



Agenda Briefing

16 August 2023

Notes

Unconfirmed Notes

These notes were approved for distribution on 18 August 2023.



Suzie Haslehurst

CHIEF EXECUTIVE OFFICER

When the Chief Executive Officer approves these Notes for distribution they are in essence "informal notes" that will be received at the next Ordinary Council Meeting, subject to any amendments being made by Council.

The "Received" Notes are then signed off by the Presiding Person.

Attachments that formed part of the Agenda, in addition to those tabled at the Agenda Briefing are included in the attachments to the Ordinary Council Meeting with the exception of confidential items or attachments that are confidential which will be included in Confidential Minutes of the Ordinary Council Meeting.

Received Notes

These notes were received at an Ordinary Council Meeting held on 23 August 2023.

Signed:

Note: The Presiding Member at the meeting at which the notes were received is the person who signs above.

CONTENTS

1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	1
2	RECORDS OF ATTENDANCE	1
2.1	APOLOGIES	1
2.2	APPROVED LEAVE OF ABSENCE	1
2.3	APPLICATIONS FOR LEAVE OF ABSENCE	1
3	DISCLOSURE OF INTERESTS	1
4	PUBLIC QUESTIONS	1
4.1	RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	1
4.2	PUBLIC QUESTION TIME	2
5	CONFIRMATION OF MINUTES	2
6	PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS.....	2
6.1	PETITIONS.....	2
6.2	DEPUTATIONS.....	2
6.3	PRESENTATIONS	2
6.4	SUBMISSIONS.....	2
7	BUSINESS FROM PREVIOUS MEETING (IF ADJOURNED).....	2
8	ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION).....	2
9	OFFICER REPORTS	2
9.1	DEVELOPMENT AND REGULATION	2
9.1.1	Lot 3 Stirling Terrace, Toodyay - Construction of new staircase and internal alterations	2
9.1.2	Lot 5 Mercy Retreat , Toodyay - "Mercy House" - Restoration and change of use – Convent to Single Dwelling and Short-Term Accommodation.....	3
9.1.3	Lot 101 Nunile Road, Nunile - Ancillary Accommodation.	10
9.1.4	Proposed Scheme Amendment No. 12 - Additional Use Proposed Additional Use “Brewery, Cidery or Distillery, Restaurant Café, Tourist Development.” Lot 4 (447) Morangup Road, Morangup	13
9.2	CORPORATE AND COMMUNITY SERVICES	13
9.2.1	List of Payments - July 2023	13
9.3	EXECUTIVE SERVICES	16

9.3.1	Correspondence - Department of Local Government, Sport & Cultural Industries.....	16
9.3.2	Voting Delegates for the 2023 WALGA AGM	16
9.4	INFRASTRUCTURE AND ASSETS.....	16
9.4.1	Request for Speed Zone Review - Campbell Chase in Glencoe Estate	16
9.5	COMMITTEE REPORTS.....	17
9.5.1	Bush Fire Advisory Committee Recommendations - 2 August 2023.....	17
9.5.2	Environmental Advisory Committee Recommendations	17
10	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	18
11	NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING	18
12	QUESTIONS OF MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	18
13	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	18
13.1	MEMBERS	18
13.2	EMPLOYEES	18
14	CONFIDENTIAL BUSINESS	18
15	NEXT MEETINGS.....	18
16	CLOSURE OF MEETING.....	18

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Cr R Madacsi, Shire President, declared the meeting open at 1.05pm.

2 RECORDS OF ATTENDANCEMembers

Cr R Madacsi	Shire President
Cr B Ruthven	Deputy Shire President
Cr C Duri	Councillor
Cr P Hart	Councillor (<i>via zoom</i>)
Cr S McCormick	Councillor
Cr M McKeown	Councillor
Cr S Pearce	Councillor
Cr D Wrench	Councillor (<i>via zoom</i>)

Staff

Ms S Haslehurst	Chief Executive Officer
Ms T Bateman	Executive Manager Corporate and Community Services (<i>via zoom</i>)
Mr R Koch	Community Emergency Services Manager
Mr M Werder	Project Manager
Mrs T Prater	Planning and Compliance Officer
Mrs M Rebane	Executive Assistant

Visitors

Nil.

2.1 APOLOGIES

Mr H de Vos	Executive Manager Development and Regulation
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2.2 APPROVED LEAVE OF ABSENCE

Nil

2.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

3 DISCLOSURE OF INTERESTS

The Chairperson advised that no disclosures of interest in the form of a written notice had been received prior to the commencement of the meeting.

4 PUBLIC QUESTIONS**4.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

As per Council Meeting Agenda.

4.2 PUBLIC QUESTION TIME

Nil

5 CONFIRMATION OF MINUTES

As per Council Meeting Agenda

6 PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

6.1 PETITIONS

Nil.

6.2 DEPUTATIONS

Nil.

6.3 PRESENTATIONS

Nil.

6.4 SUBMISSIONS

Nil.

7 BUSINESS FROM PREVIOUS MEETING (IF ADJOURNED)

Nil.

8 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

Nil.

9 OFFICER REPORTS

9.1 DEVELOPMENT AND REGULATION

9.1.1 Lot 3 Stirling Terrace, Toodyay - Construction of new staircase and internal alterations

9.1.1 - Questions and Points raised		
Councillor	Discussion	Response from the CEO unless otherwise specified
Pearce	<p>1 Staircase “Ship”</p> <p>The existing spiral staircase is constructed of black painted steel which is unsafe to climb due to its design and narrow steps and typically would not have been constructed in the 1860 era when the “The Ship” was built.</p>	<p><i>The typographical error will be corrected in the minutes.</i></p>

9.1.1 - Questions and Points raised		
Councillor	Discussion	Response from the CEO unless otherwise specified
Mckeown	Officers report stated that it was painted steel. My advice is that it is powder coated steel	<i>This was noted.</i>

9.1.2 Lot 5 Mercy Retreat , Toodyay - "Mercy House" - Restoration and change of use – Convent to Single Dwelling and Short-Term Accommodation

Item 9.1.2 - Questions and Points raised		
Councillor	Discussion	Response from the Planning and Compliance Officer, unless otherwise specified.
Pearce	Item 9.1.2 Mercy House conversion to accommodation A maximum of ten quests at any time with a maximum of two guests per room.	<i>The typographical error will be corrected in the minutes.</i>
Duri	Have the owners of the property indicated their intentions regarding the boiler stored in the boiler room? I understand from a previous visit to the site that this equipment has significant historical value.	<i>The boiler is covered in asbestos and considered a health hazard and will be disposed of correctly.</i>
Duri	Do we have evidence the boiler is covered in asbestos? Have the fragments covering the boiler been tested? What will happen to the other items that are stored in the laundry?	<i>I spoke with the architect working on the job this morning and the boiler appears that it is covered in asbestos.</i>

Item 9.1.2 - Questions and Points raised		
Councillor	Discussion	Response from the Planning and Compliance Officer, unless otherwise specified.

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Item 9.1.2 - Questions and Points raised		
Councillor	Discussion	Response from the Planning and Compliance Officer, unless otherwise specified.
		<p><u>CEO response:</u></p> <p><i>We will take that question on notice.</i></p> <p><u>Response after meeting:</u></p> <p>The boiler is assumed to be covered in asbestos by the applicant as it was the only product used in 1903.</p> <p>The old laundry equipment will be placed under the verandah of the proposed alfresco kitchen</p>
McKeown	Application is to demolish part of the boiler house. What reason has the applicant given to demolish it?	<i>It is already partially destroyed and had been demolished over time so they are wanting to finish it off.</i>
McKeown	The boiler house is not shown on any plans to be provided. Is the Dept aware of that? Why is it omitted from the plans?	<i>Discussion with Heritage Adviser through Heritage Commission advised it would not need to be on there because it was going to be demolished.</i>
McKeown	Why wasn't the boiler house shown on the existing building plans?	<p><u>CEO response:</u></p> <p><i>We will take that question on notice.</i></p> <p><u>Response from applicant -</u></p> <p>The building is in a very poor state. Clad in asbestos (damaged) and some remnant weather boards. There was termite and small fire damage. The asbestos and damaged materials have been removed and currently on site the boiler room consists of the timber frame and roof. The roof would require re-roofing. The owner is seeking to remove the boiler room as it does not fit with their vision for the precinct.</p>

Item 9.1.2 - Questions and Points raised		
Councillor	Discussion	Response from the Planning and Compliance Officer, unless otherwise specified.

Item 9.1.2 - Questions and Points raised		
Councillor	Discussion	Response from the Planning and Compliance Officer, unless otherwise specified.
<i>McKeown</i>	There used to be a garage to the east of the boiler house and that is not shown on existing plans either. Is there a reason for that?	<p><u>CEO response:</u></p> <p><i>We will take that question on notice.</i></p> <p><u>Response after meeting:</u></p> <p>The garage was not shown on the plans, as it has been removed from site. Not by the current owners.</p>

Item 9.1.2 - Questions and Points raised		
Councillor	Discussion	Response from the Planning and Compliance Officer, unless otherwise specified.
<i>McKeown</i>	Has there ever been a permit issued by the Shire to demolish the garage that used to be located to the east of the boiler house?	<p><u>CEO response:</u> We will take that question on notice.</p> <p><u>EMDR Response after meeting</u></p> <p>Officers have made further enquiries and the landowner has provided a verbal admission that the structure was taken down without Shire approval. The reason provided was that it was due to asbestos removal weakening an already dilapidated structure. Notwithstanding this, it has been reiterated to the landowner that all development needs to be approved through the Shire and in accordance with current delegations – the Council must make these decisions. The Shire is infringing the landowner for the unauthorised demolition.</p>
<i>McKeown</i>	I would like to table a plan from the Oct 2020 OCM – the clearance of subdivision conditions passed by Council showing the	<i>The CEO received the plan tabled by Cr McKeown which will be added as a tabled attachment to the report.</i>

Item 9.1.2 - Questions and Points raised		
Councillor	Discussion	Response from the Planning and Compliance Officer, unless otherwise specified.
	laundry, the boiler room and the garage listed at Dec 2020.	

9.1.3 Lot 101 Nunile Road, Nunile - Ancillary Accommodation.

Item 9.1.3 - Questions and Points raised		
Councillor	Discussion	Response from Executive Manager Development and Regulation unless otherwise specified
Pearce	<p>The Officers Report refers to LPP No 2 Ancillary Dwellings.</p> <p>In searching Shire Local Planning Policies listed also is - <i>Draft Ancillary Dwellings (June 2022)</i></p> <p>OCM Minutes June 2022 Resolution 105/06/2022.</p> <p>Council adopted the Draft Local Planning Policy – Ancillary Dwellings.</p> <p>It was to be brought back to Council after advertising to the August OCM. Searching OCM minutes September, to December, it does not appear to be brought back to Council.</p> <p>Would the Officer please indicate which policy is the current policy as the officer’s report refers to:</p> <p><i>The proposal is a variation to the following provisions of the policy:</i></p>	<p><u>CEO response:</u> <i>Revised policy not been brought back to Council so the current policy is as per the response below:</i></p> <p><u>Planning and Compliance Officer response:</u> <i>The current policy is LPP2 – Ancillary Accommodation – Adopted September 2008.</i></p>

Item 9.1.3 - Questions and Points raised		
Councillor	Discussion	Response from Executive Manager Development and Regulation unless otherwise specified
	<p>(a) Must be located within 20m of the main house.</p> <p>(b) Must be positioned behind or in line with the building line of the existing house</p>	
Pearce	<p>This does not appear to be in the Draft Local Planning Policy – Ancillary Dwellings adopted by Council in June 2022.</p> <p>Would the Officer please indicate when the Draft LPP - Ancillary Policy adopted by Council in June 2022 will come back to Council?</p>	<p><u>Planning and Compliance Officer response:</u></p> <p><i>LPP – Ancillary Accommodation was put on hold as the requirements for an Ancillary Accommodation were to be included in LPS No. 5. Therefore, the original LPP2 Ancillary Accommodation is still current.</i></p> <p><u>CEO response:</u></p> <p><i>It was proposed that the provisions of the policy would be included in LPS5 and therefore no further work was done on the policy. We are awaiting the outcome of LPS5 before we can make those changes.</i></p>
Pearce	<p>How does that influence the adoption of the Ancillary Policy?</p>	<p><u>CEO response:</u></p> <p><i>If the provisions of the policy are included in LPS5 then the policy will need to be revoked. If it is not included in the changes made to LPS5 then Council will be asked to adopt a revised policy that better reflects the contents of LPS5.</i></p>
Pearce	<p>Would the officer please indicate once the project has been completed, what is the process to ensue all conditions have been met before occupation occurs.</p>	<p><u>Planning and Compliance Officer response:</u></p> <p><i>It is the responsibility of the applicant/owner to comply with the conditions listed on the Development Approval prior to occupation.</i></p> <p><u>CEO response:</u></p> <p><i>Currently the Shire does not have the capacity or resources to follow up on every single development approval provided so our compliance investigations are reactive to complaints received. Applicants are advised in writing of the requirement to comply with conditions.</i></p>

Item 9.1.3 - Questions and Points raised		
Councillor	Discussion	Response from Executive Manager Development and Regulation unless otherwise specified
McKeown	Is Council being asked to make a variation to the policy?	<u>CEO response:</u> <i>Yes, the 2008 policy.</i>
McKeown	<p>If we issue a variation to the policy (as per the Inquiry report) we have to ensure where full compliance is impractical or warranted in the case.</p> <p>Has the officer explained why full compliance with the policy is impractical, or how it will result in detriment?</p>	<p><u>CEO response:</u> <i>If Councillors are of the opinion the Officer has not then Councillors can ask a question of the Officer.</i></p> <p><u>EMDR response</u> <i>The justification for the variation request from the applicant is for an improved outcome with regards to bushfire safety. The proposed location which includes a variation of 42m in lieu of 20m will allow a BAL rating of 12.5 to be achieved. This will lower overall development costs for the applicant.</i></p> <p><i>Were the Shire to require the applicant to strictly adhere to the 20m limit, it is likely that development costs and safety risk would increase. Therefore it is seen as unnecessarily disadvantageous to apply the full compliance in this instance.</i></p>
Madacsi	Where is the BAL report attachment - to support the location being 42m in lieu of 20m from the main dwelling to achieve a lower BAL rating.	<p><u>Planning and Compliance Officer response:</u> <i>The BAL report was provided to Councillors via their hub on 16 August 2023 at approximately 12.30pm.</i></p>
Madacsi	Why can't the ancillary dwelling be positioned behind or level with the main dwelling when there is at least 70m to the southern boundary and a 45m (variation) to the western boundary?	<p><u>Planning and Compliance Officer response:</u> <i>Ideally the ancillary accommodation would be placed in line with the dwelling. However, Council can vary the policy, and in this instance, the intention is to achieve a lower BAL rating and provide affordable housing options to the community.</i></p> <p><u>EMDR response</u> <i>The positioning of ancillary accommodation is perhaps more critical in higher density, residential land where the impact of placement</i></p>

Item 9.1.3 - Questions and Points raised		
Councillor	Discussion	Response from Executive Manager Development and Regulation unless otherwise specified
		<p><i>on the amenity and streetscape can be more pronounced.</i></p> <p><i>In this case, with the subject site being in low density, rural zoned land – the impact on surrounding amenities is not a factor. The other intent of having the ancillary dwelling located reasonably close to a single dwelling is to demonstrate that it is subordinate to the main dwelling. Once again, the low density of development in the area is reasonable justification to warrant a departure from the strict adherence to this clause.</i></p>
<i>Madacsi</i>	Is the application dependent upon trees being planted between the ancillary dwelling and Nunile Road?	<p><u>Planning and Compliance Officer response:</u></p> <p><i>No the trees are already planted.</i></p>

9.1.4 Proposed Scheme Amendment No. 12 - Additional Use Proposed Additional Use “Brewery, Cidery or Distillery, Restaurant Café, Tourist Development.” Lot 4 (447) Morangup Road, Morangup

Nil.

9.2 CORPORATE AND COMMUNITY SERVICES

9.2.1 List of Payments - July 2023

Item 9.2.1 - Questions and Points raised		
Councillor	Discussion	Response from Finance Coordinator unless otherwise specified
<i>Pearce</i>	<p>19 Credit Card 14/06/2023 Australia Post - gift card for S. Slater \$386.90</p> <p>Would Officer explain this payment.</p>	<p><i>The Shire usually buys a gift card for employees when they finish employment with the Shire in accordance with <u>Payments to Employees above Contract or Award Policy</u>. The amount reflects the length of service.</i></p>

Item 9.2.1 - Questions and Points raised		
Councillor	Discussion	Response from Finance Coordinator unless otherwise specified
Pearce	Was it a continuous employment	<p><u>CEO response:</u></p> <p>I believe it was continuous but will take the question on notice.</p> <p><u>Response after meeting</u></p> <p>Continuous employment is service provided without interruption in accordance with a contract of employment.</p> <p>The Officer worked for the Shire from 14 Jan 2008 to 17 June 2023.</p>
Pearce	<p>79 14-07-2023 MCLEODS BARRISTERS & SOLICITORS</p> <p>Unauthorised camping 62 Ferguson Road, Coondle 539.55</p> <p>Is this cost recoverable?</p>	<p><i>This cost will not be recoverable, as it was for legal advice sought and to review the Notices issued to ensure their legality. The issue was resolved without going to court.</i></p>
Pearce	Ca this information be used for this type of notice issued?	<p><i>Yes. Because we had not issued many of these in the past we wanted to ensure the notices were enforceable. The advice will apply to future notices issued.</i></p>
Madacsi	<p>What accounts for the large increase between the 2022 and 2023 (same period) water accounts for the Showgrounds given 2022 was \$1,930.78?</p> <p>13011 (14.07.23) Water Corporation Account \$3,961.96.</p> <p>Water Account 9007933517, showgrounds, pavilion and hockey oval for the period 17 April 2023 to the 12 June 2023</p>	<p><i>Water usage at the showgrounds and with other parks is seasonal based on the watering/irrigation requirements to maintain the turf/lawn areas.</i></p> <p><i>In addition to the Shire's watering requirements at the oval, the cricket club also has their own separate irrigation system. The turf pitch cannot have bore water applied because the salt content would break down the clay. As such, only scheme water must be used. Unfortunately, the Shire does not control this particular irrigation system, so the frequency and volume of water applied cannot be managed.</i></p> <p><i>It should also be noted that last summer was particularly dry, with no summer rainfall to assist with maintaining groundwater levels or water the turf areas. The water volume at the</i></p>

Item 9.2.1 - Questions and Points raised		
Councillor	Discussion	Response from Finance Coordinator unless otherwise specified
		<i>bore dropped over time as there was no rainfall from October to mid-March, which added extra burden on scheme water supplied to the Shire's storage tank. The late season break also meant the Shire was required to continue watering for longer than would normally be the case. Glenn explained that all watering was turned off completely in mid/late May.</i>
<i>Madacsi</i>	<p>60 (14.07.23) Emerg Solutions Pty Ltd Account \$2,880.00 –</p> <p>BART Regional group subscription licenses September 3, 2023 to September 3, 2024</p> <p>What is the BART regional group subscription?</p>	<p><i>BART is a mobile phone app used to advise Bush Fire Brigade members of a turnout request from DFES. It also assists operations by understanding who is responding to a turnout request and allows for roster management of personnel. The cost to licence the app is Local Government Grant Scheme (LGGS) eligible.</i></p> <p><i>BART means Broadcast. Alert. Respond. Turnout:</i> https://bart.com.au/products/bart/overview/</p>
<i>McCormick</i>	<p>Water Account usage – are you aware the cricket pitch is curated by Shane Watson (third party) from Northam and it is not the cricket club that manages the turf?</p>	<p><u><i>Shire President response:</i></u> <i>Thank you for that information.</i></p>
<i>Ruthven</i>	<p>Is there any value in checking the possibility of an artificial turf pitch that would not require so much water?</p>	<p><u><i>CEO response:</i></u> <i>I will take the question on notice.</i></p> <p><u>Response after meeting</u> The oval is the Shire's oval, therefore technically so is the cricket pitch, however we do no maintenance on the pitch whatsoever. This is the responsibility of the cricket club. The cricket club has expressed a desire to continue with a turf pitch, as it is the only turf pitch in their association. All other pitches are artificial turf. A suggestion several years ago to convert to an artificial pitch was met with resistance by the club.</p>

Item 9.2.1 - Questions and Points raised		
Councillor	Discussion	Response from Finance Coordinator unless otherwise specified
		<p>The value in removing this turf pitch and making it an artificial turf pitch would be (1) ease of oval maintenance and (2) reduction in water costs however, whilst the club continues to maintain the pitch at their expense (watering aside), this may prove difficult.</p> <p>If the cricket club decides they can no longer maintain the pitch, and request the Shire takes over, that would be the time to consider changing the turf surface.</p>

9.3 EXECUTIVE SERVICES

9.3.1 Correspondence - Department of Local Government, Sport & Cultural Industries

Nil.

9.3.2 Voting Delegates for the 2023 WALGA AGM

NIL.

9.4 INFRASTRUCTURE AND ASSETS

9.4.1 Request for Speed Zone Review - Campbell Chase in Glencoe Estate

Item 9.4.1 - Questions and Points raised		
Councillor	Discussion	Response from CEO unless otherwise specified
<i>Duri</i>	Is there a traffic problem other than when there is an event on? If it is continuous throughout the year	<i>Anecdotally there are issues when events are on but other issues are that there are no speed signs within that development and Officers believe it should be rectified.</i>
<i>Pearce</i>	Is the development considered a built up area?	<i>I believe so. From our investigations it appears the development meets the requirements for a built up area.</i>
<i>Pearce</i>	If that is the case, will Main Roads erect the signs to indicate that?	<i>Yes</i>

McKeown	Is that area in the townsite of the Shire of Toodyay?	Yes
McKeown	If it is a built up area can there be a sign? If you turn into Campbell chase the only speed limit sign is 90.	<u>Shire President response:</u> <i>It indicates to people that it is 90 which is an argument the officers will make to Main Roads WA.</i>
McCormick	Is that the entrance to Glencoe Estate	Yes
McKeown	Does the same situation apply to extracts estate?	<u>Shire President response:</u> <i>That is a valid question. I will take that on notice.</i> <u>Response after meeting</u> <i>Yes, the same situation applies for the Extracts area.</i> <i>Depot staff have also made inquiries with Main Roads regarding the installation of “built up area” speed signage.</i> <i>In order to be compliant with the installation of these signs, we are required to have a minimum of two weeks of traffic count data that shows the operating speed (85th percentile) is 10km/h or greater than the built up area speed limit.</i>

9.5 COMMITTEE REPORTS

9.5.1 Bush Fire Advisory Committee Recommendations - 2 August 2023.

Nil.

9.5.2 Environmental Advisory Committee Recommendations

Questions and Points raised		
Councillor	Discussion	Response
Pearce	In the OREC it says notes there are delays associated with the Biodiversity Strategy. Can some clarification be given as to what caused the delay?	<u>CEO response:</u> <i>I believe that this is explained in the report to the EAC which is attached to the minutes.</i>

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

11 NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING

Nil.

12 QUESTIONS OF MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil.

13 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

13.1 MEMBERS

Nil.

13.2 EMPLOYEES

Nil.

14 CONFIDENTIAL BUSINESS

Nil.

15 NEXT MEETINGS

As per Council Meeting Agenda.

16 CLOSURE OF MEETING

The Shire President declared the meeting closed at 1.39pm.