



COUNCIL CALENDAR

Date	Time	Meeting
21 March 2023	5:00pm	Ordinary Council Meeting
18 April 2023	5:00pm	Ordinary Council Meeting

FEBRUARY MEETING PROGRAM

2:30pm	Council Forum
5:00pm	Ordinary Council Meeting

MEETING GUESTS

Nil

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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:

1. *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.
2. *This notice must be given to the Chief Executive Officer prior to the meeting.*
3. *It is the responsibility of the individual Councillor or Committee Member to disclose a financial interest. If in doubt, seek appropriate advice.*
4. *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:

1. **PARTICULARS OF DECLARATION GIVEN TO MEETING**
2. **PARTICULARS RECORDED IN MINUTES**
3. **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 692nd Ordinary Meeting of Council has been convened for:

Date: Tuesday 21 February 2023
At: Shire of Narembeen Council Chambers
1 Longhurst Street, Narembeen
Commencing: 5.00pm



Paul Sheedy
Acting Chief Executive Officer
Date: 15 February 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 21 February 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 13 December 2023

RECOMMENDATION:

That the minutes of the meeting of the Shire of Narembeen Ordinary Meeting held on Tuesday 13 December 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 13 December 2023

7.0 Status Report

RECOMMENDATION:

That the Status Report for February 2023 be received.

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

CARRIED /

8.0 Reports

8.1 Chief Executive Officer

AGENDA ITEM: 8.1.1 - Chief Executive Officer Recruitment

Subject:	Chief Executive Officer Recruitment
Applicant:	Not Applicable
File Ref:	ADM049
Disclosure of Interest:	Nil
Author:	Paul Sheedy – Acting Chief Executive Officer
Date:	1 February 2023
Attachments:	Draft Employment Contract CEO Position Description (schedule 1 of contract) Total Reward Package (schedule 2 of contract)

PURPOSE

To commence the recruitment process for a new Chief Executive Officer, Council is required to endorse several matters required under the Local Government Act 1995, *Local Government (Administration) Regulations 1996* 18FA, Schedule 2 and Council Policy, being:

1. Appointment of a Selection Panel
2. Appointment of an Independent Person on the Selection Panel
3. Approval of the Job Description, including qualifications and selection criteria
4. Approval of Draft Employment Contract and Total Reward Package

BACKGROUND

December 2022

The current CEO provided a letter of resignation to the Shire President effective from 13 January 2023.

CONSULTATION

Shire President

STATUTORY IMPLICATIONS

Local Government (Administration) Regulations 1996 18A, 18B, 18F and 18FA

18A. Vacancy in position of CEO or senior employee to be advertised (Act s. 5.36(4) and 5.37(3))

- (1) If a position of CEO, or of a senior employee, of a local government becomes vacant, the local government must give Statewide public notice of the position unless it is proposed that the position be filled by —
 - (a) a person who is, and will continue to be, employed by another local government and who will fill the position on a contract or contracts for a total period not exceeding 5 years; or
 - (b) a person who will be acting in the position for a term not exceeding one year.

- (2) The Statewide public notice must contain —
- (a) the details of the remuneration and benefits offered; and
 - (b) details of the place where applications for the position are to be submitted; and
 - (c) the date and time for the closing of applications for the position; and
 - (d) the duration of the proposed contract; and
 - (da) a website address where the job description form for the position can be accessed; and
 - (e) contact details for a person who can provide further information about the position; and
 - (f) any other information that the local government considers is relevant.

18B. Contracts of CEOs and senior employees, content of (Act s. 5.39(3)(c))

For the purposes of section 5.39(3)(c), a contract governing the employment of a person who is a CEO, or a senior employee, of a local government is to provide for a maximum amount of money (or a method of calculating such an amount) to which the person is to be entitled if the contract is terminated before the expiry date, which amount is not to exceed whichever is the lesser of —

- (a) the value of one year's remuneration under the contract; or
- (b) the value of the remuneration that the person would have been entitled to have the contract not been terminated.

18F. Remuneration and benefits of CEO to be as advertised

The remuneration and other benefits paid to a CEO on the appointment of the CEO are not to differ from the remuneration and benefits advertised for the position under section 5.36(4).

18FA. Model standards for CEO recruitment, performance, and termination [Act s. 5.39A(1)]

FINANCIAL IMPLICATIONS

The cost to engage a consultant for the recruitment can be covered under the existing budget allocation in Schedule 4 'Administration General' for 'Administrative Contractors/Consultants' (Account 4212700) so no additional financial implications.

Advertising the vacancy which is expected to be \$3,000 -\$4,000, being allocated to Schedule 4 'Administration General, Communications and Branding' (Account 4211501), which is likely to see the budget allocation of \$5,000 exceeded at 30 June 2023.

POLICY IMPLICATIONS

Council Policy "CEO Standards for Recruitment, Performance and Termination is relevant to this item, with the following parts of the policy relevant to the recruitment process.

5. Determination of selection criteria and approval of job description form

- (1) The local government must determine the selection criteria for the position of CEO, based on the local government's consideration of the knowledge, experience, qualifications and skills necessary to effectively perform the duties and responsibilities of the position of CEO of the local government.

- (2) The local government must, by resolution of an absolute majority of the council, approve a job description form for the position of CEO which sets out —
 - a) the duties and responsibilities of the position; and
 - b) the selection criteria for the position determined in accordance with subclause (1).

6. Advertising requirements

- (1) If the position of CEO is vacant, the local government must ensure it complies with section 5.36(4) of the Act and the *Local Government (Administration) Regulations 1996* regulation 18A.
- (2) If clause 13 applies, the local government must advertise the position of CEO in the manner referred to in the *Local Government (Administration) Regulations 1996* regulation 18A as if the position was vacant.

7. Job description form to be made available by local government

If a person requests the local government to provide to the person a copy of the job description form, the local government must —

- (a) inform the person of the website address referred to in the *Local Government (Administration) Regulations 1996* regulation 18A(2)(da); or
- (b) if the person advises the local government that the person is unable to access that website address —
 - i. email a copy of the job description form to an email address provided by the person; or
 - ii. mail a copy of the job description form to a postal address provided by the person.

8. Establishment of selection panel for employment of CEO

- (1) In this clause —

independent person means a person other than any of the following —

 - (a) a council member;
 - (b) an employee of the local government;
 - (c) a human resources consultant engaged by the local government.
- (2) The local government must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.
- (3) The selection panel must comprise —
 - (a) council members (the number of which must be determined by the local government); and
 - (b) at least 1 independent person.

9. Recommendation by selection panel

- (1) Each applicant's knowledge, experience, qualifications, and skills must be assessed against the selection criteria by or on behalf of the selection panel.
- (2) Following the assessment referred to in subclause (1), the selection panel must provide to the local government —
 - (a) a summary of the selection panel's assessment of each applicant; and
 - (b) unless subclause (3) applies, the selection panel's recommendation as to which applicant or applicants are suitable to be employed in the position of CEO.

- (3) If the selection panel considers that none of the applicants are suitable to be employed in the position of CEO, the selection panel must recommend to the local government —
 - (a) that a new recruitment and selection process for the position be carried out in accordance with these standards; and
 - (b) the changes (if any) that the selection panel considers should be made to the duties and responsibilities of the position or the selection criteria.
- (4) The selection panel must act under subclauses (1), (2) and (3) —
 - (a) in an impartial and transparent manner; and
 - (b) in accordance with the principles set out in section 5.40 of the Act.
- (5) The selection panel must not recommend an applicant to the local government under subclause (2)(b) unless the selection panel has —
 - (a) assessed the applicant as having demonstrated that the applicant’s knowledge, experience, qualifications, and skills meet the selection criteria; and
 - (b) verified any academic, or other tertiary level, qualifications the applicant claims to hold; and
 - (c) whether by contacting referees provided by the applicant or making any other inquiries the selection panel considers appropriate, verified the applicant’s character, work history, skills, performance, and any other claims made by the applicant.
- (6) The local government must have regard to, but is not bound to accept, a recommendation made by the selection panel under this clause.

RISK MANAGEMENT IMPLICATIONS

- Compliance risk considered low
Risk acceptable with appointment of consultant, Selection Panel and managed by the Acting CEO
- Financial Impact risk is considered moderate
Risk acceptable given it can be accommodated within the existing budget with minor over expenditure

STRATEGIC PLAN REFERENCE

Strategic Community Plan 2022 – 2032

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

4.2 Compliant and resourced Local Government

Corporate Business Plan 2022 - 2026

4. CIVIC LEADERSHIP

4.2 Continue to meet compliance with statutory and regulatory requirement.

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

VOTING REQUIREMENTS

Absolute Majority

COMMENT

As indicated at the commencement of this report Council is required to make several initial decisions to commence the recruitment process, some are mandatory under the Act and Regulations whilst others could be endorsed by the Selection Panel, but they have been included here to keep all councillors informed at the initial stage of the process. The following matters require consideration and decision by Council.

Appointment of a Selection Panel

As indicated in the Local government (Administration) Regulations the selection panel is to comprise council members (number to be determined by council) and at least one independent person. Whilst the selection panel could consist of all the Councillors in this instance it's recommended that the selection panel be a maximum of four (4) Councillors, being the Shire President, Deputy Shire President and two Councillors. This will provide a panel of five (5) plus the consultant, who would be there in an advisory role and does not vote.

Appointment of an Independent Person on the Selection Panel

In discussions with the Shire President, it was suggested that ex Shire President Ms Rhonda Cole be approached to be the independent person. The Acting CEO has contacted Ms Cole and she has agreed to the appointment.

Approval of the Job Description, including qualifications and selection criteria

Given that the previous CEO appointment was only in April 2021 it's suggested that the existing Job Description (JD) is suitable without any changes for endorsement by Council and it includes information on qualifications and selection criteria under the 'Compliance Requirements' heading. Whilst I consider that the existing JD does have information regarding qualifications and selection criteria are included in the body of the document, because they are not listed specifically under headings of 'qualifications' and 'selection criteria' the appointed consultant may wish to revise the current document which may or may not require another approval of Council, or hopefully can be endorsed by the selection panel. If it requires the approval of Council a quick Special Council meeting or approval by email will be considered.

Approval of Draft Employment Contract and Total Reward Package

Like the JD, the Employment Contract was previously approved by Council in 2020/21 as part of the previous CEO recruitment package so if any changes are required it will only be of a minor nature (wording), so Council endorsement of the contract (attached) is recommended.

The final Total Reward Package (TRP) will be determined in negotiations with the preferred candidate at the conclusion of the process however, to allow the consultant to include a proposed TRP in the advertisement and recruitment package Council endorsement of the initial TRP offering is required.

As can be seen in Schedule 2 of the attached Employment Contract, the Shire of Narembeen sits within SAT Band 4 (\$131,423 - \$206,141) which means that the final negotiated TRP can't exceed the top of the Band amount (\$206,141). Item 10 in the Schedule details those items that must be included in the Band 4 total, whilst the other amounts are exempt and therefore sit outside the Band 4 total amount but are obviously taken into consideration when negotiating the final offer.

Finally, most of the individual items are like what was offered to the previous CEO with the exemptions being:

- Utilities/communications was previously \$1,500, now \$3,000; and
- Professional development was previously \$1,700, now \$3,000.

OFFICER RECOMMENDATION

That Council:

1. Appoints the Shire President, Cr Mortimore, Deputy Shire President, Cr Stirrat, and Councillors _____ and _____ as the CEO Recruitment Selection Panel.
2. Appoints Ms R (Rhonda) Cole as the Independent Person to the CEO Recruitment Selection Panel.
3. Approves the Job Description (Position Description) as detailed in Schedule 1 of the Employment Contract (attached) that includes:
 - the qualifications and selection criteria for the position; and
 - duties and responsibilities of the position
4. Approves the draft Employment Contract and Total Reward Package as detailed in the attachment.

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

CARRIED /

AGENDA ITEM: 8.1.2 - Appointment of Consultant CEO Recruitment

Subject:	Appointment of Consultant – CEO Recruitment
Applicant:	Not Applicable
File Ref:	ADM049
Disclosure of Interest:	Financial Interest as one of consultants recommends me for Acting CEO roles
Author:	Paul Sheedy- Acting Chief Executive Officer
Date:	7 February 2023
Attachments:	Request for Quotation Summary of Quotations (Confidential)

PURPOSE

Council to consider the appointment of a consultant to assist in the recruitment of a new Chief Executive Officer and assist the Selection Panel to select a suitable candidate for appointment as a new CEO for the Shire.

BACKGROUND

December 2022

The current CEO provided a letter of resignation to the Shire President affective from 13 January 2023.

CONSULTATION

Shire President
Recruitment Consultants

STATUTORY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The cost to engage a consultant for the recruitment can be covered under the existing budget allocation in Schedule 4 'Administration General' for 'Administrative Contractors/Consultants' (Account 4212700) so no additional financial implications expected.

POLICY IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

- Compliance risk considered low.
Risk acceptable with appointment of consultant, Selection Panel and managed by the Acting CEO
- Financial Impact risk is considered moderate
Risk acceptable given it can be accommodated within the existing budget.

STRATEGIC PLAN REFERENCE

Strategic Community Plan 2022 – 2032

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

4.2 Compliant and resourced Local Government

Corporate Business Plan 2022 - 2026

4. CIVIC LEADERSHIP

4.2 Continue to meet compliance with statutory and regulatory requirement.

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

VOTING REQUIREMENTS

Simple Majority

COMMENT

A 'Request for Quotation' was sent to four (4) consultants considered suitable to assist the Council in the recruitment of a new CEO that generally fell within a reasonable price bracket (\$6,000 - \$12,000).

Three quotations were received, with one declining having moved interstate, and a summary of their proposals and fees are included in the attachment. The proposals comply with the 'Scope of Activity' requirements outlined in the RFQ, albeit their processes might vary.

The quotations all exclude recruitment advertising costs (which is normal), some preemployment costs (medical/ Psychometric testing), costs associated with bring candidate/s to Narembeen for interviews and accommodation and travel for two of the three consultants.

Based on my past experiences all three of the consultants can undertake the CEO recruitment process and it's just a matter of Council selecting its preferred one. Given that I have a potential financial interest with one of the consultants I have chosen not to make an 'Officer recommendation'.

OFFICER RECOMMENDATION

That Council appoint _____ to assist Council/Selection Panel in the recruitment of a new Chief Executive Officer

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

CARRIED /

AGENDA ITEM: 8.1.3 - Traffic Route Proposal – Variation of Agreement

Subject:	Traffic Route Proposal – Variation of Agreement
Applicant:	Tampia Operations Pty Ltd
File Ref:	ADM547
Disclosure of Interest:	Nil
Author:	Paul Sheedy – Acting Chief Executive Officer
Date:	8 February 2023
Attachments:	Nil

PURPOSE

Council to endorse a variation to the original Traffic Route Proposal Letter of Agreement, between the Shire of Narembeen and Explaurum Operations (now Tampia Operations), dated 26 May 2020 (endorsed by Council on 20 May 2020) as per Council decision on 14 October 2022.

The variation proposed (see full details under ‘COMMENT’ section of this report) relates to removing the requirement for a financial contribution and final road condition for Mt Arrowsmith Road.

BACKGROUND

May 2020

Council at its meeting on 20 May 2020 resolved (minute 7039/20):

‘That Council reaffirm its approval for Explaurum Operations Pty Ltd to use the Merredin-Narembeen Road, Fricker Road, Latham Road, Kondinin Narembeen Road, Mt Walker Road and Mt Arrowsmith Road being Shire of Narembeen’s controlled roads, to haul ore from Tampia Hill Operations to the Shire’s northern boundary located at SLK 0.00 on the Merredin Narembeen Rd, subject to the following amended conditions:-

I am pleased to advise that in relation to the Explaurum Operations Pty Ltd Traffic Route Proposal that at the Ordinary Meeting of Council held on Wednesday 20th May 2020, Council resolved as follows: -

That Council reaffirm its approval for Explaurum Operations Pty Ltd to use the Merredin-Narembeen Road, Fricker Road, Latham Road, Kondinin Narembeen Road, Mt Walker Road and Mt Arrowsmith Road being Shire of Narembeen’s controlled roads, to haul ore from Tampia Hill Operations to the Shire’s northern boundary located at SLK 0.00 on the Merredin Narembeen Rd, subject to the following amended conditions: -

1. That prior to commencing any road works subject to this agreement, the Shire’s Chief Executive Officer in conjunction with the Works Manager approve the design drawings and construction documentation related to the road and intersection upgrades listed below:

- *Mt Arrowsmith Rd and Mt Walker Rd Intersection*
- *Mt Walker Rd and Kondinin-Narembeen Rd Intersection*

2. That Mt Arrowsmith Road SLK 0.00 to SLK 9.50 be retained as a gravel road subject to a gravel overlay treatment being undertaken in accordance with the report R2010 - 26 Engineers Report Traffic Route Narembeen REV0-m prepared by Council’s Consultant Engineer Roadswest Engineering Group Pty Ltd;

3. That appropriate RAV ratings and associated conditions, as applied on the above roads by MRWA Heavy Vehicle Services (HVS), be adhered to;

4. Explaurum Operations Pty Ltd and their haulage contractor to comply with the Western Australian Road Traffic Act and its Regulations;

5. That the road train haulage task is approved on the basis of operating 24 hours 7 days a week;

6. *That the Shire Works Manager receive monthly Ore Haulage Operations Reports to include- the date, shift, truck identification, tonnes per load and total tonnes carted for the month;*
7. *That a specific Operational Safety Management Plan (OSMP) for the heavy haulage task be prepared by Explaurum Operations Pty Ltd and reviewed by the Shire of Narembeen prior to commencing any haulage operations. The OSMP must include but not limited to the following:*
 - *All plant and equipment to be used on public roads shall meet all necessary statutory requirements and have registration, licences or certification with the drivers/operators at all times.*
 - *All road maintenance plant and equipment shall be fitted with a rotating flashing lamp, reversing beeper and fire extinguisher.*
 - *All drivers shall be the holder of a current Western Australian driver's licence appropriate to the vehicle being driven.*
 - *Incident and Emergency Response Plan.*
 - *Hazard Identification, Risk Assessment and Controls.*
 - *A specific procedure to minimise vehicle noise whilst traversing Latham Rd in the Narembeen town centre.*
 - *Specific Inductions.*
 - *Consultation Communication and Reporting.*
 - *Audit Plan of the OSMP to include attendance by Shire of Narembeen Representative as required.*
8. *All drivers of haulage vehicles to comply with any reasonable verbal or written directives, if any, issued by the Shire of Narembeen's Chief Executive Officer or Works Manager;*
9. *That the use of saline water greater than >20,000gmg/ for road construction and maintenance activities be prohibited. Copies of water salinity test results undertaken by a certified laboratory, be provided to Council's Works Manager for verification purposes. The use of polymers be approved, subject to consultation with Council's Works Manager on polymers to be utilised;*
10. *That specific heavy vehicle road signage be installed in accordance with the report R2010-26 Engineers Report Traffic Narembeen REV0-m prepared by Council's Consultant Engineer Roadswest Engineering Group Pty Ltd;*
11. *Ore haulage vehicle movement is to cease on Mt Arrowsmith Road (gravel section) during wet weather and when road damage is likely to occur except where wet weather commenced whilst a vehicle was on route and there is a need to complete the journey or during an emergency situation where there is a need to use the road to manage the wellbeing of personnel;*
12. *Re-instatement of any road damage (in addition to normal road maintenance wear and tear covered by the payment of the WALGA capital and maintenance contribution) directly related to the movement of Explaurum Operations Pty Ltd's haulage contractor's road trains, or any other operational vehicles, to be the responsibility and costs borne by Explaurum Operations Pty Ltd;*
13. *That a routine road maintenance program and associated procedures satisfying the requirements of the Shire of Narembeen be developed with the Works Manager prior to road haulage commencing on Mt Arrowsmith Road SLK 0.00 to SLK 9.50;*

14. *That a traffic management plan for any roadworks be prepared by an appropriately accredited person in accordance with MRWA requirements - prior to any roadworks commencing;*
15. *That a financial contribution for future maintenance costs be applied to Explaurum Operations Pty Ltd's in accordance with WALGA and ARRB publication: User Guide Estimating the Incremental Cost Impact on Sealed Local Roads from Additional Freight Tasks May 2015 Version No 1. This will be simplified to \$.0107 per kilometre per tonne. Based on the roads to be used this will be assessed on 42.4 km and the actual tonnes (planned is 750,000 tonnes p.a). thus this will be approximately \$340,260 pa, paid on a monthly basis;*
16. *Explaurum Operations Pty Ltd agree to indemnify the Shire of Narembeen from and against, and must pay the Shire of Narembeen on demand as a debt, the amount of any direct claim, damage, cost, expense, loss (excluding indirect or consequential) or liability which the Shire of Narembeen may suffer with or in relation to the operation of road trains and road maintenance equipment by Explaurum Operations Pty Ltd under this letter;*
17. *Explaurum Operations Pty Ltd's liability to indemnify the Shire of Narembeen as set out above will be reduced proportionately to the extent that an act or omission by a third party or the Shire of Narembeen or a breach of the Shire of Narembeen's statutory obligations has contributed directly to the loss, damage, expense, injury, disease, illness, death or other liability;*
18. *That any procedural or material non-compliance with any of the above conditions may result in any of the approvals being withdrawn provided that the Shire of Narembeen must not withdraw approval pursuant to this clause unless it has first provided Explaurum Operations Pty Ltd a reasonable opportunity to remedy any alleged non – compliance and such breach remains unremedied or, where remediation is not applicable, unaddressed by Explaurum Operations Pty Ltd , at the end of the period specified in the notice from the Shire of Narembeen; and*
19. *At the conclusion of Explaurum Operations Pty Ltd ore haulage task on the Mt Arrowsmith Rd, Explaurum Operations Pty Ltd and Shire of Narembeen Works Manager, undertake an inspection of the road to identify any road pavement failures or maintenance issues, to which Explaurum Operations Pty Ltd will be responsible to repair/make good the road to the satisfaction of the Shire of Narembeen'.*

December 2020

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.

October 2022

Council at its meeting on 14 October 2022 resolved (minute 7515/22):

'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.*
2. *Negotiate a deed of amendment to the original traffic route Proposal agreement to reflect the sealing of Mt Arrowsmith road.'*

CONSULTATION

Chief Executive Officer, Works Manager and Tampia Mine Manager

STATUTORY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

A reduction in the monthly road maintenance contributions paid to the Shire by Ramelius with the removal of the Mt Arrowsmith Road contribution.

Should the SLK0.00 to SLK 9.50 section of Mt Arrowsmith Road remain sealed once mine operations ceased the Shire will have additional future road preservation costs to maintain the seal and possible other costs to remove/reduce the amount of water remaining on the road surface

POLICY IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

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

Returning this section of road back to a gravel surface would reduce the responsibility and 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

Simple Majority

COMMENT

As per part two (2) of the October 2022 Council decision the Chief Executive Officer and Works Manager undertook consultation/negotiations with Tampia Operations Mine Manager to finalise a variation to the original Letter of Agreement given the sealing of the road by Ramelius.

The proposed variation clauses are as follows:

'This letter serves to record the agreement between the Shire and Tampia that the Letter is varied on and from the date of this letter as follows:

- (a) References to "Explaurum Operations Pty Ltd" are to be replaced with "Tampia Operations Pty Ltd" to reflect a name change;*
- (b) Condition 2 is amended to read "That Mt Arrowsmith Road SLK 0.00 to SLK 9.50, having been sealed with a 2 coat seal in 2021 pursuant to an agreement between the Council and Tampia Operations Pty Ltd, be maintained by Tampia Operations Pty Ltd, not subject to the financial contribution of \$0.0107 per kilometre per tonne as set out in Condition 15 and, subsequent to the cessation of haulage, be returned to the Council in substantially the same condition as it was upon first being sealed."*
- (c) Condition 11 is deleted.*

All other terms of the Letter remain unchanged.'

Whilst overall the above suggested changes to the original agreement are acceptable the one point that I believe warrants some consideration and further discussion by Council is the part which states *'subsequent to the cessation of haulage, be returned to the Council in substantially the same condition as it was upon first being sealed'*.

Whilst the retention of this section of road as a sealed section, might initially appear to be beneficial to the community, it will come at an additional cost to the Shire in the long term as part of road preservation. Given that motor vehicle drivers generally increase their speed on seal roads there may be a requirement to assess verge runoff to determine if there are any safety issues with trees being too close to the road etc. There is also the potential for an increase in the amount of water laying on the road, given its sealed surface, and therefore the need to install road verge drainage (culverts & table drains).

Finally, will a small section of My Arrowsmith Road being sealed result in pressure from the community to extend the seal on this road.

OFFICER RECOMMENDATION

That Council endorse the proposed variations to the original Traffic Route Proposal Letter of Agreement dated 26 May 2020 as follows:

1. References to “Explaurum Operations Pty Ltd” are to be replaced with “Tampia Operations Pty Ltd” to reflect a name change.
2. Condition 2 is amended to read “That Mt Arrowsmith Road SLK 0.00 to SLK 9.50, having been sealed with a 2 coat seal in 2021 pursuant to an agreement between the Council and Tampia Operations Pty Ltd, be maintained by Tampia Operations Pty Ltd, not subject to the financial contribution of \$0.0107 per kilometre per tonne as set out in Condition 15 and, subsequent to the cessation of haulage, be returned to the Council in substantially the same condition as it was upon first being sealed.”
3. Condition 11 is deleted.
4. All other terms of the Letter (dated 26 May 2020) remain unchanged.

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

CARRIED /

8.2 Executive Manager Corporate Services

AGENDA ITEM: 8.2.1 - Monthly financial statements for periods ended 31 December 2022 and 31 January 2023

Subject:	Monthly financial statements for December 2022 and January 2023
Applicant:	Shire of Narembeen
File Ref:	Not applicable
Disclosure of Interest:	Nil
Author:	Ben Forbes – Executive Manager Corporate Services
Date:	10 February 2023
Attachments:	Monthly financial statements - December 2022 Monthly financial statements - January 2023

PURPOSE

For Council to accept the monthly statement of Financial Activity disclosing the Shires financial activities for the periods 1 December 2022 to 31 December 2022 and 1 January 2023 to 31 January 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 31 January 2023 is \$2,369,927, with cash on hand of \$7,254,204 including \$4,134,441 of reserves.

OFFICER RECOMMENDATION

That Council receive the monthly financial reports for the months ended 31 December 2022 and 31 January 2023.

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

CARRIED /

AGENDA ITEM: 8.2.2 - Schedule of Accounts for December 2022 and January 2023

Subject:	Schedule of Accounts for December 2022 and January 2023
Applicant:	Not applicable
File Ref:	ADM018
Disclosure of Interest:	Nil
Author:	Kathryn Conopo – Administration Officer
Date:	8 February 2023
Attachments:	Creditors Payment List – December 2022 and January 2023 Credit Card Payments List 14 October – 14 November 2022 Credit Card Payments List 15 November – 13 December 2022

PURPOSE

For Council to review the payments made by the Shire of Narembeen in December 2022 and January 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 months of December 2022 and January 2023 is attached to this report and the total amount paid from the municipal fund is as follows:

Municipal Account: \$ 809,170.92

OFFICER RECOMMENDATION

That Council:

1. Receive the Creditors Payment List – December 2022 and January 2023
2. Receive the Credit Card Payments List 14 October – 14 November 2022
3. Receive the Credit Card Payments List 15 November – 13 December 2022

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

CARRIED /

9.0 Motions of which previous notice has been given

AGENDA ITEM: - 9.1 Health and Safety Compliance Representative

Subject:	Health and Safety Compliance Representative
Applicant:	Councillor Chris Bray
File Ref:	Not Applicable
Disclosure of Interest:	Nil
Author:	Paul Sheedy – Acting Chief Executive Officer
Date:	8 February 2023
Attachments:	Nil

PURPOSE

To request the Chief Executive Officer to investigate the appointment of a full time Health and Safety Compliance Representative, to oversee and implement the new Work Health and Safety (General) Regulations 2022 as a shared position with other RoeROC local governments.

BACKGROUND

February 2023

Councillor Bray forwarded the following proposed Notice of Motion for consideration by Council at the February 2022 Council meeting and has provided the following in support.

‘With the introduction of the April 2022 health and safety regulations, the Community of Narembeen’s financial position would be severely impacted if Compliance Matters are found not to be in place, also incidents of workplace bullying, in all its forms, must be encouraged to be Reported, in order to Stamp it out completely. If steps are not adopted now, we will be putting our community’s wellbeing under further severe Stress.’

CONSULTATION

Councillor Bray, Shire president and Acting Chief Executive Officer

STATUTORY IMPLICATIONS

Work Health and Safety Act 2020

Work Health and Safety (General) Regulations 2022

Shire of Narembeen Standing Orders Local Law 2020, clause 5.2

5.3 Motions of which previous notice has been given

- 1) Unless the Act, Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.
- 2) A notice of motion under subclause (1) is to be given at least 5 clear working days before the meeting at which the motion is moved.
- 3) A notice of motion is to relate to the good governance of the district.
- 4) The CEO-
 - (a) with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be, or likely to involve, a breach of any of this local law or any other written law;

- (b) must inform members on each occasion that a notice has been excluded and the reasons for that exclusion;
 - (c) may, after consultation with the member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form; and
 - (d) may provide to the meeting relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget, and law.
- (5) A motion of which notice has been given is to lapse unless-
- (a) the member who gave notice of it, or some other member authorised by the originating member in writing, moves the motion when called on; or
 - (b) the meeting on a motion agrees to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

FINANCIAL IMPLICATIONS

The proposal if supported would require the allocation of funds in the 2022/23 budget and future budgets.

Cost implications would depend on how many other local governments agreed to share the position, but it is estimated that the approximate overall costs for this position, per annum, would be \$100,000 - \$120,000 (salary, superannuation, motor running costs, house, and utilities), plus purchase/lease of motor vehicle.

POLICY IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

The changing of the definition of a Volunteer to now be determined as an 'Employee' has certainly raise a great level of awareness and WHS obligations in local government and especially CEO's who are the ones primarily held responsible if an "Employee" is injured or is killed in the workplace.

The development of on-the-job procedures, proper induction of employees and contractors coming on site and proper training in the use/operation of plant and equipment will help to mitigate these risks.

STRATEGIC PLAN REFERENCE

Strategic Community Plan 2022-2032

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

4.2 Compliant and resourced Local Government

Corporate Business Plan 2022 - 2026

4. CIVIC LEADERSHIP

4.2 Continue to meet compliance with statutory and regulatory requirement.

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

VOTING REQUIREMENTS

Simple majority

COMMENT

Work Health and Safety, like Governance is taking on increasing importance in local government and the ability of small rural/remote local governments to respond the legislation, individually, in a fully compliant manner is proving difficult due to a lack of resources (employee and funding).

Like many other services (EHO, Building & Planning) a number of rural/remote are looking to resource share with other local governments, some with adjoining one's, others with metropolitan ones (as Narembeen does with Building Services).

LGIS (Shire's insurer) provides a Risk Support Service with this Shire being supported by Chris Gilmour, Regional Risk Manager, Great Eastern Wheatbelt who attends WHS meetings, provides advice and documentation to assists the Shire to meet its WHS obligations in the workplace.

Whilst this Officer provides the necessary backup support and expertise with WHS it's the on-ground implementation of safety practices, ensuring worksites are compliant, employees are suitably trained, and documentation is update to date that falls to the responsibility of the local government and more importantly directly to the Chief Executive Officer.

At the end of the day its costs versus risk, not having such an officer does not mean that the Shire is not complying with WHS legislation, but I suspect that like many other rural/remote local governments, the organisation is only meeting minimum standards and potentially are not operating at a level that would see the risk being very low and have confidence that if a major incident, injury or death occurred in the workplace, the organisation would be okay.

Finally, if a minimum of two (2) other local government came on board to share the officer then it might be financially viable, without this the cost burden on one local government is significant annually, however the consequences can also be significant (CEO and organisation) if found at fault in a major incident.

NOTICE OF MOTION

That Council request that the CEO investigate the appointment of a full time Work Health and Safety Compliance Officer, commencing in the 2023/24 financial year, to oversee and implement the new Work Health and Safety Act 2020 and Regulations 2022, including the sharing of the position with other RoerOC local governments, or other identified local government/s, and provide a report back to the April 2023 Council meeting

COUNCIL RESOLUTION

MIN

MOTION - Moved Cr.

Seconded Cr.

CARRIED /

10.0 Urgent business as permitted by Council

11.0 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

-

12.0 Date, time & place of next meeting

Tuesday 21 March 2023, 5.00pm at the Shire of Narembeen Council Chambers.

13.0 Closure

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