on the fringe of the northern agricultural area.

COMMENT:

The proposed Tree Farm development is considered to be consistent with the objectives of the *Local Planning Scheme No. 10 – Northampton*, the *Local Planning Strategy (May 2022)* and the Shire’s Local Planning Policy *Agroforestry*.

A Bushfire/Fire Management Plan has not been prepared and is proposed to be compiled once the outcome of this application is determined. Therefore, should Council grant approval it is recommended that a Bushfire/Fire Development Plan and a Wind Erosion Management Plan be developed by the Applicant with authority delegated to the Shire Chief Executive Officer for execution of the Plans.

Furthermore, as identified within DPIRD’s publications dealing with High Quality Agricultural Land in the Mid West, the area proposed to be planted to trees on 3810 Balla-Whellarra Road, Binu is located within an area of the northern agricultural region identified as an Agricultural Land Area (ALA) with lower or marginal agricultural potential/quality.

RISK ASSESSMENT:

The associated risk would be the failure to comply with Local Government Financial Regulations requiring monthly reporting of Financial Activity. Risk rating is considered Level 1 – Insignificant.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or ‘no news’ item	Inconsequential or no damage.	Contained, reversible impact managed by on site response
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response
Moderate (3)	Medical type injuries	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies
Major (4)	Lost time injury	\$50,001 - \$150,000	Prolonged interruption of services – additional resources; performance affected < 1 month	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies
Catastrophic (5)	Fatality, permanent disability	More than \$150,000	Indeterminate prolonged interruption of services – non-performance > 1 month	Non-compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact

VOTING REQUIREMENT:

Simple Majority required

COUNCIL RESOLUTION/STAFF RECOMMENDATION 10.2

Moved Cr PIKE, seconded Cr GIBB

That Council grant Development Approval for the establishment of a Hardwood Eucalyptus 'Tree Farm' on Lots 5005, 5059, 5064, 5065, 5067 & 5068 (No. 3810) Balla-Whelarra Road, Binnu (known as "Bankina") subject to the following conditions:

- 12 Development shall be in accordance with the approved plans dated 17 February 2023 and subject to any modifications required as a consequence of any conditions of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the land (not the subject of this consent/approval) considered by the Shire Chief Executive Officer to represent a significant variation from the approved development plan may require further application and planning approval for that use/addition.
- 3 The Applicant shall adhere to the Project Establishment Plan 'Bankina' dated December 2022 including any modifications required by this approval or any such changes requested in writing by the Shire Chief Executive Officer or in the case of a dispute by the determination of Council as to the ongoing operation of the development;
- 4 Prior to commencement of the approved development/land use, the Applicant is to prepare a Bushfire/Fire Management Plan following the format of 'Fire Management Plans', outlined in the *FESA Guidelines for Plantation Fire Protection 2011* (*as amended), and including local government firebreak notices. The Plan shall include a bushfire hazard assessment prepared by a suitable qualified Bushfire Practitioner, so as to comply with *State Planning Policy 3.7 Planning in Bushfire Prone Areas*, to the approval of the local government;
- 5 The Applicant is to implement and maintain reporting mechanisms for complaints concerning the operation of the development. In the event of a substantiated complaint being received, the Applicant is required to demonstrate mitigation response/s to the approval of the local government. Such responses/s will be treated as conditions of approval/required modifications to the Project Establishment Plan and Fire Management Plan 'Bankina';
- 6 The Applicant shall ensure the Project Establishment Plan is inclusive of vermin control measures that is to the satisfaction of the local government before the commencement of the tree farm;
- 7 Any soils disturbed or deposited on-site shall be stabilised to the approval of the local government;
- 8 The use hereby permitted shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of smoke, dust, fumes, odour, noise, vibration, waste product or otherwise;
- 9 The applicant shall obtain any necessary Native Vegetation Clearing Permit from the Department of Environment, if required;

- 10 Repairing of any damage to the road network including the surface is required by reason of use of the road in connection with the establishment of the development to the approval of Main Roads WA and the Local Government with all costs met by the Applicant;
- 11 Application of Nutrient Fertiliser, Pesticides and Herbicides to be undertaken to the approval of the Department of Primary Industries and Regional Development; and
- 12 Prior to commencement of the approved development/land use, the Applicant is to prepare a Wind Erosion Management Plan as outlined by the Department of Primary Industries and Regional Development, to the approval of the local government.

Advice Notes

- Note 1: The Project Establishment Plan and Fire Management Plan shall be prepared and periodically updated with regard for the Shire of Northampton's Local Planning Policy *Agroforestry*, *'Code of Practice for Timber Plantations in Western Australia (FPC 2014)*, *Guidelines for Plantation Fire Protection (DFES 2011)*, *Code of Practice for use of agricultural and veterinary chemicals in WA (DPIRD 2005)* and superseding documents and documents of subsequent relevance.
- Note 2: With regard to Condition No. 13, the Applicant/Owner should liaise with the Department of Primary Industries and Regional Development to determine the Wind Erosion Management Plan, as outlined in correspondence dated 12 December 2022.
- Note 3: If the development/use the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
- Note 4: Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
- Note 5: If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of determination.

CARRIED 6/0
Minute Reference 02/23-05

10.3 PROPOSED DEVELOPMENT APPROVAL AND LICENSE AGREEMENT – MOBILE FOOD VEHICLE – THE BAO SHED – RESERVE 25307 GREY STREET, KALBARRI AND COMMERCIAL PARKING AND STORAGE OF FOOD VAN UPON LOT 276 (NO. 107) EXPLORER AVENUE, KALBARRI -

Location	Reserve 25307 Grey Street / Lot 107 Explorer Avenue, Kalbarri
Applicant	Tony Wilton & Anne Cullen
Owner/Lessee	State of Western Australia / Shire of Northampton
File Reference	10.6.1.3/10.6.7/R25307 – A3731/A3159
Date of Report	6 February 2023
Reporting Officers	Hayley Williams, Consultant Planner and Michelle Allen, Planning Officer
Responsible Officer	Maurice Battilana, Acting Chief Executive Officer

SUPPORTING DOCUMENTS:

Reference	Description	In Report	Separate Cover
Appendix 1	Application Information	✓	
Appendix 2	Schedule of Submissions	✓	

BACKGROUND:

An Application for Development Approval seeking to operate a Mobile Food Vehicle for an annual period has been received for the mobile food van (Bao Shed) to operate from Reserve 25307 Grey on the Kalbarri Foreshore within the carpark adjacent to Sally’s Tree (refer **Figures a and b**).

Figure 10.3(a) - Location Plan of Reserve 25307 Grey Street, Kalbarri (Sally’s Tree Carpark)

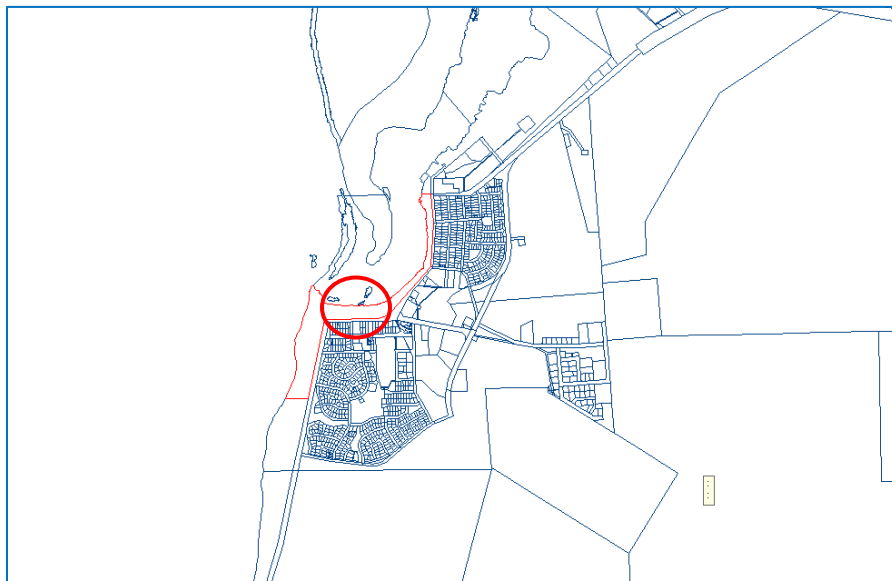


Figure 10.3(b) – Site Plan of Reserve 25307 Grey Street, Kalbarri (Sally’s Tree Carpark)



The Applicant proposes to store the food van at Lot 276 (No.107) Explorer Avenue, Kalbarri (**Figures c and d**) when not in use, where the van would be cleaned, connected to mains power and the food stored appropriately when the van is not in use.

Advertising of the commercial vehicle application is being undertaken at present with the advertising period due to close on 24 February 2023.

Figure 10.3(c) – Location Plan of Lot 276 (No. 107) Explorer Avenue, Kalbarri (Commercial Vehicle Parking)



Figure 10.3(d) – Site Plan of Lot 276 (No. 107) Explorer Avenue, Kalbarri (Commercial Vehicle Parking)



The food van is powered by a portable generator and has a freshwater belly tank and a wastewater belly tank. The food vehicle also features a hot water system, stainless steel preparation benches and wooden serving benchtops, fridge and other kitchen appliances (see **Appendix 1**). The size of the food van measures 7.5m². The food vendor will sell Malaysian style curries and rice, Asian noodle soups, Steamed Bao buns with various fillings and cakes, slices, cold drinks and bottled water (see **Appendix 1**).

The Applicant seeks to operate the mobile food van upon portion of Reserve 25307 for a maximum of seven (7) nights per week between the hours of 12 noon and 8-00pm.

The mobile food vehicle is a mobile food trailer which has Environmental Health approvals, and has signage wrapped around its external façade, as shown in **Appendix 1**. The mobile food van is serviced by a Honda EU70is inverter generator with a noise rating of 52db which will comply with the Environmental Protection (Noise) Regulations 1997.

Temporary Mobile Food Permits

During 2021 and 2022 Council granted a number of temporary approvals for Mobile Food Vans to service tourism demand during the recovery phase of Cyclone Seroja.

Two alternative locations approved on a temporary basis were:

- The carparking areas either at the intersection of Clotworthy and Grey Streets; and
- Sally's Tree adjacent to the boat ramp parking area.

There is one current permit for a mobile food van at the location of Sally's Tree carpark, which is due to expire on 16 June 2023.

Parking of Mobile Food Vehicle

The Applicant is also seeking approval for parking of the mobile food vehicle when not in operation, at their rural residential property, Lot 276 (No. 107) Explorer Avenue, Kalbarri. The advertising period for this application closes on 24 February 2023.

COMMUNITY & GOVERNMENT CONSULTATION:

The application for the operation of the proposed mobile food vehicle was advertised in accordance with clause 64, Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, for a period of 21 days from 4 January until 27 January 2023 as per the following:

- Public advertising - notice of the development placed in the Geraldton Guardian;
- 83 letters to adjacent land and business owners in townsite;
- A Notice of the development was also advertised at each of the Shire's administration buildings in Kalbarri and Northampton;
- A Notice of the development was advertised upon the Shire's website and social media page; and
- A notice of the development was also advertised in the local Community Newsletter 'Kalbarri Town Talk'.

During the above advertising periods the following submissions were received:

- Two (2) objections to the mobile food vehicle;
- Three (3) submissions supporting the proposed mobile food vehicle.

Overall, the 2 objections raised similar concerns which can be summarised by the points below:

- Concern regarding the use of a prominent foreshore location on a permanent basis;
- The intermittent use of the permit/approval and sporadic opening times/days per week of operation.
- The lack of commercial premises being leased and utilised by food and beverage providers.
- Concern for the ongoing viability of Kalbarri as a tourism destination should food outlets continue to resort to use of mobile food vans over permanent commercial premises.

A submission schedule, including a summary of the submissions received and comments made from the advertising process, is provided as **Appendix 2** to this report.

FINANCIAL IMPLICATIONS:

The applicant has paid a total sum of \$397-00 in respect of the application as follows:

- the sum of \$147 being payment of the application fee and \$250 payment for a 3 month mobile food van (MFV) permit.

It is noted the advertising fee and additional MFV permit fees are still to be paid.

Should Council approve the application, a mobile food vehicle permit fee will be payable as per Local Planning Policy *Mobile Food Vehicles*.

Alternatively, should Council refuse this application and the Applicant proceeds to exercise their right of appeal, costs are likely to be imposed on the Shire through its involvement in the appeal process.

STATUTORY IMPLICATIONS:

State: *Planning and Development Act 2005*

Planning and Development (Local Planning Scheme) Regulations 2015

Local: *Shire of Northampton Local Planning Scheme No. 11 – Kalbarri Townsite*

Reserves 25307 and 52436 are vested with the Shire for the purposes of “Parklands” and “Public Open Space” respectively.

Shire of Northampton Local Planning Scheme No. 11 – Kalbarri Townsite

Under *Local Planning Scheme No. 11* the land of Reserve 25307 is zoned “Parklands” and is located on the Murchison River foreshore therefore the objectives of the Foreshore Reserve are as follows:

- To set aside areas for foreshore reserved abutting a body of water or water course, particularly those required pursuant to State Coastal Planning Policy 2.6 – State Coastal Planning Policy and any other Commission policy.
- To provide for the protection of natural values, a range of active and passive recreational uses, cultural and community activities promoting community education of the environment and/or uses that are compatible with and/or support the amenity of the reservation.

The land of Reserve 25307 is zoned ‘Reserve – Public Open Space’ under Local Planning Scheme No. 11 with the objectives of the Reserve being:

- *“To set aside areas for public open space, particularly those established under the Planning and Development Act 2005 s. 152.*
- *To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage.”*

The operation of a food vehicle is considered to be a ‘Use Not Listed’ under the Scheme and therefore does not fall within a defined use class under the Scheme Zoning Table. Section 3.3.4 of the Scheme is applied in this instance:

“The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table -

- (a) *determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government;*

- (b) *determine that the use may be consistent with the objectives of a particular zone and give notice under clause 64 of the deemed provisions before considering an application for development approval for the use of the land; or*
- (c) *determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone."*

Therefore, for a 'Use Not Listed', it must be determined whether the proposal is considered to be consistent with the objectives of the 'Foreshore' and 'Public Open Space' reserves.

As the Application also requires the approval of a rural residential lot for use for Commercial Vehicle Parking, the following provisions of the *Local Planning Scheme No. 11* also apply, in relation to the proposed use of Lot 276 (No. 107) Explorer Avenue, Kalbarri.

Lot 276 Explorer Avenue is zoned "Residential R17.5" under *Local Planning Scheme No. 11 – Kalbarri* with the Scheme stating the following purposes and intent for the 'Rural Residential' zone:

- *To provide for lot sizes in the range of 1 ha to 4 ha.*
- *To provide opportunities for a range of limited rural and related ancillary pursuits on rural residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.*
- *To set aside areas for the retention of vegetation and landform or other features which distinguish the land.*

The proposed use of the rural residential land falls under the definition of 'Commercial Vehicle Parking' which is defined under the Scheme as being:

- "premises used for parking of one or 2 commercial vehicles but does not include -*
- (a) *any part of a public road used for parking or for a taxi rank; or*
 - (b) *parking of commercial vehicles incidental to the predominant use of the land"*

The use 'Commercial Vehicle Parking' is listed as an "A" use under the *Local Planning Scheme No. 11*, meaning that:

"the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions."

As a 'Commercial Vehicle Parking' application, the length of any Development Approval for the commercial vehicle parking upon a rural residential lot (i.e. private residence) is limited to a twelve month period with an annual review, as per Clause 4.8.11 of the Scheme:

"4.8.11 Parking of Boats and Commercial Vehicles

- (a) *The local government may permit the parking of only one commercial vehicle on a lot in the "Residential", Rural Residential" or "Environmental Conservation" zone provided -*
 - (i) *the amenity of the neighbourhood in the opinion of the local government is not adversely affected;*

- (ii) *the vehicle forms an essential part of the occupation of an occupant of the dwelling;*
 - (iii) *the vehicle does not exceed either 3 metres in height or 12 metres in length;*
 - (iv) *any vehicle exceeding 8 metres in length is screened from public view; and*
 - (v) *no major repairs to the vehicle is undertaken and any minor repairs, maintenance, service or cleaning of any commercial vehicle or truck is undertaken in an area screened from public view.*
- (b) *Approval shall be issued on an annual basis only and if, in the opinion of the local government, the commercial vehicle is causing a nuisance or annoyance to owners or occupiers of land in the locality, the local government may not re-issue an approval.*
 - (c) *A vehicle shall be considered to be parked on a lot for the purposes of these provisions if it remains on that lot for more than one hour in aggregate over any period of twenty four hours, unless the vehicle is being used bona fide in connection with ongoing construction work legally being carried out on the lot.*
 - (d) *Commercial vehicles which are parked temporarily on a property for the purpose of delivering or loading goods associated with domestic residential use are exempt from clause 4.8.10.*
 - (e) *No person shall on any lot within the Residential Zone keep, park, repair or store any boat, trailer, caravan or any associated material not specifically for the immediate use by the occupant in front of the building setback line."*

The Applicant would therefore be required to re-apply for Development Approval (for the commercial vehicle parking) annually, should an approval be granted by Council.

Planning and Development (Local Planning Scheme) Regulations 2015

Clause 67 of Schedule 2 of the Regulations outlines a number of other matters that should be considered by local government when determining an application. The most relevant provisions are outlined below:

"In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application -

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (c) *any approved State planning policy;*
- (g) *any local planning policy for the Scheme area;*
- (j) *in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following -*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*

- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
- (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (s) *the adequacy of –*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *the availability and adequacy for the development of the following -*
 - (i) *public transport services;*
 - (ii) *public utility services;*
 - (iii) *storage, management and collection of waste;*
 - (iv) *access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
 - (v) *access by older people and people with disability;*
- (v) *the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- (za) *the comments or submissions received from any authority consulted under clause 66;*
- (zb) *any other planning consideration the local government considers appropriate.*

POLICY/PROCEDURE IMPLICATIONS:

Local: Shire of Northampton Kalbarri Townsite Strategy

Shire of Northampton Local Planning Policy – Mobile Food Vehicles

Shire of Northampton Kalbarri Townsite Strategy

The strategic vision of the Kalbarri Townsite Local Planning Strategy is:

“To develop a long term Strategy for the future development and enhancement of Kalbarri that recognises, builds upon and promotes the tourism and residential values of the location in an environmentally and economically sustainable manner.”

The strategic objectives of the Strategy are:

- *“To enhance Kalbarri’s position as a premier family holiday destination within Western Australia while recognising the continuing value and importance of non-family Intrastate, Interstate and International visitors.*

- *To broaden Kalbarri’s economic and employment base by furthering Kalbarri’s position as a desirable alternative residential and employment location within the Mid-West.*
- *To protect and enhance Kalbarri’s unique urban values and particularly its connectivity to the surrounding natural environment together with its compactness and high level of walkability.”*

Reserve 25307 is not specifically identified in the Kalbarri Townsite Strategy, however, the use of the reserve for recreational and tourism related purposes is considered to align with the strategies purpose.

Local Planning Policy – Mobile Food Vehicles

The *Local Planning Policy for Mobile Food Vehicles* was adopted by Council at their 15 March 2019 Ordinary Meeting.

The *Local Planning Policy* states the following objectives:

- *“Provide guidance on the requirements for the operation of mobile food vehicles within the Shire of Northampton;*
- *Allow mobile food vehicles to operate in locations which support the activation of underutilised public spaces;*
- *Ensure mobile food vehicles operate in a way which complements existing food businesses within town sites;*
- *Ensure mobile food vehicles are of a temporary nature;*
- *Ensure mobile food vehicles do not unreasonably compromise the amenity of the surrounding residential area; and*
- *Ensure mobile food vehicle operators practise safe food handling in accordance with the Food Act 2008.”*

The *Local Planning Policy* details a number of sites as being suitable for mobile food vehicles. However, the proposed site at Sally’s Tree Carpark on Reserve 25307 is not included. Consideration of alternative locations may be considered if it the meet the purpose of this policy:

“3.4 Location and Siting

3.4.2 Alternative locations may be considered if they meet the purpose of this policy.

3.4.3 The following location requirements apply to all applications for mobile food vehicle permit:

- a) Mobile food vehicle permit holders are only permitted to trade in an approved location, which is to be at least 50m from an established food or beverage business and 500m from a business selling the same, or similar, food product during that business’ trading hours;*
- b) Mobile food vehicles are only permitted to trade at the locations detailed on their permits; and*
- c) Mobile food vehicles will be located so as not to obstruct pedestrian flow or vehicular traffic.*

The LPP also includes a range of provisions that address Waste Management, Noise,

Advertising and Power Supply;

3.6 Waste Management

3.6.1 The mobile food vehicle operator is required to maintain the mobile food vehicle and the surrounding area to a high standard and in accordance with the following requirements:

- a) When trading at an approved location the trade area must be cleaned frequently;
- b) No waste or litter from the vehicle may be disposed of into Shire of Northampton's rubbish bins. Mobile food vehicle operators must provide adequately sized bins for patrons use and remove all rubbish from the approved location at the end of trade;
- c) A holding tank for wastewater must be located beneath the vehicle; and
- d) Waste water, solid waste, litter or any other pollutant must not be placed on the site or allowed to enter the stormwater system, and must be disposed of appropriately and in compliance with relevant legislation and local government requirements.

3.7 Fixtures

3.7.1 A mobile food vehicle may only be permitted to have temporary fixtures (subject to attaining the approval of the local government) such as tables, chairs, signs and umbrellas and be in accordance with the following:

- a) The fixtures are to be of a temporary nature and removed from the site at the end of trade each day;
- b) The mobile food vehicle and temporary fixtures must be kept in a safe and well-maintained condition at all times;
- c) All temporary fixtures relating to the mobile food vehicle should be sturdy and made of quality materials without sharp edges or other features likely to cause harm; and
- d) Any temporary fixtures relating to mobile food vehicles must not obstruct pedestrian flow or vehicular traffic.

3.8 Noise

3.8.1 The use of amplified noise is prohibited.

3.8.2 Generators must not have a manufacturer specified operational volume greater than 75dB. Noise emissions will be required to be monitored on an ongoing basis to ensure ageing equipment remains below this threshold, or compliance procedures may apply.

3.8.3 Notwithstanding the above provision (clause 3.8.2) all mobile food vehicle noise (including the generator) must comply with the assigned noise levels specified under the Environmental Protection (Noise) Regulations 1997.

3.9 Advertising

3.9.1 All advertising is to be fitted to the mobile food vehicle with the exception of one temporary A-frame sign and one tear drop banner and:

- a) Shall be located as close as practicable, and not exceeding 75m, from the location of the mobile food vehicle, with this location being subject to the approval of the Shire of Northampton;
- b) A-frame signs shall not exceed any dimension of 1m or an area of 1m² on any side;

c) *Shall be secured in accordance with any requirements of the Shire of Northampton; and A-frame signs and tear drop banners will be considered to be temporary fixtures and must comply with the requirements detail in cl. 3.7 of this policy.*

3.10 Power

3.10.1 *Mobile food vehicles need to be provided with their own power supply unless otherwise approved by Council. The use of generators upon Reserve 52436 will not be permitted except in emergency situations (e.g. power outages).*

3.11 Public Risk Management

3.11.1 *The permit holder assumes responsibility for any acts of negligence arising from their activity.*

3.11.2 *The mobile food vehicle permit holder assumes responsibility for any liability issues which may arise as a result of the operation of the mobile food vehicle being at the location."*

STRATEGIC IMPLICATIONS:

Local: Shire of Northampton Planning for the Future 2016-2026

COMMENT:

Reasoning and explanation for Staff recommendation

Reserve 25307 is a Crown Reserve managed by the Shire of Northampton, located on the Murchison River foreshore having the purpose of "Foreshore Parklands" that provides for a range of active and passive recreational uses that are compatible with and/or support the amenity of the reservation. Whilst it is considered that the operation of a mobile food vehicle is consistent with the purpose of the Reserve, this location is not an approved location.

The Shire of Northampton's *Kalbarri Townsite Strategy* seeks to enhance and develop Kalbarri as a tourist and family holiday destination, and it is considered that this application supports the strategy's objectives. It is also considered that the proposal is consistent with the use and development provisions of the strategy for the "Fisherman's Wharf" Planning Area.

With regard to Council's adopted Policy, it is considered that the proposed location of the mobile food van for a 12 month period at Sally's Tree Carpark (Reserve 25307) does not adequately address the policies objectives.

Mobile food vehicles are to operate in a way which complements existing food businesses within the Kalbarri townsite, however the policy also seeks to ensure mobile food vehicles are temporary in nature. The operation of the Bao Shed 7 days a week from 12.00 noon to 8.00pm over a 12 month period is considered to be inconsistent with the objectives of the LPP for the proposed location.

Should Council consider there is merit in allowing a more temporary placement of a second mobile food van on Reserve 25307, it is recommended that this only be approved for a period of 4 months to coincide with the expiry of the other permit holder. It is also recommended that Shire staff undertake a review of the LPP and survey the availability of commercial premises within the Kalbarri townsite during this time to support a review of the policy.

Parking and Storage of a Commercial Vehicle

The Applicant is proposing to park and store the food van at a rural residential lot within Kalbarri, with the advertising period for the Commercial Vehicle Parking application closing on 24 February 2023. Should no objections be received in relation to the proposed storage of the food van within the rural residential area, it is considered appropriate to permit the mobile food vehicle to be stored within the property boundary of Lot 276 (No. 107) Explorer Avenue, Kalbarri outside of trading hours.

As the advertising period for this application has not yet closed, should objections be received in relation to the parking of the commercial vehicle, an addendum to this agenda item detailing the submissions received and providing a recommendation will be presented to Council at their 17 March 2023 meeting for their determination.

It is considered that the Application for Development Approval is consistent with the *Shire of Northampton's Local Planning Scheme and Kalbarri Townsite Strategy*. Whilst the application is consistent with some of the *Local Planning Policy – Mobile Food Vehicles*, it does not meet the provisions associated with 'approved locations' within the LPP. Furthermore, proposed operation hours are not considered to accord with the objectives of the LPP given they are not temporary in nature. Therefore, it is recommended that Council only approve the Application for Development Approval, for a period of 4 months to allow time to undertake a review of the LPP, alternative locations alongside a survey of existing businesses and commercial premises within the Kalbarri Townsite.

RISK ASSESSMENT:

Risk rating is considered Level 1 – *Insignificant*.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response
Moderate (3)	Medical type injuries	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies
Major (4)	Lost time injury	\$50,001 - \$150,000	Prolonged interruption of services – additional resources; performance affected < 1 month	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies
Catastrophic (5)	Fatality, permanent disability	More than \$150,000	Indeterminate prolonged interruption of services – non-performance > 1 month	Non-compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact

VOTING REQUIREMENT:

Simple Majority required

COUNCIL RESOLUTION/STAFF RECOMMENDATION 10.3

Moved Cr SUCKLING, seconded Cr GIBB

That Council, having taken into consideration the provisions of the Shire of Northampton's Local Planning Scheme No. 11 (Kalbarri) and the Shire's Local Planning Policy *Mobile Food Vehicles*, grant approval for a mobile food vehicle to operate upon Reserve 25307, subject to the following conditions:

1. Development/use shall be in accordance with the attached approved plans dated 17 February 2023 and subject to any modifications required as a consequence of this approval the endorsed plan(s) shall not be modified or altered without the prior written approval of the local government;
2. Any additions to, or change to, the approved use (not the subject of this consent/approval) requires further application and planning approval for that use/addition;
3. This Development Approval and Mobile Food Vehicle Permit is valid until 16 June 2023, after which the further renewal of the approval by the local government will be required. It is the responsibility of the operator to reapply in good time before expiration, and the local government will not automatically re-issue approvals;
4. That Council determines that the mobile food vehicle permit fee of \$250 for a three month period (as per Local Planning Policy – *Mobile food Vehicles*) as the appropriate fee for this application;
5. That it is the responsibility of the operator to pay the appropriate mobile food vehicle permit fee in good time before expiration, and the local government will not automatically issue renewal notices;
6. That the scheduled quarterly payment fee of \$250 per three month period to the 16 June 2023 is due and payable on 17 March 2023;
7. Should payment of the permit fee not be received by the due date, the current application will become void and no longer valid;
8. The Mobile Food Vehicle Permit issued shall be displayed on the dash or another prominent visible location of the approved vehicle at all operating times;
9. The approval is for one (1) Mobile Food Vehicle only and does not include any peripheral alfresco seating;
10. The approved hours of operation of this food van are between 4pm and 9pm, for a maximum of 6 days per week;
10. The Applicant shall at no time interfere or obstruct the operations and activities of Reserve 25307, or any approved users of the Reserves to the satisfaction of the local government;

11. Should substantiated ongoing complaints be received in relation to Condition No. (10), the Shire of Northampton reserves the right to review and/or revoke this Development Approval;
12. The Applicant shall obtain Public Liability Insurance coverage to a minimum of \$20 million, and forward a copy of this certificate to the Shire of Northampton, to comply with the provisions of the *Shire of Northampton's Local Planning Policy – Mobile Food Vehicles*;
13. No signage is permitted in relation to this Development Approval unless otherwise approved in writing by the local government;
14. This approval is issued only to Tony Wilton and Anne Cullen and is NOT transferable to any other person or to any other land parcel, without the further application and approval of the Shire of Northampton;
15. The food van is approved to sell Steamed Bao Buns, Asian noodle soups, Malaysian style curries and rice, Cakes and slices and cold drinks and bottled water only;
16. The Applicant is required to provide adequate rubbish disposal facilities, remove all rubbish associated with the operation and maintain clean and sanitary conditions at all times;
17. The land use hereby permitted shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of smoke, dust, fumes, odour, noise, vibration, waste product or otherwise;
18. The mobile food vehicle is required to be removed from the approved Reserve location at the close of business each day and is not permitted to be stored overnight upon any Reserve;
19. The use of a generator upon Reserve 25307 by the Applicant is the approved power source (subject to Conditions 21 and 22) and the on-site power source is not accessible/approved for this commercial purpose. The Applicant shall only utilise the power source available with prior written approval of the Shire of Northampton;
20. Should approval be granted by the Shire of Northampton, the Applicant shall be wholly financially responsible for the use and cost of electricity accessed via the metered outlet upon Reserve 25307;
21. Generators used for the purpose of providing power to the mobile food van shall not have a manufacturer-specified operational volume greater than 75dB;
20. The Applicant is required to monitor noise emissions on an ongoing basis to ensure ageing equipment remains below this threshold;
21. Should the Applicant fail to comply with Conditions No. 21 and/or 22 above, compliance procedures shall apply which may include restricting or prohibiting the use of the generator;
22. The parking and storage of the commercial vehicle (mobile food vehicle) upon Lot 276 (No. 107) Explorer Avenue, Kalbarri shall be provided for within the property boundaries and the street verge areas are to be kept free of such vehicles; subject to:

- (i) the van being stored within the property boundaries; and
 - (ii) the food van not causing injury to or prejudicially affecting the amenity of the locality by reason of the emission of smoke, dust, fumes, odour, noise, vibration, waste product or otherwise; and
 - (iii) the Applicant meeting the requirements of Condition 22, as per below; and
 - (iv) no objections being received in relation to the commercial vehicle parking application;
23. Should any objections be received in relation to the parking and storage of the commercial vehicle (mobile food vehicle) application upon Lot 276 Explorer Avenue, Kalbarri, the matter shall be re-presented to Council at their 17 March 2023 meeting for their determination;
24. No food is to be prepared within the dwelling upon Lot 276 (No. 107) Explorer Avenue, Kalbarri and all food preparation shall be contained within the food vehicle, unless further application is made to, and approval is granted by, the Shire of Northampton;
25. The parking and storage of the commercial vehicle (food vehicle) upon Lot 276 (No. 107) Explorer Avenue, Kalbarri requires annual approval, and the Applicant is advised that they must re-apply to the Shire of Northampton prior to the end of each financial year (30th June) to gain approval for the parking of the food van upon this residential lot; and
26. The Shire of Northampton reserves the right to reposition the mobile food vehicle's permitted trading area, to be undertaken in consultation with the Applicant, so as to improve the efficiency and effectiveness of the site's use, if required.

Advice Notes

1. *The Applicant is advised that it is not the responsibility of the local government to ensure that all correct approvals are in place and that all conditions contained within said approvals are upheld during the operations of the business.*
2. *The Applicant is advised that compliance with any and all governmental legislation and regulations, including but not limited to the Health Act and Regulations, the Food Act and Regulations and the Environmental Protection (Noise) Regulations, is required at all times;*
3. *If an applicant is aggrieved by this determination there is a right (pursuant to the Planning and Development Act 2005) to have the decision reviewed by the State Administrative Tribunal. Such application must be made within 28 days from the date of this notice.*
4. *If a commercial vehicle owner/driver, who has been granted approval to park a vehicle on a lot, wishes to replace the vehicle with a different type of commercial vehicle, or park the vehicle in a different location to that approved, a new application is required to be lodged with the local government.*

CARRIED 6/0
Minute Reference 02/23-06

1-55pm – Anonymous Observer left the meeting.

10.4 SUMMARY OF PLANNING INFORMATION ITEMS

Noted.

11 FINANCE REPORT

11.1 ACCOUNTS FOR PAYMENT

11.2 MONTHLY FINANCIAL STATEMENTS – DECEMBER 2022 AND JANUARY 2023

11.3 FINANCIAL HARDSHIP POLICY

11.4 BUDGET VARIATIONS

11.1 ACCOUNTS FOR PAYMENT (ITEM 11.1)

Reference	1.1.1
Date of Report	9 th February 2023
Reporting Officer	Grant Middleton
Responsible Officer	Grant Middleton, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Reference	Description	In Report	Separate Cover
Appendix	List of Accounts	✓	

DISCLOSURE OF INTEREST:

BACKGROUND:

A list of payments submitted to Council on 17th February 2023, for confirmation in respect of accounts already paid or for the authority to those unpaid.

COMMUNITY & GOVERNMENT CONSULTATION:

Not applicable

FINANCIAL IMPLICATIONS:

A list of payments is required to be presented to Council as per section 13 of the Local Government Act (Financial Management Regulations 1996).

STATUTORY IMPLICATIONS:

Local Government (Financial Management) Regulation 13 1996
Local Government Act 1995 Section 6.10

POLICY/PROCEDURE IMPLICATIONS:

Council Delegation F02 allows the CEO to make payments from the Municipal bank accounts. These payments are required to be presented to Council each month in accordance with Financial Management Regulations 13 (1) for recording in the minutes.

COMMENT:

Council to authorise the payments as presented.

RISK ASSESSMENT:

As Council has complied with legislative requirements there is no associated risk of failing to comply with Local Government Financial Regulations requiring monthly reporting of Financial Activity. Risk rating is considered Level 1 – Insignificant.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response

VOTING REQUIREMENT:

Absolute Majority required

COUNCIL RESOLUTION/STAFF RECOMMENDATION – 11.1

Moved Cr HORSTMAN, seconded Cr GIBB

That Municipal Fund Cheques 22318 to 22335 inclusive totalling \$103,663.96, Municipal EFT payments numbered EFT24335 to EFT24552 inclusive totalling \$901,583.19, Direct Debit payments numbered GJ0605 to GJ0709 inclusive totalling \$613,582.78 be passed for payment and the items therein be declared authorised expenditure.

CARRIED BY ABSOLUTE MAJORITY 6/0
Minute Reference 02/23-07

11.2 MONTHLY FINANCIAL STATEMENTS – DECEMBER 2022 (ITEM 11.2)

File Reference	1.1.1
Date of Report	9 th February 2023
Reporting Officer	Grant Middleton
Responsible Officer	Grant Middleton, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Reference	Description	In Report	Separate Cover
Appendix	Monthly Financial Report for December 2022	✓	

DISCLOSURE OF INTEREST:

BACKGROUND:

This information is provided to Council in accordance with provisions of the Local Government Act 1995 and Local Government (Financial Management) Regulations 1996.

The Monthly Statements of Financial Activity for the period ending 31 December 2022 are detailed from page 1 to page 22 per the attached Monthly Financial Report.

COMMUNITY & GOVERNMENT CONSULTATION:

Not applicable

FINANCIAL IMPLICATIONS:

The 31 December 2022 financial position is comprised of the following:

Total operating revenue has a surplus position of \$1,147,417 and operating expenditure has a surplus position of \$203,715 to the end of December 2022. The surplus revenue position is largely due to the receipt of \$750,000 for Insurance and LRCl grant revenue. The expenditure variances are spread across multiple programs and not considered significant at this stage of the year.

Investing and Financing variances will reconcile as the year progresses and it is anticipated there will be no significant budget variations.

Further explanations of material variations are detailed by reporting program in Note 15 of the Monthly Financial Report.

STATUTORY IMPLICATIONS:

Local Government (Financial Management) Regulation 34 1996
Local Government Act 1995 Section 6.4

POLICY/PROCEDURE IMPLICATIONS:

Council is required annually to adopt a policy on what it considers to be material as far as variances that require to be reported for Council. The current Council Policy sets the material variance at \$5,000.

COMMENT:

Council to adopt the monthly Financial Report as presented.

RISK ASSESSMENT:

As Council has complied with legislative requirements there is no associated risk of failing to comply with Local Government Financial Regulations requiring monthly reporting of Financial Activity. Risk rating is considered Level 1 – Insignificant.

VOTING REQUIREMENT:

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response

Absolute Majority required

COUNCIL RESOLUTION/STAFF RECOMMENDATION – 11.2/11.3

Moved Cr PIKE, seconded Cr GIBB

That Council adopts the Monthly Financial Report for the period ending 31 December 2022.

CARRIED BY ABSOLUTE MAJORITY 6/0
Minute Reference 02/23-08

11.3 MONTHLY FINANCIAL STATEMENTS – JANUARY 2023 (ITEM 11.3)

File Reference	1.1.1
Date of Report	9 th February 2023
Reporting Officer	Grant Middleton
Responsible Officer	Grant Middleton, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Reference	Description	In Report	Separate Cover
Appendix	Monthly Financial Report for January 2023	✓	

DISCLOSURE OF INTEREST:

BACKGROUND:

This information is provided to Council in accordance with provisions of the Local Government Act 1995 and Local Government (Financial Management) Regulations 1996.

The Monthly Statements of Financial Activity for the period ending 31 January 2023 are detailed from page 1 to page 22 per the attached Monthly Financial Report.

COMMUNITY & GOVERNMENT CONSULTATION:

Not applicable

FINANCIAL IMPLICATIONS:

The 31 January 2023 financial position is comprised of the following:

Total operating revenue has a surplus position of \$1,188,746 and operating expenditure has a surplus position of \$20,683 to the end of January 2023. The surplus revenue position is largely due to the receipt of \$750,000 for Insurance and LRCI grant revenue. The expenditure variances are spread across multiple programs and not considered significant at this stage of the year.

Investing and Financing variances will reconcile as the year progresses and it is anticipated there will be no significant budget variations.

Further explanations of material variations are detailed by reporting program in Note 15 of the Monthly Financial Report.

STATUTORY IMPLICATIONS:

Local Government (Financial Management) Regulation 34 1996
Local Government Act 1995 Section 6.4

POLICY/PROCEDURE IMPLICATIONS:

Council is required annually to adopt a policy on what it considers to be material as far as variances that require to be reported for Council. The current Council Policy sets the material variance at \$5,000.

COMMENT:

Council to adopt the monthly Financial Report as presented.

RISK ASSESSMENT:

As Council has complied with legislative requirements there is no associated risk of failing to comply with Local Government Financial Regulations requiring monthly reporting of Financial Activity. Risk rating is considered Level 1 – Insignificant.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response

VOTING REQUIREMENT:

Absolute Majority required

COUNCIL RESOLUTION/STAFF RECOMMENDATION – 11.2/11.3

Moved Cr PIKE, seconded Cr GIBB

That Council adopts the Monthly Financial Report for the period ending 31 January 2023.

CARRIED BY ABSOLUTE MAJORITY 6/0
Minute Reference 02/23-08

11.4 FINANCIAL HARDSHIP POLICY (ITEM 11.4)

File Reference	1.2.4
Date of Report	9 th February 2023
Reporting Officer	Grant Middleton
Responsible Officer	Grant Middleton, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Reference	Description	In Report	Separate Cover
Appendix 1	LG Alert – Covid Amendment Orders Ceasing 3rd February 2023	✓	
Appendix 2	Financial Hardship Policy & Procedures (Existing)	✓	

DISCLOSURE OF INTEREST:

BACKGROUND:

The Department of Local Government, Sport and Cultural Industries” has issued an LG alert advising that the “Financial hardship provisions under the Local Government (COVID-19 Response) Amendment Order 2022 to end” on 3 February 2023.

Council currently has section 2.11 relating to “Financial Hardship Policy – Rates Debtors” in the Policy Manual. Council approved an update to this Policy at the ordinary Meeting of Council on 16th September 2022 to ensure the policy complied with the previous “Amendment Order 2022” conditions for a 7.00% Penalty Interest Rate that was adopted in the 2022/2023 Budget.

The latest Policy Manual changes are required to remove the Financial Hardship Policy Rates Debtors (2.11) from the Policy Manual to align with the cessation of the Covid Amendment Orders on 3rd February 2023. The instalment interest on rates and interest on overdue rates and general debtors remain as adopted in the 2022-23 budget for the remaining 2022-23 financial period. Therefore no changes will be required to any existing rates used to compile and adopt the 2022-23 Budget.

COMMUNITY & GOVERNMENT CONSULTATION:

Not applicable

FINANCIAL IMPLICATIONS:

The cessation of the “Covid Orders” will not impact on Councils financial status as there will be no changes to the adopted interest rates for Rates Debtors used to formulate the 2022/2023 budget.

STATUTORY IMPLICATIONS:

Not applicable

POLICY/PROCEDURE IMPLICATIONS:

It is not anticipated the removal of the Financial Hardship Policy will have an impact on rate revenue as the policy has been in operation since 2020/2021 and hasn’t generated a great deal of interest from Rates Debtors.

COMMENT:

Council is requested to remove the “Financial Hardship Policy”.

RISK ASSESSMENT:

As Council will comply with amendment Order the Risk rating is considered Level 1 – Insignificant.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or ‘no news’ item	Inconsequential or no damage.	Contained, reversible impact managed by on site response

VOTING REQUIREMENT:

Absolute Majority required

COUNCIL RESOLUTION/STAFF RECOMMENDATION – 11.4

Moved Cr BURGESS, seconded Cr SUCKLING

That Council remove Policy 2.11 – Financial Hardship Policy Pages 72-74 from the Policy Manual.

CARRIED BY ABSOLUTE MAJORITY 6/0

Minute Reference 02/23-09

11.5 BUDGET VARIATIONS (ITEM 11.5)

File Reference	1.1.2
Date of Report	9 th February 2023
Reporting Officer	Grant Middleton
Responsible Officer	Grant Middleton, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Reference	Description	In Report	Separate Cover
Appendix 1	Roads to Recovery Acquittal	✓	

DISCLOSURE OF INTEREST:

Nil

BACKGROUND:

Council to approve the following budget variation requests:

1. Little Bay Road construction - Local Roads and Infrastructure Grant Program - LRCI3

The 2022/2023 Budget has an expenditure provision of \$630,000 for the Little Bay Road construction project. The revenue associated with this project is the Federal Government funded LRCI3 program which unfortunately has a requirement for all funds to be expended by 30 June 2023.

Councils total LRCI3 grant includes funding for the following:

Kalbarri Airport – Runway Reseal	\$290,602
Little Bay Road	\$550,000
NCC Ablutions	<u>\$140,000</u>
Total	\$980,602

Council has received \$490,301 which is 50% of the total funding allocation.

Staff have been working through the approvals process to construct this road but have encountered issues in relation to land tenure and finalising the clearing permit and aboriginal heritage survey. It is considered highly unlikely that all approvals will be in place and works completed by the 30th June 2023.

Staff have determined that the best strategy to utilise the LRCI3 funding allocation pending the inability to complete the Little Bay Road project will be to complete all remaining asphalt resealing works for Grey Street in Kalbarri. In the event that the Little Bay road cannot be completed as planned staff are requesting the budget provision be allocated to the additional Grey Street asphalt works.

Grey Street is a major throughfare in Kalbarri with traffic flow increasing exponentially during school holidays and easter etc. It will be advantageous to have all the reseal works from Clotworthy Street to Chainman's completed at the same time and remove the requirement to undertake further works in subsequent years.

Council is requested to vary the LRCI 3 grant and transfer the allocation of \$550,000 from the Little Bay Road Project to the Grey Street Asphalt works. Additionally, the expenditure budget allocation of \$630,000 for the Little Bay Road project will be reduced to \$30,000 for funds expended to date plus a contingency for costs associated with the permits and surveys. The Grey Street Asphalt works budget will be allocated \$600,000.

2. Roads to Recovery (R2R) Carry Over from 2021/2022 - \$7,040

The Roads to Recovery program was underspent during 2021/2022 per the R2R Acquittal document presented at appendix 1. Due to the R2R acquittal process being finalised after the budget process the final carry over position was not known and therefore no allocation made in the 2022/2023 budget for the \$7,040. Any underspends in the R2R program must be expended in future years and subsequently the amount of \$7,040 will need to be allocated to a current project.

Council is requested to reduce the budget allocation for the Grey Street (Allen Centre) Footpath works and allocate \$7,040 to the Grey Street R2R asphalt works. It will be advantageous to delay the Grey Street (Allen Centre) Footpath works to 2023/2024 pending the completion of the asphalt works due to kerb reinstatement and other construction issues associated with constructing this footpath.

3. Kalbarri Road Reseal SLK 42-48- Regional Road Group (RRG)

The 2022/2023 budget has expenditure and revenue provisions of \$92,000 for the Kalbarri Road Reseal SLK 42 to 48 (RRG) Regional Road Group Project. This amount is incorrect, and the amount being funded by Main Roads totals \$103,333. Therefore, the total expense amount required in the 2022/2023 RRG budget needs to increase from \$138,000 to \$155,000 to match the 1/3-2/3 funding model associated with RRG works.

Council is requested to vary the RRG revenue and expenditure budget by increasing the RRG revenue budget from \$92,000 to \$103,333 and increase the RRG expense budget from \$92,000 to \$103,333 and the municipal contribution from \$46,000 to \$51,667. The municipal contribution will be funded by budget savings associated with the Grey Street (Allen Centre) footpath works.

4. Northampton Stud Breeders Shed (Ram Pavilion) – Northampton

The total estimate to construct the new Stud Breeders Shed at the Northampton Oval complex was \$362,341. The 2022/2023 Budget has a provision of \$227,600 with \$150,000 being paid for works completed during 2020/2021. Additional electrical works including emergency LED lights, upgraded wiring and cabling has been undertaken. It is anticipated that an additional \$20,000 will

be required to fund the additional works over and above the original budget including a small contingency.

The budget variation is as follows:

Budget Allocation 2022/2023 – GL 3815 Construction of Shed -	\$227,600
Less	
Construction costs to be paid 2022/2023 per Contract	-\$212,341
Less additional electrical work completed	<u>-\$ 31,108</u>
Variance	-\$ 15,849

Council is requested to increase the Northampton Stud Breeders Shed construction budget by \$20,000 to \$247,600 and fund the additional expenditure by utilising funds from the Grey Street (Allen Centre) Footpath works.

COMMUNITY & GOVERNMENT CONSULTATION:

Not applicable

FINANCIAL IMPLICATIONS:

There will be no overall change to the 2022/2023 budget provision to accommodate the revised budget allocations listed above. Additionally, the budget revision will not impact on the Long Term Financial Plan (LTFP).

STATUTORY IMPLICATIONS:

Local Government Act 1995 – Section 6.8, authorising unbudgeted expenditure.

Local Government Act (1995) – Section 6.8. - Expenditure from municipal fund not included in annual budget

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

(a) is incurred in a financial year before the adoption of the annual budget by the local government; or

(b) is authorised in advance by resolution; or*

(c) is authorised in advance by the mayor or president in an emergency.

** Absolute majority required.*

(1a) In subsection (1):

additional purpose means a purpose for which no expenditure estimate is included in the local government’s annual budget.

(2) Where expenditure has been incurred by a local government —

- (a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year;
and
(b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.

POLICY/PROCEDURE IMPLICATIONS:

No Policy or Procedure implications

COMMENT:

All of the variations listed on the following page are considered to be a priority in nature and need to be funded this financial year.

COA/Job No.	COA/Job Description	Adopted Budget	Proposed Revised Budget	Budget Variance	Comments
152140.08 (R441)	Grey St LRC13 Asphalt Works	\$0	\$600,000	\$600,000	Transfer allocation from Little Bay Rd to to Grey St
152140.08(R440)	Little Bay Road construction	\$630,000	\$30,000	-\$600,000	Transfer allocation from Little Bay Rd to to Grey St
152100.08	Grey Street R2R Asphalt Reseal Stage 2	\$306,000	\$313,040	+\$7,040	Re-allocation to expend R2R Carry Over
150900.08	Grey Street Footpath (Allen Centre)	\$40,000	\$32,960	-\$7,040	Reduced budget allocation
150300.08	RRG Kalbarri Road Re-Seal SLK 42 to 48	\$92,000	\$103,333	+\$11,333	Increased RRG Expenditure
154810.18	RRG Kalbarri Road Grant Revenue	\$92,000	\$103,333	+\$11,333	Increased RRG Revenue
150600.08	RRG Kalbarri Road Re-Seal SLK 42 to 48 (Council contribution)	\$46,000	\$51,667	+\$5,667	Increased RRG Expenditure

150900.08	Grey Street Footpath (Allen Centre)	\$32,960	\$27,293	-\$5,667	Reduced budget allocation
135150.08	Stud Breeders Shed (Ram Pavilion)	\$227,600	\$247,600	+\$20,000	Increased construction budget (additional electrical works)
150900.08	Grey Street Footpath (Allen Centre)	\$27,293	\$7,293	-\$20,000	Reduced budget allocation

RISK ASSESSMENT:

The associated of not approving the budget variations will impact on councils ability to spend allocated grant funds however the risk rating is considered Level 2 – Minor.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response

VOTING REQUIREMENT:

Absolute Majority Required: - As there will be a change to the 2022/2023 Budget Council is required to approve the expenditure by an absolute majority as per Section 6.8 of the Local Government Act 1995.

COUNCIL RESOLUTION/STAFF RECOMMENDATION – 11.5

Moved Cr HORSTMAN, seconded Cr BURGESS

That Council approve of the following Budget Variation's and this be declared authorised expenditure.

1a. Vary the Local Roads and Infrastructure (LRCI3) grant and transfer the allocation of \$550,000 from the Little Bay Road Project to the Grey Street Asphalt works in the event that the Little Bay project cannot be completed to comply with the LRCI3 grant funding deadline.

1b. Vary the Little By Road construction budget (LRCI3) totalling \$630,000 by allocating \$600,000 to the Grey Street Asphalt works in the event that the Little Bay project cannot be completed to comply with the LRCI3 grant funding deadline.

GL 152140.08 R441 Grey Street LRCI3 Asphalt Works +\$600,000
 GL 152140.08 R440 Little Bay Road Construction LRCI3 -\$600,000

2. Transfer \$7,040 from the Grey Street (Allen Centre) Footpath Budget to the Grey Street R2R Asphalt works budget to accommodate the 2020/2021 RTR Carry Over.

GL 152100.08 RT41 Grey Street R2R Asphalt Works +\$7,040
 GL 150900.08 F707 Grey Street (Allen Centre) Footpath -\$7,040

1. Vary the Kalbarri Road RRG revenue and expenditure budget by increasing the RRG revenue budget from \$92,000 to \$103,333 and the RRG expense budget from \$92,000 to \$103,333 and the municipal contribution from \$46,000 to \$51,667. To fund the additional municipal spend of \$5,667 the Grey Street (Allen Centre) Footpath budget will be reduced by \$5,667.

GL 150300.08 RRG Kalbarri Road Re-seal Works +\$11,333
 GL 155810.18 RRG Kalbarri Road Grant Revenue +\$11,333
 GL 150600.08 Muni - Kalbarri Road Re-seal Works +\$5,667
 GL 150900.08 F707 Grey Street (Allen Centre) Footpath -\$5,667

2. Vary the Stud Breeders Shed construction budget from \$227,600 to \$247,600 and further reduce the Grey Street (Allen Centre) Footpath Budget by \$20,000.

GL 135150.08 Stud Breeders Shed (Ram Pavilion) +\$20,000
 GL 150900.08 F707 Grey Street (Allen Centre) Footpath -\$20,000

CARRIED BY ABSOLUTE MAJORITY 6/0
Minute Reference 02/23-10

12 ADMINISTRATION & CORPORATE REPORT

- 12.1 MURCHISON RIVER CARAVAN PARK – LEASE REASSIGNMENT
- 12.2 ANNUAL ELECTORS MEETING- MINUTES
- 12.3 LOCAL GOVERNMENT ELECTION PROCESS

12.1 - MURCHISON RIVER CARAVAN PARK – LEASE REASSIGNMENT

Location	Lots 588 & 589 Grey St, Kalbarri
Applicant	GC Lawyers – Representing Ronald Allen, Dreda Allen and Murchison View Pty Ltd ATF The Allen Family Trust
Owner/Lessee	Ronald Allen, Dreda Allen and Murchison View Pty Ltd ATF The Allen Family Trust
File Reference	13.2.4
Date of Report	17 February 2023
Reporting Officer	Maurice Battilana, Acting CEO
Responsible Officer	Maurice Battilana, Acting CEO

SUPPORTING DOCUMENTS:

Reference	Description	In Report	Separate Cover
7.5.1(a)	GC Lawyer Correspondence		✓
7.5.1(b)	Lessee (Tasman Holiday Parks) Presentation		✓
7.5.1(c)	Lot 589 – Current Registered Lease		✓
7.5.1(d)	Lot 589 – Proposed Sublease		✓

DISCLOSURE OF INTEREST:

Nil

BACKGROUND:

A further request has been received from lawyers representing the current Lessee (Ronald Allen, Dreda Allen and Murchison View Pty Ltd ATF The Allen Family Trust) seeking further Shire consents in relation to the leases they have with the Shire of Northampton for Lot 588 and Lot 589 Grey Street, Kalbarri being used by them for the Murchison River Caravan Park.

Ronald Allen, Dreda Allen and Murchison View Pty Ltd ATF The Allen Family Trust are selling the business of Murchison River Caravan Park, together with the land on which it operates. The land comprises 6 titles, 4 of which are freehold titles owned by the Lessee, the other 2 are Crown Land Titles that are leased from the Shire of Northampton (Lot 588 and Lot 589).

Council agreed at the December 2022 Ordinary Council Meeting (OCM) to surrender the current Lot 588 Lease (in the name of Ronald Allen) and to have a new 21 year lease of Lot 588 issued to Murchison View Pty Ltd ATF The Allen Family Trust prior to settlement of the sale of the Murchison River Caravan Park.

Council resolved the following at the December 2022 OCM:

Moved Cr BURGESS seconded Cr STEWART

That Council approve the Lessee's request to:

- 1. Surrender of the current lease for Lot 588 Grey Street, Kalbarri with Ronald William Allen and re-issue the lease to Murchison View Pty Ltd ATF The Allen Family Trust;*
- 2. Request Ministerial approval for the re-issued lease to be for a period of 21 years;*

*CARRIED 6/0
Minute Reference 12-22/21*

COMMUNITY & GOVERNMENT CONSULTATION:

Community consultation is not applicable.

Minister for Lands will be advised of Council's resolution when seeking a variation to the existing lease agreement.

FINANCIAL IMPLICATIONS:

Council currently charges an annual lease fee for both Lots 588 and 589 which is reviewed annually as part of the budget deliberations. The 2022/2023 lease fees are:

- Lot 588 - \$22,527 (GST Exclusive);
- Lot 589 - \$13,933 (" ")

It is not intended to amend these lease fees until the next Shire budget cycle and will be in accordance with the Rent Review Clause stated in the current (and proposed) lease agreement.

STATUTORY IMPLICATIONS:

Land Administration Act, 1997

Legislation determines the purpose of the vesting of Crown Land under a Management Order. In regard to Lot 588 (on Deposited Plan 184647 and Certificate of Title Volume LR3044 Folio 475) the Crown Land Title (see **Attachment 2**) states the Management Order purpose as being "Caravan Park".

There is also a requirement under the Management Order to obtain Ministerial approval to lease the land, which can be for a maximum period of 21 years.

POLICY/PROCEDURE IMPLICATIONS:

No Policy or Procedure affected.

COMMENT:

The lawyers representing the current Lessee advise that:

1. the sale of the caravan park is to the Tasman Tourism Group, with Tasman Tourism Property Pty Ltd ATF The Tasman Tourism Property Trust purchasing the land and Tasman Tourism Pty Ltd ATF The Tasman Tourism Trust purchasing the business; and
2. the next part of the sale of the Murchison River Caravan Park is to seek the consent of the Shire of Northampton and the Minister for Lands to:
 - a) transfer of the lease for Lot 588/CT LR3044-475 (once the surrender of the current Lot 588 lease and the new lease is signed) to the land buyer, Tasman Tourism Property Pty Ltd ATF The Tasman Tourism Property Trust;

- b) transfer of the Lease of Lot 589/CT LR3044-477 dated 8 June 2021 (copy **enclosed**) to the land buyer, Tasman Tourism Property Pty Ltd ATF The Tasman Tourism Property Trust;
- c) the sub-leasing of both of the leases referred to in paragraphs 1 and 2 (initially by Murchison View Pty Ltd as trustee for The Allen Family Trust and after settlement by the land buyer Tasman Tourism Property Pty Ltd ATF The Tasman Tourism Property Trust) to the business buyer, Tasman Tourism Pty Ltd ATF The Tasman Tourism Trust, from 9am on the date of settlement of the sale of the business of Murchison River Caravan Park. A proposed sublease for Lot 589 is **enclosed** and a sublease in the same terms for Lot 588 will be prepared once the current Lot 588 lease is surrendered and a new Lot 588 lease is issued;
- d) mortgaging of the leasehold interests in the above leases by Tasman Tourism Property Pty Ltd ATF The Tasman Tourism Property Trust once the leases are transferred to it.

GC Lawyers have provided the ACEO with current company search details and recent financial information so the Shire can consider the suitability of the proposed assignee. This information will not be provided in the Agenda Report due to commercial confidentiality, yet will be reviewed as part of the due diligence process by the ACEO.

A representative from GC Lawyers has indicated they are willing to take a call from Council to explain or clarify any aspects of this application if considered necessary by Council.

RISK ASSESSMENT:

The associated risk would be the failure to comply with legislation, which is considered **Insignificant**.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response
Moderate (3)	Medical type injuries	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies
Major (4)	Lost time injury	\$50,001 - \$150,000	Prolonged interruption of services – additional resources; performance affected < 1 month	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies
Catastrophic (5)	Fatality, permanent disability	More than \$150,000	Indeterminate prolonged interruption of services – non-performance > 1 month	Non-compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact

VOTING REQUIREMENT:

Simple Majority

COUNCIL RECOMMENDATION/STAFF RECOMMENDATION - 12.1

Moved Cr GIBB, seconded Cr PIKE

Subject to a satisfactory outcome of due diligence undertaken by the Acting Chief Executive Officer on the proposed new Lessee, Council endorse the applicants request and recommend the Minister for Lands approval to:

- 1. transfer of the lease for Lot 588/CT LR3044-475 (once the surrender of the current Lot 588 lease and the new lease is signed) to the land buyer, Tasman Tourism Property Pty Ltd ATF The Tasman Tourism Property Trust;*
- 2. transfer of the Lease of Lot 589/CT LR3044-477 dated 8 June 2021 to the land buyer, Tasman Tourism Property Pty Ltd ATF The Tasman Tourism Property Trust;*
- 3. the sub-leasing of both of the leases referred to in paragraphs 1 and 2 (initially by Murchison View Pty Ltd as trustee for The Allen Family Trust and after settlement by the land buyer Tasman Tourism Property Pty Ltd ATF The Tasman Tourism Property Trust) to the business buyer, Tasman Tourism Pty Ltd ATF The Tasman Tourism Trust, from 9am on the date of settlement of the sale of the business of Murchison River Caravan Park. In accordance with the proposed sublease for Lot 589 provided and a sublease in the same terms for Lot 588 being prepared once the current Lot 588 lease is surrendered and a new Lot 588 lease is issued;*
- 4. mortgaging of the leasehold interests in the above leases by Tasman Tourism Property Pty Ltd ATF The Tasman Tourism Property Trust once the leases are transferred to it.*

CARRIED 6/0
Minute Reference 02/23-11

12.2 - ANNUAL ELECTORS MEETING – MINUTES

Location	Shire of Northampton
Applicant	Not Applicable
Owner/Lessee	Not Applicable
File Reference	4.1.1
Date of Report	17 February 2023
Reporting Officer	Maurice Battilana, Acting CEO
Responsible Officer	Maurice Battilana, Acting CEO

SUPPORTING DOCUMENTS:

Ref	Description	In Report	Separate Cover
7.5.2(a)	Minutes – Annual Electors Meeting (9 February 2023)	✓	

DISCLOSURE OF INTEREST:

Nil

BACKGROUND:

At the December 2022 Ordinary Council Meeting (OCM) Council resolved the following:

“That Council accepts the Annual Report for the 2021/2022 financial Year as required by s5.54 of the Local Government Act 1995 as presented.”

- AND -

“That Council:

- 1. Receives and accepts the Annual Financial Report for 2021/2022;*
- 2. Receives and accept the Auditors Management Report 2021/2022;*
- 3. Set the date for the Annual General Meeting of Electors for the 9 February 2023, commencing 4.00pm at the Council Chamber, Northampton, and advertise this meeting accordingly.*
- 4. Request the CEO give local public notice of the availability of the Annual Report as required by s5.55 the Act;*
- 5. Publish the Report on the Shire Website within 14 days of Council acceptance in accordance with s5.55A of the Act;*
- 6. Provides a copy of the Shire of Northampton 2021/2022 Annual Report to the Director General of the Department of Local Government.”*

As required by legislation, this item is being presented to the first Ordinary Council Meeting following an Annual Electors meeting to enable consideration of the issues raised (if any).

COMMUNITY & GOVERNMENT CONSULTATION:

The Annual Electors Meeting time/date and Annual Report were advertised in accordance with legislation.

FINANCIAL IMPLICATIONS:

No financial implications envisaged.

STATUTORY IMPLICATIONS:

Section 5.33 of the Local Government Act 1995 requires that:

- “(1) All decisions made at an electors meeting are to be considered at the next ordinary council meeting or, if that is not practicable –*
- (a) At the first ordinary council meeting after that meeting; or*
 - (b) At a special meeting called for that purpose.*

which ever happens first.

- (2) *If at a meeting of the Council a local government makes a decision in response to a decision made at an electors meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.”*

POLICY/PROCEDURE IMPLICATIONS:

No Policy or Procedure affected.

COMMENT:

As required by legislation, this item is being presented to the first Ordinary Council Meeting following an Annual Electors meeting to enable consideration of the issues raised (if any).

The Staff Recommendation is to accept the Minutes of the Annual Electors Meeting with no further action being required or necessary.

RISK ASSESSMENT:

Risk rating is considered Level 1 – *Insignificant*.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or ‘no news’ item	Inconsequential or no damage.	Contained, reversible impact managed by on site response
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response
Moderate (3)	Medical type injuries	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies
Major (4)	Lost time injury	\$50,001 - \$150,000	Prolonged interruption of services – additional resources; performance affected < 1 month	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies
Catastrophic (5)	Fatality, permanent disability	More than \$150,000	Indeterminate prolonged interruption of services – non-performance > 1 month	Non-compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact

VOTING REQUIREMENT:

Simple Majority required

COUNCIL RECOMMENDATION/STAFF RECOMMENDATION 12.2

Moved Cr SUCKLING, seconded Cr PIKE

The Minutes of the Annual Electors meeting dated 9 February 2023 be received with no further action being required or necessary.

CARRIED 6/0
Minute Reference 02/23-12

12.3 - LOCAL GOVERNMENT ELECTION PROCESS

Location	Shire of Northampton
Applicant	Not Applicable
Owner/Lessee	Not Applicable
File Reference	4.1.2
Date of Report	17 February 2023
Reporting Officer	Maurice Battilana, Acting CEO
Responsible Officer	Maurice Battilana, Acting CEO

SUPPORTING DOCUMENTS:

Ref	Description	In Report	Separate Cover
7.5.3(a)	Correspondence – Minister for Local Government	✓	
7.5.3(b)	WA Electoral Commission Quote	✓	

DISCLOSURE OF INTEREST:

Nil

BACKGROUND:

Correspondence has been received for the Minister for Local Government regarding arrangements for the October 2023 Ordinary Local Government Elections (see **Attachment 7.5.3(a)**).

COMMUNITY & GOVERNMENT CONSULTATION:

The Minister's correspondence is the only consultation to date on this matter.

FINANCIAL IMPLICATIONS:

STATUTORY IMPLICATIONS:

Local Government Act 1995 and Local Government (Election) Regulations

4.20. CEO to be returning officer unless other arrangements made

A local government may, having first obtained the written agreement of the Electoral Commissioner, declare* the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.

* *Absolute majority required.*

4.61. Choice of methods of conducting election

- 1) The election can be conducted as a —
 - postal election which is an election at which the method of casting votes is by posting or
 - delivering them to an electoral officer on or before election day; or
 - voting in person election which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.

- 2) The local government may decide* to conduct the election as a postal election.

* *Absolute majority required.*

- 3) A decision under subsection (2) has no effect if it is made after the 80th day before Election Day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.
- 4) A decision under subsection (2) has no effect unless it is made after a declaration is made under section 4.20(4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such a declaration.
- 5) A decision made under subsection (2) on or before the 80th day before election day cannot be rescinded after that 80th day.
- 6) For the purposes of this Act, the poll for an election is to be regarded as having been held on election day even though the election is conducted as a postal election.
- 7) Unless a resolution under subsection (2) has effect, the election is to be conducted as a voting in person election.

POLICY/PROCEDURE IMPLICATIONS:

No Policy or Procedure affected.

COMMENT:

It will be noted in the Minister’s correspondence, where local government’s not already using the WA Electoral Commissions (WAEC) Postal Voting service to conduct their election are encouraged to consider this as a practical option, specifically with the new vote counting process for the Optional Preferential Voting (OPV) to be introduced at the next election.

The WAEC has provided a cost estimate of \$24,000 to conduct the Shire of Northampton’s October 2023 Ordinary Election, which, equates to approximately 0.50% of the Shire’s annual Rate Revenue (4.717m). When annual Commonwealth General Purpose Grant amount (1.215m) is added to the Rates Revenue (4.717m) the WAEC cost equates to approximately 0.40%.

The cost for the WAEC to conduct the Shire’s elections is also funds well spent when compared to the time taken by staff to run the elections in-house and (more importantly) the increased voter participation due to the WAEC running a postal election.

The WAEC Postal Voting service has proven to increase the voter participation in the election as electors do not need to attend the Shire polling booth(s) to submit their votes.

The other important aspect with using the WAEC services to conduct the Shire’s elections is this remove any accusations, rumors and innuendo of bias or influence by staff in the election process.

RISK ASSESSMENT:

Maximising Elector participation at Local Government Elections should be the main priority when deciding what form the election process should undertake.

As previously mentioned, it is proven in other LGA’s participation through the Postal Election process far exceeds that by the In-Person only process.

The associated risk would be the failure to comply with Local Government legislation when conducting an election in-house is much higher than the election process being undertaken by the WAEC as a Postal process. Therefore the risk rating could **moderate to major** if the shire was to remain with the in-house election process.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or ‘no news’ item	Inconsequential or no damage.	Contained, reversible impact managed by on site response
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non-compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response
Moderate (3)	Medical type injuries	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies
Major (4)	Lost time injury	\$50,001 - \$150,000	Prolonged interruption of services – additional resources; performance	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
			affected < 1 month				external agencies
Catastrophic (5)	Fatality, permanent disability	More than \$150,000	Indeterminate prolonged interruption of services – non- performance > 1 month	Non-compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact

VOTING REQUIREMENT:

Absolute Majority required

COUNCIL RESOLUTION/STAFF RECOMMENDATION 12.3

Moved Cr HORSTMAN, seconded Cr SUDLOW

That Council:

- 1) Resolve, in accordance with section 4.61(2) of the Local Government Act 1995, the method of conducting the all Local Government Elections and Polls will be as Postal Election (Ordinary and Extraordinary);
- 2) Declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Western Australian Electoral Commissioner to be responsible to conduct all Local Government Election and Polls as Postal Elections (Ordinary and Extraordinary);

Council reserves the right to review this position at any time, subject to budgetary constraints and subject to any decision to terminate the contract with the Western Australian Electoral Commissioner not being able to be made after the 80th day being the legislative cut-off period of an election process as any time after this date renders the services from the WAEC having already commenced.

CARRIED BY ABSOLUTE MAJORITY 6/0
Minute Reference 02/23-13

13 PRESIDENT'S REPORT

Since the last Council meeting Cr SUDLOW reported on her attendance at:

- 24/01/2023 Bendigo Bank Sundowner, Geraldton
- 25/01/2023 Recruiting Panel meeting, Shortlisting of CEO applicants Shire of Northampton
- 26/01/2023 Northampton Tourist Association Breakfast, RSL Hall Northampton
- 02/02/2023 Kalbarri Seroja, Teams meeting
- 03/02/2023 Recruiting Panel interview, Shortlisted CEO applicants Shire of Northampton
- 04/02/2023 Minister Agriculture Food, Forestry and Small Business, Hon. Jackie Jarvis MLC
- 05/02/2023 Western Australian Parliament meeting, Geraldton.
- 06/02/2023 Opening of Department of Fire and Emergency Services building,
Northampton
- 07/02/2023 EV Charging Station, Teams meeting
- 08/02/2023 Sean Dixon, Josh Kennedy Foundation meeting via Teams
- 09/02/2023 Tour of GMA Garnet Mine and Kalbarri,
- 09/02/2023 Mid West Development Commission Board members and CEO
- 09/02/2023 Annual Electors Meeting, Northampton Shire Chambers
- 10/02/2023 Meeting with Mid West Development Commission Board and CEO
Northampton Chambers
- 13/02/2023 Special Meeting of Council, Northampton Shire Chambers
- 14/02/2023 Kalbarri Multi-Purpose Emergency Committee meeting, Kalbarri
- 16/02/2023 WALGA Training – Economic Development, Zoom meeting.

14 DEPUTY PRESIDENT'S REPORT

Since the last Council meeting Cr HORSTMAN reported on his attendance at:

- 24/01/2023 Northampton Community Centre meeting
- 25/01/2023 Recruiting Panel meeting, Shortlisting of CEO applicants Shire of Northampton
- 03/02/2023 Recruiting Panel interview, Shortlisted applicants for CEO applicants Shire of
Northampton
- 07/02/2023 EV Charging Station, Teams meeting
- 08/02/2023 Sean Dixon, Josh Kennedy Foundation meeting via Teams
- 13/02/2023 Special Meeting of Council, Northampton Shire Chambers

15 COUNCILLORS REPORTS

15.1 CR BURGESS

Since the last Council meeting Cr GIBB reported on his attendance at:

- 10/02/2023 Mid West Development Commission Board members and CEO, Northampton Shire Chambers
- 13/02/2023 Special Meeting of Council, Northampton Shire Chambers
- 14/02/2023 Kalbarri Multi-Purpose Emergency Committee meeting, Kalbarri

15.2 CR PIKE

Since the last Council meeting Cr PIKE reported on his attendance at:

- 18/01/23 Kalbarri Development Association Meeting
- 25/01/23 Recruiting Panel meeting, Shortlisting of CEO applicants Shire of Northampton
- 03/02/23 Recruiting Panel interview, Shortlisted CEO applicants Shire of Northampton
- 03/02/23 Presentation of new Grader, Northampton Works Depot
- 09/02/23 Tour of GMA Garnet Mine and Kalbarri townsite with MWDC Board and CEO
- 10/02/23 Lunch and meeting with MWDC Board and CEO

15.3 CR SUCKLING

Since the last Council meeting Cr SUCKLING reported on her attendance at:

- 25/01/2023 Recruiting Panel meeting, Shortlisting of CEO applicants Shire of Northampton
- 03/02/2023 Recruiting Panel interview, Shortlisted CEO applicants Shire of Northampton
- 09/02/2023 Annual Electors Meeting, Northampton Shire Council
- 10/02/2023 Mid West Development Commission Board members and CEO, Northampton Chambers

15.4 CR GIBB

Since the last Council meeting Cr GIBB reported on his attendance at:

- 10/02/2023 Mid West Development Commission Board members and CEO, Northampton Shire Chambers
- 13/02/2023 Special Meeting of Council, Northampton Shire Chambers
- 14/02/2023 Kalbarri Multi-Purpose Emergency Committee meeting, Kalbarri

16 NEW ITEMS OF BUSINESS

Nil

17 NEXT COUNCIL MEETING

The next Ordinary Meeting of Council will be held on Friday 17th March 2023 commencing at 1.00pm at the Northampton Council Chambers.

18 CLOSURE

There being no further business, the Presiding Member thanked everyone for their attendance and declared the meeting closed at 2.41pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 64 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON FRIDAY 17th MARCH 2023.

PRESIDING MEMBER: _____

DATE: _____