

## 9.2 - Notice of Motion – Boundary Road Management Agreement (SJ4087)

<b>Councillor</b>	Councillor Byas
<b>Disclosure of Officers Interest:</b>	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 Byas via email on Tuesday, 5 September 2023.

The Notice of Motion is “That Council:

1. REQUESTS that the Chief Executive Officer write to the CEO at the City of Armadale to advise that the Shire of Serpentine Jarrahdale is terminating the Boundary Road Management Agreement (1976 as amended) with immediate effect;
2. NOTES termination of the agreement will result in the local governments being responsible for the roads in their district including:
  - i. the Shire of Serpentine Jarrahdale being responsible for the maintenance of the portions of Hopkinson Road within the Shire’s district; and
  - ii. the City of Armadale being responsible for the portions of Rowley Road and North Road located within the City’s district.
3. REQUESTS that the Chief Executive Officer reflect the change in the Shire’s planning and asset management documentation and schedules.”

### Relevant Previous Decisions of Council

*Ordinary Council Meeting – 12 December 2022 - OCM305/12/22 - COUNCIL RESOLUTION  
That Council REQUESTS the Chief Executive Officer write to the CEO at the City of Armadale to advise that the Shire of Serpentine Jarrahdale wishes to amend the Boundary Road Management Agreement (1976 as amended) as following:*

- a. *Transfer the maintenance responsibility for the section of Rowley Road between Hopkinson Road and Nicholson Road and full length of North Road to the City of Armadale with an effective date of 30 June 2023.*
- b. *Take over the maintenance responsibility for the section of Hopkinson Road between Rowley Road and the Armadale Tip from the City of Armadale with an effective date of 30 June 2026.*

### Contact Us

#### Enquiries

Call: (08) 9526 1111  
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#### In Person

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



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*Special Council Meeting – 6 December 2021 - SCM085/12/21 - COUNCIL RESOLUTION / Officer Recommendation*

*That Council:*

- 1. AUTHORISES the Chief Executive Officer to review and renegotiate a new Boundary Road Management Agreement with the City of Armadale or hand over Rowley Road to the City of Armadale.*
- 2. REQUESTS the Chief Executive Officer to proceed with the Rowley Road rehabilitation project in accordance with the Shire's adopted 2021-22 capital projects budget.*

### Officer Comment

Officers are not aware of any other boundary road agreements between the Shire and other local governments.

The existing Memorandum of Understanding for Boundary Road Management between the Shire of Serpentine Jarrahdale and the City of Armadale dates back to 1976. This agreement has been revised 4 times since that time, in 1990, 1998, 1999 and most recently on 1 February 2001. The MoU covers 6 boundary roads between the two Local Governments, as per the table below:

<b>Maintenance agreement 01 February 2001</b>					
Road	Location	Length (km)	Responsible LG	Verge Responsibility	
Rowley Rd	Wolfe Rd to Nicholson Rd	2.25	City of Armadale	South side SJ	North side CoA
Rowley Rd	Nicholson Rd to Hopkinson Rd	4.71	Shire of SJ	South side SJ	North side CoA
Rowley Rd	Hilbert Rd to Phar Lap Dr	1.36	City of Armadale	South side SJ	North side CoA
Hopkinson Rd	Rowley Rd to Rowley Rd	0.23	Shire of SJ	East side SJ	West side CoA
Hopkinson Rd	Rowley Rd to Tip entrance	1.43	City of Armadale	East side SJ	West side CoA
Hilbert Rd	Rowley Rd to Rowley Rd	0.23	City of Armadale	South/West side SJ	North/East side CoA
Keenan St	Turn circle to Eleventh Rd	0.62	City of Armadale	City of Armadale	
Eleventh Rd	Keenan St to South West Hwy	0.68	City of Armadale	City of Armadale	
North Rd	Full Length	1.3	Shire of SJ	Shire of SJ	

There are no records of methodology used in determining maintenance responsibility for each of these roads between the two local governments. It is assumed the traffic generated from either side of the boundary road may have been decision making factor in deciding which LG becomes responsible for each road. Notwithstanding this, the road environment, traffic distribution and volumes and land developments surrounding these roads have changed significantly since the MoU was established and therefore the MoU is no longer considered to be the appropriate boundary road management framework for current times and more importantly into the future.

This matter has been formally discussed between the senior officers and elected member from both LGs including the CEOs of both LGs, Shire President and Mayor at two meetings held on 8 September 2021 and 15 November 2022 with the intention to transfer the maintenance



responsibility of the section of Rowley Road between Hopkinson Road and Nicholson Road plus full length of North Road to the City of Armadale and take of the maintenance responsibility for the section of Hopkinson Road between Rowley Road and Armadale tip entry from the City of Armadale. The annual maintenance cost of the above roads is estimated to be as following:

- Rowley Road - \$150,000
- North Road - \$6,000
- Hopkinson Road - \$30,000

Following the discussions with the City of Armadale, legal advice was obtained by the Shire confirmed that the existing MoU is not a contractually agreement and also, in accordance with the s 55 of the *Land Administration Act*, care, control and management responsibility for roads located with the municipal boundaries of each LG rests with that LG.

The findings of the legal advice were presented to Council at the 12 December 2022 OCM and the City of Armadale was notified of that resolution through a letter sent from the Shire, dated 22 December 2022 (**refer attachment 1**). The City of Armadale Council have since then considered this matter at their July OCM as a confidential item. The Shire has not received a written response from the City of Armadale to the Shire's letter dated 22 December 2022.

If the termination of the current MoU is supported and the recommended transfer of roads between the two LGs takes place, there will be a significant reduction in asset liability of approximately \$126,000.

#### **Attachments (available under separate cover)**

- **9.2 – attachment 1** – Boundary Road Management Agreement – letter to City of Armadale advising amendment to MOU (OC22/23621)

**Voting Requirements:** Simple Majority

#### **Councillor Recommendation**

**That Council:**

- 1. REQUESTS that the Chief Executive Officer write to the CEO at the City of Armadale to advise that the Shire of Serpentine Jarrahdale is terminating the Boundary Road Management Agreement (1976 as amended) with immediate effect;**
- 2. NOTES termination of the agreement will result in the local governments being responsible for the roads in their district including:**
  - i. the Shire of Serpentine Jarrahdale being responsible for the maintenance of the portions of Hopkinson Road within the Shire's district; and**
  - ii. the City of Armadale being responsible for the portions of Rowley Road and North Road located within the City's district.**
- 3. REQUESTS that the Chief Executive Officer reflect the change in the Shire's planning and asset management documentation and schedules.**