



COUNCIL CALENDAR		
Date	Time	Meeting
16 May 2023	5:00pm	Ordinary Council Meeting
20 June 2023	5:00pm	Ordinary Council Meeting

APRIL MEETING PROGRAM	
2:30pm	Council Forum
5:00pm	Ordinary Council Meeting

MEETING GUESTS

Nil

Contents

1.0	OPENING & WELCOME	5
2.0	ATTENDANCE & APOLOGIES	5
3.0	DECLARATIONS OF INTEREST	5
4.0	ANNOUNCEMENTS.....	5
4.1	APPLICATION FOR LEAVE OF ABSENCE	5
5.0	PUBLIC QUESTION TIME & DEPUTATIONS (15 MIN)	5
6.0	MINUTES OF PREVIOUS MEETINGS	5
6.1	CONFIRMATION OF MINUTES OF ORDINARY MEETING OF COUNCIL	5
6.1.1	CONFIRMATION OF MINUTES	5
6.1.2	BUSINESS ARISING.....	6
6.2	COMMUNITY BENEFIT FUND ADVISORY COMMITTEE.....	6
6.2.1	RECEIVE MINUTES	6
6.2.2	ENDORSE COMMITTEE RECOMMENDATIONS	6
7.0	STATUS REPORT.....	7
8.0	REPORTS.....	8
8.1	CHIEF EXECUTIVE OFFICER	8
	AGENDA ITEM: 8.1.1 - Mt Arrowsmith Road Haulage Contribution	8
	AGENDA ITEM: 8.1.2 - Delegations Review 2023	11
	AGENDA ITEM: 8.1.3 - Proposed Outbuilding – Lot 6 (No 39) Thomas Street, Naremben	15
8.2	EXECUTIVE MANAGER CORPORATE SERVICES	22
	AGENDA ITEM: 8.2.1 – Naremben Bowling Club contributions to bowling green	22
	AGENDA ITEM: 8.2.2 – Amendment to lease agreement – Senior Citizens Centre	27
	AGENDA ITEM: 8.2.3 - Monthly financial statements for the month ended 31 March 2023	30
	AGENDA ITEM: 8.2.4 - Schedule of Accounts for Period Ended 31 March 2023	32
9.0	URGENT BUSINESS AS PERMITTED BY COUNCIL	34
10.0	COUNCILLOR'S REPORTS	34
11.0	DATE, TIME & PLACE OF NEXT MEETING.....	34
12.0	CLOSURE	34

DECLARATION OF INTEREST FORM

TO: CHIEF EXECUTIVE OFFICER

As required by Section 5.65 of the Local Government Act 1995, I _____
hereby disclose my interest in the following matters of the agenda papers for the Council meeting
dated _____.

FINANCIAL INTEREST

AGENDA ITEM No.	SUBJECT	NATURE OF INTEREST	MINUTE No.

CLOSELY ASSOCIATED PERSON AND IMPARTIALITY INTEREST

AGENDA ITEM No.	SUBJECT	NATURE OF INTEREST	MINUTE No.

PROXIMITY INTEREST

AGENDA ITEM No.	SUBJECT	NATURE OF INTEREST	MINUTE No.

SIGNATURE: _____ **DATE:** _____

NOTES:

- For the purposes of the financial interest provisions you will be treated as having a financial interest in a matter if either you, or a person with whom you are closely associated, have a direct or indirect financial interest or a proximity interest in the matter.
NB: It is important to note that under the Act you are deemed to have a financial interest in a matter if a person with whom you are closely associated has a financial interest or a proximity interest. It is not necessary that there be a financial effect on you.
- This notice must be given to the Chief Executive Officer prior to the meeting.
- It is the responsibility of the individual Councillor or Committee Member to disclose a financial interest. If in doubt, seek appropriate advice.
- A person who has disclosed an interest must not preside at the part of the meeting relating to the matter, or participate in, be present during any discussion or decision-making procedure relating to the matter unless allowed to do so under Section 5.68 or 5.69 of the Local Government Act 1995.

OFFICE USE ONLY:

- PARTICULARS OF DECLARATION GIVEN TO MEETING
- PARTICULARS RECORDED IN MINUTES
- PARTICULARS RECORDED IN REGISTER

CHIEF EXECUTIVE OFFICER: _____ **DATED:** _____

NOTICE OF MEETING

To the President & Councillors,

In accordance with the provisions of Section 5.5 of the Local Government Act, you are hereby notified that the 694th Ordinary Meeting of Council has been convened for:

Date: Tuesday 18 April 2023

At: Shire of Narembeen Council Chambers
1 Longhurst Street, Narembeen

Commencing: 5.00pm



Paul Sheedy
Acting Chief Executive Officer
Date: 13 April 2023

DISCLAIMER

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

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

AGENDA

Shire of Narembeen Ordinary Council Meeting
Tuesday 18 April 2023, commencing at 5:00pm

1.0 Opening & Welcome

2.0 Attendance & Apologies

Attendance

Councillors

Officers

Apologies

Approved leave of absence

3.0 Declarations of Interest

4.0 Announcements

4.1 Application for leave of absence

5.0 Public Question Time & Deputations (15 min)
--

Nil

6.0 Minutes of Previous Meetings

6.1 Confirmation of Minutes of Ordinary Meeting of Council

6.1.1 Confirmation of Minutes

Confirmation of Minutes from the Shire of Narembeen Ordinary Meeting held on Tuesday 21 March 2023

RECOMMENDATION:

That the minutes of the meeting of the Shire of Narembeen Ordinary Meeting held on Tuesday 21 March 2023 be confirmed as a true and accurate record of the proceedings.

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

CARRIED /

6.1.2 Business Arising

Business Arising from the Minutes of the Shire of Narembeen Ordinary Meeting held Tuesday 21 March 2023

6.2 Community Benefit Fund Advisory Committee

6.2.1 Receive Minutes

Receive minutes from the meeting of the Community Benefit Fund Advisory Committee held on Wednesday 12 April 2023

RECOMMENDATION:

That the minutes of the meeting of the Community Benefit Fund Advisory Committee held on Wednesday 12 April 2023 be confirmed as a true and accurate record of the proceedings.

COUNCIL RESOLUTION

MIN **MOTION -** Moved Cr. Seconded Cr. **CARRIED /**

6.2.2 Endorse Committee Recommendations

Endorse Committee recommendation from the meeting of the Community Benefit Fund Advisory Committee held on Wednesday 12 April 2023

RECOMMENDATION:

That the Ramelius Resources and Shire of Narembeen Community Benefit Fund Advisory Committee recommend that the Shire of Narembeen Council approve the following grant applications:

Club/Group	Project/Event	Amount
Narembeen Hockey Club	Lighting Project	\$10,000
Narembeen High School	Disco and Leadership Workshops	\$1,800
Mt Walker Golf Club	Open Day Prizes	\$500
Narembeen Netball Club	Drink Bottle Spout for Water Fountain	\$300
Narembeen Golf Club	Motorised Golf Buggy Storage Shed	\$6,000
Narembeen CRC	Cheese, Chatter and Canvas Event	\$1,500
Narembeen CRC	Youth Leadership Forum	\$1,650
TOTAL		\$21,750

COUNCIL RESOLUTION

MIN **MOTION -** Moved Cr. Seconded Cr. **CARRIED /**

7.0 Status Report

RECOMMENDATION:

That the Status Report for April be received.

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

CARRIED /

8.0 Reports

8.1 Chief Executive Officer

AGENDA ITEM: 8.1.1 - Mt Arrowsmith Road Haulage Contribution

Subject:	Mt Arrowsmith Road Haulage Contribution
Applicant:	Tampia Operations
File Ref:	ADM547
Disclosure of Interest:	Nil
Author:	Paul Sheedy, Acting Chief Executive Officer
Date:	30 March 2023
Attachments:	Mt Arrowsmith Road haulage contributions

PURPOSE

Council to consider and agree to reimburse \$132,353.47 (in lieu of previously agreement for \$94,073), including GST, from its infrastructure reserve fund, representing road haulage contributions collected from Tampia Operations for Mt Arrowsmith Road, from July 2021 to September 2022.

BACKGROUND

May 2020

Council signed an agreement with Explaurum Pty Ltd dated 26 May 2020 relating to the proposed haulage route and haulage conditions between the proposed Tampia Hill mining operation and the Edna May processing facility in the Shire of Westonia. Refer attachment.

The agreement approves the use of Council's Road network including 42.4km of sealed road for a financial contribution of \$0.0107 per km per tonne, which amounts to approximately \$340,260 per annum payable to the Shire of Narembreen. These funds are for the future maintenance of the sealed section of the haulage route and are being set aside in a reserve fund as they are received.

The agreement reflects that Mt Arrowsmith road was to remain a gravel road and that a routine road maintenance program for Mt Arrowsmith road was to be developed with the Shires Works Manager.

Ramelius (who subsequently purchased Explaurum) elected to seal Mt Arrowsmith Road at their costs in late 2020 and early 2021 in preparation for mining operations which commenced in April 2021 to avoid any potential road closures during wet weather. Road designs were completed by Council's consulting engineers Roadswest Engineering Group Pty Ltd and works undertaken by Leeuwin Civil. It does not appear that this change to the agreement was approved by Council and no variation to the original traffic route proposal was affected.

Upon commencement of mining operations, Ramelius added the additional 9.5km sealed length of Arrowsmith to 42.4km (total of 51.9km) and have been paying contributions of \$0.0107 per km per tonne, in line with the rest of the haulage route.

October 2022

Council at its meeting on 18 October 2022 (Minute 7515/22) in part resolved:

'That Council

1. *Agree to contribute \$94,073 from its infrastructure reserve towards repairs of Mt Arrowsmith road representing road haulage contributions collected on Mt Arrowsmith road to date subject to.*
 - a. *Repair works being designed and approved by Council's consulting engineers and Works Manager*
 - b. *Consulting Engineers or Works Manager overseeing the works.*
 - c. *Ramelius engaging a suitably qualified and experienced contractor in consultation with Council staff*
 - d. *Ramelius paying for the remainder of works required to be undertaken on Mt Arrowsmith Road.*

CONSULTATION

Ramelius
Executive Manager Corporate Services

STATUTORY IMPLICATIONS

Not applicable

FINANCIAL IMPLICATIONS

Road Maintenance Funds received to date have been transferred to the Council's Infrastructure Reserve, amounting to \$701,933.18 (ex GST) to and including January 2023.

An additional \$64,477 will be collected from Tampia as it was identified that except for July and August 2021 GST has not been charged on the monthly accounts, with Council paying GST to the ATO.

POLICY IMPLICATIONS

Not applicable

RISK MANAGEMENT IMPLICATIONS

Mt Arrowsmith is a Shire owned road and ultimate responsibility for its condition lies with the Shire of Narembreen. The shire has a responsibility to ensure roads are free from hazards and safe for public users.

The decision by Council at its March 2023 meeting to request that the sealed section of Mt Arrowsmith Road be returned to a gravel surface upon completion of haulage will assist in mitigating this risk to the Shire.

STRATEGIC PLAN REFERENCE

Strategic Community Plan 2022 - 2032

2.2 Safe and efficient transport network enables economic growth

Corporate Business Plan 2022 - 2026

Maintain and upgrade infrastructure assets in line with plans.

VOTING REQUIREMENTS

Absolute Majority

COMMENT

The previous decision to return \$94, 073 was based on the understanding that the sealed section of Mt Arrowsmith Road was 9.5 kms for a total road usage distance of 51.9 kms. It has now been identified that in fact Tampia have been making road usage payments based on 52.7 kms being 10.5 kms for Mt Arrowsmith road and 42.2 kms for other roads.

This has resulted in an under calculation of the amount paid to the Shire by Tampia for Mt Arrowsmith Road from July 2021 to September 2022 and the new figure of \$132, 353.47 (incl GST) represents the correct amount paid to the Shire.

The previous agreement by Council in October 2022 to contribute \$94,073 back to Tampia Operations had a number of conditions attached and from my observation points 1 (a) to 1 (c) have not been complied, however a recent onsite meeting with the Acting CEO and Works Manager providing advice to the mine manager in regard to the application of aggregate/stone and emulsion to the proposed works being undertaken at this time.

Given the recent decision of Council to seek to have this section of Mt Arrowsmith Road return to gravel at the completion of mine haulage and the ongoing issues being experienced with the state of the road, additional wording has been added to the officer recommendation below (points 1 & 2), to send a very clear message to Tampia Operations, as to Council's expectation for the final gravel surface at the completion of haulage on this road. Note this does not include the installation of culverts.

It can be removed if Council chooses.

OFFICER RECOMMENDATION

That Council agrees to reimburse Tampia Operations \$132,353.47 (incl GST), in lieu previously agreed \$94,073 (October 2022), from its infrastructure reserve fund representing road haulage contributions collected for Mt Arrowsmith Road from July 2021 to September 2022 on the following conditions:

- 1. The reinstatement of SLK 0 to SLK 10.5 to a gravel surface shall be undertaken at the direction and supervision of the Shire of Narembeen Works Manager and completed to the satisfaction of the Shire of Narembeen Works Manager; and*
- 2. Should the reinstatement to a gravel surface not be completed to the satisfaction of the Shire of Narembeen Works Manager, the Shire of Narembeen reserves the right to complete the reinstatement to a satisfactory standard and charge Tampia Operations for the work undertaken.*

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

**CARRIED /
BY ABSOLUTE MAJORITY**

AGENDA ITEM: 8.1.2 - Delegations Review 2023

Subject:	Delegations Review 2023
Applicant:	Not applicable
File Ref:	ADM022
Disclosure of Interest:	Nil
Author:	Paul Sheedy, Acting Chief Executive Officer
Date:	3 April 2023
Attachments:	Delegations Register 2022-2023

PURPOSE

Council to review existing delegations to the Chief Executive Officer, consider new delegations and approve the Delegated Authority Register.

BACKGROUND

To assist in the effective administration of the Shire, Council has delegated some authorities to its staff to deal with certain matters.

Delegations made under the Local Government Act can only be made to the Chief Executive Officer or Committees. Where appropriate, the Chief Executive Officer delegates to other officers.

Delegations under other legislation are made directly to the officer concerned.

Under legislation, Council is to review delegations on an annual basis and the last reviewed conducted was in February 2022.

The Chief Executive Officer exercises the delegated authority in accordance with the Delegated Authority Register and Council policies.

CONSULTATION

Nil

STATUTORY IMPLICATIONS

Local Government Act 1995, sections 5.42, 5.43, 5.44 & 5.46.

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.*

5.43. Limits on delegations to CEO ²⁸

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority of the council;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;

- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;
- (h) any power or duty that requires the approval of the Minister or the Governor;
- (i) such other powers or duties as may be prescribed.

5.44. CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.

5.46. Register of, and records relevant to, delegations to CEO and employees

- (1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.
- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the annual review of delegations, however the exercise of the delegations does incur some administration costs and potential legal costs if any legal action is taken (Delegation A.11)

POLICY IMPLICATIONS

Where a policy exists for an activity/function that has been delegated, the Chief Executive Officer is to adhere to that policy.

RISK MANAGEMENT IMPLICATIONS

Annual review of the Councils delegations is a statutory process and is an important to ensure that staff act within the authority granted to them. Review also provides the opportunity for Council to modify delegations as Council considers appropriate.

Risk of noncompliance with annual review requirement – considered low. Risk of staff acting outside delegated authority – considered low.

STRATEGIC PLAN REFERENCE

Strategic Community Plan 2022-2032

Shire.

4. CIVIC LEADERSHIP: Well governed and efficiently managed local government

4.2 Compliant and resourced Local Government

Corporate Business Plan 2022 – 2026

CIVIC LEADERSHIP

4.2 Compliant and resourced Local Government

4.2 (a) continue to meet compliance with statutory and regulatory requirements.

VOTING REQUIREMENTS

Absolute Majority

COMMENT

A reviewed the current Delegated Authority Register has been undertaken with a number of amendments proposed which are shown in the attachment with proposed removals (~~strike through~~) and additions (in red).

A summary of the proposed changes are as follows:

- Delegation A.6 – minor legal wording added and amount allowing the CEO to accept tenders has been increased to \$250,000 in line with changes made to the regulations during COVID 19 and which have been retained.
- Delegation A.6 – it's recommended that this delegation be removed as the function is considered by the DLGSC as an 'Acting Through' task, being an administration matter, that the CEO will exercise as part of that person's normal responsibilities.
- Delegation B.1 – it's not recommended that the Chief Bushfire Control Officer be placed in the position of commencing legal action or issuing infringement notices for offences under the Bush fire Act. This should be a function of the CEO and relevant other employees (i.e. Rangers). The matter has been discussed with the CBFCO and he agrees with this position.
- Delegation C.1 – Is a new delegation added to allow for the CEO to undertake the powers and duties of the Cat Act 2011
- Delegation D.1 – Is a new delegation added to allow for the CEO to undertake the powers and duties of the Dog Act 1976
- Delegation F.1 - relevant employee titles have been added to the sub delegation and changes made to the wording to reflect that cheques are very rarely used with most payments now being processed online as EFT's.
- Delegation WS.1 – wording has been added to reflect that the delegation only applies to the temporary closure of throughfares for periods not exceeding four (4) weeks, which can be undertaken without the requirement to advertise the proposal and seek community comment. Periods of closure above four (4) weeks require advertising for public comment and therefore should be considered by Council for determination.
- Delegation HBP.6 – reference to the 'Building Surveyor' have been removed as a delegation can only occur if the person is an employee of the local government and Council engages an external Building Surveyor from another local government.

Several additions have been added to reflect the ability of the CEO to issue building approvals, demolition permits and stop work orders.

- Delegation HBP.9 - it's recommended that this delegation be removed as the function undertaken is considered by the DLGSC as an 'Acting Through' task, being an administration matter, that the CEO will exercise as part of that person's normal responsibilities.
- Delegation HBP.10 - it's recommended that this delegation be removed as the function undertaken is considered by the DLGSC as an 'Acting Through' task, being an administration matter, that the CEO will exercise as part of that person's normal responsibilities.

Finally, there are a number of further delegations that should be added to the current list of delegations

OFFICER RECOMMENDATION

That Council

1. Receive the 2022-23 Delegation Register as attached noting the use of Councils delegations, and
2. Approve the Delegation Register as amended, including new delegations, in the attachment for the next twelve (12) months.

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

**CARRIED /
BY ABSOLUTE MAJORITY**

AGENDA ITEM: 8.1.3 - Proposed Outbuilding – Lot 6 (No 39) Thomas Street, Narembeen

Subject:	Proposed Outbuilding – Lot 6 (No 39) Thomas Street, Narembeen
Applicant:	Terrence Cheetham
File Ref:	P1152
Disclosure of Interest:	Financial Interest as receive planning fees for advice to the Shire – Section 5.60A of <i>Local Government Act 1995</i>
Author:	Liz Bushby, Town Planning Innovations
Date:	5 April 2023
Attachments:	Nil

PURPOSE

Council is to consider a new application for an outbuilding on Lot 6 (No 39) Thomas Street, Narembeen (that entails variations to the Residential Design Codes).

The application is being advertised for public comment. Letters have been sent to nearby affected landowners.

This report recommends that Council grant delegated authority to the Chief Executive Officer to determine the application once advertising has closed (on the 18 April 2023).

BACKGROUND

Lot 6 has been developed with a single house and a pool.

A location plan is included over page for ease of reference.



Above: Location Plan showing 39 Thomas Street in red outline

CONSULTATION

The application is being advertised for public comment until the 18 April 2023. At the time of writing this report, no submissions had been received.

STATUTORY IMPLICATIONS

Shire of Narembeen Town Planning Scheme No 2 –

The property is zoned 'Residential' under the Shire of Narembeen Town Planning Scheme No 2 ('the Scheme') and has a density code of R12.5. The R12.5 code dictates the site requirements that apply to residential development on the lot under the Residential Design Codes.

Clause 4.1 refers to the 'RESIDENTIAL DEVELOPMENT: RESIDENTIAL DESIGN CODES' and includes the following subclauses:

- 4.1.1 For the purpose of the Scheme "Residential Design Codes" means the Residential Design Codes set out in State Planning Policy 3.1, together with any amendments thereto (hereinafter called the "R-Codes").
- 4.1.2 A copy of the R-Codes shall be kept and made available for public inspection at the offices of the local government.
- 4.1.3 Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the R-Codes shall conform to the provisions of those Codes.

- 4.1.4 The Residential Design Code density applicable to land within the Scheme area shall be determined by reference to the Residential Design Codes density number superimposed on the particular area shown on the Scheme maps as being contained within the solid black line borders or where such an area abuts another area having a Residential Design Code density, as being contained within the centre-line of those borders.

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

The Regulations include 'Deemed Provisions' that automatically apply and override parts of the Shire of Narembreen Town Planning Scheme No 2.

Clause 61(d) only exempts outbuildings from planning approval where they comply with the 'Deemed to Comply' requirements of the Residential Design Codes.

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

Clause 82(1) gives the local government the ability to delegate its powers to the Chief Executive Officer. Clause 82(2) requires any delegation to be by Absolute Majority.

FINANCIAL IMPLICATIONS

The Shire pays consultancy fees to Town Planning Innovations (TPI) for planning advice.

POLICY IMPLICATIONS

The Shire of Narembreen Local Planning Policy No 1 on outbuildings provides guidance for acceptable sizes of outbuildings on residential zoned land as follows:

	Residential <1000m2	Residential >1000m2	Town Centre
Max Aggregate Floor Area	100m2 or 12% of site whichever is less	150m2 or 12% of site areas whichever is less	250m2 or 12% of site areas whichever is less
Max Wall Height	3.5m	3.5m	6m
Max Ridge Height	4.5m	5m	9m
Setbacks	As per scheme and R-codes		
Zincalume	No	No	No

The proposed outbuilding complies with the Shires Local Planning Policy requirements. The lot has an area of 1012m² so a 121.44m² size outbuilding is permissible under the Policy.

The applicant has advised that the outbuilding will be constructed out of colorbond material, however they may also paint it so that colour matches the house more exactly.

RISK MANAGEMENT IMPLICATIONS

There are no known risk management implications associated with this report.

STRATEGIC PLAN REFERENCE

Not Applicable.

VOTING REQUIREMENTS

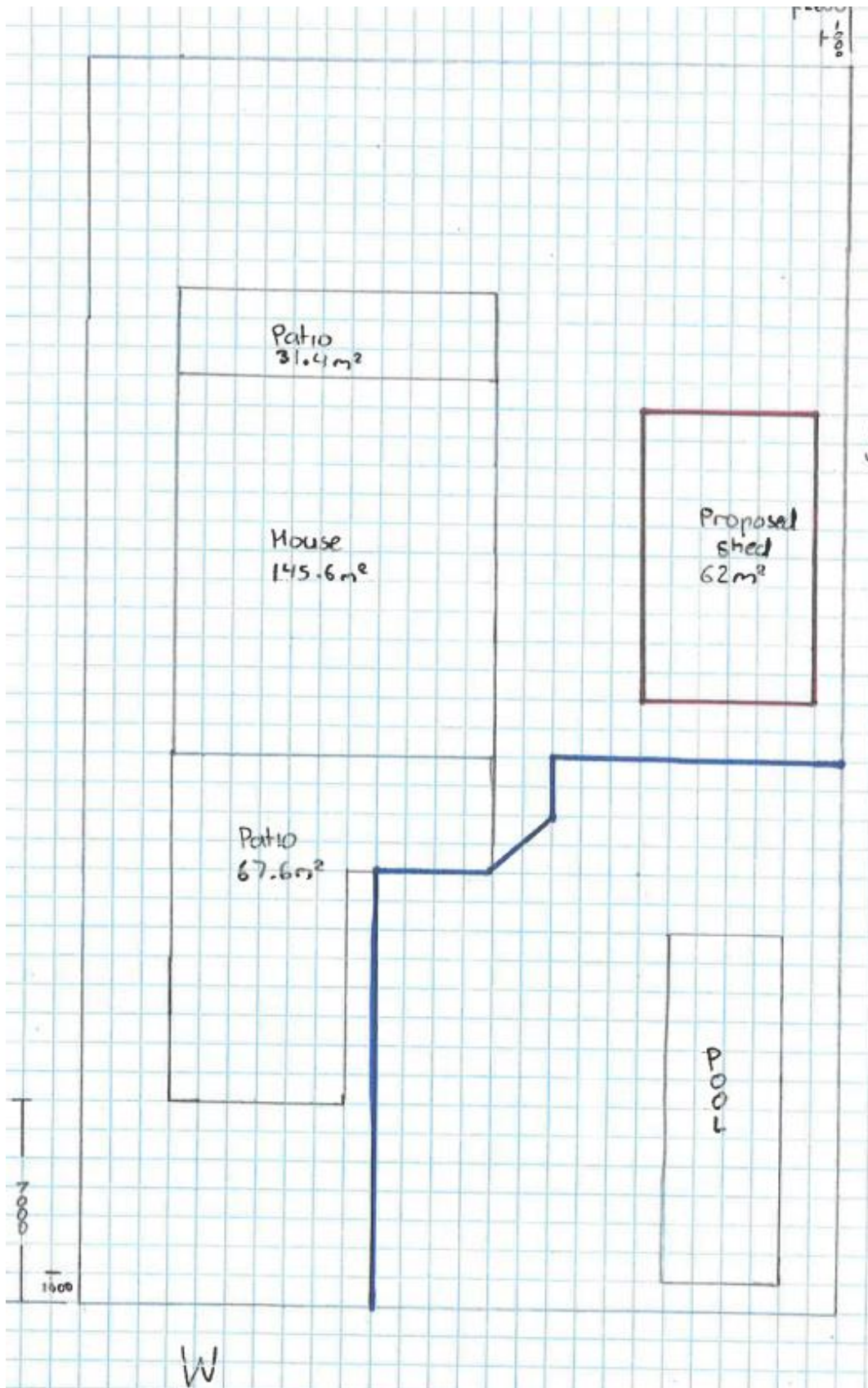
Absolute Majority (for delegated authority)

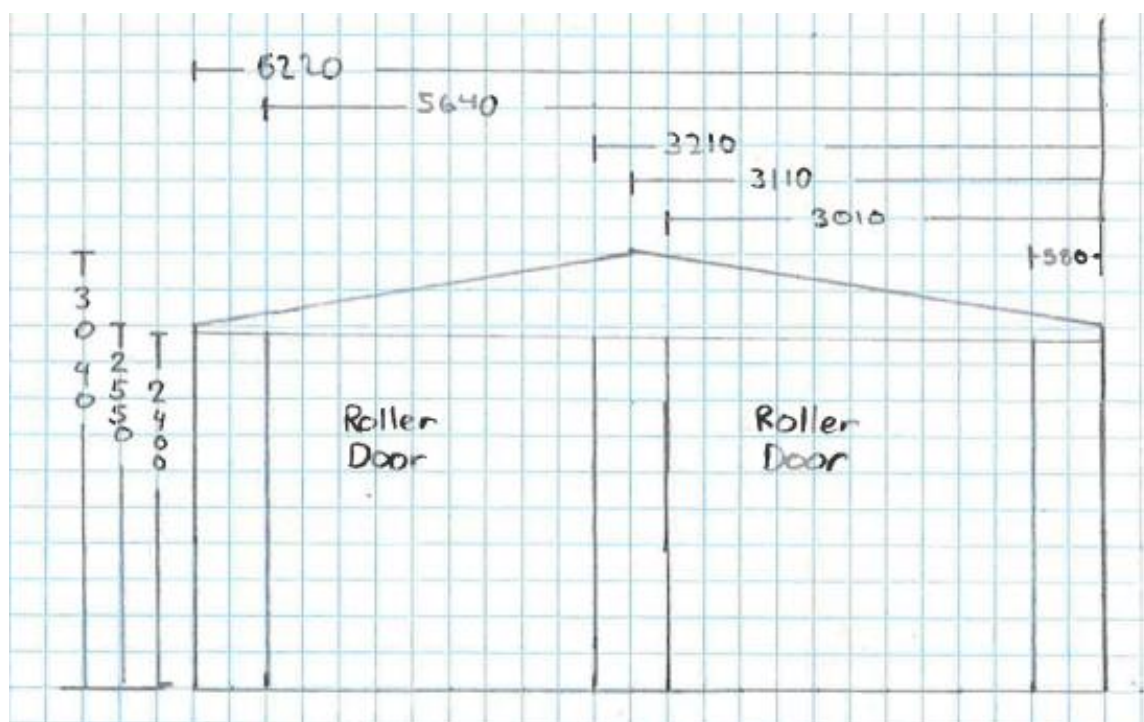
COMMENT

- ***Description of proposed development***

The application proposes a 62m² outbuilding to the south of the existing house.

A site plan and an elevation are included over page.





- Residential Design Codes ('the Codes') – Outbuilding Assessment**

The Residential Design Codes operate as State Planning Policy 3.1 and apply to residential development state wide.

The Residential Design Codes have two separate options for the assessment of development including 'Deemed to Comply' criteria and 'Design Principles'.

Where an application proposes a variation to the 'Deemed to Comply' criteria of the Codes, then planning approval is required for the development, and a more detailed subjective assessment has to be made based on 'Design Principles' in the Codes.

Under the Codes there are specific 'deemed to comply' requirements for outbuildings as summarised in the table below.

Clause 5.4.3 C3 'deemed to comply' criteria / Outbuildings that:	Officer Comment (TPI)
(i) are not attached to the building	Complies.
(ii) are non habitable	Complies.
(iii) collectively do not exceed 60sqm in area or 10 percent in aggregate of the site area, whichever is the lesser	Minor Variation. The proposed floor area is 62m ² .
(iv) do not exceed a wall height of 2.4 metres	Complies.
(v) do not exceed a ridge height of 4.2 metres	Complies.
(vi) are not within the primary street setback area;	Complies.
vi) do not reduce the open space required in table 1; and	Complies.
vii) comply with the siting and design requirements for the dwelling, but do not need to meet the rear setbacks requirements of table 1.	Variation. A 1 metre side setback to the southern boundary is proposed instead of the required 1.5 metres.

The application proposes variations to the 'Deemed to Comply' requirements of the Codes therefore irrespective of any neighbours comments the Council has to determine if the outbuilding complies with the alternative Design Principle which is:

“Outbuildings that do not detract from the streetscape or the visual amenity of residents of neighbouring properties”.

TPI generally supports the proposed outbuilding, and notes that:

1. The variations to the Residential Design Codes are minor; and
2. The outbuilding generally complies with the Shires Local Planning Policy No 1.

OFFICER RECOMMENDATION

That Council:

1. Note that the application for an outbuilding at 39 Thomas Street, Narembreen is being advertised for public comment. Advertising closes on the 18 April 2023.
2. Pursuant to Clause 82(1) and 82(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* grant (by Absolute Majority) delegated authority to the Chief Executive Officer to determine the application for an outbuilding on Lot 6 (No 39) Thomas Street, Narembreen.

COUNCIL RESOLUTION

MIN **MOTION** - Moved Cr. 2nd Cr.

CARRIED /
BY ABSOLUTE MAJORITY

8.2 Executive Manager Corporate Services

AGENDA ITEM: 8.2.1 – Narembeen Bowling Club contributions to bowling green

Subject:	Narembeen Bowling Club contributions to bowling green
Applicant:	Narembeen Bowling Club
File Ref:	ADM562
Disclosure of Interest:	Nil
Author:	Ben Forbes, Executive Manager Corporate Services
Date:	31 March 2023
Attachments:	Nil

PURPOSE

Council to decide what to charge the Narembeen Bowling Club for the new bowling green installed in March 2023.

BACKGROUND

As part of the 2023 annual budget Council approved an arrangement with the Narembeen Bowling Club for a new bowling green.

The original understanding of the arrangement was that Council would procure the bowling surface and claim the associated Goods and Services Tax (GST). Council would then invoice the Narembeen Bowling Club for the *net of GST* cost, thereby reducing the cost to the Narembeen Bowling Club and costing Council nothing for the new bowling green.

However, the transaction doesn't function as described above; the receipt from the Narembeen Bowls Club must include GST. Therefore, Council must decide to either charge the Narembeen Bowling Club more than was originally agreed upon, or less and wear the difference.

CONSULTATION

Chief Executive Officer

STATUTORY IMPLICATIONS

A New Tax System (Goods and Services Tax) Act 1999

Section 7.1

GST and input tax credits

- (1) GST is payable on taxable supplies and taxable importations.
- (2) Entitlements to input tax credits arise on creditable acquisitions and creditable importations.

Section 9.5

You make a **taxable supply** if:

- (a) you make the supply for consideration; and
- (b) the supply is made in the course or furtherance of an enterprise that you carry on; and
- (c) the supply is connected with the indirect tax zone; and
- (d) you are registered, or required to be registered.

However, the supply is not a taxable supply to the extent that it is GST-free or input taxed.

Section 9.10

Meaning of supply

- (1) A *supply* is any form of supply whatsoever.
- (2) Without limiting subsection (1), *supply* includes any of these:
 - (a) a supply of goods;
 - (b) a supply of services;
 - (c) a provision of advice or information;
 - (d) a grant, assignment or surrender of real property;
 - (e) a creation, grant, transfer, assignment or surrender of any right;
 - (f) a financial supply;
 - (g) an entry into, or release from, an obligation:
 - i. to do anything; or
 - ii. to refrain from an act; or
 - iii. to tolerate an act or situation;
 - (h) any combination of any 2 or more of the matters referred to in paragraphs (a) to (g).

Section 9.15

Meaning of Consideration

- (1) Consideration includes:
 - (a) any payment, or any act or forbearance, in connection with a supply of anything; and
 - (b) any payment, or any act or forbearance, in response to or for the inducement of a supply of anything.
- (2) It does not matter whether the payment, act or forbearance was voluntary, or whether it was by the recipient of the supply.
- (3) It does not matter:
 - (a) whether the payment, act or forbearance was in compliance with an order of a court, or of a tribunal or other body that has the power to make orders; or
 - (b) whether the payment, act or forbearance was in compliance with a settlement relating to proceedings before a court, or before a tribunal or other body that has the power to make orders.
- (4) For the avoidance of doubt, the fact that the supplier is an entity of which the recipient of the supply is a member, or that the supplier is an entity that only makes supplies to its members, does not prevent the payment, act or forbearance from being consideration.

Section 9.20

Enterprises

- (1) An enterprise is an activity, or series of activities, done:
 - (a) in the form of a business; or
 - (b) in the form of an adventure or concern in the nature of trade; or
 - (c) on a regular or continuous basis, in the form of a lease, licence or other grant of an interest in property; or

- (d) by the trustee of a fund that is covered by, or by an authority or institution that is covered by, Subdivision 30-B of the ITAA 1997 and to which deductible gifts can be made; or
- (e) by a trustee of a complying superannuation fund or, if there is no trustee of the fund, by a person who manages the fund; or
- (f) by a charity; or
- (g) by the Commonwealth, a State or a Territory, or by a body corporate, or corporation sole, established for a public purpose by or under a law of the Commonwealth, a State or a Territory; or
- (h) by a trustee of a fund covered by item 2 of the table in section 30-15 of the ITAA 1997 or of a fund that would be covered by that item if it had an ABN.

(2) However, enterprise does not include an activity, or series of activities, done:

- (a) by a person as an employee or in connection with earning withholding payments covered by subsection (4) (unless the activity or series is done in supplying services as the holder of an office that the person has accepted in the course of or in connection with an activity or series of activities of a kind mentioned in subsection (1)); or
- (b) as a private recreational pursuit or hobby; or
- (c) by an individual (other than a trustee of a charitable fund, or of a fund covered by item 2 of the table in section 30-15 of the ITAA 1997 or of a fund that would be covered by that item if it had an ABN), or a partnership (all or most of the members of which are individuals), without a reasonable expectation of profit or gain; or
- (d) as a member of a local governing body established by or under a State law or Territory law (except a local governing body to which paragraph 12-45(1)(e) in Schedule 1 to the *Taxation Administration Act 1953* applies).

(3) For the avoidance of doubt, the fact that activities of an entity are limited to making supplies to members of the entity does not prevent those activities:

- (a) being in the form of a business within the meaning of paragraph (1)(a); or
- (b) being in the form of an adventure or concern in the nature of trade within the meaning of paragraph (1)(b).

(4) This subsection covers a withholding payment covered by any of the provisions in Schedule 1 to the *Taxation Administration Act 1953* listed in the table.

Section 9.40

Liability for GST on taxable supplies

You must pay the GST payable on any taxable supply that you make.

FINANCIAL IMPLICATIONS

1113212 – Bowling Club contribution

Currently the budget for the account is \$146,727, roughly equal to the net cost to Council for the new bowling green, after GST.

Choosing to fulfill the terms of the original agreement will result in a deficit of \$13,338.82

POLICY IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

Nil

STRATEGIC PLAN REFERENCE

Corporate Business Plan 2023 - 2026

Strategic goal 1.4 – Progressive achievement of the Sport and Recreation Facilities Plan

Sport and Recreation Plan 2021 – 2031

Notes the need for a replacement green and lighting for the bowls club as a long-term requirement as at 2021. The working project timeline runs to 2031 and does not note any anticipated expenditure for the bowling green

VOTING REQUIREMENTS

Simple majority

COMMENT

Confusion regarding GST on the transaction with the Narembeen Bowls Club appears to stem from three main points:

1. The Narembeen Bowls Club isn't registered (or required to be registered) for GST
2. Whether or not a 'contribution' or 'gift' should attract GST
3. Whether there are any exemptions or carve-outs for transactions involving Local Government and its land.

Whether the purchaser is registered or required to be registered has no bearing on the seller's GST obligations.

A 'contribution' will constitute consideration for the purpose of making a taxable supply, as it meets the basic criteria: "any payment, or any act or forbearance, in connection with a supply of anything;...". The contribution cannot be classified as a gift, as for a payment to truly be a gift it must be given freely without the understood, implied or potential for reciprocation.

There are no applicable carve-outs for this transaction. Local Government operations are deemed to be an 'enterprise' for the purposes of GST (see s9.20(1)(g)) and transactions involving commercial property are, by definition, commercial operations.

Therefore, Council has two options:

Option 1: Invoice the Narembeen Bowls Club for \$146,727.00 gross (*net of \$133,388.18 after \$13,338.82 GST*) as originally agreed

Option 2: Invoice the Narembeen Bowls Club for \$161,400.00 gross (*net of \$146,727.27 after \$14,672.73 GST*) in order for there to be no cost to Council.

OFFICER RECOMMENDATION

Recommend that Council adopt Option 1: invoice the Narembeen Bowls Club for \$146,727.00 including GST, as originally agreed, and wear the net cost of \$13,338.82 for the project.

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

**CARRIED /
BY SIMPLE MAJORITY**

AGENDA ITEM: 8.2.2 – Amendment to lease agreement – Senior Citizens Centre

Subject:	Amendment to lease agreement – Senior Citizens Centre
Applicant:	Narembeen Senior Citizens Social Centre
File Ref:	ADM654
Disclosure of Interest:	Nil
Author:	Ben Forbes, Executive Manager Corporate Services
Date:	5 April 2023
Attachments:	Narembeen Senior Citizens Social Centre Lease 14.7.20

PURPOSE

Council to consider authorising management to amend the lease, by mutual agreement with the Narembeen Senior Citizens Social Centre, for Lot 84 Thomas Street, Narembeen.

BACKGROUND

The Shire has a peppercorn lease with the Narembeen Senior Citizens Social Centre for the use of Lot 84 Thomas Street. Confusion has arisen regarding the language of the Maintenance clause (3.3) in the lease, and the obligations that each party has.

The Narembeen Senior Citizens Social Centre has limited income and funds on hand, and the spirit of the lease is for the Shire to provide the building for their use predominantly at the cost of the Shire. However, the wording of the Maintenance clause arguably puts all non-structural repair obligations on the Lessee, including fixtures and fittings.

Further, there is an inconsistency in the language used which, together with the spirit of the agreement, leads to the conclusion that there may be an error in the final copy of the lease.

Note the following extract from the lease:

3.3 Maintenance

- (1) *The Lessee will keep and maintain the Premises and every part of the Premises, in a good state of repair, order and condition. The Lessee is responsible for undertaking minor, regular or non-structural maintenance work and the costs associated with it. For the avoidance of doubt this clause also applies to fixtures and fitting at the Premises and the garden area of the Leased Area.*
- (2) *To avoid doubt, the Lessor's obligation under sub clause (1) does not apply to any of the contents of the Leased Area housed within the Premises by the Lessee. All contents of the Leased Area are the sole responsibility of the Lessee.*
- (3) *The Lessee must give to the Lessor immediate notice in writing of any damage to or defect in the Premises or the water or sewerage pipes, gas pipes, electrical light fixtures or any plant fittings or equipment in the Premises.*
- (4) *The Lessor will be responsible for all capital or major maintenance works including structural repairs.*

Sub clause 3.3(1) purports to put all “non-structural” obligations on the Lessee, which is contradicted by the reference in sub clause 3.3(2) which seeks to clarify the “Lessor’s obligation under sub clause (1)”.

If sub clause 3.3(1) instead referred to the Lessor, the section would be more consistent with the evident intent of the lease.

CONSULTATION

Chief Executive Officer
Narembeen Senior Citizens Social Centre

STATUTORY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

#1481110 – Commercial Buildings

The relevant expense account has an annual budget of \$17,172 and current expenses of \$13,788.

The account is a pooled account for multiple buildings. There is no information in the annual budget as to the apportionment between each building. There is the potential for increased spending on this building to cause the cost to run over-budget by an immaterial amount.

POLICY IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

Nil

STRATEGIC PLAN REFERENCE

Community strategic plan

Strategic priority:

Medium priority - provision and maintenance of community buildings, halls, and toilets.

High priority – facilities, services and care available for seniors.

High priority – support for community groups, volunteers and clubs.

Corporate Business Plan 2020/21 – 2023/24

Goal 3: We contribute to a healthy community.

VOTING REQUIREMENTS

Simple majority

COMMENT

It is management's opinion that at the very least there was oversight in the drafting of the lease with regards to the maintenance obligations of each party. In the spirit of the lease, the Shire should be responsible for all repairs required to maintain the building to the standard that it was at the inception of the lease.

OFFICER RECOMMENDATION

That Council authorise the Chief Executive Officer to engage with the Narembeen Senior Citizens Social Centre to re-write the maintenance clause of the lease to change all references to “Lessee” in sub clause 3.3(1) to “Lessor”, with all other clauses remaining unchanged.

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

**CARRIED /
BY SIMPLE MAJORITY**

AGENDA ITEM: 8.2.3 - Monthly financial statements for the month ended 31 March 2023

Subject:	Monthly financial statements for March 2023
Applicant:	Shire of Narembeen
File Ref:	Not applicable
Disclosure of Interest:	Nil
Author:	Ben Forbes, Executive Manager Corporate Services
Date:	5 April 2023
Attachments:	Monthly financial statements – March 2023

PURPOSE

For Council to accept the financial statements for the month ended 31 March 2023.

BACKGROUND

The monthly financial reports are presented in accordance with the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996*. A statement of financial activity and any accompanying documents are to be presented to the Council at an ordinary meeting of the Council within two months after the end of the month to which the statement relates. The Statement of Financial Activity Report summarises the Shire's financial activities.

CONSULTATION

Chief Executive Officer

STATUTORY IMPLICATIONS

Local Government Act 1995, Section 6.4

Regulation 34(1) of the Local Government (Financial Management) Regulations 1996 requires a local government to prepare each month a statement of financial activity.

Regulation 34(2) requires the statement of financial activity to report on the sources and applications of funds, as set out in the annual budget.

FINANCIAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

- Compliance risk - low.
Risk acceptable with adequate controls, managed by routine procedures and subject to annual monitoring
- Financial Impact risk - moderate.
Risk acceptable with adequate controls, managed by specific procedures and subject to semi-annual monitoring.

STRATEGIC PLAN REFERENCE

Strategic Community Plan 2022 - 2032

Strategic priority 4.2: “We have sound financial and asset management policies and practices in place”

VOTING REQUIREMENTS

Simple Majority

COMMENT

Council’s closing funding surplus as at 231 March 2023 is \$2,211,193, with cash on hand of \$7,291,369 including \$4,144,745 of reserves.

OFFICER RECOMMENDATION

That Council receive the monthly financial statements for the month ended 31 March 2023.

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

**CARRIED /
BY SIMPLE MAJORITY**

AGENDA ITEM: 8.2.4 - Schedule of Accounts for Period Ended 31 March 2023

Subject:	Schedule of Accounts for Period Ended 31 March 2023
Applicant:	Not Applicable
File Ref:	ADM018
Disclosure of Interest:	Nil
Author:	Ben Forbes, Executive Manager Corporate Services
Date:	3 April 2023
Attachments:	Creditors Payment List – 1 March to 31 March 2023, Credit Card Payments List 13 January 2023 to 13 February 2023

PURPOSE

For Council to review the list of payments made by the Shire of Narembeen in March 2023 and the credit card payments made for January 2023 to February 2023.

BACKGROUND

The Shire's schedule of accounts is to be provided to council each month pursuant to the Local Government (Financial Management) Regulation 1996.

CONSULTATION

Nil

STATUTORY IMPLICATIONS

Local Government (Financial Management) Regulations 1996

Reg. 13 List of Accounts

1. If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared;
 - a. The payee's name;
 - b. The amount of the payment;
 - c. The date of the payments; and
 - d. Sufficient information to identify the transaction.
3. A list prepared under sub regulation (1) or (2) is to be –
 - a. Presented to the council at the next ordinary meeting of council after the list is prepared; and
 - b. Recorded in the minutes of that meeting.

FINANCIAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

Nil

STRATEGIC PLAN REFERENCE

Strategic Community Plan 2022-2032

CIVIC LEADERSHIP: Well governed and efficiently managed Local Government.

4.2 Compliant and resourced Local Government

We have sound financial and asset management policies and practices in place
Transparent, accountable, and integrated reporting.

VOTING REQUIREMENTS

Simple majority

COMMENT

A schedule of accounts paid during the month of March 2023 is attached to this report and the total amount paid from the municipal fund is as follows:

Municipal Account: \$ 505,057.12

OFFICER RECOMMENDATION

That Council:

1. Receive the Creditors Payment List – 1 March to 31 March 2023
2. Receive the Credit Card Payments List 13 January 2023 to 13 February 2023

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

**CARRIED /
BY SIMPLE MAJORITY**

9.0 Urgent business as permitted by Council

10.0 Councillor's Reports

Cr K Mortimore

Attended

-

Cr S Stirrat

Attended

-

Cr H Cusack

Attended

-

Cr T Cole

Attended

-

Cr C Bray

Attended

-

Cr A Hardham

Attended

-

Cr M Currie

Attended

-

Cr W Milner

Attended

-

11.0 Date, time & place of next meeting

Tuesday 16 May 2023, 5.00pm at the Shire of Narembreen Council Chambers.

12.0 Closure

There being no further business the Chair declared the meeting closed at _____.