



UNCONFIRMED MINUTES

ORDINARY COUNCIL MEETING

Pingrup Sporting Complex
Gaby Street, Pingrup

Wednesday 12 February 2025

Commencement: 6:00pm

AGENDA
12 February 2025

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1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member, Cr Kate Johnston, declared the Ordinary Council Meeting of 12 February 2025 open at 6:04pm.

2. ATTENDENCE / APOLOGIES / APPROVED LEAVE OF ABSENCE**Elected Members Present**

Cr Kate Johnston	President (Presiding Member)
Cr Darren Gray	Deputy President
Cr Suma Reid	Councillor
Cr Greg Hobley	Councillor
Cr Scott Crosby	Councillor
Cr Dustin Harris	Councillor

Staff Members Present

Christie Smith	Chief Executive Officer
David Bentley	Deputy Chief Executive Officer
Gary Mathewson	Manager Infrastructure

Apologies

Nil.

Leave of Absence

Nil.

Observers

Nil.

3. DISCLOSURES OF INTEREST

Nil.

4. PUBLIC QUESTION TIME

Nil.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. CONFIRMATION AND RECEIVING OF MINUTES / BUSINESS ARISING**6.1 Ordinary Meeting of Council Held 18 December 2024****OFFICER RECOMMENDATION / COUNCIL DECISION (OCM2425/068)**

Moved Cr Gray / Seconded Cr Hobley

That the minutes of the Ordinary Council Meeting of the Shire of Kent held at the Nyabing Council Chambers, on Wednesday 18 December 2024 be confirmed as a true and accurate record of the meeting.

CARRIED 6/0

For: Cr Johnston, Cr Gray, Cr Reid, Cr Hobley, Cr Crosby and Cr Harris
Against: Nil

6.2 Outstanding Council Resolutions February 2025

The outstanding Council Resolutions Register for February 2025 is provided as attachment 6.2 for information.

7. ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

8. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Nil.

9. OFFICER REPORTS

9.1 Monthly Financial Reports – to 31 December 2024 and to 31 January 2025

PROPOSED MEETING DATE:	12 February 2025
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Jenni Dolan – Finance Coordinator
REPORTING OFFICER:	Christie Smith – Chief Executive Officer
FILE NO:	FIN.221
ASSESSMENT NO:	N/A
ATTACHMENTS:	Attachment 1 - Monthly Financial Reports to 31 December 2024 Attachment 2 - Monthly Financial Reports to 31 January 2025
DISCLOSURE OF INTEREST:	Nil

Purpose

In accordance with the *Local Government (Financial Management) Regulations 1996*, to follow is the presentation of the Monthly Financial Reports to Council.

Background

Monthly Financial Reports are to be presented to Council and are to be received by Council resolution.

Comment

The Monthly Financial Report as presented indicate that Council continues to be in a sound financial position.

Overview

The January report tabled reflects the financial position of the Shire with 58% of the year gone. Noted in the Statement of Financial Activity is a current surplus of \$3,413,390 as of the end of January 2025. At this point of the year, operating revenue sits below the year-to-date (YTD) budget estimate by 5.3 %, and accounts for 79.1% of the adopted full-year budget estimate. Operating expenditure sits below the YTD budget estimate by 30.94%, and accounts for 41.2 % of the adopted full-year budget estimate.

Investment activity

The end of December saw the three term deposits reinvested with Commonwealth Bank. Two will mature in April and the reserve account will mature in June.

Valuations of Land and Buildings

Fair value of Shire owned land and buildings will be reviewed by the end of this financial year, this is done every 5 years. APV Valuers have been appointed to this project. They will commence the process in February.

Capital Expenditure

The Christmas/New Year holiday period has seen a hold on many of the planned capital works projects until suppliers and contractor recommence services. The renewal of the administration garden bed has been completed, with rendering work expected to commence imminently.

Plant and equipment purchasing continues as budgeted. However, some plant disposals have been held off until these items go to auction later in the financial year.

Note 3 of the Financial Report provides a full listing and explanation of all items considered of significant variance.

Statutory Implications

Local Government Act 1995 – Section 6.4

Local Government (Financial Management) Regulations 1996 – Clause 34 and 35

Policy Implications

Policy 4.1 Accounting Policies

Objective: To provide the basis for Council's accounting concepts and reporting guidelines.

To maintain accounting reporting procedures which comply with Statutory Requirements and to demonstrate Council's financial position.

Financial Implications

Ongoing management of Council funds

Strategic Implications

Community Strategic Plan 2023 - 2033

Civic Leadership Strategic Priorities – Proactive and well governed Shire

Risk Implications

N/A

Voting Requirement

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION (OCM2425/069)

Moved Cr Harris / Seconded Cr Crosby

That Council receive the following Monthly Financial Reports as presented:

- **Monthly Financial Reports to 31 December 2024**
- **Monthly Financial Reports to 31 January 2025**

CARRIED 6/0

For: Cr Johnston, Cr Gray, Cr Reid, Cr Hobley, Cr Crosby and Cr Harris

Against: Nil

9.2 Schedule of Accounts Paid 31 December 2024 and 31 January 2025

PROPOSED MEETING DATE:	12 February 2025
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Jenni Dolan – Finance Coordinator
REPORTING OFFICER:	Christie Smith – Chief Executive Officer
FILE NO:	FIN.226
ASSESSMENT NO:	N/A
ATTACHMENTS:	Attachment 1 - Schedule of accounts paid, including Corporate and Fuel cards for December 2024 Attachment 2 - Schedule of accounts paid, including Corporate and Fuel cards for January 2025
DISCLOSURE OF INTEREST:	Nil

Purpose

Council endorsement of payment to Creditors under CEO Delegated Authority 2.1.2.

Background

Details payments made to creditors since last Council Meeting.

Comment

The Schedule of Accounts Reports as presented, indicate that Council continues to be in a sound financial position.

Regulation 13 of the *Local Government (Financial Management) Regulations* 1996 states that only the following information is to be reported to Council and form part of the public minutes:

- a) the payee's name;
- b) the amount of the payment;
- c) the date of the payment; and
- d) sufficient information that identifies the payment.

Statutory Implications

Local Government Act 1995 – Section 6.4;

Local Government (Financial Management) Regulations 1996 – Part 2 – Regulation 11, 12 and 13.

Policy Implications

Policy 4.1 Accounting Policies

Objective: To provide the basis for Council's accounting concepts and reporting guidelines.

To maintain accounting reporting procedures which comply with Statutory Requirements and to demonstrate Council's financial position.

Financial Implications

Ongoing management of Council funds

Strategic Implications

Community Strategic Plan 2023 - 2033

Civic Leadership Strategic Priorities – Proactive and well governed Shire

Risk Implications

N/A

Voting Requirement

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION (OCM2425/070)

Moved Cr Crosby / Seconded Cr Hobley

That Council endorse the payments from the Municipal Fund and Trust Fund for the period ending 31 December 2024 and 31 January 2025.**December:**

Municipal Fund (Fee)	\$ 6,739.35
Municipal Fund (EFT)	\$ 414,833.77
Municipal Fund (Direct Debits)	\$ 28,313.91
Trust Fund	\$ 0.00
TOTAL	\$ 449,887.03

January:

Municipal Fund (Fee)	\$ 19,071.14
Municipal Fund (EFT)	\$ 192,571.65
Municipal Fund (Direct Debits)	\$ 39,887.44
Trust Fund	\$ 0.00
TOTAL	\$ 251,530.23

CARRIED 6/0

For: Cr Johnston, Cr Gray, Cr Reid, Cr Hobley, Cr Crosby and Cr Harris

Against: Nil

9.3 Request for Comment – Licence to National Malleefowl Recovery – Lake Magenta Nature Reserve

PROPOSED MEETING DATE:	12 February 2025
PROPONENT:	National Malleefowl Recovery
LOCATION:	Lake Magenta Nature Reserve
AUTHOR:	David Bentley, Deputy Chief Executive Officer
REPORTING OFFICER:	Christie Smith, Chief Executive Officer
FILE NO:	ENV.85
ASSESSMENT NO:	N/A
ATTACHMENTS:	Attachment 1 – Tenure Maps – Cadastre and Aerial
DISCLOSURE OF INTEREST:	Nil

Purpose

Council is requested to consider its response to a proposal from the National Malleefowl Recovery for a section 91 licence over a portion of the Lake Magenta Nature Reserve.

Background

The Department of Planning, Lands and Heritage (DPLH) have contacted the Shire of Kent following a request from the National Malleefowl Recovery for a section 91 licence over various Crown reserves and unallocated crown land that make up the Lake Magenta Nature Reserve. The purpose of the licence would be for “monitoring” and a term of five years is proposed. DPLH have requested “the views of the Shire of Kent” in relation to the proposal.

Comment

A map showing the proposed tenure areas is attached to this report. The land parcels affected within the Lake Magenta Nature Reserve (which is a Class A Reserve) are Lots 788, 789, 790, 791, 794, 952 and 2112.

Malleefowl (*Leipoa ocellata*) are designated a Vulnerable conservation status according to the International Union for Conservation of Nature. Lake Magenta is one of the areas they are known to inhabit but are threatened due to red foxes, habitat destruction and the impacts of the increasing frequency and severity of drought.

It is recommended to provide in principle support to the proposal. Tenure over the subject lots is not exclusive and efforts to monitor Malleefowl are generally seen as positive for the conservation of the environment.

The Shire of Kent has 42 days to lodge its response with DPLH, with the due date being 5 March 2025.

Statutory Implications

Section 91 of the *Land Administration Act 1997*:

91. Licences and profits à prendre over Crown land, grant of

- (1) The Minister may grant a licence or profit à prendre in respect of Crown land for any purpose.
- (2) The Minister may –
 - (a) fix or extend the duration of; or
 - (b) determine the fees and conditions in respect of; or
 - (c) review; or
 - (d) with the consent of its holder, amend the provisions of,

any licence or profit à prendre granted under subsection (1).

- (3) The Minister may on the breach of any condition to which a licence granted under subsection (1) is subject, terminate that licence.
- (4) The Minister may accept the surrender of a profit à prendre granted under subsection (1) from its holder in respect of the whole or any part of the area to which that profit à prendre applies.
- (5) Nothing in this Act prevents the simultaneous existence on the same area of Crown land of –
 - (a) A licence or profit à prendre granted under subsection (1); and
 - (b) a mining, petroleum or geothermal energy right,

if the Minister to whom the administration of the relevant Act referred to in the definition of **mining, petroleum or geothermal energy right** in section 3(1) is for the time being committed by the Governor, or a public service officer of the department that is principally assisting in the administration of the relevant Act, who is authorized in writing by that Minister to do so, approves of that area being used both for the purposes of that licence or profit à prendre and the purposes of the mining, petroleum or geothermal energy right.

- (6) If a licence granted under subsection (1) is transferable by the licensee, in accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of **licence** paragraph (d), the licence is declared to not be personal property for the purposes of that Act.
- (7) The operation of this section is affected by the *Land Administration (South West Native Title Settlement) Act 2016* Part 4.

Policy Implications

The Shire of Kent does not have a policy in relation to this proposal.

Financial Implications

There are no financial implications in relation to this report.

Strategic Implications

Supporting the proposal is in line with Strategic Priority 3.1 – Conservation of our natural environment and resources of the Shire of Kent Strategic Community Plan 2023 – 2033. The success indicator of “Ensuring nature reserves in our control are managed and protected” is advanced in supporting the proposal as unallocated Crown land forms part of the monitoring area of Malleefowl.

Risk Implications

The risks to the Shire of Kent in relation to the proposed section 91 licence is negligible.

Voting Requirement

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION (OCM2425/071)

Moved Cr Gray / Seconded Cr Reid

That Council requests the Chief Executive Officer to provide in principle support to the Department of Planning, Lands and Heritage of the proposal put forward by the National Malleefowl Recovery for a section 91 Licence over the Lots mentioned in this report at the Lake Magenta Nature Reserve.

CARRIED 6/0

For: Cr Johnston, Cr Gray, Cr Reid, Cr Hobley, Cr Crosby and Cr Harris

Against: Nil

9.4 Request for Comment – Reserve 10129 Management Order Transfer and Closure of Road Reserves

PROPOSED MEETING DATE:	12 February 2025
PROPONENT:	Water Authority of WA (Water Corporation)
LOCATION:	Reserve 10129
AUTHOR:	David Bentley, Deputy Chief Executive Officer
REPORTING OFFICER:	Christie Smith, Chief Executive Officer
FILE NO:	ENV.88
ASSESSMENT NO:	N/A
ATTACHMENTS:	Attachment 1 - Locations of Road Reserves within Reserve 10129
DISCLOSURE OF INTEREST:	Nil

Purpose

Council is requested to consider its response to a proposal from the Water Authority of WA to revoke their management of a reserve.

Background

The Department of Planning, Lands and Heritage (DPLH) have contacted the Shire of Kent and the Shire of Gnowangerup to provide comment to a proposal put forward by the Water Authority of WA (Water Corp.)

Water Corp. have submitted a request to DPLH to revoke their management order over Reserve 10129, a Class A reserve currently for the purpose of “Water and Conservation of Flora and Fauna”. The reserve is situated along the southern border with the Shire of Gnowangerup.

The Department of Biodiversity, Conservation and Attractions (DBCA) have agreed to accept management of the Reserve and have requested the reservation purpose to be amended to “Conservation of Flora and Fauna”. DBCA have also requested a series of road closures of unmade road reserves within the boundaries of the Reserve.

A map of the reserve is provided below in the comment section of the report.

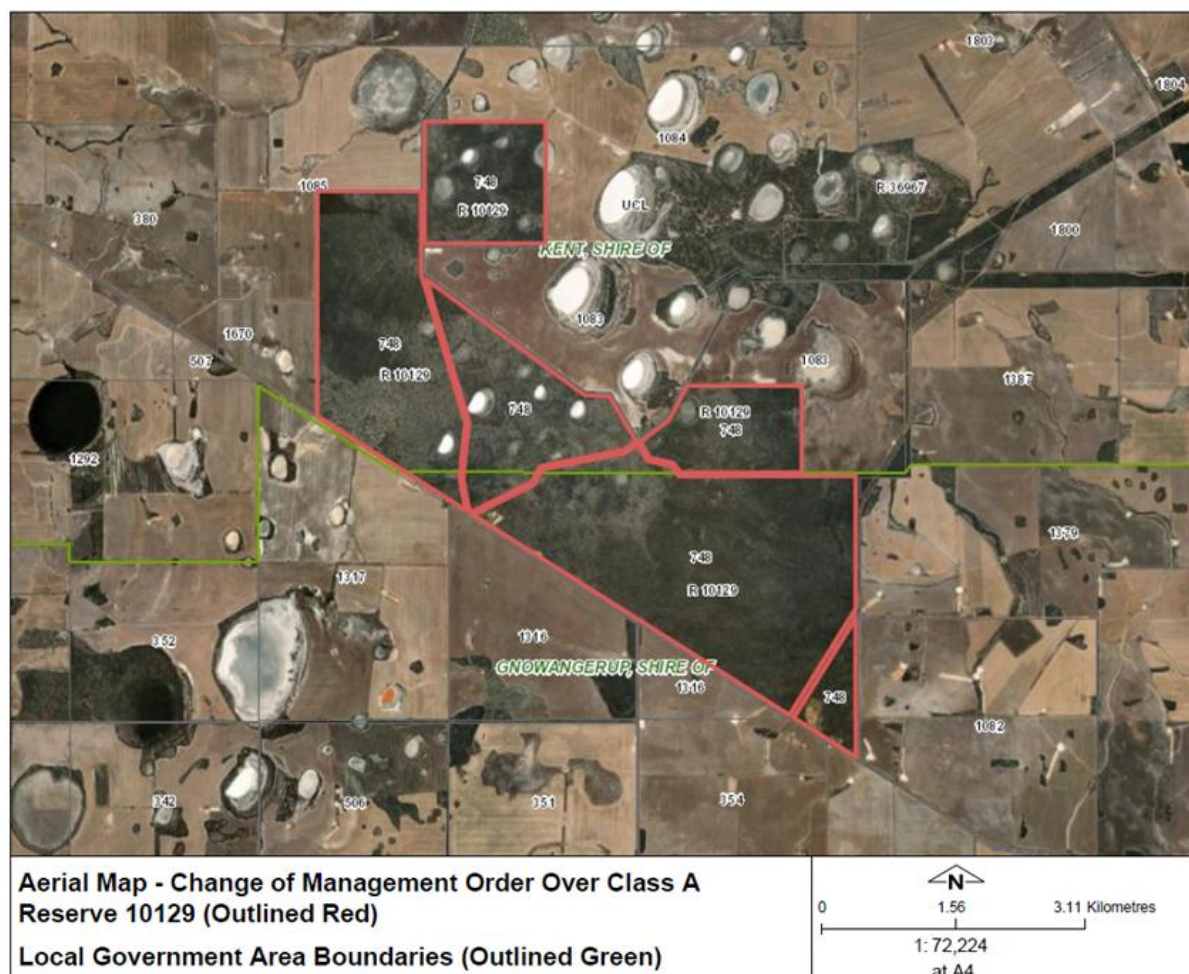
Comment

Within the Reserve boundaries, there are multiple unmade and unused road reserves in both the Shire of Kent and Shire of Gnowangerup. DBCA are requesting for the unmade road reserves to be amalgamated with Reserve 10129 and therefore close those road reserves. Attached to this report is a series of maps which illustrate the unmade road reserves that are proposed to be amalgamated into Reserve 10129.

The Shire of Kent and the Shire of Gnowangerup have been asked to provide in principle support or otherwise within 35 days (due date being 6 March 2025) on the proposal to close the road reserves and to also provide an estimate of costs that may be applicable if the Shire undertakes the required actions under section 58 of the *Land Administration Act 1997*.

It is then proposed, once DBCA have the required information, that they will confirm if they wish to proceed with the proposed road closure and inclusion into Reserve 10129 based on those potential costs. If DBCA does not proceed with the road closures, it is still proposed that DBCA would accept management of Reserve 10129 with the existing boundaries with no road closures and amalgamations. DBCA would be required to do surveys of the road reserves to satisfy Landgate requirements of their processes.

A map of the Reserve is provided below.



The Shire would be required to perform the actions specified within section 58 of the *Land Administration Act 1997* to effect the proposal. A further report to Council would be required should DBCA wish to proceed with the road closures. The same thing would be required to be undertaken by the Shire of Gnowangerup. As the road reserves have never been used as a road and no road has been constructed, to self-actualise the closure of the road under the *Land Administration Act 1997*, there is a modified requirement to close a road that does not involve public consultation and advertising the closing of an unconstructed road reserve. This is a recent change in legislation that came into force in June 2024. If the Shire still wishes to undertake public consultation on the closures, it can still do that. These are the costs that DPLH have asked for an estimate of if we chose to do that.

The Shire of Kent does not have any plans to develop and build the roads in the road reserves within Reserve 10129. On that basis, it is proposed to give in-principle support to the road closures.

If Council wants to advertise the proposal outside of the scope of the requirements under the *Land Administration Regulations 1998*, an amendment to the Officer Recommendation would be recommended to include a condition of in principle support that DBCA pay for the advertisement of the proposal. Officers can then provide an estimate of that cost to DPLH for DBCA's consideration.

Statutory Implications

Land Administration Act 1997 summarised provisions that apply to this report:

58. Closure of road at request of local government

- (1) If a local government considers that a road in its district should be closed permanently, the local government may, in accordance with the regulations, request the Minister to close the road.
- (4) The closure of a road under this section does not affect –
 - (a) any encumbrances to which the land that comprised the road was subject when the road was closed; or
 - (b) if the land that comprised the road is in the DBNGP corridor – State corridor rights or other rights conferred under the *Dampier to Bunbury Pipeline Act 1997* in respect of that land.

Land Administration Regulations 1998

9A. Modified requirements for certain requests by local government for closure of road (Act s.58)

- (1) This regulation applies to a request to the Minister by a local government under section 58(1) of the Act for the Minister to close a road permanently if the request relates to land that –
 - (a) has been reserved, declared or otherwise dedicated as a road; but
 - (b) has never been used as a road or had a road constructed upon it.
- (2) The local government must include the following with the request to the Minister –
 - (a) written confirmation –
 - (i) that the request relates to land of the kind referred to in subregulation (1); and
 - (ii) that the local government has therefore not complied with the requirements set out in regulation 9;
 - (b) written confirmation that the local government has resolved to make the request, the date when the relevant resolution was passed and any other information relating to the resolution that the Minister may require;
 - (c) sketch plans showing the location of the road and the proposed future disposition of the land comprising the road after it has been closed;
 - (d) any other information the local government considers relevant to the Minister's consideration of the request.

Policy Implications

The Shire of Kent does not have a policy in relation to this proposal.

Financial Implications

If Council proceeds as per the regulations and does not advertise the proposal, there will be no financial implication in relation to the proposal. If Council wish to advertise the proposal, there will be a financial implication, however it is expected that DBCA would cover that cost. It would be recommended to include an amendment to the Officer Recommendation to put a condition on grating in principle support on DBCA covering those costs.

Strategic Implications

There are no strategic implications in relation to this report.

Risk Implications

The risk implications in relation to this report are negligible. By agreeing to the proposed road closures, Council reduces its risk exposure in relation to maintaining those road reserves.

Voting Requirement

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION (OCM2425/072)

Moved Cr Crosby / Seconded Cr Gray

That Council grants in principle support to the Department of Planning, Lands and Heritage of the proposal put forward by the Department of Biodiversity, Conservation and Attractions (DBCA) for the closure of unmade and unused road reserves within Reserve 10129.

CARRIED 6/0

For: Cr Johnston, Cr Gray, Cr Reid, Cr Hobley, Cr Crosby and Cr Harris

Against: Nil

10. ELECTED MEMBERS' MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
Nil.

11. NEW BUSINESS OF AN URGENT NATURE AGREED TO BY A RESOLUTION OF COUNCIL

12. MATTERS BEHIND CLOSED DOORS

That the meeting be closed to the public in accordance with section 5.23(2) of the *Local Government Act 1995*.

Reason for Confidentiality

The Reports contained below are confidential in accordance with section 5.23(2) the *Local Government Act 1995* as it deals with matters affecting:

- s5.23 (2) (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
- s5.23 (2) (e) (ii) *a matter that if disclosed, would reveal information that has a commercial value to a person, where that person is not the local government.*

PROCEDURAL MOTION (OCM2425/073)

Moved Cr Gray / Seconded Cr Reid

That Council closes the meeting to the public in accordance with section 5.23 (2) (c) and (e) (ii) of the *Local Government Act 1995* at 6:09pm.

CARRIED 6/0

For: Cr Johnston, Cr Gray, Cr Reid, Cr Hobley, Cr Crosby and Cr Harris

Against: Nil

12.1 Disposal of Property – 15 Aspendale Street Nyabing

PROPOSED MEETING DATE:	12 February 2025
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Christie Smith – Chief Executive Officer
REPORTING OFFICER:	Christie Smith – Chief Executive Officer
FILE NO:	PRO.626
ASSESSMENT NO:	N/A
ATTACHMENTS:	Attachment 1 – Market Value Assessment
DISCLOSURE OF INTEREST:	Nil

OFFICER RECOMMENDATION / COUNCIL DECISION (OCM2425/074)

Moved Cr Crosby / Seconded Cr Hobley

That Council;

- 1. Authorise the Chief Executive Officer to proceed with the sale of 15 Aspendale Street, Nyabing subject to the requirements of the *Local Government Act 1995* section 3.58 (3) (a) (b) to Gum View Farming.**
- 2. Authorise the Chief Executive Officer to give local public notice of its intention to dispose of 15 Aspendale Street, Nyabing in accordance with the *Local Government Act 1995* should an acceptable sale be negotiated.**
- 3. That at the conclusion of the advertising period, should there be no public submissions, the Chief Executive Officer be authorised to finalise the sale documents on behalf of the Shire of Kent, if submissions are received then an item is to be presented to the Ordinary Meeting of Council to be held in March 2025 for consideration.**
- 4. The sale price is to be determined by the Chief Executive Officer in what is in the best value for the Shire of Kent, but not less than market value.**
- 5. Include the following conditions in the Contract of Sale:**
 - (i) A single house must be approved and constructed on the land, the subject of this contract of sale, by the purchaser within two (2) years of the date of settlement of the contract;**
 - (ii) If a single house is not approved and constructed on the land, the subject of this contract of sale, by the purchaser within two (2) years of the date of settlement of the contract, the land must be sold back to the Shire of Kent at the same price as it was purchased for from the Shire with the purchaser required to meet all transaction costs incurred by the Shire including stamp duty payable to the State Government;**
 - (iii) The purchaser agrees to the registration of a caveat on the land's certificate of title by the Shire of Kent to prevent the sale of the land to a third party until such time as a new single house has been constructed on the land.**
- 6. Agrees to purchase 9 George Street Nyabing from Jubilee Holdings Pty Ltd for \$20,000, being the price the land was sold to Jubilee Holding Pty Ltd for.**

CARRIED BY AN ABSOLUTE MAJORITY 6/0
For: Cr Johnston, Cr Gray, Cr Reid, Cr Hobley, Cr Crosby and Cr Harris
Against: Nil

PROCEDURAL MOTION (OCM2425/075)

Moved Cr Gray / Seconded Cr Hobley

That Council opens the meeting to the public at 6:12pm.

CARRIED 6/0
For: Cr Johnston, Cr Gray, Cr Reid, Cr Hobley, Cr Crosby and Cr Harris
Against: Nil

13. MEETING CLOSED

There being no further business, the Presiding Member, Cr Kate Johnston, declared the meeting closed at 6:12pm.