



Shire of
Serpentine
Jarrahdale

Ordinary Council Meeting

**Confirmed
Minutes**

7.00pm

Monday, 18 November 2019

Contact Us

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In Person

Shire of Serpentine Jarrahdale
6 Paterson Street, Mundijong WA 6123
Open Monday to Friday 8.30am-5pm (closed public holidays)



www.sjshire.wa.gov.au



Ordinary Council Meeting Minutes Monday 18 November 2019

Councillor Attendance Listing

In accordance with Special Council Meeting, 27 November 2017, Resolution SCM162/11/17, clause 10 – “That Council requests the Chief Executive Officer to maintain an attendance register of Councillor Attendance at all Council and Committee Meetings, as well as other meetings and official functions of Council”, below is the attendance listing of Council Meetings and PCF’s.

Council October 2019 -

Date	Type	Cr Rich	Cr Atwell	Cr Byas	Cr Coales	Cr Dagostino	Cr Denholm	Cr McConkey	Cr Strange	Cr Strautins
21/10/19	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
28/10/19	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
04/11/19	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓

A – Apology

LOA – Leave of Absence

NA – Non Attendance



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The purpose of this Council Meeting is to discuss and, where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting. Persons should be aware that the provisions of the *Local Government Act 1995* (Section 5.25(1)(e)) and *Council's Standing Orders Local Law 2002 (as amended)* – Part 14, Implementing Decisions. No person should rely on the decisions made by Council until formal advice of the Council resolution is received by that person.

The Shire of Serpentine Jarrahdale expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.



Minutes of the Ordinary Council Meeting of the Shire of Serpentine Jarrahdale held on Monday, 18 November 2019 in the Council Chambers, Civic Centre, 6 Paterson Street, Mundijong.

The Shire President, Councillor Rich declared the meeting open at 7.00pm and welcomed Councillors, and Staff, and members of the gallery, and acknowledged that the meeting was being held on the traditional land of the Noongar People and paid her respects to their Elders past and present.

The Shire President, Councillor Rich acknowledged and welcomed Freeman John Kirkpatrick.

Minutes

1. Attendances and apologies (including leave of absence):

In Attendance:

Councillors: M Rich Presiding Member
D Atwell
M Byas
R Coales
M Dagostino
B Denholm
K McConkey
L Strange
D Strautins

Officers: Mr P Martin.....Chief Executive Officer
Ms H Sarcich.....Deputy CEO / Director Community Services
Mr F Sullivan Director Corporate Services
Mr A Trosic Director Development Services
Mr S Harding Director Infrastructure Services
Dr K Parker Manager Governance
Mr B Oliver Coordinator Corporate Communications
Ms A LierschAgendas and Minutes Officer (Minute Taker)

Apologies: Nil.

Observers:

Members of the Public – 19

Members of the Press – 1



2. Public question time:

2.1 Response to previous public questions taken on notice:

Nil.

2.2 Public questions:

Public question time commenced at 7.01pm.

Mr John Kirkpatrick, 77 Mead Street, Byford WA 6122

The structures and buildings at the Byford and Districts Club are owned by the Shire and leased by the Byford and Districts Club. They belong to the Shire and are on land leased by the club from the Shire.

Question 1

Have either Councillors or the Council been approached by the Byford and Districts Club or their representatives for a meeting to discuss or consider the Shire taking over the operation of the facility?

Response (Shire President)

As the Shire President, I have been informally approached by a Board Member regarding this matter. To my knowledge, staff have not been approached.

When the Byford and District Country Club were constructed they passed on completion into the ownership of the Shire and were handed over to the management of the club subject to a lease with a number of conditions.

Question 2

Can the Shire as the owners of the facility on sell the buildings to try to recover the approximate amount of about \$2,000,000 the Shire invested into the facility as it is on a portion of land vested in the Shire from the State Government?

Response (Director Corporate Services)

Yes, with agreement from the State Government, the Shire could contemplate a transaction of this nature.

It is important to note that the Shire holds a legally binding management order over the land, therefore both the State Government and the Shire would need to come to an agreement regarding the structure of any such transaction.



Question 3

When the planning approval for the Dome Cafe on the corner of Pitman Way was passed, did it include a room for public meetings and if so how many is it licenced to accommodate and does it have an emergency evacuation procedure and who carries the public liability insurance as this activity is clearly not one involving the Cafe industry?

Response (Director Development Services)

The development on 829 South Western Highway, Byford was approved as a 'Restaurant' under the Shire of Serpentine Jarrahdale Town Planning Scheme No. 02. The approved plans depict two areas for the purposes of a 'Multi – Function Centre. This provides for various functions including public meetings to occur.

The Dome Café is registered with the Shire as a public building under the Health (Public Buildings) Regulations 1992. The issue of insurances is a matter for the landowner to address.

Mrs Lee Bond, Box 44, Armadale WA 6112

Question 1

What were the reasons Serpentine Jarrahdale Council put a stop work order on Hope Valley Nursery at Henderson Road, Hopelands and why was that stop work order lifted?

Response (Director Development Services)

The written direction to stop was issued due to concerns that works were not being undertaken in accordance with the development approval issued by Council on 26 October 2015, and later amendments approved on 27 March 2017. The applicant worked with the Shire to submit revised plans, and obtain a new development approval that specifically addressed the key issue of Nutrient and Irrigation Management. The written direction was withdrawn as a result of obtaining the new development approval.

Question 2

Has an inspection been carried out on the Orton Road site which is operated by the same people who were operating 766 King Road, Oldbury, if so when, if not why?

Response (Director Development Services)

Shire Officers can advise that a site inspection of the property was conducted on 28 October 2019 in relation to the fill which has been imported to site. From the site inspection, Shire Officers were satisfied that the site complied with the development approval conditions.

In accordance with the development approval condition, extensive testing of the fill was conducted by the Applicant and referred both internally within the Shire and to the Department of Water and Environmental Regulation. Officers can advise that the fill meets the definition of 'Uncontaminated Fill' in accordance with the



Department of Water and Environmental Regulation's Landfill Waste Classification and Landfill Definitions 1996 (as amended 2018).

Question 3

How many litigation cases against the Shire exist as at this date?

Response (Shire President)

This question will need to be taken on notice and a response provided to Mrs Bond.

Ms Cheryl Smith, 1 Bofors Lane, Byford WA 6122

I write to question the decision on Lot 216, 2 Mortar Pass, Byford - Proposed Outbuilding.

Question 1

One of the deciding factors in living in the region is the beautiful views of the scarp and this proposed building would have an adverse impact on my direct view of the scarp. I live in 'Byford On The Scarp' and how can the Council assure me that this proposed building will be in keeping with the surrounding environment?

Response (Director Development Services)

Officers consider that the proposed wall height variation (0.3m), with a compliant ridge height, will not detract from the characteristics of the Darling Scarp. The proposed outbuilding once constructed would appear similar to existing outbuildings that have been constructed with a compliant wall height of 2.4 metres. Officers have further considered the natural ground levels of both properties in considering its recommendation on the proposal, and take the view that it meets the design principle objective stated by the R Codes, as explained in the Officers report.

Question 2

My family spend a lot of time in our back yard and I believe this proposed outbuilding will have a direct impact on our liveability, particularly through noise. Can the Council please consider that the proposed outbuilding be erected a further distance than 1m from the boundary fence?

Response (Director Development Services)

The application seeks a 0.3m variation to the wall height requirements as per the R Codes. The setback requirements for a wall length of 8 metres and a wall height of 2.7m is 1 metre as prescribed within the R-Codes. The 0.3m wall height variation, coupled with the compliant ridge height, is not considered to result in adverse amenity impacts, and a further setback is not considered necessary for this reason.



Question 3

Can the Council give assurance that the proposed outbuilding will be the matching colour of the current colourbond fence?

Response (Director Development Services)

The applicant has advised that the proposed colours and materials for the outbuilding are to match the existing fencing. The proposed materials and colours (of ironstone colorbond, which is a dark grey colour) are consistent with the Landscape Protection Policy of the Shire.

The Shire President, Councillor Rich, asked if there were any public questions from the floor. No further questions were asked.

Public question time concluded at 7.10pm.

3. Public statement time:

Public statement time commenced at 7.10pm.

Mr John Kirkpatrick, 77 Mead Street, Byford WA 6122

I wish to congratulate the Shire President Councillor Rich and the Deputy Shire President Councillor Atwell on their success at the recent Local Government elections. The electorate must have thought they had been doing a good job over the previous two years.

I watched with interest the election of both the President and Vice President as they were opposed in each election by Councillor Coales. It was very pleasing to hear Councillor Coales in conceding defeat that he would work with both Councillor Rich and Councillor Atwell for the benefit of the resident's and ratepayers.

This was most pleasing to hear as there has been a clear split in the Council since 2013, just look at the voting figures in the Minutes.

The Council has in my opinion as a ratepayer done a lot for the community over the last two years. Especially in the field of policies and procedures, this can be seen when Council goes to the various government panels and departments to argue a position. It shows the Council has started to think things through and make considered decisions.

This is also reflected in the regional decisions being made for the Peel Region the smaller Councils are being heard not just the City of Mandurah.

The commitment that the Council got from the State government to construct the Tonkin Highway after years of promises and no action. Active discussions on the railway into Byford and the industrial land in Mundijong being rezoned.

The land vested in the Shire in Kiernan Street for POS and sporting facilities was critical for the district with the smaller blocks and the still 10% ratio for POS. It must be noted that the Shire President and her Deputy have been the driving force on this issue for a number of years.



Briggs Park has finally come almost to fruition but is a great improvement and many families are using the new toilet facilities in Percies Park although this took five years to achieve.

Abernethy Road is finally being constructed although once again some of the money had been available since 2014 the rail crossing is the realm of the PTA not the Council and the directional traffic island at the intersection of George Street and Abernethy is designed to make it safer.

All we need now is facilities for our senior residents. Perhaps the time has come to look at whether the Shire should consider selling the Byford Hall and put the money toward a facility for the senior's.

Especially after it was disclosed last year the total revenue from the Byford Hall and what it cost the Shire to operate it.

Mrs Lee Bond, Box 44, Armadale WA 6112

The Keysbrook Motorsport facility is once again brought to Council. Is this something a particular Councillor has a deep and serious interest in passing because they will have an advantage? For the benefit of the new Councillors, a property was recently sold for the benefit of this facility, this is a wetland area, this area is also home to people whose needs are being ignored by this Council. Find a more suitable venue that does not ignore the wetland or the needs of the ratepayers of this Shire. Seems to me this facility has already been given tacit approval.

The Hope Valley Nursery has destroyed protected flora/ disturbed sulphate acid soils / discharged contaminated water onto the verge / constructed more bores than permitted / and this site was refused as a nursery to another person because of the above reasons and that no more nurseries were to be constructed on the eastern side of the railway line. There is a behaviour that needs addressing as to why this site is permitted to operate by this Council. Once again, the needs of the people who have lived in this area for many years has been ignored.

Why have about 40 large arsenic contaminated western power poles been delivered to the 70 acres in Darling Downs and who paid for these and what are they supposed to be used for. This area has become dominated by one person who behaves as if he owns the entire area and this Council panders to his ego building behaviour. This area was maintained by the ratepayers of that particular area and now all the ratepayers of the Shire are paying for this. Bet I am not alone when I say all of us want a say in what is spent if we are paying for it and contamination isn't what most people would be prepared to pay for.

Public statement time concluded at 7.16pm.



4. Petitions and deputations:

4.1 Deputation – David Maiorana, Planning Director, Harley Dykstra Pty Ltd – regarding item 10.1.2 – Retrospective Development Application – Request for Extension of Time for Land Use (‘Industry – Light’) and Approval for Existing Office – Lot 813, 244 King Road, Oldbury.

Good evening Councillors, staff and those in the public gallery. My name is David Maiorana from Harley Dykstra.

I wish to present a deputation on behalf of the landowner, 888 Crushing and Screening Equipment, in support of a development application for the continuation of a Light Industry land use at Lot 813 King Road. This proposal is listed as item 10.1.2 on the Agenda.

888 Crushing and Screening Equipment is represented this evening by Mr Paul Hutchinson. I would like to start by noting 888 Crushing and Screening Equipment is a locally owned business and is a strong supporter of local employment, with 11 staff. As such, 888 Crushing and Screening Equipment is very committed to remaining in the Shire in the long term.

We note the officer’s report provides a detailed history of the use of the site over the preceding 6 years or so, including Council’s decision at its meeting in October 2013, where Council granted temporary planning approval for a period of 5 years.

We also acknowledge the Officer’s Report seeks to balance the Shire’s desire for uses of this type to transition into the planned industrial areas (and in this case preferably the West Mundijong Industrial Precinct) by recommending Council grant a time limited approval for a period of approximately one year (through to 31 December 2020), after which, it would be necessary for this existing business to have ceased operating at King Road and be operating from a new premises.

In short, this deputation will demonstrate the timeframe of 1 year recommended to Council to enable this business to relocate to a new premises within West Mundijong is both unrealistic and unreasonable.

I shall set out both the planning and practical reasons why a 1 year transition period is unrealistic and in doing so, will put forward a further option for consideration, being that Council extend the time limited approval for a further 5 years (to expire on or around 18 November 2024).

Status of Draft West Mundijong Structure Plan

Councillors would be aware a Report was presented to the August 2019 Council meeting to consider a suitable process to progress the West Mundijong Industrial Area Structure Plan.

At this meeting, Councillors resolved to continue with the Draft West Mundijong Structure Plan process independently to the Greater Mundijong District Structure Plan. Advertising of the Draft West Mundijong Structure Plan was to be commenced following the completion of studies necessary to finalise the Structure Plan documents. These studies include:



- A Bushfire Management Plan
- Traffic Impact Assessment
- Servicing Report
- Wetland Assessment and Management Plan.

To enable this work to be completed, it is our understanding advertising of the Structure Plan is unlikely to occur for at least 6 months, with the overall Structure Plan process likely to take 12 -18 months.

Investigations required prior to advertising include the need for a more comprehensive traffic assessment.

The availability of a constructed road network capable of accommodating heavy vehicles (such as King Road) is critical to my client's operations and a key reason the existing site was originally selected. The provision of necessary road infrastructure servicing West Mundijong is still clearly unresolved and an obvious complication for the business to be able to relocate there within the next 12 months.

Existing Development Approvals

In the Officer's Report, it is suggested the West Mundijong Industrial Precinct has significantly transitioned such that planning approvals have been granted for industrial type land uses (including 'warehouse' and 'light industry' uses). We consider this is overstating how far this process has progressed and how far it still has to go.

Firstly, the fact that approvals have been issued does not mean these sites will be available for 888 Crushing and Screening Equipment to occupy, or purchase.

Lots 11 and 12 are already occupied and it is understood on advice from the owner of Lot 13 there is already significant interest in this lot from various parties.

Further, having reviewed the approvals for Lots 12 and 13, even if these sites were available, they would not be suited to my client's operations and therefore further approvals and associated works would still be required prior to occupancy.

Realistic Timeframe for Approvals

We are aware staff have been investigating the opportunity to achieve the early release of large industrial lots more or less in parallel to the Structure Plan process.

In fact, as a firm, Harley Dykstra is actively engaged in investigating this proposition with the Shire's planners. As part of these arrangements, key road infrastructure would need to be established and developer contributions made, so that suitable 'dry' industries could be accommodated.

Even taking this approach into account, under a best case scenario, this would still require:

- 12 months for subdivision approval;
- 12 months for the subdivision to be constructed and titles to be available;



- 12 months to secure development approval, satisfy conditions, obtain a building license, construct the development and move in.

It is difficult to see these tasks being completed inside 3 years at best.

It is important to note the successful delivery of the West Mundijong Industrial Precinct will not be undermined by businesses being unwilling to establish there, rather, the Precinct is simply not ready to accommodate the significant demand for industrial sites that already exists.

Compliance with Town Planning Scheme No.2

It is noted the Officer's Report contends the land use is not consistent with the objective of the Rural zone, being to allocate land to accommodate the full range of rural pursuits and associated activities conducted in the Scheme Area.

We say, firstly, that the existing operation does have a clear planning link to other rural activities undertaken in the immediate locality and hence is a use 'associated' with other rural uses. The plan (provided for Council's information) illustrates the location of 888 Crushing and Screening Equipment's existing clients within the nearby rural locality.

Further, we say the officer's reference to SAT decisions on rural land use does not correctly reflect the Tribunal's decisions. The Tribunal has found that if a use is capable of being approved in the rural zone, then it cannot fundamentally be unable to satisfy the objective of that zone. The Tribunal has also found it is not necessary for a land use to comprise some aspect of a rural pursuit for it to be approved in the rural zone.

It is noted that when considering 888 Crushing and Screening Equipment's existing operations, the officer's report concludes the various elements that may impact on amenity such as traffic, built form and noise do not present concerns in this particular case.

With regard to the proposal to provide for limited activity on Saturday, the officer's report refers to operating hours between 7am and 10pm. This is an error, in that the proposal was for Saturday operations to occur between **7am and 1pm only**.

The officer's recommendation to acknowledge the Transportable Office as part of an approval is noted and appreciated.

Status of draft Local Planning Scheme No. 3

We accept the existing development is correctly classified as 'Industry – Light'.

It is acknowledged under the currently advertised draft Local Planning Scheme No. 3 'Industry-Light' is not a permitted use within the Rural zone.

However, should Council support the continued use of the site on a temporary basis, and in the meantime LPS 3 comes into effect, the development would be provided for as a non-conforming use which would enable the continued use of the land, for its approved purpose which was granted prior to commencement of the new Scheme.



However, given I have set out that relocation to West Mundijong is not a realistic option within 3 years and possibly significantly longer, a 5 year temporary approval is sought to provide this business with some security, given any approval for a lesser amount of time will simply not allow the planning process for West Mundijong to run its course.

Compliance with State Planning Policy 2.5

As illustrated, 888 Crushing and Screening Equipment supports a number of extractive industry operations in the local area.

I trust the information provided in this deputation will assist the Council in supporting a more realistic and reasonable timeframe to enable this existing business, to transition to a new location once a suitable premises becomes available. As such, we urge Councillors to grant approval for an extension of time for a further 5 years.

In the event Councillors have any questions at this stage, I would be happy to respond to these.



5. President's Report:

Good evening and welcome to the November Ordinary Council Meeting for 2019.

I would like to start by welcoming our three newly elected Councillors – Councillor Lauren Strange, Councillor Michael Dagostino and Councillor Dean Strautins.

I would also like to congratulate Cr Dave Atwell on his re-election to Council as well as his re-election to the position of Deputy Shire President.

Thank you to my fellow councilors for your support in re-electing me as Shire President for a further two years. It is an exciting time for the Shire with a number of key projects now underway with others coming up in the future.

I look forward to working with the Council over the next two years to ensure we continue to deliver financial sustainability for our Shire and positive outcomes for our community.

Firstly, I would like to acknowledge the Shire being recognised at the WA Water Awards.

The Shire, together with Wallbridge Gilbert Aztec, won the Innovating for Sustainable Water and Environmental Outcomes Award for our draft Integrated Water Management Strategy.

It was great honour for the Shire to be recognised for our strategy, which will guide us in meeting our future water needs.

I would like to acknowledge the work of our Director Infrastructure Services, Steve Harding and his team and request that our thanks and congratulations be passed on to his team.

The Shire hosted the Peel Development Commission (PDC) Board, where we provided an update on the Shire's key advocacy projects.

As the fastest growing local government in WA, it was great to host the Board in the region so they could see first-hand the Shire's priorities, which are of local and regional significance.

Our CEO Paul Martin and I also took the Board on a bus tour so they could see the projects and locations first-hand.

The Shire's Community BBQ Series commenced on 29 October at the Oakford Community Centre with events following in Byford, Jarrahdale, Whitby, Mundijong and Keysbrook.

I attended the events in Oakford, Keysbrook, Jarrahdale and Whitby. It was great to meet with residents and as well as the Neighbourhood Watch group members and the Mundijong Police.

The Community BBQ Series continues this week with events in Cardup tomorrow and Serpentine on Thursday.

It was great to attend the Jarrahdale Community Collective's first Repair Café and see so many members of our community support the event.

The neighbourhood initiative aims to minimise waste and strengthen our community by promoting repairs as an alternative to throwing things out.

The CEO Paul Martin and I met with the Honourable Matthew Swinbourn MLC where we discussed key priorities for the Shire.

We also hosted the Emergency Services Minister, the Honourable Francis Logan MLA, and the Department of Fire and Emergency Services Commissioner Darren Klemm at the



Mundijong Volunteer Bushfire Brigade for the official handing over of the new 12.2 Bulk Water Carrier.

Ahead of the upcoming bushfire season, the Shire and Mundijong Volunteer Fire Brigade is extremely grateful for the new carrier, which was funded by the Emergency Services Levy and is a vast improvement on the older carrier it is replacing.

We hope our volunteers do not have to use the vehicle this bushfire season but it is good to know our firefighters are equipped with the tools they need in the case of an emergency.

Thank you to the Serpentine Jarrahdale RSL for delivering a moving service for Remembrance Day. I was honoured to attend and pay my respects to the members of our armed forces who died in the line of duty and those that served our country.

The first of the Shire's Planning for Growth Community Consultation sessions, which offer one-on-one sessions with Shire staff to learn more about our Draft Local Planning Strategy and Draft Local Planning Scheme No 3, was held on 12 November with more than 75 people attending.

There are more consultations happening within the Shire over the coming weeks in Jarrahdale and Mundijong. I would encourage those interested in learn more about the Draft Local Planning Strategy and Scheme to attend one of these events. More information is available on the Shire's website.

Thank you to Jarrahdale residents who attended our community engagement session to provide their feedback on the new Jarrahdale Entry Statement project. If anyone was unable to make the session, you are still able to have your say by completing an online survey on the Shire's website.

Shire staff, Member for Darling Range Alyssa Hayden MLA and I met with business owners to discuss the Abernethy Road upgrade project.

It was a positive meeting where we identified opportunities to promote the upcoming completion of the road works and encouraging residents to shop local and support businesses in the lead up to Christmas.

We look forward to working in partnership with our business community on this initiative and others in the future.

Finally, with Christmas just around the corner, I would encourage residents to look out for the 12 Days of Christmas happening throughout the Shire to celebrate the festive season. More information and details are available on the Shire's website or Facebook page.



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As always, my full calendar can be viewed on the pages below.

Date	Details	Location
21 October 2019	Special Council Meeting - Swearing	Civic Centre Chambers
22 October 2019	Workshop to Discuss Committees	Civic Centre Chambers
23 October 2019	Peel Development Commission Board Meeting and Shire Tour	Shire Offices
	Meeting with John Hardy	Byford
	Landcare SJ Board Meeting	Mundijong
25 October 2019	AWA Awards	Perth
28 October 2019	Special Council Meeting - Committees and Community Groups Appointments	Civic Chambers
29 October 2019	Community BBQ - Oakford	Oakford
30 October 2019	East DEMC Meeting	Shire Offices
	Weekly Meeting with CEO	Shire Offices
	RAC Presidents Cocktail Function	Perth
1 November 2019	Meeting with Hon Matthew Swinbourn MLC	Shire Offices
3 November 2019	Jarrahdale Community Collective - Repair Café	Jarrahdale
4 November 2019	Audit Risk and Governance Meeting	Civic Centre Chambers
	Policy Concept Forum	Civic Centre Chambers
5 November 2019	Formal Presentation of 12.2 Carrier	Mundijong Fire Station
	Meeting with Minister Fran Logan	Shire Offices
	Community BBQ	Keysbrook
6 November 2019	Keysbrook Community Group Meeting	Keysbrook
7 November 2019	Meeting with Baptistcare	Shire Offices
	Community BBQ	Jarrahdale
10 November 2019	Keysbrook Christmas Market	Keysbrook
	Hugh Manning Tractor Museum Open Day and Swap Meet	Serpentine
11 November 2019	Remembrance Day Service	Byford



Ordinary Council Meeting Minutes Monday 18 November 2019

Date	Details	Location
	Agenda Briefing	Shire of Serpentine Jarrahdale
12 November 2019	Metro East Development Assessment Panel meeting	City of Swan, Midland
	Shire of Serpentine Jarrahdale Local Emergency Management Committee	Shire of Serpentine Jarrahdale
	Community Barbecue	White Adventure Park, Whitby
	Jarrahdale Entry Statement Community Consultation	Bruno Gianatti Hall, Jarrahdale
13 November 2019	Weekly Meeting with CEO	Shire of Serpentine Jarrahdale
	Meeting re: Turner Cottage	Shire of Serpentine Jarrahdale
14 November 2019	Investiture Ceremony of Murdoch Chancellor Mr Gary Smith	Murdoch University, Murdoch
	Abernethy Road Closure Meeting Community Consultation	Coffee Club, Byford

6. Declaration of Councillors and Officers interest:

Councillor Rich declared a Financial Interest in item 10.2.1 as several of the tendering companies are clients of Councillor Rich's family business. Councillor Rich will leave the Chambers while this item is discussed.

Councillor Rich declared a Financial Interest in item 10.2.2 as several of the tendering companies are clients of Councillor Rich's family business. Councillor Rich will leave the Chambers while this item is discussed.

Chief Executive Officer, Mr Paul Martin, declared an Impartiality Interest in item 10.3.4 as the matter relates to CEO Performance Measurement and Employment. Mr Martin will leave the Chambers while this item is discussed.

Manager Governance, Dr Kenneth Parker declared an Impartiality Interest in item 10.3.4 as Dr Parker was on the project team working on the *Local Government Act 1995* at his previous employment. Dr Parker will remain in the Chambers while this item is discussed.



7. Confirmation of minutes of previous Council meeting(s):

7.1 Ordinary Council Meeting – 14 October 2019

OCM242/11/19

COUNCIL RESOLUTION

Moved Cr McConkey, seconded Cr Atwell

That the minutes of the Ordinary Council Meeting held on 14 October 2019 be CONFIRMED (E19/13198).

CARRIED UNANIMOUSLY 9/0

7.2 Special Council Meeting – 21 October 2019

OCM243/11/19

COUNCIL RESOLUTION

Moved Cr Denholm, seconded Cr Atwell

That the minutes of the Special Council meeting held on 21 October 2019 be CONFIRMED (E19/13517).

CARRIED UNANIMOUSLY 9/0

7.3 Special Council Meeting – 28 October 2019

OCM244/11/19

COUNCIL RESOLUTION

Moved Cr Strautins, seconded Cr Strange

That the minutes of the Special Council meeting held on 28 October 2019 be CONFIRMED (E19/13895).

CARRIED UNANIMOUSLY 9/0

Note: The answer provided to Mr Mack's question regarding JDAP fees was reflective of the details in the agenda report. However, there is an entire schedule for DAP Members (Planning and Development (Development Assessment Panels) Regulations 2011 - [Schedule 2 – Fees for DAP Members](#). (Regulations 30, 31)) which will be provided separately to Mr Mack.



8. Receipt of minutes or reports and consideration of adoption of recommendations from Committee meetings held since the previous Council meeting:

8.1 Access and Inclusion Advisory Committee – 7 October 2019

OCM245/11/19

COUNCIL RESOLUTION

Moved Cr Coales, seconded Cr Denholm

- 1. That Council RECEIVES the [Minutes](#) of the Access and Inclusion Advisory Committee held on 7 October 2019 (E19/12917).**
- 2. That Council ADOPTS Access and Inclusion Advisory Committee Resolution AIAC007/10/19 and ENDORSES the Shire of Serpentine Jarrahdale Access and Inclusion Shire Facilities Priority Works Plan as contained within attachment 1.**

CARRIED UNANIMOUSLY 9/0



8.2 Audit, Risk and Governance Committee – 4 November 2019

OCM246/11/19

COUNCIL RESOLUTION

Moved Cr Strautins, seconded Cr McConkey

- 1. That Council RECEIVES the [Minutes](#) of the Audit, Risk and Governance Committee held on 4 November 2019 (E19/14136).**
- 2. That Council ADOPTS Audit, Risk and Governance Committee Resolution ARG012/11/19 and NOTES the progress towards stage 1 of the “Risk Maturity Journey” as detailed in attachment 1.**
- 3. That Council ADOPTS Audit, Risk and Governance Committee Resolution ARG016/11/19 and NOTES the Internal Audit Status Update as contained in confidential attachment 1; ENDORSES the Whistle-blower Process and Register as contained in confidential attachment 2; and REQUESTS that the Chief Executive Officer and Internal Auditor review reporting frameworks for consideration at the next Audit, Risk and Governance Committee Meeting.**
- 4. That Council ADOPTS Audit, Risk and Governance Committee Resolution ARG017/11/19 and NOTES the report published by the Office of the Auditor General on 15 August 2019 in relation to Fraud Prevention in Local Government detailed in attachment 1; ENDORSES the responses to recommendations detailed in the report published by the Office of the Auditor General on 15 August 2019 in relation to Fraud Prevention in Local Government detailed in attachment 1 (Page 21); AUTHORISES the Chief Executive Officer to write to the Minister for Local Government detailing actions and timeframes committed in the Fraud Prevention in Local Government report by the Office of the Auditor General published on 15 August 2019 in accordance with the Local Government Act 1995 – 7.12A(4)(b); and AUTHORISES draft management letters published by the Officer of the Auditor General which relate to the Shire will be circulated to members of the Audit, Risk and Governance Committee and the final report formally presented through Audit, Risk and Governance Committee and subsequently Council.**

CARRIED UNANIMOUSLY 9/0

9. Motions of which notice has been given:

Nil.



10. Chief Executive Officer reports:

10.1 Development Services reports

10.1.1 - Proposed 'Outbuilding' - Lot 216, 2 Mortar Pass, Byford (PA19/737)	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	Taylor James Perkins
Owner:	As Above
Date of Receipt:	22 July 2019
Lot Area:	688m ²
Town Planning Scheme No 2 Zoning:	'Residential'
Metropolitan Region Scheme Zoning:	'Urban'

Report Purpose

The purpose of the report is for Council to consider a development application for an outbuilding at Lot 216, 2 Mortar Pass, Byford. The report is presented to Council as it seeks to vary the deemed to comply provisions of State Planning Policy 7.3 – Residential Design Codes. Such variations require an application for development approval to be submitted and assessed against the Design Principles of the R Codes.

The application is presented to Council as an objection was received during the consultation period. Officers do not have delegated authority to determine development applications where objections cannot be addressed by way of amendments or conditions, in accordance with Delegated Authority 11.1.1 and 12.1.1 – Determination of Development Applications.

The report recommends that Council approve the development application subject to conditions.

Relevant Previous Decisions of Council

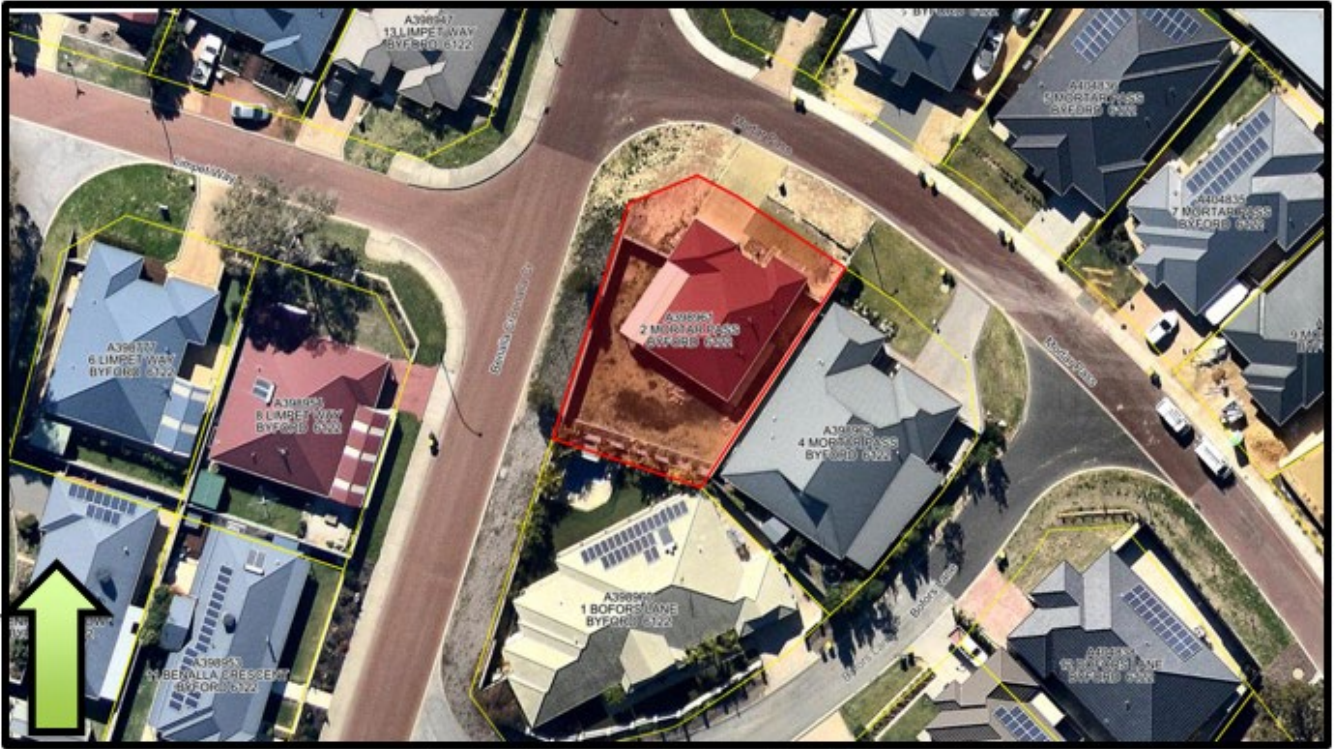
There is no previous Council decision relating to this item.



Background

Existing Development

The subject site is located within the Byford by the Scarp residential estate. The site is 688m² in area and is bound by Benalla Crescent to the west and Mortar Pass to the north. The site is currently developed with a Single House.



Aerial Photograph – Location Plan

Proposed Development

The application seeks approval for construction of an outbuilding, proposed to be located to the rear of the dwelling. The applicant has provided information that the outbuilding would mainly be used for parking of a four-wheel drive vehicle and the general storage of household equipment.

The proposed outbuilding would have a floor area of 48m² featuring a length of 8m and width of 6m. The proposal would have a wall height of 2.7m, a ridge height of 3.2m and be set back 1m from the southern (rear) boundary and between 0.5m and 2m from the south-eastern (side) boundary. The outbuilding is proposed to be constructed entirely out of ironstone colorbond, which is a dark grey colour, matching the existing boundary fence. Full details of the proposal are contained within **attachment 1**.

The proposal seeks a minor variation to the deemed-to-comply requirements of the R-Codes by way of wall height. The proposed wall height would be 2.7m in lieu of 2.4m. The proposal does not impact the existing Water Corporation infrastructure which is located along Benalla Crescent.

**Community / Stakeholder Consultation**

The application was advertised to adjoining landowners for a period of 21 days, from 25 July 2019 - 15 August 2019, in accordance with the Shire's Local Planning Policy 1.4 - Public Consultation for Planning Matters. One submission objecting to the proposal was received from the southern adjoining landowner, contained within **attachment 2**. The objection is addressed in the table below with an Officer response:

Nature of Concern	Officer comments
<p>Siting of the outbuilding – The submitter is concerned that the location of the outbuilding setback 1m from the common boundary has the potential to detrimentally impact their visual amenity.</p> <p>Size of the outbuilding –The submitter is concerned that the scale of the outbuilding will adversely impact on the outlook of their property by potentially blocking views to the natural environment.</p> <p>Use of the Outbuilding -The submitter is concerned that due to the size of the outbuilding, there is potential for it to be used for other purposes other than a <i>'garden shed'</i>.</p>	<p>The setback of the outbuilding is consistent with the boundary setbacks stipulated under the 'deemed-to-comply' provisions of the R-Codes which permits an outbuilding with a wall length of less than 9m to be set back a minimum of 1m from the boundary.</p> <p>The proposed outbuilding, with a total floor area of 48m², is consistent with the 'deemed-to-comply' requirements of the R-Codes, which allows outbuildings of up to a total floor area of 60m² to be constructed on a residential block of that size without the requirement for development approval.</p> <p>Notwithstanding the proposed wall height of 2.7m, which is 0.3m above the acceptable deemed-to-comply wall height of 2.4m, the overall ridge height is compliant with the deemed-to-comply requirements. It is considered that the modest variation would not have an adverse visual impact on the adjoining neighbour. Taking in to account the complaint area, the compliant ridge height, and the minor wall height variation, it is recommended for approval.</p> <p>The applicant has provided information that the outbuilding will be used primarily for parking of his private vehicle. Officers are satisfied that the size of the outbuilding is consistent with the proposed use, and what would be expected to be found in a residential</p>



Nature of Concern	Officer comments
	area save for the minor height variation. Furthermore, any approval would be for the land use of 'Residential' which would prevent it being used for other (non-residential type) purposes.

Statutory Environment

Legislation

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Metropolitan Region Scheme*

State Government Policies

- State Planning Policy 7.3 – Residential Design Codes

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2
- Local Planning Policy 1.5 – Exempted Development
- Local Planning Policy 4.3 - Landscape Protection

Planning Assessment

A full technical assessment was carried out against the current planning framework in accordance with Clause 67, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, which can be viewed in **attachment 3**. For the purpose of this report, discussion is confined to the objection resulting in the item being presented to Council and where Council is required to exercise discretion.

Land Use

The proposed outbuilding is incidental to the existing single house onsite. The 'Residential – Single House' land use is a permitted land use in the subject 'Residential' zone. The proposed land use is therefore capable of approval.

Form of Development and Amenity

The proposal seeks a minor variation to the 'deemed-to-comply' requirements of the R-Codes in relation to the wall height and setback. All other aspects of the proposal are compliant with the deemed-to-comply requirements and as such, the outbuilding would be exempt from requiring a development application if the wall height of the outbuilding was 2.4m in lieu of 2.7m and the corner of the outbuilding was set back a further 0.5m.



The table below highlights the variation to which Council must determine whether the relevant 'Design Principle' has been met:

R-Codes Design Principle Assessment – Outbuilding		
Deemed-to-Comply Provision	Proposed Development	Design Principle
C3 Outbuildings that: viii. are setback in accordance with Tables 2a and 2b. <i>Wall height of 2.4m</i>	The corner of the outbuilding is setback 0.5m Wall height 2.7m	P3 Outbuildings that do not detract from the streetscape or the visual amenity of residents or the neighbouring properties.

In order to determine whether the proposal meets the 'Design Principle' it can be considered within two key components:

- Outbuildings should not detract from the visual amenity of the streetscape; and
- Outbuildings should not detract from the visual amenity of the residents and neighbouring properties.

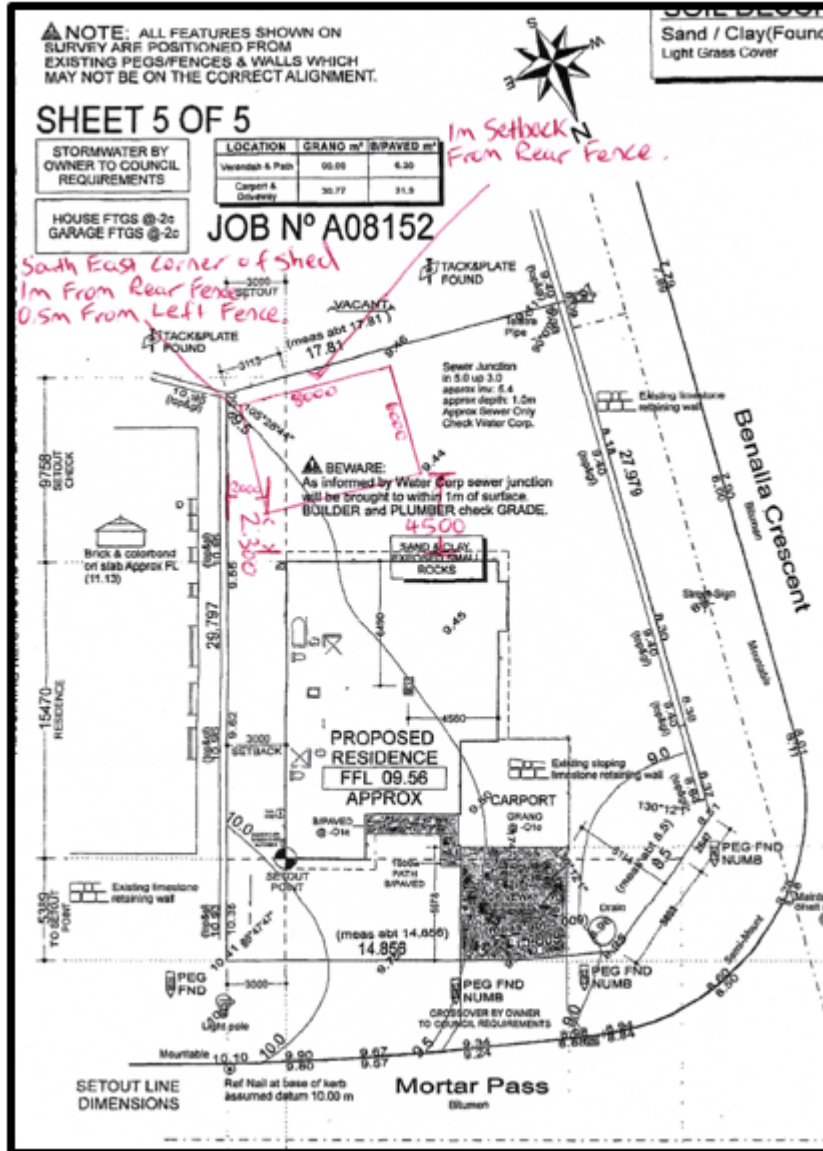
The outbuilding is proposed to be located towards the rear of the property behind the existing dwelling and therefore would not *"detract from the visual amenity of the streetscape"*, in accordance with the design principles of the R-Codes.

The proposed outbuilding, with a total floor area of 48m², is consistent with the deemed-to-comply requirements of the R-Codes, which allows outbuildings of up to a total floor area of 60m² to be constructed on a residential block of that size, without the requirement for development approval.

Notwithstanding the proposed wall height of 2.7m, which is 0.3m above the acceptable wall height of 2.4m, the overall ridge height is compliant with the deemed-to-comply requirements. It is considered that the modest variation to the wall height, combined with the design of a compliant ridge height, will not have an adverse visual impact on the adjoining neighbour. The scale of the building below the maximum size possible, coupled with the effort to reduce overall peak height, means in this instance a minor wall height variation is considered supportable.



Due to the orientation of the outbuilding and the lot boundary, the setback of the outbuilding would be 0.5m at the south eastern corner of the lot as depicted in the site plan below:



The setback varies from 0.5m to 2m along the boundary. Due to the scale of the outbuilding and the extent of variation, it is considered the setback would not result in the proposal having an adverse impact on the amenity of adjoining landowners.

The proposal is considered modest in scale and would not result in an adverse impact on the streetscape or the visual amenity of the adjoining neighbour. Officers consider that the fence between the common rear boundary screens a large part of the outbuilding from view. In addition, the proposed colour of the outbuilding is similar to the boundary fence which is considered to reduce the visual impact of the outbuilding. Officers are satisfied that the 'Design Principles' of the R-Codes have been met and the outbuilding should be approved.



Options and Implications

With regard to the determination of the application for development approval under TPS2, Council has the following options:

Option 1: Council resolves to APPROVE the application subject to appropriate conditions.

Option 2: Council resolves to REFUSE the application providing appropriate reasons.

Option 1 is recommended.

Conclusion

The application seeks approval for the construction of an outbuilding with a wall height varying the deemed-to-comply requirements of the R-Codes. A minor setback variation is also proposed. The application has received an objection from an adjoining neighbour and the item is therefore presented to Council for determination.

Notwithstanding the objection received, the proposal is considered to meet the 'Design Principles' of the R-Codes. Officers are satisfied that the proposal would not adversely impact on the amenity of the area or that of neighbouring residents. As such, for the reasons outlined in the report it is recommended that Council approve the application subject to conditions.

Attachments

- [Attachment 1](#) – Development Plans (IN19/23514)
- [Attachment 2](#) – Submission (IN19/24388)
- [Attachment 3](#) – Technical Assessment (E19/13293)

Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local business within the district.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.

Financial Implications

Nil



Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council not approving the development application and facing a planning appeal	Possible (3)	Minor (2)	Moderate (5-9)	Financial Impact - 1 Insignificant - Less than \$50,000	Accept Officer Recommendation

Consequence / Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **6** has been determined for this item.



Voting Requirements: Simple Majority

OCM247/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Coales, seconded Cr Strange

That Council APPROVES the development application for the 'Outbuilding' as contained within attachment 1 at Lot 216, 2 Mortar Pass, Byford subject to the following conditions:

- a. **The development is to be carried out in compliance with the plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent.**

Plans and Specifications	P1-P2 received at the Shire's Offices on the 22 July 2019
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- b. **All stormwater shall be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is not permitted.**

CARRIED UNANIMOUSLY 9/0



10.1.2 - Retrospective Development Application – Request for Extension of Time for Land Use ('Industry - Light') and Approval for Existing Office – Lot 813, 244 King Road Oldbury (PA19/445)

Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	Harley Dykstra
Owner:	888CSE Holdings Pty Ltd
Date of Receipt:	1 May 2019
Lot Area:	38,245m ²
Town Planning Scheme No 2 Zoning:	'Rural'
Metropolitan Region Scheme Zoning:	'Rural'

Report Purpose

The purpose of this report is for Council to consider a retrospective development application for an 'Industry – Light' land use which was approved by Council in 2013 for a period of 5 years. The approval expired on 12 November 2018, and thus the current use and development of the land represents non-compliant development. The application also seeks retrospective approval for a transportable office previously brought to site without approval.

As part of an assessment for another development application nearby, Officers commenced an investigation into the subject site and its approved land use. Subsequently, it was found that the approval had expired. The onus is on the applicant to ensure all necessary approvals are up to date and all conditions of approval are complied with.

This item is presented to Council for determination, as the initial approval was made by Council with a specific time limit imposed to enable a period to transition the business to a more suitable industrial location. The Council approval in 2013 specifically anticipated that a 5 year period would enable enough time for the operation to relocate to West Mundijong Industrial Area. This has not occurred.

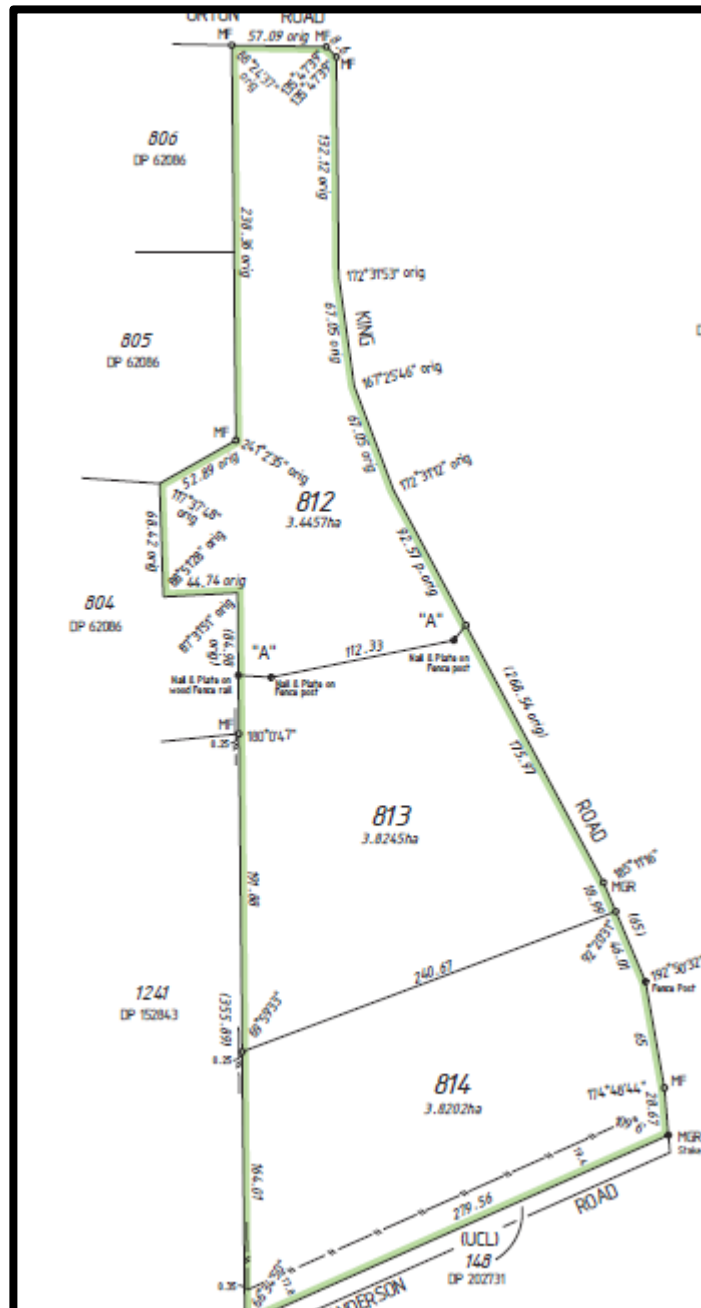


Given the industrial nature and scale of the development, and that the land in question is identified to remain zoned Rural under Draft Local Planning Scheme No. 3, officers do not believe the development to be aligned with the intended rural character of the area. Also, the use class of Light Industry is specifically prohibited in the Rural zone under the new Draft Local Planning Scheme No. 3 being advertised.

The recommendation seeks to address a viable transition through an extension to 31 December 2020. After this time, the new local planning scheme will likely be in force, and the land use will not be able to be considered within the rural zone.

Relevant Previous Decisions of Council

On 29 March 2012, the Western Australian Planning Commission (WAPC) granted approval for the subdivision of Lot 800, 228 King Road into 4 lots as per the deposited plan below. Following the subdivision, the subject site was known as Lot 813, 244 King Road.





27 May 2013 - OCM196/05/13 - COUNCIL DECISION

That Council refuse the application for the proposed oversized outbuilding and retrospective application for machinery assembly plant at Lot 800 (228) King Road, Oldbury for the following reasons:

- 1. The proposed land use is inconsistent with the objectives of the Rural Zone of the Shire's Town Planning Scheme No 2.*
- 2. The proposed Light Industrial land use falls within the 'undesirable' uses in the Rural Policy Area within the Shire's Rural Strategy.*
- 3. The proposal falls within the 'unacceptable development' criteria of the Shire of Serpentine Jarrahdale's Local Planning Policy No. 36 Non-Urban Outbuildings as the total floor area at 800m² exceeds the 600m² maximum floor area for the 'Rural' zone.*
- 4. The proposal falls within the 'unacceptable development' criteria of the Shire of Serpentine Jarrahdale's Local Planning Policy No. 36 Non-Urban Outbuildings as the proposed wall height at 6m exceeds the maximum 5m requirement for the 'Rural' zone.*
- 5. The proposal falls within the 'unacceptable development' criteria of the Shire of Serpentine Jarrahdale's Local Planning Policy No. 36 Non-Urban Outbuildings as the proposed roof ridge height at 7.5m exceeds the maximum 6m requirement for the 'Rural' zone.*
- 6. The existing land use and proposed development has the potential to establish an undesirable precedent and would be inconsistent with the principles of orderly and proper planning.*

Advice Note:

- 1. The existing machinery assembly plant the subject of this refusal is to cease operations within five years of the date of this decision.*

Council Note: *Council changed the Advice Note in the Officer Recommendation by stating that the operation is to cease within five years of the date of this decision rather than two years, in order to give the applicants sufficient time to relocate the business to an appropriately zoned site.*



28 October 2013 - OCM063/10/13 - Officer Recommendation:

That Council refuse the application for the proposed single dwelling, outbuilding and retrospective application for Light Industry - Machinery Assembly and Distribution Plant at Lot 800 (228) King Road, Oldbury for the following reasons:

- 1. The proposed land use is inconsistent with the objectives of the Rural Zone of the Shire's Town Planning Scheme No 2.*
- 2. The proposed Light Industrial land use falls within the 'undesirable' uses in the Rural Policy Area within the Shire's Rural Strategy.*
- 3. The existing land use and proposed development has the potential to establish an undesirable precedent and would be inconsistent with the principles of orderly and proper planning.*

COUNCIL DECISION:

That Council grant planning consent for a temporary approval (five years maximum) for the proposed Light Industry/Machinery Assembly and Distribution Plant at Lot 800 (No 228) King Road, Oldbury, subject to:

- 1. Standard conditions of planning approval as determined appropriate by Council's Director Planning.*
- 2. All proposed outbuildings shall comply with the provisions of Council's Local Planning Policy 36 in relation to the maximum wall height, maximum ridge height and maximum area of the outbuilding.*

Council Note: Council changed the Officer Recommendation in Item OCM063/10/13 for the following reasons:

- a) Council has already formally agreed to allow the use of the land to remain for a period of five years.*
- b) Council has the discretion under the Town Planning Scheme within the current Rural zoning to grant a temporary approval for such land use.*
- c) The issue of a planning approval provides Council with greater opportunity to ensure appropriate management and controls are in place in relation to the land use.*
- d) the issue of a 5 year planning approval provides all parties with certainty for the future, and provides certainty for the eventual decommissioning and relocation of the land use to another site.*



Background

Existing Development:

The subject site is zoned 'Rural' under the current Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2). King Road runs along the eastern boundary and is included in Main Roads Restricted Access Vehicle network. Surrounding lots are zoned 'Rural' with the 'Rural Groundwater Protection' zone abutting the site to the north. Existing development on site comprises of an outbuilding, site office and hardstand areas. There are also several commercial vehicles parked on site and parts and equipment stockpiled on the site.

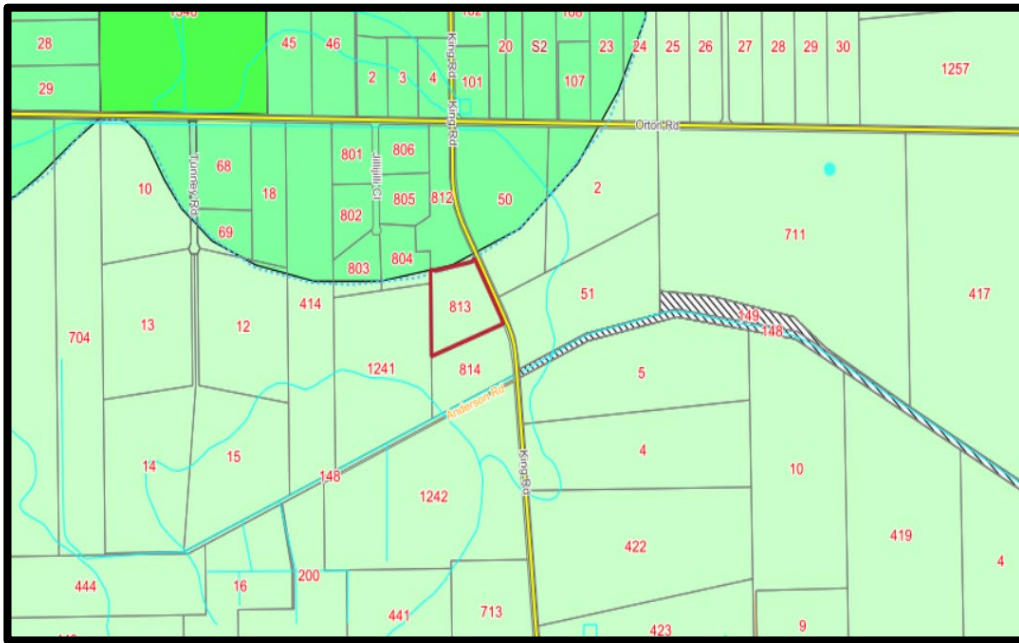


Figure 1 – Location Plan



Under the Shire's Draft Local Planning Scheme No. 3, the subject land is identified to remain zoned Rural. Ultimately, the area is intended to retain a level of Rural character and amenity, with land use and development intended to characterise this rural nature.



Figure 2 – Aerial Image



Figure 3 - example machinery assembled on site



At its Ordinary Council Meeting of 27 May 2013, Council considered a development application for a retrospective machinery and assembly plant and associated outbuilding. The resolution is contained within **attachment 1**. Officers recommended refusal of the application for the following reasons:

1. The proposed land use is inconsistent with the objectives of the Rural Zone of the Shire's Town Planning Scheme No 2.
2. The proposed Light Industrial land use falls within the 'undesirable' uses in the Rural Policy Area within the Shire's Rural Strategy.
3. The proposal falls within the 'unacceptable development' criteria of the Shire of Serpentine Jarrahdale's Local Planning Policy No. 36 *Non-Urban Outbuildings* as the total floor area at 800m² exceeds the 600m² maximum floor area for the 'Rural' zone.
4. The proposal falls within the 'unacceptable development' criteria of the Shire of Serpentine Jarrahdale's Local Planning Policy No. 36 *Non-Urban Outbuildings* as the proposed wall height at 6m exceeds the maximum 5m requirement for the 'Rural' zone.
5. The proposal falls within the 'unacceptable development' criteria of the Shire of Serpentine Jarrahdale's Local Planning Policy No. 36 *Non-Urban Outbuildings* as the proposed roof ridge height at 7.5m exceeds the maximum 6m requirement for the 'Rural' zone.
6. The existing land use and proposed development has the potential to establish an undesirable precedent and would be inconsistent with the principles of orderly and proper planning.

An advice note recommended that the use cease operations within two years of the date of the decision to allow for the operations to relocate. In essence, this time limited approval sought to assist the applicant to relocate to a more appropriate industrial location within the Shire, being either West Mundijong or Cardup Business Park. The former being the preferred location.

Council resolved to adjust the Advice Note by stating that operations were to cease within five years instead of two in order to give the applicant more time to relocate the business to an appropriately zoned site. Council did refuse the development as indicated above.

On 20 August 2013, a revised development application was received for the machinery assembly and distribution plant. The proposal sought development approval for a five year period and the size of the outbuilding was reduced. Essentially, the applicant sought to obtain an approval status for 5 years to enable transition, rather than the refusal that had been issued (with the same period of transition) given the risk the applicant could face through enforcement processes at any time.

Council considered this application at its Ordinary Council Meeting of 14 October 2013, and resolved to approve the application for the following reasons:

- a) Council has already formally agreed to allow the use of the land to remain for a period of five years.
- b) Council has the discretion under the Town Planning Scheme within the current Rural zoning to grant a temporary approval for such land use.
- c) The issue of a planning approval provides Council with greater opportunity to ensure appropriate management and controls are in place in relation to the land use.
- d) the issue of a 5 year planning approval provides all parties with certainty for the future, and provides certainty for the eventual decommissioning and relocation of the land use to another site.



This approval, contained within **attachment 2** expired on 12 November 2018 and the Shire commenced compliance action in accordance with Council's decision. Following a compliance investigation by Shire Officers, a retrospective development application was received.

Retrospective Development

The subject application seeks a continuation of the previously approved use, full details of the proposal are contained within **attachment 3**. The proposal involves the bringing of machinery to the site in a non-assembled form which is then assembled and transported to customers including local extractive industries and mining operations. Additionally, the application seeks approval for the retention of an existing office which was brought to site without approval. The business currently employs 11 members of staff. Parts for the maintenance of machinery are also stored on site, however maintenance does not take place on site. It is worth noting the outbuilding on site already has approval.

Three to four delivery vehicles would enter and exit the site daily. Generally, operating hours would be between 7:00am and 5:00pm Monday to Friday, as previously approved. However, approval is sought under this application to allow for occasional operation of the site on Saturdays between 7:00am and 10:00pm.

The proposal also includes a 1.5m high vegetated bund with a base of 3m and further vegetation to enhance the existing landscaping and provide screening to the west of the site, where a previous complaint had been received.

Community / Stakeholder Consultation

Advertising was carried out for a period of 21 days from 10 June 2019 – 1 July 2019. Seven letters were sent out to surrounding landowners in accordance with Local Planning Policy 1.4 – Public Consultation for Planning Matters which requires consultation to occur for a period of a minimum of 14 days to the owners of properties determined as being potentially affected.

During this period, one submission was received, contained within **attachment 4** objecting to the development. This raised several issues, which have been considered as part of the officer assessment. The officer assessment has also had to consider the intended planning objectives for the land now identified in the Shire's Draft Local Planning Scheme No. 3. There are also a range of local and state planning policies relevant to the proposal.

The objection relates to the following issues which are discussed in the relevant headings of the report:

- Accurateness of land use;
- Land use not consistent with zoning;
- Amenity; and
- Traffic Safety.

Statutory Environment

Legislation

- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Environmental Protection (Noise) Regulations 1997*



- Metropolitan Region Scheme
- Town Planning Scheme No. 2

Local Planning Framework

- Rural Strategy Review 2013
- State Planning Policy 2.5 – Rural Planning
- Draft Local Planning Strategy
- Draft Local Planning Scheme No. 3

Planning Assessment

A comprehensive assessment has been undertaken in accordance with section 67 of the *Planning and Development Regulations 2015*, the assessment can be viewed as part of the **attachment 5**.

Land Use

In determining the land use of the proposal, it is considered the proposal best fits within the TPS2 definition of 'Industry Light'.

'Industry' is defined under TPS2 as *"the carrying out of any process in the course of trade or business for gain, for and incidental to one or more of the following:*

- (i) *The winning, processing or treatment of minerals;*
- (ii) *The making, altering, repairing, or ornamentation, painting, finishing, cleaning, packing or canning or adapting for sale, or the breaking up or demolition of any article or part of an article;*
- (iii) *The generation of electricity or the production of gas;*
- (iv) *The manufacture of edible goods;*

and includes, when carried out on land upon which the process is carried out and in connection with that process, the storage of goods, any work of administration or accounting, or the wholesaling of goods resulting from the process, and the use of land for the amenity of persons engaged in the process, but does not include:

- (i) *The carrying out of agriculture;*
- (ii) *Site work on buildings, work or land;*
- (iii) *In the case of edible goods the preparation of food for sale from the premises;*
- (iv) *Panel beating, spray painting or motor vehicle wrecking".*

It is considered that the making/assembling of the machinery is consistent with the definition of an industry.

'Industry Light' – means an industry:

- (i) *"In which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises will not cause any injury to, or will not adversely affect the*



amenity of the locality by reason of the emission of light, noise, vibration, smell, fumes, smoke, vapour, steam soot, ash, dust, waste water or other waste products; and

- (ii) *The establishment of which will not or the conduct of which does not impose an undue load on any existing or projected service for the supply or provision of water, gas, electricity, sewerage facilities, or any like services."*

'Industry General' "means an industry other than a cottage, extractive, hazardous, light, noxious, rural or service industry."

To determine which type of industry the proposal relates, it is required to establish whether the proposal results in amenity impacts that cannot be managed or results in an undue load on any services. As part of the initial approval, management plans in relation to noise and dust were required. These management plans demonstrate compliance with the relevant regulations and set out mitigation measures, therefore it has been demonstrated that amenity can be managed.

The development is considered to meet the definition of 'Industry - Light' as the operations generally do not result in an adverse impact upon the amenity of the surrounding area and does not impose an undue load on any existing or projected service.

Clause 3.2.4 of TPS 2 states that *"where in the Zoning Table a particular use is mentioned it is deemed to be excluded from any other use class which by its more general terms might otherwise include such particular use"*. As such, the proposal is considered to best fit within the land use of 'Industry - Light' and that 'General Industry' is a more general definition. This is consistent with the previous determination by Council.

The subject site is zoned 'Rural' under TPS2 where an 'Industry - Light' land use is an 'SA' use, meaning the use can be approved at the discretion of Council subject to the application being advertised and any submission considered in making a decision. The application has been advertised and one submission was received which has been discussed in detail within the assessment.

Under Draft Local Planning Scheme No. 3, the land is proposed to be zoned Rural, whereby the use of 'Industry - Light' is prohibited - meaning it cannot be approved. Should Council support a further time limited extension to the development, and should the new Local Planning Scheme come into effect during that time, the development will not be able to be approved following expiry of the time limited extension.

Orderly and Proper Planning

Clause 67 of the regulations, specifically A – J, considers State and Local Planning Policy frameworks including Draft Schemes, Strategies, State Planning Polices, Local Planning Policies and the like. These frameworks provide guidance in order to establish if a development is consistent with orderly and proper planning, current amenity and character, and importantly intended amenity and character of an area. When considering the State and Local Planning framework the following documents are relevant:

Objectives of zone under TPS2

The development falls within the 'Rural' zone under TPS2, the objective for which is to accommodate the full range of rural pursuits and associated activities conducted within the Scheme area. TPS2 does not define a 'rural pursuit' however, the State Administrative Tribunal (SAT) consistently define rural as something that is *'relating to, or a characteristic of the country'*.



The activity of assembling machinery is not considered a characteristic of the country rather consistent with an industrial area. These types of industries are not typically found in a rural area, and could not be considered to predominantly support rural based uses. It is acknowledged that 'Industry - Light' can be considered in the 'Rural' zone, however the industry should have a clear planning link to a rural pursuit to be able to be considered consistent with the objective of the zone.

As the development is not considered by Officers to be a rural pursuit nor an associated activity, the proposal does not align with the objective for the 'Rural' zone. As such, the proposed development does not provide sufficient merits in which to judge it as an appropriate land use within the 'Rural' zone. This generally aligns with the consistent view that both Officers and Council have taken on the matter to date.

Council's temporary approval was to allow time for the proposal to be relocated to a more appropriate site such as West Mundijong Industrial Precinct. Since the time of the approval, West Mundijong Industrial Precinct has been rezoned under TPS2 from 'Rural' to 'Urban Development' to allow for the transition of the area. Development aligned with the Industrial zoning under the Metropolitan Region Scheme has also occurred.

As part of the TPS2 amendment, a Structure Plan was drafted to inform the amendment which designates areas for 'Industry - General' and 'Industry - Light'. Council, at its Ordinary Council Meeting of 19 August 2019, resolved to continue with the West Mundijong Structure Plan concurrently with the Greater Mundijong District Structure Plan to expedite the planning framework and further subdivision and development of the area. At this meeting, Council also resolved to deem the draft Structure Plan satisfactory for advertising.

Lot 11 Kargotich Road, within the Structure Plan area, has development approval for a 'Warehouse'. In addition, Lots 12 and 13 Kargotich Road, within the Structure Plan area, have development approval for 'Industry – Light' land uses with Lot 12 having been developed. It is therefore considered that the West Mundijong Industrial Precinct has significantly transitioned since the temporary approval was granted on the subject site. As such, the initial reasoning for allowing the use to remain on the subject site is no longer applicable and as an inappropriate use in a rural location, has the opportunity to now transition to an area like West Mundijong.

The officer recommendation is to allow a final temporary extension until 31 December 2020, in order for the use to relocate from the land.

Draft Local Planning Scheme No.3

LPS3 defines 'industry' as *"premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes:*

- (a) the storage of goods;*
- (b) the work of administration or accounting;*
- (c) the selling of goods by wholesale or retail;*
- (d) the provision of amenities for employees;*
- (e) incidental purposes."*



The proposal involves the assembly of machinery and is therefore considered an 'industry' in accordance with the above definition.

'Industry – Light' is defined under draft LPS3 as *“premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed.”*

As with the definitions under TPS2, the proposal is considered to be an 'Industry – Light'.

The subject site is zoned 'Rural' under the Shire's draft LPS3 where an 'Industry - Light' land use is a prohibited use and therefore if LPS3 was the current Scheme, the proposal would not be capable of approval under LPS3.

As LPS3 has commenced advertising, it is considered a seriously entertained document. Furthermore, Clause 67 (b) of the Deemed Provisions requires for the consideration of *“any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving”*.

The relevant objectives of the 'Rural' zone under LPS3 are discussed as follows;

- *“To provide for the maintenance or enhancement of specific local rural character.”*

The surrounding area generally comprises of land uses typical to a rural area. Such land uses include rural uses and equestrian activity. It is considered that a business assembling industrial machinery is inconsistent with the local rural character in the area.

- *“To protect and accommodate broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.”*

The proposal is not consistent with the listed activities.

- *“To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies including groundwater, to protect sensitive areas especially the natural valley and watercourse systems from damage.”*

Although vegetation can adequately screen development, the appearance of the operations on site are not considered to enhance the environmental qualities of the landscape.

- *“To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.”*

The proposal involves a non-rural land use the benefits of which have not been demonstrated. The proposal by way of land use and visual appearance is considered inconsistent with the surrounding rural uses.

The land use is considered inconsistent with the draft LPS3.

Draft Local Planning Strategy

The Strategy designates the subject site as 'Rural Land'. It is also worth noting that the site lies within an area designated as a State Planning Investigation Area however, no further information is documented in this regard. *“The Rural land use category provides for a full range of rural land uses, tourism opportunities, rural enterprise and the preservation of the natural landscape. Rural land facilitates agricultural production and the protection of the natural landscape.”*



The proposal is not considered a rural land use, tourism opportunity or rural enterprise. The land use is considered inappropriate in a rural location, and inconsistent with the draft Local Planning Strategy.

Rural Strategy 2013 Review:

The Shire's Rural Strategy 2013 Review (Strategy) outlines key themes that future development within rural areas should be considered against. Generally, the Strategy requires rural areas to maintain a rural character, retain natural assets and facilitate productive rural areas by ensuring the areas are economically productive.

The subject site falls within the Rural Policy Area of the Rural Strategy 2013. Within this policy area there is a general presumption against development that is not 'rural' in nature, or would impact adversely on the established character and amenity of the locality. The retrospective development is considered to be inconsistent with the anticipated 'rural' use for the Rural Policy Area and out of character with the established rural character in the area. The development is considered to impact the amenity of the area by means of the visibility of the development, which is clearly in contrast to its surroundings.

The Rural Policy Area also discourages developments that are likely to result in an impact to the environment and encourages revegetation and landscaping for development within the area. The retrospective development poses a minor risk to the environment by means of potential for hydrocarbons and other pollutants to enter the groundwater as a result of the operations. This could be mitigated through the imposition of management plans and requirements for any such operations to be undertaken on hardstand areas. Even so, there will always be a risk by virtue of the activities being located, notwithstanding the presence of a management plan.

Officers consider the retrospective development to be inconsistent with the policy provisions and objectives for the Rural policy area.

State Planning Policy 2.5 – Rural Planning (SPP2.5)

SPP2.5 states *“The purpose of this policy is to protect and preserve Western Australia’s rural land assets due to the importance of their economic, natural resource, food production, environmental and landscape values. Ensuring broad compatibility between land uses is essential to delivering this outcome.”*

Section 3 (Background) of SPP2.5 indicates (among other things) that *“Rural land accommodates significant environmental asset and natural landscape values ...”* and *that there will be increased “pressure on rural land to be used for a wide variety of purposes ...”* It is considered that this development is an example of a non-rural use intruding into a rural area, contrary to the purpose and intent of the zone.

In the policy measures at section 5.1 of SPP2.5, rural land is to be protected as a resource by:

- requiring that land use change from rural to all other uses be planned and provided for in a planning scheme or strategy. A change from rural use to other uses in the area which includes the land is not planned for in TPS2, Draft LPS3 or the Rural Strategy;
- ensuring retention and protection of rural land for biodiversity protection, natural resource management and protection of valued landscapes and views.

The proposed development is considered contrary to these provisions.

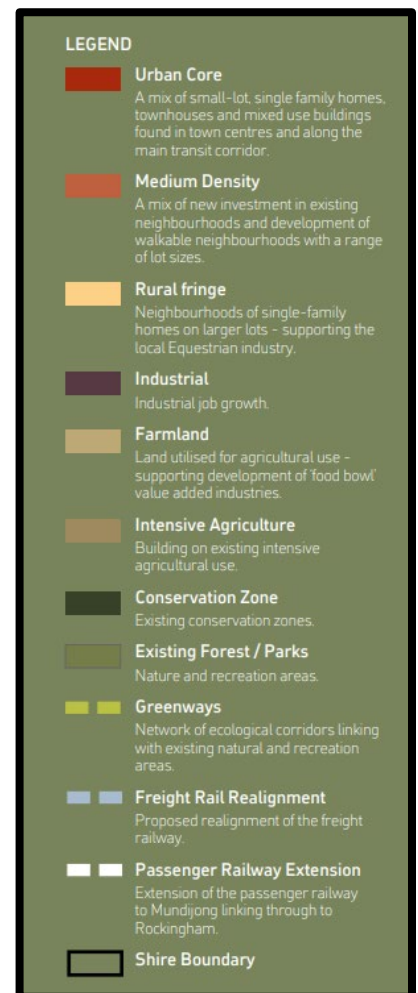
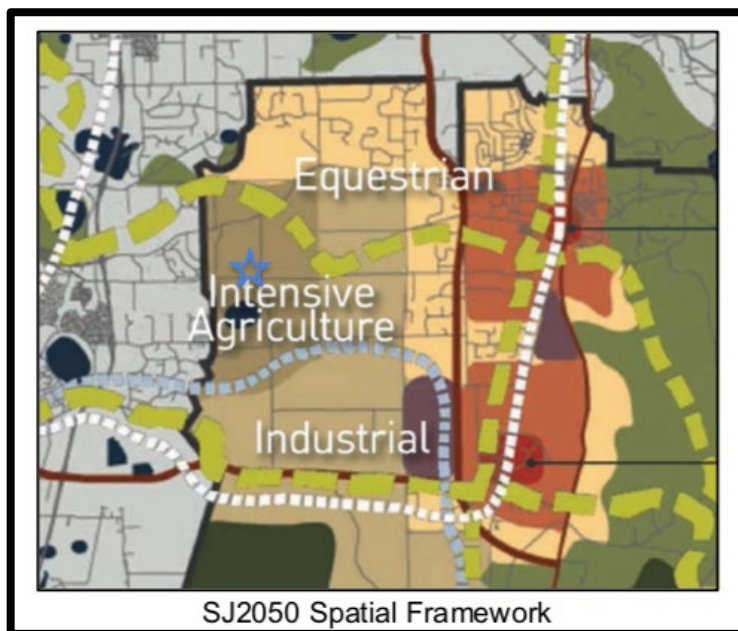


It is worth noting that in SPP2.5, 'rural land use' is defined as *"Land uses that are rural in nature and that support and are associated with primary production, basic raw material extraction, biodiversity conservation, natural resource management, public purposes (eg. Prisons, cemeteries, public utilities and waste management facilities) and protection of landscapes and views."*

The proposed 'Industry - Light' is therefore not a rural land use under SPP2.5, consistent with the proposal not being a 'rural pursuit' as mentioned in Clause 5.10.1 of TPS2.

SJ2050

In 2016, Council endorsed SJ2050 as the vision document for future planning within the Shire. SJ2050 identified a settlement pattern aligned with the Perth and Peel @ 3.5 Million Sub-Regional Planning Frameworks and identified the Oakford area as an intensive agriculture area. The industry light land use does not fall within the definition of intensive agriculture.



LPP51 - Oakford Rural Economic Living Area Planning Framework

The subject land does not fall within this area.



Other Considerations

Traffic

Notwithstanding the submission received, the retrospective development generates very few vehicle movements, generally limited to staff movements to and from the site. The applicant has advised that there are between 3 - 4 small van/light truck movements per day. The business assembles on average 1 to 2 machines per month, resulting in 1 truck loaded with machinery leaving the site every three to four weeks on average.

The Department of Planning Lands and Heritage (DPLH) Guidelines for Transport Impact Assessments sets out the circumstances where Transport Impact Assessments are required as part of development. In this case, the vehicle movements are considered 'low impact' under the Guidelines and therefore no transport information is normally required.

Despite the low traffic movements and King Road being part of the Restricted Access Vehicle (RAV) Network, some vehicles which leave the subject site are potentially of a size that require a special permit from Main Roads Western Australia (MRWA). As a final extension until 31 December 2020 is recommended, it is not considered viable to be recommending road upgrades given the use will not be present on the land after this time.

Built Form and Amenity

The application in most part seeks approval for the continuation of a use previously approved by Council, with the provision of extended hours of operation on a Saturday. Given the nature of rural character, extended hours of operation are not supported by Officers. The existing outbuilding and hardstand area on site formed part of the previous approvals for the site. The office however, has not been subject to any approvals and is required to be validated through this process if approval extension is considered until 31 December 2020.

In relation to the office, no plans have been submitted, however, Officers advise that the office is of a transportable nature, constructed of white cladding with windows and a flat roof. Resembling a typical transportable structure usually associated with a construction site. If Council choose to approve the development, Officers recommend a condition requiring the submission of a floor plan and elevations. The office and the overall land use would be required to be removed if the application is refused.



Noise

The operations include noise generating activities through the assembly operations and vehicle movements. An acoustic assessment was submitted as the result of a condition imposed on the previous approval. The assessment identifies 5 residences within close proximity of the subject site as depicted below:



Figure 4 – Location plan showing nearest residences

The acoustic assessment modelled noise generated from the use of a forklift, cherry picker, crushing and truck movement. The results show compliance with the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations) at the 3 residences to the northwest of the site. The acoustic assessment concluded that to achieve compliance, forklift operation needed to be restricted to areas farthest from shared boundaries as much as possible. The figure below taken from the assessment shows the areas where the forklift operations should be restricted. It also states that while the forklift may operate outside of this area, it should be for brief periods only.

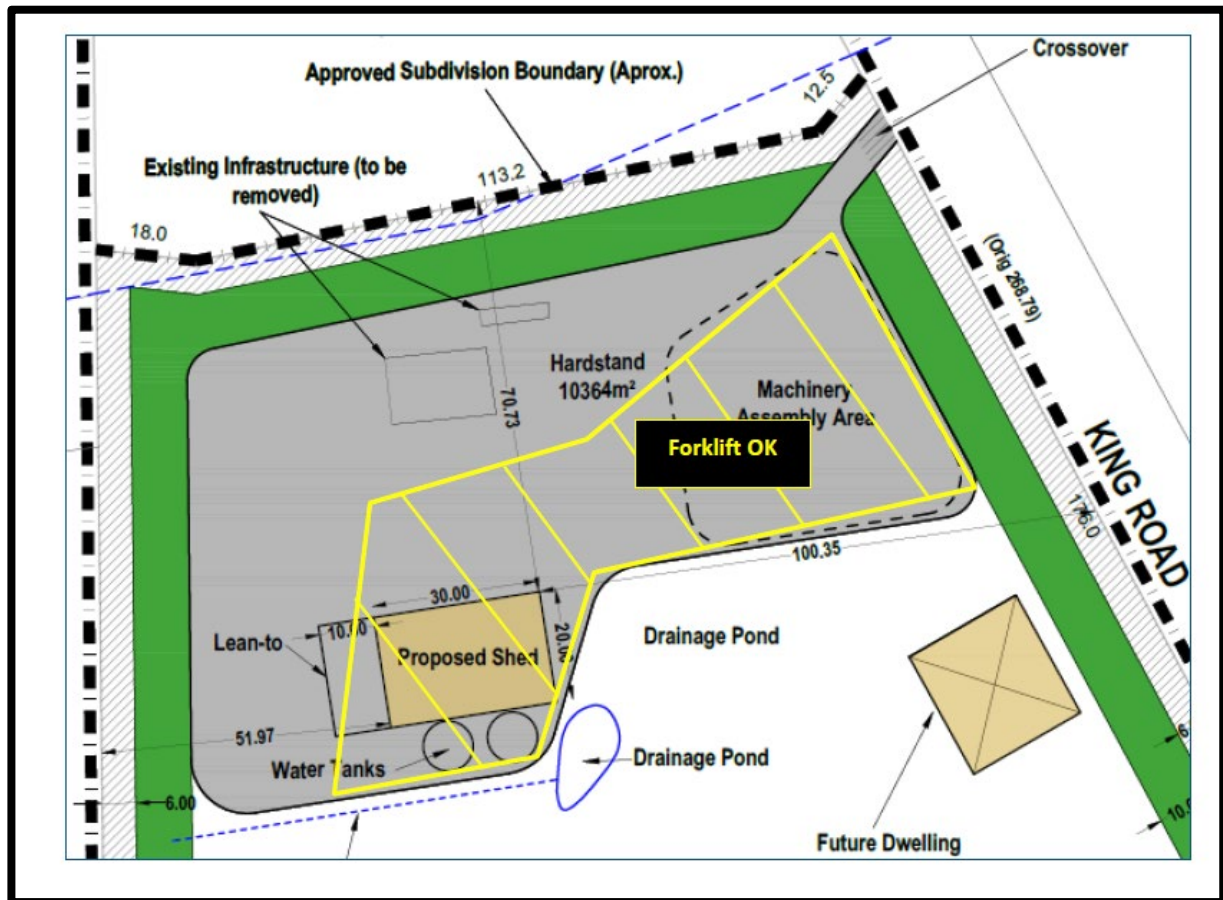


Figure 5 – Forklift work zone to manage noise emissions

As a final extension until 31 December 2020 is recommended, in order to transition to an industrial location, it is not recommended that new conditions be imposed in respect of noise management, particularly as Saturday operations are not being supported.

Landscaping

The current application includes further landscaping to mitigate visual impacts from the development on adjacent landowners. The proposed landscaping focuses on the western view which is not currently screened and provides a direct view to the lay down area. The proposal includes an earth bund, which would be planted to provide an aesthetic screen. It is considered that this additional landscaping goes further to improve the rural character and amenity of the area, but does not alter the view of Officers that a temporary approval to 31 December 2020 should be considered to require transition of the business to an industrial location.

For this reason, a further condition regarding landscaping is not recommended.



Options and Implications

With regard to the determination of the application for planning approval under Town Planning Scheme No. 2, Council has the following options:

Option 1

That Council EXTENDS the time limited planning approval issued by Council on 14 October 2013, to expire on 31 December 2020.

Option 2

That Council REFUSES to EXTEND the time limited planning approval dated 14 October 2013, and commences compliance and enforcement action.

Option 3

That Council EXTENDS the time limited planning approval issued by Council on 14 October 2013, to have no expiry date. This would result in additional conditions pertaining to noise, traffic management, road upgrades, drainage, dust management and landscaping.

Option 1 is recommended.

Conclusion

The application seeks approval for the continuation of a previously approved business involving the assembling of machinery for extractive industries. The amenity impacts are considered capable of managing and therefore the proposal is considered to fall within the land use of 'Industry - Light'.

It is considered that although the land use is capable of approval, the operations are not consistent with the objectives of the zone or the character and appearance of a rural area under the planning framework. It is therefore recommended that the application have a final time limited extension to 31 December 2020, to enable the applicant to relocate to an alternative industrial zoned site.

Attachments

- [Attachment 1](#) – Council Resolution of 27 May 2013 (CR13/63)
- [Attachment 2](#) – Council Resolution of 14 October 2019 (CR13/163)
- [Attachment 3](#) – Application Details (IN19/9302)
- [Attachment 4](#) – Submission (E19/8241)
- [Attachment 5](#) – Technical Assessment (E19/12726)

Alignment with our Strategic Community Plan

Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local business within the district.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.



Financial Implications

Nil.

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council refuse the development and the decision is appealed to the SAT.	Possible (3)	Moderate (3)	Moderate (5-9)	Financial Impact - 1 Insignificant - Less than \$50,000	Accept recommendation

Risk Matrix

Consequence / Likelihood		Consequence				
		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **9** has been determined for this item.



Voting Requirements: Simple Majority

Officer Recommendation

That Council retrospectively APPROVES an extension to the time limited planning approval issued by Council on 14 October 2013, to now expire on 31 December 2020, with no change to conditions or hours of operations as imposed by Council on 14 October 2013, OCM063/10/13.

OCM248/11/19

COUNCIL RESOLUTION

Moved Cr Rich, seconded Cr Strautins

That Council retrospectively APPROVES an extension to the time limited planning approval issued by Council on 14 October 2013, to now expire on 31 December 2021, with no change to conditions or hours of operations as imposed by Council on 14 October 2013, OCM063/10/13.

CARRIED 6/3

Councillor Coales, in accordance with Section 5.21(4)(b), Local Government Act 1995 requested the votes be recorded.

*Councillors Rich, Atwell, Byas, Dagostino, Denholm and Strange voted FOR the motion.
Councillors Coales, McConkey and Strautins voted AGAINST the motion.*

Reason for difference to Officers Recommendation

An extension to 31 December 2021 will provide a longer timeframe to enable the proponent to comply with the conditions imposed.



10.1.3 – Outbuilding – Lot 1148, 219 Abernethy Road, Byford (PA19/748)	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	Ben and Nichole Upperton
Owner:	As proponent
Date of Receipt:	25 July 2019
Lot Area:	6,842m ²
Town Planning Scheme No 2 Zoning:	'Urban Development'
Metropolitan Region Scheme Zoning:	'Urban Deferred'

Report Purpose

The purpose of this report is to consider a development application for an outbuilding at Lot 1148, 219 Abernethy Road, Byford, against the 'Design Principles' of State Planning Policy 7.3 – Residential Design Codes Volume 1 (R-Codes).

The application is presented to Council as an objection was received during the advertising process. Officers do not have delegated authority to determine applications where objections cannot be addressed by way of amendments to the proposal or through planning conditions, in accordance with Delegated Authority 11.1.1 and 12.1.1 – Determination of Development Applications.

The report recommends that Council approve the development application subject to conditions.

Background

Existing Development

The subject site is located in a newly developed area of Byford, along Abernethy Road. The site currently contains a single house. There is no vegetation on the property and the Abernethy Road roadworks have recently been completed in front of the property.



Figure 1: Aerial photograph

Proposed Development

The development application is for an outbuilding used for general domestic storage. The outbuilding would have a floor area of 48m², be located 0.5m from the rear (south) lot boundary and 1m from the west side lot boundary. It would have a wall height of 2.4m and a ridge height of 2.93m. Full details of the proposal are contained within **attachment 1** of this report. The proposal will not impact on existing Water Corporation infrastructure.

The proposal seeks approval against the 'Design Principles' of the R-Codes to address the variation to the rear setback.

Community / Stakeholder Consultation

The application was advertised for a period of 21 days to the adjoining landowners to the east and south. The consultation was conducted from 5 August 2019 – 26 August 2019 in accordance with Local Planning Policy 1.4 – Public Consultation for Planning Matters (LPP1.4). During this period, one submission was received objecting to the proposed development. The submission can be viewed in **attachment 2**. The objection states the following concerns in relation to the proposal:

- Building mass;
- Bulk; and
- Reduced setback to the rear boundary.

These matters of concern will be discussed as part of the 'Form of Development and Amenity' section later in this report.



Statutory Environment

Legislation

- *Planning and Development (Local Planning Schemes) Regulations 2015*

State Government Policies

- State Planning Policy 7.3 – Residential Design Codes Volume 1

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2)
- Byford District Structure Plan (BSP)
- Byford Main Precinct – The Glades Local Structure Plan (LSP)

Planning Assessment

A full technical assessment was carried out against the current planning framework in accordance with Clause 67, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, which can be viewed in **attachment 3**. For the purpose of this report, discussion is confined to the objection resulting in the item being presented to Council and where Council is required to exercise discretion.

Land Use

The subject property is zoned 'Urban Development' under the Shire's Town Planning Scheme No.2 (TPS2). Clause 5.18 of TPS2 indicates that the purpose of the 'Urban Development' zone "is to provide for the orderly planning of large areas of land in a locally integrated manner and within a regional context, whilst retaining flexibility to review planning with changing circumstances". Clause 5.18 goes on to state that this is done through the "establishment of Structure Plans to ensure that development takes place in conformity with those Plans".

The subject property falls within the Byford Main Precinct – The Glades Local Structure Plan (LSP). The LSP provides a designation of 'Residential R12.5' to the subject property. An approved single dwelling (which is a 'Residential – Single House' land use within TPS2) already exists on the property.

An outbuilding is defined under the R-Codes as, "An enclosed non-habitable structure that is detached from any dwelling". The proposal is incidental to the existing 'Residential – Single House' land use. Incidental is defined under TPS2 as "the use of land in conjunction with and ancillary to the primary use on the land". Given the outbuilding is incidental to the Residential – Single House' land use which is permitted within the zone and LSP, the proposal is capable of approval.

Form of Development and Amenity

The proposal seeks a minor variation to the deemed-to-comply requirements of the R-Codes in relation to the rear setback. All other aspects of the proposal are compliant with the Deemed-to-Comply (DTC) requirements and as such the outbuilding would be exempt from requiring a development application if the outbuilding were setback 1m (in lieu of 0.5m as proposed).



The table below highlights the variation to which Council must determine whether the relevant 'Design Principle' has been met:

R-Codes Design Principle Assessment – Outbuilding		
Deemed-to-Comply Provision	Proposed Development	Design Principle
C3 Outbuildings that: viii. are setback in accordance with Tables 2a and 2b. <i>Where the wall height is 3.5m or less and the wall length is 9m or less, the required setback is 1m.</i>	viii. a setback of 0.5m is proposed to the rear lot boundary.	P3 Outbuildings that do not detract from the streetscape or the visual amenity of residents or the neighbouring properties.

In order to determine whether the proposal meets the design principle it can be considered within two key components:

- Outbuildings should not detract from the visual amenity of the streetscape; and
- Outbuildings should not detract from the visual amenity of the residents and neighbouring properties.

Firstly, an outbuilding is required to be set back behind the building line to the primary street. The outbuilding in this instance is set back 34.5m from the primary street and is to be located behind the dwelling. Officers consider that the outbuilding will not detract from the streetscape, as it will not be visible from the street.



Secondly, an assessment has been undertaken to determine the impact of the proposed outbuilding on the property from which the objection has been received. It is acknowledged that a minor portion of the outbuilding roof ridge will be visible from the complainant's property, which is to the rear boundary as seen in Figure 2 below.



Figure 2: Viewing the location of the proposed outbuilding from the objector's property showing the visual impact of the proposed outbuilding.

The outbuilding will mostly be screened from the neighbours view by the 1.8m high colourbond fence that exists between the properties. In addition, there is a retaining wall separating the two properties. As the outbuilding is to be on the lower side of the retaining wall, less of the outbuilding will be viewed from the objector's property. The applicant's property is at a height of approximately 34.07 AHD to 34.12 AHD, while the complainant's property is at a height of approximately 34.64 AHD. Officers consider that due to both these factors, while the outbuilding will be visible, it would not cause any additional building bulk to that which is already present from the roofs of neighbouring property's dwellings. The applicant has indicated that the retaining wall is 0.8m in height. Officers consider the approximate visibility of the outbuilding as follows:

Estimation of the Visible Portion of the Outbuilding			
Colourbond fence and retaining wall height	Outbuilding wall height	Outbuilding ridge height	Estimated visible portion of the outbuilding
2.6m	2.4m	2.929m	0.329m

The estimated visible portion of the building is demonstrated in Figure 2.



The outbuilding would be exempt if it was set back 1m from the rear boundary (an additional 0.5m) instead of the proposed 0.5m. Officers consider that the variation is minor and the additional setback would not necessarily cause any reduction in the visible portion of the outbuilding for the objector. The chosen location of the outbuilding is to allow the maximisation of functional outdoor space in the applicant's backyard. The proposal is considered to not adversely impact the amenity of the adjoining landowner, consistent with the design principles of the R-Codes.

Options and Implications

With regard to the determination of the application for development approval under Town Planning Scheme No. 2, Council has the following options:

Option 1: Council approves the application subject to appropriate conditions.

Option 2: Council refuses the application giving reasons for its decision.

Option 1 is recommended.

Conclusion

The application seeks approval under the 'Design Principles' of the R-Codes for a minor setback variation. The application has received an objection from an adjoining neighbour and this item is therefore presented to Council for determination. Officers consider that the application is acceptable and that it meets the design principles of the R-Codes. This is due to the minor nature of the setback variation and due to the applicant's property being lower than the complainant's is. As such, for the reasons outlined in the report, it is recommended that Council approve the application subject to conditions.

Attachments

- [Attachment 1](#) – Development Plans (E19/13219)
- [Attachment 2](#) – Submission (IN19/18829)
- [Attachment 3](#) – Technical Assessment (E19/13220)

Alignment with our Strategic Community Plan

Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local business within the district.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.

Financial Implications

Nil.



Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council refuse the development and the application is appealed to the State Administrative Tribunal	Possible (3)	Minor (2)	Moderate (5-9)	Financial Impact - 1 Insignificant - Less than \$50,000	Accept Officer Recommendation

Risk Matrix

Consequence / Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **6** has been determined for this item.



Voting Requirements: Simple Majority

OCM249/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Coales, seconded Cr Strange

1. That Council APPROVES the development application for the outbuilding at Lot 1148, 219 Abernethy Road, Byford as contained within attachment 1 subject to the following conditions:

a. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent.

Plans and Specifications	Plans P1-P3 received at the Shire's Offices on 8 August 2019.
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b. All stormwater shall be retained within the property to the satisfaction of the Shire. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.

NOTE 1: In relation to condition b, the stormwater drainage system shall be connected to the lot discharge pit located in the front of the property.

CARRIED UNANIMOUSLY 9/0

**10.1.4 - Community engagement process for Draft Noise Management Plan – Keysbrook Motorsport Facility (PA17/1080)**

Responsible Officer:	Acting Manager Environmental Health and Building
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Information	For the Council / Committee to note.
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Report Purpose

The purpose of this report is for Council to consider requesting the applicant of the Keysbrook Motorsport Facility to undertake a community engagement process on its draft Noise Management Plan (**attachment 1**), with a particular focus of exploring possible noise management measures for the facility with its surrounding community.

Noise concerns with the likes of proposed motorsport facilities are not unexpected, and part of understanding such concerns is also about considering how to reasonably and practically address concerns. This may be in the form of design responses, operational responses and/or management responses of a facility.

This report seeks to provide an opportunity for the applicant, the surrounding community and the Shire to come together to discuss the specific issue of noise, possible treatments and the like. This is under the auspices of the draft Noise Management Plan that has been prepared, and which could benefit from further input from the surrounding community on.

Bringing the applicant and community together may assist in a process to deliberate, explore tradeoffs and see if any positions of consensus can be reached in respect of managing noise from the proposed facility, and having this reflected in further adjustment to the draft Noise Management Plan.

It is noted this proposed approach is not associated with the Shire's assessment of the development application, nor its ultimate consideration of the Noise Management Plan – both of which need to be approved before the proposed development can operate.

Also, at the time of writing this report, the development application remains on hold pending the Environmental Protection Authority determining whether or not it will formally assess the proposal under the auspices of the *Environmental Protection Act 1986*.

**Relevant Previous Decisions of Council**

At the Ordinary Council Meeting on 26 February 2018, former Councillor Cr See presented a petition from Ms Beverley Brickwood, requesting that Council reject the development application for a motorsport facility on Lot 78 (No. 732) Punrak Road, Keysbrook. Of the 83 signatures, 75 names and addresses on the Petition were confirmed as electors or residents of the district.

OCM4.1/02/18 COUNCIL DECISION / Officers Recommendation

That Council, as the petition meets the requirements of clause 3.6(1)(a) - (f), Council, in accordance with clause 3.6(4)(d) of Council's Standing Orders Local Law 2002 (as amended):

- 1. Accepts the Petition regarding Ref PA17/1080 Development Application Lot 78 (No 732) Punrak Road, Keysbrook – Proposed Motorsport Facility, and*
- 2. Requests the Chief Executive Officer include the Petition in a report to a subsequent meeting of Council when PA17/1080 is considered by Council.*

Background

A development application has been received for a proposed motorsport facility at Lot 78 Punrak Road, Keysbrook. This proposal is yet to be advanced through a formal development assessment process under Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 ("Scheme"), on the basis that the EPA are still considering whether to undertake formal environmental assessment (or not) under the auspices of the *Environmental Protection Act 1986*.

Irrespective of this, the Shire recognises that an element of community concern is the potential noise impacts associated with the facility. These concerns can sometimes benefit from an open engagement process between the applicant and the community, to provide a forum to exchange views, provide information, explore tradeoffs and determine if any consensus position could be reached in management strategies or ideas for the facility. The applicant has prepared a draft Noise Management Plan in respect of exploring ways in which to manage noise, and the Shire believes providing a renewed process of community engagement on this could benefit finding a way forward. At the very least, bringing the applicant, the community and the Shire together may assist in better defining concerns and exploring avenues that parties may not currently be aware of.

While there exists a robust framework in which to prepare, assess and determine Noise Management Plans under the *Environmental Protection (Noise) Regulations 1997*, often discussion between an applicant and community members can help reveal insights in respect of both parties. These insights may produce new initiatives or ideas, to explore in respect of the management of noise. This can benefit from a forum type engagement, with independent facilitation, to help capture and explore ideas/opinions.

This is the suggestion the Shire is making in this report, for the applicant to engage an independent facilitator to help run a process with the surrounding community on the draft Noise Management Plan.

The Shire suggests that this should be done prior to the Shire needing to then independently assess and determine whether or not to approve a Noise Management Plan for the facility. If at the very least all parties are better informed of each other's position, there can be attempts made to determine how to reach a consensus for those parties.



Community / Stakeholder Consultation

The Shire has previously undertaken two separate community engagement processes on the draft Noise Management Plan. This has produced each time a series of concerns being voiced by the surrounding community, in respect of noise. The intent of this report is to suggest an applicant lead new dialogue with their neighbouring community and also with the Shire attending, to help bring parties together in a neutral venue to provide the opportunity for a without prejudice discussion.

Statutory Environment

Division 3 of the Noise Regulations provides an “opt-in” approvals process that allows noise emissions to exceed the assigned noise levels provided motor racing activities in motor sport venues are carried out in accordance with an approved Noise Management Plan for that venue.

The Department of Water and Environment Regulation have delegated the approval of Noise Management Plans under division 3 to Local Government CEO’s. There is however advice provided in the Guide to the Management of Noise from Motor Sport Venues, which states:

“In general it is expected that applications under Division 3 would be made to the LG CEO, in order that the decision be made at the local level. Where an issue is of state significance the decision may be made by the DER CEO, however such decision would be made in consultation with the LG CEO”.

In essence, a Noise Management Plan is either determined by the CEO of the Local Government, or by the DER CEO in consultation with the LG CEO, if an issue is of state significance. There is no clear definition of threshold to what is or is not of state significance.

Comment

The Division 3 Regulation was introduced as many existing motor sports venues did not comply with the assigned levels under the Regulations, and yet in most cases operated without drawing substantial complaints. Additionally, it was also recognised that there was a need for planning measures to secure buffers around motor sport sites to prevent encroachment by new residences.

The Department’s Guide to management of noise from motor sport venues (DER 2014) notes:

“There are many activities that occur in the community that cannot, however, reasonably and practicably meet those assigned levels, but retain a degree of acceptance, either because of the temporary nature of the activity or the perceived community benefit.

The Regulations make special provision for such activities, including construction noise, motor sports, recreational shooting, outdoor events and others.

In the case of a motor sport venue, good land use planning may be able to avoid noise problems in the first place – this may involve selection of a site for a new venue that is well away from sensitive receivers, or preventing encroachment by new residences into the noise-affected area around the venue.”

The Keysbrook proposal, while introducing a new noise source, is also planning to introduce noise sources associated with activities that are not part of the occasional transient events that usually come under the auspices of motor sport organisations. A number of the activities, generally of a more commercial nature, proposed in Stage 1 for the facility come under this category. This includes the likes of driver training in manufactured cars, and hire karts.



Possibly, the acceptance of the community for such activities may be different than say more transient motorsport events. Or conversely, maybe the community would be more accepting of more frequent but less disruptive events (i.e. driver training and go karting), compared to say major motorsport events.

What this does show is the range of assumptions, perceptions and judgments that often influence one's opinion of noise. This is the basis in which the Shire has come up with a suggestion for the applicant and nearby community to come together, in a neutral venue, to discuss and deliberate on the issue of noise and operation of the facility. Also, to consider the current draft Noise Management Plan, and how this may benefit from further refinement.

The idea of suggesting a forum like this may assist the applicant and surrounding community to explore:

- The nature of noise to be expected, particularly to help people contextualise the nature of the noise;
- What reasonable and practicable measures the community may wish to think about to manage noise;
- What reasonable and practicable measures the applicant may wish to consider;
- The operational nature of the more routine (non-motorsport) functions;
- The operational nature of the less routine (motorsport specific) events;
- Where areas of consensus lie, or where areas of divergence exist;
- If there is a pathway forward to build further understanding or present options for the nearby community to consider, as part of an updated draft Noise Management Plan.

As can be seen, a discussion like this will be dynamic, and would require the applicant to organise an experienced independent facilitator in order to be able to run such an engagement. The Shire would seek to attend this event, and it would also be of benefit for Elected Members to attend and hear the discussions that occur.

Seeking Council to request this of the applicant to workshop their draft Noise Management Plan with their neighbouring community, will hopefully provide a unique and safe opportunity to openly discuss issues of concern pertaining to noise. This may produce some new insights of consensus in which to explore going forward by the applicant.

Importantly, this would be without prejudice, and not associated with the Shire's future assessment of the draft Noise Management Plan or development application.

Options and Implications

Option 1

That Council seeks to request the applicant to undertake a community engagement process with their surrounding community as detailed in the report.

Option 2

That Council does not seek to request the applicant to undertake a community engagement process with their surrounding community.

Option 1 is recommended.



Conclusion

Noise is a sensitive issue for any community. The proposed motorsport facility will have to rely on a Noise Management Plan to be able to operate in accordance with the Regulations. A process of engagement between the applicant and nearby community is considered to offer some unique, safe and respectful deliberations and discussions to occur, to see if further awareness, insights or consensus can be reached to move further forward the draft Noise Management Plan.

Attachments

- [Attachment 1](#) - Draft Noise Management Plan (IN18/18651)

Alignment with our Strategic Community Plan

Outcome 1.3	A safe place to live
Strategy 1.3.3	Enhance community safety
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.

Financial Implications

There are no financial implications for the Council in respect to this report. The applicant will be required to fund an independent facilitator, should they wish to take up this suggested process.

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not endorse the Officer Recommendation	Possible (3)	Moderate (3)	Moderate (5-9)	Reputation - 3 Moderate - Substantiated, public embarrassment, moderate impact on key stakeholder trust or moderate media profile	Accept Officer Recommendation



Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Likelihood						
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **9** has been determined for this item.

Voting Requirements: Simple Majority

Officer Recommendation

That Council:

1. NOTES the current Draft Noise Management Plan, and REQUESTS the applicant of the Keysbrook Motorsport Facility to undertake a community engagement process on possible noise management measures for the facility, with the intent of updating the draft Noise Management Plan before being further considered by Council.
2. REQUESTS the applicant to secure an appropriately experienced independent facilitator, in order to run a workshop to discuss and explore the following issues, with residents located surrounding the proposed facility:
 - a. The nature of noise to be expected, particularly to help people contextualise the nature of the noise;
 - b. What reasonable and practicable measures the community may wish to think about to manage noise;
 - c. What reasonable and practicable measures the applicant may wish to consider;
 - d. The operational nature of the more routine (non-motorsport) functions;
 - e. The operational nature of the less routine (motorsport specific) events;
 - f. Where areas of consensus lie, or where areas of divergence exist; and
 - g. If there is a pathway forward to build further understanding or present options for the nearby community to consider, as part of an updated draft noise management plan.



OCM250/11/19

COUNCIL RESOLUTION

Moved Cr Rich, seconded Cr Strautins

That Council:

1. **NOTES** the current Draft Noise Management Plan, and **REQUESTS** the applicant of the Keysbrook Motorsport Facility to undertake a community engagement process on possible noise management measures for the facility, with the intent of updating the draft Noise Management Plan before being further considered by Council.
2. **REQUESTS** the applicant to secure an appropriately experienced independent facilitator, in order to run a workshop to discuss and explore the following issues, with residents located within a 5km radius of the proposed facility:
 - a. The nature of noise to be expected, particularly to help people contextualise the nature of the noise;
 - b. What reasonable and practicable measures the community may wish to think about to manage noise;
 - c. What reasonable and practicable measures the applicant may wish to consider;
 - d. The operational nature of the more routine (non-motorsport) functions;
 - e. The operational nature of the less routine (motorsport specific) events;
 - f. Where areas of consensus lie, or where areas of divergence exist; and
 - g. If there is a pathway forward to build further understanding or present options for the nearby community to consider, as part of an updated draft noise management plan.

CARRIED 6/3

Councillor Coales, in accordance with Section 5.21(4)(b), Local Government Act 1995 requested the votes be recorded.

*Councillors Rich, Atwell, Byas, Denholm, Strautins and McConkey voted FOR the motion.
Councillors Coales, Dagostino and Strange voted AGAINST the motion.*

Reason for difference to Officers Recommendation

Item 2 was amended to suggest to the applicant that they should engage with landowners who have previously been engaged on the draft noise management plan and engage with a target audience.



10.1.5 - Review of Local Planning Policies (SJ2963)	
Responsible Officer:	Manager Statutory Planning and Compliance Manager Strategic Planning
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Report Purpose

The purpose of the report is for Council to consider two revised Local Planning Policies (LPPs) and two new LPPs to determine if they are satisfactory for advertising in accordance with Schedule 2, Part 2, Clause 4 of the *Planning and Development (Local Planning Scheme) Regulations 2015* (Deemed Provisions).

If Council adopts these policies for public advertising, they will give the opportunity for community feedback before being presented back to Council to determine whether to ultimately adopt the policies. As such, this is an interim decision to commence the process, as recommended by Officers.

The revised polies are as follows:

- Local Planning Policy 4.7 – Placement of Fill; and
- Local Planning Policy 4.11 – Advertising.

The new LPP's are as follows:

- Local Planning Policy 2.2: Residential Development Standards (R25 – R60); and
- Local Planning Policy 4.19 – Outbuildings, Sheds, Garden Sheds and Sea Containers

The revised LPPs relate to the placement of fill, and also advertising signage. The new LPP's relates to outbuildings (including garden sheds, sheds and sea containers) and standards for residential development. There has been a thorough collaborative formulation process to develop the LPPs, in order to provide guidance for the exercise of discretion in planning assessment.

The report recommends that Council resolves to consider the LPPs satisfactory for public advertising.



Relevant Previous Decisions of Council

Ordinary Council Meeting – 18 December 2017 – **extract** Council Decision No. 1

OCM171/12/17 COUNCIL DECISION / Alternate Recommendation

That Council

1. *Adopt the new and significantly modified Local Planning Policies contained within OCM171.1/12/17 for the purpose of public consultation in accordance with Clause 4 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.*

Ordinary Council Meeting – 23 July 2018 – **extract**

OCM063/07/18 COUNCIL DECISION / Officer Recommendation:

That Council:

1. *Pursuant to Clause 4(3)(b)(i & ii) of Part 2 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 resolves to adopt the new and revised Local Planning Policies as listed within OCM063.2/07/18.*
2. *Revokes the following Local Planning Policy contained within OCM063.8/07/18 in accordance with Clause 6(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015;*
 - (a) *LPP 80 – Development within Structure Plan Areas which Development Approval is not Required*
3. *Pursuant to Clause 4(4) of Part 2 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, publish a notice of the adoption of new and revised Local Planning Policies within OCM063.2/07/18.*

Ordinary Council Meeting – 18 February 2019

OCM009/02/19 COUNCIL DECISION / Officer Recommendation:

That Council:

1. *ADOPTS amended Local Planning Policy 1.5 – Exempted Development Policy as contained within attachment 3 pursuant to Schedule 2, Part 2 Clause 5 of the Planning and Development (Local Planning Schemes) Regulations 2015.*
2. *PUBLISHES a notice of the adoption of the revised Local Planning Policy 1.5 – Exempted Development Policy contained within attachment 3, pursuant to Clause 4(4) of Part 2 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.*

Background

To ensure LPPs are effective in guiding land use and development, it is essential that they are reviewed on a regular basis and kept up to date. As such, Officers have reviewed LPP4.7 - Placement of Fill and LPP4.11 – Advertising. LPP4.19 - Outbuildings, Sheds, Garden Sheds and Sea Containers and Local Planning Policy 2.2: Residential Development Standards (R25 – R60) are new LPP's that have been drafted but LPP4.19 incorporates elements of LPP1.5 – Exempted Development.



The aim of the revised LPPs are to create more effective and efficient means of assessing and determining development applications, exercising discretion in an appropriate planning manner. It is considered imperative that policies provide consistent information and guidelines for determining applications as well as providing coherent guidance for members of the public.

The revised LPPs have been modified, a schedule of these modifications is contained within **attachment 1** for Council's ease of reference.

In preparation for the Shire's draft Local Planning Scheme No.3, a review of all existing LPPs was undertaken in 2017 to ensure that development provisions reflected best practice and facilitated orderly and proper planning and development. As a part of this review, the Shire's existing Local Planning Policy No.40 Local Development Plans (LPP40) was reviewed and renamed as draft LPP2.2.

Following the advertising of draft LPP2.2 in 2018 as contained within **attachment 2**, Officers undertook a further review and modified the draft Policy to apply to residential development in general and not just specifically local development plans. The reason for this was to clearly specify the Shire's position on acceptable provisions and variations to State Planning Policy 7.3 Residential Design Codes (R-Codes) that could apply to all medium density residential development coded R25 – R60. The intent of the revised draft LPP2.2 is to ensure the development of quality built form within the Shire, which is responsive to local context and character and the livability of homes.

The Shire receives a considerable number of development applications for minor R-Code variations that are generally considered acceptable by Officers. The Shire also receives a number of local development plan applications seeking approval for blanket R-Code variations that are generally supported by officers. Implementing a Policy that specifies the R-Code variations accepted by the Shire, which applies to all medium density residential development, would reduce the need for development applications and local development plan applications for certain R-Code variations. To reflect this change to the intent of the Policy, the Policy was renamed to 'Local Planning Policy 2.2 Residential Development Standards (R25 – R60)'. Given the substantial modifications to the draft Policy since it was advertised in 2018, the revised draft LPP2.2 is required to be re-advertised if supported by Council. The revised draft LPP2.2 is contained within **attachment 3**.

Community / Stakeholder Consultation

Policy Concept Forum

Meeting Date	23 September 2019
Councillors in Attendance	Cr Rich, Cr Atwell, Cr Byas, Cr Coales, Cr Denholm, Cr See

The previous version of draft LPP2.2, as contained within **attachment 2**, was publicly advertised for submissions pursuant to Schedule 2 Part 2 Clause 4 of the Regulations for the period from 18 January 2018 to 19 February 2018. The Shire did not receive any submissions on draft LPP2.2 during this public advertising period.

Given the significant changes to the intent and content of draft LPP2.2 following advertising in early 2018, the revised draft LPP2.2 is required to be re-advertised.



If Council resolve that the LPPs are satisfactory for advertising, a notice of the policies would be published in a newspaper circulating within the Scheme area, in accordance with Schedule 2, Part 2, Clause 4 of the Deemed Provisions giving details of the following:-

- The subject and nature of the proposed policy;
- The objectives of the proposed policy;
- Where the proposed policy may be inspected; and
- To whom, in what form, and during what period submissions in relation to the proposed policy may be made.

The period for making submissions must not be less than 21 days.

Statutory Environment

Legislation

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*

State Government Policies

- State Planning Policy 7.3 – Residential Design Codes, Volume 1 (R-Codes)
- State Planning Policy 7.0 – Design of the Built Environment
- Planning Bulletin 112 – Medium-density single house development standards – Development Zones

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2
- Shire of Serpentine Jarrahdale Draft Local Planning Strategy
- Local Planning Policy 1.5 – Exempted Development Policy
- Local Planning Policy 4.7 – Placement of Fill
- Local Planning Policy 4.11 – Advertising

Comment

Local Planning Policy 2.2 – Residential Development Standards (R25 – R60) (LPP2.2)

The purpose of revised draft LPP2.2 is to outline the position of the Shire with regard to residential development standards that vary the R-Codes for lots with an R-Code of R25 – R60. A number of different planning instruments can be used to vary the R-Codes, including local planning scheme provisions, local development plans, and local planning policies. The Regulations outline the specific circumstances in which a local development plan may be prepared, including as a condition of subdivision approval, a structure plan requirement, an activity centre plan requirement or for orderly and proper planning at the discretion of the WAPC and the local government. The Shire has received a number of local development plan applications outside of these circumstances seeking to apply blanket variations to the R-Codes. This is not the intention of local development plans. A local planning policy is a more appropriate mechanism to amend



the R-Codes on a broad scale. Schedule 2, Part 7, Clause 61 (4) (c) of the deemed provisions of the Regulations allows for the deemed-to-comply requirements of the R-Codes to be amended or replaced by local planning policy.

Specifying the residential development standards the Shire will support in revised draft LPP2.2 is important to guide development and ensure quality built form outcomes that enhance local character and amenity. The draft Policy outlines the built form standards that the Shire will accept, which will achieve consistent urban design outcomes in medium density areas across the Shire. As such, application of this draft Policy will protect the character of these medium density urban areas and reduce the need for local development plan applications outside of the circumstances prescribed under the Regulations.

State Framework

The Western Australian Planning Commission's (WAPC) policy to control the design of residential development is State Planning Policy 7.3 Residential Design Codes. All residential development is required to comply with the requirements of the R-Codes. The R-Codes contain deemed-to-comply requirements and design principles for a range of design elements. Where a residential development proposal does not meet the deemed-to-comply requirements of the R-Codes, the decision-maker exercises discretion to consider whether the proposal can achieve the design principles.

The WAPC have adopted Planning Bulletin 112 - Medium-density single house development standards – Development Zones (R-MD Codes) to outline acceptable variations to the deemed-to-comply provisions of the R-Codes for medium-density single houses. The R-MD Codes was adopted by the WAPC in response to smaller lot sizes where applying the R-Codes has in some cases resulted in *'built form outcomes that do not fit comfortably on the subject lot or relate well to the existing streetscape'*. The R-MD Codes also intends to address the issue of local development plans being used for blanket variations to the R-Codes.

While Officers support some of the R-Code variations contained within the R-MD Codes, Officers have some concerns that adopting the R-MD Codes in their entirety in a location such as the Shire could result in a loss of rural character in an urban context. The revised draft LPP2.2 adopts some of the provisions contained in the R-MD Codes relating to lot boundary setbacks, parking, overshadowing and privacy, as Officers consider that these provisions will enable flexibility in dwelling design without affecting local character. However, Officers have some concerns relating to the R-MD Codes provisions for street setbacks, open space and garage setbacks. Revised draft LPP2.2 proposes alternative provisions relating to these design elements, which are discussed further in the following sections. **Attachment 4** illustrates the differences between the outcomes of the R-Codes, R-MD Codes and revised draft LPP2.2.

Primary Street Setbacks

The R-MD Codes allow for reduced primary street setbacks of 3m for R25, and 2m, no averaging, for R30 – R60. Officers consider that these setback reductions allowed under the R-MD Codes create an urban intensity that is not aligned with the Shire's vision for rural character. Open streetscapes with a defined front yard create a sense of place that preserves rural character, while allowing interaction with the streetscape. This type of streetscape is characteristic of a traditional 'country town' setting, which is reflective of the Shire's vision articulated in the Strategic Community Plan of *'city living offering a rural lifestyle'*. Design Principle 1 – Context and Character of State Planning Policy 7.0 Design of the Built Environment (SPP7.0) states that *'good design*



responds to and enhances the distinctive characteristics of a local area, contributing to a sense of place. This design principle further states that new development should integrate into the townscape setting of a place. Officers recognise that some reduction to primary street setbacks is appropriate in a medium density residential context, though consider that the reductions proposed under the R-MD Codes would not achieve the unique attributes of a rural streetscape character. Revised draft LPP2.2 provides for built form setbacks that allow a rural streetscape character to be achieved, while responding to the medium density residential context. The draft Policy proposes primary street setbacks of 4m for R25, 3m, no averaging for R30 – R40, and 2m, no averaging, for R50 – R60.

In addition to prescribing greater primary street setbacks than the R-MD Codes, revised draft LPP2.2 requires a percentage of soft landscaping to be provided within the front setback area. This requirement is to ensure a high quality streetscape amenity that enhances local character. SPP7.0 acknowledges the role of soft landscaping in creating places that contribute to local identity and streetscape character under Design Principle 2 – Landscape quality. Additionally, the Shire's draft Local Planning Strategy contains a strategy to ensure developments incorporate a high standard of landscaping.

Garage Setbacks

The R-MD Codes provides for a 4.5m garage setback from the primary street and allows this to be reduced to 4m where an existing or planned footpath or shared path is located more than 0.5m from the street boundary. This provision allows driveways to have a length of 4.5m from a footpath. Some vehicles are greater than 4.5m in length and would be unable to park in a 4.5m driveway without overhanging the verge or footpath. The Shire has experienced issues with vehicles parked in driveways overhanging footpaths as insufficient space has been provided within the driveway for the parked vehicle. Revised draft LPP2.2 seeks to address this issue by ensuring there is sufficient driveway space for the parking of a vehicle without overhanging the footpath.

To address this issue, revised draft LPP2.2 contains a provision that states where a footpath is located 1m or greater from the lot boundary, a 4.5m garage setback to the primary street is permitted. A further provision is also included to state that where a footpath is located less than 1m from the lot boundary, a 5.5m garage setback to the primary street is required. These provisions ensure that a 5.5m driveway length will be provided to avoid vehicles overhanging footpaths. This provision is important to facilitate a connected and inviting pedestrian environment that encourages pedestrian activity. The Shire's draft Local Planning Strategy contains an objective under Part 1 Section 3.1.1 to create walkable and safe streetscapes. The garage setback provisions provided under revised draft LPP2.2 are aligned with this objective.

Open Space

The R-MD Codes do not prescribe a percentage of the site area of a lot to be open space as required under the R-Codes. The R-MD Codes only require an outdoor living area with an area of 10% of the lot size or 20m², whichever is greater, for lots coded R25 – R60. Officers have some concerns that the R-MD Codes provisions could result in a lack of private outdoor space and the loss of the traditional configuration of a backyard. Outdoor open space that is required under the R-MD Codes is not necessarily functional in the sense of a traditional backyard. This is of particular concern in a location such as the Shire, where private open space is highly valued within the community as it create a sense of openness and reduces the intensity of urban



development. This is important in ensuring that the Shire's urban areas maintain the local rural character, which is valued by the community.

Further to this, Officers have concerns that the reduced private open space allowed under the R-MD Codes may limit the capacity for tree retention on private lots. The protection of trees on private lots is important in ensuring a sufficient canopy coverage in urban areas and reducing urban heat island effect. This is a highly valued objective for the local community. The Shire's draft Local Planning Strategy contains an objective to minimise urban heat island effect and a strategy to encourage the retention of established trees in all developments under Part 1 Section 3.1.1. The Shire's established urban areas in the Byford Old Quarter and Mundijong Townsite precincts are characterised by a high level of tree canopy coverage. Design Principle 1 – Context and character of SPP7.0 states that new developments should reinforce local distinctiveness and respond sympathetically to patterns of development. Allowing sufficient private open space for the retention of trees in an important aspect of the Shire's local distinctiveness.

Officers recognise that in the context of medium density residential areas, the open space requirements under the R-Codes may be excessive and reduce the flexibility and functionality of dwellings on these lots. However, as discussed above, Officers consider that the open space provisions under the R-MD Codes are not appropriate in the context of the Shire. Revised draft LPP2.2 proposes open space requirements to ensure the provision of functional outdoor areas and the retention of trees, recognising the differences within the R25 – R60 range of medium density residential development.

For lots coded R25 – R35, revised draft LPP2.2 allows for a 10% reduction to the percentage of the site area required as open space than the requirements of the R-Codes. For lots coded R40 – R60, officers consider that percentage of site area open space requirements, as prescribed by the R-Codes, may not achieve the best outcomes for functional open space. Revised draft LPP 2.2 instead requires an outdoor living area with an area of 10% of the lot size or 25m², whichever is greater. This provision is similar to the provisions of the R-MD Codes, however it requires an additional 5m² of outdoor living area. Revised draft LPP2.2 also contains an additional provision that allows the outdoor living area to be reduced by 20% where a balcony is provided with a minimum depth of 1.5m and a minimum area of 6m². This provision provides an incentive for the development of two-storey dwellings and balconies, which contribute to creating high amenity built form with increased passive surveillance. Under this provision, the reduction to the outdoor living area for the provision of a balcony would result in the same outdoor living area requirements as prescribed under the R-MD Codes. This would mean that the balcony incentive provision would still ensure a functional outdoor living area is provided. Officers do not consider the balcony to be functional open space, it is instead considered to be an element of high amenity built form, which is encouraged and incentivised.

Local Planning Policy 4.7 – Placement of Fill (LPP4.7)

It its current form, LPP4.7 (**attachment 5**) provides a matrix for development applications involving the placement of fill. It is considered that this matrix does not provide sufficient guidelines as to when a development application for fill would be considered acceptable or not by the Shire. The policy states that when an application is categorised as 'high impact' it is required to be considered by Council. It does not however provide sufficient guidance as to when an application should be refused. The policy also does not clearly identify that an application that is 'low risk' is capable of being supported.



The revised policy, contained within **attachment 6**, clearly sets out when an application can be considered acceptable and in which circumstances the placement of fill would be considered unacceptable. The policy also sets out performance based criteria where specific information is required to ensure that the fill would not have an adverse impact on specific factors such as drainage, traffic, the environment and amenity.

The revised policy clearly sets out the information required to be provided as part of a development application providing clearer guidelines for members of the public. It also includes amended definitions ensuring transparency and consistency. These definitions include those for 'clean' and 'uncontaminated' fill in accordance with the Department of Water and Environment Regulation (DWER) Landfill Waste Classification and Waste Definitions to ensure consistency with DWER guidelines. Officers consider the revised policy will further assist Officers during any appeal process.

Local Planning Policy 4.11 – Advertising

Currently, LPP4.11 (**attachment 7**) contains policy measures and provisions for election signage which is permitted in all zones listed under Table 1. However, *Schedule 2, Part 7, Clause 61(g)* of the *Planning and Development (Local Planning Schemes) Regulations 2015* states that development approval for election signage is not required if it meets specific provisions.

Officers consider that election signage should be removed from LPP4.11 as it conflicts with the Deemed Provisions. The provisions outlined under Clause 61(g) are considered appropriate in managing election signage within the Shire and therefore a Local Planning Policy is not considered required. The amended LPP4.11 with the election signage removed is contained within **attachment 8**.

Local Planning Policy 4.19 – Outbuildings, Sheds, Garden Sheds and Sea Containers (LPP4.19)

Exemptions for the requirement of obtaining development approval for outbuildings are contained within the R-Codes and further exemptions are provided within Local Planning Policy 1.5 – Exempted Development (LPP1.5).

If a proposed outbuilding exceeds the requirements contained within the exemptions, a development application is required to be assessment against the design principles of the R-Codes which considers outbuildings to be acceptable where they “*do not detract from the streetscape or the visual amenity of residents or neighbouring properties*”. Officers consider that further principles are required to guide Officers and applicants as to when a variation to the R-Codes will be supported.

The Shire receives a considerable percentage of development applications for larger outbuildings for a variety of different land uses. The purpose of the R-Codes is to deal with residential related development and does not provide development standards for other land uses such as rural uses or transport depots.

Under the new LPP4.19 definitions have been created for different types of storage structures as follows:-

- ‘Outbuilding’ – As defined under the R-Codes
- ‘Shed’ – A structure enclosed on three or more sides that is non-habitable and associated with a land use other than Residential.



- 'Garden Shed' – An outbuilding located on vacant land that is used for the storage of equipment associated with the up keep of the property.
- 'Sea Container' – A metal transportable structure, which is usually rectangular in shape, designed for the storage and transport of goods from one location to another by road, rail and sea and modified for temporary or permanent use on land.

The purpose of this is to clearly delineate between an outbuilding used for residential purposes and sheds used for other types of land uses. The policy also allows for a garden shed, which unlike an outbuilding, can be constructed without the presence of a single house. The garden shed allows for a modest structure (maximum 16sqm) for the storage of equipment associated with the up keep of a lot prior to the construction of a single house. For example, lawn mowing equipment to keep fuel loads under control.

Larger sheds are commonplace in rural areas and Officers consider that further guidance and development standards are required for assessment purposes. The draft policy contained within **attachment 9** provides guidance in relation to outbuildings used for residential purposes, sheds used for other purposes, garden sheds as defined above, and sea containers which are currently contained within a standalone policy. As sea containers are used for the purposes of storage it is considered development standards for these are better placed within one consolidated policy.

The policy sets out what the Shire will consider in respect of an application for development approval to include:

- The needs of the applicant/owner;
- The character of the surrounding area;
- Open space provision;
- Outdoor living provision;
- Visual impact on the street and neighbouring properties; and
- Use of materials.

The revised policy contains the existing exemption provisions taken from the existing LPP1.5 – Exempted Development and LPP4.2 – Sea Containers. It is worth noting should Council resolve to adopt the LPPs following advertising, LPP1.5 will be required to be amended and LPP4.2 to be rescinded.

Options and Implications

Option 1: Council RESOLVES to deem the new and revised LPPs SATISFACTORY for advertising.

Option 2: Council RESOLVES to deem the new and revised LPPs SATISFACTORY for advertising with modifications.

Option 3: Council RESOLVES to deem the new and revised LPPs UNSATISFACTORY for advertising.

Option 1 is recommended.



Conclusion

The report is presented to Council recommending that the LPPs are advertised for 21 days in accordance with Schedule 2 Part 2, Clause 4 of the *Planning and Development (Local Planning Scheme) Regulations 2015*.

It is considered that the new and revised LPPs provide more clarity to the community on what the Shire considers acceptable development in relation to the placement of fill, residential development and outbuildings, sheds, garden sheds and sea containers. The policies also provide improved standards for development assessment purposes.

Attachments

- [Attachment 1](#) – Schedule of Modifications (E19/9986)
- [Attachment 2](#) – Draft LPP2.2 previously advertised in 2018 (E18/3984)
- [Attachment 3](#) – Revised Draft LPP2.2 (E19/11926)
- [Attachment 4](#) – Revised Draft LPP2.2 – Explanatory Diagrams (E19/11927)
- [Attachment 5](#) – Current LPP4.7 – Placement of Fill (E18/8822)
- [Attachment 6](#) – Revised LPP4.7 – Placement of Fill (E19/9971)
- [Attachment 7](#) – Existing LPP4.11 – Advertising (E18/8817)
- [Attachment 8](#) – Revised LPP4.11 – Advertising (E19/9973)
- [Attachment 9](#) – New LPP4.19 – Outbuildings, Sheds, Garden Sheds and Sea Containers (E19/9972)

Alignment with our Strategic Community Plan

Outcome 2.1	A diverse, well planned built environment.
Strategy 2.1.1	Actively engage in the development and promotion of an effective planning framework.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.

Financial Implications

There will be a minimal cost involved in the advertising of the policies in a newspaper.



Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
An appropriate policy environment not being in place to guide good planning decisions	Possible (3)	Moderate (3)	Moderate (5-9)	Reputation - 1 Insignificant - Unsubstantiated, localised low impact on key stakeholder trust, low profile or no media item	Accept Officer Recommendation

Risk Matrix

Consequence / Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **9** has been determined for this item.



Voting Requirements: Simple Majority

OCM251/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr McConkey, seconded Cr Atwell

That Council

- 1. Pursuant to Schedule 2 Part 2 Clause 4 (1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to ADOPT the following revised Draft Local Planning Policies as contained within attachments 3, 6, 8 and 9 for the purposes of advertising:**
 - Local Planning Policy 2.2 – Residential Development Standards (R25 – R60);
 - Local Planning Policy 4.7 – Placement of Fill;
 - Local Planning Policy 4.11 – Advertising;
 - Local Planning Policy 4.19 – Outbuildings, Sheds, Garden Sheds and Sea Containers.

- 2. Pursuant to Schedule 2 Part 2 Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, ADVERTISES the following revised Draft Local Planning Policies as contained within attachments 3, 6, 8 and 9;**
 - Local Planning Policy 2.2 – Residential Development Standards (R25 – R60);
 - Local Planning Policy 4.7 – Placement of Fill;
 - Local Planning Policy 4.11 – Advertising;
 - Local Planning Policy 4.19 – Outbuildings, Sheds, Garden Sheds and Sea Containers;

for a period of not less than 21 days as follows -

 - a. publish a notice of the proposed policies in a newspaper circulating in the Scheme area, giving details of -**
 - i. the subject and nature of the proposed policy; and**
 - ii. the objectives of the proposed policy; and**
 - iii. where the proposed policy may be inspected; and**
 - iv. to whom, in what form and during what period submissions in relation to the proposed policy may be made;**
 - b. if, in the opinion of the local government, a policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission; and**
 - c. give notice of the proposed policies in any other way and carry out any other consultation the local government considers appropriate.**

CARRIED UNANIMOUSLY 9/0



10.1.6 - Adoption of New Council Policy: Acceptable Building/Planning Minor Modifications (SJ2963)	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Legislative	Includes adopting local laws, local planning schemes and policies.
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Report Purpose

The purpose of this report is for Council to adopt new draft Council Policy: Acceptable Building/Planning Minor Modifications (the Policy) to assist in the transition between concept development approval level plans to detailed for construction building plans.

The Policy provides guidance on minor design modifications that almost always occur as approved development plans are taken to the ready for construction stage of plans. This often sees minor modifications occurring in response to:

- energy performance issues of buildings (minor adjustment to openings for example);
- the external image of buildings (for example achieving a more effective and visually appealing design finish);
- finished ground levels of buildings (to address on site drainage, road levels etc.).

Officers consider that this Policy will improve consistent treatment of minor adjustments between the planning to building phases of development. Refer to **attachment 1**.

Relevant Previous Decisions of Council

There are no previous decisions of Council that relate to this matter.

Background

Due to the detail produced from preparing design drawings for construction, there is often minor adjustment between concept level plans developed for planning approval purposes.

Once planning approval has been granted, the detailed design process is undertaken. Plans are refined and modifications to design of development are required to be undertaken to address either site constraints and/or Building Code of Australia (BCA) requirements. These modifications are often minor in nature and are often in the form of very small changes to setback, small changes to reduction in the scale of a building, minor aesthetic changes to improve the appearance of a building and the like.

Under clause 77 of the *Planning and Development (Local Planning Schemes) Regulations*, planning approval is required for modifications to an approved development. Except for those proposed variations that fall within the scope of *Local Planning Policy 1.5: Exempted Developments*, which relates to primarily residential development.



Council should note, currently where a minor modification is required through an amended planning approval application, a determination can often be delayed which frustrates an efficient and timely service being provided to the development industry.

Proposed draft Council Policy: Acceptable Building/Planning Minor Modifications seeks to provide the mechanism to expedite the development process by providing an exemption to obtaining an amended planning approval for modification/s considered to be minor in nature.

Community / Stakeholder Consultation

Policy Concept Forum

Council Policy: Minor Acceptable Building/Planning Modifications

Meeting date	23 September 2019
Councillors in Attendance	Cr Rich, Cr Atwell, Cr Byas, Cr Coales, Cr Denholm, Cr See

There is no requirement under the *Local Government Act 1995* to advertise Council Policies prior to being presented to Council for adoption. However, all Policies once adopted are required to be available on the Shire's website for viewing.

Statutory Environment

Legislation

- *Section 2.72(2)(b) of the Local Government Act 1995.*

Council is to have due regard to its policies to be able to govern its affairs and performance.

Planning Assessment

Minor Modifications

The Policy will provide for an equitable and consistent approach in determining if a modification can be considered 'minor', without the need of obtaining planning approval. The objectives of the Policy are as follows:

- Provide a clear description of when an amended application for planning approval will and will not be required depending on the scale of modification proposed in the building permit application.
- Provide an equitable and standardised manner in determining what constitutes an 'Acceptable Minor Variation'.

The Policy defines 'Minor Modification' as follows:

"An amendment to the design of an approved development that, in the opinion of the Shire, would not have a measurable impact on an abutting property or views from the street or nearby public realm".

Generally, an exemption for an acceptable minor modification will only be applied, where the variation is deemed by Officers to have a negligible impact on the surrounding locality. To clarify this, the Policy lists the following development types which will be considered as 'Minor Modification':



- Reduction in scale of development that is considered to have a lesser impact than what is approved;
- Increased boundary setbacks, such that the development would remain predominantly within the footprint of what has been approved and only where required as a result of detailed design;
- Increase to the height of building to less than 1%;
- Increase to the height of building between 1% and 5%, subject to this increase not directly impacting adjoining neighbours;
- Relocation of windows and doors within an elevation, and material changes which do not significantly alter the appearance of the building or impact adjoining properties;
- Change in floor level in order to comply with drainage or any other requirements;
- Minor external fixtures, fittings, located within the lot boundaries and must not encroach or adversely affect neighbouring property;
- Minor adjustment to the position of a flagpole;
- Changes required to address a Building Code of Australia requirement.

It is important to note however, that despite a variation meeting components of the above list, the discretion still lies with the Shire in determining if an exemption can be granted. This will be assessed in conjunction with the 'Exclusion to 'Minor Modification' as discussed below:

Exclusions to Acceptable Minor Modifications

In most cases, development identified within the 'Minor Modifications list of the Policy (as mentioned above) will be exempt from the requirement of obtaining further planning approval, however, due to delegation constraints and importantly for the purposes of orderly and proper planning, exemptions will not apply where a minor modification triggers the following :

- Where a modification has been proposed that would trigger the requirement of public consultation for the proposal, a development application will be required;
- Where a modification triggers an assessment against the provisions of the Residential Design Codes;
- Where a modification seeks to vary a Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 provision;
- For development occurring within the Bushfire Prone Area, any modifications to the location of the development that would impact on the Asset Protection Zone will require a development application;
- Where a minor modification requires an acoustic requirement;
- Where multiple minor modifications are proposed that in the Shire's opinion materially change the overall development;
- Where a minor modification is proposed to an approved development resolved by either Council or the Joint Development Assessment Panel, where in the Shire' opinion significantly modifies the approved development;
- Where it is considered that a development will have an adverse impact on surrounding development; and
- In the Shire's opinion is not required to address a Building Code of Australia requirement.



Officers consider that the Policy will expedite the development process by removing a layer of the regulatory process. It will allow developers to commence construction sooner and importantly remove the additional financial cost of obtaining planning approval for a developer where they are proposing minor modifications which do not produce adverse impacts.

Options and Implications

Option 1:

That Council ADOPTS Council Policy: Acceptable Building/Planning Minor Modifications.

Option 2:

That Council REFUSES to adopt Council Policy: Acceptable Building/Planning Minor Modifications.

Option 1 is recommended.

Conclusion

Council policies perform an important function in assisting Officers in undertaking their roles within the Shire. Proposed Council Policy 4.1.8: Minor Modifications seeks to expedite the development process by providing logical guidance in respect of how to treat minor modifications that often occur between planning level plans versus building level plans.

The adoption of this Policy will provide a clear example of the Shire working to reduce red tape and create Administration efficiencies for the benefit of the Community.

Attachments

- [Attachment 1](#) – Draft Council Policy: Acceptable Planning/Building Minor Modifications (E19/8627)

Alignment with our Strategic Community Plan

Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local business within the district.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.

Financial Implications

Nil.



Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Internal processes not being efficient and timely in respect of dealing with modifications	Possible (3)	Moderate (3)	Moderate (5-9)	Service Interruption - 1 Insignificant - No material service interruption	Accept Officer Recommendation

Risk Matrix

Consequence / Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **9** has been determined for this item.

Voting Requirements: Simple Majority

OCM252/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strange, seconded Cr Coales

That Council ADOPTS Council Policy: Acceptable Building/Planning Minor Modifications as per attachment 1.

CARRIED UNANIMOUSLY 9/0



10.1.7 - Proposal to consider joint Shire of Serpentine Jarrahdale and Department of Fire and Emergency Services Community Emergency Services Manager opportunity (SJ537)

Responsible Officer:	Acting Manager Emergency Services and Community Safety
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Information	For the Council / Committee to note.
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Report Purpose

The purpose of this report is for Council to commence consideration for the opportunity of a joint Shire of Serpentine Jarrahdale and Department of Fire and Emergency Services (“DFES”) Community Emergency Services Manager (“CESM”).

This report doesn’t seek to recommend a position to be adopted by Council at this time. Rather, it seeks to present the potential considerations of a CESM for the Shire, and subject to Council resolution, seeks a process of formal engagement to gather feedback from key stakeholders being:

- The Shire’s Acting Chief Bushfire Control Officer;
- Deputy Chief Bushfire Control Officers;
- Bushfire brigade captains;
- Bushfire brigade volunteers; and
- Broader community.

It is recommended that Council resolve to undertake a process of engagement in order to gather feedback from its key stakeholders and community. This is to enable a future report and recommendation to Council (having regard for this feedback) on whether to proceed forward with a CESM for the Shire.

Relevant Previous Decisions of Council

Nil.

Background

The Shire of Serpentine Jarrahdale comprises six bushfire brigades, with 350 plus members, 260 to 280 of which are active members serving to protect our community in respect of bushfire risk. The Shire’s brigades are the ‘000’ first point of response, to fire incidents within the Shire.

The Shire also comprises one of the highest bush fire risk profiles in metropolitan Perth, with 97% of the Shire bushfire prone. The Shire comprises a broad collection of landscapes, different risk profiles, and emerging demands especially in respect of more complex firefighting capabilities.



Extensive efforts are needed to ensure risks are managed, across the full spectrum of training and development levels, recruitment levels, succession planning, risk management, infrastructure planning, resource planning and grants administration.

As the fastest growing local government in WA, the Shire also provides expert input to issues of planning for bush fire risk.

The Commissioner of DFES, has met the Shire of Serpentine Jarrahdale and offered a joint CESM resource. The Commissioner has indicated this is an option at the absolute choice of the Council to consider, and looks forward to receiving Council's decision into the future.

Community / Stakeholder Consultation

No formal consultation with stakeholders or the community is yet to occur on this matter. The acting Chief Bushfire Control Officer, deputy Chiefs and Brigade Captains were made aware of the offer from the Commissioner of DFES, with the advice that this will be a process for Council to consider.

To ensure a formal and transparent process, this report seeks Council to firstly obtain feedback from its key stakeholders in emergency management and the community, as set out following:

- The Shire's Acting Chief Bushfire Control Officer;
- Deputy Chief Bushfire Control Officers;
- Bushfire brigade captains;
- Bushfire brigade volunteers; and
- The community.

If Council agrees, a communication plan will be prepared and implemented to achieve this. Following this engagement, a future report is intended to be presented for Council's consideration on the offer of a CESM and taking account of all the feedback received.

A brief presentation was provided to the 4 November 2019 Policy Concept Forum of Council, to make Councillors aware of the report for November.

Statutory Environment

- *Bush Fires Act 1954*
- *Emergency Management Act 2005*
- *Local Government Act 1995*

Comment

As part of reviewing the Shire's organisational structure and capabilities in respect of emergency management, experiences and issues encountered to date (positive and negative) were considered. This included observations that:

- With emerging risk profiles and challenges faced, there were difficulties being encountered in respect of maintaining and accessing training pathways for volunteers;



- Relationships between the Shire and DFES were continuing to improve, with good results particularly recognised through securing commitment to new appliances (bulk water tanker for Mundijong) and through bushfire readiness activities;
- It was difficult for the Shire to resource strategic planning priorities (risk to resource planning) for current and future risk profiles, given much of the organisation's time was dedicated to preparedness, prevention and response priorities to keep our community safe;
- The Shire's most recent attempt to secure a volunteer Chief Bush Fire Control Officer had not been successful;
- There was the need for further support of brigade captains and their leadership group to work towards building skills, succession planning and ensuring volunteer attraction and retention programs;
- The Shire had established a very strong brigade capability, over a number of decades, that had benefited from a strong culture of volunteerism and community capacity in the space of bushfire response;

These experiences and issues raise the need to carefully consider how the Shire approaches its organisational design for emergency services, noting the risk profile the Shire's landscape and community face. The offer of a CESM particularly provides an opportunity to consider what the nature of this role does, and whether it is something that fits the Shire's current and future needs.

The role of a CESM represents a joint resource between Local Government and DFES to deliver emergency services functions with particular focus to:

- Deliver coordinated prevention programs to reduce the incidence of emergencies and improve the level of safety in the community;
- Operate to a consistent set of protocols and equipment standards;
- Provide efficient systems of communication between organisations at all levels to improve service delivery outcomes;
- Promote and support volunteer organisational arrangements that combine the spirit of volunteerism to attract and retain members;
- Provide and or coordinate the level of training to personnel, to ensure the competencies are appropriate to the risk level of emergencies to which volunteers will be required to respond
- Develop a partnership that will see a best practice approach to emergency service delivery implemented between the Shire and DFES; and
- Enhance community ownership of fire prevention and preparedness programs and activities.

These functions have an alignment to the implementation of preparedness, prevention, response and recovery. The role is also focussed on forming a closer relationship between Local Government and DFES, with this based on an equal standing to share the CESM resource and determine how what the priorities of the role ought to be.



Some of the areas that other local governments have focused their CESH towards include:

Preparedness:

- Volunteer Bush Fire Brigade Training Coordination
- Bushfire Brigade Incident Management Capacity/Capability
- Personal Protective Equipment management - monitoring & replacement and deployment
- Local Emergency Management Committee Participation
- Bushfire Advisory Committee Participation

Planning:

- Emergency Services Forums
- Respond to incidents as requested by the Metropolitan Duty Coordinator
- Assistance provided to DFES Region in provision of Regional Training Courses
- CESH Business Plan reporting

Prevention:

- Bushfire Risk Management Plan (BRMP) developed, maintained and endorsed
- Bushfire management and mitigation programs developed and implemented for Unallocated Crown Land & Unmanaged Reserves
- Practices for Bushfire management on local government lands in the Shire developed in accordance with the BRMP priorities.
- Support Community Engagement and awareness programs as identified
- Emergency Services Strategic Planning
- Local Government Grant Scheme (LGGGS) - administration of Capital and Operational grant processes as per LGGGS manual.

Collaboration:

- Land Use Planning
- Emergency water and Hydrants outside GFDs inspected annually – faults reported.
- Suspicious & deliberately lit fires
- Appropriate support and counselling available to Emergency Service volunteers as required.
- Special Projects
- Bush Fire Brigade and SES fleet maintenance program managed.
- Administration of relevant Statutes, Regulations, Policies and Local Laws
- Administration of State Emergency Service (SES).
- Respond to emergency incidents that impact on communities, infrastructure and assets in the Shire.



There appear a number of potential opportunities associated with the role of a CESM, however there are also potential issues that need to be considered. As mentioned above, the Shire has built over many decades a very effective bushfire brigade response, supported by committed volunteers and broader culture of volunteerism across the community. There may be some impression that a joint CESM role shared between the Shire and DFES, could impact on this relationship among communities, volunteers and brigades going forward. While this appears to be a perception only, it is important that stakeholders and our community be able to participate in providing feedback on considering a CESM for the Shire. This is essentially what this report recommends.

Local Governments with a similar context to the Shire, being Wanneroo, Swan and Kalamunda, also operate under a CESM model, who is also allocated Chief Bush Fire Control Officer responsibilities under the auspices of the *Bush Fires Act 1954*. This creates a further avenue of consideration for the Shire, especially noting its high risk landscapes that create a heightened risk profile compared to other peri urban settlements on the outer growth areas of Perth.

Balancing the potential opportunities, with the potential concerns, officers consider that Council should undertake a process of stakeholder and community feedback before making its decision. This would include:

- The Shire's Acting Chief Bushfire Control Officer;
- Deputy Chief Bushfire Control Officers;
- Bushfire brigade captains;
- Bushfire brigade volunteers; and
- The community.

The officer recommendation frames a process by which this should occur.

Options and Implications

Option 1

That Council seeks to undertake stakeholder engagement on the proposal of a CESM within the Shire.

Option 2

That Council does not seek to undertake stakeholder engagement on the proposal of a CESM within the Shire and does not seek to advance consideration for a CESM.

Option 1 is recommended.

Conclusion

The purpose of this report is for Council to consider the proposal of a joint Shire of Serpentine Jarrahdale and Department of Fire and Emergency Services ("DFES") Community Emergency Services Manager ("CESM"). Based on the opportunity discussed in this report, as well as the noted issues, officers recommend firstly a process of formal engagement to gather feedback from key stakeholders, before making a decision on whether or not to proceed with a CESM. This engagement would be with:

- The Shire's Acting Chief Bushfire Control Officer;



- Deputy Chief Bushfire Control Officers;
- Bushfire brigade captains;
- Bushfire brigade volunteers; and
- The community.

Attachments

Nil.

Alignment with our Strategic Community Plan

Outcome 1.3	A safe place to live
Strategy 1.3.3	Enhance community safety
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.

Financial Implications

There are no financial implications for the Council in respect to this report. Upon reporting back to Council following stakeholder engagement, the financial arrangements that underpin the funding of a shared CESM resource will be defined. This includes the shared costs of salary, vehicle and other operating equipment. It should be noted that if the Shire proceeded to recruit the current Manager role and not consider the opportunity for a CESM, the Shire would be funding that role entirely from its funds. A CESM role benefits from a 50% cost split.

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not endorse the Officer Recommendation	Possible (3)	Minor (2)	Moderate (5-9)	Financial Impact - 2 Minor - \$50,000 - \$250,000	Accept Officer Recommendation

**Risk Matrix**

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **6** has been determined for this item.

Voting Requirements: Simple Majority

OCM253/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Coales, seconded Cr Strautins

That Council:

1. **NOTES** the opportunities, and issues, which a Community Emergency Services Manager may provide the Shire, and undertakes engagement to gather feedback from the following stakeholders:
 - a. **The Shire's Acting Chief Bushfire Control Officer;**
 - b. **Deputy Chief Bushfire Control Officers;**
 - c. **Bushfire brigade captains;**
 - d. **Bushfire brigade volunteers; and**
 - e. **The community.**
2. **SEEKS** a report back to the February 2020 Ordinary Council Meeting with a recommendation to Council (having regard for this feedback obtained under 1. on whether to proceed forward with a CESM for the Shire.

CARRIED 7/2

Councillor Denholm, in accordance with Section 5.21(4)(b), Local Government Act 1995 requested the votes be recorded.

Councillors Rich, Atwell, Coales, Dagostino, McConkey, Strange and Strautins voted FOR the motion.

Councillors Byas and Denholm voted AGAINST the motion.



10.1.8 - Shire of Serpentine Jarrahdale Emergency Services Building Memorandum of Understanding (SJ934)

Responsible Officer:	Acting Manager Emergency Services & Community Safety
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Information	For the Council / Committee to note.
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Report Purpose

The purpose of this report is to request Council to accept and endorse the Memorandum of Understanding (MOU) dated 22 October 2019, for the Serpentine Jarrahdale Emergency Management Centre located on Lot 223 Cockram Street, Mundijong. Refer to **attachment 1**.

Relevant Previous Decisions of Council

Bush Fire Advisory Committee Information Report (SJ648) - OCM050/05/17 COUNCIL DECISION / Officer Recommendation

That Council receives the Bushfire Advisory Committee Minutes of 20 April 2017 as per attachment OCM050.1/05/17.

There is no previous Council decision relating to this matter.

The BFAC Minutes of 20 April 2017 created the action item of use of the Mundijong BFB / SES joint building.

Background

The matter of an MOU for this Shire facility has been raised at various forums over a period of years. This was most recently recognized by Council via the receiving of the 20 April 2017 BFAC minutes, at the Ordinary Council Meeting of 22 May 2017.

The Shire has been working with the key parties involved in the Shire building, being the Mundijong Bushfire Brigade, the SES and the Emergency Services Group. The target was to finalize an MOU before the end of November, to enable a progress report to the November 2019 Bush Fire Advisory Committee (BFAC) meeting.

The MOU sets out the terms, arrangements and responsibilities of relevant parties in the safe and effective co-location management of the Shire of Serpentine Jarrahdale Volunteer Emergency Services Building at Lot 223 Cockram Street, Mundijong.



SJ Management Centre Location

After extensive consultation, meetings, and considerations on 22 October 2019, the MOU was signed by the occupants of the Serpentine Jarrahdale Emergency Service Centre located on Cockram Street, Mundijong. The signatories of the MOU is the Shire of Serpentine Jarrahdale, being the manager of the facility, and the primary facility occupants, being the Mundijong Volunteer Bush Fire Brigade, the Serpentine Jarrahdale State Emergency Services Unit and the SJ Emergency Support Group. With all but the Shire having signed the MOU, this report seeks Council to accept, endorse and sign the MOU.

Community / Stakeholder Consultation

Policy Concept Forum

Not applicable.

Statutory Environment

The facility was established, funded and is maintained under the provisions of the *Local Government Act 1995*. The occupants of the facility and their resources are funded and operate under various statutes, which include the *Bush Fires Act 1954*, the *Emergency Management Act 2005*, and the *Emergency Services Levy Act 2002*.



Comment

The MOU is an operating document which provides stability, continuity and security for the agreed use of the facility and is between the Shire of Serpentine Jarrahdale, being the manager of the facility, and the primary facility occupants, being the Mundijong Volunteer Bush Fire Brigade, the Serpentine Jarrahdale State Emergency Services Unit and the SJ Emergency Support Group.

The MOU will come into effect once Council has accepted, endorsed and signed the MOU. This will be done, should Council resolve to accept and endorse the MOU, via the signatory of the Shire President and Chief Executive Officer. It is proposed to be valid for a period of three years, and will thus expire on 30 June 2022.

Although the Serpentine Jarrahdale Emergency Service Centre is a shared facility, with a number of common interest areas, it was important to consider the needs of each of the facility occupants, and very importantly, for the individual units to maintain their independence and their special and unique identity.

Options and Implications

Option 1

That Council accept and endorse the Memorandum of Understanding (MOU) dated 22 October 2019, for the Serpentine Jarrahdale Emergency Management Centre located on Cockram Street, Mundijong.

Option 2

That Council do not accept or endorse the Memorandum of Understanding (MOU) dated 22 October 2019, for the Serpentine Jarrahdale Emergency Management Centre located on Cockram Street, Mundijong.

Option 1 is recommended.

Conclusion

The facility provides visible reassurance and confidence to the community during times of Emergency, and for a place of contact for the public to meet with, and see our very special volunteers at work. Accordingly, it is important that this MOU be executed as to provide stability and guidelines for the joint use of the facility.

Attachments

- [Attachment 1](#) – Memorandum of Understanding (E19/13630)

Alignment with our Strategic Community Plan

Outcome 1.3	A safe place to live
Strategy 1.3.1	Comply with relevant local and state laws, in the interest of the community
Strategy 1.3.2	Support local emergency services
Strategy 1.3.3	Enhance community safety
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.



Financial Implications

There are no financial implications for the Council in respect to this report.

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not endorse the Officer Recommendation	Possible (3)	Moderate (3)	Moderate (5-9)	Environment - 3 Moderate - Contained, reversible impact managed by external agencies	Accept Officer Recommendation

Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Catastrophic	
		1	2	3	4	5	
Likelihood	Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
	Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
	Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
	Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **9** has been determined for this item.

Voting Requirements: Simple Majority

OCM254/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Atwell, seconded Cr McConkey

That Council **ADOPTS** the Memorandum of Understanding (MOU) dated 22 October 2019, for the Serpentine Jarrahdale Emergency Management Centre located on Lot 223 Cockram Street, Mundijong, and **AUTHORISES** the Shire President and Chief Executive Officer to sign.

CARRIED UNANIMOUSLY 9/0



10.2 Infrastructure Services reports

Shire President, Councillor Rich declared a Financial Interest in item 10.2.1 and item 10.2.2 and left the Chambers at 8.10pm prior to these items being discussed.

The Presiding Member, Councillor Rich vacated the chair, and the Deputy Shire President, Councillor Atwell assumed the Chair as Presiding Member at 8.10pm.

10.2.1 - Award Request for Tender – RFT 03/2019 – Jarrahdale Road Widening (SJ 3085)	
Responsible Officer:	Manager Infrastructure and Assets
Senior Officer:	Director Infrastructure Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

To advise Council of submissions received in relation to Tender RFT 03/2019 – Jarrahdale Road Widening and for Council to award the contract to the best value for money tenderer as proposed by the evaluation panel recommendation.

Relevant Previous Decisions of Council

The project was approved by Council as part of the 2019/20 Annual Budget.

Background

There have been four crashes in the last five years, including one fatality and two requiring hospitalisation. Two of the crashes involved vehicles leaving the road on a bend and hitting a tree, with one of these resulting in a fatality. A third crash was a rear end crash from a vehicle behind in the same lane. An effective treatment to attenuate such crashes is to construct and seal the road shoulders, remove roadside hazards, install advisory signs and erect additional reflective guide posts.

Through a successful application to the Australian Government Black Spot Program, the Shire received grant funding to widen the Jarrahdale Road. The safety improvement works will involve sealing the shoulders, removing the roadside hazard, installing advisory signs, and erecting additional reflective guideposts.

The total project budget of \$615,000 is fully funded by the Australian Government and the Shire doesn't require any financial contribution for this project.



Figure 1. Jarrahdale Road, Jarrahdale – widening locality map

Community / Stakeholder Consultation

Prior to commencement of site works, notification shall be made to the public via the Shire's website and Facebook page. In addition, the adjacent properties will be notified via letter drop.

Submissions

The Request for Tender RFT 03/2019 - Jarrahdale Road Widening, was advertised on Wednesday 25 September 2019 and closed at 2.00pm on 10 October 2019. The Tender was advertised in the following papers:

- West Australian Newspaper
- Examiner (Serpentine Jarrahdale & Armadale)
- Pinjarra/Murray Times (Inc. Mandurah Coastal Times)
- Sound Telegraph (Rockingham & Kwinana)

Three (3) submissions were received, and the submissions are summarised in **confidential attachment 1**.

All tender submissions comply with the request for tender guidelines and compliance criteria.



Tender submissions were received from the following companies:

#	Company Name
1	Comiskey's Contracting Pty Ltd
2	HAS Earthmoving
3	Remote Civils Australia Pty Ltd

Evaluation Panel

An evaluation panel was convened and consisted of the following personnel:

- Coordinator Design
- Project Coordinator
- Design Technical Officer

All members of the evaluation panel have made a conflict of interest declaration in writing confirming that they have no relationships with any of the tenders. Each member of the panel assessed the submissions separately.

Evaluation Criteria

The following evaluation criteria and weightings were used by the tender evaluation panel to assess tender submissions:

EVALUATION CRITERIA	WEIGHTING
Price with quantities	60%
Relevant experience with: <ul style="list-style-type: none">• Demonstrated relevant experience of the Company in providing the same or similar services to local government or the private sector over the past five years.	15%
Tenderers' Resources, Key Personnel, Skills and Experience with: <ul style="list-style-type: none">• Capacity to deliver the services including:• Key personnel / Professional skills;• Describe the key personnel who will be involved in the work, including past work of a similar nature.	10%
Demonstrated Understanding/Experience with: <ul style="list-style-type: none">• Project schedule;• Process for delivery of goods/services;• Project Management Plan;• Critical assumptions; and• Any additional information.	15%

Comment

All tender submissions were assessed against the evaluation criteria and the qualitative and quantitative results of this assessment are documented in **confidential attachment 1** – RFT 03/2019 – Jarrahdale Road Widening – OCM - Evaluation Report.



The prices submitted for the recommended Tenderer are also documented in the **confidential attachment 1**.

Following the assessment of all tender submissions, against the selection criteria, the tender submitted by *Remote Civils Australia Pty Ltd* was assessed as being the best value for money that meets the Shire's requirements.

The tender evaluation panel therefore recommends the tender submission made by *Remote Civils Australia Pty Ltd* be accepted.

Statutory Environment

Section 3.57 (1) of the *Local Government Act 1995* requires a local government to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply the goods or services.

Options and Implications

The following options have been identified:

Option 1

Award the contract as recommended in **confidential attachment 1** – RFT 03/2019 – Jarrahdale Road Widening – OCM – Evaluation Report to *Remote Civils Australia Pty Ltd*.

Option 2

Not award the contract and retender.

Option 3

Not award the contract and not retender i.e. – nil action.

Option 4

That Council reassess and appoint an alternative tenderer.

Option 1 is recommended.

Conclusion

Remote Civils Australia Pty Ltd has been assessed as being able to meet the requirements of the contract. The Tenderer met all of the requirements for Relevant Experience, Key Personnel, Skills and Resources and Demonstrated Understanding and was assessed as providing the best value for money.

Therefore, it is recommended that Council support option 1 and the contract be awarded to ***Remote Civils Australia Pty Ltd***.

Attachments

- **CONFIDENTIAL Attachment 1** – RFT 03/2019 – Jarrahdale Road Widening - Evaluation Report (E19/13558)



Alignment with our Strategic Community Plan

Outcome 1.3	A safe place to live.
Strategy 1.3.3	Enhance community safety.
Outcome 3.3	An innovative, connected transport network.
Strategy 3.3.1	Maintain, enhance and rationalise the Shire's transport network in accordance with affordable sound Footpath and Bicycle Plans.
Outcome 4.1	A resilient, efficient and effective organisation.
Strategy 4.1.1	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources.

Financial Implications

The funding for this tender is included in the 2019/20 Annual Budget to undertake the works.

The allocated budget for the work is \$615,000 and the recommended tender value of \$449,541.40 ex GST is within this budget.

AUSTRALIAN GOVERNMENT BLACK SPOT PROGRAM			
Project	Shire	Australian Government	Total
Jarrahdale Road	Nil	\$615,000	\$615,000

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Poor selection of contractor to provide quality works	Unlikely (2)	Moderate (3)	Moderate (5-9)	Reputation - 3 Moderate - Substantiated, public embarrassment, moderate impact on key stakeholder trust or moderate media profile	Accept Officer Recommendation

**Risk Matrix**

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **6** has been determined for this item.

Voting Requirements: Simple Majority

OCM255/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Denholm, seconded Cr Coales

That Council AWARDS Tender RFT 03/2019 – Jarrahdale Road Widening to *Remote Civils Australia Pty Ltd* to the value of \$449,541.40 excluding GST as contained within confidential attachment 1.

CARRIED UNANIMOUSLY 8/0



Shire President, Councillor Rich declared a Financial Interest in item 10.2.1 and item 10.2.2 and left the Chambers at 8.10pm prior to these items being discussed.

10.2.2 - Award Request for Quote – RFQ 13/2019 – Shoulder Widening – Cardup Siding Road (SJ3088)	
Responsible Officer:	Manager Infrastructure and Assets
Senior Officer:	Director Infrastructure Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

To advise Council of submissions received in relation to Quote RFQ 13/2019 Shoulder Widening – Cardup Siding Road and for Council to award the contract to the best value for money respondent as proposed by the evaluation panel recommendation.

Relevant Previous Decisions of Council

The project was approved by Council as part of the 2019/20 Annual Budget.

Background

The section of Cardup Siding Road from SLK 1.01 – 2.26 (between Macleod Close and Culham Vista intersections) has had four crashes over the last five years. Most of the crashes were run-off-carriageway crashes. An effective treatment to attenuate such crashes is to construct and seal the road shoulders, remove roadside hazards, install advisory signs and erect additional reflective guideposts.

Through a successful application to the State Black Spot Program, the Shire received grant funding to widen the Cardup Siding Road. The safety improvement works will involve sealing the shoulders, removing the roadside hazard, installing advisory signs, installing crash barriers at the S Bend and erecting additional reflective guideposts.

The total project budget of \$215,000 is made up of:

- State Government (via the State Black Spot Program) contribution to a value of \$144,000; and
- Shire contribution to a value of \$71,000.



Figure 1. Cardup Siding Road, Cardup – shoulder widening locality map.

Community / Stakeholder Consultation

Prior to commencement of site works, notification shall be made to the public via the Shire’s website and Facebook page. In addition, the adjacent properties will be notified via letter drop.

Submissions

The Request for Quote RFQ 13/2019 – Shoulder Widening – Cardup Siding Road, was advertised on Friday 13 September 2019 and closed at 2.00pm on Thursday 3 October 2019. The Quote was advertised on WALGA’s eQuotes.

Three (3) submissions were received, and the submissions are summarised in **confidential attachment 1**.

Quote submissions were received from the following companies:

#	Company Name
1	RCA Civil Group Pty Ltd
2	Tracc Civil Pty Ltd
3	WA Profiling and Stabilising



Evaluation Panel

An evaluation panel was convened and consisted of the following personnel:

- Coordinator Procurement
- Acting Manager Infrastructure and Assets
- Design Technical Officer

All members of the evaluation panel have made a conflict of interest declaration in writing confirming that they have no relationships with any of the quoters. Each member of the panel assessed the submissions separately.

Evaluation Criteria

The following evaluation criteria and weightings were used by the quote evaluation panel to assess quote submissions:

EVALUATION CRITERIA	WEIGHTING
Price with quantities	60%
Relevant experience with: <ul style="list-style-type: none">• Demonstrated relevant experience of the Company in providing the same or similar services to local government or the private sector over the past five years.	15%
Quoters' Resources, Key Personnel, Skills and Experience with: <ul style="list-style-type: none">• Capacity to deliver the services including:• Key personnel / Professional skills;• Describe the key personnel who will be involved in the work, including past work of a similar nature.	10%
Demonstrated Understanding/Experience with: <ul style="list-style-type: none">• Project schedule;• Process for delivery of goods/services;• Project Management Plan;• Critical assumptions; and• Any additional information.	15%

Comment

All quote submissions were assessed against the evaluation criteria and the qualitative and quantitative results of this assessment and prices are documented in the **confidential attachment 1** - RFQ 13/2019 – Shoulder Widening – Cardup Siding Road – OCM – Evaluation Report.

Following the assessment of all quote submissions, against the selection criteria, the quote submitted by RCA Civil Group Pty Ltd was assessed as being the best value for money that meets the Shire's requirements.

The quote evaluation panel therefore recommends the quote submission made by RCA Civil Group Pty Ltd be accepted.



Statutory Environment

Section 3.57 (1) of the *Local Government Act 1995* requires a local government to invite quotations before it enters into a contract of a prescribed kind under which another person is to supply the goods or services.

Council Policy - *Procurement of Goods or Services through Public Tendering* (E19/5672):
Tendering

2. Tender Exemption

The regulations make provision for certain circumstances where tendering is not required. Regulation 11(2) of the *Local Government (Functions and General) Regulations 1996*:

- The purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supply Program or State Government Common Use Arrangement;

Options and Implications

The following options have been identified:

Option 1

Award the contract as recommended in **confidential attachment 1** - RFQ 13/2019 – Shoulder Widening – Cardup Siding Road – OCM – Evaluation Report to *RCA Civil Group Pty Ltd*.

Option 2

Not award the contract and requote.

Option 3

Not award the contract and not requote i.e. – nil action.

Option 4

That Council reassess and appoint an alternative quoter.

Option 1 is recommended.

Conclusion

RCA Civil Group Pty Ltd has been assessed as being able to meet the requirements of the contract. The respondent met all of the requirements for Relevant Experience, Key Personnel, Skills and Resources and Demonstrated Understanding and was assessed as providing the best value for money.

Therefore, it is recommended that Council support option 1 and the contract be awarded to ***RCA Civil Group Pty Ltd***.

Attachments

- **CONFIDENTIAL Attachment 1** - RFQ 13/2019 – Shoulder Widening – Cardup Siding Road – Evaluation Report (E19/13306)



Alignment with our Strategic Community Plan

Outcome 1.3	A safe place to live.
Strategy 1.3.3	Enhance community safety.
Outcome 3.3	An innovative, connected transport network.
Strategy 3.3.1	Maintain, enhance and rationalise the Shire's transport network in accordance with affordable sound Footpath and Bicycle Plans.
Outcome 4.1	A resilient, efficient and effective organisation.
Strategy 4.1.1	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources.

Financial Implications

The funding for this quote is included in the 2019/20 Annual Budget to undertake the works.

The allocated budget for the work is \$215,000 and the recommended quote value of \$200,340.50 ex GST is within this budget.

STATE BLACK SPOT PROGRAM			
Project	Shire	State Government	Total
Cardup-Siding Road	\$71,000	\$144,000	\$215,000

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Poor selection of contractor to provide quality work	Unlikely (2)	Moderate (3)	Moderate (5-9)	Reputation - 3 Moderate - Substantiated, public embarrassment, moderate impact on key stakeholder trust or moderate media profile	Accept Officer Recommendation

**Risk Matrix**

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **6** has been determined for this item.

Voting Requirements: Simple Majority

OCM256/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Denholm, seconded Cr Strautins

That Council AWARDS Quote RFQ13/2019 (distributed through WALGA eQuotes) Shoulder Widening – Cardup Siding Road to RCA Civil Group at \$200,340.50, excluding GST, as contained within confidential attachment 1.

CARRIED UNANIMOUSLY 8/0

Councillor Rich returned to the Chambers at 8.11pm and resumed the Chair as Presiding Member.

Councillor Atwell advised the Shire President of the Council Resolutions for items 10.2.1 and 10.2.2.

**10.2.3 - Nominations of members to the Rivers Regional Council (SJ2855)**

Responsible Officer:	Manager Governance
Senior Officer:	Director Infrastructure Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Legislative	Includes adopting local laws, local planning schemes and policies.
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Report Purpose

The purpose of this report is for Council to consider nominating Councillors to represent the Shire on the Rivers Regional Council (RRC).

Relevant Previous Decisions of Council

Ordinary Council Meeting - 27 November 2019 – OCM156/11/17 – Appointment of Delegates to Committees, Working Groups and Organisation.

Background

The RRC has responsibility for planning long-term waste management strategies, identifying issues associated with waste management and lobbying on behalf of the seven member Councils in the general field of waste management.

The RRC features seven members:

- City of Armadale
- City of Gosnells
- City of Mandurah
- City of South Perth
- Shire of Murray
- Shire of Waroona; and
- Shire of Serpentine Jarrahdale.

**Community / Stakeholder Consultation**

The role of Council member delegates on external community groups and associations was discussed at the 26 August 2019 Policy Concept Forum and workshop with Council held on 22 October 2019.

Policy Concept Forum

Meeting Date	26 August 2019
Councillors in Attendance	Cr Atwell, Cr Byas, Cr Coales, Cr Denholm, Cr Rich, Cr See

Workshop

Meeting Date	22 October 2019
Councillors in Attendance	Cr Atwell, Cr Byas, Cr Coales, Cr Dagostino, Cr Denholm, Cr McConkey, Cr Rich, Cr Strange, Cr Strautins

Statutory Environment

RRC is a Regional Local Government established under section 3.61 of the *Local Government Act 1995* (the Act). As a Regional Local Government, the RRC is its own legal entity formed through an agreement by the seven member local governments.

As its own legal entity and a separate local government created under the Act, the RRC is responsible for compliance with provisions of the Act and other legislation.

Comment

The RRC functions like any other local government with decisions being made by resolution of the Council.

Each RRC member has two voting positions on the RRC. In 2017, the Shire of Serpentine Jarrahdale Council appointed two Councillors and two deputies for the period ending on the ordinary local government election in October 2019.

The appointment of delegates is required to represent the Shire on RRC's decision-making.

The next meeting of the RRC is on 12 December 2019.

As a Regional Local Government, Councillor entitlements are set by the Salaries and Allowances Tribunal (SAT).

In 2019, SAT determined:

- for a council member other than the Chair, a minimum annual allowance in lieu of meeting fees of \$1,795 and a maximum of \$10,560;
- for a council member who holds the office of the Chair a minimum annual allowance in lieu of meeting fees of \$1,795 and a maximum of \$15,839; and
- an annual allowance for a Chair of a regional local government with a minimum of \$513 and maximum of \$20,063.



Each Regional Local Government in Western Australia, including the RRC resolves to set the actual entitlements within the range set by SAT.

The RRC has advised that the Councillor entitlements set by the RRC based on the SAT determination are as follows:

- Chairperson \$20,600 (annual payment)
- Deputy Chairperson \$10,300 (annual payment)
- Councillor \$ 7,725 (annual payment)
- Deputy member \$ 200 (per meeting)

A variation of these entitlements will require a resolution by RRC members. As the Shire's annual contribution to the RRC is set in the Deed of Agreement, a decision by an individual Councillor to decline or not accept their entitlements as a Councillor on the RRC will not reduce the Shire's costs of RRC membership.

The RRC sets meeting dates annually. In 2019, the RRC held six meetings hosted at the Council Chambers of member local governments.

Options and Implications

Option 1:

Council RESOLVES to nominate members for appointment to Rivers Regional Council (RRC).

Option 2:

Council DOES NOT RESOLVE to nominate members for appointment to Rivers Regional Council (RRC).

Option 1 is recommended.

Conclusion

Council's resolution to appoint members to the two positions is required to enable the Shire to vote on matters presented to the RRC.

Attachments

Nil.

Alignment with our Strategic Community Plan

Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.



Financial Implications

There are no immediate financial implications resulting from this report. The Shire will continue to be financially committed to the RRC regardless of Council's decision to appoint or not appointment Councillors to sit on the RRC.

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council does not nominate members as delegates to the RRC	Unlikely (2)	Major (4)	Moderate (5-9)	Reputation - 4 Major - Substantiated, public embarrassment, widespread high impact on key stakeholder trust, high media profile, third party actions	Accept Officer Recommendation

Risk Matrix

Consequence / Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **9** has been determined for this item.



Voting Requirements: Simple Majority

Officer Recommendation

1. That Council **RESOLVES** to appoint the following members to the Rivers Regional Council for the period ending at the next ordinary local government election:

Member –

Member –

Deputy Member –

Deputy Member –

A written nomination was received prior to the meeting from Councillor Byas for a Member to Rivers Regional Council.

The Shire President asked if there were any further nominations for Members or Deputy Members to Rivers Regional Council.

A nomination was received from the floor from Councillor Denholm for a Member to Rivers Regional Council.

A nomination was received from the floor from Councillor Coales for a Deputy Member to Rivers Regional Council.

A nomination was received from the floor from Councillor Strange for a Deputy Member to Rivers Regional Council.

Councillor Rich asked if there were any further nominations. No further nominations were received.

OCM257/11/19

COUNCIL RESOLUTION

Moved Cr Atwell, seconded Cr Strautins

1. That Council **RESOLVES** to appoint the following members to the Rivers Regional Council for the period ending at the next ordinary local government election:

Member – Councillor Byas

Deputy Member – Councillor Strange

Member – Councillor Denholm

Deputy Member – Councillor Coales

CARRIED UNANIMOUSLY 9/0

**10.3 Corporate Services reports**

10.3.1 - Confirmation of Payment of Creditors (SJ801)	
Responsible Officer:	Manager Finance
Senior Officer:	Director Corporate Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Legislative	Includes adopting local laws, local planning schemes and policies.
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Report Purpose

The purpose of this report is to prepare a list of accounts paid each month, as required by the *Local Government (Financial Management) Regulations 1996*.

Relevant Previous Decisions of Council

Nil.

Community / Stakeholder Consultation

Nil.

Statutory Environment

Section 5.42 of the *Local Government Act 1995* states that the local government may delegate some of its powers to the Chief Executive Officer. Council have granted the Chief Executive Officer Delegated Authority 1.1.17 - Payments from Municipal and Trust Fund.

Section 6.10 of the *Local Government Act 1995* states the Financial management regulations may provide for the general management of, and the authorisation of payments out of the municipal fund and the trust fund of a local government.

Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.

Comment

In accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, schedules of all payments made through the Council's bank accounts are presented to Council for their inspection. The list includes details for each account paid incorporating:

- a) Payees name;
- b) The amount of the payment;
- c) The date of the payment; and
- d) Sufficient information to identify the transaction.



A detailed list of invoices for the period 1 October 2019 to 31 October 2019 is provided in **attachment 1**.

The Shire has finalised the transition to Westpac Bank. As part of this transition, the ANZ Corporate Purchasing Card was closed on 3 October 2019. All commitments have been transferred to the Westpac Corporate Purchasing Card.

Attachments

- [Attachment 1](#) – Creditors List of Accounts 1 October 2019 to 31 October 2019. (E19/14066)
- [Attachment 2](#) – ANZ Purchase Card Report - \$ 66.46 (E19/14068)
- [Attachment 3](#) – Westpac Purchasing Card Report - \$2,385.99 (E19/14069)

Alignment with our Strategic Community Plan

Outcome 4.1	A resilient, efficient and effective organisation
Strategy 4.1.1	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources

Financial Implications

Expenditures were provided for in the adopted Budget as amended, or by any subsequent budget reviews and amendments.

The accounts paid under delegated authority for 1 October 2019 to 31 October 2019 totalled \$3,588,014.46.

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not accept the payments.	Unlikely (2)	Insignificant (1)	Low (1-4)	Compliance - 3 Moderate - Non-compliance with significant regulatory requirements imposed	Accept Officer Recommendation

**Risk Matrix**

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of 2 has been determined for this item.

Voting Requirements: Simple Majority

OCM258/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strange, seconded Cr McConkey

That Council RECEIVES the Schedule of Accounts as paid under delegated authority from 1 October 2019 to 31 October 2019, totalling \$3,588,014.46 as attached, covering:

- 1. EFT Vouchers EFT57107 to EFT57406 including purchasing card payment totalling \$3,440,466.76;**
- 2. Municipal Cheque Vouchers Westpac CHQ200008 to CHQ200013 totalling \$7,163.23; and**
- 3. Municipal Direct Debits DD47991.1 to DD48051.33 totalling \$140,384.47.**

CARRIED UNANIMOUSLY 9/0



10.3.2 – Monthly Financial Report – September 2019 (SJ801)

Responsible Officer:	Manager Finance
Senior Officer:	Director Corporate Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i>

Authority / Discretion

Legislative	Includes adopting local laws, local planning schemes and policies.
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Report Purpose

The purpose of this report is to provide a monthly financial report, which includes rating, investment, reserve, debtor, and general financial information to Councillors in accordance with Section 6.4 of the *Local Government Act 1995*.

This report is about the financial position of the Shire as at 30 September 2019.

Relevant Previous Decisions of Council

Special Council Meeting – 22 July 2019 - SCM161/07/19 COUNCIL DECISION / Officer Recommendation

PART 5 – Municipal Fund Budget for 2019/20

That Council

1. *ADOPTS the Municipal Fund Budget as contained in attachment 1, Statutory Statements and Notes (including supplementary information) for the year ending 30 June 2020.*

Special Council Meeting – 22 July 2019 - SCM163/07/19 COUNCIL DECISION / Officer Recommendation

PART 7 – Material Variances

That Council

1. *ADOPTS the definition of 'significant (material) variances to be used in statements of financial activity for reporting' to be \$10,000 or 10% (whichever the greater).*
2. *ADOPTS the definition of significant (material) variances to apply for reporting purposes in the Statement of Financial Activity to:*
 - a) *Total operating revenue and expenditure by Nature and Type; and*
 - b) *Capital income and expenditure.*



Background

The *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996* require that the Shire prepare a Statement of Financial Activity each month. The *Local Government Act 1995* further states that this statement can be reported by either by Nature and Type, Statutory Program or by Business Unit. The Council has resolved to report Nature and Type and to assess the performance of each category, by comparing the year-to-date budget and actual results. This gives an indication that the Shire is performing against expectations at this point in time.

Community / Stakeholder Consultation

Nil.

Statutory Environment

Section 6.4 of the *Local Government Act 1995* requires a local government to prepare an annual financial statement for the preceding year and other financial reports as are prescribed.

Regulation 34 (1) of the *Local Government (Financial Management) Regulations 1996* as amended requires the local government to prepare monthly financial statements and report on actual performance against what was set out in the annual budget.

Comment

Monthly Financial Report

The attached report shows the month end position as at the end of September 2019. Please note that this is a preliminary result for the year as the Financial Statements for year ended 30 June 2019 are still being finalised and as such the result is subject to change.

The municipal surplus for the month ending 30 September 2019 is \$23,449,673, which is favourable, compared to a budgeted surplus for the same period of \$22,533,939. The reasons for the variances are discussed below.

Description	YTD Budget	30 September 2019 Actual	Variance (unfavourable)
Opening Surplus at 1 July 2019	4,778,920	4,351,415	(427,505)
Proceeds from sale of assets	70,248	20,000	(50,248)
Changes to net transfers to and from Reserves	(41,280)	(41,280)	-
Changes to net transfers to and from Restricted Cash	-	-	-
Loan principal Drawdown (New loans)	-	-	-
Loan principal repayments	(159,390)	(159,390)	-
Capital expenditure	(6,406,460)	(5,473,777)	932,683
Capital revenue (cash items)	2,085,663	1,357,140	(728,523)
Operating revenue (cash items)	29,903,160	29,651,333	(251,827)



Description	YTD Budget	30 September 2019 Actual	Variance (unfavourable)
Operating expenditure (cash items)	(7,696,922)	(6,255,768)	1,441,154
	22,533,939	23,449,673	915,734

Attachments

- [Attachment 1](#) – Monthly Financial Report September 2019 (E19/13887)

Alignment with our Strategic Community Plan

Outcome 4.1	A resilient, efficient and effective organisation
Strategy 4.1.1	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources.

Financial Implications

As at 30 September 2019, the Shire's respective cash position was as follows:

Municipal Fund: \$4,038,476

Trust Fund: \$304,067

Trust funds were reclassified as per the working paper released by the Office of the Auditor General on 1 July 2019. As per section 6.9 of the *Local Government Act 1995 (Act)*, these funds, with the exception of contributions towards Public Open Space, are now held in the Municipal Fund.

Material variances that may have an impact on the outcome of the budgeted closing surplus position are listed below:

Operating Revenue

Rates

No variance analysis required, variance to budget is less than 10%.

Operating Grants, Subsidies and Contributions

Unfavourable variance of \$524,452 due to timing (received 2018/19 financial year) of grant funding the most material of which is Federal Assistance Grants - \$332,500, Main Roads Direct Grant - \$60,528, and Department of Fire & Emergency Services Local Government Grants - \$97,527.

Fees and Charges

No variance analysis required, variance to budget is less than 10%.

Interest Earnings

No variance analysis required, variance to budget is less than 10%.



Other Revenue

Favourable variance of \$39,367, due to timing of reimbursements received, the most significant of which is in relation to meat inspection services performed for the Department of Justice.

Operating Expenses

Employee Costs

Favourable variance of \$672,773 due to timing differences related to new positions not recruited yet and positions currently vacant.

Materials and Contracts

Favourable variance of \$714,394 due to timing differences in relation to provision of services across all programs and business units, the most material of which is Waste Services - \$442,571 and Consulting Services - \$182,614.

Utility Charges

Favourable variance of \$69,611 due to timing differences relating to utility charges, the most significant of which is Street Lighting - \$57,570.

Depreciation on Non-Current Assets

Favourable variance of \$2,081,916 due to the fact that no depreciation can be processed until the asset module has been rolled over. The rollover cannot occur until the audit of the Financial Statements for the year ended 30 June 2019 is complete.

Interest Expenses

Favourable variance of \$53,072 due to timing differences relating to loan repayment dates.

Insurance Expenses

Unfavourable variance of \$169,636 due to timing differences relating to insurance premium payment dates.

Other Expenditure

Favourable variance of \$100,942 due to timing differences primarily relating to community funding programs.

Other

Profit on Asset Disposals

No variance analysis required as no variance to budget.

Loss on Asset Disposals

No variance analysis required as no variance to budget.

Non-Operating Grants, Subsidies and Contributions

Unfavourable variance of \$728,523 due to timing of grant funding not yet received, the most material of which is Main Roads funding - \$534,025.



Proceeds from Disposal of Assets

Unfavourable variance of \$50,248 due to timing differences related to changeover of fleet and corresponding asset disposals.

Repayment of Debentures

No variance analysis required as no variance to budget.

Proceeds from New Debentures

No variance analysis required as no variance to budget.

Transfers (to)/from Cash Backed Reserves (Restricted Assets)

No variance analysis required as no variance to budget.

Transfers (to)/from restricted cash (Municipal)

No variance analysis required as no variance to budget.

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council not accept the Officer's recommendation.	Unlikely (2)	Insignificant (1)	Low (1-4)	Compliance - 3 Moderate - Non-compliance with significant regulatory requirements imposed	Accept Officer Recommendation

Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Catastrophic	
		1	2	3	4	5	
Likelihood	Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)	
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)	
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)	

A risk rating of **2** has been determined for this item.



Continued

**Ordinary Council Meeting Minutes
Monday 18 November 2019**

Voting Requirements: Simple Majority

OCM259/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded McConkey

That Council RECEIVES the Monthly Financial Report for September 2019, in accordance with Section 6.4 of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Financial Management) Regulations 1996* as contained in attachment 1.

CARRIED UNANIMOUSLY 9/0



10.3.3 – Shire of Serpentine-Jarrahdale Repeal Local Law 2019 (SJ1066)	
Responsible Officer:	Manager Governance
Senior Officer:	Director Corporate Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Legislative	Includes adopting local laws, local planning schemes and policies.
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Report Purpose

To progress the making of the *Shire of Serpentine-Jarrahdale Repeal Local Law 2019* in accordance with section 3.12 of the *Local Government Act 1995* (the Act).

The *Shire of Serpentine-Jarrahdale Repeal Local Law 2019* has the purpose of repealing those local laws made obsolete by new legislation or considered no longer relevant within the Shire of Serpentine Jarrahdale. The effect of this local law is to repeal obsolete or outdated local laws within the Shire of Serpentine Jarrahdale.

Relevant Previous Decisions of Council

OCM027/02/19 COUNCIL RESOLUTION / Officer Recommendation

That Council:

- 1. Notes the outcome of the request for public submissions about the Shire's local laws in accordance with s3.16 of the Local Government Act 1995; and*
- 2. Requests the Chief Executive Officer to initiate the process to repeal, amend and replace the various local laws as listed in the report to Council.*

Background

A review of the Shire's Local Laws conducted between October 2018 and February 2019 identified a series of local laws dating back to 1937 that have been superseded by new legislation or are otherwise defunct or redundant.

At the 18 February 2019 Ordinary Council Meeting, Council resolved to authorise the Chief Executive Officer to initiate the repeal of these Local Laws.

Many of the redundant local laws were repealed by the *Public Places and Local Government Property Local Law 2019*. Subsequent work has identified that several local laws identified for repeal have already been repealed but this revocation has not been reflected on the Department of Local Government, Sport and Cultural Industries local laws register. Shire officers have advised the Department of these instances where the Department's local law register needs to be revised.



Community / Stakeholder Consultation

Nil.

Statutory Environment

The repeal of local laws requires the creation of a Repeal Local Law. The Repeal Local Law must be made using the same procedures for creating other Local Laws prescribed in section 3.12 of the Act.

As noted in the Joint Standing Committee on the Delegated Legislation's report regarding the disallowance of the *Shire of Chittering Repeal Local Law 2017*, a local government must explicitly advertise a Repeal Local Law for public comment in accordance with section 3.12 of the Act. This public advertising needs to occur even if the decision to make a Repeal Local Law results from a Local Law review that sought public submissions.

Comment

If made, the *Shire of Serpentine-Jarrahdale Repeal Local Law 2019* will repeal six (6) local laws dating from 1947 to 1990:

- *Amendment to General By-laws 1947*
- *Amendment to General By-laws 1955 (December)*
- *Uniform By-laws for the Construction of Television Masts and Antennae 1960*
- *Uniform general by-Laws 1961*
- *Model By-laws (Holiday Accommodation) No 18 1986*
- *By-laws Relating to Removal of Refuse, Rubbish, Litter, Vehicle Bodies, Disused Materials and Unsightly Items or Objects from Land 1990*

A summary and rationale for repealing each of the Local Laws is provided in the table below:

Local Law	Summary	Rationale for repeal
<i>Amendment to General By-laws 1947</i>	This amendment alters fees for the care of impounded cattle	The General By-laws have been superseded by the Act and other legislation. The <i>General by-laws 1947</i> have been repealed following the making of the <i>Shire of Serpentine-Jarrahdale Public Places and Local Government Property Local Law 2019</i> . Repealing all amendments to the By-laws will ensure that all related laws are formally repealed.
<i>Amendment to General By-laws 1955 (December)</i>	As above	As above
<i>Uniform By-laws for the Construction of Television Masts and Antennae 1960</i>	This local law sets out rules for the installation of television antennae.	The local law was superseded initially by the <i>Building Regulations 1989</i> and subsequent building and planning legislation.



Local Law	Summary	Rationale for repeal
<i>Uniform general by-laws 1961</i>	This local law applied uniform building by-laws to the district	The local law was superseded by building and planning legislation.
<i>Model By-laws (Holiday Accommodation) No. 18 1986</i>	This local law applied uniform laws related to holiday accommodation facilities and building and health requirements	This local law was superseded by the <i>Caravan Parks and Camping Grounds Act 1995</i> and the <i>Caravan and Camping Grounds Regulations 1997</i>
<i>By Laws Relating to Removal of Refuse, Rubbish, Litter, Vehicle Bodies, Disused Materials and Unsightly Items or Objects from Land 1990</i>	This local law empowers the Shire to service notice on the owner or occupier of land to remove refuse, rubbish, motor vehicles, old machinery, disused material or other objects.	This local law was superseded by the <i>Local Government Act 1995</i> and the <i>Local Government (Functions and General) Regulations 1996</i>

The six local laws are no longer used by the Shire and have been superseded by new legislation. The formal repeal of unnecessary local laws is good practice and forms part of the Shire's continuous improvement work in the area of governance.

The making of this local law will repeal all superseded local laws that the Shire has the capacity to repeal.

Options and Implications

Option 1

In accordance with s3.12 (3) and (3a) of the *Local Government Act 1995*, Council authorises the Chief Executive Officer to advertise the *Shire of Serpentine-Jarrahdale Repeal Local Law 2019* for a period of six (6) weeks required by section 3.12 of the Act.

Option 2

That Council does not authorise the Chief Executive Officer to advertise the *Shire of Serpentine-Jarrahdale Repeal Local Law 2019*.

Option 1 is recommended.



Conclusion

The proposed repeal local law removes unnecessary legislation identified during the Shire's statutory review of local laws and gives effect to the Council resolution at the February 2019 Ordinary Council Meeting (OCM027/02/19).

The proposed repeal local law is not considered contentious as it provides formal revocation of local laws that have long been superseded by State Government legislation and Shire local laws.

Attachments

- [Attachment 1](#) – *Serpentine Jarrahdale Repeal Local Law 2019* (E19/11564)

Alignment with our Strategic Community Plan

Outcome 4.1	A resilient, efficient and effective organisation
Strategy 4.1.1	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources

Financial Implications

It will cost approximately \$2,000 for the advertising of the law and publication in the Government Gazette. The costs have been considered in the Shire's budget. The draft local law has been prepared internally by Shire staff.

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That the Joint Standing Committee on Delegated Legislation disallows the local law	Unlikely (2)	Insignificant (1)	Low (1-4)	Reputation - 1 Insignificant - Unsubstantiated, localised low impact on key stakeholder trust, low profile or no media item	Accept Risk

**Risk Matrix**

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **2** has been determined for this item.

Voting Requirements: Simple Majority

OCM260/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Dagostino, seconded Cr Byas

That Council

1. In accordance with section 3.12 of the *Local Government Act 1995*, **AUTHORISES** the Chief Executive Officer to give State wide and local public notice stating that:
 - a. It is proposed to make a *Shire of Serpentine-Jarrahdale Repeal Local Law 2019*, and a summary of its purpose and effect;
 - b. The proposed local law may be inspected at the Shire offices during normal opening times; and
 - c. Submissions about the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given.
2. In accordance with section 3.12(3)(b), as soon as the notice is given, **DIRECTS** the Chief Executive Officer to supply a copy to the Minister for Local Government.
3. In accordance with section 3.12(3)(c) of the Act, a copy of the proposed local law be **SUPPLIED** to any person requesting it.
4. **NOTES** that the results of any submissions received, will be presented to Council for consideration.

CARRIED UNANIMOUSLY 9/0



Chief Executive Officer, Mr Paul Martin, declared an Impartiality Interest in item 10.3.4 and left the Chambers at 8.17pm prior to this item being discussed.

Deputy CEO / Director Community Services, Ms Helen Sarcich, assumed the role of Chief Executive Officer at 8.17pm.

Manager Governance, Dr Kenneth Parker declared an Impartiality Interest in item 10.3.4.

10.3.4 - Draft submission to the Department of Local Government, Sport and Cultural Industries consultation on the proposed Code of Conduct and CEO standards (SJ2855)	
Responsible Officer:	Manager Governance
Senior Officer:	Director Corporate Services
Disclosure of Officers Interest:	<p>The Responsible Officer was part of the project team working on the <i>Local Government Act 1995</i> review during their previous employment.</p> <p>The Chief Executive Officer has declared an interest as the matter could relate to CEO performance measurement, the Chief Executive Officer, Mr Martin was not involved in the preparation of this report.</p>

Authority / Discretion

Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.
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Report Purpose

This report seeks Council's endorsement to provide the attached draft submissions to the Department of Local Government, Sport and Cultural Industries on behalf of the Shire for the consultation regarding the:

- mandatory code of conduct for Council Members; Committee Members and candidates; and
- mandatory minimum standards covering the recruitment, selection, performance review and early termination of local government Chief Executive Officers.

Providing a submission to this phase of the consultation represents another opportunity for the Shire to contribute to a better legislative framework in which Council operates. The draft submissions suggest that the reforms have the potential to strengthen governance but that amendments are required to key areas to avoid unintended consequences.

**Relevant Previous Decisions of Council**

Ordinary Council Meeting – 18 February 2019 - OCM028/02/19 - COUNCIL DECISION / Officer Recommendation:

That Council:

ENDORSES and SUBMITS the submission shown in attachment 1 to the Department of Local Government, Sport and Cultural Industries in response to the discussion paper, “Agile, Smart Inclusive – Local Government for the Future” Consultation Paper

Background

In 2017, the State Government announced a review of the *Local Government Act 1995*. The Minister has stated on several occasions that the reforms will result in a new Local Government Act for Western Australia.

On 27 June 2019, the first tranche of reforms were passed by Parliament. Included in the reforms were provisions that introduce heads of power to set, via regulations:

- Mandatory code of conduct for Council Members; Committee Members and candidates; and
- Mandatory minimum standards covering the recruitment, selection, performance review and early termination of local government Chief Executive Officers.

On 24 September 2019, the Department of Local Government, Sport and Cultural Industries called for submissions on the draft code of conduct and CEO standards (and accompanying guidelines).

After initially setting a shorter consultation period, the Department is calling for submissions by 6 December 2019.

Community / Stakeholder ConsultationPolicy Concept Forum

Meeting Date	4 November 2019
Councillors in Attendance	Cr Atwell; Cr Byas; Cr Coales; Cr Dagostino; Cr Denholm; Cr McConkey; Cr Strange; Cr Strautins

Statutory Environment

Nil



Comment

Officers have prepared draft submissions to the respective standards. Overall, the submissions suggest that the guidelines represent a positive step forward, but each have potentially unintended consequences that could limit their effectiveness.

Councillors may also wish to make individual submissions to the review noting that the Department is accepting confidential submissions.

The key elements of the proposed reforms are summarised below:

Code of conduct

Local governments will be required to adopt a code that is not inconsistent with model code within three months of the Regulation commencing.

The code features three parts.

- Part A lists overarching behaviours based on integrity, fairness and accountability. Breaches of principles cannot be enforced by action under the Code of Conduct.

In theory, breaches of Part A could lead to other sanctions following an authorised inquiry by the Department CEO or Minister but this would not be consistent with practices of successive Governments.

- Part B deals with complaints that can be made against a Councillor's conduct with corrective action made by the local government.

The model code provides that complaints about an alleged breach should be made to the Mayor or President, or the CEO, or a nominated delegate. A complaint may be handled or managed in any manner that Council deems appropriate, per Council endorsed policy.

In assessing the complaint, Council could make a finding of breach or no breach. Importantly, Council could only make a finding via a formal Council resolution made in public at an Ordinary Council Meeting or Special Council Meeting via an open vote. This approach is inconsistent with the approach used by the Standards Panel and under the current Shire Business Operating Procedure where confidentiality is a requirement.

Council, by resolution, can require an action plan to be developed in conjunction with the council members, to address future behaviour. The action plan may include the requirement for the council member to undertake training, mediation or counselling, or any other actions deemed appropriate by the Council.

Council may also, via resolution, allege breach of Rules of Conduct (Part C), after the third breach of Part B. This complaint would go to the Standards Panel.

- Part C of the Code restates the existing 'rules' contained in the *Local Government (Rules of Conduct) Regulations 2007*.

Part C also includes the elements of each rule, which the Standards Panel uses to assess if a breach occurred.



CEO standards

Within three months of the regulations commencing, local governments will be required under s5.39B of the amended Act to adopt and publish CEO standards that incorporate the model standards.

The key elements of the standards are:

- if one person has performed the CEO role for 10 consecutive years, the local government must advertise the position;
- vetting of candidates is to be undertaken by a selection panel, that includes at least one member who is not a Councillor or staff member. The appointment is to be made by an Absolute Majority of Council following a recommendation by the panel;
- performance review is to be based on key result areas that are specific, relevant, measurable, achievable and time-based (preferably aligned to the Strategic Community Plan and Corporate Business Plan); and
- natural justice principles should apply in respect to termination.

Both the code of conduct and CEO standards will become regulations that bind local governments following their commencement. The Department of Local Government, Sport and Cultural Industries have previously indicated that their intention is for draft regulations to be presented for the Minister's consideration in early 2020.

As the heads of power to amend regulations were passed by Parliament in June 2019, the Minister can give effect to the requirements without seeking further approval from Parliament.

While the Department has presented the opportunity to provide comment via a survey, as the Shire's draft submissions identify matters that are not addressed by the survey questions, it is recommended that Council consider endorsing the long-form submissions provided.

Options and Implications

Option 1

That Council endorse the draft submissions to the Department of Local Government, Sport and Cultural Industries regarding the mandatory code of conduct for Council Members; Committee Members and candidates; and mandatory minimum standards covering the recruitment, selection, performance review and early termination of local government Chief Executive Officers.

Option 2

That Council does NOT endorse the draft submissions to the Department of Local Government, Sport and Cultural Industries regarding the mandatory code of conduct for Council Members; Committee Members and candidates; and mandatory minimum standards covering the recruitment, selection, performance review and early termination of local government Chief Executive Officers.

Option 1 is recommended.



Conclusion

Providing a submission to this phase of the consultation represents another opportunity for the Shire to contribute to a better legislative framework in which Council operates. The draft submissions suggest that the reforms have the potential to strengthen governance but that amendments are required to key areas to avoid unintended consequences.

Attachments

- [Attachment 1](#) – Draft submission to the CEO standards consultation (E19/13854)
- [Attachment 2](#) - Draft submission to the model Code of Conduct consultation (E19/13853)

Alignment with our Strategic Community Plan

Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.

Financial Implications

Nil.

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That the Shire misses the opportunity to contribute to the consultation	Possible (3)	Minor (2)	Moderate (5-9)	Reputation - 2 Minor - Substantiated, localised impact on key stakeholder trust or low media item	Accept Officer Recommendation



Risk Matrix

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **6** has been determined for this item.

Voting Requirements: Simple Majority

OCM261/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Coales, seconded Cr Byas

That Council

1. **APPROVES** that the draft submission to the CEO standards consultation be submitted to the Department of Local Government, Sport and Cultural Industries as contained within attachment 1.
2. **APPROVES** that the draft submission to the model Code of Conduct consultation be submitted to the Department of Local Government, Sport and Cultural Industries as contained within attachment 2.

CARRIED UNANIMOUSLY 9/0

The Chief Executive Officer, Mr Martin returned to the Chambers at 8.18pm and assumed the role of Chief Executive Officer.

The Shire President advised the Chief Executive Officer of the Council Resolution for this item.



10.3.5 – Options for Councillor universal training	
Responsible Officer:	Manager Governance
Senior Officer:	Director Corporate Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

This report seeks Council approval to prepare a policy on Councillor training to comply with the new requirements of the amended *Local Government Act 1995* (the Act).

Relevant Previous Decisions of Council

There is no previous Council decision relating to this item.

Background

Regulations created in September 2019 give effect to new requirements on Councillors to undertake training within 12 months of taking office and for Councils to adopt a policy related to continuing professional development. In response to the introduction of these requirements it is considered timely for a draft Council Policy related to Councillor Training be prepared for Council's consideration.

Community / Stakeholder ConsultationPolicy Concept Forum

Nil

Statutory Environment

Amendments to the Act were passed by Parliament in June 2019 that introduce requirements related to universal training for Councillors. These requirements were given effect by Regulations introduced in September 2019.

Universal training

Under section 5.126 of the Act each Councillor must complete training in accordance with regulations.



On 16 September 2019, amendments to the *Local Government (Administration) Regulations 1996* (the Regulations) were introduced that gave effect to the reforms by specifying the training requirements, approved providers and exemptions for the requirement to undertake training.

Under the new laws, within 12 months of taking office, Councillors elected at the 19 October 2019 ordinary local government elections are required to complete the training course 'Council Member Essentials'. The training course features the following modules:

- Understanding Local Government
- Serving on Council
- Meeting Procedures
- Conflicts of Interest; and
- Understanding Financial Reports and Budgets.

Regulation 35 specifies that the Council Member Essentials course may be provided by three bodies:

- North Metropolitan TAFE
- South Metropolitan TAFE; and
- the Western Australian Local Government Association.

Regulation 36 provides for certain exemptions.

Regulation 36 states:

- "(1) A council member is exempt from the requirement in section 5.126(1) if —
- (a) the council member passed either of the following courses within the period of 5 years ending immediately before the day on which the council member is elected —
 - (i) the course of training specified in regulation 35(2) [Council Member Essentials];
 - (ii) the course titled 52756WA — Diploma of Local Government (Elected Member);
 - or
 - (b) the council member passed the course titled LGASS00002 Elected Member Skill Set before 1 July 2019 and within the period of 5 years ending immediately before the day on which the council member is elected.
- (2) A person who is a council member on the day on which the Local Government Regulations Amendment (Induction and Training) Regulations 2019 regulation 8 comes into operation is exempt from the requirement in section 5.126(1) until the end of their term of office."

The Regulations have the effect of requiring Councillors to complete the training every second term in office. Councillors elected in 2017 will be required by legislation to complete the training if they are reelected in 2021.

Section 5.126 of the Act specifies that failure to complete the training is an offence punishable by a maximum fine of \$5,000.



Continuing professional development policy

Section 5.128 of the Act also requires a local government to adopt a policy in relation to continuing professional development of Councillors. The Department of Local, Sport and Cultural Industries has advised local governments that guidance material on the content of the policy will be prepared and distributed.

Under section 5.127 of the Act, each financial year, a local government must publish on its website a list of training completed by Councillors.

Comment

Councillor training is currently addressed in Council Policy 1.1.15 Councillor Fees and Entitlements (the Policy).

The Policy states that elected members are permitted to attend specified training up to an amount not exceeding the annual budget allocation, without further approval from Council. Clause 3.1.1 of the Policy describes the type of training where no further approval from Council is required.

To enable Council to meet the new legislative requirements, it is considered timely to review the aspects of Council Policy 1.1.15 Councillor Fees and Entitlements related to training.

It is proposed that a new Council Policy is created that addresses Councillor Training, including continuing professional development which would give effect to the legislative requirement under Section 5.128 of the Act.

If adopted, this new policy would replace the sections of the current Policy related to training.

Options and Implications

Option 1

That Council APPROVES the preparation of a draft Council Policy for Council's consideration related to Councillor training and continuing professional development.

Option 2

That Council DOES NOT APPROVE the preparation of a draft Council Policy for Council's consideration related to Councillor training and continuing professional development.

Conclusion

Amendments to the Act that were given effect by Regulations created in September 2019, introduce requirements on Councillors to undertake training within 12 months of taking office and for Councils to adopt a policy related to continuing professional development. In response to the introduction of these requirements it is considered timely for a draft Council Policy related to Councillor Training be prepared for Council's consideration. The presentation of a draft policy for Council's consideration will enable Councillors wishing to complete training to do so in line with legislation and within a stronger and consistent policy framework.



Attachments

- [Attachment 1](#) - Council Policy - 1.1.15 Councillor Fees and Entitlements (E17/12219)

Alignment with our Strategic Community Plan

Outcome 4.2	A strategically focused Council
Strategy 4.2.3	Provide clear strategic direction to the administration.

Financial Implications

A new Policy for Council's consideration can be prepared internally within the existing budget allocation.

The annual budget allocation for each Councillor for training is \$3,000. According to Council Policy 1.1.15, the cost of training that is specifically arranged for attendance by all Councillors shall be paid from a separate allocation for the purpose and not considered as part of, and debited to, the individual Councillor's Training and Conference budget allocation.

Whether the universal training can be accommodated within the \$3,000 allocation is likely to be dependent on the method of training delivery.

Council may wish to reconsider the funding associated with training as part of consideration of the new Policy.

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not approve the preparation of a policy related to training and continuing professional development	Unlikely (2)	Moderate (3)	Moderate (5-9)	Compliance - 2 Minor - Regular noticeable temporary non-compliances	Accept Officer Recommendation

**Risk Matrix**

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **5** has been determined for this item.

Voting Requirements: Simple Majority

OCM262/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr McConkey, seconded Cr Strautins

That Council REQUESTS that the Chief Executive Officer prepare of a draft Council Policy for Council's consideration at the December 2019 Ordinary Council Meeting related to Councillor training and continuing professional development.

CARRIED UNANIMOUSLY 9/0



10.3.6 – Corporate Business Plan Minor Strategic Review and Arrangements for a Strategic Planning Session (SJ940-02)

Responsible Officer:	Director Corporate Services
Senior Officer:	Chief Executive Officer
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

The purpose of this report is to recommend that Council:

- APPROVE the plan to hold a Strategic Planning Session with Council and the Executive Team;
- CONFIRM the dates and times of the Strategic Planning Session;
- APPROVE the use of a third party facilitator to assist with the Strategic Planning Session; and
- REQUEST the CEO provide a report to Council on the 2020-21 budget timeline.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 17 June 2019 - OCM119/06/19

COUNCIL RESOLUTION / Officer Recommendation:

That Council:

1. ADOPTS the revised Strategic Community Plan at attachment 1 with the following amendment:

The vision in the last paragraph of the Shire President's foreword (page 5):

I look forward to our community, Council and Shire staff continuing our hard work and achieving our vision of City living offering a rural lifestyle with abundant opportunities for a diverse community.

2. In accordance with Regulation 19D of the Local Government (Administration) Regulations 1996, AUTHORISES the Chief Executive Officer to give local public notice stating that:

a. modifications to the Strategic Community Plan for the Shire of Serpentine Jarrahdale have been adopted by Council following a minor review;

b. the period of the Strategic Community Plan remains 2017 to 2027;

c. the revised Strategic Community Plan is available electronically on the Shire's website and hard copies are available at the Mundijong Public Library or the Shire's Administration building.



Ordinary Council Meeting – 19 August 2019 – OCM184/08/19

COUNCIL RESOLUTION / Officer Recommendation

That Council NOTES the progress report against the 2017-21 Corporate Business Plan for the period 1 April to 30 June 2019 as contained in attachment 1.

Background

In June 2019, Council adopted the revised Strategic Community Plan that was amended as part of the Shire's minor strategic review. The minor strategic review was undertaken in accordance with the Shire's Integrated Planning and Reporting process and was focused on incorporating the results from the Community Perceptions survey conducted in September 2018. The Community Perceptions Survey provides Council an overview of the Shire's service delivery performance and provides important feedback to consider in the delivery of the Strategic Community Plan. The results from this survey were provided to Council in February 2019 (OCM032/02/19).

The second phase of the minor strategic review is to review the Corporate Business Plan and make consequential amendments if required. This review is more in-depth than the usual annual review as it is strategic in nature and will focus on prioritising and selecting the projects to be undertaken by the Shire over the 2020-21 to 2023-24 period in accordance with the revised Strategic Community Plan. It will also incorporate and consider, where feasible, the projects that have been identified by Council and the Community through new Area Specific Strategies adopted since the last strategic review. Although more exhaustive, this review will nevertheless meet the requirement to review the Corporate Business Plan on an annual basis.

Community / Stakeholder Consultation

Workshop

Meeting Date	22 October 2019
Councillors in Attendance	Cr Atwell, Cr Byas, Cr Coales, Cr Dagostino, Cr Denholm, Cr McConkey, Cr Rich, Cr Strange, Cr Strautins

Policy Concept Forum

Meeting Date	4 November 2019
Councillors in Attendance	Cr Atwell, Cr Byas, Cr Coales, Cr Dagostino, Cr Denholm, Cr McConkey, Cr Rich, Cr Strange, Cr Strautins

Statutory Environment

Local governments have a statutory obligation under s5.56(1) of the *Local Government Act 1995* ('the Act') to plan for the future of their district. Accordingly, Regulations have been made under s5.56(2) of the Act to briefly outline the minimum requirements to achieve this.

The *Local Government (Administration) Regulations 1996* ('the Regulations') require a local government to ensure that a Strategic Community Plan is made for its district (Regulation 19C)



and that the Strategic Community Plan is reviewed at least once every four years (Regulation 19C s4).

A local government must also ensure that a Corporate Business Plan is made for its district (Regulation 19DA) and that the Corporate Business Plan is reviewed every year (Regulation 19DA s4). A full extract of Regulation 19DA is provided below.

19DA Corporate business plans, requirements for (Act s. 5.56)

- (1) A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.*
- (2) A corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.*
- (3) A corporate business plan for a district is to —*
 - (a) set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district; and*
 - (b) govern a local government's internal business planning by expressing a local government's priorities by reference to operations that are within the capacity of the local government's resources; and*
 - (c) develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.*
- (4) A local government is to review the current corporate business plan for its district every year.*
- (5) A local government may modify a corporate business plan, including extending the period the plan is made in respect of and modifying the plan if required because of modification of the local government's strategic community plan.*
- (6) A council is to consider a corporate business plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.*

**Absolute majority required.*
- (7) If a corporate business plan is, or modifications of a corporate business plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.*

In addition to the Regulations, the Department of Local Government, Sport and Cultural Industries ('the Department') has developed an Integrated Planning and Reporting Framework and Guidelines document to assist local governments with their review processes. This document recommends:

- A minor strategic review is undertaken in year 2. This is usually a desktop exercise focusing on resetting the Corporate Business Plan with consequential amendments to the core informing strategies as required. If there are no major changes proposed, community engagement is discretionary.



- A major strategic review is undertaken in year 4. This process re-engages with the community on the vision and key choices for the coming ten and four years. As noted earlier, the four-yearly major strategic review is a regulatory requirement.

Comment

With the minor strategic review of the Strategic Community Plan undertaken and the appointment of a new CEO and Council elections now complete, the time is right to undertake the minor strategic review of the Shire's Corporate Business plan. This review is strategic in nature and will focus on prioritising and selecting the projects to be delivered by the Shire over the 2020-21 to 2023-24 period in accordance with the revised Strategic Community Plan. It will also incorporate and consider, where feasible, the projects that have been identified by Council and the Community through new Area Specific Strategies adopted since the last strategic review. Key Area Specific Strategies that have been adopted since the last strategic review (2017) include:

- Ageing Well Strategy
- Asset Management Plans for Stormwater Drainage, Roads, Paths, Parks and Reserves and Buildings
- Economic Development Strategy
- Equine Strategy
- Public Arts Strategy
- Peel Regional Trails Strategy and Local Trail Plan
- Tourism Strategy

Given the current timing of this review and the requirement that the first year of the Corporate Business Plan reflects the annual budget, an opportunity exists to integrate this review process with the 2020-21 budget development process. These two processes will enable Council to consider a reviewed Corporate Business Plan and 2020-21 Budget in June 2020. It is therefore recommended that Council request the CEO provide Council with a report on the timeline for the 2020-21 budget at the December Ordinary Council Meeting.

To commence the minor strategic review process outlined above, it is recommended that Council and the Shire's Executive Team come together for a Strategic Planning Session. As the Corporate Business Plan is Council's 4-year planning document that gives effect to the first four years of the Strategic Community Plan, it is pivotal that Council are involved in ensuring that the medium term commitments are both strategically aligned and affordable. A face-to-face session that enables the Administration and Council to come together is an effective way to achieve this. It is proposed that the Strategic Planning Session is delivered over two days, as per the below draft agenda:

Day 1

- *Highlight achievements since January 2018*
- *Long Term Financial Plan Overview*
- *Growth Predictions*
- *Asset Management Overview*



- *Directorate Presentations*
 - *Current projects underway*
 - *Projects funding submissions have been submitted for*
- *Present the outcomes of the review that the Executive Team have completed on the Corporate Business Plan*
- *Open the floor to Councillor requests*

Day 2

Prioritisation and selection of projects for the Corporate Business Plan for the coming 4 years

At the Policy Concept Forum 4 November 2019, Council pre-emptively selected Monday, 25 November and Monday, 2 December, 1pm to 9pm, as the dates and times for the Strategic Planning Session. It is recommended that Council formally adopt these dates.

It is also recommended that a third party facilitator is engaged to run the session with strategic expertise and independence and to assist Council and the Executive team to review and prioritise projects in a manner that is structured and unbiased. An external facilitator will also allow Council and the Executive Team to focus on the task and their respective remits without concern for the sessions logistics and/or intercessions that may be required. The Shire sought quotes from five providers for facilitator services and of these, the following two organisations have indicated they are able to provide the required services on the preferred dates:

- Marple Bridge Pty Ltd
- Tuna Blue Pty Ltd

These two quotes are attached to this report for Council's consideration (refer **CONFIDENTIAL Attachment 1**). It is recommended Council review these quotes and select their preferred provider.

Options and Implications

Option 1

Council accept the Officer Recommendation as outlined in this report.

Option 2

Council DO NOT accept the Officer Recommendation as outlined in this report.

Option 1 is recommended.

Conclusion

The minor strategic review of the Corporate Business Plan is an important process to ensure the Shire's medium term commitments are strategically aligned and affordable. A strong Corporate Business Plan is a key mechanism to ensure the Community receive tangible outcomes towards the achievement of the Community's vision and the Shire's strategic objectives.



Attachments

- **CONFIDENTIAL Attachment 1** – Quotes for the provision of Strategic Facilitator Services (E19/14088)

Alignment with our Strategic Community Plan

Outcome	4.1 A resilient, efficient and effective organisation
Strategy	4.1.1 Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources
Outcome	4.2 A strategically focused Council
Strategy	4.2.2 Ensure appropriate long term strategic and operational planning is undertaken and considered when making decisions

Financial Implications

If Council accept the Officer Recommendation, the financial implication will be the cost of the third party facilitator selected.

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Not using a third party facilitator to assist with the Strategic Planning Session may result in the session not achieving its desired outcomes.	Possible (3)	Moderate (3)	Moderate (5-9)	Environment - 3 Moderate - Contained, reversible impact managed by external agencies	Engage a third party facilitator to help ensure the review and prioritisation of projects is conducted in a manner that is structured and unbiased.
Not holding the Strategic Planning Session and	Possible (3)	Moderate (3)	Moderate (5-9)	Reputation - 3 Moderate - Substantiated, public	Undertake the Minor Strategic Review of



<p>consequently not having Council participating in the minor strategic review of the Corporate Business Plan may lead to a fragmented environment for the Shire to operate in as priorities and methods to implement new strategies are not clear. This could ultimately result in reputational loss for the Shire if the Shire is unable to effectively show tangible outcomes to the community.</p>				<p>embarrassment, moderate impact on key stakeholder trust or moderate media profile</p>	<p>the Corporate Business plan as detailed in this report.</p>
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Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Catastrophic	
		1	2	3	4	5	
Likelihood	Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
	Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
	Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
	Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)



A risk rating of **9** has been determined for both these items.

Voting Requirements: Simple Majority

Officer Recommendation

That Council

1. UNDERTAKES a minor strategic review of the Corporate Business Plan to meet the annual review requirement in accordance with Regulation 19DA(4) of the *Local Government (Administration) Regulations 1996*.
2. APPROVES the plan to hold a Strategic Planning Session with Council and the Executive Team.
3. CONFIRMS the dates and times of the Strategic Planning Session to be Monday, 25 November and Monday, 2 December, 1pm to 9pm.
4. APPROVES the engagement of _____ (company) to assist with the Strategic Planning Session at a cost of \$_____ ex GST.
5. REQUESTS the Chief Executive Officer provide Council with a report on the timeline for the 2020-21 budget at the December Ordinary Council Meeting.

OCM263/11/19

COUNCIL RESOLUTION

Moved Cr Rich, seconded Cr Dagostino

That Council

1. **UNDERTAKES** a minor strategic review of the Corporate Business Plan to meet the annual review requirement in accordance with Regulation 19DA(4) of the *Local Government (Administration) Regulations 1996*.
2. **APPROVES** the plan to hold a Strategic Planning Session with Council and the Executive Team.
3. **CONFIRMS** the dates and times of the Strategic Planning Session to be Monday, 25 November and Monday, 2 December, 1pm to 9pm.
4. **APPROVES** the engagement of Tuna Blue (company) to assist with the Strategic Planning Session at a cost of \$5,450 ex GST.
5. **REQUESTS** the Chief Executive Officer provide Council with a report on the timeline for the 2020-21 budget at the December Ordinary Council Meeting.

CARRIED 8/1

Councillor Coales, in accordance with Section 5.21(4)(b), Local Government Act 1995 requested the votes be recorded.

Councillors Rich, Atwell, Byas, Dagostino, Denholm, McConkey, Strange and Strautins voted FOR the motion.

Councillor Coales voted AGAINST the motion.



10.4 Community Services reports

10.4.1 – Strategic Communications Plan 2019 - 2023 and Brand Style Guide (SJ473)	
Responsible Officer:	Deputy CEO/Director Community Services
Senior Officer:	Chief Executive Officer
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

For Council to endorse the Shire of Serpentine Jarrahdale's Strategic Communications Plan 2019-2023 and Brand Style Guide.

Relevant Previous Decisions of Council

<p><i>18 March 2019 – OCM035/03/19 - COUNCIL RESOLUTION</i></p> <p><i>That the minutes and resolutions contained therein of the CEO Employment Committee Meeting held on 25 February 2019 be endorsed. (E19/2506).</i></p> <p><i>25 February 2019 - CEO002/02/19 - CEO Employment Committee Resolution</i></p> <p><i>That the CEO Employment Committee recommends:</i></p> <ol style="list-style-type: none"> <i>1. That Council ACCEPTS the report as per attachment 1 submitted by Portland Broome for the CEO Performance Review, which indicated that the CEO's Overall Performance was rated as a 4.2, which is a high level of performance for the June 2018 to January 2019 period.</i> <i>2. That Council ENDORSES the 2019 Key Performance Indicators as per attachment 2 for the 2020 CEO Performance Review, and that these Key Performance Indicators be made public on adoption by Council.</i> <i>3. That Council ACCEPTS the report as per attachment 3 submitted by Portland Broome for the CEO Remuneration review and ENDORSES the recommendation documented within the report.</i>
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Background

The Council endorsed the Chief Executive Officer's 2019 Key Performance Indicators at the March 2019 Ordinary Council Meeting. One of the Key Performance Indicators is to develop a Communications Strategy.

In March 2019, Creative ADM was engaged to assist the Shire to develop a Strategic Communications Plan.

The purpose of the Strategic Communications Plan is to:

Establish clear objectives for Shire communications, both internal and external;

- Define key messages that align with the Shire's vision and values;
- Define appropriate communication channels for our diverse community and stakeholders;
- Develop strategies to address themes and issues identified in the Shire of Serpentine Jarrahdale 2018 Community Perception Survey;
- Determine communication goals and targets which are measurable, and align to goals set out within our Strategic Community Plan 2017-2027.

The output of the work carried out by Creative ADM is a Strategic Communications Plan 2019-2023 (**attachment 1**) and the Brand Style Guide (**attachment 2**).

Community / Stakeholder Consultation

Focus Group sessions

In May 2019, focus group sessions were held with staff and the Executive Management Group to understand community perceptions about the Shire and understand the challenges and opportunities in our communication with community and stakeholders.

Policy Concept Forum

The Strategic Communications Plan project was introduced to Councillors and feedback sought on community perceptions about the Shire and its communication with the community.

Meeting Date	27 May 2019
Councillors in Attendance	Cr Rich, Cr Atwell, Cr Byas, Cr Coales, Cr Denholm, Cr McConkey, Cr See

Policy Concept Forum

Councillors were provided an update on the project by Creative ADM and invited to give feedback on their preference of the brand refresh options presented, which forms part of the Strategic Communications Plan.

Meeting Date	29 July 2019
Councillors in Attendance	Cr Rich, Cr Atwell, Cr Byas, Cr Coales, Cr Denholm, Cr McConkey



Shire of Serpentine Jarrahdale 2018 Community Perception Survey

The key issues and themes of the Shire's 2018 Community Perception Survey were used to inform the development of the Communication Strategy.

Statutory Environment

There are no statutory requirements relating to this item.

Comment

Strategic Communications Plan 2019-2023

The Shire's Strategic Communications Plan 2019-2023 (**attachment 1**) is a five year outcome-based strategy to guide the Shire's efforts to implement consistent, innovative and targeted communications.

The Strategic Communications Plan will also advance the Shire's efforts to unite our community and foster growth in all areas as indicated in our Strategic Community Plan 2017-2027.

The Strategic Communications Plan 2019-2023 was developed following the results of the 2018 Community Perceptions Survey, and several focus group workshops with Councillors and Shire Officers that identified a range of values, concerns and suggestions for improvement.

The goals of our Strategic Communications Plan 2019-2023 are to:

- Show value for money in Shire rates.
- Increase knowledge of how the Shire is building and maintaining local roads.
- Provide greater insight into Shire advocacy and lobbying.
- Highlight what makes the Shire the nicest place to live.
- Generate increased tourism.
- Celebrate and support our equine industry.
- Further develop Shire staff culture and engagement.

At predetermined stages, the Shire will conduct reviews and analyse the effectiveness of the communications, making adaptations as necessary to ensure our goals are met.

Brand Style Guide

The Shire has used feedback from the 2018 Community Perceptions Survey and internal focus group sessions to develop our new communications positioning: *Growing Together*.

The messaging will focus on creating awareness of the "Growing Together" initiative to facilitate understanding and acceptance of our values, and by bringing unity and advocacy with our diverse community.

Our Brand Style Guide (**attachment 2**) has been updated to reflect our new communications positioning. It is important to note that the Shire's corporate logo has not changed and will continue to be used to represent the Shire on all official documents and publications.



Options and Implications

Option 1

That Council:

1. ENDORSES the Strategic Communications Plan 2019-2023 (**attachment 1**) and Brand Style Guide (**attachment 2**).
2. REQUESTS the Chief Executive Officer to implement the Strategic Communications Plan 2019-2023.

Option 2

That Council DOES NOT ENDORSE the Strategic Communications Plan 2019-2023 and Brand Style Guide.

Option 1 is recommended.

Conclusion

The Shire's Strategic Communications Plan 2019-2023 has been developed incorporating feedback from Councillors, staff and the 2018 Community Perceptions Survey.

The initiatives identified in the Plan will assist the Shire to communicate as effectively as possible with the community and stakeholders.

The Brand Style Guide and positioning messaging will also enable the Shire to deliver on the actions within the Strategic Communications Plan in a unified, concise and engaging manner.

Attachments

- [Attachment 1](#) – Strategic Communications Plan 2019-2023 (E19/13309)
- [Attachment 2](#) – Brand Style Guide (E19/13314)

Alignment with our Strategic Community Plan

Outcome 4.1	A resilient, efficient and effective organisation
Strategy 4.1.2	Maximise the Shire's brand and reputation in the community
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.

Financial Implications

Funds are allocated within the Corporate Communications budget to implement actions identified within the Strategic Communications Plan 2019-2023 and applying the new Brand Style Guide.

Existing stationary and promotional collateral will be used before the new Brand Style Guide is applied to new stationary and promotional collateral.



Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Community perception about the Council does not improve	Possible (3)	Moderate (3)	Moderate (5-9)	Reputation - 2 Minor - Substantiated, localised impact on key stakeholder trust or low media item	Accept Officer Recommendation

Risk Matrix

Consequence \ Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **9** has been determined for this item.

Voting Requirements: Simple Majority

OCM264/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr McConkey, seconded Cr Byas

That Council:

- ENDORSES** the Strategic Communications Plan 2019-2023 (attachment 1) and Brand Style Guide (attachment 2).
- REQUESTS** the Chief Executive Officer to implement the Strategic Communications Plan 2019 – 2023 within budget constraints.

CARRIED UNANIMOUSLY 9/0

**10.4.2 - SJ Community Fair 2019 Post Event Report (SJ2974-02)**

Responsible Officer:	Manager Community Development
Senior Officer/s:	Deputy CEO / Director Community Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Information	For the Council / Committee to note.
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Report Purpose

The purpose of this report is for Council to note the key outcomes of the SJ Community Fair 2019.

Relevant Previous Decisions of Council

OCM094/05/19 COUNCIL RESOLUTION / Officer Recommendation

That Council

- 1. RESOLVES to deliver the 2019 SJ Community Fair on 10 August 2019.*
- 2. LISTS for consideration during 2019/20 budget deliberations an amount of \$20,000 for the purpose of delivering the event.*

Background

The SJ Community Fair is a community event that began in 2013 and is held in Mundijong in August of each year. The event offers a range of activities and entertainment and is an opportunity to connect with local community groups from throughout the Shire.

The event is well attended by both residents and non-residents of the Shire. Until 2019, the event had been delivered by the Serpentine Jarrahdale Community Resource Centre (SJCRC) with the financial support of funding bodies such as Healthway, local businesses and income generated through stall holder fees.

In March 2019, the SJCRC advised it was shutting its doors and suspending operations. As a result of the closure, the SJCRC were unable to deliver the SJ Community Fair in 2019.

At the Ordinary Council Meeting on 20 May 2019, Council resolved unanimously to deliver the SJ Community Fair on 10 August 2019.

Community / Stakeholder Consultation

Nil.

Statutory Environment

Nil.

**Comment**

The SJ Community Fair was held at the Mundijong Oval on Saturday 10 August 2019.

Attendance numbers were not formally counted however based on anecdotal comments provided by past stall holders, staff and attendees, it was estimated (in line with previous events), that there were approximately 10,000 patrons.

A number of measures were implemented to maintain the condition of the turf including minimising vehicle movement on the oval, ensuring all food trucks were parked outside the boundary line and installing ground matting at the entrance points. Overall, the oval was left in excellent condition and litter free after the event. This was confirmed by Officers from the Parks and Gardens business unit who inspected the turf on the Monday following the event.

Staff who worked on the day recommended in the post event debrief that more ground matting and ramps were required to improve the accessibility for wheelchairs, mobility scooters and prams on to the oval from the car parks and pavilions.

Staff also recommended that if the event is to remain on the oval, moving the event date should be considered so that it is not conflicting with key dates for the various sporting clubs who use the oval at this time of year for finals.

Community Participation

A total of 32 community groups and not for profit organisations participated including Business SJ, Byford Basketball Association, Landcare SJ, Rotary Club of Byford and Districts, Mundijong Volunteer Fire Brigade, Serpentine Jarrahdale Food and Farm Alliance, Peel Bright Minds, Switch Your Thinking, Neighbourhood Watch and SJ Library Friends, all who operate within the Shire.

Other organisations from outside the Shire included St John Ambulance Youth and Community Engagement Team, NRL WA, Football West and the Perth Hills Armadale Visitor Centre.

Attendee Feedback

An online post event survey designed for attendees received 36 responses. This was promoted on Facebook for one week immediately following the event (12 – 18 August 2019).

The comments from the results showed that the atmosphere, community spirit, free entry and activities, location on the oval with room to move, the variety of stalls, entertainment and activities, the food trucks and stalls, were all positive aspects of the attendee experience.

Areas for improvement from the survey included:

Survey response	Officer comment
Operating times for the event	The transition from SJCRC delivering the event to the Shire taking responsibility, meant that staff were unable to control some of the messaging about the event times. This would be clearly communicated should the Shire be required to run the 202 event.
No dogs allowed	The Shire does not permit dogs on the oval at any time of the year. Dogs were allowed at the event in previous years as it was held on Paterson Street.



Survey response	Officer comment
Availability of parking	A shuttle bus service from the Mundijong Saleyards (Evelyn Street) could be considered for future events to minimise the parking congestion
Lack of toilets	From a compliance point of view, an adequate number of toilets were provided, however it was noted that not all of them were highly visible. Better placement and improved signage could address this issue in the future.

Stall Holder Feedback

There were 88 general stall holders and 28 food vendors who participated.

An online post event survey was sent to all with a 68% response rate received.

The survey results showed that the following were positive aspects of their experience: organisation, staff interaction, site layout, bump in process, atmosphere, community spirit, inclusiveness and the variety of stalls, entertainment and activities.

Areas for improvement from the survey included:

Survey response	Officer comment
No allocated parking for stall holders	Some allocated parking was provided for stall holders, however this was limited in order to protect the turf.
Site layout	Comments received regarding the site layout were in relation to the separation of food and general stall holders at opposite ends of the oval. Food vendors were positioned at the northern end of the oval only to minimise vehicle traffic on the oval.
Event on the oval	There was a mixed response to the new oval location. Attendee feedback was positive for the oval.
Staff fees	A decision was made to adopt the SJCRC stallholder fee structure in order to maintain equity for those who had already paid their fees directly to SJCRC.

Economic Impact

Two ATM machines were provided on site with 277 withdrawals totaling \$23,490 made on the day. Based on these figures the average cash withdrawal per person was \$84.

Community groups and not for profit organisations that conducted fundraising activities on the day raised a combined total of \$3,943.

Shire Staff Involvement

Pre-event planning and coordination involved 28 staff from across the organisation who provided support with event planning and approvals, finance tasks, oval and site maintenance and community liaison.

A total of 158 of event staffing hours was provided by 26 Officers. Individuals worked an average of between 3 – 8 hours per shift with five key event staff on site between 4.30am – 5.30pm. This



equates to approximately \$9,500 of staffing costs for the event day only which was applied as Time in Lieu for Officers.

There was a requirement for 19 event staff to be on site from 5.00am for the site set up and bump in.

Next steps

A Special General Meeting of the SJCRC was held on 10 September 2019 where a new Management Committee was elected. The Director Community Services met with the new President on 31 October 2019 and discussed matters relating to the future direction of the SJCRC and their capacity to run the SJ Community Fair in 2020.

The Shire's Events Officer subsequently met with the President and Treasurer of the SJCRC on 4 November 2019 and provided an overview of all of the activities undertaken by the Shire in the delivery of the 2019 Fair, and the associated costs.

The President advised that the Committee will now consider their ability to run the event in 2020 and submit a proposal outlining their position. A further report to Council will be submitted once the proposal and further feedback has been received.

Options and Implications

Nil.

Conclusion

The SJ Community Fair is a valued and well attended event and plays an important role in the Mundijong community and the Shire as a whole.

Officers felt that the event was well organised and delivered in a manner that was received positively by the community, which was confirmed by the feedback received. A post event debrief identified areas for future improvement that can be used to further enhance the experience for patrons, suppliers, stall holders and other stakeholders.

The future of the event will be considered once the position of the SJCRC and their ability and capacity to be involved is understood.

Attachments

Nil.

Alignment with our Strategic Community Plan

Outcome 4.2	A strategically focussed Council.
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.



Financial ImplicationsBudget

Expenditure	Income	Shire Contribution
\$28,647.38	\$9,942.55	\$18,704.83

Income was derived from stall holder and amusement ride operator fees.

The SJCRC had also accepted payments totalling \$5,236 from a number of stall holders prior to the Shire taking over responsibility. The Shire honoured these stall holder applications upon receipt of proof of payment, but did not receive any of these monies.

The expenditure included costs for contractors (security, cleaning, electrical services, traffic management, first aid), event infrastructure (marquee, ground matting, shade structures, tables and chairs, PA system, toilets, ATMs), entertainment, insurance, advertising and marketing (photography, printing, radio broadcast, newspaper ads).

The waste bins and skips were provided as in kind sponsorship through the Shire's contract with Cleanaway. The Byford and Districts Community Bank (Bendigo Bank) provided full sponsorship of the Kids Zone, and partial sponsorship was provided by the Examiner Newspaper through reduced advertising rates.

The cost of Shire staff who worked on the event prior to delivery and on the day was not included in the budget. It is estimated that the pre-event staffing costs equate to approximately \$39,000 (captured as operational costs). The estimated staffing costs on the day of the event is approximately \$9,500, therefore the total estimated staffing cost to deliver the event was \$48,500.

The total estimated cost for this event (staffing and delivery) held on Mundijong Oval is \$67,204.83.

Previous Shire sponsorships provided to the SJCRC for the event are listed below:

- 2018 – \$5,500 including GST.
- 2017 – \$5,500 including GST.
- 2016 – In kind sponsorship to the value of \$3,000 (road closure and management costs).

Risk Implications: Nil.



Continued

**Ordinary Council Meeting Minutes
Monday 18 November 2019**

Voting Requirements: Simple Majority

OCM265/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Denholm, seconded Cr Strange

That Council

- 1. NOTES the SJ Community Fair 2019 post-event report and;**
- 2. REQUESTS the Chief Executive Officer to write to the Serpentine Jarrahdale Community Resource Centre to request their position and ability to run the SJ Community Fair 2020 event, with a further report presented to Council in February 2020 once feedback is received.**

CARRIED UNANIMOUSLY 9/0



10.4.3 – Amendment to Lighting Fees and Charges for 2019/2020 Financial Year (SJ3025)

Responsible Officer:	Manager Community Development
Senior Officer:	Deputy CEO / Director Community Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

The purpose of this report is for Council to consider an addition to the adopted Schedule of Fees and Charges 2019/2020 to reflect the fees and charges associated with the new lighting system installed on the Upper Briggs and Lower Briggs Ovals.

Relevant Previous Decisions of Council

22 July 2019 - SCM157/07/19 - COUNCIL DECISION / Officer Recommendation

PART 1 – Schedule of Fees and Charges for 2019/20

That Council

1. ADOPTS the Fees and Charges as per attachment 1.

Background

As part of the redevelopment of Lower Briggs Oval, the project included installing new lighting to the Lower Oval and replacement of lighting to the Upper Briggs Oval. The project also included a new lighting control system to operate the lights in a more effective and efficient way.

The current fees and charges are generic and applied across all Shire reserves with lighting. The new lighting design and associated infrastructure at Briggs Park provides for efficient operation and calculation of true running costs. Now that the project has been completed the actual costs for Synergy tariffs, maintenance and replacement costs are known and the current fees and charges do not reflect the costs to run and maintain the lights at Briggs Park. New fees and charges are proposed to enable cost recovery for the Shire and a fair system for users.

Community / Stakeholder Consultation

Policy Concept Forum

Nil.



Officers have advised current season user groups that it is likely that fees and charges will be amended with the new system, and formal advice will be provided after Council consider the matter.

Statutory Environment

Local Government Act 1995 - Section 6.16 - Imposition of fees and charges:

- (3) *Fees and charges are to be imposed when adopting the annual budget but may be-*
- (a) imposed during the financial year; and*
 - (b) amended from time to time during the financial year.*

Local Government Act 1995 - Section 6.17 Setting level of fees and charges:

- (1) *In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors-*
- (a) the cost to the local government of providing the service or goods; and*
 - (b) the importance of the service or goods to the community; and*
 - (c) the price at which the service or goods could be provided by an alternative provider.*

Local Government Act 1995 - Section 6.19 Local Government to give notice of fees and charges:

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) its intention to do so; and*
- (b) the date from which it is proposed the fees or charges will be imposed.*

Local Government Act 1995 – Section 6.11 Reserve accounts:

- (1) *Where a local government wishes to set aside money for use for a purpose in a future financial year, it is to establish and maintain a reserve account for each such purpose.*

Comment

The new lighting control system installed at the Briggs Park facility provides the ability to charge the true electricity consumption costs required to produce the selected lux (brightness level) and maintenance costs for the system. It is proposed that these costs be combined and charged as a per unit rate within the Schedule of Fees and Charges 2019/2020 for Briggs Park



The current fees and charges for lighting are shown below.

Fee Name	2019/2020 Fee (excl. GST)	2019/2020 GST	2019/2020 Fee (incl. GST)
Lighting - 50 lux - Per hour	\$10.00	\$1.00	\$11.00
Lighting - 100 lux - Per hour	\$12.00	\$1.20	\$13.20
Lighting - 200 lux - Per hour	\$15.00	\$1.50	\$16.50

It is also proposed that the existing Lighting Fee remain as per the current Schedule of Fees and Charges, however that they be updated to reflect that they apply to use of lighting at Mundijong Oval.

Lighting Fees and Charges Comparison Table for Briggs Park

The Synergy tariff for the system is \$0.35 per unit and this charge is recommended for electrical consumption only.

A suggested fee of \$0.38 per unit allows for the recuperation of costs for electrical consumption and collection of a contribution towards maintenance costs.

A fee of \$0.48 per unit provides for the recoup of costs for electrical consumption and for a contribution towards maintenance costs and the replacement cost of both lighting systems at Briggs Park.

The maintenance and replacement unit rates proposed have been drawn from information supplied by the Shire's electrical consultant ANSER for this project. The report indicates the estimated consumption, maintenance and life cycle costs, projected over a 50-year period.

The report indicates the total estimated maintenance for all Briggs Park sporting lighting, for a 50-year period equates to \$240,132. It is estimated that the replacement cost for lighting towers on the Upper and Lower Briggs ovals at the end of their projected life of 50 years will be \$371,745 per oval.

As each oval has differing lighting specifications, the available lux levels at each oval vary.

The table below outlines the current adopted lighting charges as a cost per hour amount. It also indicates approximate hourly rates based on the proposed new unit charges. These hourly rates are an estimate only and operation of the system will be required to confirm them once Council determine a unit rate.



The table below indicates unit rates for the following options;

- Option One: Cost recovery for electricity, maintenance and replacement costs.
- Option Two: Cost recovery for electricity consumption and maintenance.
- Option Three: Cost recovery for electricity consumption only.

	2019/2020 adopted Fees and Charges	Option 1 Electricity + maintenance + replacement		Option 2 Electricity + maintenance		Option 3 Electricity consumption only	
		unit rate	cost per hour	unit rate	cost per hour	unit rate	cost per hour
Briggs Park Upper Oval	cost per hour	unit rate	cost per hour	unit rate	cost per hour	unit rate	cost per hour
50 lux	\$10	\$0.48	\$9.77	\$0.38	\$7.66	\$0.35	\$6.97
100 lux	\$12	\$0.48	\$15.64	\$0.38	\$12.26	\$0.35	\$11.16
200 lux	\$15	\$0.48	\$27.36	\$0.38	\$21.45	\$0.35	\$19.52
300 lux +	No fee currently	\$0.48	\$39.09	\$0.38	\$30.64	\$0.35	\$27.89
Briggs Park Lower Oval							
50 lux	\$10	\$0.48	\$11.73	\$0.38	\$9.19	\$0.35	\$8.37
100 lux	\$12	\$0.48	\$19.55	\$0.38	\$15.32	\$0.35	\$13.95
200 lux	\$15	\$0.48	\$29.71	\$0.38	\$23.29	\$0.35	\$21.20

*all figures exclude GST

It is important to note that the above replacement cost recovery unit rate is based on the system being used at 300 lux - this being the true cost for replacement recovery per hour. It is expected that clubs will usually use a lower setting (than 100% / 300 lux), and therefore the unit rate fee for cost recovery for lower settings will not cover the total cost of replacement after 50 years, but will offset Councils cost at time of replacement.

The new system installed at Briggs Upper and Lower Ovals is operated via a phone application, where the user can select the required lux level and see the cost to operate that lux level as a live figure during and after usage. This supports clubs making informed decisions regarding their lighting usage costs.

Council are requested to consider a unit rate for the required new fee and charge for Briggs Upper and Lower Ovals. It is suggested that the existing fees and charges for Reserve Lighting will remain as an active fee and charge, as the cost to operate, maintain and replace other sports lighting within the Shire varies, and therefore is still relevant. To facilitate this, it is recommended to amend the existing fee and charge for reserve lighting to '*Lighting – Mundijong Reserve*'. An amendment to fees and charges is not required to be advertised under the *Local Government Act 1995*.

As the Briggs Upper and Lower Oval lighting system operates on a per unit charge, Council is requested to impose a new unit rate fee.



Options and Implications

Council are requested to consider three cost recovery models for new Briggs Ovals lighting charges:

- Option One: Cost recovery for electricity, maintenance and replacement costs
- Option Two: Cost recovery for electricity and maintenance
- Option Three: Cost recovery for electricity consumption only

The fourth option presented is for Council is to refrain from making any amendments to Fees and Charges for Lighting.

Option One

That Council:

1. APPROVES the addition of a Lighting- Briggs Park Reserve- Upper and Lower Oval fee within the 2019/2020 Schedule of Fees and Charges, to read as follows;

Lighting - Briggs Park Reserve – Upper and Lower Oval			
	Unit rate ex. GST	GST	Unit rate incl. GST
Lighting charges per unit used	\$0.48	\$0.048	\$0.528

2. ADVERTISES local public notice for a period of 21 days advising that the new fee within the Schedule of Fees and Charges will apply from 16 December 2019 and;
3. AMENDS the existing fee for Lighting within the 2019/2020 Schedule of Fees and Charges to read as follows;

Fee Name	2019/2020 Fee (excl. GST)	2019/2020 GST	2019/2020 Fee (incl. GST)
Courts Per hour/court	\$6.36	\$0.64	\$7.00
Lighting - Mundijong Reserve: 50 lux Per hour	\$10.00	\$1.00	\$11.00
Lighting - Mundijong Reserve: 100 lux - Per hour	\$12.00	\$1.20	\$13.20
Lighting - Mundijong Reserve: 200 lux - Per hour	\$15.00	\$1.50	\$16.50

Option Two

That Council:

1. APPROVES the addition of a Lighting- Briggs Park Reserve- Upper and Lower Oval fee within the 2019/2020 Schedule of Fees and Charges, to read as follows;

Lighting - -- Briggs Park Reserve - Upper and Lower Ovals			
	Unit rate ex. GST	GST	Unit rate incl. GST
Lighting charges per unit used	\$0.38	\$0.038	\$0.418

2. ADVERTISES local public notice for a period of 21 days advising that the revised Schedule of Fees and Charges will apply from 16 December 2019; and
3. AMENDS the existing fee for Lighting within the 2019/2020 Schedule of Fees and Charges to read as follows;

Fee Name	2019/2020 Fee (excl. GST)	2019/2020 GST	2019/2020 Fee (incl. GST)
Courts Per hour/court	\$6.36	\$0.64	\$7.00
Lighting - Mundijong Reserve: 50 lux Per hour	\$10.00	\$1.00	\$11.00
Lighting - Mundijong Reserve: 100 lux - Per hour	\$12.00	\$1.20	\$13.20
Lighting - Mundijong Reserve: 200 lux - Per hour	\$15.00	\$1.50	\$16.50

Option Three

That Council:

1. APPROVES the addition of a Lighting- Briggs Park Reserve- Upper and Lower Oval fee within the 2019/2020 Schedule of Fees and Charges, to read as follows;

Lighting – Briggs Park Reserve - Upper and Lower Ovals			
	Unit rate ex. GST	GST	Unit rate incl. GST
Lighting charges per unit used	\$0.35	\$0.035	\$0.385

2. ADVERTISES local public notice for a period of 21 days advising that the revised Schedule of Fees and Charges will apply from 16 December 2019 and;



3. AMENDS the existing fee for Lighting within the 2019/2020 Schedule of Fees and Charges to read as follows;

Fee Name	2019/2020 Fee (excl. GST)	2019/2020 GST	2019/2020 Fee (incl. GST)
Courts Per hour/court	\$6.36	\$0.64	\$7.00
Lighting - Mundijong Reserve: 50 lux Per hour	\$10.00	\$1.00	\$11.00
Lighting - Mundijong Reserve: 100 lux - Per hour	\$12.00	\$1.20	\$13.20
Lighting - Mundijong Reserve: 200 lux - Per hour	\$15.00	\$1.50	\$16.50

Option Four

That Council REFRAINS from making amendments to the lighting fees and charges in the Schedule of Fees and Charges 2019/2020 and therefore does not charge fees and charges for lighting at Briggs Park pertaining to the 300 lux level.

It is recommended that Council adopt Option One, the unit rate of \$0.48. By providing lighting at the proposed unit rate, Council will have a financially sustainable practice in place with contributions from lighting users towards the costs incurred through electricity use, maintenance of the lights and replacement of the lights at the end of life.

Conclusion

This report requests Council consider adopting a new fee within the 2019/2020 Schedule of Fees and Charges for sports lighting to reflect the new system of lighting installed at Briggs Park. A constant unit rate is proposed, that enables an accurate and equitable charge for usage across all light levels at all sporting reserves where sports lighting is provided. Council is requested to consider the cost recovery model for electricity consumption, maintenance and replacement costs within the lighting charges, and establish a municipal reserve account to set aside funds for replacement of sports lighting.

Attachments

Nil.

**Alignment with our Strategic Community Plan**

Outcome 4.1	A resilient, efficient and effective organisation
Strategy 4.1.1	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources.
Outcome 4.2	Strategically focused Council
Strategy 4.2.2	Ensure appropriate long term strategic and operational planning is undertaken and considered when making decisions.

Financial Implications

The future financial implications for Council will depend on the cost recovery model that Council adopts for sports lighting.

Option One (recommended) ensures Council is fully reimbursed for electricity consumption and maintenance, and a portion of replacement costs when required. It is difficult to estimate the future balance of a replacement fund, as this is dependent on the users lux levels and hours of usage.

Should Council adopt Option One, a Reserve Account is recommended to be created to hold the replacement funds until such time as they are required. It is suggested that 30% of the total income from the Briggs Park Upper and Lower Oval Sports Lighting fees be transferred to the reserve per annum.

Option Two will result in Council needing to source full funding to replace the lighting infrastructure at the end of their life cycle, which is estimated to be 50 years. This is estimated to be \$371,745 per oval, or \$14,869.80 per annum.

Option Three provides Council with a full reimbursement of electricity consumption for the ovals, however Council will be required to budget for ongoing maintenance and full replacement costs for the system. Maintenance of the Briggs lighting systems is estimated to cost \$4,802.64 combined, per annum, plus an additional \$14,869.80 per annum for replacement – totalling \$19,672.44 per annum.

Option Four will require Council to apply the adopted fees and charges as outlined in the Schedule of Fees and Charges 2019/2020, which is a per hour rate to the Briggs Park ovals. This option is cumbersome to administer compared to the phone application and does not enable cost recovery for electricity consumption in a consistent manner, nor does it factor in recovery cost for maintenance over the life of the asset; therefore this option is not recommended as the financial implications are not understood.



Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Clubs financially not able to afford lighting fees and charges.	Unlikely (2)	Minor (2)	Low (1-4)	Reputation - 2 Minor - Substantiated, localised impact on key stakeholder trust or low media item	Accept Officer Recommendation
Council unable to sustain upkeep and provision of lighting.	Possible (3)	Minor (2)	Low (1-4)	Financial Impact - 2 Minor - \$50,000 - \$250,000	Accept Officer Recommendation

Risk Matrix

Consequence / Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **9** has been determined for this item.



Voting Requirements: Absolute Majority

Officer Recommendation

That Council:

1. APPROVES the addition of a Lighting- Briggs Park Reserve- Upper and Lower Oval fee within the 2019/2020 Schedule of Fees and Charges, to read as follows:

Lighting - Briggs Park Reserve – Upper and Lower Oval			
	Unit rate ex. GST	GST	Unit rate incl. GST
Lighting charges per unit used	\$0.48	\$0.048	\$0.528

2. ADVERTISES local public notice for a period of 21 days advising that the new fee within the Schedule of Fees and Charges will apply from 16 December 2019;
3. AMENDS the existing fee for Lighting within the 2019/2020 Schedule of Fees and Charges to read as follows, and:

Fee Name	2019/2020 Fee (excl. GST)	2019/2020 GST	2019/2020 Fee (incl. GST)
Courts Per hour/court	\$6.36	\$0.64	\$7.00
Lighting - Mundijong Reserve: 50 lux - Per hour	\$10.00	\$1.00	\$11.00
Lighting - Mundijong Reserve: 100 lux - Per hour	\$12.00	\$1.20	\$13.20
Lighting - Mundijong Reserve: 200 lux - Per hour	\$15.00	\$1.50	\$16.50

4. ESTABLISHES a Reserve Account pursuant to section 6.11 of the *Local Government Act 1995* as follows, and AGREES to contribute 30% of the total income received from Lighting - Briggs Park Reserve – Upper and Lower Oval fees received per annum to the Reserve Account:

Reserve Name	Reserve Purpose	Establishment Date
Sports Lighting Infrastructure Reserve	To provide funds for the replacement of sports lighting infrastructure in the Shire	16 December 2019

**ALTERNATIVE MOTION**

Moved Cr Coales, seconded Cr Strange

That Council:

1. **APPROVES** the addition of a Lighting- Briggs Park Reserve- Upper and Lower Oval fee within the 2019/2020 Schedule of Fees and Charges, to read as follows:

Lighting - Briggs Park Reserve – Upper and Lower Oval			
	Unit rate ex. GST	GST	Unit rate incl. GST
Lighting charges per unit used	\$0.38	\$0.038	\$0.418

2. **ADVERTISES** local public notice for a period of 21 days advising that the new fee within the Schedule of Fees and Charges will apply from 16 December 2019;
3. **APPROVES** a reduction of 20% for Junior Sporting lights usage at Briggs Park Reserve- Upper and Lower Oval within the 2019/2020 Schedule of Fees and Charges;
4. **AMENDS** the existing fee for Lighting within the 2019/2020 Schedule of Fees and Charges to read as follows, and;

Fee Name	2019/2020 Fee (excl. GST)	2019/2020 GST	2019/2020 Fee (incl. GST)
Courts Per hour/court	\$6.36	\$0.64	\$7.00
Lighting - Mundijong Reserve: 50 lux - Per hour	\$10.00	\$1.00	\$11.00
Lighting - Mundijong Reserve: 100 lux - Per hour	\$12.00	\$1.20	\$13.20
Lighting - Mundijong Reserve: 200 lux - Per hour	\$15.00	\$1.50	\$16.50

5. **ESTABLISHES** a Reserve Account pursuant to section 6.11 of the *Local Government Act 1995* as follows, and **AGREES** to contribute 30% of the total income received from Lighting - Briggs Park Reserve – Upper and Lower Oval fees received per annum to the Reserve Account:

Reserve Name	Reserve Purpose	Establishment Date
Sports Lighting Infrastructure Reserve	To provide funds for the replacement of sports lighting infrastructure in the Shire	16 December 2019



In accordance with clause 10.10 of the Standing Orders– Consent of Seconder Required to accept alteration of wording, in Council’s Local Law (Standing Orders) 2002 (as amended), the Alternative Motion was amended with the approval of the mover and seconder to remove item 5.

OCM266/11/19

COUNCIL DECISION / AMENDED ALTERNATIVE MOTION

Moved Cr Coales, seconded Cr Strange

That Council:

- 1. APPROVES the addition of a Lighting- Briggs Park Reserve- Upper and Lower Oval fee within the 2019/2020 Schedule of Fees and Charges, to read as follows:**

Lighting - Briggs Park Reserve – Upper and Lower Oval			
	Unit rate ex. GST	GST	Unit rate incl. GST
Lighting charges per unit used	\$0.38	\$0.038	\$0.418

- 2. ADVERTISES local public notice for a period of 21 days advising that the new fee within the Schedule of Fees and Charges will apply from 16 December 2019;**
- 3. APPROVES a reduction of 20% for Junior Sporting lights usage at Briggs Park Reserve- Upper and Lower Oval within the 2019/2020 Schedule of Fees and Charges;**
- 4. AMENDS the existing fee for Lighting within the 2019/2020 Schedule of Fees and Charges to read as follows, and;**

Fee Name	2019/2020 Fee (excl. GST)	2019/2020 GST	2019/2020 Fee (incl. GST)
Courts Per hour/court	\$6.36	\$0.64	\$7.00
Lighting - Mundijong Reserve: 50 lux - Per hour	\$10.00	\$1.00	\$11.00
Lighting - Mundijong Reserve: 100 lux - Per hour	\$12.00	\$1.20	\$13.20
Lighting - Mundijong Reserve: 200 lux - Per hour	\$15.00	\$1.50	\$16.50

CARRIED BY ABSOLUTE MAJORITY 5/4

Councillor Byas, in accordance with Section 5.21(4)(b), Local Government Act 1995 requested the votes be recorded.

Councillors Coales, Dagostino, McConkey, Strange and Strautins voted FOR the motion.

Councillors Rich, Atwell, Byas and Denholm voted AGAINST the motion.

Reason for difference to Officers Recommendation

To ensure that the use of lights is affordable for senior and junior clubs.



10.4.4 – Byford Tennis Courts Renewal (SJ802)

Responsible Officer:	Manager Community Development
Senior Officer:	Deputy CEO / Director Community Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

This report presents the findings on the best method for remediating the Byford Tennis Courts and the results of geotechnical sub-base testing as resolved by Council on the 19 August 2019. It also outlines other key considerations generated by recommendations of the Major Grant Panel Assessment in relation to the Byford Tennis Courts.

Relevant Previous Decisions of Council

OCM172/08/19 - 19 August 2019 - COUNCIL RESOLUTION / Amended Councillor Recommendation

That Council DIRECTS the Chief Executive Officer investigate the best method of remediating the damaged Byford Tennis Courts which may include geotechnical sub-base testing and report back to Council as soon as practicable.

Background

The Byford Tennis Courts are located on Park Road, Byford and were originally constructed in 1981. The courts are asphalt with an acrylic surface. Acrylic resurfacing work was completed in 2002 and court repairs and works for the installation of tree barriers were completed in 2017.

This facility is not captured in the Asset Management Plan and therefore no condition report is available. Significant cracking in the courts surface indicates that the facility is in need of remediation works to increase the useful life and stop water ingress into the sub-base of the surface.

The Byford Tennis Club submitted a Major Grant funding application for the August 2019 grant round. The application requested a total of \$29,500 ex GST to complete crack repairs, lay a fibreglass coating and apply a new acrylic surface, however the quotation the Club had obtained indicated that no guarantee would be provided in the case of cracking and lifting of the surface. The application noted the Club has 31 members currently.

Council resolved at the 19 August 2019 Ordinary Council Meeting to direct the Chief Executive Officer to investigate the best method of remediating the courts including consideration of geotechnical sub-base testing, and requested a report be brought back to Council.



As per the Council resolution, Officers have reviewed options for remediating the damaged Byford Tennis Courts and geotechnical sub-base testing was performed and the report from this testing is included as **attachment 1**. This testing revealed that the sub-base is stable and that the courts were constructed well at the time.

The Major Grants Assessment Panel met on 23 September 2019 and the Byford Tennis Courts application for resurfacing was assessed. The panel recommended gathering further quotes for tennis court resurfacing, consideration of multi-sport line marking and development of a management model for the courts that supports greater community access. The minutes of the Major Grants Assessment Panel meeting are included in this report as **attachment 2**.

These actions are relevant to the consideration of the Council resolution and therefore are presented in this report for Council consideration. Council are requested to consider the options presented for resurfacing the community asset.

Community / Stakeholder Consultation

An informal meeting was held with the Byford Tennis Club on Wednesday 16 October. The Club were informed that the Major Grant Assessment Panel were supportive of the project, however had requested Officers to undertake further investigation for resurfacing options and multi-sport line marking. The Club were also informed of the Panel recommendation to open the courts to the public and the development of a model that encourages broader community use.

The Club were receptive to removing the court gate lock, ensuring the courts are accessible to the whole community. The Club's preference is not to have multi-sport line marking as they reported finding it difficult visually, however expressed that should that be the direction from Council, they were open to having one court to be marked as multiuse.

The Club's strategic direction and objectives within their Strategic Plan, indicate their aspirations to expand the use of social media and local media to inform and advise the community and potential players of;

- The location and quality of facilities;
- The availability of the courts to use at any time of the week, and
- The opportunity to participate in a sport that is low in cost, easy to access, fun to play, and is advantageous to one's health and fitness, regardless of age.

The Officers recommendation aligns with the Club's aspirations to broaden exposure of the facility and the Club.

Statutory Environment

Council Policy – *Community Grants* indicates that a maximum contribution of \$50,000 ex GST may be granted per approved project.

Procurement is to be conducted in accordance with Council Policy *Purchasing – Procurement of Goods or Services up to \$150,000*.



Comment

The Byford Tennis Courts are made of an asphalt base with acrylic sports coating. The surface has some deep cracking, mainly along the line marking. It is suspected that the paint utilised on the surface was not appropriate for line marking and has caused an adverse reaction in the surface layer.

Tennis Australia Guidelines indicate that an asphalt surface has an expected and average design life of 20 years from date of construction, and an acrylic surface has an expected design life of 8-10 years, with an average life of 9 years.

The courts were constructed in 1981 and the acrylic surface was re-laid in 2002. The guidelines indicate that the asphalt layer has exceeded its design life by 18 years. The acrylic surface has exceeded its design life by approximately 7 years.

Outcome of follow up to Council Resolution

Shire Officers have conducted investigations and geotechnical sub-base testing confirms that the subsoil is stable and courts were constructed correctly at the time. The testing also indicates that the cracking of the courts may be a result of the line-marking paint used at the time. There is no indication from the geotechnical report that water ingress has negatively affected the subsurface.

Recommendations of the Major Grants Panel

It was recommended by the Panel that the Byford Tennis Club grant application to resurface the Byford Tennis Courts be supported in principle but put on hold, subject to reporting back to Council as per the Council Resolution of 19 August 2019. The Panel recommended:

- Shire Officers obtain additional quotes that include replacing the asphalt layer of the surface, as part of the works to ensure the work is of a higher standard and therefore have greater longevity. This quote will include new line marking.
- Court gates to be unlocked and therefore accessible to the whole community.
- The courts to be considered a community asset.
- Consider multi-court line marking for netball, basketball and tennis to create greater flexibility for community use.
- Update the Byford Tennis Courts Lifecycle Cost Analysis based on actual expenditure and Officer time.
- Shire Officers to discuss a future management model for community usage with Byford Tennis Club that may include fees and charges for Byford Tennis Courts facility hire to meet maintenance and resurfacing requirements and needs.



Resurfacing Options

It is suggested that there are three options for improving the courts as outlined in the table below.

Options	Expected Project Cost*	Expected useful life #	Comment
1. Resurface – remediation (Works as per grant application)	\$29,500	5-7 years	This option does not guarantee that the courts will not crack again, however it is suggested that it is an appropriate interim remediation process. A useful life of 5-7 years is expected provided no cracking appears. This also does not include multi-marking or project contingencies in case of unknown risks.
2. Resurface – asphalt and acrylic layers	\$76,000	8-10 years	This option removes the acrylic and asphalt layers of the courts, and re-grades the base layer. This option provides more assurance that the surface will not crack again. This cost includes multi-marking one court and contingency and is the recommended option. Should Council opt to multi-mark both courts, this would increase the cost by \$2,060.
3. Full Redevelopment	\$150,000 - \$170,000	20+ years	This option provides for a full re-construction of the courts. It guarantees that cracking will not reoccur, and allows one or two courts to be multi-marked. With testing indicating a stable sub-base, it is suggested that a redevelopment is not required and deemed not a valuable spend of funds.

* Estimated project costs are based on existing and previous quotes for the same works.

Estimated useful life is based on Tennis Australia Guidelines.

Community Access Model

The Byford Tennis Courts are assigned a hire fee within the 2019/2020 Schedule of Fees and Charges of \$20/half day use (4 hours), for the entire facility, including use of the pavilion. Limited income has been received in the past from this facility.

Should the facility become unlocked this will enable residents to use the facility free of charge, minus the pavilion. There will be the option for facility users to pay the hire fee in line with the 2019/2020 Schedule of Fees and Charges to reserve the facility for a set period of time for their exclusive use and access the pavilion. This is consistent with the model in place for the Shire's sporting reserves.

Currently the Serpentine Tennis Courts remain unlocked and accessible by the public, are multi-court marked and can be hired by clubs or casual hirers for allocated usage times. It is envisaged that this model could apply if the Byford Tennis Courts were to become an unlocked and multi-court marked facility. Council may opt to maintain a locked facility, or open it to the public as per



the Major Grant Assessment Panel recommendation. The implications of each are indicated below.

Management Model Options	Implications
1. Lock the Byford Tennis Facility	<ul style="list-style-type: none"> • Supports Byford Tennis Club to feel secure to use the courts on a Wednesday morning each week • Ensures pavilion remains secure • Does not support community health and wellbeing through provision of non-organised sporting spaces <p>This management model is not recommended.</p>
2. Byford Tennis Facility to remain unlocked for public use	<ul style="list-style-type: none"> • Even with a booking, Byford Tennis Club may have to negotiate with other members of the public to ensure they can use the courts (As per sporting reserves booked by clubs such as football) • Supports unorganised and unstructured community activity • May support increased revenue, albeit minimal, through increased court bookings • Broadens the promotional opportunities for the facilities • Broadens the potential user base of the facilities due to allowing access to tennis, netball and basketball courts • Increases potential for vandalism of courts and pavilions <p>This management model is recommended.</p>

Options and Implications

Option 1

That Council SUPPORTS in-principle the need for the resurface of the asphalt and acrylic layers of the Byford Tennis Courts and RESOLVES to consider the project at the Corporate Business Plan Review Process to be held in November 2019, including considerations of external funding options for the project.

Option 2

That Council;

1. APPROVES the resurface of the asphalt and acrylic layers of the Byford Tennis Courts for a project cost of \$76,000 ex GST to be project managed in-house, with the following budget transfers;

Cost code	Account	Budget	Amount requested / variance
LFP528	Major Grants Scheme	\$150,000	-\$50,000
N/A	Parks and Gardens Asset Management Reserve		-\$26,000
BTC900	Byford Tennis Court Resurface	Nil	(\$76,000)



2. INSTRUCTS the Chief Executive Officer to multi-mark one court at the Byford Tennis Courts with netball, tennis and basketball line marking;
3. APPROVES the management model for Byford Tennis Courts to be unlocked for public use.

This option is not recommended, as this is an unbudgeted expenditure and will result in a further drawn down on funds in the Parks and Gardens Asset Management Reserve account. This leaves an estimated amount of \$128,000 in the Reserve, there is no active contribution of funds to the reserve. This is an unsustainable practice.

Option 3

That Council;

1. APPROVES the Byford Tennis Club's application for Major Grant funding for \$29,500 ex GST; and
2. APPROVES the management model for the Byford Tennis Courts to be unlocked for public use.

This option is not recommended as this will not provide the best long-term outcome for the condition of the courts.

Option 1 is recommended.

Conclusion

The Byford Tennis Club has submitted an application through the Shire's Major Grant to remediate the Byford Tennis Courts cracking issues. A Council resolution has instructed the Chief Executive Officer to investigate the best remediation options for the facility. Officers have completed investigations and suggest that court resurface is the best spend of funds and that Council consider the project as part of the strategic planning sessions to be held in November 2019.

Attachments

- [Attachment 1](#) – Byford Tennis Courts Geotechnical Sub-Base Testing 29-08-19 (E19/13499)
- [Attachment 2](#) - Major Grants - Assessment Panel Minutes - August 2019 Round (E19/12710)

Alignment with our Strategic Community Plan

Outcome 1.1	A healthy, active, connected and inclusive community
Strategy 1.1.1	Provide well planned and maintained public open space and community infrastructure
Outcome 4.1	A resilient, efficient and effective organisation
Strategy 4.1.1	Provide efficient, effective, innovative and professional management of Shire operations to deliver the best outcome for the community within allocated resources.



Financial Implications

The financial implications of this report are two-fold.

Facility Project

Should Council opt to complete Option 2 and resurface the courts, this will fully expend the Major Grant funding allowance of \$50,000 for the project and will require a transfer of \$26,000 from the Parks and Gardens Asset Management Reserve to fund the balance of the cost. The purpose of the Parks and Gardens Asset Management Reserve fund purpose is 'To provide for asset renewal expenditure for assets that have reached the end of their useful life'.

The cost to Council to complete Option 3 (resurface - remediation), to the Byford Tennis Courts can be allocated within the existing Major Grant budget. The remaining budget for the 2019/2020 Major Grant Round 2 (closing in February 2020), will be \$64,462 to allocate to other community applicant projects.

Management Model implications

No financial implications are expected when considering management models of Shire tennis courts. Byford Tennis Club will retain the option to book the Byford courts and pavilion, which is expected to retain the current level of income received.

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council proceed with Option 3, and cracking reoccurs	Possible (3)	Insignificant (1)	Low (1-4)	Financial Impact - 1 Insignificant - Less than \$50,000	Accept Officer Recommendation
Council proceed with Option 2 - \$26,000 unbudgeted expenditure	Possible (3)	Minor (2)	Low (1-4)	Financial Impact - 1 Insignificant - Less than \$50,000	Accept Officer Recommendation
Vandalism of pavilions resulting from opening tennis facilities	Unlikely (2)	Minor (2)	Low (1-4)	Financial Impact - 1 Insignificant - Less than \$50,000	Accept Risk

**Risk Matrix**

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **4** has been determined for this item.

Voting Requirements: Simple Majority

Officer Recommendation

Moved Cr Rich, seconded Cr Strautins

That Council

1. SUPPORTS in-principle, the need for the resurface of the asphalt and acrylic layers of the Byford Tennis Courts, and
2. RESOLVES to consider the project at the Corporate Business Plan Review Process including considerations of external funding options for the project.

ALTERNATIVE MOTION

Moved Cr Coales, seconded Cr McConkey

That Council;

1. APPROVES the Byford Tennis Club Major Grant application for the resurfacing remediation works of the Byford Tennis Courts;
2. REQUESTS the CEO to line mark one court with netball, tennis and basketball line marking;
3. APPROVES the total project cost of \$31,560 be expended from account LFP528 Major Grants Scheme; and
4. APPROVES the management model for Byford Tennis Courts to be unlocked for public use.



AMENDMENT

Moved Cr Coales, Seconded Cr Denholm

That Council;

5. **APPROVES** the installation of a basketball net and backboard at one end of the line marked court, and a netball ring at the other end of the line marked court at the cost of \$7,500, from account LFP528 Major Grants Scheme.

MOTION LOST 3/6

Councillor Coales, in accordance with Section 5.21(4)(b), Local Government Act 1995 requested the votes be recorded.

Councillors Coales, Denholm and McConkey voted FOR the motion.

Councillors Rich, Atwell, Byas, Dagostino, Strange and Strautins voted AGAINST the motion.

ALTERNATIVE MOTION

Moved Cr Coales, seconded Cr McConkey

That Council;

1. **APPROVES** the Byford Tennis Club Major Grant application for the resurfacing remediation works of the Byford Tennis Courts;
2. **REQUESTS** the CEO to line mark one court with netball, tennis and basketball line marking;
3. **APPROVES** the total project cost of \$31,560 be expended from account LFP528 Major Grants Scheme; and
4. **APPROVES** the management model for Byford Tennis Courts to be unlocked for public use.

MOTION LOST 2/7

Councillor Coales, in accordance with Section 5.21(4)(b), Local Government Act 1995 requested the votes be recorded.

Councillors Coales and McConkey voted FOR the motion.

Councillors Rich, Atwell, Byas, Dagostino, Denholm, Strange and Strautins voted AGAINST the motion.



OCM267/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Rich, Seconded Cr Strautins,

That Council

- 1. SUPPORTS in-principle, the need for the resurface of the asphalt and acrylic layers of the Byford Tennis Courts, and**
- 2. RESOLVES to consider the project at the Corporate Business Plan Review Process including considerations of external funding options for the project.**

CARRIED 7/2

*Councillor Byas, in accordance with Section 5.21(4)(b), Local Government Act 1995
requested the votes be recorded.*

*Councillors Rich, Atwell, Byas, Dagostino, Denholm, Strange and Strautins voted FOR the
motion.*

Councillors Coales and McConkey voted AGAINST the motion.



Continued

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10.5 Executive Services reports

Nil.

**10.6 Confidential reports**

OCM268/11/19

COUNCIL RESOLUTION

Moved Cr Denholm, seconded Cr Byas

That the meeting be closed to members of the public whilst item 10.6.1 is discussed pursuant to section 5.23(2)(d) and (f) of the *Local Government Act 1995*.

CARRIED UNANIMOUSLY 9/0

At 9.43pm, the meeting went behind closed doors. All members of the Public left the Chambers.

10.6.1 - Confidential – Lot 102 (766) King Road, Oldbury (PA18/1023) – Results of Environmental Assessment Report	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer/s:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Confidentiality Provisions

This report is confidential in accordance with Section 5.23(2)(d) and (f) of the *Local Government Act 1995*, which permits the meeting to be closed to the public for business relating to the following:

- (a) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and
- (b) a matter that if disclosed, could be reasonably expected to –
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or
 - (ii) endanger the security of a local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety.

A full report is provided to Councillors under separate cover. The report is not for publication.



Voting Requirements: Simple Majority

OCM269/11/19

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Dagostino

That Council

- 1. ACCEPTS** that the Environmental Assessment Report contains sufficient detail of the potential risks and provides realistic recommendations in respect of removal of the unauthorised material from the land.
- 2. REQUIRES**, in accordance with Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, submission of a competent temporary works development approval by 1 March 2020, for the purposes of site remediation.
- 3. PROCEEDS** to enforce the directions notice issued under section 214 of the *Planning and Development Act 2005* against Kingroad Holding Pty Ltd and Global Corp Enterprise Pty Ltd should Item 2 of this resolution not be complied with.

CARRIED UNANIMOUSLY 9/0

OCM270/11/19

COUNCIL RESOLUTION

Moved Cr Denholm, seconded Cr Strautins

That the meeting be reopened to members of the Public.

CARRIED UNANIMOUSLY 9/0

At 9.47pm, the doors were reopened to Members of the Public. The Shire President, Councillor Rich advised Members of the Public that the Officers Recommendation for item 10.6.1 was carried unanimously.



Continued

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11. Urgent business:

Nil.

12. Councillor questions of which notice has been given:

Nil.

13. Closure

There being no further business, the Presiding Member declared the meeting closed at 9.48pm.

I certify that these minutes were confirmed at the
Ordinary Council Meeting held on the 16 December 2019.


.....
Presiding Member – Cr Rich

22/01/2020
.....
Date