



# MINUTES

## COUNCIL MEETING

19 DECEMBER 2024

## TABLE OF CONTENTS

1.	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS: .	4
2.	ANNOUNCEMENTS BY THE PRESIDENT: .....	4
3.	ATTENDANCE: .....	4
4.	DECLARATIONS OF INTEREST: .....	5
5.	PUBLIC QUESTION TIME: .....	5
6.	PRESENTATIONS: .....	5
7.	CONFIRMATION OF MINUTES: .....	7
8.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN: .....	7
9.	OFFICERS' REPORTS: .....	7
<b>12/24-127</b>	9.1.1 ..... Shire of Northampton 2023/24 Annual Report and Notice of Annual Electors Meeting .....	9
<b>12/24-128</b>	9.1.2 .Proposed Reallocation of Budget to Fund a Business Case for the Kalbarri Multipurpose Community Centre.....	13
<b>12/24-129</b>	9.2.1 ... Monthly Financial Statements for the Period Ending 31 October 2024.....	16
<b>12/24-130</b>	9.2.2 ..... Proposed Accounts for Endorsement on 19th December 2024.....	20
<b>12/24-131</b>	9.2.3 .. Proposed Lease to Northampton Community Centre Inc. - Reserve 23432 .....	23
<b>12/24-132</b>	9.2.4 Manager Corporate Services Activity Report July 2024 to December 2024.....	28
<b>12/24-133</b>	9.4.1 .. Proposed Local Planning Scheme Amendment - Lot 175 to 177 Kaiber Street, Kalbarri .....	31
<b>12/24-134</b>	9.4.2 ..... Application to Extend Development Approval - Proposed Caravan Park at Lot 101 Glance Street, Horrocks .....	38
<b>12/24-135</b>	9.4.3 Retrospective Approval of Modular Home Installation - Lot 2 (No 2) Darwinia Drive, Kalbarri.....	45
<b>12/24-136</b>	9.4.4 ..... Delegated Planning Decisions for November 2024 .....	57
<b>12/24-137</b>	9.4.5 Change of Use from a 'Dwelling' to 'Holiday House' at Lot 862 (No. 10) Gallant Close, Kalbarri.....	60
<b>12/24-138</b>	9.4.6 . Change of Use from a 'Dwelling to 'Holiday House' at Lot 270 (No. 17) Stemodia Street, Kalbarri.....	71
<b>12/24-139</b>	9.4.7 ..... Kalbarri Open Air Music Festival 4 & 5 April 2025 - Request to Amend Finish Time .....	80
<b>12/24-140</b>	9.5.1 ... Unauthorised Placement of Modular Building - No 2 (Lot 2) Darwinia Drive, Kalbarri .....	84
<b>12/24-141</b>	9.5.2 ..... Building Approvals Report November 2024 .....	91
<b>12/24-142</b>	9.8.1 Information Items - Maintenance/Construction - Works Program.....	93
<b>12/24-143</b>	9.8.2 .... Proposed 2024/25 Replacement of Kalbarri Loader with Purchase of Caterpillar 434 Backhoe (Second Hand).....	97

<b>12/24-144</b>	9.9.1 Confirmed Minutes of the Audit and Risk Management Advisory Committee Held on 21 November 2024.....	101
<b>12/24-145</b>	9.9.2 ..... Unconfirmed Minutes of the Audit and Risk Management Advisory Committee Held on 9 December 2024.....	104
10.	LATE REPORTS:.....	109
<b>12/24-146</b>	10.1 Monthly Financial Statements for the Period Ending 30 November 2024.....	109
11.	QUESTIONS FROM MEMBERS:.....	112
12.	MOTIONS FOR CONSIDERATION AT THE FOLLOWING MEETING .....	112
13.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING: .....	112
14.	MEETING CLOSED TO THE PUBLIC: .....	113
15.	APPLICATIONS FOR LEAVE OF ABSENCE: .....	116
16.	CLOSURE:.....	116

## SHIRE OF NORTHAMPTON

Minutes of the Ordinary Meeting of Council held in the Council Chamber, Hampton Road, Northampton, Thursday, 19 December 2024.

### 1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS:

The Shire President declared the meeting open at **2.00pm**.

### 2. ANNOUNCEMENTS BY THE PRESIDENT:

#### Acknowledgement of Country

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

### 3. ATTENDANCE:

#### **PRESENT:**

##### **Councillors**

Cr Liz Sudlow (Shire President)  
Cr Rob Horstman (Deputy Shire President)  
Cr Richard Burges  
Cr Tim Hay  
Cr Des Pike  
Cr Karl Suckling  
Cr Roslyn Suckling

##### **Staff**

Mr Andrew Campbell (Chief Executive Officer)  
Mr Brian Robinson (Executive Manager of Community, Development and Regulation)  
Mr Neil Broadhurst (Executive Manager of Works and Technical Services)  
Mrs Leanne Rowe (Manager Financial Services)  
Ms Sonya Hasleby (Executive Support Officer)  
Mrs Michelle Allen (Manager Corporate Services)

##### **Gallery**

3.1 Apologies:

3.2 Leave Of Absence:

Cr Trevor Gibb was granted a Leave of Absence at the Ordinary Meeting of Council held on 19<sup>th</sup> September 2024.

#### 4. DECLARATIONS OF INTEREST:

*[Part 5, Division 6 of the Local Government Act 1995 requires that a member must disclose the interest of the member and the nature of the interest in writing before the meeting or immediately before the matter is discussed.]*

Cr Karl Suckling declared an impartiality interest in relation to item 9.2.3 – Impartiality – Proposed Lease to Northampton Community Centre Inc – Reserve 23432 as he is the Shire Representative and a Director.

Cr Rob Horstman declared an impartiality interest in relation to item 9.2.3 – Impartiality – Proposed Lease to Northampton Community Centre Inc – Reserve 23432 as he is a member of the Northampton Community Centre.

Cr Roslyn Suckling declared a proximity interest in relation to item 9.4.2 – Proximity – Application to Extend Development Approval – Proposed Caravan Park at Lot 101 Glance Street, Horrocks as she owns property adjacent to the leased area.

Cr Tim Hay declared a financial interest in relation to item 9.4.2 – Financial – Application to Extend Development Approval – Proposed Caravan Park at Lot 101 Glance Street, Horrocks as he owns a caravan park in Port Gregory.

Mr Andrew Campbell declared a financial interest in relation to item 14.1.1 – Unconfirmed Minutes of the Meeting of the Chief Executive Officer Review Committee Held 6<sup>th</sup> December 2024 as he may benefit financially from Councils decision.

#### 5. PUBLIC QUESTION TIME:

- 5.1 Response to public questions taken on notice: Nil.
- 5.2 Public Question Time: Nil.

#### 6. PRESENTATIONS:

- 6.1 Petitions: Nil.
- 6.2 Presentations: Nil.
- 6.3 Deputations: Nil.
- 6.4 Councillor reports:

Since the last Council meeting **Cr L Sudlow** reported on their attendance at:

- 22/11/2024 – Attended Bet Mitchell's funeral, long-serving community champion, at Geraldton Crematorium.
- 25/11/2024 – Northern Country Zone Meeting in Mingenew.
- 27/11/2024 – Attended WALGA Renewables Forum.
- 06/12/2024 – CEO Review Committee Meeting at Northampton Chambers with Cr Horstman, Cr R Suckling and Cr Pike with Shayne Silcox attending via Teams.
- 07/12/2024 – Attended Lions' Christmas Lunch Function.
- 09/12/2024 – Along with Andrew Campbell and Brian Robinson, met with Reg Reynolds and Gail Birmingham.

- 09/12/2024 – Attended Audit and Risk Management Advisory Committee exit meeting with auditor from AMD and officer from OAG at 1pm.
- 09/12/2024 – Attended Audit and Risk Management Advisory Committee interim meeting at 1:45pm.
- 11/12/2024 – Attended and opened Elders Woodcock shop.
- 13/12/2024 – Attended Shire Christmas party in Kalbarri.

Since the last Council meeting **Cr R Horstman** reported on their attendance at:

- 06/12/2024 – CEO Review Committee Meeting at Northampton Chambers with Cr Sudlow, Cr R Suckling, Cr Pike with Shayne Silcox attending via Teams.
- 13/12/2024 – Attended Shire Christmas party in Kalbarri.

Since the last Council meeting **Cr D Pike** reported on their attendance at:

- 27/11/2024 – Kalbarri Development Association meeting.
- 04/12/2024 – Community Garden meeting in Kalbarri.
- 06/12/2024 – CEO Review Committee Meeting at Northampton Chambers with Cr Sudlow, Cr Horstman, Cr R Suckling with Shayne Silcox attending via Teams.
- 13/12/2024 – Attended Shire Christmas party in Kalbarri.
- 17/12/2024 – Met with the Men's Shed in Kalbarri.

Since the last Council meeting **Cr K Suckling** reported on their attendance at:

- 22/11/2024 – Northampton Community Centre meeting with Michelle Allen.
- 13/12/2024 – Attended Shire Christmas party in Kalbarri.

Since the last Council meeting **Cr T Hay** reported on their attendance at:

- 09/12/2024 – Audit and Risk Management Advisory Committee meeting.
- 13/12/2024 – Attended Shire Christmas party in Kalbarri.

Since the last Council meeting **Cr R Burges** reported on their attendance at:

- 27/11/2024 – Kalbarri Development Association meeting.
- 04/12/2024 – Community Garden meeting in Kalbarri.
- 09/12/2024 – Audit and Risk Management Advisory Committee meeting.
- 12/12/2024 – Youth Spaces meeting.
- 13/12/2024 – Attended Shire Christmas party in Kalbarri.
- 17/12/2024 – Community Garden consult with Men's Shed.

Since the last Council meeting **Cr R Suckling** reported on their attendance at:

- 25/11/2024 – Horrocks Community Centre meeting.
- 06/12/2024 – CEO Review Committee Meeting at Northampton Chambers with Cr Sudlow Cr Horstman and Cr Pike with Shayne Silcox attending via teams.
- 09/12/2024 – Audit and Risk Management Advisory Committee meeting.
- 13/12/2024 – Attended Shire Christmas party in Kalbarri.

6.5 Conference reports: Nil.

**7. CONFIRMATION OF MINUTES:****MOVED: Burges, R****SECONDED: Horstman, R****12/24-126****That the Minutes of the Ordinary Meeting of the Council held on 21 November 2024 be confirmed.****MOTION CARRIED 7/0****FOR**

Cr L Sudlow  
 Cr R Horstman  
 Cr R Burges  
 Cr T Hay  
 Cr D Pike  
 Cr K Suckling  
 Cr R Suckling

**AGAINST****8. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN:**

Nil.

**9. OFFICERS' REPORTS:**

9.1.1	Shire of Northampton 2023/24 Annual Report and Notice of Annual Electors Meeting
9.1.2	Proposed Reallocation of Budget to Fund a Business Case for the Kalbarri Multipurpose Community Centre.
9.2.1	Monthly Financial Statements for the Period Ending 31 October 2024
9.2.2	Proposed Accounts for Endorsement on 19th December 2024
9.2.3	Proposed Lease to Northampton Community Centre Inc. - Reserve 23432
9.2.4	Manager Corporate Services Activity Report July 2024 to December 2024
9.4.1	Proposed Local Planning Scheme Amendment - Lot 175 to 177 Kaiber Street, Kalbarri
9.4.2	Application to Extend Development Approval - Proposed Caravan Park at Lot 101 Glance Street, Horrocks
9.4.3	Retrospective Approval of Modular Home Installation - Lot 2 (No 2) Darwinia Drive, Kalbarri
9.4.4	Delegated Planning Decisions for November 2024
9.4.5	Change of Use from a 'Dwelling' to 'Holiday House' at Lot 862 (No. 10) Gallant Close, Kalbarri
9.4.6	Change of Use from a 'Dwelling' to 'Holiday House' at Lot 270 (No. 17) Stemodia Street, Kalbarri
9.4.7	Kalbarri Open Air Music Festival 4 & 5 April 2025 - Request to Amend Finish Time
9.5.1	Unauthorised Placement of Modular Building - No 2 (Lot 2) Darwinia Drive, Kalbarri
9.5.2	Building Approvals Report November 2024

9.8.1	Information Items - Maintenance/Construction - Works Program
9.8.2	Proposed 2024/25 Replacement of Kalbarri Loader with Purchase of Caterpillar 434 Backhoe (Second Hand)
9.9.1	Confirmed Minutes of the Audit and Risk Management Advisory Committee Held on 21 November 2024
9.9.2	Unconfirmed Minutes of the Audit and Risk Management Advisory Committee Held on 9 December 2024



### 9.1.1 Shire of Northampton 2023/24 Annual Report and Notice of Annual Electors Meeting

<b>PROPONENT</b>	Chief Executive Officer
<b>OWNER</b>	Shire of Northampton
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>ZONE:</b>	All
<b>BUSINESS AREA:</b>	Office of CEO
<b>FILE REFERENCE:</b>	1.1.3
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Andrew Campbell
<b>APPROVING OFFICER:</b>	Andrew Campbell
<b>DATE OF REPORT:</b>	9 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

#### **BACKGROUND:**

Local Government in Western Australia is required to prepare an Annual Report each financial year and following its adoption, hold an Annual Electors Meeting in accordance with the *Local Government Act 1995*.

The audited Annual Financial Report for the 2023/24 financial year was received by the Audit and Risk Management Advisory Committee on 9 December 2024 from the Office of Auditor General and auditors, AMD. The 2024 Annual Report, inclusive of the Annual Financial Report will be tabled for Council's consideration.

#### **REPORT TABLED**

#### **PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

#### **COMMENT (Includes Options):**

Council is required to adopt the Annual Report no later than 31 December 2024.

Once the Annual Report is adopted, an Annual Electors meeting is to be scheduled. The Annual Electors Meeting requires at least fourteen days local public notice and is to be held within fifty-six days from the date the Annual Report is adopted. Given this timeframe, and to avoid the holiday period, it is recommended that Council hold the 2023/24 Annual Electors Meeting on Thursday 6 February 2025 in the Horrocks Community Centre, Horrocks. Council has previously expressed an interest to hold the Annual Electors meeting at different townsites within the Shire of Northampton.

The 2022/23 Annual Electors meeting held on 8 February 2024 attracted four Councillors and three employees. No community members were in attendance. It is recommended that the start time of the Annual Electors Meeting be scheduled for 5pm to potentially make it more convenient for electors to attend, albeit this did not work for the 2022/23 Annual Electors meeting.

**STATUTORY ENVIRONMENT:**

Sections 5.27, 5.29 and 5.54 of the Local Government Act 1995. Section 5.53(2) requires the Annual Report to contain the following:

- (a) Report from the President;
- (b) Report from the CEO;
- (e) Overview of the plan for the future including major initiatives to commence next year;
- (f) Financial Report for the year;
- (g) Prescribed information regarding payment to employees;
- (h) Auditors report for the year;
- (ha) Report required under the Disabilities Services Act;
- (hb) Details regarding complaints made against Councillors during the year;
- and
- (i) Other prescribed information.

**POLICY / STRATEGIC IMPLICATIONS:**

The Annual Report captures progress against the Shire's adopted Corporate Business Plan.

**ORGANISATIONAL RISK MANAGEMENT:**

Risk rating is considered Level 3 – Moderate mainly based on compliance issues.

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

**FINANCIAL IMPLICATIONS:**

The financial performance for the year ended 30 June 2024 is detailed in the 2023/24 Annual Financial Report. The organisations financial performance has also been the subject of quarterly financial review reports previously presented to and adopted by Council.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:**

**ABSOLUTE MAJORITY**

That Council:

**OFFICER RECOMMENDATION:**

That Council:

- 1) Adopt the 2024 Annual Report including the 2023/24 Annual Financial Report as tabled;
- 2) Publish the 2024 Annual Report on the Shire website within 14 days of Council's resolution to accept it;
- 3) Endorse the scheduling of the 2023/24 Annual Electors Meeting to be held in the Horrocks Community Centre, Glance Street, Horrocks on Thursday 6 February 2025 commencing at 5pm; and
- 4) Request the Chief Executive Officer give local public notice of the 2023/24 Annual Electors Meeting and the availability of the 2024 Annual Report for the Shire of Northampton.

**OFFICER RECOMMENDATION:**

**MOVED: Suckling, R      SECONDED: Suckling, K**

**12/24-127**

That Council:

- 1) Adopt the 2024 Annual Report including the 2023/24 Annual Financial Report as tabled;
- 2) Publish the 2024 Annual Report on the Shire website within 14 days of Council's resolution to accept it;
- 3) Endorse the scheduling of the 2023/24 Annual Electors Meeting to be held in the Horrocks Community Centre, Glance Street, Horrocks on Thursday 6 February 2025 commencing at 5pm; and
- 4) Request the Chief Executive Officer give local public notice of the 2023/24 Annual Electors Meeting and the availability of the 2024 Annual Report for the Shire of Northampton.

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**

### 9.1.2 Proposed Reallocation of Budget to Fund a Business Case for the Kalbarri Multipurpose Community Centre.

<b>PROPONENT</b>	Shire of Northampton
<b>OWNER</b>	Shire of Northampton
<b>LOCATION / ADDRESS:</b>	Reserve 25447 Porter Street, Kalbarri
<b>ZONE:</b>	Parks and Recreation
<b>BUSINESS AREA:</b>	Office of CEO
<b>FILE REFERENCE:</b>	A4824
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Andrew Campbell
<b>APPROVING OFFICER:</b>	Andrew Campbell
<b>DATE OF REPORT:</b>	10 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

#### **BACKGROUND:**

The Shire of Northampton (Shire) has previously agreed to apply for grant funding for a proposal to construct the Kalbarri Multipurpose Community Centre. Most recently this was done through the Commonwealth Government Disaster Recovery Fund (DRF) process which was ultimately unsuccessful.

Feedback provided from the DRF process was that whilst the Shire's submission was strong in areas, it was marked down in areas of project risk and alignment to some of the compliance criteria. The application was scored at 67 out of 100 with a score of 80 appearing to be the funded cut-off in a grant funding program that was oversubscribed by five times the number of awarded projects.

It is understood that a new DRF funding round is expected early in 2025 and upon reflection by the Chief Executive Officer (CEO), a way to significantly strengthen the Shire's grant funding application would be to obtain an independent business case to support the grant funding application.

The purpose of this report is for Council to consider amending the 2024/25 budget to enable a business case to be produced.

#### **PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

#### **COMMENT (Includes Options):**

It is anticipated that a business case produced from a reputable economic consultant will cost in the order of \$15,000 (ex GST). Based on previous experience, the benefit of producing a business case specific to the Kalbarri Multipurpose Community Facility would be that it will increase the chances of the Shire securing significant grant funding not only from the DRF process but also from other large grant programs such as the "Growing our Regions" program.

In the context of the Kalbarri Multipurpose Community Centre, it is a very large building infrastructure project estimated by a Quantity Surveyor at being over \$6M. It is considered that the Shire does not currently have the financial capacity to fully fund a project of this magnitude and therefore should be very proactive in seeking at least 50% through external funding sources.

The proposed funding source within the Shire's 2024/25 budget that has been identified as the Rate Review with a current allocation of \$25,000. After significant efforts to identify a suitable contractor to undertake a rating review for the Shire, the CEO has been unable to find a suitable consultant. On this basis it is recommended the funding is reallocated to other purposes including this business case proposal with the balance to offset expected increases in audit costs flagged by the Shire's auditors, AMD at the Audit Exit meeting held 9 December 2024.

### STATUTORY ENVIRONMENT:

The *Local Government Act 1995* establishes the statutory process to undertake budget amendments.

### POLICY / STRATEGIC IMPLICATIONS:

The Kalbarri Multipurpose Community Centre has been identified by the community and Council as a priority project.

### ORGANISATIONAL RISK MANAGEMENT:

Risk rating is considered minor based mainly on reputational risk.

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

Catastrophic (5)	Fatality, permanent disability	More than \$150,000	Indeterminate prolonged interruption of services – non- performance > 1 month	Non- compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact
---------------------	--------------------------------------	------------------------	--	---	--	---	--

**FINANCIAL IMPLICATIONS:**

This is a proposed 2024/25 budget amendment.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:**

**ABSOLUTE MAJORITY**

**OFFICER RECOMMENDATION:**

That Council endorse the following amendment to the 2024/25 budget in accordance with the following table:

Item	Current	Proposed	
Rate Review	\$25,000	\$0	(\$25,000)
Business Case - Kalbarri Multipurpose Community Centre	\$0	\$15,000	\$15,000
Auditor General	\$44,500	\$54,500	\$10,000
		Net	0

**COUNCIL RESOLUTION:****MOVED: Horstman, R      SECONDED: Pike, D****12/24-128****That Council endorse the following amendment to the 2024/25 budget in accordance with the following table:**

<b>Item</b>	<b>Current</b>	<b>Proposed</b>	
<b>Rate Review</b>	<b>\$25,000</b>	<b>\$0</b>	<b>(\$25,000)</b>
<b>Business Case - Kalbarri Multipurpose Community Centre</b>	<b>\$0</b>	<b>\$15,000</b>	<b>\$15,000</b>
<b>Auditor General</b>	<b>\$44,500</b>	<b>\$54,500</b>	<b>\$10,000</b>
		<b>Net</b>	<b>0</b>

**MOTION CARRIED 7/0****FOR**

Cr L Sudlow  
 Cr R Horstman  
 Cr R Burges  
 Cr T Hay  
 Cr D Pike  
 Cr K Suckling  
 Cr R Suckling

**AGAINST**



**ATTACHMENT****9.2.1 Monthly Financial Statements for the Period Ending 31 October 2024**

<b>PROPONENT</b>	Shire of Northampton
<b>OWNER</b>	N/A
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>ZONE:</b>	All
<b>BUSINESS AREA:</b>	Corporate and Financial Services
<b>FILE REFERENCE:</b>	1.1.1
<b>LEGISLATION:</b>	<i>Local Government (Financial Management) Regulation 1996, Local Government Act 1995</i>
<b>AUTHOR:</b>	Leanne Rowe
<b>APPROVING OFFICER:</b>	Andrew Campbell
<b>DATE OF REPORT:</b>	4 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

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

The Monthly Statements of Financial Activity for the period ending 31 October 2024 are detailed from page 1 to page 23 per the attached Monthly Financial Report.

A copy of the Monthly Financial Report is attached.

**ATTACHMENT: 9.2.1 (1)****PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

Council is requested to adopt the monthly Financial Report as presented. The financial implications associated with the monthly report are detailed below.

**STATUTORY ENVIRONMENT:**

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

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

The associated risk would be the failure to comply with Financial Management Regulations requiring monthly reporting of Financial Activity. Risk rating is considered Level 2 - Minor.

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

**FINANCIAL IMPLICATIONS:**

The 31 October 2024 financial position is comprised of the following:

Total operating revenue has a surplus position of \$808,950 and the operating expenditure has a surplus position of \$2,992,194.

Further explanations of material variances are detailed by reporting program in Note 3 of the Monthly Financial Report.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:**

**SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receives the Monthly Financial Report for the period ending 31 October 2024 in accordance with ATTACHMENT: 9.2.1 (1).**

**COUNCIL RESOLUTION:**

**MOVED: Horstman, R      SECONDED: Suckling, R**

**12/24-129**

**That Council receives the Monthly Financial Report for the period ending 31 October 2024 in accordance with ATTACHMENT: 9.2.1 (1).**

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**

**ATTACHMENT****9.2.2 Proposed Accounts for Endorsement on 19th December 2024**

<b>PROPONENT</b>	Shire of Northampton
<b>OWNER</b>	N/A
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>ZONE:</b>	All
<b>BUSINESS AREA:</b>	Corporate and Financial Services
<b>FILE REFERENCE:</b>	1.1.1
<b>LEGISLATION:</b>	<i>Local Government (Financial Management) Regulation 1996, Local Government Act 1995</i>
<b>AUTHOR:</b>	Leanne Rowe
<b>APPROVING OFFICER:</b>	Andrew Campbell
<b>DATE OF REPORT:</b>	4 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

A full list of payments is submitted to Council on 19<sup>th</sup> December 2024 for consideration.

A copy of the Payment List is attached.

**ATTACHMENT: 9.2.2 (1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

Council is requested to endorse the payments as presented.

**STATUTORY ENVIRONMENT:**

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

**POLICY / STRATEGIC IMPLICATIONS:**

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

**ORGANISATIONAL RISK MANAGEMENT:**

The associated risk would be the failure to comply with Financial Management Regulation 13 (1) is considered moderate as the presentation of payments forms part of the Shires due diligence to ensure payments are presented as required. Risk rating is considered Level 3 - Moderate.

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

### FINANCIAL IMPLICATIONS:

The list of payments is required to be presented to Council as per section 13 of the *Local Government Act 1995 (Financial Management) Regulation 1996*.

### SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: Nil.

### VOTING REQUIREMENTS:

**SIMPLE MAJORITY**

### OFFICER RECOMMENDATION:

That Council note Municipal EFT payments numbered EFT27024 to EFT27169 totalling \$1,284,493.94; Municipal Fund Cheques 22529 to 22535 inclusive totalling \$1,920.34; Direct Debit payments numbered GJ0401 to GJ0412 inclusive, payroll and superannuation totalling \$311,890.59; and itemised fuel card purchases, be declared authorised expenditure in accordance with ATTACHMENT: 9.2.2 (1).

**COUNCIL RESOLUTION:**

**MOVED: Suckling, R      SECONDED: Sudlow, L**

**12/24-130**

**That Council note Municipal EFT payments numbered EFT27024 to EFT27169 totalling \$1,284,493.94; Municipal Fund Cheques 22529 to 22535 inclusive totalling \$1,920.34; Direct Debit payments numbered GJ0401 to GJ0412 inclusive, payroll and superannuation totalling \$311,890.59; and itemised fuel card purchases, be declared authorised expenditure in accordance with ATTACHMENT: 9.2.2 (1).**

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**

<b>PROPOSITOR</b>	Northampton Community Centre Inc.
<b>OWNER</b>	Shire of Northampton
<b>LOCATION / ADDRESS:</b>	Reserve 23432 Lot 469 (No. 52) Harvey Road, Northampton
<b>ZONE:</b>	Public Purposes
<b>BUSINESS AREA:</b>	Corporate and Financial Services
<b>FILE REFERENCE:</b>	9.1.3.1/A1974
<b>LEGISLATION:</b>	<i>Land Administration Act 1997</i> <i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Michelle Allen
<b>APPROVING OFFICER:</b>	Andrew Campbell
<b>DATE OF REPORT:</b>	8 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

The Shire of Northampton has the Management Order for Reserve 23432 Lot 469 (No. 52) Harvey Road, Northampton for the purpose of Showground and Recreation and leases a portion of Reserve 23432 to the Northampton Community Centre Inc. which specifically covers the buildings, tennis and netball courts.

The lease to Northampton Community Centre Inc. (NCC) had a termination date of 30 June 2023, however, has been holding over on a monthly basis by mutual agreement since that date. The purpose of the holding over period was related to the Shire of Northampton and the Northampton Community Centre Inc. negotiating a renewal lease agreement to lease portion of Reserve 23432, Lot 469 Harvey Road, Northampton.



The renewal lease proposal is more detailed with amendments included to clarify the lessee and lessor responsibilities. The Lessee has requested an additional lease condition and variations to the maintenance and outgoings schedule.

The agenda item is for a proposed lease agreement that requires approval from Council.

### **PUBLIC CONSULTATION UNDERTAKEN:**

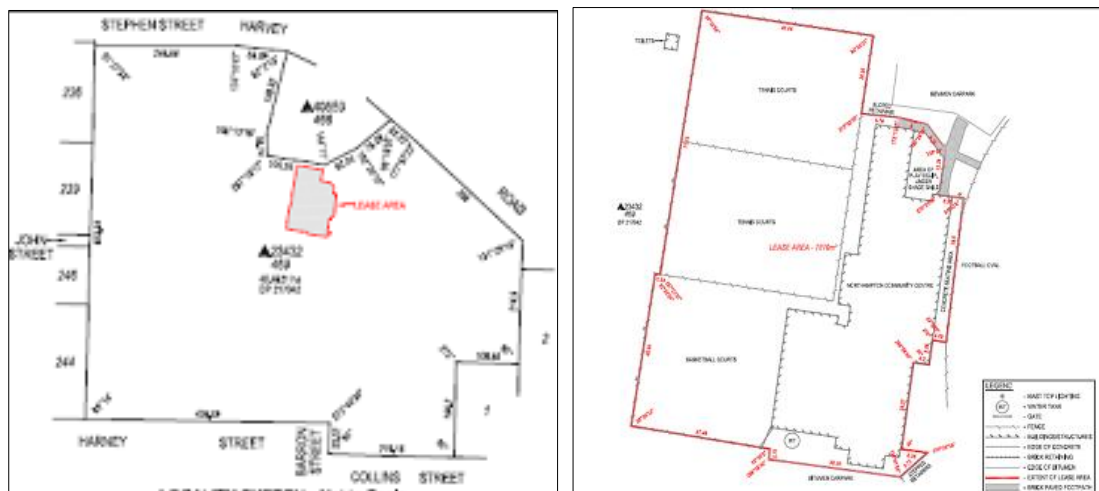
Nil.

The proposed additional lease condition does not require further advertising.

### **COMMENT (Includes Options):**

Historically the Shire has entered into an agreement with the Northampton Community Centre Inc. under a peppercorn lease arrangement for a portion of Reserve 23432 directly relating to the land and building used by various community groups, clubs and recreational bodies and commercial enterprises. The Lessor is vested with the care, control and management of the Land, being part of Reserve 23432 which was gazetted on 18 August 1989 under the *Land Act 1933 (WA)*.

Location of the existing lease area is shown below being a portion of Reserve 23432.



Whilst there have been issues under the current lease with certain conditions not being met historically, a consistent and transparent approach to the setting of lease terms, lease fees and maintenance responsibilities has been adopted by Council and guided by policy 3.1 *Property Leasing*.

A copy of policy 3.1 *Property Leasing* is appended.

### **APPENDIX: 9.2.3(A)**

Terms and conditions for commercial leases are negotiated on a case-by-case basis with the proposed lease being for buildings and improvements owned and/or managed by the Shire and leased to a community association.



The Lessee has requested an additional lease condition and variations to the associated maintenance and outgoings schedule as follows:

Additional Condition under 4.1 Permitted Use

The additional condition being sought in the area of Permitted Use is *"The Lessee is to make the leased premises available to schools within the boundaries of the Shire of Northampton subject to reasonable notice being given and no prior booking having been made."*

Variations to Schedule 3 Maintenance and Outgoings Schedule

1. Words '*in consultation with the Lessee*' be included in many of the Shire responsibility column.
2. Item 11 – Garden and Surrounds. The committee maintains majority of the garden is outside the lease area and they currently have no responsibility for those areas.
3. Item 14 – Painting. A change of wording and responsibility is requested.
4. Item 15 – Pest Control. Request to remove termite inspection responsibility and cost.
5. Item 26 – Playground (including soft fall and shade structures). Request for new inclusion as they currently have no responsibility for playground structures.

A copy of the proposed Lease Agreement showing requested changes and accompanying correspondence received from the Northampton Community Centre Inc. Committee is attached.

**ATTACHMENT: 9.2.3(1)**

**ATTACHMENT: 9.2.3(2)**

Shire Officers recommend support of the additional condition sought in relation to *4.1 Permitted Use* with response to the above variations in relation to maintenance, detailed as follows:

1. Support inclusion of the words '*in consultation with the Lessee*' in many of the Shire responsibility columns as proposed within Attachment 9.2.3 (2);
2. Support the removal of responsibility in relation to *Gardens and Surrounds* in Item 11 as the gardens are currently maintained by the Shire and the majority of the area is situated outside the proposed lease area;
3. The removal of responsibility in Item 14 – *Painting* as proposed is not supported. Throughout a tenancy, it is the tenants' obligation to ensure the property is adequately maintained including repainting once during a ten-year period. The inclusion of the additional condition '*Commence a staggered painting maintenance program over agreed timeframe*' is supported and addresses the Committee's concern that repainting of all areas would be required immediately.
4. The removal of responsibility in Item 15 – *Pest Control* is not supported. It is considered that regular termite inspections are the

tenant's responsibility in order to keep the premises free from pests and vermin.

5. Support the inclusion of Item 26 (Playground – Soft fall and shade structures) at present to reflect the current arrangement where existing structures are maintained by the Shire. However, a further condition in Shire responsibility being '*Renewal and upgrade of those structures to be determined by Council in consultation with the Lessee*' should be included giving Council opportunity in the future to consider the associated responsibility for these structures when an upgrade to or new play equipment is required.

The proposed lease is to continue in accordance with Council Policy 3.1 *Property Leasing* including the variations for Items 11,14,15 and 26 as outlined above. The renewal period is recommended for a term of five years commencing 19 December 2024, with a renewal option of a further five-year term following that period.

Council's *Property Leasing* policy outlines lease fees of \$200 per annum, for organisations that have licensed premises with potential to earn income.

#### **STATUTORY ENVIRONMENT:**

Section 3.58 of the *Local Government Act 1995* outlines requirements for leasing Shire land; however, Section 30(b) of the *Local Government (Functions and General) Regulations 1996* exempts from these requirements leases to charitable, benevolent, educational, recreational, sporting or other like bodies, provided the members are not entitled to receive any pecuniary profit. The proposed lease does not comply with this exemption.

Each lease and licence on Crown land require the approval of the Minister for Lands in accordance with section 18 of the *Land Administration Act 1997*.

#### **POLICY / STRATEGIC IMPLICATIONS:**

The proposed lease terms and conditions will be in accordance with Council Policy 3.1 *Property Leasing*, including maintenance responsibilities as detailed in *Schedule 3 – Maintenance and Outgoings Schedule* within the lease document.

Council Policy 2.8 *Authority to Execute Documents on Behalf of Council* requires matters concerning the leasing of Shire managed land to be put before Council.

#### **ORGANISATIONAL RISK MANAGEMENT:**

Nil

#### **FINANCIAL IMPLICATIONS:**

Lessees are responsible for the lease preparation fee set in the annual fees and charges.

Responsibility for outgoings, including building maintenance, is outlined in the lease agreement and in accordance with Council Policy 3.1 *Property Leasing*.

**SUSTAINABILITY:**Environmental: Nil.Economic: Nil.Social: The lessees provide an important service for the Shire of Northampton community which includes various recreational activities and community services.**VOTING REQUIREMENTS:****ABSOLUTE MAJORITY****OFFICER RECOMMENDATION:**

That Council authorise the Chief Executive Officer to execute a lease agreement with the Northampton Community Centre Inc. for portion of Reserve 23432 for a term of five years, with a renewal option for a further term of five years at a rental of two hundred dollars (\$200), subject to:

- 1) The defined lease area and conditions being to the satisfaction of the Chief Executive Officer; and
- 2) Approval of the Minister for Lands.

**COUNCIL RESOLUTION:****MOVED:** Burges, R**SECONDED:** Hay, T**12/24-131**

That Council authorise the Chief Executive Officer to execute a lease agreement with the Northampton Community Centre Inc. for portion of Reserve 23432 for a term of five years, with a renewal option for a further term of five years at a rental of two hundred dollars (\$200), subject to:

- 1) The defined lease area and conditions being to the satisfaction of the Chief Executive Officer; and
- 2) Shire will carry out annual termite inspection and any required treatment.
- 3) Approval of the Minister for Lands.

**CARRIED BY ABSOLUTE MAJORITY: 7/0**

**ATTACHMENT****9.2.4 Manager Corporate Services Activity Report July 2024 to December 2024**

<b>PROPONENT</b>	Manager Corporate Services
<b>OWNER</b>	N/A
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>ZONE:</b>	All
<b>BUSINESS AREA:</b>	Corporate and Financial Services
<b>FILE REFERENCE:</b>	N/A
<b>LEGISLATION:</b>	Various
<b>AUTHOR:</b>	Michelle Allen
<b>APPROVING OFFICER:</b>	Andrew Campbell
<b>DATE OF REPORT:</b>	9 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

This report has been produced to assist Council understand the activity of the Manager Corporate Services (MCS) for the six-month period from July 2024 to December 2024.

A copy of the MCS Activity Report July 2024 to December 2024 is attached.

**ATTACHMENT: 9.2.4 (1)****PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The purpose of the agenda item and attached report is to inform Councillors of the activities of the MCS and the employees under their supervision for the period between July 2024 and December 2024.

**STATUTORY ENVIRONMENT:**

Various legislation is applicable to the activities undertaken by the MCS and the employees under their supervision.

**POLICY / STRATEGIC IMPLICATIONS:**

Maintaining an open and transparent dialogue between the MCS and Councillors is considered highly beneficial in maintaining a functional local government organisation and understanding of activities undertaken and future activities planned.

**ORGANISATIONAL RISK MANAGEMENT:**

Open dialogue between the Council and MCS is important and failure to do so could result in a considerable degree of risk to the organisation. Risk rating is considered Level 3 – Moderate.

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

### FINANCIAL IMPLICATIONS:

All activities have been undertaken in accordance with the Shire's adopted budget for the 2024/25 financial year.

### SUSTAINABILITY:

Environmental: Activities of the MCS often deal with environmental related matters both from a compliance perspective and an improvement perspective.

Economic: The MCS administers and reports on the integrity of the organisation's administrative functions and provides input into the financial planning, budgeting and reporting of the activities for which the organisation is responsible.

Social: The MCS plays a key role in the management of the organisation's finance, physical and human resources.

### VOTING REQUIREMENTS:

**SIMPLE MAJORITY**

### OFFICER RECOMMENDATION:

**That Council receive the Manager Corporate Services Activity Report July 2024 to December 2024 in accordance with ATTACHMENT: 9.2.4 (1).**

**COUNCIL RESOLUTION:**

**MOVED: Pike, D**

**SECONDED: Suckling, R**

**12/24-132**

**That Council receive the Manager Corporate Services Activity Report July 2024 to December 2024 in accordance with ATTACHMENT: 9.2.4 (1).**

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**

#### 9.4.1 Proposed Local Planning Scheme Amendment - Lot 175 to 177 Kaiber Street, Kalbarri

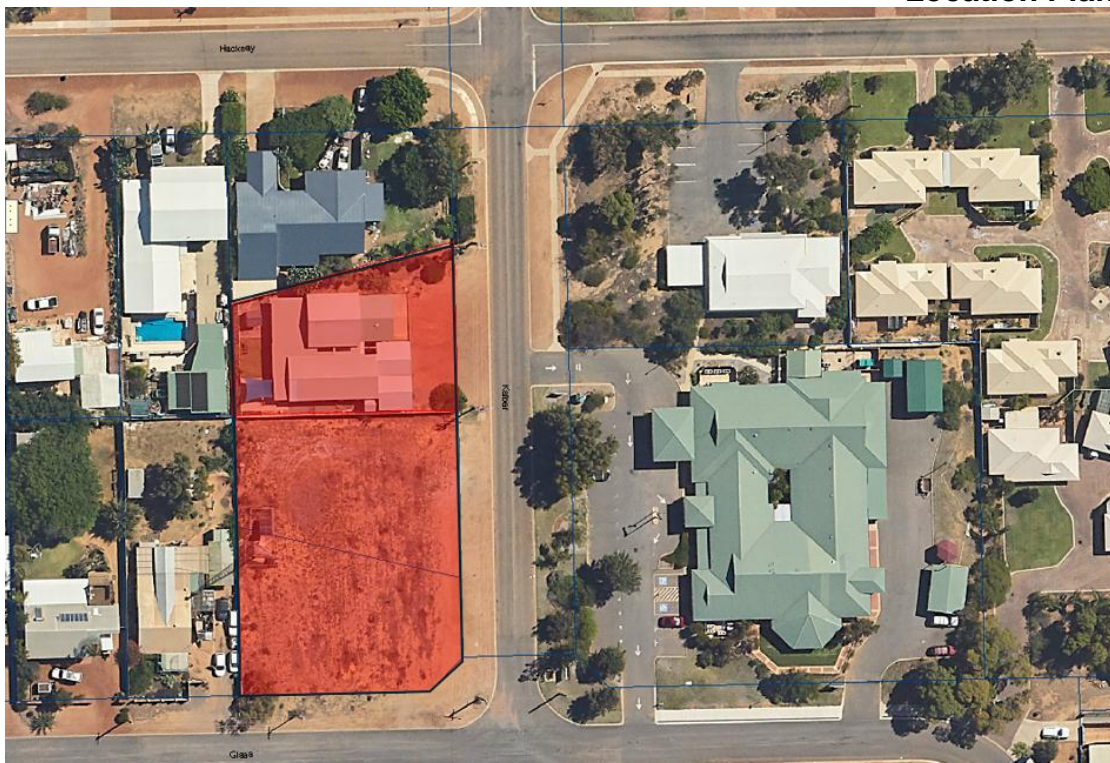
<b>PROPONENT</b>	Shire of Northampton
<b>OWNER</b>	N/A
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>ZONE:</b>	All
<b>BUSINESS AREA:</b>	Planning Services
<b>FILE REFERENCE:</b>	10.6.16, A2450 & A4978
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i>
<b>AUTHOR:</b>	Brian Robinson
<b>APPROVING OFFICER:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	8 November 2024
<b>DECLARATION OF INTEREST:</b>	Nil

#### BACKGROUND:

Council is requested to consider amending the Local Planning Scheme provisions relating to Lots 175, 176 and 177 that are located on the western side of Kaiber Street between Hackney Street and Glass Street within the Kalbarri Townsite.

Lot 175 is a 1,1012m<sup>2</sup> local reserve vested with the Shire, previously developed and used by St John Ambulance Service Kalbarri. Lots 176 and 177 have areas of 1,1012m<sup>2</sup> and 993m<sup>2</sup> respectively, are currently vacant except for some telecommunication equipment. Lots 176 and 177 form Crown Reserve 49019.

**Location Plan**



At its Ordinary Meeting held on 21 November, Council was requested to consider transferring a lease on Lot 175 from Kalbarri Town Talk to the Kalbarri Development Association. As part of Council's resolution (Resolution 11/24-117), Council requested a further report to Council on the options to amend the Local Planning Scheme zoning of Lot 175.

Council is now requested to consider adopting a Local Planning Scheme Amendment to amend the Scheme to facilitating the existing and proposed uses via modification of the provisions within Special Use Zone No 7.

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

To assist Council in considering this matter, the following comments and advice are offered:

Zoning

Local Planning Scheme No 11 (the Scheme) was gazetted in October 2017 and includes the subject lots within the Special Use Zone as Special Use Zone No 7 along with Lot 174 to the north. As detailed in Schedule 3, the permitted uses within SU7 are limited to the following land uses:

- Consulting Rooms;
- Hospital;
- Medical Centre; and
- Veterinary Centre

Current Land Uses Lot 175

Currently the main building on Lot 175 is utilised for a Children's Playgroup known as Kalbarri Littlies Playgroup, whilst the previous St John's Ambulance Garage has been converted and is used the office for the publication Kalbarri Town Talk. As neither of these uses are consistent with the current zoning, they are currently operating in conflict with the Local Planning Scheme.

Future Use of Lot 175

As Councillors are aware, the Kalbarri Development Association is seeking approval to utilise the current Town Talk Office as an administration office for the association and its activities, which will include the continued production of the Town Talk Publication. The provisions of the Scheme will need to be modified for the proposed use to be legally permissible.

Current & Future Use – Lots 176-177

As detailed above, currently Lots 176 and 177 are vacant except for some telecommunications equipment straddling the common boundary.

The Kalbarri Development Association (KDA) has identified that there are some issues with existing carparking and the gradient of the front setback on Lot 175. They have raised with Shire Officers the potential for a new accessible



compliant carpark to be established on the adjacent Lot 176. Although the Shire is yet to receive a formal request for a new car parking area, it is considered likely that such a request will be made should KDA commence full time operation of their services from the property (e.g. the aging in place program).

#### Land Use Definitions

The existing and proposed land uses are consistent with the Scheme definition of Community Purpose, which is *“premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit.”*

#### Potential Scheme Amendments

Examination of the Scheme has identified two potential options for a Scheme Amendment that would allow both the Playgroup and KDA Administration Office to legally operate from the property. These options are:

- a) Amendment of the Special Use Zone to include the use of Community Purpose; or
- b) Including Lots 175-177 into Schedule 1 relating to the Additional Use Zone, identifying use Community Purpose to as a “D” use. That is a use which is *“not permitted unless the local government has utilised its discretion by granting development approval”*.

Whilst rezoning the land was initially considered a third option, the Scheme does not currently contain a suitable zone.

#### Conclusion

The most appropriate method of permitting the now existing and proposed uses on Lot 175, is modification of Special Use Zone No 7 to include “Community Purpose” in the list of permissible land uses. It is recommended that Council resolve to adopt a scheme amendment for the purposes of advertising.

#### **STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005 and Planning and Development (Local Planning Schemes) Regulations 2015.*

#### **POLICY / STRATEGIC IMPLICATIONS:**

Lots 174 to 177 Kaiber Street have been identified within the Scheme for land uses complementing the Kalbarri Health Centre. The provisions of the Scheme restrict uses to medical and veterinarian. By adding to the list of permissible uses, Council ensures that other uses associated with the health and wellbeing community may be contemplated.

#### **ORGANISATIONAL RISK MANAGEMENT:**

Failure to amend the Scheme will result in both existing uses and the intended use by KDA being in contravention of the Scheme. The Risk associated with not proceeding with a Scheme Amendment is considered moderate due to the potential reputational damage of the organisation.

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

### FINANCIAL IMPLICATIONS:

The required Scheme Amendment documentation will be produced internally by Shire Officers. Minor costs associated with processing and advertising of the proposed Scheme Amendment will be wholly contained within the Shire's 2024/25 Annual Budget as adopted.

### SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: Approval to a Scheme Amendment as proposed facilitate local government approvals of health and wellbeing initiatives by community based groups.

### VOTING REQUIREMENTS:

**SIMPLE MAJORITY**

### OFFICER RECOMMENDATION:

**That Council:**

1. Pursuant to Section 75 of the *Planning and Development Act 2005*, amend Local Planning Scheme No. - 11 Kalbarri to:

- a) Modify the provisions of Schedule 3 relating to Special Use Zone No 7 to include "Community Purpose" as a permissible use as follows:

No	Description of Land	Special Use	Conditions
SU 7	Lots 174, 175, 176 and 177 Kaiber Street between Hackney Street and Glass Street	<u>“P” uses:</u> <ul style="list-style-type: none"> <li>• Consulting Rooms</li> <li>• Hospital</li> <li>• Medical Centre</li> <li>• Veterinary Centre</li> <li>• Community Purpose</li> </ul>	As determined by the local government in accordance with requirements of the Scheme.

2. Classify the Local Planning Scheme Amendments referred to in point 1 above as a Standard Scheme Amendment;
3. Refer the amendment to the Western Australian Planning Commission within 21 days in accordance with clause 46(A)(2) of the *Planning and Development (Local Planning Scheme) Regulations 2015*;
4. Subject to the Environmental Protection Authority determining that the Scheme Amendment will not be the subject of a formal Environmental Impact Assessment and the Western Australian Planning Commission agreement that the amendment is a standard scheme amendment, advertise the amendment for public consultation over a 42 day period as required by the *Planning and Development (Local Planning Scheme) Regulations 2015*;
5. Await a further agenda item pending items 3 and 4 above.

**COUNCIL RESOLUTION:****MOVED: Horstman, R      SECONDED: Burges, R****12/24-133****That Council:**

1. Pursuant to Section 75 of the *Planning and Development Act 2005*, amend Local Planning Scheme No. - 11 Kalbarri to:

- a) Modify the provisions of Schedule 3 relating to Special Use Zone No 7 to include “Community Purpose” as a permissible use as follows:

No	Description of Land	Special Use	Conditions
SU 7	Lots 174, 175, 176 and 177 Kaiber Street between Hackney Street and Glass Street	<u>“P” uses:</u> <ul style="list-style-type: none"> <li>• Consulting Rooms</li> <li>• Hospital</li> <li>• Medical Centre</li> <li>• Veterinary Centre</li> <li>• Community Purpose</li> </ul>	As determined by the local government in accordance with requirements of the Scheme.

2. Classify the Local Planning Scheme Amendments referred to in point 1 above as a Standard Scheme Amendment;
3. Refer the amendment to the Western Australian Planning Commission within 21 days in accordance with clause 46(A)(2) of the *Planning and Development (Local Planning Scheme) Regulations 2015*;
4. Subject to the Environmental Protection Authority determining that the Scheme Amendment will not be the subject of a formal Environmental Impact Assessment and the Western Australian Planning Commission agreement that the amendment is a standard scheme amendment, advertise the amendment for public consultation over a 42 day period as required by the *Planning and Development (Local Planning Scheme) Regulations 2015*;
5. Await a further agenda item pending items 3 and 4 above.

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**

Cr Roslyn Suckling declared a proximity interest in relation to item 9.4.2 – Proximity – as she owns property adjacent to the leased area and left the Chambers at 14:13 pm.

Cr Tim Hay declared an financial interest in relation to item 9.4.2 – Financial – as he owns the Port Gregory Caravan Park and left the Chambers at 14:13 pm.

## **ATTACHMENT APPENDIX**

### **9.4.2 Application to Extend Development Approval - Proposed Caravan Park at Lot 101 Glance Street, Horrocks**

<b>PROPONENT</b>	Halsall & Associates
<b>OWNER</b>	Shire of Northampton
<b>LOCATION / ADDRESS:</b>	Lot 101 Glance Street, Horrocks
<b>ZONE:</b>	Town Centre
<b>BUSINESS AREA:</b>	Planning Services
<b>FILE REFERENCE:</b>	10.5.1.3 & A4967
<b>LEGISLATION:</b>	<i>Planning &amp; Development Act 2005</i>
<b>AUTHOR:</b>	Brian Robinson
<b>APPROVING OFFICER:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	2 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

#### **BACKGROUND:**

Lot 101 is a 2.1035ha vacant property owned by the Shire within the Horrocks Townsite. As reflected on the location plan below, the majority of the property is located on the corner of Glance Street and Mitchell Street. Portion of the property does however extend west ward onto Glance Street immediately south of the Horrocks General Store.

**Location Plan**



In February 2017, Council resolved to accept an Expression of Interest from Summerstar Pty Ltd for the lease of approximately 7,650m<sup>2</sup> of Lot 101 for the purpose of a Caravan Park (including chalets). Subsequent to this:

- a) In March 2019, Council resolved to grant conditional approval to development of the site with 24 caravan park sites with en-suites 8 two bedroom chalets, a camp kitchen and laundry. Copies of the plans conditionally approved by Council are appended;

**APPENDIX: 9.4.2 (A)**

- b) In July 2019, Council resolved to grant a revised approval, modifying the wording of condition No 27 included in the March 2019 approval, at the request of the applicant. A copy of the amended approval is shown at Appendix: 9.4.2 (B);

**APPENDIX: 9.4.2 (B)**

- c) On 15 September 2021, Council granted conditional approval to the construction of retaining walls to facilitate development of the site.

A request has now been received from the applicant, seeking approval to extend the July 2019 approval for a further period of two years. A copy of the request is shown attached.

**ATTACHMENT: 9.4.2 (1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

To assist Council in determining the applicants request, the following advice is offered:

Zoning

The provisions of the Shire's Local Planning Scheme No 10 (the Scheme) zone the subject land Commercial. In addition, the Scheme includes the leased area of Lot 101 within Additional Use Zone – Area No 4.

Permissibility

The Additional Use Zone applicable to that portion of Lot 101 identify that a Caravan Park is a "D" use on the site. That is a use which is not permitted unless the local government has exercised its discretion by granting development approval.

Term of Approval

Advice Note 8 of the conditional approval identified that the approval would expire in two years if the development was not substantially completed in that time (i.e. 19 July 2021). The approval period was automatically extended by a period of two years that the State of Emergency Declaration in April 2020. As a result of that extension, the approval expired in July 2023.

Within the applicants request shown at Attachment: 9.4.2 (1), they have noted that the approval includes an advice note which makes reference to a period of two years, but that they have previously had legal advice that advice notes cannot service the function of closing off an approval and this should be incorporated into a condition.

Whilst the applicants view regarding advice notes is agreed, there was at the time no requirement to specify a time frame given that clause 71(a)(i) of the Deemed to Apply provisions of the Planning and Development (Local Planning Schemes) Provisions 2015. The provisions state that if no period is specified in the approval, the development must substantially be commenced within the period of 2 years of the determination date.

#### Extension of Approval

In accordance with clause 77(1) of the Deemed to Apply provisions, an owner of land of which development approval has been granted may make application to extend the approval period.

In accordance with clause 77(2), an application under clause 77(1):

- (a) Is to be made in accordance with the requirements in Part 8 and dealt with under this Part as if it were an application for development approval; and*
- (b) May be made during or after the period within which the development approved must be substantially commenced.*

The effect of point (a) above is that a new application form, supporting documentation and payment of fees would be required.

#### Form of Applications for Extension

Notwithstanding the above, clause 78 of the Deemed to Apply provisions outline prescribe that the local government may *“waive or vary a requirement in Part 8 of this part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.”*

The applicant submits that they *“cannot see any reason why the Shire would consider re-issuing the approval would be a concern as there is nothing in the Planning Framework that has changed, and the lease arrangement is still in place with the Shire for this land”*.

In response to the applicant's statement, Council is advised that:

- (i) The planning framework has changed given:
  - (a) the gazettal of Local Planning Scheme Amendment No 8 on 22 December 2023. The effect of this is that condition No 27 as imposed by Council is no longer relevant;
  - (b) The Shire has substantially reviewed the local planning policy framework;
  - (c) State Planning Policy No 3.7 – Bushfire and the associated Guidelines have been substantially updated, resulting in the need for a revised/updated Bushfire Management Plan in support of the application.



- (ii) The current conditions of approval are not consistent with contemporary planning considerations and are in need of formal review.
- (iii) By granting a two year extension to the previous approval would effectively result in the approval expiring in July 2025, giving the developer less than 7 months to substantially commence the development.

Given the above, the applicants request that the local government waive the requirement of Part 8 of the Deemed to Apply provisions is not supported and it is recommended that a new application including payment of fees is required.

#### Delegation to Chief Executive Officer

Rather than require this matter to be further considered by Council following the receipt of a formal application, it is recommended that Council grant the Chief Executive Officer delegated authority to conditionally approve the formal application subject to:

- a) The retention and renumbering of condition numbers 1, 2, 4-6, 8, 10, 12, 13, 16, 20-22, 24-26; and
- b) Other standard conditions as may be applicable to the proposed development.

#### Conclusion

Potential development of the subject land with a Caravan Park including camping and chalets is permissible in accordance with the Scheme provisions relating to the land. That said the applicants request for an extension of the current approval is not supported for the following reasons:

- a) The Planning Framework relevant to the proposal, including State Planning Policy 3.7 has been modified since the original approval;
- b) The previously imposed conditions are not considered to be consistent with contemporary planning practice and planning law; and
- c) A further two year extension would only extend the previous approval until July 2025. This timeframe would most likely result in further extensions of approval being sought given the limited timeframe that the developer would have to substantially commence the development.

As an alternative, it is recommended that the applicant be required lodge a revised application for development approval in accordance with Part 8 of the Deemed to Apply provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

To avoid delays for the applicant and developer, it is recommended that Council grant the Chief Executive Officer delegated authority to conditionally approve the development following receipt of the revised application.

#### **STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005.*

**POLICY / STRATEGIC IMPLICATIONS:**

Development of that portion of Lot 101 for a Caravan Park would be consistent with the following provisions of the Shire of Northampton Strategic Community Plan 2020-2030:

- 1.1 To maintain or grow our population through land development to attract and support residents, visitors, and business initiatives.

**ORGANISATIONAL RISK MANAGEMENT:**

The Risk Rating associated with granting the Chief Executive Officer delegated authority to issue a revised conditional approval is considered insignificant.

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

**FINANCIAL IMPLICATIONS:**

The revised application will be required to be accompanied by payment of an application fee in accordance with the Shire's adopted Schedule of Fees and Charges.

**SUSTAINABILITY:**

Environmental: Conditions of approval should address any potential environmental impact.

Economic: Approval to the proposal will result in additional tourist accommodation being available within the Horrocks Townsite.

Social: Approval to the proposal will provide tourists other accommodation options in Horrocks.

**VOTING REQUIREMENTS: ABSOLUTE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council :**

1. Advise the applicant that it is not prepared to waive the or vary the requirements of Part 8 pursuant to clause 77 (3) of the Deemed to Apply Provisions of the *Planning and Development (Local Planning Scheme) Regulations 2015* for the following reasons:
  - (a) The Planning Framework applicable to the application has changed since conditional approval was granted in July 2019;
  - (b) A number of the conditions of approval are not considered to be consistent with contemporary planning practice or planning law; and
  - (c) It considers the submitted plans should be updated reflect those modifications required by conditions 10 and 24 of the previous approval.

**Advice to Applicant:**

- (i) Extension of the previous approval by a period of two years would result in the revised approval expiring in July 2025, leaving the developer limited time to substantially commence the development. It is considered appropriate that any revised approval be granted for a period of two years from the date of the decision.
2. Require the applicant to submit an application in accordance with the requirements of Part 8 of the Deemed to Apply Provisions together with a Bushfire Management Plan addressing the current requirements of State Planning Policy No 3.7 – Bushfire and payment of the required application fee; and
3. Grant the Chief Executive Officer delegated authority to grant conditional approval to the revised application referred to in points 1 and 2 above, subject to the following:
  - (a) The retention and renumbering of condition numbers 1,2,4-6, 8, 12, 13, 16, 20-22, 25, 26; and
  - (b) Other standard conditions as may be applicable to the proposed development.

**COUNCIL RESOLUTION:****MOVED: Burges, R****SECONDED: Horstman, R****12/24-134****That Council :**

1. Advise the applicant that it is not prepared to waive the or vary the requirements of Part 8 pursuant to clause 77 (3) of the Deemed to Apply Provisions of the *Planning and Development (Local Planning Scheme) Regulations 2015* for the following reasons:
  - (a) The Planning Framework applicable to the application has changed since conditional approval was granted in July 2019;
  - (b) A number of the conditions of approval are not considered to be consistent with contemporary planning practice or planning law; and
  - (c) It considers the submitted plans should be updated reflect those modifications required by conditions 10 and 24 of the previous approval.

**Advice to Applicant:**

- (i) Extension of the previous approval by a period of two years would result in the revised approval expiring in July 2025, leaving the developer limited time to substantially commence the development. It is considered appropriate that any revised approval be granted for a period of two years from the date of the decision.
2. Require the applicant to submit an application in accordance with the requirements of Part 8 of the Deemed to Apply Provisions together with a Bushfire Management Plan addressing the current requirements of State Planning Policy No 3.7 – Bushfire and payment of the required application fee.

**MOTION CARRIED 5/0****FOR**

Cr L Sudlow  
 Cr R Horstman  
 Cr R Burges  
 Cr D Pike  
 Cr K Suckling

**AGAINST**

Councillor Hay returned to the Chambers at 14:14 pm.  
Councillor Suckling returned to the Chambers at 14:14 pm

## ATTACHMENT

### 9.4.3 Retrospective Approval of Modular Home Installation - Lot 2 (No 2) Darwinia Drive, Kalbarri

<b>PROPONENT</b>	KA Marsh
<b>OWNER</b>	KA Marsh
<b>LOCATION / ADDRESS:</b>	Lot 2 (No 2) Darwinia Drive, Kalbarri
<b>ZONE:</b>	Residential (R20)
<b>BUSINESS AREA:</b>	Planning Services
<b>FILE REFERENCE:</b>	10.6.1.1 & A3969
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i>
<b>AUTHOR:</b>	Brian Robinson
<b>APPROVING OFFICER:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	3 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

#### BACKGROUND:

The subject land is a 526m<sup>2</sup> residential lot located within the Eco Flora Estate on the corner of Darwinia Drive and Clematis Crescent, Kalbarri as shown on the location plan below.

#### Location Plan



On Friday 8 November 2024, the Shire received an application for Development Approval to a single bedroom modular home on the property. If approved the building will be setback 4 metres from the Clematis Crescent boundary and 2.5 metres from the southern (rear) boundary. Copies of the submitted plans are shown attached.

**ATTACHMENT: 9.4.3 (1)**

On Monday 11 November, it was brought to the attention of Shire Officers that the modular had in fact been placed on the property over the weekend with no Development Approval or Building Permit in place. Photographs of the building as located on site are shown as Attachment: 9.4.3 (2).

**ATTACHMENT: 9.4.3 (2)**

An email was forwarded to the landowner on 12 November 2024, asking them to show cause as to why the Shire of Northampton should not take legal action for breaches of *Planning and Development Act 2005* and the *Building Act 2011*. A copy of the response received is attached for Councillors information and reference.

**ATTACHMENT: 9.4.3 (3)**

As a result of the works undertaken, Council is now requested to determine a retrospective application for Development Approval and whether action should be taken under the *Planning and Development Act 2005*. Non-compliance with the Building Act 2011 is the subject of Item No 9.5.1 of this agenda.

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

To assist Council in determining these matters, the following comments and advice are offered:

Zoning

The provisions of the Shire's Local Planning Scheme No 11 – Kalbarri (the Scheme), include the subject land within the Residential Zone, with an applicable density of R20.

Land Use Definitions

The application as lodged on 8 November sought approval to the modular building as a "Auxiliary Accommodation". Deemed to Apply provisions contained within the *Planning and Development (Local Planning Schemes) Regulations 2015*, identify the following definitions applicable to this application:

***"Ancillary Dwelling – self-contained dwelling on the site as a dwelling which may be attached to, integrated with or detached from the dwelling.***

***"Dwelling – a building or portion of a building being used, adapted, or designed or intended to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or not more than six persons who do not comprise a single dwelling."***

***"Primary Street – unless otherwise designated by the local government, the sole or principal public road that provides access to the major entry (front door) to the dwelling or building."***

***‘Secondary Street – in the case of a site that has access from more than one public road, a road that is not the primary street.’***

Given that there is currently no dwelling located on the property, the application cannot legally be considered as Ancillary Accommodation. Alternatively, the building must be considered as a Dwelling. In the event that the landowner seeks to proceed with the construction of the main residence, an application may be made to retain the modular building, changing the use to an Ancillary Dwelling.

#### Land Use Permissibility

A dwelling is a “P” use within the Residential Zone. That is a use which is permitted if it complies with any relevant development standards or requirements of the Scheme.

In accordance with clause 61(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015* - Deemed to Apply provisions, the erection or alterations or additions to single house on a lot is exempt from the need to obtain prior Development Approval provided that the works are not located in a heritage listed place and the development complies with the deemed to comply provisions of the Residential Design Codes of WA (R-Codes). As detailed below, the proposed development does not comply with all deemed to comply requirements. Prior approval was therefore required.

The R-Codes also detailed that the erection or installation of Ancillary Accommodation on the same lot as a single dwelling is also exempt provided that the development complies with the deemed to comply provisions of the R-Codes.

#### Retrospective Approvals

In accordance with Section 164 of the *Planning and Development Act 2005*, a local government may grant approval under a planning scheme for development already commenced or carried out. Should approval be granted, this does not prevent legal action for a breach of the planning scheme.

#### Matters to be Considered

In determining an application for development approval, clause 67 of the Deemed to Apply provisions require that various matters are taken into account in determining the proposal. These matters include, but are not limited to:

- The aims and objectives of the local planning scheme, including any planning codes that are read into the scheme;
- Any approved State Planning policy;
- The compatibility of the development with its setting, including:
  - (i) The compatibility of the development with the desired future character of its setting; and
  - (ii) The relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.

- The amenity of the locality including the character of the locality.

#### Residential Design Codes

The R-Codes are incorporated into the Scheme but are also adopted by the State as State Planning Policy No 7.3. The objectives of Part B (single dwelling provisions) of the R-Codes include ensuring that *“residential development meets community expectations regarding appearance, use and density.”*

The following comments are provided on an assessment of the proposal against the R-Codes:

#### Setbacks

In accordance with the R-Codes, the following setbacks apply to development located within an R20 density code area.

- Primary Street – 6m;
- Secondary Street - 1.5m; and
- Side/Rear – 1.5m for walls with major openings having a wall height of less than 3.5m high.

Given the address of the property, lot design and information from the landowner, Darwinia Drive is the primary street frontage. On this basis all setbacks comply with the R-Codes.

#### Streetscape

The objective of Section 5.2 of the R-Codes is *“To contribute towards the character of streetscapes including their views and vistas and provides security for occupants and passers-by, a landscape to ensure adequate shade, privacy and open space for occupants, and an attractive setting for the collection of buildings.”*

#### Street Surveillance

In order to meet the deemed-to-comply provisions of Clause 5.2.3 - Street Surveillance street elevations of the dwelling are required to address the street with clearly definable entry points visible and accessible from the street. The proposed development does not comply with provision C3.1 of the R-Codes as the front door has been positioned to face the northern side boundary and will not be readily visible to the street (see Attachments: 9.4.3 (1) & 9.4.3 (2)).

Where development does not comply with the Deemed to Comply provisions of the R-Codes, it must be considered against the design principles, being as follows:

*P3 Buildings design to provide for passive surveillance between individual dwellings and the street and between common areas and the street which minimise opportunities for concealment and entrapment.*



The April 2024 R-Code practice notes identify that the entry point does not just refer to the actual entry door, but also includes a clearly defined pathway and other design features that identify the entrance to the dwelling. The entry point should be visible from the street in order to guide ease of navigation and surveillance.

The submitted plans do not currently identify any driveway or pedestrian entry point. Should Council approve the proposal, it is recommended that the design and establishment of a formal driveway from Darwinia Drive along with any required path from the parking bays to the front door.

#### Landscaping

In order to meet the Deemed-to-Comply R-Code provisions, a minimum of 1 tree is required within the front setback. Furthermore, not more than 50% of a street setback may consist of impervious surfaces. The submitted site plan does not contain any details regarding proposed landscaping.

Should Council approve the propose, it is recommended that landscaping be required to ensure the development contributes to the appearance and amenity of the development.

#### Vehicular Access

Access must be provided to a minimum of a single carparking bay on-site. The Deemed-to-Comply provisions under Part 5.3.5 of the R-Codes require that driveways are adequately paved and drained, right angles to the street and no closer than 6m to a street corner.

Should Council approve the application, it is recommended that a condition be imposed requiring the design and construction of a driveway and parking bay in accordance with the R-Code Deemed-to-Comply provisions.

#### Stormwater Management

The building as installed on-site has been constructed without downpipes with the roof blending into the side walls of the home. No details have been provided regarding proposed stormwater management as part of the application. Should approval be granted it is recommended that the Shire's standard condition relating to stormwater management is imposed.

#### External Fixtures

Part 5.4.4 of the R-Codes requires that external fixtures to a building meet the Deemed-to-Comply requirements if they are not visible from the street. Currently there is an air conditioning unit facing Clematis Crescent. This unit would be effectively screened from view through the placement of standard residential fencing along the secondary street boundary, extending from the western extent of the building to the rear boundary.

Should Council approve the development, it is recommended that a condition be imposed to require the installation of fencing within 60 days.

#### Amenity

The amenity associated with any development and its contribution toward the streetscape results not from only the appearance and orientation of the dwelling, but also associated development such as fencing, landscaping, driveways and internal pedestrian paths.

The landowner has indicated that they are currently in the process of designing the primary home for the property. Once completed, the modular building subject of this application would need to be approved for a change of use to Ancillary Accommodation.

Once a primary home has been constructed, the location of the front door of the modular accommodation will not be obvious. In the interim, it is considered that the owner should be required to undertake works associated with parking, driveway, landscaping.

It is also recommended that fencing be required along the rear boundary, returning along the secondary street and northern boundary to create a private yard associated with the dwelling effectively creating private open space and screening any future washing line and the air conditioning unit facing Clematis Crescent from public view.

#### Enforcement Options

By installing/placing the modular unit on the property without the Shire's prior planning consent, the landowner has committed an offence under the *Planning and Development Act 2005*. Options available to Council to remedy the breach include:

- a) Issue an order to remove the improvement; or
- b) Legal Action/Prosecution for the offence under the Act; or
- c) Issuing a modified penalty, being \$500.

In addition to contravening planning legislation, the actions by the owner have also breached the Building Act 2011. As detailed within Item 9.5.1 of this agenda, legal action is being recommended under that Act given that modified penalties are not an option.

Given the above it is recommended that a modified penalty be issued. Additionally, it is recommended that the landowner should be required to complete other improvements such as fencing, driveways and landscaping within strict timeframes.

#### Landowner Response

As detailed within the Background section of this agenda item, correspondence was forwarded to the landowner requesting that they show cause as to why the Shire should not commence legal action given

that the modular had been placed on-site without prior Development Approval or a Building Permit.

By way of summary, the landowner has responded advising that:

- They believed they were on the correct path with the approval process;
- They cancelled a contract with their initial design team who were undertaking the approval process and decided to gain the approvals themselves;
- They completed their owner-builders course and submitted their building approval along with the site plan of the intended location of the dwelling. DMRIS received this on 15/10/24 and have since received a response explaining delays in this process;
- The owner thought the application to Departments of Energy, Mines, Industry and Regulation (DEMIR) for approval for both the owner builder and their studio dwelling; and
- As soon as they were aware of the other steps in the process, they actioned this, but at the time the studio was already being shipped.

From verbal discussions with the landowner, it has been indicated that the modular unit was a display unit and they were required to take delivery within a set timeframe, so the owner arranged delivery to site. The owners have acknowledged that they should have delayed the shipping of the studio accommodation and apologise for their shortcomings in researching the necessary steps required for building.

#### Alternatives Available to Council

It is open to Council to refuse the application as submitted if it is Council's opinion that the appearance of the dwelling and its orientation toward the street does not positively contribute to the streetscape and development is not consistent with the intended residential amenity of the area.

It should be noted the applicant will be entitled to appeal decision to refuse the application.

It is also open to Council to resolve to commence legal proceedings against the owner for non-compliance with the Local Planning Scheme and the *Planning and Development Act 2005*.

#### Conclusion

Placement of the modular building on-site has occurred without the prior development approval of the Shire. Whilst legal action may be commenced against the owner, it is instead recommended that Council impose a modified penalty and use the conditions of planning approval to ensure an acceptable level of development is achieved as soon as possible.

#### **STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005.*

**POLICY / STRATEGIC IMPLICATIONS:**

A failure to take action for this unauthorised work is likely to convey a message to the community that it is acceptable to seek retrospective approval.

Successful prosecution will reinforce with the community that completion of building work without a required building permit is not acceptable.

**ORGANISATIONAL RISK MANAGEMENT:**

The risk associated with taking no action for the works is considered to be major given that it could lead to higher levels of non-compliance in coming years. The risk associated with taking action is considered insignificant given the clear nature of the breach.

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

**FINANCIAL IMPLICATIONS:**

Nil.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Whilst the development of new housing on vacant land is encouraged, required permits must be obtained.

Social: Nil.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

**A. In accordance with Local Planning Scheme No 11 granted retrospective approval for the modular dwelling at Lot 2 (No 2) Darwinia Drive Kalbarri in accordance with the plans and specifications at Attachment: 9.4.3 (1), subject to compliance with the following conditions:**

- 1. The development hereby approved is to be carried out generally in accordance with the plans and specifications submitted with the application and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire of Northampton;**

<b>Reference</b>	<b>Document Title</b>	<b>Date</b>
<b>1</b>	<b>Site Plan</b>	<b>8 November 2024</b>
<b>2</b>	<b>Floor Plan</b>	<b>8 November 2024</b>
<b>3</b>	<b>Elevations</b>	<b>8 November 2024</b>

- 2. Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and development approval for that use/addition;**
- 3. Unless otherwise approved, all stormwater and drainage runoff is to be retained on the subject property to the satisfaction of the Shire of Northampton;**
- 4. Within 60 days of the date of this approval, the applicant shall install residential fencing with a minimum height of 1.8m along the rear boundary, returning along Clematis Crescent so as to screen the modular development and the associated air conditioner from public view;**
- 5. The applicant shall within 21 days lodge plans detailing the following improvements to the property to the satisfaction of the Shire of Northampton:**
  - i) The location of a proposed driveway from Darwinia Drive having a minimum width of 3 metres together with a minimum of 1 parking bay in accordance with the Residential Design Codes of Western Australia; and**
  - ii) Location of a tree to be placed in the setback to Darwinia Drive in accordance with clause C2.2 of the Residential Design Codes of Western Australia.**
- 6. The driveway shown on the plans provided in accordance with condition 4 above shall be constructed within 90 days of the date of this approval; and**

7. The tree referred to in condition 4 above shall be planted within 90 days of the date of this approval and from then on maintained to the satisfaction of the Shire of Northampton.

**Advice Notes:**

- (i) This development approval is NOT a building permit. A building permit must be formally applied for and obtained from Building Services.
  - (ii) A private Building Surveyor will need to be appointed by the landowner to certify the structural integrity of the building and compliance with the requirements of the Building Code of Australia.
  - (iii) If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of determination.
- B. Note the applicants response to a show cause notice as shown at Attachment: 9.4.3 (3), but advise the applicant the justification as supplied is not acceptable on the grounds that it is clear prior Development Approval was required given the design and position of the building does not comply with the Deemed to Comply provisions of the Residential Design Codes.
- C. Request the Chief Executive Officer to issue a modified penalty of \$500 for breach of Local Planning Scheme No. 11 with respect to the placement of the modular dwelling on-site without the required prior development approval being obtained.

**COUNCIL RESOLUTION:**

**MOVED:** Horstman, R    **SECONDED:** Hay, T

**12/24-135**

**That Council:**

- A. In accordance with Local Planning Scheme No 11 granted retrospective approval for the modular dwelling at Lot 2 (No 2) Darwinia Drive Kalbarri in accordance with the plans and specifications at Attachment: 9.4.3 (1), subject to compliance with the following conditions:
- 1. The development hereby approved is to be carried out generally in accordance with the plans and specifications submitted with the application and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire of Northampton;

Reference	Document Title	Date
1	Site Plan	8 November 2024
2	Floor Plan	8 November 2024
3	Elevations	8 November 2024

2. Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and development approval for that use/addition;
3. Unless otherwise approved, all stormwater and drainage runoff is to be retained on the subject property to the satisfaction of the Shire of Northampton;
4. Within 60 days of the date of this approval, the applicant shall install residential fencing with a minimum height of 1.8m along the rear boundary, returning along Clematis Crescent so as to screen the modular development and the associated air conditioner from public view;
5. The applicant shall within 21 days lodge plans detailing the following improvements to the property to the satisfaction of the Shire of Northampton:
  - i) The location of a proposed driveway from Darwinia Drive having a minimum width of 3 metres together with a minimum of 1 parking bay in accordance with the Residential Design Codes of Western Australia; and
  - ii) Location of a tree to be placed in the setback to Darwinia Drive in accordance with clause C2.2 of the Residential Design Codes of Western Australia.
6. The driveway shown on the plans provided in accordance with condition 4 above shall be constructed within 90 days of the date of this approval; and
7. The tree referred to in condition 4 above shall be planted within 90 days of the date of this approval and from then on maintained to the satisfaction of the Shire of Northampton.

**Advice Notes:**

- (i) This development approval is NOT a building permit. A building permit must be formally applied for and obtained from Building Services.
  - (ii) A private Building Surveyor will need to be appointed by the landowner to certify the structural integrity of the building and compliance with the requirements of the Building Code of Australia.
  - (iii) If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of determination.
- B. Note the applicants response to a show cause notice as shown at Attachment: 9.4.3 (3), but advise the applicant the justification as supplied is not acceptable on the grounds that it is clear prior Development Approval was required given the design and position**

of the building does not comply with the Deemed to Comply provisions of the Residential Design Codes.

- C. Request the Chief Executive Officer to issue a modified penalty of \$500 for breach of Local Planning Scheme No. 11 with respect to the placement of the modular dwelling on-site without the required prior development approval being obtained.

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**



**ATTACHMENT****9.4.4 Delegated Planning Decisions for November 2024**

<b>PROPONENT</b>	Shire of Northampton
<b>OWNER</b>	Various
<b>LOCATION / ADDRESS:</b>	Various
<b>ZONE:</b>	Various
<b>BUSINESS AREA:</b>	Planning Services
<b>FILE REFERENCE:</b>	10.4.1
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i> <i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Kaylene Roberts
<b>APPROVING OFFICER:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	3 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

To ensure the efficient and timely process of planning related applications, Council delegates authority to the Chief Executive Officer to conditionally approval applications for Development Approval that meet the requirements of both Local Planning Schemes being *No. 10 – Northampton* and *No. 11 – Kalbarri* (the Scheme) and adopted Local Planning Policies.

Delegated planning decisions are reported to Council monthly to ensure that Council has an appropriate level of oversight on the use of this delegation. The updated statistics are shown below.

A register of Delegated Development Approvals, detail those decisions made under delegated authority in November 2024 is attached.

**ATTACHMENT: 9.4.4 (1)****PUBLIC CONSULTATION UNDERTAKEN:**

Where required, applications were advertised in accordance with the Scheme and Council's adopted Local Planning Policy as detailed in the Policy/Strategic Implications overleaf.

**COMMENT (Includes Options):**

During November 2024 a total of 7 applications were granted conditional approval, being a substantial increase when compared to November 2023.

**Table 1: Planning Decisions made in November 2024**

	<b>November 2023</b>	<b>November 2024</b>
<b>Delegated Decisions</b>	2 - \$553,540 **2	7 - \$1,230,000 **5
<b>Council Decisions</b>	2 - \$400,000	1 – \$12,000
<b>Total</b>	<b>4 - \$553,540</b>	<b>8 - \$1,242,000</b>

**Tables 2** compares the Year-To-Date statistics for delegated authority and Council decisions for 2023-24 compared to the previous Financial Year:

**Table 2: Planning Decisions Made Year-To-Date 2023 and 2024**

	YTD 2023	YTD 2024
<b>Delegated Decisions</b>	54 - \$6,858,188 **20	65 - \$4,494,449 **27
<b>Council Decisions</b>	15 - \$3,421,125 **13	28 - \$5,196,517 **1
<b>Total</b>	<b>69 - \$10,279,313</b>	<b>93 - \$9,690,966</b>

*\*\* Includes administrative applications which are attributed to no value in Delegated and Council decisions and include Commercial Vehicle Parking, Mobile Food Vehicle, Commercial Recreational Tourism License and Temporary and Exemption Approval Applications.*

### **STATUTORY ENVIRONMENT:**

The *Local Government Act 1995* creates and gives powers to Local governments. The Act then empowers the local government to delegate its powers to the CEO and committees (1) which gives the CEO authorisation to exercise its power on behalf of the local government.

The Shire's Local Planning Schemes, made in accordance with the *Planning and Development Act 2005* and associated regulations, set out procedures for the assessment and determination of development applications.

In accordance with Regulation 19 of the *Local Government (Administration) Regulations 1996*, a written record of each delegated decision is kept.

### **POLICY / STRATEGIC IMPLICATIONS:**

Applications for Development Approval must be assessed against requirements of the Schemes and Local Planning Policies that have been adopted in accordance with the Schemes. These policies include Local Planning Policy *Consultation for Planning Proposals*, which details the level and scope of advertising required for Applications for Development Approval.

Each application processed under delegated authority has been processed and advertised, where required, and has been determined to be consistent with the requirements of all adopted Local Planning Policies.

### **ORGANISATIONAL RISK MANAGEMENT:**

Nil.

### **FINANCIAL IMPLICATIONS:**

The required planning fees have been paid for all applications for Development Approval process under delegated authority

**SUSTAINABILITY:**Environmental: Nil.Economic: Nil.Social: Nil.**VOTING REQUIREMENTS:****SIMPLE MAJORITY****OFFICER RECOMMENDATION:**

**That Council receive the report on Delegated Development Approvals for November 2024 as detailed in Attachment: 9.4.4 (1).**

**COUNCIL RESOLUTION:****MOVED: Suckling, R****SECONDED: Suckling, K****12/24-136**

**That Council receive the report on Delegated Development Approvals for November 2024 as detailed in Attachment: 9.4.4 (1).**

**MOTION CARRIED 7/0****FOR**

Cr L Sudlow  
 Cr R Horstman  
 Cr R Burges  
 Cr T Hay  
 Cr D Pike  
 Cr K Suckling  
 Cr R Suckling

**AGAINST**

**ATTACHMENT****9.4.5 Change of Use from a 'Dwelling' to 'Holiday House' at Lot 862 (No. 10) Gallant Close, Kalbarri**

<b>PROPONENT</b>	SJ Latimer
<b>OWNER</b>	SJ Latimer
<b>LOCATION / ADDRESS:</b>	Lot 862 (No. 10) Gallant Close, Kalbarri
<b>ZONE:</b>	Residential R17.5
<b>BUSINESS AREA:</b>	Planning Services
<b>FILE REFERENCE:</b>	10.6.1.1; A2975
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i> <i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Kaylene Roberts/Brian Robinson
<b>APPROVING OFFICER:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	3 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

Council is requested to consider a development application for a change of use from a 'Dwelling' to a 'Holiday House' at Lot 862 (No. 10) Gallant Close, Kalbarri. Copies of the submitted site and management details are attached.

**ATTACHMENT: 9.4.5 (1)****Location Plan**

Lot 862 (10) has an area of 1,059m<sup>2</sup> and currently contains a dwelling, outbuilding/garage and a patio. The application proposes the use of the existing dwelling for the purposes of a Holiday House. No new construction is proposed.

The key elements of the proposal are:

- The application is proposing the number of guests to be a maximum of eight (8) persons;
- The management of the property will be undertaken by a designated property manager;
- The cleaning of the property will be undertaken by the property manager;
- No signage is proposed for the Holiday House application;
- The implementation of the Emergency Evacuation Response Plan as submitted;
- Parking is available for cars on-site; and
- Bookings for the Holiday House will be through the Air BnB website.

The application is referred to Council for determination as an objection to the proposal has been received.

#### **PUBLIC CONSULTATION UNDERTAKEN:**

In accordance with Section 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and in consideration of the Shire of Northampton's *Local Planning Policy – Consultation for Planning Proposals*, a Level C “*Consultation with Owners and Occupiers of Nearly Land*” was undertaken.

The application was advertised for a 21 day period to six (6) adjacent landowners with one submission received, objecting to the application. Whilst a copy of the submission is attached, its content is addressed in the comment section below.

#### **ATTACHMENT: 9.4.5 (2)**

#### **COMMENT (Includes Options):**

To assist Council, the following comments are offered:

##### Zoning

The provisions of the Scheme include the subject land within the Residential Zone.

##### Land Use Classification

The zoning table of the Scheme identifies various forms of Holiday Accommodation may be considered within the Residential zone in Kalbarri. The proposal as submitted is consistent with the definition of a Holiday House, which is as follows:

**‘holiday house’** means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.

##### Land Use Permissibility

A Holiday House is an “A” use in the Residential Zone. That is a use which is not permitted unless the local government has exercised its discretion by granting development approval after a giving special notice in accordance with

clause 64 of the Deemed To Apply provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

#### Matters to be Considered

In determining an application for planning approval, the local government is required to have regard to various matters outlined within *Clause 67 (2) of the Planning and Development (Local Planning Schemes) Regulations 2015*. These matters include, but not limited to:

- (a) *The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *Any approved State planning policy;*
- (c) *Any policy of the Commission;*
- (f) *Any local planning strategy for this Scheme endorsed by the Commission;*
- (g) *Any local planning policy for the Scheme area;*
- (n) *The amenity of the locality; and*
- (y) *Any submissions received on the application.*

Any assessment against the above criteria is provided within the balance of this agenda.

#### Consistency with Zoning

The proposed short stay accommodation is considered to meet the objectives of the Residential zone, which include *'To provide for a range of non-residential uses, which are compatible with and complementary to residential development'*.

#### Day to Day Management

The applicant/owner is not a resident of the Shire and have proposed the use of a local Property Manager that will be available 24 hours a day to deal with any issues that may arise.

#### Public Liability Insurance

The applicant has not supplied a copy of their current Public Liability Insurance Certificate. A condition should be included on any approval issued requiring this to be supplied prior to the commencement of the activity.

#### Guest Register

The applicant is required to maintain a guest register of all guests, and this is to be made available to an authorised officer from the Shire of Northampton on request. A relevant condition has been included within the officer recommendation.

#### Fire and Emergency Management Plan

The subject property has been identified as being in a designated bushfire prone area and a Fire and Emergency Management Plan has submitted.

It is recommended that a condition be imposed on any approval to require that the plan is kept on display in a common area within the Holiday House for access during an emergency.

#### Potential Impact on Amenity

The objection received states that there are multiple holiday accommodation properties in close proximity to their property and that in peak holiday season this results in noise disturbance.

An examination of Council records indicates that no formal complaints have been received relating to the use of homes for holiday accommodation within the Shire. Notwithstanding this, it must be acknowledged the use of a property by holiday makers does have potential for noise levels to be greater than would be associated with permanent residents due to:

- a) Guest numbers being greater than the number of permanent residents that may otherwise occupy the property;
- b) Noise associated with guests who do not keep similar hours or undertake activities not consistent to adjacent residence, impacting on the normal residential amenity of an area. For example later nights, or early morning starts for fishing during the week;
- c) Too many vehicles attending the property, such that parking cannot be accommodated for example multiple guests with trailer boats;
- d) Potential antisocial behaviour; and
- e) Unattended dogs who are not familiar with the property becoming distressed (barking).

In more general terms, not all guests cause a nuisance and the potential for a Holiday House to impact on the residential amenity of an area varies greatly depending on its location, the number, type and behaviour of guests (including noise) and their consideration of neighbours.

#### Noise

Within Western Australia the primary legislation relating to noise is regulated under the Environmental Protection (Noise) Regulations 1997. In essence the Regulations require that noise emitted from any premises or public place when received at other premises must not exceed assigned levels based on the type of the other premises, the day and time. Noise must also comply with limitations on tonality, impulsiveness and modulation.

Irrespective of whether a property is used for residential or short stay purposes, occupants are required to comply with the Noise Regulations.

#### Housing Demand

The objection received also submits that *“Kalbarri and Australia wide is experiencing a housing and rental crisis and it is a bit of a slap in the face to aussie families that are desperate to have a long term family home (rental)”*

Since the launch of “Airbnb” in Australia in 2012, the number of on-line booking platforms and the number dwellings used for short stay accommodation has

grown substantially. In September 2023, Real Industry of WA Chief Executive Cath Hart was quoted as stating that the industry had increased 16.2% year-on-year, but this still only made up a small percentage of total dwellings (0.4% in Perth and 1.7% regionally. At the time, Busselton had the highest number of short stay dwellings at 1,320 compared to over 3,500 occupied rental dwellings (27% of all rentals).

In Kalbarri, a well recognised tourism hotspot, short-term rentals pose a risk to housing availability and affordability with competition between tourists, workers (permanent or seasonal) and potential permanent residents. In addition to commercial short stay rentals:

- A number of homes lost during Cyclone Seroja have not been rebuilt; and
- Holiday homes not rented to the public also make up portion of the housing market.

The exact number of dwellings used for commercial short stay accommodation in Kalbarri is not known at this stage, although the numbers should be crystalised once all properties are registered on the Statewide Short Term Rental Accommodation Register, which is required by January 2025.

Should Council wish to place limitations on the number and location of short stay accommodation premises in Kalbarri (or any other townsites) an appropriate strategy, policy and legal framework will need to be introduced. Such approaches have been implemented by local governments within Western Australia's South West. Until then, whilst the objectors views are acknowledged, each case must still be considered on its own merits.

#### Lodging House

Should approval be granted for short stay accommodation for eight (8) persons, the applicant will also need to apply for secondary approval for a "Lodging House" from the Shire in order to operate. An advice note to this effect has been included in the Officer Recommendation below.

#### Health (Miscellaneous Provisions) Act, 1911

The proposed use will be required to operate in compliance with all relevant requirements of the *Health (Miscellaneous Provisions) Act, 1911*. It is recommended that an advice note be included on any approval granted by Council to reflect this.

#### Conclusion

Should Council approve the application for un-hosted short stay accommodation use of the property, it is considered that conditions should be imposed to manage the potential for detrimental impact on the surrounding area and to meet land use definitions of the Scheme and requirements of the Policy.

In terms of future planning, Council may wish to give consideration to the preparation of a Tourism Accommodation/Housing Strategy in order to guide the preparation of policy and introduction of scheme provisions to limit short stay accommodation numbers or locations.



**STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005 and Shier of Northampton Local Planning Scheme No. 11 – Kalbarri.*

**POLICY / STRATEGIC IMPLICATIONS:**

The latest Western Australian Planning Commission Position Statement was released in November 2024. The policy objectives outlined within the statement including managing the effects of tourism and short term rental accommodation on local housing markets including:

- Demand for accommodation for tourism industry workers;
- Impacts on housing supply; and
- The availability of dwellings for long term rental.

The Position Statement identifies that local government local planning strategies should be used to provide the long term planning directions and actions to manage short term accommodation within their districts. Consideration should be given to the appropriate location of short term rental accommodation.

To help understand current and emerging trends, local governments are encouraged to undertake a short-term rental supply and demand analysis as part of an overall housing strategy.

Should Council wish to restrict the number and location of short stay accommodation in the future, Council will need to give consideration to the preparation of a Tourism Accommodation/Housing Strategy in order to guide the preparation of policy and introduction of scheme provisions.

**ORGANISATIONAL RISK MANAGEMENT:**

The risk rating is considered Level 3 – Moderate as there would be some reputational damage and risk to the surrounding area should conditions of approval to manage potential amenity impacts not be imposed.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response
Moderate (3)	Medical type injuries	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Major (4)	Lost time injury	\$50,001 - \$150,000	Prolonged interruption of services – additional resources; performance affected < 1 month	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies
Catastrophic (5)	Fatality, permanent disability	More than \$150,000	Indeterminate prolonged interruption of services – non-performance > 1 month	Non-compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact

### FINANCIAL IMPLICATIONS:

The applicant has paid the appropriate planning fee in accordance with the 2024/2025 Fees and Charges Schedule.

### SUSTAINABILITY:

Environmental: Nil.

Economic: The proposal if approved by Council will allow the proponent to increase business activity on the property and potentially increase the economic return of the property.

Social: The proposal if approved is not expected to generate a negative impact on the neighbouring and surrounding properties.

### VOTING REQUIREMENTS: SIMPLE MAJORITY

### OFFICER RECOMMENDATION:

That Council in accordance with Local Planning Scheme No. 11 – Kalbarri grant planning approval for a Holiday House on Lot 862 (No. 10) Gallant Close, Kalbarri in accordance with the plans and specifications at Attachment: 9.4.5 (1), subject to the following conditions:

- The use as permitted shall operate in accordance with the submitted plans and supporting documents as listed below:

Reference	Document Title	Date
1	Property Management Plan	24 October 2024
2	Holiday House Code of Conduct	24 October 2024
3	Emergency Evacuation Plan	24 October 2024
4	Floor Plan	24 October 2024

- Prior to the commencement of the approved use, the applicant is to supply a copy of their Public Liability Insurance to the Shire of Northampton within 2 months of the date of the approval being issued;

3. Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and development approval for that use/addition;
4. The development approval is granted for a period expiring 30 June 2025 only after which the use shall cease unless an application to renew this use submitted prior to the expiration of the period seeking approval for the Holiday House to be continued for a further period of 12 months has been submitted and approved by the Shire of Northampton;
5. The Holiday House is not to be occupied by a person for more than three (3) months within any twelve(12) month period. In this regard, the Property Manager is to maintain a register of guests and the duration of their occupation to the satisfaction of the Shire of Northampton;
6. The Holiday House hereby approved is limited to a maximum of eight (8) persons who are known to each other in the premises at any one time to the satisfaction of the Shire of Northampton;
7. The Fire and Emergency Management Plan, incorporating the contact details of the Property Manager, is to be displayed within the Holiday House at all times; and
8. All parking for guests is to be provided for on-site for the users of the Holiday House.

**Advice Notes:**

- a) The approved development must comply with all relevant provisions of the *Health (Miscellaneous Provisions) Act, 1911 and the Building Act 2016*.
- b) The development the subject of this development approval is required to comply with the Shire of Northampton's Health Local Law.
- c) Prior to the commencement the Holiday House will require approval as a "Lodging House" under the Health Local Laws from the Shire of Northampton;
- d) Please note that the use of the building in a manner proposed requires the installation of additional smoke alarms and emergency lighting for a Class 1b building as detailed in the Building Code of Australia, Part 3.7.2, Smoke Alarms;
- e) If the development/use the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
- f) Where an approval has lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

- g) The Applicant is advised that compliance with any and all governmental legislation and regulations, including but not limited to *Health (Miscellaneous Provisions) Act 1911*, the National Construction Code of Australia and the relevant *Aboriginal Cultural Heritage Act*, is required at all times.
- h) If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of determination.

#### **COUNCIL RESOLUTION:**

**MOVED: Suckling, K      SECONDED: Suckling, R**

**12/24-137**

That Council in accordance with Local Planning Scheme No. 11 – Kalbarri grant planning approval for a Holiday House on Lot 862 (No. 10) Gallant Close, Kalbarri in accordance with the plans and specifications at Attachment: 9.4.5 (1), subject to the following conditions:

1. The use as permitted shall operate in accordance with the submitted plans and supporting documents as listed below:

Reference	Document Title	Date
1	Property Management Plan	24 October 2024
2	Holiday House Code of Conduct	24 October 2024
3	Emergency Evacuation Plan	24 October 2024
4	Floor Plan	24 October 2024

2. Prior to the commencement of the approved use, the applicant is to supply a copy of their Public Liability Insurance to the Shire of Northampton within 2 months of the date of the approval being issued;
3. Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and development approval for that use/addition;
4. The development approval is granted for a period expiring 30 June 2025 only after which the use shall cease unless an application to renew this use submitted prior to the expiration of the period seeking approval for the Holiday House to be continued for a further period of 12 months has been submitted and approved by the Shire of Northampton;
5. The Holiday House is not to be occupied by a person for more than three (3) months within any twelve(12) month period. In this regard,

the Property Manager is to maintain a register of guests and the duration of their occupation to the satisfaction of the Shire of Northampton;

6. The Holiday House hereby approved is limited to a maximum of eight (8) persons who are known to each other in the premises at any one time to the satisfaction of the Shire of Northampton;
7. The Fire and Emergency Management Plan, incorporating the contact details of the Property Manager, is to be displayed within the Holiday House at all times; and
8. All parking for guests is to be provided for on-site for the users of the Holiday House.

**Advice Notes:**

- a) The approved development must comply with all relevant provisions of the *Health (Miscellaneous Provisions) Act, 1911* and the *Building Act 2016*.
- b) The development the subject of this development approval is required to comply with the Shire of Northampton's Health Local Law.
- c) Prior to the commencement the Holiday House will require approval as a "Lodging House" under the Health Local Laws from the Shire of Northampton;
- d) Please note that the use of the building in a manner proposed requires the installation of additional smoke alarms and emergency lighting for a Class 1b building as detailed in the Building Code of Australia, Part 3.7.2, Smoke Alarms;
- e) If the development/use the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
- f) Where an approval has lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
- g) The Applicant is advised that compliance with any and all governmental legislation and regulations, including but not limited to *Health (Miscellaneous Provisions) Act 1911*, the National Construction Code of Australia and the relevant *Aboriginal Cultural Heritage Act*, is required at all times.
- h) If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of determination.

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**

**ATTACHMENT****9.4.6 Change of Use from a 'Dwelling to 'Holiday House' at Lot 270 (No. 17) Stemodia Street, Kalbarri**

<b>PROPONENT</b>	LS Ford & H Ward
<b>OWNER</b>	LS Ford & H Ward
<b>LOCATION / ADDRESS:</b>	Lot 270 (No. 17) Stemodia Street, Kalbarri
<b>ZONE:</b>	Residential R20
<b>BUSINESS AREA:</b>	Planning Services
<b>FILE REFERENCE:</b>	10.6.1.1; A4260
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i> <i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Kaylene Roberts
<b>APPROVING OFFICER:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	6 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

Council is requested to consider a development application for a change of use from a 'Dwelling' to a 'Holiday House' at Lot 270 (No. 17) Stemodia Street, Kalbarri. Copies of the submitted site and management details are attached.

**ATTACHMENT: 9.4.6 (1)****Location Plan**

Lot 270 (17) has an area of 612m<sup>2</sup> and currently contains a dwelling, small outbuilding and carport. The application proposes the use of the existing dwelling for the purposes of a Holiday House. No new construction is proposed.

The key elements of the proposal are:

- The application is proposing the number of guests to be a maximum of eight (8) persons;
- The management of the property will be undertaken by a designated property manager;
- The cleaning of the property will be undertaken by designated cleaners;
- No signage is proposed for the Holiday House;
- The implementation of the Emergency Evacuation Response Plan as submitted;
- Parking is available for cars on-site; and
- Bookings for the Holiday House will be through either Air BnB or booking.com portals.

The application is referred to Council for determination as an objection to the proposal has been received.

#### **PUBLIC CONSULTATION UNDERTAKEN:**

In accordance with Section 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and in consideration of the Shire of Northampton's *Local Planning Policy – Consultation for Planning Proposals*, a Level C “*Consultation with Owners and Occupiers of Nearby Land*” was undertaken.

The application was advertised for a 21 day period to eight (8) adjacent landowners with one submission received, objecting to the application. Whilst a copy of the submission is attached, its content is addressed in the comment section below.

#### **ATTACHMENT: 9.4.6 (2)**

#### **COMMENT (Includes Options):**

To assist Council, the following comments are offered:

##### Zoning

The provisions of the Scheme include the subject land within the Residential Zone.

##### Land Use Classification

The zoning table of the Scheme identifies various forms of Holiday Accommodation may be considered within the Residential zone in Kalbarri. The proposal as submitted is consistent with the definition of Holiday House, which is as follows:

**‘holiday house’** means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.

##### Land Use Permissibility

A Holiday House is an “A” use in the Residential Zone. That is a use which is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with



clause 64 of the Deemed To Comply provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

#### Matters to be Considered

In determining an application for planning approval, the local government is required to have regard to various matters outlined within *Clause 67 (2) of the Planning and Development (Local Planning Schemes) Regulations 2015*. These matters include, but not limited to:

- (a) *The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *Any approved State planning policy;*
- (c) *Any policy of the Commission;*
- (f) *Any local planning strategy for this Scheme endorsed by the Commission;*
- (g) *Any local planning policy for the Scheme area;*
- (n) *The amenity of the locality; and*
- (y) *Any submissions received on the application.*

Any assessment against the above criteria is provided within the balance of this agenda.

#### Consistency with Zoning

The proposed short stay accommodation is considered to meet the objectives of the Residential zone, which include *'To provide for a range of non-residential uses, which are compatible with and complementary to residential development*.

#### Day to Day Management

The applicant/owner is not a resident of the Shire and have proposed the use of a local Property Manager that will be available 24 hours a day to deal with any issues that may arise.

#### Public Liability Insurance

The applicant has not supplied a copy of their current Public Liability Insurance Certificate. A condition should be included on any approval issued requiring this to be supplied prior to the commencement of the activity.

#### Guest Register

The applicant is required to maintain a guest register of all guests, and this is to be made available to an authorised officer from the Shire of Northampton on request. A relevant condition has been included within the officer recommendation.

#### Fire and Emergency Management Plan

The property has been identified as not being within a designated bushfire prone area and the applicant has supplied a Fire and Emergency Management Plan.

It is recommended that a condition be imposed on any approval to require that the plan is kept on display in a common area within the Holiday House for access during an emergency.

#### Potential Impact on Amenity

The objection received states that the authors are trying to sell their property and this development will reduce the chances of securing a sale. Secondly that there are privacy concerns which will impact anyone residing on the property due to the position of the alfresco on the ground floor and the balcony on the first floor.

An examination of Council records indicates that the subject balcony was approved as part of a building permit July 2007. Whilst normally prior development (planning) approval would normally be required, the requirement was effectively waived on the basis that the then adjoining landowner provided a letter of support to waive the screening requirement.

Section 5.4.1 of the R-Codes, which relates to Visual Privacy, the deemed to comply provision clause C1.2 states that screening devices are to be at least 1.6m in height, at least 75% obscure and permanently fixed to restrict views in the direction of overlooking into any adjoining property.

As the current proposed use is likely to result in additional non-residents accessing the alfresco and balcony for views, it is considered that there would be justification for this screening to now be required. Should Council approve the application, it is recommended a condition requiring screening to be installed to both balcony and alfresco dining to be placed on the approval.

#### Lodging House

Should approval be granted for short stay accommodation for eight (8) persons, the applicant will also need to apply for secondary approval for a "Lodging House" from the Shire prior to commencement of the activity. An advice note to this effect has been included in the Officer Recommendation below.

#### Health (Miscellaneous Provisions) Act, 1911

The proposed use will be required to operate in compliance with all relevant requirements of the *Health (Miscellaneous Provisions) Act, 1911*. It is recommended that an advice note be included on any approval granted by Council to reflect this.

#### Conclusion

Should Council approve the application for un-hosted short stay accommodation use of the property, it is considered that conditions should be imposed to manage the potential for detrimental impact on the surrounding area and to meet land use definitions of the Scheme and requirements of the Policy.

#### **STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005* and *Shire of Northampton Local Planning Scheme No. 11 – Kalbarri*.

**POLICY / STRATEGIC IMPLICATIONS:**

The application has been assessed in accordance with the provisions of Local Planning Policy – Holiday Houses.

By granting approval to the proposed use, Council will assist in upholding the strategic vision of the Kalbarri Townsite Strategy which is:

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

As outlined in Par 3.6 of the Local Planning Policy, the responsibility for day-to-day management rests with the owner to ensure visitors occupy the Holiday House in a responsible manner and do not create impacts to adjoining properties. In this instance, the landowners have secured a Property Manager to manage the property in their absence.

**ORGANISATIONAL RISK MANAGEMENT:**

Risk rating is considered Level 3 – Moderate as there would be some reputational damage and risk to the surrounding area should conditions of approval to manage potential amenity impacts not be imposed.

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

**FINANCIAL IMPLICATIONS:**

The applicant has paid the appropriate planning fee in accordance with the 2024/2025 Fees and Charges Schedule.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: The proposal if approved by Council will allow the proponent to increase business activity on the property and potentially increase the economic return of the property.

Social: The proposal if approved is not expected to generate a negative impact on the neighbouring and surrounding properties.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY****OFFICER RECOMMENDATION:**

That Council in accordance with Local Planning Scheme No. 11 – Kalbarri grant planning approval for a Holiday House on Lot 270 (No. 17) Stemodia Street, Kalbarri in accordance with the plans and specifications at Attachment: 9.4.6 (1), subject to the following conditions:

1. The use as permitted shall operate in accordance with the submitted plans and supporting documents as listed below:

Reference	Document Title	Date
1	Property Management Plan	28 October 2024
2	Holiday House Code of Conduct	28 October 2024
3	Emergency Evacuation Plan and Route	28 October 2024
4	Floor Plans	28 October 2024

2. Prior to the commencement of the approve use, the applicant is to supply a copy of their Public Liability Insurance to the Shire of Northampton;
3. Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and development approval for that use/addition;
4. The development approval is granted for a period expiring 30 June 2025 only after which the use shall cease unless an application to renew this use submitted prior to the expiration of the period seeking approval for the Holiday House is to be continued for a further period of 12 months has been submitted and approved by the Shire of Northampton;
5. The Holiday House is not to be occupied by a person for more than three (3) months within any twelve (12) month period. In this regard, the Property Manager is to maintain a register of guests and the

duration of their occupation to the satisfaction of the Shire of Northampton;

6. The Holiday House hereby approved is limited to a maximum of eight (8) persons who are known to each other in the premises at any one time to the satisfaction of the Shire of Northampton;
7. The Fire and Emergency Management Plan, incorporating the contact details of the Property Manager, is to be displayed within the Holiday House at all times;
8. All parking for guests is to be provided for on-site for the users of the Holiday House; and
9. Screening devices such as obscure glazing, timber screens, external blinds etc are to be at least 1.6m in height, at least 75% obscure, permanently fixed, made of durable material and to restrict view in the direction of any adjoining properties.

**Advice Notes:**

- a) The approved development must comply with all relevant provisions of the *Health (Miscellaneous Provisions) Act, 1911*, the *Building Act 2016* and the Shire of Northampton's Health Local Law.
- b) Prior to the commencement of the Holiday House will require approval as a 'Lodging House' under the Health Local Laws from the Shire of Northampton.
- c) Please note that the use of the building in the manner proposed requires the installation of additional smoke alarms and emergency lighting for Class 1b building as detailed in the Building Code of Australia, Part 3.7.2, Smoke Alarms.
- d) If the development/use the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
- e) Where an approval has lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
- f) The Applicant is advised that compliance with any and all governmental legislation and regulations, including but not limited to *Health (Miscellaneous Provisions) Act 1911*, the National Construction Code of Australia and the relevant *Aboriginal Cultural Heritage Act*, is required at all times.
- g) If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of determination.

**COUNCIL RESOLUTION:****MOVED: Horstman, R      SECONDED: Suckling, K****12/24-138**

**That Council in accordance with Local Planning Scheme No. 11 – Kalbarri grant planning approval for a Holiday House on Lot 270 (No. 17) Stemodia Street, Kalbarri in accordance with the plans and specifications at Attachment: 9.4.6 (1), subject to the following conditions:**

- 1. The use as permitted shall operate in accordance with the submitted plans and supporting documents as listed below:**

<b>Reference</b>	<b>Document Title</b>	<b>Date</b>
<b>1</b>	<b>Property Management Plan</b>	<b>28 October 2024</b>
<b>2</b>	<b>Holiday House Code of Conduct</b>	<b>28 October 2024</b>
<b>3</b>	<b>Emergency Evacuation Plan and Route</b>	<b>28 October 2024</b>
<b>4</b>	<b>Floor Plans</b>	<b>28 October 2024</b>

- 2. Prior to the commencement of the approve use, the applicant is to supply a copy of their Public Liability Insurance to the Shire of Northampton;**
- 3. Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and development approval for that use/addition;**
- 4. The development approval is granted for a period expiring 30 June 2025 only after which the use shall cease unless an application to renew this use submitted prior to the expiration of the period seeking approval for the Holiday House is to be continued for a further period of 12 months has been submitted and approved by the Shire of Northampton;**
- 5. The Holiday House is not to be occupied by a person for more than three (3) months within any twelve (12) month period. In this regard, the Property Manager is to maintain a register of guests and the duration of their occupation to the satisfaction of the Shire of Northampton;**
- 6. The Holiday House hereby approved is limited to a maximum of eight (8) persons who are known to each other in the premises at any one time to the satisfaction of the Shire of Northampton;**
- 7. The Fire and Emergency Management Plan, incorporating the contact details of the Property Manager, is to be displayed within the Holiday House at all times;**

8. All parking for guests is to be provided for on-site for the users of the Holiday House; and
9. Screening devices such as obscure glazing, timber screens, external blinds etc are to be at least 1.6m in height, at least 75% obscure, permanently fixed, made of durable material and to restrict view in the direction of any adjoining properties.

**Advice Notes:**

- a) The approved development must comply with all relevant provisions of the *Health (Miscellaneous Provisions) Act, 1911*, the *Building Act 2016* and the Shire of Northampton's Health Local Law.
- b) Prior to the commencement of the Holiday House will require approval as a 'Lodging House' under the Health Local Laws from the Shire of Northampton.
- c) Please note that the use of the building in the manner proposed requires the installation of additional smoke alarms and emergency lighting for Class 1b building as detailed in the Building Code of Australia, Part 3.7.2, Smoke Alarms.
- d) If the development/use the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
- e) Where an approval has lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
- f) The Applicant is advised that compliance with any and all governmental legislation and regulations, including but not limited to *Health (Miscellaneous Provisions) Act 1911*, the National Construction Code of Australia and the relevant *Aboriginal Cultural Heritage Act*, is required at all times.
- g) If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of determination.

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**

**ATTACHMENT****9.4.7 Kalbarri Open Air Music Festival 4 & 5 April 2025 - Request to Amend Finish Time**

<b>PROPONENT</b>	Jamart Sound Lounge – Mr Ersh On & Ms Kimberley Zehra
<b>OWNER</b>	Shire of Northampton
<b>LOCATION / ADDRESS:</b>	Kalbarri Oval & Kalbarri Sport & Recreation Centre
<b>BUSINESS AREA:</b>	Environmental Health
<b>FILE REFERENCE:</b>	11.1.10 & 11.1.2
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Wendy Dallywater/Brian Robinson
<b>APPROVING OFFICER:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	10 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

At the Ordinary Meeting of Council held on 17 October 2024 Council passed the following recommendation:-

**“That Council:**

**Grants approval to Jamart Sound Lounge of Perth to hold a 2-day music festival called “Kalbarri Open Air” on Friday 4 and Saturday 5 April 2025 on the Kalbarri Oval and including the Kalbarri Sport & Recreation Centre as per their Event Application and the Event Layout Plan shown at Attachments: 9.6.1 (1) & 9.6.1 (2).”**

The Event Application submitted by Jamart Sound Lounge was to commence the event at 2:00pm and finish at 10:00pm each day. This is what occurred at the inaugural Kalbarri Open Air Music Festival held in March 2024.

The Shire received an email from Jamart Sound Lounge on 9 December 2024 seeking approval to alter the event hours to finish at 11:00pm each day. A copy of the request is shown attached.

**ATTACHMENT: 9.4.7 (1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The original application for 2024 Kalbarri Open Air Music Festival proposed that the event would to commence at 3:00pm and finish at 11:00pm each day. Due to concerns raised by two adjacent accommodation businesses Shire officers suggested that the event commence the hour earlier at 2:00pm and finish at 10:00pm. These operating times were presented to Council as part of the Event Application.



Following the Kalbarri Open Air Music Festival held on 15 & 16 March 2024 Shire officers surveyed nearby accommodation businesses and was advised that these businesses did not receive any noise complaints except for one premises that received one noise complaint. However management was not sure what the noise complaint was regarding (noise from neighbouring campers or noise from the Kalbarri Oval).

For the 2025 event, the proponent has advised that the line-up of bands/artists will provide a broader range of music genera which will hopefully appeal more to locals and those travelling to attend the event. They also decided to hold the event 3 weeks later on 4 & 5 April expecting that the weather then would be a little cooler.

It should however be noted that the applicants have indicated that they still wish to have the option to commence at 2:00pm.

#### Opportunity for Consultation

Given the timing of the proposed event, there is time for Shire Officers to consult with nearby landowners over the proponents request for an 11:00pm finish. Should objections be received to the revised finish time, an agenda item will be prepared for Council consideration at the February 2025 meeting.

To expedite the process in the event no objections are received, it is recommended that the Chief Executive Officer be authorised to approve the new finish time under delegated authority.

#### **STATUTORY ENVIRONMENT:**

Various legislation is applicable including but not limited to the *Local Government Act 1995*, *Health (Miscellaneous Provisions) Act 1911* and *Building Act 2011*.

#### **POLICY / STRATEGIC IMPLICATIONS:**

Approval to the application as submitted would be consistent with the following key outcomes and objectives as outlined within the Shire of Northampton Strategic Community Plan 2020-2030:

	Key Outcomes	Objectives	Success Measures	Timelines
1.1.4	Support for visitor attractions and for community driven events-based and tourism.	Increase of events that attract overseas, regional, and local people to support the local economy.	Increase or decrease of visitors and number of events held.	Ongoing
5.1.3	To demonstrate a proactive approach to community and economic development, and service delivery.	Community engagement strategies in place and positive relationships with business and service providers.	Community satisfaction levels and level of interaction with business owners and service providers.	Ongoing

**ORGANISATIONAL RISK MANAGEMENT:**

The associated risk with this request is that the later proposed finish will result in impacts on the community. The risk rating is considered Level 3 – Moderate.

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

**FINANCIAL IMPLICATIONS:**

There are no additional financial impacts relating to this request to finish an hour later than had previously been approved.

**SUSTAINABILITY:**

Environmental: Nil

Economic: The holding of this event in 2024 saw increased business to accommodation businesses and food outlets, and it provided a means of raising funds for the Kalbarri Sport & Recreation Committee.

Social: It is a social event for locals as well as visitors who want to see live music events.

**VOTING REQUIREMENTS:**

**SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

1. Request that the Chief Executive Officer arrange for comments on the revised finish time to be sought from the adjacent landowners over a 21 day period;

2. Authorises the Chief Executive Officer to grants approval to the finish time of 11:00pm each day in the event that no objections are received in response to the consultation outlined in point No 1 above; and
3. A further agenda item be prepared for Council consideration in the event that objections are received in response to the consultation process outlined in point No 1 above.

#### **COUNCIL RESOLUTION:**

**MOVED: Burges, R      SECONDED: Pike, D**

**12/24-139**

**That Council:**

1. Request that the Chief Executive Officer arrange for comments on the revised finish time to be sought from the adjacent landowners over a 21 day period;
2. Authorises the Chief Executive Officer to grants approval to the finish time of 11:00pm each day in the event that no objections are received in response to the consultation outlined in point No 1 above; and
3. A further agenda item be prepared for Council consideration in the event that objections are received in response to the consultation process outlined in point No 1 above.

**MOTION CARRIED 7/0**

#### **FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

#### **AGAINST**

## ATTACHMENT

### 9.5.1 Unauthorised Placement of Modular Building - No 2 (Lot 2) Darwinia Drive, Kalbarri

<b>PROPONENT</b>	KA Marsh
<b>OWNER</b>	KA Marsh
<b>LOCATION / ADDRESS:</b>	No 2 (Lot 2) Darwinia Drive, Kalbarri
<b>ZONE:</b>	Residential (R20)
<b>BUSINESS AREA:</b>	Building Services
<b>FILE REFERENCE:</b>	13.3.4 & A3969
<b>LEGISLATION:</b>	<i>Building Act 2011</i>
<b>AUTHOR:</b>	Brian Robinson
<b>APPROVING OFFICER:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	4 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

#### BACKGROUND:

Council is requested to consider commencing legal action against the owner of No 2 (Lot 2) Darwinia Drive for a breach of Part 9 of the Building Act 2011 as a result of the owner placing a single bedroom modular dwelling on the property on 8 November 2024 without a Building Permit.

Lot 2 is a 526m<sup>2</sup> residential lot located within the Eco Flora Estate on the corner of Darwinia Drive and Clematis Crescent, Kalbarri as shown on the location plan below.

**Location Plan**



Item No 9.4.3 of this agenda relates to a current application for Development (Planning) Approval.

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

As prescribed by clause 9 of the Building Act 2001 (the Act), “A person must not do building work unless –

- (a) A building permit is in effect for the building work; or*
- (b) A building permit is not required for the building work under Part 5 of the regulations or an order mentioned in Part 5 Division 1; or*
- (c) The work is done in accordance with a building order; or*
- (d) The work is done in the course of taking action under section 118(2)*

**Penalty:**

- (a) For a first offence, a fine of \$50,000;*
- (b) For a second offence, a fine or \$75,000;*
- (c) For a third or subsequent offence, a fine of \$100,000 and imprisonment for 12 months.*

With the Act defining Building work as “*the construction, erection or placement of a building or an incidental structure.*”, a clear contravention of the Act has occurred. It should also be noted that whilst the Act allows for a maximum penalty of \$50,000 is rarely imposed. From examination of recent cases, it appears that a penalty of approximately \$3,000 to \$8,000 would be imposed.

To assist Council in determining what action should be taken for this contravention, the following information and advice is provided.

**Purpose of the Act**

The Act and the supporting Building Regulations 2012 set out the process for determining building standards and ensuring these standards are met through a system of certifying compliance, granting building, demolition and occupancy permits, and inspecting building work in buildings.

At the time of writing this agenda item, a Building Permit had not been sought. As a result, insufficient construction detail is available at this stage to determine if the development complies with the standards etc or if a permit would be granted.

**Enforcement Options**

The work undertaken constitutes an offence under the Building Act 2011. As outlined above, substantial penalties can be imposed by the courts for such an offence.

In addition to legal action, a Building Order could be issued under Section 110 of the Building Act 2011. A building order may require a person to “demolish, dismantle or remove a building or incidental structure that has been, or is being, built or occupied in suspected contravention of this Act.”.

It should be noted that the person on whom a building order is issued has a right to have a building order reviewed by the State Administrative Tribunal (SAT) under section 122 of the Building Act 2011. Traditionally SAT have revoked building orders to remove buildings where it can be proven that a building permit would have been granted if one had been sought.

As indicated above, insufficient construction detail is currently available at this stage to determine if a permit would be granted. It should also be noted that the original ground does not appear to be disturbed, so it appears that no earthworks were completed prior to the placement of modular on-site. Removal of the modular accommodation may be required if the owners Building Certifier requires earthworks to be undertaken.

#### Structural Concerns

In the absence of a certified building permit or any structural details on the modular building or its ties to footings, it is not clear how this building would perform during extreme winds (i.e. during a cyclone). It is also noted that the owners have not used an acceptable tie/down footing system, with portion of the building sitting on loose bricks.

It is recommended that a Building Order be issued to require urgent works to ensure the building is tied down in accordance with the applicable wind rating/classification.

#### Landowner Response

Correspondence was forwarded to the landowner requesting that they show cause as to why the Shire should not commence legal action given that the modular had been placed on-site without prior Development Approval or a Building Permit. A copy of the landowners' response is shown as Attachment: 9.5.1 (1).

#### **ATTACHMENT: 9.5.1 (1)**

By of summary, the landowner has responded advising that:

- They believed they were on the correct path with the approval process;
- They cancelled a contract with their initial design team who were undertaking the approval process and decided to gain the approvals themselves;
- They completed their owner-builders course and submitted their building approval along with the site plan of the intended location of the dwelling. DMRIS received this on 15/10/24 and have since received a response explaining delays in this process;
- The owner thought the application to Departments of Energy, Mines, Industry and Regulation (DEMIR) for approval for both the owner builder and their studio dwelling; and
- As soon as they were aware of the other steps in the process, they actioned this, but at the time the studio was already being shipped.

The owners have acknowledged that they should have delayed the shipping of the studio accommodation and apologise for their shortcomings in researching the necessary steps required for building.

From verbal discussions with the landowner, it has been indicated that the modular unit was a display unit and they were required to take delivery within a set timeframe, so they arranged delivery to site.

By way of Shire Officer response, it is not considered reasonable for any person to claim that they did not know a building permit is required for habitable accommodation in Western Australia, particularly where that person has undertaken training toward obtaining an owner-builder approval.

It should be noted that the State Government's Web portal clearly advises that "to become an owner-builder, you must first obtain owner-builder approval from the Building Services Board and then a building permit from your local government. The DEMIR's website also contains information on the timeframe for processing applications for owner builder registration advising that "most applications are determined within ten weeks".

### Conclusion

The need to obtain a building permit prior to undertaking building work in Western Australia is well documented, with information on State Government websites relating to owner-builder approvals reflecting the need for building permits to be sought once registration for an owner-builder is obtained.

As reflected within the landowner's response at Attachment: 9.5.1 (1), the application for an owner builder permit was only lodged with the Department on 15 October, with the modular delivered to site on 9 November. Being less than 4 weeks after lodging their application for owner-builder approval, the landowner was not in possession of either the owner-builder approval or building permit when the modular was delivered to site.

On the above grounds, delivery of the modular to site has occurred in direct contravention of the Building Act 2011. Legal action is therefore recommended.

### **STATUTORY ENVIRONMENT:**

As detailed in the comment section of this agenda item the modular building has been placed on-site in clear contravention of the need to obtain a Building Permit under Part 9 of the *Building Act 2011*.

### **POLICY / STRATEGIC IMPLICATIONS:**

Over recent years Shire Officers have become aware of a significant level of building work taking place without the required Building Permit. To date the majority of works have related to repairs following Cyclone Seroja and minor 'add on' infrastructure such as carports and patios.

The placement of a modular habitable building is considered to be a serious offence, one which warrants action being taken. A failure to act on this unauthorised work is likely to convey a message to the community that it is acceptable to seek retrospective approval.



Successful prosecution will enforce with the community that completion of building work without a required building permit is not acceptable.

### ORGANISATIONAL RISK MANAGEMENT:

The risk rating associated with taking no action is considered Moderate to Major given that taking no action is likely to result in other non-compliant works. The risk is further exacerbated in this case given that there is no structural detail on the building or how it is fixed to the ground.

There is no risk associated with taking action for non-compliance.

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

### FINANCIAL IMPLICATIONS:

Costs associated with taking legal action will initially be sourced from the Shire's adopted 2024/25 Annual Budget. However, as part of court action the courts will be requested to award costs. Any fine and awarded court costs will be received by the Shire, offsetting the initial cost of legal action.

### SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: Nil.



**VOTING REQUIREMENTS: SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

1. Note the applicant's response to a show cause notice as shown at Attachment: 9.5.1 (1), but advise the applicant the justification as supplied is not acceptable on the grounds that:
  - a) The application to the Department of Energy, Mines, Industry and Regulation for an Owner Builder approval was only received by that Department less than four weeks prior to placement of the building on-site;
  - b) As clearly identified on State Government Websites an owner-builder must first obtain approval to be an owner-builder prior to then lodging an application for a building permit with the local authority;
  - c) At the time of the modular being located on-site, the Shire of Northampton had not received, nor approved a building permit; and
  - d) It is not considered reasonable for a person who has completed training as an owner builder to claim they did not know a prior Building Permit was required.
2. Request the Chief Executive Officer commence legal action against the owner of No 2 (Lot 2) Darwinia Drive, Kalbarri for contravention of Section 9 of the Building Act 2011 by the placement of the modular building on-site without first obtaining a building permit; and
3. Request the Chief Executive Officer to issue a Building Order pursuant to Section 110 of the Building Act 2011 to cease all work other than essential to ensure the building is secure and stable for the identified wind environment, which is to be undertaken within 30 days.

**COUNCIL RESOLUTION:**

**MOVED: Hay, T**

**SECONDED: Burges, R**

**12/24-140**

**That Council:**

1. Note the applicant's response to a show cause notice as shown at Attachment: 9.5.1 (1), but advise the applicant the justification as supplied is not acceptable on the grounds that:
  - a) The application to the Department of Energy, Mines, Industry and Regulation for an Owner Builder approval was only received

by that Department less than four weeks prior to placement of the building on-site;

- b) As clearly identified on State Government Websites an owner-builder must first obtain approval to be an owner-builder prior to then lodging an application for a building permit with the local authority;
  - c) At the time of the modular being located on-site, the Shire of Northampton had not received, nor approved a building permit; and
  - d) It is not considered reasonable for a person who has completed training as an owner builder to claim they did not know a prior Building Permit was required.
2. Request the Chief Executive Officer commence legal action against the owner of No 2 (Lot 2) Darwinia Drive, Kalbarri for contravention of Section 9 of the Building Act 2011 by the placement of the modular building on-site without first obtaining a building permit; and
  3. Request the Chief Executive Officer to issue a Building Order pursuant to Section 110 of the Building Act 2011 to cease all work other than essential to ensure the building is secure and stable for the identified wind environment, which is to be undertaken within 30 days.

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
 Cr R Horstman  
 Cr R Burges  
 Cr T Hay  
 Cr D Pike  
 Cr K Suckling  
 Cr R Suckling

**AGAINST**

**ATTACHMENT****9.5.2 Building Approvals Report November 2024**

<b>PROPONENT</b>	Shire of Northampton
<b>OWNER</b>	N/A
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>ZONE:</b>	Northampton and Kalbarri
<b>BUSINESS AREA:</b>	Building
<b>FILE REFERENCE:</b>	N/A
<b>LEGISLATION:</b>	Local Government Act 1995 Building Act 2011 Building Regulations 2012
<b>AUTHOR:</b>	Michaela Simpson
<b>APPROVING OFFICER:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	9 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

This report had been produced to assist Council understand the Building and Demolition Permits approved and issued for the period of 01 November 2024 to 31 November 2024.

**ATTACHMENT: 9.5.1(1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

During November 2024, eleven (11) building and demolition applications were determined under delegated authority.

**STATUTORY ENVIRONMENT:**

Nil.

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

Risk rating is considered insignificant.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response

Moderate (3)	Medical type injuries	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies
Major (4)	Lost time injury	\$50,001 - \$150,000	Prolonged interruption of services – additional resources; performance affected < 1 month	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies
Catastrophic (5)	Fatality, permanent disability	More than \$150,000	Indeterminate prolonged interruption of services – non-performance > 1 month	Non-compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact

**FINANCIAL IMPLICATIONS:**

The required building fees have been paid for all Building and Demolition applications processed under delegated authority.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:**

**SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receive the Building Approvals Report November 2024 in accordance with Attachment: 9.5.1 (1).**

**COUNCIL RESOLUTION:**

**MOVED: Suckling, R      SECONDED: Pike, D**

**12/24-141**

**That Council receive the Building Approvals Report November 2024 in accordance with Attachment: 9.5.1 (1).**

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**

**ATTACHMENT****9.8.1 Information Items - Maintenance/Construction - Works Program**

<b>PROPONENT</b>	Executive Manager of Works and Technical Services
<b>OWNER</b>	N/A
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>ZONE:</b>	All
<b>BUSINESS AREA:</b>	Works and Technical Services
<b>FILE REFERENCE:</b>	N/A
<b>LEGISLATION:</b>	N/A
<b>AUTHOR:</b>	Tina Souroup
<b>APPROVING OFFICER:</b>	Neil Broadhurst
<b>DATE OF REPORT:</b>	4 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The following works, outside of routine maintenance works, have been undertaken since the last report and are for Council information only.

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**Specific Road Works

- Maintenance grading carried out on Blue Well, Frosty Gully, Wickens, Wundi, Chisholm, Baddera, Sudlow, Balla Whelara, Erriary West, Yerina Springs, Northampton Golf Course, Coolcalalaya, Riverside, Horry, Nobla Stock Route, and Binnu West Road/s.
- Gravel Patching - Unsealed Roads Gravel Sheeting / Verge works carried out on Brooks, Ogilvie East, Ogilvie West, Ajana East, Wickens, Yerina Springs, Ajana Back, Binnu West, Hose, Sudlow, Wellington, Allen, Rose Hill, Suckling and Mitchell Road/s.
- Repairs carried out on Hutt River Crossing.

Maintenance Items

- General – Various signage and road furniture works.
- General – Potholes and edges various locations.
- General – Northampton and Kalbarri – Various tree lopping/vegetation works for road verge and Western Power line clearance.
- General – Contract dozer in Shire undertaking gravel pushup/stockpile works.
- Stephen Street Depot works clearing trees, removing fence and preparing access from Shire office to depot.

- Northampton and Kalbarri staff have almost entirely been 100% involved with planning, preparation for, or undertaking works following rainfall events involving new works, in some cases reworks and larger remedial works to ensure priority roads remain open.

#### Other Items

- Management continuing to review / submit assessment of damage to infrastructure following rainfall events from June to October 2024.
- Preliminary Event Notification (PEN) information has been submitted for the following dates:  
PEN 2. 6 June to 10 June 2024. AGRN1143. Approved as conforming and successful.  
PEN 3. 26 June to 30 June 2024. AGRN1150. Approved as conforming and successful.  
GHD Consultants have compiled Event/Damage Assessment for the Network area that has formed a financial assessment that was submitted to DRFAWA 30 November 2024.
- Northampton Cemetery – Niche Wall completed.

#### Other Items (Budget)

- Kalbarri widening – Main Roads WA full funding (Blackspot funding) to the 10 kilometres of widening immediately to the east of Kalbarri as far as the Skywalk lookout turnoff. Practical completion has been granted. The Shire of Northampton is continuing with assistance from consultants Greenfields Technical Services to overcome contractual requirements regarding practical completion requirements. Submission to Solicitor on 09 September 2024. 'Show Cause' notice forwarded to Contractor.
- Kalbarri – Tropical Cyclone Seroja rebuild works being Red Bluff, Jacques Point, Blue Holes and Chinamans Beach works plus Anchorage Lane temporary overflow workers accommodation works continuing.
- Kalbarri - Grey Street - Dual Use Path - Removal and upgrade of the DUP at front of Allen Centre and Visitors Centre complete.
- Kalbarri Oval – Renovation / Top Dressing works complete.
- Northampton Oval – Renovation works complete.

#### Plant Items

- 3 x Utilities – Parks and Gardens Manager Vehicle (Dec 2024)  
Town Maintenance Vehicle (Received)  
Ranger Vehicle (Dec 2024)

#### Staff Items

- Vacant positions to be advertised.  
1 x Water Custodian (Port Gregory).

A copy of the Executive Manager of Works and Technical Services – Works Crew Budget – Program and Progress Report, December 2024 is attached.

**ATTACHMENT: 9.8.1 (1)**

**STATUTORY ENVIRONMENT:**

Nil.

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

Risk rating is considered Level 1 Insignificant, as this is an information report only.

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

**FINANCIAL IMPLICATIONS:**

Works in accordance with maintenance and construction budget.

**SUSTAINABILITY:**

Environmental: Activities of the Executive Manager of Works and Technical Services often deal with environmental related matters both from a compliance perspective and improvement perspective.

Economic: Part of the Executive Manager of Works and Technical Services role is to improve local economies and often activities are associated with economic development initiatives and opportunities.

Social: The Executive Manager of Works and Technical Services plays a key role in the development of community leadership, infrastructure provision and community support.

**VOTING REQUIREMENTS: SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receives the Executive Manager of Works and Technical Services Information Items – Maintenance/Construction – Works Program report for December 2024. In accordance with attachment 9.8.1 (1).**

**COUNCIL RESOLUTION:**

**MOVED: Horstman, R      SECONDED: Burges, R**

**12/24-142**

**That Council receives the Executive Manager of Works and Technical Services Information Items – Maintenance/Construction – Works Program report for December 2024. In accordance with attachment 9.8.1 (1).**

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**



### 9.8.2 Proposed 2024/25 Replacement of Kalbarri Loader with Purchase of Caterpillar 434 Backhoe (Second Hand)

<b>PROPONENT</b>	Shire of Northampton
<b>OWNER</b>	Shire of Northampton
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>ZONE:</b>	All
<b>BUSINESS AREA:</b>	Works and Technical Services
<b>FILE REFERENCE:</b>	4.1.15
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Neil Broadhurst
<b>APPROVING OFFICER:</b>	Neil Broadhurst
<b>DATE OF REPORT:</b>	12 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

#### **BACKGROUND:**

The Shire of Northampton (Shire) has been offered the opportunity to purchase a low hour second-hand backhoe from Westrac as a replacement of the loader currently based at Kalbarri. The Shire's current plant replacement program has the Kalbarri loader listed for replacement (pending final Council approval) within the 2025/26 plant replacement program.

The backhoe model on offer is a 434 Caterpillar model (2023 model with 370 hours) identical to the 434 Caterpillar machine at Northampton with a 4 speed transmission and rear joystick controls system. The machine is the Caterpillar backhoe that was incorrectly supplied from Westrac to the Shire of Northampton approximately 12 months ago (at the time the machine was supplied with wrongly specified transmission and rear controls). The Executive Manager of Works combined with Mechanic and Leading Hands have discussed this opportunity for the machine to be located at the Kalbarri depot. The transmission and joystick controls have been discussed and are not issues at Kalbarri depot as opposed to use at the Northampton depot. Management would consider this to be a viable option to be considered.

Council should also be aware that at the date of this report the 2 major plant items that are within the approved 2024/25 budget are unlikely to be delivered this financial year due to supply delays, items being:

1. Replacement of the Kalbarri rubbish collection vehicle.  
(New \$130,000 (ex GST), trade of existing \$20,000 (ex GST))
2. Replacement of the Kalbarri front deck mower.  
(New \$115,000 (ex GST), trade of existing \$8,000 (ex GST))

If Council are to consider the purchase of the second-hand machine as listed, management are recommending that the Plant Reserve funds are utilised which currently total \$320,000 (ex GST).

#### **PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The machine on offer, as a second-hand machine, is located at the Westrac yard in Geraldton and is the same machine returned to Westrac in April 2024 following the original error in the supply of the new purchased machine within the 2023/2024 financial year. The machine has remained in Geraldton and has done very little additional hours since.

It is considered that the opportunity presented to Council offers a viable alternative to replace the current loader at Kalbarri (P243 – 2011 Hitachi ZW120 Loader – 6350 hours). The additional advantage of a high capacity multi use machine is also a worthy of consideration. The 434 Caterpillar Backhoe second hand item as presented is complete with 4 in 1 bucket, front lifting forks, rear general purpose and batter bucket, front and rear lifting arms fitted with craning valves.

The existing Kalbarri loader (P243 – 2011 Hitachi ZW120) trade price offered by Westrac is \$25,000 (ex GST). This is believed to be below current market value and if this proposal proceeds, Council is also requested to review whether to trade the loader as is or offer for outright purchase at a local level or via auction through a metropolitan company.

**STATUTORY ENVIRONMENT:**

Nil.

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

Risk rating is considered insignificant.

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

Catastrophic (5)	Fatality, permanent disability	More than \$150,000	Indeterminate prolonged interruption of services – non- performance > 1 month	Non- compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact
---------------------	--------------------------------------	------------------------	--	---	--	---	--

### FINANCIAL IMPLICATIONS:

No 2024/25 budget allocation has been made for the replacement of the Kalbarri loader (P243 – 2011 Hitachi ZW120 loader) this financial year. The loader is listed for budget consideration for the draft 2025/26 plant replacement program.

Price quoted for the supply of the second hand 434 Caterpillar backhoe as presented: \$185,000 (ex GST). Price quoted from Westrac for the trade Shire of Northampton Kalbarri loader. (P243 – 2011 Hitachi ZW120 loader): \$25,000 (ex GST). Westrac are a WALGA preferred supplier.

### SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: Nil.

### VOTING REQUIREMENTS:

**ABSOLUTE MAJORITY**

### OFFICER RECOMMENDATION:

**That Council:**

1. Proceed with the purchase of the second-hand 434 Caterpillar backhoe as presented from Westrac Geraldton for a purchase price of \$185,000 (ex GST);
2. Proceed with advertising for outright sale of the existing Kalbarri Loader (P243 – 2011 Hitachi ZW120 loader); and

### 3. Amend 2024/2025 Annual Budget as follows;

Item	2024/25 Budget	Proposed 2024/25 Budget	Variation
Plant Replacement Reserve	\$320,000	\$160,000	(\$160,000)
Outright sale of existing Kalbarri Loader	0	(\$25,000)	(\$25,000)
Kalbarri Loader Replacement	0	\$185,000	\$185,000
		<b>NET</b>	<b>\$0</b>

**COUNCIL RESOLUTION:****MOVED: Pike, D****SECONDED: Burges, R****12/24-143****That Council:**

1. Proceed with the purchase of the second-hand 434 Caterpillar backhoe as presented from Westrac Geraldton for a purchase price of \$185,000 (ex GST);
2. Proceed with advertising for outright sale of the existing Kalbarri Loader (P243 – 2011 Hitachi ZW120 loader); and

**3. Amend 2024/2025 Annual Budget as follows;**

Item	2024/25 Budget	Proposed 2024/25 Budget	Variation
Plant Replacement Reserve	\$320,000	\$160,000	(\$160,000)
Outright sale of existing Kalbarri Loader	0	(\$25,000)	(\$25,000)
Kalbarri Loader Replacement	0	\$185,000	\$185,000
		<b>NET</b>	<b>\$0</b>

**MOTION CARRIED 7/0****FOR**

Cr L Sudlow  
 Cr R Horstman  
 Cr R Burges  
 Cr T Hay  
 Cr D Pike  
 Cr K Suckling  
 Cr R Suckling

**AGAINST**

**ATTACHMENT****9.9.1 Confirmed Minutes of the Audit and Risk Management Advisory Committee Held on 21 November 2024**

<b>PROPONENT</b>	Chief Executive Officer
<b>OWNER</b>	Shire of Northampton
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>ZONE:</b>	All
<b>BUSINESS AREA:</b>	Office of CEO
<b>FILE REFERENCE:</b>	1.1.3
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Andrew Campbell
<b>APPROVING OFFICER:</b>	Andrew Campbell
<b>DATE OF REPORT:</b>	10 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The Audit and Risk Management Advisory Committee met on 21 November 2024 primarily to discuss the 2024/25 Interim Financial Audit findings.

Since that time and prior to the writing of this report, the Audit and Risk Management Advisory Committee met again to discuss the 2023/24 Annual Financial Report and in doing so confirmed the minutes of the Audit and Risk Management Advisory Committee held on 21 November 2024.

The purpose of this report is for Council to receive the confirmed minutes of the Audit and Risk Management Advisory Committee held 21 November 2024 and consider any recommendations arising.

**ATTACHMENT: 9.9.1 (1)****PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The Audit and Risk Management Advisory Committee made the following recommendations:

<b>Committee Recommendation</b>	<b>Officer Comment</b>
<b>1. That the minutes of the Audit and Risk Management Advisory Committee held on 15 February 2024 be received as a true and correct record.</b>	Noted and does not require Council's decision.
<b>2. That the Audit and Risk Management Advisory Committee accept the findings and the management response to the 2024/25 Interim Audit Report.</b>	Noted and does not require Council's decision.

**STATUTORY ENVIRONMENT:**

The *Local Government Act 1995* and subsidiary legislation prescribe the statutory requirements that deal with audit and risk functions in Local Government organisations in Western Australia.

**POLICY / STRATEGIC IMPLICATIONS:**

The Audit and Risk Management Advisory Committee is an important part of the operation of a local government organisation. It is essential that Council retains oversight of the business of the organisation and an Audit and Risk Advisory Management Committee fulfils this obligation.

**ORGANISATIONAL RISK MANAGEMENT:**

Risk rating is considered Level 4 – Major mainly based on non-compliance and reputation.

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

**FINANCIAL IMPLICATIONS:**

The Audit and Risk Management Committee and its activities are funded within existing budgets.

**SUSTAINABILITY:**

Environment: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receive the minutes of the Audit and Risk Management Advisory Committee held on 21 November 2024.**

**COUNCIL RESOLUTION:**

**MOVED: Horstman, R      SECONDED: Burges, R**

**12/24-144**

**That Council receive the minutes of the Audit and Risk Management Advisory Committee held on 21 November 2024.**

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**

**ATTACHMENT****9.9.2 Unconfirmed Minutes of the Audit and Risk Management Advisory Committee Held on 9 December 2024**

<b>PROPONENT</b>	Chief Executive Officer
<b>OWNER</b>	Shire of Northampton
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>ZONE:</b>	All
<b>BUSINESS AREA:</b>	Office of CEO
<b>FILE REFERENCE:</b>	1.1.3
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Andrew Campbell
<b>APPROVING OFFICER:</b>	Andrew Campbell
<b>DATE OF REPORT:</b>	10 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The Audit and Risk Management Advisory Committee met on 9 December 2024 primarily to discuss the 2023/24 Annual Financial Report which is attached.

**ATTACHMENT: 9.9.2 (1)**

The purpose of this report is for Council to receive the unconfirmed minutes of the Audit and Risk Management Advisory Committee held 9 December 2024 and consider any recommendations arising.

**ATTACHMENT: 9.9.2 (2)****PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The Audit and Risk Management Advisory Committee made the following recommendations:

<b>Committee Recommendation</b>	<b>Officer Comment</b>
<b>1. That the minutes of the Audit and Risk Management Advisory Committee held on 21 November 2024 be received as a true and correct record.</b>	Noted and does not require Council's decision.
<b>2. That the 2023/24 Annual Financial Report is recommended to Council for adoption.</b>	The unqualified 2023/24 Annual Financial Report is recommended to Council for adoption.
<b>3. That the 2024/25 carry forward budget deficit arising from the finalisation of the 2023/24 Annual Financial Report is</b>	Consultants Moore produced the Shire's 2024/25 statutory budget utilising the existing



<b>corrected through the following budget amendment:</b>				<p>accounting system available at the time in August 2024. When the final 2023/24 accounts were audited, a number of significant anomalies in the accounts were identified including the major area of the previous treatment of “employee provisions”. Correcting the errors in the 2023/24 Annual Financial Report has thus resulted in a shortfall of \$317,808 in the estimated carry forward position produced by Moore for the 2024/25 budget. Rather than waiting to determine whether savings can be made in the 2024/25 budget year to offset the shortfall, on advice of management, the Audit and Risk Management Advisory Committee has determined the best pathway forward is to recommend to Council to offset the deficit through the Strategic Opportunities Reserve and then revisit the matter at the end of the financial year if appropriate.</p>
<b>2024/25 Budget</b>	<b>Current</b>	<b>Proposed</b>		
<b>Strategic Opportunities Reserve</b>	<b>(\$694,957)</b>	<b>(\$377,149)</b>	<b>(\$317,808)</b>	
<b>Carry Forward Surplus</b>	<b>\$1,708,870</b>	<b>\$1,391,062</b>	<b>\$317,808</b>	
		<b>Net impact</b>	<b>\$0</b>	
<p><b>4. The Audit and Risk Management Advisory Committee recommend that Council adopt the depreciation rates noted on page 20, note 10 of the 2023/24 Annual Financial Report to align with the infrastructure valuation completed by AssetVal on 30 June 2023.</b></p>				<p>This matter was identified by AMD through the 2023/24 Management Report. The issue relates to inconsistency in the Annual Financial Report and accounts approach as to how asset depreciation is reported. By adopting this position,</p>

	Council aligns to the established valuation methodology.
<b>5. The Audit and Risk Management Advisory Committee accept the 2023/24 final Management Report as written.</b>	Noted and does not require Council's decision.

### STATUTORY ENVIRONMENT:

The *Local Government Act 1995* and subsidiary legislation prescribe the statutory requirements that deal with audit and risk functions in Local Government organisations in Western Australia.

### POLICY / STRATEGIC IMPLICATIONS:

The Audit and Risk Management Advisory Committee is an important part of the operation of a local government organisation. It is essential that Council retains oversight of the business of the organisation and an Audit and Risk Advisory Management Committee fulfils this obligation.

### ORGANISATIONAL RISK MANAGEMENT:

Risk rating is considered Level 4 – Major mainly based on non-compliance and reputation.

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

**FINANCIAL IMPLICATIONS:**

The Audit and Risk Management Committee and its activities are funded within existing budgets.

The Strategic Opportunities Reserve has a general purpose of *“To be used for progressing strategic initiatives including land development”*. It is considered that the Reserve purpose is congruent with the recommendation of the Audit and Risk Management Advisory Committee.

**SUSTAINABILITY:**

Environment: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS: ABSOLUTE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

- 1) Adopt the 2023/24 Annual Financial Report in accordance with ATTACHMENT: 9.9.2 (1);
- 2) That the 2024/25 carry forward budget deficit arising from the finalisation of the 2023/24 Annual Financial Report is corrected through the following budget amendment:

2024/25 Budget	Current	Proposed	
Strategic Opportunities Reserve	(\$694,957)	(\$377,149)	(\$317,808)
Carry Forward Surplus	\$1,708,870	\$1,391,062	\$317,808
		Net impact	\$0

- 3) Adopt the depreciation rates noted on page 20, note 10 of the 2023/24 Annual Financial Report to align with the infrastructure valuation completed by AssetVal on 30 June 2023.

**COUNCIL RESOLUTION:**

**MOVED:** Suckling, R      **SECONDED:** Hay, T

**12/24-145**

**That Council:**

- 1) Adopt the 2023/24 Annual Financial Report in accordance with ATTACHMENT: 9.9.2 (1);

- 2) That the 2024/25 carry forward budget deficit arising from the finalisation of the 2023/24 Annual Financial Report is corrected through the following budget amendment:

2024/25 Budget	Current	Proposed	
Strategic Opportunities Reserve	(\$694,957)	(\$377,149)	(\$317,808)
Carry Forward Surplus	\$1,708,870	\$1,391,062	\$317,808
		Net impact	\$0

- 3) Adopt the depreciation rates noted on page 20, note 10 of the 2023/24 Annual Financial Report to align with the infrastructure valuation completed by AssetVal on 30 June 2023.

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**

**10. LATE REPORTS:****ATTACHMENT****10.1 Monthly Financial Statements for the Period Ending 30 November 2024**

<b>PROPONENT</b>	Shire of Northampton
<b>OWNER</b>	N/A
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>ZONE:</b>	All
<b>BUSINESS AREA:</b>	Corporate and Financial Services
<b>FILE REFERENCE:</b>	1.1.1
<b>LEGISLATION:</b>	<i>Local Government (Financial Management) Regulation 1996, Local Government Act 1995</i>
<b>AUTHOR:</b>	Leanne Rowe
<b>APPROVING OFFICER:</b>	Andrew Campbell
<b>DATE OF REPORT:</b>	11 December 2024
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

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

The Monthly Statements of Financial Activity for the period ending 30 November 2024 are detailed from page 1 to page 23 per the attached Monthly Financial Report.

A copy of the Monthly Financial Report is attached.

**ATTACHMENT: 10.1 (1)****PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

Council is requested to adopt the monthly Financial Report as presented. The financial implications associated with the monthly report are detailed below.

**STATUTORY ENVIRONMENT:**

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

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

The associated risk would be the failure to comply with Financial Management Regulations requiring monthly reporting of Financial Activity. Risk rating is considered Level 2 - Minor.

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

**FINANCIAL IMPLICATIONS:**

The 30 November 2024 financial position is comprised of the following:

Total operating revenue has a deficit position of \$887,901 and the operating expenditure has a deficit position of \$970,551.

Further explanations of material variances are detailed by reporting program in Note 3 of the Monthly Financial Report.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receives the Monthly Financial Report for the period ending 30 November 2024 in accordance with ATTACHMENT: 10.1 (1).**

**COUNCIL RESOLUTION:**

**MOVED: Suckling, R              SECONDED: Horstman, R**

**12/24-146**

**That Council receives the Monthly Financial Report for the period ending 30 November 2024 in accordance with ATTACHMENT: 10.1 (1).**

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**

**11. QUESTIONS FROM MEMBERS:**

- 11.1 Response to questions from members taken on notice. Nil.
- 11.2 Questions from members. Nil.

**12. MOTIONS FOR CONSIDERATION AT THE FOLLOWING MEETING**

**MOVED: Suckling, K**

That the Port Gregory water supply issues are identified through a strategic review of that water supply to determine priorities.

**13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY  
DECISION OF THE MEETING:**

Nil.



**14. MEETING CLOSED TO THE PUBLIC:**

Mr Andrew Campbell declared a financial interest in Item 14.1.1 as he is the author of the report and may or may not benefit financially from Council's decision.`

14.1 Matters for which the meeting may be closed.

**VOTING REQUIREMENTS: SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**MOVED: Suckling, R      SECONDED: Horstman, R**

**12/24-147**

**That Council goes behind closed doors to consider:**

**Item 14.1.1 as under Section 5.23(2) (a) it deals with a matter affecting an employee or employees.**

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**

Andrew Campbell, Sonya Hasleby, Michelle Allen, Neil Broadhurst and Leanne Rowe left the meeting at 14:31pm

**14.1.1      Unconfirmed Minutes of the Meeting of the Chief Executive Officer Review Committee Held 6 December 2024**

<b>PROPONENT</b>	Shire of Northampton
<b>OWNER</b>	N/A
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>ZONE:</b>	All
<b>BUSINESS AREA:</b>	Office of CEO
<b>FILE REFERENCE:</b>	PSN 63
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Andrew Campbell
<b>APPROVING OFFICER:</b>	Andrew Campbell
<b>DATE OF REPORT:</b>	6 December 2024
<b>DECLARATION OF INTEREST:</b>	The author of this report is the subject of this item and declares a financial interest.

**MOVED: Horstman, R      SECONDED: Suckling, R**

**12/24-148**

**That Council come from behind closed doors.**

**MOTION CARRIED 7/0**

**FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

**AGAINST**

Andrew Campbell, Sonya Hasleby, Michelle Allen, Neil Broadhurst and Leanne Rowe returned to the meeting at 14:37pm

14.2 Resolutions that may be made public.

**RESOLUTION**

**That Council:**

- 1. Receive the minutes of the Chief Executive Officer Review Advisory Committee held 6 December 2024;**
- 2. Endorse the Chief Executive Officer Review Advisory Committee's recommendation by adopting the document CEO Review 2024 V2 – Committee Recommendation in accordance with ATTACHMENT: 14.1.1 (3); and**
- 3. Subject to the adoption of Point 2 above and effective from the one-year anniversary of the Chief Executive Officer Probationary Review date of 17 November 2023:**
  - a) Notes the Salaries and Allowances Tribunal Determination of 5 April 2024 (effective 1 July 2024);**
  - b) Notes: The maximum superannuation increase for 2024-2025 is 11.5% as at the 1st of July 2024;**
  - c) Notes the outcomes of the Elected Member Performance Survey undertaken in November 2024 with the Chief Executive Officer being assessed at 'Exceeds Expectations' in this year's performance appraisal;**

- d) Adopt the suggested performance criteria metrics for the 2024-2025 performance period outlined in section 5.9 of this confidential report;**
- e) Approves a variation to the Chief Executive Officer's Employment Contract to adopt a Total Remuneration (Reward) Package as per Option two (2) set out within clauses 4.5.1 - 4.5.7 of the report;**
- f) Approves an increase to the Isolation Allowance of \$10,000 as per clause 6.4 of the Chief Executive Officer's Employment Contract;**
- g) Reviews the Chief Executive Officer's Employment Contract to ensure it is consistent with Legislation and not in breach of the Act or Regulations and approve the Shire President to finalise the variation to the employment Contract;**
- h) Schedules the next review of the Chief Executive Officers performance and total remuneration package (TRP) for considered by Council in November/December 2025;**
- i) Comply, as per Division 3 of the Local Government (Administration) Regulations Schedule 2 clause 18, by resolution of an absolute majority of the Council, endorse this review; and**
- j) Comply, as per Division 3 of the Local Government (Administration) Regulations Schedule 2 clause 19, by notifying the Chief Executive Officer of results of this performance review**

# **15. APPLICATIONS FOR LEAVE OF ABSENCE:**

Cr Rob Horstman applied for a Leave of Absence for the Ordinary Meeting of Council to be held on 20<sup>th</sup> February 2025.

## **MOTION: COUNCIL GRANT LEAVE OF ABSENCE**

**MOVED:** Suckling, K      **SECONDED:** Hay, T

**12/24-149**

**That Council grant a Leave of Absence to Cr Rob Horstman for the Ordinary Meeting of Council to be held on 20th February 2025.**

**MOTION CARRIED 7/0**

### **FOR**

Cr L Sudlow  
Cr R Horstman  
Cr R Burges  
Cr T Hay  
Cr D Pike  
Cr K Suckling  
Cr R Suckling

### **AGAINST**

# **16. CLOSURE:**

**There being no further business to discuss the Shire President thanked those in attendance and closed the meeting at 2.40pm.**

**SIGNED:**



**Cr Liz Sudlow  
Shire President**

**DATE: 20 February 2025**