



## Notice of Special Council Meeting

To be held on 29 January 2025 and commence at 5:00pm  
To be held at the Council Chambers in Donnybrook  
*(1 Bentley Street, Donnybrook)*

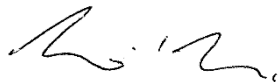
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### **The purpose of this Special Council Meeting is for Council to consider:**

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- Bliss Festival 2025 – Event Application – Reconsideration Request
- Bliss Festival 2025 – Event Application
- Monthly Schedule of Accounts Paid Report –December
- Monthly Financial Report - November and December
- Approval of VC Mitchell Park Licences, Management Model and Business Case (Business Plan) submissions

**Authorised:**



Nicholas O'Connor, Chief Executive Officer

**Prepared:**

24 January 2025

## MEASURES OF CONSEQUENCE

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

## MEASURES OF LIKELIHOOD

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

### RISK MATRIX

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

### RISK ACCEPTANCE CRITERIA

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

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## 1. Declaration of Opening / Announcement of Visitors

### **Acknowledgement of Country:**

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

The Shire President to declare the meeting open welcome the public gallery.

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

*“This meeting is being livestreamed and digitally recorded in accordance with Council Policy. Members of the public are reminded that no other visual or audio recording*

*of this meeting by any other means is allowed without the permission of the chairperson.*

*Whilst every endeavour has been made to only record those who are actively participating in the meeting, loud comments or noises from the gallery may be picked up on the recording.”*

## 2. Attendance

### **Councillors Present:**

Cr Vivienne MacCarthy

Cr Lisa Glover

Cr John Bailey

Cr Alexis Davy

Cr Peter Gubler

Cr Anita Lindemann

Cr Anne Mitchell

Cr Grant Patrick

Cr Deanna Shand

### **Staff Present:**

Nicholas O’Connor, Chief Executive Officer

Ross Marshall, Director Operations

Loren Clifford, Acting Director Finance and Corporate

Michelle Dennis, Manager Development Services

Samantha Farquhar, Administration Officer Corporate Services

Stephanie Karafilis, Acting Manager Financial Services

### **Public Gallery:**

2.1. Apologies

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2.2. Approved Leave of Absence

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Nil.

2.3. Application for Leave of Absence

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Nil.

3. Announcements from the Presiding Member

Nil.

4. Declarations of Interest

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

5. Public Question Time

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

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Nil.

5.2. Public Question Time

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In accordance with the Clause 7(3) of the Local Government (Administration) Regulations, public questions must relate to the stated purpose of the Special Meeting of Council.

6. Presentations

6.1. Petitions

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Nil.

6.2. Presentations

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Nil.

6.3. Deputations

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Nil.

6.4. Delegates' Reports

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Nil.

7. Reports of Committees

Nil.

## 8 Reports of Officers

### 8.1.1. Bliss Festival 2025 – Event Application – Reconsideration Request

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#### Report Details:

<b>Prepared by:</b>	Manager Development Services		
<b>Manager:</b>	Ross Marshall, Director Operations		
<b>Applicant:</b>	State Administrative Tribunal		
<b>Location:</b>	The Berry Delightful, 19503 South Western Highway, Brookhampton		
<b>File Reference:</b>	A1975	<b>Voting Requirement:</b>	Absolute Majority
<b>Attachment(s):</b>			
8.1.1(1)	State Administrative Orders		

#### Executive Recommendation

**That Council revoke Council resolution 204/11-24 to enable reconsideration of the event application Bliss Festival 2025.**

#### Strategic Alignment

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

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

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

#### Executive Summary

The State Administrative Tribunal has invited the Shire to review the refusal of an event application, Bliss Festival 2025, proposed to be held at 19503 South Western Highway, Brookhampton for 500 people during the established high risk bushfire period. The event organiser has engaged specialist fire services to address some of the fire concerns.

Shire staff consider that an event, with a reduced capacity of 350 people in total, may be supported, with conditions. In order to meet the requirements of the *Local Government (Administration) Regulations 1996* Council must first revoke the existing decision in order to consider a new officer recommendation regarding this event.



## Background

At its Ordinary Council meeting held 27 November 2024 Council resolved the following:

### *"COUNCIL RESOLUTION 204/11-24*

*That Council:*

1. *Considers the event application, Bliss Festival 2025, as temporary works and use and therefore exempt from development approval under clause 61(1)(a)(17) and 61(2)(f) of the Planning and Development (Local Planning Schemes) Regulations 2015.*
2. *Refuses the event, Bliss Festival 20025, proposed to be held at The Berry Delightful, 19503 South Western Highway, Brookhampton from 24 to 27 January 2025 for the following reasons:*
  - 2.1 *Forest fuel loads in the immediate area to the premises are over 10 years old, contributing to a fire risk rating of "extreme".*
  - 2.2 *The premises has little to no safe areas of refuge to allow for patrons to muster during a fire emergency response.*
  - 2.3 *Limited access and egress to this property would impede the safe evacuation of patrons during an emergency and negatively impact access for firefighting resources.*
  - 2.4 *Mobile service and emergency radio communications are limited in this area which may negatively impact emergency response to this premises.*
3. *Encourages the applicant to consider an event at the premises outside of the Shire's high threat period i.e. outside of the period 1 December to 31 March".*

The landowner, on behalf of the event applicant, referred the matter to the State Administrative Tribunal (SAT) for review. Following a mandatory confidential mediation hearing, SAT ordered a number of things to occur ([refer Attachment 8.1.1\(1\)](#)) including:

"Pursuant to s 31(1) of the State Administrative Tribunal Act 2004 (WA) the respondent is invited to reconsider the decision on or before 3 February 2025".

## Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Possible	Moderate	Moderate (9)
Risk Description:	The Shire does not consider the reconsideration request in a timely manner.		
Mitigation:	During the mediation process, Shire staff were aware of the likely SCM during January. The applicant was invited to provide additional information to enable further consideration of the event application.		

## Financial Implications

Nil.

## Policy Compliance

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Nil.

## Statutory Compliance

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Section 31(2) of the *State Administrative Tribunal Act 2004* states:

*Upon being invited by the Tribunal to reconsider the reviewable decision, the decision-maker may:*

- (a) affirm the decision; or*
- (b) vary the decision; or*
- (c) set aside the decision and substitute its new decision.*

Regulation 10 of the *Local Government (Administration) Regulations 1996* states:

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

- (1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —*
  - (a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or*
  - (b) in any other case, by at least 1 /3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.*
- (1a) Notice of a motion to revoke or change a decision referred to in sub regulation (1) is to be signed by members of the council or committee numbering at least 1 /3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.*
- (2) If a decision is made at a council or committee meeting, any decision to revoke or change the decision must be made by an absolute majority.*

The minutes will need to demonstrate that the required number of Councillors have been obtained to meet the Regulation requirements.

## Consultation

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WALGA's Governance Specialists were consulted to provide guidance on the method of reviewing the previous decision. It was recommended that two reports be provided; one to revoke the decision and the other to consider the application with the additional information. If the revocation recommendation doesn't succeed, then there is no basis to consider the subsequent report.

SAT was also contacted to confirm that while mediation meetings are a confidential process, the resultant orders and follow up actions are not considered confidential.

**Officer Comment**

Revocation of the existing decision is considered a procedural motion to enable a reconsideration of the event venue, in light of additional information provided by the applicant.



- risk mitigation measures are reflected in supporting safety plans. Revised plan to be provided at least 14 days prior to the event date and be to the satisfaction of the Shire;
- h) Recreational bacteriological water sampling to be conducted of the dam by a competent person and tested by a NATA accredited laboratory in the lead up to the event. Two samples four weeks ahead and then two samples two weeks ahead from the event date will be a minimum requirement. Results will be reviewed in line with the Department of Health's Microbial Quality of Recreation Water Guidance Note to demonstrate suitability for recreational use;
  - i) All electrical equipment is to be tested and tagged by an appropriately qualified person;
  - j) All temporary generator installations must be earthed in accordance with Australian Standards, as appropriate. A Form 5 "Certificate of Electrical Compliance" is required to be submitted by a licensed electrical contractor for all temporary power installations prior to commencement of the event;
  - k) A minimum of seven (7) temporary toilets comprising three (3) male toilets, three (3) female toilets and one (1) unisex accessible toilet and associated hand basins are to be provided for the event use. They are to be placed so that they are within 90 metres of any camp site;
  - l) All toilets are to be serviceable for the duration of the event and located in a manner to facilitate servicing/replenishment for the duration of the event;
  - m) Event organiser to provide evidence of a suitable potable water supply for patron use for the duration of the event to the satisfaction of the Shire;
  - n) Event and camp grounds are to have adequate lighting after dark;
  - o) Lighting, to achieve a minimum of 40 Lux, to be provided in or above temporary toilets to facilitate safe use after dark;
  - p) All temporary structures (including gazebos, tents and camping structures) must be suitably secured to prevent movement in wind gusts and must not be used if winds will exceed manufacturer specified rating;
  - q) For the stages and any tent or marquee greater than 55m<sup>2</sup> the event organiser is to provide a Certificate of Structural Adequacy from a practising structural engineer or authorised installer, confirming structural adequacy of temporary structures installed. Certificate of Structural Adequacy is required to be completed by an authorised installer or structural engineer and submitted prior to commencement of the event;
  - r) Separate approval under Regulation 18 of the *Environmental Protection (Noise) Regulations 1997* is to be obtained from the Shire Chief Executive Officer;
  - s) The application required under Regulation 18 of the *Environmental Protection (Noise) Regulations 1997* is to include:
    - A Noise Prediction Modelling report completed by a suitably qualified Acoustic Consultant whose qualifications/experience qualifies them for membership to the Australian Acoustical Society;
    - A Noise Management Plan committing to monitoring of sound levels, by a suitably qualified/experienced Acoustic Consultant at the mixing desk and three locations external to the venue for the duration of the event; and;
    - Notification to residents identified as likely to experience noise at levels exceeding the assigned levels through the noise modelling is to be undertaken by the Shire, at
-

the applicant's cost. This notification is to include contact details for the applicant for management of complaints throughout the event period;

- t) Camping for event attendees is permitted for three nights and subject to separate written approval from the Shire;
- u) Applicant to submit a Traffic Management Plan (TMP) prepared by an appropriately qualified person, showing temporary warning signs and method of traffic management to control traffic integration with South West Highway. TMP and any proposed event signage will require separate approval from Main Roads WA, prior to commencement of the event. Written evidence of Main Roads WA approval required to be submitted at least 7 days prior to the event;
- v) An accredited traffic management provider must be in control of all Traffic Management for the duration of the event. All aspects of the TMP must be adhered to at all times. Traffic controllers must be fully accredited for the tasks that they are undertaking;
- w) Event organiser to submit a list of all food vendors, including potable water carter if proposed, to the Shire for separate approval. The following information, for each food vendor, is also required to be submitted:
  - A copy of the vendors 'Food Business Registration Certificate (*Food Act 2008*)' from their "home" Shire (if not from the Shire of Donnybrook Balingup); and;
  - A copy of the vendors Certificate of Currency product and public liability insurance, providing minimum cover of \$10 million;
- x) A first aid post with a minimum of one qualified first aid officers is required to be provided and adequately sign posted for the duration of the event;
- y) The event organiser is to ensure there are sufficient waste receptacles provided to ensure all waste generated by the event is disposed of thoughtfully without any rubbish or debris being deposited on neighbouring properties;
- z) An event debrief meeting is to be arranged with the Shire within two months of the event date, with relevant festival staff to be available to contribute. A list of complaints, issues and successes to be available for discussion.

### Strategic Alignment

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

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

## Executive Summary

The State Administrative Tribunal has invited the Shire to review the refusal of an event application, Bliss Festival 2025, to be held at 19503 South Western Highway, Brookhampton for 500 people during the established high risk bushfire period. Relevant shire staff have undertaken a site visit with the applicant's fire consultant which has resulted in a number of commitments being made by the applicant including a new event duration of 28 February until 3 March 2025. While this event duration is still within the established high-risk period, Shire staff consider that an application, with a reduced capacity of 350 people in total, may be supported, with conditions.

## Background

At its Ordinary Council meeting held 27 November 2024 Council resolved the following:

*"COUNCIL RESOLUTION 204/11-24*

*That Council:*

- 1. Considers the event application, Bliss Festival 2025, as temporary works and use and therefore exempt from development approval under clause 61(1)(a)(17) and 61(2)(f) of the Planning and Development (Local Planning Schemes) Regulations 2015.*
- 2. Refuses the event, Bliss Festival 2025, proposed to be held at The Berry Delightful, 19503 South Western Highway, Brookhampton from 24 to 27 January 2025 for the following reasons:*
  - 2.5 Forest fuel loads in the immediate area to the premises are over 10 years old, contributing to a fire risk rating of "extreme".*
  - 2.6 The premises has little to no safe areas of refuge to allow for patrons to muster during a fire emergency response.*
  - 2.7 Limited access and egress to this property would impede the safe evacuation of patrons during an emergency and negatively impact access for firefighting resources.*
  - 2.8 Mobile service and emergency radio communications are limited in this area which may negatively impact emergency response to this premises.*
- 3. Encourages the applicant to consider an event at the premises outside of the Shire's high threat period i.e. outside of the period 1 December to 31 March".*

The landowner, on behalf of the event applicant, referred the matter to the State Administrative Tribunal (SAT) for review. At a mandatory confidential mediation hearing, SAT ordered a number of things to occur including:

*"Pursuant to s 31(1) of the State Administrative Tribunal Act 2004 (WA) the respondent is invited to reconsider the decision on or before 3 February 2025".*

The applicant has resubmitted an event application with updated fire safety commitments and a change in event date of 28 February 2025 to 3 March 2025. Set up is to commence from 24 February 2025 and pack down concluding on 5 March 2025. The organisers describe their event as an "18+, alcohol and drug free, health focussed holistic event". Camping is proposed, with all food to be provided for from the existing registered food business by an event participant. Swimming is proposed within the existing site dam, with an inflatable device proposed to be deployed onto the dam for the duration of the event.

There will be four activity stages on site with amplified music to finish at midnight on all nights.

### Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Health	Likely	Catastrophic	Extreme (20)
Risk Description:	Fire risk to attendants; inability to adequately respond to an emergency given the nature of the site and surrounding area at the time of year proposed.		
Mitigation:	Reduction in numbers of people on site to a level that is considered able to be accommodated on site should refuge from radiant heat and ember attack be required.		
Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Likely	Major	High (16)
Risk Description:	Approval of the event during an established high threat period leading to an incident. Refusal of the event threatens the Shire's attractiveness to event operators.		
Mitigation:	Applications are assessed on a case-by-case basis, through an internal, multi-disciplinary approach. The application outcome is considered with a resultant recommendation determined using a risk based approach.		

### Financial Implications

Should Council determine to approve the event, the following fees are applicable:

Item	Rate
Application Fee Temporary Camping	\$100
Water sampling fee (if requested)	\$188 (per sample)
Application fee Regulation 18	Up to \$1,2500
Notification letters	To be determined

There have been administrative costs and opportunity costs associated with relevant officers actively attending and participating in the SAT process.

Legal advice may be required should the matter proceed to a hearing.

### Policy Compliance

Nil.



## Statutory Compliance

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Section 31(2) of the *State Administrative Tribunal Act 2004* states:

*Upon being invited by the Tribunal to reconsider the reviewable decision, the decision-maker may:*

*(a) affirm the decision; or*

*(b) vary the decision; or*

*(c) set aside the decision and substitute its new decision.*

The applicant, if they do not agree with the outcome of the reviewed decision, may have the Council reconsideration decision reviewed by the State Administrative Tribunal.

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

Events in Western Australia are assessed under the following legislation:

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

The water quality of the dam for swimming will need to be assessed against the National Health and Medical Research Council (NHMRC) *Guidelines for Managing Risks in Recreational Waters*.

Due to the premises being accessed from a declared road, Traffic Management will need to be referred to Main Roads for their specific approval under the provisions of the *Main Roads Act 1930*.

## Consultation

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Following a SAT Directions Hearing on 12 December 2024, a site visit occurred on 19 December 2024 by the Shire’s Community Emergency Services Manager, Manager Development Services, Chief Executive Officer and DFES District Officer in the company of the landowners. The purpose of the site visit was to inform a mediation hearing that was conducted on 20 December 2024.

Following the mediation, a further site visit was conducted on 27 December 2024 between the event organiser’s independent fire consultant (WA Fire), the Shire’s Community Emergency Services Manager, Chief Executive Officer in the company of the landowners.

Water samples were collected by the Shire’s Principal Environmental Health Officer in the company of the Manager Development Services on 15 January 2025 in an effort to establish baseline information and inform potential event conditions. The landowners were present during this sampling.

Main Roads WA were requested to provide comment regarding this application, however no formal feedback has been provided by the report due date.

The event organisers have been kept informed of the progress of the reconsideration request and the likely officer recommendation based on feedback from the site visit and updated fire emergency management commitments.

The modified event application was referred internally across the Operations directorate, with the main concession being fire, as discussed further under officer comment.

## Officer Comment

### Fire

As outlined in the November report, the Department of Fire and Emergency Services Bushfire Risk Management System (BRMS) identifies the immediate area of the event location as an extreme bushfire risk.



Figure 1 – Bushfire Risk (Plan generated 8/11/2024)

For a proposed attendance of 500, it is considered that the premises has little to no safe areas of refuge to allow for patrons to muster during a fire emergency response. A safe area of refuge is considered an enclosed structure that protects patrons from radiant heat and bushfire smoke i.e. the open grassed areas and dam do not offer this protection. However, based on the commitments and improvements made in Attachments 1 and 2 i.e.:

- Access and egress to the property has been upgraded to a more appropriate standard as identified at the site visits conducted by shire staff, DFES officers and fire consultants. These routes have also been documented and provided to the Shire and provided with the revised event application.

- Mobile Service and emergency radio communications issues have been addressed and remedies to these issues documented and provided to the Shire.
- Change of date - while still within the High Threat Period (HTP) historically there is a reduced fire risk during the Autumn months. On-call staff and HTP arrangements should still be in place during this proposed time, unless the HTP is shortened due to significant 'break of season' rainfall; and;
- The availability of the existing shed and patio area adjacent to the tea rooms to offer some protection

a reduction in numbers to 350 persons (patrons and volunteers combined) is considered supportable.

### **Noise**

Shire records have been reviewed and identified a number of noise complaints from past Bliss Festival events at this venue. It is therefore recommended that the Regulation 18 application, required for a multi-day multi-stage event where the assigned levels are likely to be exceeded, be submitted by a suitably qualified consultant incorporating modelling to inform the level of neighbour notification required. While the immediate/closest neighbour has been excluded from noise impacts in the past, updated supporting information is required to be supplied as part of this updated application.

### **Ablutions**

While the venue facilities have in the past been utilised for events, recent compliance activity suggests that the onsite effluent disposal system is not approved. For this event, additional toilets will therefore need to be brought into the property and positioned so that they are within a reasonable distance to the camping areas. Under the Caravan Parks and Camping Grounds legislation, 90 m is the maximum distance any campsite should be from a toilet facility.

### **Water Activities**

There are water safety risks associated with the use of farm dams such as:

- The bacteriological quality of the water. Poor water quality can cause ailments such as skin rashes, gastroenteritis (diarrhoea and abdominal pain), fever, respiratory infections. High water temperature increases the risk of amoebic meningitis which is of greater risk where activities cause water to go up the nose.
- The ability for a person to be retrieved, in the case of an incident where they become submerged, where vision is impeded due to dam turbidity/discolouration.
- Thermal shock from the cold layer of water that is often present near the bottom of a dam if a person jumps into the water
- Potential for injuries from submerged objects not clearly visible from the dam surface

The Shire obtained water samples from the dam on 15 January in an effort to inform this report. At the time of sampling there had been no recent rainwater runoff and the water was clear, with minimal visual turbidity present. The results obtained from this sampling showed a very low level of bacteria. No amoeba was detected. The Department of Health Guidance Notes for Microbial Quality of

Recreational Water recommends a minimum of three sample dates to establish a baseline for recreational contact. Conditions are recommended for recreational water sampling to enable this assessment.

Water quality can fluctuate significantly and the applicant is encouraged to consider signage as part of the review of their risk management plan so that participants can make informed decisions about accessing the water, based on their own health circumstances. The Department of Health's Tips for Healthy Swimming provides a general overview of considerations [https://www.healthywa.wa.gov.au/articles/s\\_t/tips-for-healthy-swimming](https://www.healthywa.wa.gov.au/articles/s_t/tips-for-healthy-swimming)

There are also water safety risks associated with a non-scheme potable supply, with event participants from urban areas more susceptible to illness from untreated drinking/tank water. Recent test results from the commercial kitchen confirm that the kitchen water is deemed potable. If volume of water is inadequate, then a portable potable water supply for patrons use for the duration of the event will be required.

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### 8.1.3. Schedule of Accounts Paid as at 31 December 2024

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#### Report Details:

**Prepared by:** Finance Officer

**Manager:** Manager Financial Services

**File Reference:** FNC

**Voting Requirement:** Simple Majority

#### Attachment(s):

8.1.3(1) Schedule of Accounts Paid Under Delegation

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#### Executive Recommendation

##### That Council:

**Receive the accounts for payment report for the period ended December 2024 as per Attachment 8.1.3(1)**

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#### Strategic Alignment

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

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

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

**Item:** Nil.

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#### Executive Summary

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

**1 Municipal Account – payments totalling \$2,179,212.79.**

Credit Card payments	3588
EFT Payments	EFT29874D – EFT30075B
Cheque Payments	53818 – 53820
Direct Debit payments	DD28151, DD28174

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#### Background

In accordance with Delegation 1.2.23 – payments from the Municipal or Trust funds adopted by Council on 18 September 2024, the Chief Executive Officer is authorised to incur expenditure in accordance with the Annual Budget provisions and limited over-expenditure subject to subsequent budget amendments. In doing so, section 13 of the *Financial Management Regulations 1996* is to be adhered to with a list of accounts for approval to be presented to Council each month.

## Risk Management

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

## Financial Implications

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

## Policy Compliance

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

## Statutory Compliance

*Local Government Act 1995*

*Local Government (Financial Management) Regulations 1996*

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

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

This list of accounts is to be:

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

### **Consultation**

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Relevant staff have been consulted and have authorised the payments.

### **Officer Comment**

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For a detailed listing of payments see [Attachment 8.1.3\(1\)](#)

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

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### 8.1.4. Statement of Financial Activity report as at 30<sup>th</sup> November 2024 and 31<sup>st</sup> December 2024

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#### Report Details:

**Prepared by:** Loren Clifford, Acting Manager Financial Services

**Manager:** Loren Clifford, Acting Director Finance & Corporate

**File Reference:** Nil

**Voting Requirement:** Simple Majority

#### Attachment(s):

8.1.4(1) Statement of Financial Activity November 2024

8.1.4(2) Statement of Financial Activity December 2024

#### Executive Recommendation

**That Council receive the Statement of Financial Activity report for the period ending 30<sup>th</sup> November 2024 as per Attachment 8.1.4(1).**

**That Council receive the Statement of Financial Activity report for the period ending 31<sup>st</sup> December 2024 as per Attachment 8.1.4(2).**

#### Strategic Alignment

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

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

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

**Item:** Nil.

#### Executive Summary

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

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the Shire's financial performance for the period ending 30<sup>th</sup> November 2024 and 31<sup>st</sup> December 2024.

#### Background

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

- Annual budget estimates.
- Budget estimates to the end of the month in which the statement relates.
- Actual amounts of revenue and expenditure to the end of the month in which the statement relates.



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

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

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

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

### Risk Management

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

### Financial Implications

#### Budget

There are no financial implications relevant to this proposal.

#### Long Term

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

### Policy Compliance

Nil

### Statutory Compliance

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

### **Consultation**

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

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

### **Officer Comment**

The November and December Financial Statements are compared to year-to-date expenditure and revenue against the 2024-25 Budget.

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### 8.1.5 Approval of VC Mitchell Park Licences, Management Model and Business Case (Business Plan) submissions

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#### Report Details:

**Prepared by:** Loren Clifford, Acting Director Finance and Corporate

**Manager:** Nicholas O'Connor, Chief Executive Officer

**File Reference:** L003, L078

**Voting Requirement:** Absolute Majority

#### Attachment(s):

8.1.5(1) Draft Licence – Pavilion 1 - Donnybrook Football & Sporting Club (Inc)

8.1.5(2) Draft Licence – Pavilion 2 - Donnybrook Tennis Club Inc

8.1.5(3) Management Agreement Draft Outline

8.1.5(4) Engagement Forum feedback and Submissions

8.1.5(5) Fees & Charges

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#### Executive Recommendation

##### That Council:

1. **Note the submissions received (Attachment 8.1.5(4)) in relation to the Business Case (Business Plan) and administration's comments (\*Absolute Majority).**
2. **Note the submissions received and the administration's comments (Attachment 8.1.5(4)) in relation to the draft licences.**
3. **Approve licence (Attachment 8.1.5(1)) for Pavilion 1 with Donnybrook Football & Sporting Club (Inc) to be executed by the Chief Executive Officer.**
4. **Approve the licence (Attachment 8.1.5(2)) for Pavilion 2 with the Donnybrook Tennis Club Inc to be executed by the Chief Executive Officer.**
5. **Approve the Management Agreement (Attachment 8.1.5(3)) to be executed by the Chief Executive Officer.**
6. **Authorise the Chief Executive Officer to make minor amendments to the licences and management agreement as required, on the proviso that any changes do not materially alter the content of the licenses**
7. **Adopt the Fees and Charges (Attachment 8.1.5(5))**
8. **Requests the CEO to provide local public notice of the proposed VC Mitchell Park fees and charges, with these to take effect from 1 March 2025.**

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#### Strategic Alignment

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

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

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

**Item:** Nil.

## Executive Summary

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Council is requested to consider the submissions received in response to consultation for the VC Mitchell Park business case and proposed licenses. Further, Council is requested to approve the licence for Pavilion 1 with Donnybrook Football & Sporting Club, licence for Pavilion 2 with Donnybrook Tennis Club and the Management Agreement outline.

Council is also requested to consider and adopt the Schedule of Fees and Charges for VC Mitchell Park.

## Background

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The Shire has undertaken a significant redevelopment project at VC Mitchell Park to enhance the quality of sporting, recreational and community amenities. This project aimed to address the ageing infrastructure and meet the current and future needs of the community.

Stage 1 of the project, which involved the development of a new two-storey multi-purpose pavilion adjacent to the main oval and alterations and additions to the smaller pavilion, reached practical completion on 27 November 2024. This stage included:

- Demolition of the larger pavilion,
- Construction of Pavilion 1, a two-storey multi-use community pavilion,
- Additions and alterations to Pavilion 2,

The project was designed to deliver significant community benefits, including increased participation in sports, improved health outcomes, and enhanced community cohesion.

Draft licences and management model were developed to meet the community's needs, drawing on extensive community consultation, the Shire's overarching Property Management Framework, and the supporting documents in the Business Case (Business Plan).

At its Special Council Meeting on 4 December 2024 Council resolved:

### COUNCIL RESOLUTION 219/12-24

*That Council:*

1. *Endorse the draft licence (Attachment 8.1.1(1)) for Pavilion 1 with Donnybrook Football & Sporting Club (Inc) to be advertised for public comment.*
2. *Endorse the draft licence (Attachment 8.1.1(2)) for Pavilion 2 with the Donnybrook Tennis Club Inc to be advertised for public comment.*
3. *Endorse the Management Agreement draft outline (Attachment 8.1.1(3)) to be advertised for public comment.*
4. *Endorse the Business Case (Business Plan) (Attachment 8.1.1(4)) to be advertised for public comment.*
5. *Request the CEO to facilitate a Community Engagement Forum in December to allow Community members to engage in discussions about the proposed licenses and management model, and to provide feedback on options for broader community use of the facility in the future.*

These documents were advertised for public comment and the submission period closed on Friday 17 January 2025.

## Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Service Interruption	Possible	Minor	Moderate (6)
Risk Description:	Providing Inaccurate Advice/Information due to failure to follow procedures, not adhering to established procedures and protocols.		
Mitigation:	<ul style="list-style-type: none"> <li>Providing advice and information as per the Shire's adopted Property Management Framework (PMF) and ensuring all staff are trained on the associated policies and procedures to maintain consistency.</li> <li>Review and update all processes and guidelines related to the PMF.</li> <li>Regular audits to help identify and address any gaps in the advisory process, significantly reducing the risk of service interruptions due to inaccurate advice or information.</li> </ul>		

Risk:	Likelihood:	Consequence:	Risk Rating:
Compliance	Unlikely	Minor	Low (4)
Risk Description:	Failure to Fulfil Statutory, Regulatory or Compliance Requirements		
Mitigation:	<ul style="list-style-type: none"> <li>Ensure that the Chief Executive Officer has the authority to execute the licences and management agreements.</li> <li>Ensure all decisions comply with local, regional, and state regulations.</li> <li>Keep detailed records of all submissions, responses, and decisions.</li> <li>Ensure that all documentation is accurate and accessible for future reference.</li> <li>Identify and manage any potential conflicts of interest among Councillors and staff.</li> <li>Ensure that the adoption of fees and charges is in line with budgetary constraints and financial regulations.</li> </ul>		

## Financial Implications

	Donnybrook Football Club	Donnybrook Tennis Club
Rental Income as per the PMF	\$1,667.00	\$1,667.00
Community Benefit Subsidy*	-\$1,316.93	-\$1,250.25
Estimated Annual Facility Costs	\$19,510.45	\$6,832.48
Costs offset in management agreement	-\$19,510.45	-\$6,832.48
Total	\$350.07	\$416.75

\*Subsidy is based on the groups latest Annual Health Check.

Remaining annual costs estimated payable for the Shire is \$26,662.0

## Policy Compliance

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Both licences and the responsibilities outlined in the Management Agreement outline are consistent with *Council Policy EXE/CP-11- Property Management*.

Advertising the draft licences, draft Management Agreement outline, the Business Case (Business Plan) and proposing a Community Engagement Forum are consistent with the requirements in *Council Policy COMD/CP-3-Community Engagement*.

## Statutory Compliance

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### Local Government Act 1995

#### Section 3.58 – Disposing of Property

Under Section 3.58 of the *Local Government Act 1995*, the disposal of property, including buildings, typically requires the Shire to give public notice of the proposed disposition and consider any submissions received. However, in this case, the disposal of the building to a sporting group will be exempt from these requirements under Regulation 30 of the *Local Government (Functions and General) Regulations 1996*, as the sporting group qualifies as a body with recreational or sporting objects.

#### Section 3.59 - Commercial Enterprises by Local Governments

Contents of the Business Plan, must include an overall assessment of the major trading undertaking or major land transaction and must address:

- Expected effect on the provision of facilities and services by the local government.
- Expected effect on other persons providing facilities and services in the district.
- Expected financial effect on the local government.
- Expected effect on matters referred to in the local government's current plan prepared under section 5.56.
- The ability of the local government to manage the undertaking or the performance of the transaction.

Under section 6.16 of the *Local Government Act 1995* a local government may impose (by absolute majority) and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed. Fees and charges are to be imposed when adopting the annual budget but may be imposed during a financial year and/or amended from time to time during a financial year (by absolute majority).

Section 6.16(1) and (2) states:

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

- (a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;
- (b) supplying a service or carrying out work at the request of a person;
- (c) subject to section 5.94, providing information from local government records;
- (d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;
- (e) supplying goods;
- (f) such other service as may be prescribed.

Section 6.17(1) states:

In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors —

- (a) the cost to the local government of providing the service or goods;
- (b) the importance of the service or goods to the community; and
- (c) the price at which the service or goods could be provided by an alternative provider.

Section 6.19 of the *Local Government Act 1995* states:

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

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

## **Consultation**

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### Public Consultation

Extensive consultation was conducted with key stakeholders and the community to ensure the project met local needs and expectations. The consultation process included:

- Community Surveys: Conducted both online and in hard copy to gather input from residents.
- Open Door Sessions: Held at the Shire Offices to facilitate direct community engagement.
- User Group Surveys and Meetings: Engaged with local sporting clubs and user groups to understand their specific needs and priorities.
- Stakeholder Engagement Plan: Developed to guide ongoing consultation throughout the project's design and construction phases.
- A dedicated project page on the Shire's website with detailed information about the project.

- Advertising the proposed VC Mitchell Park Licenses, Management Model, and Business Case (Business Plan) for Public Comment. Statewide public notice commenced on Thursday, 5 December through to 18 January 2025. This public notice was provided via the Shire's Website, meta platforms, notice boards, Shire's E-connect, and in the West on the 12 December 2024.
- A Community Engagement Forum was held on Saturday, 14 December 2024, between 10am – 3pm to allow community members to explore the facility and engage in discussions about the proposed licenses and management model. It provided an opportunity for sporting and community clubs to make suggestions on potentially broadening the community use of the facility. Forty-five people attended, and [Attachment 8.1.5\(4\)](#) Engagement Forum feedback and Submissions includes the feedback from the attendees.

### External Consultation

External Consultants, Whitney Consulting were engaged to provide a Business Case (Business Plan) the Business Case/Plan for the VC Mitchell Park project outlines a comprehensive plan to redevelop the park into a modern, multi-use community, sporting, and recreation precinct, aiming to enhance local amenities, support community health and wellbeing, and drive economic growth through improved facilities and increased participation in sports and events.

The Shire has consulted with its solicitors, McLeod's, to obtain legal advice. Consequently, McLeod's has provided standardised licence templates based on the Shire's adopted Property Management Framework which has been used as the basis for the two licence Council is being asked to consider approving.

Consultations sessions were held with Council and the proposed licence holders to discuss the proposed management model.

### Internal Consultation

Council has discussed the VC Mitchell Park Project/Management model and licence arrangements at numerous Council meetings and in more detail during the following workshops.

- a. Workshop 3 – 14 February 2024
- b. Workshop 5 – 13 March 2024
- c. Workshop 10 -26 June 2024
- d. Workshop 11 – 3 July 2024
- e. Workshop 13 – 31 July 2024
- f. Workshop 15 – 14 August 2024
- g. Workshop 17- 11 September 2024
- h. Workshop 18- 2 October 2024
- i. Workshop 19 - 30 October2024



## **Officer Comment**

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The proposed licences, management model, and Business Case (Business Plan) were subjected to a public consultation process, with submissions closing on Friday, 17 January 2025. During this period, two submissions were received concerning the Business Plan, and four submissions were received regarding the Draft Licences and Management Model. These submissions, along with the administration's responses, are detailed in [Attachment 8.1.5\(4\) Engagement Forum feedback and Submissions](#). The feedback provided through these submissions was considered, and relevant changes were made based on the input received.

It is now recommended to approve the licences and management agreements with the proposed changes as per the submissions. Additionally, it is advised to adopt the fees and charges as outlined in [Attachment 8.1.5\(5\) Fees & Charges](#).

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

Nil.

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

Nil.

11. Meetings Closed to the Public

11.1. Matters for which the Meeting may be closed

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Nil.

11.2. Public reading of Resolutions that may be made public

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Nil.

12. Closure

The Shire President to advise that the next Agenda Briefing Session will be held on 19 February 2025, in the Shire of Donnybrook Balingup Council Chamber.