



Shire of
Katanning
Heart of the Great Southern

'A prosperous, vibrant and diverse community working together.'

**MINUTES OF THE
ORDINARY COUNCIL MEETING**

Dear Council Member

Minutes of the Ordinary Council Meeting of the Shire of Katanning held on
Thursday 28 July 2022 in the Shire of Katanning Council Chambers,
52 Austral Terrace, Katanning, commencing at 7.00 pm.

DISCLAIMER

The Council of the Shire of Katanning hereby
advises that before taking any action on an application or a
decision of the Council, any applicant or members of the
public should wait for written advice from the Council.

PRESIDING MEMBER _____

DATE SIGNED _____



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PLEASE NOTE:

Council Meetings are recorded for accuracy of minute taking.

1. DECLARATION OF OPENING/ ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 7:00pm.

2. RECORD OF ATTENDANCE**PRESENT**

Presiding Member: Cr John Goodheart – Deputy President

Members: Cr Kristy D'Aprile
Cr Matt Collis
Cr Michelle Salter
Cr Serena Sandwell

Council Officers: Julian Murphy, Chief Executive Officer
Denise Gobbart, Executive Manager Corporate & Community
Sam Bryce, Executive Manager Infrastructure & Assets
Taryn Human, Executive Governance Officer

Gallery: Dr Hugh Sharpe

Media: Sean Van Der Wielen, Great Southern Herald

Apologies:

Leave of Absence: Cr Liz Guidera - President
Cr Adrian Edwards

3. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

4. RESPONSE TO PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

5. DISCLOSURE OF FINANCIAL/IMPARTIALITY INTERESTS

13.1 Cr Serena Sandwell Disclosure of Interest Affecting Impartiality

6. PUBLIC QUESTION/STATEMENT TIME**Dr Hugh Sharpe Statement**

Dr Hugh Sharpe asked Council to consider the planning scheme amendments in connection to item 10.1.1. He said that he plans to build a well-designed dental clinic with high standards for a long period of time. He said he would like to supply a committed service as a dentist to the community of Katanning.

Cr John Goodheart Response

Cr John Goodheart thanked Dr Sharpe for his statement.

7. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

8. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil.

9. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

9.1 Ordinary Council Meeting – Thursday 23 June 2022
(SEE ATTACHED MINUTES)

MOVED: CR SERENA SANDWELL

SECONDED: CR MATT COLLIS

Voting Requirement: Simple Majority

OC71/22 That the minutes of the Ordinary Council Meeting held on Thursday 23 June 2022 confirmed as a true record of proceedings.

CARRIED: 5/0

10. REPORTS OF COMMITTEES AND OFFICERS**10.1 EXECUTIVE MANAGER INFRASTRUCTURE AND ASSETS****10.1.1 Proposed Amendment No.1 to Local Planning Scheme No.5 – Lot 3 (No.78) Andover Street, Katanning
(ATTACHMENT)**

File Ref: A768
Reporting Officer: Joe Douglas – Town Planner
Date Report Prepared: 18 July 2022
Disclosure of Interest: No Interest to disclose

Issue:

Consideration and determination of an application to amend the Shire of Katanning Local Planning Scheme No.5 to allow ‘consulting rooms’ (i.e. a proposed new dental clinic) to be developed on Lot 3 (No.78) Andover Street, Katanning.

Background:

Edge Planning & Property, on behalf of the landowner Mr Hugh Sharpe, have submitted an application to amend Local Planning Scheme No.5 to allow a dental clinic to be developed on Lot 3 (No.78) Andover Street, Katanning.

Lot 3 is located in the western part of the Katanning townsite approximately 500 metres south-west of the town centre area in a designated low density residential area. The subject land, which comprises a total area of 907m², is relatively flat throughout and forms part of a recent residential subdivision development.

The property has not yet been developed and used for any specific purpose/s and is surrounded by similar sized lots, many of which are also vacant / undeveloped. Other key uses in the immediate area include places of worship and public recreation facilities.

Lot 3 has direct frontage and access to Andover Street along its north-eastern orientated front boundary which is a sealed and drained local access road under the care, control and management of the Shire. The property is also served by key essential service infrastructure including underground power, reticulated water, reticulated sewerage and telecommunications.

Lot 3 has not been designated as being flood prone and does not contain any buildings or places of cultural heritage significance. The eastern half of the property has however been designated by the Fire and Emergency Services Commissioner as being bushfire prone due to its proximity to existing native vegetation on Crown Reserves 5775 and 8395 to the east which have been developed and used for public recreation purposes.

Under the terms of the land’s current ‘Residential’ zoning classification in Local Planning Scheme No.5 the use class ‘Consulting Rooms’, which is defined as ‘*premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care*’, is listed as a use that is not permitted by the Scheme (i.e. an ‘X’ use that Council is unable to lawfully approve).

In order to accommodate such use, a standard amendment to Local Planning Scheme No.5 is required and must ultimately be approved by the Hon. Minister for Planning following completion of a number of key steps in the statutory planning process which generally takes approximately 12 months to complete before a formal development application for any proposed works and use can be considered and determined by Council.

In this case Local Planning Scheme No.5 is proposed to be amended to provide Lot 3 with an additional use right for the express purpose 'consulting rooms'. This use, if ultimately approved, will be additional to the classes of use that are permissible under the land's current 'Residential' zoning classification.

Officers Comment:

The scheme amendment proposal has been assessed in detail and appears to be consistent with the aims and objectives of the State, Regional and Local Planning Frameworks as they apply specifically to economic development and growth, the provision of community health services and facilities, bushfire risk management and mitigation, and accommodating a range of non-residential uses on land classified 'Residential' zone which are compatible with and complementary to residential development.

It is also noted Local Planning Scheme No.5 currently allows for a wide range of community and commercial uses on land classified 'Residential' zone subject to Council's formal development approval. This includes bed and breakfast accommodation, child care premises, educational establishments, family day care centres, cottage industries, markets and places of worship, many of which have potential for greater impacts on residential amenity compared to consulting rooms.

It is also worth noting the use class 'consulting rooms' is listed as a discretionary use on 'Residential' zoned land in many other local planning schemes in the Perth metropolitan region as well as rural and regional areas of the State with statutory and regulatory controls in place to ensure any potential negative impacts are suitably managed and minimised.

Council should note any potential land use and environmental issues associated with this particular proposal will be considered and assessed in detail through the scheme amendment process which, if initiated by Council, will involve the following key steps:

- i) referral to the Environmental Protection Authority for review and environmental clearance;
- ii) community consultation for a period of 42 days including referral to all relevant government agencies and essential service providers inviting their feedback and comment;
- iii) review and assessment of all submissions received and a further report to Council regarding the outcomes from public advertising and agency referrals, key issues of concern and a recommendation regarding final adoption of the scheme amendment proposal;
- iv) referral to the Western Australian Planning Commission for review, assessment and determination with respect to a final recommendation to the Minister for Planning; and
- v) Final determination by the Hon. Minister for Planning.

As can be seen from the above, the process is comprehensive and affords significant opportunity for input by the local community, State government agencies and essential service providers.

Council should also note any issues associated with the future proposed development of the land including boundary setbacks, vehicle access, on-site parking, stormwater drainage

management, bushfire risk mitigation and the scale and appearance of all proposed built form improvements will be considered and addressed during the development application stage of statutory planning process.

On balance, having regard for:

- a) the scheme amendment proposal's consistency with the aims and objectives of the State, Regional and Local Planning Frameworks;
- b) the potential to develop and use the land for the intended purpose in accordance with all regulatory requirements and standards with minimal potential impact given its small scale and low intensity; and
- c) the project's local economic and community benefits,

it is concluded the proposal is well founded, has considerable merit and is worthy of Council's initial support. As such, it is recommended Council exercise its discretion and resolve to initiate the proposed amendment to LPS5 and follow due process thereafter.

Statutory Environment:

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015.

Shire of Katanning Local Planning Scheme No.5

Policy Implications:

There are no policy implications for this report.

Financial Implications:

There are no financial implications for this report. All costs associated with processing the scheme amendment proposal will be covered by the application fee paid by the landowner.

Risk Implications:

This item has been evaluated against the Shire of Katanning's Risk Assessment and Acceptance Criteria. The perceived level of risk is considered to be "Low" risk and can be managed by routine procedures and with current resources.

Strategic Implications:

Shire of Katanning Strategic Community Plan 2022 – 2032

Focus Area Economic

Aspiration Katanning is an economic hub of the Great Southern region, offering a range of employment and business opportunities.

Objective To enable more businesses to locate in Katanning to support the needs of the local population.

Voting Requirement: Simple Majority

Officer's Recommendation/Council Motion:

MOVED: CR KRISTY D'APRILE

SECONDED: CR SERENA SANDWELL

- OC72/22** 1. That Council, in pursuance of Section 75 of the *Planning and Development Act 2005*, amend the Shire of Katanning Local Planning Scheme No.5 by:
- i) Including Lot 3 on Diagram 38433 (No. 78) Andover Street, Katanning as Additional Use No.3 (A3) in Table 5 – Specified Additional Uses for Zoned Land in Scheme Area (clause 3.4) as follows:

NO.	DESCRIPTION	ADDITIONAL USE	CONDITIONS
A3	Lot 3 (No.78) Andover Street, Katanning	Consulting Rooms	Development standards/requirements shall be determined by the Local Government upon application.

- ii) Amending the Scheme Map accordingly.
2. That the local government resolve that the Amendment is standard under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:
- a) The amendment is consistent with the Local Planning Strategy;
 - b) The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment; and
 - c) The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.

CARRIED: 5/0

Cr Kristy D'Aprile spoke for the motion.

10.2 EXECUTIVE MANAGER CORPORATE AND COMMUNITY

10.2.1 Schedule of Accounts (ATTACHMENTS)

File Ref: FM.FI.4
Reporting Officer: Shenae Watts, Creditor Officer
Date Report Prepared: 5 July 2022
Disclosure of Interest: No Interest to disclose

Issue:

To receive the Schedule of Accounts Paid for the period ending 30 June 2022.

Body/Background:

This information is provided to Council on a monthly basis in accordance with provisions of the Local Government Act 1995 and Local Government (Financial Management) Regulations 1996. A Local Government is to develop procedures for the authorisation of, and payment of, accounts to ensure that there is effective security for, which money or other benefits may be obtained.

Below is a summary of the payments made for the financial year:

Month	Cheques 2021/22	EFT Payments 2021/22	Direct Debits 2021/22	Credit Card 2021/22	Payroll 2021/22	Trust 2021/22	Total Payments 2021/22
July	559.90	1,239,701.92	39,737.04	5,458.49	234,583.47	0.00	1,520,040.82
August	2,173	648,801.21	34,876.21	4,237	240,430.70	0.00	930,518.12
September	17,051.30	1,267,827.19	56,741.47	4,564.28	351,445.88	0.00	1,697,630.12
October	1,089.80	801,203.05	42,674.11	2,515.16	247,451.36	0.00	1,094,933.48
November	570.10	501,263.03	245,004.62	2,809.49	241,336.44	0.00	990,983.68
December	1,261.55	993,082.18	37,012.47	5,026.75	252,165.66	0.00	1,288,548.61
January	234.00	393,674.49	36,350.37	3,667.86	221,208.16	0.00	655,134.88
February	1,300.15	979,987.84	32,394.58	4,035.21	224,458.67	0.00	1,242,176.45
March	883.95	1,070,050.03	51,239.07	2,116.15	369,915.38	38,000	1,532,204.58
April	1,037.75	608,707.09	36,739.54	3,061.96	234,172.90	0.00	883,719.24
May	542.00	679,748.35	45,671.46	3,289.25	232,011.14	0.00	961,262.20
June	2,566.05	1,412,960.89	259,469.07	6,657.54	216,845.81	8,167.50	1,906,666.86
Total	29,269.55	10,597,007.27	917,910.01	74,439.14	3,066,025.57	46,167.50	14,703,819.04

Officer's Comment:

The schedule of accounts for the month of June 2022 are attached.

The Finance Forum held on 14 July 2022 gave attending Councillors an opportunity to ask questions regarding the presented accounts paid.

Statutory Environment:

Local Government Act 1995.

6.8. Expenditure from municipal fund not included in annual budget

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

- (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
- (b) is authorised in advance by resolution*; or
- (c) is authorised in advance by the mayor or president in an emergency.

* Absolute majority required.

Policy Implications:

There are no direct policy implications in relation to this item.

Financial Implications:

Expenditure in accordance with s6.8 (1) (a) of the Local Government Act 1995.

Risk Implications:

This item has been evaluated against the Shire of Katanning's Risk Assessment and Acceptance Criteria. The perceived level of risk is considered to be "Low" risk and can be managed by routine procedures and with current resources.

Strategic Implications:

Shire of Katanning Strategic Community Plan 2022 - 2032

Focus Area Leadership

Aspiration Katanning is an inclusive and respectful community.

Objective To ensure that Shire resources are utilised in a manner that represents the best interest of the whole community.

Voting Requirement: Simple Majority.

Officer's Recommendation/Council Motion:

MOVED: CR SERENA SANDWELL

SECONDED: CR MICHELLE SALTER

OC73/22 That Council endorses the Schedule of Accounts as presented, being cheques 42413 - 42416 totalling \$2,566.05, EFT payments 34183 – 34397 totalling \$1,412,960.89, payroll payments totalling \$216,845.81, direct payments totalling \$259,469.07, trust payments totalling \$8,167.50 and credit card payments totalling \$6,657.54 authorised and paid in June 2022.

CARRIED: 5/0

10.2.2 Monthly Financial Report **(ATTACHMENTS)**

File Ref: FM.FI.4
Reporting Officer: Denise Gobbart, Executive Manager Corporate & Community
Report Prepared: 19 July 2022
Disclosure of Interest: No Interest to disclose

Body/Background:

This item presents the Monthly Financial Report, which contains the 'Statement of Financial Activity' for the period ending 30 June 2022.

Section 6.4 of the Local Government Act 1995 requires a local government to prepare financial reports.

Regulation 34 of the Local Government (Financial Management) Regulations 1996 sets out the form and content of the financial reports, which have been prepared and are presented to Council.

Council adopted (in conjunction with the Annual Budget) a material reporting variance threshold of 10% with a minimum value of \$10,000. Material variances between budgeted and actual expenditure are reported at Note 17 of the Monthly Financial Report.

Officer's Comment:

A variance report is included with the monthly financial statement's attachment.

The budget was adopted 31 August 2021 and this report reflects the adopted budget. It is noted that monthly depreciation is not run until after the prior year audit has been signed off.

The Finance Forum held on 14 July 2022 gave attending Councillors an opportunity to ask questions regarding the presented financial statements.

Statutory Environment:

Local Government Act 1995

Section 6.4 Financial Report

- (1) A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.

Local Government (Financial Management) Regulations 1996.

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

Policy Implications:

The Shire has several financial management policies. The finances have been managed in accordance with these policies.

Financial Implications:

There are no financial implications for this report.

Risk Implications:

This item has been evaluated against the Shire of Katanning's Risk Assessment and Acceptance Criteria. The perceived level of risk is considered to be "Low" risk and can be managed by routine procedures and with current resources.

Strategic Implications:

Shire of Katanning Strategic Community Plan 2022 – 2032

Focus Area Leadership

Aspiration Katanning is an inclusive and respectful community.

Objective To ensure that Shire resources are utilised in a manner that represents the best interest of the whole community.

Voting Requirement: Simple Majority

Officer's Recommendation/Council Motion:

MOVED: CR KRISTY D'APRILE

SECONDED: CR SERENA SADNWELL

OC74/22 That Council, in accordance with Regulation 34 of the Local Government (Financial Management) Regulations 1996, receive the Monthly Statement of Financial Activity for the period ending 30 June 2022, as presented.

CARRIED: 5/0

10.2.3 The Katanning Clay Target Club Inc – Rates Waiver (A3027)
(ATTACHMENT)

File Ref: A3027
Reporting Officer: Denise Gobbart, Executive Manager Corporate & Community
Date Report Prepared: 14 July 2022
Disclosure of Interest: No Interest to disclose

Issue:

For Council to consider a rate waiver application by The Katanning Clay Target Club Inc. for their property 94 Round Drive Katanning.

Body/Background:

The Katanning Clay Target Club Inc has freehold ownership of 94 Round Drive and wish to apply for a suspension of the Shire rates for this year and a concession in future years, as they are a sporting club.

The request is due to an agreement with their neighbours the Department of Primary Industries and Regional Development (DPIRD) terminating a land swap agreement. The swap had previously allowed the Clay Target Club to shoot over DPIRD property, as the required fallout / safety zone.

While the Clay Target Club has been trying to negotiate a new agreement, they have had to cancel programmed events. This has had a direct impact on their financial position.

They have had dialogue with DPIRD, in which they indicate a new agreement might be possible. They believe that they can resolve the situation and will be taking programmed events to neighbouring Clay Target Clubs. Allowing them to continue to operate.

The property is rateable and currently is levied minimum rates for the 2021/22 financial year the total rates levied were \$1,172.00, this balance consists of:

General Rates	\$1,018
Emergency Services Levy	\$ 88
Waste Rate Levy	\$ 31
Soil Conservation Charge	\$ 35

Officer's Comment:

With no policy for rate concessions or waivers this item is presented to Council for consideration. The only precedence for a concession in rates is the Katanning Country Club who has a General Rate Concession of 50%, in recognition of the recreation facilities provided to the community. The understanding with this concession is generally the local government would provide some of these facilities.

Council Policy 2.10 deals with Lease of/Licence to Occupy Community Assets. If a community group has a lease or licence to occupy a shire facility the fee is equivalent to the Shire's minimum rate and a percentage contribution based on the Gross Rental Value. They also pay all operational costs and cover the other statutory rates levied on the property.

Given the charges that are being raised on the property are comparable to the costs other sporting / community groups pay the current charges levied on the Katanning Clay Target Club are not unreasonable.

With consideration to the current land tenure issues, it is recommended that Council waive the General Rate for the 2022/23 financial year, with other statutory charges to remain payable.

Statutory Environment:

Local Government Act 1995

Section 6.12 Power to defer, grant discount, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —
- (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money, which is owed to the local government.

* Absolute majority required.

Policy Implications:

Council Policy 2.10 Lease of / Licence to Occupy Community Assets.

There is no policy for rate concessions or waivers.

Financial Implications:

The property is rateable and currently is levied minimum rates for the 2021/22 financial year the total rates levied were \$1,172.00, this balance consists of:

General Rates	\$1,018
Emergency Services Levy	\$ 88
Waste Rate Levy	\$ 31
Soil Conservation Charge	\$ 35

To waive the General Rates for the 2022/23 financial year will reduce the revenue by the value of our Minimum Rate. In 2021/22 financial year that was \$1,018.

Risk Implications:

This item has been evaluated against the Shire of Katanning's Risk Assessment and Acceptance Criteria. The perceived level of risk is considered to be "low". The "Low" risk rank is considered acceptable with adequate controls, managed by routine procedures.

Strategic Implications:

Shire of Katanning Strategic Community Plan 2022 - 2032

Focus Area Leadership

Aspiration Katanning is an inclusive and respectful community.

Objective To ensure that Shire resources are utilised in a manner that represents the best interest of the whole community.

Voting Requirement: Simple Majority

Officer's Recommendation/Council Motion:

MOVED: CR KRISTY D'APRILE

SECONDED: CR MATT COLLIS

OC75/22

That Council:

- 1. Supports The Katanning Clay Target Club Inc application to waive the 2022/23 general rates, given the difficulties with land tenure.**
- 2. Does not support the general rate concession for future years, as the rate is comparable to costs paid by other sporting/community groups under Policy 2.10 Lease of/Licence to Occupy Community Assets.**

CARRIED: 5/0

Cr Kristy D'Aprile spoke for the motion.

DRAFT

10.2.4 Self-Supporting Loan – Katanning Country Club
(ATTACHMENT)

File Ref: FM.LN.2
Reporting Officer: Denise Gobbart, Executive Manager Corporate & Community
Date Report Prepared: 14 July 2022
Disclosure of Interest: No Interest to disclose

Issue:

For Council to consider approving a self-supporting loan application by the Katanning Country Club Inc. (KCC) for the KCC Redevelopment Project.

Body/Background:

The KCC have written to the Shire advising that the Redevelopment Project is close to completion. Acknowledging that the scope of the project has grown significantly since its inception.

The KCC is seeking a self-supporting loan of \$250,000 for a period of 10 years. They are confident that they can meet an estimated annual payment of \$30,000 with an increase in venue hire and increased turnover by hosting large sporting events. It is also proposed for a modest increase in membership and fundraising, as well as a reduction in costs through volunteer work.

To support the KCC borrowings application they presented the copies of the following documents:

- KCC Budget 2022 to 2035
- KCC Strategic Business Plan 2022 to 2035
- KCC Financial Statements 2019, 2020 & 2021

This matter was presented to at the Ordinary Council Meeting (OCM) held 26 May 2022 and the following was resolved:

OC58/22 That Council, authorises the Chief Executive Officer:

- 1. In accordance with the requirements of s6.20(2) of the Local Government Act 1995, to give one (1) month's local public notice of the Shire's intention to borrow \$250,000 at the estimated rate of 3.7% for the term of ten (10) years for the Katanning Country Club Redevelopment Project.**
- 2. To investigate options for securing the loan.**

CARRIED BY ABSOLUTE MAJORITY: 7/0

Local Public notice was then given, the requirements were met with the notice being published using the following methods:

- Shire of Katanning Website on Thursday 2 June 2022
- Shire of Katanning Facebook on Thursday 2 June 2022
- Shire of Katanning Notice Boards on Thursday 2 June 2022
- The West Australian on Saturday 4 June 2022
- Great Southern Herald on Thursday 16 June 2022

Officer's Comment:

After the OCM held 26 May 2022 clarification was obtain from the KCC in relation to the total project cost and offset funding sources. The revised figures obtained are:

PROJECT EXPENDITURE

Bowls Relocation	\$ 796,546
A Laurino & Co - Contract	\$ 779,091
A Laurino & Co - Variations to Contract	\$ 504,878
Courtech Squash Courts	\$ 124,272
Tennis Fencing, Lights, Playground, BBQ etc	\$ 163,636
Floor Coverings	\$ 45,455
	<u>\$2,413,878</u>

PROJECT REVENUE

Shire Heritage Precinct Project	\$ 1,000,000
GSDC	\$ 170,000
DLGSC	\$ 160,000
Sport Australia	\$ 248,000
GSDC	\$ 100,000
Shire - Donation	\$ 50,000
Shire - Water Tanks	\$ 40,000
KCC	\$ 395,878
Pending Loan	\$ 250,000
	<u>\$ 2,413,878</u>

The KCC advise that the Trade and Other Payables of \$172,583 reflected in the Annual Report to 31 December 2021 did include a Shire of Katanning invoice of \$141,508.

As of 23 May 2022, the Katanning Country Club has an outstanding debtor balance of \$66,002.45 which is the unrecovered balance of the digital fraud matter. On that date they paid the Shire the balance of funds recovered.

During the period of advertising the intention to borrow, only one response was received. This response was from current user of the KCC in support of the proposal.

Consideration is needed for the Shire to have security over the proposed borrowings. It is proposed that our Solicitors be engaged to draft a legal agreement for the repayment of the self-supporting loan, together with a mortgage over the KCC land titles.

These documents would be expected to adequately protect the Shire's interests and provide options in the event that they need to be exercised.

Statutory Environment:

Local Government Act 1995

Subdivision 3 – Borrowings

6.20 Power to Borrow

(1) Subject to this Act, a local government may —

(a) borrow or re-borrow money; or

(b) obtain credit; or

- (c) arrange for financial accommodation to be extended to the local government in ways additional to or other than borrowing money or obtaining credit, to enable the local government to perform the functions and exercise the powers conferred on it under this Act or any other written law.
- (2) Where, in any financial year, a local government proposes to exercise a power under subsection (1) (**power to borrow**) and details of that proposal have not been included in the annual budget for that financial year —
- (a) unless the proposal is of a prescribed kind, the local government must give one month's local public notice of the proposal; and
- (b) the resolution to exercise that power is to be by absolute majority.
- (3) Where a local government has exercised a power to borrow and —
- (a) it does not wish to proceed with the performance of the function or the exercise of the power for which the power to borrow was exercised; or
- (b) after having completed the performance of the function or the exercise of the power for which the power to borrow was exercised, any part of the money borrowed, credit obtained or financial accommodation arranged has not been expended or utilized, the local government may resolve* to expend the money or utilize the credit or financial accommodation for another purpose if one month's local public notice is given of the proposed change of purpose.
- * *Absolute majority required.*
- (4) A local government is not required to give local public notice under subsection (3) —
- (a) where the change of purpose has been disclosed in the annual budget of the local government for the relevant financial year; or
- (b) in such other circumstances as are prescribed.

Local Government (Financial Management) Regulations 1996

20 When local public notice not required for exercise of power to borrow (Act s. 6.20(2)(a))

- (1) In this regulation — **major variation** means a variation in the terms of a loan or other financial accommodation which is —
- (a) a capitalisation of interest accruals; or
- (b) an increase in the term of the loan or other financial accommodation;
- re-finance**, in relation to a loan or other financial accommodation (the **existing loan**), means to borrow an amount (the **new loan**) which is, at the date of the new loan —
- (a) equal to the principal amount owing on the existing loan; or
- (b) not more than \$5 000 more or less than the principal amount owing on the existing loan,
- for the principal purpose of paying out the existing loan or preserving the credit originally provided by the existing loan.
- (2) A local government is not required to give local public notice of a proposal to exercise a power to borrow where —
- (a) the power is to be exercised to re-finance a loan or to continue other financial accommodation (whether with the same or another bank or financial institution); and
- (b) the re-financing or continuation is not a major variation.
- (3) A local government is not required to give local public notice of a proposal to exercise a power to borrow where each of the following conditions is satisfied —
- (a) a decision to exercise the power is made while there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;
- (b) the local government considers that the borrowing is required to address a need arising from the hazard, or from the impact or consequences of the hazard, to which the state of emergency declaration relates;

- (c) the decision and the reasons for it are recorded in the minutes of the meeting at which the decision is made.

Policy Implications:**Policy 2.12 Self Supporting Loans**

Policy Statement: Council in general, will only consider approving a self-supporting loan to a maximum of \$150,000 for any one applicant.

Objectives: is to ensure that the recipient of a Council provided self-supporting loan has the capacity and capability to repay the loan and associated costs.

Financial Implications:

As of 16 May 2022, an indicative quote provided by the Western Australian Treasury Corporation (WATC) for \$250,000 with 20 Semi Annual repayments has an interest rate of 3.6811% per annum. This would require semi-annual repayments of \$15,055.

This repayment does not include the Government Guarantee Fee, which is invoiced separately by WATC and is subject to change in accordance with government policy. The rate is currently 0.70%. If the rate remains unchanged the Guarantee Fee will be a total of \$9,730 over the life of the loan. This rate is calculated on the principal outstanding, so the annual repayment amount diminishes over the life of the loan.

The indicative Local Government Interest Rate on 13 July 2022 for the same loan period is 3.90%.

From 1 July 2022, the WATC revised local government lending framework became effective. They will be considering the following criteria:

- Governance Considerations – supported through improved engagement with the Department of Local Government, Sport and Culture (DLGSC). Consideration to the appropriateness of the loan purpose.
- Qualitative Criteria – for example: size, growth rate, operational characteristics, vulnerability to external developments, Year to Date performance vs. budget.
- Quantitative Criteria – Profitability, Serviceability, Liquidity & Leverage.

The combination of these three components of the lending evaluation process provides an enhanced view of risk to inform the lending decision.

The WATC will implement a structured local government (LG) loan monitoring framework to enable them to be proactive in the management of LG loans should financial performance deteriorate. It is expected that all LG borrowing clients will be subject to a credit review at least every three years.

If a credit review identifies a material issue the WATC may:

- Engage with the Council to determine the cause of any issue and agree with the LG a plan to address the issue.
- Proactively monitor the LG on a more frequent basis in line with the agreed plan to address the issue.
- Escalate the issue to DLGSC where there are concerns for the ongoing sustainability of the LG.

Any relationships between the Katanning Country Club Inc and the Shire of Katanning elected members and executive staff, will need to be disclosed on the loan application.

Risk Implications:

This item has been evaluated against the Shire of Katanning's Risk Assessment and Acceptance Criteria. The perceived level of risk is considered to be "Medium" risk and may require the allocation of additional own source funding to address any payment defaults on the proposed self-supporting loan.

Strategic Implications:

Shire of Katanning Strategic Community Plan 2022 - 2032

Focus Area Leadership

Aspiration Katanning is an inclusive and respectful community.

Objective To ensure that Shire resources are utilised in a manner that represents the best interest of the whole community.

Voting Requirement: Absolute Majority

Officer's Recommendation/Council Motion:

MOVED: CR KRISTY D'APRILE

SECONDED: CR MATT COLLIS

OC76/22 That Council:

1. **Agrees to provide the Katanning Country Club Inc. with a self-supporting loan facility of \$250,000 at an estimated rate of 3.7% over a term of ten (10) years, for the Katanning Country Club Redevelopment Project subject to the following conditions:**
 - i. **The registration of a mortgage over the Katanning Country Club property, being Lot 4 on Diagram 42548, Lot 130 on Diagram 52651 and Lot 1 on Deposited Plan 414669.**
 - ii. **A legal agreement to be prepared by our solicitors for the repayment of the self-supporting loan.**
2. **Authorise the use of the Common Seal by the Shire President and Chief Executive Officer on the following documents with the Katanning Country Club Inc.:**
 - i. **Self-Supporting Loan Agreement for \$250,000 repayable over ten (10) years, and**
 - ii. **Mortgage over Lot 4 on Diagram 42548, Lot 130 on Diagram 52651 and Lot 1 on Deposited Plan 414669 For the period of the loan.**

CARRIED BY AN ABSOLUTE MAJORITY: 5/0

Cr Kristy D'Aprile spoke for the motion.
Cr Michelle Salter spoke for the motion.
Cr John Goodheart spoke for the motion.

10.3 CHIEF EXECUTIVE OFFICER'S REPORTS

10.3.1 Ordinary Council Meeting Times

File Ref: GV.CM.1
Reporting Officer: Julian Murphy, Chief Executive Officer
Date Report Prepared: 18 July 2022
Disclosure of Interest: No interest to disclose

Issue:

To consider changing the starting times of Ordinary Council Meetings for the remainder of 2022.

Body/Background:

Council holds Ordinary Council Meetings on the fourth Thursday of each month except for January. For the first half of the 2022 year Council has held meetings commencing at 7.00pm.

Feedback from Councillors has been that the start time for meetings is too late and that 6.00pm would be preferable to the current start times.

Officer's Comment:

To ensure more convenience for Elected Members and efficiency of meetings, it is recommended that Council changes the start time of its Ordinary Council Meetings from 7.00pm to the earlier time of 6.00pm for the remainder of 2022.

Statutory Environment:

Local Government Act 1995:

Section 5.3 – Ordinary and Special Council Meetings

- (1) A council is to hold ordinary meetings and may hold special meetings.
- (2) Ordinary meetings are to be held not more than 3 months apart.

Policy Implications:

Council does not have a policy relating to this matter.

Financial Implications:

Cost of advertising changes in meeting start times (approx. \$400).

Risk Implications:

This item has been evaluated against the Shire of Katanning's Risk Assessment and Acceptance Criteria. The perceived level of risk is considered to be "High" risk and requires the allocation of additional own source funding to address any further payments for the project.

Strategic Implications:

Shire of Katanning Strategic Community Plan 2022 – 2032

Focus Area Leadership

Aspiration Katanning is an inclusive and respectful community.

Objective To ensure that Shire resources are utilised in a manner that represents the best interest of the whole community.

Voting Requirement: Simple Majority

Officer's Recommendation/Council Motion:

MOVED: CR SERENA SANDWELL

SECONDED: CR KRISTY D'APRILE

OC77/22 That Council changes the starting times of Ordinary Council Meetings to 6.00pm on the fourth Thursday of each month for the remainder of the 2022 calendar year, to be held in the Council Chambers 52 Austral Terrace Katanning.

CARRIED: 5/0

Cr Serena Sandwell spoke for the motion.

Cr Kristy D'Aprile spoke for the motion.

DRAFT

10.3.2 Annual Review of Delegations Register (ATTACHMENT)

File Ref: GV.AT.1
Reporting Officer: Julian Murphy, Chief Executive Officer
Date Report Prepared: 20 July 2022

Issue:

To review delegations from Council to the Chief Executive Officer.

Body/Background:

In accordance with section 5.18 a local government is to keep a register of delegations made under this division and review the delegations at least once every financial year.

In accordance with section 5.42 of the Local Government Act 1995, a local government is able to delegate some of its powers and duties to the Chief Executive Officer. The Chief Executive Officer may also delegate to other employees.

Officer's Comment:

The 2022 review of the Delegations Register has been undertaken to address suggested/required changes to the existing delegations (if applicable) with the view to improving the day-to-day functioning of the Shire and also comply with the requirement to review this document at least once every year.

Statutory Environment:

Local Government Act 1995

Section 5.18 states that 'A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.'

Section 5.42 Delegation of some powers and duties to CEO

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

** Absolute majority required.*

Policy Implications:

There are no policy implications in this matter.

Risk Implications:

This item has been evaluated against the Shire of Katanning's Risk Assessment and Acceptance Criteria. The perceived level of risk is considered to be "Low" risk and can be managed by routine procedures and with current resources.

Financial Implications:

There are no financial implications in this matter.

Strategic Implications:

Shire of Katanning Strategic Community Plan 2022 – 2032

Focus Area Leadership

Aspiration Katanning is an inclusive and respectful community.

Objective To ensure that Shire resources are utilised in a manner that represents the best interest of the whole community.

Voting Requirement: Absolute Majority

Officer's Recommendation/Council Motion:

MOVED: CR SERENA SANDWELL

SECONDED: CR MICHELLE SALTER

OC78/22 **That Council adopts the Delegations Register as proposed.**

CARRIED BY AN ABSOLUTE MAJORITY: 5/0

DRAFT

10.3.3 New Policy – Freeman of the Shire of Katanning (ATTACHMENT)

File Ref: GV.PO.1
Reporting Officer: Julian Murphy, Chief Executive Officer
Date Report Prepared: 19 July 2022
Disclosure of Interest: No interest to disclose

Issue:

To consider adopting a new Council policy relating to awarding the title of Freeman of the Shire of Katanning.

Body/Background:

The Shire of Katanning has no living Freeman and currently does not have a policy or process in place to consider nominations for the award.

A person is generally awarded the honour of Freeman in the following circumstances:

- They will have identifiable and long standing connections with the community in the Shire of Katanning and have made an outstanding, significant and meritorious contribution to the Shire and community across a range of endeavours.
- Their exceptional service is a matter of public record.
- Their endeavours will have benefited the community of the Shire of Katanning, Australia and humanity.

A person awarded the title Freeman of the Shire of Katanning will have no legal rights or privileges.

A copy of a proposed policy and procedure for awarding the honour of Freeman of the Shire is attached for Council consideration.

Council was first presented with this draft policy at the Council Forum in March 2022 and considered the matter at the July 2022 Forum. No negative feedback or concerns have been raised by Elected Members to the proposed policy to date.

Officer's Comment:

Should Council receive a nomination for the award of Freeman, this policy will provide the framework for considering nominations and awarding the title of Freeman to an individual.

Any nominations are required to be kept confidential until formally awarded by Council.

Statutory Environment:

Local Government Act 1995

Policy Implications:

Council does not have a policy relating to this matter.

Financial Implications:

Cost of awards and presentations at Council's discretion.

Risk Implications:

This item has been evaluated against the Shire of Katanning's Risk Assessment and Acceptance Criteria. The perceived level of risk is considered to be "High" risk and requires the allocation of additional own source funding to address any further payments for the project.

Strategic Implications:

Shire of Katanning Strategic Community Plan 2022 – 2032

Focus Area Leadership

Aspiration Katanning is an inclusive and respectful community.

Objective To ensure that Shire resources are utilised in a manner that represents the best interest of the whole community.

Voting Requirement: Simple Majority

Officer's Recommendation/Council Motion:

MOVED: CR KRISTY D'APRILE

SECONDED: CR MICHELLE SALTER

OC79/22 That Council adopts the new policy relating to Freeman of the Shire of Katanning as presented.

CARRIED: 5/0

Cr Kristy D'Aprile spoke for the motion.

10.3.4 Volunteer Bush Fire Brigades Management Arrangements

File Ref:	ES.PC.1
Reporting Officer:	Julian Murphy, Chief Executive Officer
Date Report Prepared:	19 July 2022
Disclosure of Interest:	No interest to disclose

Issue:

To consider establishing a position on the future management of Bush Fire Brigades in the Shire of Katanning.

Body/Background:

The WA Local Government Association (WALGA) is seeking feedback from Local Governments on the arrangements for the management of volunteer Bush Fire Brigades in Western Australia. WALGA requested feedback from Local Governments by 8 July 2022.

WALGA has provided the following background:

Western Australian Local Governments have extensive roles and responsibilities embedded in the State Emergency Management Framework across the emergency management spectrum of prevention, preparedness, response, and recovery. Under the *Bush Fires Act 1954*, Local Governments have responsibility for bushfire and the management of volunteer Bush Fire Brigades (BFBs). 111 Local Governments manage 563 BFBs involving approximately 20,000 volunteers.

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

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

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

The introduction of the *Work Health and Safety Act 2020* has also shone a spotlight on Local Government responsibilities for managing volunteer BFBs.

The development of the CES Act represents an important and timely opportunity for the sector to determine its position on the management of volunteer BFBs. An endorsed advocacy position will guide the Association in its engagement with the State Government on this issue.

WALGA Position

The WALGA Proposed Advocacy Position Paper (attached) outlines four options are identified for the future management of BFBs:

1. Status quo - continue with the current arrangements for management of BFBs whereby the majority are managed by Local Government and transfer arrangements are negotiated on an ad hoc basis between DFES and Local Governments (or their BFBs).

2. Improvements - continue with the current arrangements for Local Government management of BFBs with additional support provided by the State Government with respect to increased funding and better access to training resources and other support.
3. Hybrid Model - Local Government continues to manage BFBs where they have the capacity, capability and resources to do so; however where they do not have the capacity, capability and resources, responsibility for management of BFBs is transferred to DFES.
4. Transfer - Responsibility for management of all BFBs is transferred to the State Government, consistent with the arrangements in other States and Territories.

WALGA is proposing to support a hybrid model to manage Bush Fire Brigades.

Work Health and Safety Act 2020

The introduction of the *Work Health and Safety Act 2020* (WHS) has highlighted the level of responsibility that Local Governments have for volunteers.

The following extract is from the "*Overview of Western Australia's Work Health and Safety Act 2020*" issued by the Department of Mines, Industry Regulation and Safety (DMIRS), and Worksafe:

- The primary duty holder is the 'person conducting a business or undertaking' (PCBU) which is intended to capture a broader range of contemporary workplace relationships.
- A primary duty of care requiring PCBUs to, so far as is reasonably practicable, ensure the health and safety of workers and others who may be affected by the carrying out of work.
- Duties of care for persons who influence the way work is carried out, as well as the integrity of products used for work, including the providers of WHS services.
- A requirement that 'officers' exercise 'due diligence' to ensure compliance.
- The new offence of industrial manslaughter, which provides substantial penalties for PCBUs where a failure to comply with a WHS duty causes the death of an individual, in circumstances where the PCBU knew the conduct could cause death or serious harm.
- The voiding of insurance coverage for WHS penalties, and imposition of penalties for providing or purchasing this insurance.
- The introduction of WHS undertakings, which are enforceable, as an alternative to prosecution.
- Reporting requirements for 'notifiable incidents' such as the serious illness, injury or death of persons and dangerous incidents arising out of the conduct of a business or undertaking.
- A framework to establish a general scheme for authorisations such as licences, permits and registrations (for example, for persons engaged in high-risk work or users of certain plant or substances), including provisions for automated authorisations.

Work Health and Safety Act 2020 Duty of Care Failure and Penalties

Large fines now apply to Local Governments and criminal charges may be imposed on executive staff should they fail in their duty of care under the new Work Health and Safety Act 2020. A substantial increase in the maximum fine is now applicable to executives along with a 20 year jail term. The local government body is now subject to a fine up to \$10M, up 2.85 times from \$3.5M.

Exceptions (WHS section 34)

Volunteers are not liable for a failure to comply with a health and safety duty except in their capacity as a worker (section 28) or other person at a workplace (section 29).

Bush Fire Brigades Management

The introduction of the WHS Act brings WA into line with other States and Territories with respect to work health and safety laws, however WA remains the only State where Bush Fire Brigades are managed by Local Governments.

Local Governments vary in their capacity to manage local volunteer Bush Fire Brigades and bush fire risk. The Shire of Katanning has appointed 19 volunteer Bush Fire Control Officers (FCOs) and established four volunteer Bush Fire Brigades:

- Badgebup
- Carrolup
- Central
- Merrebin

The Central BFB located in the Katanning townsite has one rural fire fighting appliance housed at a storage shed at the Shire Depot. The other brigades in the Shire are farmer response brigades.

The Shire of Katanning employs a Community Emergency Services Manager (CESM) to support the administration and management of volunteer Bush Fire Brigades with the neighboring Shires of Broomehill Tambellup and Woodanilling. The position is partly funded by DFES.

Ferguson Report

Following an inquiry into the 2016 Waroona Bush Fires, the Ferguson Report found that “that the current system for managing bushfire in Western Australia is failing citizens and the government”. The Report also recommended that the State Government establish a Rural Fire Service to improve the capacity of rural fire management and bush fire risk management.

Officer’s Comment:

The issue was first presented to Council at the June 2022 Council Forum. At the Forum Council agreed to:

- Consult with local Fire Control Officers (FCOs) and Bush Fire Brigades before establishing a position on the future management of Bush Fire Brigades in the Shire of Katanning and providing feedback on the WALGA Proposed Advocacy Position Paper.

A consultation meeting was held with FCOs on 29 June 2022. The meeting was attended by 9 FCOs, 4 Councillors and 2 Staff. At the meeting there was wide ranging discussion about the WALGA advocacy position and the future of bush fire management in WA. The FCOs at the meeting were generally in agreement with the WALGA advocacy position i.e. a hybrid model which allows local government to make their own decision as to the future management of bush fire brigades.

It was also agreed to circulate a survey to FCOs get a wider range of opinions. The following is a summary of the survey results:

- The majority of responses (about 90%) supported the WALGA advocacy position.
- The majority of responses (about 90%) preferred that the Shire of Katanning continue to manage its own bush fire brigades.

Council was not able to formally consider its position prior to the close of the WALGA submissions date on 8 July 2022. The CEO consulted with Councillors (out of session) and submitted the following on behalf of the Shire of Katanning:

1. Does your Local Government manage BFBs?
 - A. Yes
2. Does your Local Government support the proposed Advocacy Position on arrangements for the management of Bush Fire Brigades? Why or why not?
 - A. Yes. The Advocacy position proposed by WALGA aligns with Shire of Katanning's view on the capability and capacity of Local Governments to manage Bush Fire Brigades. Given the high-risk environment in which Bush Fire Brigades operate and the limited resources and expertise available to rural Local Governments, the Shire of Katanning is concerned about how volunteers will be best supported into the future. The recent requirements by State Government for COVID vaccinations for volunteer bush fire fighters and the need for a higher level of training for volunteers following the introduction of the WHS Act, has highlighted the difficulty in administering the requirements of State Government with the resources available to the Shire. The availability of volunteers will increasingly become a critical issue into the future. The future needs and challenges may be well beyond local volunteers and the Shire alone. The WALGA Advocacy Position provides options for Local Governments to determine if they have the capacity and capability to manage bush fire brigades into the future. The option for self-determination is important to the Shire of Katanning and its local volunteers.
3. Does your Local Government have any further suggestions or changes to the proposed Advocacy Position?
 - A. No
4. For Local Governments that manage BFBs, is your Local Government's preference to continue to manage BFBs or to transfer responsibility to the State Government?
 - A. It is the Shire of Katanning's preference to continue to manage its Bush Fire Brigades.
5. Is your response endorsed by Council? If so, please include the Council paper and resolution.
 - A. No
6. Do you have any further comments to make?
 - A. It is important the Local Governments have the ability to determine what is best for their local communities. However, it is also important that Bush Fire Brigades are well resourced and managed to provide the best service possible. Further support by the State Government for Bush Fire Brigade management is essential.

In order to establish a formal position, it is recommended that Council endorses the CEO's submission and supports the WALGA advocacy position on the future management of Bush Fire Brigades.

Statutory Environment:

- Local Government Act 1995: Division 3 — Executive functions of local governments, Subdivision 1 — Performing executive functions, s3.18. Performing executive functions: 3(b).
- Work Health and Safety Act 2020, mandates the duty of care to volunteers by the person conducting a business undertaking. Senior Local Government officers with decision making and budget allocation control, have a duty of care to volunteer bush fire brigade members.
- Bush Fires Act 1954, s36 and s41. Provides for local governments to establish, maintain and equip bush fire brigades.

Policy Implications:

Council does not have a policy relating to this matter.

Financial Implications:

No direct financial implications relating to this matter.

Risk Implications:

This item has been evaluated against the Shire of Katanning's Risk Assessment and Acceptance Criteria. The perceived level of risk is considered to be "High" risk and requires the allocation of additional own source funding to address any further payments for the project.

Strategic Implications:

Shire of Katanning Strategic Community Plan 2022 – 2032

Focus Area Leadership

Aspiration Katanning is an inclusive and respectful community.

Objective To ensure that Shire resources are utilised in a manner that represents the best interest of the whole community.

Voting Requirement: Simple Majority

Officer's Recommendation/Council Motion:

MOVED: CR KRISTY D'APRILE

SECONDED: CR MATT COLLIS

OC80/22 That Council with respect to the Western Australian Local Government Association (WALGA) proposed Advocacy Position on Arrangements for Management of Volunteer Bushfire Brigades, endorses the CEO's submission made on behalf of the Shire of Katanning and supports WALGA proposed Advocacy Position as follows:

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

CARRIED: 5/0

Cr Kristy D'Aprile spoke for the motion.
Cr John Goodheart spoke for the motion.

10.3.5 Great Southern Designated Area Migration Agreement (ATTACHMENT)

File Ref: CS.AA.1
Reporting Officer: Julian Murphy, Chief Executive Officer
WALGA Great Southern Zone Secretariat
Date Report Prepared: 21 July 2022
Disclosure of Interest: No interest to disclose

Issue:

To consider support for the establishment of a Great Southern Regional Designated Area Migration Agreement (DAMA).

Body/Background:

A regional Designated Area Migration Agreement (DAMA) is a formal agreement between the Australian Government and a regional, state or territory authority. Operating under an agreement-based framework, a DAMA provides access to more overseas workers than standard skilled migration programs (Temporary Skills Shortage (TSS) 482 visa or Regional 494 visa) by allowing variations to standard occupations and skills lists.

Establishing a DAMA in the region requires the support of various stakeholder groups as well as an in-depth analysis of relevant employment markets with verified evidence to support the application. Once established, a DAMA is reviewed annually and may be varied yearly.

A DAMA is a two-tier framework covering a defined regional area. The framework is:

- first tier - an overarching five-year head agreement with the region's representative (e.g. Regional Development Australia Great Southern). A region representative is called the Designated Area Representative (DAR).
- second tier - DAMA labour agreements with businesses/employers under the head agreement for the region.

Under the framework the DAR forms the first tier and negotiates a DAMA on behalf of businesses/employers within its region. Negotiations provide the most significant benefit of a DAMA and encompass standard occupations, including skill lists and any concessions that may be appropriate to a specific occupation. Examples of negotiated concessions include an extension of the age criteria, relaxation of English skills requirements or modification to the skills and experiences required. The result is flexibility for regions to respond to their unique economic and labour market conditions.

The framework's second tier formalises the individual DAMA labour agreement. A business/employer applies for a DAMA Labour Agreement to the DAR. The business/employer must first demonstrate via Labour Market Testing (LMT) that it cannot employ suitable Australian employees. (A LMT is a business case presented to a DAR and the Department of Immigration that provides solid evidence and includes advertising on the Australian Government's Jobactive website and other search methods.)

If an application satisfies the DAMA's terms and conditions, and is supported, the DAR provides endorsement of the application through an approval letter. Once endorsed, applications are then subject to assessment by the Department of Home Affairs and Minister of Immigration, Citizenship and Multicultural Affairs.

If an occupation is unavailable under the standard visa programme, or the DAMA program, a business may negotiate its own Labour Agreement with the Minister, separate from a regional DAMA. Negotiations are based on a labour market survey that demonstrates the reason why a previously unlisted occupation has been applied for.

It is noted most regional businesses do not have the capacity to individually negotiate a Labour Agreement due to lack of capacity, expense and time constraints. A regional DAMA would provide a more attractive option to support business owners in the Great Southern.

Benefits of a DAMA

A DAMA could provide a community with economic benefits through population growth and increased output.

The key value opportunity is that immigrant workers cannot move from the area of their DAMA but can move between businesses within that area. Effectively migrant workers are secured to the region.

Another benefit of a DAMA is that the semi-skilled occupations, that are in shortage in the particular region, could be available under a DAMA, while they are not available under the standard visa program. Some examples of such occupations are truck drivers, wait staff, bar attendants, drillers, driller assistants, earthmoving/mobile plant operators and horticultural workers such as process and field workers.

DAMA concessions

English Language Concession:

The English language test scores required under a DAMA can be lower than under the standard visa program making it easier for the applicant's visa to be processed. This is especially the case where a person is generally a good English communicator but perhaps not able to meet the requirements of a stringent English test for a visa.

Temporary Skilled Migration Income Threshold (TSMIT) Concession:

The TSMIT value is set by legislation to ensure that migrant workers can financially support themselves in Australia and acknowledges the additional costs temporary residents incur, such as health care and education costs. The current value of the TSMIT is \$53,900, excluding superannuation.

When calculating whether the salary paid by an employer meets the TSMIT, annual earnings may consist of the base salary plus guaranteed earnings such as housing, company car, and guaranteed overtime where this is an industry standard. If an employer intends to include these guaranteed earnings to meet TSMIT requirements, they must be valued and written into the agreed employment contract.

The use of concessions must not undermine relevant industrial awards, nor market salary rates for an equivalent Australian employee in the same location.

Skills Concession:

Every occupation requires an assessment of education, qualifications and employment experience to determine comparability against the assessment standards of a DAMA.

Permanent Residency requirements:

Upon an approval of the subclass 482 visa, there may be a pathway to permanent residency, subject to satisfying the criteria and availability, through the subclass 186 scheme Employer Nominated Scheme Visa.

Age Concession:

To transition into permanent residency, every applicant must meet the age criteria, being under the age of 45.

DAMA requirements

Advice from the office of Rick Wilson, Federal Member for O'Connor, states that a request for a DAMA must contain, as a minimum, the following:

1. a letter of endorsement from the relevant stakeholders;
2. a Designated Area Representative (DAR), endorsed by stakeholders, who can manage the request to establish an agreement;
3. a business case if any additional concessions are being requested to the minimum requirements outlined for a company specific labour agreement; and
4. an explanation of how the DAR proposes to support employers and facilitate the integration of overseas workers in their local communities (for example – provision of information on workplace rights and sponsorship obligations; basic services in the local area such as health; emergency and educational services; community activities such as sporting groups and religious services; engagement of a multicultural officer);
5. supporting documentation, which may include:
 - a. profit and loss statements;
 - b. other applicable financial statements; and
 - c. relevant supporting information.

An example of a region in Western Australia currently covered by a DAMA, since 21 March 2019, is the Goldfields region. The City of Kalgoorlie-Boulder is the DAR and represents other regional and nearby shires.

The Goldfields region aimed to secure permanent labour so as to avoid constantly retraining employees, such as backpackers. The Pilbara region had also applied for a DAMA before the Goldfields was secured, however they were unsuccessful in their application due to not being able demonstrate eligibility.

It is important to note the Goldfields DAMA is an employer-sponsored visa programme providing the framework for employers in its designated area to sponsor skilled and semiskilled workers under visa subclasses 482, 494, and 186. This is the same model proposed by the Great Southern region.

The process of becoming a DAMA took the City of Kalgoorlie-Boulder 12 months, once the application was submitted. A financial consultancy business was engaged to undertake their business case, which can take between 3 and 6 months to establish.

From a human resource perspective, the City of Kalgoorlie-Boulder provided a 0.5 FTE (full time equivalent) staff member to liaise with the consultant throughout the formation of the Business Case.

In addition, the following on-going human resource tasks, required as the DAR, include:

1. dealing with an approximate average of 1 to 2 business applications per month. A charge of \$250 is levied for each nomination for endorsement. This includes Statutory Declarations and ensures businesses are financially viable and stable.
2. answering queries from prospective businesses, which can be very time consuming.
3. seeking guidance from a team within the Department of immigration.
4. undertaking of an Annual Report for the Department and Minister.
5. negotiation of ongoing Terms and Conditions of the DAMA.
6. surveys and analysis of the regional labour market.
7. monthly meetings with a Department of Immigration representative to discuss the DAMA programme. Note: The Department also liaises with businesses directly.

Other points of note, gained through research with external organisations, include:

1. a subclass 491 visa, for highly skilled and desired occupations, requires nomination by the State Government, or an eligible family member and doesn't require a sponsor. This type of visa cannot be included in a DAMA;
2. the City of Kalgoorlie-Boulder has a population of approximately 30,000;
3. the more local government authorities involved, the better the chance of securing a DAMA; and
4. a larger organisation, such as a Regional Development Authority is best positioned to take on the role of regional representative (DAR) and offers the application a stronger opportunity for success, indicating collaboration between communities.

Creating a DAMA is an extensive process, particularly for the lead organisation (DAR) involved in the application and consultancy phase. Furthermore, there are significant resources required to manage ongoing applications which require liaison with the Department of Immigration for the five-year term.

This type of project requires the support of many stakeholders including regional Local Governments, Chambers of Commerce, Regional Development Australia (RDA), Development Commissions, and members of parliament. All stakeholders must endorse the organisation that is capable and willing to accept the responsibility of being a Designated Area Representative.

Regional Development Australia (RDA) Great Southern have offered to act as the Designated Area Representative (DAR) which will meet this ongoing administrative requirement.

Alternative Visa Options to DAMA

Pacific Labour Mobility Scheme

This Scheme enables citizens of partner countries to take up low-skilled and semi-skilled work opportunities in all sectors in rural and regional Australia for up to 3 years. Partner countries include: Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu and Vanuatu.

Seasonal worker Program (Agriculture and Accommodation)

This Scheme enables citizens of partner countries to take up unskilled and low-skilled work opportunities in the Australian agriculture and accommodation sectors in selected rural and regional locations of Australia for up to 9 months. Partner Countries: Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu and Vanuatu.

Industry Labour Agreement

Labour agreements enable approved businesses to sponsor skilled overseas workers when there is a demonstrated need that cannot be met in the Australian labour market and where standard temporary or permanent visa programs are not available. Industry labour agreements are for a specific industry with fixed terms and conditions. The industry is required to show ongoing labour shortage and extensive consultation within the industry. Various approved industry labour agreements include dairy, aquaculture, fishing, meat and livestock, advertising, hospitality, labour-hire and religion.

Standard Business Sponsorship -482 (For highly Skilled Occupations)

This temporary visa lets an employer sponsor a suitably skilled worker to fill a position for which they are unable to find a suitably skilled Australian. Based on the occupation, this visa is generally granted for 2-4 years.

Consultation

A West Australian Local Government Association (WALGA) Great Southern Country Zone meeting was held in Jerramungup on 24 June 2022. All 11 Local Governments of the region were represented.

The Great Southern Development Commission Chief Executive Officer Natasha Monks also attended and participated in the briefing on a proposed DAMA for the region.

The meeting resolved:

That the Great Southern Country Zone of WALGA supports the concept of the Designated Area Migration Agreement (DAMA) as follows:

- 1. The Great Southern Country Local Governments are to report back to the Zone Executive Officer by Wednesday, 17 August 2022 as to their interest in joining the DAMA.*
- 2. The Great Southern Country Zone acknowledge the Regional Development Australia office will act as the Designated Area Representative (DAR), and*
- 3. The Great Southern Country Zone acknowledges that funding will be required from each Local Government.*

Officer's Comment:

The level of unemployment in the Shire of Katanning has remained relatively stable since late 2017. These low unemployment rates indicate the available pool of employees for the Shire of Katanning businesses is extremely low and is ultimately leading to business disruption. A number of large employers in the Shire of Katanning have reduced operating hours in order to cope with lower than desired staffing levels.

On the basis of the current employment conditions the author believes the development of a Great Southern regional DAMA offers part of a solution for those businesses who are currently experiencing under-employment. While it is unlikely a regional DAMA will be the panacea for all businesses it could provide an avenue to assist larger businesses with the capacity to invest in the program.

While a DAMA could produce potential employees, it must also be understood that housing considerations must be taken into account. While housing availability is easing, it is still a significant consideration, and is likely to continue for another 12-24 months, where employers

will need to address this consideration in the development of their business case when preparing their DAMA applications.

On the basis of the relatively low cost, matched against the potential to provide businesses with increased access to new labour markets the author recommends the Shire signal its intent to participate at the next WALGA Great Southern Country Zone meeting on 26 August in Katanning.

Whilst the intent is for the entire Great Southern zone to be include in the DAMA prescribed area this can only be guaranteed if each of the 11 local governments agree both in principle and support the business case with a level of funding considered commensurate with their population and financial circumstances.

Statutory Environment:

Statutory Dependency Migration Act 1958

Policy Implications:

Council does not have a policy relating to this matter.

Financial Implications:

Table 1 below identifies the relative cost proposed by all stakeholders in the development of a DAMA in the Great Southern. It is expected that between \$80,000 to \$100,000 is required to develop the business case in order to be successful. This includes the cost of a consultant to conduct a survey of regional employers, research and provide statistics, and to identify any occupations that may fit the criteria for inclusion in a DAMA application. The direct costs of the consultant are estimated to be circa \$60,000 to \$80,000, with the balance required for project contingencies.

It is noted that a designated team member resource is required to liaise with the consultant. In the case of Kalgoorlie-Boulder, it was estimated that a staff member to the value of 0.5 FTE basis was required for the purpose of establishing their DAMA. Following the successful DAMA application, a further 0.5 FTE investment with ongoing tasks has been required.

RDA Great Southern have indicated they are prepared to fund the ongoing 0.5 FTE employee costs relating to the DAR for the proposed five-year period. On this basis each local government in the Great Southern are only required to fund the upfront business case. Each employer that makes application in the Great Southern will fund the ongoing administration costs of the DAR. There may also be a proportion of the application fees over the five-year period that recoups some or all of the original local government investment. This will be determined if the Great Southern zone local governments make a commitment to the business case and DAMA application. RDA Great Southern will lead this process and report back to the zone.

It is proposed to fund the Shire of Katanning's contribution to the development of the Great Southern DAMA from the Economic Development Services (GL5881) provision in the Annual Budget.

Table 1. Proposed Funding Model

		Estimated Population	Contribution based on Population	Adjusted Contribution
	Total Funds		\$ 111,803	\$ 100,000
	Organisation			
1	GSDC		\$ 10,000	\$ 10,000
2	RDA		\$ 10,000	10,000
	LGA's	\$ 1.50	\$ 20,000	\$ 20,000
		Per head of pop		
3	City of Albany	38,000	\$ 57,000	\$ 40,000
4	Shire of Denmark	6,422	\$ 9,633	\$ 8,000
5	Shire of Plantagenet	5,079	\$ 7,619	\$ 8,000
6	Shire of Katanning	4,200	\$ 6,300	\$ 7,000
7	Shire of Kojonup	1,985	\$ 2,978	\$ 5,000
8	Shire of Gnowangerup	1,215	\$ 1,823	\$ 2,500
9	Shire of Broomehill-Tambellup	1,144	\$ 1,716	\$ 2,500
10	Shire of Jerramungup	1,109	\$ 1,664	\$ 2,500
11	Shire of Cranbrook	1,089	\$ 1,634	\$ 2,500
12	Shire of Kent	550	\$ 825	\$ 1,000
13	Shire of Woodanilling	409	\$ 614	\$ 1,000
		61,202	\$ 91,803	\$ 80,000

Risk Implications:

This item has been evaluated against the Shire of Katanning's Risk Assessment and Acceptance Criteria. The perceived level of risk is considered to be "High" risk and requires the allocation of additional own source funding to address any further payments for the project.

Strategic Implications:

Shire of Katanning Strategic Community Plan 2022 – 2032

Focus Area Economic

Aspiration Katanning is an economic hub of the Great Southern region, offering a range of employment and business opportunities.

Objective To work alongside local businesses to facilitate employment, growth and development.

PROCEDURAL MOTION:**Voting Requirement:** Simple Majority**MOVED: CR KRISTY D'APRILE****SECONDED: CR SERENA SANDWELL****OC81/22** That Council suspends standing orders.

CARRIED 5/0

PROCEDURAL MOTION:**Voting Requirement:** Simple Majority.**MOVED: CR KRISTY D'APRILE****SECONDED: CR SERENA SANDWELL****OC82/22** That Council resumes standing orders.

CARRIED 5/0

Officer's Recommendation/Council Motion:**Voting Requirement:** Simple Majority**MOVED: CR KRISTY D'APRILE****SECONDED: CR MATT COLLIS****OC83/22** That Council:

- 1. Supports the development of a Great Southern Designated Area Migration Agreement; and**
- 2. Advises the West Australian Local Government Great Southern Country Zone Meeting, by 17 August 2022, of the Shire of Katanning's intent to participate, subject to:**
 - a. Regional Development Australia Great Southern undertaking the role of the Designated Area Representative, and**
 - b. A contribution of up to \$7,000, be confirmed as the Shire of Katanning's contribution with the CEO authorised to commit funding up to this amount.**

CARRIED: 5/0

Cr Kristy D'Aprile spoke for the motion.
Cr John Goodheart spoke for the motion.

11. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

DRAFT

13. CONFIDENTIAL ITEMS**PROCEDURAL MOTION****MOVED: CR SERENA SANDWELL****SECONDED: CR MICHELLE SALTER**

OC84/22 That Council closes the meeting to the public to consider the Tender 03-2021 – Operation & Management of the Katanning Aquatic Centre

CARRIED: 5/0

Cr Serena Sandwell disclosed an interest affecting impartiality to item 13.1 as she is a board member of the Katanning Aquatic Centre and left the room at 7.23pm.

Members of the public left the room at 7.23pm.

13.1 Tender 03-2021 – Operation & Management of the Katanning Aquatic Centre
(ATTACHMENT)

File Ref: RC.TE.1
Reporting Officer: Denise Gobbart, Executive Manager Corporate & Community
Date Report Prepared: 13 July 2022
Disclosure of Interest: No Interest to disclose

Reason for Confidentiality:

The Report is confidential in accordance with section 5.23(2)(c) of the Local Government Act because it deals with a contract which may be entered into by Council.

Voting Requirement: Simple Majority

Officer's Recommendation/Council Motion:

MOVED: CR MICHELLE SALTER**SECONDED: CR KIRSTY D'APRILE**

OC85/22 That Council accepts the tender from Katanning Aquatic Sports Inc for Request for Tender 03-2021 for the Management and Operation of the Katanning Aquatic Centre as per the Tender Report at the tendered price of \$381,270 for a contract period of three years, excluding GST.

CARRIED: 4/0

Cr Michelle Salter spoke for the motion.

Cr Kristy D'Aprile spoke for the motion.

Cr Matt Collis spoke for the motion.

PROCEDURAL MOTION

Voting Requirement: Simple Majority

MOVED: CR MICHELLE SALTER

SECONDED: CR MATT COLLIS

OC86/22 That Council reopens the meeting to the public.

CARRIED: 4/0

Cr Serena Sandwell returned to the room at 7:26pm.

14. CLOSURE OF MEETING

The Presiding Member declared the meeting closed at 7:26pm.