



*Special Meeting
of Council
Agenda*

*30th May
2022*



NOTICE OF SPECIAL MEETING

Councillors:

Please be advised that a

Special Meeting of Council

**Will be held in the Council Chambers on
Monday, 30th May 2022
Commencing at 6pm**

Nic Warren
Chief Executive Officer

25/05/2021

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at _____

2. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

3. ATTENDANCE

Presiding Member Cr W Della Bosca Shire President

Members
Cr B Close
Cr J Cobden
Cr L Granich
Cr L Rose
Cr G Guerini
Cr P Nolan

Council Officers	N Warren	Chief Executive Officer
	C Watson	Executive Manager Corporate Services
	G Brigg	Executive Manager Infrastructure
	S Chambers	Executive Manager Regulatory Services
	B Forbers	Finance Manger

Apologies:

Observers:

4. DECLARATION OF INTEREST

5. PUBLIC QUESTION TIME

6 Reporting Officer – Executive Manager Corporate Services

6.1 Differential Rates – 2022/2023

File Reference	8.1.1.5
Disclosure of Interest	Nil
Voting Requirements	Absolute Majority
Attachments	2 x Submissions Received

Purpose of Report

To consider the proposed Differential Rate in the dollar for the 2022/2023 financial year for all land categories that was advertised in accordance with the *Local Government Act (1995)*.

Background

At the April 2023 Ordinary meeting, Council resolved the following as the commencement of the Differential Rating process for the 2022/2023 financial year:-

40/2022

Moved Cr Cobden/Seconded Cr Rose

That Council:

- 1. Endorse the Differential Rating – Objects and Reasons for the 2022/2023 rating years as presented;*
- 2. Endorse the following proposed Differential General Rates Categories, Rates in the Dollar and Minimum amounts for the Shire of Yilgarn for the 2022/2023 financial year:*

<i>Land Category</i>	<i>Rate – Cents in the Dollar</i>	<i>Minimum Payment</i>
<i>GRV - Residential/Industrial</i>	<i>11.3458</i>	<i>\$500</i>
<i>GRV - Commercial</i>	<i>7.9866</i>	<i>\$400</i>
<i>GRV - Minesites</i>	<i>15.9734</i>	<i>\$400</i>
<i>GRV -SPQ</i>	<i>15.9734</i>	<i>\$400</i>
<i>UV - Rural</i>	<i>1.7751</i>	<i>\$400</i>
<i>UV - Mining</i>	<i>17.5667</i>	<i>\$400</i>

- 3. Endorse a public consultation process on the proposed Differential General Rates and General Minimum Rates as follows:*
 - Local public notice being place on Councils website on the 1st May 2022 with ancillary notices being published as soon as practicable after this, as per the requirements of section 6.36 of the Local Government Act 1995; and*
 - Individual ratepayer consultation for all ratepayers in General Rate Categories with less than 30 ratepayers.*

CARRIED BY ABSOLUTE MAJORITY (6/1)
Cr Nolan is recorded as voting against the decision

In accordance with Section 6.33 (3) of the Local Government Act 1995, a Local Government is not, without the approval of the Minister, to impose a differential general rate which is more than twice the lowest differential general rate imposed by it.

With the Differential General Rates being proposed in the 2022/2023 Rating Strategy and Objects & Reasons, Council falls under the umbrella of this section of the Act. Note however that it is only applicable to UV Mining.

Accordingly, Ministerial approval is required and the proposal to impose this rate required that it be advertised for a period of not less than 21 days with any submissions received subsequently being presented to Council for consideration.

Comment

Following the statutory advertising period (21 days) and being advertised on Council website on the 1st May 2022, in the “*Kalgoorlie Miner*” on the 2nd May 2022, the “*Crosswords*” on the 12th May 2022 as well as the Administration and Library notice boards. At the close of the submission period of Monday, 23rd May 2022, two submissions were received from the following respondents.

- Councillor Phil Nolan
- McMahon Mining Title Services Pty Ltd

The submission received from McMahon Mining Title Services Pty Ltd is for reference only as it is general in nature and does not relate to any specific elector/s or ratepayer/s as required by s. 6.36 (3)(b)(ii) of the Local Government Act 1995 and as such a specific response has not been provided. It should also be mentioned that the primary concern raised in the submission is the level of increase the State Government has imposed on tenement lease fees which are outside the scope of Councils influence.

The submissions received are attached to this Report and where applicable, comments from staff and recommended actions related to the various points that have been submitted for Council consideration.

Statutory Environment

Local government Act 1995

6.33. Differential general rates

- (3) In imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it.

6.36. Local government to give notice of certain rates

- (1) Before imposing any differential general rates or a minimum payment applying to a differential rate category under section 6.35(6)(c) a local government is to give local public notice of its intention to do so.
- (2) A local government is required to ensure that a notice referred to in subsection (1) is published in sufficient time to allow compliance with the requirements specified in this section and section 6.2(1).
- (3) A notice referred to in subsection (1) —
 - (a) may be published within the period of 2 months preceding the commencement of the financial year to which the proposed rates are to apply on the basis of the local government's estimate of the budget deficiency; and
 - (b) is to contain —
 - (i) details of each rate or minimum payment the local government intends to impose; and
 - (ii) an invitation for submissions to be made by an elector or a ratepayer in respect of the proposed rate or minimum payment and any related matters within 21 days (or such longer period as is specified in the notice) of the notice; and
 - (iii) any further information in relation to the matters specified in subparagraphs (i) and (ii) which may be prescribed;and
 - (c) is to advise electors and ratepayers of the time and place where a document describing the objects of, and reasons for, each proposed rate and minimum payment may be inspected.
- (4) The local government is required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification.

Strategic Implications

The 2022/2023 Rating Strategy, contains a detailed information on the proposed rating structure.

Policy Implications

Nil

Financial Implications

The endorsed rate in the dollar will form the basis of the 2022/2023 budgeted rates revenue.

Officer Recommendation

That Council:

1. Council notes that it has complied with Sections 6.36 of the Local Government Act 1995 in respect advertising requirements and preparation of the “2022/2023 Rating Strategy” and “Objects and Reasons” documents;
2. Receives the submissions from Councilor Phil Nolan and McMahan Mining Title Services Pty Ltd and notes the comments made therein and further, endorses the comments and recommendations submitted by staff in relation to Councilor Phil Nolan’s submission;
3. Endorse the following proposed Differential General Rates Categories, Rates in the Dollar and Minimum amounts for the Shire of Yilgarn for the 2022/2023 financial year:

Land Category	Rate – Cents in the Dollar	Minimum Payment
GRV - Residential/Industrial	11.3458	\$500
GRV - Commercial	7.9866	\$400
GRV - Minesites	15.9734	\$400
GRV -Single Persons Quarters	15.9734	\$400
UV - Rural	1.7751	\$400
UV - Mining	17.5667	\$400

and

4. Make application to the Minister for Local Government to impose the UV Mining Differential Rate, being more than twice the lowest differential UV rate.

Chief Executive Officer,
Yilgarn Shire
Antares St
Southern Cross WA 6426

By email.

Dear Nic

Objection to proposed rates for the forthcoming 2022-2023 financial year

Please accept this email as an objection by me as a Yilgarn Shire ratepayer, Councillor and mine owner in regard to differential rates proposed for the coming financial year.

As you know, I have regularly raised the issue of the fairness and equity of Yilgarn Council's application of differential rates, my submissions dating back to around 2014, with others contributing to the discussion well prior to that.

(1) I have requested an explanation of the mechanism to determine the individual rates on each occasion. None has been forthcoming.

You are also aware that the recently departed CEO, Mr Peter Clarke, agreed, in 2021 to provide a documented business case for the quantum of each of the rate categories. At his last performance review, he acknowledged that he had not done that.

And in recent Council proceedings you have acknowledged the history, but no analysis has been forthcoming in respect of the current rating proposals.

So, again, I request that you prepare an auditable and transparent-to-the-public business case, justifying the quantum of the individual rates.

(2) I have argued that certain ratepayers are unfairly benefitting from the application of differential rates, predominantly high tonne-kilometre users of Shire roads, who are liable for a very low rate, while others are paying unjustifiably high rates, including residential owner-occupiers, and some mining category ratepayers and other low tonne-kilometre users of Shire roads. I further propose that a guiding principle of Council should be 'user pays'.

In the last year we have seen an unprecedented increase in the use of Shire roads, mainly by Mineral Resources Ltd, Covalent Ltd and their contractors.

The result has been severe and sustained damage to a number of important routes which are the responsibility of the Shire, which has increased cost to the Shire, increased damage to vehicles including those owned by the public at large, without adequate compensation to the Shire/ratepayers. I acknowledge that measures are in hand to partly remedy this, but it is long

overdue and without reference to a fair and equitable methodology.

(3) I call upon you to demonstrate the fairness and equity of the rating arrangements without further delay. I further call upon the Shire to reduce the difference between the highest and lowest rates immediately, and until such time as a transparent business case justifies otherwise.

(4) I am happy to explain my reasoning in more detail, if that is required, but It should be quite apparent to Council that without a transparent business case, fairness and equity cannot be assured in other words, without a transparent business case, Council is guessing that fairness and equity is being achieved.

(5) My proposition is that certain rural ratepayers, and certain large mining groups are not paying their way, both at the expense of other ratepayers.

That is not good enough.

Yours sincerely

Cr Phil Nolan
0417 497 588

22 May 2022

	ISSUE RAISED	RESPONSE	RECOMMENDED ACTION
1.	I have requested an explanation of the mechanism to determine the individual rates on each occasion. None has been forthcoming.	<p>The mechanism used to determine a rating structure are governed by the <i>Local Government Act 1995 section 6.33 – Differential General Rates</i> as per the following extract</p> <p>6.33. Differential general rates</p> <p>(1) A local government may impose differential general rates according to any, or a combination, of the following characteristics —</p> <ul style="list-style-type: none"> (a) the purpose for which the land is zoned, whether or not under a planning scheme as defined in the <i>Planning and Development Act 2005</i>; or (b) a purpose for which the land is held or used as determined by the local government; or (c) whether or not the land is vacant land; or (d) any other characteristic or combination of characteristics prescribed. <p>(2) Regulations may —</p> <ul style="list-style-type: none"> (a) specify the characteristics under subsection (1) which a local government is to use; or (b) limit the characteristics under subsection (1) which a local government is permitted to use. <p>Currently Council differentially rates based on section 6.33 (1) (b), being the purpose for which the land is held or used.</p> <p>Section 6.33 (1) (d) and section 6.33 (2) refer to the <i>Local government (Financial Management) Regulations 1996</i> for further characteristics, the relevant regulation, reg. 52A states:</p>	No action recommended.

52A. Characteristics prescribed for differential general rates (Act s. 6.33)

(1) In this regulation —

commencement day means the day on which the *Local Government (Financial Management) Amendment Regulations (No. 2) 2012* regulation 5 comes into operation;

relevant district means a district that —

- (a) is declared to be a district by an order made under section 2.1(1)(a) on or after commencement day; or
- (b) has its boundaries changed by an order made under section 2.1(1)(b) on or after commencement day.

(2) For the purposes of section 6.33(1)(d), the following characteristics are prescribed in relation to land in a relevant district, where not more than 5 years has elapsed since the district last became a relevant district —

- (a) whether or not the land is situated in a townsite as defined in the *Land Administration Act 1997* section 3(1);
- (b) whether or not the land is situated in a particular part of the district of the local government.

Neither the Act or the Regs allow for a differential rating strategy that is based on individual assessments or assessments owned by specific entities; with the possible exception of section 6.33 (1) (c) which allows for vacant land to be rated differently to developed land. Council does not utilise this option.

	ISSUE RAISED	RESPONSE	RECOMMENDED ACTION
2.	<p>I have argued that certain ratepayers are unfairly benefitting from the application of differential rates, predominantly high tonne-kilometre users of Shire roads, who are liable for a very low rate, while others are paying unjustifiably high rates, including residential owner-occupiers, and some mining category ratepayers and other low tonne-kilometre users of Shire roads. I further propose that a guiding principle of Council should be 'user pays'.</p> <p>In the last year we have seen an unprecedented increase in the use of Shire roads, mainly by Mineral Resources Ltd, Covalent Ltd and their contractors.</p> <p>The result has been severe and sustained damage to a number of important routes which are the responsibility of the Shire, which has increased cost to the Shire, increased damage to vehicles including those owned by the public at large, without adequate compensation to the Shire/ratepayers. I acknowledge that measures are in hand to partly remedy this, but it is long overdue and without reference to a fair and equitable methodology.</p>	<p>The "User Pays" principal is acknowledged in that the Executive Manager Infrastructure is currently in the process of implementing heavy vehicle road usage policies and codifying and expanding the Heavy Vehicle Road Improvement Contribution (HVRIC) program to capture a greater level of usage.</p> <p>Councilor Nolan's comments regarding the increased heavy vehicle movements by certain mining entities due to increased mining activities in certain parts of the district are correct, significant improvements to several of Councils road assets (over and above what has historically been required) have been undertaken or requested by several mining entities to cater for larger and heavier loads. Senior Management is currently negotiating with several of these mining entities to ensure that the road assets are adequately maintained during the various haulage programs and that suitable levels of funding are provided for the future maintenance of the asset post mine closure.</p>	<p>No action recommended.</p>

	ISSUE RAISED	RESPONSE	RECOMMENDED ACTION
3.	<p>I call upon you to demonstrate the fairness and equity of the rating arrangements without further delay. I further call upon the Shire to reduce the difference between the highest and lowest rates immediately, and until such time as a transparent business case justifies otherwise.</p>	<p>As previously stated, Council is prohibited from rating individuals differentially and as such utilises a “land use” rating model and strategy. As Councilor Nolan has indicated he is a mine owner and taking into account statements made further into this submission indicating a high use of Councils road assets by several mining houses currently operating in the district, I am presuming Councilor Nolan’s premise for his submission is primarily relating to Unimproved Value (UV) rated assessments.</p> <p>As they relate to UV – Mining and UV – Rural, in setting the annual rating strategy, Council utilises several quantifiable measures in determining a rate in the dollar, these include:</p> <ul style="list-style-type: none"> • Fairness and Equity As the commercial activities of both the mining and agricultural industries are significant consumers of Councils road assets, which is Councils costliest asset type to construct and maintain (currently valued in the vicinity of a quarter of a billion dollars), it is only equitable that these two industries contribute the majority of the required rates funding. <p>As UV – Rural has a ratable valuation of \$104.2m and UV – Mining being only valued at approximately 8.5% of that, or \$8.9m, there is a need to level the contributions made by each industry type.</p> <p>While both industries are heavy users of Councils road assets, it could be argued that the mining industry should shoulder the larger burden of maintaining the asset as their use is year round while the agricultural industries usage is limited to 3 – 4 months of the year.</p> <p>To avoid the agricultural industry located within the district being required to assume the lion’s share of</p>	<p>No action recommended.</p>

this burden, the differential is set to maintain equity, currently the agricultural industry is responsible for approximately 44% of rates and the mining industry 38%.

- **Land Tenure and Usage**

By its very nature the mining industry is destructive. The extraction of mineral ore and overburden results, in many cases, with the physical removal of the land surface. Again, in most cases, the processing of the ore is a one-time event usually with the byproduct being rendered unusable and potentially unsafe into the future.

Additionally, the use of extremely hazardous and long-lived substances such as cyanide renders areas devoted to the processing of ore unusable and unsafe. All of this has a negative effect on the ratable value of the mining assessment over time leading to a potential significant loss in future rate revenue.

In contrast, the agricultural industry, with observance to current land and crop management techniques, will ensure that the ratable land will be productive well into the future and will maintain a steady level of rate revenue going forward.

	ISSUE RAISED	RESPONSE	RECOMMENDED ACTION
4.	I am happy to explain my reasoning in more detail, if that is required, but It should be quite apparent to Council that without a transparent business case, fairness and equity cannot be assured in other words, without a transparent business case, Council is guessing that fairness and equity is being achieved.	<p>I would hope that this response to Councilor Nolan's submission has clarified the fairness and equity in the endorsed rating strategy and has provided the details requested by Councilor Nolan in his call for a transparent business case.</p> <p>However, if further information and clarification is required, I would request that Councilor Nolan provide detailed metrics that would allow a more targeted clarification.</p>	No action required unless Councilor Nolan provides detailed metrics.

	ISSUE RAISED	RESPONSE	RECOMMENDED ACTION
5.	<p>My proposition is that certain rural ratepayers, and certain large mining groups are not paying their way, both at the expense of other ratepayers.</p> <p>That is not good enough.</p>	<p>It Is acknowledged that some ratepayers are, at the moment, either the cause of, or are affording the potential for significant additional costs to Council.</p> <p>As has been previously stated the Local Government Act and regulations preclude differential rating of individual ratepayers. However, processes are being implemented and/or investigated to source adequate recompence for these actual and anticipated expenses going forward.</p>	No action recommended.

17 May 2022

Nic Warren
Chief Executive Officer
Shire of Yilgarn
PO Box 86
SOUTHERN CROSS WA 6426

By email: emcs@yilgarn.wa.gov.au

SUBMISSION - DIFFERENTIAL RATING 2022-2023

Thank you for the opportunity to make a submission regarding the proposed rates for 2022-23.

We note that valuations provided by the Valuer General are used in calculating mining tenement rates, and these valuations are based on the rent imposed by the Department of Mines, Industry Regulation and Safety. Any increases in the rent therefore result in an increase in valuations and in turn an automatic increase in rates.

Effective from 1 July 2021, the Department increased the rent rate for exploration licences by 3.54% prospecting licences by 10% and mining leases by 10%. With the Shire proposing an increase in the rates in the dollar for 2022-23 from 0.174793 to 0.175667, a significant increase in the actual rates levied will occur as illustrated in the table below.

		2021/22 RID	0.174793	2022/23 Proposed RID	0.175667
	2021 Rates	2022 Rates - no change in RID	Percentage increase in rates - no change in RID	2022 Rates - proposed increase to RID	Percentage increase in rates - proposed increase to RID
P (200Ha)	\$524.38	\$576.82	10%	\$579.70	10.6%
E (10sbk)	\$616.15	\$637.99	4%	\$641.18	4.1%
M (100Ha)	\$1,747.93	\$1,922.72	10%	\$1,932.34	10.6%

The exploration and mining industry is one of the most significant contributors to the State's economy. It has played an integral role in the development and enduring strength of this State, creating jobs and opportunities across the State but particularly in remote and regional parts of Australia. The industry is undoubtedly critical to the continued economic recovery of the State and country which has been severely impacted by the COVID-19 crisis. While the resources sector is slowly recovering, it continues to be constrained by the ongoing labour, supply and capital shortages stemming from the pandemic and recent world events.

To support the continued contributions made by the resources sector to the State economy it is critical that all government fees are set so as to reduce the cost of doing business in the State in the face of ever increasing international competition wherever possible, and increase and incentivise investment in local exploration to discover vital new resources which benefit the whole of the State.

I would be happy to discuss this matter further on (08) 6467 7997.

Yours faithfully,



Shannon McMahon
Director
McMahon Mining Title Services