



Ordinary Meeting of Council

Agenda

20 February 2025

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

2. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

3. ATTENDANCE

Members

Cr W Della Bosca
Cr Close
Cr B Bradford
Cr G Guerini
Cr L Granich
Cr Newbury
Cr L Rose

Council Officers	N Warren	Chief Executive Officer
	C Watson	Executive Manager Corporate Services
	G Brigg	Executive Manager Infrastructure
	K Chrisp	Assets and Projects Manager

Apologies: F Mudau Finance Manager

Observers:

Leave of Absence:

4. DECLARATION OF INTEREST

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

5.1. PUBLIC QUESTION TIME

6. CONFIRMATION OF MINUTES

6.1 Ordinary Meeting of Council, Thursday, 19 December 2024- (Minutes Attached)

Recommendation

That the minutes from the Ordinary Council Meeting held on the 19 December 2024 be confirmed as a true record of proceedings.

Voting Requirements: Simple Majority

- 6.2 Yilgarn History Museum Meeting, Wednesday, 12 February 2025- (Minutes Attached)

Recommendation

That the minutes from the Yilgarn History Museum meeting held on the 12 February 2025 be received.

Voting Requirements: Simple Majority

- 6.3 Great Eastern Country Zone (GECZ) Meeting, Thursday, 14 November 2024- (Minutes Attached)

Recommendation

That the minutes from the Great Eastern Country Zone(GECZ) meeting held on the 14 November 2024 be received.

Voting Requirements: Simple Majority

7. PRESENTATIONS, PETITIONS, DEPUTATIONS

8. DELEGATES' REPORTS

9.1 Reporting Officer – Chief Executive Officer

9.1.1 Local Government Ordinary Elections 2025

File Reference	2.2.1.3
Disclosure of Interest	Nil
Voting Requirements	Absolute Majority
Author	Nic Warren – Chief Executive Officer
Attachments	Attachment 1 - Written Agreement Attachment 2 – Cost Estimate Attachment 3 – LG Ordinary Election Process

Purpose of Report

Council to consider declaring the WA Electoral Commissioner to be responsible for the conduct of the 2025 Shire of Yilgarn Local Government Elections to be held on Saturday, 18 October 2025 and to determine the method of election as a postal vote.

Background

Mr Robert Kennedy, WA Electoral Commissioner, has written to Council to advise that the next Local Government Elections are being held on 18 October 2025 and while this is still some time away, the Commissioner has provided an estimate of costs for the Election for consideration in the 2025/2026 budget preparations. Correspondence is attached.

The Commissioner has estimated the cost for the 2025 election if conducted as a postal ballot is \$14,308.80 inc GST, which has been based on the following assumptions:

- 3 Councillor(s) vacancies;
- 700 electors;
- response rate of approximately 60%
- appointment of a local Returning Officer; and
- count to be conducted at your office using CountWA.

It should be noted the Commission has been advised by the CEO that Council has four Councillor vacancies in the 2025 election and it has been advised the costs estimate will not change as a result.

The attached cost estimate letter details further the cost methodology and application of variations, with Council to note as per the Local Government (Elections) Regulations 1997, the Commission conducts elections on the basis of full accrual cost recovery.

Next Steps

As per the cost estimate letter once the Local Government (CEO) has accepted the Cost Estimate then the Shire notifies the WA Electoral Commission (WAEC) in writing. The

WAEC then issues a Written Agreement letter with both the Cost Estimate letter and the Written Agreement letter tabled with Council for a decision.

The Shire has received the Written Agreement from the WAEC, as attached.

The agreement states:

In order to finalise this agreement, you are required under the Local Government Act 1995 to submit the following motions to Council for a postal election:

- 1. declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2025 ordinary election, together with any other elections or polls which may be required;*
- 2. decide, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the election will be as a Postal election.*

Please note that:

- The above motion/s must be presented to Council as drafted and cannot be amended in any way;*
- both the Cost Estimates Letter, and this Written Agreement Letter should be attached to the item for Council consideration; and*
- the above motion/s must be passed by an absolute majority.*

Comment

The conduct of Postal Elections previously in the Shire of Yilgarn has been proven to increase voter participation.

The Cost Estimate Letter and Written Agreement Letter are provided as attachments, as required by the WAEC.

Statutory Environment

Local Government Act 1995

4.20. CEO to be returning officer unless other arrangements made

- (1) Subject to this section the CEO is the returning officer of a local government for each election.
- (2) A local government may, having first obtained the written agreement of the person concerned and the written approval of the Electoral Commissioner, appoint* a person other than the CEO to be the returning officer of the local government for —

- (a) an election; or
- (b) all elections held while the appointment of the person subsists.

** Absolute majority required.*

(3) An appointment under subsection (2) —

- (a) is to specify the term of the person's appointment; and
- (b) has no effect if it is made after the 80th day before an election day.

(4) 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.*

(5) A declaration under subsection (4) 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.

(6) A declaration made under subsection (4) on or before the 80th day before election day cannot be rescinded after that 80th day.

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.*

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

As indicated in the Commissioner's correspondence, costs to conduct the election by Postal Vote is estimated to be \$14,308.

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	To ensure that the Election process is kept at arms-length from staff	Low (4)	Engage WA Electoral Commission to manage Postal Vote process
Financial Impact	Costs associated with engagement of WAEC	High (12)	Budget accordingly
Service Interruption	Nil	Nil	Nil
Compliance	Section 4.20 of <i>Local Government Act 1995</i>	Moderate (6)	Meeting statutory requirement of <i>Act</i> in appointing WAEC
Reputational			
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Recommendation

That Council, by Absolute Majority:

- 1. Declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2025 ordinary election, together with any other elections or polls which may be required;*
- 2. Decide, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the election will be as a Postal election.*

9.1 Reporting Officer – Chief Executive Officer

9.1.2 Invitation To Comment – Works Approval – Covalent Lithium Pty Ltd

Disclosure of Interest	None
Voting Requirements.	Simple Majority
Author	Kelly Watts – Regulatory Services Officer
Attachments	Attachment 1 – Referral Letter DWER
	Attachment 2 – Works Approval Application
	Attachment 3 – Supporting Documentation

Purpose of Report

For Council to consider a response to the Department of Water and Environmental Regulation in regards to application from Covalent Lithium Pty Ltd for a works approval under Division 3 Part V of the Environmental Protection Act 1986 (EP Act) at Mining tenement M77/1066.

Background

The Department of Water and Environmental Regulation has referred a works approval application from Covalent Lithium to the Shire of Yilgarn for comment.

The application is in relation to:

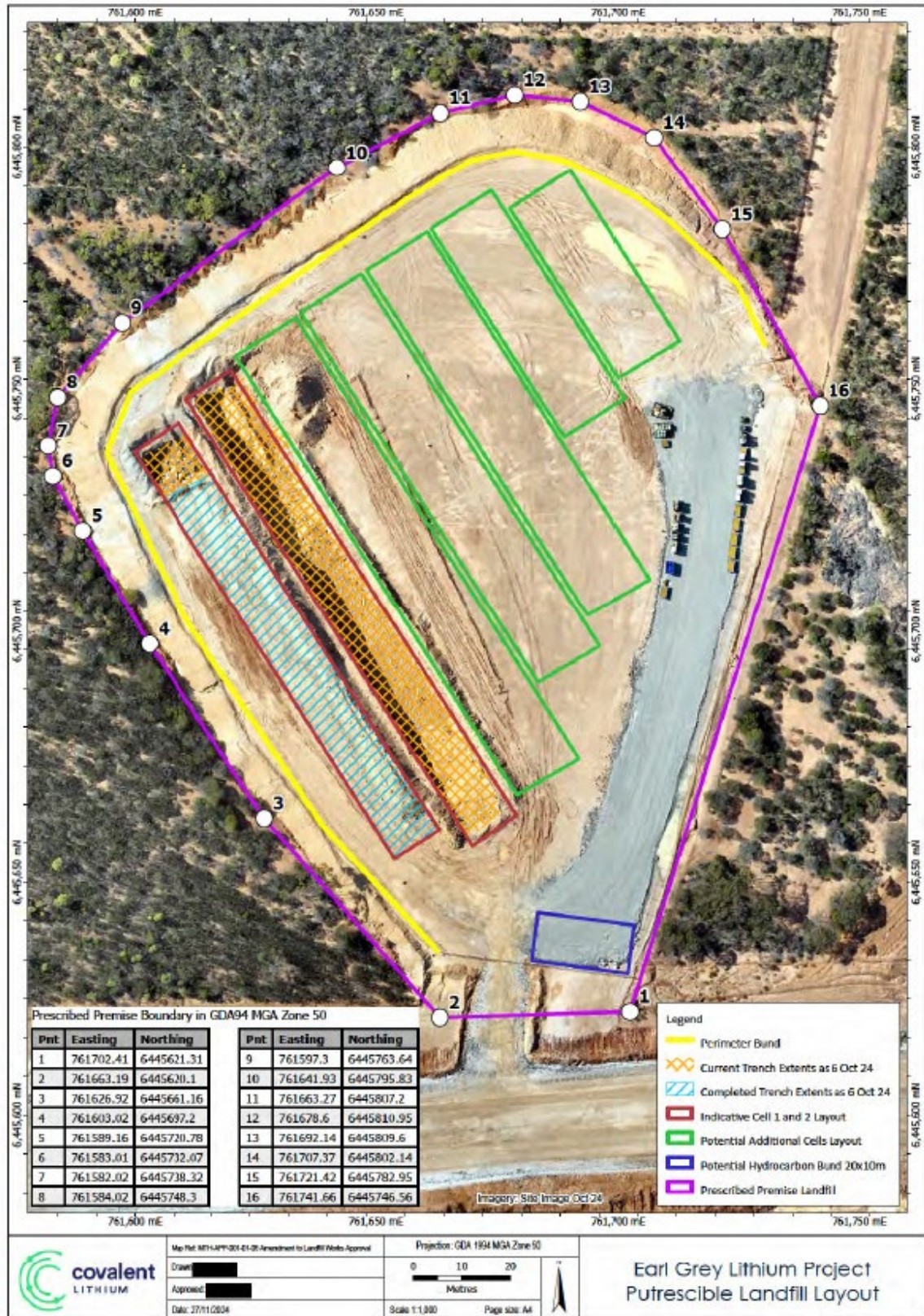
- Category 64: Class II or III putrescible landfill site: premises (other than clean fill premises) on which waste of a type permitted for disposal for this category of prescribed premises, in accordance with the Landfill Waste Classification and Waste Definitions 1996, is accepted for burial.

In accordance with sub-section 51E(4) of the Environmental Protection Act 1986, the Shire of Yilgarn has a direct interest in the subject matter of the application and can provide comment on the proposal should Council consider it appropriate.

Comment

Provided over the page is a site layout plan and attached is the DWER Referral Letter, Works Approval Application and Supporting Documentation for Councillor perusal.

Docusign Envelope ID: F3DF3028-347D-475C-AB18-363363645C31



Statutory Environment

Environmental Protection Act 1986

Strategic Implications

Nil.

Policy Implications

Nil.

Financial Implications

Nil.

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Nil	Nil	Nil
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation

That Council endorses the following response in relation to the request for comment from the Department of Water and Environmental Regulation regarding Covalent Lithium Pty Ltd's application for a works approval:

In regards to the works approval application from Covalent Lithium Pty Ltd (Reference APP-0026596) for a Category 64: Class II or III putrescible landfill site at Mining tenement M77/1066, the Shire of Yilgarn have no objections.

9.1 Officers Report – Chief Executive Officer

9.1.3 Proposed Closure of Portion of King Ingram Road

File Reference	
Disclosure of Interest	None
Voting Requirements	Simple Majority
Author	Nic Warren – Chief Executive Officer
Attachments	- General Site Layout - Mt Holland site within road reserve

Purpose of Report

For Council to endorse commencing the legislative process for closing a road, in relation to a portion of King Ingram Road.

Background

The Shire was approached by Western Power in November 2024, regarding their plans to place a communications tower in the vicinity of King Ingram Road.

Wester Power stated:

Western Power are seeking the Shire of Yilgarn's support for the placement and construction of an 80m communications tower within the road reserve, commonly referred to King Ingram Rd, as identified in indicative design drawing attached. Western Power, on behalf of Synergy request that the Shire Yilgarn support the proposal and progress, via Department of Planning, Lands and Heritage (DPLH), a partial road closure (per Land Administration Act 1997 -Sect 58) of the land identified in design drawing attached so that Western Power can take up the land as an excised Crown Reserve/lot under Management Order (an example of this is below in Crown Reserve 51716). Western Power has requested this permanent land tenure arrangement/instrument because its infrastructure cannot reside in a gazetted road (unconstructed or constructed), this represents a substantial investment, is permanent and is critical for the operation of the network.

The layout plans have been provided as attachments for Councillors perusal. As can be seen, closure of a portion of the road reserve will not affect usage of the King Ingram Road.

Comment

The process for road closures is governed by the Section 58 of the land Administration Act 1997.

Council must initially endorse the proposed closure, after which a 35 day public notice period can commence, including contacting affected landholders (if any) to seek their endorsement of the proposal. After the closure of the public notice period, the matter will be returned to Council for a resolution prior to applying to the Minister.

At the December 2024 Ordinary Council meeting, the following was carried:

167/2024

Moved Cr Newbury/Seconded Cr Rose

That Council endorse commencing a 35 day public notice period as per Section 58 of the Land Administration Act 1997, detailing the intention to close a portion of King Ingram Road as per plans presented. The closure is to allow for Western Power to take up the land as an excised Crown Reserve/lot under Management Order, in order to install a telecommunications tower.

CARRIED (7/0)

Cr's For: Della Bosca, Close, Bradford, Guerini, Granich, Newbury, Rose

Cr's Against: Nil

The Shire commenced a 35 notice period on 16 January 2025, with the last date for submissions being the 20th February 2025. Notices were placed in the Kalgoorlie Miner newspaper, Shire website and Facebook page and notice boards.

At the time of writing the report, no submissions had been received, and an update will be provided at the meeting in the event any submissions are received from date of report to closing of notice period.

In the event there are no submissions, then Council will endorse the closure and seek approval from the Minister.

Statutory Environment

Land Administration Act 1997

Roads Part 5

Conventional roads Division 1

58. Closing roads

- (1) When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*
- (2) When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.*
- (3) A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.*
- (4) On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) —*
 - a. by order grant the request; or*

- b. direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or*
 - c. refuse the request.*
- (5) If the Minister grants a request under subsection (4) —*
 - a. the road concerned is closed on and from the day on which the relevant order is registered; and*
 - b. any rights suspended under section 55(3)(a) cease to be so suspended.*
- (6) When a road is closed under this section, the land comprising the former road —*
 - a. becomes unallocated Crown land; or*
 - b. if a lease continues to subsist in that land by virtue of section 57(2), remains Crown land.*

Land Administration Regulations 1998

Part 2 General

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.*

Strategic Implications

Nil.

Policy Implications

Nil.

Financial Implications

Advertising costs to be paid for by Western Power.

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Nil	Nil	Nil
Service Interruption	Western Power service disruptions.	Moderate (6)	Assisting with communications tower install will help to mitigate risk of service interruptions.
Compliance	Non-compliance with Land Administration Act in relation to road closure	Low (3)	Following of requirements in Act and Regulations.
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Recommendation

That Council in relation to the proposed closure of a portion of King Ingram Road as per provided plans:

- *Notes the 35 day notice period for the closure has been undertaken as per Section 58 of the Land Administration Act 1997, commencing on 16 January 2025 and closing on 20 February 2025;*
- *Notes there were no submissions received;*
- *Endorses the Chief Executive Officer making application to the Minister of Lands for the closure.*

9.1 Officers Report – Chief Executive Officer

9.1.4 Local Law Review - Proposed New Local Laws

File Reference	
Disclosure of Interest	None
Voting Requirements	Absolute Majority
Author	Nic Warren – Chief Executive Officer
Attachments	- Public Places, Local Government Property and Trading Local Law 2025 - Removal of Refuse, Rubbish and Disused Materials Local Law 2025 - Bush Fire Brigade Local Law 2025 - Minister for Local Government Response - DFES Commissioner Response

Purpose of Report

For Council to endorse the adoption of proposed new local laws.

Background

At the November 2024 Ordinary Council meeting, the following resolution was carried:

146/2024

Moved Cr Bradford/Seconded Cr Granich

That Council:

1. ***Notes the review undertaken of the Shire of Yilgarn Local Laws, as required under Section 3.16 of the Local Government Act;***
2. ***Endorse the following Local Laws remaining unchanged:***
 - ***Health Local Laws 1997***
 - ***Dogs Local Law 2017***
 - ***Fencing Local Law 2017***
 - ***Local Government (Council Meeting) Local Law 2017***
3. ***Endorse the following Local Laws being repealed:***
 - ***Trading in Public Places 1992***
 - ***Yilgarn Bush Fire Brigade Local Law 1943***
4. ***Approves, in accordance with section 3.12 of the Local Government Act, 1995 the giving of state-wide public notice of the following proposed Local Laws (as shown below) in order to seek public comment:***

a) Public Places, Local Government Property and Trading Local Law (2025)

PURPOSE: *To regulate the care, control and management of all property of the local government.*

EFFECT: *To control the use of local government property. Some activities are permitted only under a permit or under a determination and some activities are restricted or prohibited. Offences are created for inappropriate behaviour in or on local government property.*

b) Removal of Refuse, Rubbish and Disused Materials Local Law (2025)

PURPOSE: *To make provisions about the removal of Refuse, Rubbish and Disused Materials.*

EFFECT: *To allow the local government to manage untidy and unsightly properties more efficiently.*

c) Bush Fire Brigade Local Law 2025

PURPOSE: *To make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.*

EFFECT: *To align existing Local Laws with changes in the law and operational practice.*

5. Endorses the CEO sending copies of proposed Local Laws to all relevant Ministers.

CARRIED (7/0)

Cr's For: Della Bosca, Close, Bradford, Guerini, Granich, Newbury, Rose

Cr's Against: Nil

Public notice, as required by section 3.12(3)(a) of the Local Government Act 1995 was executed by advertisement in the West Australian Newspaper on Friday 29 November 2024, in addition to notices placed on the Shire's website, facebook page and notice boards.

A copy of the proposed local laws and a copy of the public notice was forwarded to the Minister for Local Government and the Minister for Emergency Services on Friday 29 November 2024

The public submission period closed 4:00 pm Thursday 23 January 2025.

Comment

SUBMISSIONS

No submissions were received from the general public.

A response (as attached) was received from the Office of the Hon Hannah Beazley MLA, Minister for Local Government, which stated:

Copies of the draft local laws have been forwarded to the Department of Local Government, Sport and Cultural Industries (DLGSC). The DLGSC local law team will check the drafts, and any comments will be provided back to the Shire prior to the close of the public submission period on Thursday, 23 January 2025.

No further correspondence was received from the Department of Local Government, Sport and Cultural Industries.

The Hon Stephen Dawson MLC Minister for Emergency Services forwarded the referral to the Commissioner of the Department of Fire and Emergency Services, who provided the following comments (correspondence attached):

While unable to provide legal advice, I make the following general comments for the Shire's consideration:

- Section 43 of the Bush Fires Act 1954 (WA ("BF Act")) requires that a local government, by its local laws, provide for the appointment or election of a captain and lieutenants and prescribe their respective duties (emphasis added). While clause 2.2(1)(c) allows for the appointment of the captain, lieutenants and other officers, the duties of each have not been delineated.*
- Clause 2.1 makes reference to the "Authority" being the Fire and Emergency Services Authority of Western Australia, as established under section 4 of the Fire and Emergency Services Authority of Western Australia Act 1998. Please note that by the Fire and Emergency Services Legislation Amendment Act 2012 (WA), FESA was abolished and restructured to become a department of state (the Department of Fire and Emergency Services).*
- Clause 2.1 makes reference to "normal brigade activities"; the Shire may wish to include this term within the 'Definitions' section (cl. 1.2), and align the definition to section 35A of the BF Act.*
- Clause 4.2 allows firefighting members to be persons over the age of 16 years. The Fire Brigades Regulations 1943 (WA) stipulate eligibility criteria for volunteer brigades formed under the Fire Brigades Act 1954 (WA). Regulation 159C provides for eligibility of probationary members from 16 years if they have parental/guardian consent and the brigade's captain is satisfied that the prospective member can perform the requisite duties. As a matter of policy, the*

Shire may wish to consider adding these protective mechanisms to Bush Fire Brigade membership.

Amendments to Local Laws to be Adopted

The Local Laws have been attached with relevant amendments delineated via tracked changes.

All proposed Local Laws have had minor amendments, generally related to grammar and formatting, however there are some minor detail changes.

The *Bush Fire Brigades Local Law 2025* has had some minor amendments made in response to the correspondence from the DFES Commissioner.

All changes to the proposed local laws are detailed in via tracked changes in the attached drafts.

As per the *Local Government Act 1995*, if the local laws to be adopted is significantly different from what was originally proposed, then the process must recommence, however, it is the opinion of the reporting Officer that whilst there are amendments to the Proposed Local Laws, they proposed Local Laws are not “Significantly Different” from what was proposed, and still carry the same intent.

Statutory Environment

Local Government Act 1995 ***Division 2 — Legislative functions of local governments*** ***Subdivision 1 — Local laws made under this Act***

3.5. Legislative power of local governments

- (1) *A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.*
- (2) *A local law made under this Act does not apply outside the local government’s district unless it is made to apply outside the district under section 3.6.*
- (3) *The power conferred on a local government by subsection (1) is in addition to any power to make local laws conferred on it by any other Act.*
- (4A) *Nothing in the Building Act 2011 prevents a local government from making local laws under this Act about building work, demolition work, a standard for the construction or demolition of buildings or incidental structures, or the use and maintenance of, and requirements in relation to, existing buildings or incidental structures, as those terms are defined in section 3 of that Act.*
- (4B) *Nothing in the Health (Miscellaneous Provisions) Act 1911 or the Public Health Act 2016 prevents a local government from making local laws under this Act about matters relating to public health (as defined in the Public Health Act 2016 section 4(1)).*
- (4) *Regulations may set out —*
 - (a) *matters about which, or purposes for which, local laws are not to be made; or*
 - (b) *kinds of local laws that are not to be made, and a local government cannot make a local law about such a matter, or for such a purpose or of such a kind.*

- (5) *Regulations may set out such transitional arrangements as are necessary or convenient to deal with a local law ceasing to have effect because the power to make it has been removed by regulations under subsection (4).*

3.6. Places outside district

- (1) *If the Governor's approval has been first obtained, a local government may make a local law under this Act that applies outside its district.*
- (2) *A local government cannot, under subsection (1), make a local law that applies to —*
- (a) *a part of the State that is in the district of another local government; or*
 - (b) *a part of the State to which a local law made by another local government concerning the same subject matter applies under this section.*
- (3) *The Governor may revoke any approval given under subsection (1) and, after that revocation, a local law made under the approval ceases to apply to the part of the State for which the approval was given.*
- (4) *The Minister is to cause notice of any revocation under subsection (3) to be published in the Gazette.*

3.7. Inconsistency with written laws

A local law made under this Act is inoperative to the extent that it is inconsistent with this Act or any other written law.

3.8. Local laws may adopt codes etc.

- (1) *A local law made under this Act may adopt the text of —*
- (a) *any model local law, or amendment to it, published under section 3.9; or*
 - (b) *a local law of any other local government; or*
 - (c) *any code, rules, specifications, or standard issued by Standards Australia or by such other body as is specified in the local law.*
- (2) *The text may be adopted —*
- (a) *wholly or in part; or*
 - (b) *as modified by the local law; or*
 - (c) *as it exists at a particular date or, except if the text of a model local law is being adopted, as amended from time to time.*
- (3) *The adoption may be direct, by reference made in the local law, or indirect, by reference made in any text that is itself directly or indirectly adopted.*

3.9. Model local laws

- (1) *The Governor may cause to be prepared and published in the Gazette model local laws the provisions of which a local law made under this Act may adopt by reference, with or without modifications.*
- (2) *Model local laws have no effect except to the extent that they are adopted.*
- (3) *The Governor may, by notice published in the Gazette, amend a model local law published under this section.*
- (4) *An amendment of a model local law does not affect any local law that adopted the model local law before the amendment but the amendment may be adopted by a further local law.*

3.10. Creating offences and prescribing penalties

- (1) *A local law made under this Act may provide that contravention of a provision of the local law is an offence, and may provide for the offence to be punishable on conviction by a penalty not exceeding a fine of \$5 000.*
- (2) *If the offence is of a continuing nature, the local law may make the person liable to a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.*
- (3) *The local law may provide for the imposition of a minimum penalty for the offence.*
- (4) *The level of the penalty may be related to —*
 - (a) *the circumstances or extent of the offence;*
 - (b) *whether the offender has committed previous offences and, if so, the number of previous offences that the offender has committed.*
- [(5) deleted]*
- (6) *A local law made under this Act may specify the method and the means by which any fines imposed are to be paid and collected, or recovered.*

Subdivision 2 — Local laws made under any Act

3.11. Subdivision applies to local laws made under any Act

This Subdivision applies to local laws made under this Act and the procedure for making them and, unless a contrary intention appears in that other Act, to local laws made under any other Act, and the procedure for making them.

3.12. Procedure for making local laws

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2A) *Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to —*
 - (a) *give local public notice stating that —*
 - (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
 - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
 - (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
 - and*
 - (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
 - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*

[(3a) deleted]

- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*

** Absolute majority required.*

- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
 - (a) *stating the title of the local law; and*
 - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation);**and*
 - (c) *advising that the local law is published on the local government's official website and that copies of the local law may be inspected at or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section —*
making *in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

3.13. Procedure where significant change in proposal

If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.

3.14. Commencement of local laws

- (1) *Unless it is made under section 3.17, a local law comes into operation on the 14th day after the day on which it is published in the Gazette or on such later day as may be specified in the local law.*
- (2) *A local law made under section 3.17 comes into operation on the day on which it is published in the Gazette or on such later day as may be specified in the local law.*

3.15. Local laws to be publicised

A local government is to take reasonable steps to ensure that the inhabitants of the district are informed of the purpose and effect of all of its local laws.

3.16. Periodic review of local laws

- (1) *Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.*
- (2) *The local government is to give local public notice stating that —*
 - (a) *the local government proposes to review the local law; and*
 - (b) *a copy of the local law may be inspected or obtained at any place specified in the notice; and*
 - (c) *submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*

[(2a) deleted]

- (3) After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.
- (4) When its council has considered the report, the local government may determine* whether or not it considers that the local law should be repealed or amended.

* Absolute majority required.

3.17. Governor may amend or repeal local laws

- (1) The Governor may make local laws to amend the text of, or repeal, a local law.
- (2) Subsection (1) does not include the power to amend a local law to include in it any provision that bears no reasonable relationship to the local law as in force before the amendment.
- (3) The Minister is to give a local government notice in writing of any local law that the Governor makes to amend the text of, or repeal, any of the local government's local laws.
- (4) Section 5.94 applies as if a local law made under this section by the Governor were a local law made by the local government in accordance with section 3.12.
- (5) The reference in the Interpretation Act 1984 section 42(8)(b) to local laws includes local laws made under this section by the Governor

Strategic Implications

Nil.

Policy Implications

Nil.

Financial Implications

Advertising costs for state-wide public notice. Provisions included in .

Risk Implication/s

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People annual budget.	Nil	Nil	Nil
Financial Impact	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Non-compliance with LG Act requirements for Local Laws	Low (4)	Compliance with requirements will ensure Local Laws are adopted without concern.
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Recommendation

That Council, by Absolute majority:

- *Note that no community submissions were received in relation to the:*
 - *Public Places, Local Government Property and Trading Local Law 2025*
 - *Removal of Refuse, Rubbish and Disused Materials Local Law 2025*
 - *Bush Fire Brigade Local Law 2025*
- *Note the responses from the Hon Hannah Beazley MLA, Minister for Local Government and Commissioner of the Department of Fire and Emergency Services .*
- *Agree to accept all changes proposed and adopt the following Local Laws as presented:*
 - *Public Places, Local Government Property and Trading Local Law 2025*
 - *Removal of Refuse, Rubbish and Disused Materials Local Law 2025*
 - *Bush Fire Brigade Local Law 2025*
- *Determine the proposed Local Laws are not Significantly Different as a result of the proposed amendments.*
- *Authorise the CEO to make minor grammatical and formatting changes to the adopted local laws prior to gazettal.*
- *Authorise the CEO to advertise the adopted local laws in the Government Gazette.*
- *Authorise the CEO to Submit to the Minister for Local Government, following advertising in the Government Gazette, a copy of the adopted local laws.*
- *Authorise the CEO to advertise, as a local public notice, the adoption of the local laws.*
- *Authorise the CEO to compile and submit the Explanatory Memorandum and associated papers to the Joint Standing Committee on Delegated Legislation.*

9.1 Officers Report – Chief Executive Officer

9.1.5 Proposed Tree Farm – Various Lots in Southern Cross

File Reference	
Author	Nic Warren - CEO
Disclosure of Interest	Nil
Voting Requirements	Absolute Majority (Reverse Previous Decision) Simple Majority (Tree Farm)
Attachments	1. November Ordinary Council Meeting Minutes Extract 2. SAT Order 30 January 2025 3. Farm Design Clarification Letter 4. Plantation Maps

Purpose of Report

Council is to reconsider a planning application for a Tree Farm on various lots on eight properties referred to as Avalon Homestead South, Avalon North, Cairns Road, Garrat, Marafioti, Newbury, Perilya and South Garrat.

Background

ORIGINAL COUNCIL DECISION

At the November 2024 Ordinary Council meeting, Council considered an application lodged by Outback Carbon Pty Ltd seeking approval for a Tree Farm to the north west, west and south west of Southern Cross townsite. A total of 51 lots are included in the application, with a combined area of approximately 18,162 hectares.

The lots have historically been used for mixed cropping and grazing.

Attached is the November 2024 Ordinary Council Meeting Minutes extract which provides the original report by Liz Bushby of Town Planning Innovations and includes the Officers recommendation as follows:

That Council:

- A. Determine that the proposed Tree farm use may be consistent with the objectives of the Rural/Mining zone and advertise under clause 64 of the deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 before considering an application for development approval for the use of the land.*
- B. Note the application has been advertised for public comment and that all public submissions received at the time of writing this report have been summarised in Table 4.*
- C. Note the issues raised in Table 4, however note that matters are addressed in the application and /or can be addressed through conditions of any development approval.*
- D. Pursuant to Clause 82(1) and 82(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 grant (by Absolute Majority) delegate authority to the Chief Executive Officer to determine the application for a Tree Farm on various lots in*

Southern Cross that are generally known as Avalon Homestead South, Avalon North, Cairns Road, Garrat, Marafioti, Newbury, Perilya and South Garrat.

At the meeting the following alternative motion was carried:

143/2024

Moved Cr Newbury/Seconded Cr Close

That Council determine that the Tree Farm use is not consistent with the objectives of the Rural/Mining zone and is therefore not permitted.

CARRIED (4/3)

Cr's For: Della Bosca, Guerini, Newbury, Rose

Cr's Against: Close, Granich, Bradford

The reasons for the alternative decision were as follows:

- The definition for Rural/Mining is: To be used primarily for rural, mining, agricultural, single houses, and public recreation.
- The Shire's TPS2 does not specifically list a "Tree farm" as being a use consistent with rural, mining or agriculture;
- "Tree Farm" is a use not listed under the Shire's TPS2, and as per Clause 18(4) Council has the ability to "determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone";
- The aims of the Shire's TPS2 relevant to this matter includes:
 - o encourage, direct and control quality and orderly development in the Scheme area so as to promote and protect the health, safety, and general economic and social wellbeing of the community, and the amenity of the area.
 - o promote sustainable development that integrates consideration of economic, social and environmental goals for the Scheme area.
 - o maintain and protect valuable areas of agricultural production and conserve its non-urban character whilst accommodating other complementary rural activities.
- Council do not believe this development will meet the aims of the TPS2 for the following reasons:
 1. Co-habitation of tree farming and broadacre cropping or grazing will not occur as inferred in the submission due to the configuration of the tree planting at 20 metre spacings, as such the workforce required to manage a tree farm compared to broadacre farming will be significantly reduced, which in turn leads to significant impacts on the Shire's social and economic wellbeing;
 2. The current economic and social benefits that broadacre cropping brings to small regional communities like the Shire of Yilgarn be decimated with the reduced workforce requirements leading to:
 - a. Flow on expenditure from broadacre farming annually will decline locally;
 - b. Local community groups, volunteer agencies and schools will be detrimentally impacted by the reduced workforce;
 - c. The bushfire responsibilities will be spread across the volunteer brigades.
 3. This development decimates a large area of valuable agricultural production land.

APPEAL OF DECISION

Upon notification of the decision of Council, the applicants appealed to the State Administrative Tribunal (SAT).

The Shire engaged the services of McLeods Lawyers, who were recommended due to their experience in similar developments within Western Australia.

The Applicants sought to confer the original directions hearing, scheduled for the 21 February 2025, and proceed direct to mediation, of which the Shire agreed.

On 30 January 2025, Councillor Representatives, CEO and Craig Slarke of McLeods attended the SAT offices to undertake mediation with Outback Carbon. The SAT order is attached for Councillors information.

Based on the information provided by Outback Carbon during the mediation, the discussions held and legal opinions provided by Craig Slarke of McLeod's relating to State Planning Policies for Agroforestry, Council in principal agreed to the following:

- Council would reconsider the application on the condition the inter-rows between tree rows is amended in the application document from 20-30 metres to a minimum of 30 metres;
- Outback Carbon is to provide a "Farm Design Clarification" document detailing the reasons as to why the Shire suggestions of alternative planting methodologies to maximise co-farming opportunities are not viable; and
- Outback Carbon commit to a \$150,000 payment towards community benefit projects.

APPLICATION RE-SUBMISSION

As a result of the mediation process and in accordance with the SAT determination, Outback Carbon have reloaded their application with the required amendments in addition to a written commitment to the Shire for a \$150,000 payment to be utilised for community benefit projects.

The updated application document and justification of planting methodology documents are attached with this report for Councillors re-consideration.

With regards to the community benefit payment, this is not a planning consideration and as such is not able to be included as a planning condition but is included as an advice note with the Shire and Outback carbon committed to develop a program that will ensure benefit to the community from the funds.

REVOCATION OF PREVIOUS DECISION

As per the Local Government (Administration) Regulations 1996, in order to consider and endorse the amended application, the original Council decision made at the November 2024 Council meeting must be revoked. In order to revoke the decision 1/3 of Councillors must support a motion to revoke with the decision of motion to be made via absolute majority.

Comment

The following has been extracted from the previous report by Liz Bushby of Town Planning Innovations, as tabled at the November 2024 Council meeting, with amendments made relevant to the resubmitted application.

- **Description of Application**

The intention of the applicant is to establish a carbon farming project (tree farming) on all cleared agricultural land with trees in twin rows and 30m of interrow where agricultural activities are proposed to continue for the life of the project. The planted areas will be established in a design similar to a shelterbelt.

The applicant advises that 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 project area will be registered with the Clean Energy Regulator and will encompass the property cadastral boundaries.

It is projected that the trees will be retained for approximately 40 years before harvest and used for products such as furniture, building products, firewood and biofuels.

It is anticipated the establishment will incorporate up to four native hardwood species (likely *Eucalyptus salmonophloia*, *E. camaldulensis*, *E. wandoo* and *E. salubris*, (but still to be finalised) at approximately 200 stems per hectare.

The planting activities will take place between May and August each year depending upon rain events. Planting will be via machines or hand planting. Irrigation will not be required, and the trees will use rainfall and water in the soil for their survival.

Plantation Design maps have been prepared for each of the eight properties referred to as Avalon Homestead South, Avalon North, Cairns Road, Garrat, Marafioti, Newbury, Perilya and South Garrat. All plantation design maps are included as an attachment.

- **Management Plan**

A Management Plan has been lodged in support of the application and outlines:

- Property Information and Land details;
- Proposed planting areas and twin 20-30 metre rows;
- Developed Assets;
- Cultural heritage and surrounding context;
- Timber Code of Practice requirements and monitoring schedule for the first two years;
- Proposed works and establishment program;
- Species, compartment sizes and establishment over 2-3 years;
- A commitment to two project managers for the first 4 years and at least one project manager for the life of the project (25-40 years) along with seasonal workers; .
- Rotational grazing post establishment after 2-3 years for weed management;
- Preliminary information on harvesting and transport. Harvesting is expected after 40 years.

TPI has summarised the Timber Code of Practice requirements in Table 1 below.

Table 1	
Timber Code of Practice, Second Edition 2014	
Appendix 1 Protocols for Management Plans	TPI Comment
A Plantation Management Plan may include the following: - A plantation map - An establishment plan - A maintenance plan - A fire management plan	A Management Plan has been lodged as explained above. Project establishment is proposed to occur in 2025, 2026 and 2027. Draft Plantation Designs have been lodged with compartment sizes that comply with the Code (ie not exceeding 30 hectares). The applicant has advised that more detailed designs can be lodged to the Shire prior to establishment as they may be further refined. TPI recommends this be a condition of any approval. The Management Plan covers all eight properties, and therefore TPI recommends that conditions be imposed to require lodgement of detailed management plans for each property as they develop, especially as the roll out is anticipated over several years. Section 4 of the current Management Plan outlines monitoring for seed health, weeds and pests over two years until 2025. Longer term maintenance will be reviewed annually, with grazing to be introduced after 2-3 years to assist with weed management. TPI has dealt with a number of Tree Farm and Plantation applications over the years, and ongoing management has been more of a concern where there is an 'absentee landowner', no local manager presence and no clear inspection/monitoring schedule. In this case the Tree Farm will be regularly monitored as the applicant is committed to

	employing a manager for the life of the project. Fire Management is discussed separately in the body of this report.
Plantation Management Plan, 3.0 Plantation Establishment Plan	
3.3 Control of Vermin and declared weeds	At the initial establishment stage, the applicant proposes summer vermin control, and broadacre boom spray pest control based on knockdown and residual herbicide application. A machine will be used to scalp, shallow rip and roll the soil before and after rainfall season has started to enable water harvesting and tree planting. As explained, a manager is proposed to be employed for the life of the project so there can be regular monitoring and maintenance. The use of a locally based manager is supported by TPI as where there is no manager presence, monitoring for Tree Farms can rely on more irregular inspection schedules by contractors employed by absentee owners.
3.6 Direction of Planting Lines	States it will be north/south however applicant agreeable to lodging final plantation design maps prior to commencement of planting.
3.7 Description of soil preparation methods	States that will be two rows established by ripping and machines will be used prior to hand planting. The Management Plan includes photographs with examples of rip and shallow scalping of soil.
Plantation Management Plan, 4.0 Plantation 'Tending' (Maintenance) Plan	
4.1 Grazing Strategy	The plantation design includes rows 20 to 30 metres apart to allow for grazing to occur post establishment, after 2-3 years.
4.4 Weed Management	- Weed management is discussed for establishment using broad acre boom spray;

	- Weed monitoring for two years with monthly inspections between July to January is outlined; - Grazing is proposed to assist with weed management after 2-3 years once seedlings established. As discussed, commitment to use of a manager for the life of the development provides increased assurances that ongoing maintenance, weed and vermin control will occur regularly.
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- **Zoning and Scheme requirements**

The subject lots are zoned ‘Rural/Mining’ under the Shire of Yilgarn Town Planning Scheme No 2 (the Scheme).

Clause 16 of the Scheme states that ***The Rural/Mining Zone is to be used for agricultural, residential and public recreation uses. Extractive industry (mining) occurs widespread in the rural area of the Shire but, owing to its high impact, needs to be approved by Council after satisfactory advertisement***. **Bold for emphasis.**

Although the term ‘agriculture’ may be perceived locally in the form of traditional broad acre farming activities such as cropping and grazing, at the higher State Planning level, Tree Farms are considered to be an agricultural land use.

This is outlined in the Western Australian Planning Commission (WAPC) State Planning Policy 2.5 on Rural Planning which defines ‘**agricultural land use/agricultural purposes**’ as ‘**a subset of rural land used specifically for agricultural purposes including agriculture – extensive, agriculture – intensive, pastoral uses, plantations and agro forestry. May include industry – primary production. Does not include rural living.**’ **Bold for emphasis.**

Under the Scheme, Table 1 lists land uses in a table format with different symbols listed under different zones. Each symbol has a different meaning and determines whether Council has discretion to consider a land use in the corresponding zone (ie if the land use is permitted, not permitted, discretionary or requires advertising).

Part of the planning assessment involves determining which land use definition from the Scheme ‘best fits’ the proposal.

There is a specific definition for ‘Tree Farm’ which is defined in the Scheme as ‘*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*’.

Where a land use is defined in the Scheme, and is not listed in Table 1, it is processed as what is referred to as a ‘Use Not Listed’. A Tree farm is not listed in Table 1.

Under Clause 18 (4) Council has three options for dealing with a 'Use Not Listed' as follows:

Option 1 - Determine that the Tree Farm use is consistent with the objectives of the Rural/Mining zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government.

Option 1 is not recommended as it would set a precedent for future Tree Farms to be dealt with as being 'permitted' in the zone.

Option 2 - Determine that the proposed Tree Farm use may be consistent with the objectives of the Rural/Mining zone and advertise under clause 64 of the deemed provisions before considering an application for development approval for the use of the land.

Option 2 is recommended to allow for consultation. To expedite the process the application has been advertised for public comment.

Option 3 - Determine that the Tree Farm use is not consistent with the objectives of the Rural/Mining zone and is therefore not permitted.

Option 3 is not recommended as the proposal will not impact on the zone.

- **State Planning Policy 2.5 Rural Planning and the Wheatbelt Regional Strategy**

The intent of State Planning Policy 2.5 (SPP2.5) is *'to protect and preserve Western Australia's rural land assets due to the importance of their economic, natural resource, food production, environmental and landscape values. Ensuring broad compatibility between land uses is essential to delivering this outcome.'*

There is a 'Section 5.6 – Tree Farming' under the current State Planning Policy 2.5 (SPP2.5) produced by the WA Planning Commission as summarised in Table 2.

Table 2		
Item	Requirement	TPI Comment / Compliance
5.6	The WAPC policy in regard to tree farming is:	
(a)	tree farming is supported and encouraged on rural land as a means of diversifying rural economies and providing economic and environmental benefit;	Noted. At a state planning level Tree Farms are considered to be a form of agricultural land use.
(b)	tree farming should generally not occur on priority agricultural land;	There is a map of 'priority agriculture land' attached to a Western Australian Planning Commission Fact Sheet on Tree Farms, however it only covers Shires further south.
(c)	tree farming should generally be a permitted use on rural land, except where development of a tree farm would create an extreme or unacceptable bushfire risk or when responding to specific local circumstances as identified in a strategy or scheme;	Noted. The applicant has lodged Bushfire Management Plans to support the application. Bushfire Attack Level (BAL) Assessments have also been lodged for lots containing any existing dwelling.
(d)	local governments should manage the location, extent and application requirements for tree farming in their communities through local planning strategies, schemes and/or local planning policies;	The Shire does not have a Local Planning Policy on Tree Farms. The WAPC Fact Sheet outlines the WAPC position that Local Planning Policies should not be used to limit the area of a lot that can be developed for Tree Farms.
(e)	in planning for tree farming, local government considerations should include but are not limited to, potential bushfire risk, environmental and economic factors, water availability and recharge, visual landscape	Bushfire management, water availability, water quality protection, nutrient management and buffers are all relevant considerations.

	impacts, transport impacts of tree farming (where harvesting is proposed), planting thresholds, appropriate buffers, and location relative to conservation estates and sensitive land uses;	
(f)	where tree farm proposals are integrated with farm management for the purpose of natural resource management and occupy no more than 10 per cent of the farm, the proposal should not require local government development approval; and	This is not applicable as the proposed plantation area exceeds 10%.
(g)	the establishment of tree farms does not warrant the creation of new or smaller rural lots.	Statement only.

- Bushfire Management**

The Department of Fire and Emergency Services (DFES) have Guidelines for Plantation Fire Protection.

The applicant has lodged Bushfire Management Plans (BMP's) for the different properties. The BMP's require some additional information such as the neighbour contact details to be added.

Table 3		
<u>Item</u>	<u>Guideline</u>	<u>TPI Comments based on DFES Guidelines for Plantation Protection</u>
2.1 External firebreaks and setback distances	50 metre minimum between any non habitable structure (shed) and plantation 100 metre minimum between any habitable structure and plantation	Complies. Refers to 20 metre external firebreak unless otherwise required by the Shire. The 50-100 metre buffer is referred to in the BMP text and as a notation on the on the relevant design maps.
2.2 Fuel Reduction	Fuel reduction is encouraged where possible taking into	Fuel reduction is proposed and outlined in detail in the separate Management Plan.

	account factors such as remnant vegetation, management techniques, and natural features. The Guideline lists methods available for managing fire breaks.	Fuel reduction through grazing, chemical spray and / or mechanical plow are also discussed as ‘tasks for fire management’.
3a.	Landowner and / or occupier information, contact details and 24 hour fire contact number.	Kent Broad’s details are included and the applicant proposes to update the BMP once plantation fire officers(s) are employed. Conditions can be imposed to require updated final BMP’s.
3b.	Contact details of local fire control agencies	Provided in a table in each BMP.
3c.	A fire fighting equipment register and details of any co-operative arrangements.	Outlines that the engaged property officer and fire management officer will have a slip on firefighting unit with a 400L capacity on their 4 wheel drive cab utility. Fire extinguishers will also be fitted to each ute for any small spot fires. Installation of 150,000 litre water tanks are proposed for each property prior to the 2025 fire season. Final water tank locations will be ascertained once the lots are purchased.
3d.	Plantation species, area and layout including compartment size.	Provided on Draft Plantation design maps. Compartment sizes do not exceed 30 hectares as required under the Timber Code of Practice.
3e.	Fire protection measures such as: a) Fire detection and reporting mechanisms. b) Initial response and attack of fires c) Potential ignition sources. d) Access in and around the plantation. e) Clearly signed access roads. f) Methods of firebreak maintenance.	The BMP’s generally outline the fire protection measures and it is beneficial that the applicant proposes to employ a plantation manager who will live locally and who can attend the properties in the event of any fire.

	g) -Measures to protect services (eg powerlines). h) Water supplies and capacity i) Surrounding vegetation type, age since burnt and if the site is being effectively managed (if available) j) Sites fire history, where available. k) Harvesting procedures and other measures used to reduce hazards (eg slashing, thinning). l) Fuel reduction programme if applicable such as herbicide use or grazing.	
3f.	Surrounding local features including existing plantations, proximity to towns, remnant vegetation and significant values relevant to the site.	Complies and includes a context plan.
3g.	A plantation map to be held in suitable containers and clearly signposted at the main property entrances and other locations approved by the local government.	Location of cannisters shown on Draft Design maps.
3h.	Fire compartment maps will indicate: - Compartment boundaries and sizes - Water supplies including dams - Emergency access/egress (firebreaks) - Structures - Significant features such as remnant vegetation	Draft Design maps show firebreaks, water points, compartments, vegetation, any houses and sheds.
4.1 Compartment size and layout	- Compartments should be no more than 30 hectares where possible or as prescribed by the local government.	No compartments exceed 30 hectares.

	- Compartment boundaries should follow roads or natural features. - Fuel loads management techniques should be considered such as slashing between rows or grazing. - Topography, slope, access to water etc should be considered. - The layout should ensure that firebreaks are maintained sufficiently for emergency service access.	
4.2 Fire breaks and access	- Fire breaks to be as per the local government fire notice. - Vehicle access to be maintained in the planting layout. - Where possible tracks should be aligned to provide straight through access at junctions. - Access lanes must allow one line of traffic with passing areas where possible. Passing bays are recommended at 200m intervals (20m long by 6m wide) - The minimum trafficable surface must be 6 metres. - There must be horizontal and vertical clearance for vehicle access. 6m horizontal	Fire breaks and access are shown on the mapping lodged by the applicant.
4.3 Water Supplies	- A 50,000 litre minimum to be permanently available with suitable fittings - Water supply to be designed and constructed so that heavy duty water firefighting equipment is able to access the supply. - Water supply to be shown on a plantation map and signposted in the field.	Complies. Installation of 150,000 litre water tanks are proposed for each property. A condition can be imposed any approval to require water tank locations to be signposted for each property.

5. Equipment and training	The Guidelines discuss that it must be possible for every plantation manager to attend a fire on their own plantation. The Guidelines discuss: - ensuring that any personal have adequate training - Machinery to be fitted with fire extinguishers. - Fire fighting equipment to be maintained in good working order. - Adhere to harvest bans	The applicant proposes to employ a plantation manager and has addressed these issues in the BMP's.
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- **Advertising**

The application has been advertised for public comment. Public advertising closes on the 2 November 2024. Advertising to key stakeholders such as government agencies closes on the 14 November 2024.

To expedite processing, this report recommends that Council consider granting delegated authority to the Chief Executive Officer to determine the application (after advertising closes).

- **Submissions**

Three submissions from local landowners have been received. One objection has been received by the Shire of Westonia. Submissions on the current application are outlined in the table below.

Table 4 – Table of Submissions	
Issue Raised	Officer comments
Submission 1 : Private Landowner	
As a neighbour I do not oppose their right to farm trees on their land, or whatever they legally see fit to farm.	Non Objection noted.
My big concern is any concessions that may be sought in regards to rates or taxes, that then have to be carried by the rest of us. The demand for services will be just as great regardless of use of the land.	This is not a planning consideration. The applicant has advised that Outback Carbon will be paying the same council rates as the previous owners for the duration of the project.
I know it is not under shire jurisdiction but if they intend to claim carbon credits with any sort of government input or guarantee the rest of us will be	The applicant has also advised: - They will not look for any concessions with regards to rates or taxes, other than any of those

left footing the bill when common sense prevails.	that are lawfully available for any agricultural entity/activity. - They receive no government input or guarantee and plan to be involved with the local bushfire brigade as they have been in our other project areas in the WA wheatbelt. - Whoever leases their properties for grazing and/or opportunistic cropping will also have a responsibility for fire risk.
They rightly highlight bushfire risk in the proposal, while very glossy and ticking all the boxes the fact remains when the trees are all planted one person will be responsible for fire risk on 18,162 hectares.	The applicant has lodged Bushfire Management Plans and these have been assessed as per the applicable DFES Guidelines.
In summary if they want to plant trees fine, but please no concessions from the shire which will burden the rest of us.	This is not a planning consideration. The Shire CEO has advised that: - The Shire don't provide concessions on rates to any entity. As a UV Rural property, they will pay the same rate in the dollar value as all other UV Rural properties, however it will be up to the Valuer General to determine what their property is valued at as a result of these changes, if any. - The Shire has no control over the taxation or carbon credit system.
Submission 2: Private Landowner	
I would like it to be noted that if the land use is changed from farming to tree plantation it will have a significant negative impact on the local farming area and the greater community in the Yilgarn. I personally have leased farm land next to Granich tree farm on Nulla Nulla north and Granich road. The weed, vermin and fire risk associated with the un managed land puts extra burden on neighboring farms.	Noted. Like many land uses the issue of compatibility is often linked to how well a land use is managed. In this case the applicant has lodged a Management Plan addressing matters in the Timber of Practice such as weed management. TPI is aware of cases where Shires have experienced some management issues with Tree Farms where there is an absentee landowner and/or ongoing regular inspections are not built into the Management Plan. In this case the applicant is committed to employing a manager who is willing to be based at Southern Cross. TPI liaised with the applicant on the 5 November 2024 and they were already advertising for a manager for the Tree Farm.
	The applicant has responded to this issue by advising that 'they will be actively managing their properties for the full 40 years of the harvest cycle, very intensively in the first 2-3 years of project establishment and then as per normal property management in conjunction with the lessees who will be grazing and/or opportunistically

	cropping until harvesting at year 40. With 70-80% of the arable area remaining in traditional agriculture, the farms will be managed in the same intensity as they currently are. ‘
Their proposal to have 20-30m strips of pasture between the trees I feel is not very likely to succeed. To establish pasture in the Yilgarn is not easy and needs fertiliser and chemical applications which they are unlikely to do next to young tree seedlings. Even if they are to establish pastures once the trees are further advanced they will require more moisture leaving only noxious weeds in there interrow.	TPI is not an expert on this issue, however the success of the proposal to ‘plant trees’ in the local climate is a risk for the developer and not a matter for planning consideration. Just like any farmer, it is the applicant who takes the risk of whether their planting areas will be successful. The applicant has responded to this issue by advising as follows: ‘We are planning to establish the 20-30m inter-rows with our own mix of highly palatable annual and perennial species in year 3 of the project establishment. We are already using boom sprays with a ‘curtain shrouded’ boom that has little to no spray drift. We acknowledge that in below average rainfall years, the productivity of the inter -rows from the competition from the trees will be lower, which is what occurs now in low rainfall years i.e. farmers cannot run the same amount of livestock as in the above average rainfall years. We are not anticipating much competition from the trees until year ten and then potentially and opportunistically cropping with robotic machinery in the wetter years. There is also growing evidence that trees attract rainfall through the small water cycle. 20% of the land area will be shaded at year 25 and possibly 30% at year 40. There is significant published scientific and practical evidence in Western Australia that increasing vegetation on cleared farmland does not reduce productivity and in actual fact increases lambing percentages, livestock growth and increases soil moisture retention.’
The population of farmers in the Yilgarn has declined significantly in the last 10 years or so. This has had flow on affects to local business sporting clubs and volunteer organisations. If the land use of these farms is changed from traditional farming to tree plantations for carbon it will have a far greater impact than just the neighbouring farmers. With other very large parcels of land currently for sale in the Yilgarn, if this proposal is approved it sets a precedent allowing tree plantations for carbon to potentially cover a large	TPI understands that this may be a concern for the general public, however the Western Australian Planning Commission has published a Fact Sheet on Tree Farms that states that ‘<i>Tree farms are part of the ever changing agricultural sector. But they are not the underlying cause of the population or economic changes.</i>’ The Fact Sheet is supposed to be an explanation of State Planning Policy 2.5 on Rural Planning. The applicant has advised that they have two Carbon Project Managers in the NE wheatbelt of WA who live in the area and are active community members in the bushfire brigade and committee members of the local Agriculture show. They are advertising for similar

proportion of agriculture land within the Shire of Yilgarn.	positions in the Yilgarn and utilising local businesses throughout the project life. They advise they have currently used 45 rural businesses in the last 3 years where they have established projects and currently lease cropping land to two neighbours. Their overall strategy is to maintain as much agricultural activity as economically and socially possible on their properties and to maintain any housing that is still liveable for staff. Currently the two liveable residences on the properties are not occupied and have not been occupied for some time.
Submission 3: Private Landowner	
As a second-generation farmer of the Yilgarn area, I wish to forward my objection to the application for a tree farm on various lots. Ancestors of the Yilgarn spent hundreds of years to clear the land that you are opposing for the tree farm site, they would be turning in their graves after all the blood sweat and tears it took to clear this land.	Objection noted.
You have explained that two locally based project managers (or outside of the shire will need to be sourced – as the landowner / company be responsible for the employment, training and the added expense if a project manager needs to be source from outside the shire, has the landowner / company forecasted the population within the Yilgarn Shire over the next 25 -40 years to help with seasonal employment for grazing and cropping.	The applicant will need to undertake their own due diligence in employing future staff and / or contractors. This is the situation for any business and is not a planning consideration.
How can the landowner/company guarantee that the trees will survive, if planting cannot proceed during the months of May and August due to non-existent of rain fall and irrigation not required how will these trees survive.	TPI is not an expert on this issue, however the success of the proposal to 'plant trees' in the local climate is a risk for the developer and not a matter for planning consideration. Just like any farmer, it is the applicant who takes the risk of whether their planting areas will be successful.
Will project managers oversee the control of vermin and extra wildlife within the area or will the surrounding landowners be responsible for this.	The Tree Farm manager will be responsible as outlined in the Management Plan.

I understand that a bushfire management plan has been put in place, my concern is that once the trees are established and a fire takes off within the area, not only will the landowner of that area be affected how can they guarantee that surrounding landowners won't be affected by a fire where they could lose crops or livestock which is their only source form of income.	The Bushfire Management Plans follow the guidance outlined in the applicable Guidelines for Plantations Fire Protection and Timber Code of Practice.
Once the tree farms cropped and the landowner / company is wanting to sell the land, the new purchaser would have to spends thousands on clearing this land to be able to be able re sow their crops.	Whilst not a planning consideration, ultimately it is up to any prospective purchaser as to whether the cost of the purchase of any land and conversion to more traditional agriculture is acceptable. TPI is aware of cases where plantations in other Shires (eg Shire of Cranbrook) that have been converted back into traditional broad acre agriculture after a plantation has been harvested.
Submission 4 : Main Roads Western Australia (MRWA)	
Main Roads has no objection; however, we request the following conditions be included in any approval. 1. Suitable arrangements being made with Main Roads Western Australia for the installation or upgrading of the vehicular crossovers accessing Great Eastern Highway and Bullfinch Road to current Main Roads Standards. 2. Prior to Harvest, a Harvest Plan including transport to be submitted to the Main Roads WA and approved by Main Roads. The Harvest Plan will specify travel routes and expected impacts associated with any timber harvesting.	Non Objection noted. Conditions and footnotes relating to a harvest plan and crossovers can be included on any formal approval.
Submission 5 : Department of Planning, Lands and Heritage (DPLH)	
A review of the Register of Places and Objects, as well as the DPLH Aboriginal Heritage Database, concludes that the subject area does not intersect with any known Aboriginal heritage Places or Registered Sites	Noted.
Therefore, based on the current information held by DPLH, no	The DPLH advice of 'no comment' is noted.

approvals under the <i>Aboriginal Heritage Act 1972</i> (AHA) are required in this instance, and I have no comment to make on the proposed development. Please note that limited Aboriginal heritage surveys have been completed over the subject land, as such it is unknown if there is Aboriginal cultural heritage present. Therefore, future works proponents need to be made aware of their obligations under the AHA.	
DPLH also advises that you regularly check the Aboriginal Cultural Heritage Inquiry System (ACHIS) should new Aboriginal Cultural Heritage be reported within your subject area.	Noted. This is advice only.
Submission 6 Shire of Westonia	
Thank you for your invitation to comment on the above mentioned proposal, which was discussed at a meeting of the Council held on the 31st of October 2024. The Council have resolved that even though the proposal is not within our Shire Boundary, the Carbon (Tree Farm) Project goes against our '<i>Local Planning Strategy</i>' position that rural use of land should be protected to support agricultural activity and that the sacrifice of more than 14,500Ha of already cleared arable land for a carbon offset for a large Corporation, is not a complementary and an acceptable outcome for the district.	TPI can appreciate that different Shires have different positions when it comes to tree farms. As outlined in this report the planning assessment is largely guided by the WA Planning Commissions State Planning Policy 2.5 on Rural Planning and their Fact Sheet on Tree Farms. Other considerations such as ongoing management, and bushfire management are also considered.

Statutory Environment

Planning and Development (Local Planning Schemes) Regulations 2015 - The *Planning and Development (Local Planning Schemes) Regulations 2015* were gazetted on 25 August 2015, and became effective on 19 October 2015.

The Regulations include 'Deemed Provisions' that automatically apply and override parts of the Shire of Yilgarn Town Planning Scheme No 3.

Clause 67 outlines ‘matters to be considered by Council’ including and not limited to the aims and provisions of the Scheme, orderly and proper planning, any approved state policy, a local planning strategy, a local planning policy, the compatibility of the development with its setting including to development on adjoining land, amenity, loading, access, traffic and any submissions received on a proposal.

As the application is being processed as a ‘Use Not Listed’ , it is classified as a ‘complex application’ under the Regulations. Public advertising must be for a minimum of 28 days.

Shire of Yilgarn Town Planning Scheme No 2 – explained in the body of this report.

Local Government Act 1995.

Local Government (Administration) Regulations 1996

Part 2 Council and committee meetings

10. Revoking or changing decisions (Act s. 5.25(1)(e))

(1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —

(a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or

(b) in any other case, by at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.

(1a) Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.

(2) If a decision is made at a council or committee meeting, any decision to revoke or change the decision must be made by an absolute majority.

(3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

Strategic Implications

Nil.

Policy Implications

There is no Council policy applicable to this report.

Financial Implications

The Shire pays consultancy fees to Town Planning Innovations.

Risk Implications

There are no known risks associated with the proposed development.

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Nil	Nil	Nil
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Recommendation A

That the required number of Councillors, being at least 3, support a motion to revoke the decision made at the November 2024 Ordinary Council Meeting, being Resolution 143/2024.

Recommendation B

That Council endorses the revocation of resolution 143/2024.

Original Recommendation - SUPERSEDED

That Council:

- A. Determine that the proposed Tree farm use may be consistent with the objectives of the Rural/Mining zone and advertise under clause 64 of the deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 before considering an application for development approval for the use of the land.*
- B. Note the application has been advertised for public comment and that all public submissions received at the time of writing this report have been summarised in Table 4.*
- C. Note the issues raised in Table 4, however note that matters are addressed in the application and /or can be addressed through conditions of any development approval.*
- D. Pursuant to Clause 82(1) and 82(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 grant (by Absolute Majority) delegate authority to the Chief Executive Officer to determine the application for a Tree Farm on various lots in Southern Cross that are generally known as Avalon Homestead South, Avalon North, Cairns Road, Garrat, Marafioti, Newbury, Perilya and South Garrat.*

The above recommendation has been superseded and replaced with the below recommendation by the reporting Officer. The amended recommendation is due to finalised conditions not available at the time of agenda dissemination being made available after review by Town Planning Consultant and Legal Counsel.

Amended Original Recommendation C

That Council:

- D. Determine that the proposed Tree farm use may be consistent with the objectives of the Rural/Mining zone and advertise under clause 64 of the deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 before considering an application for development approval for the use of the land.***
- E. Note the application has been advertised for public comment and that all public submissions received at the time of writing this report have been summarised in Table 4.***
- F. Note the issues raised in Table 4, however note that matters are addressed in the application and /or can be addressed through conditions of any development approval.***
- D. Approved the application for a Tree Farm on various lots in Southern Cross that are generally known as Avalon Homestead South, Avalon North, Cairns Road, Garrat, Marafioti, Newbury, Perilya and South Garrat on the following conditions:***
 - 1. Prior to commencement of planting, an amended Project Management Plan and updated Plantation Design maps showing rows with a minimum width of 30m between planting lines must be lodged with the Shire for approval by the Chief Executive Officer.***
 - 2. The development must at all times be carried out in accordance with the approved Project Management Plan and Plantation Design maps including measures such as site preparation, weed management, and pest control.***
 - 3. Within 3 months after the date of this approval updated Bushfire Management Plans that include:***
 - a. contact details of a locally employed plantation manager and/or fire officer; and***
 - b. contact details of owners/occupiers of neighbouring lots;******are to be lodged with the Shire for approval by the Chief Executive Officer.***
 - 4. The measures outlined in all approved Bushfire Management Plans must be implemented during the life of the development.***
 - 5. A copy of the approved Bushfire Management Plan is stored at the main entrance to the respective properties in a secure, weatherproof and clearly labeled container at all times in a location shown in the applicable approved Bushfire Management Plan.***
 - 6. Internal access tracks are to be adequately sign posted to provide clear direction to water points (for fire emergencies) and exit points.***

7. *Internal firebreaks, access tracks and turnaround areas are to be adequately maintained to the satisfaction of the Chief Executive Officer for access by emergency fire vehicles.*
8. *Prior to harvesting, the owner/developer is to lodge a detailed Harvesting Plan for approval by the Chief Executive Office. The Harvesting Plan is to include:*
 - (a) *Haulage routes for vehicles involved in the harvest transport;*
 - (b) *Clear demarcation of local roads and any roads under the care and control of Main Roads WA;*
 - (c) *Heavy vehicle movements scheduling;*
 - (d) *Use of escort vehicles;*
 - (e) *Traffic management and interaction with other road users;*
 - (f) *A Pre-Construction Road Condition Report along the agreed main haulage routes within the local government area, and the obligation to prepare a Post-Construction Road Condition Report once harvesting for different properties are complete.*
 - (g) *An outline of all separate approvals required through Main Roads WA.*

The extent of the main haulage route for a Pre-Construction and Post-Construction Road Condition Report is to be agreed to separately in writing by the developer and the Chief Executive Officer.

9. *Harvesting must be carried out in accordance with the approved Harvesting Plan.*
10. *Any damage caused to the roads attributable to any harvesting phase of the development is to be rectified by the developer at their own cost to the standard identified in the Pre-Construction Road Condition Report to the satisfaction of the Chief Executive Officer.*
11. *Where the developer intends to undertake the development in stages, a Staging Plan must be lodged with the local government at the same time as the Management Plan referred to in Condition 1 or at a later time agreed to separately in writing by the Chief Executive Officer. The purpose of the Staging Plan is to determine the scope of information required in order to satisfy the conditions of approval as it relates to that stage.*
12. *The approved plans required by these conditions may amended from time to time with the written approval of the Chief Executive Officer.*

Advice Notes

If an alternative plantation manager and/or fire officer is engaged (other than the persons stated in an approved Bushfire Management Plan), or any relevant contact details change, then a revised Management Plan is to be lodged to the Shire.

9.1 Officers Report – Chief Executive Officer

9.1.6 Waiver of Fees and Charges – Wheatbelt Agcare

File Reference	
Disclosure of Interest	Nil
Author	Nic Warren - CEO
Voting Requirements	Simple Majority
Attachments	Nil

Purpose of Report

To submit to Council a request for a waiver of fees and charges for the use of the Southern Cross Seniors Centre for Wheatbelt Agcare.

Background

Wheatbelt Agcare have been utilising the Southern Cross Seniors Centre to provide free counselling services to individuals, couples and families in the Shire of Yilgarn since July 2024.

Visits had been fortnightly, however there has been a request to attend weekly.

The Strategic Community Plan seeks to support travelling health professionals, stating:

Outcome 2.4 Facilitate and advocate to retain and improve local health services, including investigating opportunities for additional ancillary visiting services

Comment

The Shire's Fees and Charges permits the CEO to hire and charge for use of the Seniors Centre at their discretion.

The standard fee applied to travelling professionals is \$70/day but is waived upon request to encourage their visitation.

The Shire's Delegation Register "*LGA 14 Donations and Waiver of Hire Fees*" does not permit the CEO to waive fees over \$500.

Given Wheatbelt Agcare wish to utilise the premises weekly, the total fee waived will be \$3,640.

The Shire also contributes to Wheatbelt Agcare as a financial member and is represented at their committee meetings by Cr Donna Newbury.

A free Counselling service within the Shire of Yilgarn is seen as an essential service and something the Shire should continue to support.

Statutory Environment

Delegation Register

LGA14 Donations and Waiver of Hire Fees

Date Adopted:	17 March 2016
Document Control:	Reviewed – 18 April 2024 Amended – 20 April 2023 - Link Amended - 21 April 2022 - Link Amended – 21 February 2019 - Link Adopted – 17 March 2016 - Link
Policy Reference:	
Delegate:	CEO
Sub-Delegated:	No
Chief Executive Instruction/Procedure:	N/A
History:	Previously LGA30

Legal (Parent):

- Local Government Act 1995 (As Amended) – Section 5.42

Legal (Subsidiary):

- Local Government Act 1995, Sections 6.12

Extent of Delegation:

Council delegates its authority and power to consider requests for Donations and Waiver of Hire Fees,
Subject to-

- a) The donation and /or waiver of hire fees request is:
 - a. less than \$500
 - b. for a non-profit group that is located in the Shire of Yilgarn
 - c. for an event that will be held within the Shire and is a general community benefit
- b) All Donations and Waiver of Hire Fees to be recorded in the Annual Report each year.

Conditions Imposed:

Nil

Strategic Implications

Strategic Community Plan

Outcome 2.4 Facilitate and advocate to retain and improve local health services, including investigating opportunities for additional ancillary visiting services.

Policy Implications

Nil.

Financial Implications

\$3,640 per annum.

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Yilgarn community not able to readily access counselling services.	Moderate (8)	A contribution in the form of a waiver of fees, assists with providing the services in Southern Cross.
Financial Impact	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Nil	Nil	Nil
Reputational	Reputation damage by not seizing an opportunity to secure counselling services for the community.	Low (3)	A contribution in the form of a waiver of fees, assists with providing the services in Southern Cross.
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Recommendation

That Council waives the fees associated with weekly use of the Southern Cross Seniors Centre for Wheatbelt Agcare, totalling \$3,640 per annum for a period of three years.

9.2 Reporting Officer – Executive Manager Corporate Services

9.2.1 Financial Reports - December 2024

File Reference	8.2.3.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Author	Cameron Watson – Executive Manager Corporate Services
Attachments	Financial Reports

Purpose of Report

To consider the Financial Reports

Background

Enclosed for Council's information are various financial reports that illustrate the progressive position of Council financially on a month-by-month basis.

The following reports are attached and have been prepared as at the 31 December 2024.

- Rates Receipt Statement
- Statement of Investments
- Monthly Statement of Financial Activity

Councillors will be aware that it is normal practice for all financial reports to be indicative of Council's current Financial Position as at the end of each month.

Comment

Nil

Statutory Environment

Local Government (Financial Management) Regulations 1996

34. Financial activity statement required each month (Act s. 6.4)

(1A) In this regulation —

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —

- (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - (b) budget estimates to the end of the month to which the statement relates; and
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing —
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
 - (b) an explanation of each of the material variances referred to in subregulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity may be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —
 - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

Nil

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Monthly snapshot of Councils financial position	Moderate (6)	Ongoing review of Councils operations
Service Interruption	Nil	Nil	Nil
Compliance	Local Government (Financial Management) Regulations 1996	Moderate (6)	Adherence to statutory requirements
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation

That Council endorse the various Financial Reports as presented for the period ending 31 December 2024.

9.2 Reporting Officer – Executive Manager Corporate Services

9.2.2 Financial Reports – January 2025

File Reference	8.2.3.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Author	Cameron Watson – Executive Manager Corporate Services
Attachments	Financial Reports

Purpose of Report

To consider the Financial Reports

Background

Enclosed for Council's information are various financial reports that illustrate the progressive position of Council financially on a month-by-month basis.

The following reports are attached and have been prepared as at the 31 January 2025.

- Rates Receipt Statement
- Statement of Investments
- Monthly Statement of Financial Activity

Councillors will be aware that it is normal practice for all financial reports to be indicative of Council's current Financial Position as at the end of each month.

Comment

Nil

Statutory Environment

Local Government (Financial Management) Regulations 1996

34. Financial activity statement required each month (Act s. 6.4)

(1A) In this regulation —

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —

- (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - (b) budget estimates to the end of the month to which the statement relates; and
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing —
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
 - (b) an explanation of each of the material variances referred to in subregulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity may be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —
 - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

Nil

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Monthly snapshot of Councils financial position	Moderate (6)	Ongoing review of Councils operations
Service Interruption	Nil	Nil	Nil
Compliance	Local Government (Financial Management) Regulations 1996	Moderate (6)	Adherence to statutory requirements
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation

That Council endorse the various Financial Reports as presented for the period ending 31 January 2025.

9.2 Reporting Officer – Executive Manager Corporate Services

9.2.3 Accounts for Payment – December 2024

File Reference	8.2.1.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Author	Steven Chilcott – Finance Officer
Attachments	Accounts for Payment

Purpose of Report

To consider the Accounts Paid under delegated authority.

Background

- Municipal Fund – Cheques 41304 to 41308 totalling \$21,147.05
- Municipal Fund - EFT 16005 to 16103 totalling \$1,482,927.67
- Municipal Fund – Cheques 2520 to 2538 totalling \$421,335.51
- Municipal Fund - Direct Debit Numbers:
 - 19374.1 to 19374.14 totalling \$27,349.15
 - 19388.1 to 19388.14 totalling \$26,797.06
 - 19407.1 to 19407.14 totalling \$27,641.65

The above are presented for endorsement as per the submitted list

Comment

Nil

Statutory Environment

Local Government Act 1995

5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —
 - (a) this Act other than those referred to in section 5.43; or
 - (b) the *Planning and Development Act 2005* section 214(2), (3) or (5).

* Absolute majority required.

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

Local Government (Financial Management) Regulations 1996

12. Payments from municipal fund or trust fund, restrictions on making

- (1) A payment may only be made from the municipal fund or the trust fund —
 - (a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or
 - (b) otherwise, if the payment is authorised in advance by a resolution of the council.
- (2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.

13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —
 - (a) the payee's name; and
 - (b) the amount of the payment; and
 - (c) the date of the payment; and
 - (d) sufficient information to identify the transaction.
- (2) A list of accounts for approval to be paid is to be prepared each month showing —
 - (a) for each account which requires council authorisation in that month —
 - (i) the payee's name; and
 - (ii) the amount of the payment; and
 - (iii) sufficient information to identify the transaction;and
 - (b) the date of the meeting of the council to which the list is to be presented.
- (3) A list prepared under subregulation (1) or (2) is to be —
 - (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
 - (b) recorded in the minutes of that meeting.

Strategic Implications

Nil

Policy Implications

Council Policy 3.11 – Timely Payment of Suppliers

Financial Implications

Drawdown of Bank funds

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Transactions require two senior managers to approve.	Moderate (8)	Transactions require two senior managers to sign cheques or approve bank transfers.
Financial Impact	Reduction in available cash.	Moderate (5)	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Local Government (Financial Management) Regulations 1996	Moderate (6)	Adherence to statutory requirements
Reputational	Non or late payment of outstanding invoices and/or commitments	Moderate (9)	Adherence to Timely Payment of Suppliers Policy
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation

- *Municipal Fund – Cheques 41304 to 41308 totalling \$21,147.05*
- *Municipal Fund - EFT 16005 to 16103 totalling \$1,482,927.67*
- *Municipal Fund – Cheques 2520 to 2538 totalling \$421,335.51*
- *Municipal Fund - Direct Debit Numbers:*
 - *19374.1 to 19374.14 totalling \$27,349.15*
 - *19388.1 to 19388.14 totalling \$26,797.06*
 - *19407.1 to 19407.14 totalling \$27,641.65*

The above are presented for endorsement as per the submitted list

9.2 Reporting Officer – Executive Manager Corporate Services

9.2.4 Accounts for Payment – January 2025

File Reference	8.2.1.2
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Author	Steven Chilcott – Finance Officer
Attachments	Accounts for Payment

Purpose of Report

To consider the Accounts Paid under delegated authority.

Background

- Municipal Fund – Cheques 41309 to 41313 totalling \$3,321.32
- Municipal Fund - EFT 16104 to 16192 totalling \$1,441,274.70
- Municipal Fund – Cheques 2539 to 2557 totalling \$302,518.37
- Municipal Fund - Direct Debit Numbers:
 - 19459.1 to 19459.14 totalling \$27,420.15
 - 19491.1 to 19491.14 totalling \$25,886.23
- Trust Fund – Cheque 402700 totalling \$240.00

The above are presented for endorsement as per the submitted list

Comment

Nil

Statutory Environment

Local Government Act 1995

5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —
 - (a) this Act other than those referred to in section 5.43; or
 - (b) the *Planning and Development Act 2005* section 214(2), (3) or (5).

* Absolute majority required.

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

Local Government (Financial Management) Regulations 1996

12. Payments from municipal fund or trust fund, restrictions on making

- (1) A payment may only be made from the municipal fund or the trust fund —
 - (a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or
 - (b) otherwise, if the payment is authorised in advance by a resolution of the council.
- (2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.

13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —
 - (a) the payee's name; and
 - (b) the amount of the payment; and
 - (c) the date of the payment; and
 - (d) sufficient information to identify the transaction.
- (2) A list of accounts for approval to be paid is to be prepared each month showing —
 - (a) for each account which requires council authorisation in that month —
 - (i) the payee's name; and
 - (ii) the amount of the payment; and
 - (iii) sufficient information to identify the transaction;and
 - (b) the date of the meeting of the council to which the list is to be presented.
- (3) A list prepared under subregulation (1) or (2) is to be —
 - (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
 - (b) recorded in the minutes of that meeting.

Strategic Implications

Nil

Policy Implications

Council Policy 3.11 – Timely Payment of Suppliers

Financial Implications

Drawdown of Bank funds

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Transactions require two senior managers to approve.	Moderate (8)	Transactions require two senior managers to sign cheques or approve bank transfers.
Financial Impact	Reduction in available cash.	Moderate (5)	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Local Government (Financial Management) Regulations 1996	Moderate (6)	Adherence to statutory requirements
Reputational	Non or late payment of outstanding invoices and/or commitments	Moderate (9)	Adherence to Timely Payment of Suppliers Policy
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Officer Recommendation

- *Municipal Fund – Cheques 41309 to 41313 totalling \$3,321.32*
- *Municipal Fund - EFT 16104 to 16192 totalling \$1,441,274.70*
- *Municipal Fund – Cheques 2539 to 2557 totalling \$302,518.37*
- *Municipal Fund - Direct Debit Numbers:*
 - *19459.1 to 19459.14 totalling \$27,420.15*
 - *19491.1 to 19491.14 totalling \$25,886.23*
- *Trust Fund – Cheque 402700 totalling \$240.00*

The above are presented for endorsement as per the submitted list

9.2 Reporting Officer – Executive Manager Corporate Services

9.2.5 Policy Amendment – 4.5 - Heavy Vehicle Road Improvement Contribution

File Reference	2.3.3.2
Disclosure of Interest	Nil
Voting Requirements	Absolute Majority
Author	Cameron Watson-Executive Manager Corporate Services
Attachments	Attachment 1 - HVRUF Policy - Amended HVRIC Policy Attachment 2 - Extract 2024-2025 Fees & Charges – Amended

Purpose of Report

Council is requested to endorse an amendment to policy 4.5 - Heavy Vehicle Road Improvement Contribution and the renaming of the same policy to 4.5 – Heavy Vehicle Road Usage Fee.

Additionally, Council is as asked to include a Heavy Vehicle Road Usage Fee in its 2024/2025 Schedule of Fees and Charges.

Background

Over the past several years, Council has been transitioning from a road use contribution made via individual agreements with road users to a more universal road use fee calculated via an “Equivalent Standard Axle” formulae (ESA).

In simple terms, the ESA fee is formulated using the selected haulage routes Restricted Access Vehicle (RAV) rating, vehicle configuration and vehicle weight and is applicable to all regular haulage campaigns.

Comment

Historically, road use agreements have been limited in number because there was no need for heavy haulage road users to notify Council of their road use. The only such agreement for a haulage only campaign was with WA Salt for the usage of the Koolyanobbing Road. There have been two other instances of negotiating a road use agreement but these were notified to Council due to the proponent requesting to upgrade the road to suit their purpose.

With the advent of the RAV rating of roads and the requirement to gain the road owners approval to utilise the road, it has become economical to impose the ESA methodology to the usage of Councils road network. To date, the income has been recorded as a contribution towards the upkeep of Councils road network and if not expended in the year it was raised, transferred to the Heavy Vehicle Road Improvement Contribution (HVRIC) Reserve. Currently the HVRIC Reserve has ~\$1.7m allocated.

It will be recommended that, going forward, any income derived from the usage of Councils road network will be recorded as a facility usage fee. This will allow the income to be

received as general Municipal funds and expended within the whole of Councils budget. The amended policy will suggest 3 appropriate areas of expenditure, being:

1. Staff housing and/or Building Reserve Transfer;
2. Plant replacement and/or Plant Reserve transfer; or
3. Infrastructure maintenance or renewal and/or a HVRUF Reserve transfer

But at the end of the day, the fees raised can be expended on any Council project or service and will not be recorded as road related income.

Under the current HVRIC policy, the requirement to transfer any unutilised contributions to the HVRIC Reserve could mean the Reserve getting to a size where it may impact negatively on Councils State and Federal capital road improvement grants.

Statutory Environment

Local Government Act 1995 –

2.7 Role of council

- (1) The council governs the local government's affairs and, as the local government's governing body, is responsible for the performance of the local government's functions.
- (2) The council's governing role includes the following —
 - (a) overseeing the allocation of the local government's finances and resources;
 - (b) **determining the local government's policies;**
 - (c) planning strategically for the future of the district;
 - (d) determining the services and facilities to be provided by the local government in the district;
 - (e) selecting the CEO and reviewing the CEO's performance;
 - (f) providing strategic direction to the CEO.
- (3) For the purpose of ensuring proper governance of the local government's affairs, the council must have regard to the following principles —
 - (a) the council's governing role is separate from the CEO's executive role as described in section 5.41;
 - (b) it is important that the council respects that separation.
- (4) The council must make its decisions —
 - (a) on the basis of evidence, on the merits and in accordance with the law; and
 - (b) taking into account the local government's finances and resources.
- (5) The council must have regard to the need to support an organisational culture for the local government that promotes the respectful and fair treatment of the local government's employees.
- (6) The council has the other functions given to it under this Act or any other written law.

[Section 2.7 inserted: No. 47 of 2024 s. 5.]

5.41. Role of CEO

- (1) The CEO, as the local government's chief executive officer, is responsible for managing the local government's administration and operations.
- (2) The CEO's executive role includes the following —
 - (a) causing council decisions to be implemented;
 - (b) *managing the provision of services and facilities that the council has determined the local government is to provide in the district;*
 - (c) *determining procedures and systems for —*
 - (i) *implementing the local government's policies as determined by the council; and*
 - (ii) otherwise managing the local government's administration and operations;
 - (d) being responsible for the employment, management, supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);
 - (e) ensuring that records and documents of the local government are properly kept for the purposes of this Act and any other written law.
- (3) The CEO is the council's principal advisor and, as such, does the following —
 - (a) advises, and procures advice for, the council in relation to the local government's affairs and the performance of the local government's functions;
 - (b) ensures that the council has the information and advice it needs to make informed and timely decisions.
- (4) The CEO —
 - (a) liaises with the mayor or president on the local government's affairs and the performance of the local government's functions; and
 - (b) speaks on behalf of the local government if the mayor or president agrees.
- (5) The CEO performs any other function specified or delegated by the local government or imposed under this Act or another written law as a function to be performed by the CEO.

[Section 5.41 inserted: No. 47 of 2024 s. 50.]

6.16. Imposition of fees and charges

- (1) A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.

** Absolute majority required.*

- (2) *A fee or charge may be imposed for the following —*
- (a) *providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;*
 - (b) supplying a service or carrying out work at the request of a person;
 - (c) subject to section 5.94, providing information from local government records;
 - (d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;
 - (e) supplying goods;
 - (f) such other service as may be prescribed.
- (3) Fees and charges are to be imposed when adopting the annual budget but may be —
- (a) imposed* during a financial year; and
 - (b) amended* from time to time during a financial year.

** Absolute majority required.*

6.19. Local government to give notice of fees and charges

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) its intention to do so; and
- (b) the date from which it is proposed the fees or charges will be imposed.

The recommendation that follows is consistent with the legislative requirements.

Strategic Implications

Pillar 2 – Economy

GOAL 6. - A safe and efficient transport networks

- 6.2 - Monitor traffic movement on the local road network to respond to significant changes to mining and industry movements

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Inadequately funding roads and supplementary assets such as staff housing and plant in to the future	Moderate (9)	Maintain a viable HVRUF Reserve and utilise road usage fees to ensure adequate staff housing and appropriate plant.
Service Interruption	Nil	Nil	Nil
Compliance	Nil	Nil	Nil
Reputational	Poor condition of the Shires Road network	Moderate (9)	Ensure road network maintained to an as high standard as possible
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Policy Implications

This report recommends the renaming of and amendments to Policy 4.5 - Heavy Vehicle Road Improvement Contribution.

Financial Implications

Revenue recognition implications for current road use contributions

Officer Recommendation

That Council endorse:

- 1. the recommended amendments to policy 4.5 - Heavy Vehicle Road Improvement Contribution;**
- 2. endorse the renaming of policy 4.5 - Heavy Vehicle Road Improvement Contribution to 4.5 – Heavy Vehicle Road Usage Fee; and**
- 3. the amendment to the 2024/2025 Schedule of Fees & Charges as presented and approves an imposition date of 24th February 2025.**

9.2 Reporting Officer – Executive Manager Corporate Services

9.2.6 Property Seizures for the Recovery of Unpaid Rates

File Reference	A1590, A18005 & 8.1.1.6
Disclosure of Interest	Nil
Voting Requirements	Simple Majority
Author	Cameron Watson-Executive Manager Corporate Services
Attachments	Nil

Purpose of Report

This report seeks Council's approval to seize with the intent to sell the land listed, for the purpose of recovering rates and charges outstanding more than three years.

Background

The following assessment has rates outstanding by more than three years and is in the name of a deceased estate where a search for beneficiaries has revealed no viable results:

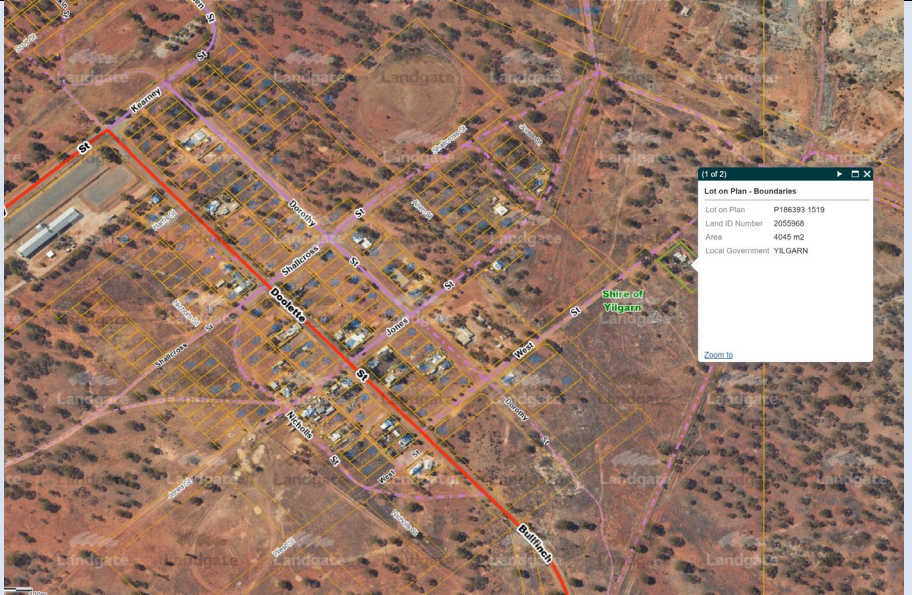
A1590 – 25 Polaris Street, Southern Cross – 1 Title (Lot 240)

25 Polaris Steet, Southern Cross		
Assessment	A1590	
Ratepayer	Samuel Fairclough (DECD 04/70) & Francis Fairclough (DECD 12/78)	
Type / Zoning	Residential (Vacant) – Southern Cross	
Period Outstanding	2021 /2022 – 2024 / 2025 (4 Years)	
Amount Outstanding	\$6,802.13	
Last Payment	18 th Sept 2020 - \$584.00 (Paid in Full)	
Recovery Action	Mar 23	GPC issued, unserved as indicated address now a vacant block. Skip traces and Probate searches through 3 generations of Samual & Francis lineage. Of the two children and four grandchildren found, only one is still alive and he has not replied to correspondence requesting contact. As this is a deceased estate, it is considered improbable that further collection action will have any successful results. As such further collection action has been deemed as not viable
Additional Information	From July 2004 to September 2020 rates were being paid by P & PD Guerini & Sons as the late P Guerini Snr had purchased the property but never had it transferred into his name. This only came to light in July 2020 when P & PD Guerini & Sons attempted to sell the property and found they could not as they did not hold the title to the property. At this time the rate record was corrected to reflect S. & F. Fairclough as owners (deceased).	



The following assessment has rates outstanding by more than three years and is in the name of a person who has refused or is incapable of entering into a suitable agreement to pay off the outstanding rates and charges:

A18005 – 42 West Street, Bullfinch – 1 Title (Lot 1519)

42 West Street, Bullfinch		
Assessment	A18005	
Ratepayer	Wayne Richard Berryman	
Type / Zoning	Residential - Bullfinch	
Period Outstanding	2009 / 2010 – 2024 / 2025 (15 Years)	
Amount Outstanding	\$10,715.92	
Last Payment	13 th May 2015 - \$19.01 (\$1,191.22 Outstanding)	
Recovery Action	Mar 16 Oct 18 Mar 19 Jun 22 Feb 25	Ratepayer (Pensioner Concession) declared Bankrupt. Correspondence including Rate Notices return to sender from this date. Pensioner status cancelled by WaterCorp. Ratepayer discharged from Bankruptcy. Debt referred for collection action. Judgement order received.
Additional Information	The ratepayer has a history of relocating from the assessment and returning at some later date which causes significant difficulty in contacting him when required.	
Location		



Comment

Nil

Statutory Environment

Local Government Act 1995

6.64. Actions to be taken

- (1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —
 - (a) from time to time lease the land; or
 - (b) sell the land; or
 - (c) cause the land to be transferred to the Crown; or
 - (d) cause the land to be transferred to itself.
- (2) On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.
- (3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may

lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

The recommendation that follows is consistent with the legislative requirements.

Strategic Implications

There are no strategic implications as a result of this report.

Policy Implications

Council Policy

3.9 - Rates and Charges Recovery Policy (Including Sewerage Charges Financial Hardship Policy)

Financial Implications

Nil at this time, however, the cost of proceeding to an auction and potential for the write off of rates and charges in the future if the properties remain unsold.

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Ongoing cost to Council of not collecting rates for assessments.	High (15)	Seize assessments and sell to new ratepayer/s
Service Interruption	Nil	Nil	Nil
Compliance	Nil	Nil	Nil
Reputational	Reputation for inefficient collection of outstanding rates	High (15)	Demonstration of good financial management in the efficient collection of outstanding rates
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Recommendation

That Council, pursuant to Section 6.64 (1) (b) of the Local Government Act 1995, take possession of the land indicated and proceed to sell the land listed hereunder which have rates in arrears for three or more years.

List of Land by Assessment Number:

Assessment: A1590 – 25 Polaris Street, Southern Cross

Assessment: A18005 – 42 West Street, Bullfinch

10 APPLICATIONS FOR LEAVE OF ABSENCE

11 MOTIONS FOR WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

10 APPLICATIONS FOR LEAVE OF ABSENCE

13 MEETING CLOSED TO THE PUBLIC-CONFIDENTIAL ITEMS

13.1 Officers Report – Chief Executive Officer

13.1.1 CEO Annual Performance Appraisal 2024

File Reference

Disclosure of Interest

Voting Requirements

Attachments

CEO – In relation to Contract of Employment

Absolute Majority

- CEO Performance and Remuneration Review 2023 to 2024;

- CEO Performance Criteria 2024-2025;

- Report To Inform The Annual CEO Remuneration Review.

(Provided Separately by CEO)

Purpose of Report

For Council to endorse the 2024 CEO Annual Appraisal Final Summary Report, Performance Criteria for 2025 and Remuneration Review, provided by Louise Chesby of Price Consulting Group.

Background

As per section 4 of the Chief Executive Officers contract of employment it states:

4.1 Performance Criteria

(1) *The Performance Criteria is included at Appendix 1*

(2) *The Performance Criteria must be reasonably achievable by You.*

(3) *You must use every reasonable endeavour to comply with the Performance Criteria.*

(4) *The Performance Criteria –*

(a) *must be reviewed annually by the parties; and*

(b) *may be amended, from time to time, by agreement in writing between the parties.*

4.2 Performance Criteria and performance review

Your performance under this Contract, must be reviewed and determined by the Reviewer –

- (a) by reference to the Performance Criteria;*
- (b) at least annually; and*
- (c) more frequently if the Council or You perceives there is a need to do so and, in that case, gives to the other party a Review Notice.*

4.3 Selection of Reviewer

- (1) The Council, in consultation with You, is to determine, in respect of each review under clause 4.2 -*
 - (a) who the Reviewer is to be; and*
 - (b) whether the Reviewer is to be accompanied or assisted by any other person and, if so, the identity of that person.*
- (2) For example, the Reviewer may be –*
 - (a) the Council;*
 - (b) a committee to which the conduct of the performance review has been delegated by the Council under section 5.16 of the Act; or*
 - (c) a person who is a HR professional who is agreed to by the Council to conduct the performance review.*
- (3) For the avoidance of doubt, if the Council and You are unable to agree on any of the matters set out in subclauses 4.3(1)(a), the Council is to make the relevant determination.*

Comment

At the September 2024 Ordinary Council meeting, the following was carried:

115/2024

Moved Cr Close/Seconded Cr Granich

That Council, with agreement from the CEO:

- (1) Engage Price Consulting to undertake the CEO Annual Review for 2024, utilising the methodology as per the provided quotation; and**
- (2) Confirm all 7 Councillors will form the review panel for 2024.**

CARRIED (7/0)

Cr's For: Della Bosca, Close, Bradford, Guerini, Granich, Newbury, Rose

Cr's Against: Nil

Louise Chesby from Price Consulting Group undertook the review process.

The following documentation from the 2024 review, provided separately, is tabled to be endorsed by Councillors:

- CEO Performance and Remuneration Review 2023 to 2024;
- CEO Performance Criteria 2024-2025;
- Report To Inform The Annual CEO Remuneration Review.

Statutory Environment

CEO Contract of Employment

Strategic Implications

Nil.

Policy Implications

Nil.

Financial Implications

Nil.

Risk Implications

Risk Category	Description	Rating (Consequence x Likelihood)	Mitigation Action
Health/People	Nil	Nil	Nil
Financial Impact	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Compliance with Contract of Employment and	Moderate (6)	Setting of annual review process in accordance with contract
Reputational	Nil	Nil	Nil
Property	Nil	Nil	Nil
Environment	Nil	Nil	Nil

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Recommendation

That Council:

- *Endorses the CEO Performance and Remuneration Review 2023 to 2024 and the recommendations contained within;*
- *Endorses the CEO Performance Criteria 2024-2025, noting this will form the basis for the next CEO review; and*
- *Endorses the Report to Inform the Annual CEO Remuneration Review.*

14 CLOSURE