



Shire of
Serpentine
Jarrahdale



Shire of
Serpentine
Jarrahdale

Ordinary Council Meeting Confirmed Minutes

7pm

Monday, 16 May 2022

Contact Us

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Open Monday to Friday 8.30am-5pm (closed public holidays)



www.sjshire.wa.gov.au



Ordinary Council Meeting Minutes Monday, 16 May 2022

Councillor Attendance Register

In accordance with the 11 April 2022 Ordinary Council Meeting, Council Resolution OCM067/04/22, clause 1 – “That Council requests the Chief Executive Officer maintain a Councillor Attendance Register recording Councillor Attendances at Ordinary Council Meetings, Special Council Meetings, Q & A briefings for Ordinary Council Meetings, Q & A briefings for Special Council Meetings, Councillor Workshops held for Project Briefings, Councillor Workshops held for Budget Preparations and Policy Concept Forums.”

Council October 2021 -

Date	Type	Cr Rich	Cr Atwell	Cr Byas	Cr Coales	Cr Dagostino	Cr Duggin	Cr Singh	Cr Strange	Cr Strautins
11/05/22	Q & A cont. (OCM)	✓	✓	✓	A	A	✓	A	✓	A
09/05/22	Q & A (OCM)	✓	✓	✓	✓	✓	✓	✓	✓	✓
02/05/22	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓
27/04/22	WORKSHOP (Rates / LTFF / Fees and Charges)	✓	✓	✓	✓	✓	✓	✓	✓	✓
27/04/22	WORKSHOP (PMO / Draft Facilities Plan)	✓	A	✓	✓	A	✓	✓	✓	A
20/04/22	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
19/04/22	Q & A (SCM)	✓	✓	✓	✓	✓	✓	✓	✓	✓
11/04/22	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
28/03/22	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓
21/03/22	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
28/02/22	PCF	✓	✓	✓	✓	A	✓	✓	✓	✓
21/02/22	OCM	✓	✓	A	✓	✓	✓	✓	✓	✓
07/02/22	PCF	✓	✓	✓	A	A	✓	✓	A	✓
13/12/21	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
06/12/21	SCM	✓	✓	A	✓	✓	✓	✓	✓	A
29/11/21	PCF	✓	✓	A	✓	✓	✓	✓	✓	✓
22/11/21	PCF	✓	✓	✓	✓	A	✓	✓	✓	✓
15/11/21	OCM	✓	✓	✓	✓	A	✓	✓	✓	✓
10/11/21	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓



Continued

Ordinary Council Meeting Minutes Monday, 16 May 2022

Date	Type	Cr Rich	Cr Atwell	Cr Byas	Cr Coales	Cr Dagostino	Cr Duggin	Cr Singh	Cr Strange	Cr Strautins
01/11/21	PCF	✓	✓	✓	✓	A	✓	✓	✓	✓
01/11/21	SCM	✓	✓	✓	✓	A	✓	✓	✓	✓
25/10/21	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
25/10/21	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓
18/10/21	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓

A – Apology

LoA – Leave of Absence

NA – Non Attendance

EPNG – Electronic Participation Not Granted



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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 of 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.



On 12 May 2022, in accordance with Regulation 14D of the *Local Government (Administration) Regulations 1996*, following consultation with the CEO, the Shire President has determined that:

- there being a public health emergency in the district of the local government; and
- because of that public health emergency it is appropriate for the meeting to be held by electronic means (owing to the increase in reported COVID-19 cases in the State following the lifting of public health restrictions),

that the Monday, 16 May 2022 Ordinary Council Meeting be conducted by electronic means.

Minutes of the Ordinary Council Meeting of the Shire of Serpentine Jarrahdale held electronically, in accordance with regulation 14D of the *Local Government (Administration) Regulations 1996* and Council Resolution, OCM027/02/22, on Monday, 16 May 2022.

The Shire President, Councillor Rich declared the meeting open at 7pm and welcomed Councillors and Staff, and acknowledged that the Shire of Serpentine Jarrahdale is located on the traditional land of the Noongar People and paid her respects to the Traditional Owners, Elders Past, Present and Emerging.

Minutes

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

Attendees:

Councillors: M Rich.....Presiding Member
D Atwell
M Byas
R Coales
M Dagostino
T Duggin
G Singh
L Strange
D Strautins

Officers: Mr P Martin.....Chief Executive Officer
Mr B Oliver.....Acting Director Community and Organisational Development
Mr A TrosicDirector Development Services
Mr F SullivanDirector Corporate Services
Mr R NajafzadehDirector Infrastructure Services
Dr K ParkerManager Governance and Strategy
Ms M Gibson.....Governance Officer – Council and Committees (Minute Taker)

Apologies: Ms H Sarcich.....Deputy CEO / Director Community and Organisational Development



OCM084/05/22

COUNCIL RESOLUTION

Moved Cr Duggin, seconded Cr Strautins

That Council, under clause 18.1 of the *Standing Orders Local Law 2002 (As Amended)* resolves to SUSPEND, for the duration of the meeting, the following clauses:

- **Clause 3.5 – Public Question Time insofar as it relates to Public Statements**
- **Clause 3.13 – Deputations**
- **Clause 8.2 – Members to Occupy Own Seats**

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, Duggin, Singh, Strange and Strautins voted FOR the motion.

Councillor Coales voted AGAINST the motion.

The Presiding Member, Councillor Rich provided an overview of the conduct of the meeting, in accordance with the Shire's Council Policy 3.3.7 – Electronic Meetings.

This consisted first with the Behavioural Protocols, as described in WALGA's Guide to Electronic Council Meetings, being:

The pace of an eMeeting should be slow and orderly. The following practices will help avoid confusion and support effective eMeetings:

- *Speak clearly and slowly, as connections may be distorted or delayed.*
- *Always state your name to indicate to the Presiding Member that you wish to speak. Restate your name if the Presiding Member has not heard you at first.*
- *In debate, only speak after the Presiding Member has acknowledged you. Then state your name, so that others know who is speaking.*
- *Follow the Presiding Member's directions and rulings.*
- *If you are unclear about what is happening in an eMeeting, immediately state your name to draw the Presiding Member's attention and enable you to then seek clarification from the Presiding Member.*
- *Avoid looking for opportunities to call Points of Order; instead, politely and respectfully gain the Presiding Member's attention and explain any deviation from your Meeting Procedures, the Local Government Act or any other relevant matter.*

Then second, elements of the Shire's Council Policy 3.3.7 – Electronic Meetings, related to the logistical considerations of the meeting:

Participating electronically in a meeting, whether that meeting is electronic or a physical meeting, presents logistical challenges and can impact the effective conduct of the meeting. An electronic meeting is as effective as the worst connection to the meeting.

In addition to the behavioural protocols described above, participants should ensure that they have a stable connection to the meeting and are able to give the meeting their full and proper attention. To ensure the best connection possible, meeting participants are requested to turn



off their camera and mute their microphone when not speaking.

In terms of Voting, the Presiding Member will ask if there is any member opposed and pause. If there is no member opposed, the item is passed unanimously.

Where an item has been debated the voting method shall be by each member participating electronically being called by the Presiding Member in alphabetical order by surname, except for the Presiding Member, who is in sequence to state whether they are 'for' or 'against' the motion being put forward. After the Councillors votes are stated the Presiding Member will also state their vote.

2. Public question time:

2.1 Response to previous public questions taken on notice:

Nil.

2.2 Public questions:

Josephina Goodlich, Byford 6122, regarding item 10.1.1 – Retrospective Sea Containers – Lot 849, 97 Kalyang Loop, Byford (PA21/1245)

My husband and I looked into purchasing a property on this road, and were advised at no point is anything to be built 15m from the back fence.

We decided not to purchase here because of this, because of this only reason, but have now come across these shipping containers being permanently placed here.

Question 1

How is this allowed if no permanent building is allowed here. If it is a permanent structure regardless of it being a container should not be suitable or allowed just like we were advised when looking to purchase a block here many years ago.

Response (Director Development Services)

The Local Development Plan (LDP) for the land designates (inter alia) building envelopes and boundary setbacks, where light industrial and residential developments are permitted to be located. The LDP however, is not a statutory planning document. Under the Shire's Town Planning Scheme, Deemed Provision 56(1) states:

A decision-maker for an application for development approval in an area that is covered by a local development plan that has been approved by the local government must have due regard to, but is not bound by, the local development plan when deciding the application. (emphasis added)

Development approval is required for any development that seeks to vary a LDP. Such application is subject to a merits based planning assessment, including adjoining landowner referral if (for example) a setback variation is proposed which has the potential to impact the adjoining landowner. The Shire undertakes a merits based assessment against the planning framework, the objectives of the zone, the planning objectives of the LDP, the relevant matters for consideration under Clause 67 of the Deemed Provisions and has regard for any public submissions received. This assessment is documented in a transparent way as part of the report for Council's consideration this evening.

Question 2

Why does this need to be placed on the fence in view of any neighbouring property, I wouldn't want to look at it? I don't know anyone that would want to look at it. I can see further photos on your report where you have from a further back position of a neighbouring property, but what about if you were right near it, out the back, with your children again it is hideous. You can clearly see from the picture below that there is a lot of space out the back where I would want to be with my children not looking at this container.

*Response (Director Development Services)*

The merits based assessment comments in the report (with regard to the side boundary setback variation) that "The intent of the LDP in requiring the 3m setback is to ensure that the large light industrial shed developments permitted in this area do not adversely impact on the amenity of neighbouring properties."

While the setback in this instance is reduced, the visual impact of the sea containers when viewed from adjoining properties is considered far less than what a compliant development established through the LDP would appear as. The expected form of development for this portion of the site through the LDP is a maximum 300m² shed, comprising of a 6m ridge height, setback 3 metres from the lot boundary. In this regard, Officers consider that although such development would be compliant with the LDP, it would ultimately pose a greater presence of bulk and scale upon a neighbour's visual amenity than the presence of a two moderately sized sea containers"

Ultimately this is presented for Council's consideration, noting the submission received also.

Question 3

Why is it not made to be placed along the back fence in the middle where no neighbour needs to look at this container, that way it can annoy people along Thomas Road and not impact a property that built here knowing nothing can be placed in this space as we were advised when we enquired to build here. Would this container not also attract snakes and other dangerous animals? Looking at the pictures below, I don't see any reason it cannot be placed in the middle as mentioned across the back fence so no one is impacted. Looking at their yard it is dirt anyway so why would it impact the owners to move it here?

Would like to be informed of the decision and reasons why this has been allowed also. Understanding from your report they operate a business. With a yard this size makes no sense to me why it cannot be in the middle of the back fence.



Response (Director Development Services)

The applicant seeks application to allow the sea containers to remain where currently placed. The applicant has the right to make application for this, and for such application to be subject to a merits based planning assessment. The Officer recommendation considers the relevant planning matters, and recommends (subject to conditions) that the retrospective sea containers be approved.

John Kirkpatrick, Byford 6122

Question 1

At what stage are the discussions with the Main Roads WA with regard to noncompliance of the footpaths along South West highway on the Western Side between Pitman Way and Larson Road and on the Eastern Side between Beenjup Road and Park Road? The footpaths I understand are the responsibility of Main Roads WA these footpaths do not comply under the Duty of Care legislation and the disabled access requirements and the Council has a responsibility to its Resident's and Ratepayers to see they meet the required Standards.

Response (Director Infrastructure Services)

Discussions with Main Roads have not been concluded yet and Officers will continue to liaise with Main Roads WA to confirm responsibility for asset ownership and timeframes for the repairs.

Question 2

When will the Sign board in Percies Park be re-Sign Written? It is no use putting it in the too hard basket as I forwarded about 80% of what was on the board and with a bit of effort the balance could be obtained from either War Service Records or the OVA.

Response (Director Infrastructure Services)

The Percy's Park sign has been designed and Officers are waiting on fabrication to be completed to install the sign. It is estimated this will be completed within the next 4 weeks.

Question 3

When will the Goalposts be replaced in Percies Park, as with them missing it denies an opportunity for families to exercise together?

Response (Director Infrastructure Services)

A Customer Request has been issued for the replacement of goal posts. Officers will confirm the replacement date. We will take your question on notice and provide a response shortly.

**3. Public statement time:****Lisa Hurley regarding item 9.2 – Notice of Motion – Revocation OCM072/04/22 - Proposed Change of Use – ‘Showroom’ to ‘Health Studio’ – Lot 3, 821 South Western Highway, Byford (PA21/994)**

I write to you as a resident of this Shire and as a parent of two young daughters who have been members of Rise Dance Studio since it started in Byford in early 2021. My daughters have been attending dance lessons with Aimee McCormick even before that, and absolutely love Aimee, her classes and her teachers.

I have personally known Aimee as a fellow school parent, for the past 3.5 years. She is not only a wonderful Mum but also an amazing dance teacher, who clearly loves what she does and all the kids she teaches. Aimee is a positive role model, not only to her own children, but to the many children and teens she has taught over the years. Her love of dance, of teaching and for the community in which she lives and conducts her business in, is clear to all.

As an entrepreneur to start a business in a pandemic and to do so amazingly well in that business, handling with grace, whatever has come her way, whether through Covid restrictions, studio venue relocations, etc is to be commended! It is clearly obvious that Aimee is a hardworking, passionate, strong female entrepreneur who strives to provide only the very best to the many kids and families within this Shire, through her love of dance with Rise Dance Studio.

I believe the Shire really needs to start listening to what it's residents and rate payers actually want. Instead of creating road blocks for new worthwhile businesses like Rise Dance Studio, which is a community focussed business providing a safe space for the children of our growing Shire to keep fit, learn new skills, build confidence and resilience, make friends, feel part of something positive and to feel part of their community.

It is my understanding that Aimee McCormick wishes to set up her dance studio for Rise, at Lot 3, 821 South Western Hwy. I really hope this Shire allows her to do so, and with ease.

It would be a real shame for our community in Byford to lose this wonderful dance studio to another suburb or Shire. Thank you for taking the time to read my email.

Shannon Polain regarding item 9.2 – Notice of Motion – Revocation OCM072/04/22 - Proposed Change of Use – ‘Showroom’ to ‘Health Studio’ – Lot 3, 821 South Western Highway, Byford (PA21/994)

I am emailing regarding the Rise Dance Studio's attempt to secure and move into the new location I am sure you are all fully aware of the situation and information regarding the Dance Studio. As a member of the community, a parent, and a Teacher of Rise Dance Studio I'm quite dissatisfied and appalled by the Council's treatment and what is looking to be extortion of an up-and-coming small business.

I have seen firsthand how Rise Dance Studio services and brightens the Byford community... educating, empowering, nurturing, and assisting in building community spirit. It is beyond me how a Dance studio that is rapidly building student numbers would be in any way a negative. Being a parent myself I know while my child at dancing I will be utilizing other services around that area, therefore, creating a large amount of foot traffic to other small businesses.



The treatment of the owner Aimee McCormick and the studio has been nothing but disgusting, disappointing, embarrassing, and appalling. This is a small business that provides services to CHILDREN. The Baker hall is not an appropriate venue whatsoever, for children as young as two it's simply not safe or appropriate. I am a Teacher at Rise myself and to fill a child's water bottle when they have come from school takes away valuable teaching time. DO BETTER.

It concerns me that a Shire is putting the need for money over the needs of the children of the community. It is honestly disgusting. I urge you this coming Monday to reconsider and put the Children and families of Byford above greediness because to myself and the other parents this is the image YOU are showing, tarnishing the reputation of the SJ Shire.

A massive THANKYOU to the Councilors who have supported Rise Dance Studio, you have been our heroes in what is a very stressful and devastating situation!

Maliyah, regarding item 9.2 – Notice of Motion – Revocation OCM072/04/22 - Proposed Change of Use – ‘Showroom’ to ‘Health Studio’ – Lot 3, 821 South Western Highway, Byford (PA21/994)

My name is Maliyah and I live in Byford and I dance at Rise Dance Studio. I am 11 and have been dancing with Miss Aimee since I was 4 years old. She is one of my favourite people who always sees what I can do and encourages me to always do my best. She has given me the opportunity to help with some of the younger classes as an assistant instructor and I love seeing all the younger girls and boys learn to love dance as much as I do. I dance every day of the week except Sunday and would love to have a studio of our own with a proper floor that I can walk to from school next year so my mum doesn't have to drive me all the time. Dancing is somewhere where I can forget about all the hard things and just relax, have fun and be with my friends. I have a lot of friends at dance and I love hanging out with the older girls too, they are really nice to all of us.

Please let Miss Aimee have her own studio.

Emma Harris regarding item 9.2 – Notice of Motion – Revocation OCM072/04/22 - Proposed Change of Use – ‘Showroom’ to ‘Health Studio’ – Lot 3, 821 South Western Highway, Byford (PA21/994)

I write as a rate payer and resident and mother of two primary school aged children within the Shire and in respect to the decision made by Shire of Serpentine Jarrahdale counsellors at the OCM held on 11 April 2022 regarding change of use of 3/821 South Western Hwy in Byford.

Both my daughter and myself have been privileged to dance under the expert tuition of Rise Dance Studio's Principal Aimee McCormick and her handpicked, dedicated and supremely talented staff. Having followed Aimee from a previous studio, to a place where she has been afforded the creative flexibility to carefully craft the studio she desired, has been nothing short of equally the best and easiest decision for myself and my family. How she has used her ability to connect to all manner of people allowing her to attract and retain some of the most caring and technically proficient teachers and support staff available in Perth to support her small, though growing, new dance school in the fringes of Perth's suburbs is nothing short of a feat wholly worth recognition in its own right.

Rise Dance Studio is a locally owned and operated business that provides an immense service to such a wide variety of people within our community, also while having the strong desire to remain active in this community. Not in the least providing physical activity to her



students but a place of acceptance, encouragement and belonging irrespective of ability, background or situation.

In what is considered the norm, I am late in life to start dancing. I'm at an age where I could be the mother of nearly all who I currently dance with. But in finding this community I have found a group of diverse people, that, in the last year and a half has supported me through some of the hardest periods of my 40 years on this earth. My mother finally managed to escape a DV relationship, my brother, who has two young children, was dealt a devastating blow in a terminal brain cancer diagnosis, my own marriage broke down, all on top of the pandemic that has kept me from my own family who reside in the eastern states. This studio and the people within it have freely provided such genuine support and encouragement that it has allowed me to navigate the last 18 months with my own mental health remarkably intact. Subsequently enabling me to ensure the mental health and wellbeing of my two children continues to be at the forefront of my mind.

My daughter, who also dances at RDS, is at a particularly critical point in her own journey and development. Next year she starts high school. As a parent I am very aware that she will need people around her to help her navigate big feelings and new experiences and I am acutely aware that I can't always be that person for her. My aim now is to actively try to surround her with people whom she can turn to when, not if, she needs. All any of you would need to do is simply walk in the door of Rise Dance Studio to see a multitude of people that she can turn to or hold as role models. Any one of her teachers would be there for her in an instant. On top of that, I can hand on heart say that any one of the senior girls that dances with Aimee would be a brilliant and enviable role model to show her how to act in a world filled with visible instances of behaviour that I would rather her not be privy to. I simply cannot overstate the immense benefit Rise Dance Studio provides the people of this community.

The Shire very prominently displays their commitment to the well-being of their residents "protecting, promoting and enhancing the health and wellbeing of its people". Rise Dance Studio is simply asking that this commitment is honoured rather than comparing a small start up to a large commercial enterprise like they are equal. Rise Dance Studio is asking to be treated with equity rather than equality. Equity is not expecting the same from both large and small businesses.

Particularly in this scenario where there are readily available options to provide real equity as to the fee imposed as it is completely discretionary.

It is extraordinarily unfair that a Councillor conducts highly simplistic and rudimentary investigation into the financial state of the business without even having the courtesy to ask questions of the people that it affects most. Yes Cr Singh, I am looking at you and your callous assessment of the fact that Rise should be able to afford it. Your assessment of the income of the studio is, at best, simplistic, and at worst malicious. Do you understand the difference between income/revenue and profit? Do you understand that while my daughter dances, she does multiple classes back to back. I drop her there for 2 plus hours at a time. Have you done the work to find out that while there might be 375 people enrolled in classes, that number comes from a significantly fewer number of individual students, in the order of 50% fewer. It would take very little effort on your part to come to the conclusion that there is likely a number of students in the same position. Have you had the common decency to actually address these points with Aimee or Jayde directly? People who could give you a much clearer picture of what does indeed happen. I expect more from my elected representatives.



During the previous Ordinary Council Meeting (11/04/2022), you admitted, and I quote, 'it's not right' to impose the cost on Rise Dance Studio but failed to remember that applying such an exorbitant and unreasonable cost is absolutely discretionary.

A business starting up requires capital outlay and surely your simplistic assessment should also have considered the additional costs in setting up a dedicated space. May I suggest you look at the cost of a sprung floor that will ultimately keep the dancers safe from jarring injuries that come with a flooring system laid on concrete. Are our children not worth considering that investment also? Does this not qualify as addressing some of the needs of our community that you so proudly stand for?

I find it incredibly short sighted and just plain stupid to try and drive this studio out of Byford. Let's not mince words, the fee you have demanded has the very real potential to do just that, force a small business to relocate to a Shire more willing to work with and support their small business.

There is not a suitable premises that is currently owned by the Shire to effectively accommodate the specific and considered needs of Rise Dance Studio that has resulted in the need for the studio to seek this change of use.

Why should the number of students be used to determine that there is inadequate parking availability when the planning scheme sets out a number which was shown as adequate by three separate traffic surveys carried out by an independent planning consultant.

Furthermore, the application for change of use was submitted in October 2021 but the lack of action by the Shire has resulted in the application taking an astounding length of time to be presented at a Council meeting which in itself seems convenient that it is after the cash in lieu was endorsed in the Local Planning Policy in March 2022 some 6 months after submission.

Aimee is not asking for a free ride for her studio, she has shown that by willingly offering to contribute what she is able. She is asking for the support of the Shire. Support by utilising the ability to use the Shire's discretion in demanding the payment in lieu of parking.

I commend Aimee and her dedication, enthusiasm and guts to start a business at such a difficult time in recent history and I am furthermore incredibly disappointed that the Shire Counsellors seemed reticent to allow a forum whereby the unabated community support for this small business be visible to those that have the ultimate power in this situation. How is that working for us as ratepayers? Ratepayers whom you claim to speak for but have largely ignored and even controlled the narrative of.

Please reconsider your decision to impose the cash-in-lieu of parking, instead support, wholeheartedly, this asset.

Natalie Briggs, 97 Kalyang Loop, Byford 6122, regarding item 10.1.1 – Retrospective Sea Containers – Lot 849, 97 Kalyang Loop, Byford (PA21/1245)

My name is Natalie Briggs. My husband Nathan and our two young children reside at 97 Kalyang Loop, Byford. We have lived in our current home the past three years.

In December of last year, we submitted to the Serpentine Jarrahdale Council to be able to position a 40 foot container as well as the already existing 20 foot container at the back of our 2000sqm property.

We bought the property in good faith with the understanding would be able to run our business from this location and we requested the additional container as well as the



requested locations of these containers so that we would be able to use the space on our property efficiently. We believe the additional container in their current location will allow us to store building materials and tools in a neat and tidy manner. We all know there is a high wind area in Byford. This would also allow things to be stored in a safe and secure manner. Overall, it would allow us to continue our business operations safer and more efficiently.

To move the containers to any other location on the property would be non-practical and absorb otherwise very usable space because yes, we do run our business from this location but most importantly it is also our family home. The area behind our shed that our neighbours have requested Council to consider as an alternative location is an already established sustainable living area. We have mature trees, a small fruit orchid, vegetable gardens and chickens in this area. To relocate all of this would be extremely expensive and a cost we cannot afford to absorb at this time.

Our business has been running from this location since we purchased the property with no impact on our neighbours. Until December of last year we maintained a friendly relationship with all of our neighbours including the complainant who is opposing our application.

To be honest when they first raised their concerns with us, as we had the kind of relationship where we had been social in the past, I thought that they were joking. Specifically having a lend of us, as is the Aussie way. I soon learnt that this was not the case, and they were in fact serious.

I reached out to our neighbours and asked if Nathan and I could sit down with them to try to resolve the matter as I believed at this stage that our relationship was worth saving and we would always prefer to get along harmoniously with our neighbours. For whatever reason they were unable to meet in person so I put my thoughts in regard to their concerns in writing.

I assured them that there were no plans to alter our hours of operation or the traffic flow of our business operations.

As for their concern regarding rats and snakes it is more reasonable to think they would be around for the food created from the chickens at ours as well as many of the other neighbouring properties, including the property of the concerned neighbours who are opposing our container locations. Mice and rats come where there is food and snakes come where there are mice and rats. Being a semi-rural area It's extremely unlikely that they would find any benefit to the underneath of a container and if they did it would not be increased by the location of the container. We currently have a baiting program in place on our property as we are aware we need to be vigilant in this area.

We find it hard to see how this location would affect any of our neighbours, In a genuine way.

If I am honest in the last conversation, I had with our neighbour he mentioned to me that the main reason he was opposing the location of our containers as "he didn't want to look at them while having his morning coffee". We cannot see the difference of anyone looking at our container to us looking any of the large sheds in our neighbourhood. We find the container to be less imposing than the surrounding sheds. Let's be honest we don't live on a beach front property with a view! We live in a semi-rural suburb on a dual zoned block that is half light industrial.

We would like to respectfully ask Council:



Will Council consider two amendments to option 1? We really appreciate all the work that planning has done in relation to our current application, however we believe the points outlined in option 1 will be costly and time consuming which will add to our surging building costs that we are already experiencing. If the Council could please review the following amendments we would really appreciate your consideration;

Removal of option 1 (e) we costed 24 mature 3 metre-4 metre Melaleuca trees (or similar) quoted at \$440 + Gst each = total cost \$10,560 + Gst which is an extremely large cost. This is without the additional cost of reticulation and garden beds to establish these trees. Would the Council please consider changing this requirement to allow us to establish a fast growing creeper that would cover the entirety of the containers? We believe this would be a much more cost effective option with the same or better coverage on the containers themselves as well as better aesthetics.

We would also like the consideration to remove option 1 (d) the painting of south and east walls of the containers. We believe this would seriously devalue the containers. As business needs can often change if we were to ever need to sell these in the future we would be disadvantaged with them being painted different colours. The 40 foot container is new and has just been professionally painted.

With an established creeper and / or tree screening we believe this would be enough screening from both Thomas Road as well as the neighbouring property and would be another cost that could be removed.

We believe we will have to submit for an extension on our current building plan because of the blow out in cost of materials and labour in the last 18 months in the building industry as well as the shortage of labour available in Perth at this current time. We are struggling to get this completed and have well truly gone over our budget. Having to do all of the above on top of our current costs, especially within the 60 days' timeframe would put a huge financial strain on our family.

We have spoken with our other neighbours and everyone else with exception of the complainant have no objections to the application. We also attach a supporting letter Daphnie Stevenson, our other neighbouring property for your consideration.

In closing we believe what we have proposed will assist us to continue running a successful business from our current location as well as utilise the remainder of the property as a family.

We appreciate all the work behind the scenes by Ryan and Hayden and the planning team as well as the executive team who have been reviewing our application. We also appreciate your time and consideration here tonight.

We understand that Council have to make decisions based on what is best for everyone including the wider community. We believe with our suggested amendments the property will look good ascetically from all perspectives. We appreciate your consideration.

Daphne Elizabeth Stevenson, Byford 6122, regarding item 10.1.1 – Retrospective Sea Containers – Lot 849, 97 Kalyang Loop, Byford (PA21/1245)

I support Nathan and Natalie, in their wish to place a sea container on their property.

I have been a neighbour of Nathan and Natalie Briggs for several years and have found them to be accommodating, very friendly, always polite and helpful in terms of neighbours requiring assistance, such as myself, with the recent passing of my husband.



I have no objection to the placement or location of the sea container.

John Kirkpatrick, Byford 6122

As one gets older you have more time to look at life and what is happening around you. It is amazing the rights we have lost and continue to do so. There is a steady move to discriminate against the elderly and the disabled. I have found of late that this Council steadily picks us off to this effect.

For example the Council only accepts questions from residents that can attend Council meetings and read out their thoughts. This is a straight out form of discrimination against the older members of our community that for a good number of reasons cannot attend meetings but have a right to be heard. Maybe they cannot drive at night, perhaps they have no member of the family to bring them to a meeting. But they are still lucid enough to write a letter. Then we have the modern discrimination which has just happened to me with this Council. A letter that I delivered to the front counter addressed to the CEO just got lost. How? The CEO did write to me and apologize for this error.

I put in a letter of complaint and attached a list of issues that were of concern to me and no reply just a phone call to say that an email had been sent to say how the issues were being dealt with, I explained that I was unable to access a computer so would not be able to open an email. I had not sent an email as I did not know how to write a letter and expected to be responded to in a similar manner. Hence my questions for tonight's meeting.

I do not believe that I am the only Luddite in the community who has at best a limited grasp of modern communications and have a reluctance to electronic communications and therefore am being again discriminated against.

This Council has a problem with Duty of care requirements, disabled access and replying to letters.

Some of the issues that I refer to in my questions on the list I gave to the director of infrastructure have been raised at this Council for over two years.

A conversation I had with LGIS the Council's insurance broker made it clear that they could, and may refuse to cover the Council if the Council knew of a dangerous situation and failed to take reasonable measures to rectify the situation. This may well be the case of the Telstra pit in Abernethy Road if a child falls in to it and is injured. This may well be a Telstra pit but under Duty of Care you have a responsibility to do something about it to safeguard the general public as you are well aware of the danger and it is on record that you have been notified. The same with the footpaths in Byford and South West Highway which has already had a lady have a fall there which required going to hospital with a stay in there.

Rawry and Clare Woodend, Darling Downs 6122, regarding item 10.1.2 – Retrospective Fence Extension – Lot 228, 28 Aquanita Rise, Darling Downs (PA21/804)

Dear Councillors Rich, Atwell, Duggin, Coales, Singh, Strange, Byas, Dagostino, and Strautins,

I thank you for your time to read this submission and favourably vote for Option 1 in relation to the abovementioned Item (10.1.2) of the Ordinary Council Meeting Agenda, Monday 16 May 2022.

Option One:



"That Council APPROVES the retrospective development application for the fence extension at Lot 228, 28 Aquanita Rise, Darling Downs as contained within attachment 1."
Excerpt from Ordinary Council Meeting Agenda Monday, 16 May 2022, page 38.

Whilst you will read, from the extensive planning assessment taken place by the Planning Officers, the 4.8m fence extension achieves a consistent street character of large homes set within a spacious surround with the perception of a relaxed open character aided by the fencing at the front and front returns of property boundaries. The streetscape as an important measure of amenity is not compromised by the development.

In addition to the abovementioned, the fencing is required to maintain some level of privacy and safety considering the owners of 26 Aquanita Rise have constructed an ancillary dwelling and access driveway in extreme close proximity to the fence line, to give daily multiple access to their ancillary dwelling.

26 Aquanita Rise Darling Downs has removed in the vicinity of 1.5m of earth from natural ground level to construct their dwelling considerably below ground level, therefore the view at eye level would not be direct into the fence nor give a level of glare as the sun rises in the east (front of property) and sets in the west (rear of property), and the fence is on their south of property, therefore would not attract any direct invasive glare as suggested by owners of 26 Aquanita Rise.

The living spaces of 26 Aquanita Rise are on the North Facing side of the dwelling, therefore not looking at the fence extension.

The reasoning that the fence "obstructs the view of trees" is a privacy and intimidation concern as there are no trees to view, only a view into our front yard which we use as a play area for our two year old son.

The post and rail fencing is climbable and a safety concern due to the driveway and level of usage to access the ancillary dwelling.

The original plan was to extend the fence another 20 metres towards the street frontage, however in accommodating the owners of 26 Aquanita's demands, the extension was considerably reduced in size, and shrubs have been planted along the post and rail section, to gain privacy, in time once they are established.

The area is zoned as "semi-rural" and block size is only in the vicinity of one acre, which would not typically allow for uninterrupted views of trees, especially into a neighbouring property.

On two occasions since 12 May 2021, we have met with the owners of 26 Aquanita Rise, addressed, and listened to their concerns, offered every possible scenario to make a compromise and reach agreement on the extension, even suggesting options that we fund and plant vegetation on the 26 Aquanita Rise side of the fence line. This has been unsuccessful due to strong resistance of the owners of 26 Aquanita Rise.

I do also note that the entire fence line between 26 and 28 Aquanita Rise Darling Downs has been entirely funded by owners of 28 Aquanita Rise Darling Downs, and no complaints or objections were made to any of the fencing until 12 May 2021, despite the fence being constructed for some years prior, as the detailed in the extensive council officer report notes.



4. Petitions and deputations:

Aimee Morton, Owner of RDS, regarding item 9.2 – Notice of Motion – Revocation OCM072/04/22 - Proposed Change of Use – ‘Showroom’ to ‘Health Studio’ – Lot 3, 821 South Western Highway, Byford (PA21/994)

Hello Councillors and Representatives of SJ Shire,

To begin with I would like to say a huge thank you to Councillors Coales, Strautins and Duggin for motioning to REVOKE the previous decision made at Aprils meeting.

At the previous meeting you heard the deputation of myself, my town planner (Joe Altus) and my students regarding the importance of the decision to approve the use of the ‘Showroom’ to a ‘Health Studio’. The matter was settled with a cost of \$22,000, money that I simply do not have for the Shire in lieu.

I expressed in my deputation that what I could contribute was Option 3: \$3700 towards 1 parking bay. An expense that will come out of my own personal savings, not that of the studios. As my bookkeeper will explain to you tonight, the profit RDS made last year (in its first year of business) was \$25,000. That’s \$25,000 for 365 days that myself and my two kids must live from. It’s my business and I am aware that businesses don’t often profit in the beginning, but most small businesses don’t pay their Shire for public parking costs in lieu. What message is this sending to other small businesses within our Shire? Take a leap of faith in opening your business, but be prepared to do so in a Shire that will not support your growth?

I understand that as Councillors you must take into consideration future development and Shire growth, but what about the other important factors within our Shire that a lot of the Councillors promote as their ethos:

“Advocating for the Shire to limit interference in their daily life – both financial and red tape.”

“To bring the community and Council together to make Byford an inclusive area for all.”

I don’t want to point out all the negatives in this situation as I have seen examples of the Shire promoting events, I am passionate about like the Byford Multicultural Festival. An event that not only promotes an inclusive environment, but advertises dance, music, and cultural performances. Rise would love nothing more than to integrate into these programs and work alongside the SJ Shire. As an example, I could get a specialist teacher in for a term to teach a multicultural dance (open to anyone within our community) that could be displayed at this festival.

That is just one example of the good we can do if we work together, SJ Shire, and this far outweighs the informal parking spots that the public are already using with no issue.

I have attached statements and emails from the people within our community, they do not need to be read out loud, perhaps you will read them before making your decision. I ask that you listen to your community, as we need you to hear us and be our voices.

Kind regards,

Aimee

Owner of RDS

Aileen Womersley

Subject: Rise Dance Studio Application



Dear Councillors

I am writing to you in regards to your decision regarding Rise Dance Studio.

I am deeply disgusted and appalled by your decision to decline their application to move to a new more permanent premises and your expectation for a small business to pay such extreme costs only to block them. Rise gives so much to the community including giving a sense of belonging to our children and our grandchildren as well as contributing to the wider community, something I think would fall into the ethos of your Council.

Considering most students get dropped off and parents don't stay voiding the need for more permanent parking spaces I'm confused by your decision, the only answer I have is that you are exploiting a small business for your own gains, shame on you!

Instead you feel it's appropriate to offer an option which lacks basic necessities such as drinking water and mosquito plague which I'm sure the media and wider community would also find concerning. Does the welfare and safety of our youngsters mean that little to you. Would you think it appropriate for your children to put their heart and soul into their passion only to not have clean drinking water available, enough space to practice or get eaten alive, I think not but you allow this to take place. I'm sure the media would also be interested to investigate why the Shire of Jarrahdale is making it so difficult to continue to provide such a valuable service. I feel that if you continue with your unreasonable practices and expectations you will drive small businesses out of the area which would be a shame considering the beautiful area that has developed.

I have the utmost respect for due process but I don't think this is happening. Rise is offering an exemplary service to families and the wider community and I would have thought you would have done everything to support them not block them and make the process unnecessarily difficult and costly.

I hope that you will reconvene and reconsider your decision as I believe it is the best interests of the students, the families and the community.

Regards

Aileen Womersley

Shannon Louise

My name is Shannon Polain. I am a resident of the Shire. I am emailing you with the upmost disgust and disappointment. Myself and multiple of my friends have children at Rise Dance Studio. My disgust and disappointment comes from the horrendous treatment of a small business that does nothing but bring community spirit, exercise and education to the children of the Byford and surrounding areas. This studio has upwards of 200 students, have you considered how many families and parents the Shire is letting down.

The Shire has aspirations outlined in the strategic plan that Rise Dance studio embodies. Clearly money comes over your own aspirations, this is a huge shame and makes me disappointed to be a part of the Byford Community. You all should be so ashamed of yourself. THIS IS A SMALL BUSINESS.

The Baker hall is not an appropriate venue for the children, there is literally no suitable drinking water? This is not Rises fault... this is the Shire's fault. Again clearly money is more important to the Shire then it's residents and Children, again Shame on you. This is bullshit and you all know it, and this whole process makes every Council member going against it look horrible and completely incompetent.



Mean Regards

Shannon the Karen.

Susan Johnstone

To whom it may concern, I have known Aimee who runs "Rise dance studio" from a teenager. She has always been passionate about dance and has wanted to open up her own dance studio for a long time.

Our family fosters children and two of the girls attend hip-hop and acrobatics at Rise. We have had the girls for 1 yr now and both girls love their classes. It has given them confidence, friendships, skills and last year Beryl took out "most promising" in hip-hop. These girls have flourished in dance and succeeded in something for the first time in their lives.

Why does the Council have so many obstacles to go through to open up a studio. Baker hall is inconvenient to get to, hot in summer, undrinkable water and very small. The showroom will be easy access even if parents need to catch public transport. All of us parents drop the children and then come back after classes finish to get them. I have seen the carpark full with F45 people as my daughter used to go there. It is still doable with so many parents.

Businesses should be encouraged to open for the amount of people in the Shire, and yet are being given unrealistic expectations to continue. This business has been opened for 1 year. They do not have the funds to have all these extra requirements and stay with the low fees we pay. The fees are well below most dance studios as Aimee is making them affordable for all types of families.

Please let this venue open without all these un-needed requirements. Aimee just wants the local kids to dance.

Regards Susan Johnstone

Tegan Cunningham

Subject: Ride Dance Studio, re Shire SJ

To Whom It May Concern,

We have been part of the Rise Dance Studio Family since the first opened. Rise has been absolutely fantastic for my two children, it has kept them active, taught them how to work in a team environment, brought out courage and self-belief and they have been able to really grow as people. Rise brings together a sense of community.

The school is run absolutely brilliant, having previously been at another dance school prior to Rise, it really showed us that the change was 100% worth it. The structure and support for the dancers is amazing and it would be such a shame if these restrictions the Shire is placing on the ability for us to have our own premises effectively Aimee and the team's ability to achieve this.

Rise dance school is so valuable to our Shire, it's constantly growing and there isn't another option with in it that I believe meets the 5 star standard of Rise Dance Studio. I really hope you will reconsider and make this more achievable.

Kind Regards

Tegan Cunningham



Kayla Summerscales

Subject: Letter of Support

To whom it may concern,

This is a letter of support for Rise dance studio's application to use the location on south west highway as their dance studio. I know there has been some concern on this matter around parking issues and such.

Rise dance studio is a drop off only studio. If the location is approved for purpose I for one will be using that time to shop around the local businesses. As a busy parent this is not something I get to do often but I will be able to use this time to support local business. I plan to drop off then go and park at the larger carparks down the street and complete my food shopping at Aldi, visit the chemist, post office, get takeaway for dinner or have a coffee at Dome. This is all business that these locations are currently not getting from me due to time constraints.

Would it be possible to use signage at the main parking spaces of the new location to allocate parking spaces if that is the main concern? i.e. Rise only parking, F45 only parking etc. I'm sure there are a number of different ways this issue can be sorted without having to charge a small business a large sum of money for spaces that are already being used for existing businesses. Does Dome have to pay for additional spaces now also as I see Dome customers taking up a large amount of local business parking space.

Rise dance studio is an amazing business that strongly promotes inclusivity. My daughter who has special needs has grown in confidence since starting at rise. Last year she danced on stage in front of a crowd and this year she participates in dance circles in class showing off her newly learnt moves.

We hope that enough support is provided to Rise dance studio so they can continue to help other dancers grow and achieve their dreams.

Kind Regards,

Kayla

Lisa Hurley

Dear Shire of Serpentine Jarrahdale,

I write to you as a resident of this Shire and as a parent of two young daughters who have been members of Rise Dance Studio since it started in Byford in early 2021. My daughters have been attending dance lessons with Aimee McCormick even before that, and absolutely love Aimee, her classes and her teachers. I have personally known Aimee as a fellow school parent, for the past 3.5 years. She is not only a wonderful Mum but also an amazing dance teacher, who clearly loves what she does and all the kids she teaches. Aimee is a positive role model, not only to her own children, but to the many children and teens she has taught over the years. Her love of dance, of teaching and for the community in which she lives and conducts her business in, is clear to all. As an entrepreneur to start a business in a pandemic and to do so amazingly well in that business, handling with grace, whatever has come her way, whether through Covid restrictions, studio venue relocations, etc is to be commended! It is clearly obvious that Aimee is a hardworking, passionate, strong female entrepreneur who strives to provide only the very best to the many kids and families within this Shire, through her love of dance with Rise Dance Studio. I believe the Shire really needs to start listening to what it's residents and rate payers actually want.



Instead of creating road blocks for new worthwhile businesses like Rise Dance Studio, which is a community focussed business providing a safe space for the children of our growing Shire to keep fit, learn new skills, build confidence and resilience, make friends, feel part of something positive and to feel part of their community. It is my understanding that Aimee McCormick wishes to set up her dance studio for Rise, at Lot 3, 821 South Western Hwy. I really hope this Shire allows her to do so, and with ease. It would be a real shame for our community in Byford to lose this wonderful dance studio to another suburb or Shire. Thank you for taking the time to read my email.

Yours sincerely,

Lisa Hurley

Fiona Blakeley, Property Manager 821 South West Hwy, Byford 6122, regarding item 9.2 – Notice of Motion – Revocation OCM072/04/22 - Proposed Change of Use – ‘Showroom’ to ‘Health Studio’ – Lot 3, 821 South Western Highway, Byford (PA21/994)

My name is Fiona Blakeley; along with my family, Walter and Faye Lenz we own the seven commercial units and 821 South Western Highway. I also manage this property. I want to state my support for the motion to revoke item number OCM072/04/22. Below I have detailed the following objections to the ‘cash in lieu’ condition of the original motion;

1. The owner of 821 South Western Highway Byford, Walter Lenz also owns a commercial tenancy in Canningvale, which is under the City of Gosnells jurisdiction. A Dance Addiction Studio takes up one tenancy. They have been operating for seven years with five parking bays and have experienced no parking issues or complaints within this time. This parking allocation was approved by the City of Gosnells even though the unit occupies 462 m2 which constitutes a little less than twice the size of unit 5 at 821 South West Highway. This parking allocation was approved again 12 months ago by the City of Gosnells as part of the strata title approval. This constitutes seven years of evidence that proves the parking quota for this size business is more than adequate, mainly as this dance studio operates under the same precedence as Rise Dance studio with a short term parking requirement due to the pickup/drop off nature of their clientele.
2. The proposed change of Showroom to Health Studio at 821 South West Hwy was granted with a condition that Rise Dance Studio pay \$22,500 for parking bays which will not be onsite, with no guarantee that this money will be used for parking bays that Rise Dance customers will be able to use for classes, therefore defeating the purpose of the condition which was to alleviate the 12 bay shortfall specified by Council, (see page 38, section 7.9 of the Ordinary Council Meeting Agenda).
3. Rise Dance studio commissioned a total of three parking surveys at their own expense; the first two were deemed inadequate by the Council, with the third surveys findings rejected. If these parking survey's findings were to be discredited, why was Rise Dance Studio asked to commission them in the first place?
4. During the application period, 1 complaint was received by Council regarding this proposed tenancy change. This complaint detailed the inability of one customer to find a car parking bay at 7 am. Rise will not operate at this time of the day. Therefore this complaint does not pertain to them.
5. Rise Dance Studio have already outlaid a total of \$9,300 in Council application fees, parking surveys and town planner fees; only to be told to move into unit 5 they must



outlay a further \$22,500 for parking in lieu. Councils may ask for a cash payment in lieu for parking at their discretion, however no allowance was made for the costs Rise Dance Studio have already outlayed to apply for the change of use.

6. The Byford train station is due to commence construction late 2022, early 2023 and promises 600 – 800 public car parking bays approximately 250 metres from 821 South West Highway. Among the concerns with the parking survey was that the informal bays on George Street would be reduced with the Clara Street West connection with the George Street development for the Byford Train Station, but no mention of the 600 – 800 public parking bays that will be built west of the Railway Line (in line with the bakery) had been considered. If evidence has been given against the commissioned parking surveys from the Council in regards to disruption with public parking bays due to this development, how is it justified that the additional 600-800 bays that are coming in the near future, approximately 250 metres away, not been taken into account?
7. An immediate neighbouring development has been approved for a gym, play centre and swim school with an accompanying two-story car park containing 50+ parking bays. While this is a private development, there is nothing to preclude a future parking arrangement between our two developments. This also evidences the growing opportunities arising for additional parking with the Byford City Centre.

It has been unprecedented times for small business over the last few years, and it is the responsibility of the community, government and local councils to alleviate these difficulties wherever we can. Local councils are elected to support the community and small business alike. Can we continue to do this by approving this notice of motion?

Kind regards

Fiona Blakeley

Jayde Robinson regarding item 9.2 - Notice of Motion – Revocation OCM072/04/22 - Proposed Change of Use – ‘Showroom’ to ‘Health Studio’ – Lot 3, 821 South Western Highway, Byford (PA21/994)

My name is Jayde Robinson and I have been the Admin and Bookkeeper at Rise Dance Studio since it opened in February of 2021.

I have listened to the meeting that took place on the 11th of April and I would just like to go over the financials of Rise Dance Studio and explain to you all how we aren't earning \$171,120 a year and how we don't have \$22,500 - \$45,000 to spend on parking bays that are already available for use by the public.

We did have up to 250 students come through our doors last year, those 250 students were not enrolled in all 4 terms though, on average we had 175 students per term. Our term fees last year were \$100 per term, however our move to Baker Community Hall meant we had to hire the hall an extra 2 days a week to run all the classes we were running simultaneously at Byford Hall, this led to us having to increase our fees to \$115 this year. Our income last year before the many fundraisers we held was \$90,000, fundraising only gave us an extra \$8,000 which went straight back into the studio when we bought acro mats, ballet barres and partitions for the studio. Our Dance Teachers alone cost \$30,000 and they are on a very little wage compared to what other studios pay them. We paid the Shire \$22,500 in rent and we are expected to pay \$36,000 this year now that we operate 6 days a week. If we get this unit we would pay \$46,000 a year to have the storage we need, the flexibility in hours that we need and an actual home for our students, one that



isn't always changing when a giant old school piano turns up and takes up some of their dance space. At this point we have spent \$15,957.70 on this Change of Use application which includes all the parking surveys that the Shire requested which were just ignored, and we would have to spend another \$14,006.30 before we can receive the keys and start 'development'.

I have also run the Profit and Loss Report for January to December 2021 and we profited \$25,000.

Now before you think, well you have \$25,000 in your pocket you can definitely afford the \$22,500. Rise Dance Studio is actually Aimee operating as a sole trader so her wage is that \$25,000 that the 'business' is left with.

Don't get me wrong, Aimee understood that in the first year of operating she would not be left with much to live on but by asking for \$22,500 to \$45,000 you are taking a full year to 2 years' worth of her wage. She will be left with absolutely nothing to live on and as a resident of your Shire surely you would like to ensure she stays here and doesn't move to a much cheaper one that she can afford on her little wage.

We are one of the cheapest dance studios south of Perth because we don't care about the money, we only care about the students and families that we are helping by creating a safe space for them to dance in. We are just trying to pay our bills, we are not trying to make \$50,000 worth of profit. Please just let Rise, Aimee and all of the Rise families have this unit without making us go bankrupt in the process.

Leon Murphy, Chairman Serpentine Holistic Centre for Attitudinal Healing and Anthony Rowe, Envision Bushfire Protection, on behalf of the applicant, regarding item 10.1.4 - Proposed Alterations and Additions to Existing Educational Establishment - Lot 51, 48 Lewis Road, Serpentine - PA21/206

Thank you for providing the opportunity for deputation to discuss item 10.1.4 at the Meeting 16 May 2022.

The applicant is aggrieved by the Officer's report and recommendation.

The following is provided in advance and in support of the applicant's deputation.

Context

- The State Administration Tribunal has established that the decision maker (Shire) must follow the rule of law, not DFES opinion or other opinions that do not follow the rule of law.
- The State Administration Tribunal has also established in relation to SPP 3.7 that regard can only be given to the references at section 4 in SPP 3.7 and the correct administrative practice.
- SPP 3.7 is not retrospective.

Officers report has not recognised:

- The proposal is not an intensification of the existing use; attendance at the facility will be unchanged whether or not the proposal succeeds. The proposal is for convenience and comfort.

The premise for DFES comments is wrong, it is not an intensification of development, and the classification of the vegetation was not disputed by the Peer engaged by the



City, although the Peer has also incorrectly proceeded on the basis of intensification. The BMP did not rely on the EAW, because the proposal is an existing use; it did identify as 'advisory' the broader community benefit that the EAW from MacKay Drive through to Butter Gum Close could provide.

- The proposal is an existing use; it is an error of law to apply subdivision policy, that addresses the potential of a future development, to an existing use. To do so is retrospective.
- The proposal does not increase the threat of bushfire (starting one) or increase the vulnerability to the effects from a bushfire.
- The Shire (decision maker) can only ask for that which it has an authority to ask for.
- Understanding the building class, is applicable and is recognised in the Guidelines cl.5.8.3.
- Improvements have been volunteered which will reduce the risk at the facility.
- The facility (land use) does not operate in January and February.

Applicant request

Contrary to the Officer's report the proposal warrants planning approval following the recommendations made in the Bushfire Management Plan.

Aaron Lohman, Principal – Planning from Element, regarding item 10.1.6 - Proposed Amendment of Development Approval Granted by the Development Assessment Panel to Extend the Period Within Which Development Must be Substantially Commenced - Lot 504 and Lot 506 Thomas Road, Oakford (PA22/263)

We refer to the Shire's letter of 9 May 2022 in respect to the consideration of the above-mentioned matter at the Council Meeting of 16 May 2022.

On behalf of the Applicant (Claradon Property / Skukuza Ventures Pty Ltd) we request a deputation to speak in favour of approval of extension of time. Elton Swarts from Claradon Property, Julius Skinner from Thompson Greer and the undersigned will attend the meeting and participate in the deputation.

The Shire's Officers are recommending that the extension of time be refused on the following grounds:

1. *That the Metro Outer Development Assessment Panel REFUSES the application for the extension of time request for the following reasons:*
 - a) *The land use of 'Service Station' is a prohibited use in the 'Rural' zone under draft Local Planning Scheme No. 3. It is not consistent with orderly and proper planning to grant approval for a use which is imminently designated to become a prohibited use in the zone under the new Scheme.*
 - b) *The land use of 'Service Station' is inconsistent with the objectives of the 'Rural' zone in draft Local Planning Scheme No.3;*
 - c) *The land use of 'Service Station' does not reflect the approved strategic intent of the Local Planning Strategy, which designates the subject land within the Rural Resident 2 precinct under the approved Local Planning Strategy.*



d) The land use would make implementation of the strategic intent of the approved Local Planning Strategy more difficult, through allowing a use which is inconsistent with the objectives of the Rural Residential zone.

In respect to these matters we provide the following:

- Our Client successfully campaigned for black spot funding to facilitate the construction of a roundabout at the intersection of Thomas and Nicholson Roads. Post approval of the original development application our Client agreed with Main Roads WA (MRWA) to not proceed with construction of the proposed development due to 'conflict' between MRWA's proposed road works and development as proposed by the Applicant. That is, the intersection is a 'black spot' and works by the Applicant would impact the functioning of the intersection. Works undertaken by the Applicant to implement the approval would further become redundant as these would be superseded by MRWA works (e.g. two sets road works being completed with reduced amenity and traffic conditions). Furthermore, the proposed works would create unsuitable trading conditions and would be wasteful to undertake two sets of road works.
- Our Client in liaison with MRWA has RAV 7 access and egress for the subject site. Our Client's understanding is the at grade works will not be completed construction until late 2023. It is pertinent that MRWA have no objections to the proposal which reflects that the site can be appropriately and safely accessed. The Department of Planning, Lands and Heritage (DPLH) also have no objections to the proposal which is again important relevant to access arrangements.
- We further note that the construction timeframe for roadworks has continued to advance beyond expected timeframes and is not certain.
- The subject site upon the construction of an at grade interchange or grade separated interchange will have little rural residential amenity. The Agenda Report states that:

According to the LPS, the intent is for this land to ultimately be rezoned and structure planned to provide 2ha Rural Residential lifestyle allotments.

- In regard to the above statement, it is important to note that the subject sites are already less than 2ha in area and thus have no potential to be rezoned or to be the subject of structure planning for 2ha rural residential lifestyle allotments. Lot 11 immediately to the north of the subject site is also less than 2ha and has no further development potential for rural residential development. Draft Local Planning Scheme No.3 (draft LPS3) states in this regard:

Subdivision of land in the Rural Residential zone shall be supported by the local government to the minimum lot size requirements for the respective Rural Residential Codes as designated on the Scheme Maps.

The impact of the proposed development on surrounding properties has already been tested by approval of the original Development Application. This demonstrates that the proposal does not adversely impact on the amenity of the locality.

- The agenda report further comments as follows:

A 'Service Station' is furthermore a prohibited use in the 'Rural Residential' zone under draft LPS3.



We refer to our comments above, that the subject site has no potential for rural residential development as the minimum lot size cannot be achieved, and therefore could not be rezoned to Rural Residential. Further, the argument prosecuted in the Agenda Report that the approved Local Planning Strategy foreshadows that the site is proposed for Rural Residential carries minimal weight as the lots cannot be developed for that purpose. The ability for the lots to be developed for rural residential purposes is also significantly compromised by a high voltage transmission line over Lot 504 which prevents buildings being constructed beneath it.

- Since this time of making the original submission on the draft LPS3 and the Local Planning Strategy the circumstances of the subject site have substantially changed with the proposed upgrading of Anketell and Thomas Roads as part of the key transport link associated with Westport. The grade separated interchange at the corner of Thomas and Nicholson Roads will create a significantly different future amenity for the subject site with impacts likely to result from noise, light spill and general amenity. This will erode the 'rural amenity' that the subject sites currently enjoy especially in relation to heavy vehicle movements. As the subject sites would not be capable of development in accordance with a Rural Residential zone the use of the sites for a Service Station in light of the Thomas Road becoming a connection to Westport is a logical and persuasive land use.
- Whilst at this juncture a Service Station is proposed to be an 'X' use under the draft LPS3, a Road House is an 'A' use. It is noted by comparison that the scale and intensity of a Road House is greater than a Service Station. A Road House is an approvable use under the draft LPS3. Thus, whilst there are objections to a Service Station, a Road House could be approved on the subject site.
- Given the at grade intersection is yet to be completed, building the proposal would lead the Applicant, at no fault of their own, with a development that would be substantially impacted by roadworks to be undertaken by MRWA. In this regard, the Agenda Report makes the following comment:

Whilst Officers acknowledge the road upgrades are outside of the Applicant's control, there have been lawful conditions imposed on the current approval to provide both interim and ultimate access arrangements. The approval thus enables development to proceed without any contingent basis of the road works being completed.

This considered to be an oversimplification of the matter. For the reasons stated earlier in this advice development has not commenced. Development to achieve substantial commencement now would require significant cost with no certainty as to when the development would become operational. Given the significant delay associated with roadworks, and associated costs, it is not considered unreasonable for an extension of time to be granted. The Applicant is not seeking to 'warehouse' the approval rather await road works to be completed to allow for viable development to commence. Again, we make the point that our Client has agreed to not commence works due to conflict with MRWA's at grade intersection upgrades, and delay with this works is no fault of the applicant and was predicated on road safety. If the Applicant commenced development in 2019, the "works by others" in the road reserve would affect traffic, and the 'works by others' would then need to be redone based on the configuration of the intersection upgrade design.



- In terms of LPS3, the Agenda Report quotes that, it is anticipated that approval will be forthcoming from the WAPC mid-2022. We note that the WAPC does not approve a local planning scheme, but only provides a recommendation to the Minister for Transport; Planning; Ports. As such draft LPS3 will not be approved by the WAPC mid-2022. The Minister will determine the fate of the draft LPS3 after the consideration of the WAPC, which may occur mid-2022. We understand the potential for the draft LPS3 to be considered by the WAPC mid-year however the timeframe for consideration of draft LPS3 has also been subject to delays, and thus also has a degree of uncertainty as to finalisation. It is also important to note that the WAPC can recommend changes to draft LPS3, and the Minister ultimately will determine the final content. Thus, the Shire's adopted form of the draft LPS3 is not certain especially considering the significant changes proposed to Thomas Road as part of Westport.
- We further note that the WAPC Development Control Policy Freeway Service Centres and Roadhouses, including Signage advises that freeway service centres should be located at interchanges (either one side or both) where they can be directly accessed by both freeway users and local motorists. The continued approval of this development would allow for a similar outcome with the Service Station on the southern side of Thomas Road.
- Finally, it is important to note that the State Administrative Tribunal has on multiple occasions confirmed that although the issues of whether or not there has been a substantial change to the planning framework since an approval was first granted, and whether or not a proposed development would receive approval now, are relevant considerations when determining an application for extension of time for substantial commencement, they are not the only criteria by which such an application is determined – and all of the criteria must be weighed up together in the exercise of the overall discretion. Indeed, in both ALH Group Property Holdings Pty Ltd and Presiding Member of the Metro Central JDAP [2018] WASAT 63 and AMI Enterprises Pty Ltd and Presiding Member of the Mid-west/Wheatbelt JDAP [2018] WASAT 130, the Tribunal approved extensions of time notwithstanding findings in both cases that the planning framework had substantially changed since the approval was first granted, and, in the AMI decision, notwithstanding the additional finding that the development in question would not be approved as a result of that change. In the present case, the draft LPS3 has not reached the stage that existed in either ALH or AMI, and the other criteria such as whether the applicant has actively sought to pursue the implementation of the approval, and whether the reasons for seeking the extension are beyond the control of the applicant, are clearly in favour of granting the extension.

Having regard to the above, there is no substantial prejudice to the extension of time. The delay in implementing the proposal results from delay in construction of the intersection upgrades, and our Client agreeing to not commence construction of the development so as to not create conflict.

Our Client has actively pursued the implementation of the proposal through engagement with statutory authorities and perusing of a Building Permit. This application does not seek to 'warehouse' the proposal but allow for all relevant road works to be completed prior to commencing works on site.



As noted in the Agenda Report neither the DPLH or MRWA object to the proposal which confirms there are no issues with the proposed road access or future development of the Service Station. The confirms the acceptability of the proposal in respect to the road network.

Having regard to the above, we respectfully respect Council to support the request for an extension of time.

Should you have any queries or require clarification on the above matter, please do not hesitate to contact the undersigned on 9289 8300.

5. President's Report:

Good evening, and welcome to the Ordinary Council Meeting for May 2022.

I would like to begin tonight by acknowledging the announcement from the State Government in the 2022/23 State Budget of \$145 million to be put towards much needed upgrades of Thomas Road.

This commitment accounts for 50 percent of the total \$290 million required to complete the upgrades, and follows on from the Federal Government's announcement of \$145 million towards the project in its 2022/23 Budget last month.

The Shire has advocated extensively to secure these funding commitments that will see the building of a new grade separated interchange at the intersection of Tonkin Highway and Thomas Road, duplicating approximately 2.8 kilometres of Thomas Road east of Tonkin Highway toward the South Western Highway and 2.8 kilometres of new Principal Shared Path along the southern verge of Thomas Road, and we are now calling on Federal Labor to make the same commitment should they form Government following the Federal Election this coming weekend.

I met with Minister for Emergency Services Stephen Dawson to discuss funding for the construction of the Oakford Volunteer Bush Fire Brigade Station and land tenure for the Emergency Service Academy. I also met with Minister for Sport and Recreation David Templeman for an update on the Keirnan Park Sporting and Recreation Precinct, as well as Minister for Local Government John Carey to discuss Rating Equity and Methodology.

Moving on, it was wonderful to join so many SJ residents at the ANZAC Day Ceremony and Processional March last month.

I was honoured to MC the Commemorative Service and was pleased our community could once again come together to reflect on the sacrifices made by all those who have served.

Thank you to all special guests, residents, Shire staff and community groups who contributed to make the day such a special experience.

In other news, the Shire is now seeking community feedback on the future of the Serpentine Jarrahdale Road Board Office Building.

A Concept Plan has been developed for the building to accommodate the Shire's Council Chambers and Civic Space that could have some community uses, and the public are invited to have their say before the plan is finalised and presented to Council for consideration.

Anyone wishing to comment on the Concept Plan can do so by visiting the Your Say SJ website. The public comment period closes at 10am on Thursday, 2 June 2022.



Ordinary Council Meeting Minutes Monday, 16 May 2022

It's great to see Serpentine Jarrahdale's iconic trails network in the spotlight as part of the new Trails WA website, which launched earlier this month.

It was a pleasure to attend the launch event, which gave a great insight into how our local trails are now being promoted on this new and improved platform and the showcasing of our equine trails.

SJ is home to some of the most popular trails in Western Australia, and I encourage any local resident or visitor to plan a day out and explore the beauty of our backyard.

More information on trails can be found on the new Trails WA website.

Finally, it is National Road Safety Week 2022, National Volunteer Week and also this week the Shire is celebrating National Families Week by highlighting the important role families play in our community.

A special Early Years Fun Day event will be held at the SJ Community Recreation Centre on Thursday, 19 May, as part of the celebrations as well as a variety of Library and Youth activities.

More information on National Families Week can be found on the Shire's website.

As always, my full calendar can be viewed on the following pages:

11 April 2022	Ordinary Council Meeting	Teams Meeting
13 April 2022	ANZAC Message Filming	Serpentine
	Meeting with Cr Singh and Director Corporate Services	Shire Offices
	Jarrahdale's Future Tonkin Highway Meeting	Jarrahdale
14 April 2022	Peel Trails Committee Meeting	Teams Meeting
	Meeting with Luke and John Dudley	Teams Meeting
19 April 2022	Meeting with Hugh Jones	Byford
	Meeting regarding Anketell Road Freight Corridor	Shire Offices
	Special Council Meeting Q&A Agenda Briefing	Teams Meeting
20 April 2022	Presentation to PDC Board Meeting	Shire Offices
	Meeting with Mundijong OIC	Shire Offices
	Special Council Meeting	Teams Meeting
21 April 2022	WALGA Peel Zone Meeting	Waroona
22 April 2022	Meeting with Hugh Jones	Teams Meeting
25 April 2022	ANZAC Day Service	Serpentine
27 April 2022	Meeting with Hon Minister Stephen Dawson	Perth
	Weekly Meeting with CEO	Perth
	Meeting with Fiona Blakeley	Teams Meeting
	Pre-SAC Meeting	Perth



Ordinary Council Meeting Minutes Monday, 16 May 2022

	Councillors Workshops	Teams Meeting
	Integrated Planning and Reporting Workshop	Teams Meeting
28 April 2022	Peel Regional Leaders Forum	Teams Meeting
29 April 2022	State Road Funds to Local Government Advisory Committee	Perth
2 May 2022	Briefing from Westport	Teams Meeting
	Policy Concept Forum	Teams Meeting
3 May 2022	Environment and Waste Policy Team meeting	Teams Meeting
	Keirnan Park Briefing	Teams Meeting
4 May 2022	WALGA State Council Meeting	Cockburn
5 May 2022	Trails WA - New Website Launch	City Beach
	Meeting with Hon Minister David Templeman	Perth
6 May 2022	WALGA Breakfast with Heads of Agency	Perth
	Mayors and President Forum	Perth
9 May 2022	Q&A Agenda Briefing	Teams Meeting
10 May 2022	Meeting with Hon Minister John Carey	Perth
11 May 2022	State Road Funds to Local Government Advisory Committee	Teams Meeting
	Q&A Agenda Briefing	Teams Meeting
13 May 2022	Meeting with Hon Matthew Swinbourn	Shire Offices
	2022-23 Budget Lunch with Premier	Erskine

6. Declaration of Councillors and Officer's interest:

Councillor David Atwell declared a Financial Interest in item 10.1.6 – Proposed Amendment of Development Approval Granted by the Development Assessment Panel to Extend the Period Within Which Development Must be Substantially Commenced - Lot 504 and Lot 506 Thomas Road, Oakford (PA22/263), as Councillor Atwell did contract work, e.g. slashing for one of the proponents. Councillor Atwell will leave the Meeting while this item is discussed.

Shire President, Councillor Michelle Rich declared an Impartiality Interest in item 10.2.1 - Keirnan Park – Project Scope Reduction to meet Financial Assistance Agreement (SJ1364), as Councillor Rich is a long term supporter of the Keirnan Park project.

Councillor David Atwell declared an Impartiality Interest in item 10.2.1 - Keirnan Park – Project Scope Reduction to meet Financial Assistance Agreement (SJ1364), as Councillor Atwell is a long term supporter of the project.



Shire President, Councillor Michelle Rich declared an Impartiality Interest in item 10.2.2 - Keirnan Park – Financial Assistance Agreement for Enabling Works, Tender and Construction of Stage 1A (SJ1364-02), as Councillor Rich is a long term supporter of the Keirnan Park project.

Councillor David Atwell declared an Impartiality Interest in item 10.2.2 - Keirnan Park – Financial Assistance Agreement for Enabling Works, Tender and Construction of Stage 1A (SJ1364-02), as Councillor Atwell is a long term supporter of the project.

Councillor Tricia Duggin declared a Financial Interest in item 10.4.1 – Award Request for Tender / Quote – RFT11/2021 – Serpentine Jarrahdale Community Recreation Centre Management Services (SJ3749), as Councillor Duggin is a current fee paying member of the SJCRC. Potential for this fee to change based on management services provider. The extent of the interest is \$36 per fortnight. Councillor Duggin will leave the Meeting while this item is discussed.

Manager Community Activation, Ms Rebecca Steinki, declared an Impartiality Interest in item 10.4.1 - Award Request for Tender / Quote – RFT11/2021 – Serpentine Jarrahdale Community Recreation Centre Management Services (SJ3749), as Ms Steinki is a member of the SJ Community Recreation Centre as part of the employee wellness program and Ms Steinki's children also occasionally participate in recreational pursuits at the Centre.

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

7.1 Ordinary Council Meeting – 11 April 2022

OCM085/05/22

COUNCIL RESOLUTION

Moved Cr Strange, seconded Cr Byas

That the minutes of the Ordinary Council Meeting held on 11 April 2022 be CONFIRMED (E22/4716).

CARRIED UNANIMOUSLY 9/0

7.2 Special Council Meeting – 20 April 2022

OCM086/05/22

COUNCIL RESOLUTION

Moved Cr Duggin, seconded Cr Byas

That the minutes of the Special Council Meeting held on 20 April 2022 be CONFIRMED (E22/5293).

CARRIED UNANIMOUSLY 9/0

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

Nil.

**9. Motions of which notice has been given:**

9.1 - Notice of Motion – Lighting conditions on the intersection of Abernethy Road / Hopkinson Road, Byford (SJ3763)	
Councillor	Councillor Singh
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> .

Notice of Motion

A Notice of Motion was received from Councillor Singh via email on Sunday, 17 April 2022.

The Notice of Motion is “That Council REQUEST the Chief Executive Officer prepare a report for consideration at the July 2022 Ordinary Council Meeting, to find appropriate solutions in improving and upgrading lighting conditions on the intersection of Abernethy Road / Hopkinson Road, Byford.”

Officer Comment

The lighting level at the intersection of Abernethy Road and Hopkinson Road was discussed at PCF on Monday, 28 February 2022.

Following the PCF, Shire Operations staff inspected the intersection of Abernethy Road and Hopkinson Road to investigate the level of lighting on Wednesday evening, 2 March 2022 to assess the location of lights at the intersection and also to get an indicative measure of the lux levels of lighting. Officers also attended the Abernethy Road and Kargotich Road intersection to compare the level of lighting at both locations. It was noted that the Abernethy Road and Kargotich Road intersection was lit considerably better.

The inspection confirmed that lighting exists at both intersections, each having 2 street lights. The inspection revealed that the lighting level at the Abernethy Road / Hopkinson Road intersection is considerably less than the level of lighting at the Kargotich Road / Abernethy Road intersection. It is assumed that the 125w globes at the Abernethy Road / Hopkinson Road intersection have been in use for quite some time resulting in loss of efficiency.

To upgrade the lighting at the intersection, the Shire will need to engage a lighting designer to audit the existing intersection lighting for compliance with the relevant Australian Standard and confirm upgrade requirements.

A Request For Quote has been sent out to engage a lighting consultant to undertake a lighting audit. This will be followed by a lighting upgrade design to comply with the relevant lighting standard.

A Business Case has been prepared and put forward for consideration to fund the required lighting upgrade at this intersection in the 2022/23 financial year.

As the above work on the lighting has commenced, and a business case has been submitted, rather than a further report being brought to Council in July 2022, Officers recommend that this work to date be noted and the business case figure of \$49,689 be listed for consideration in the 2022 /2023 budget.



Voting Requirements: Simple Majority

Councillor Recommendation

That Council REQUEST the Chief Executive Officer prepare a report for consideration at the July 2022 Ordinary Council Meeting, to find appropriate solutions in improving and upgrading lighting conditions on the intersection of Abernethy Road / Hopkinson Road, Byford.

Alternate Officer Recommendation

That Council:

1. NOTES the work undertaken to date to investigate the lighting conditions at the intersection of Abernethy Road / Hopkinson Road intersection; and
2. LIST for consideration the amount of \$49,689 for 2022/2023 budget for the upgrade to the lighting at the intersection.

OCM087/05/22

COUNCIL RESOLUTION / Alternate Officer Recommendation

Moved Cr Singh, seconded Cr Strange

That Council:

1. **NOTES** the work undertaken to date to investigate the lighting conditions at the intersection of Abernethy Road / Hopkinson Road intersection; and
2. **LIST** for consideration the amount of \$49,689 for 2022/2023 budget for the upgrade to the lighting at the intersection.

CARRIED UNANIMOUSLY 9/0



9.2 - Notice of Motion – Revocation OCM072/04/22 - Proposed Change of Use – ‘Showroom’ to ‘Health Studio’ – Lot 3, 821 South Western Highway, Byford (PA21/994)	
Councillor	Councillor Coales (Mover) Councillor Strautins Councillor Duggin
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> .

Notice of Motion

In accordance with Regulation 10 of the *Local Government (Administration) Regulations 1996* and part 14 of the Shire of Serpentine Jarrahdale’s *Standing Orders Local Law 2002 (as Amended)*, a Notice of Motion was received from Councillor Coales on Friday, 29 April 2022 to revoke Council’s Resolution OCM072/04/22, made at the Ordinary Council Meeting of 11 April 2022, related to the Proposed Change of Use – ‘Showroom’ to ‘Health Studio’ – Lot 3, 821 South Western Highway, Byford.

Support for the preparation of the Notice of Motion was provided in writing by Councillor Strautins and Councillor Duggin on Tuesday, 3 May 2022.

Being a Motion to revoke under regulation 10 of the *Local Government (Administration) Regulations 1996* the Notice of Motion is presented in two parts, with Part 2 to be considered by Council in the event that Part 1 is resolved in the affirmative.

Voting Requirements: **Part 1** - Absolute Majority (r10 of the *Local Government (Administration) Regulations 1996*)

Part 2 – Simple Majority

Part 1

“That Council REVOKES decision OCM072/04/22 made at the April 2022 Ordinary Council Meeting.”

Part 2

“That Council APPROVES the development application for the change of use from ‘Showroom’ to ‘Health Studio’ at Lot 3, 821 South Western Highway, 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	Development Plans received at the Shire Offices on 13 October 2021; Transport Impact Statement received at the Shire Offices on 13 October 2021
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- b. The maximum dance class size shall not exceed 35.



- c. Prior to the commencement of development, payment of \$3,750 shall be made to the Shire of Serpentine Jarrahdale for Payment in Lieu of 1 car parking bay which has not been provided on site or in a shared parking arrangement. This condition has been imposed under the requirements of Schedule 2, clause 77H of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- d. Operation hours of the centre shall be restricted to 8:30am to 10:00am and 3:00pm to 8:00pm Monday to Friday, Saturday 8:30am to 3:00pm and Sunday 9:00am to 11:00am.
- e. The development shall comply with the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997*.
- f. This approval is valid for a period of five (5) years only, commencing from the date of issue of this approval."

Officer Comment

This matter was considered at the 11 April 2022 Council meeting, as Item 10.1.2. This item discussed the planning assessment and rationale in respect of car parking requirements. Based on that planning assessment and rationale, modified condition (c) is not supported.

Under clause 14.1 of the Shire's Standing Orders where the decision proposed to be revoked concerns the issue of an approval or the authorisation of a licence, permit or certificate, and where that approval or authorisation of a licence, permit or certificate has been put into effect by the Council in writing to the applicant or the applicant's agent by an employee of the Council authorised to do so; a statement of impact must be considered concerning the legal and financial consequences of the proposed revocation or change. The legal and financial consequences are as follows:

- Should Council support Part 1 of the Notice of Motion and not replace the resolution with a resolution approving the application, this will result in revoking of the development approval issued for the proposed change of use. The application will be outstanding.

The applicant may choose to accept a deemed refusal, by virtue of Council failing to make a decision on the outstanding application within the required 90 day assessment period.

- Should Council support Part 1 of the Notice of Motion and replace it with a decision to approve subject to conditions, the applicant may seek a review of the decision and the conditions by the State Administrative Tribunal. Such application would need to be made by the applicant within 28 days of the new decision.
- Should Council not support Part 1 of the Notice of Motion, the decision of 11 April 2022 remains on foot and the applicant would only be able to seek a review of that decision and the conditions within 28 days of being communicated that decision. Such communication occurred on 21 April 2022.



Relevant Previous Decisions of Council

Ordinary Council Meeting - 11 April 2022 – OCM072/04/22 - COUNCIL RESOLUTION

That Council APPROVES the development application for the change of use from 'Showroom' to 'Health Studio' at Lot 3, 821 South Western Highway, 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.*

<i>Plans and Specifications</i>	<i>Development Plans received at the Shire Offices on 13 October 2021; Transport Impact Statement received at the Shire Offices on 13 October 2021</i>
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- b. The maximum dance class size shall not exceed 35.*
- c. Prior to the commencement of development, payment of \$22,500 shall be made to the Shire of Serpentine Jarrahdale for Payment in Lieu of 6 car parking bays which have not been provided on site or in a shared parking arrangement. This condition has been imposed under the requirements of Schedule 2, clause 77H of the Planning and Development (Local Planning Schemes) Regulations 2015.*
- d. Operation hours of the centre shall be restricted to 8:30am to 10:00am and 3:00pm to 8:00pm Monday to Friday, Saturday 8:30am to 3:00pm and Sunday 9:00am to 11:00am.*
- e. The development shall comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997.*

Voting Requirements: **Part 1** - Absolute Majority (*Regulation 10 of the Local Government (Administration) Regulations 1996*)

Part 2 - Simple Majority

Councillor Recommendation

Part 1

That Council REVOKES decision OCM072/04/22 made at the April 2022 Ordinary Council Meeting.

Part 2

That Council APPROVES the development application for the change of use from 'Showroom' to 'Health Studio' at Lot 3, 821 South Western Highway, 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	Development Plans received at the Shire Offices on 13 October 2021; Transport Impact Statement received at the Shire Offices on 13 October 2021
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- b. The maximum dance class size shall not exceed 35.
- c. Prior to the commencement of development, payment of \$3,750 shall be made to the Shire of Serpentine Jarrahdale for Payment in Lieu of 1 car parking bay which has not been provided on site or in a shared parking arrangement. This condition has been imposed under the requirements of Schedule 2, clause 77H of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- d. Operation hours of the centre shall be restricted to 8:30am to 10:00am and 3:00pm to 8:00pm Monday to Friday, Saturday 8:30am to 3:00pm and Sunday 9:00am to 11:00am.
- e. The development shall comply with the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997*.
- f. This approval is valid for a period of five (5) years only, commencing from the date of issue of this approval.

In accordance with Regulation 10 of the *Local Government (Administration) Regulations 1996*, prior to Council considering the Notice of Motion, the Chief Executive Officer asked for confirmation by Councillors that at least one third of the number of offices of Members of the Council supported a motion to revoke the previous decision of Council.

Being a Motion to revoke under Regulation 10 of the *Local Government (Administration) Regulations 1996* the Notice of Motion is presented in two parts, with Part 2 to be considered by Council in the event that Part 1 is resolved in the affirmative.

Part 1

OCM088/05/22

MOTION

Moved Cr Coales, seconded Cr Duggin

That Council REVOKES decision OCM072/04/22 made at the April 2022 Ordinary Council Meeting.

MOTION LOST 4/5

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

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

**10. Chief Executive Officer reports:****10.1 Development Services reports**

10.1.1 – Retrospective Sea Containers – Lot 849, 97 Kalyang Loop, Byford (PA21/1245)	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officer's 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 (e.g. 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:	Nathan Briggs
Owner:	Nathan Briggs
Date of Receipt:	8 December 2021
Lot Area:	2,002m ²
Town Planning Scheme No 2 Zoning:	Urban Development
Metropolitan Region Scheme Zoning:	Urban

Report Purpose

The purpose of this report is for Council to consider a retrospective development application for sea containers at Lot 849, 97 Kalyang Loop, Byford. The application seeks to vary the requirements of the Redgum Brook Plan 18 Local Development Plan (LDP).

The application is presented to Council as an objection was received during the advertising process. The objection relates to concerns surrounding safety, visual amenity, land use and the location of the sea containers. Officers do not have delegated authority to determine development applications where objections cannot be addressed by way of amendments or through the imposition of planning conditions, in accordance with Delegated Authority 12.1.1 – Determination of Development Applications.

For the reasons outlined in the report, Officers recommend that Council approve the development application subject to conditions.

Relevant Previous Decisions of Council

There are no previous Council decisions relating to this application.



Background

Existing Development

The subject site, which is 2,002m² in area, is located on the north-west periphery of the Byford Urban Area. The site is located within the Redgum Brook LDP, which is made up of lots that have a composite designation of 'Residential R20' and 'Light Industry'. This sees the north side of Kalyang Loop being characterised by residential development towards the front, and light industrial development to the rear. The subject site is consistent with this.

Development

The application seeks retrospective approval for the sea containers to the rear of the property. The applicant has provided information that the sea containers are used for storage purposes incidental to the 'Warehouse' land use previously approved over a portion of the site.

A 20ft sea container and a 40ft sea container are positioned with a nil setback to the east side lot boundary (to the east) and a 1.8m setback to the rear boundary (north). The sea containers have a height of 2.59m. The applicant, after the neighbour referral process, has proposed to setback the sea containers to 1 metre from the neighbouring eastern boundary as opposed to the nil setback currently proposed. The applicant has proposed this in an attempt to address some concerns raised by the submitter.

Following shows an aerial image of the property and existing development.

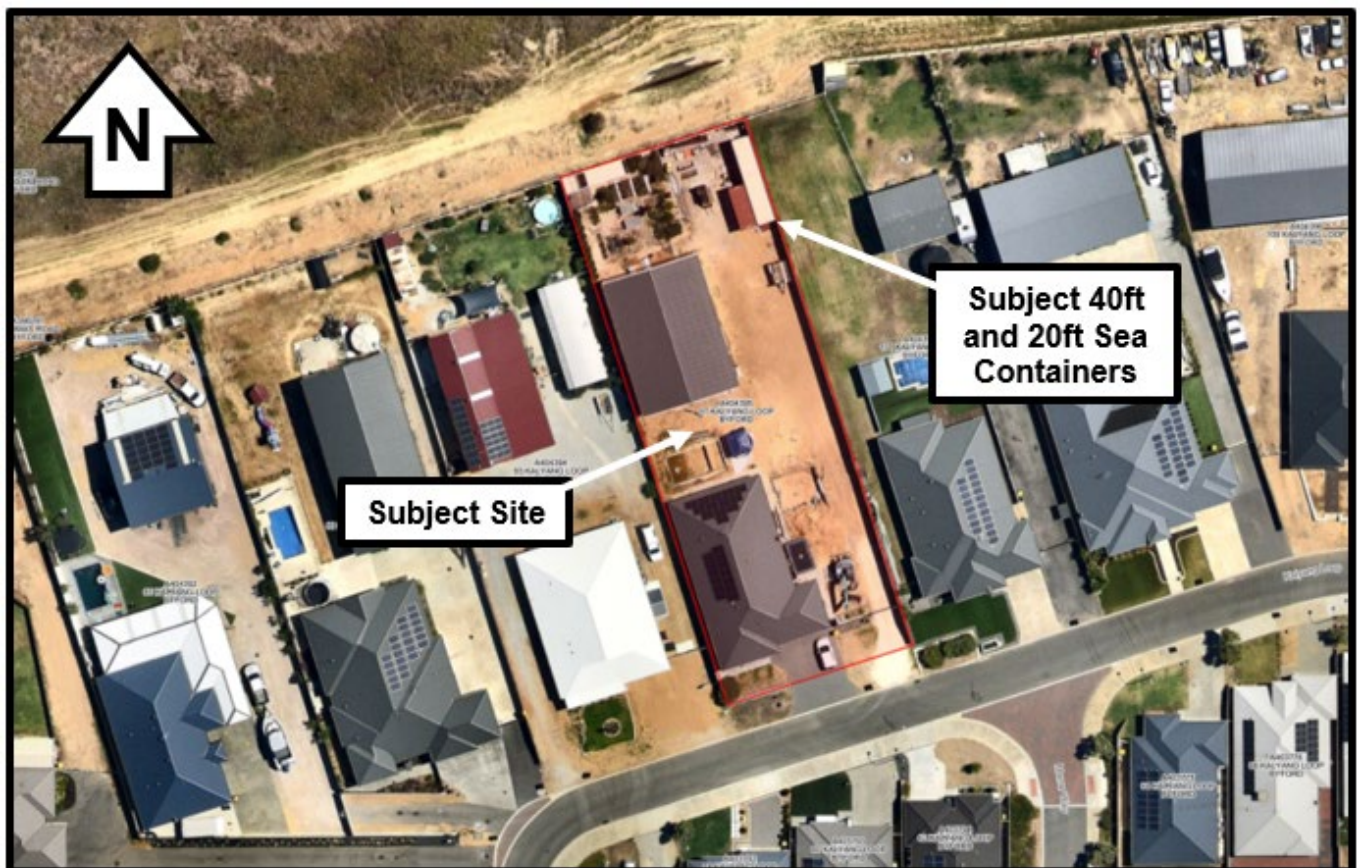


Figure 1: Aerial Plan of the Sea Containers

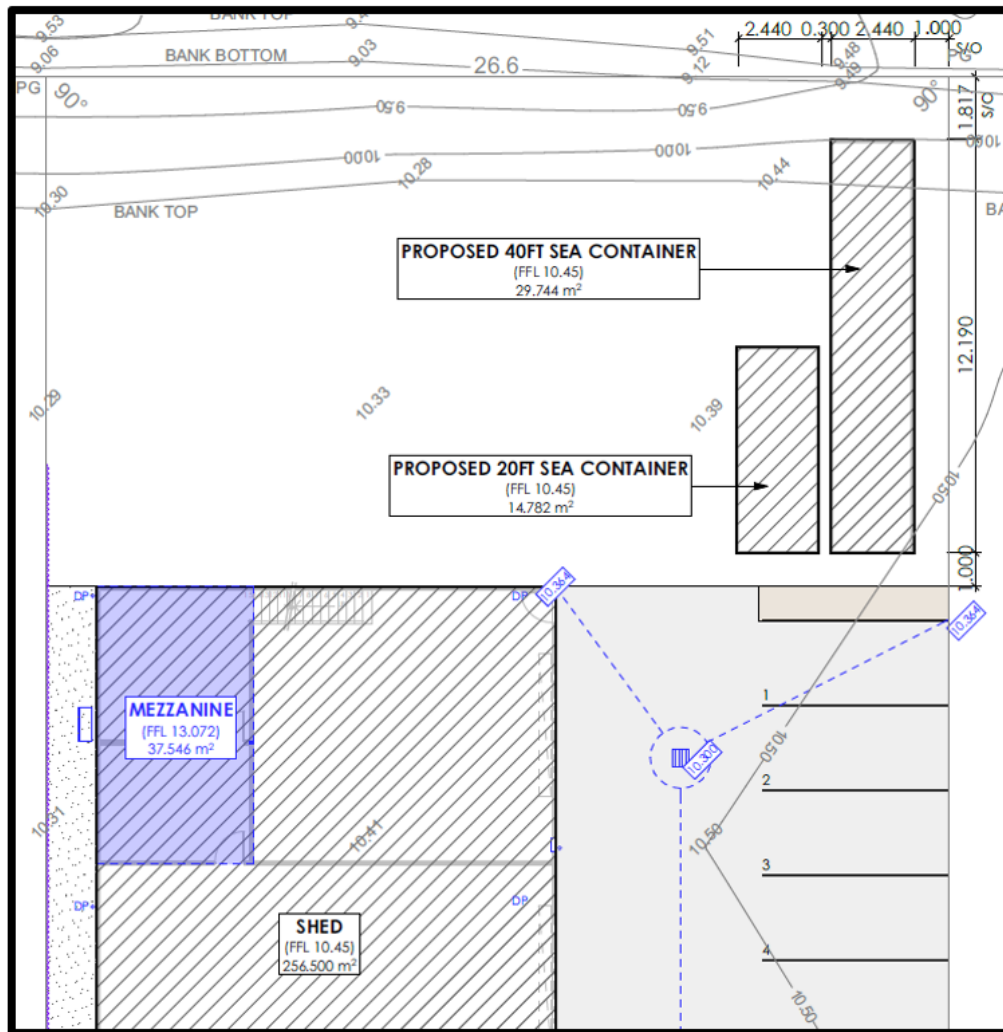


Figure 2: Site Plan of the Sea Containers

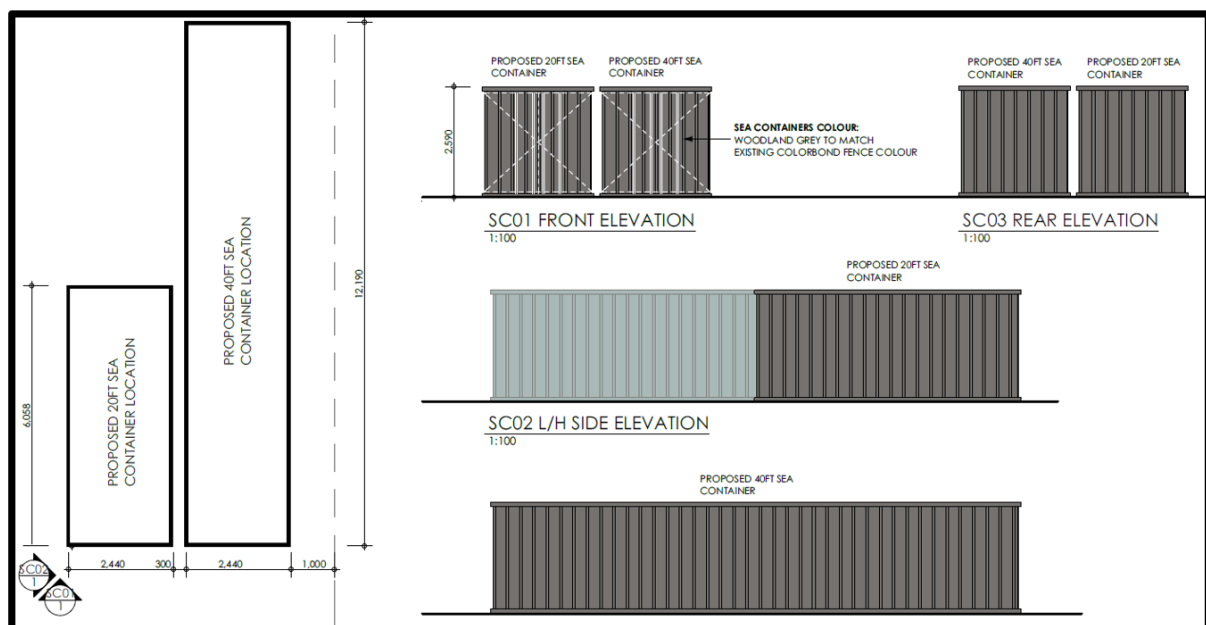


Figure 3: Elevation Plan of the Sea Containers



Figure 4: Site Photo of the Sea Containers

Full details of the proposal are contained within **attachment 1**.

Community / Stakeholder Consultation

The application was advertised to the adjoining landowner from 8 December 2021 to 22 December 2021, in accordance with Local Planning Policy 1.4 – Consultation for Planning Matters. One submission was received objecting to the proposal for the following reasons:

Issue		
Nature of Concern	Applicant Response	Officer Response
<ul style="list-style-type: none">• Safety – “I am concerned about having a shipping container permanently there providing shelter to snakes.”• Visual Amenity – “It will also be in our view and while a temporary 20 foot container is tolerable a permanent 40 foot will be more imposing.”• Land Use – The applicant in summary raised concerns that	<ul style="list-style-type: none">• “Unfortunately living in a rural area of Australia we do not believe that a container would make any difference to if there were snakes in the area furthermore we do also have rodent baiting in place on the property.”• “I am not sure there is much difference visually to a 20 foot container to a 40 foot container. As our blocks are dual zoned light industrial we feel that either should be acceptable if approved by council. As stated in our application we are happy	<ul style="list-style-type: none">• Officers do not consider that there is an increased risk of snakes. As the Tonkin Highway project is undertaken, the vacant land behind the subject properties will be converted to the road which will likely reduce any habitat currently supporting snakes in the area.• Amenity concerns are discussed in the



Issue		
Nature of Concern	Applicant Response	Officer Response
<p>there would be a new business not consistent with the area started.</p> <ul style="list-style-type: none">• Location – “The ‘nature reserve’ area at the back of our properties which we are prohibited from building on or developing was a very clear condition when we bought the block.”	<p><i>to paint the container to blend with the current surrounds should it be required, which we believe would be a lot more visually appealing than the current container onsite.”</i></p> <ul style="list-style-type: none">• In summary there is no proposed change to businesses or land use with this application.• “We believe the additional container and its location would allow us to store building materials and tools in a neat and tidy manner.”	<p>relevant section of this report.</p> <ul style="list-style-type: none">• Land use matters are discussed in the relevant section of this report.• Location concerns are discussed in the relevant section of this report.

A full copy of the submission and the applicant’s response is contained within **attachment 2**.

Statutory Environment

Legislation

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

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2
- Shire of Serpentine Jarrahdale Draft Local Planning Scheme No. 3
- Redgum Brook North Local Structure Plan
- Redgum Brook Plan 18 Local Development Plan
- Local Planning Policy 4.19 – Outbuildings, Sheds, Garden Sheds and Sea Containers

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 the variations to the LDP where Council is required to exercise discretion.

Land Use

The subject site is zoned ‘Urban Development’ under the Shire’s Town Planning Scheme No. 2 (TPS2). The aim and objectives of the ‘Urban Development’ zone under TPS2 includes “*Development of functional communities consistent with orderly and proper planning and the*



establishment and maintenance of an appropriate level of amenity". This is facilitated through structure plans. In this instance, the Redgum Brook North Local Structure Plan (LSP) provides a composite designation of 'Residential – R20' towards the front of the lot and 'Light Industrial' to the rear of the lot.

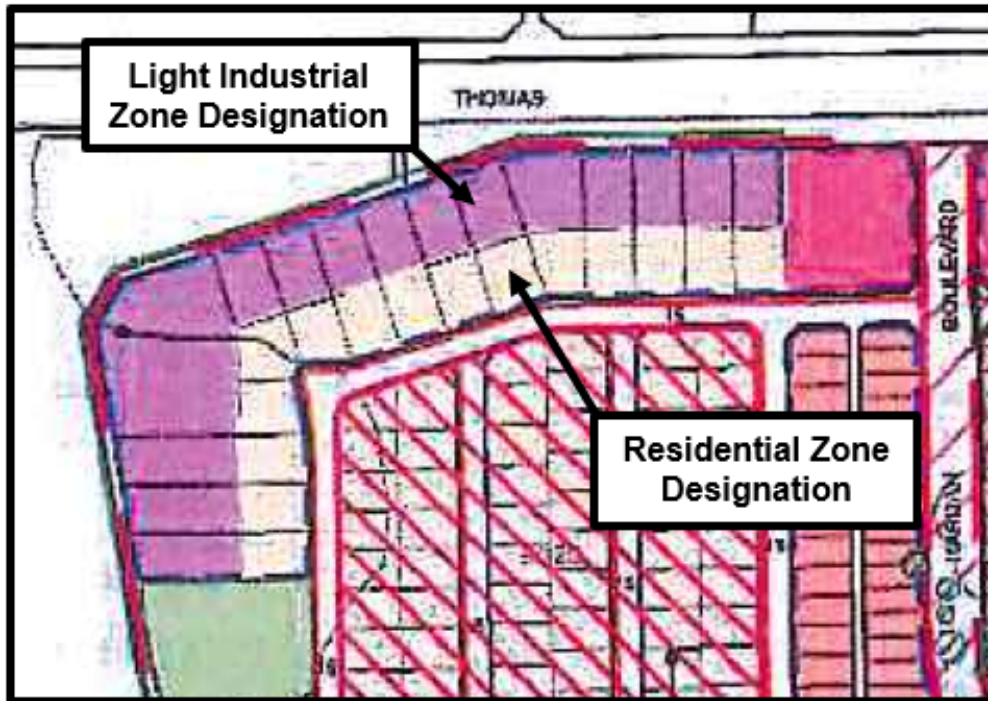


Figure 5: Local Structure Plan designation of the property

The proposed development is within the 'Light Industrial' designated portion of the site according to the LSP. The owner operates a building business and the sea containers are used for storage of building materials which falls within the TPS2 land use of 'Warehouse'. The land use of 'Warehouse' is a 'permitted' use in the 'Light Industry' zone.


One of the concerns raised in the objection was the land use specifically, that the sea containers would be associated with a business that does not have approval. However, Officers note the sea containers are to be used for storage in addition to the shed, to which approval was granted on 3 June 2020.

The property is also subject to the requirements of the LDP which provides for specific development requirements for the 'Composite Lot' arrangements. Importantly, it refines the areas to building envelopes where the 'Industry Light' and 'Residential zones are designated to, and provides for development provisions. This is discussed further in a later section within the report.

Form of Development and Amenity

Local Planning Policy 4.19: Outbuildings, Sheds, Garden Sheds and Sea Containers (LPP 4.19) exempts one 20ft sea container on land between 2000sqm – 4000sqm. Any additional sea container/s proposed requires a development to be assessed against the performance-based provisions of LPP 4.19. The most relevant of the provisions contained within LPP 4.19 are outlined and addressed in the below table:



LPP4.19 Considerations	
Provision	Assessment
2.2.1 Whether a size variation is required to satisfy specific needs of the owner/ applicant;	The sea containers will be used in association with the approved 'Warehouse' land use. The owner operates a building business and requires additional storage requirements. Storing materials internally is considered to provide an overall improvement to the amenity of an area.
2.2.2 Whether a size variation is excessive, considering the character of the surrounding area;	<p>The sea containers are not considered to be out of character with the locality. The rear of properties in this area are characterised by large bulky industrial sized sheds. These are often in excess of 200m² in floor area and 5m in overall height. This is depicted in the below aerial image.</p>  <p>The sea containers by nature are consistent with the expectation of 'light industrial' development. This aligns with the designation of the rear section of the property under the LSP, which forms the character of the area. They are also by contrast smaller and less visually impacting than the existing sheds in the locality. Officers therefore do not consider the sea containers to be out of character, nor excessive in size.</p>
2.2.4 Whether the development is sited behind the front setback line for the dwelling, visible from the street or neighbouring properties;	<p>The sea containers are currently set back 60.6m from the primary street. They are located behind the dwelling and the front fence/gate of the property, suitably screened from view from the Kalyang Loop.</p> <p>Regarding the visibility of the sea containers to the neighbour, they would only be visible to the neighbouring property to the east. The below image shows the sea containers visible from the neighbour's dwelling/outdoor pool area. Impacts to the neighbour are discussed further in section 2.2.6 of this table.</p>




LPP4.19 Considerations	
Provision	Assessment
	
2.2.5 Whether non-reflective materials are proposed on the building;	The sea containers are of a typical metal construction, currently painted an earthy red and off-white colour. The applicant has indicated that they would be willing to paint the sea containers the same colour as the fence. Officers consider this will soften the appearance of the sea containers and is reflected in a condition of determination. Painting will only be required on the east and south wall of the 40ft (white) container and of the south wall of the 20ft sea container.
2.2.6 Whether adequate screening exists, or has been proposed, from the road and/or neighbouring properties; and	<p>As mentioned in section 2.2.4 of this table, the sea containers would be visible from the neighbour to the east. A concern of the neighbour in their submission was regarding an adverse visual amenity impact from the sea containers.</p> <p>Officers note that the sea containers are only visible for 800mm above the fence line (as seen in figure 6 below). The containers would also maintain a significant setback to the neighbour's outdoor area (approximately 23m) and dwelling (approximately 33m), as pictured in figure 7 below. By way of contrast, the LDP provides the requirement that development should maintain a <i>"minimum separation distance between dwelling and light industrial structure to be 5.0 metres"</i>. In light of the large setback maintained, Officers are satisfied that there would not be an adverse visual impact generated to the neighbour.</p> <p>The applicant however, to further appease concerns raised by the submitter, has indicated that they would be happy to provide screening onsite between the 1.0 metre revised location and the eastern boundary.</p>
2.2.6 Consideration of comments from the affected adjoining landowners.	One objection was received as discussed earlier in the report.



Figure 6: The sea containers are only visible 800mm above the fence line



Figure 7: The sea containers are located at the rear of the property, a significant distance from the neighbour's dwelling

Officers consider that through measures such as an increased setback and painting of the containers, Council can be satisfied that any adverse impacts to the locality will be mitigated. Thereby, the proposal is considered to comply with LPP4.19 in this aspect. Regarding the variation to the LDP requirements, this has been considered in more detail in the following section of this report.

Redgum Brook Local Development Plan 18 (LDP):

The LDP for the site designates two (2) building envelopes where the light industrial and residential developments are required to be located. It also provides guidelines such as setbacks to adjoining properties and the rear boundary which adjoins Thomas Road.

In terms of the variation to the LDP as proposed by the application, the LDP requires that development associated with the 'Light Industrial' zone shall maintain as follows:



- “Minimum rear setback to Tonkin Highway or Thomas road of 15m (includes 10m wide vegetation buffer area)”; and
- “Minimum side setback of 3m”.

These requirements of the LDP are identified in the below map extract:

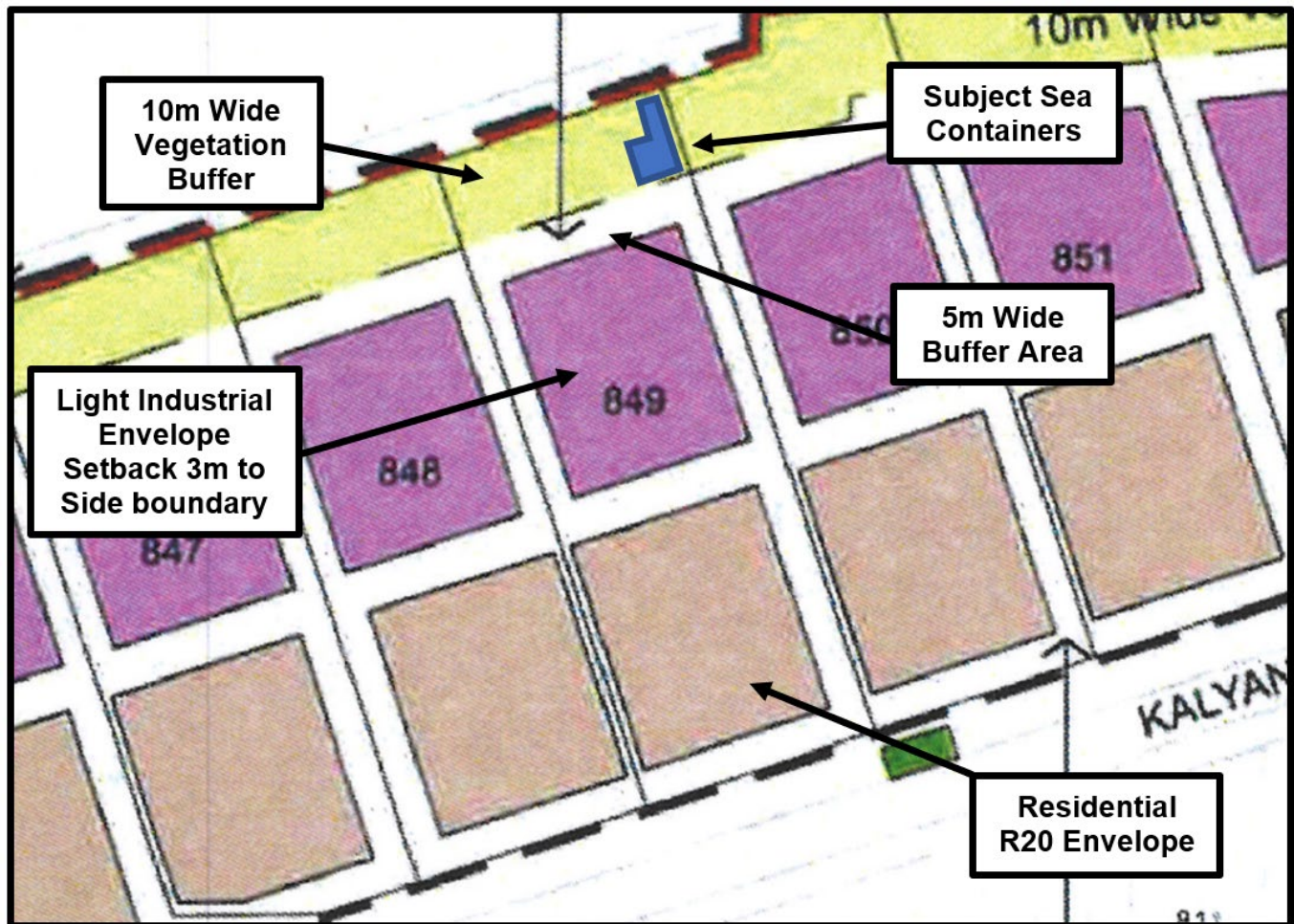


Figure 8: Local Development Plan requirements for the subject site

The existing development is located within the 10m wide vegetation buffer and within 3m of the side lot boundary to the east, as indicated in the above figure. The proposal therefore poses variations to the subject LDP. However, LDPs are a due regard document as stipulated by Schedule 2, Part 6, Clause 56(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*:

“A decision-maker for an application for development approval in an area that is covered by a local development plan that has been approved by the local government must have due regard to, but is not bound by, the local development plan when deciding the application.”

Therefore, in determining whether the proposal would adversely impact upon the amenity of the locality, the proposal has been assessed by Officers against the intent and purpose of the vegetation buffer to the rear and the side setback requirements of the LDP.

Regarding the vegetation buffer, the intention was to provide a screen that would filter the views of the ‘Light Industrial’ development from Thomas Road to the north, ultimately improving the visual amenity to the northern gateway of Byford.



Currently the rear property boundaries subject to the LDP maintain a 2m high noise wall, which means that only 600mm of the sea container would be visible above the wall. As seen in the figure below, these sea containers are not visually prominent from Thomas Road. Officers consider when compared to the scale and size of the existing light industrial sheds visible in the below image, the sea containers would not cause an adverse visual impact as viewed from Thomas Road. The proposal is therefore considered to meet the intent of the LDP in this aspect.



Figure 9: The subject sea containers as viewed from the Thomas Road/Tonkin Highway Main Roads Reserve

Regarding the side boundary setback proposed, the revised application seeks a 1.0 m setback in lieu of the 3m required under the LDP. The intent of the LDP in requiring the 3m setback is to ensure that the large light industrial shed developments permitted in this area do not adversely impact on the amenity of neighbouring properties.

While the setback in this instance is reduced, the visual impact of the sea containers when viewed from adjoining properties is considered far less than what a compliant development established through the LDP would appear as. The expected form of development for this portion of the site through the LDP is a maximum 300m² shed, comprising of a 6m ridge height, setback 3 metres from the lot boundary. In this regard, Officers consider that although such development would be compliant with the LDP, it would ultimately pose a greater presence of bulk and scale upon a neighbour's visual amenity than the presence of a two moderately sized sea containers. As captured in the image below from the submitter's property, the sea containers are far less visually prominent in comparison to the existing shed on the applicant's block which, in this instance, is setback further than the 3 metres required by the LDP. Officers consider that the development does not adversely impact upon the visual amenity of the neighbouring property. To further ensure the development does not impact upon the visual amenity of the property to the east, the applicant has proposed to paint the sea containers the same colour as the existing dividing fence (green) to soften the appearance of the sea containers and landscape the setback area between the development and the boundary. These form recommended conditions of approval.

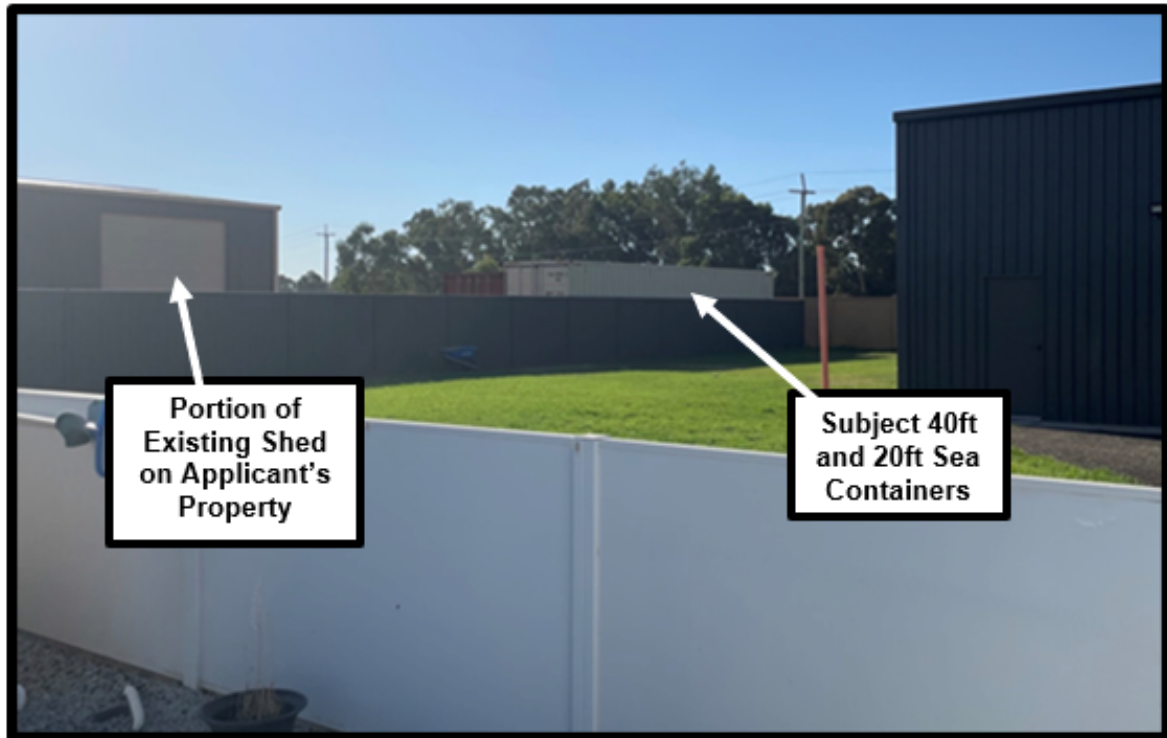


Figure 10: Comparison of visual impact of sea containers and light industrial shed

Options and Implications

Option 1

That Council APPROVES the development application for the retrospective sea containers at Lot 849, 97 Kalyang Loop, 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 received at the Shire's offices on 8 December 2021.
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- b. All stormwater shall be retained within the property to the satisfaction of the Shire of Serpentine Jarrahdale. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.
- c. Within 60 days of this approval, the sea containers shall be relocated to a setback of 1 metre from the east boundary.
- d. Within 60 days of this approval, the south wall of the 20ft sea container and the south and east wall of the 40ft sea container are to be painted consistent with the colour of the existing dividing fence, to the satisfaction of the Shire of Serpentine Jarrahdale.
- e. Within 60 days of the approval, the landowner shall prepare a landscape plan which demonstrates planting of sufficient numbers of advanced *Adenanthos sericeus* (Woolly Bush) plants, or similar species, within the 1m setback area to the eastern boundary, to the satisfaction of the Shire of Serpentine Jarrahdale. Once approved by the Shire, the landscape plan is to be implemented within 30 days and maintained to the satisfaction of the Shire.



Option 2

As per Option 1, but removing conditions (c), (d) and (e). In this option, the sea containers could be approved retrospectively, and would not be required to be setback further, painted or have screen landscaping installed.

Option 3

That Council REFUSES the development application for retrospective sea containers at Lot 849, 97 Kalyang Loop, Byford due to inconsistencies with the LDP for the site.

Option 1 is recommended.

Conclusion

The application seeks approval for a 40ft and 20ft sea container, which vary the requirements of the LDP applicable to the site. Officers consider that the sea containers would be consistent with the performance base provisions of LPP4.19 and the intent of the LDP. The sea containers are considered not to adversely impact the streetscape or the amenity of surrounding landowners.

Attachments (available under separate cover)

- **10.1.1 - attachment 1** – Development Plans (E22/4548)
- **10.1.1 - attachment 2** – Summary of Submissions (E22/4610)
- **10.1.1 - attachment 3** – Technical Assessment (E22/1401)

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

Financial Implications

Nil.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There are no risks associated with Option 1.						
2	That Council grants retrospective approval without requiring conditions to increase setback, paint or establish landscaping	Planning framework	Social Community Outcomes /	Possible	Minor	MODERATE	Ensure that reasons for this decision are explained specific to amenity considerations.
3	That Council refuses the application and an appeal is lodged with the State Administrative Tribunal.	Reasons for refusal reflecting valid planning concerns or variations.	Reputation	Possible	Minor	MODERATE	Ensure that reasons for refusal are based on valid planning reasons.

Voting Requirements: Simple Majority

Officer Recommendation

That Council APPROVES the development application for the retrospective sea containers at Lot 849, 97 Kalyang Loop, 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 received at the Shire's offices on 8 December 2021.
--------------------------	--

- b. All stormwater shall be retained within the property to the satisfaction of the Shire of Serpentine Jarrahdale. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.
- c. Within 60 days of this approval, the sea containers shall be relocated to a setback of 1 metre from the east boundary.
- d. Within 60 days of this approval, the south wall of the 20ft sea container and the south and east wall of the 40ft sea container are to be painted consistent with the colour of the existing dividing fence, to the satisfaction of the Shire of Serpentine Jarrahdale.



- e. Within 60 days of the approval, the landowner shall prepare a landscape plan which demonstrates planting of sufficient numbers of advanced *Adenanthos sericeus* (Woolly Bush) plants, or similar species, within the 1m setback area to the eastern boundary, to the satisfaction of the Shire of Serpentine Jarrahdale. Once approved by the Shire, the landscape plan is to be implemented within 30 days and maintained to the satisfaction of the Shire.

OCM089/05/22**COUNCIL RESOLUTION****Moved Cr Rich, seconded Cr Duggin**

That Council APPROVES the development application for the retrospective sea containers at Lot 849, 97 Kalyang Loop, 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 received at the Shire's offices on 8 December 2021.
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- b. Within 60 days of the date of this approval, both sea containers are to be wholly relocated to within the approved Light Industry building envelope for the subject land, as depicted on the approved Local Development Plan for the land.
- c. All stormwater shall be retained within the property to the satisfaction of the Shire of Serpentine Jarrahdale. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.
- d. Within 60 days of this approval, the south and east facing walls of the sea containers (once relocated) are to be painted consistent with the colour of the existing dividing fence, to the satisfaction of the Shire of Serpentine Jarrahdale.

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, Duggin, Singh, Strange and Strautins voted FOR the motion.

Councillor Coales voted AGAINST the motion.

Reason for difference to Officer Recommendation

To strike a balance between the proponent and the neighbour in regards to the amenity in this area.



10.1.2 – Retrospective Fence Extension – Lot 228, 28 Aquanita Rise, Darling Downs (PA21/804)	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officer's 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 (e.g. 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:	Rawry and Clare Woodend
Owner:	Rawry and Clare Woodend
Date of Receipt:	31 January 2022
Lot Area:	4274.8m ²
Town Planning Scheme No 2 Zoning:	Rural Living A
Metropolitan Region Scheme Zoning:	Rural

Report Purpose

The purpose of this report is for Council to consider a retrospective development application for a non-compliant colourbond fence extension at Lot 228, 28 Aquanita Rise, Darling Downs. The fence extension is non-compliant, insofar that within this Rural Living A zone, the Shire's Town Planning Scheme No. 2 specifies under Clause 5.12.9.(l) that:

"Lot boundary fencing shall be of post and rail or post and wire unless otherwise approved by Council."

Furthermore, the third schedule of the Shire's Fences Local Law states:

"A lot boundary fence shall be of post and rail or post and wire unless otherwise approved by the Council or as otherwise stated in Council's Town Planning Scheme."

A fence other than post and rail can only be erected if it is approved by Council. No such approval has been granted for this fence extension, nor the other portions of colourbond fence on the land. The fence extension has been undertaken recently, whereas circa 2015 there were elements of colourbond fencing also established without approval.

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



For the reasons outlined in the report, Officers recommend that Council approve the retrospective development application. The fence extension is minor (4.8m), not readily visible from the street, and furthermore, no record of complaints have been received regarding the other sections of colourbond fence on the land that date back to 2015. Considering the large setback of the colourbond fencing to the street, and that the street setback retains post and rail style fencing, Officers consider that the amenity of the area will not be compromised by the 4.8m fence extension.

It is regrettable to find works undertaken within the Shire, which have not had a prerequisite development application submitted, assessed and approved by the Shire. In respect of this matter, it is concerning that the fence extension has been undertaken without any development approval, and also that there is a pre-existing fence established in circa 2015 that appears to have been erected without development approval. The Shire's Town Planning Scheme No. 2 does allow a retrospective development application to be made, though such applications are still subject to a merits based planning assessment. In this regard, this application is recommended for approval on the basis that it is not considered to represent an adverse public or private amenity impact. Had the application been considered to pose any such adverse public or private amenity impact, it would have been recommended for refusal, and would have resulted in enforcement action to make fencing compliant.

Relevant Previous Decisions of Council

There are no previous Council decisions relating to this application.

Background

Existing Development

The subject site, which is 4274.8m² in area, is located within a rural residential area of Darling Downs. The site is currently developed with a residence and associated outbuildings. There is an existing colourbond fence onsite extending along the entire west rear boundary, as well as the majority of the north and south side boundaries. This is shown in the blue colour on the aerial image below. This was recently extended by 4.8m, shown in yellow, and has been the matter of complaint and compliance investigation. The Applicant seeks to achieve compliance through a retrospective development application.

Officers undertook research on the history of development on the site. It appears that once the dwelling was established, a colourbond fence was erected without approval in mid-2015. No complaints have been recorded in respect of the fence, which is the majority of the boundaries behind the street setback line.

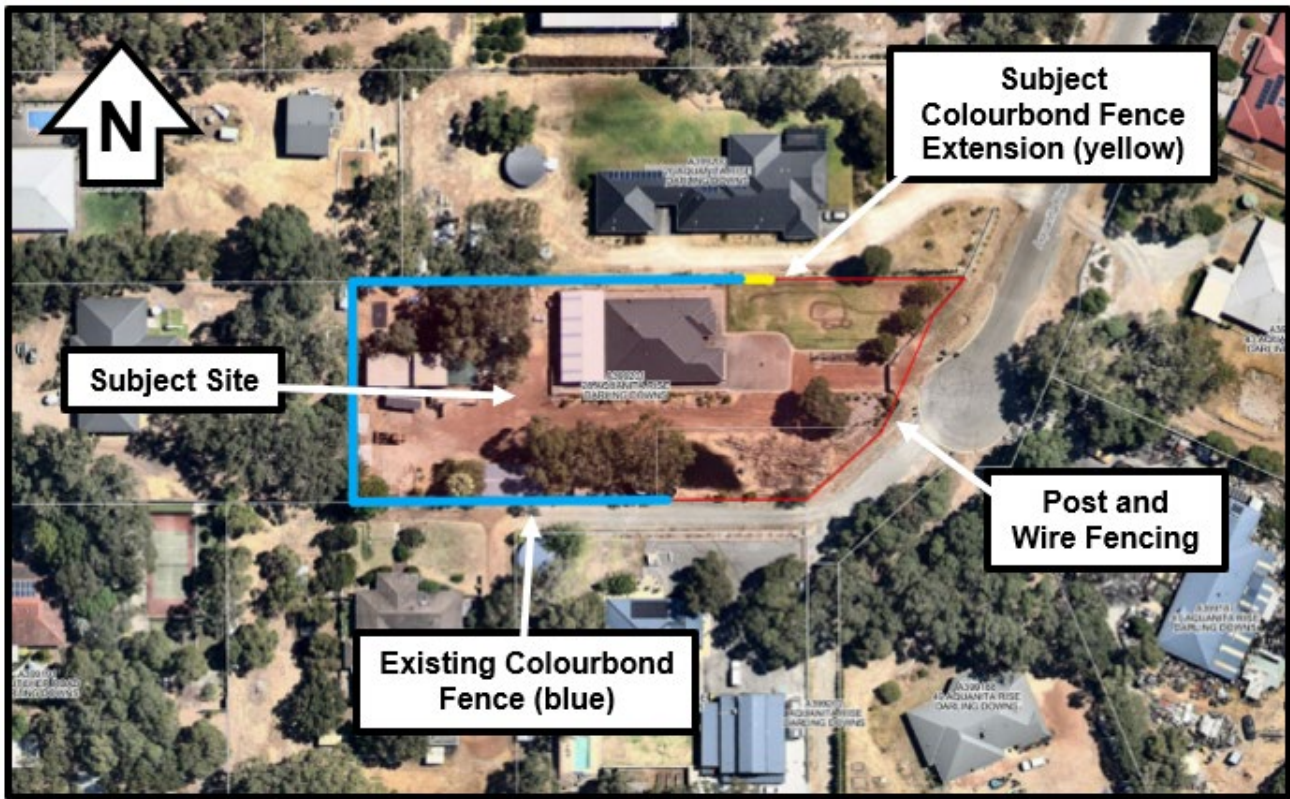


Figure 1: Aerial Plan

Development

The application seeks retrospective approval for a further 4.8m extension of the Colourbond dividing fence along the northern lot boundary. The subject extension has been constructed recently. The fence is of a typical 1.8m high Colourbond construction, continuing the existing design and green colour.

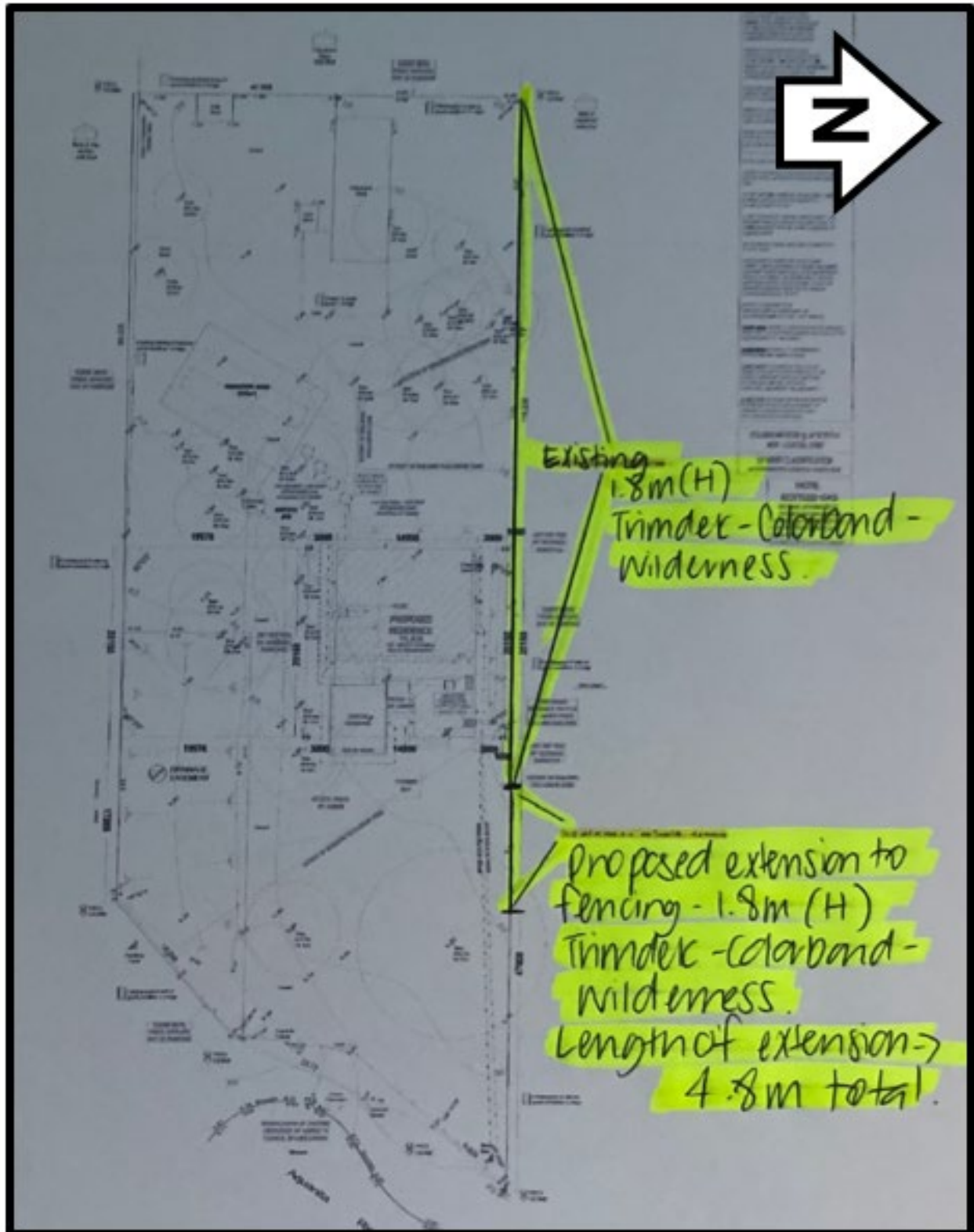


Figure 2: Site Plan

Full details of the proposal are contained within **attachment 1**.



Community / Stakeholder Consultation

The application was advertised to the adjoining landowner from 31 January 2022 to 14 February 2022, in accordance with the Shire's Local Planning Policy – Public Consultation for Planning Matters. One submission was received objecting to the proposal for the following reasons:

Issue		
Nature of Concern	Applicant Response	Officer Response
<ul style="list-style-type: none"> Amenity – <i>“Our view of the trees has been blocked. For us it is very claustrophobic looking at this fencing from our lounge room... It is something we do not expect to be doing in this semi-rural area as it is designed to be an open area, with the area code of post and wire or post and rail.”</i> Reflectivity – The neighbour raised concerns that the fence extension increases sunlight reflection to their lounge room. Retrospective nature of the works – <i>“We are still waiting for that section of colourbond fence to be replaced with the original post and rail...”</i> 	<ul style="list-style-type: none"> No response received from the Applicant 	<ul style="list-style-type: none"> The amenity concerns have been addressed within the form of development and amenity section of this report. The reflectivity concerns have been addressed within the private amenity section of this report. Officers note this comment.

These concerns are discussed in full within the relevant sections of the report. A full copy of the submission with the Applicant's response is contained within **attachment 2**.

Statutory Environment

Legislation

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

State Government Policies

- South Metropolitan Peel Sub-Regional Framework Towards Perth and Peel 3.5 Million

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2
- Shire of Serpentine Jarrahdale Draft Local Planning Scheme No. 3
- Shire of Serpentine Jarrahdale Local Planning Strategy
- Shire of Serpentine Jarrahdale Fences Local Law



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 the variations to Town Planning Scheme No. 2, where Council is required to exercise discretion.

Form of Development and Amenity

Clause 67 of the Deemed Provisions, under sub-clauses m) and n), requires that consideration be given to the consistency of development with the built form within the locality and for any adverse impacts to amenity.

The Shire's TPS2 and Fences Local Law sets out standards for dividing fences. Clause 5.12.9.(l) of TPS2 states:

"Lot boundary fencing shall be of post and rail or post and wire unless otherwise approved by Council."

Furthermore, the third schedule of the Fences Local Law is applicable to this area and states:

"A lot boundary fence shall be of post and rail or post and wire unless otherwise approved by the Council or as otherwise stated in Council's Town Planning Scheme."

The consideration of amenity and character is particularly concerned with those elements of public amenity, which are visible from the public street. This is particularly the street setback area, which presents the development to the public domain, and particularly unified and consistent fencing helps to enhance the rural residential aesthetic expected within the Rural Living A zone.

In this regard, the image below shows the section of red fencing within the street setback area is post and rail, and contributes significantly to the retention of rural residential amenity and character.





This also, as viewed from the street, achieves a consistent street character of large homes set within a spacious surround with the perception of a relaxed open character aided by the fencing at the front and front returns of property boundaries. The streetscape as an important measure of amenity is not compromised by the development.



Figure 3: Aquanita Rise streetscape, with the subject site at the end of the cul-de-sac (to the right)

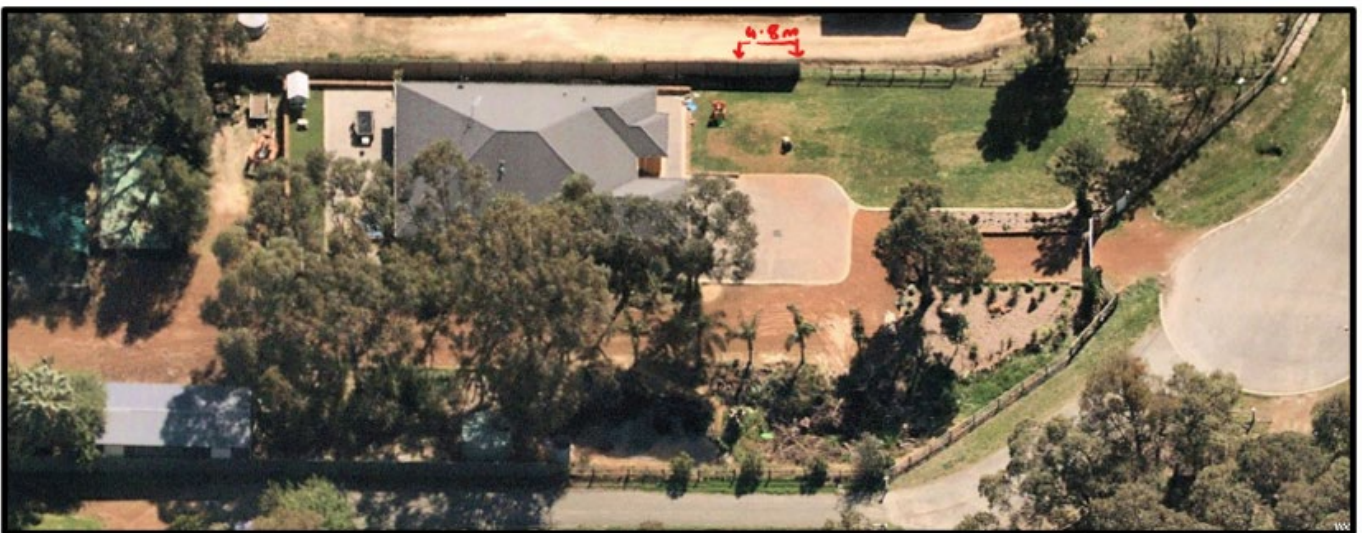
The objective of the 'Rural Living A' zone under TPS2 further identifies the expectations for development and public amenity within this area. Clause 5.12.2 of TPS2 states:

"The Rural Living A Zone is intended to cater for rural residential development on a range of lots between 4,000 square metres to one hectare in accordance with the objectives and guidelines of the Rural Strategy."

In accordance with this, consideration should be given to the maintenance of the existing rural character of the locality. In terms of the existing character of the locality and established streetscape, this features broad vistas which include the Darling Scarp landscape, large strands of mature vegetation and low-density residential development. Fencing as viewed from public areas is retained by this development, by virtue of the post and rail aspects being those visible from the street. The colourbond fence established in circa 2015, and the recent extension undertaken, are generally hidden from the streetscape and not considered to pose an adverse amenity impact. The following images below show the fencing existing, and the fencing that was extended:



Extent of fencing before extension



Fencing as extended

Private Amenity:

To further consider the consistency of the development with the requirements of the Deemed Provisions, Officers need to give consideration to the level of amenity afforded directly to the neighbouring property by the development. Concerns were raised in a submission received relating to visual amenity impacts though the reflective materials of Colourbond fencing.

The orientation of the neighbour's dwelling is mainly north facing. The area between the neighbour's house and the fence is utilised for a driveway purpose. The images below depict the neighbouring property on the north side of the fence.

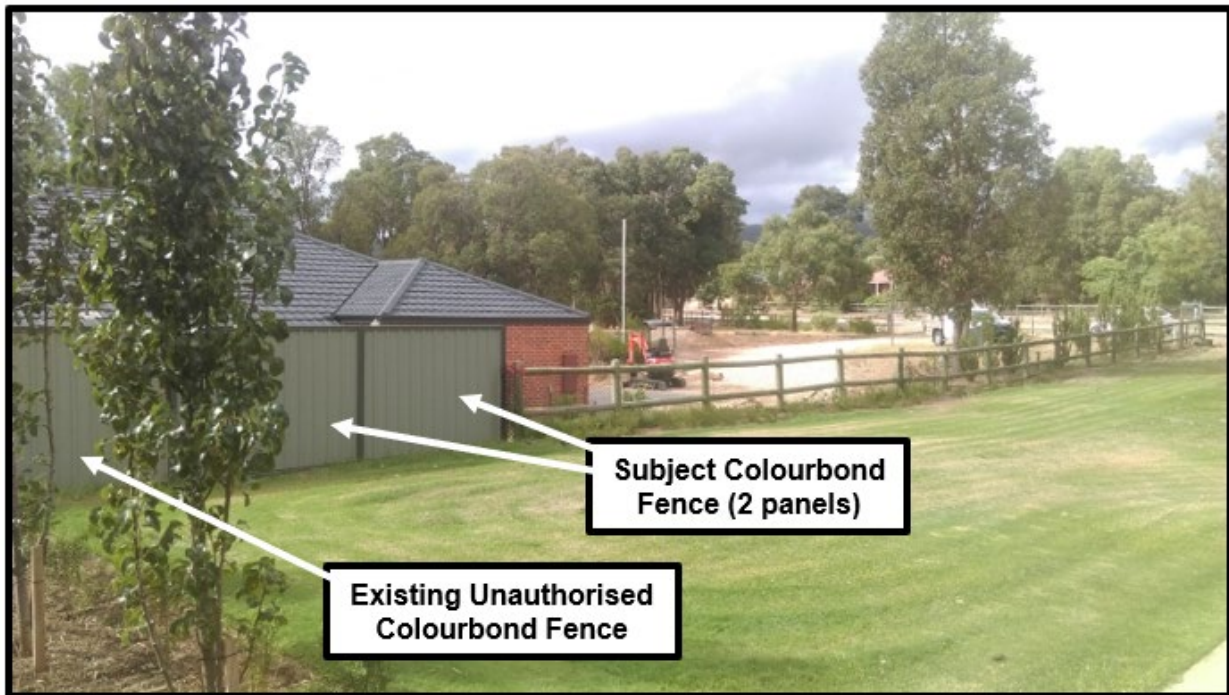


Figure 4: The fence extends 4.8m beyond its current point, the streetscape is visible to the right of the photo; Existing Colourbond fence visible is unauthorised

However, Officers note that there are major openings to the lounge room and a study that are on the south elevation. This is shown visually in Figure 5 below.

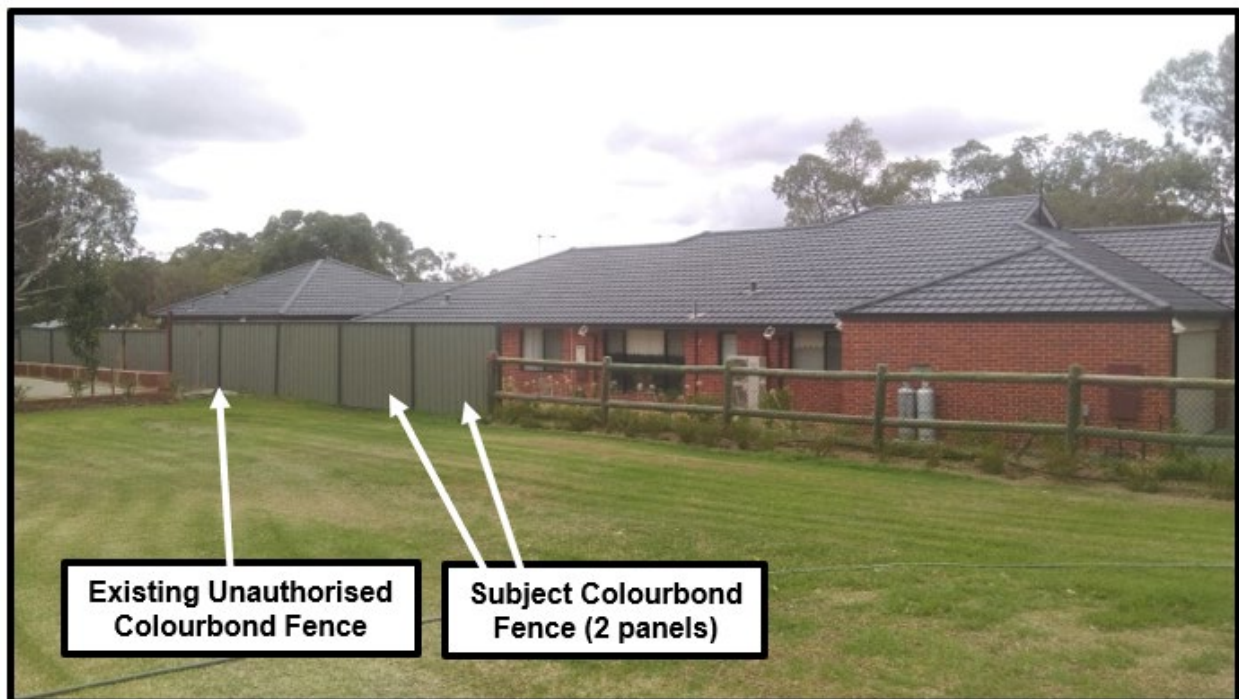


Figure 5: The fence extends 4.8m beyond its current point, the neighbour's dwelling is pictured in the background

In this regard, the fencing extension does not pose any additional impact to the private amenity of the neighbouring property. It is orientated with a mainly northern aspect, and is not considered to be adversely impacted by the fence.



Options and Implications

Option 1

That Council APPROVES the retrospective development application for the fence extension at Lot 228, 28 Aquanita Rise, Darling Downs as contained within **attachment 1**.

Option 2

That Council:

1. REFUSES the development application for the fence extension at Lot 228, 28 Aquanita Rise, Darling Downs, for the following reasons:
 - a. The proposal does not satisfy Clause 67(2)(a) of the Deemed Provisions as the proposal is inconsistent with the aims and provisions of the Shire of Serpentine Jarrahdale's Town Planning Scheme No. 2.
 - b. The proposal does not satisfy Clause 67(2)(m) of the Deemed Provisions as the proposal is incompatible with its setting by means of the likely effect of the height, bulk, scale and appearance of the development to development on adjoining land.
 - c. The proposal does not satisfy Clause 67(2)(n) of the Deemed Provisions as the proposal is inconsistent with the amenity of the locality.
2. REQUESTS the Chief Executive Officer to issue written direction to remove all non-compliant fencing from the subject land, and replace with post and rail or post and wire consistent with Shire of Serpentine Jarrahdale Town Planning Scheme No. 2.

Option 1 is recommended.

Conclusion

The application seeks variation to the fencing requirements of TPS2. The proposal is considered consistent with the objectives of the zone in TPS2, by virtue that the non-compliant fencing is not visible in public streetscape areas and does not impact in an unacceptable way on private amenity. Officers recommend the application be approved.

Attachments (available under separate cover)

- **10.1.2 - attachment 1** – Development Plans (E22/4739)
- **10.1.2 - attachment 2** – Summary of Submissions (E22/4747)
- **10.1.2 - attachment 3** – Technical Assessment (E22/4749)

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

Financial Implications

Nil.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	Option 1 is considered to address the risks associated with the development.						
2	That Council refuses the development as proposed and requests enforcement action be taken.	Planning framework	Social / Community Outcomes	Possible	Moderate	MODERATE	Explain reasons for refusal.

Voting Requirements: Simple Majority

OCM090/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Coales, seconded Cr Strange

That Council **APPROVES** the retrospective development application for the fence extension at Lot 228, 28 Aquanita Rise, Darling Downs as contained within attachment 1.

CARRIED UNANIMOUSLY 9/0



10.1.3 - Proposed Road Naming – Lot 131, 97 Doley Road, Byford (SJ500-04)	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officer's 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 (e.g. 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:	McMullen Nolan Group Pty Ltd
Owner:	Housing Authority
Date of Receipt:	1 March 2022
Lot Area:	2.04ha
Town Planning Scheme No 2 Zoning:	'Urban Development'
Metropolitan Region Scheme Zoning:	'Urban'

Report Purpose

The purpose of this report is for Council to consider a proposal for three new road names for a subdivision at Lot 131, 97 Doley Road, Byford.

Officers recommend that Council endorse the proposed road names and alternatives, on the basis of their suitability in respect of assessment against the Policies and Standards for Geographical Naming in Western Australia (Landgate policy) and Local Planning Policy 1.7 – Road Naming (LPP 1.7).

Relevant Previous Decisions of Council

There are no previous decisions of Council relating to this application.



Background

The proposal relates to the subdivision of Lot 131, 97 Doley Road, Byford, which will result in the creation of three new roads. An aerial view of the subject site is provided below:



Figure 1: Aerial Imagery

Roads created by subdivision are required to be named in accordance with Clause 26A of the *Land Administration Act 1997*. The naming process requires the relevant Local Government to endorse names for roads created as part of subdivision. Those names endorsed by the Local Government must then be forwarded to Landgate for final approval. Landgate has delegated authority from the Minister for Planning, Lands and Heritage to grant final approval for road names.

Proposal

The application proposes the naming of three new roads to be created as part of an approved subdivision within Byford. The proposed road names are shown in the road layout plan following:

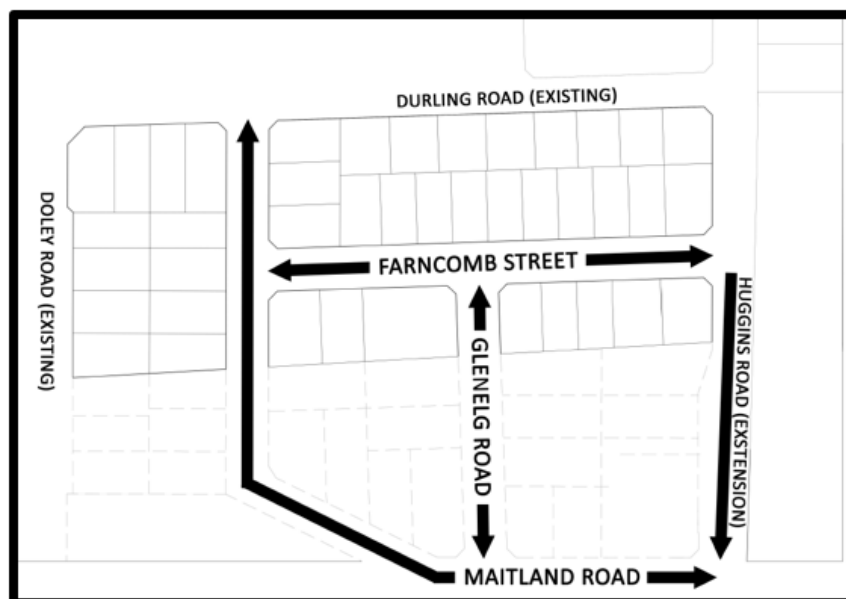


Figure 2: Road Layout Plan



Ordinary Council Meeting Minutes Monday, 16 May 2022

The application also entails an alternative name to be used in the event there are any issues with the preferred name. The names and their background have been provided in the table below:

Road Name Table	
Proposed Preferred Name	Background
Farncomb	HMAS Farncomb is the second of six Collins class submarines operated by the Royal Australian Navy (RAN). Named for Rear Admiral Harold Farncomb, the submarine was laid down in 1993 and launched in December 1995 - the first submarine to be completely constructed in Australia.
Glenelg	HMAS Glenelg (ACPB 96), named for the city of Glenelg, South Australia is an Armidale-class patrol boat of the Royal Australian Navy (RAN).
Maitland	HMAS Maitland (ACPB 88), named for the city of Maitland, New South Wales, is an Armidale-class patrol boat of the Royal Australian Navy (RAN).
Proposed Alternative Name	Background
Adelaide	HMAS Adelaide (L01) is the second of two Canberra-class landing helicopter dock (LHD) ships of the Royal Australian Navy (RAN) and is the largest naval vessel ever built for Australia.
Bendigo	HMAS Bendigo (FCPB 211) was a Fremantle-class patrol boat serving in the Royal Australian Navy (RAN)
Ibis	HMAS Ibis (M 1183) was a Ton-class minesweeper built by the Montrose Shipyard, launched on 18 November 1955, and commissioned into the Royal Navy as HMS Singleton.
Mallina	Mallina was a cargo ship built by Harland & Wolff, Belfast in 1909 as Mallina for the Australian United Steam Navigation Company for the Rockhampton to Sydney cargo route.
Moresby	HMAS Moresby (formerly HMS Silvio) was a 24-class (also known as Racehorse class) "Fleet Sweeping" sloop that served in the Royal Navy (RN) and Royal Australian Navy (RAN) as a minesweeper, anti-submarine vessel, and survey ship.

Community / Stakeholder Consultation

No consultation is required in accordance with Shire and Landgate policy.



Statutory Environment

Legislation

- *Land Administration Act 1997.*

State Government Policies

- Policies and Standards for Geographical naming in Western Australia (Landgate Policy).

Local Planning Framework

- Local Planning Policy 1.7 – Road Naming (LPP1.7).

Planning Assessment

LPP1.7 states that where more than four road names are proposed, then an overall theme should be proposed by the applicant. As the proposal only entails three names, no theme is required; however, the applicant has given regard to surrounding road names which follow a Naval theme. This naval theme is considered an appropriate choice to utilise, and reflects the general theme in the area. Some examples of the naval theme surrounding the land include:

- Ararat Rd (Patrol Boat)
- Benalla Cr (Survey launch)
- Diamantina Bvd (Minehunter)
- Shepparton Bvd (Survey launch)
- Etc

The proposed names have been assessed against the Landgate policy in conjunction with the Shire's LPP 1.7. The policy provisions and considerations have been provided in the table below:

Policy Assessment	
Policy Requirement	Officer Comment
Consideration of current and future street names	The proposed road names are not currently in use within the Shire area and have not been proposed to be used in the future for any other estates within the Shire.
Consideration shall be given to current and future street numbering to ensure numbering is sequential, easy to follow and considers future density increases	Officers consider the proposal to be acceptable in light of the existing and future street numbering for the area.
The origin of each name shall be clearly stated and subsequently recorded	The origin and background of the proposed road names have been documented in the road name table, earlier in this report.
Names shall not be offensive or likely to given offence, incongruous or commercial in nature	The proposed preferred and alternative names are not considered to be offensive, incongruous or commercial in nature.



Policy Assessment	
Policy Requirement	Officer Comment
Names shall be easy to read, spell and pronounce in order to assist emergency services, service providers and the travelling public	The proposed names have been selected to align with roads with a naval theme in the surrounding area.
Unduly long names and names that comprise of two or more words should generally be avoided	The proposed preferred and alternative names comprise of no more than eight letters and are only one word in length.
Proposals for road names shall include an appropriate road type suffix	<p>The proposed suffixes are considered to be appropriate and consistent with suffix definitions under the GNC policy.</p> <p>Road (Rd) – Open way or public passage primarily for vehicles.</p> <p>Street (St) – Public roadway in a town, city or urban area especially a paved thoroughfare with footpaths and buildings along one or both sides.</p>
Practical application of road names to maps and plans shall be considered such as the long street names should not be allocated to short roads	As shown on the road name plan earlier in this report, the road names are commensurate with the length of the road and are considered to be practical.

Options and Implications

Option 1

That Council:

1. ENDORSES the following road names in accordance with section 26A(3) of the *Land Administration Act 1997*; and forwards the preferred name as contained within **attachment 1** to Landgate for final approval:
 - a. Farncomb
 - b. Glenelg
 - c. Maitland
2. ENDORSES the following second preference road names in accordance with section 26A(3) of the *Land Administration Act 1997*; to be used in the event that the first preference names are not deemed acceptable by Landgate:
 - a. Adelaide
 - b. Bendigo
 - c. Ibis
 - d. Mallina
 - e. Moresby



Option 2

That Council DOES NOT ENDORSE the proposed road names.

Option 1 is recommended.

Conclusion

Council endorsement is sought for three proposed road names and five alternatives to be used as part of the subdivision at Lot 131, 97 Doley Road, Byford. The proposed names are considered to be consistent with the requirements of LPP1.7 and Landgate's road naming policy.

Officers support the proposal and recommend that Council endorse the proposed names.

Attachments (available under separate cover)

- **10.1.3 - attachment 1** – Road Name List (E22/4170)
- **10.1.3 - attachment 2** – Road Layout Plan (E22/4169)

Alignment with our Strategic Community Plan

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

Nil.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There are no risks associated with this option.						
2	Council not supporting the names	Policies and Standards for Geographical naming in Western Australia Local Planning Policy 1.7 – Road Naming	Social / Community Outcomes	Possible	Insignificant	LOW	Propose alternative names to replace those that are not supported



Voting Requirements: Simple Majority

OCM091/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Coales, seconded Cr Singh

That Council:

- 1. ENDORSES the following road names in accordance with section 26A(3) of the *Land Administration Act 1997*; and forwards the preferred name as contained within attachment 1 to Landgate for final approval:**
 - a. Farncomb**
 - b. Glenelg**
 - c. Maitland**
- 2. ENDORSES the following second preference road names in accordance with section 26A(3) of the *Land Administration Act 1997*; to be used in the event that the first preference names are not deemed acceptable by Landgate:**
 - a. Adelaide**
 - b. Bendigo**
 - c. Ibis**
 - d. Mallina**
 - e. Moresby**

CARRIED UNANIMOUSLY 9/0



10.1.4 - Proposed Alterations and Additions to Existing Educational Establishment - Lot 51, 48 Lewis Road, Serpentine - PA21/206	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officer's 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 (e.g. 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:	Action Sheds
Owner:	Centre for Attitudinal Healing Inc.
Date of Receipt:	11 March 2021
Lot Area:	7.9ha
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 development application for alterations and additions to the existing Educational Establishment at Lot 51, 48 Lewis Road, Serpentine.

Due to variations proposed to State Planning Policy 3.7: Planning in Bushfire Prone Areas (SPP 3.7) and objections raised by DFES, Shire Officers engaged a Bushfire Consultant to undertake a peer review of the submitted Bushfire Management Plan (BMP). The peer review concluded that, on balance, the submitted BMP and associated documents do not establish a suitable basis to approve the development due to inconsistencies with the Vehicle Access Element of the Guidelines.

Subsequent to the peer review, the applicant submitted an amended BMP which was referred to DFES for further comment. DFES, in response to the amended BMP, maintain their objection. The primary issue still being the element associated with Vehicle Access, and lack of suitable second access.

Officers acknowledge that the proposal is an existing operating land use. However, alterations and additions have the potential to intensify the land use, and increase the risk to property and human life as a result. In the absence of a compliant solution pertaining to vehicle access, the proposal is considered to represent an unacceptable risk, and should be refused.

Relevant Previous Decisions of Council

There are no previous Council decisions relating to this application.



Background

Existing Development

The subject site is currently developed as a Holistic Centre operated by the Serpentine Holistic Centre for Attitudinal Healing which was approved by the Shire in 1986. The operations include group workshops/group meetings provided by the centre and also includes private bookings of the facility. The centre features a 2-bedroom cottage and a 12-room dormitory suitable for accommodating up to 50 people. The site also includes an ablution facility, barbeque area, kitchen/dining hall and other incidental buildings. The context of the site is bushfire prone.



Figure 1: Aerial View

Proposed development

The application seeks approval for alterations and additions to the existing development. This is specific to alterations and additions to the kitchen/dining hall, and the addition of a new meditation hall. The full details of the proposal can be viewed in **attachment 1**.

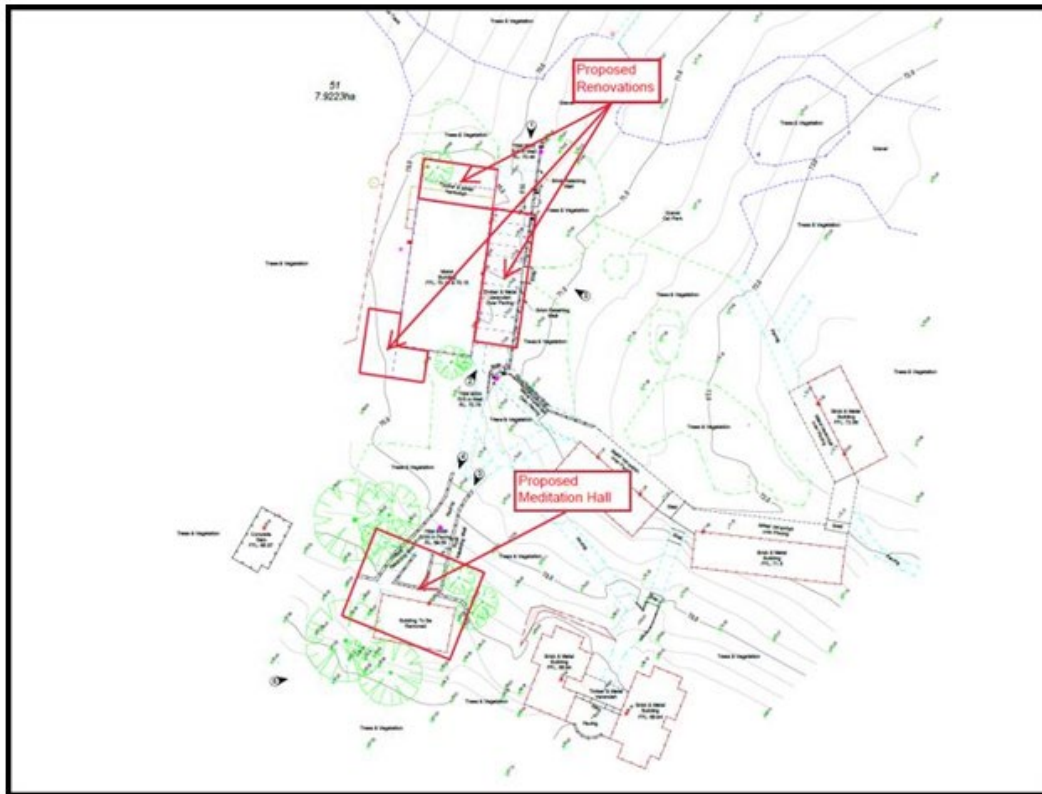


Figure 2: Site Plan

The proposed kitchen/dining hall extensions are primarily open sided awnings/verandahs, and extend the kitchen to create a pantry and service room. The proposed alterations and additions would increase the floor area of the existing building by 50.82m².

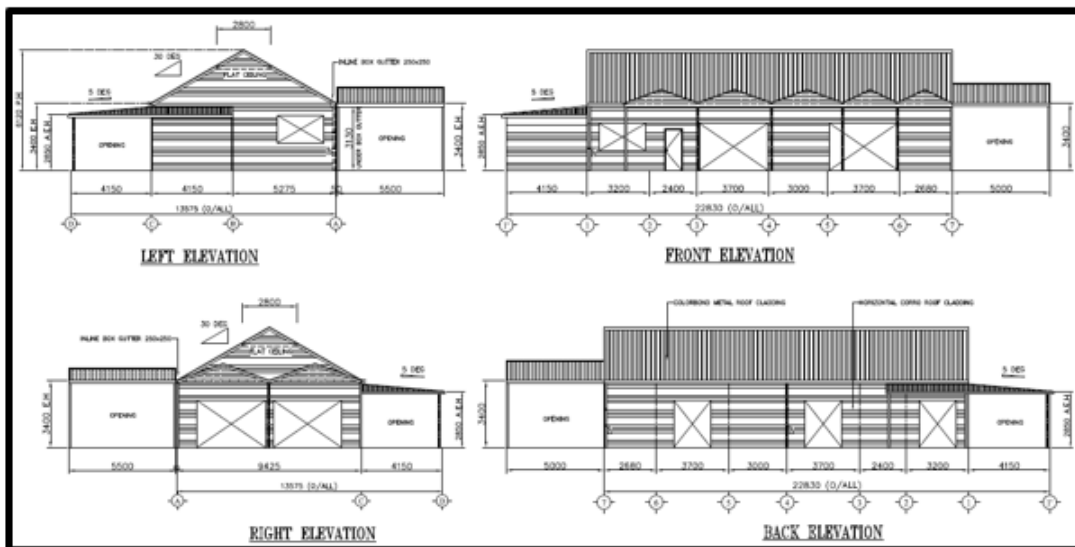


Figure 3: Kitchen/Dining Hall Elevation Plans

The proposed Meditation Hall entails the removal of an existing building to facilitate the construction of a new 9m by 6m building surrounded by a 2.5m verandah. The overall building measures 154m² with 64m² of enclosed internal space. The new building would have a wall height of 3m and ridge height of 4.732m and be situated on an existing 0.76m high retaining wall. The proposed location is approximately 38.8m from the southern lot boundary and 130.31m from the western lot boundary.

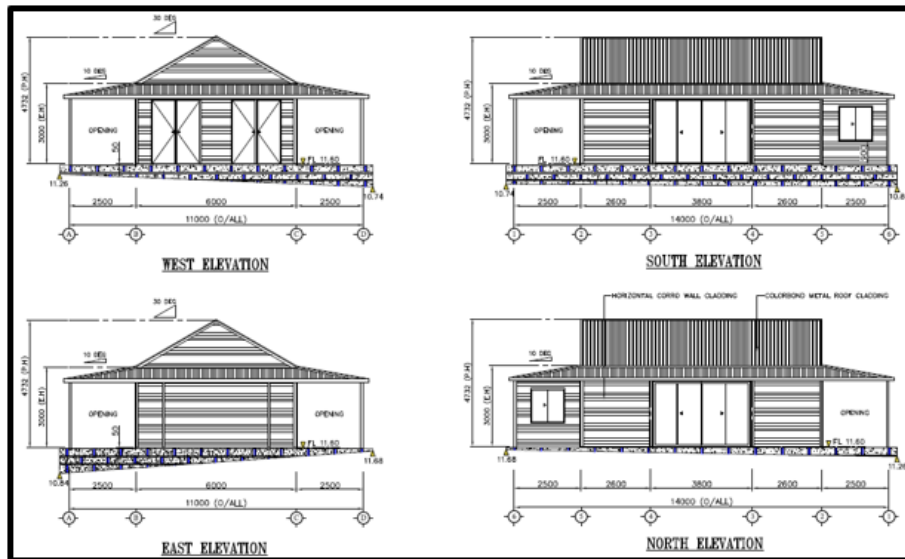


Figure 4: Meditation Hall Elevation Plans

Community / Stakeholder Consultation

The proposed development represents alterations and additions to an existing Educational Establishment, which is an 'AA' use in the Rural zone. This does not require public advertising.

The application was referred to the Department of Fire and Emergency Services (DFES) due to non-compliance with elements of the guidelines for State Planning Policy 3.7 - Planning in Bushfire Prone Areas. DFES raised a number of concerns with the proposal and non-compliance with SPP3.7, which have been considered in detail within the planning assessment section of this report. The full details of the DFES submissions can be viewed in **attachment 2**.

Pertinent extracts from the DFES are provided following:

Siting and design - The development has not been designed appropriately to ensure bushfire protection measures can be achieved and to minimise the level of bushfire impact to people that are considered vulnerable.

Vehicular Access - Multiple access routes - The Guidelines require the provision of public road access in two different directions to at least two different suitable destinations. It remains that access to two different destinations is achieved approximately 450 metres from the site, via an Extreme BHL, at the intersection of Lewis Road and South Western Highway. This exceeds the acceptable solution of 200 metres. Therefore, the BMP proposes a Performance Principle Based Solution (PPBS) to comply with Element 3. The PPBS is reliant on an existing 'locked' Emergency Access Way (EAW) linking McKay Drive to Butter Gum Close being permanently unlocked. The BMP has not provided substantiated evidence from the Shire of Serpentine Jarrahdale in support of the PPBS. The PPBS is also reliant on the proposal being exempt from assessment against Element 3. The BMP states "The proposal is exempt from the application of Element 3" and "The proposal is an addition to an existing use and does not represent an intensification of use at the site." This is not supported, and DFES recommends these statements are removed from the BMP. The decision maker has confirmed this to be intensification of development and the application of SPP 3.7 is triggered.

The development application is not supported as it does not meet the intent of Element 1: Location. The proposal is an intensification of a vulnerable land use in a bushfire prone area with an extreme bushfire hazard both in and surrounding the lot. However, it is critical that the bushfire management measures within the BMP are refined, to ensure they are accurate and can be



implemented to reduce the vulnerability of the development to bushfire. In addition to non-compliance with Element 1, the proposed development is also not supported for the following reasons: 1. The development design has not demonstrated compliance to Element 2: Siting and Design and Element 3: Vehicle Access.

Statutory Environment

Legislation

- *Planning and Development (Local Planning Schemes) Regulations 2015*
- Metropolitan Region Scheme (MRS)
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS2)

State Government Policies

- State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP3.7)

Local Planning Framework

- Local Planning Strategy (LPS)
- Draft Local Planning Scheme No.3 (LPS3)
- Local Planning Policy 1.4 - Public Consultation for Planning Matters Policy (LPP1.4)

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 issue resulting in the item being presented to Council and where Council is required to exercise discretion.

Land Use

The subject site is zoned 'Rural' under TPS2 and the existing development onsite has a current approval issued in 1986. That approval was for a 'Rural Use (Holistic Centre)', under Town Planning Scheme No. 1 (TPS1). The use would best fit the definition of Educational Establishment under TPS2, which is a use discretionary use in the 'Rural' zone. The application seeks to alter and extend physical works associated with the approved use. The use will continue as previously approved.

Physical works

The proposed Meditation Hall requires the removal of some vegetation for the establishment of a mandatory Asset Protection Zone (APZ) around the proposed development.



Figure 5: Overlay of APZ and TEC

Some of this vegetation is listed as being a priority 3 Threatened Ecological Community (TEC) - Banksia Woodlands. The proposed APZ would have some small incursions into the mapped TEC area. Notably, the APZ does not require the removal of all vegetation, rather the management of understory and ground cover and the maintenance of canopy cover to a maximum of 15%. This will likely require some tree removal to achieve the canopy cover requirements; however, the overall impact to TEC vegetation is considered to be minor.

State Planning Policy 3.7 - Planning in Bushfire Prone Areas:

The application seeks alterations and additions to the existing development, and would be subject to SPP3.7 as a result. Whereas SPP3.7 is not applied retrospectively, given additions are proposed (for example the new meditation hall component which forms part of the application), the application itself must be assessed against SPP3.7.

The application was referred to DFES who objected to the proposal and raised concerns with the assessment contained in the Bushfire Management Plan (BMP). Specifically, in relation to the following Elements of the Guidelines to SPP3.7: Vehicle Access and Siting and Design. The DFES position is that *“the proposal is an intensification of a vulnerable land use in a bushfire prone area with an extreme bushfire hazard both in and surrounding the lot.”*

The specific elements that underpin this position are discussed following:

Vehicle Access

DFES raise concerns with non-compliance with the vehicle access element of the Guidelines. Specifically, where the road providing access to a development site is a no-through road (as in this instance), the Guidelines require the site be no further than 200m from an intersection of a public road that provides egress in two separate directions. In this instance, Lewis Road is a no-through road and South Western Highway is the nearest public road providing egress in two separate directions. The intersection of Lewis Road and South Western Highway is approximately 450m from the site, and therefore does not comply with the requirements of the Guidelines.

The DFES submission states that *“the Guidelines require the provision of public road access in two different directions to at least two different suitable destinations. It remains that access to two*



different destinations is achieved approximately 450 metres from the site, via an Extreme Bushfire Hazard Level, at the intersection of Lewis Road and South Western Highway. This exceeds the acceptable solution of 200 metres.”

Where a prescribed criteria is not met, a performance solution needs to be considered. In this regard, the BMP proposed to make use of an Emergency Access Way (EAW), which connects McKay Drive to Buttergum Close to the north of the site, and for this to function as a second public access.

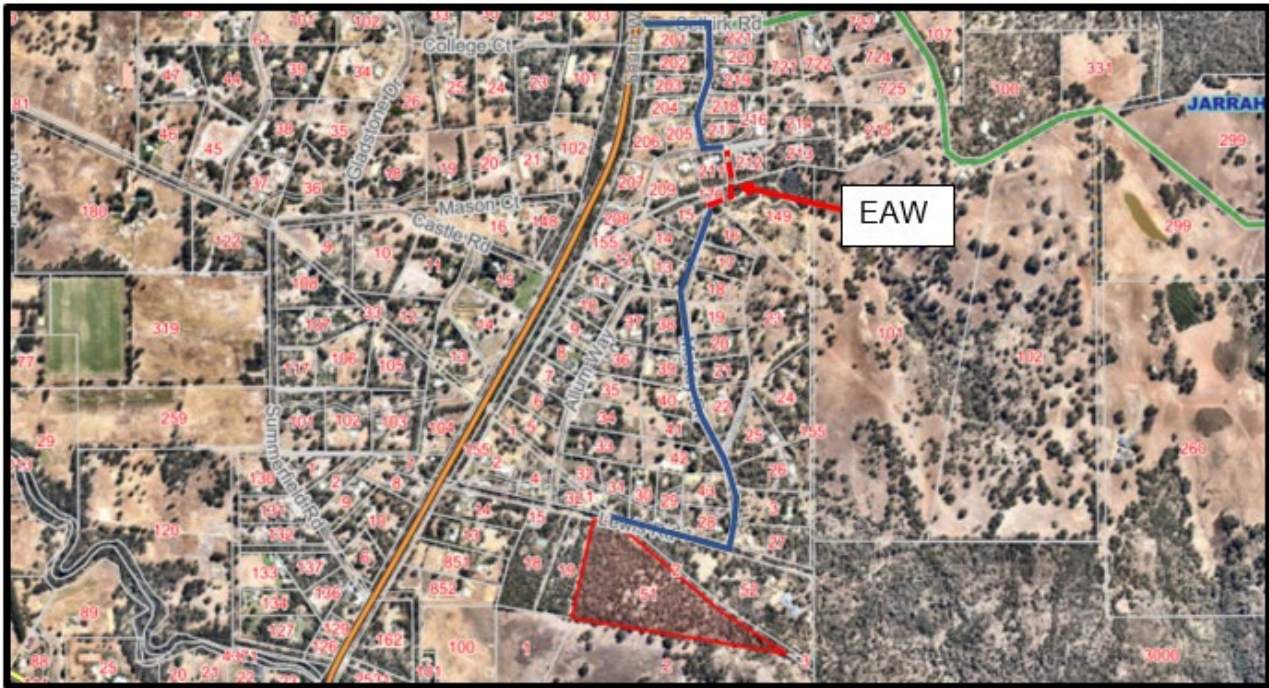
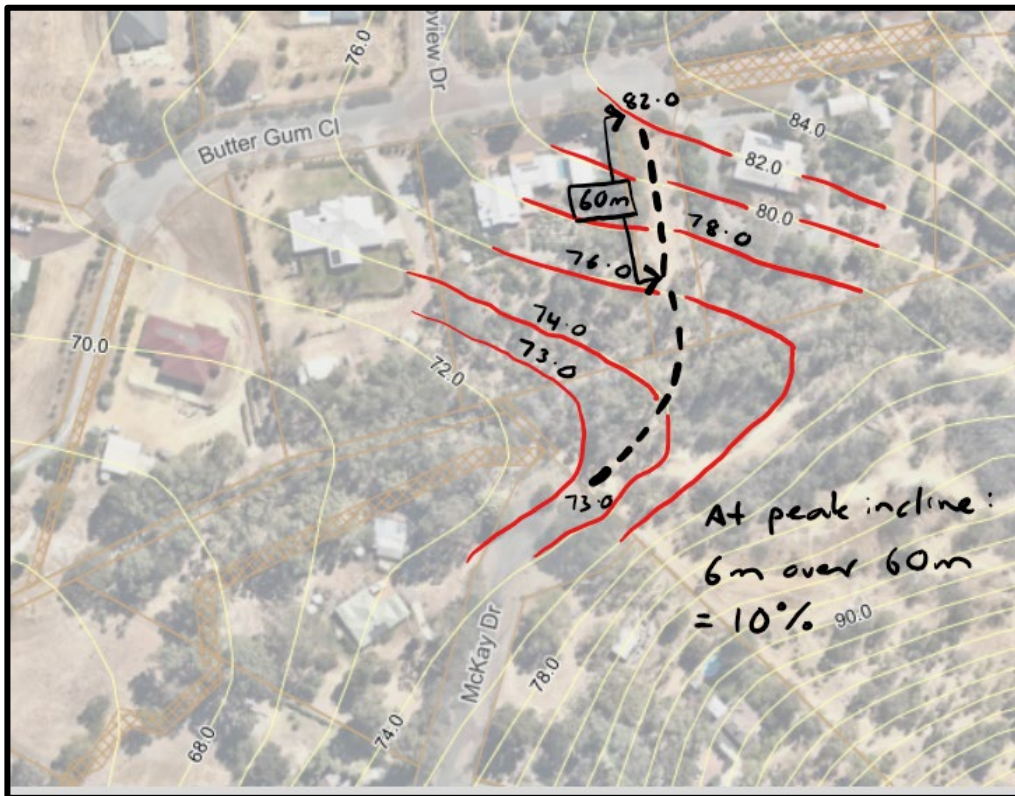


Figure 6: Proposed Evacuation Path Using EAW

This was deemed not acceptable by DFES, and similarly Shire Officers, as the EAW is reserved for use by emergency services vehicles and the gates are kept secured for emergency service use. Consistent with the Guidelines for planning in Bushfire Prone Areas, an emergency access way is not a preferred alternative to through public road access and should only be considered acceptable where it has been demonstrated that it will provide the safety and performance needs of emergency services and the community, including consideration for future needs, and that public road access cannot be achieved due to site constraints.

Whereas the applicant could argue that site constraints make a second access challenging, Officers note that EAW is gravelled; comprises a very steep incline and; would not provide for safe and performance needs of the community given its standard and narrow width. The image below provides a brief snapshot of the link in question:



Given the above, the proposal is considered non-compliant with the vehicle access element of the Guidelines due to the distance of the site to the intersection with South Western Highway exceeding 200m. This non-compliance poses a risk to lives and property, and on balance has Officers consider that approval of the alterations and additions would not be appropriate.

Siting and Design

With respect of siting and design, DFES provided their position that the development had not been designed appropriately to ensure bushfire protection measures could be achieved and to minimise the level of bushfire impact to people that are considered vulnerable. A merits based



assessment of the application notes that, in the absence of substantial proposed clearing of vegetation, that siting and design would not address the requirements of the Bushfire Guidelines. It was noted by DFES that the proposal was for an area which had an extreme bushfire hazard level, both on and surrounding the lot, and DFES are not satisfied that the risk can be managed.

Officers also engaged a Bushfire Consultant to peer review the submitted BMP. The Consultant, similar to DFES, concluded that the BMP on balance was not satisfactory as it was inconsistent with the Element associated with Vehicle Access. A revised BMP was submitted as a result by the applicant and was also referred to DFES for comment. DFES maintained their objection to the proposal. The primary issue relating to the proposal being still inconsistent with the Element associated with Vehicle Access.

The peer review noted, like DFES and Shire Officers, that the purpose of the vehicle access element of the Guidelines is *“To ensure that the vehicular access serving a subdivision/development is available and safe during a bushfire event”*. This would not be fulfilled by the EAW. The EAW, as mentioned, is gravelled; comprises a very steep incline and; would not provide for safe and performance needs of the community given its standard and narrow width. It could not be made publicly available in a safe, reliable manner.

The peer review concludes that *“It is my view, the reviewed Bushfire Management Plan and Bushfire Emergency Planning documents do not establish a suitable basis, with respect to planning for bushfire for Vulnerable Land Use, on which a decision maker can confidently approve the development application.”*

It also recognises that *“there are implications for enhanced fire activity for a fire located in a region of downslope winds. The scarp having in the past displayed fire channelling (vorticity-driven lateral spread) and medium to long distance spotting. A bushfire event in this area will likely compromise evacuation routes.”*

Options and Implications

Option1

That Council REFUSES the development application submitted on 11 March 2021 for alterations and additions to the existing Educational Establishment at Lot 51, 48 Lewis Road, Serpentine as contained within **attachment 1** for the following reasons:

- a. The proposed development does not comply with the requirements of State Planning Policy 3.7 - Planning in Bushfire Prone Areas as it pertains to provision of safe access. In this regard, the associated Guidelines require the provision of public road access in two different directions to at least two different suitable destinations. The proposal only achieves access to two different destinations at a distance of 450 metres from the site, and this passes through an Extreme Bushfire Hazard Level. This represents an unacceptable risk to human life in the event of a fire.
- b. The proposed development does not comply with the requirements of State Planning Policy 3.7 - Planning in Bushfire Prone Areas as it pertains to siting and design. In this regard, the development had not been designed appropriately to ensure bushfire protection measures could be achieved and to minimise the level of bushfire impact to people that are considered vulnerable.

**Option 2**

1. That Council APPROVES the development application submitted on 11 March 2021 for alterations and additions to the existing Educational Establishment at Lot 51, 48 Lewis Road, Serpentine 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	P1 - P9 received at the Shire's Offices on 11 March 2021 P10 (Bushfire Management Plan) received at the Shire's Offices on 29 March 2022
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- b. All stormwater shall be retained within the property to the satisfaction of the Shire of Serpentine Jarrahdale. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.
- c. Prior to issue of a Building Permit, a revised Bushfire Management Plan (including a verified independent peer review) must be submitted to and approved by the Council of the Shire of Serpentine Jarrahdale, addressing the following requirements:
- The emergency access way being designed and upgraded at the full cost of the applicant, so that it meets a safe and trafficable standard for two way private vehicles, that can be utilised for emergency escape in the case of a fire;
 - Asset protection zones being established and maintained around all structures on the subject land;
 - Upgraded fire fighting water supply suitable for managing risk for the development being provided.

Once approved, the BMP must be fully implemented prior to the issue of a Building Permit, and thereafter maintained to the satisfaction of the Shire.

Option 1 is recommended.

Conclusion

The application seeks approval for alterations and additions to the existing Educational Establishment use of the subject land. The property is subject to significant bushfire risk, and the proposed development is classified as a vulnerable use under SPP3.7. The proposal has not demonstrated compliance with SPP3.7 and poses an unacceptable risk to human life in the event of a fire. Officers therefore recommend the application be refused.

Attachments (available under separate cover)

- **10.1.4 - attachment 1** - Development Plans (E22/4717)
- **10.1.4 - attachment 2** - Technical Assessment (E21/3450)
- **10.1.4 - attachment 3** - DFES Submissions (E22/4719)
- **10.1.4 - attachment 4** - Bushfire Management Plan (E22/4718)
- **10.1.4 - attachment 5** - Peer Review of Bushfire Management Plan (E22/4720)



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 interests of the community

Financial Implications

Nil.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	This option is considered to address strategic risks.						
2	That Council approves the application subject to conditions against the recommendations of DFES specific to fire risk.	Planning framework	Physical or Psychological	Possible	Catastrophic	HIGH	Nil.

Voting Requirements: Simple Majority

Officer Recommendation

That Council REFUSES the development application submitted on 11 March 2021 for alterations and additions to the existing Educational Establishment at Lot 51, 48 Lewis Road, Serpentine as contained within attachment 1 for the following reasons:

- The proposed development does not comply with the requirements of State Planning Policy 3.7 - Planning in Bushfire Prone Areas as it pertains to provision of safe access. In this regard, the associated Guidelines require the provision of public road access in two different directions to at least two different suitable destinations. The proposal only achieves access to two different destinations at a distance of 450 metres from the site, and this passes through an Extreme Bushfire Hazard Level. This represents an unacceptable risk to human life in the event of a fire.
- The proposed development does not comply with the requirements of State Planning Policy 3.7 - Planning in Bushfire Prone Areas as it pertains to siting and design. In this regard, the development had not been designed appropriately to ensure bushfire protection measures could be achieved and to minimise the level of bushfire impact to people that are considered vulnerable.

**OCM092/05/22****COUNCIL RESOLUTION****Moved Cr Coales, seconded Cr Duggin**

1. That Council **APPROVES** the development application submitted on 11 March 2021 for alterations and additions to the existing Educational Establishment at Lot 51, 48 Lewis Road, Serpentine 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	P1 - P9 received at the Shire's Offices on 11 March 2021 P10 (Bushfire Management Plan) received at the Shire's Offices on 29 March 2022
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- b. All stormwater shall be retained within the property to the satisfaction of the Shire of Serpentine Jarrahdale. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.
- c. Prior to issue of a Building Permit, a revised Bushfire Management Plan (including a verified independent peer review) must be submitted to and approved by the Council of the Shire of Serpentine Jarrahdale, addressing the following requirements:
- i. The emergency access way being designed and upgraded at the full cost of the applicant, so that it meets a safe and trafficable standard for two way private vehicles, that can be utilised for emergency escape in the case of a fire;
 - ii. Asset protection zones being established and maintained around all structures on the subject land;
 - iii. Upgraded fire fighting water supply suitable for managing risk for the development being provided.

Once approved, the BMP must be fully implemented prior to the issue of a Building Permit, and thereafter maintained to the satisfaction of the Shire.

CARRIED 7/2

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

Councillors Rich, Byas, Coales, Dagostino, Duggin, Strange and Strautins voted FOR the motion.

Councillors Atwell and Singh voted AGAINST the motion.

Reason for difference to Officer Recommendation

There is no intensification of the existing use.



10.1.5 - Section 31 Reconsideration - Proposed Amendment to Existing Abattoir - Lot 504 Yangedi Road, Keysbrook (SJ3753)	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officer's 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 (e.g. 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:	Larry and Linda Blanford
Date of Receipt:	14 April 2021
Lot Area:	50.445ha
Town Planning Scheme No 2 Zoning:	'Rural'
Metropolitan Region Scheme Zoning:	'Rural'

Report Purpose

Council at its 15 November 2021 Ordinary Council Meeting granted conditional approval to amend an approval for an existing Abattoir at Lot 504 Yangedi Road, Keysbrook. The approval granted an increase throughput of meat production from 100 tonnes to 500 tonnes per annum.

The Applicant requested a review by the State Administrative Tribunal (SAT) of four conditions of the approval. The process of mediation has taken place, and this has resulted in the Applicant providing additional information including an updated Nutrient Impact Management Plan (NIMP). In response to that information, Council has now been invited under section 31(1) of the *State Administrative Tribunal Act 2004*, to reconsider its original decision including the four conditions.

Following consideration of the additional information and updated advice received, Officers recommend Council reconsider its original decision, and vary this to remove and amend certain conditions. This is particularly in light of the updated NIMP which was referred to the Department of Water and Environment (DWER) and the Department of Primary Industries and Regional Development (DPIRD), who as a result have removed their initial concerns and objection against the proposal.

**Relevant Previous Decisions of Council**

Ordinary Council Meeting - 15 November 2021 - OCM299/11/21 - Council Resolution / Officer Recommendation

That Council APPROVES the development application for an amendment to an existing Abattoir, as contained within attachment 1, at Lot 504 Yangedi Road, Keysbrook 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.*

<i>Plans and Specifications</i>	<i>Development Plans (P1-P2) received at the Shire Offices on 20 April 2021; and Nutrient Irrigation Management Plan (P3-P54) dated 11 August 2021.</i>
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- b. No more than 500 tonnes of meat suitable for pet or human consumption shall be processed per annum.*
- c. All stormwater shall be disposed of within the property. Direct disposal of stormwater onto roads, neighbouring properties, watercourses and/or drainage lines is not permitted.*
- d. Prior to any operations changing to achieve the additional meat production permitted in condition (b), an updated Nutrient Irrigation Management Plan (NIMP) shall be prepared and submitted to the Shire of Serpentine Jarrahdale for its approval, including advice from the Department of Water and Environment Regulation. The updated NIMP must identify the following to the satisfaction of the Shire:*
- i. Consistent with WQPN 98, a suitable secondary stage treatment system for wastewater;*
- ii. Local site specific data to demonstrate how the minimum 2m separation from groundwater for the irrigation area will be achieved, including accounting for seasonal variation;*
- iii. Demonstration that nutrient balance of wastewater and the application through irrigation will not result in an unacceptable nutrient export impact; and*
- iv. The annual regime for monitoring compliance with the updated NIMP, which is to be reported to the Shire.*
- e. The landowner shall submit an Annual Compliance Assessment report to the Shire from the commencement date which is approval of the updated NIMP in accordance with Condition (d). The Annual Compliance Assessment Report shall include an internal compliance audit of the development approval conditions and management plans.*
- f. Any fill that is required to be imported to the irrigation area in order to achieve the minimum 2m separation from groundwater, must be certified as being clean fill in accordance with Landfill Waste Classification and Waste Definitions 1996.*



Ordinary Council Meeting - 26 February 2018 - OCM006/02/18 - COUNCIL DECISION / Officer Recommendation - **extract**

That Council approves the development application submitted by Harley Dykstra on behalf of L and L Blandford on Lot 504 Yangedi Road, Keysbrook as contained in attachment OCM006.1/02/18 and OCM006.3/02/18 in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 subject to the following conditions:

2. No more than 100 tonnes of pet meat is to be processed per annum.

Background

Existing Development

The site is located within the rural area of Keysbrook, the land to the south comprises of a Pet Meat Abattoir, the land to the east comprises of a turf farm and the remainder of the surrounding land is used for broad acre rural uses including grazing for sheep and beef cattle, cropping and hay production. The Punrak drain runs along the northern boundary of the site.

The site is currently developed with an Abattoir approved for the processing of both pet meat and meat for human consumption.



Figure 1: Locality Context



Approved Development

At its Ordinary Council Meeting on 15 November 2021, Council resolved to conditionally approve an amendment to an existing approval to increase the throughput of meat production from 100 tonnes to 500 tonnes.

The approved application relates only to the increase throughput of meat production. No works were proposed as part of the application, nor any addition to the number of staff employed at the Abattoir. Instead, the additional production would occur through operational efficiencies and the Abattoir operating up to its permitted five days per week operation. The Abattoir's existing approval enables operation between Monday to Friday, however, only two days are currently being utilised

Reconsideration

On 17 December 2021, the Applicant lodged an application for review of Council's decision with the SAT. The Applicant sought review of conditions (a), (d), (e), and (f). The conditions are as follows:

Condition (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.

Condition (d)

Prior to any operations changing to achieve the additional meat production permitted in condition (d), an updated Nutrient Irrigation Management Plan (NIMP) shall be prepared and submitted to the Shire of Serpentine Jarrahdale for its approval, including advice from the Department of Water and Environment Regulation. The updated NIMP must identify the following to the satisfaction of the Shire:

- i. Consistent with WQPN 98, a suitable secondary stage treatment system for wastewater;*
- ii. Local site specific data to demonstrate how the minimum 2m separation from groundwater for the irrigation area will be achieved, including accounting for seasonal variation*
- iii. Demonstration that nutrient balance of wastewater and the application through irrigation will not result in an unacceptable nutrient export impact; and*
- iv. The annual regime for monitoring compliance with the updated NIMP, which is to be reported to the Shire*

Condition (e)

The landowner shall submit an Annual Compliance Assessment report to the Shire from the commencement date which is approval of the updated NIMP in accordance with condition (d). The Annual Compliance Assessment Report shall include an internal compliance audit of the development approval conditions and management plans.

Condition (f)

Any fill that is required to be imported to the irrigation area in order to achieve the minimum 2m separation from groundwater, must be certified as being clean fill in accordance with landfill Waste Classification and Waste definition.

The process of mediation has taken place and this has resulted in the Applicant providing additional information. In response to that information, Council has now been invited under



section 31 (1) of the *State Administrative Tribunal Act 2004*, to reconsider its original decision including the four conditions.

Following consideration of the additional information, it is recommended for Council to reconsider its original decision and vary this to:

1. Remove Conditions (d) and (f); and
2. Amend Conditions (a) and (e)

The additional information can be viewed within **attachment 1**.

Community / Stakeholder Consultation

The application was initially advertised for a period of 14 days from 25 February 2022 to 11 March 2022 in accordance with Local Planning Policy 1.4 - Consultation for Planning Matters. During the consultation period, two submissions were received, one supporting the proposal and one raising concerns. The submission raising concerns was subsequently withdrawn, with a replacement submission submitted as a result of the Applicant and the submitter meeting and reaching a position on a number of matters.

In terms of the revised information as part of the SAT process, the revised NIMP was sent to both DWER and DPIRD for comment, both of which have provided the Shire with updated comments. Both DWER and DPIRD, as a result of the updated NIMP, have removed their initial concerns that the development poses a risk to the environment. Their comments can be viewed within **attachment 2** and **attachment 3**.

Statutory Environment

Legislation

- *Planning and Development (Local Planning Schemes) Regulations 2015*
- Metropolitan Region Scheme
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2

State Government Policies

- Environmental Protection Authority Environmental Assessment Guideline for Separation Distances Between Industrial and Sensitive Land Uses No. 3
- State Planning Policy 2.1 - Peel Harvey Coastal Plain Catchment (SPP2.1)
- State Planning Policy 2.5 - Rural Planning
- Water Quality Protection Note 98 - Rural Abattoirs (WQPN 98)

Local Planning Framework

- Local Planning Strategy (LPS)
- Draft Local Planning Scheme No.3 (LPS3)
- Local Planning Policy 1.4 - Public Consultation for Planning Matters Policy (LPP1.4)



Planning Assessment**Condition (a)**

This condition was initially imposed as the development was approved subject to changes being made to the NIMP. The required changes were captured within later conditions of the approval. More specifically, condition (d), which as a result of this reconsideration process is supported to be removed by Officers. The condition should be modified to remove '*except where amended by other conditions of this consent*' as follows:

"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.

The amendment to the condition will not impact upon the Shire's ability to undertake compliance action or regulate the development as the development is still required to comply with the entire list of conditions of approval.

Condition (d)

The condition was imposed as Officers and DWER were concerned with the robustness of the proposed NIMP. The 'Nutrient Balance' section of the NIMP was considered at the time to not adequately reflect the volumes of wastes likely to be generated from the increase throughput and nutrient concentration of wastewaters. As a result, Officers and DWER were unable to quantify the exact nutrient rates generated by the development, and if they exceeded the Peel Harvey catchment target rates of 4.5 kg/ha/yr N and 6.5 kg/ha/yr P. Without quantification, it was difficult to determine the potential extent of adverse environmental impacts.

The required changes to the NIMP to ensure alignment with Water Quality Protection Note 98 - Rural Abattoirs. WQPN 98 has a series of provisions requiring to be met prior to such activities occurring. Specifically, the provision of a secondary treatment process for wastewaters to strip further nutrients prior to being used for irrigation purposes.

The Applicant, as part of the SAT process, has provided the Shire with an updated NIMP and additional information to assist Council in reviewing the related condition. The NIMP was updated in conjunction with DWER which is now considered to provide a conclusive list of nutrients and also accurately depicts the waste volumes and concentrations of wastewaters generated by the development.

The updated NIMP and additional information now demonstrates that a significant amount of the waste being the offal and blood captured within the 'kill bins', are transferred to Harvey Beef for further use and processing. This is a supported diversion of waste from the process. The Applicant has provided evidence of this arrangement with Harvey Beef as part of the suite of additional information. As a result, the wastewaters and offal do not mix, and therefore concentration levels of nutrients within wastewaters are significantly lower than what was initially set out. This is acceptable to Shire Officers, DWER and DPIRD.

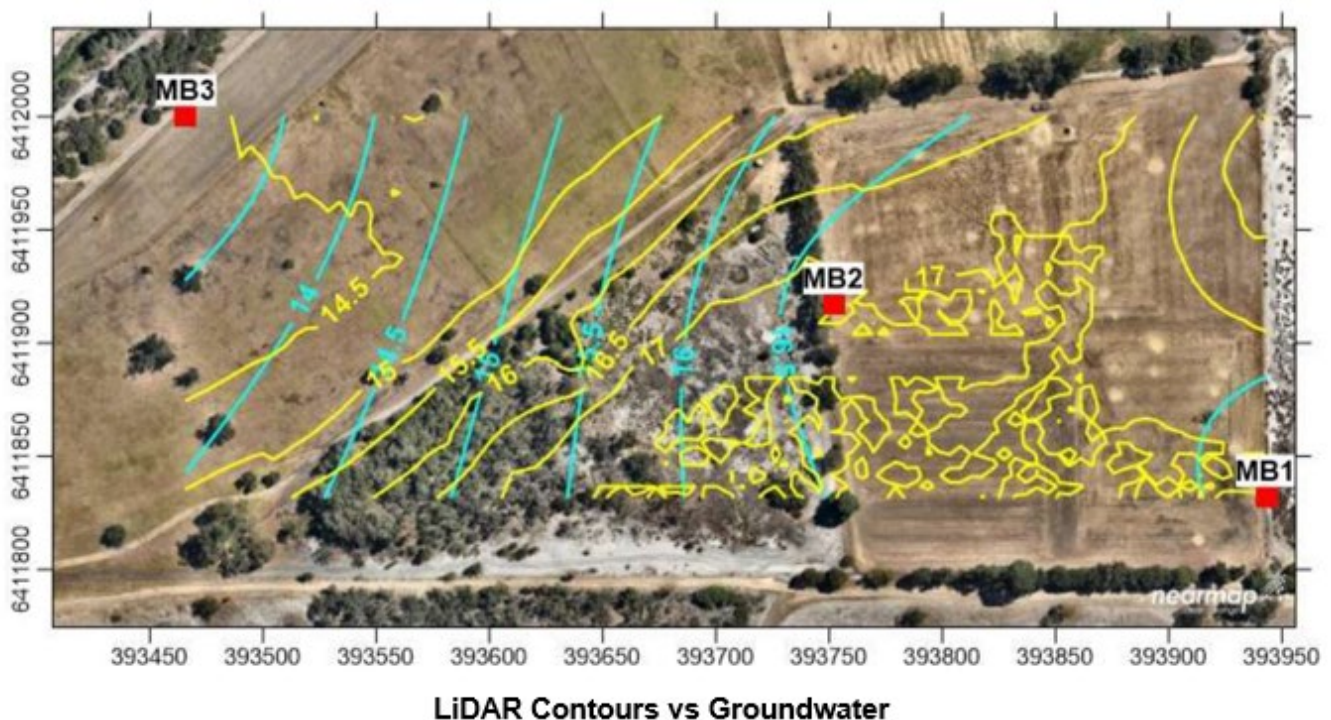
In terms of waste, the only waste being managed onsite is the washdown waters from the cleaning of the 'kill area', now that the proposal has addressed in specific terms the capture and further use/processing of offal and blood captured during the process. The wastewaters are transferred to the existing concrete sump onsite for a period of time to settle prior to being diluted and used for irrigation. These wastewaters will contain only limited remnant solids and blood captured in the washdown process, however, not considered to be at volumes which significantly increase nutrient concentrations. The wastewater volumes generated as part of this process is between 500-1,000 litres per day.



The NIMP and additional information now identifies that the wastewaters, even before being diluted within the rainwater tanks, comprise of very low nutrient levels. Therefore, once diluted as proposed, have significantly less nutrient concentration than initially considered. The concentration levels, as a result, are below the Peel Harvey Catchment thresholds of 4.5 kg/ha/yr N and 6.5 kg/ha/yr P. This removes the need of a secondary treatment process as contemplated by WQPN 98 and the requirement of the condition falls away. The DWER and DPIRD are now satisfied with the NIMP and have removed their initial concerns which were submitted as part of the earlier iteration of the NIMP.

The updated NIMP and additional information demonstrates that the groundwater level of the site was identified within the levels by using actual groundwater levels obtained during monitoring of the site. This was a requirement though the previous approval for the abattoir. The actual levels obtained were then calibrated against DWER long-term minimum and maximum monitoring data of groundwater levels for the area for accuracy purposes.

The below image shows the Lidar contours of the site, including the irrigation areas and groundwater levels measured during monitoring of the site as mentioned above. The reference to MB3, MB2 and MB1 reflects the monitoring bores on the site.



The final depth to groundwater calculation was based on subtracting the groundwater contour to the levels contained within the above Lidar grid. The depth to groundwater being 14m AHD, with the irrigation area being in an elevated position of 17m AHD. The 3m separation is considered acceptable, and furthermore the Applicant has proposed to raise PRI levels of the paddocks to be irrigated, to further manage any possible risk associated with the increased throughput.

Officers are satisfied this condition has been met within the revised NIMP and can therefore be removed.

Condition (e)

The existing condition required an 'Annual Compliance Report' to be submitted to the Shire from the date the revised NIMP has been approved by the Shire. The trigger should in fact have been



the date of the commencement of the increased throughput as this is what was applied for. Notwithstanding this, as mentioned above, amendments required to be undertaken to the NIMP as per condition (d) have been supported by Officers, and therefore the NIMP in its updated form is acceptable to the Shire, DWER and DPIRD. Therefore, Officers support the revision of the condition to read as follows:

“The landowner shall submit an Annual Compliance Assessment report to the Shire from the commencement date of the increased throughput. The Annual Compliance Assessment Report shall include an internal compliance audit of the development approval conditions and management plans”.

Condition (f)

This condition was imposed as the nutrient levels were initially considered/assessed by DPRID and Shire Officers to be elevated than what the initial NIMP contemplated. The fill to be brought to site was to provide for adequate clearance from the groundwater. As the wastewaters to be used for irrigation meet the permissible Peel Harvey Catchment nutrient rates, and as there is adequate depth to groundwater within the area to be irrigated, no fill is required to be brought onto site. Therefore, this condition is not required as a result.

Options and Implications

Option 1

1. That Council, in response to the Section 31 request for reconsideration, REVIEWS its original decision in the following manner:
 - a. REMOVES the following conditions:

Condition (d)

Prior to any operations changing to achieve the additional meat production permitted in condition (d), an updated Nutrient Irrigation Management Plan (NIMP) shall be prepared and submitted to the Shire of Serpentine Jarrahdale for its approval, including advice from the Department of Water and Environment Regulation. The updated NIMP must identify the following to the satisfaction of the Shire:

- i. Consistent with WQPN 98, a suitable secondary stage treatment system for wastewater;*
- ii. Local site specific data to demonstrate how the minimum 2m separation from groundwater for the irrigation area will be achieved, including accounting for seasonal variation*
- iii. Demonstration that nutrient balance of wastewater and the application through irrigation will not result in an unacceptable nutrient export impact; and*
- iv. The annual regime for monitoring compliance with the updated NIMP, which is to be reported to the Shire*

Condition (f)

Any fill that is required to be imported to the irrigation area in order to achieve the minimum 2m separation from groundwater, must be certified as being clean fill in accordance with landfill Waste Classification and Waste definition.



- b. AMENDS the following conditions:

Condition (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.

Condition (e)

The landowner shall submit an Annual Compliance Assessment report to the Shire from the commencement date of the increased throughput. The Annual Compliance Assessment Report shall include an internal compliance audit of the development approval conditions and management plans.

- c. RENUMBERS all remaining conditions of the original decision, to now be read as the new decision as follows:

*That Council APPROVES the development application dated 14 April 2021 for an amendment to the existing Abattoir at Lot 504 Yangedi Road, Keysbrook as contained within **attachment 1**, subject to the following conditions:*

<i>Plans and Specifications</i>	<i>Development Plans dated 15 March 2022</i> <i>Nutrient Irrigation Management Plan dated March 2022</i>
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- 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.*
- b. No more than 500 tonnes of meat suitable for pet or human consumption shall be processed per annum.*
- c. All stormwater shall be disposed of within the property. Direct disposal of stormwater onto roads, neighbouring properties, watercourses and/or drainage lines is not permitted.*
- d. The landowner shall submit an Annual Compliance Assessment report to the Shire from the commencement date of the increased throughput. The Annual Compliance Assessment Report shall include an internal compliance audit of the development approval conditions and management plans.*

Option 2

That Council, in response to the Section 31 request for consideration, REAFFIRMS its original decision.

Option 1 is recommended.

Conclusion

Council has been invited to reconsider conditions (a), (d), (e) and (f) of its original approval granted at the 15 November 2021 OCM for an increase throughout from 100 tonnes to 500 tonnes per annum to an existing Abattoir located at Lot 504 Yangedi Road, Keysbrook. The reconsideration follows a review of these conditions and the Applicant has provided additional information to address the Shire's, DWER and DPIRD initial concerns of environmental issues associated with the development. It is recommended that Council review its original decisions, to remove and amend conditions subject to this matter.



Attachments (available under separate cover)

- **10.1.5 - attachment 1** - Additional Information (IN22/7669)
- **10.1.5 - attachment 2** - DWER Comments (IN22/5769)
- **10.1.5 - attachment 3** - DPIRD Comments (IN22/7918)

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 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local businesses within the district.

Financial Implications

Nil.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	That Council modifies its original decision by amending and removing the conditions recommended in the report	This option is considered to address all risks.					
2	That Council reaffirms its original decision, and the matter proceeds to a full hearing of the SAT	Planning Framework	Social / Community Outcomes	Possible	Moderate	MODERATE	Ensure robust reasons for choosing to reaffirm original decision



Voting Requirements: Simple Majority

OCM093/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Duggin, seconded Cr Strange

1. That Council, in response to the Section 31 request for reconsideration, **REVIEWS** its original decision in the following manner:

a. **REMOVES** the following conditions:

Condition (d)

Prior to any operations changing to achieve the additional meat production permitted in condition (d), an updated Nutrient Irrigation Management Plan (NIMP) shall be prepared and submitted to the Shire of Serpentine Jarrahdale for its approval, including advice from the Department of Water and Environment Regulation. The updated NIMP must identify the following to the satisfaction of the Shire:

- i. Consistent with WQPN 98, a suitable secondary stage treatment system for wastewater;*
- ii. Local site specific data to demonstrate how the minimum 2m separation from groundwater for the irrigation area will be achieved, including accounting for seasonal variation*
- iii. Demonstration that nutrient balance of wastewater and the application through irrigation will not result in an unacceptable nutrient export impact; and*
- iv. The annual regime for monitoring compliance with the updated NIMP, which is to be reported to the Shire*

Condition (f)

Any fill that is required to be imported to the irrigation area in order to achieve the minimum 2m separation from groundwater, must be certified as being clean fill in accordance with landfill Waste Classification and Waste definition.

b. **AMENDS** the following conditions:

Condition (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.

Condition (e)

The landowner shall submit an Annual Compliance Assessment report to the Shire from the commencement date of the increased throughput. The Annual Compliance Assessment Report shall include an internal compliance audit of the development approval conditions and management plans.

c. **RENUMBERS** all remaining conditions of the original decision, to now be read as the new decision as follows:



That Council APPROVES the development application dated 14 April 2021 for an amendment to the existing Abattoir at Lot 504 Yangedi Road, Keysbrook as contained within attachment 1, subject to the following conditions:

<i>Plans and Specifications</i>	<i>Development Plans dated 15 March 2022</i>
	<i>Nutrient Irrigation Management Plan dated March 2022</i>

- 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.***
- b. No more than 500 tonnes of meat suitable for pet or human consumption shall be processed per annum.***
- c. All stormwater shall be disposed of within the property. Direct disposal of stormwater onto roads, neighbouring properties, watercourses and/or drainage lines is not permitted.***
- d. The landowner shall submit an Annual Compliance Assessment report to the Shire from the commencement date of the increased throughput. The Annual Compliance Assessment Report shall include an internal compliance audit of the development approval conditions and management plans.***

CARRIED UNANIMOUSLY 9/0



Councillor Atwell declared a Financial Interest in item 10.1.6.

Councillor Atwell disconnected himself from the Electronic Meeting at 8:21pm prior to this item being discussed.

The Manager Governance and Strategy, Dr Kenneth Parker advised the Presiding Member, Councillor Rich that Councillor Atwell was no longer participating in the Meeting.

10.1.6 - Proposed Amendment of Development Approval Granted by the Development Assessment Panel to Extend the Period Within Which Development Must be Substantially Commenced - Lot 504 and Lot 506 Thomas Road, Oakford (PA22/263)	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officer's 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 (e.g. 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:	Element
Owner:	J and S Pipponen - Lot 504 Skukuza Ventures Pty Ltd - Lot 506
Date of Receipt:	23 March 2022
Lot Area:	Lot 504 - 1.04ha Lot 506 - 1.31ha
Town Planning Scheme No 2 Zoning:	'Rural'
Metropolitan Region Scheme Zoning:	'Rural'

Report Purpose

The purpose of the report is for Council to consider a Responsible Authority Report (RAR), as contained within **attachment 1**, prepared for a development application for an approved 'Service Station' at Lot 504 and Lot 506 Thomas Road, Oakford. The application seeks to amend the approval so as to extend the period within which the approved development must be substantially commenced. Specifically, it seeks to extend this from 29 October 2022 to 31 December 2024.

The Metro Outer Development Assessment Panel (MODAP) will replace Council as the decision-making authority for the application in accordance with the *Planning and Development (Development Assessment Panels) Regulations 2011*. The proposal is presented to Council to consider the Responsible Authority Report.



The land use of 'Service Station' constitutes a prohibited use under draft Local Planning Scheme No.3 (LPS3). LPS3 is considered a serious document likely to be adopted, with such adoption considered to be in the short term. LPS3 has reached a stage that it constitutes a seriously entertained planning proposal, and is therefore a relevant matter for consideration as to orderly and proper planning. It is considered to be consistent with orderly and proper planning to recommend refusal of the extension period.

Relevant Previous Decisions of Council***Ordinary Council Meeting - 27 August 2018 - OCM082/08/18 - COUNCIL RESOLUTION***

1. That Council endorses the Responsible Authority Report contained within attachment OCM082.1/08/18 which recommends that the Metropolitan East Joint Development Assessment Panel approve the 'Service Station' Lot 12, 1537 Thomas Road and Lot 50 Nicholson Road, Oakford as contained within attachment OCM082.8/08/18 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.*

<i>Plans and Specifications</i>	<i>P1 - P22 received at the Shire Offices on 28 March 2018 and 24 July 2018 and Bushfire Management Plan and Risk Management Plans dated 19 March 2018</i>
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- b. Prior to commencement of works, a landscaping/revegetation plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. Within 60 days of commencement, the approved landscaping/revegetation plan shall be implemented and maintained thereafter.*
- c. Prior to commencement of works, a detailed Stormwater Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The approved Stormwater Plan shall be implemented and maintained thereafter.*
- d. Prior to the commencement of works, a Construction Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Construction Management Plan shall include but not be limited to the following information:-*
- i) Dust management*
- ii) Traffic management*
- These approved plans shall be implemented and maintained throughout the construction of the development.*
- e. Prior to occupation, a lighting plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The approved lighting plan shall be implemented and maintained thereafter.*
- f. Prior to occupation, an agreed monetary contribution shall be paid to the Shire of Serpentine Jarrahdale for the establishment of public art in accordance with Council's Local Planning Policy 1.6 - Public Art to the satisfaction of the Shire of Serpentine Jarrahdale.*
- g. The pylon sign shall be no higher than 7m unless otherwise approved by the Shire of Serpentine Jarrahdale.*



h. *Prior to Commencement of works, a Noise Assessment and Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. Once approved, the plans shall be implemented and maintained thereafter.*

i. *One 11 metre wide crossover located within Lot 50, Nicholson Road, Oakford and positioned where possible near the northern most cadastral boundary of Lot 50. This requirement is to protect the functional area of this intersection in accordance with Austroads 2017 Guide to Road Design Part 4 Intersections and Crossings General, section 7.2 Property Access.*

This access shall operate as left in/left out turning movements for light vehicles and left out only turning movements for heavy vehicles and shall have suitable signage advising motorists of these restricted movements.

The developer shall be responsible for all costs involved in the land acquisition, design and construction of the left turning pocket and solid median to prevent right out turning movements onto Nicholson Road. This includes signing, road markings, relocation of services, street lighting and Main Roads costs involved in the checking of the design and construction drawings and any site inspections Thomas Road

j. *One 11 metre wide crossover located within Lot 12 Thomas Road, Oakford and positioned where possible near the easternmost cadastral boundary of Lot 12. This requirement is to protect the functional area of this intersection in accordance with Austroads 2017 Guide to Road Design Part 4 Intersections and Crossings General, section 7.2 Property Access.*

This access shall operate as left in/left out turning movements for light vehicles and left in only turning movements for heavy vehicles and shall have suitable signage advising motorists of these restricted movements.

The developer shall be responsible for all costs involved in the land acquisition, design and construction of the left turning pocket and solid median to prevent right out movements onto Thomas Road. This includes signing, road markings, relocation of services, street lighting and Main Roads costs involved in the checking of the design and construction drawings and any site inspections

k. *Any services, infrastructure or roadside furniture that requires relocation as a result of the applicant's works will be at the applicant's cost.*

l. *Lot 50 is affected by land reserved in the Metropolitan Region Scheme for "Other Regional Road" and no development will be permitted within this land required for road purposes at some time in the future.*

The applicant is advised to contact the Department Planning, Lands & Heritage - Infrastructure Land Use Co-Ordinating Branch (ILUC) for further details in this regard.

m. *No earthworks shall encroach onto the Nicholson and Thomas Road road reserve.*

n. *No stormwater drainage shall be discharged onto the Nicholson and Thomas Road road reserve.*

o. *The applicant shall make good any damage to the existing verge vegetation within the Nicholson and Thomas Road road reserve.*

p. *The applicant must obtain approval from Main Roads before all works are undertaken within the Thomas Road reserve. The applicant seeking access to the Main Roads network will be required to submit an Application as outlined in the "Application Kit and Guidelines" for State Roads.*



Application Kits can be found on the Main Roads website >"Our Roads" >"Conducting Works on Roads" >"Applications to Undertake Works on State Roads" >Application Kit and Guidelines for Complex Works OR Application Form for Low Complexity Works.

- q. The type of sign, size, content and location must comply with all relevant by-laws and planning schemes made by Council.*
- r. The sign and sign structure is to be placed on private property and shall not over hang or encroach upon the road reserve.*
- s. As the signage is illuminated, it must be of a low-level not exceeding 300cd/m², not flash, pulsate or chase*
- t. The device shall not contain fluorescent, reflective or retro reflective colours or materials.*
- u. No other unauthorized signing is to be displayed*
- v. Main Roads agreement is to be obtained prior to any future modifications.*
- w. Vegetation within the state road reserve shall not be removed or trimmed to improve the visibility of the proposed advertising sign.*
- x. The service station is not to be operational before the Main Roads Roundabout is constructed.*

Advice Notes

- 1. As you are aware, this intersection is recognised as a dangerous black spot and has received funding from the Road Trauma Fund account to undertake preliminary planning design concepts. At this point in time, the traffic modelling depicts that the preferred intersection treatment at this location is a roundabout treatment, for both interim and ultimate stage.*

The applicant is reminded that upon the roundabout being constructed to its ultimate configuration, the existing access on Nicholson Road will be removed and all access into the petrol station development will be achieved via a dedicated service road accessed from the north of Lot 50.

Please be aware that the timing of the construction of the roundabout {both interim and ultimate stages} including the preferred type of intersection treatment for this intersection is subject to change and that Main Roads assumes no liability whatsoever for the information provided.

- 2. An internal 15% design review has been undertaken for the submitted drawings for this development proposal. The attached design review comments are not to be considered a comprehensive design verification and may not pick-up all the issues. Therefore it is not an approval of the presented design.*

The DAP meeting was held on 11 September 2018 and the application deferred for the following reasons:

- 1. The Applicant and relevant parties including Main Roads and the owners of Lot 196 Thomas Road, Oakford to discuss access arrangements to their respective developments.*
- 2. A revised draft to be prepared by the Local Government of the proposed conditions and advice notes.*
- 3. The presiding member to consider whether legal advice is necessary.*

This required the matter to return to Council for further consideration of the Responsible Authority Report.



Special Council Meeting - 8 October 2018 - SCM013/10/18 - COUNCIL RESOLUTION / Officer Recommendation:

That Council endorses the Responsible Authority Report contained within attachment SCM013.1/10/18 which recommends that the Metropolitan East Joint Development Assessment Panel approve the 'Service Station' Lot 12, 1537 Thomas Road and Lot 50 Nicholson Road, Oakford as contained within attachment SCM013.3/10/18 subject to the following amended conditions:-

- 1. 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.*

<i>Plans and Specifications</i>	<i>P1 - P22 received at the Shire Offices on 28 March 2018 and 24 July 2018 and Bushfire Management Plan and Risk Management Plans dated 19 March 2018</i>
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- 2. Prior to commencement of works, a landscaping/revegetation plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. Within 60 days of occupation, the approved landscaping/revegetation plan shall be implemented and maintained thereafter by the proponent and their cost.*
- 3. Prior to commencement of works, a detailed Stormwater Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The approved Stormwater Plan shall be implemented and maintained thereafter by the proponent and their cost.*
- 4. Prior to the commencement of works, a Construction Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale in consultation with Main Roads Western Australia. The Construction Management Plan shall include but not be limited to the following information:-*
 - Dust management*
 - Traffic management**These approved plans shall be implemented and maintained throughout the construction of the development by the proponent and their cost.*
- 5. Prior to occupation, a lighting plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale in consultation with Main Roads Western Australia. The approved lighting plan shall be implemented and maintained thereafter by the proponent and their cost.*
- 6. Prior to occupation, an agreed monetary contribution shall be paid to the Shire of Serpentine Jarrahdale for the establishment of public art in accordance with Council's Local Planning Policy 1.6 - Public Art to the satisfaction of the Shire of Serpentine Jarrahdale.*
- 7. The pylon sign shall be no higher than 7m unless otherwise approved by the Shire of Serpentine Jarrahdale.*
- 8. Prior to commencement of works, a Noise Assessment and Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. Once approved, the plans shall be implemented and maintained thereafter.*
- 9. Prior to occupation, the applicant shall enter into satisfactory arrangements with Main Roads Western Australia and the Shire of Serpentine Jarrahdale in relation to a contribution towards the upgrading of the intersection of Thomas Road and Nicholson Road, Oakford.*
- 10. Prior to occupation, Lot 12 Thomas Road and Lot 50 Nicholson Road, Oakford shall be amalgamated into a single lot. Alternatively, a right of carriageway easement shall be*



registered on the Certificate of Title over the land subject of this approval to secure reciprocal access across the lots as illustrated on the approved plans at the expense of the applicant and to the satisfaction of the Shire of Serpentine Jarrahdale.

Main Roads

Nicholson Road Access

11. Prior to occupation, one 11m wide crossover, located within Lot 50 and positioned where possible near the northernmost cadastral boundary of Lot 50, shall be designed and constructed to the satisfaction of the Shire of Serpentine Jarrahdale on the advice of the Department of Planning Lands and Heritage and Main Roads Western Australia. This requirement is to protect the functional area of this intersection in accordance with Austroads 2017 Guide to Road Design Part 4 Intersections and Crossings General, section 7.2 Property Access.

This access shall operate as left in/left out turning movements for light vehicles and left out only turning movements for heavy vehicles and shall have suitable signage advising motorists of these restricted movements. No right in or right out turning movements shall be made from or to Nicholson Road.

The developer shall be responsible for all costs involved in the land acquisition, design and construction of the left turning pocket and solid median to prevent right in and right out turning movements onto Nicholson Road. This includes signage, road markings, relocation of services and street lighting on the advice of Main Roads Western Australia to the satisfaction of the Shire of Serpentine Jarrahdale.

Thomas Road Access

12. Prior to occupation, one 11m wide crossover, located within Lot 12 and positioned where possible near the easternmost cadastral boundary of Lot 12, shall be designed and constructed to the satisfaction of the Shire of Serpentine Jarrahdale on the advice of Main Roads Western Australia. This requirement is to protect the functional area of this intersection in accordance with Austroads 2017 Guide to Road Design Part 4 Intersections and Crossings General, section 7.2 Property Access.

This access shall operate as left in/left out turning movements for light vehicles and left in only turning movements for heavy vehicles and shall have suitable signage advising motorists of these restricted movements. No right in or right out turning movements shall be made from or to Thomas Road.

The developer shall be responsible for all costs involved in the land acquisition, design and construction of the left turning pocket and solid median to prevent right in and right out movements onto Thomas Road. This includes signage, road markings, relocation of services and street lighting on the advice of Main Roads Western Australia to the satisfaction of the Shire of Serpentine Jarrahdale.

13. No earthworks shall encroach onto the Nicholson and Thomas Road road reserve.
14. No stormwater drainage shall be discharged onto the Nicholson and Thomas Road road reserve.
15. The applicant shall make good any damage to the existing verge vegetation within the Nicholson and Thomas Road road reserve.

Advertising Signage

16. Signage illumination shall not exceed 300cd/m², and shall not flash, pulsate or chase.
17. Signage shall not contain fluorescent, reflective or retro reflective colours or materials.



18. No unauthorised signage is to be displayed without prior approval from the Shire of Serpentine Jarrahdale in consultation with Main Roads Western Australia.

Advice Notes

1. As you are aware, this intersection is recognised as a dangerous black spot and has received funding from the Road Trauma Fund account to undertake preliminary planning design concepts. At this point in time, the traffic modelling depicts that the preferred intersection treatment at this location is a roundabout treatment, for both interim and ultimate stage.

The applicant is reminded that upon the roundabout being constructed to its ultimate configuration, the existing access on Nicholson Road will be removed and all access into the petrol station development will be achieved via a dedicated service road accessed from the north of Lot 50.

Please be aware that the timing of the construction of the roundabout (both interim and ultimate stages) including the preferred type of intersection treatment for this intersection is subject to change and that Main Roads assumes no liability whatsoever for the information provided.

2. An internal 15% design review has been undertaken for the submitted drawings for this development proposal. The attached design review comments are not to be considered a comprehensive design verification and may not pick-up all the issues. Therefore it is not an approval of the presented design.
3. Lot 50 is affected by land reserved in the Metropolitan Region Scheme for "Other Regional Road" and no development will be permitted within this land required for road purposes at some time in the future.

The applicant is advised to contact the Department Planning, Lands & Heritage - Infrastructure Land Use Co-ordinating Branch (ILUC) for further details in this regard.

4. The applicant must obtain approval from Main Roads before all works are undertaken within the Thomas Road reserve. The applicant seeking access to the Main Roads network will be required to submit an Application as outlined in the "Application Kit and Guidelines" for State Roads.

Application Kits can be found on the Main Roads website >"Our Roads" >"Conducting Works on Roads" >"Applications to Undertake Works on State Roads" >Application Kit and Guidelines for Complex Works OR Application Form for Low Complexity Works.

5. Main Roads agreement is to be obtained prior to any future modifications to signage.
6. Vegetation within the State road reserve shall not be removed or trimmed to improve the visibility of the proposed advertising sign.

The application was approved at the DAP meeting of 29 October 2018.

Background

Conditional approval was granted by the DAP on 29 October 2018 for a 'Service Station'. The proposal included interim and ultimate access arrangements given the proposed roundabout construction by Main Roads Western Australia (MRWA) at the corner of Thomas Road and Nicholson Road.

A further development application was submitted on 17 December 2019 requesting an extension of time for which development must commence. The justification provided in that application was due to MRWA timeframes to undertake road works. This application however did not proceed,



due to the Minister issuing the Clause 78H Notice of Exemption from Planning Requirements During State of Emergency. This Notice of Exemption automatically granted a two year extension to commencement timeframes for current development approvals, resulting in works being required to be substantially commenced by 29 October 2022. This application now seeks to further extend that timeframe to 31 December 2024.

Existing Development

The subject site is zoned 'Rural' under the Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2) and is located within Oakford over two parcels of land. The lots were formally known as Lot 12 Thomas Road and Lot 50 Nicholson Road however since the initial approval, portions of these lots have been acquired by MRWA for the roundabout construction. These areas are Lot 505 and Lot 507, and the lots subject to this application are now Lots 504 and Lot 506 Thomas Road, as depicted below:



Lots 506 Thomas Road is currently developed with a dwelling and Lot 504 comprises of an easement and contains power lines. Thomas Road runs along the southern boundary of the site and Nicholson Road to the west. The surrounding area consists of rural and rural residential lots, with Oakford Traders Liquor Store located opposite, on the southern side of Thomas Road. An approved service station on the south side of Thomas Road has commenced development, with both a sand pad and concrete foundation poured.

Proposed Development

The application seeks approval to extend the timeframe for when the 'Service Station' development must be substantially commenced from 29 October 2022 to 31 December 2024. A full copy of the current approval together with accompanying plans is contained within **attachment 2**, and the subject application details within **attachment 3**.



The approved development comprises of the following:

- Retail building 220m²;
- Four light vehicle fuel bowzers with eight refuelling bays;
- Three heavy vehicle fuel bowzers with two refuelling bays;
- An enclosed plant yard;
- One left-in/left-out crossover to Thomas Road;
- One left-in/left-out crossover to Nicholson Road;
- Eleven standard car parking bays;
- Three caravan parking bays;
- Three truck parking bays;
- Landscaping; and
- Signage.

The 'Service Station' is approved to operate 24 hours a day, 7 days a week. The service station has been designed to cater for vehicles up to 36.5m in length. The current approval included specific conditions to provide both interim and ultimate access arrangements, and a specific advice note explaining this aspect. The advice note states that:

The applicant is reminded that upon the roundabout being constructed to its ultimate configuration, the existing access on Nicholson Road will be removed and all access into the petrol station development will be achieved via a dedicated service road accessed from the north of Lot 50.

The associated conditions securing interim access were conditions 11 and 12, as follows:

Nicholson Road Access

11. *Prior to occupation, one 11m wide crossover, located within Lot 50 and positioned where possible near the northernmost cadastral boundary of Lot 50, shall be designed and constructed to the satisfaction of the Shire of Serpentine Jarrahdale on the advice of the Department of Planning Lands and Heritage and Main Roads Western Australia. This requirement is to protect the functional area of this intersection in accordance with Austroads 2017 Guide to Road Design Part 4 Intersections and Crossings General, section 7.2 Property Access.*

This access shall operate as left in/left out turning movements for light vehicles and left out only turning movements for heavy vehicles and shall have suitable signage advising motorists of these restricted movements. No right in or right out turning movements shall be made from or to Nicholson Road.

The developer shall be responsible for all costs involved in the land acquisition, design and construction of the left turning pocket and solid median to prevent right in and right out turning movements onto Nicholson Road. This includes signage, road markings, relocation of services and street lighting on the advice of Main Roads Western Australia to the satisfaction of the Shire of Serpentine Jarrahdale.



Thomas Road Access

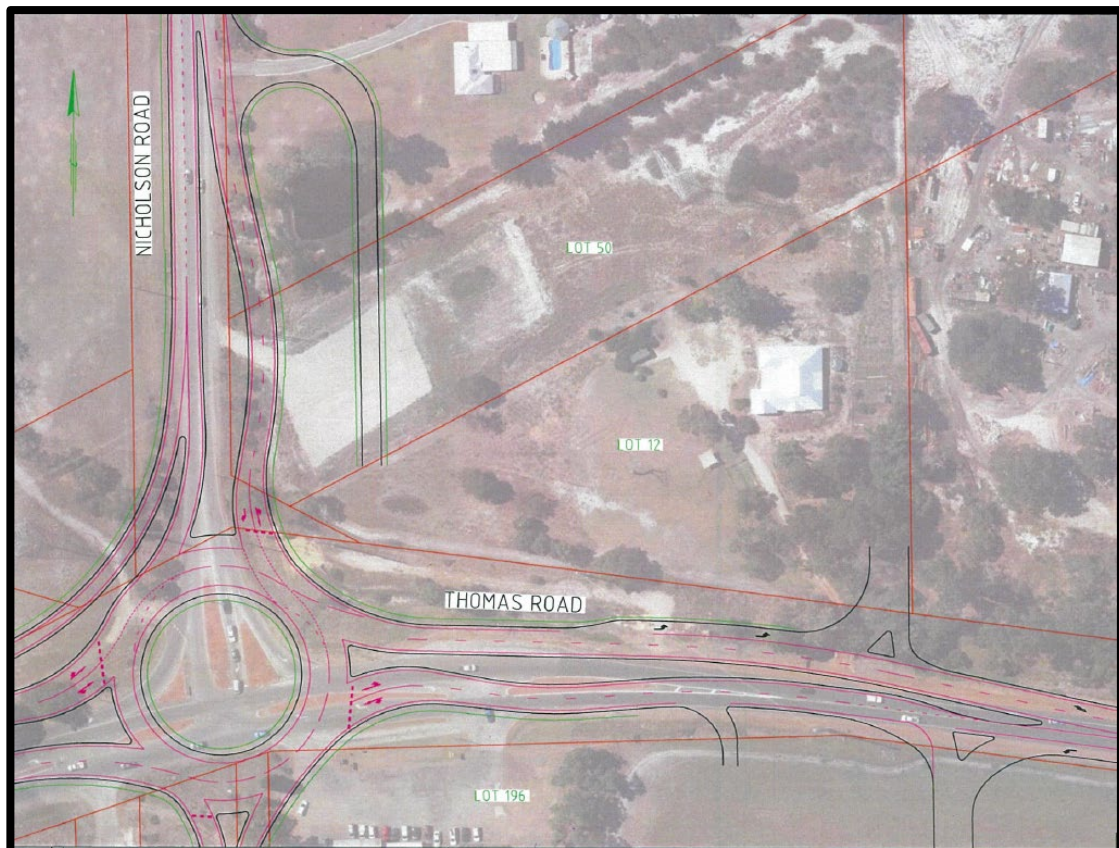
12. Prior to occupation, one 11m wide crossover, located within Lot 12 and positioned where possible near the easternmost cadastral boundary of Lot 12, shall be designed and constructed to the satisfaction of the Shire of Serpentine Jarrahdale on the advice of Main Roads Western Australia. This requirement is to protect the functional area of this intersection in accordance with Austroads 2017 Guide to Road Design Part 4 Intersections and Crossings General, section 7.2 Property Access.

This access shall operate as left in/left out turning movements for light vehicles and left in only turning movements for heavy vehicles and shall have suitable signage advising motorists of these restricted movements. No right in or right out turning movements shall be made from or to Thomas Road.

The developer shall be responsible for all costs involved in the land acquisition, design and construction of the left turning pocket and solid median to prevent right in and right out movements onto Thomas Road. This includes signage, road markings, relocation of services and street lighting on the advice of Main Roads Western Australia to the satisfaction of the Shire of Serpentine Jarrahdale.

Accordingly, the approval facilitates development to occur without the need to await the ultimate works being delivered by MRWA.

Since the approval, MRWA have advanced design of the roundabout, which is depicted below:



The plan shows a service road accessing the subject site from Nicholson Road to ensure the crossover is located a sufficient distance from the roundabout. The service road would be accessed through former Lot 11 Nicholson Road, the portion of which has now been acquired by MRWA for this purpose.



Community / Stakeholder Consultation

Government Agency Referrals

Department of Planning Lands and Heritage (DPLH)

DPLH has no objections to the proposal

Westport

Council and the Executive Management Group were briefed by Westport in respect of their current project pertaining to the Thomas Road and Anketell Road planning study specific to this becoming the freight corridor link between future Westport and Tonkin Highway.

This is currently open for public consultation, following which Westport will consider submissions and recommend a form of planning control area that will secure greater protection of the route.

Once a planning control area is declared, development control powers are transferred to the WAPC by virtue of s115 of the *Planning and Development Act 2005*:

115. Development in planning control area, applying for approval of

- (1) A person who wishes to commence and carry out development in a planning control area may apply to the local government in the district of which the planning control area is situated for approval of that development.
- (2) An applicant is to submit to the local government such plans and other information as the local government may reasonably require.
- (3) The local government, within 30 days of receiving the application, is to forward the application, together with its recommendation, to the Commission for determination.

Main Roads Western Australia (MRWA)

MRWA has no objections to the proposal.

Water Corporation (Water Corp)

Water Corp advised that the site is not included in its adopted long-term water or wastewater planning and therefore are unable to speculate on servicing requirements. It is also advised that the applicant will be required to protect all existing drainage as the Birrega Drain is located on the southern boundary of the site. Rural drains are not designed to give flood protection at all times and some inundation of land can be expected.

Developments within this catchment are required to contain flows from a 1:100 year storm event on site. Discharge to Water Corp drains must be compensated to pre-development flows. This should be demonstrated to the Water Corp at the time of development.

The proposal will require approval by Water Corp's Building Services section prior to commencement of works.

Community Consultation

The application was advertised to surrounding landowners within a radius of 500m for a period of 21 days from 28 March 2022 to 18 April 2022, in accordance with Local Planning Policy 1.4 - Consultation for Planning Matters.



During this period one submission was received objecting for the following reasons:

- The use is prohibited under proposed LPS3;
- An extension of time does not allow for careful consideration to be made in relation to the road upgrades in the area and the impacts of the freight route (West Port). A new application should be submitted for assessment; and
- The need for a service station in the area is already satisfied by there being one located directly to the south.

A full summary of the submission with the Applicant's response and Officer comments is contained within **attachment 4**.

Officer Comment:

It is a fact that the land use of 'service station' is recommended to be a prohibited use under draft LPS3. LPS3 has reached a stage that it constitutes a seriously entertained planning proposal and is therefore a relevant matter for consideration as to orderly and proper planning. In considering this, the application should be refused as it would not be consistent with orderly and proper planning to grant an extension of time that would see a development take place that is expressly prohibited within the Rural zone under the imminent and certain draft LPS3.

Officers acknowledge that there is a service station to the south of the site however Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* does not list commercial competition as a matter to be considered as part of a development assessment. This matter does not reflect those very narrow circumstances where commercial competition may be considered a relevant planning issue.

Statutory Environment

Legislation

- *Planning and Development Act 2005*
- *Planning and Development (Development Assessment Panels) Regulations 2011*
- *Planning and Development (Local Planning Schemes) Regulations 2015*

State Government Policies

- State Planning Policy 2.5 - Rural Planning (SPP2.5)
- State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP3.7)
- Environmental Protection Authority Guidance for the Assessment of Environmental Factors Separation Distances between Industrial and Sensitive Land Uses (2005)

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2
- Local Planning Strategy
- Draft Local Planning Scheme No. 3
- Local Planning Policy 4.11 - Advertising (LPP4.11)
- Local Planning Policy 1.6 - Public Art (LPP1.6)



Planning Assessment

The subject application is made in accordance with r17(1)(a) of the *Planning and Development (Development Assessment Panels) Regulations 2011*. This provides for an application to be made “to amend the approval so as to extend the period within which any development approved must be substantially commenced”.

In assessing such an application, consideration should be given to the following:

- Whether the planning framework has changed substantially since the development approval was granted;
- Whether the development would likely receive approval now; and
- Whether the holder of the development approval has actively and relatively conscientiously pursued the implementation of the development approval.

For the purposes of this Report, discussion is confined to these matters.

Whether the planning framework has changed substantially since the development approval was granted, and if so how does this affect consideration of the application

Schedule 2, Part 9, Clause 67(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires a Local Government to consider the principles of orderly and proper planning including any proposed Local Planning Scheme. Draft LPS3 has been advertised, had submissions considered, endorsed by Council and is currently with the Western Australian Planning Commission (WAPC) for final approval. It is anticipated that approval will be forthcoming from the WAPC mid 2022. Furthermore, the Shire’s Local Planning Strategy received final approval from the WAPC on 18 March 2022. Both these documents are therefore material in the consideration of the current application.

Draft Local Planning Scheme No.3 and Local Planning Strategy (LPS):

The site would remain zoned ‘Rural’ under LPS3. The ‘Service Station’ land use is a prohibited land use in the ‘Rural’ zone under draft LPS3.

The objectives of the ‘Rural’ zone under LPS3 are:

- “To provide for the maintenance or enhancement of specific local rural character.
- 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.
- 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.
- To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone.
- To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.”



The objectives of rural land under the LPS are to provide for a full range of rural uses, tourism, rural enterprise and the preservation of the rural character. The LPS emphasises the importance of protecting large rural lot sizes for agriculture.

It is considered that the proposal is generally inconsistent with the objectives of the 'Rural' zone under the LPS and LPS3 except *"to provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses."* As the LPS and LPS3 have been formed upon 'Service Station' as a prohibited use in the Rural zone, it is not considered an appropriate non-rural use.

LPS3 has however introduced the use class of a 'Road House', which is defined as:

"premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services -

- (a) a full range of automotive repair services;*
- (b) wrecking, panel beating and spray painting services;*
- (c) transport depot facilities;*
- (d) short-term accommodation for guests;*
- (e) facilities for being a muster point in response to accidents, natural disasters and other emergencies."*

The freeway service centre is defined as:

"premises that has direct access to a freeway and which provides all the following services or facilities and may provide other associated facilities or services but does not provide bulk fuel services -

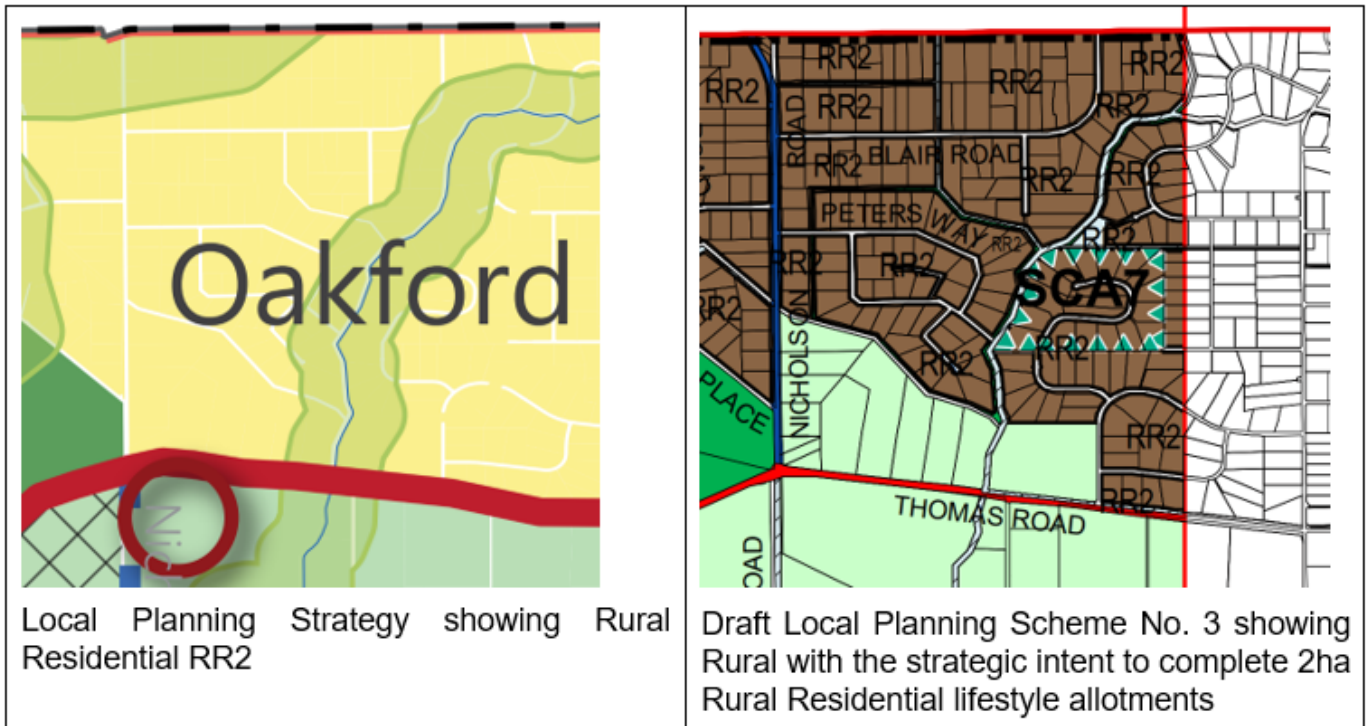
- (a) service station facilities;*
- (b) emergency breakdown repair for vehicles;*
- (c) charging points for electric vehicles;*
- (d) facilities for cyclists;*
- (e) restaurant, cafe or fast food services;*
- (f) take-away food retailing;*
- (g) public ablution facilities, including provision for disabled access and infant changing rooms;*
- (h) parking for passenger and freight vehicles;*
- (i) outdoor rest stop facilities such as picnic tables and shade areas."*

The 'Road House' land use is an 'A' use in the 'Rural' zone under LPS3 and therefore is capable of approval subject to advertising. Based on its definition, for a development to be considered a 'Road House' it must provide the services or facilities provided by a Freeway Service Centre, as listed above. The subject development does not include (b), (c), (d) or (g) above and therefore could not be considered a 'Road House'.

In terms of the LPS, the subject site is designated as 'Rural Residential' (RR-2). A 'Service Station' is furthermore a prohibited use in the 'Rural Residential' zone under draft LPS3. The purpose of the Rural Residential area is to provide for a range of lifestyle whilst preserving and enhancing the rural character. According to the LPS, the intent is for this land to ultimately be rezoned and



structure planned to provide 2ha Rural Residential lifestyle allotments. The extract showing of both the approved LPS and the Draft LPS3 are shown following:



The proposal to extend the timeframe of an expressly prohibited use, is contrary with the principles of orderly and proper planning. It is also further contrary to the strategic intent set out under the LPS. Given the imminence of LPS3 and the approval of the LPS, both documents have to be given significant weight when exercising discretion in relation to a proposed extension of time request pertaining to what will be a prohibited use.

This approach has been applied through the *Coty principle* as cited in Nicholls and Western Australian Planning Commission (2005) (WASAT40) which states “*it is important, in the public interest, that whilst the respondent Council’s local scheme is under consideration this Court should, in the exercise of its appellate jurisdiction..... avoid, as far as possible, giving judgement or establishing any principle which would render more difficult the ultimate decision as to the form the scheme should take. It is also important in the public interest, that during that period this Court should, in the exercise of the jurisdiction referred to, arrive at its judgement, so far as possible, in consonance with the town planning decisions which have been embodied in the local scheme in the course of its preparation*”. Therefore, Officers consider to extend the approval would be contrary to the established *Coty Principle*.

The applicant considers, as part of the response to the submission, that LPS3 cannot be considered ‘imminent’. The applicant makes reference to a submission that was made to the WAPC as part of the LPS and LPS3 for retaining the use of ‘service station’ within the ‘rural’ zone.



The applicant also refers to the Statutory Planning Committee (SPC) meeting of the WAPC where the agenda report states as follows:

Element on behalf of Claradon Property - Lot 12 Thomas Road & Lot 50 Nicholson Road, Oakford	29	DRAFT LOCAL PLANNING STRATEGY & DRAFT LOCAL PLANNING SCHEME NO. 3 SUBMISSION - LOT 12 THOMAS ROAD & LOT 50 NICHOLSON ROAD, OAKFORD element on behalf of Claradon Property (Claradon) has prepared this submission in response to the Shire of Serpentine-Jarrahdale (the Shire) draft Local Planning Strategy (draft Strategy) and draft Local Planning Scheme No.3 (draft LPS 3) that are being advertised for public comment. The submission has been prepared with regard to Lot 12 Thomas Road and Lot 50 Nicholson Road, Oakford (subject site).	<p>The Shire's objective in the Rural zone is to prevent the proliferation of service stations, rather supporting the development of a more strategic road house uses. While the objectives of the Rural zone allow for some non-rural land uses to be considered where they have demonstrated benefit and are compatible with surrounding rural uses, Officers do not consider that the land use of service station provides such benefit or is compatible with rural uses.</p> <p>A Road House is a discretionary use within the 'Rural' zone and can therefore be accommodated subject to planning approval. Existing approvals can continue under non-conforming land uses rights.</p>	Disagree with the Shire's response. However as the submission does not require any modifications to the Strategy and relates to the draft Local Planning Scheme No. 3 it will be considered at a later date when the draft Local Planning Scheme No. 3 is assessed.
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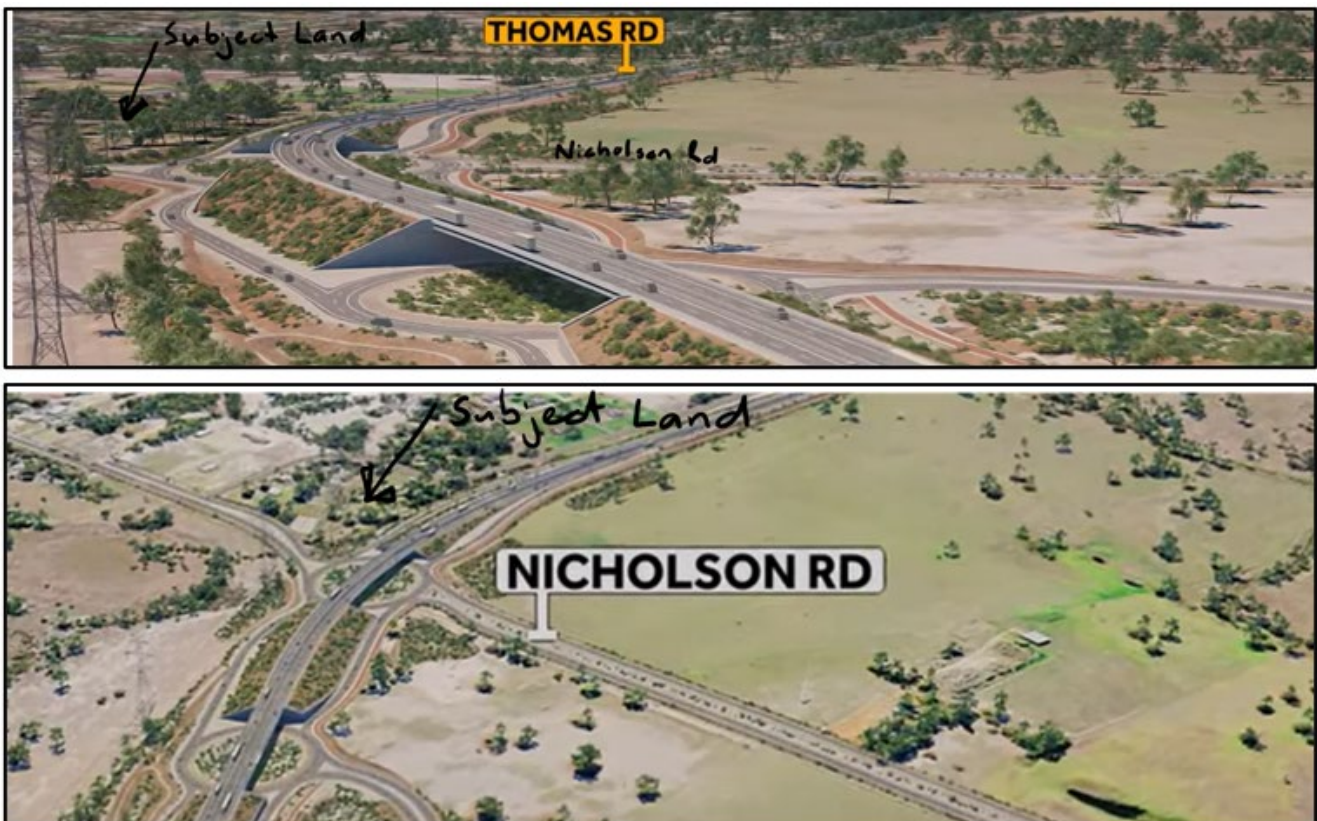
The applicant states *"Moreover, the Agenda Report from the Statutory Planning Committee (SPC) meeting of the Western Australian Planning Commission (WAPC) of 29 June 2021 disagrees with the Shire's response on the proposed uses on the subject site."* It is however noted that the WAPC have not confirmed they disagree with the proposed use on the site however state that it will be considered as part of the assessment of LPS3 and that it does not relate directly to the LPS. This report relates to the LPS and does not provide any indication as to the finality of the use under LPS3.

Officers consider that the applicant has not acknowledged that the decision of the SPC was to support the LPS which designated the subject land within the Rural Resident RR-2 area. This is now secured as part of the approved LPS. In terms of advancing further development on the subject land, the LPS indicates that those lots remaining zoned Rural under LPS3 would have a strategic intent for rezoning to Rural Residential RR2, and a structure plan prepared, to complete the 2ha rural residential development that exists in the precinct.



Noteworthy, in addition to the LPS allowing for “a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses”, section 3.5.1 Road and Freight of the Strategy recognises the importance of the Thomas Road upgrade in creating strong regional linkages to support the economy. This will also be increased as further planning for Westport along the Thomas Road and Anketell Road linkage progresses. The applicant considers that this supports the proposal for the ‘Service Station’ use as it *“builds on the future infrastructure to be provided and given the potential amenity impacts of the intersection (visual amenity, noise etc) the proposed use is commensurate with the future amenity of the locality”*. Whilst it is acknowledged that the road network may have an impact on the future amenity of the area, it is also the case that the future amenity of the locality is intended to be rural and later rural residential. The future amenity therefore is not considered to be so substantially different to warrant support of a prohibited land use and set aside the strategic intent of the planning framework. The impact of the road upgrades on the amenity of the locality will be relevant to the assessment of a use at that time at which point LPS3 is likely to be in force and a service station prohibited.

In respect of the vision for the Thomas Road and Anketell Road Westport freight corridor, a fly-through video has been released which depicts a vision for how the intersection of Nicholson Road and Thomas Road may look.



DPLH have raised no objections to the location. Officers of the Shire do however note that the concept for the road upgrades are still subject to community consultation, and in the absence of a firm and committed design, it is not clear how the long term access arrangements would function.

Should the DAP approve an extension of time, and should the use of ‘Service Station’ proceed as a prohibited use in the ‘Rural’ zone under the proposed LPS3, Council should note that Clause 22(1)(b) of proposed LPS3 would protect a non-conforming use right to carry out the development in the stated circumstances below:



22. Non-conforming uses

- (1) Unless specifically provided, this Scheme does not prevent -
- (a) the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or
 - (b) the carrying out of development on land if -
 - (i) before the commencement of this Scheme, the development was lawfully approved; and
 - (ii) the approval has not expired or been cancelled.

Whether the development would likely receive approval now

As mentioned, since the approval of the development, the LPS has been approved by the WAPC and LPS3 is awaiting final approval, expected mid year. Based on these changes to the planning framework, Officers do not consider that approval of the application would be received now as proposed. If the planning framework was in place as currently proposed, such application would be immediately refused due to it being a prohibited use.

Whether the holder of the development approval has actively and relatively conscientiously pursued the implementation of the development approval

The landowner has received a Building Permit for works to commence construction however MRWA have advised that the road upgrades are anticipated to be completed by mid 2023 and therefore no trade from the property can commence until these works are complete. As such the Applicant has provided information that factors outside of the Applicant's control have resulted in the delay in the construction. The Applicant considers that they should not be *“penalised by not granting an extension of time to the Development Approval. Moreover, the Applicant is not seeking a gratuitous extension rather one to ensure that the road works are completed”*. The Applicant refers to a matter heard in the State Administrative Tribunal (SAT) as follows:

In respect to the above it is important to consider *AMI Enterprises Pty Ltd and Presiding Member of the MWWJDAP* [2018] WASAT 130. At paragraph 79 of this matter the Tribunal commented that:

*There is nothing in the statutory framework which expressly, or by implication, prohibits a DAP (or the Tribunal on review) from **considering whether the circumstances in which the period for substantial commencement originally imposed was adequate changed significantly, through no fault of the applicant, with the consequence that the period originally imposed was inadequate for substantial commencement to take place. It is, therefore, not an irrelevant consideration in the exercise of discretion as to whether to amend a development approval so as to extend the period within which the development must be substantially commenced and falls within the 'wide range of permissible considerations which the decision-maker may weigh or disregard without committing an error of law'.***

Bold above is the Author's emphasis.

Further the Tribunal's comments at paragraph 179 are further relevant:

However, we accept the applicants' submission that although the period for substantial commencement originally imposed was adequate in the circumstances existing at the time when the development approval was granted, the circumstances changed significantly, through no fault of the applicants, with the consequence that the period originally imposed was inadequate for substantial commencement to take place.

Whilst Officers acknowledge the road upgrades are outside of the Applicant's control, there have been lawful conditions imposed on the current approval to provide both interim and ultimate access arrangements. The approval thus enables development to proceed without any contingent basis of the road works being completed.



Options and Implications

Option 1

That Council RESOLVES the following Responsible Authority Recommendation:

1. That the Metro Outer Development Assessment Panel REFUSES the application for the extension of time request for the following reasons:
 - a. The land use of 'Service Station' is a prohibited use in the 'Rural' zone under draft Local Planning Scheme No. 3. It is not consistent with orderly and proper planning to grant approval for a use which is imminently designated to become a prohibited use in the zone under the new Scheme.
 - b. The land use of 'Service Station' is inconsistent with the objectives of the 'Rural' zone in draft Local Planning Scheme No.3;
 - c. The land use of 'Service Station' does not reflect the approved strategic intent of the Local Planning Strategy, which designates the subject land within the Rural Resident 2 precinct under the approved Local Planning Strategy.
 - d. The land use would make implementation of the strategic intent of the approved Local Planning Strategy more difficult, through allowing a use which is inconsistent with the objectives of the Rural Residential zone.

Option 2

That Council RESOLVES the following Responsible Authority Recommendation:

1. That the Metro Outer Development Assessment Panel APPROVES the application for the extension of time request subject to the same conditions of the 29 October 2018 approval.

Option 1 is recommended.

Conclusion

The application seeks approval to extend the timeframe for when the 'Service Station' development must be substantially commenced from 29 October 2022 to 31 December 2024. Since the approval of the development by the DAP, the Shire has adopted a new Local Planning Strategy (now approved) and the draft Local Planning Schemes (approval imminent). The proposal is inconsistent with both these. Officers do not hold the opinion that approval of the application would be received now. This is primarily on the basis that the 'Service Station' land use is a prohibited use in the 'Rural' zone. For the reasons discussed in the Report, the proposal is not supported.

Attachments (available under separate cover)

- **10.1.6 - attachment 1** - Responsible Authority Report (E22/3690)
- **10.1.6 - attachment 2** - Initial Approval (E22/4442)
- **10.1.6 - attachment 3** - Current Application Details (E22/4529)
- **10.1.6 - attachment 4** - Summary of Submissions (E22/3752)



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 businesses within the district.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.
Strategy 4.2.2	Ensure appropriate long term strategic and operational planning is undertaken and considered when making decisions
Strategy 4.2.3	Provide clear strategic direction to the administration

Financial Implications

Nil.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	Council endorsing the RAR recommending refusal of the application	This recommendation represents the lowest strategic risk to the Shire.					
2	Council endorsing the RAR recommending approval	Planning framework	Reputation	Possible	Major	SIGNIFICANT	A clear explanation for the decision to assist the DAP in considering the matter.



Voting Requirements: Simple Majority

Officer Recommendation

That Council **RESOLVES** the following Responsible Authority Recommendation:

1. That the Metro Outer Development Assessment Panel **REFUSES** the application for the extension of time request for the following reasons:
 - a. The land use of 'Service Station' is a prohibited use in the 'Rural' zone under draft Local Planning Scheme No. 3. It is not consistent with orderly and proper planning to grant approval for a use which is imminently designated to become a prohibited use in the zone under the new Scheme.
 - b. The land use of 'Service Station' is inconsistent with the objectives of the 'Rural' zone in draft Local Planning Scheme No.3;
 - c. The land use of 'Service Station' does not reflect the approved strategic intent of the Local Planning Strategy, which designates the subject land within the Rural Resident 2 precinct under the approved Local Planning Strategy.
 - d. The land use would make implementation of the strategic intent of the approved Local Planning Strategy more difficult, through allowing a use which is inconsistent with the objectives of the Rural Residential zone.

MOTION

Moved Cr Coales

That Council **RESOLVES** the following Responsible Authority Recommendation:

1. That the Metro Outer Development Assessment Panel **APPROVES** the application for the extension of time request subject to the same conditions of the 29 October 2018 approval.

MOTION LAPSED for want of a seconder



OCM094/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Strange

That Council RESOLVES the following Responsible Authority Recommendation:

- 1. That the Metro Outer Development Assessment Panel REFUSES the application for the extension of time request for the following reasons:**
 - a. The land use of 'Service Station' is a prohibited use in the 'Rural' zone under draft Local Planning Scheme No. 3. It is not consistent with orderly and proper planning to grant approval for a use which is imminently designated to become a prohibited use in the zone under the new Scheme.**
 - b. The land use of 'Service Station' is inconsistent with the objectives of the 'Rural' zone in draft Local Planning Scheme No.3;**
 - c. The land use of 'Service Station' does not reflect the approved strategic intent of the Local Planning Strategy, which designates the subject land within the Rural Resident 2 precinct under the approved Local Planning Strategy.**
 - d. The land use would make implementation of the strategic intent of the approved Local Planning Strategy more difficult, through allowing a use which is inconsistent with the objectives of the Rural Residential zone.**

CARRIED 7/1

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

*Councillors Rich, Byas, Dagostino, Duggin, Singh, Strange and Strautins voted FOR the motion.
Councillor Coales voted AGAINST the motion.*

Following Council's consideration of the item, Councillor Rich asked the Manager Governance and Strategy, Dr Kenneth Parker to reconnect Councillor Atwell to the Meeting.

Councillor Atwell was reconnected to the Meeting at 8:31pm.

Manager Governance and Strategy, Dr Kenneth Parker confirmed that Councillor Atwell had re-joined the Meeting.

Presiding Member, Councillor Rich advised Councillor Atwell of the Council Resolution for item 10.1.6.



10.1.7 - Section 31 Reconsideration - Retrospective 'Rural Use' - Lot 110 (43) Windmill Avenue, Serpentine (SJ3816)	
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 (e.g. 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:	Matthew Scott
Owner:	Matthew Scott
Date of Receipt:	16 February 2021
Lot Area:	2.59ha
Town Planning Scheme No 2 Zoning:	'Rural Living B'
Metropolitan Region Scheme Zoning:	'Rural'

Report Purpose

Council at its Ordinary Council Meeting on 13 December 2021 granted conditional retrospective approval for a Rural Use (keeping of horses) at Lot 110, 43 Windmill Avenue, Serpentine. This was subject to a condition (c) which restricted the maximum number of horses to be kept at 15. The Applicant requested a review of this condition by the State Administrative Tribunal (SAT).

Through the SAT process, the Applicant was invited to submit additional information to justify why a revised number of horses should be supported, being 19 instead of the current limit of 15.

Additional information has been provided by the Applicant, that seeks to demonstrate that the subject land can be managed and is capable of sustaining 19 horses. This information has been proposed through enhanced land management strategies contained within the Equine Land Management Plan (ELMP). These further strategies are considered to demonstrate, in the opinion of Officers, that the limit on horses can be reasonably managed at 19 rather than the current 15 that the approval limits.

In response to this additional information, Council has been invited under Section 31(1) of the *State Administrative Tribunal Act 2004* to reconsider its original decision, in particular that condition (c).

**Relevant Previous Decisions of Council**

*Ordinary Council Meeting - 13 December 2021- OCM339/12/21 - COUNCIL RESOLUTION
That Council APPROVES the application for the retrospective 'Rural Use' at Lot 110 (43)
Windmill Avenue, 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.*

<i>Plans and Specification</i>	<i>Bioscience Report: Equine Land Management Plan dated August 2021 Site Plan: Figure 8 dated 16 October 2020 of the Bio Science Report Wastewater Management Plan: Figure 10 dated 5 August 2021 of the Bioscience Report</i>
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- b. An updated Equine Management Plan being submitted to and approved by the Shire of Serpentine Jarrahdale within 60 days of the date of this approval. This updated Equine Management Plan must demonstrate, to the satisfaction of the Shire, the complete management program of the development in order to protect the environment and maintain acceptable levels of rural residential amenity for the locality at all times. Once approved, the updated Equine Management Plan must be implemented at all times.*
- c. A maximum of 15 horses are permitted to be kept on the subject land. In undertaking the development, the landowner is to display and maintain an all hours contact number which surrounding landowners can call to report any amenity issues, so that the landowner can investigate and address such issues. Within seven days of receiving a call, the landowner is to also advise the Shire, together with the remedy action take to address the issue raised in the call.*
- d. All stormwater to be disposed of within the subject land. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.*
- e. Horses are to be kept out of any paddock that is partially or completely inundated with water, until such time that the inundation subsides, to the satisfaction of the Shire. During periods of prolonged inundation, the number of horses is to be reduced reflective of the reduced availability of land that is not inundated.*
- f. All chemicals associated with the development are to be stored so as to eliminate the possibility of spillage onto permeable surfaces.*
- g. An updated Waste Management Plan being submitted to and approved by the Shire of Serpentine Jarrahdale within 60 days of the date of this approval. This updated Waste Management Plan must demonstrate, to the satisfaction of the Shire, how the existing stables are to be fitted with non-permeable flooring, and with frequently turned out floor covering, in order to manage the build-up of horse urine and manure in the floor covering material.*
- h. All fencing shall be of post and rail or post and wire unless otherwise approved by the Shire.*
- i. Flooring of the stables and holding yards to consist of impermeable base only, to prevent nutrients leaching into the soil.*
- j. Disposal of hard and liquid wastes is to be in accordance with Health Local Law 1999 - Part 6, Division 2 - 'Keeping of Large Animals'.*
- k. All declared and environmental weeds are to be eliminated from the lot.*



- l. Within 60 days of the date of approval, a Noise Management Plan being prepared by a suitably qualified consultant, and then submitted to and approved by the Shire. This is to demonstrate the appropriate noise management practices that must take place in order to maintain an acceptable amenity level for the area. The Noise Management Plan once approved is to be implemented at all times.*
- m. Clean fill only is permitted to be brought to the site. Prior to the importation of fill, certification of the clean fill nature must be provided to the Shire.*

Background

Existing Development

The subject land, which is 2.59ha in area, has a 250m frontage to the unconstructed Windmill Avenue. Access to the site is via a driveway from the cul-de-sac head of Windmill Avenue at the north eastern corner of the site. The site is surrounded by land zoned 'Rural' to the west of Walker Road and 'Rural Living A' land to the north and east. The site is generally cleared of vegetation with low levels of grazing pasture or grass cover. The site includes a Resource Enhancement Wetland and expresses perched surface water across the northern and western boundaries of the lot over winter months, as shown in Figure 1 below:

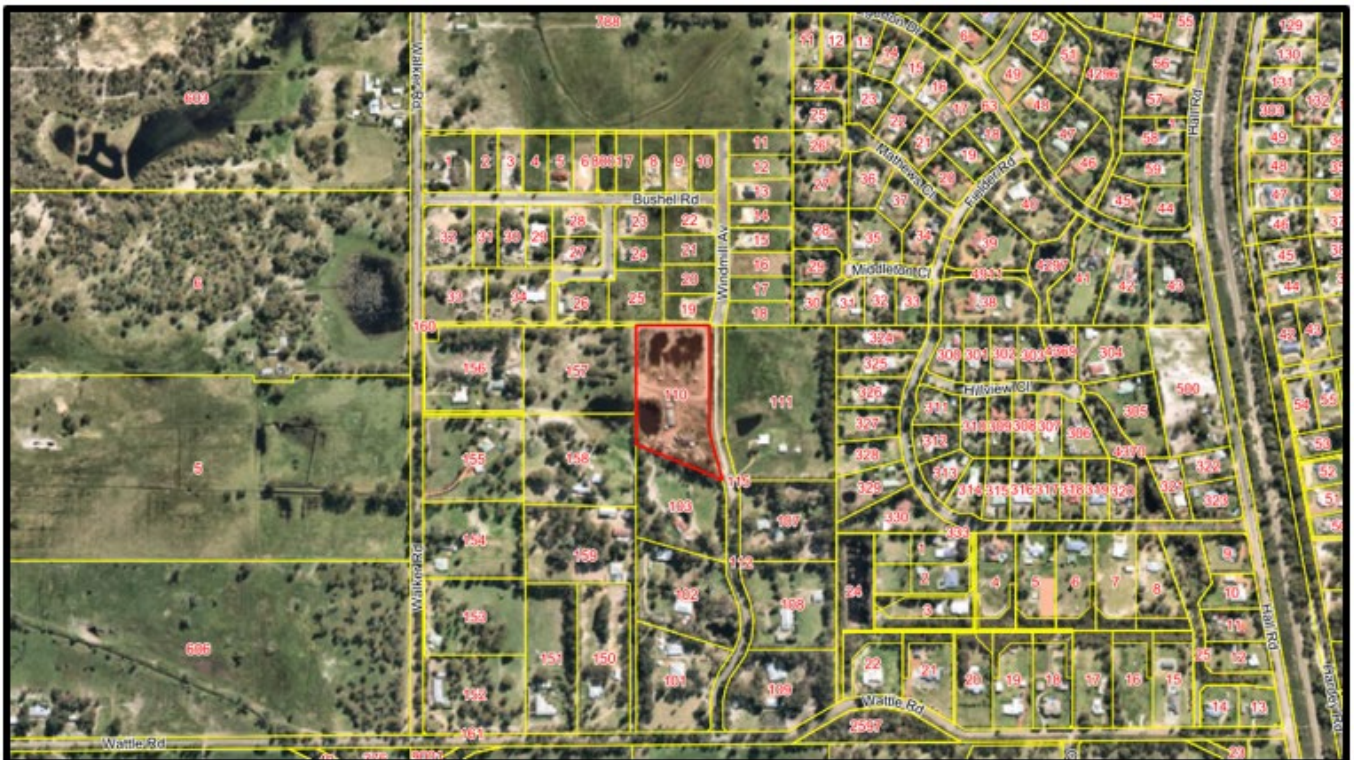


Figure 1 Location Plan

The site is a fully established equestrian property which has been developed (initially without planning approval) with a horse stable, irrigated paddocks, shade sail shelters, racetrack, storage shed and pond.



Approved Development

Council, at its Ordinary Meeting on 13 December 2021, resolved to conditionally approve a retrospective application for a 'Rural Use' to keep a maximum of 15 horses at the subject site. The approval was for the following:

- Keeping of 15 competitive horses on site, managed according to high performance intensive stabling, training and competition;
- Construction of nine (9) stables and 13 horse paddocks with electric fences;
- Employment of six (6) staff inclusive of two casuals and an apprentice jockey;
- Training track along the boundary on the northern portion of the block;
- Filling of the land on the northern boundary by 100mm to reduce waterlogging over winter months;
- Revegetation of the northern portion of the site within the wetland to reduce waterlogging over winter months;
- On racing days, horses leaving/returning between 5am to 7pm on Tuesdays and Wednesdays, and between 6am to 10pm on Fridays;
- Horses being fed three times a day, seven days a week, with imported feed only optimised for horse racing with high protein content;
- Feed delivered to site once a week;
- Manure collected and taken offsite.

The application states that the horses do not graze on site, due to weight control and to minimise the risk of horses developing a laminitis condition from pasture which would be detrimental to the intended performance-based outcomes of the horses. In addition to stabling across the day, some horses will be placed in the stables overnight while others will have limited paddock time. This type of high-performance horse management is associated with horses engaged at the elite end of competitive sports.

On 14 September 2021, the Applicant lodged an application for review of Council's decision with the State Administrative Tribunal (SAT). The Applicant sought review of condition (c), of the approval, which is as follows:

Condition (c)

A maximum of 15 horses are permitted to be kept on the subject land. In undertaking the development, the landowner is to display and maintain an all hours contact number which surrounding landowners can call to report any amenity issues, so that the landowner can investigate and address such issues. Within 7 days of receiving a call, the landowner is to also advise the Shire, together with the remedy action take to address the issue raised in the call.

Through the SAT process, the Applicant was invited to provide additional information to support their position of why a higher number of horses should be permitted. In response to that information, Council has now been invited under section 31(1) of the State Administrative Tribunal Act 2004, to reconsider condition (c) of the approval.

Following consideration of the additional information, it is recommended that Council reconsider its original decision and vary condition (c) by approving keeping of 19 horses based on the facts



contained within the additional information that the Applicant has provided. This will be discussed further in the Report. The additional information can be viewed within **attachment 1**.

Community / Stakeholder Consultation

The initial application was advertised to surrounding properties for a period of 21 days from 15 February 2021 to 8 March 2021, in accordance with Local Planning Policy 1.4 - Public Consultation for Planning Matters (LPP1.4). During the consultation period, three letters of objection were received.

The additional information submitted as part of this process does not impact upon any of the responses to the previous submissions received and does not require re-advertising.

Statutory Environment

Legislation

- *State Administrative Tribunal Act 2004*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Environmental Protection (Noise) Regulations 1997*
- Metropolitan Region Scheme (MRS)
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS2)

State Government Policies

- Stocking Rate Guidelines for Rural Small Landholdings (Department of Agriculture 2000)
- WQPG 13: Environmental Guidelines for Horse Facilities and Activities (WQPG 13)
- State Planning Policy 2.5 - Rural Planning (SPP2.5)
- State Planning Policy 2.1 - The Peel-Harvey Coastal Plain Catchment (SPP2.1)
- State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP3.7)

Local Planning Framework

- Draft Shire of Serpentine Jarrahdale Local Planning Scheme No. 3 (LPS3)
- Local Planning Strategy (LPS)
- Local Planning Policy 1.4 - Public Consultation for Planning Matters (LPP1.4)
- Local Planning Policy 4.7 - Placement of Fill (LPP4.7)

Planning Assessment

Condition (c) - Restricting the number of horses to a maximum of 15

The restriction in the number of horses kept on site was imposed by Council due to the potential amenity impacts to the locality the development may impose. Specifically, Council did not want the property, being a semi-rural property to become degraded if not managed adequately.

The additional information presented to the Shire as part of this process relates to pasture rotation associated with the Department of Primary Industries and Regional Development (DPIRD) Stocking Rate Guidelines, and waste and dust management measures, to demonstrate that the additional four horses will not lead to land degradation and subsequent amenity impacts.



Shire Review of Additional Information

Additional Horses

The additional information has included a revised site-specific assessment against DPIRD's Stocking Rate Guidelines. The assessment concludes that the land can accommodate the additional four horses without impacting upon the quality of the land. This is mainly due to the high-performance nature of the operations. The horses, after being trained onsite, are rested within the stables for the majority of time throughout the day. Each horse is ultimately paddocked (on average) only 14 hours a week as shown in Table 1. A duration of time considered appropriate given the characteristics of the soils onsite.

Table 1: Hours in paddocks calculations				
Item	Description	Value	Unit	Comments
Site Stocking Rate Calculations				
A	Number of irrigated paddocks	13	paddocks	All paddocks to be irrigated. Sprinklers to be installed in Paddock L and K (Figure 2)
B	Area of irrigated paddocks	1.59	ha	As per groundwater licence GWL171307(3) (Attachment 1)
C	Irrigated stocking rate for soil type SR4	20	DSE	The site as an SR4 soil type
D	Stocking rate of the land	31.8	DSE	$D = B \times C$
Site Stocking Rate Calculations (hours equivalent)				
E	DSE of a 1,000 kg horse	20	DSE	As per the Stocking rate guidelines for rural small holdings, Swan Coastal Plain and Darling Scarp and surrounds, Western Australia
F	Number of horses in paddock, 24 hours a day, 365 days per year	1.59	DSE	$F = D / E$ By definition, this means that 1.59 horses can remain in paddocks 24 hours a day over an entire year without causing land degradation.
G	Stocking rate of the land	13,928	DSE (hours equivalent)	$G = F \times 365$ (number of days in a year) \times 24 (number of hours in a day)
Hours in Paddocks Calculations				
H	Total paddock time for all horses	268	Hours/week	$H = G / 52$ (number of weeks per year)
I	Number of horses	19	Heads	Proposed maximum number of horses
J	Paddock resting hours	14	Hrs/week/horse	$J = H / I$ To be used as example only. This value depends on the number of horses requiring paddock time during the week.

Table 1 - Stocking Rates & Hours in Paddocks Calculation

Further to this, the Training/Resting schedule of the operations (which can be viewed below) has been adapted to ensure the land is managed appropriately in order to avoid the pastures being degraded. The 'Resting Time and Location' section of the schedule identifies that the horses are generally placed in paddocks on weekends only. All of the horses on Sunday, subsequent to being trained onsite, are proposed to be paddocked for a period of 10 hours each. During the weekdays however, between Monday - Friday, the horses after being trained onsite are kept in the stables to rest all day. It is also worth noting that a number of horses are trained offsite during the week at locations in Larkhill and Jandakot. It is important to note as part of this process that the 19 horse requirement by the Applicant is the upper limit that can be kept on the premises. The actual number of horses to be kept onsite will vary between 8-19 horses during a given time.



Days	Outside Activities			On-Site Activities				Resting Time and Location			
	Outside activities	Location	Number of horses involved in outside activities	Number of horses remaining at 43 Windmill Ave	Number of horses with a day off (i.e. resting in stables)	Number of horses going through training before resting in stables	Training Duration (Hours)	Number of horses resting in stables	Number of horses resting in paddocks	Number of hours in paddock during resting time per horse	Total number of hours in paddock during resting time
Monday	No outside activities	Not applicable	0	19	0	19	1	19	0	0	0
Tuesday	Training	Lark Hill	1	18	0	18	1	18	0	0	0
Wednesday	Track work	Jandakot	11	8	0	8	1	8	0	0	0
Thursday	Race	Race venue	4	13	0	13	1	13	0	0	0
	Training	Lark Hill	2								
Friday	Race	Race venue	7	12	0	12	1	12	0	0	0
Saturday	Training	Lark Hill	1	13	7	6	1	6	7	8	56
	Track work	Jandakot	5								
Sunday	No outside activities	Not applicable	0	19	19	0	1	0	19	10	190
Total Weekly Paddock Time (hours)											246

All horses are placed in stables overnight

Table 2 - Training/Rest Schedule

The above demonstrates that the operations do not solely rely upon the paddocks to keep the horses and have adopted appropriate rotating methods to maintaining the quality of the land. The Applicant has also proposed to construct five more stables to accommodate the 19 horses to ensure there is sufficient shelter onsite for the horses to rest within, also to ensure the horses are kept off the paddocks. This is depicted below in the revised site plan:



Figure 3 - Revised Site Plan



These stables will be required to be constructed prior to the additional horses being brought to site. The revised site plan also includes a new spelling area which used to form part of paddocks A, B C, D, E and F which provides for an additional area to rotate the horses if required.

The Applicant, as an additional measure to manage the land from degradation, has proposed to purchase turf to establish within each paddock on an intermittent basis throughout the year. The Applicant has also proposed to plant perennial pasture seeds to further improve soil structure, prevent erosion and nutrient export from trace manure. Importantly, rested paddocks will be irrigated to optimise grass cover. In this regard, the landowner has been granted a groundwater licence amendment that authorises abstraction of water for paddock irrigation and stock watering.

Based on the additional information submitted and due to the high-performance nature of the operations, Officers consider that the addition of four horses will not lead to land degradation and subsequent amenity impacts.

Waste Management

The Applicant has provided information that the increase number of horses from 15 to 19 would not impact the proposed waste management within the stables due the following practices:

- Five additional stables would be built in addition to the existing 14 stables to accommodate all 19 horses.
- The proposed stables would consist of a compacted limestone base to prevent leaching of any nutrients into the natural environment.
- Sand would be placed on the hardstand to absorb urine and prevent runoff. The sand layer would be replaced every 6 to 12 months or as required.
- Solid waste would be collected two to three times a day and stored in the trailers before being disposed off-site twice a week.
- In paddocks, the yards would be raked daily. When horses are placed in the paddocks, manure collection is scheduled when the animals return to their stables to ensure that all of the daily droppings are collected.

The measures are considered by Officers to reflect best industry practice. Officers further consider that as waste from the horses will be mainly located within the stables throughout the week, a large amount of the waste generated from the development will be internalised. As such, the waste management practices are considered appropriate and robust to ensure all waste (manure / urine) will be collected / managed to avoid amenity impacts by way of odour and/or the generation of stable flies. A revised Waste Management Plan (WMP) will be required to be submitted for approval.

Dust

As part of the additional information provided, the Applicant has provided a copy of the approved groundwater licence issued by the Department of Water Environment Regulation (DWER) that permits the taking water for domestic use, dust suppression, irrigation of lawns, irrigation of pasture and stock watering. The Applicant, in the revised site plan, has also included additional sprinklers on the south-west boundary to maximise area irrigated for dust suppression and pasture regrowth purposes. In general, the information provided identifies that dust would be generally managed by:

- Irrigation of the paddocks and the track occurs every morning and whenever it is deemed necessary during the day;



- Rotating paddocks;
- Planting new turf intermittently;
- Suppressing dust on high wind days through irrigation;
- Planting seeds to improve the general condition of the soil on the land.

Officers consider that the proposed measures to suppress dust onsite are considered acceptable to ensure the operations do not result in causing amenity impacts to the locality.

Options and Implications

Option 1

That Council:

1. In response to the Section 31 request for reconsideration, REVIEWS its original decision in the following manner:

- a. Amends condition (c) to read as follows:

A maximum of 19 horses are permitted to be kept on the subject land. In undertaking the development, the landowner is to display and maintain an all-hours contact number which surrounding landowners can call to report any amenity issues, so that the landowner can investigate and address such issues. Within seven days of receiving a call, the landowner is to also advise the Shire, together with the remedy action take to address the issue raised in the call.

- b. Includes a new condition requiring the five (5) additional stables to be built prior to the additional horses (above 15) being brought to site as follows:

Prior to the additional four (4) horses being brought to site, the five (5) additional stables are required to be constructed to the satisfaction of the Shire of Serpentine Jarrahdale.

2. AMENDS the original decision to now be as follows:

That Council APPROVES the application for the retrospective 'Rural Use' at Lot 110 (43) Windmill Avenue 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 Specification	Bioscience Report: Equine Land Management Plan dated August 2021
	Site Plan: Figure 8 dated 16 October 2020 of the Bio Science Report
	Wastewater Management Plan: Figure 10 dated 5 August 2021 of the Bioscience Report
	Additional Information prepared by Promark dated 13 April 2022

- b. An updated Equine Management Plan being submitted to and approved by the Shire of Serpentine Jarrahdale within 60 days of the date of this approval. This updated Equine Management Plan must demonstrate, to the satisfaction of the Shire, the complete management program of the development in order to protect the environment and



maintain acceptable levels of rural residential amenity for the locality at all times. Once approved, the updated Equine Management Plan must be implemented at all times.

- c. A maximum of 19 horses are permitted to be kept on the subject land. In undertaking the development, the landowner is to display and maintain an all-hours contact number which surrounding landowners can call to report any amenity issues, so that the landowner can investigate and address such issues. Within seven days of receiving a call, the landowner is to also advise the Shire, together with the remedy action take to address the issue raised in the call.
- d. All stormwater to be disposed of within the subject land. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.
- e. Horses are to be kept out of any paddock that is partially or completely inundated with water, until such time that the inundation subsides, to the satisfaction of the Shire. During periods of prolonged inundation, the number of horses is to be reduced reflective of the reduced availability of land that is not inundated.
- f. All chemicals associated with the development are to be stored so as to eliminate the possibility of spillage onto permeable surfaces.
- g. An updated Waste Management Plan being submitted to and approved by the Shire of Serpentine Jarrahdale within 60 days of the date of this approval. This updated Waste Management Plan must demonstrate, to the satisfaction of the Shire, how the existing stables are to be fitted with non-permeable flooring, and with frequently turned out floor covering, in order to manage the build-up of horse urine and manure in the floor covering material.
- h. All fencing shall be of post and rail or post and wire unless otherwise approved by the Shire.
- i. Flooring of the stables and holding yards to consist of impermeable base only, to prevent nutrients leaching into the soil.
- j. Disposal of hard and liquid wastes is to be in accordance with Health Local Law 1999 - Part 6, Division 2 - 'Keeping of Large Animals'.
- k. All declared and environmental weeds are to be eliminated from the lot.
- l. Within 60 days of the date of approval, a Noise Management Plan being prepared by a suitably qualified consultant, and then submitted to and approved by the Shire. This is to demonstrate the appropriate noise management practices that must take place in order to maintain an acceptable amenity level for the area. The Noise Management Plan, once approved, is to be implemented at all times.
- m. Clean fill only is permitted to be brought to the site. Prior to the importation of fill, certification of the clean fill nature must be provided to the Shire.
- n. Prior to the additional four (4) horses being brought to site, the five (5) additional stables are required to be constructed to the satisfaction of the Shire of Serpentine Jarrahdale.

Option 2

That Council REAFFIRMS its original decision of 13 December 2021.

Option 1 is recommended.



Conclusion

Council has been invited to reconsider condition (c) of its approval granted at its Ordinary Council meeting of 13 December 2021 for a retrospective approval for an existing Rural Use at Lot 110, 43 Windmill Avenue, Serpentine. The reconsideration follows a review of condition (c) and the Applicant has provided additional information to support that the increase of horses from 15 to 19 would not result in land degradation and/or amenity impacts. It is recommended Council review its original decision, to approve the increase of horses to 19.

Attachments (available under separate cover)

- **10.1.7 - attachment 1** - Additional Information submitted by Applicant (IN22/7639)

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 2.2	A sustainable natural environment

Financial Implications

Nil.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There are no significant risks associated with this option						
2	If Council refuse to reconsider the conditions, the matter will likely be heard at a full hearing by the State Administrative Tribunal	Planning framework	Financial	Possible	Moderate	MODERATE	Clearly explain reasons for decision.



Voting Requirements: Simple Majority

OCM095/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Rich, seconded Cr Coales

That Council:

1. In response to the Section 31 request for reconsideration, REVIEWS its original decision in the following manner:

a. Amends condition (c) to read as follows:

A maximum of 19 horses are permitted to be kept on the subject land. In undertaking the development, the landowner is to display and maintain an all-hours contact number which surrounding landowners can call to report any amenity issues, so that the landowner can investigate and address such issues. Within seven days of receiving a call, the landowner is to also advise the Shire, together with the remedy action take to address the issue raised in the call.

b. Includes a new condition requiring the five (5) additional stables to be built prior to the additional horses (above 15) being brought to site as follows:

Prior to the additional four (4) horses being brought to site, the five (5) additional stables are required to be constructed to the satisfaction of the Shire of Serpentine Jarrahdale.

2. AMENDS the original decision to now be as follows:

That Council APPROVES the application for the retrospective 'Rural Use' at Lot 110 (43) Windmill Avenue 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 Specification	Bioscience Report: Equine Land Management Plan dated August 2021 Site Plan: Figure 8 dated 16 October 2020 of the Bio Science Report Wastewater Management Plan: Figure 10 dated 5 August 2021 of the Bioscience Report Additional Information prepared by Promark dated 13 April 2022
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b. An updated Equine Management Plan being submitted to and approved by the Shire of Serpentine Jarrahdale within 60 days of the date of this approval. This updated Equine Management Plan must demonstrate, to the satisfaction of the Shire, the complete management program of the development in order to protect the environment and maintain acceptable levels of rural residential amenity for the locality at all times. Once approved, the updated Equine Management Plan must be implemented at all times.



- c. A maximum of 19 horses are permitted to be kept on the subject land. In undertaking the development, the landowner is to display and maintain an all-hours contact number which surrounding landowners can call to report any amenity issues, so that the landowner can investigate and address such issues. Within seven days of receiving a call, the landowner is to also advise the Shire, together with the remedy action take to address the issue raised in the call.**
- d. All stormwater to be disposed of within the subject land. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.**
- e. Horses are to be kept out of any paddock that is partially or completely inundated with water, until such time that the inundation subsides, to the satisfaction of the Shire. During periods of prolonged inundation, the number of horses is to be reduced reflective of the reduced availability of land that is not inundated.**
- f. All chemicals associated with the development are to be stored so as to eliminate the possibility of spillage onto permeable surfaces.**
- g. An updated Waste Management Plan being submitted to and approved by the Shire of Serpentine Jarrahdale within 60 days of the date of this approval. This updated Waste Management Plan must demonstrate, to the satisfaction of the Shire, how the existing stables are to be fitted with non-permeable flooring, and with frequently turned out floor covering, in order to manage the build-up of horse urine and manure in the floor covering material.**
- h. All fencing shall be of post and rail or post and wire unless otherwise approved by the Shire.**
- i. Flooring of the stables and holding yards to consist of impermeable base only, to prevent nutrients leaching into the soil.**
- j. Disposal of hard and liquid wastes is to be in accordance with Health Local Law 1999 - Part 6, Division 2 - 'Keeping of Large Animals'.**
- k. All declared and environmental weeds are to be eliminated from the lot.**
- l. Within 60 days of the date of approval, a Noise Management Plan being prepared by a suitably qualified consultant, and then submitted to and approved by the Shire. This is to demonstrate the appropriate noise management practices that must take place in order to maintain an acceptable amenity level for the area. The Noise Management Plan, once approved, is to be implemented at all times.**
- m. Clean fill only is permitted to be brought to the site. Prior to the importation of fill, certification of the clean fill nature must be provided to the Shire.**
- n. Prior to the additional four (4) horses being brought to site, the five (5) additional stables are required to be constructed to the satisfaction of the Shire of Serpentine Jarrahdale.**

CARRIED UNANIMOUSLY 9/0



10.1.8 - Local Planning Policy - Child Minding Centres (SJ3362)	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officer's 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 a new draft Local Planning Policy (LPP) for the purposes of community advertising.

The LPP arose following a Notice of Motion at the Ordinary Council Meeting of 21 February 2022. The LPP seeks to assist applicants and Shire Officers through the assessment of development applications for child minding centres. The LPP includes considerations pertaining to location, parking, traffic, infrastructure, amenity, landscaping and design which will help shape development outcomes within the Shire. The draft LPP is contained within **attachment 1**.

If Council adopts the draft LPP for public advertising, the community and stakeholders will be invited to provide feedback. As such, this is an interim decision to commence the process and, following public advertising, will be reported back to Council to consider the draft LPP for final adoption.

Relevant Previous Decisions of Council

*Ordinary Council Meeting – 21 February 2022 - OCM005/02/22 - COUNCIL RESOLUTION
That Council:*

- 1. REQUESTS that the Chief Executive Officer investigate options to develop a new Local Planning Policy for Child Minding Centres within the Shire, which encourage such developments to achieve the following aspects:*
 - a. Encouraging such developments to be located adjoining areas of public open space, or pathways that lead to public open space, with the aim of providing better connection to the natural environment for clients of such developments;*
 - b. Encouraging such developments to be located along good quality pedestrian pathways, that enable safe walking and cycling to such developments that helps manage traffic impacts;*
 - c. Encouraging such developments to be designed in a manner which reflects elements of natural character, expressed by the rural and natural areas of the Shire; and*
 - d. Report back to Council before end of May 2022.*



Background

At its Ordinary Council Meeting of 21 February 2022, Council passed a Notice of Motion requesting Officers investigate options to develop a LPP in relation to Child Minding Centres. The Shire receives a number of development applications for this use, and the intent of the LPP is to encourage good development outcomes for operators, attendees and the community.

The Notice of Motion looks to investigate LPP options to encourage child minding centres to be located in areas that can take advantage of public open space and walkable catchments. The intent of the policy is to also provide design guidelines to ensure child minding centres are reflective of the Shire's rural character.

Community / Stakeholder Consultation

Should Council deem the LPP satisfactory for advertising, community consultation will be carried out. As part of this, Officers would seek to directly engage with child minding operators and peak industry bodies, to invite their feedback on the policy.

Statutory EnvironmentLegislation

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

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2
- Draft Local Planning Scheme No. 3

Comment

The community benefits greatly from child minding centre, particularly given the young family demographic which is so prominent within the new growth areas of the Shire. This policy seeks to assist applicants seeking to establish child minding centres within the Shire to consider how they can approach site selection, design and layout in a manner which will promote good development outcomes. The policy aims to assist applicants in providing guidance on matters such as location, site design, environmentally responsive design, traffic, and noise management.

The policy aims to encourage the development of child minding centres which are:

- a) distributed strategically to provide the maximum benefit and access for the community;
- b) within easy walking distance of other primary and secondary mixed use areas which are a focus of employment;
- c) located in areas where adjoining uses are compatible;
- d) serviced by public transport (where available);
- e) considered suitable from a traffic engineering and safety view point; and
- f) of sufficient size and dimension to accommodate development without affecting the amenity of the area.



The proposed LPP includes the following objectives:

- To provide guidance for the location of child minding centres to best take advantage of the surrounding natural environment and provide a compatible setting with the locality.
- To ensure that amenity impacts, including noise and traffic, are managed appropriately.
- To promote a design of child minding centres which reflect the rural and natural character of the Shire.
- To provide guidance for the consideration of convenient access and layout.

The policy establishes acceptable development criteria which will generally be supported. Through providing an acceptable development pathway, applicants can consider how site selection and design can respond to such criteria. The policy also establishes a performance based pathway, which provides opportunities for innovative or unique design proposals to demonstrate how they perform against the relevant expressed standard.

Proposals falling within performance based pathways may be required to be accompanied by relevant evidence-based information to enable consideration against the relevant performance based standard.

Proposals that do not satisfy acceptable or performance based standards will generally not be supported. The development standards relate to the following considerations:

- Location;
- Parking;
- Traffic;
- Infrastructure;
- Amenity;
- Landscaping; and
- Design.

The draft LPP is considered to achieve the elements set out in the Notice of Motion, and provide a sound basis in which to commence community engagement to ascertain feedback on the draft LPP.

Options and Implications

Option 1

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 Local Planning Policy 4.24 - Child Minding Centres as contained within **attachment 1** for the purposes of advertising.
2. Pursuant to Schedule 2 Part 2 Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, ADVERTISES Local Planning Policy 4.24 - Child Minding Centres for a period of not less than 21 days as follows:
 - a. publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of -



-
- i. the subject and nature of the proposed policy;
 - ii. the objectives of the proposed policy;
 - iii. where the proposed policy may be inspected;
 - iv. to whom, in what form and during what period submissions in relation to the proposed policy may be made; and
- b. give notice of the proposed policy to current child minding centre operators within the Shire, as well as peak industry bodies that represent the child minding centre sector.

Option 2

Council RESOLVES that the draft LPP4.24 IS NOT SATISFACTORY for advertising.

Option 1 is recommended.

Conclusion

This report is presented to Council recommending that draft LPP4.24 be 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 LPP4.24 meets the expectations set out in the Notice of Motion, and will provide an effective LPP to assist applicants to establish child minding centres within the Shire which reflect an effective response to context.

Attachments (available under separate cover)

- **10.1.8 - attachment 1** - Draft LPP4.24 - (E22/4653)

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

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 Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	Council resolving that the LPP is satisfactory for advertising.	This is considered the lowest risk option.					
2	Council resolving that the LPP is unsatisfactory for advertising	Planning and Development (Local Planning Schemes) Regulations 2015	Organisational Performance	Unlikely	Minor	LOW	Provide further amendments to be made prior to advertising

Voting Requirements: Simple Majority

Officer Recommendation

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 Local Planning Policy 4.24 - Child Minding Centres as contained within attachment 1 for the purposes of advertising.
2. Pursuant to Schedule 2 Part 2 Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, ADVERTISES Local Planning Policy 4.24 - Child Minding Centres for a period of not less than 21 days as follows:
 - a. publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of -
 - i. the subject and nature of the proposed policy;
 - ii. the objectives of the proposed policy;
 - iii. where the proposed policy may be inspected;
 - iv. to whom, in what form and during what period submissions in relation to the proposed policy may be made; and
 - b. give notice of the proposed policy to current child minding centre operators within the Shire, as well as peak industry bodies that represent the child minding centre sector.

**OCM096/05/22****COUNCIL RESOLUTION****Moved Cr Strautins, seconded Cr Strange****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** Local Planning Policy 4.24 - Child Minding Centres as contained within attachment 1 for the purposes of advertising **SUBJECT TO** the Policy being amended as follows:

- under the location criteria, the following row be inserted:

Child minding centres are adequately separated from any incompatible nearby uses, with this supported by a suitably qualified risk assessment forming part of an application. Such risk assessment is to consider elements such as dangerous goods, hazardous materials and public health considerations.	Where child minding centres are located within 200m of any existing development which carries with it dangerous goods licensing requirements, such proposal demonstrates that the potential for adverse health impacts is removed. Such demonstration to be in the form of a suitably qualified consultant study.
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2. Pursuant to Schedule 2 Part 2 Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, **ADVERTISES** Local Planning Policy 4.24 - Child Minding Centres for a period of not less than 21 days as follows:
- publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of -
 - the subject and nature of the proposed policy;
 - the objectives of the proposed policy;
 - where the proposed policy may be inspected;
 - to whom, in what form and during what period submissions in relation to the proposed policy may be made; and
 - give notice of the proposed policy to current child minding centre operators within the Shire, as well as peak industry bodies that represent the child minding centre sector.

CARRIED UNANIMOUSLY 9/0*Reason for difference to Officer Recommendation*

To have more consideration towards health and safety of infants.

**10.1.9 – Proposed Adoption of revised Local Planning Policy 4.5 – Temporary Accommodation (SJ3362)**

Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officer's 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 the adoption of amended Local Planning Policy 4.5: Temporary Accommodation (LPP4.5) that has completed the process of public advertising. The amended policy is contained within **attachment 1**.

LPP4.5 was amended to provide a clearer framework when considering temporary accommodation proposals within rural zoned areas of the Shire. The amendments also sought to express the forms of development in which temporary accommodation will be supported, to ensure clarity as to the requirements of the National Construction Code and also considerations of rural amenity.

No submissions were received during the public consultation period. It is recommended that Council adopt LPP4.5 with no further modifications.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 15 November 2021 - OCM303/11/21 - COUNCIL RESOLUTION / Officer Recommendation

That Council, pursuant to Clause 5(1) of the Deemed Provisions, ADVERTISES revised draft Local Planning Policy 4.5: - Temporary Accommodation as contained within attachment 2 for a period of six weeks for the purposes of public consultation.

Background

The Shire receives development applications from time to time, seeking temporary accommodation in rural zoned areas of the district. This is usually requested to enable temporary onsite accommodation to occur, while the primary single dwelling is being constructed.

Landowners typically propose one of two options – either an onsite caravan or a rural shed which is fitted out for a habitable purpose. Amendments to LPP4.5 are proposed to provide a clearer policy framework assisting in the exercise of discretion in considering these proposals.



Community / Stakeholder Consultation

In accordance with Clause 5(1) of the Deemed Provisions and the resolution of Council, the amended LPP4.5 was advertised on the Shire's website from 8 December 2021 to 20 January 2022. A notification of the amendments was also placed in the Examiner newspaper on 9 December 2021. During the consultation period, no submissions were received.

Statutory EnvironmentLegislation

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

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2
- Draft Local Planning Scheme No.3

Planning Assessment

The amendments to LPP4.5 proposed to improve clarity as to the circumstances where accommodation may be considered on a temporary basis. The amendments explain a 'two stream' option as to how temporary accommodation may be considered. These are as follows:

Development Stream 1:

Within the Shire's rural residential areas (Rural Living A, Rural Living B, Farmlet, Rural Residential 1, Rural Residential 2, Rural Small Holdings) and the Rural zone, the local government may approve the occupation of one (1) caravan on-site for up to 12 months pursuant to regulation 11(2)(c) of the Caravan Parks and Camping Grounds Regulations 1997, subject to:

- *A building permit having been issued for the construction of the dwelling on the property with written evidence of a signed building contract with a registered builder for the construction of the dwelling, and a commitment date that is within six (6) months by that builder for the commencement of construction of the dwelling; or*
- *In the case of an owner builder, a building permit for a dwelling has been issued by the local government and the applicant shall lodge with the local government a Statutory Declaration providing a commitment to construct a dwelling and an accompanying commencement date that is within six (6) months; and*
- *A Statutory Declaration acknowledging the use of a caravan on-site is for temporary accommodation purposes only in accordance with regulation 11(2)(c) of the Caravan Parks and Camping Grounds Regulations 1997; and*
- *Provision of adequate ablution and washing facilities connected to an approved water supply and effluent disposal system to the satisfaction of the local government; and*
- *Where located within the Rural Living A, Rural Living B, Farmlet, Rural Residential 1, Rural Residential 2 or Rural Small Holdings zone, the caravan being located within an outbuilding;*
- *Where located within the Rural zone, the caravan not having to be located within an outbuilding if it is otherwise located in an inconspicuous position, generally to the side or rear of the land.*



Development Stream 2:

Within the Shire's rural residential areas (Rural Living A, Rural Living B, Farmlet, Rural Residential 1, Rural Residential 2, Rural Small Holdings) and the Rural zone, the local government may approve a class 1 building (either wholly or partially), which takes the structure of a steel framed outbuilding, ahead of the main single dwelling for the land, subject to the following:

- A building permit having been issued for the construction of the main dwelling on the property with written evidence of a signed building contract with a registered builder for the construction of the dwelling, and a commitment date that is within six (6) months by that builder for the commencement of construction of the dwelling; or*
- In the case of an owner builder, a building permit for a dwelling has been issued by the local government and the lodging with the local government a Statutory Declaration providing a commitment to construct a dwelling and an accompanying commencement date that is within six (6) months; and*
- Provision of adequate ablution and washing facilities connected to an approved water supply and effluent disposal system to the satisfaction of the local government for the Class 1 building; and*
- A further Statutory Declaration acknowledging that the Class 1 building will revert to a Class 10 non-habitable outbuilding within 60 days of practical completion of the main dwelling.*

It is considered that, as revised, LPP4.5 allows for the provision of temporary accommodation whilst minimising impacts on visual amenity and ensuring there are no adverse health impacts. It is considered the revised policy contributes to a more transparent policy framework.

Options and Implications

Option1

That Council ADOPTS amended Local Planning Policy 4.5 – Temporary Accommodation in accordance with Provision 4 of the Deemed Provisions.

Option 2

That Council REFUSES to adopt Local Planning Policy 4.5 – Temporary Accommodation.

Option 1 is recommended.

Conclusion

Local Planning Policies perform an important function in assisting Officers in undertaking their roles within the Shire. Officers consider that amended LPP4.5 reflects best practice and provides for a more robust and transparent planning framework.

It is considered that the LPP4.5 will assist applicants and Shire Officers through defining what is acceptable in terms of temporary accommodation. This is considered to help provide this type of accommodation whilst protecting health and amenity.

Attachments (available under separate cover)

- 10.1.9 - attachment 1 – LPP4.5 – Temporary Accommodation (E21/9588)**



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

Financial Implications

There will only be a minimal cost involved in the finalisation of the policy.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There are no risks associated with this action						
2	Council not adopting the new LPP	Planning framework	Organisational Performance	Possible	Minor	MODERATE	If new policies covering relevant issues are not adopted, Officers would need to rely on the exercise of discretion on important design matters.

Voting Requirements: Simple Majority

OCM097/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Duggin

That Council **ADOPTS** Local Planning Policy 4.5 – Temporary Accommodation as contained within attachment 1 in accordance with Provision 4 of the Deemed Provisions.

CARRIED UNANIMOUSLY 9/0



10.1.10 - Adoption of Local Planning Policy 4.23 - Lot 164 Yangedi Road, Hopeland - Serpentine Airfield Development Standards (SJ3524)	
Responsible Officer:	Manager Strategic Planning
Senior Officer:	Director Development Services
Disclosure of Officer's 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 the Report is for Council to consider the submissions received on Draft Local Planning Policy 4.23: Lot 164 Yangedi Road, Hopeland – Serpentine Airfield Development Standards (LPP 4.23) following public advertising. This is in accordance with Clause 4(3) of the Deemed Provisions of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2.

The LPP 4.23 provides an updated policy approach in respect of development standards for the precinct. This includes the hangars and their use; communal areas; bushfire risk and; future development.

Officers recommend Council endorse the policy.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 13 February 2022 – OCM013/02/22 - COUNCIL RESOLUTION / Officer Recommendation

That Council ADOPTS the Proposed Local Planning Policy 4.23 (Lot 164 Yangedi Road, Hopeland – Serpentine Airfield Development Standards) as contained within attachment 1 for the purposes of advertising, and proceeds to advertise the Proposed Policy in accordance with Deemed Provision 4(1) of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2.

Background

The Serpentine Airfield is located at Lot 164 Yangedi Road, Hopeland. The site is approximately 65ha in area. The site is leased to the Sports Aircraft Builders Club (SABC), and this Club provides a site for members and visitors to view, build and use small scale aircrafts. Access to the Serpentine Airfield is taken from the north eastern corner of the site. The current lease commenced on 27 May 2019 and expires on 27 May 2051.

There are approximately 100 hangars, of various sizes, on the site. The hangars are developed and maintained by individual members. The SABC provides a facility for its members to build and fly their aircrafts. In addition, the site includes a member's area which is a common area that allows the Club for to provide shared facilities.



Community / Stakeholder Consultation

Officers and the SABC Committee have worked collaboratively in developing a draft local planning policy, to provide the policy guidance and standards for the site. Following Council decision at the February 2022 meeting, Draft Local Planning Policy 4.23 was formally advertised in accordance with Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The submissions received from the various stakeholders are as per **attachment 2**. No objections were received through the stakeholder engagement process.

Statutory EnvironmentLegislation

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

State Government Policies

- State Planning Policy 2.5 – Rural Planning

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2
- Draft Shire of Serpentine Jarrahdale Local Planning Scheme No. 3

Shire Policies and Strategies

- Local Planning Policy 2.3 – Development Standards for Development Applications

Comments

LPP 4.23 provides a framework to ensure that all hangars and any future development of the Yangedi Airfield meets the relevant planning, building and environmental health regulations. The policy will work towards regularising development, and managing development from a risk based perspective.

LPP 4.23 also seeks to ensure that appropriate construction materials and scales of development take place. The policy provisions also address bushfire risk on the site. It also includes provisions which outline how frequently hangars can be used for overnight accommodation and outlines the management of the onsite infrastructure standards relating to water, power and effluent disposal.

These provisions will play a major role as the site continues to develop in the future and binds lessors and lessees to demonstrate their compliance to planning, building and environmental health regulations. Future developments on the site will be assessed having regard to LPP 4.23, and any development of the Yangedi Airfield will be better aligned with a policy framework in place. The policy will also support ongoing implementation of the Reserve's management plan.

The Shire and the Club worked together in developing LPP 4.23. The Department of Water and Environmental Regulation provided a submission that reiterated the requirements for further development as per their regulations. No other submissions or objections were received through the engagement process. This was not unexpected, given the level of collaboration that occurred in formulating the policy.

The advertised LPP is recommended to be endorsed by Council.



Options and Implications

Option1

That Council:

1. Pursuant to Clause 4(3) of the Deemed Provisions of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, resolves to PROCEED with Local Planning Policy 4.23 (Lot 164 Yangedi Road, Hopeland – Serpentine Airfield Development Standards) as contained within **attachment 1**, without modification.
2. Pursuant to Clause 4(4) of the Deemed Provisions of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, PUBLISH notice of Local Planning Policy 4.23 (Lot 164 Yangedi Road, Hopeland – Serpentine Airfield Development Standards) in accordance with Clause 87 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Option 2

That Council resolves NOT TO PROCEED with Local Planning Policy 4.23 (Lot 164 Yangedi Road, Hopeland – Serpentine Airfield Development Standards).

Option 1 is recommended.

Conclusion

Local Planning Policy 4.23: Lot 164 Yangedi Road, Hopeland – Serpentine Airfield Development Standards will address issues relating to various matters on the site. The policy ensures that any new development on the site will meet all planning, building and environmental health regulations. The policy will play an important role in regularising the airfield and will assist in protecting and enhancing the unique opportunities to residents, visitors and the wider community. Officers recommend that the policy be endorsed.

Attachments (available under separate cover)

- **10.1.10 – attachment 1** – Local Planning Policy (LPP) 4.23 – Lot 164 Yangedi Road, Hopeland – Serpentine Airfield Development Standards (E21/4014)
- **10.1.10 – attachment 2** – Schedule of Submissions on LPP 4.23 (E22/3680).

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 2.3	A productive rural environment
Strategy 2.3.1	Identify and promote rural and agriculture industry opportunities
Outcome 3.2	A vibrant tourist destination experience
Strategy 3.2.1	Actively support tourism growth within the district

Financial Implications

There are no financial implications associated with the preparation or implementation of the policy.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	This option is considered to address the strategic risks associated.						
2	By not adopting LPP 4.23 there will be an increased risk of ad hoc development taking place.	There are no controls that are currently in place in order to manage this aspect. The lack of policy guidance creates the risk of ad hoc development and insurance risk.	Organisational Performance	Possible	Moderate	MODERATE	Adopt Officer recommendation

Voting Requirements: Simple Majority

OCM098/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Duggin

That Council:

1. Pursuant to Clause 4(3) of the Deemed Provisions of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, resolves to PROCEED with Local Planning Policy 4.23 (Lot 164 Yangedi Road, Hopeland – Serpentine Airfield Development Standards) as contained within attachment 1, without modification.
2. Pursuant to Clause 4(4) of the Deemed Provisions of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, PUBLISH notice of Local Planning Policy 4.23 (Lot 164 Yangedi Road, Hopeland – Serpentine Airfield Development Standards) in accordance with Clause 87 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

CARRIED UNANIMOUSLY 9/0

**10.1.11 – Master Plan for the Civic Purpose site in Byford Town Centre for consideration by Council (SJ3638)**

Responsible Officer:	Manager Strategic Planning
Senior Officer:	Director Development Services
Disclosure of Officer's 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

As part of the 2021/22 organisational key performance projects, Project No. 3 was set and agreed in order to:

Prepare a Master Plan for the Civic Purpose site in Byford Town Centre for consideration by Council.

The purpose of this report is to present the Master Plan for consideration by Council, following formulation and evaluation of the Plan, and consideration of community and stakeholder input. It is recommended that Council endorse the Master Plan, as the document to provide a framework for the Civic Purpose site.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 21 February 2022 – OCM15/12/22 - COUNCIL RESOLUTION / Officer Recommendation

That Council NOTES the Management Order being secured for the community purpose site within the Byford Activity Centre, as contained in attachment 1.

Background

The Byford Town Centre is rapidly evolving, consistent with the continued urbanisation of Byford. The delivery of a new Metronet station, major retail and commercial expansion and continued rapid residential development, all contribute towards the creation of the Byford Activity Centre.

An important component of this Activity Centre will be the Shire's community purpose site, a 7,000sqm site adjoining the southwest side of the future Metronet station. This will comprise a range of civic functions, consistent with the public purpose designation under the adopted Byford Town Centre Structure Plan. These civic functions will also contribute to the desired mix of uses designated for the town centre and broader station precinct.

Having a Master Plan in place intends to provide guidance for future decision making by Council as it pertains to the site, without limiting what Council may choose. For example, the Master Plan designates a number of potential elements for Council's consideration and, if adopted, will assist



(but will not limit) what Council may choose for the future of this strategic site. The Master Plan also provides a first step, to inform future steps, that are both viewed to ultimate development decisions and interim activation strategies.

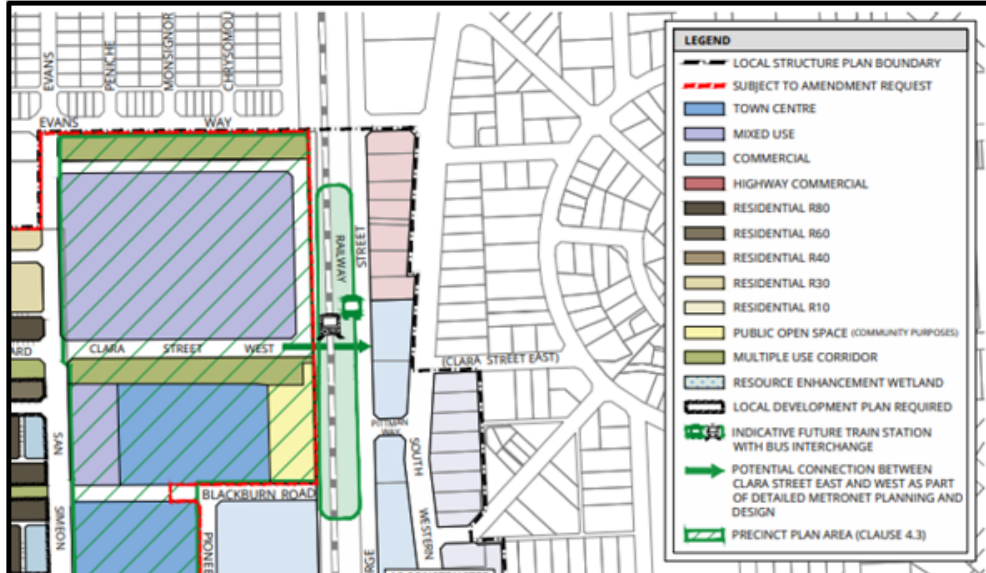


Figure 1: The Civic Purpose Site (Community Purposes)

Community / Stakeholder Consultation

In formulating the Master Plan, the project management approach included both community and stakeholder input. This was through the following stages:

- Project mandate to define project scope and benefits;
- Appointment of project sponsor, project manager and cross functional project team;
- Project approach defined together with project stages;
- Briefing of Council at 29 November 2021 PCF, to discuss project vision, design principles and project stages including incorporation of Councillor feedback;
- Initial stakeholder and community engagement;
- Workshop with Council on 30 March 2022 to present draft Master Plan, before undertaking community consultation;
- Final stakeholder and community engagement undertaken on the draft Master Plan;
- Presentation to May 2022 Ordinary Council Meeting.

Attachment 2 contains the results of the community feedback received on the final draft Master Plan.

Statutory Environment

The Master Plan, if adopted by Council, will provide a guide to inform future decision making. It will not bind Council however in respect of future considerations. If Council adopts the Master Plan, future processes will still need to occur, to consider the specific circumstances of how Council may choose to see the site developed. The Master Plan does not, however, replace the requirement for statutory decision making to still occur as it pertains to land disposal and business plan requirements, as an example.



Comment

The Civic Purpose Site is a component of the Byford Activity Centre. The objective of the activity centre is to include a range of mixed primary and secondary uses, with this civic purpose site part of such mixed use. Council are being asked to consider a Master Plan, which includes the following elements:

- At the northern end, a nature play splash park;
- Adjoining that, a future library and multi-agency building;
- At the southern end, land for the Byford Health Hub;
- Shielded parking areas between the northern and southern components of activity;
- A pedestrian promenade link.

These elements are shown following:



Figure 2: The Master Plan concept



If Council adopts the Master Plan, it will need to consider the next steps. For example, if Council is supportive of a Health Hub at the southern end, there are a range of statutory considerations to inform how that strategic intent may be realised. This includes:

- Disposition of land considerations;
- Commercial leasing terms which may be appropriate;
- Asset management implications;
- Staging requirements;
- Grant funding opportunities.

Should Council adopt the Master Plan, the next stages can start to be considered. These will include:

- relevant additions to the Corporate Business Plan, to inform the range of detailed considerations that will need to occur as they relate to the aspects shown in the Master Plan;
- in conjunction with these additional corporate actions, financial and asset management analysis taking place to determine how the long term financial plan and asset management plans of the Shire may need to adjust;
- decisions relating to business planning and land disposition for the Health Hub site;
- upon undertaking more detailed actions, whether other opportunities (interim or otherwise) present themselves for consideration.

Options and Implications

Option 1

That Council ADOPTS the Master Plan for the Civic Purpose site in Byford Town Centre.

Option 2

That Council DOES NOT ADOPT the Master Plan for the Civic Purpose Site in Byford Town Centre.

Option 1 is recommended.

Conclusion

The Master Plan for the Civic Purpose site in Byford Town Centre provides a concept plan that will allow the Shire, stakeholders, the community to consider how the civic purpose site may evolve in the future.

Individual elements of the Master Plan will be presented to Council as separate reports for consideration.

It is recommended for adoption by Council.

Attachments (available under separate cover)

The Master Plan and schedule of attachments are as below:

- **10.1.11 - attachment 1** - Byford Civic Precinct Master Plan (IN22/7831)
- **10.1.11 - attachment 2** - Schedule of Submissions received (E22/5340)



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
Strategy 1.1.2	Provide a healthy community environment
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

There are a range of financial and asset management implications that will only be determined with further detailed actions. In this regard, the Master Plan does not bind or commit Council to undertake any specific action in respect of the land. Council will be asked in the future to consider more detailed actions and projects, at a timing which Council chooses, specific to:

- Disposition of land considerations;
- Commercial leasing terms which may be appropriate;
- Asset management implications;
- Staging requirements;
- Grant funding opportunities.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	This option is considered to address strategic risks, by recommending Council endorse a Master Plan but also noting that this does not bind the Council with respect of the various future considerations that would have to still occur as detailed on the report.						
2	Not endorsing the Master Plan will lead to uncertainty regarding the site.	Discussions with stakeholders have indicated that Council have the final say in this matter.	Reputation	Possible	Moderate	MODERATE	Continued discussion with stakeholders.



Voting Requirements: Simple Majority

OCM099/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Singh

That Council ADOPTS the Master Plan for the Civic Purpose site in Byford Town Centre.

CARRIED UNANIMOUSLY 9/0



10.1.12 – Bush Fire Advisory Committee Information Report (SJ648)	
Responsible Officer:	Coordinator Emergency Services
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 provide Council with the Minutes of the Shire of Serpentine Jarrahdale Bush Fire Advisory Committee (BFAC) Meeting held on 21 April 2022. Officers recommend Council receive the Minutes.

Relevant Previous Decisions of Council

<i>Ordinary Council Meeting – 13 December 2021 - OCM347/12/21 COUNCIL RESOLUTION / Officer Recommendation</i> <i>That Council:</i> <ol style="list-style-type: none"><i>RECEIVES the Bush Fire Advisory Committee Minutes of 18 November 2021 as per attachment 1.2.</i><i>NOTES the recommendations contained therein.</i><i>REQUESTS the Chief Executive Officer to present a report to the February 2022 Ordinary Council Meeting pertaining to Urgent Business Item 7.2.</i>

Background

Minutes of the Shire of Serpentine Jarrahdale Bush Fire Advisory Committee meeting are tabled at an Ordinary Council Meeting. A formally constituted meeting was held on 21 April 2022 and the Minutes are hereby presented to Council.

Community / Stakeholder Consultation

Nil.

Statutory Environment

Section 67 of the *Bush Fires Act 1954*

- (1) *A local government may at any time appoint such persons as it thinks fit as a bush fire advisory committee for the purpose of advising the local government regarding all matters relating to the preventing, controlling and extinguishing of bush fires, the planning of the layout of fire-breaks in the district, prosecutions for breaches of this Act, the formation of bush fire brigades and the grouping thereof under group brigade Officers, the ensuring of co-operation and co-ordination of bush fire brigades in their efforts and activities, and any other matter relating to*



bush fire control whether of the same kind as, or a different kind from, those specified in this subsection.

- (2) A committee appointed under this section shall include a member of the council of the local government nominated by it for that purpose as a member of the committee, and the committee shall elect one of their number to be chairman thereof.*
- (3) In respect to a committee so appointed, the local government shall fix the quorum for the transaction of business at meetings of the committee and may –*
 - a. Make rules for the guidance of the committee: and*
 - b. Accept the resignation in writing of, or remove, any member of the committee; and*
 - c. Where for any reason a vacancy occurs in the office of a member of the committee, appoint a person to fill that vacancy.*
- (4) A committee appointed under this section –*
 - a. May from time to time meet and adjourn as the committee thinks fit;*
 - b. Shall not transact business at a meeting unless the quorum fixed by the local government is present;*
 - c. Is answerable to the local government and shall, as and when required by the local government, report fully on its activities.*

Comment

A Bush Fire Advisory Committee (BFAC) meeting was held on 21 April 2022. The following recommendations were made by BFAC, which an Officer comment is provided following on:

5.1.1/04/22 Draft 20 Year Facilities Plan for the Shire's Six Bush Fire Brigades, Emergency Support Brigade and SES Unit

The Committee requests that the Shire visit each Brigade over the coming month to obtain further input into the Draft Facilities Plan and a Special Meeting of the Bush Fire Advisory Committee be held following this to further consider the draft Facilities Plan.

Officer comment – At the BFAC meeting, the Draft 20 Year Facilities Plan was presented. This Facilities Plan aims to provide an evidence-based framework to assist Council, firstly, and secondly funding providers, to be able to consider the short, medium, and long term infrastructure timing and priorities for the Shire. BFAC discussed the Draft Plan, and resolved for Shire Officers to brief each Brigade on the Plan during late April and early May. The intent is to then hold a Special BFAC meeting in early May, to enable BFAC consideration of the Draft Plan before it is reported to Council.



Options and Implications

Option1

That Council:

1. RECEIVES the Bush Fire Advisory Committee Minutes of 21 April 2021 as per **attachment 1**.
2. NOTES the recommendations contained therein.

Option 2

That Council DOES NOT RECEIVE the Bush Fire Advisory Committee Minutes of 21 April 2021 as per **attachment 1**.

Option 1 is recommended.

Conclusion

Officers recommend Council receive the Minutes, note the recommendations and requests a future report on verge maintenance.

Attachments (available under separate cover)

- **10.1.12 - attachment 1** - Bush Fire Advisory Committee (BFAC) Minutes – 21 April 2022 (E22/5490)

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 interests of the community
Strategy 1.3.2	Support local emergency services
Strategy 1.3.3	Enhance community safety

Financial Implications

There are no direct financial implications regarding this matter.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There is no risk associated with this recommendation						
2	That Council does not receive and endorse the Minutes	Nil	Reputational	Possible	Minor	LOW	Accept Officer Recommendation

Voting Requirements: Simple Majority

OCM100/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Singh, seconded Cr Byas

That Council:

1. RECEIVES the Bush Fire Advisory Committee Minutes of 21 April 2022 as per attachment 1.
2. NOTES the recommendations contained therein.

CARRIED UNANIMOUSLY 9/0

**10.2 Infrastructure Services reports**

Shire President, Councillor Rich declared an Impartiality Interest in item 10.2.1.

Councillor Atwell declared an Impartiality Interest in item 10.2.1.

10.2.1 – Keirnan Park – Project Scope Reduction to meet Financial Assistance Agreement (SJ1364)	
Responsible Officer:	Manager Project Delivery
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

The purpose of this report is to seek Council approval to reduce the scope of works for the Keirnan Park Recreation Precinct Project Stage 1A Design, Documentation Tender and Construction Phase and request Council consider advocating to the Western Australian State Government for further funding to ensure the delivery of a second oval as a part of Stage 1A.

Relevant Previous Decisions of Council

<i>Ordinary Council Meeting – 15 March 2021 – OCM057/03/21 - COUNCIL RESOLUTION</i> <i>That Council:</i> <ol style="list-style-type: none"><i>ADOPTS the Keirnan Park Masterplan as detailed in attachment 3.</i><i>ENDORSES the staging plan as proposed in the Keirnan Park Masterplan Report: 1(a) Senior AFL ovals, entry road and pavilion – fully funded. 1(b) BMX Facility – funding application submitted. 1(c) Netball Hub – not funded at this stage.</i><i>ADOPTS the Keirnan Park Business Case detailed in attachment 2.</i><i>NOTES that the Chief Executive Officer has submitted an application for round 5 BBRF funding for Stage 1(b) BMX facility, supported by the Keirnan Park Masterplan and Business Case.</i><i>NOTES the consultation undertaken in the development of the Keirnan Park Masterplan project.</i><i>REQUESTS the Chief Executive Officer explore funding options for Stage 1(c) Netball Hub.</i><i>NOTES a notional space has been allowed for on the Masterplan and an update will be presented to Council once the Community Space/Men's Shed details have been developed.</i>	
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**Background**Overview of development of concepts

Following a successful tender period in May 2021, Bollig Design Group were appointed lead consultant on 18 October 2021.

The following list indicates the meetings arranged for consultation with the lead consultant as follows:

No	Date	Time	Location	Description
1	Monday, 1 November 2021	10:30 AM-11:30 AM	BDG Office	Kick-off meeting
2	Thursday, 4 November 202	4:30 PM-5:00 PM	Teams	Stakeholder Engagement - Content discussion
3	Monday, 8 November 2022	1:00 PM-2:00 PM	Teams	Aboriginal Heritage
4	Tuesday, 9 November 2021	3:00 PM-4:30 PM	Shire Office	Sport Club - T-Ball and Softball Consultation
5	Tuesday, 9 November 2021	4:30 PM-6:00 PM	Shire Office/ Team	Sport Club - BMX Consultation
6	Thursday, 11 November 202	10:00 AM-11:30 AM	Shire Office	Sport Club - AFL Consultation
7	Friday, 19 November 2021	11:00 AM-12:30 PM	Shire Office	Sport Club - Cricket Consultation
8	Monday, 6 December 2021	10:30 AM-11:30 AM	BDG Office	Meeting with Henry Dykstra
9	Tuesday, 7 December 2021	14:30 PM-15:30 PM	Shire Office	Project Progress
10	Tuesday, 14 December 2021	12:00 PM-12:30 PM	Teams	Contract and Progress Claim
11	Wednesday, 15 December 2021	10:00 AM-11:30 AM	Shire Office	AFL Concept
12	Wednesday, 15 December 2021	12:00 PM-13:00 PM	Shire Office	Maintenance Depot Concept

Table 1: Schedule of Consultation

The above consultation provided the lead consultant with club requirements. As a result of the consultation and further consideration of the needs of the project a number of concept development changes to the scope being items that were not allowed for during Master planning phase, were identified through the consultation period that further achieved the objectives of the project. These items are classified below:



Original scope	Scope Increase
Entry road/Boulevard Site entrance Auto Gate Landscaping AFL Pavilion 1,500m2 split level building 2 x AFL Ovals Lighting Cricket nets Car Parking bays 225 Lighting	Maintenance Depot and access road Increase in site area Increase in Gross Floor Area (GFA) to pavilion Subsoil Drainage Diamond Sports Additional car parking bays Car parking bays 295 and lighting Water tanks and drainage cell storage Emergency Vehicle Access Road SSJ Costs

Table 2: Comparison Original scope and Scope Increase

This resulted in an ideal project scope containing: 2 x AFL ovals, dual carriageway grand boulevard entry road, 295 carparking spaces (original scope 225), a 2,264m2 sports pavilion (original scope 1,500m2), cricket nets and pitches, diamond sports, maintenance depot/shed, ATU (septic system) field and playground.

The Consultant then produced a Stage 1A concept reflecting these changes, shown in Image 1. This concept had a total cost of \$37,081,790, reflecting a significant cost increase as a result in scope increase and an escalation in costs due to the current construction environment.

Council workshop 2 February 2022

Following the consultation with stakeholders a workshop was held with Councillors where they were shown the Stage 1A plan contained in Image 1 below.

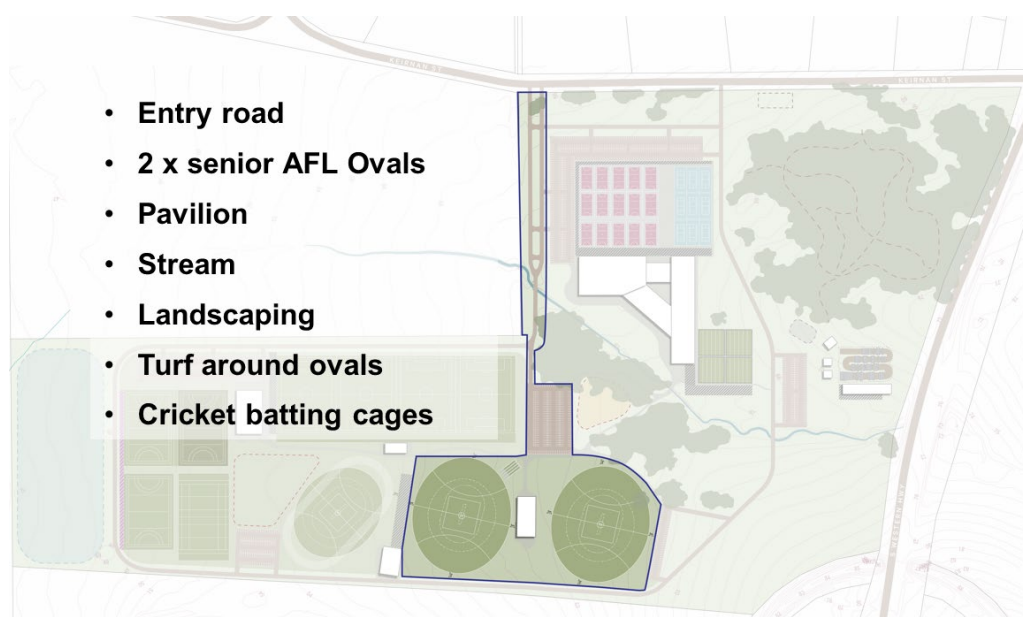


Image 1: Stage 1A Full scope with additional scope \$37,081,790

After discussion about the increased estimated cost of Stage 1A by \$17,081,790, it was agreed to value manage the project and produce options on how Stage 1A could be delivered.



The outcome of the meeting was as follows:

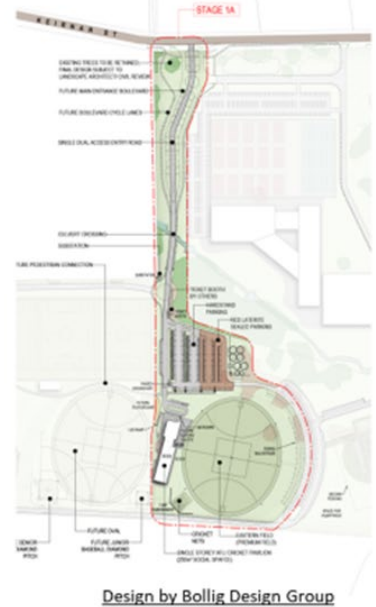
1. Arrange a value management workshop with options on how stage 1A can be delivered.
2. Officers to investigate other funding options.

Councillor workshop on valued managed options 30 March 2022

The lead consultant was directed to produce three value managed options and an option within \$20 million budget in mid-March 2022. These options were presented to the Keirnan Park Special Steering Group (SSG) and to a second Councillor workshop on 30 March 2022. Options as per Images 2 to 5 below.

VE Option 1

- Estimate: \$29,086,000
- Scope:
 - 1x AFL oval
 - AFL Pavilion – Single storey with 250m² of social and warm up space
 - Cricket nets & pitches
 - Hardstand parking for 121 cars
 - Sealed parking for 84 cars
 - Single dual access road
 - Dry planting with no irrigation
- Comments:
 - This is not a 'Value Engineering' option as indicated by the title, this is a scope reduction.
 - The scope of VE Option 1 is delivering less scope than the Business Case

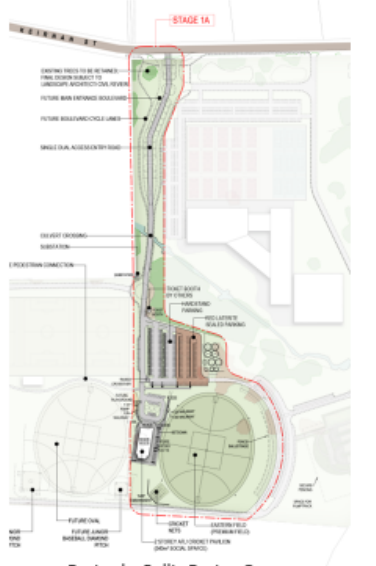


Design by Bollig Design Group

Image 2: Value Managed Option 1 (estimated cost \$29,086,000)

VE Option 2

- Estimate: \$33,379,000
- Scope:
 - 1x AFL oval
 - AFL Pavilion – 2 storey with 540m² of social and warm up space (2,264m²)
 - Cricket nets & pitches
 - Hardstand parking for 121 cars
 - Sealed parking for 84 cars
 - Single dual access road
 - Dry planting with no irrigation
- Comments:
 - This is not a 'Value Engineering' option as indicated by the title, this is a scope reduction.
 - The scope of VE Option 2 is delivering less scope than the Business Case.



Design by Bollig Design Group

Image 3: Value Managed Option 2 (estimated cost \$33,379,000)



VE Option 3

- Estimate: \$21,670,000
- Scope
 - 1x AFL oval
 - AFL Pavilion – single storey with 250m² of warm up and social space
 - Cricket nets
 - Carparking for 100 cars
- Comments
 - This is a completely different concept from the business case/ Master Plan.
 - This option provides significantly less scope required by the Master Plan.
 - The scope delivered under this new concept is still less than that of the original Business Case.
 - The scope delivered under this option is significantly less than any other option.

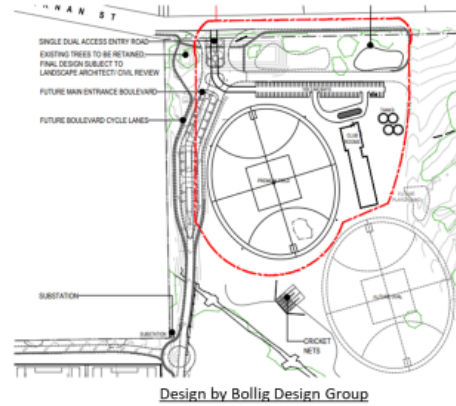


Image 4: Value Managed Option 3 (estimated cost \$21,670,000)

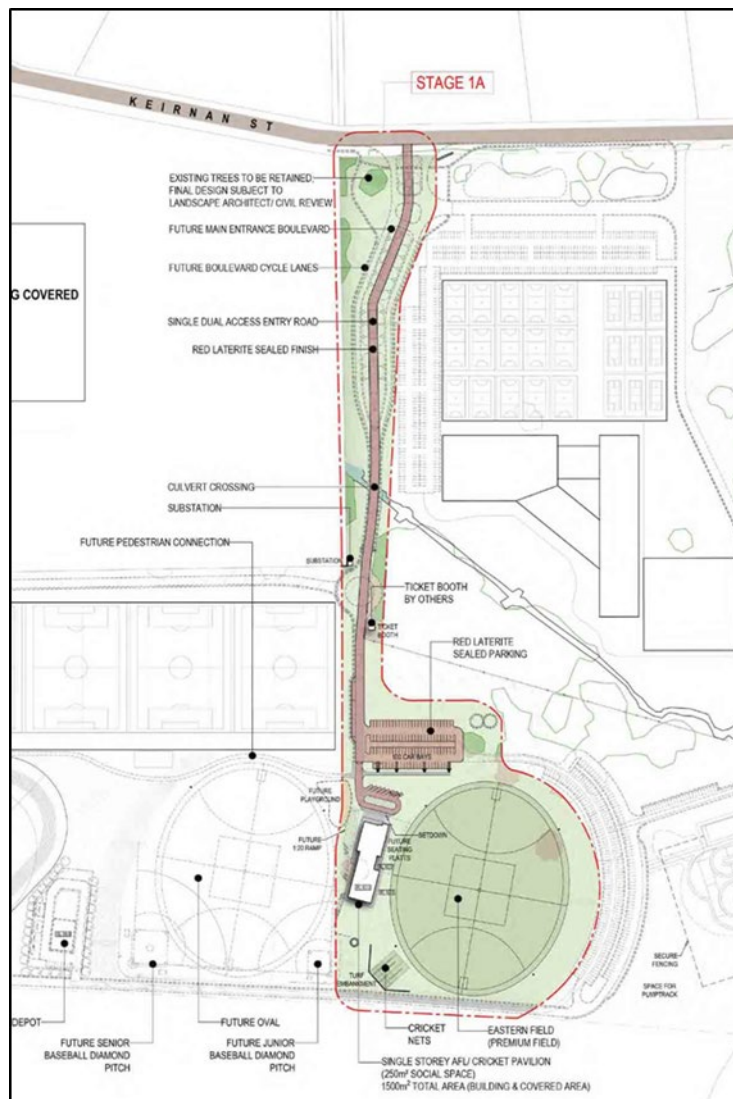


Image 5: Value Managed Option 4 (estimated cost \$20,000,000)



The option seen as most favourable was the reduced scope (detailed further in this report) within the \$20 million budget. The decision by Councillors at that meeting was that the reduced scope option be presented at the first Keirnan Park Stakeholder Reference Group on 31 March 2022 meeting for feedback.

Stakeholder Reference Group meeting 31 March 2022

The Keirnan Park Stakeholder Reference Group (KPSRG) considered the reduced scope option (Image 5) and initial pavilion concept (image 6). Feedback from group members focused on the size of the pavilion social space (being a proposed 250m² social space within the 1,500m² footprint) and provision for only one oval. The concern expressed by group members in relation to the size of the social space was that the space was not big enough to accommodate their needs in relation to club activities such as end of year functions and that existing hall spaces for hire within the Shire were not large enough to cater for these needs. The group also expressed a desire to see a large social space that could support broader community functions such as weddings, funerals and parties.

The other element of concern was the provision of only one oval instead of two. The intended primary user groups – being cricket and AFL – outlined their concerns that the development would not provide more space or additional benefits than their existing premise at Mundijong Oval and Briggs Pavilion, whilst simultaneously causing them to have to split activities across multiple sites which can be logistically challenging. The Clubs did however acknowledge that this is something they already largely manage, so is not necessarily prohibitive to operations, just not ideal.

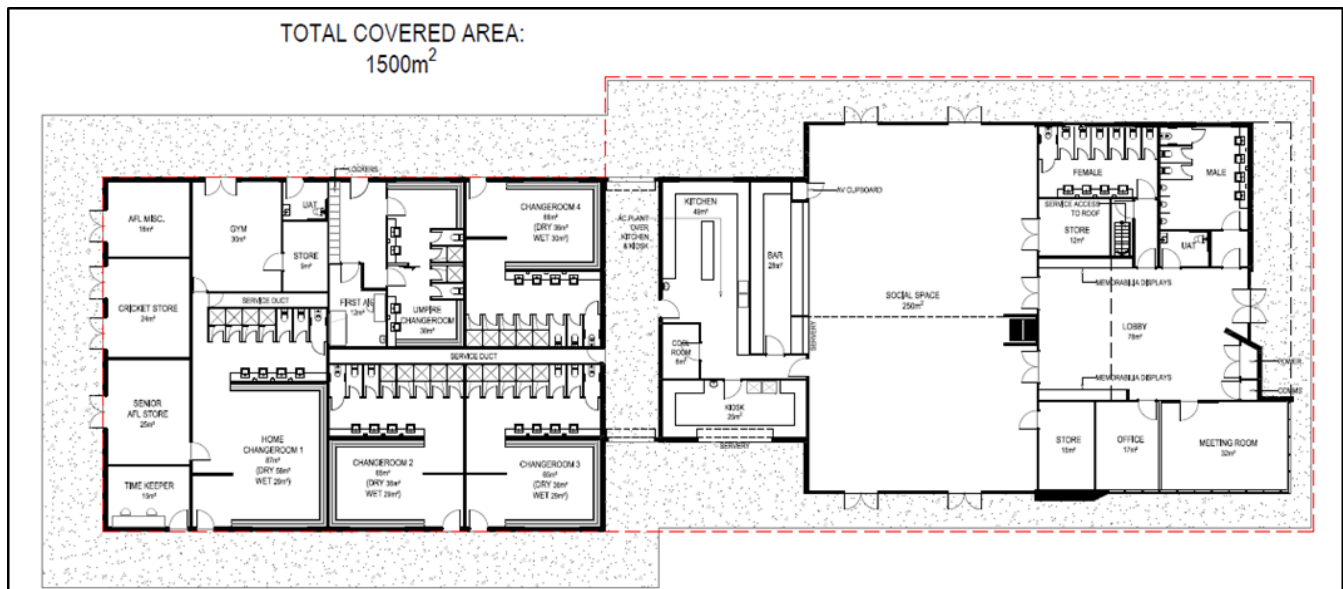


Image 6: Initial Pavilion Concept (within \$20M)

Further development of the pavilion concept design

Following the meeting with the Stakeholder Reference Group (KPSRG) meeting, the internal Project Steering Group met to discuss the proposed reduced scope and feedback from the KPSRG. The Group also discussed the provision of other amenities in the facility in line with the AFL Preferred Facility Guidelines and feedback from the representative from the DLGSC.

Additional to this, Officers held discussions with representatives from the Department of Local Government, Sport and Cultural Industries and the WA Football Commission and WA Cricket Association. The outcome of these discussions is further outlined under Community/Stakeholder Consultation.



As a result, Bollig Group was requested to make amendments to the pavilion concept design, including increasing the social space to 300m². The revised concept design is shown in Image 9.

These changes brought the facility in line with the AFL Preferred Facility Guidelines for a Regional Facility, providing a social space area beyond the requirements of the standards. The comparison of the provision of amenities within the concept shown in Image 11 and the AFL preferred Facility Guidelines is shown in Image 9.

4. PAVILIONS & CHANGE FACILITIES			
4.6 Quick Guide to Preferred Provision			
<p>The following table shows the preferred minimum standard guidelines for the provision of main pavilion facilities for State, Regional and Local level facilities at single playing field venues. While these areas set the minimum levels, exceeding these guidelines to meet a range of other uses and users may be a consideration for project partners.</p> <p>Multiple playing fields may require additional amenities to cater for concurrent use. All facilities are considered core components unless identified otherwise.</p>			
<p>KEIRNAN PARK - PAVILION AREA STUDY BDG 3/5/2022</p>			
<p>PROPOSED (SK02 RevE) 3/5/22</p>			
Playing Field Facilities	Preferred Minimum Sizes (m ²)		
	State	Regional	Local
Player Amenities (toilet/showers)	35m ² x 2*	25m ² x 2*	25m ² x 2*
Number of showers	5 x showers per amenity	4 x showers per amenity	3 x showers per amenity
Number of pan toilets	5 x toilets per amenity	4 x toilets per amenity	3 x toilets per amenity
Player Change Rooms	2* x 75m ² -90m ²	2* x 55m ² -75m ²	2* x 45m ² -55m ²
Doctors Room	15m ²	10m ² <i>Optional</i>	10m ² <i>Optional</i>
Massage / Strapping Room	2 x 20m ²	2 x 15m ²	2 x 10m ² <i>Optional</i>
External covered viewing area	150m ²	75m ²	50m ²
Gymnasium / Fitness Room	40m ² -50m ²	25m ² -30m ² <i>Optional</i>	20m ² -25m ² <i>Optional</i>
Kitchen & Kiosk	40m ²	30m ²	20m ²
First Aid / Medical Room (Public Access)	15m ²	15m ² <i>Optional</i>	15m ² <i>Optional</i>
Office / Administration / Meeting	25m ²	20m ²	15m ²
Public Toilets	Male 20m ² Female 20m ² Accessible 5m ² (or can be gender neutral to size specified)	Male 15m ² Female 15m ² Accessible 5m ² (or can be gender neutral to size specified)	Male 10m ² Female 10m ² Accessible 5m ² (or can be gender neutral to size specified)
Storage (internal and external)	25m ² +	20m ² +	20m ²
Social / Community Room	200m ²	150m ²	100m ²
Third umpire / match referee / venue management room	15m ²	10m ² <i>Optional</i>	10m ² <i>Optional</i>
Timekeeping / Scorers Box	15m ²	10m ²	10m ²
Umpires Rooms (including toilet and showers)	30m ² -40m ²	30m ² -40m ²	20m ² -25m ²
Utility / Cleaners Room	5m ² +	5m ² +	5m ² +

* Note: Individual sites that cater for higher level competition and/or back-to-back schedules may consider the provision of additional player change rooms and amenity areas.

Image 7: Comparison of AFL Preferred Facility Guidelines with Keirnan Park Stage 1A Pavilion

These changes were then presented to the Stakeholder Reference Group meeting held 4 May 2022.



Stakeholder Reference Group meeting 4 May 2022

Officers presented the concepts shown in Images 10 and 11 and discussed the reduced scope oval with the group, providing only one oval and the intention to recommend Council advocate to the State Government for funding for the second oval. The group was disappointed with the provision of one oval only but supported Council advocating for funding for the second oval.

Officers provided an overview of the renewed pavilion layout and its design in relation to the AFL Preferred Facility Guidelines and discussed the limitations of the total sqm floor area of the pavilion, in line with budget available. Members of the group expressed that they were disappointed the facility was not two storey as they feel was originally conveyed to them, that they felt the social space was undersized given the need they had previously expressed and that the storage areas were insufficient.

Officers also provided an overview of the proposed \$20 million budget breakdown, including an overview of the purpose of the Shire of Serpentine Jarrahdale costs and the function these costs have.

Some members of the group expressed frustration that they considered that the Shire is not making a significant financial contribution towards the project to achieve better outcomes for the community.

Officers advised that the reduced scope option was being presented to Council for endorsement through this report.

Community / Stakeholder Consultation

The following consultation was carried out:

1. Councillor workshop 2 February 2022;
Agreed to value manage the project and produce options to keep it within the grant funding.
2. Councillor workshop 30 March 2022;
Agreed to present the reduced scope to the Stakeholder Reference group.
3. Stakeholder Reference Group 31 March 2022;
Issues raised in order of priority were:
 - Size of social space too small at 250m2;
 - Only one oval.
4. Keirnan Park Special Steering Group (SSG) meeting 14 March 2022 with Regional Manager – Peel / South West Department of Local Government, Sport and Cultural Industries.
Issues discussed with funding body Regional Manager. Suggested reduction of scope on some areas to achieve requirements in others. The funding is for sports facilities mainly.
The SSG are supportive of the proposed reduced scope.
5. AFL and Cricket Peak Body discussions with DLGSC - 2 May 2022
Shire Officers met with Cricket Association of WA, WA Football Commission and DLGSC to generically outline proposed scope reductions in order to understand any significant impacts this may cause for further consideration. Specifically, social space of approximately 250m2 and one oval. Feedback received as follows:



- Basic standard social size for a State AFL facility is 200m², with 100 – 150m² for regional level. KP concept already above this so no immediate need for a larger size for any sporting purpose.
- Other comparative venues recently built with contemporary designs demonstrate that improved functionality can results without a need to increase sq. metre size.
- The operational needs of the Clubs are to be prioritised over aspirational wants. The additional oval should therefore be of key consideration.
- Cricket and AFL representatives did not agree that a function room that could jointly host Senior and Junior Clubs at the same time would be necessary, as that would be unusual. Juniors and Seniors would have separate functions.
- Both representatives would speak with the local clubs to further understand their concerns.

6. Stakeholder Reference Group 4 May 2022

- Reduced scope oval and pavilion presented.
- Breakdown of Costs was discussed, Officers provided an overview of the budget and allocation of Shire cost for delivering the project.
- The group members feel the provision of the second oval is very important to meet community sporting need and supported advocating for funding for additional oval.
- Overall feedback that the social space is undersized and won't meet the needs for annual functions such as end of seasons for clubs. Also, some members felt the opportunity to provide a larger space for the community has been lost.
- Members expressed frustration that the pavilion is being design as a one not two storey building and that the storage space was too small for needs. Also, that additional female toilets would be of benefit.
- Some members expressed frustration that the Shire was not making a larger financial contribution to achieve the outcomes for the community.
- If a second oval cannot be provided, then it would be ideal to increase the size of the one oval.

7. Meeting with Minister for Sports and Recreation 5 May 2022

The Shire President, Deputy Shire President and CEO met with Minister Templeman Minister for Sport and Recreation to discuss the financial limitations of the project and request for additional funding to deliver the second oval.

Statutory Environment

Nil.



Comment

Proposed reduced scope plan

Image 8 below depicts the reduced scope to deliver the project within the \$20 million budget.

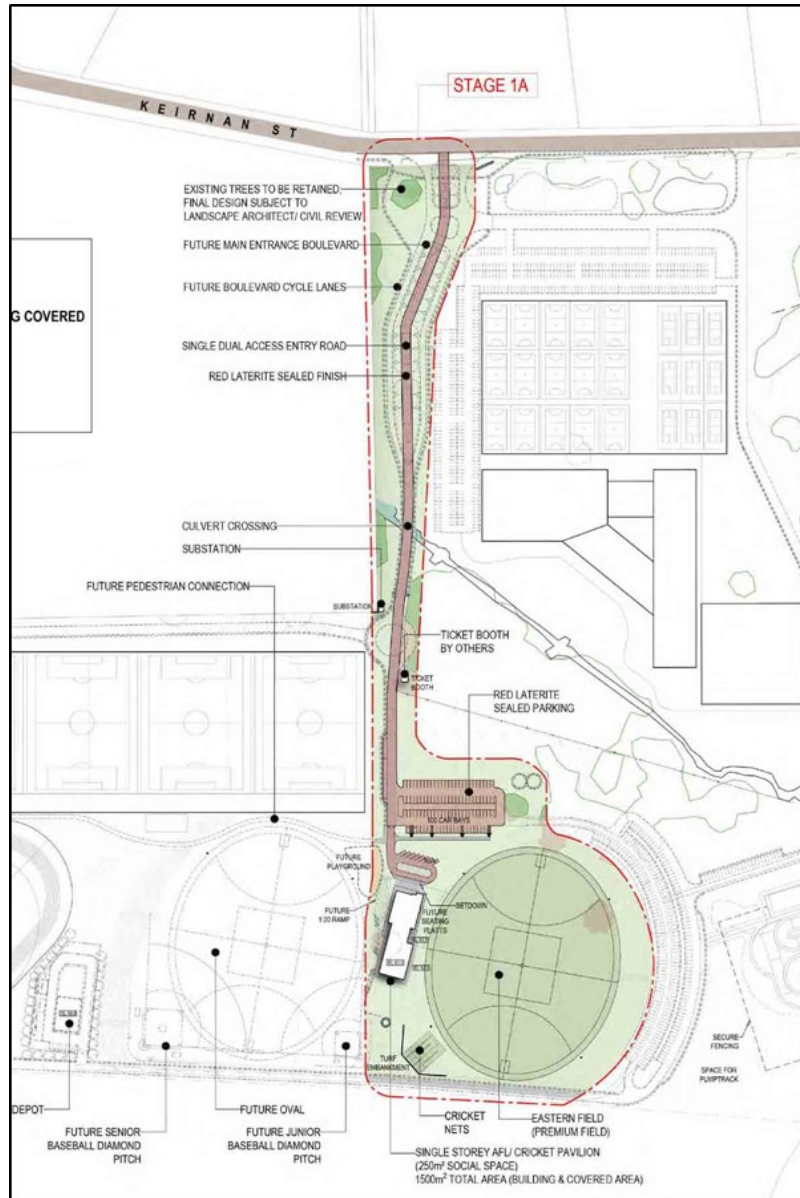


Image 8: Stage 1A Reduced scope \$20 million

The scope of Stage 1A involves the reducing elements within the building to balance sporting needs and social space, as follows:

- 4 changerooms;
- Reduced covered viewing area, no external seating plats. (size of social space 300m2);
- Building a singular entrance road into the site;
- 100 car parking spaces;
- Single eastern oval;



- Reduction in water storage;
- Reduction in landscaping;
- Reduction in surface treatments;
- Provision of one senior sized oval 165 x 135 meters with a runoff area of 5 meters with the ability to be used flexibly outside the defined 'playing surface area'.

The proposed floor plan for the pavilion (See Image 9 below) shows the general layout in concept form (internal details e.g. dry store etc.)

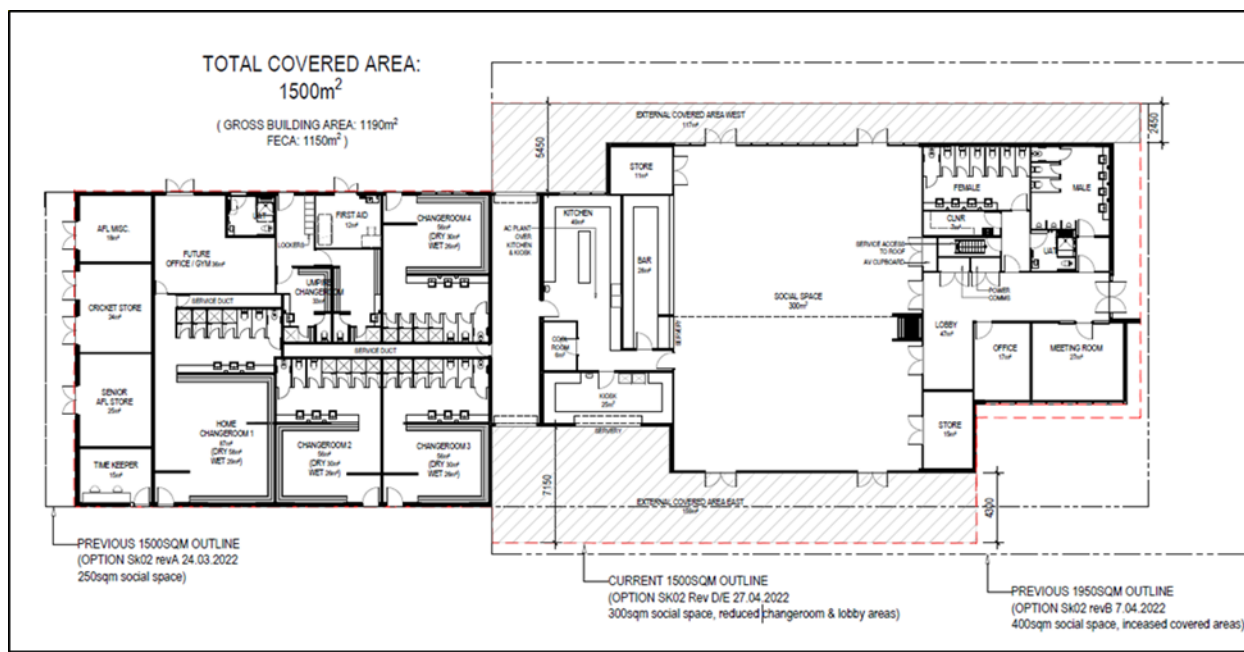


Image 9: Proposed Pavilion Floor Plan

Facilities include:

- 4 changerooms 26m²
- Male/Female umpire change rooms 27m²
- First aid room 12m²
- Office 36m²
- timekeeper room 15m²
- Store rooms 67m²
- Unisex Accessible Toilet
- Semi commercial kitchen 49m²
- Kiosk 25m²
- Bar 28m²
- Social space 300m²
- Cleaners cupboard 7m²
- Foyer 47m²



- Store 15m2
- Office 17m2
- Meeting room 27m2
- Public toilets male and female.

The above scheme would meet the AFL guidelines and the original business case scope of works regarding the building's social space. The social space of 300m2 was in the original scope of works which will match the Briggs Pavilion for function space and is larger than the current Mundijong oval clubhouse social space. However, it will not meet the entire Stage 1A business scope of works (which included a second oval).

Budget for reduced scope plan

The table below (table 3) shows a summary breakdown of the costs to stage 1A.

Item 15 indicates \$1.1 million being attributed to the development of the second oval; or to be attributed to additional or improved facilities should the Shire be successful in securing additional funds (to be discussed later in this report).

A recent soil investigation by Galt consultants indicated that not all the soil cut from the first oval could be used on the second oval as there was evidence of a high clay content not far beneath the sand surface. The result of this information is that additional fill soil will be required to build the second oval adding to its costs.

Item	Description	Estimate
1	Building Act – AFL Pavilion	\$4,907,000
2	External works (Incl. preliminaries)	\$4,659,000
3	External Works (Incl. preliminaries)	\$1,513,000
TOTAL CONSTRUCTION COSTS (TCC)		\$11,079,000
4	Contingency	\$1,596,000
5	Headwork and statutory charges	Included
6	Building act compliance	Included
7	Public art	\$50,000
8	FFE	\$250,000
9	Professional design team fees (Incl. Escalation)	\$2,200,000
10	Enabling works	\$1,000,000
GROSS PROJECT COSTS		\$16,238,000
11	Escalation	\$762,000
ESCALATED NET PROJECT COSTS		\$17,000,000
12	Shire of Serpentine and Jarrahdale costs	\$1,900,000
13	Preliminary works to second oval	\$1,100,000
ESTIMATED TOTAL PROJECT COSTS		\$20,000,000

Table 3: Summary breakdown of Stage 1A costs



Second oval

The second oval shown in Image 10, could not be included in the reduced scope within the available budget, but can be built later if additional funding is available. Some earthworks for the second oval can be completed in the first stage when the eastern oval excavation spoil is used as fill for the second oval.

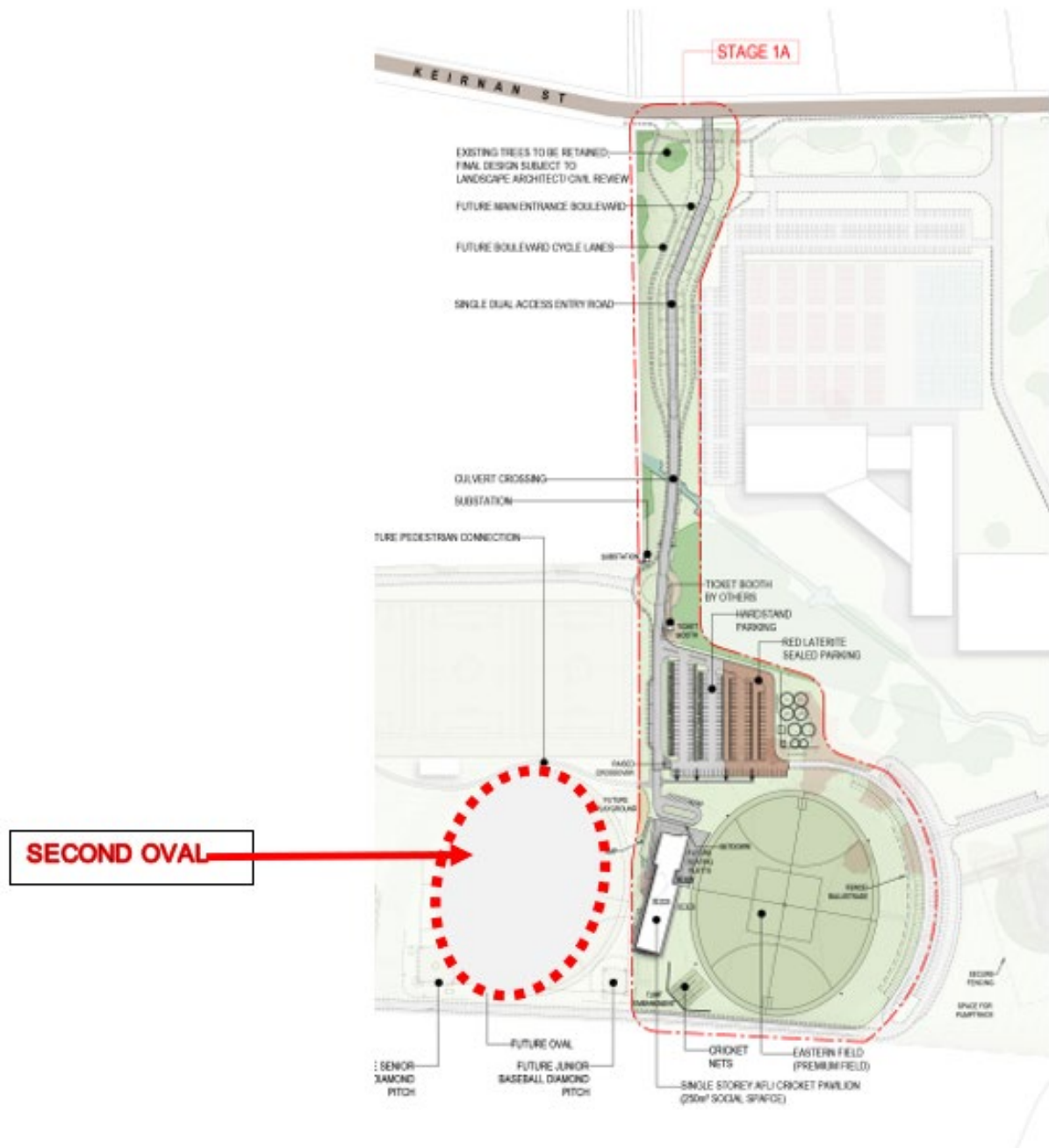


Image 10: Second oval



The potential for Council to advocate for additional monies for construction of the second oval would be recommended. The estimate for the second oval is \$4.05m and detailed below (See Fig.9):

Item	Description	Estimate
1	Earthworks	Included in current costs
2	Turf irrigation, rootsoil, soil conditioner, 12 months maintenance	\$1,900,000
3	Lighting	\$400,000
4	Sub soil drainage	\$350,000
5	Cricket pitch/Goal posts/Netting	\$50,000
6	Car Park	\$600,000
7	Ramp	\$50,000
8	Contingency 10%	\$335,000
9	SSJ costs 10%	\$368,500
	Total (Note: The above figures have not included escalation of costs in labour and materials)	\$4,053,500

Table 4: Second oval summary cost breakdown

Discussion

Whilst the existing sporting oval facilities are sufficient to service the AFL and Cricket needs, other sports such as the developing local rugby league or soccer, lack facilities which has resulted in an unmet demand for playing space across the Shire.

Based on the PLA Community Facilities Guidelines and the current Shire population, the Shire should currently be providing spaces that support a minimum of 5 soccer pitches and 1 rugby pitch.

With the current pressure on existing facilities to accommodate AFL, it has not been possible for soccer to develop in the Shire. The Serpentine Jarrahdale Rugby League & Sporting Club is currently able to train in the Shire however the limited facilities result in the Club having to play at locations outside of the Shire. The lack of facilities also limits the development and expansion of the Club and sport in the Shire.

The provision of the additional oval at Keirnan Park Recreation Precinct will assist in providing additional space across the Shire to support the development and delivery of these sports.

Additionally, with the increase focus and participation in female sporting activities, in particular in AFL is putting additional pressure on existing sporting facilities including ovals, toilets and change rooms. The ability to accommodate the growth of female sporting competitions will be heavily restricted given the current limited facilities the Shire has.

It is recommended that Council support formally advocating to the Western Australian State Government for the additional funding to deliver the second oval. The Shire is able to clearly demonstrate the need for this space and the impact of the hyper growth development on community facilities.



On 5 May 2022 the Shire President, Deputy Shire President and CEO met with Minister Templeman Minister for Sport and Recreation to discuss the financial limitations of the project and request for additional funding to deliver the second oval. The community need was discussed and the high degree of rigor that the project has been through to date to ensure the maximum outcomes are being achieved for the funds available. Council is requested to support formally confirming this request for funding with the Western Australian State Government.

Consultant contract and additional costs

The consultant's contract to design and document Stage 1A is currently delayed due to changes in scope and the value management of the project. The Shire may potentially incur additional costs should the contract be delayed further. The consultant has advised that a cost variation associated with delays in the order of \$89,500 per month could apply.

The consultants have been recently requested to proceed with detail design for the full civil works scope only which includes the second oval, grand boulevard entry road, car parking for full capacity and full water storage. The documents can be produced so that the tender documents only include the reduced scope of works to be built (see reduced scope on page 4). The reason for doing this is that the Shire will have a full set of tender ready documents that are to the original design intent that will deliver the full scope of works later when funds become available.

As a risk reduction measure the contract can be divided into 'separable portions' which will allow the Shire the ability to separate elements of the reduced scope of works should cost escalation still be an issue in the future.

Alternative funding opportunities for the project

Additional to recommending that Council seek further funding from the Western Australian State Government, Officers are preparing a future report that will be presented in respect of alternative funding options, including further examination of developer contribution matters.

Officers have also successfully applied for funding from Cricket Australia to the value of \$100,000 (ex GST). As the funding application was completed based on the original scope of the Keirnan Park project, the funding commitment has outlined that the allocation is for the below project components:

- New pavilion including player and umpire change rooms and supporting amenities
- Construction of two new playing fields, including synthetic centre wickets
- Construction of new synthetic training net facilities (6)
- Lighting to Cricket Australia standards (this element will add an additional \$85,000.00 to the Stage 1A budget)

Execution of the agreement is currently on hold, being subject to the agreed scope of works and subsequent ability to meet conditions outlined in the Agreement. Specifically, there may be variation to the value of support if only 1 oval is to be delivered in the current stage.

Federal Funding Opportunities

In addition to the above, Officers have made application to building better regions fund seeking \$10 million (the maximum available) towards the development of 1A and 1C (the netball facilities).

In accordance with Council's adopted federal government election priorities, the Shire President and CEO have been advocating for additional funding toward the project.



At the time of writing this report, neither the outcome of the BBRF and the election advocacy is not known.

CEO KPI

The provision of this report to Council achieves the CEO KPI related to the project.

Options and Implications

Option 1

That Council:

1. ENDORSES the reduced Stage 1A scope as shown in Image 8 and detailed in this report;
2. REQUESTS the Chief Executive Officer to seek approval from the Department of Local Government, Sport and Cultural Industries for the scope reduction; and
3. REQUESTS the Shire President write to the Minister for Sport and Recreation to request \$4.05m funding to deliver the second oval and supporting infrastructure to be provided in 2023/2024 financial year.

Implications: Continuity of the project to achieve the original objective. Potential future funding to complete the balance of the original scope of works.

Option 2

That Council:

1. DOES NOT endorse the reduced scope as detailed in this report; and
2. RESOLVES to advise the Department of Local Government, Sports and Cultural Industries that the Shire will not progress with the project and will return any unspent Grant monies.

Implications: Put a hold on the entire Keirnan Park project, terminate the consultants' contract with possible termination costs. Shire reputation affected by not completing the project which may, in turn affect future grant funding opportunities.

Option 3

That Council:

1. DOES NOT endorse reduced scope and considers a financial contribution to the project in order to achieve the \$37million Stage 1A concept as detailed in Figure1; and
2. REQUESTS the Chief Executive Officer to approach the Department of Local Government, Sports and Cultural Industries for an extension of time on using the grant monies.

Implications: Time in preparing the report for Council and then accessing additional funds will affect the existing lead consultants contract resulting in prolongation costs of \$89,500/month. Failure in obtaining additional funds results in not meeting the DLGSC grant timelines and returning grant funding.

Option 1 is recommended.



Conclusion

Advice from the Lead Consultants is that the escalation of costs in the current market has resulted in the original scope exceeding the \$20 million grant monies provided. The value management analysis provided by the consultants indicates the only way forward being the reduction in scope of the project to proceed within budget. The current momentum of the project means delivery of Stage 1A is possible. Should the project be terminated more monies will be required for termination and to restart the whole process.

The scope outline provides a reasonable first step, to deliver project of this magnitude, Officers envisage further opportunities (2nd oval and infrastructure) for funding if need demonstrated.

Attachments (available under separate cover)

Nil.

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
Strategy 1.1.2	Provide a healthy community environment
Outcome 1.2	A recognised culture and heritage
Strategy 1.2.1	Recognise local heritage
Strategy 1.2.2	Encourage and support public art in public areas
Outcome 2.2	A sustainable natural environment
Strategy 2.2.1	Develop, maintain and implement plans for the management and maintenance of Shire controlled parks, reserves, and natural assets
Strategy 2.2.2	Seek to minimise resource usage and continue to maximise reuse opportunities
Strategy 2.2.4	Support community groups (both new and existing), who are preserving and enhancing the natural environment.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.
Strategy 4.2.2	Ensure appropriate long term strategic and operational planning is undertaken and considered when making decisions
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 4.2	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

Consultant delays costs as discussed above.

As part of the detailed design, a management plan for the facility will be developed which will include details of service levels, operational and ongoing maintenance costs. It is intended to present the report to Council prior to construction tenders being invited.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	Due to the current ongoing escalation in prices project costs may still escalate beyond the current funds available	The proposed reduced scope and estimated costs includes escalation costs	Organisational Performance	Possible	Moderate	MODERATE	Nil
2	Returning the funds will impact the Shire's ability to seek future funding for future projects due to inability to deliver projects	Proceed with Option 1 as detailed in this report.	Reputation	Likely	Major	HIGH	Nil
3	Enabling Works, Tender and start of the Construction Phase funding is not completed in full in 2022/2023 requiring municipal funds to complete in future years.	Nil	Financial	Likely	Major	HIGH	Nil



Voting Requirements: Simple Majority

OCM101/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Atwell, seconded Cr Duggin

That Council:

- 1. ENDORSES the reduced Stage 1A scope as shown in Image 8 and detailed in this report;**
- 2. REQUESTS the Chief Executive Officer to seek approval from the Department of Local Government, Sport and Cultural Industries for the scope reduction; and**
- 3. REQUESTS the Shire President write to the Minister for Sport and Recreation to request \$4.05m funding to deliver the second oval and supporting infrastructure to be provided in 2023/2024 financial year.**

CARRIED UNANIMOUSLY 9/0



Shire President, Councillor Rich declared an Impartiality Interest in item 10.2.2.

Councillor Atwell declared an Impartiality Interest in item 10.2.2.

10.2.2 – Keirnan Park – Financial Assistance Agreement for Enabling Works, Tender and Construction of Stage 1A (SJ1364-02)	
Responsible Officer:	Manager Project Delivery
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

The purpose of this report is for Council to provide authority to the Shire President and Chief Executive Officer to execute the Financial Assistance Agreement from Department of Local Government, Sport and Cultural Industries (DLGSC), for the Keirnan Park Recreation Precinct Project Enabling Works, Tender and Construction Phase.

Relevant Previous Decisions of Council

<i>Ordinary Council Meeting – 14 December 2020 – OCM405/12/20 - COUNCIL RESOLUTION / Officer Recommendation</i> <i>That Council AUTHORISES the Shire President and Chief Executive Officer to execute the Financial Assistance Agreement between the Department of Local Government, Sport and Cultural Industries and Shire of Serpentine Jarrahdale for the WA Recovery Plan – Development of a Business Case for the Keirnan Park Recreation Precinct as per attachment 1, by affixing the common seal.</i>



Ordinary Council Meeting – 19 October 2020 – OCM335/10/20 - COUNCIL RESOLUTION / Officer Recommendation

That Council:

1. *NOTES the update of the Keirnan Park Recreation Precinct as per this report;*
2. *REQUESTS the Chief Executive Officer to negotiate an initial agreement with the Department of Local Government, Sport and Cultural Industries for \$2 million, to complete all project planning, including studies and design to enable Stage 1 of the Keirnan Park Recreation Precinct project to be ready for construction;*
3. *AUTHORISES the Chief Executive Officer to commence spending planning funds (and recruiting dedicated project staff) for project planning prior to the funding agreement for project planning being executed;*
4. *REQUESTS the Chief Executive Officer to negotiate a secondary agreement for \$18 million with the Department of Local Government, Sport and Cultural Industries for the construction for Stage 1 of the Keirnan Park Recreation Precinct once project planning is able to inform the final scope and milestones; and*
5. *APPROVES funding of Keirnan Park Recreation Precinct planning from grant funds and reallocate municipal funds set aside for Keirnan Park Recreation Precinct to the Building Asset Management Reserve.*

Account	Description	Type	Debit
6500-80235-6600	Keirnan Street Planning	Increase expenditure	2,000,000
6500-80235-4820	Keirnan Street Planning	Increase grant	

Reason: Recognition of grant funding to undertake Keirnan Street Planning project.

Account	Description	Type	Debit
5300-17302-5202	Transfer to Building Asset Management Reserve	Increase reserve	500,000
6500-80235-6600	Keirnan Street Planning	Decrease expenditure	

Reason: Transfer municipal funding for Keirnan Street Planning to reserve as project is now fully grant funded.

Background

In August 2020, correspondence was received from the Minister for Sport and Recreation, acknowledging the Shire's advocacy correspondence and confirming that the Shire had been successful in receiving a funding commitment of \$20 million towards the development of the Keirnan Park Recreation Precinct, through the State's COVID Recovery Plan.

A Financial Assistance Agreement (FAA1) for the initial \$2 million was executed on 21 December 2020. FAA1 scope was for project planning and detailed design for the project. This report provides details of a further Financial Assistance Agreement (FAA2) for the remainder \$18 million of the total \$20 million funding for construction of Stage 1A of Keirnan Park.

The Keirnan Park draft concept was presented to Councillors at a workshop on 2 February 2022 with a budget overrun of approximately \$17 million. The budget overrun was due to scope creep and cost escalation. This is detailed in agenda item 10.2.1 and summarised below.

Scope reduction was carried out to achieve the project within the budgeted \$20 million.



The reduction in scope of Stage 1A involved removing a number of the additional items above and the following items below:

- Reducing elements within the building to balance sporting needs and social space, 4 change rooms only, reduced covered viewing area, no external seating plats. (size of social space 300m²)
- Building a singular entrance road into the site
- Reducing Car spaces to 100
- Single eastern oval
- Reduction in water storage
- Reduction in landscaping
- Reduction in surface treatments.

Figure1 below is the current Stage1A plan estimated to be within budget.

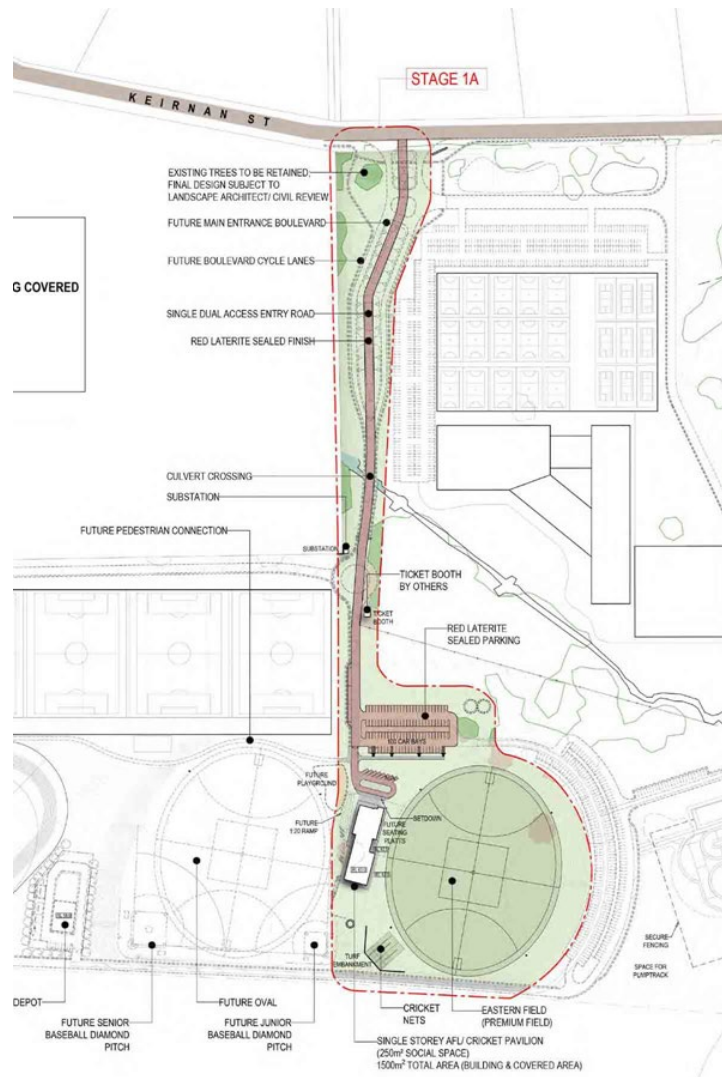


Fig 1 Stage 1A Concept Plan with reduced scope

The implications detailed in this report are on the basis that Council moves forward with the scope reduction as per Officer recommendation as detailed in agenda item 10.2.1.



Early Works Package

An early works package was developed in October 2021 to undertake enabling works in order to progress ground water exploration and power investigation works to progress the design. Further, site clearing and earthworks were also identified as early works activities to ensure the Shire is in a position to enter into the main construction phase in FY 2022/23. This package was costed by Quantity Surveyors and is intended to access funds under the FAA2. It was then presented for stakeholder feedback and forms part of the development of the Financial Assistance Agreement negotiations.

Community / Stakeholder Consultation

Department of Sport and Recreation Consultation (28 October 2021)

The Early Works proposal was presented to the Department with the following feedback received:

- The Department would like to see works progress on the project and can foresee two Agreements running concurrently to facilitate these works.
- As the Shire would like to pursue some of the items identified in the early works package, the Department informed that the second Financial Assistance Agreement (FAA2) has flexibility to accommodate retrospective works.

Policy Concept Forum (1 November 2021)

Councillors were provided a project update that included a proposal to undertake early works to ensure the Shire is in a position to enter into the main construction phase in FY 2022/23. These works can take 6 to 12 months to deliver and ideally need to be completed to reduce any schedule risks and weather risks. The proposed early works package consists of the following:

Item	Cost Estimate by QS
Power – Supply and Communications	\$324,500
Ground Water – Exploration and Production Bores	\$450,000
Site Clearing	\$250,000
Earthworks – Stage 1A	\$1,346,000
SUB-TOTAL	\$2,370,500
Contingency (26% due to overheated demand)	\$629,500
TOTAL	\$3,000,000

This package is subject to service authority capacity to perform their portion of the work, heritage and planning approvals.

Councillor Workshop (30 March 2022)

The reduced scope of stage 1A was presented at the workshop with the following feedback received:

- Show reduced scope to the Stakeholder Reference Group and seek feedback

Stakeholder Reference Group meeting (31 March 2022)

The reduced scope of stage 1A was presented at the meeting with the following feedback received:

- Concern over the size of the social space within the sports pavilion
- The supply of only one oval in the reduced scope



Department of Sport and Recreation Consultation (14 April 2022)

The reduced scope was presented to the Department with the following feedback received:

- Further scope reductions can be made in rationalising the internal spaces of the sports pavilion

Statutory Environment

Nil.

Comment

The FAA2 outlines the obligations upon the Shire in relation to insurances, milestone reporting and general legal requirements, and is included as **attachment 1**. It also provides for the release of the remaining \$18 million funding at the successful completion of the milestones.

The following reportable milestones have been recommended as a suitable timeframe for the detailed design project. These milestones align to and exceed the project milestones within the Corporate Business Plan relating to Keirnan Park and are achievable within allocated resources.

The budget overrun mentioned in the background resulted in value management options being produced by the lead consultant. This meant the progress in developing the design has been delayed by a number of months. Therefore, Officers propose revising the funding agreement to incorporate new milestone dates and scope as follows:

Current milestones:

Main Activities / milestones	Milestone date
Execution of Agreement	March 2022
Advertising of Tender for Stage 1A construction	30 July 2022
Evidence of construction award for Stage 1A	30 December 2022
Project completion date	30 June 2024

Revised Milestones:

Main Activities / milestones	Milestone date
Execution of Agreement	May 2022
Advertising of Tender for Stage 1A construction	31 December 2022
Evidence of construction award for Stage 1A	30 July 2023
Project completion date	30 December 2024



The following payment instalments have been proposed by the Department. Officers consider this to be fair and reasonable:

A Serial	B Milestone	C Instalment Amount
1	Execution of Agreement	\$3 million
2	Acquittal of FAA1 (completion of planning, business case and detailed design stage) and evidence of construction award for all elements of Stage 1A	\$10 million
3	Evidence provided that 50% of the estimated project cost (i.e. \$9 million has been expended against eligible items)	\$4.9 million
4	Acquittal of the Grant	\$100,000

The \$3 million commitment upon execution of the agreement was based on the Early Works package outlined above. The Shire has proceeded with the power and ground water supply portion of the works to enable the detailed design to progress, based on advice from the Department.

Council is requested to authorise the Chief Executive Officer and Shire President to execute the FAA2 once a response from the Department has been received.

Options and Implications

Option 1

That Council:

1. REQUESTS the Chief Executive Officer renegotiate the FAA2 in line with the reduced scope in accordance with Officer Recommendation in agenda item 10.2.1;
2. AUTHORISES the Shire President and Chief Executive Officer to execute a revised Financial Assistance Agreement between the Department of Local Government, Sport and Cultural Industries and Shire of Serpentine Jarrahdale for the WA Recovery Plan – Stage 1A construction for the Keirnan Park Recreation Precinct, by affixing the common seal.

Implications: The project can proceed with the enabling works, tender and construction phase of the project.

Option 2

That Council:

1. REQUESTS the Chief Executive Officer renegotiate the FAA2 in line with the reduced scope in accordance with Officer Recommendation in agenda item 10.2.1;
2. REQUESTS the Chief Executive Officer renegotiate the FAA2 milestones to complete the design works and only proceed with tendering for the works at an agreed milestone date;
3. AUTHORISES the Shire President and Chief Executive Officer to execute a revised Financial Assistance Agreement between the Department of Local Government, Sport and Cultural Industries and Shire of Serpentine Jarrahdale for the WA Recovery Plan – Stage 1A construction for the Keirnan Park Recreation Precinct, by affixing the common seal.
4. REQUESTS the Chief Executive Officer to bring a report back to Council advising of how/when Stage 1A construction can be executed.



Implications: The project can proceed to the construction phase with revised timelines.

Option 3

That Council:

1. DOES NOT AUTHORISE the Shire President and Chief Executive Officer to execute the Financial Assistance Agreement between the Department of Local Government, Sport and Cultural Industries and Shire of Serpentine Jarrahdale for the WA Recovery Plan – Stage 1A construction for the Keirnan Park Recreation Precinct; and
2. REQUESTS the Chief Executive Officer renegotiate the Financial Assistance Agreement (FAA1) between the Department of Local Government, Sport and Cultural Industries to accommodate the early works incurred costs and termination costs as a result of this resolution.
3. REQUESTS the Chief Executive Officer to return any unspent grant monies.

Implications: Put a hold on the entire Keirnan Park project, terminate the consultants' contract with possible termination costs. Shire reputation affected by not completing the project which may, in turn affect future grant funding opportunities.

Option 1 is recommended.

Conclusion

The Shire has received the draft Financial Assistance Agreement from the Department of Local Government, Sport and Cultural Industries for the second committed instalment of the Keirnan Park Recreation Precinct funding. The agreement is intended to administer the second instalment of funding, \$18 million of the total \$20 million, to fund the project Enabling Works, Tender and Construction Phase. Officers are proposing that the funding agreement be revised to capture the reduced scope and changes to milestones outlined in this report. If the State agrees to these changes, this report seeks to authorise the Shire President and Chief Executive Officer to execute a revised agreement.

Attachments (available under separate cover)

- **10.2.2 - attachment 1** – Keirnan Park Recreation Precinct - Department of Local Government Sport and Cultural Industries - Financial Assistance Agreement – WA Recovery Plan – Stage 1A Construction (E22/1813)

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 4.2	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

Execution of the Financial Assistance Agreement (FAA2) will result in the Shire receiving a total of \$18 million disbursed in four tranches of \$3 million in 2021/2022 Financial Year, \$10 million and \$4.9 million in 2022/2023 Financial Year, and \$100,000 from the Department in the 2023/2024 Financial Year.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There is no material risk associated with Option 1.						
2	Due to the time associated with requesting amendments, the Chief Executive Officer may not be able to secure a finalised agreement prior to caretaker mode, resulting in a delay of receiving funds and project progression.	Nil	Organisational Performance	Possible	Moderate	MODERATE	Nil
3	Enabling Works, Tender and start of the Construction Phase funding is not completed in full in 2022/2023 requiring municipal funds to complete in future years.	Nil	Financial	Rare	Major	LOW	Nil



Voting Requirements: Simple Majority

OCM102/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Duggin, seconded Cr Atwell

That Council:

- 1. REQUESTS the Chief Executive Officer renegotiate the FAA2 in line with the reduced scope in accordance with Officer Recommendation in agenda item 10.2.1;**
- 2. AUTHORISES the Shire President and Chief Executive Officer to execute a revised Financial Assistance Agreement between the Department of Local Government, Sport and Cultural Industries and Shire of Serpentine Jarrahdale for the WA Recovery Plan – Stage 1A construction for the Keirnan Park Recreation Precinct, by affixing the common seal.**

CARRIED UNANIMOUSLY 9/0



10.2.3 – Audit of Natural Area Reserves (SJ1222)	
Responsible Officer:	Acting Manager Operations
Senior Officer:	Director Infrastructure Services
Disclosure of Officer's 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 present the outcome of the Natural Area Reserves audit, CEO KPI (No. 8) "Conduct an audit of the Natural Area Reserves for those reserves under the Shire's control by June 2022 for Council consideration".

Relevant Previous Decisions of Council

Nil.

Background

In alignment with the Strategic Community Plan (Place – A sustainable natural environment) and the CEO's KPI (No. 8) "Conduct an audit of the Natural Area Reserves for those reserves under the Shire's control by June 2022 for Council consideration", an audit of the natural reserves under the Shire's management was undertaken.

As part of this audit, all the available data in the Shire's various data bases regarding the natural reserves was collated, analysed and used to prepare a reserve management matrix (**attachment 2**) which will be used as a guiding document in planning and undertaking operational works, upgrades and renewals during maintenance and management of the reserves. Information contained in the matrix was collated from sources such as the Shire's existing Management Plans, State Government environmental data sets that are used to populate the Shire's Intramaps program, Landcare SJ records and the Shire's own operations and works plans.

Community / Stakeholder Consultation

Nil.

Policy and Concept Forum

The findings of the audit were presented to the Elected Members during a Policy and Concept Forum on 30 March 2022, refer **attachment 1**.

Meeting Date	30 March 2022
Councillors in Attendance	Cr Rich, Cr Atwell, Cr Byas, Cr Coales, Cr Duggin, Cr Singh, Cr Strange, Cr Strautins



Statutory Environment

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Local Government Act 1995*
- *Agricultural and Related Resources Protection Act 1976*
- *Biosecurity Agricultural Management Act 2007*
- *Environmental Protection Act 1986*
- *Biodiversity Conservation Act 2016*
- *Environmental Protections (Clearing of Native Vegetation) regulations 2004*

Local Government Plans

- Strategic Community Plan – 2017 -2027
- Local Biodiversity Strategy – 2010
- *Plants Pests Local Law 1986*

Council Policies

- Policy 2.3.1 – Control of weeds
 - Outlines Council actions around controlling weeds on Shire managed lands.
- Policy 5.1.5 – Reserve Improvement / Development by Community
 - Outlines processes for Community groups to follow when carrying out improvement or development works on Council reserves.

Local Planning Policies

- Policy 2.7 – Biodiversity planning policy
 - To protect maintain and improve viability of habitats and assist in achieving conservation goals outlined in the Local Biodiversity Strategy
- Policy 4.13 – Revegetation Policy
 - Outlines the requirement for revegetation on land within the Shire, including Council land.
- Policy 4.16- Landscape and vegetation policy
 - Supports the protection of biodiversity within the Shire through the Local Biodiversity Strategy.

Comment

There are currently 49 Natural Area Reserves that are maintained and managed by the Shire, all of which have been audited and analysed in developing the reserve management matrix. The reserve management matrix was developed around key criteria that reflected main functions and influencing factors that determine prioritisation and scope of maintenance work required in each reserve. This includes the following:

- Conservation values;
- Environmental constraints;



- Weed/dieback control;
- Fauna/feral animal control;
- Existing infrastructure;
- Community involvement (volunteer groups);
- Fire Management;

These key criteria have been further analysed to prioritise and determine specific maintenance requirements in each reserve. In addition, scope of maintenance work required in each reserve has also been largely dependent on the conservation value of the reserves.

The following information was revealed during the audit process:

- Total Natural Area Reserves managed by the Shire – 49;
- 16 reserves are located on a Bush Forever sit;
- 23 Reserves have Threatened Ecological Communities (TEC);
- 7 Reserves contain Declared Rare Flora (DRF);
- 12 reserves have Dieback infestations.

The reserve management matrix has been used to prioritise the reserves for maintenance works, and below is the summary of the outcome of the initial analysis:

Priority	No. of Reserves
Very High	3
High	6
Medium	15
Medium/Low	3
Low	22

Natural Area Reserves have also been analysed and prioritised in regard to conservation values and below is the summary of that evaluation:

Priority 1 highest and 5 lowest	No. of Reserves
1	6
2	8
3	14
4	9
5	12

This reserve management matrix will be used as the guiding document for the management of reserves whilst also being used as a tool for preparing future operational budgets and funding applications.



Options and Implications

Option 1

That Council:

1. NOTES the outcome of the Natural Area Reserves Audit; and
2. ADOPTS the Reserves Management matrix as contained within **attachment 2**.

Option 2

That Council DOES NOT ADOPT the Reserves Management matrix as contained within **attachment 2**.

Option 1 is recommended.

Conclusion

Officers recommend that Council notes the natural area reserves audit and adopts the Reserves Management matrix as a guiding document for management of the reserves and to support additional funding and an ongoing maintenance program.

Attachments (available under separate cover)

- **10.2.3 - attachment 1** – Audit of Natural Reserves - EMG / Councillor Workshop- Power point presentation (IN22/5919)
- **10.2.3 - attachment 2** – Reserves Management Matrix (extract) (E22/3731)

Alignment with our Strategic Community Plan

Outcome 2.2	A sustainable natural environment
Strategy 2.2.1	Develop, maintain and implement plans for the management and maintenance of Shire controlled parks, reserves, and natural assets

Financial Implications

Nil.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	Nil						
2	Risk of not adopting the recommendation – reputation, financial, environmental	Shire Management Plans, maintenance schedules, Policies and procedures.	Environment / Heritage	Rare	Moderate	LOW	Adopt the recommendation

Voting Requirements: Simple Majority

OCM103/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Duggin, seconded Cr Atwell

That Council:

1. NOTES the outcome of the Natural Area Reserves Audit; and
2. ADOPTS the Reserves Management matrix as contained within attachment 2.

CARRIED UNANIMOUSLY 9/0



10.2.4 - Award Request for Tender – RFT 01/2022 – Orton Road and Soldiers Road – Engineering Consultant (SJ3829)	
Responsible Officer:	Strategic Projects Lead
Senior Officer:	Director Infrastructure Services
Disclosure of Officer's 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 advise Council of submissions received in relation to RFQ 01/2022 Orton Road and Soldiers Road – Engineering Consultant and seek Council approval 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 2021/2022 Annual Budget.

Background

The Shire had secured funding through the State election commitment to rehabilitate three major roads (hypergrowth road upgrades) including Orton Road, Kargotich Road and Soldiers Road. Orton and Soldiers Roads are the subject of this report.

Soldiers Road

The project consists of three sections:

- Section A is located between Abernethy Road to Turner Road.
- Section B is located between 140m North of Cardup Siding Road to Daisy Road.
- Section C is located between Bushlark Close to Keirnan Street.

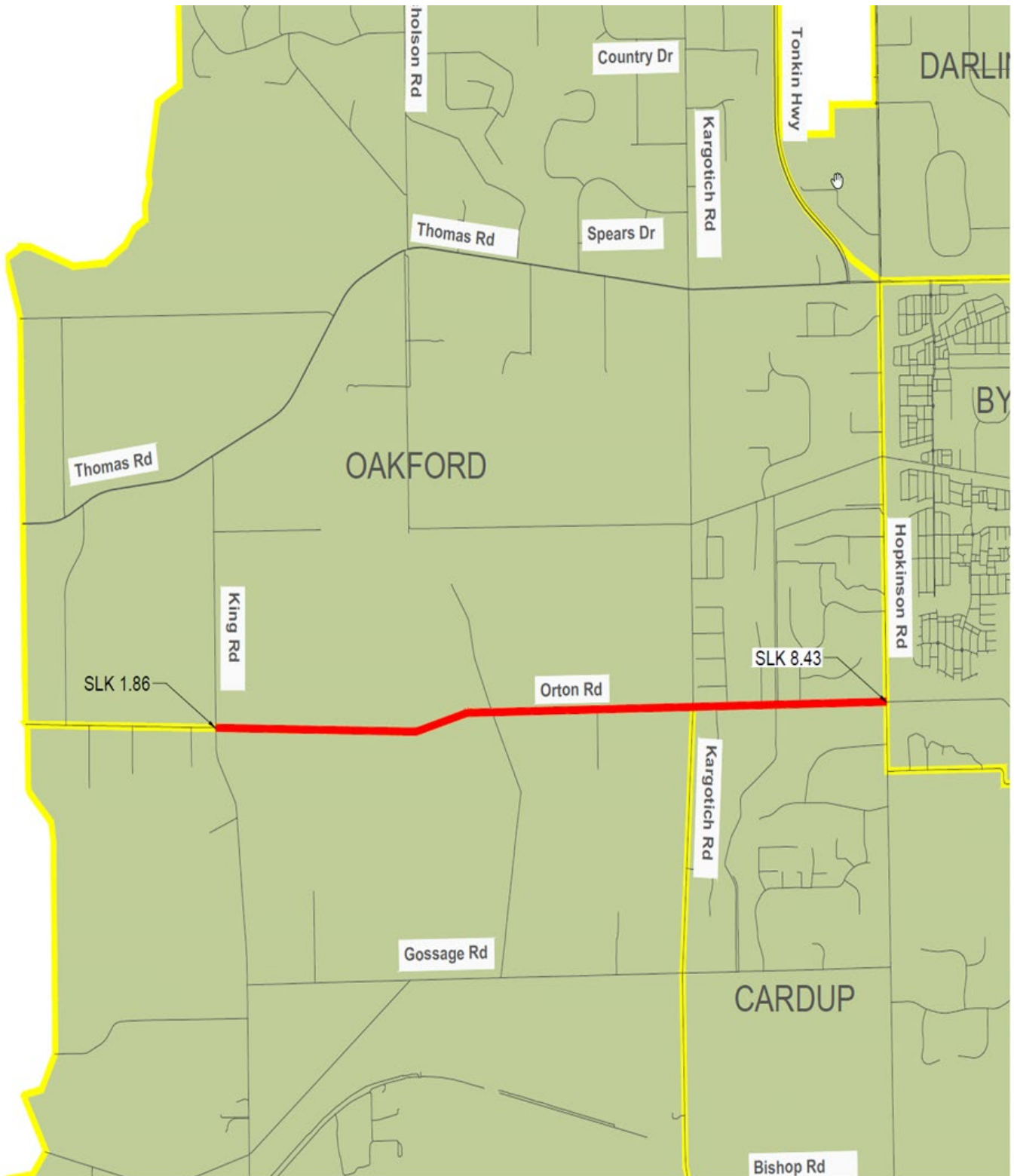
Orton Road

Section of the Orton Road between King Road (SLK 1.855) and Hopkinson Road.

The scope of design consultancy works include locating of the existing underground utility services, undertake a topographic survey, arboriculture assessment of all mature trees, Aboriginal Cultural Heritage Assessment, public consultation, extensive pavement investigation, design and drafting of the proposed road upgrade, assessment of existing drainage infrastructure elements, bridge design, preparation of engineering report, specifications and drawings, preparation of tender documents for construction.



The total approved project budget included in the 2021-22 capital projects budget for the design and documentation of both roads is \$550,000. The formal request for quotation through WALGA panel has been completed and based on the submissions received the evaluation panel have selected the appropriate respondent. Council approval to award the contract is required due to the value of the contract exceeding tender threshold \$250,000.



Orton Road – Section from King Road to Hopkinson Road



Soldiers Road – Section A, B and C



Community / Stakeholder Consultation

All residents with direct access from Orton Road and Soldiers Road will be consulted during the design process. Design concept plans will be issued to residents seeking their comments and all comments received during the consultation period will be considered as part of final design development.

Submissions

The Request for Quote RFQ 01/2022 – Orton Road and Soldiers Road – Engineering Consultant – was advertised on Thursday 3 March 2022 and closed at 2.00pm on Monday 21 March 2022.

The Request For Quotation (RFQ) was advertised on WALGA's eQuotes platform.

Three (3) submissions were received by the Shire and the submissions are summarised in **CONFIDENTIAL attachment 1**.

All submissions complied with the RFQ guidelines and compliance criteria.

Tender submissions were received from the following engineering consultancies:

#	Company Name
1	Cardno (WA) Pty Ltd
2	Talis Consultants
3	WML Consultants Pty Ltd

Evaluation Panel

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

- Manager Engineering Services;
- Acting Engineering Design Lead;
- Strategic Projects Lead.

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 tenderers. 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	40%
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	30%
Tenderers' Resources, Key Personnel, Skills and Experience with: <ul style="list-style-type: none">• Capacity to deliver the services including:• Key personnel / Professional skills;	20%



EVALUATION CRITERIA	WEIGHTING
<ul style="list-style-type: none">Describe the key personnel who will be involved in the work, including past work of a similar nature.	
Demonstrated Understanding/Experience with: <ul style="list-style-type: none">Project schedule;Process for delivery of goods/services;Project Management Plan;Critical assumptions; andAny additional information.	10%

Comment

All tender submissions were assessed against the evaluation criteria and the qualitative and quantitative results of this assessment and prices are documented in **CONFIDENTIAL attachment 1**.

Following the assessment of all tender submissions, against the selection criteria, the tender submitted by WML Consultants 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 quote submission made by WML Consultants 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.

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**

That Council:

1. APPROVES the following budget variation to fund the shortfall for Orton and Soldiers Road as follows:

Account Number	Type	Account Description	Debt \$	Credit \$
6400-80296-4802-0000	Increase Income	Upgrades of Roads - Orton - Grant - Capital - State		20,000
6400-80296-6600-0000	Increase Expenditure	Upgrades of Roads - Orton - Capital Purchases	20,000	
6400-80345-4802-0000	Increase Income	Upgrades of Roads - Soldiers Rd - Grant - Capital - State		150,000
6400-80345-6600-0000	Increase Expenditure	Upgrades of Roads - Soldiers Rd - Capital Purchases	150,000	

2. AWARDS Tender RFT 01/2022 – Orton and Soldiers Road – Engineering Consultant to WML Consultants Pty Ltd to the value of \$630,422.78, excluding GST, as contained within **CONFIDENTIAL attachment 1**; and
3. AUTHORISES the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 01/2022 – Orton and Soldiers Road – Engineering Consultant.

Option 2

That Council DOES NOT AWARD the contract and retender.

Option 3

That Council DOES NOT AWARD the contract and DOES NOT retender i.e. – nil action.

Option 1 is recommended.

Conclusion

WML Consultants 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 WML Consultants Pty Ltd.

Attachments (available under separate cover)

- **10.2.4 – CONFIDENTIAL attachment 1** – RFT 01-2022 - Orton and Soldiers Road - Engineering Consultant - Confidential Evaluation Report (E22/3121)

**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 Asset Management Plans

Financial Implications

There is a current budget allocated of \$350,000 for Orton Road and \$200,000 for Soldiers Road. This is fully grant funded, of which the Shire has received the first instalment in 2021/22. To accommodate the RFQ as well as any internal capital supervision costs associated with the project, the following budget adjustment is required:

Account Number	Type	Account Description	Debt \$	Credit \$
6400-80296-4802-0000	Increase Income	Upgrades of Roads - Orton - Grant - Capital - State		20,000
6400-80296-6600-0000	Increase Expenditure	Upgrades of Roads - Orton - Capital Purchases	20,000	
6400-80345-4802-0000	Increase Income	Upgrades of Roads - Soldiers Rd - Grant - Capital - State		150,000
6400-80345-6600-0000	Increase Expenditure	Upgrades of Roads - Soldiers Rd - Capital Purchases	150,000	
Reason: Additional budget required for Orton Road and Soldiers Road design based on RFQ received. The increase in expenditure is offset by an increase in grant funding, of which the Shire has received the full first instalment in 2021/22.				



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	The consultant not able to complete the scope in timely manner.	Proposed project timeline that has been accepted by consultant.	Reputation	Possible	Moderate	MODERATE	Stablish regular follow up routine and provide necessary support if required.
2	The Shire will not be able to meet the specified milestone for delivering the design and specification. CEO KPI will not be achieved.	Nil	Reputation	Likely	Moderate	SIGNIFICANT	Nil
3	Best Value for money not being achieved.	Nil	Financial	Likely	Moderate	SIGNIFICANT	Nil

**Voting Requirements:** Absolute Majority**OCM104/05/22****COUNCIL RESOLUTION / Officer Recommendation****Moved Cr Singh, seconded Cr Duggin****That Council:**

- 1. APPROVES the following budget variation to fund the shortfall for Orton and Soldiers Road as follows:**

Account Number	Type	Account Description	Debt \$	Credit \$
6400-80296-4802-0000	Increase Income	Upgrades of Roads - Orton - Grant - Capital - State		20,000
6400-80296-6600-0000	Increase Expenditure	Upgrades of Roads - Orton - Capital Purchases	20,000	
6400-80345-4802-0000	Increase Income	Upgrades of Roads - Soldiers Rd - Grant - Capital - State		150,000
6400-80345-6600-0000	Increase Expenditure	Upgrades of Roads - Soldiers Rd - Capital Purchases	150,000	

- 2. AWARDS Tender RFT 01/2022 – Orton and Soldiers Road – Engineering Consultant to WML Consultants Pty Ltd to the value of \$630,422.78, excluding GST, as contained within CONFIDENTIAL attachment 1; and**
- 3. AUTHORISES the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 01/2022 – Orton and Soldiers Road – Engineering Consultant.**

CARRIED UNANIMOUSLY 9/0

**10.2.5 - Reclassification and Agreement for Transfer of Thomas Road to Main Roads Western Australia (SJ1369)**

Responsible Officer:	Strategic Projects Lead
Senior Officer:	Director Infrastructure Services
Disclosure of Officer's 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 inform Council of Main Roads Western Australia (MRWA) proposal to take administrative control and ownership of Thomas Road from Tonkin Highway to South Western Highway. (**attachment 1**)

Relevant Previous Decisions of Council

Ordinary Council Meeting – 27 April 2016 – OCM066/04/16 - COUNCIL RESOLUTION / Officer Recommendation

That Council:

- 1. Note the implications, findings and recommendations outlined in this report.*
- 2. Note that a Town Planning Scheme No.2 amendment will be prepared and presented to Council to remove Thomas Road as an infrastructure item from the Byford Development Contribution Arrangement.*
- 3. Request Main Roads WA to formally initiate the process to proclaim Thomas Road between Tonkin Highway and South Western Highway as a 'main road' pursuant to Section 13(3) of the Main Roads Act 1930, as amended.*

Background

Thomas Road is identified as an 'Other Regional Road' under the Metropolitan Region Scheme (MRS), providing a road connection between South Western Highway through to Tonkin Highway and Rockingham Road in Kwinana. The draft State Planning Policy (SPP) Perth Metropolitan Freight Network identifies Thomas Road as a 'primary freight route', with the portion of Thomas Road between Tonkin Highway and South Western Highway designated as being under the jurisdiction of the Shire of Serpentine Jarrahdale. The remaining section of Thomas Rd between Tonkin Highway and Rockingham Road is owned and managed by MRWA.

To date, the Shire has been supportive of MRWA by maintaining the section of Thomas Road between Tonkin Highway and South Western Highway to a satisfactory standard for use by the freight industry and commuter vehicles. Recognising the projected increase in traffic volumes, the functional requirements for the road network, providing for regional freight, increasing use of

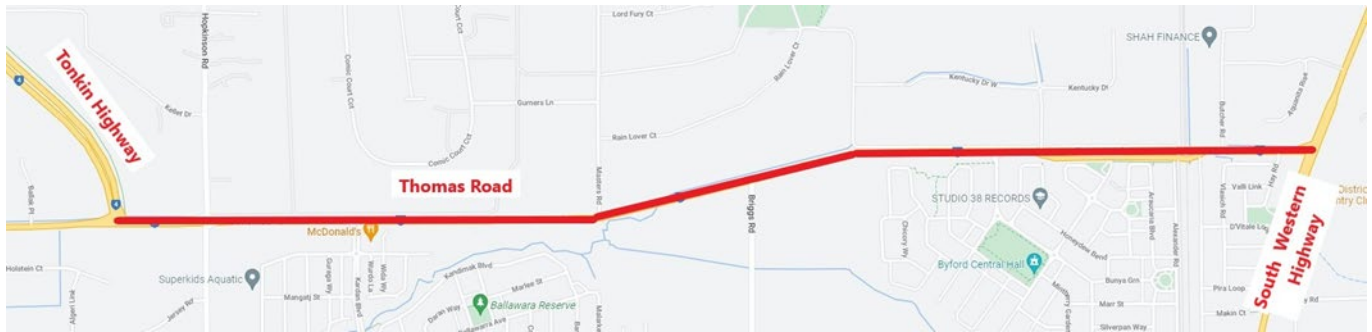


Restricted Access Vehicles (RAV), management and maintenance of Thomas Road is deemed to be outside the responsibility of the Shire.

MRWA took responsibility for Thomas Road between Kwinana Freeway and Tonkin Highway in 2008, following the extension of Tonkin Highway to Thomas Road. The Shire continued to seek transfer of responsibility for the remaining section of Thomas Road and this was unanimously endorsed by Council at its Ordinary Council Meeting held on 27 April 2016.

The Shire subsequently wrote to main roads in May 2016 followed by additional requests in June 2017 and January 2019 seeking transfer of the road to MRWA. Main Roads WA responded that, following an assessment, Thomas Road would be considered for transfer in the 2021/2022 financial year. A classification assessment was provided to the Shire in September 2021 followed by discussions and exchange of information between the Shire Officers and MRWA representatives to facilitate the transfer of Thomas Road has been in progress.

On 4 April 2022 Main Roads informed the Shire that they propose to take administrative control of Thomas Road from Tonkin Highway to South Western Highway, effective 30 May 2022.



Thomas Road – Section between Tonkin Highway and South Western Highway

Community / Stakeholder Consultation

Nil.

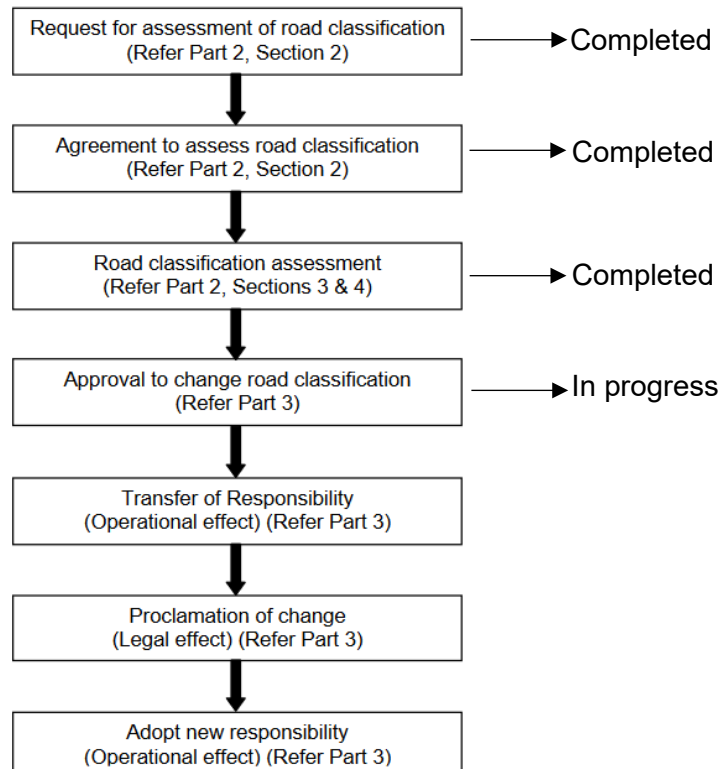
Statutory Environment

- *Planning and Development Act 2005*
- Metropolitan Region Scheme
- *Main Roads Act 1930*
- Town Planning Scheme No.2 - Amendment 208

Comment

The Shire has received confirmation from MRWA that they propose to take full ownership and management responsibility for Thomas Road from Tonkin Highway to South Western Highway effective 30 May 2022 as shown on the agreed Asset Responsibility Plans (**attachment 2**).

The MRWA road responsibility transfer Guidelines contain the policies and procedures associated with road classification and are also applicable when reclassifying existing roads. The process as outlined in the Guidelines for the transfer of road responsibility between State and Local Government is as follows:

**Process for Transfer of Road Responsibility Between State and
Local Government****Byford Development Contribution Plan**

Byford Development Contribution Area of the Shire's Town Planning Scheme No.2 (TPS2) originally identified Thomas Road as a development contribution item. The future upgrades to Thomas Road is currently included as a DCP Infrastructure item, however as the proposed Amendment 208 to Town Planning Scheme No. 2 is still under consideration by the Western Australian Planning Commission, the Shire will make a deputation to the WAPC when the Amendment is considered at their Statutory Planning Committee (prior to being sent to the Minister for final approval), to have the item removed, or amended to reflect only the historic costs expended from the DCP (guidance is currently being sought on the correct administrative approach in this regard), and will subsequently remove all remaining costs associated with Thomas Road from the DCP.

The transfer of Thomas Road is not intended to alter the current agreement that is in place between the Shire and MRWA for completion of the Metronet Byford Rail Extension (Thomas Road Over Rail Project). Also, the duplication of Thomas Road between Tonkin Highway and South Western Highway that recently has been announced will occur separately to the transfer.

Once the transfer of this section of Thomas Road to MRWA is completed, the entire length of Thomas Road from Rockingham Road to South Western Highway will be under MRWA administration.

Following the transfer of the ownership of the road, below items will remain the responsibility of the Shire:

- All the existing paths, horse trails and equestrian bridle path;
- Medians kerbed island & traffic safety systems on side roads;



- Directional and information signage (non-regulatory signage);
- Bus shelters;
- Street lighting except bridge/underpass in-built lighting (50% of the Capital & Operating cost for provision of lighting will be provided by MRWA annually) - refer to Page 4 of Main Roads lighting guidelines – Part B (**attachment 5**);
- Verges, including landscaping, irrigation, bollards, fencing and gates, entry statements and advertising seating; and
- Public art.

Refer to Asset Responsibility Table (**attachment 3**) and Operational Boundaries and Asset Responsibilities document (**attachment 4**) for further detail.

Options and Implications

Option1

That Council:

1. TRANSFERS full administrative responsibility for the section of Thomas Road from Tonkin Highway to South Western Highway to Main Roads WA; and
2. AUTHORISES the Chief Executive Officer to sign the agreement as contained within **attachment 1** on behalf of the Shire of Serpentine Jarrahdale

Option 2

That Council DOES NOT TRANSFER the ownership of the section of Thomas Road between Tonkin Highway and South Western Highway to Main Roads WA.

Option 1 is recommended.

Conclusion

For all the reasons outlined in this report and in the interests of road safety, it is recommended that the Shire transfers the responsibility for the remaining section of Thomas Road by way of a written agreement. Transferring ownership of Thomas Road to MRWA will result in substantial cost savings to the Shire in terms of road maintenance costs. It will also have a positive impact in regard to overall asset depreciation ratios and asset liabilities for the Shire.

Attachments (available under separate cover)

- **10.2.5 - attachment 1** –Reclassification and Agreement for Transfer of Thomas Road to Main Roads – Agreement (IN22/7002)
- **10.2.5 - attachment 2** - Asset Responsibility plans (IN22/7587)
- **10.2.5 - attachment 3** - Asset Responsibility Excel Table (IN22/7586)
- **10.2.5 – attachment 4** - Operational boundaries and asset responsibilities (IN22/7588)
- **10.2.5 – attachment 5** - Main Roads lighting guidelines – Part B: Application and Approval (IN22/7968)



Alignment with our Strategic Community Plan

Outcome 2.2	A sustainable natural environment
Strategy 2.2.1	Develop, maintain and implement plans for the management and maintenance of Shire controlled parks, reserves, and natural assets
Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local businesses within the district.
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 Asset Management Plans

Financial Implications

The funding arrangements for the maintenance of Thomas Road has significant financial implications for the Shire and other stakeholders if the Shire keep the full administrative responsibility for Thomas Road from Tonkin Highway to South Western Highway.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	Nil						
2	Financial implications for the Shire and other stakeholders	Nil	Financial	Almost Certain	Major	HIGH	Nil



Voting Requirements: Simple Majority

OCM105/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strange, seconded Cr Duggin

That Council:

- 1. TRANSFERS full administrative responsibility and ownership for the section of Thomas Road from Tonkin Highway to South Western Highway to Main Roads WA; and**
- 2. AUTHORISES the Chief Executive Officer to sign the agreement as contained within attachment 1 on behalf of the Shire of Serpentine Jarrahdale.**

CARRIED UNANIMOUSLY 9/0



10.2.6 - Minutes of the Rivers Regional Council – 21 April 2022 (SJ581)	
Responsible Officer:	Manager Governance and Strategy
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

Information	For the Council / Committee to note.
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Report Purpose

The purpose of this report is to enable Council to note the minutes of the Rivers Regional Council meeting held on 21 April 2022.

Relevant Previous Decisions of Council

Nil.

Background

The Rivers Regional Council (RRC) is a regional local government established under s3.61 of the *Local Government Act 1995*. The Shire of Serpentine Jarrahdale is a member of the Rivers Regional Council.

The RRC provides waste services on behalf of member local governments.

Community / Stakeholder Consultation

Nil.

Statutory Environment

From a legislative perspective, the RRC is a distinct local government entity. Except for the sections listed in s3.66 of the Act, RRC is required to comply with the Act as any other local government.

Comment

On 21 April 2022 an Ordinary Council Meeting of the RRC was held. The unconfirmed minutes of the meeting is contained in **attachment 1**. While Council is under no obligation to consider the minutes of the meeting, the unconfirmed minutes are presented for Council's information. Council's decision on this matter does not confer endorsement or otherwise of the minutes. The confirmation of minutes will be a matter for the members of the RRC at their next meeting. The minutes do not record any contentious matters that require further attention of Council at the time.



Options and ImplicationsOption1

That Council NOTES the unconfirmed minutes of the Rivers Regional Council meeting held on 21 April 2022.

Option 2

That Council DOES NOT NOTE the unconfirmed minutes of the Rivers Regional Council meeting held on 21 April 2022.

Option 1 is recommended.

Conclusion

As a member of the RRC, the unconfirmed minutes of the RRC Ordinary Council Meeting held on 21 April 2022 are attached for Council's information.

Attachments (available under separate cover)

- **10.2.6 - attachment 1** - Rivers Regional Council Ordinary Council Meeting Minutes – 21 April 2022 (IN22/8424)

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

Nil.

Voting Requirements: Simple Majority

OCM106/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Singh

That Council NOTES the unconfirmed minutes of the Rivers Regional Council meeting held on 21 April 2022.

CARRIED UNANIMOUSLY 9/0



OCM107/05/22

COUNCIL RESOLUTION

Moved Cr Rich, seconded Cr Strange

In accordance with clause 11.1(c) of the *Standing Orders Local Law 2002 (as Amended)* that the Council now adjourn for a period of 10 minutes at 8:47pm.

CARRIED UNANIMOUSLY 9/0

Officers assisting the Meeting stopped the recording of the Meeting at 8:49pm.

Officers assisting the Meeting resumed the recording of the Meeting at 8:57pm.

Presiding Member, Councillor Rich reconvened the meeting at 8:57pm and performed a rollcall, with the following in attendance:

Councillors: M Rich.....Presiding Member

D Atwell

M Byas

R Coales

M Dagostino

T Duggin

G Singh

L Strange

D Strautins

Officers: Mr P Martin.....Chief Executive Officer

Mr B Oliver.....Acting Director Community and Organisational
Development

Mr A TrosicDirector Development Services

Mr F SullivanDirector Corporate Services

Mr R NajafzadehDirector Infrastructure Services

Dr K ParkerManager Governance and Strategy

Ms M Gibson.....Governance Officer – Council and Committees
(Minute Taker)



10.3 Corporate Services reports

10.3.1 - Confirmation of Payment of Creditors – March 2022 (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

There is no previous Council decision relating to this matter.

Background

Nil.

Community / Stakeholder Consultation

Not Applicable.

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(1) of the *Local Government (Financial Management) Regulations 1996* requires where a local government has delegated authority to make payments from the municipal or trust fund, that a list of accounts paid be prepared each month showing each account paid since last such a list was prepared.

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 March 2022 to 31 March 2022 is provided in **attachment 1**.

Options and Implications

Option1

That Council RECEIVES the Schedule of Accounts as paid under delegated authority from 1 March 2022 to 31 March 2022, totalling \$3,772,351.04.

Option 2

That Council DOES NOT RECEIVE the Schedule of Accounts as paid under delegated authority from 1 March 2022 to 31 March 2022, totalling \$3,772,351.04.

Option 1 is recommended.

Conclusion

Nil.

Attachments (available under separate cover)

- **10.3.1 - attachment 1** – List of Creditors Accounts Paid and Submitted to Council for the period ending 31 March 2022 (E21/4501)
- **10.3.1 - attachment 2** – Westpac Purchasing Card Report – 28 January 2022 to 27 February 2022 (E22/3893)

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 March 2022 to 31 March 2022 totalled \$3,772,351.04.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	That Council accepts the payments	Provision of sufficient information and records to support the recommendation	Financial	Likely	Insignificant	LOW	
2	That Council does not accept the payments	Provision of sufficient information and records to support the recommendation	Financial	Unlikely	Insignificant	LOW	

Voting Requirements: Simple Majority

OCM108/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Singh, seconded Cr Strange

That Council RECEIVES the Schedule of Accounts as paid under delegated authority from 1 March 2022 to 31 March 2022, totalling \$3,772,351.04 as attached.

CARRIED UNANIMOUSLY 9/0



10.3.2 - Confirmation of Payment of Creditors – April 2022 (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

There is no previous Council decision relating to this matter.

Background

Nil.

Community / Stakeholder Consultation

Not Applicable.

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(1) of the *Local Government (Financial Management) Regulations 1996* requires where a local government has delegated authority to make payments from the municipal or trust fund, that a list of accounts paid be prepared each month showing each account paid since last such a list was prepared.

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 April 2022 to 30 April 2022 is provided in **attachment 1**.

Options and Implications

Option1

That Council RECEIVES the Schedule of Accounts as paid under delegated authority from 1 April 2022 to 30 April 2022, totalling \$5,384,753.57.

Option 2

That Council DOES NOT RECEIVE the Schedule of Accounts as paid under delegated authority from 1 April 2022 to 30 April 2022, totalling \$5,384,753.57.

Option 1 is recommended.

Conclusion

Nil.

Attachments (available under separate cover)

- **10.3.2 - attachment 1** – List of Creditors Accounts Paid and Submitted to Council for the period ending 30 April 2022 (E22/5527)
- **10.3.2 - attachment 2** – Westpac Purchasing Card Report – 28 February 2022 to 27 March 2022 - Redacted (E22/5498)

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 April 2022 to 30 April 2022 totalled \$5,384,753.57.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	That Council accepts the payments	Provision of sufficient information and records to support the recommendation	Financial	Likely	Insignificant	LOW	
2	That Council does not accept the payments	Provision of sufficient information and records to support the recommendation	Financial	Unlikely	Insignificant	LOW	

Voting Requirements: Simple Majority

OCM109/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Duggin, seconded Cr Singh

That Council **RECEIVES** the Schedule of Accounts as paid under delegated authority from 1 April 2022 to 30 April 2022, totalling \$5,384,753.57 as attached.

CARRIED UNANIMOUSLY 9/0

**10.3.3 – Monthly Financial Report – March 2022 (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 31 March 2022.

Relevant Previous Decisions of Council

*Special Council Meeting – 28 July 2021 – SCM051/07/21 - COUNCIL RESOLUTION – **extract***

11. That Council, in accordance with regulation 34 (5) of the Local Government (Financial Management) Regulations 1996, and AASB 1031 Materiality, the level to be used in statements of financial activity in 2021/22 for reporting material variances shall be:

- a) 10% of the amended budget; or*
- b) \$10,000 of the amended budget.*

Whichever is greater.

In addition, that the material variance limit be applied to total revenue and expenditure for each Nature and Type classification and capital income and expenditure in the Statement of Financial Activity.

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 a 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 31 March 2022.

The municipal surplus as at 31 March 2022 is \$19,747,608 which is favourable, compared to a budgeted surplus for the same period of \$6,468,418. The primary causes of this is \$6,200,000 of Non-Operating grants, received, but not budgeted to be spent in the current year as well as the delay in the construction of capital projects as outlined below.

Further information on 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

Favourable variance of \$256,912 due primarily to:

- works ahead of schedule for bushfire mitigation resulting in grant revenue of \$149,000 being recognised; and
- time and budget phasing of Main Roads Direct Grant funds received for road maintenance \$130,000.

Fees and Charges

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

Interest Earnings

Unfavourable variance of \$133,011 due primarily to:

- underlying low interest rates and timing for term deposit maturity.

Other Revenue

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

Profit on Asset Disposal

Unfavourable variance of \$51,944 due to:

- timing of sale of assets.

Operating Expenses

Employee Costs

Favourable variance of \$1,650,647 due to



- vacant positions primarily in:
 - Operations - \$499,974;
 - People and Culture - \$174,281;
 - Finance - \$162,620;
 - Project Design - \$153,359;
 - Strategic Planning - \$70,181;

Materials and Contracts

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

Utility Charges

Unfavourable variance of \$129,902 due to:

- due to timing of utility bills

Depreciation on Non-Current Assets

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

Interest Expenses

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

Insurance Expenses

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

Other Expenditure

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

Loss on Disposal of Assets

- No variance analysis required as net profit/loss variance to budget is less than \$10,000.

Other

Capital Expenditure

Favourable variance of \$2,512,858 for purchase of property, plant, and equipment primarily due to:

- the delay in supply and delivery of plant and fleet items due to impacts of COVID on supply chain.

Favourable variance of \$3,056,147 for purchase and construction of infrastructure primarily due to:

- government stimulus and market capacity impacting infrastructure capital projects, however following award of multiple tenders, Officers expect works to commence on a number of projects in the next quarter.

Refer to Capital Works Expenditure within **attachment 1** for further details.

Non-Operating Grants, Subsidies and Contributions

Favourable variance of \$1,867,183 due to:



- unbudgeted developer contributions received for Byford DCP, CIDCP, and West Mundijong DCP, Public Open Space - \$1,116,719; as well as
- \$464,450 of revenue in relation to gifted assets for Emergency Services vehicles; as well as;

the recognition of grant and contribution revenue for the following projects:

- Wright Road - \$151,545;
- Kingsbury Drive - \$84,459;
- Soldiers Road - \$50,000;

Proceeds from Disposal of Assets

Unfavourable variance of \$151,286 due to:

- timing of sale of assets

Repayment of Loans

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

Repayment of Leases

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

Transfers to/from Cash Backed Reserves (Restricted Assets)

Transfers to cash reserves are ahead of budget by \$1,027,485 largely due to:

- Unbudget transfers to reserve to the Byford DCP, CIDCP, and West Mundijong DCP reserves specific to unbudgeted contributions received as detailed above..

Transfers from cash reserve are behind budget by \$1,241,396 due to:

- Due to timing of capital expenditure projects funded from reserves.

Options and Implications

Option 1

That Council RECEIVES the Monthly Financial Report for 31 March 2022 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**.

Option 2

That Council DOES NOT RECEIVE the Monthly Financial Report for 31 March 2022, 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**.

Option 1 is recommended.

Attachments (available under separate cover)

- **10.3.3 - attachment 1** – Monthly Financial Report 31 March 2022 (E22/4998)



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 31 March 2021, the Shire's respective cash position was as follows:

Municipal Fund: \$9,054,433

Reserve Fund: \$2,004,330

Trust Fund: \$304,221

Risk Implications

Risk has been assessed on the basis of the Officer's Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	Nil.						
2	That Council does not receive the Monthly Financial Report for March 2022 leading to the Shire not meeting legislative requirements on financial reporting.	Provision of sufficient information and records to support the recommendation	Financial	Unlikely	Insignificant	LOW	Accept Officer Recommendation



Voting Requirements: Simple Majority

OCM110/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Singh, seconded Cr Duggin

That Council RECEIVES the Monthly Financial Report for 31 March 2022, 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

**10.3.4 – March 2022 Quarterly Budget Review (SJ3595)**

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

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 represents the quarterly review of the 2021/2022 Budget. A number of budget variations are proposed as part of this review.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 20 September 2021 – OCM264/09/21 – extract

That Council:

- 1. APPROVES the Infrastructure Fund request from Jarrahdale Community Collective to the value of \$55,000 ex GST (inclusive of 10% cost recovery amount for administrative purposes), with the delivery of project (expenditure of funds) conditional upon:
 - a) An agreed final design that meets both Shire of Serpentine Jarrahdale and Jarrahdale Community Collective objectives outlined in this report, to be developed in 2021/22.*
 - b) Jarrahdale Community Collective to secure remainder of any required project budget to meet agreed design, over and above Infrastructure Fund commitment from Council to deliver the project.*
 - c) Delivery of the project to be undertaken in the 2022/23 financial year.**
- 2. ENDORSES the administration of the \$30,000 Western Australian State Government funding committed to the Jarrahdale Outdoor Hub project and REQUESTS the Chief Executive Officer liaise with the appropriate Government Department to progress the funding agreement and NOTES a further report is to be presented to Council once the funding agreement is received.*

Ordinary Council Meeting – 16 August 2021 – OCM229/08/21 – extract

That Council:

- 1. APPROVES the Infrastructure Fund application from Darling Downs Residents Association for the 70 Acre Reserve Infrastructure Upgrade Project, to an allocated value of \$8,910 ex GST for delivery of the project in the 2021/22 financial year, consistent with the community support received via the consultation processes;*



Special Council Meeting – 28 July 2021 – SCM050/07/21 – extract

That Council ADOPTS, in accordance with section 6.2 of the Local Government Act 1995, the Municipal Fund Budget as contained in attachment 1, Statutory Statements and Notes (including supplementary information) for the year ending 30 June 2022 incorporating the following amendments:

- Remove 1 x Library Officer Position and replace with a 0.5 Economic Development Officer.*
- Allocate \$20,000 to fund purchase of Dress Uniforms for Bushfire Brigades volunteers, to be funded by a reduction of \$20,000 in casual wages line item within Emergency Services.*
- Reduction in SJ Rec Centre Refurbishment Capital Expenditure - \$446,060;*
- Remove transfer from Building Reserve to fund Library Reallocation - \$318,164;*
- Increase Capital Expenditure identified for Other Facilities Renewal in the amount of \$127,896;*
- Reallocate LRCI funding of \$446,060 which was set aside for the SJ Rec Centre Refurbishment to fund remaining portion of Library Relocation - \$318,164 and additional Other Facilities Renewal - \$127,896.*
- That in addition to point 10, that the budget be amended by transferring \$375,000 from Plant Reserve to the Plant line item for the purchase of an excavator and truck, subject to a further report being provided to Council and being approved by Council.*

Background

Changes to the Annual Budget are required during the year as circumstances change from when the Annual Budget was adopted by Council at the beginning of the financial year. Amendments to the Annual Budget will ensure that tight fiscal control is maintained on the Shire's finances.

Community / Stakeholder Consultation

There has been no community / stakeholder consultation regarding this recommendation.

Statutory Environment

Local Government Act 1995

6.8. Expenditure from municipal fund not included in annual budget

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*
 - (a) is incurred in a financial year before the adoption of the annual budget by the local government; or*
 - (b) is authorised in advance by resolution*; or*
 - (c) is authorised in advance by the mayor or president in an emergency.*



Comment

The 2021/22 Budget has been reviewed and approval is sought for the following budget adjustments for the reasons specified:

Capital Works

The following projects require adjustments to the current budget and require an additional total budget of \$12,022:

Account Number	Type	Account Description	Debit \$	Credit \$
6100-80190-6610-0000	Decrease Expenditure	Sharepoint – Carryforward Expenditure		51,070
Reason: Budget adjustment to remove Sharepoint project. An RFQ was completed, and the responses indicated a very similar product to the Minutes Manager Module in OneComm which can be used to manage council meetings end to end. It is recommended this project be deferred for 12 months and then reassess Council's appetite for the product in April 2023.				
6400-80256-6610-0000	Decrease Expenditure	Karnup Road and Wellard Road Shared Path - Carryforward Expenditure		3,908
Reason: Project is now complete, and budget no longer required.				
6400-80305-6600-0000	Increase Expenditure	Street Lighting – Karnup Road / Yangedi Road - Capital Expenditure	11,000	
6400-80306-6600-0000	Increase Expenditure	Street Lighting – Mundijong Road / Lampiter Drive - Capital Expenditure	3,000	
6400-80308-6600-0000	Increase Expenditure	Street Lighting – King Road / Coyle Road	1,500	
6400-80307-6600-0000	Decrease Expenditure	Street Lighting – Richardson Street / Summerfield Road		15,500
Reason: Quotes received for works indicate additional budget required for streetlighting at Karnup Road / Yangedi Road, Mundijong Road / Lampiter Drive and King Road / Coyle Road. Funds to come from the streetlighting project at Richardson Street / Summerfield Road as it has been identified that the site is High Voltage therefore requiring additional work that will exceed the current budget and may need to be considered in future budgets.				
6300-89996-4910-0000	Increase Income	Gift Assets – Emergency Services Vehicles – Capital Contribution		464,451
6300-89996-6600-0000	Increase Expenditure	Gift Assets – Emergency Services Vehicles – Capital Expenditure	464,451	
Reason: Budget variation to recognise contribution of 2 x Emergency services vehicles from DFES.				
6300-80273-6600-0000	Increase Expenditure	Mobile Library Van – Capital Expenditure	17,000	



Ordinary Council Meeting Minutes Monday, 16 May 2022

Account Number	Type	Account Description	Debit \$	Credit \$
Reason: Cost of the purchase of the van was \$59,307 which was higher than anticipated. Additional funds are required to fit out the van with shelving and storage, as well as air conditioning, awning, van wrap design and printing and installation of IT equipment so that the van can operate and function as the Mobile Library Service.				
6400-NEW-6600-0000	Increase Expenditure	Fire Danger Sign Upgrade – Capital Expenditure	50,000	
Reason: In respect of this proposal, the existing fire danger ratings system of Australia was developed in the 1960s. There have been significant advances in technology and in the science and understanding of fire behaviour. A new project is being undertaken nationwide, in order to prepare a new nationally consistent fire danger ratings system. This will make the system more clear and direct.				
The new system is proposed to go live on 1 September 2022. It is important for the Shire to be prepared for this change. New warning signs need to be in place which reflect the new national standard as of that date. This funding will be put towards upgrading of all signs, and also added to any other funding that the Shire receives to ensure fit for purpose signage can be installed. The Shire currently has 8 signs within the Shire and this budget will allow for the replacement of these signs, with the potential of 1-2 signs being replaced with digital signage that do not require manual adjustment by a volunteer each day.				

Operating Projects

The following operational needs have been identified as part of the March quarterly review. The result of these adjustments is a saving of \$12,022 which will be reallocated to facilitate the shortfall in funding required for capital project:

Account Number	Type	Account Description	Debit \$	Credit \$
3210-13300-4304-0000	Increase Income	Subdivision - Subdivision fees		10,000
2300-12400-4346-0000	Increase Income	Health – Fines and Penalties		4,000
2310-12600-4337-0000	Increase Income	Building Services – Building Archive Search Fees		5,000
2310-12600-4535-0000	Increase Income	Building Services – Commission Income		2,000
2400-12200-4346-0000	Increase Income	Rangers – Fines and Penalties		8,500
2400-12200-4380-0000	Increase Income	Rangers – Dog Registration		8,000
Reason: Variation to reflect an increase in forecasted revenue for 2021/22 based on the current year to date trend in income collected relating to Subdivision fees, Health and Ranger fines and penalties, Dog Registrations, Building Archive Fees and Commission income.				
4310-15904-6125-0000	Decrease Expenditure	Youth Week – Materials / Consumables		1,000



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Account Number	Type	Account Description	Debit \$	Credit \$
4310-15904-6386-0000	Decrease Expenditure	Youth Week - Advertising and Promotion		500
4310-15904-6386-0000	Decrease Expenditure	Youth Week - External Contractor		3,500
Reason: Youth week events were scaled back due to Covid restrictions, resulting in a saving of \$5,000.				
5100-17210-6386-0000	Decrease Expenditure	OneComm Project - Advertising and Promotion		4,000
Reason: Budget no longer required for Advertising and Promotion in relation to the OneComm Project in 2021/22 as communication relating to be project has been delivered in house using existing Shire resources.				
3230-13403-4425-0000	Increase Income	Waste Transfer Station - Sale of Recycled Material		15,000
3230-13403-6230-0000	Decrease Expenditure	Waste Transfer Station - Consultancy		25,000
3230-13403-6392-0000	Increase Expenditure	Waste Transfer Station - External Contractor	40,000	
Reason: Increase in the amount of waste being collected at Waster Transfer Station resulting in higher disposal costs. This is offset by an increase in income derived from the Sale of Recycled Material as well as a decrease in Consultancy expenditure.				
2400-12200-4134-0000	Increase Income	Rangers – Grant – Operating - WALGA		9,405
2400-12200-6050-0000	Increase Expenditure	Rangers – Training	9,405	
Reason: Grant to be received from WALGA to facilitate training relating to animal welfare and management during emergency event for Rangers.				
4300-15421-6276-0000	Decrease Expenditure	Friendly Neighbourhood – Grants and Sponsorships		3,200
4300-15420-6276-0000	Increase Expenditure	General – Grants and Sponsorships	3,200	
Reason: Additional budget for General Grants due to higher competitive applications received, which is to be offset by Friendly Neighbourhood grants which have had a lower than anticipated take up.				
3230-13400-6363-0000	Increase Expenditure	Waste Administration - Corporate Membership	24,365	
Reason: Budget required for Shire's 2021/22 Membership to the Rivers Regional Council				
4700-10300-6063-0000	Increase Expenditure	People and Culture- Staff Recruitment	10,000	
Reason: Due to a large staff turnover in 2021/22, additional budget is required for facilitation costs associated with recruitment including external advertising costs.				



Account Number	Type	Account Description	Debit \$	Credit \$
2400-12200-6326-0000	Increase Expenditure	Rangers - Legal Expenses	6,000	
Reason: Budget required for additional legal expenses to complex prosecutions.				
5300-17300-4700-0000	Increase Revenue	General Purpose Funding – Reimbursements		5,887
Reason: Unbudgeted miscellaneous reimbursements received which has resulted in additional income in excess of budget.				

Options and Implications

Option 1

That Council ADOPTS the March 2022 Quarterly Budget Review report and pursuant to section 6.8 of the *Local Government Act 1995*, and APPROVES the schedule of variations to the 2021/22 Budget as contained within this report.

Option 2

That Council DOES NOT ADOPT the March 2022 Quarterly Budget Review report and pursuant to section 6.8 of the *Local Government Act 1995*, and DOES NOT APPROVE the schedule of variations to the 2021/22 as contained within this report

Option 1 is recommended.

Conclusion

A quarter 3 review of the Annual Budget has been done. A list of budget variations requiring approval has been identified.

Attachments (available under separate cover)

Nil.

Alignment with our Strategic Community Plan

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

Any material variances that have an impact on the outcome of the budgeted closing surplus position are detailed in this report.

**Risk Implications**

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There are no significant risk associated with Council adopting the budget amendments.						
2	Council DOES NOT adopt budget adjustments leading to poor fiscal management resulting in financial risk due to overspending as well being non compliance with Financial regulations.	The organisation undertakes a quarterly finance and costing review prior to making council recommendation. Law restricts expenditure when expenditure from municipal fund not included in annual budget unless authorised by resolution.	Financial	Unlikely	Moderate	MODERATE	Accept Officer Recommendation (Option 1)



Voting Requirements: Absolute Majority

OCM111/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Duggin, seconded Cr Singh

That Council **ADOPTS** the March 2022 Quarterly Budget Review report and pursuant to section 6.8 of the *Local Government Act 1995*, and **APPROVES** the schedule of variations to the 2021/22 Budget as contained within this report and detailed below:

Account Number	Type	Account Description	Debit \$	Credit \$
6100-80190-6610-0000	Decrease Expenditure	Sharepoint – Carryforward Expenditure		51,070
6400-80256-6610-0000	Decrease Expenditure	Karnup Road and Wellard Road Shared Path - Carryforward Expenditure		3,908
6400-80305-6600-0000	Increase Expenditure	Street Lighting – Karnup Road / Yangedi Road - Capital Expenditure	11,000	
6400-80306-6600-0000	Increase Expenditure	Street Lighting – Mundijong Road / Lampiter Drive - Capital Expenditure	3,000	
6400-80308-6600-0000	Increase Expenditure	Street Lighting – King Road / Coyle Road	1,500	
6400-80307-6600-0000	Decrease Expenditure	Street Lighting – Richardson Street / Summerfield Road		15,500
6300-89996-4910-0000	Increase Income	Gift Assets – Emergency Services Vehicles – Capital Contribution		464,451
6300-89996-6600-0000	Increase Expenditure	Gift Assets – Emergency Services Vehicles – Capital Expenditure	464,451	
6300-80273-6600-0000	Increase Expenditure	Mobile Library Van – Capital Expenditure	17,000	
6400-NEW-6600-0000	Increase Expenditure	Fire Danger Sign Upgrade – Capital Expenditure	50,000	
3210-13300-4304-0000	Increase Income	Subdivision - Subdivision fees		10,000
2300-12400-4346-0000	Increase Income	Health – Fines and Penalties		4,000
2310-12600-4337-0000	Increase Income	Building Services – Building Archive Search Fees		5,000



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Account Number	Type	Account Description	Debit \$	Credit \$
2310-12600-4535-0000	Increase Income	Building Services – Commission Income		2,000
2400-12200-4346-0000	Increase Income	Rangers – Fines and Penalties		8,500
2400-12200-4380-0000	Increase Income	Rangers – Dog Registration		8,000
4310-15904-6125-0000	Decrease Expenditure	Youth Week - Materials/Consumables		1,000
4310-15904-6386-0000	Decrease Expenditure	Youth Week - Advertising and Promotion		500
4310-15904-6386-0000	Decrease Expenditure	Youth Week - External Contractor		3,500
5100-17210-6386-0000	Decrease Expenditure	OneComm Project - Advertising and Promotion		4,000
3230-13403-4425-0000	Increase Income	Waste Transfer Station - Sale of Recycled Material		15,000
3230-13403-6230-0000	Decrease Expenditure	Waste Transfer Station - Consultancy		25,000
3230-13403-6392-0000	Increase Expenditure	Waste Transfer Station - External Contractor	40,000	
2400-12200-4134-0000	Increase Income	Rangers – Grant – Operating - WALGA		9,405
2400-12200-6050-0000	Increase Expenditure	Rangers – Training	9,405	
4300-15421-6276-0000	Decrease Expenditure	Friendly Neighbourhood – Grants and Sponsorships		3,200
4300-15420-6276-0000	Increase Expenditure	General – Grants and Sponsorships	3,200	
3230-13400-6363-0000	Increase Expenditure	Waste Administration - Corporate Membership	24,365	
4700-10300-6063-0000	Increase Expenditure	People and Culture- Staff Recruitment	10,000	
2400-12200-6326-0000	Increase Expenditure	Rangers - Legal Expenses	6,000	
5300-17300-4700-0000	Increase Revenue	General Purpose Funding – Reimbursements		5,887

CARRIED UNANIMOUSLY 9/0



10.3.5 – Corporate Business Plan Performance Report – January to March 2022 (SJ940-3)	
Responsible Officer:	Manager Governance and Strategy
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

Information	For the Council to note.
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.

Report Purpose

The purpose of this report is to provide Council with a performance report against the 2021-25 Corporate Business Plan (CBP) for the period 1 January to 31 March 2022 and an amended CBP for consideration.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 21 March 2022 - OCM050/03/22 - COUNCIL RESOLUTION / Officer Recommendation

That Council:

- 1. NOTES the performance report against the 2021-25 Corporate Business Plan for the period 1 October to 31 December 2021 as contained in this report and attachment 1.*
- 2. ADOPTS the amendments to the Corporate Business Plan 2021-25 as outlined in this report and attachment 2.*

Background

On 16 August 2021, Council adopted the Shire of Serpentine Jarrahdale Corporate Business Plan 2021-25 (OCM228/08/21) and subsequently adopted amendments on 13 December 2021 (OCM356/12/21).

The Corporate Business Plan 2021-25 is the Shire of Serpentine Jarrahdale's four-year delivery program, aligned to the Shire's Integrated Planning and Reporting Framework (i.e. Strategic Community Plan, Annual Budget, Long Term Financial Plan and other supporting strategies). The purpose of the plan is to operationalise the Community's vision and the Shire's strategic objectives through the establishment of actions that address each strategy contained within the Strategic Community Plan.

The Shire of Serpentine Jarrahdale has established periodic performance reporting against the 2021-25 Corporate Business Plan to provide Council and the Community with an update towards



the achievement of these actions, such as the delivery of key projects and the successful implementation of service level changes.

Community / Stakeholder Consultation

Nil.

Statutory Environment

Local governments have a statutory obligation under s5.56(1) of the *Local Government Act 1995* (WA) ('the Act') to plan for the future of their district. Regulations have been made under s5.56(2) of the Act to briefly outline the minimum requirements to achieve this.

Regulations 19C and 19DA of the *Local Government (Administration) Regulations 1996* (WA) ('the Regulations') require a local government to ensure that a Strategic Community Plan and Corporate Business Plan are made for its district. Any amendments to a Corporate Business Plan must be adopted by absolute majority (Regulation 19DA(6)).

Guidelines for the monitoring and reporting against the Corporate Business Plan are outlined in the Integrated Planning and Reporting Framework and Guideline September 2016 issued by the Department of Local Government and Communities. The Guideline states, "*it is open to local governments to design complementary means of reporting progress and outcomes to the community*".



Comment

The Shire of Serpentine Jarrahdale has completed a performance report against the 2021-25 Corporate Business Plan for the period 1 January to 31 March 2022 ('the Report'). The Report is contained in **attachment 1** for the Council to note.




As this report relates to the period up to 31 March 2022, changes to projects that have occurred in the period from 1 April 2022 will be reflected in subsequent reports.

Report Structure

Grouped under each key objective area of the Strategic Community Plan (People, Place, Prosperity, Progressive), the Report provides a narrative update against each respective action of the CBP's Delivery Program. To ensure consistency and to enable summary reporting, each action is also allocated a traffic light status in accordance with the following key:

Status	Selection Criteria
 On Track or Complete	Action is complete or on target.
 At Risk or Behind Target	Minor issues have put achievement of the project due date or level of service at risk. or Minor issues have put the project/service behind target. The causes for this are being managed by routine procedures and the issues are likely to be resolved by the next reporting period.



Status	Selection Criteria
 Critical	Major issues have prevented the service/project from commencing or continuing. The causes for this do/will require significant action to rectify and the issues are likely to be ongoing into future reporting periods
 On hold	Work is unable to commence due to a dependency (e.g. awaiting grant funding or completion of another project).
 Deferred or Not Proceeding	<p>Action is no longer proceeding within its planned year of the Corporate Business Plan but will be occurring within a future year of the Corporate Business Plan.</p> <p>Or</p> <p>Action is no longer proceeding within the timeframe of the current Corporate Business Plan. This may be due to a change in direction caused by external factors (e.g. loss of grant funding / change of government) or a change of direction by Council.</p>

Report Summary

The Report provides an update against 126 actions in the Corporate Business Plan. Statistics this period show:

- **77%** are on track or complete (97/126);
- **17%** are at risk or behind target (22/126);
- **0%** are critical (0/126);
- **2%** are on hold (2/126); and
- **4%** are deferred or not proceeding (5/126).

Key achievements and highlights this reporting period are as follows:

- Managed the 2021/22 fire season and high threat period, including compliance against the fire control notice.
- Delivery of the Australia Day celebration at Briggs Park including a Community BBQ and Cricket Match and the Citizenship and Australia Day Awards ceremony.
- Celebration of the SJ Library's 50th birthday with approximately 400 attendees.
- Delivery of the Shire's SJ Rocks Concert event with over 300 attendees.
- Delivery of several Trail Activation initiatives, including an Introduction to Trail Running course and the Harmony Week Lantern Trail.
- Further progress towards the Keirnan Park Recreation Precinct project including:
 - Community consultation via an on-line Design Inspiration Survey; and
 - Appointment of community representatives to the Stakeholder Reference Group.
- Delivery of Kingsbury Drive road upgrade between Scarp Road and Day Road.
- Installation of LED lighting at the Serpentine Jarrahdale Community Recreation Centre.
- Completion of the re-stumping work at the Hopeland Community Hall.



- Tender award for the detailed design of the Rehabilitation of Kargotich Road between Rowley Road to Bishop Road.
- Adoption of the Electronic Meetings Council Policy to govern electronic Council and Committee meetings introduced to ensure the continuity of Council as Western Australia moved to a high COVID caseload.
- Securement of the Management Order for the Community Purpose Site within the Byford Activity Centre. This site will accommodate future civic uses, including the Byford Health Hub, Library, Multiagency Spaces and supporting plaza and nature play spaces.
- Adoption of a new Communication Protocol to provide a partnership and framework of communications between Council and the Administration.
- Adoption of the 2020/2021 Annual Report
- Receipt of the Financial Assistance Agreement between the Department of Local Government, Sport and Cultural Industries and the Shire of Serpentine Jarrahdale for the upgrading of Byford Skate Park.
- Determination of 118 development applications collectively valued at \$18M.
- Approved 228 building permits.
- Inspected 203 swimming pools/spas.
- Completed 333 various environmental health inspections/assessments (including food safety, health premises, health applications, event applications and health risk assessments).
- Delivery of the Invest SJ Business Breakfast in partnership with Peel CCI.
- Key engagement projects published include Draft Korribinjal Brook Reserve Management, Equine Facilities Master Plan, Events and Arts Culture Survey and draft SJ Equine Trails Master Plan.
- Announcement by the Federal Government of a \$145M commitment towards the duplication of Thomas Road from South Western Highway to Tonkin Highway and the construction of the ultimate intersection solution at Tonkin Highway and Thomas Road.
- Submission of BBRF applications for Federal Government funding towards Keirnan Park and the upgrade of Kargotich Road.
- Finalisation of key COVID-19 preparedness documentation including:
 - Several new Business Operating Procedures to guide organisational response to an infection in the workplace
 - Updated Health and Safety Risk Assessment
 - Updated COVID-19 Business Continuity Plan
 - Updated Communications Plan
 - Updated COVID Leave Council Policy



The **22** actions identified as **at risk or behind target** are:

Action 1:	<u>Drainage Material Disposal</u>	Status			
		Q1	Q2	Q3	Q4
	Find a disposal solution for the drainage material produced from operations (as opposed to disposal at landfill).				
Comment:	<p>Officers have hired and trialled the operation of a screener following the conclusion of material testing. The purchase of the screener will commence following the commencement of the newly appointment Manager Waste, Fleet and Facilities. It is anticipated that the procurement process for the screener will commence early 2022-23 financial year.</p> <p>As part of the 2021-22 drain maintenance operations the Operations team have exhausted all available funding allocated for drainage maintenance and clean-up of the drains. As part of this work, approximately 1,000 tonnes of material has been removed from drains and stockpiled at the Webb Road Reserve. Therefore, the delay in purchasing the screener has not had a detrimental affect towards drainage maintenance works.</p>				
Remedial Action:	Commence procurement as detailed above and continue with the current drainage maintenance work.				

Action 2:	<u>FOGO</u>	Status			
		Q1	Q2	Q3	Q4
	Install FOGO options for the collection and disposal of shire waste.				
Comment:	As advised last reporting period roll out of FOGO is delayed. Officers are continuing to identify an alternative location for processing of FOGO waste until the site in Bunbury becomes available.				
Remedial Action:	Once the roll out of FOGO program is known, the Corporate Business Plan and Waste Strategy will be updated.				

Action 3:	<u>Electrical, HVAC inspection and renewal report</u>	Status			
		Q1	Q2	Q3	Q4
	Review the electrical wiring and isolation boxes within Shire facilities for compliance.				
Comment:	Work has not progressed on this project this reporting period due to resources being allocated to other priority projects. The anticipated start date is currently July/August 2022.				
Remedial Action:	The Corporate Business Plan will be updated to reflect the new timeline at the annual review stage.				



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Action 4:	<u>Community Activation Strategy</u> Development of a strategy providing clear direction and targeted outcomes for the Community based on community feedback, demographic trends and best practice models.	Status			
		Q1	Q2	Q3	Q4
		N/A			
Comment:	Officers have selected the preferred consultant for development of the Community Activation Strategy. To allow for the release of new census data (which will inform the specific make up and demographics of our community, as well as any new or emerging trends), the timeframe for delivery of this project is now likely to be by the end of December 2022. By incorporating new census data, the document will contain the most up to date supporting information to maintain relevance and applicability over the intended 3 year life of the strategy.				
Remedial Action:	The timeline for the project will be amended at the annual review of the Corporate Business Plan.				

Action 5:	<u>Reconciliation Action Plan</u> Develop a Reconciliation Action Plan.	Status			
		Q1	Q2	Q3	Q4
Comment:	Council has agreed to postpone formal registration of the Shire's intent to progress a Reflect Reconciliation Action Plan with Reconciliation Australia, in recognition that meaningful consultation and development of a RAP occurs over a number of years. Further engagement with Council and other Local Government areas is to be undertaken and a revised consultation plan is to be developed. Delivery milestones to be adjusted as endorsed at the March 2022 OCM.				
Remedial Action:	The Corporate Business Plan will be updated to reflect the new timelines for this project, as resolved by Council (OCM060/03/22).				



Action 6:	<u>Marcora Trail Upgrades</u> Trails upgrades to Marcora Trail (Carpark Improvements and maintenance works on the trail).	Status			
		Q1	Q2	Q3	Q4
Comment:	The Shire's proposed scope of works have been verbally agreed to by the Department of Biodiversity, Conservation and Attractions (DBCA). Officers are currently awaiting confirmation of a maintenance agreement/MOU with DBCA in order to progress to Council for approval and implementation. At this stage, it is estimated works will be completed by September 2022, however this is subject to the timeliness of response from DBCA.				
Remedial Action:	A Council report outlining agreed actions and maintenance requirements is anticipated to be provided in June.				

Action 7:	<u>Heritage Park Business Case</u> Development of Heritage Park Business Case.	Status			
		Q1	Q2	Q3	Q4
Comment:	During the reporting period Officers have been working on collating the costings to inform the consultant brief. There is a high level of complexity and dependency associated with stakeholders which is likely to extend the timeframe of this project. At this stage it is estimated the brief will be released in September, for work to be completed by the end of November 2022.				
Remedial Action:	Extend the timeline of the project through the annual review of the Corporate Business Plan.				




Action 8:	<u>Commodity Route Supplementary Fund</u> Renew Karnup Road and Yangedi Road.	Status			
		Q1	Q2	Q3	Q4
Comment:	The Request for Quote for the project completion was advertised in March 2022 and it is proposed that a contractor will be appointed in May 2022. It is estimated works will commence in June and be completed within 2-3 months.				
Remedial Action:	The request for a 6 month extension (to 31 December 2022) has been approved by Main Roads.				






Action 9:	<u>Mobile Library Service</u> Implement a mobile library service.	Status			
		Q1	Q2	Q3	Q4
Comment:	<p>Delays in the Shire receiving the Renault Master van from the dealership and the cost for the purchase of the van coming in higher than anticipated (at \$59,307) have caused this project to be behind schedule by a few months.</p> <p>As the budget for the van was \$60,000, additional funds are required to fit out the van with shelving and storage, as well as air conditioning, awning, van wrap design and printing and installation of IT equipment so that the van can operate and function as the Mobile Library Service. The aim is to have the Mobile Library Service operating by mid-June 2022, to coincide with the re-location of the library service to Byford.</p>				
Remedial Action:	Additional funds are being requested through Q3 budget review to finalise the fit out of the van for the Mobile Library Service to facilitate the service being launched mid-June 2022.				

Action 10:	<u>Depot Accommodation Upgrades</u> Refurbishment to the current Depot Accommodation.	Status			
		Q1	Q2	Q3	Q4
Comment:	<p>The procurement process for new buildings to be installed at the depot has been delayed due to a number of issues including:</p> <ol style="list-style-type: none">1. Only one tender response received2. Covid related cost and supply chain issues3. Increased definition of project scope, and4. Requirement to amend initial budget guidance to reflect full project costs. <p>As a result, the purchase of the additional buildings cannot proceed until the Council has approved the updated budget, which will make completion by 30 June 2022 very tight to achieve.</p>				
Remedial Action:	Seek Council approval of revised project budget / funding and then immediately issue purchase orders for new buildings.				



Action 11:	<u>Federal Blackspot Road Upgrades</u>	Status			
		Q1	Q2	Q3	Q4
	Minor Road Upgrades under Federal Blackspot · Mead Street · Mundijong Road · Nettleton Road				
Comment:	Mundijong Road is scheduled for completion in April 2022. Nettleton Road that was advertised under RFT09/21 did not receive any submissions and as such, the project will be carried forward into the 2022/23 financial year. A 6 month extension has been sought and granted for Nettleton Road. Mead Street will be delivered by the appointed annual supply contractor, and it has been scheduled for delivery in April 2022.				
Remedial Action:	A 6 month extension has been sought and granted for Nettleton Road through the funding body. Procurement is currently underway.				

Action 12:	<u>Keirnan Park Recreation Precinct (Construction of Stage 1A)</u>	Status			
		Q1	Q2	Q3	Q4
	Construct Stage 1A of the Keirnan Park Sports Recreation Precinct – AFL/Cricket Ovals, Pavilion and supporting infrastructure (FAA with Dept. LG).				
Comment:	<p>Progress undertaken towards Keirnan Park this reporting period is as follows:</p> <ul style="list-style-type: none"> • Stakeholder Reference Group members are being appointed through an Expression of Interest and community nomination. • The first Stakeholder Reference Group was held on 31 March 2022. • Re-assessing Stage 1A cost against budget. • Ongoing value management assessment for stage 1A including original scope and reduced scope options. • Councillor Workshop held on 30 March 2022 to inform on Keirnan Park Stage 1A option • Updated draft timeline on project. • Revision to the Financial Assistant Agreement of the funding timeline • Section 16 lodged with Department of Planning, Lands and Heritage • Provided a formal update to Council at the March Ordinary Council Meeting to adjust the project timelines (OCM061/03/22) 				
Remedial Action:	The Corporate Business Plan will be updated to reflect the adjusted milestones as resolved by Council (OCM061/03/22).				



Action 13:	<u>Universal Access and Inclusion Program</u> Deliver access and inclusion improvements on Shire facilities.	Status			
		Q1	Q2	Q3	Q4
Comment:	Work has not progressed on this project this reporting period due to resources being allocated to other priority projects. The latest list of tasks is being re-costed and re-prioritised considering a lengthy time lapse between when the list was developed and now. Once the review is completed, a revised list of works will be issued for implementation. The anticipated start date is currently July/August 2022.				
Remedial Action:	The Corporate Business Plan will be updated to reflect the new timeline at the annual review stage.				

Action 14:	<u>Metropolitan Regional Road Group Upgrades</u> Minor Road Upgrades under MRRG · Nettleton Road	Status			
		Q1	Q2	Q3	Q4
Comment:	This project is tendered under RFT09/21, but there is not a submission received. Project will be carried forward for delivery in 2022/23 financial year.				
Remedial Action:	A 6 month extension from the funding body has been sought and granted.				

Action 15:	<u>Minor Facility Renewals</u> Admin building aircon renewal	Status			
		Q1	Q2	Q3	Q4
Comment:	Work has not progressed on this project this reporting period due to resources being allocated to other priority projects. The air condition units condition verification will be undertaken throughout the Administration Office to verify which units need to be replaced or upgraded in order to confirm the scope of works. The anticipated start date is currently July/August 2022.				
Remedial Action:	The Corporate Business Plan will be updated to reflect the new timeline at the annual review stage.				



Action 16:	<u>Minor Facility Renewals</u> Mundijong Landcare Building (electrical wiring and switchboard)	Status			
		Q1	Q2	Q3	Q4
Comment:	Work has not progressed on this project this reporting period due to resources being allocated to other priority projects. Officers will inspect the building to confirm the scope of works and develop a brief to seek quotes and engage a contractor to undertake the works. The anticipated start date is currently July/August 2022.				
Remedial Action:	The Corporate Business Plan will be updated to reflect the new timeline at the annual review stage.				

Action 17:	<u>Minor Facility Renewals</u> Recreation centre doors, septic and stage	Status			
		Q1	Q2	Q3	Q4
Comment:	Work has not progressed on this project this reporting period due to resources being allocated to other priority projects. Officers will inspect the building to confirm the scope of works and develop a brief to seek quotes and engage a contractor to undertake the works. The anticipated start date is currently July/August 2022.				
Remedial Action:	The Corporate Business Plan will be updated to reflect the new timeline at the annual review stage.				

Action 18:	<u>Minor Facility Renewals</u> SJ Recreation Centre Renewals (Refer OCM263/09/21)	Status			
		Q1	Q2	Q3	Q4
		N/A			
Comment:	Work has not progressed on this project this reporting period due to resources being allocated to other priority projects. Officers will inspect the building to confirm the scope of works and develop briefs to seek quotes and engage contractors to undertake the works. The anticipated start date is currently July/August 2022.				
Remedial Action:	The Corporate Business Plan will be updated to reflect the new timeline at the annual review stage.				



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Action 19:	<u>Jarrahdale Equine Trails Network Concept Plan</u> Develop Jarrahdale Equine Trails Network Concept Plan with DBCA.	Status			
		Q1	Q2	Q3	Q4
Comment:	Final draft has been received from DBCA, however DBCA wish to confirm costing associated with the concept. Once confirmed Officers intend to present to Council in June 2022.				
Remedial Action:	Finalise plan once feedback from DBCA is received.				

Action 20:	<u>Council Portal</u> Develop a Council Portal within the Shire's intranet.	Status			
		Q1	Q2	Q3	Q4
Comment:	An RFQ has been completed and responses were discussed with EMG early January 2022. The RFQ specification was modified to include the governance / automation of the Friday facts and Councillor enquiries however due to the closeness of the new OneComm minutes manager module which is used for managing council meetings end to end, the recommendation from ICT is to defer this project for 12 months and check the Councils appetite in April 2023 and not to carry forward the capital expenditure on this project.				
Remedial Action:	The Council Portal will be recommended for removal through the Q3 Budget Review Council report.				

Action 21:	<u>Internal Audit</u> Ensure an independent, objective assurance and advisory designed to add value and improve the operations of the Shire	Status			
		Q1	Q2	Q3	Q4
Comment:	The delivery of the Internal Audit Plan is behind schedule with audits not having been completed on time.				
Remedial Action:	Adjust timeframes of the Internal Audit Plan delivery.				



Action 22:	<u>Organisational Development RoadMap</u>	Status			
		Q1	Q2	Q3	Q4
	Implement the actions within the Organisational Development RoadMap.				
Comment:	Work on the Organisational Roadmap has been delayed due to more pressing work being completed on both COVID related documentation and processes. Additionally, there has been a priority focus on safety compliance as a result of the gap analysis that was completed in preparation for the new WHS Act and Regulations. The gap analysis outline significant work needed to comply with the legislation. Considerable work will need to be done over the coming months in relation to safety compliance over the next few months and this will impact the resources to be able to meet the deadlines for the Organisational Roadmap. As such no further work will be done on the Roadmap until the 2023/2024 financial year.				
Remedial Action:	Milestones towards implementation of the Roadmap will be updated through the annual review of the Corporate Business Plan.				



The 2 actions identified as **on hold** this reporting period are:

Action 1:	<u>Oakford Bush Fire Brigade Station</u>	Status			
		Q1	Q2	Q3	Q4
	Deliver the new Oakford Volunteer Bush Fire Brigade station building.				
Comment:	As advised last reporting period and as detailed in the Corporate Business Plan, this project is on hold until the land acquisition and DFES Loan are confirmed. In the meantime, Officers are continuing to progress the planning application and planning for site preparation works.				

Action 2:	<u>Soldiers Road Principal Shared Path</u>	Status			
		Q1	Q2	Q3	Q4
	Construct the Principal Shared Path on Soldiers Road from Bishop Road to Abernethy Road (WA Bicycle Network Grants Program - DoT).				
Comment:	The Soldiers Road Principal Shared Path project is on hold until confirmation of Metronet rail over road design and PTA's infrastructure planning within the rail reserve.				



The **5** actions identified as **Deferred or Not Proceeding** this reporting period are:




Action 1:	<u>Major Strategic Review</u> Undertake a Major Strategic Review of the Shire's Strategic Community Plan.	Status			
		Q1	Q2	Q3	Q4
Comment:	At the March Ordinary Council Meeting, Council were provided with several options to approach the major strategic review. At this meeting, Council resolved to defer the major review until the Department issue the new guidelines. As outlined in the resolution, Officers will write to the Department to advise them of this decision and remove the project from the budget and corporate business plan. The timing of the project will be considered through the 2022-23 Corporate business Plan and budget setting process.				

Action 2:	<u>Minor Facility Renewals</u> Women's changerooms at Centrals FB and Netball Club	Status			
		Q1	Q2	Q3	Q4
Comment:	As outlined in the mid-year budget review and corporate business plan performance report provided to Council at the March Ordinary Council Meeting, this project is not proceeding as the grant funding has been received directly by the club. The project has been removed from the budget and corporate business plan in accordance with the resolutions provided below.				

Action 3:	<u>Participatory Budgeting Software</u> Implement Participatory Budgeting Software.	Status			
		Q1	Q2	Q3	Q4
Comment:	As outlined in the mid-year budget review and corporate business plan performance report provided to Council at the March Ordinary Council Meeting, this project has been removed from the Budget and Corporate Business Plan in accordance with resolutions OCM049/03/22 and OCM050/03/22.				

Action 4:	<u>Rationalisation of Assets (Building Asset Disposal Report)</u> Review building assets across the Shire and determine whether those obsolete (no longer fit for purpose) can be disposed of or demolished	Status			
		Q1	Q2	Q3	Q4
Comment:	As outlined in the mid-year budget review and corporate business plan performance report provided to Council at the March Ordinary Council Meeting, this project is deferred to align with resourcing availability and organisational priorities. The project has been removed from the Budget and Corporate Business Plan and will be reconsidered for delivery in 2023-2024.				



Action 5:	<u>Serpentine Heritage Precinct</u> Develop a Business Plan for the Turner Cottage site and undertake community consultation.	Status			
		Q1	Q2	Q3	Q4
					
Comment:	As advised last reporting period, Officers have been advised by the Owners they have sold the site to someone else. Report coming to May OCM.				

Details of the remaining **97** actions **on track** this reporting period are outlined in **attachment 1**.

Corporate Business Plan Amendments

To uphold the principle of an Integrated Planning and Reporting Framework and to ensure the Corporate Business Plan (CBP) remains aligned to the Shire's Annual Budget and other supporting strategies, Officers recommend Council amend the CBP following each quarterly budget review and corporate business plan performance reporting process. Conscious of the requirement to uphold the integrity of reporting against the CBP Key Performance Indicators, the following principles are applied when considering whether to amend the CBP:

1. If there is a Council resolution, projects may be amended to match. This can include amendments to project descriptions, start and finish dates, and milestones. It can also include the removal of a project and the addition of a project.
2. If the project has not commenced for a planned reason (such as awaiting grant funds, recruitment of a resource or the completion of another project), once this dependency is no longer the project can be updated to reflect its new timeline.
3. Any amendments made as a result of quarterly budget reviews are to be reflected.

In line with the above-mentioned principles, the following amendments to the Corporate Business Plan are proposed:

Under Principle One:

- Removal of the 'Major Strategic Review' Strategic Operating Project in accordance with OCM056/03/22.
- Update of the 'Reconciliation Action Plan' Strategic Operating Project's timelines and milestones in accordance with OCM060/03/22.
- Reduction of \$479,102 from the 'Administration Accommodation' Major Capital Project and repurposed to the 'Depot Accommodation Upgrades' Major Capital Project as per tender award and budget adjustments at the April Special Council Meeting (SCM003/04/22).
- Increase of \$21,000 to the 'Metropolitan Regional Road Group Upgrades' Capital Works Program for the Keirnan Street / Nettleton Road Project and removal of the 'Serpentine Heritage Precinct' Major Strategic Project as per tender award and budget adjustments at the April Special Council Meeting (SCM004/04/22).
- Update to the 'Keirnan Park Recreation Precinct' Major Capital Project's milestones in accordance with OCM061/03/22.

Under Principle Two:

- Nil



Under Principle Three:

As outlined in the January to March Budget Review at agenda item 10.3.4 of the May Ordinary Council Meeting:

- Removal of the 'Council Portal' Major Capital Project.
- Addition of funds to 'Fleet – New' and 'Fire Danger Sign Upgrade' of the Capital Works Program for the Mobile Library Van and upgrade of the fire danger sign.

These amendments are detailed in tracked changes at **attachment 2**.

Corporate Business Plan Key Performance Indicators

The Corporate Business Plan 2021-25 contains the following Key Performance Indicators:

1. 80% of strategic operating projects are completed by their due date
2. 85% of budgeted capital works are expended
3. Improvement is seen in all key result areas of the community perceptions survey
4. Improvement is seen in the Performance Index Score of the Employee Scorecard Survey
5. Financial Sustainability – maintain a financial health indicator above 70 (as published on the *MyCouncil* website)

A progress update on each KPI, including a projected end of year result, is provided below for the Council to note.

KPI 1: 80% of strategic operating projects are completed by their due date

Projected Result: 67% (10/15)

Comment:

The Corporate Business Plan 2021-25 contains 18 Strategic Operating Projects due on, or before 30 June 2022. As at 31 March 2021, 10 are on track, 1 is not proceeding, 6 are flagged as 'at risk / behind schedule' (3 of which have surpassed their due date) and 1 is flagged as 'critical'.

The projected result for this KPI is 67% (10/15), which assumes:

- The 10 projects currently 'on track', remain on track and are completed on time;
- The proposed amendments to the CBP outlined above are adopted, resulting in the removal of 3 projects from this year's total (removal of the Serpentine Heritage Precinct and Major Strategic Review and adjusted timeline for the Reconciliation Action Plan)
- The remaining 2 projects flagged 'at risk / behind target' do not get back on track:
 - Community Activation Strategy (due date of 30 June 2022)
 - Heritage Park Business Case (due date of 30 June 2022)

Note - the following Strategic Operating Projects that have surpassed their due dates are:

- Jarrahdale Equine Trails Network Concept Plan (due date of 31 December 2021)
- Electrical, HVAC inspection and renewal report (due date of 31 March 2022)
- Mobile Library Service (due date of 31 March 2022)

KPI 2: 85% of budgeted capital works are expended

Current Expenditure: 9.7%



Comment:

Total amount of capital expenditure year to date to the end of the reporting period was \$6,082,795, with \$3,183,365 spend relating to new projects and \$2,899,430 relating to carried forward projects. This equates to 9.7% of the new capital budget being expended as at 31 March 2022. This was 5.6 per cent in the previous quarter.

KPI 3: Improvement is seen in all key result areas of the community perceptions survey

Comment: Not applicable – the survey is carried out biannually and is not due again until 2022-23.

KPI 4: Improvement is seen in the Performance Index Score of the Employee Scorecard Survey

Comment: Unable to report at this stage. Survey will be undertaken later this year.

KPI 5: Financial Sustainability – maintain a financial health indicator above 70 (as published on the MyCouncil website)

Comment: Unable to report until closer to end of financial year.

Options and Implications

Option 1

That Council:

1. NOTES the performance report against the 2021-25 Corporate Business Plan for the period 1 January to 31 March 2022 as contained in this report and **attachment 1**.
2. ADOPTS the amendments to the Corporate Business Plan 2021-25 as outlined in this report and **attachment 2**.

There are no implications associated with this option.

Option 2

That Council:

1. NOTES the performance report against the 2021-25 Corporate Business Plan for the period 1 January to 31 March 2022 as contained in this report and **attachment 1**.
2. DOES NOT ADOPT the amendments to the Corporate Business Plan 2021-25 as outlined in this report and **attachment 2**.

Refer to Risk Implications for the implications associated with this option.

Option 1 is recommended.

Conclusion

The performance reporting against the Corporate Business Plan this reporting period details 24 key achievements and of the 126 actions reported against, 17.5% are currently 'at risk or behind target' and 77% are on track.

The results this quarter show a decline when compared with last reporting period and additional CBP actions are behind target. This is primarily due to the following:

1. The management and response across the Organisation, but in particular, in the Community and Organisational Development Directorate, to manage the impacts of COVID-19 on the Organisation.



2. The timing and recruitment of new staff, as a result of turnover within the Infrastructure Directorate.
3. Significant challenges in recruiting staff in a tight and competitive labour market.
4. The capacity of consultants, sub-contractors and suppliers to provide materials and undertake work for the Shire in a very competitive market.

In finalising the CBP and budget for 2022-23, Council will need to be cognisant of these issues and the implications on the organisation workforce and capacity.

Attachments (available under separate cover)

- **10.3.5 - attachment 1** – Corporate Business Plan 2021-25 Performance Report 1 January to 31 March 2022 (to be provided at a later date under separate cover)
- **10.3.5 - attachment 2** – Corporate Business Plan 2021-22 Quarter Three Review – Tracked Changes (E22/5201)

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

There are no financial implications associated with the Officer Options.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There are no significant risks associated with Option 1.						
2	If Council do not adopt the CBP, this will result in documents that are not aligned with the annual budget. This will create a fragmented environment for the Shire to operate in.	Existing Corporate Business Plan 2021-25 2021-22 Annual Budget	Organisational Performance	Unlikely	Moderate	MODERATE	Nil.



Voting Requirements: Absolute Majority (Regulation 19DA(6) of the *Local Government (Administration) Regulations 1996*)

OCM112/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Duggin, seconded Cr Singh

That Council:

- 1. NOTES the performance report against the 2021-25 Corporate Business Plan for the period 1 January to 31 March 2022 as contained in this report and attachment 1.**
- 2. ADOPTS the amendments to the Corporate Business Plan 2021-25 as outlined in this report and attachment 2.**

CARRIED UNANIMOUSLY 9/0

**10.3.6 – Councillor Fees and Allowances 2022-23 (SJ519)**

Responsible Officer:	Manager Governance and Strategy
Senior Officer:	Director Corporate Services
Disclosure of Officer's 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 enable Council to consider Councillor fees and allowances within the bands set by the Salaries and Allowances Tribunal for the 2022-23 financial year.

Relevant Previous Decisions of Council

Ordinary Council Meeting 17 May 2021 - OCM126/05/21 COUNCIL RESOLUTION / Officer Recommendation

That Council RESOLVES that no changes are made to Councillor fee and allowance entitlements for the 2021-22 financial year, with entitlements being:

- *Annual attendance fee (Councillor) \$17,250*
- *Annual attendance fee (President) \$23,131*
- *Annual allowance (President) \$47,045*
- *Annual allowance (Deputy President) \$11,761*
- *ICT allowance \$3,500*

Ordinary Council Meeting – 15 June 2020 – OCM162/06/20 - COUNCIL RESOLUTION / Officer Recommendation

That Council RESOLVES that no changes are made to Councillor fee and allowance entitlements for the 2020-21 financial year

Ordinary Council Meeting – 19 August 2019 - OCM171/08/19 - COUNCIL RESOLUTION

That Council DOES NOT ACCEPT the 1 per cent increase to applicable fees and allowances provided by the Salaries and Allowances Tribunal determination for 2019-20.



Background

Every year the Salaries and Allowances Tribunal (the Tribunal) sets the minimum and maximum fees, allowances and entitlements payable to council members.

The Tribunal is an independent body appointed by the Governor. As the Salaries and Allowances Tribunal's determination sets a range rather than an annual fee, a Council must, by Absolute Majority, set an amount within the relevant range.

Council Policy 1.1.15 – Council Fees and Entitlements (the Policy) provides the approval framework for fees, allowances and reimbursements to Council Members. The Policy states that all fees and allowances are to be set by Council resolution annually following the Salaries and Allowances Tribunal determination.

On 6 April 2022, the Tribunal made its determination as contained in **attachment 1**. The determination remuneration, fees, and annual allowance ranges provided to elected members be increased by 2.5 per cent.

Community / Stakeholder Consultation

Nil.

Statutory Environment

Part 5 of the *Local Government Act 1995* (the Act) sets rules for payments to council members. Section 5.98 of the Act states that a council member who attends a council or committee meeting is entitled to be paid the fee determined for attending a council or committee meeting.

Section 5.99 of the Act empowers a Council to decide via absolute majority to instead pay all council members who attend council or committee meetings either

- a) the annual fee determined by the Salaries and Allowances Tribunal; or
- b) where the local government has set a fee within the range for annual fees determined by that Tribunal under that, that fee.

As the Salaries and Allowances Tribunal's determination sets a range rather than an annual fee, a council must, by absolute majority, set an amount within the relevant range. Under section 5.63(1)(c) of the Act, a Council Member is not required to disclose a financial interest when setting their fees, allowances or reimbursements.

Comment

Council's policy states that without a resolution of Council, meeting fees and allowances are set at 75 per cent of maximum provided for by the Tribunal's determination. The Information Communication Technology allowance is set at the Tribunal's maximum. With the Tribunal's 2022-23 determination setting meeting fees and allowances unless Council resolves otherwise, Council meeting fees and allowances will automatically rise in accordance with Council's policy.



If Council takes no action the resulting fees and allowances would be:

- Annual attendance fee (Councillor) \$17,858
- Annual attendance fee (President) \$23,946
- Annual allowance (President) \$48,704
- Annual allowance (Deputy President) \$12,176
- ICT allowance \$3,500

If Council wished, a resolution stating that no changes are made to Councillor fee and allowance entitlements for the 2022-23 financial year would, as provided for in Option 1, mean that fees and allowances would remain at the level set in 2018-19 being:

- Annual attendance fee (Councillor) \$17,250
- Annual attendance fee (President) \$23,131
- Annual allowance (President) \$47,045
- Annual allowance (Deputy President) \$11,761
- ICT allowance \$3,500

Otherwise, Council has flexibility to set fees and allowances within the bands set by Salaries and Allowances Tribunal. While an individual Council Member can choose to forgo their entitlements, there is no power provided in the Act for Council to reduce entitlements below the minimum set by the Tribunal, collectively forgo entitlements, or set an individual office holder's entitlements at a higher or lower level other than provided for in the Tribunal's determination. This first two of these points were reiterated by the Tribunal as part of the 2019 determination.

The minimum and maximum thresholds set by the Tribunal in 2022 that Council must work within are set out in the table below.

2022 Salaries and Allowances Tribunal Determination – Band 2 Thresholds

	Minimum	Maximum
President (Annual attendance fee)	\$15,237	\$31,928
Councillor (Annual attendance fee)	\$15,237	\$23,811
President allowance	\$15,761	\$64,938
Deputy president allowance	\$3,940	\$16,235
ICT	\$500	\$3,500

If Councillors wish to propose a different alternative to those provided in options 1 and 2, it is recommended that Councillors work with Officers prior to the Council meeting to ensure that the proposed motion is accordance with the legislation.



Options and Implications

Councillor remuneration is a matter for Council.

Option 1 would reflect no change in Councillor fees and allowances from the previous year. Option 2 would include the increase provided by the independent Salaries and Allowances Tribunal.

Option1

That Council RESOLVES no changes are made to Councillor fee and allowance entitlements for the 2022-23 financial year so that fees and allowances remain at the level set in 2018-19 being:

- Annual attendance fee (Councillor) \$17,250
- Annual attendance fee (President) \$23,131
- Annual allowance (President) \$47,045
- Annual allowance (Deputy President) \$11,761
- ICT allowance \$3,500

Option 2

That Council RESOLVES that the following Councillor fee and allowance entitlements for the 2022-23 financial year be (being 75% of the Band 2 allowance, except for the ICT allowance, which is 100% of the maximum per Council's Policy):

- Annual attendance fee (Councillor) \$17,858
- Annual Attendance fee (President) \$23,946
- Annual allowance (President) \$48,704
- Annual allowance (Deputy President) \$12,176
- ICT allowance \$3,500

Conclusion

Legislation provides that Council may set its entitlements within the parameters set by the Tribunal. Council's adopted policy states that Council is to make a determination following the Tribunal's determination. A resolution by Council on entitlements for the 2022-23 financial year will inform the preparation of a draft budget for Council's consideration.

Attachments (available under separate cover)

- **10.3.6 - attachment 1** – Salaries and Allowances Tribunal 2022 determination (E22/4622)

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

Councillor remuneration accounts for approximately 0.6 per cent of the Shire's annual operating expenditure. Council's agreed approach will need to be factored into the setting of the 2022-23 budget.

**Risk Implications**

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There are no material risks associated with this option.						
2	Elected member fees and allowances are an issue that attract community concern across all tiers of government.						

Councillor Coales disconnected himself from the Electronic Meeting at 9:07pm.

The Manager Governance and Strategy, Dr Kenneth Parker confirmed that Councillor Coales was no longer participating in the Meeting.

Voting Requirements: Absolute Majority (5.98A, 5.99, 5.99A of the *Local Government Act 1995*)

Officer Recommendation

Options are presented in the Officer Report for Council's consideration.



MOTION

Moved Cr Strautins

That Council:

1. **RESOLVES** that the following Councillor fee and allowance entitlements for the 2022-23 financial year be:
 - Annual attendance fee (Councillor) - Maximum within band set by the independent Salaries and Allowances Tribunal
 - Annual attendance fee (President) - Maximum within band set by the independent Salaries and Allowances Tribunal
 - Annual allowance (President) - Maximum within band set by the independent Salaries and Allowances Tribunal
 - Annual allowance (Deputy President) - Maximum within band set by the independent Salaries and Allowances Tribunal
 - ICT allowance - Maximum within band set by the independent Salaries and Allowances Tribunal
2. **AMENDS** Council Policy – Councillor Fees and Entitlements to reflect that in the absence of Council determining the annual meetings fees from the Tribunal's determination each year, the maximum determination of the Salaries and Allowances Tribunal shall apply.

MOTION LAPSED for want of a seconder

OCM113/05/22

COUNCIL RESOLUTION

Moved Cr Atwell, seconded Cr Duggin

That Council **RESOLVES** no changes are made to Councillor fee and allowance entitlements for the 2022-23 financial year so that fees and allowances remain at the level set in 2018-19 being:

- | | |
|---------------------------------------|----------|
| • Annual attendance fee (Councillor) | \$17,250 |
| • Annual attendance fee (President) | \$23,131 |
| • Annual allowance (President) | \$47,045 |
| • Annual allowance (Deputy President) | \$11,761 |
| • ICT allowance | \$3,500 |

CARRIED UNANIMOUSLY 8/0

Following Council's consideration of the item, the Presiding Member, Councillor Rich requested that Councillor Coales be invited to re-join the Meeting.

Councillor Coales was reconnected to the Meeting at 9:20pm.

Manager Governance and Strategy, Dr Kenneth Parker confirmed that Councillor Coales had re-joined the Meeting.

Presiding Member, Councillor Rich advised Councillor Coales of the Council Resolution for item 10.3.6.

**10.3.7 - Review of Delegations and Authorisations 2021 / 2022 (SJ538)**

Responsible Officer:	Manager Governance and Strategy
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 for Council to consider and approve the findings of the review of delegations and authorisations pursuant to section 5.46 of the *Local Government Act 1995* (the Act).

Relevant Previous Decisions of Council

*Ordinary Council Meeting – 17 May 2021 – OCM124/05/21 - COUNCIL RESOLUTION
That Council:*

- 1. NOTES the findings of the review pursuant to section 5.46 of the Local Government Act 1995.*
- 2. APPROVES the Register of Delegations and Authorisations as contained within attachment 2.*
- 3. ADOPTS the revised Council Policy 1.1.4 – Execution of Documents and Use of the Common Seal as contained within attachment 4.*

Background

This report deals with two separate but related concepts:

- delegations; and
- authorisations.

Delegation is a formal means of empowering one entity to perform functions and duties that are otherwise reserved in legislation for another entity. Delegation is a tool used in government at all levels to enable the efficient and effective delivery of services while ensuring clarity regarding who is permitted to perform specific discretionary functions.

The appointment of authorised persons is a similar but distinct concept. Legislation occasionally enables a decision-making body or source of authority to appoint persons to perform specific tasks on their behalf. In this case, the authorising entity does not have the power themselves to perform the task and can only authorise others to do so. Legislative provisions related to enforcement often employ the appointment of authorised persons.



Local government exercises many of its functions through a combination of delegated powers and authorisations. This includes functions under the Act but also legislation related to planning, dogs, cats, health, building, bush fire prevention and management and food safety.

Both delegations and authorisations must be in writing. In line with the principles of good governance, delegations and authorisations should be regularly reviewed. As noted below, delegations made under the Act must be reviewed annually.

The Shire's delegations and authorisations are recorded in a register available on the Shire's website. The Shire's register contains over 120 delegations and authorisations across a dozen pieces of legislation.

Community / Stakeholder Consultation

Nil.

Statutory Environment

The power to delegate or appoint authorised persons is drawn from legislation. Legislation that permits delegation or the appointment of authorised persons has a specific section, regulation, or clause known as the 'head of power'. In the case of the Act, the head of power for Council to delegate certain functions is section 5.42. The power to appoint authorised persons is provided directly to the CEO by section 9.10.

Importantly, each separate Act requires its own head of power. The head of power provided by section 5.42 of the Act that permits Council to delegate certain functions cannot be used to delegate functions in other pieces of legislation. The ability to use the Act's head of power more widely is a common misconception in local government.

Another source of confusion is section 5.45 of the Act, which introduces the concept of 'acting through'. Section 5.45 of the Act states that provisions concerning delegations do not prevent a local government from performing any of its functions by acting through a person or a CEO from performing any of his or her functions through the actions of another person. While what constitutes an 'acting through' arrangement is not defined in legislation, the Department's published guidance on the matter states that acting through arrangements can occur where an Officer performs tasks at the direction of the authority holder. While some examples of this approach are straightforward, the varying approaches employed across local government demonstrate that this can be a grey area, and wherever there is doubt and it is practicable, formal delegations or appointments as authorised officers should be used.

Regulation 19 of the Local Government (Administration) Regulations 2005 (the Admin Regulations) requires the exercised use of a delegated power under the Act to be recorded. The requirement to record exercised use of delegations from other legislation varies. Legislation does not require exercised use to be published or available for inspection.

Regulation 29 of the Admin Regulations requires a local government to make its delegations register available to the public for inspection. The Shire exceeds this legislative requirement by publishing the register on the Shire's website and includes information in the published register pertaining to delegations by the CEO and the instruments used to appoint authorised officers.

While legislation requires the authorisation of people as authorised officers or people to be in writing, there is no general requirement to keep this information in a single register. In this way, the Shire's current approach exceeds legislative requirements.

**Comment**

As part of the Shire's commitment to continuous improvement and governance maturity, a review of each of these delegations and authorisations has been conducted. The scope of the review systematically considered each of the delegations and authorisations and asked:

- is the head of power used to delegate or authorise the activity correct?
- are the specific sections, regulations or clauses of each instrument correct?
- are the appropriate Officers delegated or appointed?
- are the conditions placed on delegation or authorisation correct?
- are the reporting requirements commensurate to good governance, risk and efficient practice?

The results of the review, including every proposed change to the Register, is outlined in tracked changes at **attachment 1**. In addition to the above scope, the review also identified additional areas of focus that Officers have addressed. These areas and a description of their proposed amendments are outlined in the table below.

Additional Area of Focus	Related Delegations, Authorisations, or Council Policy	Summary of proposed amendments and their justification
Tenders	1.1.15 (proposed removal) 1.1.33, 1.1.34 and 1.1.35 (proposed new)	<p>It is proposed that delegation 1.1.15 – Tenders for Goods and Services is removed and replaced with delegations:</p> <ul style="list-style-type: none">• 1.1.33 – Tenders for Goods and Services – Call Tenders;• 1.1.34 – Tenders for Goods and Services – Accepting and Rejecting Tenders; Determining and Negotiating Minor Variations before entering a contract; Exercising Contract Extension Options; and• 1.1.35 – Tenders for Goods and Services – Exempt Procurement. <p>This approach is intended to provide greater clarity on the powers and functions related to tenders under the Act and provide a clearer framework for Council conditions.</p> <p>All information (powers, functions, conditions etc.) contained within 1.1.15 have been transferred to the relevant new delegations, with the exception of Regulation 21A – varying a contract for the supply of goods or services. It is proposed this function be managed under new Council Policy – Contract Management as outlined in a separate paper in this notice paper.</p>



Additional Area of Focus	Related Delegations, Authorisations, or Council Policy	Summary of proposed amendments and their justification
Appointment of Bush Fire Control Officers	CEO 2.4	The amendments proposed to CEO 2.4 follow a significant review of the functions and positions assigned to each category of Bush Fire Control Officer. It is proposed that each category have their functions detailed sufficiently to avoid ambiguity and provide a framework for the appointment of Bush Fire Control Officers that subsequent certificates of authorisation can follow.

A full list of the delegations and authorisations proposed for removal from, or addition to, the Register is provided below.

Delegations and authorisations proposed for *removal* from the Register:

Delegation / Authorisation	Officer Comment
<i>Local Government Act 1995</i> – Council to CEO Delegation 1.1.1 – Appoint Authorised Persons	Sections 3.24 and 9.11 of the Act allow the Local Government to appoint authorised person/s for the purposes of carrying out the functions within the respective section. It is therefore proposed this delegation is removed and replaced with Council to Officer Authorisations 1.15 and 1.16.
<i>Local Government Act 1995</i> - Council to CEO Delegation 1.1.7 – Appointment of Acting CEO	As required by s 5.39C of the Act, the acting arrangements for the CEO is managed under Council Policy 1.1.13 (adopted in April 2021). References to the delegation are also proposed for removal from the policy, as outlined in attachment 3 .
<i>Local Government Act 1995</i> – Council to CEO Delegation 1.1.15 – Tenders for Goods and Services	As outlined above, this delegation is replaced by new delegations 1.1.33, 1.1.34 and 1.1.35.
<i>Local Government Act 1995</i> – Council to CEO Delegation 1.1.31 – Notices requiring things to be done by owner or occupier of land and additional powers when notice is given, undertake works on land that is not local government property and powers of entry	This delegation is no longer required as the powers are conferred under new Council to Officer Authorisation 1.15 (refer below).



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Delegation / Authorisation	Officer Comment
<i>Dog Act 1976</i> – Council to CEO Delegation 5.1.2 – Refuse or Cancel Registration	This delegation has been combined with Council to CEO Delegation 5.1.1. – Keep Record of Registered Dogs and Refuse or Cancel Dog Registration. There is no need to have two separation delegations, particularly when both refer to refusal of registration.
Statutory Delegations to Local Governments – DEL2017/02	This delegation has been replaced by new DEL2022/03, in accordance with Government Gazette 18 January 2022.

Delegations and authorisations proposed for *addition* to the Register:

Delegation / Authorisation	Officer Comment
<i>Local Government Act 1995</i> - Council to CEO Delegations 1.1.33, 1.1.34 and 1.1.36	As outlined above, these delegations replace Delegation 1.1.15.
Statutory Delegations to Local Governments – DEL2022/03	New delegation in accordance with Government Gazette 18 January 2022 (replaces DEL2017/02).
<i>Road Traffic (Administration) Regulations 2014</i> - CEO to Officers Authorisation 2.20 - Appointment of Prescribed Persons for purposes of section 14 of the Road Traffic (Administration) Act 2008 (the disclosure of driver and vehicle licensing information)	This authorisation is included in the register to reflect the current authorisation already in place under the <i>Road Traffic (Administration) Regulations 2014</i> .
<i>Local Government Act 1995</i> - Council to Officers Authorisation 1.15 - Appoint Authorised Persons – Certain provisions about land	This authorisation is required in order to confer the powers to Authorised Persons as required under s 3.24 of the Act. It also replaces CEO to Council Delegation 1.1.31 as an authorisation, rather than a delegation, is more appropriate. Section 3.24 states 'The powers given to a local government by this Subdivision can only be exercised on behalf of the local government by a person <i>expressly authorised</i> by it to exercise those powers.' It follows that the sections outlined in the authorisation (3.25, 3.26 and 3.27) are those carried out under the subdivision referenced.
<i>Local Government Act 1995</i> - Council to Officers Authorisation 2.16 - Appoint Authorised Persons – Give name on demand	This authorisation is required in order to confer the powers to Authorised Persons as required under s 9.11 of the Act.



It is worth noting that the comprehensiveness of previous years reviews, and the implementation of ongoing staff training, has again significantly reduced the investment required for this year's review in terms of ensuring an accurate register. Instead, effort was largely spent on the Register's supporting processes and policies and implementing revisions consequential to ad hoc events that occurred throughout the year such as amendments to legislation and addressing any ambiguity highlighted by Officer queries.

This review not only ensures that the Shire meets its regulatory obligations and continues to improve its governance maturity, it also provides an important opportunity for Officers to request technical advice regarding their delegations, authorisations and functions more generally that do not necessary require any amendments to the Register.

Options and Implications

Option 1

That Council:

1. NOTES the findings of the review pursuant to section 5.46 of the Act and APPROVES the Register of Delegations and Authorisations as contained within **attachment 2**.
2. ADOPTS the revised Council Policy 1.1.13 - Policy for Temporary Employment or Appointment of Acting Chief Executive Officer as contained within **attachment 4**.

Option 2

That Council:

1. DOES NOT NOTE the findings of the review pursuant to section 5.46 of the Act and DOES NOT APPROVE the Register of Delegations and Authorisations as contained within **attachment 2**.
2. DOES NOT ADOPT the revised Council Policy 1.1.13 - Policy for Temporary Employment or Appointment of Acting Chief Executive Officer as contained within **attachment 4**.

Option 1 is recommended.

Conclusion

Delegations and the appointment of authorised officers is an important mechanism used by all tiers of government to conduct business effectively and efficiently. The systematic review of the Shire's register has identified opportunities to strengthen the instruments used and improve understanding of the powers and responsibilities associated with delegations and authorisations.

Attachments (available under separate cover)

- **10.3.7 - attachment 1** – Register of Delegations and Authorisations – tracked changes (E22/4984)
- **10.3.7 - attachment 2** – Register of Delegations and Authorisations (E22/5014)
- **10.3.7 – attachment 3** – Council Policy 1.1.13 - Policy for Temporary Employment or Appointment of Acting Chief Executive Officer – tracked changes (E22/5015)
- **10.3.7 – attachment 4** - Council Policy 1.1.13 - Policy for Temporary Employment or Appointment of Acting Chief Executive Officer (E22/5016)



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

There are no financial implications associated with the implementation of this report.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There are no material risks associated with option 1.						
2	If Council do not note the review, it may not be completed on time (i.e. legislative non-compliance) resulting in a possible elevation of the Shire on the Departments risk assessment.	Nil.	Organisational Performance	Unlikely	Minor	LOW	Nil.

Voting Requirements: Absolute Majority (s5.42 of the *Local Government Act 1995*)

OCM114/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Duggin, seconded Cr Atwell

That Council:

1. **NOTES** the findings of the review pursuant to section 5.46 of the Act and **APPROVES** the Register of Delegations and Authorisations as contained within attachment 2.
2. **ADOPTS** the revised Council Policy 1.1.13 - Policy for Temporary Employment or Appointment of Acting Chief Executive Officer as contained within attachment 4.

CARRIED UNANIMOUSLY 9/0



10.3.8 – Contract Management Policy (SJ3763)	
Responsible Officer:	Manager Governance and Strategy
Senior Officer:	Director Corporate Services
Disclosure of Officer's 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 enable Council to consider adopting a Contract Management Policy.

Relevant Previous Decisions of Council

The review of the Shire's delegations and authorisations being considered separately by Council is related as the changes proposed by the review of the delegation related to Regulation 21A of the *Local Government (Functions and General) Regulations 1996* requires adoption of this policy to give effect to the change.

Background

As part of the Shire's investment in strengthening capacity in project management, the need for a framework for contract management has been identified. This need is the result of the greater complexity and sophistication of capital projects.

The need for a contract management policy is consistent with the findings of the Abernethy Road Inquiry which is being presented to the Audit, Risk and Governance Committee in accordance with Council's resolution on the matter. In particular, if adopted, the Contract Management Policy would assist the Shire to give effect to Recommendations 1, 6 and 15 of the Inquiry being:

- Recommendation 1 - Implement a formalised Procurement and Contract Management Framework
- Recommendation 6 - Investigate different contracting models based on risk, value, complexity
- Recommendation 15 - Templated Contract Administration Manual.

In addition, the draft policy is consistent with the recommendations to the sector of the Office of the Auditor General's Report into Local Government Contract Extensions and Variations dated 4 May 2020. While the Shire was not one of the local governments involved in the performance audit, the recommendations of the adoption of a dedicated policy that governs:

- the establishment of a contract register
- specific authorisations for contract extensions
- specific authorisations for contract variations

are pertinent to the Shire and are given effect to by the draft Policy.



Community / Stakeholder Consultation

Nil.

Statutory Environment

The *Local Government Act 1995* (the Act) references contracts of a few occasions, mostly in the context of a contract being the ultimate outcome of a procurement process resulting from a procurement process undertaken through a procurement policy under Regulation 11A of the *Local Government (Functions and General) Regulations 1996* (the Regulations) or a tender undertaken under 3.57 of the Act.

Regulation 21A of the Act also sets out parameters where a contract may be varied following a tender process. This Regulation states:

If a local government has entered into a contract for the supply of goods or services with a successful tenderer, the contract must not be varied unless —

- (a) the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or*
- (b) the variation is a renewal or extension of the term of the contract as described in regulation 11(2)(j).*

Comment

The draft policy presented for Council's consideration is intended to set out who is authorised to enter into contracts on behalf of the Shire, and authorise variations/ and extensions to those contracts, and outlines Contract Management roles and responsibilities.

This policy provides a framework for managing contracts with a value threshold of:

- \$250,000 or greater, whether they were publicly advertised or not
- less than \$250,000
- less than \$75,000.

The draft policy is linked to the Shire's Project Management Framework which is being separately implemented through the establishment of a Project Management Office and the Project Lifecycle Management module in the Shire's Enterprise Resource Module.

The draft policy deals with six distinct phases involved in contracts:

- Contract planning and negotiation
- Contract execution
- Contract performance management
- Variation management
- Contract extensions
- Contract close out.

In doing so, the draft policy provides a framework for Officers that governs expectations for good contract planning, the administration of contracts, including variations and extensions and contract close out.



In preparing the draft policy, Officers have given consideration to the guidance material on the topic produced by the Commonwealth Department of Finance and the State Government Department of Finance. Officers have also met with the City of Kwinana which was singled out by the Office of the Auditor General as having an appropriate contract management framework. Officers also examined the policies used by local governments in the eastern states.

If adopted the draft policy will be supported in the coming months through the implementation of a dedicated contract management module in OneComm which will fulfil the contract register elements of the policy. This approach represents a step in the greater maturity of project management and contract management at the Shire to match the greater sophistication of projects being undertaken.

Regulation 21A

One of the key provisions of the policy relates to contract variations for tenders as constrained by Regulation 21A of the Regulations. This Regulation states:

If a local government has entered into a contract for the supply of goods or services with a successful tenderer, the contract must not be varied unless —

- (a) the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or*
- (b) the variation is a renewal or extension of the term of the contract as described in regulation 11(2)(j).*

Previously, Council has delegated responsibility for the 'power' conferred by Regulation 21A as is done in some local governments across the state. The construction of Regulation 21A however does not confer a power or an obligation that can be delegated. Regulation 21A simply provides constraints about varying a contract following a tender.

It is believed to that this Regulation exists to protect the probity of the tender process as it prevents local governments from tendering for one type of project, for example a road, selecting the winning bid and then using that tender process to perform an entirely different set of works outside the original scope and specification via contract amendments.

The Shire has received legal advice regarding the application of Regulation 21A (**CONFIDENTIAL attachment 2**) which supports the Officer's conclusion that Regulation 21A is technically not a delegable legislative clause. Instead, Officers propose that the Contract Management Policy set by Council specify the circumstances where a contract following a tender process may be varied in accordance with the limitations imposed by Regulation 21A.

To that end, the relevant section of the draft policy states:

"Council authorises the Chief Executive Officer to vary contracts in accordance with Regulation 21A of the Regulations where:

- the expenditure required for the variation is contemplated in the Budget; and*
- if the variation is a renewal or extension of the term of the contract as described in Regulation 11(2)(j) that it is in accordance with relevant delegations and Council resolutions.*

The Contract Manager is responsible for reviewing variations submitted by contractors and making a recommendation to the Chief Executive Officer.

In the event that a Superintendent has been appointed to administer the contract, the Superintendent may approve variations subject to terms of the contract and where applicable



under this policy and the conditions of their appointment. The conditions of appointment of a Superintendent are to include requirements to adhere to Shire policies, procedures and project management framework where they do not directly conflict with the AS contract conditions.”

This approach provides a clear and achievable framework for managing variations that can occur in the course of capital projects.

The policy also deals with the complexities of the role of the Superintendent as defined in Australian Contract Law. As described in the legal advice, under Australian Contract Law a Superintendent has particular powers to vary contracts that can conflict with the existing delegation approach.

The draft policy accounts for this issue by stipulating that:

“In the event that a Superintendent has been appointed to administer the contract, the Superintendent may approve variations subject to terms of the contract, where applicable under this policy and the conditions of their appointment. The conditions of appointment of a Superintendent are to include requirements to adhere to Shire policies, procedures, and project management framework where they do not directly conflict with the AS contract conditions.

The Superintendent's role is to 'administer' the contract and ensure the contractual obligations are performed. Under a traditional construction contract, the Superintendent has two separate and distinct roles:

- *to act as agent for the principal; and*
- *to act as an independent certifier.”*

The draft policy goes on to say:

“Noting the roles and powers outlined above, it is essential that the Contract Manager proactively manages any potential variations. Variations must be managed in line with cost and contingency availability and early advice of potential above contract variations must be negotiated and progressed in sufficient time to obtain formal approvals for additional budget. The only exception to this requirement is for emergency works and where an extreme safety risk requires immediate attention.”

The removal of the delegation associated with Regulation 21A has been contemplated as part of the Delegation review conducted in accordance with section 5.46 of the Act and presented separately to Council as part of this notice paper. If Council was to adopt the recommendations of the delegation review and not wish to adopt the draft Contract Management Policy, it should proceed with option 2 which would re-establish a delegation of Regulation 21A. This approach is not recommended and would be counter to the legal advice received.



Options and Implications

Option 1

That Council ADOPTS the Contract Management Policy as contained in **attachment 1**.

Option 2

That Council:

1. DOES NOT ADOPT the Contract Management Policy as contained in **attachment 1**.
2. DELEGATES Regulation 21A of the *Local Government (Functions and General) Regulations 1996* to the Chief Executive Officer with the conditions that:
 - (a) variation/s under the *Local Government (Functions and General) Regulations 1996* must not increase the original contract value beyond 10%; and
 - (b) the cost of the variation/s must be available within the approved project budget.
3. REQUESTS that the Chief Executive Office reflects the delegation in the Register of Delegations and Authorisations

Option 1 is recommended.

Conclusion

The draft Contract Management Policy gives effect to recommendations from several independent reviews and processes and is considered to represent a positive step forward in the Shire's efforts to build capacity and capability in the areas of governance, procurement and project management.

Attachments (available under separate cover)

- **10.3.8 - attachment 1** – DRAFT - Council Policy 3.3.10 - Contract Management (E22/4912)
- **10.3.8 - CONFIDENTIAL attachment 2** – Legal Advice Contract Management Variations (E21/15111)

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

There are no financial implications associated with this report.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	The Contract Management Policy will need to be embedded in the organisation to ensure its effective operation		Organisational Performance	Unlikely	Insignificant	LOW	
2	The Shire would not have an effective contract management framework in place.		Organisational Performance	Possible	Minor	MODERATE	

Voting Requirements: **Option 1** - Simple Majority
 Option 2 - Absolute Majority

OCM115/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Duggin, seconded Cr Atwell

That Council **ADOPTS** the Contract Management Policy as contained in attachment 1.

CARRIED UNANIMOUSLY 9/0



10.4 Community and Organisational Development reports

Councillor Duggin declared a Financial Interest in item 10.4.1.

Councillor Duggin disconnected herself from the Electronic Meeting at 9:22pm prior to this item being discussed.

10.4.1 - Award Request for Tender / Quote – RFT11/2021 – Serpentine Jarrahdale Community Recreation Centre Management Services (SJ3749)	
Responsible Officer:	Manager Community Activation
Senior Officer:	Deputy CEO / Director Community and Organisational Development
Disclosure of Officer's Interest:	Manager Community Activation, declared an Impartiality Interest in item 10.4.1 as the Officer is a member of the facility through the provisions of the Shire's Wellbeing Program and other recreational pursuits.

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 advise Council of submissions received in relation to Tender RFT 11/2021 – Serpentine Jarrahdale Community Recreation Centre Management Services, and for Council to award the Contract to the most appropriate, value for money tenderer as proposed by the evaluation process, including the weighted Evaluation Criteria and evaluation panel recommendation.

Relevant Previous Decisions of Council

<i>Ordinary Council Meeting – 13 December 2021 – OCM362/12/21 - COUNCIL RESOLUTION / Officer Recommendation</i>		
<i>That Council ENDORSES the weighted criteria for the Tender of Management and Operation at the SJ Community Recreation Centre as follows:</i>		
<i>Weighted Assessment Criteria</i>		<i>Weighting</i>
<i>Qualitative Criteria 1:</i>	<i>Sustainable Procurement</i>	<i>8%</i>
	<i>Sustainable Practices (Environmental and Economic Development)</i>	<i>4%</i>
	<i>Disability Access & Inclusion</i>	<i>4%</i>
<i>Qualitative Criteria 2:</i>	<i>OH&S demonstrated working documents</i>	<i>5%</i>
<i>Qualitative Criteria 3:</i>	<i>Demonstrated experience of tenderer and personnel performing the services</i>	<i>25%</i>
	<i>Customer Satisfaction Measures</i>	<i>3%</i>



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	<i>Recreational/Sports Centre performance under management over the past 5 years</i>	5%
	<i>Success Stories and Contracts Performing Better Than Budget</i>	5%
	<i>Centre Management Systems Accounting and Reporting Systems</i>	5%
	<i>Head Office Support</i>	3%
	<i>Qualifications and Experience of Key Personnel Based In Perth</i>	4%
<i>Qualitative Criteria 4:</i>	<i>Methodology, resources and capacity for operational and maintenance services</i>	42%
	<i>Resource Transition</i>	3%
	<i>Operating Budget Forecasts</i>	7%
	<i>Fees and Charges Summaries</i>	1%
	<i>Your Proposed Staff Structure</i>	3%
	<i>Your Proposed FTE Allocation and Costs</i>	4%
	<i>Asset Management</i>	6%
	<i>Cleaning Regime</i>	3%
	<i>Program and Service Delivery Development</i>	10%
	<i>Proposed Capital Contributions / Improvements</i>	5%
<i>Price</i>	<i>Management Fee</i>	20%

Ordinary Council Meeting – 20 September 2021 – OCM263/09/21 - COUNCIL RESOLUTION / Officer Recommendation

That Council:

- 1. NOTES the Serpentine Jarrahdale Community Recreation Centre Review as contained in attachment 1;*
- 2. NOTES the Building Condition Audit & Life Cycle Costing report for the Serpentine Jarrahdale Community Recreation Centre as contained in attachment 2;*
- 3. ENDORSES the Vision for the Serpentine Community Recreation Centre as contained in this report;*
- 4. REQUESTS the Chief Executive Officer negotiate a new Contract arrangement with the YMCA WA as a sole supplier from 1 January 2022 until 30 June 2022, applying the same conditions of current contract and in accordance with the provisions of the Shire's Purchasing Policy;*
- 5. REQUESTS the Chief Executive Officer purchase outright the current gym equipment, upon the expiry of the lease in October 2021;*
- 6. REQUESTS the Chief Executive Officer commence a tender process in December 2021 for the external Management and Operation of the Serpentine Jarrahdale Community Recreation Centre, with key terms to address the following:*
 - a. 5 Year term with a 3 year option;*
 - b. All maintenance to be undertaken by the Shire;*



- c. Respondent to outline approach for management of all internal/loose equipment (including servicing) within the submission and for the term of the contract;
- d. Signage on the Serpentine Jarrahdale Community Recreation Centre to be at Respondents cost, co-branded and approved by Shire;
- e. Tender documents to address recommendations within the Review that will improve future contract arrangements and community outcomes.
- f. Maintaining key operational arrangements, including Local Emergency Management requirements.

7. **APPROVES** pursuant to s6.8 of the Local Government Act 1995, a budget amendment to the 2021/22 budget, as per the below table:

Account Number	Type	Description	Debit	Credit
6200-NEW-6600-0000	Capital Expenditure (new project)	SJ Community Recreation Centre Capital Works	60,000	
6200- NEW - 5002-0000	Reserve Transfer	Buildings Asset Management Reserve.		60,000

Reason: To address outcomes of the Building Condition Audit & Life Cycle Costing report at the Serpentine Jarrahdale Community Recreation Centre, to be funded from the Buildings Asset Management Reserve.

8. **ENDORSES** the prioritisation of works on the Serpentine Jarrahdale Community Recreation Centre following completion of the State Funding Agreement works as follows, to address outcomes of the Building Condition Audit & Life Cycle Costing report (excluding Climbing Wall items):
- a. Defects.
 - b. Urgent repairs identified and Optional Capital Works (2021 and 2022).
 - c. Asset Renewals (2021 and 2022).
9. **REQUESTS** the Chief Executive Officer list the remaining capital works as contained in attachment 2 totalling \$386,060, for consideration through the 2022/2023 budget setting process.

Background

At the September 2021 Ordinary Council Meeting, Council considered a range of matters relevant to the Serpentine Jarrahdale Community Recreation Centre (SJCRC) and requested the Chief Executive Officer commence a tender process in December 2021 for the external management and operation of the Centre, with the key terms to address the following:

- a. 5 Year term with a 3 year option;
- b. All maintenance to be undertaken by the Shire;
- c. Respondent to outline approach for management of all internal/loose equipment (including servicing) within the submission and for the term of the contract;
- d. Signage on the Serpentine Jarrahdale Community Recreation Centre to be at Respondents cost, co-branded and approved by Shire;
- e. Tender documents to address recommendations within the Review that will improve future contract arrangements and community outcomes.



- f. Maintaining key operational arrangements, including Local Emergency Management requirements.

The Request for Tender RFT 11/2021 - Serpentine Jarrahdale Community Recreation Centre Management Services was advertised on Saturday 18 December and Saturday 1 January 2022 and closed at 2.00pm on Thursday 3 February 2022.

A mandatory site briefing was conducted with prospective tenderers on 10 January 2022. An optional walk through opportunity was offered (in addition to the mandatory briefing) on 24 January 2022.

The Shire invited suitably qualified and experienced facility management specialists to tender for a five (5) year contract with an optional three (3) year extension, encouraging proposals that would assist the Shire to achieve its vision for the SJCRC:

“....to provide a diverse range of affordable, high quality, inclusive, community focussed programs and opportunities across all demographics within our community. Primarily, these opportunities should respond to recreational health and wellbeing requirements to enrich the social; emotional; and psychological wellbeing of our community. They should be consistent with identified needs and aspirations of the community and are to respond and adapt to evolving trends.”

This report outlines details of the submissions received and recommends appointment based on the evaluation process undertaken.

Community / Stakeholder Consultation

The Vision of the Centre, endorsed by Council at the September OCM was based on a range of consultative undertakings by the Shire over the last few years. This Vision formed the basis of the Tender requirements.

Submissions

The Request for Tender RFT 11/2021 - Serpentine Jarrahdale Community Recreation Centre Management was advertised on Saturday 18 December and Saturday 1 January 2022 and closed at 2.00pm on Thursday 3 February 2022.

The Tender was advertised in the following papers:

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

Two (2) 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	Belgravia Leisure Pty Ltd
2	YMCA WA

Evaluation Panel

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

- Deputy CEO / Director Community and Organisational Development
- Manager Community Activation
- Coordinator Facility Maintenance

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 tenderers. 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:

Weighted Assessment Criteria		Weighting
Criterion 1:	<i>Sustainable Procurement</i>	8%
	Sustainable Practices (Environmental and Economic Development)	4%
	Disability Access & Inclusion	4%
Criterion 2:	<i>Workplace Health and Safety Measures</i>	5%
Criterion 3:	<i>Demonstrated experience of the tenderer</i>	25%
	Customer Satisfaction Measures	3%
	Recreational/Sports Centre performance undermanagement over the past 5 years	5%
	Success Stories and Contracts Performing Better Than Budget	5%
	Centre Management Systems Accounting and Reporting Systems	5%
	Head Office Support	3%
	Qualifications and Experience of Key Personnel Based in Perth	4%
Criterion 4:	<i>Methodology, resources and capacity for operational and maintenance services</i>	42%



Weighted Assessment Criteria		Weighting
	Resource Transition	3%
	Operating Budget Forecasts	7%
	Fees and Charges Summaries	1%
	Your Proposed Staff Structure	3%
	Your Proposed FTE Allocation and Costs	4%
	Asset Management	6%
	Cleaning Regime	3%
	Program and Service Delivery Development	10%
	Proposed Capital Contributions / Improvements	5%
Criterion 5:	Management Fee	20%
Total		100%

Comment

The evaluation criteria endorsed by Council at the December 2021 Ordinary Council Meeting was used due to the unique and complex nature of the services being procured. The criteria aligns with detail required from Respondents to ensure measurable Contract outcomes.

The evaluation criteria reflected the various aspects of management and operational requirements of the facility. The weighting was designed to encourage a broad range of respondents committed to delivering the Vision of the Centre. Similarly, the weightings aimed to afford an evaluation process which aligned to this objective and encouraging a community focussed approach to operations.

All tender submissions were assessed against the evaluation criteria, utilising the scoring system as outlined in the Shire's Council Policy - *Procurement of Goods or Services through Public Tendering*. The qualitative and quantitative results of this assessment and associated prices are documented in **CONFIDENTIAL attachment 1**.

Following the assessment of all submissions against the selection criteria, the tender submitted by YMCA WA was assessed as providing the most comprehensive response for the services required and outlined in the RFT documents, as well as demonstrating value for money as defined below (see Statutory Environment). Overall, YMCA WA demonstrated greatest ability to meet the requirements of the contract for the price indicated.

The tender evaluation panel therefore recommends the tender submission made by YMCA WA be accepted.



Statutory Environment

The Shire is committed to delivering best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance and complies with the *Local Government Act 1995* (the Act) and Part 4 of the *Local Government (Functions and General) Regulations 1996*, (the Regulations).

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.

Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless subregulation (2) states otherwise.

As the value of the 5 year contract exceeds \$250,000, the Shire has publicly invited responses to RFT11/2021 to arrive at a recommendation demonstrating best value for money.

In accordance with Council Policy - *Procurement of Goods or Services through Public Tendering*, Value for Money is defined as the following:

One of the overarching principles governing purchasing that allows the best possible outcome to be achieved for the Shire of Serpentine Jarrahdale.

It is important to note that compliance with the specification is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, sustainability, life cycle costing and service benchmarks.

An assessment of the best value for money outcome for any tenders shall consider:

- all relevant whole-of-life costs and benefits including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal;*
- the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality;*
- financial viability and capacity to supply without risk of default (competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history); and*
- a strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive tenders wherever practicable.*

Where a higher priced conforming tender is recommended, there shall be clear and demonstrable benefits over and above the lowest total priced, conforming tender.

The Evaluation Panel rated each of the evaluation criteria on a scale of 0 to 5, as per the scoring system outlined in the Shire's procurement policy:

If a tender submission scores below a 3 for any of the qualitative criteria it will be rejected as a risk to the Shire and will play not further part in the assessment.



Options and Implications

The following options have been identified:

Option 1

That Council:

1. AWARDS Tender RFT 11/2021 - Serpentine Jarrahdale Community Recreation Centre Management to YMCA WA to the value of \$620,000, excluding GST, as contained within **CONFIDENTIAL attachment 1**; for a period of five (5) years with an optional extension of 3 years subject to satisfactory performance and entirely at the Council's discretion;
2. AUTHORISES the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 11/2021 - Serpentine Jarrahdale Community Recreation Centre Management; and
3. REQUESTS the Chief Executive Officer provide an annual report to Council on the SJ Community Recreation Centre, including:
 - End of year financial position;
 - Performance of key business areas and any matters of concern;
 - Performance of Contractor against KPI's; and
 - Capital works completed and works recommended to be undertaken.

Option 2

That Council DOES NOT AWARD the contract and requests the Chief Executive Officer provide a report as soon as practicable outlining the implications.

Option 1 is recommended.

Conclusion

YMCA WA has been assessed as being able to meet the requirements of the contract. The respondent met all of the requirements for Sustainable Procurement; Workplace Health and Safety Measures; Demonstrated Experience; and Methodology, Resources and Capacity for Operational and Maintenance Services for the Management Fee outlined.

Therefore, it is recommended that Council support Option 1 and the contract be awarded to YMCA WA.

Attachments (available under separate cover)

- **10.4.1 – CONFIDENTIAL attachment 1** – RFT 11/2021 - Serpentine Jarrahdale Community Recreation Centre Management – Confidential - Evaluation Item (E22/3428)
- **10.4.1 – CONFIDENTIAL attachment 2** – RFT 11/2021 - Serpentine Jarrahdale Community Recreation Centre Management – Confidential - Probity Report (E22/3700)
- **10.4.1 – CONFIDENTIAL attachment 3** – RFT 11/2021 - Serpentine Jarrahdale Community Recreation Centre Management – Confidential - Probity Certificate (E22/5439)



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
Strategy 1.1.2	Provide a healthy community environment
Outcome 1.3	A safe place to live
Strategy 1.3.1	Comply with relevant local and state laws, in the interests of the community
Strategy 1.3.2	Support local emergency services
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
Strategy 4.1.2	Maximise the Shire's brand and reputation in the community
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
Strategy 4.2.3	Provide clear strategic direction to the administration

Financial Implications

As the Contract commences 1 July 2022, there are no financial implications in the current financial year relevant to this report.

Costs relevant to the Contract will be incorporated into the 2022/2023 – 2026/2027 budget setting processes.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	Recommended Contractor unable to provide services to an acceptable standard	Procurement and tender evaluation completed as per the Shire procurement policy. Contract Management requirements imbedded into RFT and response documentation.	Social Community Outcomes /	Unlikely	Moderate	MODERATE	Key Performance Indicators to be negotiated for performance management purposes.
2	Delays in appointing a Contractor will have implications for current incumbents and Contractual implications for Shire. No capacity for the Shire to assume operations at the Centre until a Management body is appointed. Centre likely to close.	Nil	Organisational Performance	Almost Certain	Major	HIGH	Nil



Voting Requirements: Simple Majority

Officer Recommendation

That Council:

1. AWARDS Tender RFT 11/2021 - Serpentine Jarrahdale Community Recreation Centre Management to YMCA WA to the value of \$620,000, excluding GST, as contained within CONFIDENTIAL attachment 1; for a period of five (5) years with an optional extension of 3 years subject to satisfactory performance and entirely at the Council's discretion;
2. AUTHORISES the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 11/2021 - Serpentine Jarrahdale Community Recreation Centre Management; and
3. REQUESTS the Chief Executive Officer provide an annual report to Council on the SJ Community Recreation Centre, including:
 - End of year financial position;
 - Performance of key business areas and any matters of concern;
 - Performance of Contractor against KPI's; and
 - Capital works completed and works recommended to be undertaken.

OCM116/05/22

COUNCIL RESOLUTION

Moved Cr Dagostino, seconded Cr Coales

That the matter be DEFERRED to provide Officers an opportunity to respond to questions from Councillors regarding this matter.

CARRIED UNANIMOUSLY 8/0

Reason for difference to Officer Recommendation

To seek clarification and further information regarding the Tender.

Following Council's consideration of the item, Councillor Rich asked Officers assisting the Meeting to reconnect Councillor Duggin to the Meeting.

Councillor Duggin was reconnected to the Meeting at 9:29pm.

Manager Governance and Strategy, Dr Kenneth Parker confirmed that Councillor Duggin had re-joined the Meeting.

Presiding Member, Councillor Rich advised Councillor Duggin of the Council Resolution for item 10.4.1.

**10.4.2 – Major Events Grants: Round Two 2021 / 2022 (SJ3296)**

Responsible Officer:	Manager Community Activation
Senior Officer:	Deputy CEO / Director Community and Organisational Development
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 the Major Event Grant 2021/22 Round Two grant application and approve or decline community funding allocations.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 11 April 2022 – OCM080/04/22 - COUNCIL RESOLUTION / Officer Recommendation

That Council:

- 1. ACCEPTS the 2021 event acquittals from Lion's Club of Serpentine Jarrahdale and Serpentine Jarrahdale Food and Farm Alliance Inc.*
- 2. DOES NOT ENDORSE release of 2022 event funding to the Lion's Club of Serpentine Jarrahdale, due to notification from the Club that the 2022 event has been cancelled and make the allocation available for Round Two of the 2021/22 Major Event Grant Scheme.*
- 3. ACKNOWLEDGES that the event funding for the 2023 Jarrahdale Log Chop and SJ Lion's Country Fair remains committed in accordance with currently endorsed Major Event Grant Scheme allocations for the Lion's Club of Serpentine Jarrahdale.*
- 4. REQUESTS Chief Executive Officer work with the Lion's Club of Serpentine Jarrahdale in the lead up to the 2023 Jarrahdale Log Chop and SJ Lion's Country Fair, providing support that is consistent with their submitted Strategic Plan for the event, including budget considerations and pre and post evaluation processes.*
- 5. ENDORSES release of funds to the Serpentine Jarrahdale Food and Farm Alliance Inc for the 2022 SJ Food and Farm Fest scheduled for November.*
- 6. REQUESTS Chief Executive Officer advise applicants of outcomes of this report and congratulates them on the successful delivery of 2021 events.*



Ordinary Council Meeting – 15 November 2021 – OCM327/11/21 - COUNCIL RESOLUTION / Officer Recommendation

That Council:

- 1. APPROVES Major Event Grant funding to Serpentine Jarrahdale Food and Farm Alliance Inc for the Food and Farm Fest to be held in May 2022, to the value of \$19,987 ex GST subject to the applicant's agreement of conditions outlined in CONFIDENTIAL attachment 3;*
- 2. APPROVES Major Event Grant funding to Byford Multicultural Club Inc for the Byford Multicultural Festival 2022 to be held in February 2022, to the value of \$10,191 ex GST subject to the applicant's agreement of conditions outlined in CONFIDENTIAL attachment 6;*
- 3. DECLINES the request from Byford Multicultural Club Inc for funding over a three year period for the Byford Multicultural Festival; and*
- 4. REQUESTS the Chief Executive Officer advise organisations of outcomes relevant to their Major Event application and supports the applicants to develop applications for future funding rounds, including the provision of sufficient information to support requests for three year funding periods.*

Ordinary Council Meeting – 18 November 2019 – OCM245/11/19 COUNCIL RESOLUTION

- 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.*

Background

Council Policy 5.1.7- Community Funding Policy, contained in **attachment 1**, includes the Major Event Grant Scheme. This scheme provides an opportunity for community organisations to apply for grants of between \$5,000 and \$20,000 (ex GST), to deliver a community, sporting or cultural event in the Shire, where the event is of significance to the Shire of Serpentine Jarrahdale community and/or draws residents from the Shire, the Peel Region and surrounds.

The Major Event Grant Scheme allows community groups to apply for annual funding for up to a three-year period, subject to Council acceptance and endorsement of the annual acquittal report, required to continue with funding commitments.

Council has set a budget of \$75,000 for Major Event Grants in 2021/2022. \$10,000 is committed to the RSL 2022 ANZAC Day Dawn Service or associated activities in accordance with their current MOU. \$18,000 that was committed following the approval of a three year funding request from Round Two of the 2020/21 grant scheme for the Jarrahdale Log Chop and SJ Lions Country Fair has now been made available for this round following notification from the Lion's Club of Serpentine Jarrahdale that the 2022 Log Chop and SJ Lions Country Fair has been cancelled.

2021/22 Major Event Grant Scheme - Round One

At the November 2021 Ordinary Council Meeting, two applications were considered by Council in Round One of the 2021/22 Major Event Grant Scheme. The following community funding allocations were made:

- \$10,191 ex GST to Byford Multicultural Club Inc for the 2022 Byford Multicultural Festival.



- \$19,987 ex GST to Serpentine Jarrahdale Food and Farm Alliance Inc for the 2022 SJ Food and Farm Fest.
- The Byford Multicultural Club requested 3 years of funding which was declined.

Current Round

\$34,822 ex GST remains uncommitted for Major Event applications in Round Two for the 2021/22 financial year (final round).

One application has been received:

- \$17,144.08 requested from the Byford Carols for the 2022 Byford Carol's Event.
- The Byford Carols Group have not requested 3 years of funding.

Community / Stakeholder Consultation

The second Major Event Grant round for the financial year was advertised in February and March, closing 28 March 2022. One application was received, and this is presented to Council for consideration.

Advertising for the February/March round occurred through the following channels:

- Facebook posts:
 - 8 February;
 - 24 February;
 - 26 February;
 - 11 March; and
 - 16 March.
- SJ Matters eNewsletter February edition.
- Club Corner eNewsletter February edition.
- Individual communication to event organisers, known to deliver events in the Shire of Serpentine Jarrahdale during the applicable time frame for Round Two.

Statutory Environment

The application recommended for receipt of funds is consistent with Council Policy 5.1.7- Community Funding Policy, included as **attachment 1**.

The application received in Round Two has been deemed eligible under the Policy.

Comment

One grant application from a local community group was received in the second Major Event Grant round for 2021/22. The total value of the application was \$17,144.08 for the \$34,822 available.

An assessment of the application was undertaken by a team of Officers across the organisation, with representation from Community Activation, Communications and Health and Building. This was to enable feedback and comment over a variety of different business areas that are likely to be involved with the delivery of events in the Shire.



The application was assessed on the following basis:

1. Eligibility.

Confirms that the application is eligible as per the current policy. Examples of eligibility criteria include: organisation is an incorporated not-for-profit community group; event is to be hosted in the Shire; applicant has no outstanding acquittals.

2. Funding criteria.

Information contained within the application is assessed by internal departments to determine a total score out of 16. Considerations include community benefit, capacity/ability of the applicant to deliver the project described in the application and demonstrated financial capability.

3. Priority.

Considers whether the timeline for delivery is achievable, whether the application could/should be considered in a future round (particularly where available funds are less than total amount requested from organisations) or whether duplication of similar or other like-minded activities exist.

In regard to the funding criteria, Council is requested to note that the score provided through the panel assessment process is based on the information outlined and submitted in the application. An application may be written very well (and score well on that basis) but may not be eligible or considered a high priority given the competitive nature of the scheme.

Conversely, an event may present as a valuable or worthwhile initiative, but if the application was poorly written or has not demonstrated an adequate level of planning, it will score low on that basis.

A brief description of the application and assessment comment is provided in the detail below, however the full application and assessment matrix with comments can be found in the attachments referenced. Please note that the application attachments do not include supplementary detailed documentation, such as incorporation certificates and bank statements.

Byford Carols – December 2022

Applicant: Byford Carols Inc

The application, application checklist and assessment details are included with this report as **CONFIDENTIAL attachment 3**.

Summary:

Expected attendance	750 patrons
Total Event Cost	\$20,503.07 cash and in-kind (other sources) expenditure \$12,484.00 volunteer hours <i>Total event cost \$32,987.07</i>
Total Amount Requested from Shire	\$17,144.08
Three year funding commitment requested	No



A Carols event has been held in Byford for 25 years, originally organised and delivered by the Byford Progress Association. In more recent years, due to the increase in number and range of community faith-based groups participating in the coordination and delivery of the event, an incorporated group, Byford Carols Inc, has been formed as the organising body.

In 2019 the Carol's Committee received a \$3,000 general grant from the Shire to assist with the delivery of their event which covered expenditure such as face painting, first aid and security. Feedback from the 2019 event was that it could be enhanced with a professionally operated audio system to better broadcast the sound. This feedback has been considered by the Committee and changes to their event planning budget were made accordingly.

In 2020, due to uncertainties with events in the COVID-19 pandemic environment, Byford Carols Inc opted for an online event, which seemingly delivered a popular format with 4000 views whilst the stream was live.

In 2021, given that COVID-19 restrictions had lifted sufficiently the Committee reverted to delivering a face to face event. The provision of a professional audio visual system was a well received enhancement to the event and something the Committee wish to retain for future years. The acquittal provided by the Committee for funding for the 2021 event is included as **CONFIDENTIAL attachment 2**

The event is free to attend and is proposed to include a family picnic with free sausage sizzle, face painting, children's craft activities, locally themed Christmas entertainment followed by Carol singing led by a Brass Band and the Heritage Country Choir. There will also be a visit from Santa.

A full outline of the applicant's budget and requested items for funding is included in **CONFIDENTIAL attachment 3**, however generally the items requested are as follows:

- Insurances and first aid services – noting the insurances do not cover event cancellation insurance. Public liability and volunteer insurance only.
- Professional provision of AV infrastructure and staging - increase in cost from previous year to enable slightly higher specification of equipment.
- Catering costs and entertainment.

Costs/items listed within the Byford Carols application for the 2022 event remain reasonably consistent with the level of funding requested in 2021, with the exception of catering costs which have not previously been funded by the Shire.

The organisation has not requested in-kind support however noted on their application is the installation of a ramp from Briggs Upper Oval to the accessible toilets inside Briggs Park Pavilion. The ramp has been identified in the Access and Inclusion Priority Works List previously endorsed by Council for implementation annually via the Universal Access Program budget allocation. The ramp demonstrated a facility usage score of 1 (defined as high use facility expected to cater to the broadest range of community members); a project difficulty score of 2 out of 3 (defined as requiring minor building modifications to facilitate works); with a status of "ready" (does not need other works to occur prior to implementation).

A capital allocation for the Universal Access Program has been identified in the draft 2022/23 budget and should Council adopt this budget, the ramp will be one of the projects considered for implementation within the budget allocation.

In the instance where the ramp is supported as a scheduled project for 2022/23 from the Access and inclusion Priority Works List, and the project can be delivered/scheduled in time for the event, the ramp would be available for use. If not, Officers will work with the Byford Carols to identify



alternative solutions for universal access, noting this may result in an increased event delivery cost for the Byford Carols (e.g.: provision of temporary ablutions).

Officers note that although not included in the application this year, in previous years there has been a request for the football shelters on the Upper Oval to be removed and stored prior to the event and reinstated following the event to make the line of site for the event stage area wider and less inhibited.

This has been estimated at an approximate value of \$400 for associated labour costs and could be accommodated/scheduled if supported by Council.

Assessment Comment

1. Eligible: Yes. Council Policy 5.1.7 – Community Funding states that Religious groups / organisations may be funded for community based activities / programs only. Funding towards religious specific activities will not be considered.

Officers consider the funding requested to be consistent with the policy as the application is from a community based organisation for activities that are not religious specific. A number of religious organisations identified as being involved in the organisation and delivery of the event, however activities are for whole of community.

2. Funding Criteria: 10/16. Further information pertaining to the funding criteria matrix is included in **CONFIDENTIAL attachment 3**.
3. Priority: Yes. The application was supported by the panel however, Officers note that the applicant has provided limited evidence that they have sought funding from other sources and has requested a high percentage of the total cash component of the event from the Shire. It is also noted that the level of investment is high for the expected reach of the event, although, the event organisers have stated in their application that now the audio visual components of the event are in place their efforts can be concentrated on increasing the reach and therefore attendance. The assessment panel also made comment on the cost, and therefore level of cover, of the insurance premium quoted.

Officers recommend funding the components essential to the delivery of the event being; venue hire costs, audio visual equipment, first aid services and hire of the VMS trailer for advertising.

Assessment Recommendation

Officers recommend funding to the value of \$13,814.20 of the \$17,144.08 requested; as well as the provision of in-kind support to an approximate value of \$400, being for:

- (a) The removal and reinstatement of the football shelters.

This recommendation is consistent with the value of quotes provided for venue hire costs, audio visual equipment, first aid services and hire of the VMS trailer for advertising.

Items requested, but not recommended for funding are; catering costs, insurance, entertainment, printing costs and Examiner Newspaper advertisements. Officers can assist the group to look at other options for funding of these items. Also not recommended for funding in light of changes to Public Health and Social Measures by WA Health Department, are the provision of COVID Marshalls, which under current restrictions would not be deemed necessary for the event to proceed.

Officers recommend as a condition of funding that the Shire be recognised as the Major Supporter for the event, being the primary contributor for the budget presented.



The Schedule from the Major Supporter Agreement with conditions for the approved funding is included in **CONFIDENTIAL attachment 4**. These will be incorporated into the formal agreement once resolved by Council.

Options and Implications

Option1

That Council:

1. APPROVES Major Event Grant funding to Byford Carols Inc for the Byford Carols to be held in December 2022, to the value of \$13,814.20 ex GST and agree to the provision of in-kind support estimated at a value of \$400; subject to the applicants agreement of conditions outlined in **CONFIDENTIAL attachment 4**;
2. REQUESTS the Chief Executive Officer to work with Byford Carols Inc to investigate other opportunities for funding for the event; and
3. REQUESTS the Chief Executive Officer advise Byford Carols Inc of outcomes relevant to their Major Event application.

Option2

That Council:

1. APPROVES Major Event Grant funding to Byford Carols Inc for the Byford Carols to be held in December 2022, to the value of \$17,144.08 ex GST and agree to the provision of in-kind support estimated at a value of \$400; subject to the applicants agreement of conditions outlined in **CONFIDENTIAL attachment 4**; and
2. REQUESTS the Chief Executive Officer advise Byford Carols Inc of outcomes relevant to their Major Event application.

Option 3

That Council:

1. DECLINES to provide Major Event Grant funding to Byford Carols Inc for the Byford Carols to be held in December 2022; and
2. REQUESTS the Chief Executive Officer advise Byford Carols Inc of outcomes relevant to their Major Event application and supports the applicants to develop applications for future funding rounds.

Option 1 is recommended.

Conclusion

The second Major Event Grand Round for the financial year was advertised in February and closed 28 March 2022. One application was received and a total of \$13,814.20 ex GST grant funding is recommended to one event:

- \$13,814.20 to the Byford Carols for the 2022 Byford Carol Event.

Furthermore, Officers recommend in-kind support towards both events to the approximate value of:

- \$400 to the Byford Carols for the 2022 Byford Carol Event.



If recommendations are approved, this would leave \$7,856.15 ex GST unallocated for the 2021/22 financial year. These funds would remain in the Community Grant Reserve.

Attachments (available under separate cover)

- **10.4.2 - attachment 1** – Community Funding Policy (E20/10157)
- **10.4.2 - CONFIDENTIAL attachment 2** – Byford Carols 2021 Acquittal (IN22/5439)
- **10.4.2 – CONFIDENTIAL attachment 3** - Byford Carols Checklist, Matrix and Application (E22/5007)
- **10.4.2 – CONFIDENTIAL attachment 4** – Schedule to Major Supporter Agreement: Byford Carols (E22/4970)

Alignment with our Strategic Community Plan

Outcome 1.1	A healthy, active, connected and inclusive community
Strategy 1.1.2	Provide a healthy community environment

Financial Implications

An amount of \$75,000 has been included in the 2021/22 budget (account number 4300-15422-6276) for the Major Events Grants.

Should Council support the Officers recommendation, this allocation would be committed as follows:

Group / Event	Amount Committed
Serpentine Jarrahdale RSL – ANZAC Day Dawn Service	\$10,000*
Serpentine Jarrahdale Lions Club Inc – Jarrahdale Log Chop and SJ Lions Country Fair	\$0
Serpentine Jarrahdale Food and Farm Alliance Inc – Food and Farm Fest 2022	\$19,987
Byford Multicultural Club Inc – Byford Multicultural Festival 2022	\$10,191 #
Amount remaining for Round Two of 2021/22 Major Events scheme	\$34,822
Byford Carols Inc – Byford Carols 2022 event	\$13,814.20
Uncommitted funds to be returned to Grants Reserve	\$21,007.80
*The Serpentine Jarrahdale RSL sub-branch did not deliver a 2022 Dawn Service. Officers will be meeting with representatives shortly to understand whether there are any items in the MOU that were still delivered and eligible for funding, hence the \$10,000 currently remains committed.	
# Event postponed from February 2022. New date unknown.	

The provision of in-kind support (where supported by Council) would be costed to the events at the appropriate time and as required.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	That Council do not approve release of Major Event Grant funding	Nil	Reputation	Rare	Moderat	LOW	Nil
1 & 2	Community groups inability to deliver on the events as submitted, or not to Shire standard.	Nil	Reputation	Unlikely	Minor	LOW	Nil

Voting Requirements: Simple Majority

OCM117/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strange, seconded Cr Duggin

That Council:

1. **APPROVES** Major Event Grant funding to Byford Carols Inc for the Byford Carols to be held in December 2022, to the value of \$13,814.20 ex GST and agree to the provision of in-kind support estimated at a value of \$400; subject to the applicants' agreement of conditions outlined in CONFIDENTIAL attachment 4;
2. **REQUESTS** the Chief Executive Officer to work with Byford Carols Inc to investigate other opportunities for funding for the event; and
3. **REQUESTS** the Chief Executive Officer advise Byford Carols Inc of outcomes relevant to their Major Event application.

CARRIED UNANIMOUSLY 9/0

**10.5 Executive Services reports**

10.5.1 – Lot 23 Karnup Road, Serpentine - Serpentine Heritage Precinct – Strategic Project Update (SJ3006)	
Responsible Officer:	Strategic Project Specialist
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 report documents the work undertaken for the Serpentine Heritage Precinct (Turner Cottage) at Lot 23 (1631) Karnup Road, Serpentine.

In January 2022, Officers were advised by the owner that the property had been sold and as a result Officers are not able to progress with the project. The owner had previously expressed an interest in selling the property to the Shire in discussions with Officers.

The report recommends to not proceed with the project.

Relevant Previous Decisions of Council

*Ordinary Council Meeting – 21 June 2021 - OCM160/06/21 - COUNCIL RESOLUTION
That Council:*

- 1. NOTES the amended Business Plan in attachment 1;*
- 2. RESOLVES not to advertise the Business Plan at this time in attachment 1;*
- 3. APPROVES the engagement strategy in attachment 3;*
- 4. REQUESTS that the Chief Executive Officer implement the engagement strategy to identify options for protecting and utilising the site and reports the results of community engagement to a future meeting of Council; and*
- 5. REQUESTS that the Chief Executive Officer inform the landowners of Council's resolution on this matter, including a proposed timetable outlined in the Engagement Strategy resulting in further consideration by Council of the matter in 2022.*



*Ordinary Council Meeting – 15 February 2021 – OCM037/02/21 - COUNCIL RESOLUTION
That Council:*

- 1. REQUESTS the Chief Executive Officer amend the Serpentine Heritage Precinct draft Business Plan to reflect Council purchasing the site next financial year but not commencing any remediation or development of the site for 3 years for Council's consideration prior to advertising;*
- 2. REQUESTS the Chief Executive Officer negotiate with the property owners of Lot 23 Karnup Road, Serpentine a price to purchase the property for Council's consideration.*

*Ordinary Council Meeting – 17 August 2020 – OCM273/08/20 - COUNCIL RESOLUTION /
Officer Recommendation*

That Council:

- 1. ENDORSES the Serpentine Heritage Precinct Concept Design Report as contained within attachment 1;*
- 2. AUTHORISES the Chief Executive Officer to seek a formal purchase price from the landowner of L23 Karnup Road, Serpentine;*
- 3. REQUESTS the Chief Executive Officer prepare a Business Plan in accordance with section 3.59 of the Local Government Act 1995;*
- 4. AUTHORISES the Chief Executive Officer to advertise the draft Business Plan in accordance with section 3.59 of the Local Government Act 1995 and;*
- 5. REQUESTS that a report be presented to Council at a later date detailing the submissions to the Business Plan, and the outcome of discussion with the landowner.*

Background

Project Commencement

Following a number of Strategic documents highlighting the need for this project, the Council on 20 July 2020 Ordinary Council Meeting endorsed the Serpentine Heritage Precinct project as part of the Shire's Corporate Business Plan 2020-24.

The Shires Community Infrastructure Implementation Plan recommended the development of the Visitors Centre and Heritage Museum aimed at enhancing the tourism development in the Shire. Turner Cottage was recommended as a site location.

In February 2021 a report to Council detailed engagement that had been undertaken to date with the property owners, Hugh Manning Tractor Museum and Serpentine Park.

The Serpentine Heritage Precinct concept provided a unique opportunity for community-led visioning for the potential preservation and community use of the Turner Cottage site.

The community engagement strategy describes methods to explore in purchasing Lot 23 Karnup Road to protect the site and utilise it into the future and garner ideas from the community on possible uses for the site.

The community engagement was proposed to include an online survey, at least two community workshops and a pop-up community engagement activity in Serpentine.

**Project Site – Turner Cottage**

Turner Cottage is a State Heritage-Listed building, situated at Lot 23 (1631) Karnup Road, Serpentine – on the corner of Karnup Road and South Western Highway. The Shire's Tourism Strategy highlights the significance of Serpentine Falls as a tourist destination as well as making note of the numerous historical structures within Serpentine.

The strategy considers the importance linkage of the key tourism precincts of Jarrahdale, Serpentine Falls and the Serpentine Heritage Precinct. The project was based on a need to formalise a tourism and heritage precinct in the Serpentine townsite, and the previous discussions with the landowner resulted in the development of a concept report for the Precinct.



Figure 1 – Location on Turner Cottage (Serpentine Heritage Precinct)

Business Plan**February 2021**

In February 2021, a draft business plan for the site was presented to Council. The business plan summarised a proposal to purchase Lot 23 Karnup Road, Serpentine and develop it as a site for a Visitors Centre and Heritage Museum in accordance with the Shire's Community Infrastructure Implementation Plan.



At the February 2021 Ordinary Council Meeting, Council resolved to request that:

- the Chief Executive Officer amend the draft business plan to reflect purchasing the site next financial year but not commencing any remediation or development of the site for 3 years for Council's consideration prior to advertising; and
- the Chief Executive Officer negotiate with the property owners of Lot 23 Karnup Road, Serpentine a price to purchase the property for Council's consideration.

In the intervening period, Officers amended the draft business plan for Council's consideration, received a new valuation for the property and negotiated with the property owners to establish an agreed price for the site.



Figure 2 – Turner Cottage Vision Plan (Serpentine Heritage Precinct)

June 2021

The amended business plan was presented to Council in June 2021 to reflect purchasing the site in 2021-22 but not commencing any remediation or development of the site until 2024-25.

The revisions to the draft business plan included:

- to reflect cost increases associated with commencing works in 2024-25, cost estimates for works have been increased by 2.94 per cent. The figure of a 2.94 per cent cost increase has been arrived at by taking the average Perth increase in the Consumer Price Index for the previous 20 quarters. To further reflect the uncertainty in costs, estimates have been universally rounded up to the nearest hundred dollars;



- updated valuation for the property;
- updated proposed purchase price based on negotiation with the owners;
- revisions to the forecast impact on workforce;
- additional commentary on the vision for the site;
- additional contextual information; and
- formatting changes.

Community / Stakeholder Consultation

No community consultation had been undertaken as the project did not proceed to the initial engagement stage which would have been undertaken in January and February 2022.

Statutory Environment

The *Local Government Act 1995* establishes rules for local governments purchasing land known as Major Land Transactions.

If Council proceeded with the purchase of Lot 23 (1631) Karnup Road, this would not have constituted a Major Land Transaction itself, however the intention to dispose of portion of the site via leasing arrangements which is commercial in nature. A Business Plan was prepared however It did not proceed due to previous recommendation on the 21 June 2021 to not advertise the plan at the time.

Comment

The previous business case's presented to Council involved various conceptual designs of heritage and tourism uses on the site. This would have required Council to undertake a property investment with significant ongoing operational costs that would have resulted in a deficit. As a result of this, Council resolved for Officers to conduct a community and stakeholder engagement to understand the local needs to determine the local values of the site, which included modelling a wide range of uses that would result in a commercial use that would be financially sustainable for the Shire.

In response to Council's June 2021 resolution, following a request for quote (RFQ) process, Officers engaged Urbis in December 2021 as the successful company to undertake the stakeholder engagement. The following scope was identified:

- Evaluating the financial and economic implications of alternative options;
- Capturing community stakeholder input; and
- Identifying key risks, benefits and implementation considerations.

The proposal also outlined a detailed approach that would result in capturing:

- The national and international thinking about best practice tourism infrastructure planning and service delivery;
- An understanding of the Shire of Serpentine Jarrahdale and Future Growth Outlook;
- A partnership with the Shire at the forefront of the project and ongoing feedback to test the findings and recommendations;
- Demonstrated capability to deliver maximum value and impact for comparable projects; and



- Integrated approach from a team of experts in variety of aligned fields.

Urbis had commenced preliminary works which consisted of inception, client meetings, engagement plan and business case structure and options development.

Impacts on Corporate Business Plan

The Corporate Business Plan will be updated to reflect the closure of the project through the quarter 3 budget review and Corporate Business Plan Performance Reporting process as being considered at the May Ordinary Council meeting.

Options and Implications

That Council NOTES the closure of the Serpentine Heritage Precinct project.

Conclusion

The appointed company had commenced works as per the Council's resolution however were advised by Officers to not continue with the engagement strategy and economic modelling due to the property being sold and therefore recommend for the closure of the project.

Attachments (available under separate cover)

- **10.5.1 - CONFIDENTIAL attachment 1** – Serpentine Heritage Precinct Business Case and Engagement Proposal – Urbis (IN22/4071)
- **10.5.1 - CONFIDENTIAL attachment 2** – Draft Serpentine Heritage Precinct Business Plan (Amended) (E21/4705)

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
Strategy 1.1.2	Provide a healthy community environment
Outcome 1.2	A recognised culture and heritage
Strategy 1.2.1	Recognise local heritage
Strategy 1.2.2	Encourage and support public art in public areas
Outcome 2.1	A diverse, well planned built environment
Strategy 2.2.4	Support community groups (both new and existing), who are preserving and enhancing the natural environment.
Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local businesses within the district.
Outcome 3.2	A vibrant tourist destination experience
Strategy 3.2.1	Actively support tourism growth within the district
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**

The original budget for this project was \$50,000 with \$5,725 being spent in the previous financial year for the concept design development. The remaining savings of \$44,275 have been reallocated to fund the shortfall in the Keirnan Street Reseal project as per Council Resolution SCM004/04/22.

In addition to the above costs, the Shire incurred \$6,600 from the consultants for their work this year, as outlined in the report. These costs have been charged to 1000-10100-6230-0000 CEO Consultancy.

Risk Implications

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

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	Nil.						

Voting Requirements: Simple Majority

OCM118/05/22

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Strange

That Council NOTES the closure of the Serpentine Heritage Precinct project.

CARRIED UNANIMOUSLY 9/0



10.6 Confidential reports

Nil reports.



Continued

Ordinary Council Meeting Minutes Monday, 16 May 2022

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 9:32pm.

I certify that these minutes were confirmed at the Ordinary Council Meeting held on the 20 June 2022

..... Presiding Member – Councillor Rich

07/06/2022.

..... Date