



Shire of  
Serpentine  
Jarrahdale

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Shire of  
Serpentine  
Jarrahdale

# Ordinary Council Meeting Agenda

## 7pm

## Monday, 20 February 2023

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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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### 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.”

In accordance with the 12 December 2022 Ordinary Council Meeting, Council Resolution OCM313/12/22, clause 6 – “That Council requests that the Councillor Attendance Register published in the Agenda and Minutes displays attendances for the calendar year and notes that the full Councillor Attendance Register, including previous calendar years, will continue to be published on the Shire’s website.”

### Council 1 January 2023 –

Date	Type	Cr Rich	Cr Atwell	Cr Byas	Cr Coales	Cr Dagostino	Cr Duggin	Cr Mack	Cr Strange	Cr Strautins
06/02/23	PCF	✓	A	✓	✓	A	✓	✓	✓	✓
06/02/23	SCM	✓	A	✓	✓	A	✓	✓	✓	✓
30/01/23	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
30/01/23	Q & A (SCM – 6 February 2023)	✓	✓	✓	✓	✓	✓	✓	✓	A
23/01/23	Q & A (SCM – 30 January 2023)	✓	✓	✓	✓	✓	✓	A	✓	✓
23/01/23	WORKSHOP (Catalyse Presentation - Community Perception Scorecard)	✓	✓	✓	✓	✓	✓	A	✓	✓

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.

At the 20 June 2022 Ordinary Council Meeting, Council resolved that Council and Committee Meetings will be audio recorded in accordance with Council Policy. If you are asking a public question or making a statement or deputation to the meeting this will be audio recorded. Members of the public are reminded that no other visual or audio recording of this meeting by any other means is allowed.



Dear Elected Member

The next Ordinary Council Meeting of the Shire of Serpentine Jarrahdale will be held on Monday, 20 February 2023 in the Council Chambers, Civic Centre, 6 Paterson Street, Mundijong, commencing at 7pm.

Paul Martin

**Chief Executive Officer**

10 February 2023

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## **Agenda**

- 1. Attendances and apologies (including leave of absence):**
- 2. Public question time:**
  - 2.1 Response to previous public questions taken on notice:**

### **Ordinary Council Meeting – Monday, 12 December 2022**

Questions asked by **Mrs Lee Bond** at the Ordinary Council Meeting – Monday, 12 December 2022. Correspondence was sent to Mrs Bond on 20 December 2022 (OC22/23409).

#### Question 1

For the sake of transparency, why can't Council make it a requirement that any group receiving ratepayers' monies for projects, provide detailed minutes of the expenditure and this is available to the public?

#### Response (Acting Director Community Services)

*In accordance with Council Policy 5.1.7 - Community Funding, each grant or fund has its own set of guidelines. These guidelines are specific to each funding program and outline the purpose, process and conditions of the funding program.*

*Most schemes, including the Major Event Grant Scheme (values \$5,000 - \$20,000) require recipients to provide acquittal reports after their event as per the time period specified in the guidelines. The acquittal is to outline key aspects of the event such as; attendance numbers, community outcomes as well as income and expenditure. Where multi-year funding has been awarded under the Major Event Grant Scheme, acquittal reports are to be submitted to Council each year for review. The subsequent years funding is dependent on Council acceptance and endorsement of the acquittal report to continue with the funding.*

*As a public sector body that holds personal and commercial information about people, companies and community organisations, the Shire takes the public disclosure of information about other entities that it holds seriously. Section 5.23(2)(e)(iii) of the Local Government Act 1995 provides that information about the business, professional, commercial or financial affairs of a person (which includes a company or group) is confidential. Information within the acquittal report may*



*contain details relevant to an organisation's business, professional, commercial or financial affairs, and while this information is provided to Councillors to perform their role, in accordance with legislation, this information is confidential and cannot be disclosed under law.*

Question 3

How much effort is put into assessing those who put in for Shire tenders before the tender is awarded and is it acceptable to accept a tender when clearly there is a need to make the tender process more available to smaller but more competent business?

Response (Director Corporate Services)

*The process for assessing tenders is set out in Council Policy 3.2.5 – Procurement of Goods or Services through Public Tendering. The policy is prescriptive in this regard where it states:*

*“An evaluation panel shall be established prior to the advertising of a tender and include a mix of skills and experience relevant to the nature of the purchase. The panel shall contain a minimum of three (3) members.*

*Procurement Services will fulfil a governance function to ensure the panel understands and performs its responsibilities in determining value for money.*

*When purchasing goods or services the Tender Evaluation Panel must be aware of the principles underlying probity - these principles are referred to as procedural fairness.*

*Procedural fairness can be defined as the duty to act fairly and the duty to adopt fair procedures that are appropriate and adapted to the circumstances of a particular case.”*

*The Policy goes on to set out that each Panel member is to receive a copy of each tender submission and an evaluation sheet and score each tender submission using a 0-5 rating score with a comment as to what led to this determination. The Panel then meets to attempt to reach a consensus. If a consensus cannot be reached the majority view is recommended.*

*These evaluation panel meetings which are facilitated independently by an Officer from the Corporate Services Directorate allow for a robust interrogation of the tender responses. In accordance with the Shire's policy, scoring is based on the risk associated with each bid against each criteria. Any submission that is considered by the panel to be a moderate, major or severe risk is excluded from further evaluation.*

*In respect to making the tender process more available to smaller businesses, the criteria for assessing tenders set out in the policy does not exclude or disadvantage respondents based on the size of the entity. For all tenders, excluding plant and equipment (which has its own special criteria), the criteria used to assess as stipulated in the policy is:*

- *relevant experience,*
- *key personnel, skills and resources, and*



- *demonstrated understanding.*

*This criterion does not assess respondent size but instead rewards bids that demonstrate competence.*

*All tenders as advertised in the West Australian, 3 local newspapers and well as the Tenderlink website and are open for minimum of 14 working days after the date of the tender. This means that all respondents regardless of size have equal access to bid.*

**2.2 Public questions:**

**3. Public statement time:**

**4. Petitions and deputations:**

**5. President's Report:**

**6. Declaration of Councillors and Officer's interest:**

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

**7.1 Ordinary Council Meeting – 12 December 2022**

**That the minutes of the Ordinary Council Meeting held on 12 December 2022 be CONFIRMED (E22/16284).**

**7.2 Special Council Meeting – 30 January 2023**

**That the minutes of the Special Council Meeting held on 30 January 2023 be CONFIRMED (E23/1414).**

**7.3 Special Council Meeting – 6 February 2023**

**That the minutes of the Special Council Meeting held on 6 February 2023 be CONFIRMED (E23/1606).**





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

**8.1 CEO Employment Committee Meeting – 6 February 2023**

The Chief Executive Officer has declared a Financial Interest in this item.

Attachments (available under separate cover)

- attachment 1 – CEO Employment Committee Meeting Minutes – 6 February 2023 (E23/1608)

Voting Requirements: Simple Majority

That Council:

1. **RECEIVES** the Unconfirmed Minutes of the CEO Employment Committee Meeting held on 6 February 2023 (E23/1608).
2. **ADOPTS** CEO Employment Committee Resolution CEO003/02/23 and:
  1. Having received the agreement of the CEO, **APPOINTS** Angie Dominish of Price Consulting to be the independent facilitator in accordance with Clause 16 of the Standards for CEO Recruitment, Performance and Termination for a period of two years, being the 2023 and 2024 processes.
  2. **REQUESTS** that arrangements are made for the independent facilitator to prepare a draft process for CEO performance review processes in writing for consideration of the CEO and Council in time for consideration by the CEO Employment Committee on Monday, 1 May 2023, including processes and arrangements for future CEO KPI setting.
  3. **RESOLVES** that a Special CEO Employment Committee Meeting be held on Monday, 1 May 2023 at 5:30pm in the Council Chambers, Shire of Serpentine Jarrahdale Civic Centre, 6 Paterson Street, Mundijong, for the purpose of 'Considering the documented process by which the CEO's performance is reviewed in accordance with Schedule 2 of the *Local Government (Administration) Regulations 1996*'.
  4. **REQUESTS** that arrangements are made for a workshop to enable the CEO to provide a status update / report on 2022-23 CEO KPIs in March 2023, to be held on Wednesday, 8 March 2023 commencing at 6pm.

**8.2 Audit, Risk and Governance Committee Meeting – 13 February 2023**

This meeting will occur post distribution of this Agenda. Therefore, the Minutes of this meeting will be distributed under separate cover prior to the Ordinary Council Meeting.



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

<b>9.1 - Notice of Motion – Correspondence sent to the Minister for Local Government regarding Electoral Reform Advocacy (SJ4080)</b>	
<b>Councillor</b>	Councillor Mack
<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 Mack via email on Monday, 6 February 2023.

The notice of motion is “That Council NOTES the correspondence sent to the Minister for Local Government, dated 28 November 2022, regarding electoral reform advocacy, following Council resolution OCM264/11/22 as contained in attachment 1.”

**Officer Comment**

At the 21 November 2022 Ordinary Council Meeting Council made the following resolution:

*Ordinary Council Meeting – 21 November 2022 - OCM264/11/22 - COUNCIL RESOLUTION  
That Council REQUESTS that the Shire President write to the Minister for Local Government requesting that the Minister consider the events and experience of the Shire of Serpentine Jarrahdale 2021 Ordinary Local Government Election in the North Ward and subsequent successful invalidity complaint and incorporate any lessons to inform the Minister’s review of the Local Government Act 1995 via a working group with members from the Department of Local Government, Western Australian Electoral Commission, Western Australian Local Government Association and Shire of Serpentine Jarrahdale.*

*This working group should consider a review of, but not limited to:*

- 1. Electoral offences in local government elections to ensure that the authority to undertake investigations of electoral offences and commence prosecutions related to electoral offences are clearly assigned and appropriate.*
- 2. Complaints which call into question the validity of an election and the process in which those complaints are investigated ensuring an appropriate authority completes an investigation prior to the cut off for a complaint to be made to the Court of Disputed Returns.*
- 3. The report which is to be provided under the current legislation to the Minister by the Western Australian Electoral Commission after an election to be done in greater depth to include complaints and the results of the subsequent investigations.*



In response to Council's resolution, a letter dated 28 November 2022 has been sent to the Minister. The letter is provided in **attachment 1**. On 7 February 2023 a response from the Minister was received. The Minister's response is provided in **attachment 2**.

The Notice of Motion requests that Council formally notes the correspondence through publication in the notice paper for the meeting. This is not typical practice and Officers would have concerns if this became a routine practice because of the administrative effort and duplication involved in including this type of correspondence in the formal notice paper. The correspondence of this type is available to Councillors already in the provisions of section 5.92 of the *Local Government Act 1995* and correspondence from the Minister for Local Government is provided to Councillors as a matter of routine. Notwithstanding, the above concerns the correspondence is attachment for Council to note.

**Attachments (available under separate cover)**

- **9.1 - attachment 1** – Letter to Minister for Local Government regarding electoral reform advocacy (E22/15389)
- **9.1 – attachment 2** – Letter to Letter to Minister for Local Government regarding electoral reform advocacy – response (IN23/2710)

**Voting Requirements:** Simple Majority

**Councillor Recommendation**

**That Council NOTES the correspondence sent to the Minister for Local Government, dated 28 November 2022, regarding electoral reform advocacy, following Council resolution OCM264/11/22 as contained in attachment 1.**

**9.2 - Notice of Motion – Tonkin Highway Extension Project (SJ4080)**

<b>Councillor</b>	Councillor Mack
<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 Mack via email on Wednesday, 8 February 2023.  
The notice of motion is “That Council:

1. NOTES the most recent update the Shire has received from Main Roads WA regarding the Tonkin Highway extension project.
2. REQUESTS the Chief Executive Officer to liaise with Main Roads WA requesting they provide a community update of the Tonkin Highway extension project and offer Shire support for this engagement.
3. REQUESTS the Shire President writes to the Minister for Transport and the Member for Darling Range:
  - a) ACKNOWLEDGING the State Government for the work done to date on the Tonkin Highway Extension project, including the collaboration with the Shire of Serpentine Jarrahdale, to ensure the Shire and the State achieves the best outcome for the community and road users for this project
  - b) Given the timeframe and scope of the project requests the Minister prioritise the completion of the Tonkin Hwy extension works relating to the intersections of Abernethy/Hopkinson roads and Orton/Hopkinson Road intersection for the following reasons:
    - i. Given the works planned for these locations associated with the Tonkin Highway the Shire has not planned or funded any major upgrades or improvements to these intersections for many years given the risk any investment would be redundant;
    - ii. Over the last 10 years these intersections have become very busy and dangerous as a result of growth in the area;
    - iii. During the 4 year period between 1/1/2017 and 31/12/2021 there has been four crashes at Hopkinson Road - Orton Road intersection, 2 of which resulted in a fatality. During the same period, there has been 19 crashes at Hopkinson Road and Abernethy Road intersection, one of which required hospitalisation and five cases required medical treatment.”



### **Officer Comment**

The Shire has been working closely with Main Roads, the State and Federal Governments to advocate for the scope of the Tonkin Highway Project to meet community need for the coming years.

This has seen the scope of the project expand to include:

- Thomas Road Duplication which will occur concurrently with Tonkin Highway Extension and this integrated project concept resulting in Thomas Road being duplicated from Kargotich Road to South Western Highway, which has been a long-term priority for the community and Shire;
- Access and local connectivity plans in the project scope, which includes the Gossage Road equine underpass; the Shanley Road vehicle underpass; the Doley Road extension from Orton Road through to Cardup Siding Road; and connectivity for emergency access way requirements.

This means the total cost of the project is now in excess of \$1 billion which is fully funded by the State and Federal Governments.

The recent update the Shire has received from Main Roads (Appendix 1) indicates that construction is expected to commence in 2025 with completion by end of 2027, subject to regulatory approvals, which include meeting appropriate environmental offsets.

In regard to the intersections of Abernethy/Hopkinson roads and Orton/Hopkinson roads, Officers are confident that the scope of the Tonkin Highway works provide appropriate long term solutions to the safety of these intersections.

However, the unresolved issue is what improvements are made (if any) and who pays for these improvements to the intersections of Abernethy/Hopkinson roads and Orton/Hopkinson roads in the short term prior to the Tonkin Highway works occurring. Works done in the short term could be redundant when the long-term solution is in place.

The Council has budgeted \$50,000 this financial year to improve lighting at the intersection of Abernethy and Hopkinson Roads. Project has been issued (late 2022) to Western Power to design and construct however the Shire has not received confirmation of the timing of these works.

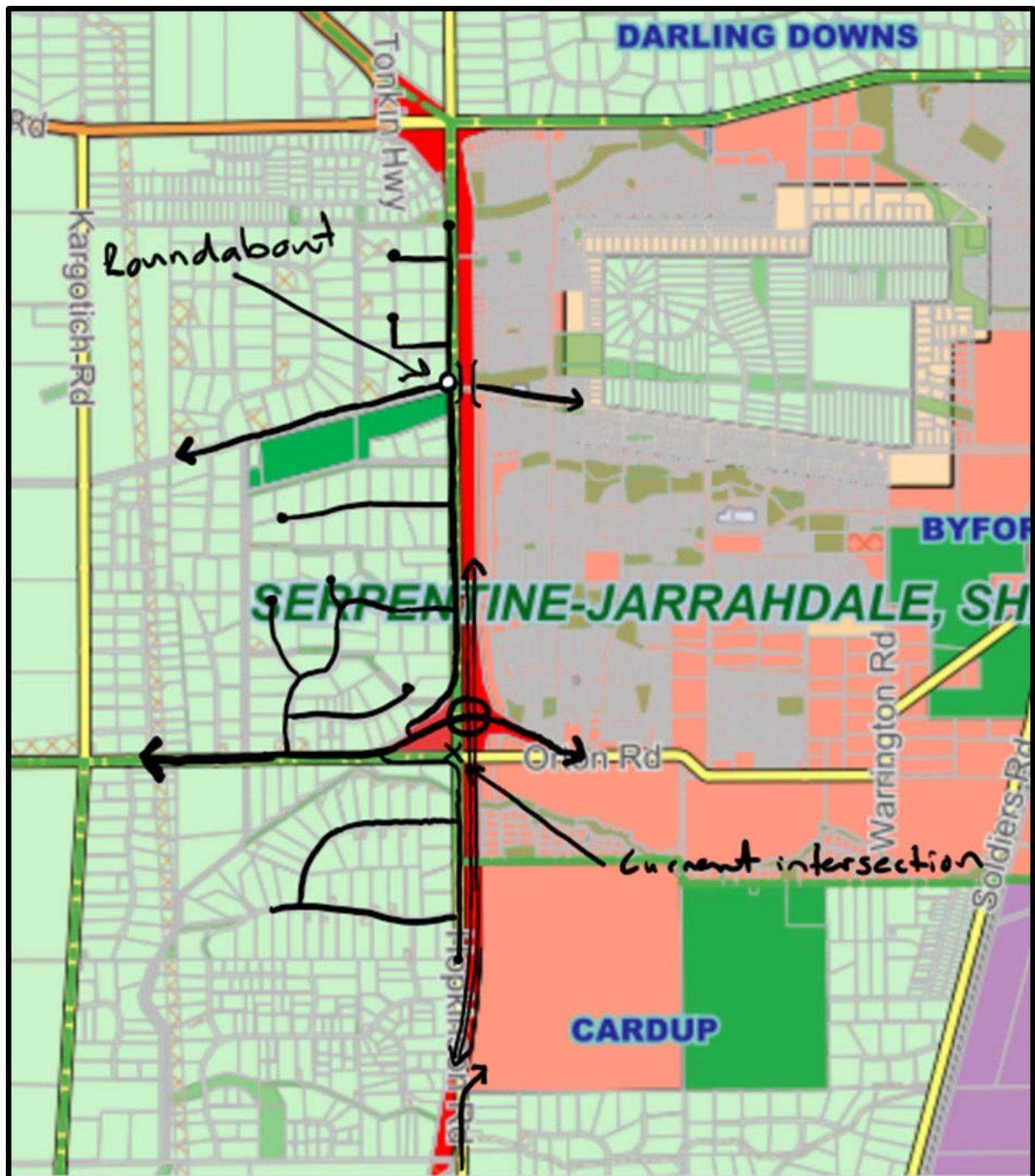
However the Shire has not planned or budget any major improvements to these intersections.

Officers support raising this matter with the Minister and the Member for Darling Range to see if the State Government can work with the Shire to provide (and potentially fund) short-term solutions to the safety at these intersections prior to the Tonkin Highway works occurring.

Officers have prepared the following sketch to depict how the road network will likely change as it relates to Hopkinson Road, and its intersections with Abernethy Road and Orton Road.

Officers understand commitments have been reached with Main Roads WA for the Tonkin Highway project to include the reconstruction of the intersection of Abernethy Road / Hopkinson Road, to become a roundabout. Officers understand that this requires land acquisition and service relocations, and forms a permanent part of the road network associated with the project to be delivered.

The intersection of Orton Road / Hopkinson Road will not exist as a four way intersection, and will be removed and replaced by a new roundabout intersection planned for Orton Road and Tonkin Highway. This will modify Hopkinson Road, as depicted. Interim improvement to the intersection of Hopkinson Road / Orton Road will need to be considered in this light.



**Relevant Previous Decisions of Council**

Nil.

**Attachments (available under separate cover)**

- **9.2 - attachment 1** – Tonkin Highway Extension Update – Correspondence to Councillors (OC23/2808)





**Voting Requirements:** Simple Majority

**Councillor Recommendation**

**That Council:**

- 1. NOTES the most recent update the Shire has received from Main Roads WA regarding the Tonkin Highway extension project.**
- 2. REQUESTS the Chief Executive Officer to liaise with Main Roads WA requesting they provide a community update of the Tonkin Highway extension project and offer Shire support for this engagement.**
- 3. REQUESTS the Shire President writes to the Minister for Transport and the Member for Darling Range:**
  - a) ACKNOWLEDGING the State Government for the work done to date on the Tonkin Highway Extension project, including the collaboration with the Shire of Serpentine Jarrahdale, to ensure the Shire and the State achieves the best outcome for the community and road users for this project**
  - b) Given the timeframe and scope of the project requests the Minister prioritise the completion of the Tonkin Hwy extension works relating to the intersections of Abernethy/Hopkinson roads and Orton/Hopkinson Road intersection for the following reasons:**
    - i. Given the works planned for these locations associated with the Tonkin Highway the Shire has not planned or funded any major upgrades or improvements to these intersections for many years given the risk any investment would be redundant;**
    - ii. Over the last 10 years these intersections have become very busy and dangerous as a result of growth in the area;**
    - iii. During the 4 year period between 1/1/2017 and 31/12/2021 there has been 4 crashes at Hopkinson Rd - Orton Rd intersection, 2 of which resulted in a fatality. During the same period, there has been 19 crashes at Hopkinson Rd and Abernethy Rd intersection, one of which required hospitalisation and 5 cases required medical treatment.**



<b>9.3 - Notice of Motion – Revocation OCM269/11/22 - Proposed ‘Radio, TV and Communications Installation’ (Telecommunications Tower and Associated Infrastructure) - Lot 116, 245 Keirnan Street, Whitby (PA22/611) (SJ4080)</b>	
<b>Councillor</b>	Councillor Duggin (Mover) Councillor Mack Councillor Strautins
<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**

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 Duggin on Wednesday, 8 February 2023 to revoke Council’s Resolution OCM269/11/22, made at the Ordinary Council Meeting of 21 November 2022, related to the Proposed ‘Radio, TV and Communications Installation’ (Telecommunications Tower and Associated Infrastructure) - Lot 116, 245 Keirnan Street, Whitby.

Support for the preparation of the Notice of Motion was provided in writing by Councillor Mack on Wednesday, 8 February 2023 and Councillor Strautins on Thursday, 9 February 2023.

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 OCM269/11/22 made at the November 2022 Ordinary Council Meeting.”

**Part 2**

“That Council APPROVES the development application for proposed telecommunications tower and associated infrastructure at Lot 116, 245 Kiernan Street, Whitby, 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-P5 received at the Shire’s Offices on the 11 July 2022
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- b. Prior to issue of a Building Permit, a Landscape Plan is to be submitted to and approved by the Shire of Serpentine Jarrahdale. This Plan is to demonstrate the provision of a suitable screening belt of landscaping on the north side of the compound, within 5m of the compound area. The width of landscaping is to reflect the width of the compound, comprise two rows of landscaping. Species should be selected which are native and which will provide a block screening outcome, between ground level and 2m height. Once approved, the Landscaping Plan shall be implemented and maintained.”

### **Officer Comment**

This matter was considered at the 21 November 2022 Council meeting, as Item 10.1.5. This item discussed the planning assessment and rationale in respect of the proposed development. Based on the planning assessment reported in Item 10.1.5, the Officer recommendation was to approve the development as proposed (being a setback of 33m from Kiernan Street).

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 applicant was requested to provide their position on legal or financial consequences, to assist Council's consideration of the matter. Their response is provided as **attachment 2**.

In respect of legal and financial consequences, Officers state:

- 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 a development approval issued for the proposed development. 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 still 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. Officers note however that the applicant has not indicated this in their response.
- Should Council not support Part 1 of the Notice of Motion, the decision of 21 November 2022 remains on foot, and the applicant will be legally permitted to implement the approval.

**Relevant Previous Decisions of Council**

*Ordinary Council Meeting – 21 November 2022 - OCM269/11/22 - COUNCIL RESOLUTION  
That Council APPROVES the development application for proposed telecommunications tower and associated infrastructure at Lot 116, 245 Kiernan Street, Whitby, as contained within attachment 4, 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-P5 received at the Shire's Offices on the 11 July 2022</i>
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- b. The development is to be setback a distance of 170m from Keirnan Street, within the cleared southwest corner on the subject land. In being relocated, the development is to maintain a minimum 5m setback from the western property boundary and 10m setback from the southern property boundary.*

**Attachments (available under separate cover)**

- **9.3 - attachment 1** - Development Application (E23/1824)
- **9.3 - attachment 2** - Response from applicant on legal/financial consequences (E23/1825)

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

**Part 2** – Simple Majority

**Councillor Recommendation****Part 1**

**That Council REVOKES decision OCM269/11/22 made at the November 2022 Ordinary Council Meeting.**

**Part 2**

**That Council APPROVES the development application for proposed telecommunications tower and associated infrastructure at Lot 116, 245 Kiernan Street, Whitby, 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.**

<b>Plans and Specifications</b>	<b>P1-P5 received at the Shire's Offices on the 11 July 2022</b>
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- b. Prior to issue of a Building Permit, a Landscape Plan is to be submitted to and approved by the Shire of Serpentine Jarrahdale. This Plan is to demonstrate the provision of a suitable screening belt of landscaping on the north side of the compound, within 5m of the compound area. The width of landscaping is to reflect the width of the compound, comprise two rows of landscaping. Species should be selected which are native and which will provide a block screening outcome, between ground level and 2m height. Once approved, the Landscaping Plan shall be implemented and maintained.**

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

<b>10.1.1 - Proposed Use Not Listed - Brewery, Restaurant and Associated Works - Consideration of Additional Information following deferral by Development Assessment Panel - Lot 201, 1248 Karnup Road, Serpentine (PA22/383)</b>	
<b>Responsible Officer:</b>	Manager Statutory Planning and Compliance
<b>Senior Officer:</b>	Director Development Services
<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> .

**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:	Taylor Burrell Barnett
Owner:	Bright Tank Property Pty Ltd
Date of Receipt:	28 April 2022
Lot Area:	43.25ha
Town Planning Scheme No. 2 Zoning:	'Rural'
Metropolitan Region Scheme Zoning:	'Rural'

**Report Purpose**

The purpose of this report is for Council to consider endorsing a Responsible Authority Report (RAR) to be presented to the Metro Outer Development Application Panel (MODAP). The RAR addresses the additional information requested by MODAP as part their decision to defer determination of the application at their 29 August 2022 meeting. The RAR can be viewed within **attachment 1**.

A RAR for the application was initially presented to Council at its 15 August 2022 Ordinary Council Meeting (OCM). The RAR was then presented to the MODAP at its 29 August 2022 meeting where the MODAP moved a procedural motion to defer for 90 days to allow the applicant to provide additional information on nine matters. As the additional information was only received on 9 November 2022, MODAP granted a further deferral period of 125 days.

The assessment of the additional information and the results of the recent community consultation form the basis of the report.

Officers are satisfied that the additional information addresses MODAPs deferral reasons and as such, recommends that MODAP approves the application conditionally.



## Relevant Previous Decision of Council

*Ordinary Council Meeting - 15 August 2022 - OCM187/08/22 - COUNCIL RESOLUTION*

*That Council resolves the following Responsible Authority Report Recommendation:*

- 1. That the Metro Outer Joint Development Assessment Panel REFUSES the application for the Use Not Listed - Brewery and Restaurant as contained within attachment 1 for the following reasons:*
  - a. The Development due to size and scale is inconsistent with the objectives of the Rural zone under the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2;*
  - b. The development, through the submission of the Nutrient Irrigation Management Plan, has not satisfactorily demonstrated that it can be undertaken without impacting the environment.*

## 29 August 2022 MODAP Minutes

### PROCEDURAL MOTION

**Moved by:** Ms Francesca Lefante

**Seconded by:** Cr Michelle Rich

That the consideration of DAP Application DAP/22/02223 be deferred until 28 November 2022, in accordance with section 5.10.1a of the DAP Standing Orders 2020, for the following reasons:

To allow the applicant to provide further information on:

- Scale of proposal and use definition in relation to the brewery element of the proposal in the context of the rural zone
- Appropriateness of selected site building location within the lot in the context and character of the rural setting
- Location and appearance of other required structures (ie sewage tanks) and impact on the surrounding amenity
- Waste and water storage tanks volume and location.
- Potable water supply, amount, treatment and disposal.
- Combined consideration of restaurant and brewery wastewater systems (disposal volumes, storage and water quality performance) in the context of the site water balance including potential impact on the groundwater and surface water systems.
- Details of site landfill requirements, levels and location
- Landscaping plan inclusive of vegetation clearing required.
- Details of upgrades required to Primary access and the proposed secondary access and associated impacts on site vegetation.

**The Procedural Motion was put and CARRIED UNANIMOUSLY**

**REASON:** The Panel deferred the proposal to enable the applicant to provide further information on various elements of the development including scale, other structures, water supply, wastewater management, land fill, landscaping.

Francesca Lefante  
Presiding Member, UDAP

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*Ordinary Council Meeting - 21 November 2022 - OCM266/11/22 - COUNCIL RESOLUTION*

*That Council resolves the following Responsible Authority Report Recommendation:*

- 1. That the Metro Outer Development Assessment Panel DEFERS considering the application for a Use Not Listed Craft Brewery and Restaurant at its 29 November 2022 meeting as contained within attachment 1 for no more than 120 days, to enable the further information received on 9 November 2022 to be assessed according to the planning framework and processes.*



MODAP 29 November 2022 Minutes

**PROCEDURAL MOTION**

**Moved by:** Ms Francesca Lefante

**Seconded by:** Cr Michelle Rich

That the Metro Outer Joint Development Assessment panel **DEFERS** the application for a Use Not Listed Craft Brewery and Restaurant at its 29 November 2022 as contained within attachment 1 for no more than 125 days, being or before 3 April 2023 for the following reasons:

- to enable the further information received on 9 November 2022 to be assessed according to the planning framework and processes.

**The Procedural Motion was put and CARRIED UNANIMOUSLY.**

Ms Francesca Lefante  
Presiding Member, Metro Outer JDAP

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## Background

### Revised Proposal Resulting from Additional Information

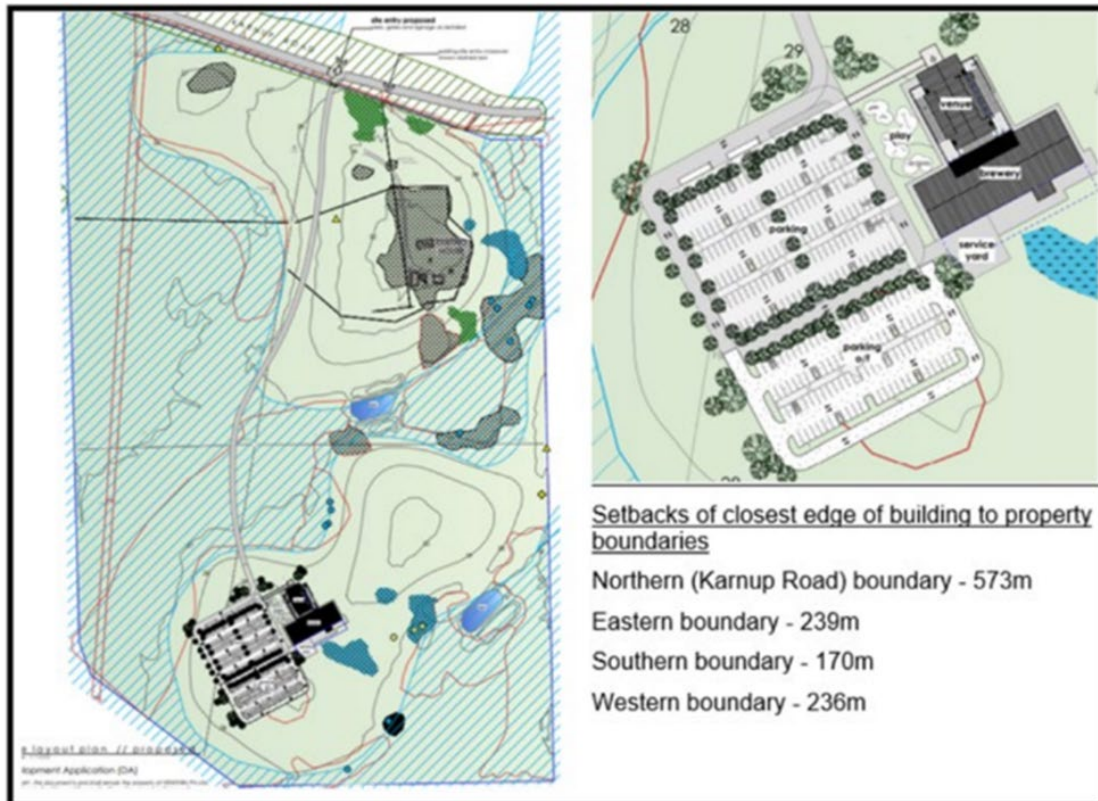
As a result of the request for additional information by the MODAP, the proposal has been amended as follows which can be viewed within the additional information submitted as contained within **attachment 2**. This has been specifically done in the following manner:

- Reducing the maximum throughput of the brewery from five-million litres to two-million litres.
- Relocating the restaurant and brewery structures north-east of the previously proposed location;
- Reducing the floor area of the brewery from 1,400m<sup>2</sup> to 1,000m<sup>2</sup>;
- The height of the brewery has been increased slightly to accommodate the brewing tank specifications. 6.94m to 8.6m in height;
- Minor adjustments to the orientation of the restaurant to take advantage of northern sunlight to the outdoor dining/picnic area/beer garden and children's playing equipment, whilst also maintaining views east towards the Scarp;
- Splitting the carparking into two separate areas with additional landscaping included. Additional landscaped areas surrounding the carparks will be used to retain existing vegetation and accommodate underground sewer wastewater treatment infrastructure;
- A modified vehicular and pedestrian access network to provide connection between the two carparking areas, restaurant and brewery service yard;
- Location of the brewery wastewater treatment plant and groundwater treatment plant structures at the rear of the brewery service yard.

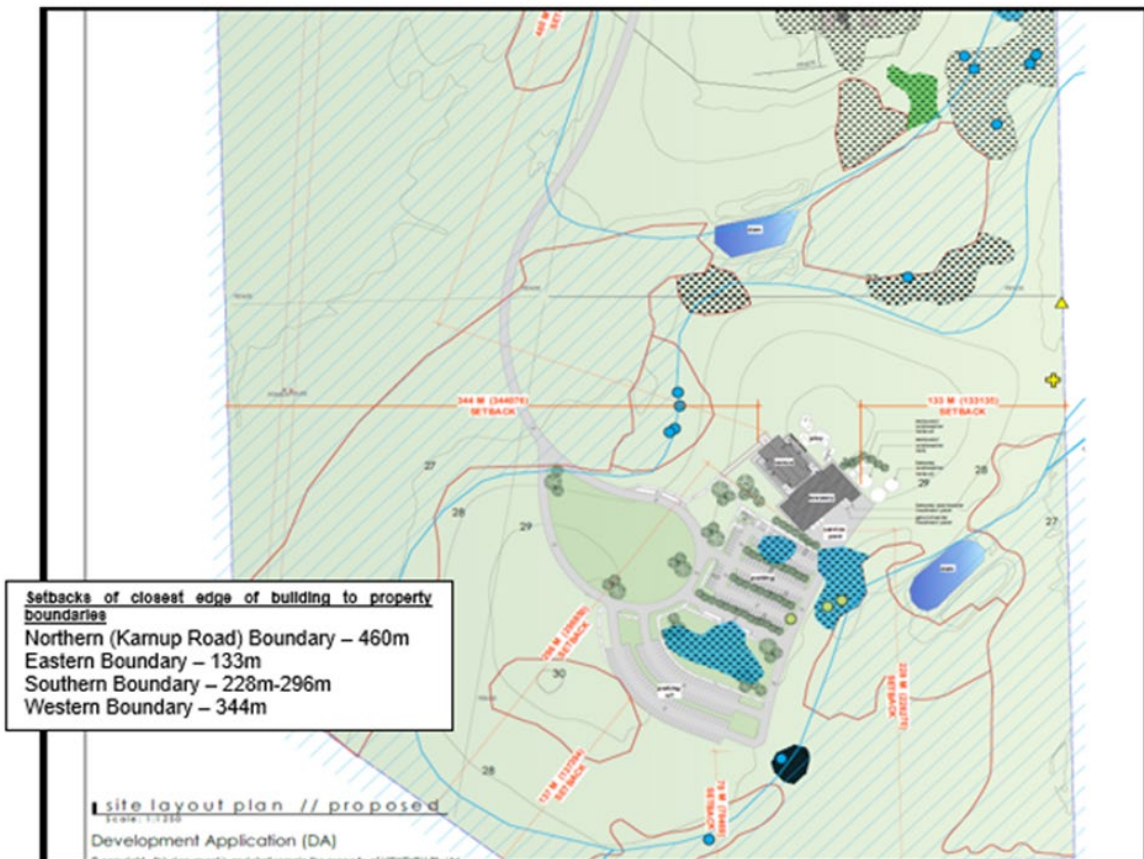




The following images compare the original site plan with the revised site plan:



Original site plan



Updated Site Plan



The additional information includes updated:

- Nutrient Irrigation Management Plan;
- Site and Soil Evaluation Report;
- Environmental Noise Report;
- Environmental Assessment Report;
- Technical Note relating to road upgrades;
- Landscape Masterplan;
- Consultant report on the updated proposal.

### **Community / Stakeholder Consultation**

The original application was advertised between 13 May 2022 to 10 June 2022 to surrounding landowners within 1km radius of the subject site, in accordance with LPP1.4 - Consultation for Planning Matters. The application was also advertised on the Shire's website for the same period and a sign placed onsite.

At the conclusion of that first round of consultation, 60 submissions were received, six of these were from State Government Departments. Of the submissions received, 27 provided support or raised no concerns and 33 raised objections.

The revised proposal arising from the additional information was then readvertised, consistent with the standard process where a proposal is amended from that originally advertised. This occurred between 15 November 2022 to 6 December 2022 to surrounding landowners within 1km radius of the subject site, in accordance with LPP1.4 - Consultation for Planning Matters. The application was also advertised on the Shire's website for the same period.

At the conclusion of the second round of consultation, 12 submissions were received, four of these were from State Government Departments. Of the community submissions received, two provided support and six raised objections. The objections and concerns relate to the following issues, which are discussed in the relevant headings of the report in conjunction with the Officer assessment:

- Increase road traffic and safety concerns;
- Amenity impacts (noise, traffic, odour);
- Environmental impacts (wetlands);
- Wastewater volumes;
- Nutrient export risk on the Peel Harvey Estuary; and
- Increase in car parking bays.

A summary of all public and stakeholder submissions received from the second round of consultation, including Officer and applicant responses, can be viewed within **attachment 3**.





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Department of Primary Industries and Regional Development (DPIRD)

*'The Department of Primary Industries and Regional Development (DPIRD) objects to the proposal for the following reasons:*

- *State Planning Policy 2.5 - Rural Planning in section 5.5 states the following:*

*WAPC policy is to:*

*support small scale tourism opportunities, such as bed and breakfast, holiday house, chalet, art gallery, micro-brewery and land uses associated with primary production, within the rural zone;*

*The proposed restaurant will have a seating capacity of 1,000 and the brewery at full production will annually produce two-million litres of beer. This is a large development, and it cannot be described as a small-scale tourism opportunity or micro-brewery.*

- *The Shire of Serpentine-Jarrahdale Town Planning Scheme No. 2 (TPS2) states in Clause 5.10.1 the following:*

*The purpose and intent of the Rural zone is to allocate land to accommodate the full range of rural pursuits and associated activities.*

*The proposed restaurant and brewery are not rural pursuits and due to their large size, cannot be regarded as associated activities.*

- *The Shire of Serpentine-Jarrahdale Draft Town Planning Scheme No. 3 have the following objectives for the Rural zone:*

*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.*

*Due to the magnitude of the proposed restaurant and brewery it is not possible to classify these as secondary uses to agriculture.*

*The application for the proposed restaurant and brewery (non-rural land uses) does not demonstrate benefit or compatibility with surrounding rural uses. For example, the extra vehicle movements into the property and traffic on rural roads associated with the brewery and restaurant will be significantly greater than that of the surrounding rural land.*

*DPIRD assessed the revised Nutrient Irrigation Management Plan (NIMP) that includes the waste generation, treatment, and disposal aspects of the NIMP. This assessment is limited to nutrient generation and offtake and DPIRD would like to provide the following comments:*



*The proposed brewery waste treatment and irrigation is acceptable, and sufficient nutrient offtake will occur with a perennial ryegrass and sorghum combination, if harvested annually by mechanical means. However, annual re-sowing of these crops will be required. DPIRD notes that the proposed pod irrigation system will only suit crops with a low growth height and is therefore not suitable for the irrigation of sorghum.*

*It is unclear whether the proponent has committed to adequate winter storage requirements over the June-July period at full operating capacity. The proposed infrastructure (specifically winter storage tanks) should be sized to contain the volume of effluent generated over the June-July period at full production capacity of 2 million litres per year. DPIRD recommends that storage should also be available for August as rainfall often exceeds evaporation during this period.*

*Planning approval should be conditional on the proponent obtaining the required licences from the Department of Water and Environmental Regulation for prescribed premises (Category 25 and 54) licences and works approval’.*

#### Officer Comment

The development is considered to be consistent with the objective of the Rural zone under TPS 2 and the prevailing framework which has been drafted to include non-rural uses such as a Brewery and Restaurant land uses.

Officers have assessed the application against the objective of the Rural zone and State Planning Policy 2.5 - Rural Planning further in the report and consider the development consistent with the planning framework. Craft breweries and wineries, for example in the Swan Valley, Geographe and Margaret River regions of the State, are commonplace uses within Rural areas and represent a key and defining element of the Rural zone. Location within rural areas takes consideration of the inputs required to the processes, and also water qualities that contribute the natural minerals and elements to create unique tasting products. This is discussed further in the Officer assessment of the report.

In terms of the revised NIMP, Officers will impose a condition seeking for an alternative crop to be planted to replace sorghum. No irrigation is proposed to occur between April and September. As such, there is no need to include storage capacity of brewery wastewaters for the August period as the waters during this time are proposed to be stored.

#### Department of Water and Environmental Regulation (DWER)

DWERs full submission can be viewed within the Summary of Submission (**attachment 3**). An extract from the submission has been included following:

*‘Thank you for providing the amended development application for a proposed brewery and restaurant received with correspondence dated 14 November 2022 for the Department of Water and Environmental Regulation (Department) to consider.*

*The Department has reviewed the application and its position remains that it is unable to support the application in its current form, due to significant uncertainty around the site’s capacity to accommodate this development within relevant environmental and water standards.*

*Consistent with previous correspondence, dated 26 August 2022, it is recommended that the Shire appropriately considers potential risk of granting any planning approval in the absence of certainty with regard to assessment and approvals under Part V of the Environmental Protection Act 1986 (EP Act). Should the EP Act process yield a substantially modified, or unsuccessful, result for this proposal, this could result in significant misalignment of legislative approvals. It*



*should be noted the proponent withdrew an application for a works approval in August 2022, and the Department is yet to receive an amended application.*

*Further to the above, through this planning process the proposal has not demonstrated nutrient targets of the Peel Harvey catchment can be achieved, which departs from the requirements of the Environmental Protection Peel Inlet - Harvey Estuary Policy (EPP) (EPA, 1992) and State Planning Policy 2.1 (SPP 2.1) Peel Harvey Coastal Plain Catchment (WAPC, 2003).*

*As such, it is recommended the Shire defer decision-making on this proposal until such time as the EP Act process has been substantially progressed or concluded, to ensure a greater level of certainty for the Shire and the proponent.*

*In addition, the Department understands the amended development application is to be resubmitted to the Department of Health for assessment, as an application for approval is required for the brewery wastewater treatment apparatus in addition to the restaurant sewage treatment apparatus. This further identifies the need to holistically consider necessary approvals associated with this proposal, given its location upon a seasonally inundated site of transmissive soils, traversed by a major drain connecting to the Peel-Harvey Estuary system'.*

#### Officer Comment

The updated NIMP demonstrates compliance with the EPP nutrient targets. The development will be subject to a separate licensing process under Part V of the *Environmental Protection Act 1986* where it will be subject to further assessment by DWER.

#### Water Corporation

Water Corporation provided comments, which are summarised below from their submission:

- Subject land is remote from water and wastewater services;
- Subject area falls within Serpentine Drainage Catchment in the Mundijong Drainage District, a rural drainage system. The Serpentine Branch Drain runs along the western boundary of the subject site;
- Rural drains are not designed to give flood protection at all times and some inundation of land can be expected. Water Corporation maintains its existing drains to ensure they are capable of clearing water from adjacent rural properties within three days of a storm event, where contours and internal drainage make this physically possible;
- To determine flood level, the developer should contact DWER regarding the Drainage and Water Management Plan which includes the subject area;
- Developments within this catchment are required to contain the flows from a one-in-one-hundred-year storm event on site. Discharge to Water Corporation drains must be compensated to pre-development levels. No adverse discharge or runoff from the subject land would be allowed into Water Corporation drainage system;
- Developer is required to fund the full cost of protecting or modifying any of the existing infrastructure which may be affected by the proposed development;
- In accordance with Section 90 of the *Water Services Act 2012*, whenever development is proposed near Water Corporation assets, the applicant/developer/owner needs approval prior to construction. This should be done by submitting an Approval of Works application;
- Proposal will require approval by the WC Building Services section prior to commencement of works. Infrastructure contributions and fees may be required to be paid prior to approval being issued.



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**Officer Comment**

A condition has been imposed to require the submission of a Stormwater Management Plan, to demonstrate how the development meets predevelopment flow rates and incorporate best practice water sensitive urban design measures. The Stormwater Management Plan is required to be submitted and approved prior to issue of a Building Permit. Conditions have also been imposed relating to the agency requests.

**Department of Health (DoH)**

The DoH provided the following comments:

***Wastewater Management***

*As highlighted in the DoH's previous correspondence, this site is captured under the Government Sewerage Policy (2019) and has large sewage sensitive areas that restrict the use of available land for disposal of wastewater generated from the brewery and restaurant. The DoH is of the opinion that effective management of both systems (especially the effluent disposal for the brewery), has not been adequately demonstrated in the documentation. The DoH is therefore not able to support this proposal until the following has been provided or demonstrated:*

- 1. Sizing of both onsite wastewater treatment and disposal areas in consideration of the requirements of the Government Sewerage Policy (2019), and to ensure that the minimum setbacks as per the policy are met.*
- 2. Scaled drawings for the restaurant wastewater leach drain disposal system need to be shown in the plan design. The proposed area appears to be sized for the restaurant patronage and staff numbers; however, this requires confirmation.*
- 3. Further details on the proposed brewery wastewater system including confirmation that it is sized to peak and non-peak performance and scaled drawings of the proposed brewery effluent disposal area.*
- 4. Further details are required of any proposed use of wastewater recycling for brewery use for further assessment in accordance with the Department's Guidelines for the Non-potable Uses of Recycled Water in Western Australia.*
- 5. Areas that may require fill over locations that are subject to inundation and/or flooding in a 10 percent annual exceedance rainfall event should not be used as a disposal area.*

*When the above have been demonstrated, a separate application to install the restaurant and brewery onsite wastewater systems will be required to be submitted to local government for assessment prior to submission to the DoH for assessment and approval. Furthermore:*

- 1. Both wastewater treatment systems will be required to have engineer certification as part of the application, to ensure the prescribed water quality criteria for each system is met, please see link: [https://ww2.health.wa.gov.au/Articles/A\\_E/Certification-for-installation-of-wastewater-treatment-systems](https://ww2.health.wa.gov.au/Articles/A_E/Certification-for-installation-of-wastewater-treatment-systems)*
- 2. If the treated wastewater is intended to be recycled for beneficial purposes within the brewery, a separate Recycled Water Quality Management Plan (RWQMP) may be required in accordance with the "Application Process for approval of a recycling water scheme": [https://ww2.health.wa.gov.au/Articles/A\\_E/Application-process-for-approval-of-recycling-water-scheme](https://ww2.health.wa.gov.au/Articles/A_E/Application-process-for-approval-of-recycling-water-scheme)*



*The DoH also recommends the proponent contact the Department of Water and Environmental Regulation to determine if these systems fall into their criteria requiring assessment; and encourages the proponent to ensure the design of the proposed wastewater systems can accommodate any proposed future expansion without increasing a risk to public health.*

#### *Drinking Water Management*

*The proposal to ensure a water supply which meets potable water quality as specified under the Australian Drinking Water Quality Guidelines - 2011.*

#### Officer Comment

Officers consider that these requirements can be addressed through the DoH and DWER regulatory processes separate to this approval. Updates to the SSE however, have been recommended to address the confirmations requested in the DoH submission pertaining to the effluent disposal irrigation strategy.

### **Statutory Environment**

#### Legislation

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Environmental Protection (Noise) Regulations 1997*

#### State Government Policies

- South Metropolitan Peel Sub-Regional Framework Towards Perth and Peel 3.5 Million
- Metropolitan Region Scheme
- State Planning Policy 2.5 - Rural Planning
- State Planning Policy 3.7 - Planning in Bushfire Prone Areas
- Environmental Protection Authority Environmental Assessment Guideline for Separation Distances Between Industrial and Sensitive Land Uses

#### Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2
- Draft Shire of Serpentine Jarrahdale Local Planning Scheme No. 3
- Shire of Serpentine Local Planning Strategy
- Local Planning Policy 1.4 - Public Consultation for Planning Matters (LPP1.4)

### **Planning Assessment**

Clause 67 of the Deemed Provisions lists matters to be considered in the determination of development applications. A full assessment of the revised proposal arising from the additional information was carried out against the current planning framework in accordance with Clause 67 of the Deemed Provisions which can be viewed within **attachment 4**. For the purposes of this report, discussion is confined to the objections relating to the revised proposal.





The following is arranged according to the specific deferral points resolved by the MODAP.

1. Scale of proposal and use definition to the brewery element of the proposal in the context of the Rural zone

Additional information and Officer assessment

In the opinion of Officers, the applicant has demonstrated, through the additional information, the suitability of the development within the 'Rural' zone. In that it is consistent with the prevailing framework under the draft Shire of Serpentine Jarrahdale Local Planning Scheme No. 3 (LPS3) where the 'Brewery' use is a discretionary use and as a result is an expected form of development within the 'Rural' zone. Furthermore, the applicant has identified several other facilities within the rural areas of the Shire as follows:

- Millbrook Winery;
- King Road Brewery;
- Tattarang Springs.

In terms of scale, the applicant has reduced the scale of the brewery footprint to 1,000sqm from 1,400sqm and maximum throughput from five-million litres to two-million litres. The development footprint covers less than 4% of the total area of the property (property size is 43.2ha). The scale of the development in addition to proposed landscaping and design treatments makes the proposal consistent with elements of the rural character of the locality.

The plans that were referred to the community showed an increase in car parking bays, however, the applicant has since updated the plan after consultation to reduce and reflect the initial 251 bays in a split configuration.

Under Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2), there is no Brewery definition or other land uses applicable for this component of development. The development was therefore classified as a 'Use Not listed' under TPS 2. For such a development to be considered suitable in the 'Rural' zone, the development must be considered consistent with the objective of the 'Rural' zone, and also have regard to scale, balance of land use and potential amenity impacts.

The objective of the 'Rural' zone under TPS 2 is 'to allocate land to *'accommodate the full range of rural pursuits and associated activities conducted in the Scheme Area'*.

TPS2 does not define a 'rural pursuit', the general definition as determined by State Administrative Tribunal (SAT) is something relating to or a characteristic of the country as cited in (*Attwell and City of Albany [2009] WASAT 38*). The development will function as a place of entertainment and leisure for the rural community, as well as for visitors, and can be regarded as carrying out an associated activity that supports rural pursuits in part.

Another consideration of a development being consistent with the objectives of the zone, is assessing the development's impact upon existing and future rural pursuits being undertaken on rural land within the locality. A position considered in *Blast-Tech Australia and Shire of Serpentine Jarrahdale (2020) WASAT 157*. The development is not sterilising the use of the remainder of the land to be used for various rural pursuits as the land is already comprised through the wetlands and seasonal inundation.

More broadly, the overall development is considered to cover approximately 4% of the overall site which is 43.2ha in size. The development is proposed to be setback adequately from lot boundaries and the form of development proposed seeks to capture the expected forms of rural development within the Shire. The development will be subject to management plans associated



with noise and nutrient irrigation management to ensure rural amenity is protected and environmental values of the land are managed appropriately.

In terms of the brewery component, as mentioned previously, likely noise emissions are from the mechanical services associated with the operation (exhaust fans) and not specifically from the production of beer process. The DWER are generally satisfied with this statement as previously advised. A condition requiring an updated acoustic assessment to be submitted once the mechanical plant has been selected has been imposed to address this likely noise source. Noise control strategies will need to be recommended to be included within the NMP to ensure any mechanical plant associated with the brewery will be managed to meet the assigned levels of the *Environment Protection (Noise) Regulations 1997* (Noise Regulations).

In terms of odour from the brewing process, as stated in the previous report, this is often attributed to the boiling phase of the brewing process. During this period, hops are added to the boil which typically emits an odour. This has been recognised by the brewing industry. For this reason, the proposal has included a closed kettle boiler system. In this style of operation, the steam vapour released by the boiling process is routed through a condenser where the steam is condensed back into water and sent to drain or reused in the brewing process as heating water, ultimately avoiding the release of steam into the atmosphere, removing the potential of odour emanating from the site. Officers are satisfied that the closed system will adequately address the potential of odour being generated from the development.

Wastewaters generated by the brewery component is addressed in a later section of the report. The wastewaters once undergone treatment onsite will be irrigated to a level which meets the nutrient targets of the Peel Harvey Catchment. The development will be subject to a Nutrient Irrigation Management Plan which will also be required to be reviewed as part of DWER's licensing requirements of the development as part of a separate process under the *Environment Protection Act 1986*.

As noise, odour and waste waters are proposed to be managed by management plans to ensure the amenity of the locality is not adversely impacted upon, Officers consider the development will not impact upon rural pursuits occurring on rural land within the locality. Therefore, demonstrating consistency with the objective of the 'Rural' zone.

In regard to the current strategic framework and the prevailing planning framework, the subject site remains 'Rural' under draft LPS3 and designated as 'Rural' land under the LPS. The objectives of the Rural zone are as follows:

- i. *To provide for the maintenance or enhancement of specific local rural character.*
- ii. *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.*
- iii. *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.*
- iv. *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.*
- v. *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 the 'Rural' area under the LPS are to provide for a full range of rural uses, tourism, rural enterprise and the preservation of the rural character. In this regard, the proposed development introduces non rural uses within the 'Rural' zone that will serve the rural community and also provide for rural tourism opportunities to develop within the area. As mentioned in the previous report, the draft LPS 3 and LPS have been formed by introducing non-rural uses such as a 'Brewery' and 'Restaurant' land uses as development appropriate within the 'Rural' zone. The definition of 'Brewery' under draft LPS 3 is as follows:

*Means a premises the subject of a producers license authorising the production of beer, cider or spirits granted under the Liquor Control Act 1988*

The proposed brewery is considered to meet this definition under draft LPS 3. In terms of preservation of rural character, Officers are satisfied that the development as previously discussed will not adversely impact upon rural amenity and the environmental value site and broader region due to robust management plans and the siting of the development.

2. Appropriateness of selected site building location within the lot in context and character of the rural setting

Additional information and Officer assessment

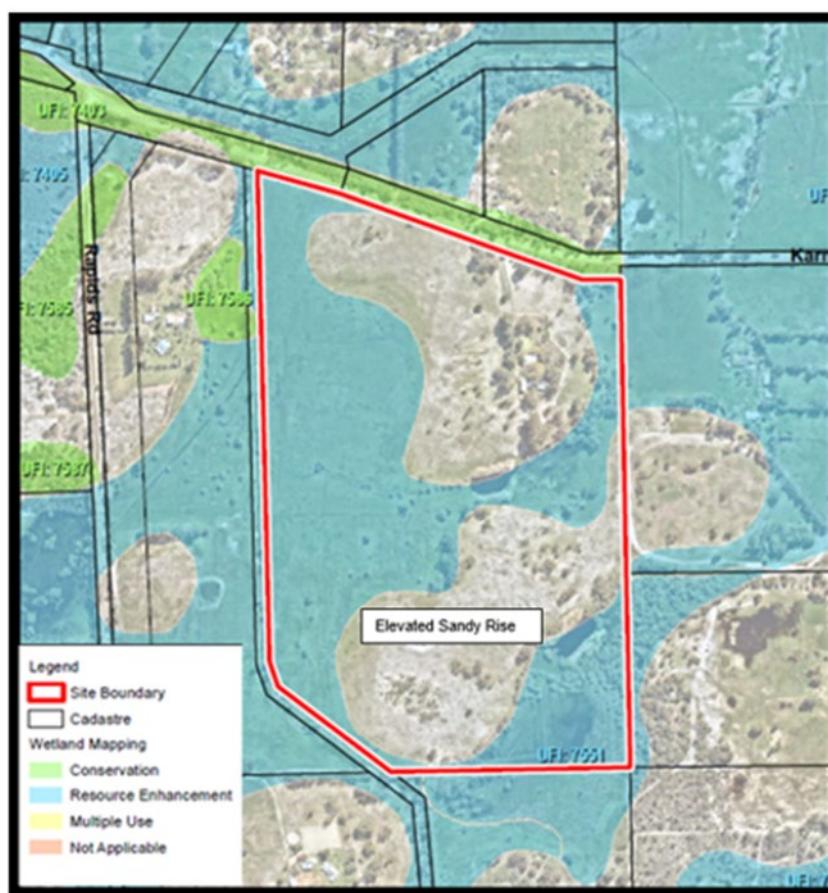
The applicant has proposed minor modifications to the development to address the concerns raised by the MODAP and community. The minor modifications are as follows:

- Restaurant and brewery structures relocated north-east of the previous location. This provides a 296m separation to the south-western property boundary, and in excess of 450m separation between the development and nearest dwelling to the south-west of the site. Approximately 420m separation is provided between the development and the nearest residential dwelling to the north-west
- Separation of the parking bays into two smaller car park areas, and incorporation of additional design features to soften the visual impact of the car parks. Approximately 300m separation is provided between the carpark and nearest dwelling to the south-west of the site. Existing screening vegetation within the southern portion of the site will be retained and enhanced with additional landscaping, significantly obscuring the view of the development from the adjoining property.

The applicant has advised that the restaurant and brewery buildings have been specifically designed to suit the rural character of the area. The restaurant will be housed in a repurposed vintage rail structure from Collie, comprising a mix of Australia steel, recycled brick, natural finish decking and substantial glazing to provide an open and inviting appearance whilst still achieving an overall appearance that suits the rural aesthetic of the area.

The site is located within a rural area of the Shire. The site forms part of a locality comprising of rural characteristics such as the presence of mature dense vegetation, large rural properties, large rural buildings, wetlands and a range of rural pursuits being undertaken on land within the locality, including rural living.

The site, as previously advised, contains two sandy rises and wetlands located within the lower lying areas of the property. The development to protect the wetland has been proposed on a sandy rise towards the rear of the site to maximise distance from Karnup Road and separation from groundwater. Refer to following image:

**Subject Site**

In terms of the setbacks of the development to the boundaries as a result of the relocation, they have varied slightly from the earlier proposal. The development has been drawn closer to the eastern boundary, however, still maintains adequate distances to boundaries of the site, removing possible impacts of the development from neighbouring properties. The setbacks to boundaries are listed as follows:

Boundary	Initial Setbacks	Revised Setbacks
North	573m	460m
East	239m	133m
South	170m	228m-296m
West	236	344m

Officers consider that the site, due to the presence of natural mature vegetation and significant setbacks to boundaries, provides for a suitable location for the development to be undertaken to manage the potential of adverse impacts to the existing rural landscape. Officers also note that the brewery shed is proposed to be increased by 1.06m in height. The existing vegetation onsite and surrounding the property is still considered to adequately screen the development from neighbouring properties, with minimal filtered views possible of the development.

In terms of the form of development, as previously reported, will appear rural in nature with the design of the building seeking to mimic rural style development and utilise colours, materials and fenestration to provide for a visually appealing building as seen below:

**Perspectives of the Development**

In terms of the environmental impacts resultant from the wastewaters associated with the brewery and restaurant, through the submission of a revised Nutrient Irrigation Management Plan, it has been demonstrated that the site is suitable to irrigate treated brewery wastewaters due to compliance with the Nitrogen and Phosphorous level targets of the Peel Harvey Environment Protection Policy (EPP). The submitted NIMP and DWER's recommended amendments are discussed later in the report.

An updated acoustic assessment has also been submitted to reflect the minor changes to the setbacks which can be viewed within **attachment 2**. The acoustic assessment was referred to the DWER for assessment who advised (**attachment 5**) as follows (amongst other things):

*"The proposed functions and operational scenarios of the hospitality venue (restaurant) attached to the north side of the brewery. The proposed functions and operational scenarios of the hospitality venue have not changed in the addendum. Therefore, the only change to the noise emission levels at the neighbouring noise sensitive receivers from the restaurant is due to the relocation of the hospitality venue, which is now about 100m closer to the two closest residential buildings to the east and north east, but about 100m farther away from the closest noise sensitive premises to the south west. It can be expected that noise emission levels from the proposed development will be increased at the neighbouring noise sensitive premises located to the east and north east and decreased to the south west, when compared with the original development application lodged in April 2022. The noise modelling results from GHFs updated report confirm this expectation.*

*ENB notes that the changes of the buffer distance from the proposed hospitality venue to each of the neighbouring noise sensitive premises are not very significant. Hence the changes to the modelled noise emission levels at the closest neighbouring noise sensitive premises are also not significant. All the assessment conclusions and noise mitigation and management measures proposed in the original development application documents are still valid".*



DWER's assessment of the revised acoustic assessment demonstrates that as significant setbacks are able to be maintained, coupled with management measures, determines a general suitability for managing impacts upon rural amenity. The NMP will ensure that the development complies with the Noise Regulations and act as a mechanism to respond to complaints and refine the provisions within the NMP to address any reoccurring complaints of excess noise.

Road upgrades which are discussed further in the report have also been proposed to ensure the intersection of the property with Karnup Road performs at a level which can ensure vehicles can manoeuvre into and out of the site without causing an impact on the safety of the immediate network.

Officers are satisfied that the additional information has demonstrated that the site is suitable and the location of the buildings on the sandy rise appropriate for the proposed development to manage impacts upon rural amenity by way of management plans.

3. Location and appearance of other required structures (i.e. sewage tanks) and impacts on the surrounding amenity
4. Waste and water storage tanks volume and location

Additional information and Officer assessment

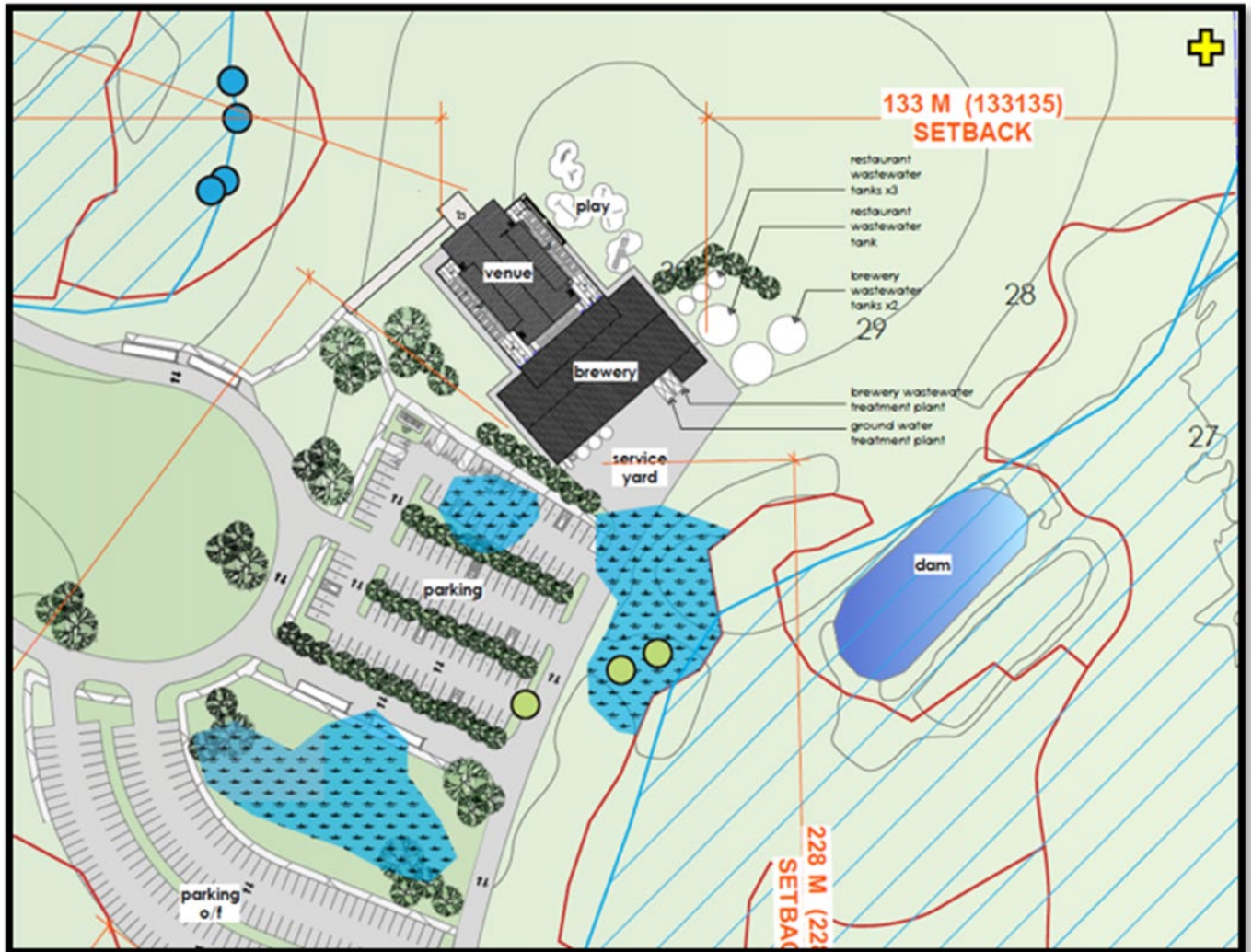
An updated site plan has been provided by the applicant depicting a range of tanks proposed to manage both restaurant and brewery wastewaters. In relation to the restaurant, four tanks have been proposed [one x steel tank 230kl 10.4m diameter x 2.9m height and three x poly tanks (corrugated) 50KL 4.6m diameter x 3.5m height].

In terms of the brewery, two tanks have been proposed (one x steel or plastic tank 260kl 10.7m diameter x 2.9m height and one x steel or plastic tank 215KL 9.7m diameter x 2.9m height).

The updated site plan also depicts the location of the wastewater treatment plant for the restaurant and brewery which is located to the rear of the brewery building.

The tanks have been located on the eastern side of the brewery and are proposed to be screened with mature landscaping. The tanks are set back more than 100m from the property boundary to the east and will be screened completely from Karnup Road. The tanks even if viewed from vistas through the proposed landscaping would appear commonplace in the setting as large tanks are a form of development typical in rural areas (water and firefighting purposes). The updated site plan can be seen in the following image in addition to images of the tanks proposed:





Location of Wastewater Tanks for the Brewery and Restaurant



TYPICAL APPEARANCE OF STEEL TANKS



TYPICAL APPEARANCE OF POLY TANKS



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**5. Potable water supply, amount, treatment and disposal****Additional information and Officer assessment**

The applicant has advised, through the additional information, that as a result of the reduction in maximum throughput of beer being reduced to two-million litres, a total of 30,000 KI of potable water is required for both the restaurant and the brewery. The applicant has applied for a total of 50,000KL with the DWER to be extracted from the Leederville Aquifer. As part of the suite of the additional information, the applicant has provided a groundwater resource allocation report to demonstrate that the groundwater allocation is available.

The regulatory authority responsible for issuing licenses to extract groundwater from the aquifer belongs to DWER and not a Shire process. The applicant has based their water requirements on their operational needs and also on the basis that during the wetter months of the year wastewaters will be recycled through the development. Reducing the need to extract water from the aquifer.

In terms of DWERs assessment process in respect to water licensing applications, DWER consider a number of matters prescribed under the *Rights in Water and Irrigation Act 1914* as part of their assessment of water licensing applications process. These include whether a proposed take and use of water is:

- in the public interest
- ecologically sustainable
- environmentally acceptable
- not prejudicial to other current and future needs for water
- unlikely to have a detrimental effect on another person
- unable to be provided for by another source
- in keeping with:
  - local practices
  - relevant by-laws
  - plan approved under Part III Division 3D Subdivision 2
  - relevant previous decisions of the Minister
- consistent with
  - land use planning instruments
  - requirements and policies of other government agencies
  - intergovernmental agreements or arrangements.

Submissions were received by the community relating to the drawdown of the water and impacts to existing supplies. In this regard, Officers advise that the water to be extracted is deeper than the Superficial Aquifer where surrounding properties draw water from. The Leederville Aquifer is confined from the Superficial aquifer and the draw down is not considered to impact existing water supplies from the Superficial Aquifer.

In terms of treatment and disposal, the water extracted is proposed to undergo a treatment of reverse osmosis through a filtration system. Brine from the reverse osmosis system is proposed to be removed to an offsite liquid disposal site.



6. Combined consideration of restaurant and brewery wastewater systems (disposal volumes, storage and water quality performance) in the context of the site water balance including potential impact on the groundwater and surface water systems

Additional information and Officer assessment

A revised NIMP has been submitted to demonstrate the revised volumes, storage and quality of wastewaters associated with the brewery production once treated. The NIMP also focuses more so than the previous iteration on storing and recycling wastewaters in the wetter months of the year as opposed to being irrigated onsite due to likely water logging.

The applicant has also submitted a revised Site and Soil Evaluation (SSE) report prepared in accordance with the Government Sewerage Policy which examines the environmental aspects of the site in relation to sewerage collection, treatment, and onsite disposal to ensure adequate performance and management over time.

In terms of the revised wastewaters generated by the brewery, the updated NIMP identifies that the following quantities of wastewaters are expected in year one and year five:

Month	Wastewater Volumes	
	Year 1 (2023) kL/month	Year 5 (2028) kL/month
January	366	732
February	434	868
March	334	668
April	334	668
May	334	668
June	234	468
July	234	468
August	234	468
September	334	668
October	366	732
November	434	868
December	434	868
Total	3170	6440

**Wastewater Quantities**





Based on the above quantities, the development is expected to generate annual nutrient loads as follows:

Parameter	Average mg/L	Annual Load (kg/yr)		Annual Load * (kg/ha/yr)	
		Year 1	Year 5	Year 1	Year 5
Chemical Oxygen Demand (COD)	3063	9863	19725	1351 (2.26 kg/ha/day)	2702 (7.38 kg/ha/day)
Biological Oxygen Demand (BOD <sub>5</sub> )	1870	6021	12043	825 (2.26 kg/ha/day)	1649 (5.39 kg/ha/day)
Total Suspended Solids (TSS)	370	1191	2382	163	326
Total Kjeldahl Nitrogen	56	181	363	25	46.7
Total Phosphorus	12	39	77	5.3	10.59

### Yearly Loads: Pre-Treatment

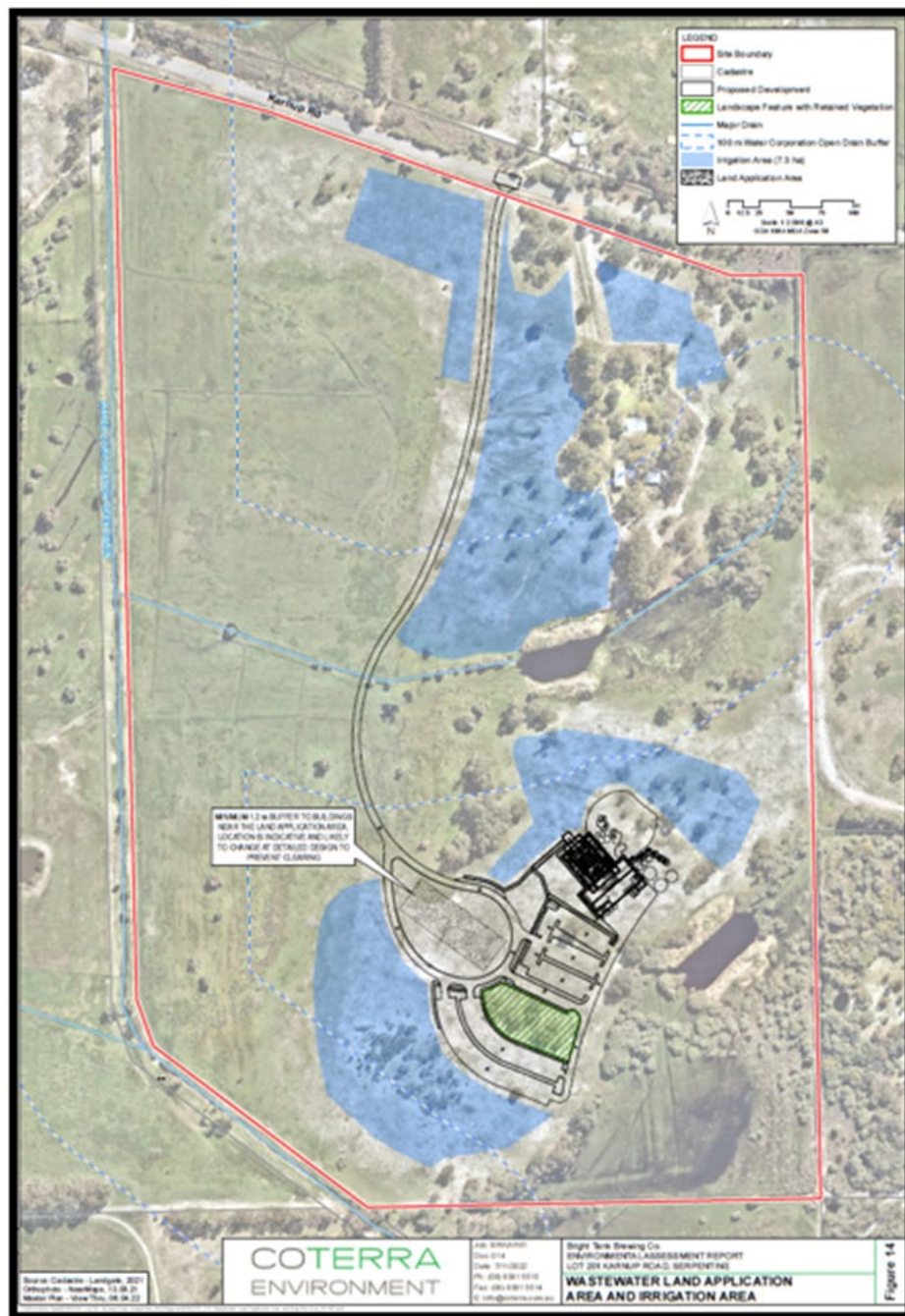
The updated NIMP demonstrates that using the Precipitation and Membrane Bioreactor (MBR) processes, there will be a reduction of approximately 80% in Total Phosphorous (TP), less than 10mg/L of Total Suspended Solids (TSS) and Total Nitrogen (TN) will be reduced by 10mg/l. Post treatment loads can be seen below:

Parameter	Average mg/L	Annual Load (kg/yr)		Annual Load (kg/ha/yr)	
		Year 1	Year 5	Year 1	Year 5
Chemical Oxygen Demand (COD)	Not available	Not available	Not available	Not available	Not available
Biological Oxygen Demand (BOD <sub>5</sub> )	<10	<32	<64	<4.4 (0.01 kg/ha/day)	<10.5 (0.03 kg/ha/day)
Total Suspended Solids (TSS)	<10	<32	<64	<4.4	<8.8
Total Kjeldahl Nitrogen	<46	<148	<296	<20.3	<40.6
Total Phosphorus	<2.4	<8	<16	<1.1	<2.1



Under the EPP, strict application rates of TN and TP are required to be adhered where wastewaters are to be used for irrigation purposes once treated. In this regard the EPP sets the threshold for TN and TP. For TN the EPP prescribes 45/kg/ha/yr and for TP 6.5 kg/ha/yr. Using the proposed onsite treatment processes, the NIMP demonstrates that TN in the first year is 20.3kg/ha/yr and 40.6kg/ha/yr in year five. TP is 1.1kg/ha/yr in the first year and 2.1kg/ha/yr in year five. The NIMP demonstrating the wastewaters are compliant with the EPP and are of a quality suitable for irrigation purposes.

In terms of irrigation, an area of 7.3 hectares has been identified where the wastewaters once treated will be irrigated as captured below:



**7.3 ha of Irrigation Areas**



The area is proposed to be bunded to prevent surface runoff to the low lying areas of the site which previously advised are mapped wetlands. Irrigation of the dedicated area is not proposed to occur during the months of April to September to reduce the hydraulic loading to land when rainfall exceeds evapotranspiration rates. As such, the hydraulic loading is expected to be reduced by 50% during these months. The revised NIMP indicates that approximately 234m<sup>3</sup> of wastewater storage will be required in year one of operations (June and July periods) and 468 KI of storage by year five.

The applicant as stated in the previous report has proposed to plant crop and pasture species, to further strip nutrients from the wastewaters once irrigated to reduce the level of nutrients leaving the site. In this regard, the applicant has proposed to plant sorghum and ryegrass within the irrigation areas. These crops have a high capacity to remove nutrient from the irrigated waters. The NIMP demonstrates that ryegrass annually can remove significant amounts of Nitrogen and Phosphorous whilst Sorghum can uptake levels of Nitrogen and Phosphorous per year. DPIRD, however, in their submission has advised that the proposed irrigation system will only suit crops with low growth height, the planting of sorghum is not suitable as a result. This will be addressed through a condition of approval replacing Sorghum as a crop to be used. The NIMP will also require to demonstrate how the crop will be harvested and resown.

A monitoring program is still proposed which includes soil, groundwater and surface water monitoring to detect any impacts (if any) from the wastewaters being used for irrigation.

Although the NIMP has been prepared to demonstrate that the brewery wastewaters, once treated, will meet the EPP targets, it does not demonstrate how all onsite sources of nutrients (brewery and restaurant wastewaters) will meet the water quality rates for the site through treatment. DWER despite their objection recommended the NIMP to be updated to also reflect this to identify the capability of the site in dealing with the overall wastewaters generated. Officers consider that the NIMP be amended to reflect this requirement from DWER which will form a condition of approval. The NIMP will be conditioned to ensure that the nutrient targets of the EPP are met at all times.

The DWER have also recommended that the 'Total Volumes' of wastewaters generated from the development reflected in Table 7 of the NIMP be rectified as this should reflect 4,072 KI (as opposed to 3,170kl) for year one and 8,144kl (as opposed to 6,440kl). Officers consider that the NIMP be amended to also reflect this requirement from DWER which will form a condition of approval.

In terms of the restaurant, reticulated sewage service is not available at the site and as a result the development will be relying upon an onsite wastewater management system. Using the provisions of the *Health Regulations 1974*, the hydraulic loading of the development has been estimated as follows based on 2,000 guests per day and 30 support staff per day:

Site	No. of People	Daily Flow (L/Person/day)	Total Daily Hydraulic Load (L/day)
Tavern/Restaurant patrons	2000	35	70,000
Staff	30	70	2,100
Total			72,100

**Daily Hydraulic Loading**





The wastewater will be treated with a site specific Aquarius Secondary Treatment System as detailed below. The system will treat the wastewater to standards outlined in AS/NZS 1546.3 On-site domestic wastewater treatment units Secondary treatment systems.

- Raw sewage will be pumped to the in ground collection pit;
- Grinder pumps from the collection pit will pump wastewater to the 230KL holding tank;
- The holding tank will then pump the wastewaters to the sequential batch reactor 375KL, where prescribed aeration volume will be injected via two tsurumi jet aerators;
- Flocculation will then take place at the same time. This will help in the breakdown of phosphorus and the coagulation of organic matter when settling;
- During aeration a period of anoxic will take place to starve the wastewater of oxygen, forcing the micro-organisms to feed on the nitrogen;
- After the prescribed aeration volume and aeration time, the process then moves into settling;
- Once the settling of the activated sludge is finished, a prescribed amount of activated sludge is pumped back to the holding tank to assist in the anaerobic process;
- The treated effluent is then decanted from the SBR to the polish tank, further anoxification takes place and the effluent is then pumped through the multi media filters to remove any fine particles and a final polish organics;
- Once pumped through the media filters, effluent is then disinfected into the irrigation tank and ready for irrigation to leach drains. A minimum contact time of 45 mins is required to achieve required free available chlorine levels for disinfection.

Subsequent to the treatment process being undertaken, the updated NIMP states that the wastewaters prior to being irrigated will meet the following wastewater quality targets as set within the aforementioned Australian and New Zealand standards:

Parameter	Water Quality Target
BOD	<20mg/L
TSS	<30mg/L
TN	<15mg/L
TP	<5mg/L
Cl <sub>2</sub>	0.2 – 2.0 ppm
pH	6.5 – 8.5

**Treated Wastewater Quality Targets**

As such, as the wastewaters once treated will be of a higher standard and as there is adequate separation between the groundwater and irrigation area the SSE has demonstrated that impacts to the groundwater and surface water from the restaurant wastewaters will be adequately managed.



The DWER have also sought for amendments to the SSE be undertaken similar to that of the NIMP. The DWER recommend the SSE includes all nutrient inputs of the brewery and restaurant within the nutrient balance to demonstrate that combined, meet the EPP nutrient targets. Officers consider that as the NIMP is required to be updated to address this issue, the updates to the SSE can also occur to ensure consistency.

The DWER have also recommended confirmation on how wastewaters from the secondary treatment system will be discharged as it references both via irrigation and leach drains. Furthermore, to include a contingency plan if the wastewater treatment fails. This will be a recommended condition through an updated SSE. This is supported to ensure the document is consistent.

The DoH have also sought clarity on a range matters associated with the wastewaters which can be addressed through the separate DWER and DoH licensing processes which occur subsequent to the planning approval process.

#### 7. Details of site landfill requirements, levels and location

##### Additional information and Officer assessment

The submitted updated NIMP indicates that six groundwater monitoring bores were installed onsite in September 2022 to gauge the clearance to groundwater from the natural surface. The results obtained showed that the average clearance to groundwater from natural surface across all bores was 1.1m. the monitoring bore nearest the sewage land application area had a clearance to groundwater of 2.23m from natural surface indicating the sewage land application area does not require any fill.

The applicant has further advised that certain areas within the brewery wastewater dedicated irrigation areas may need up to 0.5m fill to achieve the required 1.5m separation to groundwater requirement. The applicant using a conservative approach has estimated approximately half of the irrigation area may need to be filled by a half a metre. A total of 16,500m<sup>3</sup> (3.3ha x 0.5m) may be required.

Officers are generally satisfied with the monitoring results in the updated NIMP, however, as stated in the earlier report, there are low lying areas within irrigation Area 1 which requires fill to maintain the 1.5m separation to groundwater as prescribed by DWER. The NIMP does not identify these areas as requiring immediate fill which Officers consider necessary. As such, a condition will be imposed requiring an updated NIMP which shows the areas to be filled to meet the 1.5m separation requirement and the source of the fill to ensure the fill is either 'clean fill' or 'uncontaminated fill' as defined under the Department of Water Environment Regulations Landfill Waste Classification and Waste Definitions 1996. It should also be noted that the applicant seeks to bund the irrigation areas to stop the potential of treated wastewater moving outside of the dedicated area.

#### 8. Landscaping plan inclusive of vegetation clearing required

##### Additional information and Officer assessment

A Landscape Masterplan was prepared to detail the landscaping for the development. The landscape design was prepared to complement the features of the existing vegetation within the site. A mix of native flowering plants, substantial tree planting and a hardscape palette which reflects the rural character of Serpentine. The plan also provides for screening from vistas across the immediate area.





In terms of vegetation to be removed, as the applicant has slightly modified the location of the development, approximately 0.15ha of vegetation is proposed to be removed as opposed to the initial 0.45ha proposed. The species to be removed are as follows:

- 0.001 ha of *Kunzea glabrescens* (Kg (P)) – Completely Degraded condition
- 0.086 ha of *Melaleuca preissii* – *Juncus kraussii* (MpJk (P)) – Completely Degraded condition
- 0.056 ha of *Corymbia calophylla* (Cc (P)) – Completely Degraded condition
- 0.007 ha of *Corymbia calophylla* – *Eucalyptus marginata* (CcEm (P)) – Completely Degraded condition

The submitted masterplan seeks to implement landscaping which provides for screening to the south, east and west and also to improve the visual appearance of the development. The use of native species will complement the existing natural vegetation in the immediate better reflecting the rural landscape.

Landscaping is also proposed to occur along Karnup Road and along the internal access road. Details of proposed landscaping concepts are below:



**Landscaping Masterplan for Site**



In terms of screening, a landscape buffer has been proposed to the southern boundary and adjoining the southern car park to the south and east. Landscaping is also proposed within the car parking areas to soften the appearance of the hard surface.



**Landscaping Masterplan for Development**

Officers consider the extensive landscaping proposed will reduce the appearance of the proposed development. The use of existing vegetation onsite with the proposed landscaping provides for a more natural appearance. Officers are satisfied with the proposed landscaping.

In terms of clearing, the vegetation to be removed is significantly reduced from the initial 0.45ha proposed. Officers consider that the small amount to be cleared will not impact the landscape values of the site and broader locality and the proposed landscape plan seeks to replace the vegetation removed.

9. Details of upgrades required to Primary access and the proposed secondary access and associated impacts on site vegetation.

#### Additional information and Officer assessment

A technical assessment of the development against Austroads Guide to Road Design was undertaken by QTM traffic engineers and submitted by the applicant as part of the additional information. The assessment concluded that to service the development, a basic left turn manoeuvre into the site (BAL) from Karnup Road is required and a basic right turn manoeuvre into the site from Karnup Road will suffice. The applicant however in response to the Shire's requests for upgrades to the primary access, has proposed a channelised left turn (CHL) and auxiliary right turn in (AUR) as per Main Roads WA design requirements. The applicant has also relocated the entrance to the site further east slightly to avoid conflict with the adjoining residence to the north. Conceptual layout of upgrades below:





### Conceptual Road Upgrades

Officers are generally satisfied with the proposed CHL which will allow for vehicles to move safely in an east-west direction along Karnup Road. However, the proposed AUR treatment is not supported. It is acknowledged that the upgrades associated with an AUR allows for vehicles to pass queuing vehicles turning into the site. Due to the frequency of heavy vehicles using Karnup Road, the rural nature of the locality where at night there is minimal lighting available and as a large majority of patrons of the development will be new to the area, a CHR is supported as it provides for adequate line markings which appropriately directs vehicles to pass queuing vehicles.

As stated above and in the previous report, providing for a clearly marked intersection is particularly important in this instance as Karnup Road carries a significant proportion of heavy vehicles, with a RAV4 network existing north-south along South Western Highway and along Karnup Road between Kwinana Freeway and Hopeland Road. Further, as of right vehicles can move freely through the area, as is noted to occur given connectivity between South Western Highway and Kwinana Freeway. It is therefore likely that a heavy vehicle will have to pass queuing vehicles turning into the site and also commercial vehicles turning into the property. Providing for a CHR will signal to drivers the changed road environment and the movements required to manoeuvre through the intersection.

In terms of tree clearing as a result for the upgrades, minimal removal will be required to achieve the CHL, it is noted that pruning of existing trees will be required to be undertaken to achieve the necessary sightlines for oncoming vehicles. Officers note any vegetation to be removed on the road reserve as part of this process can be replaced onsite directly where it has been removed to provide screening and also to maintain the rural character.

In regard to the secondary access for emergency purposes, this has been proposed to remove the need for any clearing onsite. Officers are satisfied that the proposed secondary access is suitable to provide for patrons to escape in an east or west direction in the instance there is a fire in the locality. The submitted Bushfire Management Plan however, will be required to be amended as well to reflect the proposed secondary access. This forms a condition of approval.



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**Options and Implications****Option 1**

That Council RESOLVES the following Responsible Authority Recommendation:

1. That the Metro Outer Development Assessment Panel APPROVES the application for the Use Not Listed Craft Brewery and Restaurant, subject to the following conditions:
  - a. The development is to be carried out in compliance with 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	Development Plans dated 7 October 2022 & 30 January 2023 Nutrient Irrigation Management Plan dated November 2022 Traffic Impact Statement dated March 2022 and technical note dated October 2022 Environment Noise Report dated 17 October 2022 Waste Management Plan dated February 2022 Biological Assessment dated December 2021 Environment Assessment dated November 2022 Bushfire Management Plan 28 July 2022 Landscape Masterplan dated October 2022 Site and Soil Evaluation dated October 2022
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- b. Prior to issue of a Building Permit, detailed plans being submitted to and approved by the Shire, depicting full upgrade to the development's main driveway intersection with Karnup Road as follows:
      - i. The intersection being a right and left channelisation intersection turn type in accordance with Main Roads Western Australia Supplement to Austroads Guide to Road Design-Part 4;
      - ii. Full lighting of the intersection, taking account of providing safe illumination during all hours of operation.

Once approved, the applicant must undertake and complete the intersection works prior to the commencement of operations.

- c. Prior to the issue of a Building Permit, an amended Bushfire Management Plan must be submitted to and approved by the Shire of Serpentine Jarrahdale. This must include the following:
      - i. Location of the second access/egress point connecting to the internal driveway of the development to only be used for emergency purposes. This should be gated at all times until needed;
      - ii. Preparation of a Bushfire Emergency Evacuation Plan in accordance with Clause 5.5.4 of the Guidelines for Planning in Bushfire Prone Areas.

Once approved, the Bushfire Management Plan must be implemented prior to the use occurring.



- d. The vehicle parking areas, accessways and crossover must:
- i. be designed in accordance with the relevant Australian/New Zealand Standard;
  - ii. Include a minimum of 251 car parking bays;
  - iii. Include a suitable number of car parking spaces dedicated to people with disability designed in accordance with the relevant Australian/New Zealand Standard;
  - iv. be constructed, sealed, kerbed, drained, marked and thereafter maintained.

Plans depicting these works are to be submitted to and approved by the Shire prior to the issue of a Building Permit. The works are to be completed prior to operation of the development, and thereafter maintained.

- e. Prior to the issue of a Building Permit, a Lighting Plan is to be submitted to and approved by the Shire of Serpentine Jarrahdale. The Lighting Plan shall demonstrate the provision of lighting to all access ways, car parking areas, the exterior entrances to all buildings and the extent to which light from all external light sources is cast. The Lighting Plan must demonstrate lighting not causing an adverse amenity impact on the surrounding area. Once approved, lighting is to be installed and maintained in accordance with the Plan.
- f. Prior to the issue of a Building Permit, a colours and materials schedule is to be submitted to the satisfaction of the Shire of Serpentine Jarrahdale for approval. The schedule must include all external colours and material finishes of the building. External finishes must be sympathetic to the natural rural tones of the Shire and elevate the rural landscape of the locality.
- g. Prior to the issue of Building Permit, an updated Environmental Noise Assessment must be submitted to include modelling of noise associated with mechanical plant of both the Restaurant and Brewery, once these have been selected. The acoustic assessment must include recommendations to further reduce noise from mechanical plant of the Brewery and Restaurant. Recommendations must be included within a Noise Management Plan and where associated with construction requirements, integrated into plans submitted for a Building Permit.
- h. Prior to the issue of Building Permit, a Noise Management Plan being prepared by a suitably qualified person(s) and submitted to the Shire of Serpentine Jarrahdale for approval. The Noise Management Plan must include all measures proposed to reduce noise emission from the development, including limiting of music to not exceed 83db at the perimeter of the internal space and also operational measures to deal with exceedances. Once approved, the plans are to be integrated into the plans submitted for a Building Permit and maintained in its entirety.
- i. Hours of operation of the brewery and restaurant components (not including the production element) are to occur only between 11am-10pm on Monday public holidays, Thursday-Friday 11am-10pm and Saturday-Sunday 8am-10pm.
- j. The use of outdoor speakers before 12pm and after 10pm is not permitted. No indoor music is to occur after 10pm.
- k. Prior to the issue of a Building Permit, the applicant shall submit and have approved plans depicting the proposed art piece consistent with Local Planning Policy 1.6. Upon approval of the plans, the art piece is to be installed and thereafter maintained to the satisfaction of the Shire.
- l. Prior to the issue of a Building Permit, a Stormwater Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Stormwater Management Plan must be developed in accordance with Local Planning Policy 2.4: Water Sensitive Urban Design





Guidelines. The Stormwater Management Plan is to address stormwater for all areas of the development and also ensure that natural surface water flow is maintained. The approved Stormwater Management Plan shall be implemented and thereafter maintained to the satisfaction of the Shire.

- m. Prior to the issue of a Building Permit, an amended Nutrient Irrigation Management Plan is to be submitted to and approved by the Shire of Serpentine Jarrahdale. The amended Nutrient Irrigation Management Plan must demonstrate the following:
- i. The 7.3 ha of irrigation area maintain a 1.5 metre separation to winter groundwater at all times;
  - ii. Any fill required to be brought to site to achieve this will be required to be clean as defined within the Department of Water Environment Regulations Landfill Waste Classification and Waste Definitions 1996 and identified on a plan;
  - iii. Wastewater storage increased onsite to cater for storage between the months of June-August based on year five volumes of production. Any above ground tanks must be screened from view at all times;
  - iv. How suspended solids are removed from the wastewater system;
  - v. Replace sorghum as part of the species to be planted in the irrigation areas;
  - vi. How the crop will be harvested and resown;
  - vii. Amend Table 7 to reflect actual total volume of wastewaters generated by the brewery for year one being 4,072 kL and Year five 8,144 kL;
  - viii. Amend the NIMP to include all sources of nutrients associated with the brewery and restaurant wastewaters and demonstrate compliance with the Peel Harvey Environment Protection Policy.

Any works required as a result of updating the NIMP is required to be reflected in building plans to be submitted and undertaken before the use commences.

- n. Prior to the issue of a Building Permit, a revised Landscape Management Plan is to be submitted to the satisfaction of the Shire of Serpentine Jarrahdale for approval. The Landscape Management Plan shall incorporate mature trees where screening has been proposed to a minimum height of 1.5m. Once approved, the Landscape Management Plan must be implemented prior to the use commencing and maintained.
- o. Prior to the issue of Building Permit, an updated Waste Management Plan must be submitted demonstrating the design of the bin store area to the satisfaction of the Shire of Serpentine Jarrahdale. The design and specifications of the waste area must be designed in accordance with the Shire of Serpentine Jarrahdale Health Local Law and be appropriately screened from view.
- p. Prior to the issue of a Building Permit, a Mosquito Management Plan being submitted to the Shire of Serpentine Jarrahdale for approval. Once approved, the Plan shall be implemented in its entirety.
- q. Prior to the use occurring the internal driveway is to be sealed and drained to the satisfaction of the Shire of Serpentine Jarrahdale.
- r. Prior to the submission of a Building Permit, an updated Traffic Impact Assessment be submitted demonstrating the following:



- i. The route busses and commercial vehicles will take to access the site within the boundaries of the Shire;
- ii. Turning templates depicting the manoeuvring of these vehicles through intersections to demonstrate lane compliance.
- iii. Include recommendations for upgrades where it has been identified that vehicles cannot remain lane compliant.

Any upgrades required to be undertaken to intersections will be subject to detailed designs approved by the Shire. Any upgrades identified must occur prior to the use occurring to the satisfaction of the Shire.

- s. Prior to the issue of a Building Permit, an amended Soil Site Evaluation report be submitted to and approved by the Shire of Serpentine Jarrahdale. The amended Soil Site Evaluation must demonstrate the following:
  - i. Contingency plan in the instance the wastewater treatment fails;
  - ii. Confirmation on how the wastewaters are to be discharged;
  - iii. Updated figures to reflect the updated NIMP.

#### Option 2

That Council resolves the following Responsible Authority Report Recommendation:

1. That the Metro Outer Joint Development Assessment Panel REFUSES the application for the Use Not Listed - Brewery and Restaurant for the following reasons:
  - a. The Development due to size and scale is inconsistent with the objectives of the Rural zone under the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2;
  - b. The development, through the submission of the Nutrient Irrigation Management Plan, has not satisfactorily demonstrated that it can be undertaken without impacting the environment.

Option 1 is recommended

#### **Conclusion**

The additional information submitted demonstrates that the development is consistent with the existing and prevailing planning framework.

In regard to the environment, the updated NIMP demonstrates compliance with the EPP Nutrient target rates within the Peel Harvey Coastal Plain Catchment with the assistance of a Cropping Plan. Officers consider the NIMP including its additional management measures and recommended updates will ensure that the environmental values of the wetlands onsite and of the broader Peel Harvey Plain Catchment are not adversely impacted upon.

In terms of rural amenity, the development has demonstrated through an Environmental Noise Assessment that the development will be compliant with the assigned levels of the *Environment (Noise) Regulations 1997*. The development, by way of siting and design in addition to the proposed management measures, is considered to adequately manage potential adverse impacts from the development upon the rural amenity. Subject to additional intersection upgrades to Karnup Road and other relevant conditions, Officers support the proposal.



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**Attachments (available under separate cover)**

- **10.1.1 - attachment 1** - Responsible Authority Report (IN23/404)
- **10.1.1 - attachment 2** – Additional Information and Revised Proposal (IN22/23242)
- **10.1.1 - attachment 3** - Summary of Submission (E22/15368)
- **10.1.1 - attachment 4** - Clause 67 Assessment (IN23/2751)
- **10.1.1 - attachment 5** - DWER Assessment of Revised Acoustic Assessment (IN23/1378)
- **10.1.1 - attachment 6** - Traffic Impact Statement dated March 2022 (E22/9324)
- **10.1.1 - attachment 7** - Waste Management Plan dated February 2022 (E22/9325)
- **10.1.1 - attachment 8** - Biological Assessment dated December 2021 (E22/9320)
- **10.1.1 - attachment 9** - Bushfire Management Plan (IN22/15354)

**Alignment with our Strategic Community Plan**

<b>Outcome 2.1</b>	A diverse, well planned built environment
<b>Strategy 2.1.1</b>	Actively engage in the development and promotion of an effective planning framework
<b>Outcome 2.3</b>	A productive rural environment
<b>Strategy 2.3.1</b>	Identify and promote rural and agriculture industry opportunities
<b>Outcome 3.1</b>	A commercially diverse and prosperous economy
<b>Strategy 3.1.1</b>	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	There are no significant risks associated with this option.						
1	That Council recommends approval subject to conditions to the MODAP and not all conditions are supported	Planning Framework	Social Community Outcomes /	Possible	Moderate	MODERATE	Ensure that RAR documents detailed reasons for each condition.
2	That Council recommends refusal of the application to the MODAP and the MODAP approves the application.	Planning Framework	Social Community Outcomes /	Possible	Moderate	MODERATE	Ensure that conditions are recommended consistent with the report should a request for conditions from MODAP be received.



**Voting Requirements:** Simple Majority

**Officer Recommendation**

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

- 1. That the Metro Outer Development Assessment Panel APPROVES the application for the Use Not Listed Craft Brewery and Restaurant, subject to the following conditions:**
- a. The development is to be carried out in compliance with plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent.**

<b>Plans and Specification</b>	<b>Development Plans dated 7 October 2022 &amp; 30 January 2023</b> <b>Nutrient Irrigation Management Plan dated November 2022</b> <b>Traffic Impact Statement dated March 2022 and technical note dated October 2022</b> <b>Environment Noise Report dated 17 October 2022</b> <b>Waste Management Plan dated February 2022</b> <b>Biological Assessment dated December 2021</b> <b>Environment Assessment dated November 2022</b> <b>Bushfire Management Plan 28 July 2022</b> <b>Landscape Masterplan dated October 2022</b> <b>Site and Soil Evaluation dated October 2022</b>
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- b. Prior to issue of a Building Permit, detailed plans being submitted to and approved by the Shire, depicting full upgrade to the development's main driveway intersection with Karnup Road as follows:**
  - i. The intersection being a right and left channelisation intersection turn type in accordance with Main Roads Western Australia Supplement to Austroads Guide to Road Design-Part 4;**
  - ii. Full lighting of the intersection, taking account of providing safe illumination during all hours of operation.**

**Once approved, the applicant must undertake and complete the intersection works prior to the commencement of operations.**

- c. Prior to the issue of a Building Permit, an amended Bushfire Management Plan must be submitted to and approved by the Shire of Serpentine Jarrahdale. This must include the following:**
  - i. Location of the second access/egress point connecting to the internal driveway of the development to only be used for emergency purposes. This should be gated at all times until needed;**
  - ii. Preparation of a Bushfire Emergency Evacuation Plan in accordance with Clause 5.5.4 of the Guidelines for Planning in Bushfire Prone Areas.**





Once approved, the Bushfire Management Plan must be implemented prior to the use occurring.

- d. The vehicle parking areas, accessways and crossover must:
- i. be designed in accordance with the relevant Australian/New Zealand Standard;
  - ii. Include a minimum of 251 car parking bays;
  - iii. Include a suitable number of car parking spaces dedicated to people with disability designed in accordance with the relevant Australian/New Zealand Standard;
  - iv. be constructed, sealed, kerbed, drained, marked and thereafter maintained.

Plans depicting these works are to be submitted to and approved by the Shire prior to the issue of a Building Permit. The works are to be completed prior to operation of the development, and thereafter maintained.

- e. Prior to the issue of a Building Permit, a Lighting Plan is to be submitted to and approved by the Shire of Serpentine Jarrahdale. The Lighting Plan shall demonstrate the provision of lighting to all access ways, car parking areas, the exterior entrances to all buildings and the extent to which light from all external light sources is cast. The Lighting Plan must demonstrate lighting not causing an adverse amenity impact on the surrounding area. Once approved, lighting is to be installed and maintained in accordance with the Plan.
- f. Prior to the issue of a Building Permit, a colours and materials schedule is to be submitted to the satisfaction of the Shire of Serpentine Jarrahdale for approval. The schedule must include all external colours and material finishes of the building. External finishes must be sympathetic to the natural rural tones of the Shire and elevate the rural landscape of the locality.
- g. Prior to the issue of Building Permit, an updated Environmental Noise Assessment must be submitted to include modelling of noise associated with mechanical plant of both the Restaurant and Brewery, once these have been selected. The acoustic assessment must include recommendations to further reduce noise from mechanical plant of the Brewery and Restaurant. Recommendations must be included within a Noise Management Plan and where associated with construction requirements, integrated into plans submitted for a Building Permit.
- h. Prior to the issue of Building Permit, a Noise Management Plan being prepared by a suitably qualified person(s) and submitted to the Shire of Serpentine Jarrahdale for approval. The Noise Management Plan must include all measures proposed to reduce noise emission from the development, including limiting of music to not exceed 83db at the perimeter of the internal space and also operational measures to deal with exceedances. Once approved, the plans are to be integrated into the plans submitted for a Building Permit and maintained in its entirety.
- i. Hours of operation of the brewery and restaurant components (not including the production element) are to occur only between 11am-10pm on Monday public holidays, Thursday-Friday 11am-10pm and Saturday-Sunday 8am-10pm.
- j. The use of outdoor speakers before 12pm and after 10pm is not permitted. No indoor music is to occur after 10pm.
- k. Prior to the issue of a Building Permit, the applicant shall submit and have approved plans depicting the proposed art piece consistent with Local Planning Policy 1.6. Upon



approval of the plans, the art piece is to be installed and thereafter maintained to the satisfaction of the Shire.

- l. Prior to the issue of a Building Permit, a Stormwater Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Stormwater Management Plan must be developed in accordance with Local Planning Policy 2.4: Water Sensitive Urban Design Guidelines. The Stormwater Management Plan is to address stormwater for all areas of the development and also ensure that natural surface water flow is maintained. The approved Stormwater Management Plan shall be implemented and thereafter maintained to the satisfaction of the Shire.**
- m. Prior to the issue of a Building Permit, an amended Nutrient Irrigation Management Plan is to be submitted to and approved by the Shire of Serpentine Jarrahdale. The amended Nutrient Irrigation Management Plan must demonstrate the following:**
  - i. The 7.3 ha of irrigation area maintain a 1.5 metre separation to winter groundwater at all times;**
  - ii. Any fill required to be brought to site to achieve this will be required to be clean as defined within the Department of Water Environment Regulations Landfill Waste Classification and Waste Definitions 1996 and identified on a plan;**
  - iii. Wastewater storage increased onsite to cater for storage between the months of June-August based on year five volumes of production. Any above ground tanks must be screened from view at all times;**
  - iv. How suspended solids are removed from the wastewater system;**
  - v. Replace sorghum as part of the species to be planted in the irrigation areas;**
  - vi. How the crop will be harvested and resown;**
  - vii. Amend Table 7 to reflect actual total volume of wastewaters generated by the brewery for year one being 4,072 kL and Year five 8,144 kL;**
  - viii. Amend the NIMP to include all sources of nutrients associated with the brewery and restaurant wastewaters and demonstrate compliance with the Peel Harvey Environment Protection Policy.**
- Any works required as a result of updating the NIMP is required to be reflected in building plans to be submitted and undertaken before the use commences.**
- n. Prior to the issue of a Building Permit, a revised Landscape Management Plan is to be submitted to the satisfaction of the Shire of Serpentine Jarrahdale for approval. The Landscape Management Plan shall incorporate mature trees where screening has been proposed to a minimum height of 1.5m. Once approved, the Landscape Management Plan must be implemented prior to the use commencing and maintained.**
- o. Prior to the issue of Building Permit, an updated Waste Management Plan must be submitted demonstrating the design of the bin store area to the satisfaction of the Shire of Serpentine Jarrahdale. The design and specifications of the waste area must be designed in accordance with the Shire of Serpentine Jarrahdale Health Local Law and be appropriately screened from view.**
- p. Prior to the issue of a Building Permit, a Mosquito Management Plan being submitted to the Shire of Serpentine Jarrahdale for approval. Once approved, the Plan shall be implemented in its entirety.**



- q. Prior to the use occurring the internal driveway is to be sealed and drained to the satisfaction of the Shire of Serpentine Jarrahdale.**
- r. Prior to the submission of a Building Permit, an updated Traffic Impact Assessment be submitted demonstrating the following:**
  - i. The route busses and commercial vehicles will take to access the site within the boundaries of the Shire;**
  - ii. Turning templates depicting the manoeuvring of these vehicles through intersections to demonstrate lane compliance.**
  - iii. Include recommendations for upgrades where it has been identified that vehicles cannot remain lane compliant.**

**Any upgrades required to be undertaken to intersections will be subject to detailed designs approved by the Shire. Any upgrades identified must occur prior to the use occurring to the satisfaction of the Shire.**

- s. Prior to the issue of a Building Permit, an amended Soil Site Evaluation report be submitted to and approved by the Shire of Serpentine Jarrahdale. The amended Soil Site Evaluation must demonstrate the following:**
  - i. Contingency plan in the instance the wastewater treatment fails;**
  - ii. Confirmation on how the wastewaters are to be discharged;**
  - iii. Updated figures to reflect the updated NIMP.**

**10.1.2 - Section 31 Reconsideration of Development Applications - (1) Floriculture Extensive (Growing of Vegetables and Fruit); (2) Use Not Listed (Importation and Sale of Firewood) and; (3) Apiary - 846 Rowley Road, Oakford (SJ4042)**

<b>Responsible Officer:</b>	Manager Statutory Planning and Compliance
<b>Senior Officer:</b>	Director Development Services
<b>Disclosure of Officer's 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> .

**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:	Norman Heslington
Owner:	Cleila Za Marzo-March
Date of Receipt:	11 May 2022
Lot Area:	4.0458ha
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 s31 request for reconsideration received from the State Administrative Tribunal (SAT), regarding the reconsideration of three development approvals resolved by Council at the 15 August 2022 Ordinary Council Meeting (OCM).

At that meeting, three development approvals were issued for three separate development applications on Lot 39, 846 Rowley Road, Oakford. These were for:

- The growing of vegetables within a 2,500m<sup>2</sup> area, associated with 'Floriculture (Extensive)' land use and retrospective sea container for storage purposes.
- Storage, cutting and sale of firewood, being a 'Use not Listed'.
- An Apiary, comprising of 10 beehives.

Following the decision made by Council, the applicant appealed the three decisions, and specifically the conditions associated with the development approvals. This SAT process has dealt with all three applications together, given the relationship to the subject land.

Subsequent to a review of the additional information provided, Officers recommend that Council reconsider and amend the original development approvals, on the basis that the additional information provided assists in adjusting conditions and removing some conditions. This is documented in the report analysis following.



### Relevant Previous Decisions of Council

*Ordinary Council Meeting - 15 August 2022 - OCM190/08/22 - COUNCIL RESOLUTION*

*That Council APPROVES the applications for:*

- 1. 'Floriculture (Extensive)' which proposes the growing of vegetables, watermelons and melons, and retrospective sea container;*
- 2. 'Use Not Listed' being the importation and sale of firewood and associated works including the construction of a hardstand and clearing of vegetation;*
- 3. 'Apiary' comprising of 10 beehives and associated infrastructure;*

*as contained within attachments 1 to 6, 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 (Floriculture)</i>	<i>Development Plans dated 27 January, 6 May 2022, and 2 June 2022</i>
<i>Plans and Specifications (Use Not Listed)</i>	<i>Development Plans dated 13 January, 6 May 2022 and 2 June 2022 Bushfire Management Plan 29 April 2022</i>
<i>Plans and Specifications (Apiary)</i>	<i>Development Plans dated 27 January 2022 Site Plan dated 18 January 2022</i>

- b. Within 30 days of this approval, a Dust Management Plan to be submitted to and approved by the Shire of Serpentine Jarrahdale, suitably demonstrating how dust generated from all activities will be managed from leaving the site. Once approved, the Dust Management Plan must be implemented and maintained in its entirety.*
- c. No retail or wholesale sale of produce grown onsite, or honey produced onsite, shall occur.*
- d. Retail sale associated with the firewood component is to occur Monday to Friday 10am to 4pm by appointment only, and full trading on Saturday and Sunday (including public holidays) between 10am to 4pm only.*
- e. No more than seven clients are permitted to attend the site between Monday to Friday, and must not exceed a total of 40 per week.*
- f. The use of chainsaws and/or petrol log splitters is prohibited at all times. Wood is to be only sold in the form that it is delivered to the site.*
- g. No more than one delivery of firewood to site per week is to occur.*
- h. No fuel is to be kept on site.*
- i. Signage shall be only in the form of a 60cm x 90cm boundary sign, advertising opening hours and contact details. All existing unapproved signage must be removed within 30 days of this approval.*
- j. The loader onsite must not be used to load the trailers of customers at any time unless approved by the Shire of Serpentine Jarrahdale.*
- k. Beehives are to be located wholly outside of the Conservation Category Wetland.*
- l. No more than 10 beehives to be kept on the property at any given time, or the amount permitted under the Shire of Serpentine Jarrahdale-Bee Keeping Local Law, whichever is the lesser.*
- m. A water supply must be kept onsite at all times for the bees, located proximate to the hive locations.*





- n. No more than 20% of the total cropping area to be farmed/fertilised at the one time.
- o. Within 30 days of the approval, the applicant is to submit a Landscape Plan to the Shire for approval, showing additional landscaping of minimum 5m width, on both the east and west sides of the apiary. The landscaping is to include advanced trees and medium shrubs which are native flowering species, to the satisfaction of the Shire.

**Advice Note**

- 1. The applicant is required to obtain a permit under the Shire of Serpentine Jarrahdale - Bee Keeping Local Law prior to the use occurring.
- 2. The applicant is required to be registered as a Beekeeper Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013 prior to the Local Law permit being issued.
- 3. Where irrigation exceeds 1,500 KL, a licence will be required under the Rights in Water Irrigation Act 1914. Please note available groundwater is limited in this area.

**Background**

**Existing Development**

The subject site is zoned 'Rural' under Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS2) and is approximately 4ha in area. The site directly takes access from Rowley Road and contains a mapped Conservation Category Wetland (CCW) to the rear of the site. Outside of the wetland area the site is sparsely vegetated and generally cleared. Aerial image of property and location of CCW are below:



**Subject Land**



**Mapped Wetland**

#### Approved Development

Council at its 15 August 2022 OCM, resolved to conditionally approve the following three development applications (retrospective and prospective).

1. The growing of vegetables within a 2,500m<sup>2</sup> area, associated with 'Floriculture (Extensive)' land use and retrospective sea container for storage purposes.

The approval permits the growing of vegetables within a 2,500sqm area. An area of 10mx10m to be used at a time, being rotated through the 2,500m<sup>2</sup> dedicated area. The total area also includes fallow areas, with the development working on a crop rotation system. The approval also includes the placement of the existing sea container onsite to be used for the storage of reticulation fittings, manure and fertilisers associated with this use. No sale permitted from the property.

2. Storage, cutting and sale of firewood, being a use not listed.

The approval permits the storage and sale of firewood to occur from the property. The approval permits the importation of approximately 720 cubic metres of pre-split firewood and craft wood being unloaded onsite within a dedicated 1,200sqm already constructed hardstand. Delivery being restricted to occurring once a week and the prohibition of the use of chainsaws, petrol log splitters and loader being used to fill customer trailers onsite.

In terms of the broader operation, the approval limits the operations to an appointment basis between Monday-Friday, with no more than 40 patrons attending the site a week. The development is open to the public between the same hours on weekends. Signage is to be restricted to a 60 x 90cm boundary sign only advertising the proposed development.



**3. An Apiary, comprising of 10 beehives**

The approval permits the keeping of 10 beehives on the property over a length of 72 metres. The beehives are required to be located outside of the CCW. A portion of the existing shed onsite is proposed to be fitted as a cool room where honey extraction and storage will occur. A passenger vehicle and trailer are to be used in association with this use.

Below is a site plan showing the locations of the approved various uses and activities. The Apiary component of the application is required to be located further north, outside of the CCW as aforementioned.

**Reconsideration**

On 2 November 2022, the Shire was notified that the applicant lodged an application for review of Council's decision with the SAT. The applicant sought review of Conditions (l), (o), (f) (g), (i), and (e) on the approval for the 'Use Not Listed' and on the approval for the 'Apiary'. The Conditions are as follows:

**Condition (b) – (All operations)**

*Within 30 days of this approval, a Dust Management Plan to be submitted to and approved by the Shire of Serpentine Jarrahdale, suitably demonstrating how dust generated from all activities will be managed from leaving the site. Once approved, the Dust Management Plan must be implemented and maintained in its entirety.*

**Condition (e) - (Sale and Storage of Firewood)**

*No more than seven clients are permitted to attend the site between Monday to Friday, and must not exceed a total of 40 per week.*



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Condition (f) - (Sale and Storage of Firewood - Use Not Listed)

*The use of chainsaws and/or petrol log splitters is prohibited at all times. Wood is to be only sold in the form that it is delivered onsite.*

Condition (g) - (Sale and Storage of Firewood - Use Not Listed)

*No more than one delivery of firewood to site per week is to occur.*

Condition (i) - (Sale and Storage of Firewood - Use Not listed)

*Signage shall be only in the form of a 60cm x 90cm boundary sign, advertising opening hours and contact details. All existing unapproved signage must be removed within 30 days of this approval.*

Condition (j) - (Sale and Storage of Firewood - Use Not listed)

*The loader onsite must not be used to load the trailers of customers at any time unless approved by the Shire of Serpentine Jarrahdale.*

Condition (l) - (Apiary)

*No more than 10 beehives to be kept on the property at any given time, or the amount permitted under the Shire of Serpentine Jarrahdale-Bee Keeping Local Law, whichever is the lesser.*

Condition (o) - (Apiary)

*Within 30 days of the approval, the applicant is to submit a Landscape Plan to the Shire for approval, showing additional landscaping of minimum of 5m width, on both the east and west sides of the apiary. The landscaping is to include advanced trees and medium shrubs which are native flowering species, to the satisfaction of the Shire.*

Subsequent to mediation taking place, the applicant submitted additional information to assist in amending the approval by including an acoustic assessment prepared for the 'Use Not Listed' component of the application. This acoustic assessment aims to address noise concerns that form the basis of conditions (f) and (j).

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, specifically the conditions originally imposed.

The intent of this report is to determine in what form should the three separate approvals be reconsidered, amended and reissued.

### **Community / Stakeholder Consultation**

The additional information was advertised for a period of 21 days between 19 October 2022 to 2 November 2022, in accordance with Local Planning Policy 1.4 - Consultation for Planning Matters. At the end of the consultation process, three submissions were received, raising the following concerns:

- Bees causing a nuisance;
- Noise emitted from the processing of wood and impacts upon amenity;
- Dust impact;
- Concerns over the additional customers to site.

The submissions received and Officers response are contained within **attachment 2**.



## **Statutory Environment**

### Legislation

- *State Administrative Tribunal 2004;*
- *Planning and Development Act 2005;*
- *Planning and Development (Local Planning Schemes) Regulations 2015*

### State Government Policies

- Environment Protection Authority Environmental Assessment Guidelines for separation Distances

### Local Planning Framework

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

## **Planning Assessment**

The conditions under reconsideration are discussed following:

### Condition (b) - (Sale and Storage of Firewood and Growing of Vegetables)

*Within 30 days of this approval, a Dust Management Plan to be submitted to and approved by the Shire of Serpentine Jarrahdale, suitably demonstrating how dust generated from all activities will be managed from leaving the site. Once approved, the Dust Management Plan must be implemented and maintained in its entirety.*

As part of the additional information submitted, the applicant has submitted a Dust Management Plan (DMP) which provides details of how dust will be managed onsite relating to the activities associated with the application for the 'Importation and Sale of Firewood' and the 'Growing of Vegetables' (Floriculture-Extensive) application.

### Officer assessment to remove Condition (b)

Officers are generally satisfied with these measures and support the proposed DMP. Condition (b) is therefore no longer required, given the DMP will form part of the approved development should that be resolved by Council.

### Condition (e) - (Sale and Storage of Firewood)

*No more than seven clients are permitted to attend the site between Monday to Friday, and must not exceed a total of 40 per week.*

The applicant, through the additional information, seeks to have no more than 110 customers to site a week. 50 customers during the week (Monday - Friday) with no more than 10 customers a day. The applicant has further advised that it is anticipated that 60 customers are likely to attend site on the weekend with 70% of the weekend trade to occur on the Saturday. The applicant, to ensure that the road network is not impacted upon, will ensure that not more than six people will be attending site per hour to reduce the likelihood of vehicles queuing on Rowley Road to enter the site.





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**Officer Assessment to amend Condition (e)**

The proposed weekday maximum customer attendance of 50 is considered acceptable and capable of being safely accommodated. A limit of no more than 10 customers to site a day, as proposed, ensures that the development will generate 20 trips (10 in and 10 out) during the weekday. These movements are considered minor and unlikely to cause adverse amenity impacts to the locality or result in road safety issues as the operations are still based on an appointment schedule only between the 10am - 4pm operating hours.

In terms of the weekend trade where it is anticipated that 60 customers will visit the site of which 70% of the 60 customer visits (42) will be on the Saturday, this would result, on average, six vehicles an hour attending site (generating 12 trips, six in and six out) on the Saturday and between two and three on the Sunday between the hours of operation.

Officers consider that the anticipated weekend vehicle trip generation and the overall trips generated by the development to be minor when considering the maximum vehicle carrying capacity of Rowley Road which is carrying less than what it is designed to carry as a 'Regional Distributor Road'. There is also adequate visibility for vehicles approaching the site in an eastbound direction beyond the crest, allowing vehicles time to slow down in the instance vehicles queuing on Rowley Road to turn into the site. Also, the operations operate all year, the demand for wood is typically during the winter seasons. Outside of this, it is unlikely that the trip generation will reach the maximum levels anticipated.

Importantly, it should be noted that the operations of the development are such that there are no typical peak day periods and as a result, customers are likely to attend the site spread across the day (10am - 4pm). It is considered this will reduce the likelihood of queuing and congestion at the intersection of the property and resultant impacts upon the road network. Limiting the attendance to site to no more than six customers an hour, as proposed by the development, will also reduce the likelihood of queuing and broader impacts on the road network.

Officers therefore support condition (e) to be amended.

**Condition (f) and (j) - (Sale and Storage of Firewood - Use Not Listed)**

*The use of chainsaws and/or petrol log splitters is prohibited at all times. Wood is to be only sold in the form that it is delivered onsite.*

*The loader onsite must not be used to load the trailers of customers at any time unless approved by the Shire of Serpentine Jarrahdale.*

The applicant has submitted an acoustic assessment (**attachment 3**) as part of the additional information prepared by 'Acoustics Consultants Australia' which assessed the following noise emitting activities. This assessment considered the noise that would be received at nearby properties to the east and west:

- Noise of the petrol log splitter;
- Noise of the electronic chain saw;
- Noise of the petrol chain saw.

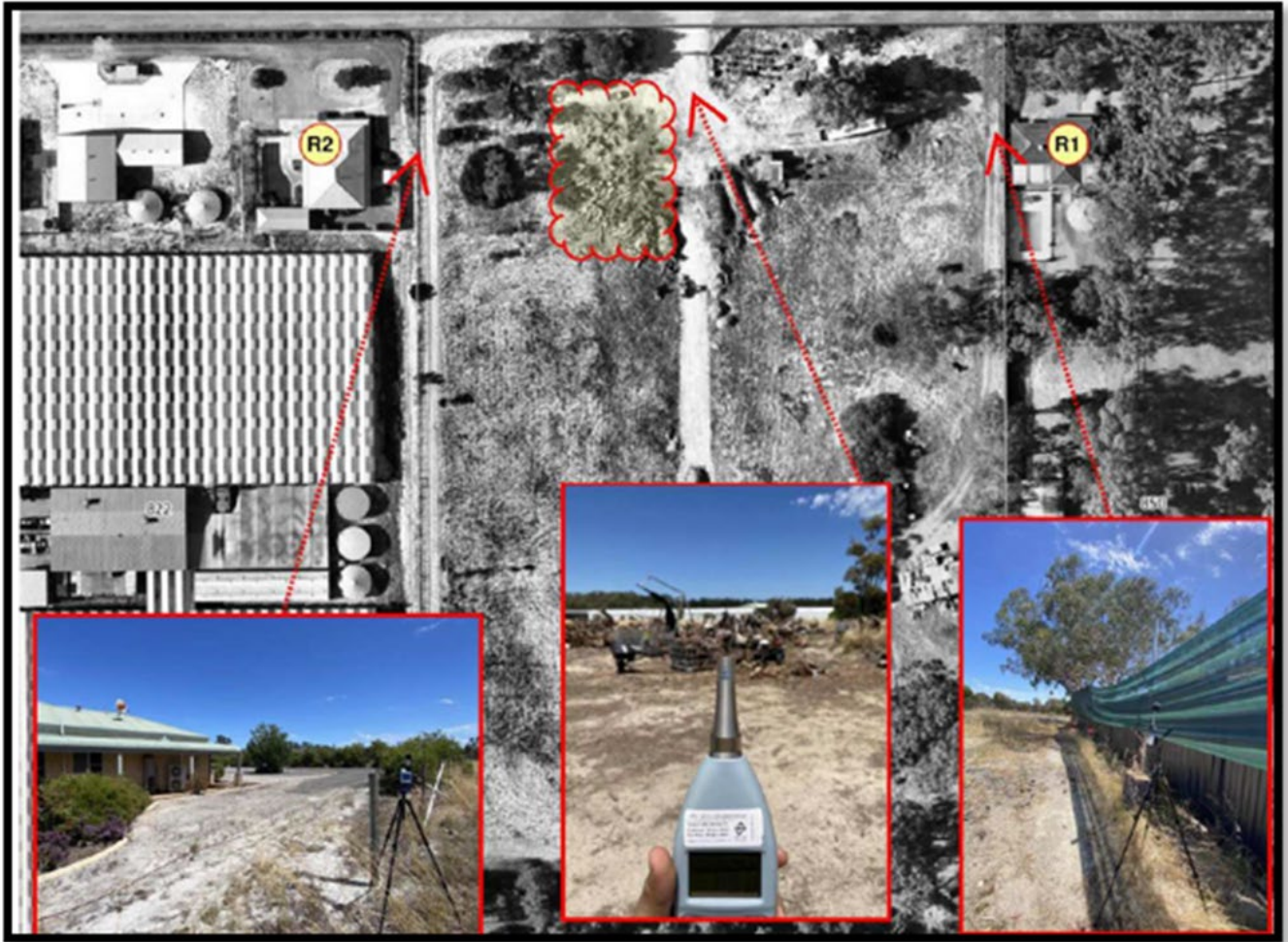
The acoustic assessment demonstrates that the activities comply with the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations), subject to the implementation of management measures to reduce the emissions from the use of the petrol chain saw. The applicant therefore seeks for Condition (f) to be removed.

The loader was not assessed as part of the acoustic assessment.



Officer Assessment to remove Condition (f) and (j)

The acoustic assessment identifies the activities generating noise, noise emissions and levels received at existing nearby sensitive receptors to the east and west. The property to the east (R1) contains a single dwelling and incidental development and the property to the west (R2) comprises of a plant nursery to the rear of the property and contains a dwelling present to the front of the site. The below shows the location of sensitive receptors, noise loggers and location of wood processing/storage and sale.



Sensitive Receptor 1 (R1) is located 75m from the wood processing area and Receptor 2 (R2) is located approximately 66 metres from the location of where the wood is to be processed. The emissions from the noise received sensitive receptors are shown in the below table.



Item / Description	Rating/Broadband/Input		
	Rating	dB	dB(A)
<b>Noise Sources - Measurements</b>			
	L <sub>Aeq</sub>	L <sub>A10</sub>	
Log Splitter 28T	70.2	72.2	
Electric Chain Saw	67.3	70.3	
Petrol Chain Saw	75.4	77.6	
Log splitter 40T	74.0	76.7	
Battery Chain Saw	66.9	69.9	
<b>Petrol Chain Saw Sound Pressure @ 10m from the source (Measurements) - SPL</b>			77.6 (A)
<b>Petrol Chain Saw Sound Power Level (Calculated from measurements) - L<sub>w</sub></b>			108.6 (A)
<b>Resultant Sound Pressure at Receiver 1</b>			
Ground Attenuation, Theory: ISO 9613.2, Source Zone Ground 100% Soft Ground, Middle Zone Ground 100% Soft Ground, Receiver Zone Ground 100% Soft Ground	80.0 m	0.5 m	1.5 m
Atmospheric Attenuation - Theory: ISO	80 m	15 °C	RH 50%
Barrier Attenuation - Theory: ISO 9613.2, Source Height: 0.5 m, Receiver Height: 1.5 m, Ground Attenuation included, Source Zone Ground 100% Soft Ground, Middle Zone Ground 100% Soft Ground, Receiver Zone Ground 100% Soft Ground, Ground reflection term included, Meteorological Correction: True	2.5 m	80.0 m	2.0 m
Point Source Propagation Loss	80.0 m	3.0 dB	
<b>Resultant Sound Pressure at Receiver 1</b>			48.9 (A)
<b>Resultant Sound Pressure at Receiver 2</b>			
Ground Attenuation, Theory: ISO 9613.2, Source Zone Ground 100% Soft Ground, Middle Zone Ground 100% Soft Ground, Receiver Zone Ground 100% Soft Ground	60.0 m	0.5 m	1.5 m
Atmospheric Attenuation - Theory: ISO	60 m	15 °C	RH 50%
Point Source Propagation Loss	60.0 m	3.0 dB	
<b>Resultant Sound Pressure at Receiver 2</b>			61.9 (A)

The assessment identifies that the noise emissions from the use of the chain saws (electric, battery and petrol) and log splitters received at the sensitive receptor to the east, meets the assigned levels of the Noise Regulations. However, it indicates exceedances at R2 (receptor to the west) using the petrol chain saw and 40t log splitter. The acoustic assessment recommends for these activities to occur behind a firewood berm to reduce the noise received at the sensitive receptor to the west and to ensure compliance with the Noise Regulations.

In terms of frequency, the daily use of the chain saw is proposed for 30 minutes a day only, which is considered an acceptable upper level in noting the impulsive nature of the noise associated with these activities.

Officers therefore recommend condition (f) be removed.

Due to the acoustic assessment not considering the loader operation and its potential noise impact, Officers recommend condition (j) be retained.





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Condition (g) - (Sale and Storage of Firewood - Use Not Listed)

*No more than one delivery of firewood to site per week is to occur.*

The applicant is seeking for a total of three deliveries of wood a week to site during the winter months. At present, deliveries occurs on a Saturday via a truck which has a 38 cubic metre carrying capacity. During the winter months, greater supply is required to meet demand. The applicant is seeking the Condition to be amended as follows:

*“No more than three deliveries of firewood to site per week is to occur.”*

Officer Assessment to amend Condition (g)

The restriction through the original condition was imposed to ensure the adjoining road network is not impacted upon by delivery vehicles waiting in queue to enter the site. Officers are however satisfied that the sight lines are adequate east and west, despite the crest present, to allow drivers adequate time to see service vehicles queuing to enter the site. Furthermore, as the additional deliveries are to occur during the weekdays, where the activities operate on an appointment only, the additional trips generated by the delivery vehicles are not considered to lead to an unsafe road environment or pose capacity issues on Rowley Road. The amended condition is therefore supported.

Condition (i) - (Sale and Storage of Firewood) - Use Not listed

*Signage shall be only in the form of a 60cm x 90cm boundary sign, advertising opening hours and contact details. All existing unapproved signage must be removed within 30 days of this approval.*

The applicant seeks confirmation of signage approved through the Condition and seeks an additional two signs be approved advertising details of the development and contact numbers. The applicant is also seeking a cloth to be placed on the front boundary of the eastern portion of the front fence to manage dust leaving the site.

Officer Comment to amendment Condition (i)

The 60cmx90cm banner sign that was approved as part of the earlier approval which has been placed on the fence is captured below:







One of the additional signs proposed seeks to advertise contact details of the operations as the weekday activities are based on appointment only. The sign has been placed onsite and is captured below next to the existing sign:



Officers are satisfied with this sign as it is small in scale and complements the existing sign.

The applicant also seeks the construction of a third sign on the boundary fence which advertises the name of the business. This sign is considered too large, being 10m in total length. Such signage is not an expected feature of a Rural area, and is not recommended for support.

In regard to the cloth proposed to run the extent of the eastern portion of the front fence, the cloth material has been proposed to manage dust leaving the site. This is supported by Officers.

Based on this, Officers support condition (i) be modified as follows:

*Signage shall be limited to the three existing signs affixed to the front chain link fence. The eastern portion of the chain link fence is permitted to be covered in shade cloth in order to help limit dust generation from the site.*

Condition (l) - (Apiary)

*No more than 10 beehives to be kept on the property at any given time, or the amount permitted under the Shire of Serpentine Jarrahdale-Bee Keeping Local Law, whichever is the lesser.*

In addition to seeking approval for the 'Apiary' land use under TPS2, a permit is required to be issued under the Shire of Serpentine Jarrahdale Bee Keeping Local Law before the activity occurs.

The applicant, through the additional information, considers that the Shire of Serpentine Jarrahdale Bee Keeping Local Law sits outside the planning framework, being a local law.

Officers originally imposed the condition to ensure it was clear that a separate permit is required under the local law. The applicant is of the view that as the local law exists, there is no need to reference it within the condition. It is a separate legislative instrument that applies outside of the planning framework.

The applicant therefore seeks for the Condition to be amended as follows:

*'No more than 10 beehives to be kept on the property at any given time'*

Officer Assessment to modify Condition (l)

Officers consider the dual approval needed under both TPS2 and the local law to be robust. For example, Section 7 of the Local Law states as follows:

**Conditions of approval**

- 7 (1) Without limiting the generality of clause 6(1)(b), an application for a permit may be approved by the local government subject to the following conditions –
- (a) the provision of a good and sufficient water supply on the land which is readily accessible by the bees on the land;
  - (b) each bee hive shall be –
    - (i) kept at a distance specified by the local government from any thoroughfare, public place or boundary of the land; or
    - (ii) located near a screen or other barrier so as to prevent the bees flying low over a thoroughfare, public place or adjoining land;
  - (c) no more than 2 bee hives are to be kept on land of less than 2,000 square metres in area; and
  - (d) no more than 15 bee hives are to be kept on land between 2,000 and 20,000 square metres in area.
- (2) In respect of a particular application for a permit, the local government may vary any of the conditions referred to in subclause (1).

Section 7(1)(a - d) place specific controls on the keeping of beehives. In normal circumstances, a property of this size is not limited by in respect of the number of possible hives. Section 7(2) further provides discretionary to ensure the control of potential impacts associated with bee keeping. Given that TPS2 and the local law apply with duality to the activity, there is no need to refer to both in the said condition. Accordingly, it is appropriate that Condition (l) be modified as requested.

Condition (o) - (Apiary)

*Within 30 days of the approval, the applicant is to submit a Landscape Plan to the Shire for approval, showing additional landscaping of minimum of 5m width, on both the east and west sides of the apiary. The landscaping is to include advanced trees and medium shrubs which are native flowering species, to the satisfaction of the Shire.*

The applicant has advised that, in his opinion, bees roam a distance of 3km searching for food and as a result the requirement for additional landscaping east and west of the apiary is not going to provide any amenity or planning purpose. The applicant seeks for this Condition to be removed.

Officer Assessment to remove Condition (o)

Condition (o) was imposed by way of alternative Council decision. The reason for this additional condition (alternative Council decision) is documented in the minutes for the following reason:

*To provide screening amenity as well as a food source on site for the apiary.*

According to the Australian Bee Keepers Guide (available - <https://agrifutures.com.au/wp-content/uploads/publications/14-098.pdf>) worker bees are discussed as the only caste that forage. Page 6 of the Guide states:

*“Foragers generally only fly as far as they need to collect nectar, pollen and water. A distance of two to three kilometres is common, but they can comfortably fly five to six kilometres. Sometimes greater distances may be flown, but such long flights require more fuel than the shorter trips and so there comes a point when a long flight is not economical.”*





This tends to align with the applicant's understanding, insofar that nectar and pollen collection will be within two to three kilometres and not exclusively localised. A two kilometre radius shows a number of potential source sites for nectar and pollen collection as follows:



2km radius from subject land

In respect of the question of screening, the placement of the hives on the edge of the conservation category wetland area places such hives among existing vegetated areas. This area is well screened and not readily visible from indoor or outdoor living areas of the surrounding properties. This also accounts for condition (k), which requires the hives be placed on the edge of the wetland. Accordingly, Officers support the deletion of Condition (o).





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## Options and Implications

### Option 1

That Council:

1. In response to the Section 31 request for reconsideration, REVIEWS its original decisions pertaining to the following applications:
  - a. *'Floriculture (Extensive)' which proposes the growing of vegetables, watermelons and melons, and retrospective sea container;*
  - b. *'Use Not Listed' being the importation and sale of firewood and associated works including the construction of a hardstand and clearing of vegetation;*
  - c. *'Apiary' comprising of 10 beehives and associated infrastructure;*

in the following manner:

#### DELETE Condition (b) which reads as:

*Within 30 days of this approval, a Dust Management Plan to be submitted to and approved by the Shire of Serpentine Jarrahdale, suitably demonstrating how dust generated from all activities will be managed from leaving the site. Once approved, the Dust Management Plan must be implemented and maintained in its entirety.*

#### AMEND Condition (e) to read as:

*During the weekdays (Monday - Friday), no more than 50 customers are permitted to attend the site during the hours of operation and must not exceed 10 customers a day. During the weekend period (Saturday-Sunday), no more than 60 customers are permitted, with no more than six customers attending site at any given time.*

#### DELETE Condition (f) which reads as:

*The use of chainsaws and/or petrol log splitters is prohibited at all times. Wood is to be only sold in the form that it is delivered to the site.*

#### AMEND Condition (g) to read as:

*No more than three deliveries of firewood to site per week is to occur.*

#### AMEND Condition (i) to read as:

*Signage shall be limited to the three existing signs affixed to the front chain link fence. The eastern portion of the chain link fence is permitted to be covered in shade cloth in order to help limit dust generation from the site.*

#### RETAIN Condition (j) to read as:

*The loader onsite must not be used to load the trailers of customers at any time unless approved by the Shire of Serpentine Jarrahdale.*

#### AMEND Condition (l) to read as:

*No more than 10 beehives to be kept on the property at any given time.*

#### DELETE Condition (o) which reads as:

*Within 30 days of the approval, the applicant is to submit a Landscape Plan to the Shire for approval, showing additional landscaping of minimum 5m width, on both the east and west*





*sides of the apiary. The landscaping is to include advanced trees and medium shrubs which are native flowering species, to the satisfaction of the Shire.*

2. ISSUES three new determinations for the three applications, noting the re-lettered conditions, as follows:

Floriculture (Extensive)

That Council, in relation to an application for the growing of vegetables (Floriculture Extensive), APPROVES the development application under Shire of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, subject to the following conditions:

Plans and Specifications	Development plans dated 27 January 2022, 6 May 2022 and 2 June 2022 and as amended in the additional information dated 23 December 2022  Dust Management Plan dated 23 November 2022
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- a. No retail or wholesale sale of produce grown onsite shall occur.
- b. No more than 20% of the total cropping area to be farmed/fertilised at the one time

Use Not Listed

That Council in relation to an application for a Use Not Listed (Importation and Sale of Firewood) APPROVES the development application under Shire of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, subject to the following Conditions:

Plans and Specifications	Development Plans dated 27 January 2022 and as amended by the additional information submitted on 23 December 2022  Bushfire Management Plan 29 April 2022  Acoustic Report dated 16 December 2022  Dust Management Plan dated 23 December 2022  Site Plan dated 18 January 2022
--------------------------	--

- a. Retail sale associated with the firewood component is to occur Monday to Friday 10am to 4pm by appointment only, and full trading on Saturday and Sunday (including public holidays) between 10am to 4pm only.
- b. During the weekdays (Monday - Friday), no more than 50 customers are permitted to attend the site during the hours of operation and must not exceed 10 customers a day. During the weekend period (Saturday - Sunday), no more than 60 customers are permitted, with no more than six customers attending site at any given time.
- c. No more than three deliveries of firewood to site per week is to occur.
- d. No fuel is to be kept on site.
- e. Signage shall be limited to the three existing signs affixed to the front chain link fence. The eastern portion of the chain link fence is permitted to be covered in shade cloth in order to help limit dust generation from the site.
- f. The loader onsite must not be used to load the trailers of customers at any time unless approved by the Shire of Serpentine Jarrahdale

**Apiary**

That Council, in relation to the application for the Apiary, APPROVES the development application under the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, subject to the following Conditions:

Plans and Specifications	Development Plans dated 27 January 2022 Site Plan dated 18 January 2022 and as amended by the additional information dated 23 December 2022
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- a. No retail or wholesale sale of honey produced onsite shall occur.
- b. Beehives are to be located wholly outside of the Conservation Category Wetland.
- c. No more than 10 beehives to be kept on the property at any given time.

**Option 2**

That Council, in response to the section 31 Request for Reconsideration, reaffirms its original decision of 15 August 2022.

Option 1 is recommended.

**Conclusion**

Council has been invited to reconsider various conditions associated with three separate development approvals issued for 846 (L39) Rowley Road. Oakford.

The reconsideration follows a review of these conditions and the additional information provided. Officers recommend Council amend specific conditions and reissue new approvals, based on the updated assessment of the merits of each application, with the additional information that has been provided.

**Attachments (available under separate cover)**

- **10.1.2 - attachment 1** - Additional Information (IN23/1564)
- **10.1.2 - attachment 2** - Summary of Submissions (E23/96)
- **10.1.2 - attachment 3** - Acoustic Assessment (IN23/2562)

**Alignment with our Strategic Community Plan**

<b>Outcome 2.1</b>	A diverse, well planned built environment
<b>Strategy 2.1.1</b>	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.						
1	Council reissues new approvals but the applicant still chooses to proceed to a full hearing of the SAT based on the revised determinations.	Planning framework	Financial	Possible	Minor	MODERATE	Ensure that revised approvals reflect merits of the application and relevant planning considerations.
2	That Council reaffirms the original decisions, which may result in a full hearing on the matters, and independent legal advocates and experts needing to be engaged to run the process via the SAT consistent with circumstances where Council decision varies from the Officer recommendation.	Planning framework	Financial	Possible	Moderate	MODERATE	Nil.



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**Voting Requirements:** Simple Majority

**Officer Recommendation**

**That Council:**

1. In response to the Section 31 request for reconsideration, **REVIEWS** its original decisions pertaining to the following applications:
  - a. *'Floriculture (Extensive)' which proposes the growing of vegetables, watermelons and melons, and retrospective sea container;*
  - b. *'Use Not Listed' being the importation and sale of firewood and associated works including the construction of a hardstand and clearing of vegetation;*
  - c. *'Apiary' comprising of 10 beehives and associated infrastructure;*

in the following manner:

**DELETE Condition (b) which reads as:**

*Within 30 days of this approval, a Dust Management Plan to be submitted to and approved by the Shire of Serpentine Jarrahdale, suitably demonstrating how dust generated from all activities will be managed from leaving the site. Once approved, the Dust Management Plan must be implemented and maintained in its entirety.*

**AMEND Condition (e) to read as:**

*During the weekdays (Monday - Friday), no more than 50 customers are permitted to attend the site during the hours of operation and must not exceed 10 customers a day. During the weekend period (Saturday-Sunday), no more than 60 customers are permitted, with no more than six customers attending site at any given time.*

**DELETE Condition (f) which reads as:**

*The use of chainsaws and/or petrol log splitters is prohibited at all times. Wood is to be only sold in the form that it is delivered to the site.*

**AMEND Condition (g) to read as:**

*No more than three deliveries of firewood to site per week is to occur.*

**AMEND Condition (i) to read as:**

*Signage shall be limited to the three existing signs affixed to the front chain link fence. The eastern portion of the chain link fence is permitted to be covered in shade cloth in order to help limit dust generation from the site.*

**RETAIN Condition (j) to read as:**

*The loader onsite must not be used to load the trailers of customers at any time unless approved by the Shire of Serpentine Jarrahdale.*

**AMEND Condition (l) to read as:**

*No more than 10 beehives to be kept on the property at any given time.*

**DELETE Condition (o) which reads as:**

*Within 30 days of the approval, the applicant is to submit a Landscape Plan to the Shire for approval, showing additional landscaping of minimum 5m width, on both the east*



*and west sides of the apiary. The landscaping is to include advanced trees and medium shrubs which are native flowering species, to the satisfaction of the Shire.*

2. **ISSUES** three new determinations for the three applications, noting the re-lettered conditions, as follows:

**Floriculture (Extensive)**

That Council, in relation to an application for the growing of vegetables (Floriculture Extensive), **APPROVES** the development application under Shire of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, subject to the following conditions:

<b>Plans and Specifications</b>	<b>Development plans dated 27 January 2022, 6 May 2022 and 2 June 2022 and as amended in the additional information dated 23 December 2022</b> <b>Dust Management Plan dated 23 November 2022</b>
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- a. No retail or wholesale sale of produce grown onsite shall occur.
- b. No more than 20% of the total cropping area to be farmed/fertilised at the one time

**Use Not Listed**

That Council in relation to an application for a Use Not Listed (Importation and Sale of Firewood) **APPROVES** the development application under Shire of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, subject to the following Conditions:

<b>Plans and Specifications</b>	<b>Development Plans dated 27 January 2022 and as amended by the additional information submitted on 23 December 2022</b> <b>Bushfire Management Plan 29 April 2022</b> <b>Acoustic Report dated 16 December 2022</b> <b>Dust Management Plan dated 23 December 2022</b> <b>Site Plan dated 18 January 2022</b>
---------------------------------	---

- a. Retail sale associated with the firewood component is to occur Monday to Friday 10am to 4pm by appointment only, and full trading on Saturday and Sunday (including public holidays) between 10am to 4pm only.
- b. During the weekdays (Monday - Friday), no more than 50 customers are permitted to attend the site during the hours of operation and must not exceed 10 customers a day. During the weekend period (Saturday - Sunday), no more than 60 customers are permitted, with no more than six customers attending site at any given time.
- c. No more than three deliveries of firewood to site per week is to occur.
- d. No fuel is to be kept on site.
- e. Signage shall be limited to the three existing signs affixed to the front chain link fence. The eastern portion of the chain link fence is permitted to be covered in shade cloth in order to help limit dust generation from the site.
- f. The loader onsite must not be used to load the trailers of customers at any time unless approved by the Shire of Serpentine Jarrahdale





**Apiary**

That Council, in relation to the application for the Apiary, **APPROVES** the development application under the Shire of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, subject to the following Conditions:

<b>Plans Specifications</b>	<b>and</b>	<b>Development Plans dated 27 January 2022 Site Plan dated 18 January 2022 and as amended by the additional information dated 23 December 2022</b>
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- a. No retail or wholesale sale of honey produced onsite shall occur.
- b. Beehives are to be located wholly outside of the Conservation Category Wetland.
- c. No more than 10 beehives to be kept on the property at any given time.



<b>10.1.3 - Retrospective Development Application for Sea Container - Lot 12, 24 Blytheswood Avenue, Byford (PA22/863)</b>	
<b>Responsible Officer:</b>	Manager Statutory Planning and Compliance
<b>Senior Officer:</b>	Director Development Services
<b>Disclosure of Officer's 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> .

**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:	Grant and Leanne Newham
Owner:	Grant and Leanne Newham
Date of Receipt:	30 September 2022
Lot Area:	1,503m <sup>2</sup>
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 a sea container at Lot 12, 24 Blytheswood Avenue, Byford. The application seeks to vary requirements of State Planning Policy 7.3 - Residential Design Codes Volume 1 (R-Codes) and Local Planning Policy 4.19 - Outbuildings, Sheds, Garden Sheds and Sea Containers (LPP4.19) by way of its siting.

The application is presented to Council as an objection was received during the advertising process. The objection relates to the location of the sea container within the street setback and its impact on visual amenity. 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.

Officers consider that the proposal is consistent with the planning framework and would not adversely impact upon the character or amenity of the locality, and specifically the streetscape. The application is therefore recommended for approval subject to conditions.

**Relevant Previous Decisions of Council**

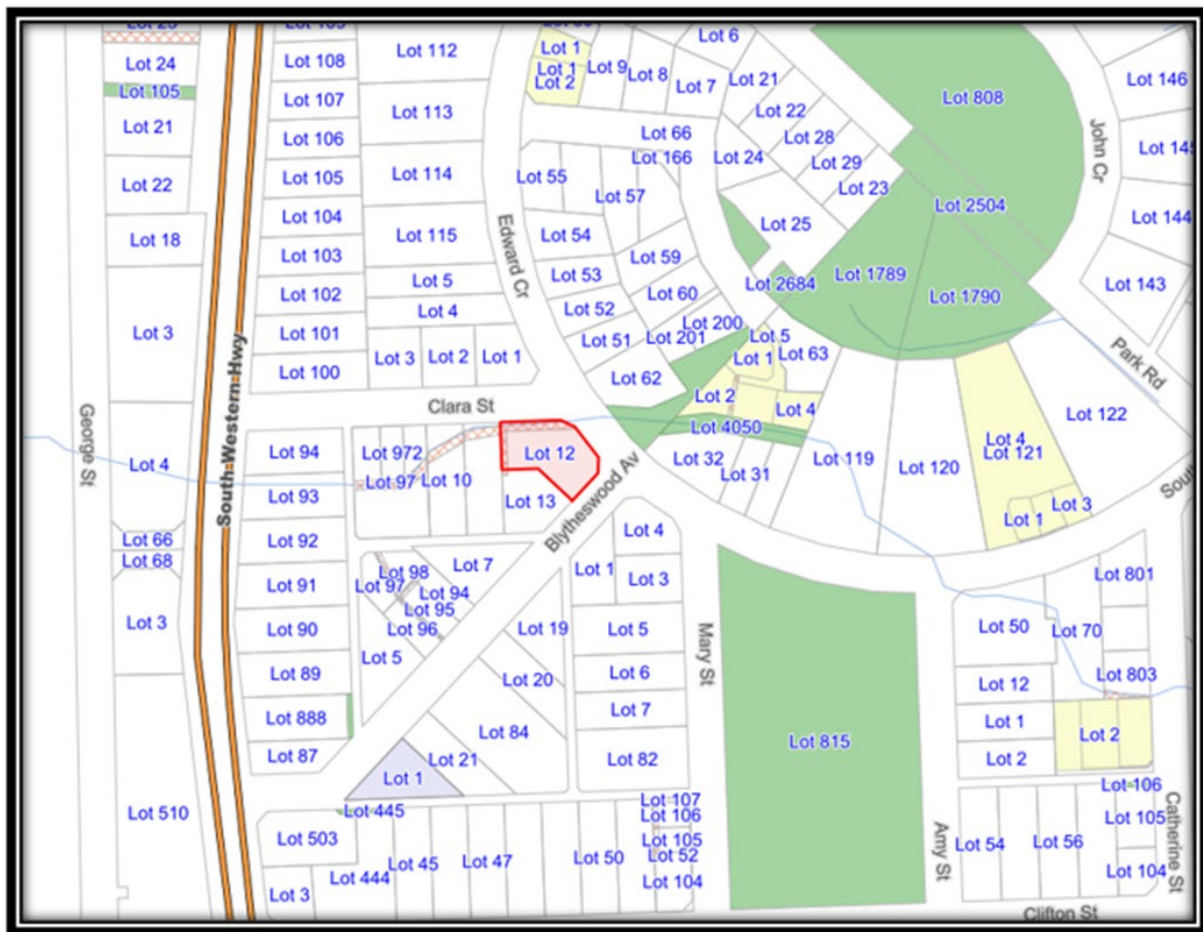
There are no previous Council decisions relating to this application.



## Background

### Existing Development

The subject site, which is 1,503m<sup>2</sup> in area, is located in the north east section of the Byford Urban Area. The site is located within the 'Residential Character Area A (Old Quarter)' of the Byford Townsite Detailed Area Plan (Local Development Plan - LDP). The site contains a single house with associated outbuildings, with a frame of mature vegetation along the Clara Street boundary, which is generally consistent with the residential character of the Old Quarter locality. A seasonal creekline exists along this northern boundary also.



**Figure 1: Locality Plan**

### Development

The application seeks retrospective development approval for a sea container in the south of the property, near the Blytheswood Avenue frontage. The applicant has provided information that the sea container is used solely for the storage of personal items incidental to the 'Single House' land use. It is not used for any business or commercial purpose.

The sea container has dimensions of 2.43m by 6.09m (floor area of 14.7m<sup>2</sup>) and is set back 1.5m from the lot boundary fronting Blytheswood Avenue and 0.93m from the southwest side/rear boundary. The sea container has a height of 2.43m. The applicant has also recently erected decorative screens around the sea container, in an attempt to address concerns that have been raised in respect of visual appearance.

The site plan and images of the development are detailed below, full details of the proposal are contained within **attachment 1**.





Figure 2: Aerial Plan of Sea Container



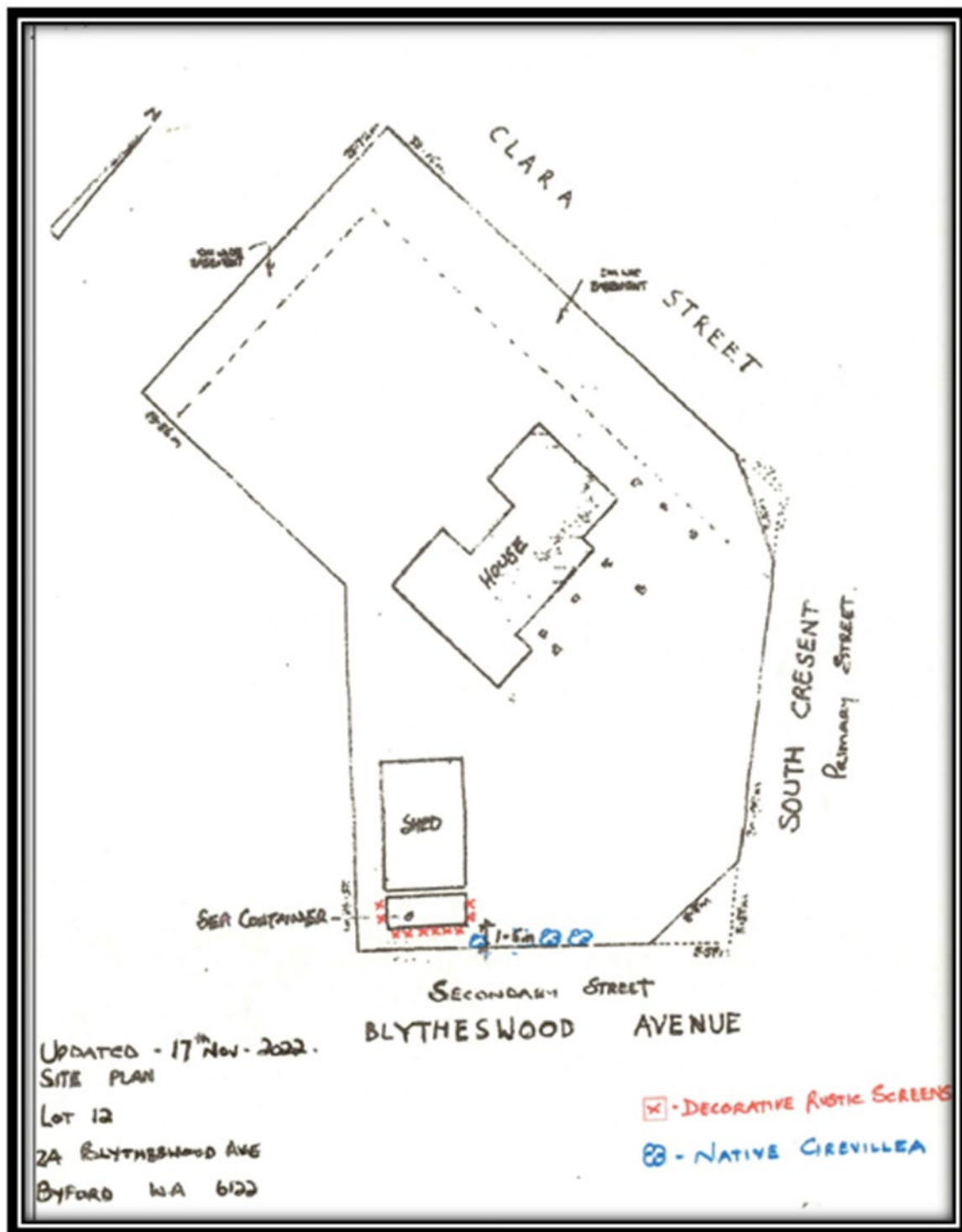


Figure 3: Site Plan of Sea Container

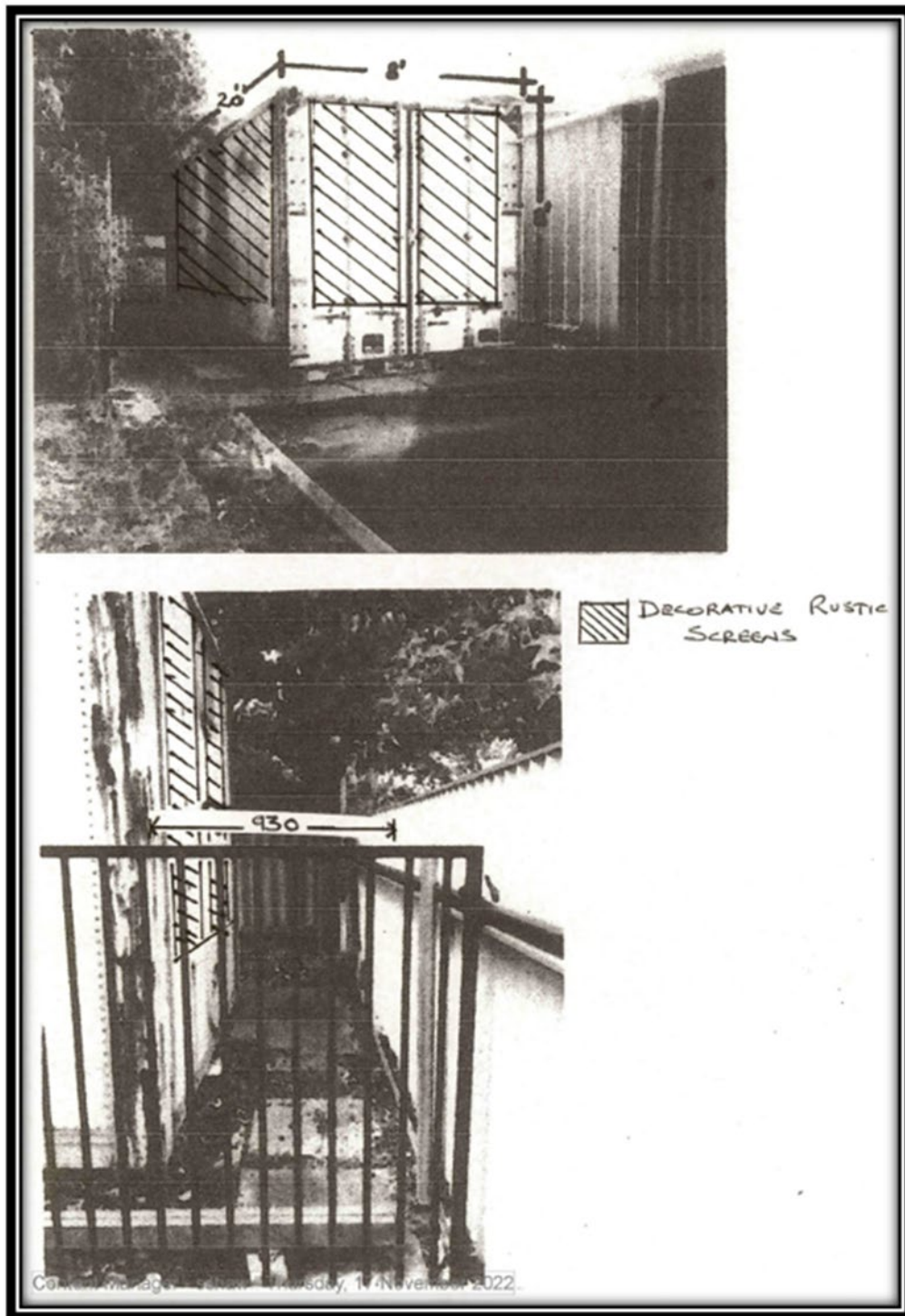


Figure 4: Elevation Plans of Sea Container





**Figure 5: Photo of Sea Container from the opposite side of the secondary street**



**Figure 6: Photo of Sea Container from the south west**



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## Community / Stakeholder Consultation

The application was advertised to the affected adjoining landowner for a period of 14 days from 19 October 2022 to 2 November 2022, in accordance with Local Planning Policy 1.4 - Consultation for Planning Matters. One submission was received objecting to the proposal for the following reasons:

- Safety - *"This sea container is slowly rotting away, a perfect breeding ground for a wide range of pests."*
- Visual Amenity - *"We live in a beautiful residential area, allowing sea containers to be placed in our front yards will have a negative effect on the natural ambience of Byford."*
- Location - *"I realize we all need extra storage room but placing sea containers in our front yards is not the solution."*
- Precedent - *Sea container represents a 'cheap and easy' storage solution that will set a precedent for similar future development in the local area.*

### Officer Comment:

Officers do not consider that the sea container poses a risk of breeding ground for pests. The Shire's Health Local Law 1999 includes Division 3 - Rodents which requires, inter alia, that:

#### **Measures to be taken to eradicate Rodents**

87. (1) An owner or occupier of premises shall at all times take effective measures to eradicate any rodents in or on the premises.

(2) Without limiting the generality of Sub-section (1), an owner or occupier of premises, whenever there are indications of the presence of rodents in, on or about the premises, and while such indications continue, shall -

- (a) take effective measures to keep the premises free from rodents including -
  - (i) protecting food stuffs;
  - (ii) using a rodenticide bait or a properly baited trap; and
  - (iii) preventing rodents having access to water on the premises;
- (b) inspect daily each rodenticide bait or trap used and, whenever a rodent is found, shall -
  - (i) if it is not already dead, kill it immediately; and
  - (ii) dispose of the carcass in such a manner as will not create a nuisance; and
- (c) take whatever measures for the eradication of rodents as an Environmental Health Officer may from time to time direct.

If rodents were observed, the owner or occupier of premises would be required to take effective measures to eradicate, with this also able to be directed by Shire Officers per the Local Law.

The visual amenity, location and precedent concerns are discussed in the planning assessment 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
- 2020 Byford District Structure Plan
- Byford Town Site Detailed Area 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 of the Deemed Provisions and associated provisions of the planning framework, including the R Codes. The Clause 67 assessment can be viewed in **attachment 3**. For the purpose of this report, discussion is confined to the objection issues, which result in the item being presented to Council and where Council is asked to exercise discretion.

### Land Use

The subject site is zoned 'Urban Development' under TPS2. Pursuant to the 2020 Byford District Structure Plan (BDSP), the subject site is designated 'Low (Suburban) R20-35 Residential'. The BDSP states that where no approved local structure plan yet exists, residential development shall be in accordance with the following density codes under the Residential Design Codes:

+ *R20 for lots less than 1,000 m<sup>2</sup> in area;*

+ *R10 for lots between 1,000 m<sup>2</sup> – 2,000 m<sup>2</sup> in area;*

+ *R5 for lots greater than 2,000 m<sup>2</sup> in area.*

+ *The above density codes only apply for the purposes of residential development, which is not considered by the local government to prejudice the preparation of a local structure plan. The density codes do not apply for the purposes of subdivision.*

Officers consider the development to not prejudice preparation of a future local structure plan, and thus an R10 coding is applicable per the BDSP.

The proposal is for a sea container to be used in association with the existing 'Residential - Single House' land use. The land use of 'Residential - Single House' is a permitted use in the 'Residential' zone, as designated under the BDSP. The use is therefore considered consistent with the planning framework.

While LPP4.19 provides definitions and provisions which distinguish differences between outbuildings, sheds, garden sheds and sea containers for the purpose of providing exemptions, pursuant to the R-Codes the proposal is considered an 'Outbuilding' for assessment purposes defined as '*An enclosed non-habitable structure that is detached from any dwelling*'.



### R-Code and LPP4.19 Variations

A summary of variations to both the R-Codes and LPP4.19 deemed-to-comply requirements are provided in the table below.

<b>Large and multiple Outbuildings (Sea Container and more than one outbuilding on the site)</b>			
<b>Deemed to Comply R-Codes</b>	<b>Deemed to Comply LPP4.19</b>	<b>Proposed</b>	<b>Complies?</b>
60m <sup>2</sup> in area or 10% site area (lesser)	100 m <sup>2</sup>	14.7 sqm Cumulative floor area is approximately 190 m <sup>2</sup> (across six outbuildings including the sea container).	<b>No</b>
Minimum setback 1m (side/rear)	N/A	930mm	<b>No</b>
Wall height 2.4m	3.2m	2.43m	<b>Yes</b>
Ridge height 4.2m	4.5m	2.43m	<b>Yes</b>
Not in a street setback (primary street setback 20m, secondary street setback 3m)	N/A	1.5m from secondary street	<b>No</b>
Open Space (60%) and outdoor living area compliant	N/A	70%	<b>Yes</b>

### Visual Impact

The concerns raised by the objector include the location of the sea container and its impact upon the visual amenity of the area. This is discussed in the submission as due to the sea container being located within a secondary street setback area (Blytheswood Avenue), and not 'hidden' from the public realm. The objector is also concerned that the sea container represents an undesirable storage solution that may set a precedent for similar future development in the local area.

The sea container proposes variations to the R-Codes and LPP4.19 requirements in relation to overall floor area of outbuildings on the land, and the setbacks to both the secondary street and the side / rear lot boundary (western boundary).

Part 2 of LPP4.19 and the R-Codes sets out considerations for outbuildings where a variation is sought. The relevant considerations in relation to the location and visual impact of the sea container relates to the visibility within the streetscape, adjoining landowners and whether sufficient screening exists or is proposed as part of the application.

While acknowledging that the sea container has a reduced 1.5m setback from the secondary street frontage (Blytheswood Avenue) in lieu of the 3m setback requirement, views of the structure from this street are partially screened by a painted fence with a height of approximately 1.6m and the foliage of trees growing in the road verge. This helps provide for filtered views of the sea container when viewed from Blytheswood Avenue, making it a less discernible structure.

The applicant has also attached decorative rustic screens to the external façade of the sea container in an attempt to improve the appearance of the development and has proposed to



provide landscaping to the east of the sea container, should retrospective approval be granted. Refer to photos below of the existing development from Blytheswood Avenue.



**Figure 5: Photo of Sea Container from the opposite side of the secondary street**



**Figure 6: Photo of Sea Container from the south west**

Due to the irregular shape of the block which has three road frontages, Clara Street, Edward Street (primary street) and Blytheswood Avenue, the sea container has the appearance of being tucked away behind the carport and its presence softened by the mature vegetation along Blytheswood Avenue. The dwelling and carport remain as the dominant structures of the site when viewed from the street, consistent with the existing streetscape of the broader locality. Refer to images below:





**Figure 7: Photo of Sea Container from the primary street frontage**

Officers consider that due to the presence of the boundary fence, existing mature vegetation present along the secondary street and the installation of the decorative rustic screens, the secondary street variation is not considered to visually impact upon the amenity of the locality or that of nearby landowners.

The proposed landscaping measures by the applicant will also assist in improving the appearance of the sea container. A condition is recommended to require a revised Landscape Management Plan, in order to show the area between the Blytheswood Avenue boundary fence and the sea container to be landscaped for a length of 6m.

Officers are also satisfied that the minor variation to the rear of the site will not result in adverse amenity impacts due to the presence of existing vegetation on the adjoining property. The variation being 70mm from what the R-Code prescribes.

In terms of floor area variation, the site cumulatively exceeds the 100m<sup>2</sup> restriction under LPP4.19 for lots greater than 1,000m<sup>2</sup>. The floor area restriction under the policy seeks to ensure that a site is not over developed with outbuildings to enable elements like gardens and open space to be provided, importantly enabling residential amenity to be maintained on the lot, adjoining lots and when viewed from the public realm.

In this regard, the development complies with the open space calculations under the R10 density requirements of the R-Codes. From the street, the presence of the existing outbuilding located to the south-west does not appear to dominate the streetscape and is of a size that reflects the floor area expected under the policy. The remainder of the outbuilding floor area is located to the rear of the dwelling screened from view from all vistas by the presence of mature vegetation. As such, Officers consider the floor area variation in this regard is not considered to impact upon the expected amenity of the area.

Overall, it is considered that the sea container is a modest sized structure that, combined with a decorative screen, vegetation, and fencing would not adversely impact on the streetscape of Blytheswood Avenue or the character and amenity of the locality.





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**Options and Implications****Option 1**

That Council APPROVES the retrospective development application for the sea container at Lot 12, 24 Blytheswood Avenue, Byford as contained in **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 to P2 received at the Shire's offices on 18 November 2022
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- b. All stormwater shall be retained within the property to the satisfaction of the Shire of Serpentine Jarrahdale.
- c. The approved sea container shall be used for storage purposes incidental and ancillary to the single dwelling on the subject land only, and shall not be used for any human habitation, commercial or industrial purposes.
- d. Within 60 days of this approval, a new Landscape Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. This Plan is to show advanced vegetation being planted to screen the development from Blytheswood Avenue, with a minimum height at establishment of 1m, and maturity of 2m, for the length of the sea container. Once approved, the Plan must be implemented within sixty days of the approval date, and thereafter maintained.

**Option 2**

That Council REFUSES the retrospective development application for sea container at Lot 12, 24 Blytheswood Avenue, Byford for the following reasons:

- a. The variation to the secondary street setback distance creates a visual impact on the streetscape, which is considered to adversely affect the amenity of the area;
- b. The cumulative floor area which exceeds the R Codes is considered to create an excessive built form impact on the amenity of the surrounding public realm.

Option 1 is recommended.

**Conclusion**

The application seeks approval for a sea container which varies the requirements of the R-Codes and LPP4.19 by way of cumulative floor area, secondary street and lot boundary setbacks. Officers consider that the proposed sea container is consistent with the design principles of the R-Codes and objectives of LPP4.19, and would not adversely impact on the streetscape or the amenity of surrounding landowners.



### Attachments (available under separate cover)

- 10.1.3 - attachment 1 - Development Plans (E23/65)
- 10.1.3 - attachment 2 - Summary of Submissions (E22/13775)
- 10.1.3 - attachment 3 - Technical Assessment (E22/13041)

### Alignment with our Strategic Community Plan

<b>Outcome 2.1</b>	A diverse, well planned built environment
<b>Strategy 2.1.1</b>	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 not present any strategic or operational risks.						
2	That Council refuses the application, and an appeal is lodged with the State Administrative Tribunal which requires independent planning representation in order to defend the decision.	Reasons for refusal reflecting valid planning concerns.	Financial	Possible	Minor	MODERATE	Ensure that reasons for refusal are based on valid planning reasons.



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**Voting Requirements:** Simple Majority

**Officer Recommendation**

That Council **APPROVES** the retrospective development application for the sea container at Lot 12, 24 Blytheswood Avenue, Byford as contained in 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 to P2 received at the Shire's offices on 18 November 2022
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- b. All stormwater shall be retained within the property to the satisfaction of the Shire of Serpentine Jarrahdale.
- c. The approved sea container shall be used for storage purposes incidental and ancillary to the single dwelling on the subject land only, and shall not be used for any human habitation, commercial or industrial purposes.
- d. Within 60 days of this approval, a new Landscape Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. This Plan is to show advanced vegetation being planted to screen the development from Blytheswood Avenue, with a minimum height at establishment of 1m, and maturity of 2m, for the length of the sea container. Once approved, the Plan must be implemented within sixty days of the approval date, and thereafter maintained.



<b>10.1.4 - Proposed Dwelling and Rural Workers Dwelling - Lot 2, 582 Orton Road, Oldbury (PA22/792)</b>	
<b>Responsible Officer:</b>	Manager Statutory Planning and Compliance
<b>Senior Officer:</b>	Director Development Services
<b>Disclosure of Officer's 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> .

**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:	Rural Building Company Pty Ltd
Owner:	Tony Cukrov
Date of Receipt:	31 August 2022
Lot Area:	10.5 hectares
Town Planning Scheme No 2 Zoning:	'Rural' / 'Rural Groundwater Protection'
Metropolitan Region Scheme Zoning:	'Rural' / 'Rural Water Protection'

**Report Purpose**

The purpose of the report is for Council to consider a development application for a 'Single House' and a 'Rural Workers Dwelling' at Lot 2, 582 Orton Road, Oldbury. The development includes the construction of a new dwelling and change of use of the existing dwelling into a 'Rural Workers Dwelling'.

The report addresses the proposed variation to Local Planning Policy 4.14 - Rural Workers Dwelling (LPP4.14) as the 'Rural Workers Dwelling' is not located in a 'Rural' zone but rather the 'Rural Groundwater Protection Zone'. The proposed new dwelling component of the proposal complies with the Residential Design Codes and the broader planning framework.

The application is presented to Council as Officers do not have delegated authority to determine development applications that vary Local Planning Policies under Delegated Authority 12.1.1 - Determination of Development Applications.

For the reasons discussed in the report, it is considered that the proposal is consistent with the objectives of LPP4.14 and the planning framework and is recommended for approval.

**Relevant Previous Decisions of Council**

There are no previous Council decisions relating to this application.





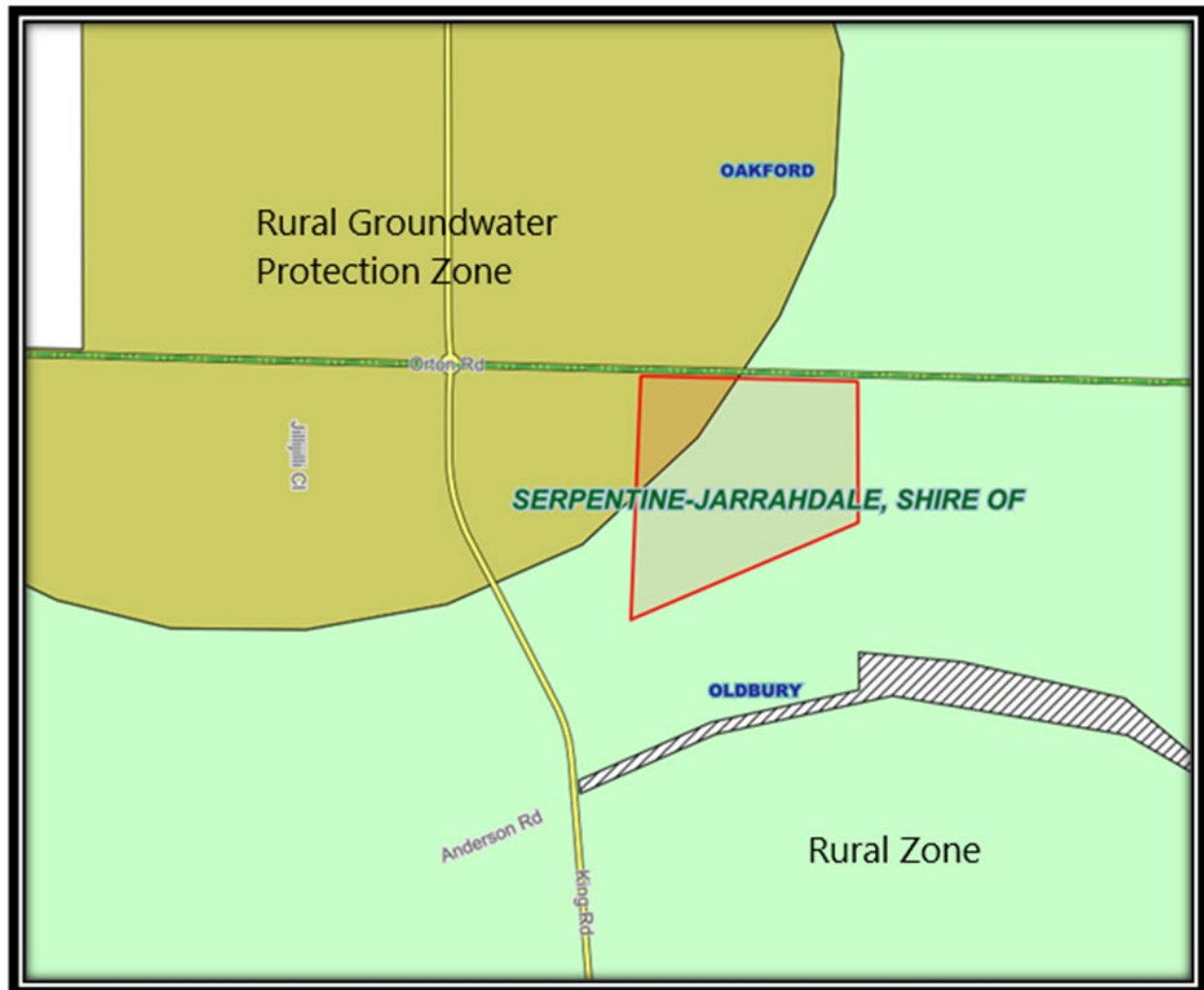
## Background

### Existing Development

The subject site lies within a rural area of Oldbury. The north west portion has been developed with a 'Single House' and agricultural buildings with some scattered vegetation. The majority of the site is used intensively as a 'Rural Use' (growing of vegetables) and benefits from the following development approvals:

- 2 October 2014 - Outbuilding (Shed)
- 3 January 2012 - Shade house
- 26 September 2011 - Lettuce washing facility and associated outbuilding

Of particular relevance to the assessment of this application is that the site is split zoned 'Rural' and 'Rural Groundwater Protection' as depicted below.



**Zoning Map**



Aerial view of subject site and surrounds

### Proposed Development

The proposal seeks development approval for a new dwelling and change of use of the existing dwelling to become a 'Rural Workers Dwelling'. The new single storey dwelling would be sited in the north west corner of the site and set back 40m from Orton Road and 20m from the western lot boundary. It would comprise of three bedrooms and a double garage. The proposed new dwelling fully complies with the Residential Design Codes (R-Codes).

The application also seeks to change the use of the existing dwelling onsite from 'Single House' to 'Rural Workers Dwelling'. No alterations or additions have been proposed to the existing dwelling to facilitate the conversion. The existing dwelling is sited approximately 82m north east of the new dwelling. The proposed site plan and elevations of the new dwelling are depicted below. Full details of the proposal are contained within **attachment 1**.





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## Community / Stakeholder Consultation

The application was advertised to adjoining landowners for a period of 21 days from 13 October 2022 to 27 October 2022, in accordance with Local Planning Policy 1.4 - Consultation for Planning Matters. During this period, no submissions were received.

## Statutory Environment

### Legislation

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

### State Government Policies

- State Planning Policy 2.5 - Rural Planning
- State Planning Policy 2.3 - Jandakot Groundwater Protection Policy (SPP2.3)
- State Planning Policy 7.3 - Residential Design Codes Volume 1 (R-Codes)

### Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2)
- Draft Local Planning Scheme No. 3
- Local Planning Strategy
- Local Planning Policy 4.14 - Rural Workers Dwelling (LPP4.14)
- Local Planning Policy 1.4 - Consultation for Planning Matters (LPP1.4)

## Planning Assessment

A comprehensive assessment has been undertaken in accordance with Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the assessment is contained within **attachment 2**. For the purposes of this report, discussion is confined to the proposed policy variations.

### Land Use

The proposed change of use falls within the land use of 'Rural Workers Dwelling', defined under TPS2 as a dwelling:

- “(a) *which is on land upon which there is already erected a dwelling and which is occupied by persons engaged in any of the following uses on that same land; Cottage Industry; Feedlot; Fish Farming; Horticultural Pursuit; Pig Farming; Poultry Farming; Rural Industry or Rural Use; and*
- (b) *which can also accommodate family members involved in the operation of an agricultural enterprise on that land”.*

The proposed 'Rural Workers Dwelling' is associated with an established farm ('Rural Use') operating on the site. 'Rural Use' is defined under TPS2 as:

- “the use of land for any of the purposes set out hereunder and shall include such buildings normally associated therewith:*
- (i) *The growing of vegetables, fruit, cereals or food crops except for domestic purposes;*





- (ii) *The rearing or agistment of goats, sheep, cattle or beasts of burden;*
- (iii) *The stabling, agistment or training of horses, or other ungulates;*
- (iv) *The growing of trees, plants, shrubs, or flowers for replanting in domestic, commercial or industrial gardens;*
- (v) *the sale of produce grown solely on the lot."*

The site is used by 'Supafresh' and 'Trodan Produce' to grow crops including baby spinach, rocket, baby cos, mizuna, swiss chard, kale, cabbages, capsicums and eggfruit, consistent with the above definition. The 'Rural Use' has been undertaken on the subject site for at least the last 12 years (since 2011).

The 'Rural Workers Dwelling' would be located in the portion of the site zoned 'Rural Groundwater Protection'. Clause 5.20.2 of TPS2 lists a 'Dwelling' as an 'AA' use which means that the Council may, at its discretion, permit the use. The term 'Dwelling' includes all types of dwellings including a 'Single House', 'Ancillary Dwelling' and 'Rural Workers Dwelling'. Whilst Clause 5.20.2 does not specifically list a 'Rural Workers Dwelling' as a permissible use, a 'Rural Workers Dwelling' is a type of dwelling and is therefore permissible. This was also confirmed by legal advice, which is provided as **CONFIDENTIAL attachment 3**.

#### Orderly and Proper Planning

Clause 67 of the regulations, specifically a - j, considers State and Local Planning Policy frameworks including Draft Schemes, Strategies, State Planning Policies, Local Planning Policies and the like. These frameworks provide guidance in order to establish if a development is consistent with orderly and proper planning.

#### Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS2):

Clause 5.20.1 of TPS2 states *"The use and development of land within the Rural Groundwater Protection Zone shall be in accordance with the provisions of the Scheme and Statement of Planning Policy No. 2.3 (Jandakot Groundwater Protection Policy)".* The purpose of the Jandakot Groundwater Protection Policy is *'...to protect the Jandakot Groundwater Protection area from development and land uses that may have a detrimental impact on the water resource'*.

In this case, the change of use of the existing dwelling to a 'Rural Workers Dwelling' does not require any alteration and/or additions or intensification of land use and therefore will not increase the risk of drinking water contamination. Likewise, the new dwelling (also located within the 'Rural Groundwater Protection Zone') does not represent a significant change in land use. No vegetation removal is required, and the effluent disposal system will need to be approved through a separate process that manages nutrient risk. Overall, the proposal is not considered to pose a threat to native vegetation and will not increase the risk of drinking water contamination, consistent with TPS2 and SPP2.3.

#### Local Planning Strategy (Strategy)

The subject site is designated as 'Rural' and 'Rural - Water Protection' under the Strategy. The purpose of the 'Rural' policy area is to *"maintain the integrity of the Shire's rural and agricultural character"* and to *"retain and maintain traditional agricultural uses"*.

The proposal would allow rural workers to reside at the subject site. The owner who manages the overall operation of the farming enterprise on the land will occupy the new dwelling while four permanent residency farm workers would occupy the existing dwelling to be used as the 'Rural Workers Dwelling'. The development is considered consistent with the objectives under the Strategy by way of retaining rural uses and rural character.

**State Planning Policy 2.5 - Rural Planning (SPP2.5)**

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

The proposal will contribute towards preserving food production by allowing for the owner and employees of the business to reside at the property in support of the ongoing ‘Rural Use’. The proposal will provide ease of access to the business for rural workers, consistent with the objectives of SPP2.5.

**Local Planning Policy 4.14 - Rural Worker’s Dwelling (LPP4.14)**

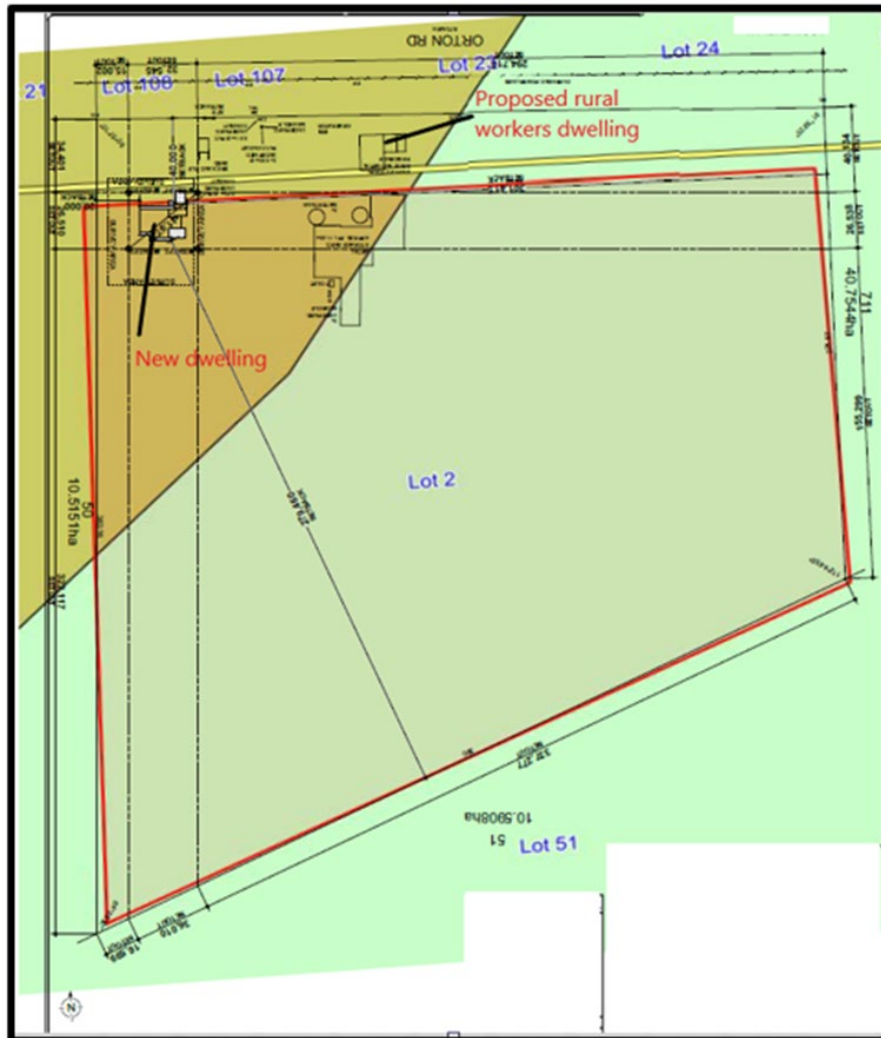
The development of an Ancillary Dwelling is guided by the R Codes and LPP4.14. All aspects of the proposal are compliant with the R Codes and policy provisions, except for where the policy provides limits to a Rural Worker Dwelling being located within a Rural zone. This provision seeks to ensure a ‘Rural Worker Dwelling’ land use is associated with a bonafide productive agricultural and/or rural uses where these activities generally occur on larger ‘Rural’ zoned land parcels within TPS2. This is reflected by the subject land, albeit with a split zoning of Rural and Rural Water Protection. Therefore, the development application is considered to generally reflect the policy objectives.

In terms of the policy provision proposed to be varied, where a proposal seeks to vary policy provisions, Council must be satisfied that the objectives of the policy are met in exercising discretion to permit the use. The assessment against the most relevant objectives of the policy is below:

Objective	Proposal
Ensure that rural workers dwellings are provided, constructed and located in such a way so as to minimise their impact on the surrounding amenity and landscape	A dwelling already exists in the location. As such, the development already forms part of the amenity of the locality and the proposed conversion is not considered to impact upon this. In terms of the dwelling within the ‘Rural Ground Water Protection’ zone, the change of use is not considered to impact upon the ground water as the development does not propose to remove native vegetation and an effluent disposal system will be required to undergo a separate regulatory process.
Ensure rural workers dwellings are associated with an existing and approved rural use	The applicant has demonstrated that the development is directly associated with an established farm used to grow vegetables in an intensive way with market orientation. It is considered to represent a productive rural use.
Limit the opportunity for a rural workers dwelling to establish and facilitate land subdivision	A single dwelling already exists in the location. The site when viewed from the street, even after the construction of the proposed single dwelling, will still be viewed as one single farming lot comprising of the expected characteristics of rural land. Importantly, the development will be viewed as being subservient to the proposed single dwelling to be constructed.



In further assessing the merits of varying this policy requirement, Officers consider this proposal as unique in that the majority of the subject site is located within the 'Rural' zone and only a relatively small portion to the north west corner of the site is located within the 'Rural Groundwater Protection' zone as seen in the below image.



**Development plan shown over Zoning Map**

Average lot sizes in the 'Rural Groundwater Protection' zone are generally 2ha which would not support the type of intensive agriculture that would warrant a 'Rural Workers Dwelling'. Effectively, the basis of the policy provision. However, in this instance, the site is more conducive to a 'Rural' lot by virtue of its size and land use activity.

Furthermore, draft LPS3 proposes to rezone this section of the site from 'Rural Groundwater Protection' zone to 'Rural'. Consequently, when LPS3 is approved, the proposal would not vary LPP4.14 which provides further justification for supporting the application.

A condition is recommended to require a Section 70A Notification to be placed on the Certificate of Title for the Lot ensuring that the occupancy of the 'Rural Workers Dwelling' is restricted to rural workers working within a rural use on the subject site, consistent with the policy requirements.

Overall, it is considered reasonable for a dwelling and an additional 'Rural Workers Dwelling' to be located on the subject lot supporting an established 'Rural Use', consistent with the planning framework.



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**Options and Implications****Option 1**

That Council APPROVES the development application for a 'Single House' and 'Rural Workers Dwelling' at Lot 2, 582 Orton Road, Oldbury as contained in **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 to P4 received at the Shire's offices on 18 November 2022 and P5 Bushfire Attack Level Assessment dated 9 August 2022
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- b. All stormwater shall be retained within the property to the satisfaction of the Shire of Serpentine Jarrahdale.
- c. The occupancy of the rural workers dwelling is restricted to the rural worker/s working at the approved 'Rural Use' on the subject site, and their immediate family.
- d. Prior to the occupancy of the rural workers dwelling, a Section 70A Notification shall be placed on the Certificate of Title for the subject property, at the cost of the applicant. The Section 70A Notification shall state as follows:
- "The Rural Workers Dwelling shall be occupied only by person/s working at the approved 'Rural Use' on the subject site and their immediate family."*
- e. Prior to occupation of the 'Single House' and the 'Rural Workers Dwelling', an effluent disposal application must be submitted to and approved by the Shire of Serpentine Jarrahdale, and installed and properly commissioned.

**Option 2**

Council resolves to REFUSE the application due to concerns regarding the potential for a second dwelling to give rise to pressure for ad hoc subdivision to occur in the rural zone.

Option 1 is recommended.

**Conclusion**

The proposal seeks approval for the change of use of the existing 'Single House' to a 'Rural Workers Dwelling' and the erection of a 'Single House'.

The 'Rural Workers Dwelling' seeks a variation to LPP4.14 by way of not being located within the 'Rural' Zone. It is however consistent with the objectives of LPP4.14 and the broader planning framework and therefore recommended for approval.

**Attachments (available under separate cover)**

- **10.1.4 - attachment 1** - Development Plans (E23/492)
- **10.1.4 - attachment 2** - Technical Assessment (E22/14917)
- **10.1.4 - CONFIDENTIAL - attachment 3** - Legal advice (IN22/25141)





### Alignment with our Strategic Community Plan

<b>Outcome 2.3</b>	A productive rural environment
<b>Strategy 2.3.1</b>	Identify and promote rural and agricultural industry opportunities
<b>Outcome 3.1</b>	A commercially diverse and prosperous economy
<b>Strategy 3.1.1</b>	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	There are no risks associated with Option 1.						
2	That Council refuses the application, and an appeal is lodged with the State Administrative Tribunal which requires independent planning representation in order to defend the decision.	Reasons for refusal reflecting valid planning concerns or variations.	Financial	Possible	Minor	MODERATE	Ensure that reasons for refusal are based on valid planning reasons.



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**Voting Requirements:** Simple Majority

**Officer Recommendation**

That Council **APPROVES** the development application for a 'Single House' and 'Rural Workers Dwelling' at Lot 2, 582 Orton Road, Oldbury as contained in 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 to P4 received at the Shire's offices on 18 November 2022 and P5 Bushfire Attack Level Assessment dated 9 August 2022
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- b. All stormwater shall be retained within the property to the satisfaction of the Shire of Serpentine Jarrahdale.
- c. The occupancy of the rural workers dwelling is restricted to the rural worker/s working at the approved 'Rural Use' on the subject site, and their immediate family.
- d. Prior to the occupancy of the rural workers dwelling, a Section 70A Notification shall be placed on the Certificate of Title for the subject property, at the cost of the applicant. The Section 70A Notification shall state as follows:  
*"The Rural Workers Dwelling shall be occupied only by person/s working at the approved 'Rural Use' on the subject site and their immediate family."*
- e. Prior to occupation of the 'Single House' and the 'Rural Workers Dwelling', an effluent disposal application must be submitted to and approved by the Shire of Serpentine Jarrahdale, and installed and properly commissioned.



<b>10.1.5 - Proposed Ancillary Dwelling - Lot 3, 307 Shanley Road, Mardella (PA22/1010)</b>	
<b>Responsible Officer:</b>	Manager Statutory Planning and Compliance
<b>Senior Officer:</b>	Director Development Services
<b>Disclosure of Officer's 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> .

**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:	Arnold Schiebaan Building Design and Illustration
Owner:	Wieske Nominees P/L
Date of Receipt:	22 November 2022
Lot Area:	18.63ha
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 an 'Ancillary Dwelling' at Lot 3, 307 Shanley Road, Mardella. The proposal seeks to vary the siting requirements under Local Planning Policy 4.1 - Ancillary Dwellings (LPP4.1) which generally provides for an Ancillary Dwelling to be located behind the line of the primary dwelling.

Officers do not have delegated authority to determine development applications which vary Local Planning Policies in accordance with Delegated Authority - 12.1.1 - Determination of Development Applications.

It is considered that, notwithstanding the minor variation, the proposal is consistent with the R Codes, the objectives of LPP4.1 and the wider planning framework, and therefore the application is recommended for approval.

**Relevant Previous Decisions of Council**

There are no previous Council decisions relating to this application.



## Background

### Existing Development

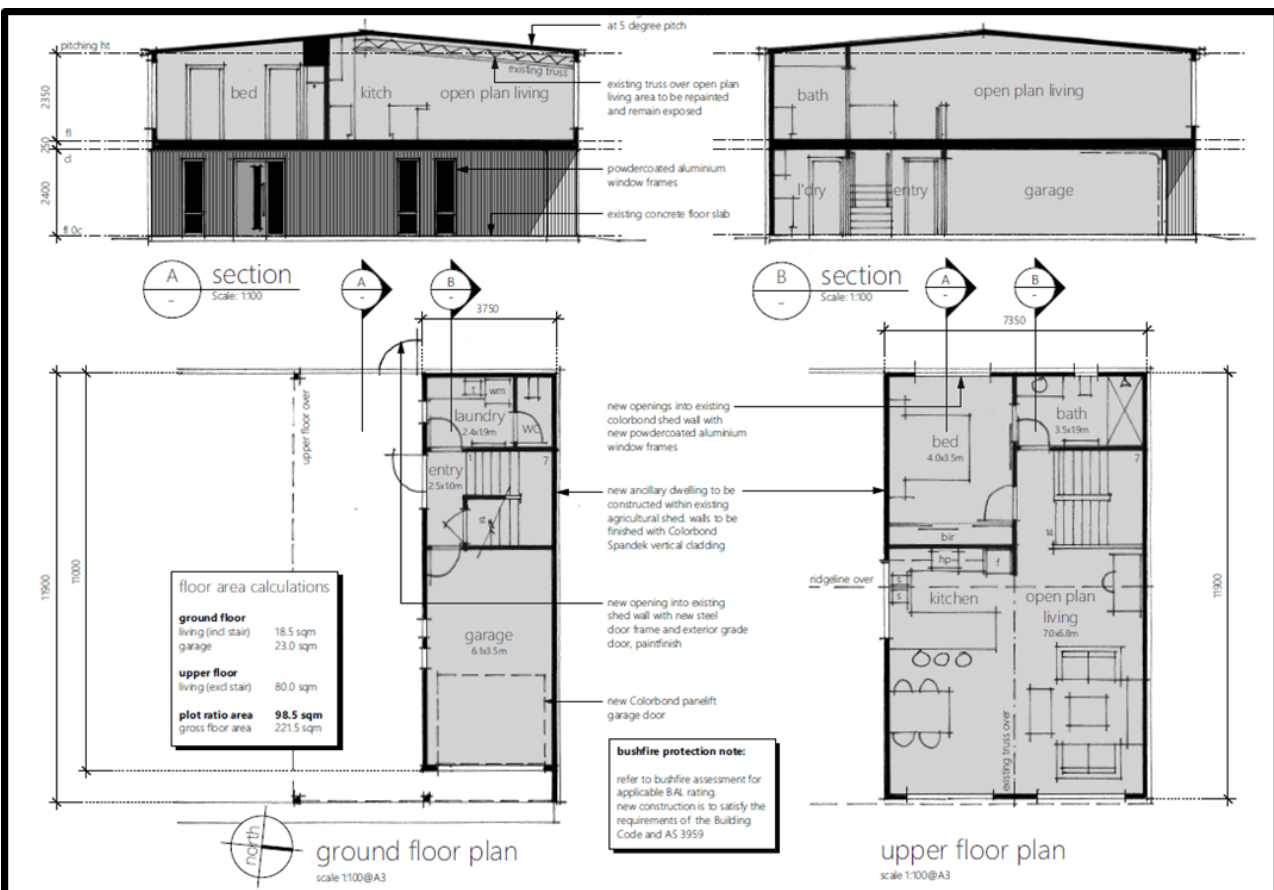
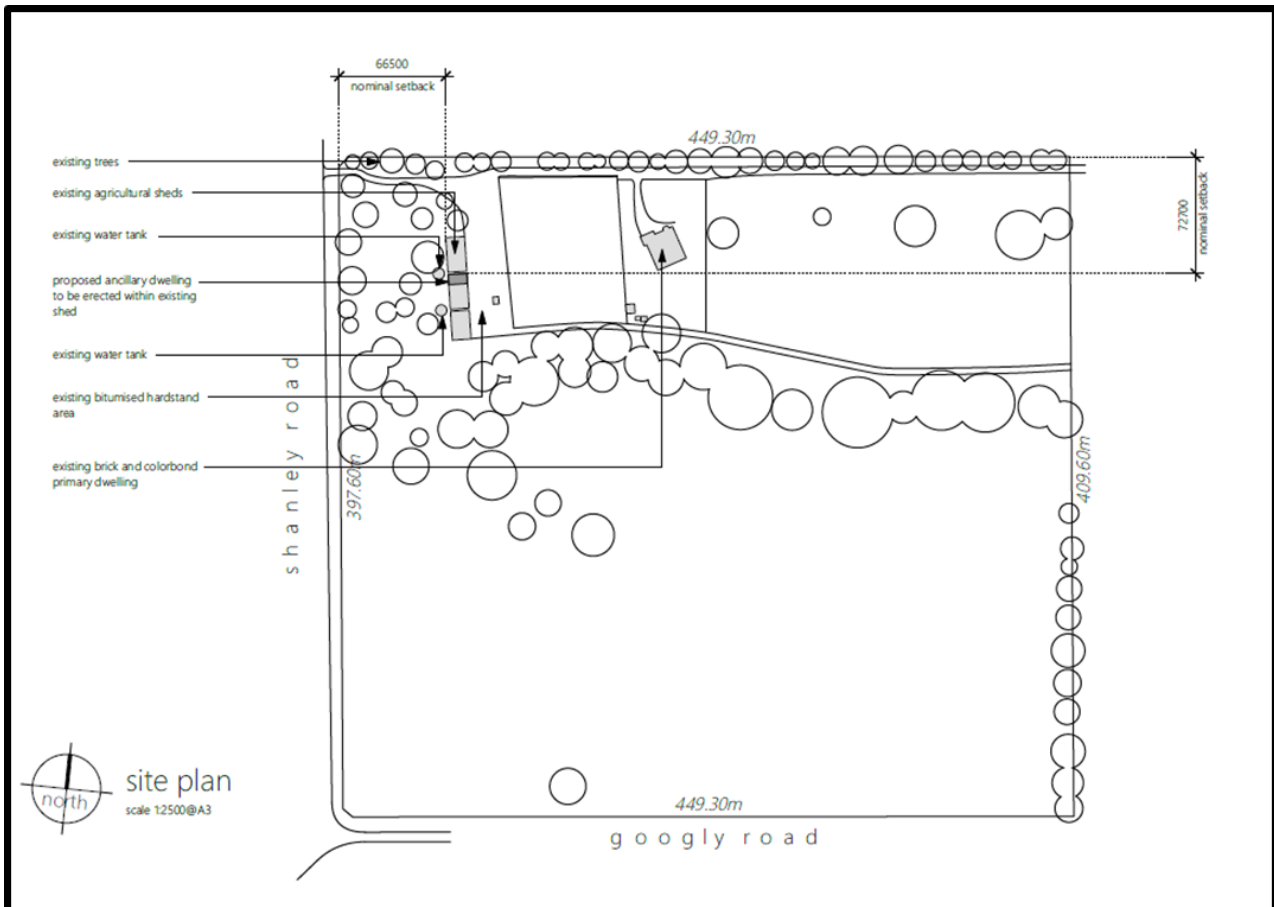
The subject site is 18.63ha in area and is located within a rural area of Mardella. The locality typically comprises of rural pursuits and equine activities. The site is developed with a Single House, located centrally towards the front of the lot and three sheds with water tanks located towards the northwest of the lot. It is one of these sheds where the proposed Ancillary Dwelling would be located. Shanley Road runs along the western lot boundary and Coogly Road to the south.



### Proposed Development

The application seeks approval for the construction of an Ancillary Dwelling within one of the existing sheds. The Ancillary Dwelling would have a plot ratio of 98.5sqm and comprise of an entry, laundry/WC and garage on the ground floor with an open plan living/kitchen, one bedroom and bathroom on the first floor. The proposal would be finished in Colorbond 'woodland grey' with aluminium framed windows. The site plan and elevations are depicted below, full details of the proposal are contained within **attachment 1**.







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## Community / Stakeholder Consultation

The application does not pose any potential adverse impacts on nearby landowners, and is not required to be advertised.

## Statutory Environment

### Legislation

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

### State Government Policies

- State Planning Policy 7.3 - Residential Design Codes (Volume 1) (R-Codes)

### Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2
- Local Planning Strategy
- Shire of Serpentine Jarrahdale Draft Local Planning Scheme No.3
- Local Planning Policy 4.1 - Ancillary Dwellings (LPPP4.1)

## Planning Assessment

A full assessment has been undertaken in accordance with clause 67 of the Deemed Provisions and can be viewed within **attachment 2**. For the purpose of this report, discussion is confined to the siting of the Ancillary Dwelling which varies LPP4.1 and where Council is required to exercise discretion.

### Land Use

The application seeks approval for an 'Ancillary Dwelling', defined under the R-Codes as a *"Self-contained dwelling on the same lot as a single house which may be attached to, integrated with or detached from the single house"*.

The subject site is zoned 'Rural' under the Shire's TPS2. Table 1 - Zoning Table of TPS2 lists the land use of 'Ancillary Dwelling' as an 'AA' use in the 'Rural' zone which means *"Council may, at its discretion, permit the use"*.

### Form of Development and Amenity

The development of an Ancillary Dwelling is guided by the R-Codes and LPP4.1. As detailed in the Technical Assessment, all aspects of the proposal are compliant with the deemed-to-comply requirements of the R-Codes, as varied by the development standards of LPP4.1, except for the siting.

Schedule 1 - Design Requirements for Ancillary Dwellings varies the R-Codes acceptable plot ratio to 100m<sup>2</sup> in lieu of 70m<sup>2</sup>. The allowable increase in plot ratio is subject to four criteria in Schedule 1 of LPP4.1. The proposal varies criteria a) which states *"An Ancillary Dwelling is to be located behind the building line of the primary dwelling"*. Where a proposal does not meet a policy provision, Council needs to consider if the objectives of the policy are generally met to warrant exercising discretion to permit the development. The proposal has been assessed against the objectives of the R-Codes and LPP4.1 below:

**R-Codes:**

Objective	Proposal
<i>Ancillary dwelling for people who live either independently or semi-dependently to the residents of the single house, sharing some site facilities and services and without compromising the amenity of surrounding properties</i>	<p>The proposal is for a self-contained Ancillary Dwelling which would allow for people to live independently from the main house. The proposal would share services and the driveway with the main house, which is recommended to be a condition of approval to ensure it does not result in the appearance of grouped dwellings.</p> <p>With regard to amenity, the Ancillary Dwelling would be incorporated within an existing building, set back from both the street and any neighbouring residents, and being set among other buildings. The proposal involve minor changes to the external appearance of part of the existing shed.</p> <p>Due to the scale of the development and its location, it is considered that the proposal does not compromise the amenity of the surrounding area, and is consistent with the R-Code design principle.</p>

**LPP4.1:**

The objectives of LPP4.1 are addressed in the table below:

Objective	Proposal
Ensure that Ancillary Dwellings are designed and located to appear visually related with the primary dwelling and minimise impact on the amenity of the locality.	The proposed Ancillary Dwelling has been designed to be incorporated into the existing built form of the shed. The primary frontage faces the main dwelling. Given the size of the lot, taken with the separation distance of the proposal from the main dwelling, it is considered that they would appear visually related.
Ensure that Ancillary Dwellings are subservient to the primary dwelling.	The proposed Ancillary Dwelling has a plot ratio of 98.5m <sup>2</sup> and contains only one bedroom. This size is consistent with LPP4.1 and would ensure that it appears subservient to the primary dwelling.
Protect against increase in residential density and ad hoc fragmentation of land by ensuring that development does not encourage future subdivision.	The lot is zoned 'Rural' where minimum lot sizes are 40ha. Clause 5.10.4 of TPS2 states that subdivision below 40ha is generally not supported. It is considered that due to the location of the proposed Ancillary Dwelling and the TPS2 requirements, the proposal would not increase residential density or encourage subdivision.

Notwithstanding the proposal being located forward of the building line of the main dwelling, the proposal is considered consistent with the objectives of LPP4.1, and complies with the R Codes. It is recommended for approval on this basis.



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**Options and Implications****Option 1**

That Council APPROVES the development application for proposed Ancillary Dwelling at Lot 3, 307 Shanley Road, Mardella, 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 - P3 received at the Shire Offices 22 November 2022 and P4 - Bushfire Attack Level Assessment Report dated 14 November 2022
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- b. No additional crossovers are permitted. Vehicle access shall be shared with that of the primary dwelling.
- c. All stormwater shall be disposed of within the property.

**Option 2**

That Council REFUSES the development application for proposed Ancillary Dwelling at Lot 3, 307 Shanley Road, Mardella, as contained in **attachment 1** for the following reason:

- a. The development has the potential to detract from the rural amenity of the locality, by being placed forward of the main single dwelling and giving a different impression than that expected of a rural dwelling.

Option 1 is recommended.

**Conclusion**

The application seeks approval for an Ancillary Dwelling to be contained within an existing shed. The proposal seeks a variation to LPP4.1 in relation to it being sited forward of the building line for the main dwelling. Notwithstanding the variation, it is considered that the proposal is consistent with the objectives of LPP4.1 and would not adversely impact on the amenity of the locality or that of surrounding landowners. The application is therefore recommended for approval.

**Attachments (available under separate cover)**

- **10.1.5 - attachment 1** - Application Details (E23/491)
- **10.1.5 - attachment 2** - Technical Assessment (E22/15710)

**Alignment with our Strategic Community Plan**

<b>Outcome 2.1</b>	A diverse, well planned built environment
<b>Strategy 2.1.1</b>	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 refuses the application, and an appeal is lodged with the State Administrative Tribunal which requires independent planning representation in order to defend the decision.	Reasons for refusal reflecting valid planning concerns.	Financial	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 proposed Ancillary Dwelling at Lot 3, 307 Shanley Road, Mardella, 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:

<b>Plans and Specifications</b>	<b>P1 - P3 received at the Shire Offices 22 November 2022 and P4 - Bushfire Attack Level Assessment Report dated 14 November 2022</b>
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- b. No additional crossovers are permitted. Vehicle access shall be shared with that of the primary dwelling.
- c. All stormwater shall be disposed of within the property.



<b>10.1.6 - Approval of Local Planning Policy 4.25 Uniform Fencing (SJ3362)</b>	
<b>Responsible Officer:</b>	Manager Strategic Planning
<b>Senior Officer:</b>	Director Development Services
<b>Disclosure of Officer's 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> .

**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 submissions received on Draft Local Planning Policy 4.25: Uniform Fencing (LPP4.25) 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.

Council is requested to make a resolution on whether to approve and endorse the policy.

**Relevant Previous Decisions of Council**

*Ordinary Council Meeting - 17 October 2021 - OCM249/10/22 - COUNCIL RESOLUTION / Officer Recommendation*

*That Council, pursuant to Clause 4(1) of the Deemed Provisions RESOLVES to prepare Local Planning Policy 4.25: Uniform Fencing and REQUESTS the Chief Executive Officer to advertise Local Planning Policy 4.25: Uniform Fencing in accordance with Clause 87 of the Planning and Development (Local Planning Schemes) Regulations 2015.*

**Background**

Local Planning Policies (LPPs) perform a function in the local planning framework to support planning decision making, by assisting in the guidance of discretion on planning matters.

Proposed LPP 4.25: Uniform Fencing seeks to address development and design issues in order to establish an effective minimum standard for external acoustic and estate boundary fencing.

Issues experienced include the use of inconsistent materials, materials which are not robust, and concerns over external overall appearance along major road corridors which border existing and planned development areas.

Ensuring consistent fencing design standards are applied will improve future development outcomes. Providing an LPP for such development will provide for more effective and efficient means of assessing and determining appropriate outcomes and allow for discretion in an appropriate planning manner.



## **Community / Stakeholder Consultation**

Draft LPP4.25 was publicly advertised for submissions pursuant to Clause 4 of the Deemed Provisions of the Scheme, from 27 October 2022 to 28 November 2022. One submission was received, and this is addressed in the planning assessment section of this report. The consultation included a newspaper advertisement and the draft Local Planning Policy being placed on the 'Your Say SJ' website for the opportunity to comment.

## **Statutory Environment**

### Legislation

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

### State Government Policies

- State Planning Policy 5.4 - Road and Rail Noise Guidance

### Local Planning Framework

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

## **Planning Assessment**

Construction of acoustic and boundary fencing within the Shire is important to establish an effective and positive keynote to the overall character and presentation of development.

Minimum fencing standards, that are effective for good design, are proposed to be addressed through the LPP. The aim is to ensure that developers understand the development expectations and necessity for uniform fencing to promote good quality and aesthetic outcomes, where such adjoins the public realm.

The current process for implementation and construction of acoustic and boundary fencing is outlined and guided by SPP5.4: Road and Rail Noise Guidance. It sets out a framework that seeks to mitigate noise pollution and reduce impacts on the surrounding areas.

However, it does not provide development standards regarding appropriate materials required to provide aesthetic development that fronts the public realm.

The purpose of the Draft LPP4.25 Uniform Fencing is to provide a clear Policy position on the requirements and expectations for development within the Shire of this nature and to ensure future development can achieve a positive and aesthetic outcome within new subdivision development areas. It sets out the criteria and requirement that will be applied by the Shire in the assessment and consideration of proposed structure plans, development applications, detailed engineering drawings and building permits and providing advice and recommendations to the WAPC on subdivision of land. The stated objective of this Policy is therefore to:

- state the Shire's position regarding the provision of uniform fencing in new residential estates and developments; and
- set out the Shire's minimum requirements for uniform fencing.



The provisions of the Local Planning Policy will:

- Apply standards for all boundary fencing constructed within the Shire of Serpentine Jarrahdale except where other fencing standards apply.
- Require Uniform fencing to be provided by developers and landowners where land directly abuts the public domain - Schools, Public Open Space (POS), Drainage Reserves, Pedestrian Access Ways (PAWs), Railway Reservations, Regional Roads, any other Category of Road with a 'Neighbourhood Connector A' or higher road classification, or any other public place.
- Allow the Shire to impose the requirement for the construction of uniform fencing when triggered through the development and/or subdivision of land.
- Allow the Shire to impose a condition on planning approvals (where applicable) requiring the applicant/owner to construct uniform fencing in accordance with this Policy.
- Allow the Shire to recommend to the Western Australian Planning Commission (WAPC) that a condition be imposed on subdivision approvals (where applicable) requiring the applicant/owner to construct uniform fencing in accordance with this Policy.
- Allow the Shire to apply the criteria and requirements of this Policy when considering applications for structure plans, detailed engineering drawings or building permits.
- Importantly, allow the Shire to set construction standards such as limestone, brick, masonry or other durable materials approved by the Shire.

The policy also contains some definitions and provides guidance on the implementation of the Policy provisions and regarding standards for the maintenance of the fencing.

Officers recommend a minor modification to the scope section of the Policy to clarify specifically where the Policy applies to ensure appropriate development standards are required and to avoid any misinterpretation. It is recommended that the Policy be modified to state that it applies in any of the following instances:

- To all uniform fencing within the Shire of Serpentine Jarrahdale required by State Planning Policy 5.4 Road and Rail Noise (SPP5.4).
- To all uniform fencing constructed within the urban areas of the Shire of Serpentine Jarrahdale, with the exception of residential areas with density codes between R2 - R5, unless uniform fencing is required by SPP5.4, where in such instances the Policy applies to residential areas with density codes between R2 - R5.
- This Policy only applies to rural and rural living areas in instances where uniform fencing is required by SPP5.4.

Officers also recommend that the Policy be modified to delete section 8 which allows for the deferment of construction of uniform fencing in some circumstances. If uniform fencing has been required under a condition of approval, the condition is required to be fulfilled to the satisfaction of the Shire and/or the WAPC.





### Submissions

The Shire received one submission on the Draft LPP4.25 which was generally supportive.

A landowner submission enquired about the effect this policy may have within the rural setting and raised concerns on how the planning department were to ensure this policy isn't applied to properties that are being constructed within the 'Rural' zone.

In this regard, the Shire has its own planning framework for fencing within a 'Rural' zone in accordance with Town Planning Scheme No. 2 (TPS2) and the Fencing Local Law. These documents specify that *'fencing within the 'Rural' zone shall be of post and rail or post and wire unless otherwise approved by Council'*. This will generally ensure that the character of rural properties are retained and that the appropriate avenues are followed if the amenity of these sites were to be impacted by future development.

This however may not apply in every circumstance. For example, there may be situation of a rural type subdivision adjoining and existing road or rail corridor, which is required to implement a wall treatment in order to address noise. Alternatively, major infrastructure corridors may be proposed in rural areas, or existing infrastructure corridors within rural areas may be upgraded, both which require an infrastructure provider to include noise walls for attenuation.

These situations may therefore sometimes generate the requirement for noise walls, even in a rural setting, if noise compliance is not otherwise able to be achieved due to proximity of sensitive development.

In considering the submission, Officers consider that the Draft LPP as advertised provides for a consistent approach regarding provisions for Uniform Fencing implementation and design. Officers recommend however a modification to the wording of the scope section of the Policy, to clarify the instances where the Policy applies and provide policy guidance to the assessment in rural areas. It is recommended that Council proceed with the LPP with modification.

### **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 4.25: Uniform Fencing, subject to modifications as contained within **attachment 3**.
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 4.25: Uniform Fencing in accordance with Clause 87 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
3. Advise the submitter of the outcome of this matter.

#### Option 2

That Council resolves NOT TO PROCEED with draft LPP4.25: Uniform Fencing.

Option 1 is recommended.



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**Conclusion**

The new LPP relates to the construction of Uniform Fencing within Shire of Serpentine Jarrahdale and outlines the requirement, design standard, implementation, and maintenance of external estate fencing on the boundaries of new residential development and subdivision applications. If supported, it will help to set minimum design expectations to create positive and attractive external design walls, that help to protect the amenity of the area and create a positive contribution to overall character.

The community consultation process has resulted in one submission being received, which raised points regarding the application of standards in the rural landscape and the need to protect rural amenity. Officers recommend the policy be modified to address this issue, and provide additional guidance on the matter of how uniform fencing may be approached in the rural zone.

**Attachments (available under separate cover)**

- **10.1.6 - attachment 1** - Draft LPP4.25 - as advertised (E22/8561)
- **10.1.6 - attachment 2** - Summary of Submissions (E22/15633)
- **10.1.6 - attachment 3** - Schedule of Modifications (E23/1474)

**Alignment with our Strategic Community Plan**

<b>Outcome 1.3</b>	A safe place to live
<b>Strategy 1.3.3</b>	Enhance community safety
<b>Outcome 2.1</b>	A diverse, well planned built environment
<b>Strategy 2.1.1</b>	Actively engage in the development and promotion of an effective planning framework
<b>Outcome 4.1</b>	A resilient, efficient and effective organisation
<b>Strategy 4.1.1</b>	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources
<b>Strategy 4.2.2</b>	Ensure appropriate long term strategic and operational planning is undertaken and considered when making decisions
<b>Strategy 4.2.3</b>	Provide clear strategic direction to the administration

**Financial Implications**

The process will result in medium and long-term maintenance and replacement savings to the Shire and ratepayers.



## 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 strategic risks for the Shire.						
2	If Council resolves not to proceed with the proposed LPP, the current situation may produce suboptimal outcomes for the Shire, community and new lot owners.	Planning Framework	Reputation	Possible	Moderate	MODERATE	Accept Officer Recommendation

**Voting Requirements:** Simple Majority

## Officer Recommendation

**That Council:**

- 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 4.25: Uniform Fencing, subject to modifications as contained within attachment 3.
- 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 4.25: Uniform Fencing in accordance with Clause 87 of the Planning and Development (Local Planning Schemes) Regulations 2015.
- Advise the submitter of the outcome of this matter.

**10.1.7 - Community Emergency Services Manager (CESM) - Renewal of Memorandum of Understanding (MoU) and Business Plan between the Department of Fire and Emergency Services (DFES) and the Shire of Serpentine Jarrahdale (SJ648)**

<b>Responsible Officer:</b>	Coordinator Emergency Services
<b>Senior Officer:</b>	Director Development Services
<b>Disclosure of Officer's 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> .

**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.
Information	For the Council / Committee to note.

**Report Purpose**

The purpose of this report is to present to Council for endorsement the proposed Business Plan (**attachment 1**) for the renewal of the next three year term of the Community Emergency Services Manager (CESM) partnership between the Shire and Department of Fire and Emergency Services (DFES).

The proposed Business Plan between the Shire and DFES outlines key performance outcomes and deliverables for the Community Emergency Services Manager position. The proposed Business Plan, if endorsed, will be referred to DFES for their agreement.

Should the proposed Business Plan be endorsed by Council and agreed by DFES, it is recommended to report annual progress against it to Council. It is proposed that this occurs via the second Bushfire Advisory Committee Meeting, which occurs in November each year.

**Relevant Previous Decisions of Council**

*Ordinary Council Meeting - 12 December 2022 - COUNCIL RESOLUTION / Officer Recommendation*

*That Council:*

- 1. RECEIVES the Unconfirmed Minutes of the Bush Fire Advisory Committee Meeting held on 17 November 2022 as per attachment 1.*
- 2. ADOPTS Bush Fire Advisory Committee Resolution No. 5.1.1/11/22 to:*
  - a. REQUEST a new three year Memorandum of Understanding (MoU) and Business Plan with the Department of Fire and Emergency Services, to continue the Community Emergency Services Manager (CESM) partnership subject to:*
    - i. a review of the Business Plan to determine the role and responsibilities and subsequent accountabilities of the CESM to provide greater transparency to the Brigades moving forward by including their input into the review of business plan;*





- ii. *incorporation into the Officer's report, to be presented to Council, the consolidated feedback from the Shire's Volunteer Bush Fire Brigades to ensure completeness of the Report with the Brigade Captains to consolidate their feedback to include Minutes from Brigade General Meetings to provide information to be included in the report to the Director Development Services in time for the February 2023 Ordinary Council Meeting;*
- b. *SUPPORT the CESM also continuing as Chief Bushfire Control Officer pursuant to s38A(1) of the Bush Fires Act 1954, noting the full-time responsibilities associated with this position.*

*Ordinary Council Meeting - 17 February 2020 - OCM014/02/20 - COUNCIL RESOLUTION / Officer Recommendation:*

*That Council:*

1. *RESOLVES to endorse Memorandum of Understanding between the Shire of Serpentine Jarrahdale and Department of Fire and Emergency Services ("DFES") in respect of the joint Community Emergency Services Manager ("CESM") role, as contained in attachment 1 and;*
2. *RESOLVES to endorse the Business Plan which sets out key outcomes and deliverables for the CESM position, as contained in attachment 2.*
3. *REQUESTS the CEO to sign both the Memorandum of Understanding and Business Plan.*

*Ordinary Council Meeting - 16 December 2019 - OCM283/12/19 - COUNCIL RESOLUTION / Alternative Officer Recommendation:*

*That Council:*

1. *RESOLVES to accept the offer of a joint Shire of Serpentine Jarrahdale and Department of Fire and Emergency Services Community Emergency Services (DFES) Manager;*
2. *REQUESTS DFES to begin the recruitment phase as soon as possible, and requires the recruitment panel to include:*
  - *Shire staff as nominated by the Chief Executive Officer;*
  - *A representative of the Brigades who is a Brigade Captain as decided by all Brigade Captains;*
  - *DFES.*
3. *REQUESTS DFES to place an acting CESM (who is also acting Chief Bush Fire Control Officer) within the Shire in the short term, to assist the Shire and community during the recruitment phase for the permanent CESM;*
4. *REQUESTS the Chief Executive Officer and DFES to jointly engage the current acting chief, deputies and captains to provide input to a draft business plan to set key performance measures for the CESM, with this to be presented back to Council in February 2020 for consideration; and*
5. *Prior to the end of the first three year term of the CESM, REQUESTS the Chief Executive Officer to review the CESM arrangements and report to Council on:*
  - *the strategic performance outcomes of the role;*
  - *the specific level of training, skill development and succession planning that has occurred for the Shire's brigade volunteers;*
  - *the potential for a volunteer Chief Bushfire Control Officer to be sourced locally (being a separate role to the CESM) as a result of such training and development which has occurred.*



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**Background**

At the December 2019 meeting, Council resolved to (inter alia) accept the offer of a joint Shire of Serpentine Jarrahdale and Department of Fire and Emergency Services (DFES) Community Emergency Services Manager (CESM). Part 4 of this decision referenced *input to a draft business plan, in order to set key performance measures for the CESM, with this to be presented back to Council in February 2020 for consideration.*

This was reported back to the February 2020 meeting, and Council resolved to (inter alia) endorse the Business Plan which set out key outcomes and deliverables for the CESM position. This Business Plan was the first three year business plan that underpinned the CESM partnership.

Consistent with Part 5 of Council's December 2019 meeting, a review following the first three year operation of the CESM program took place during the last quarter of 2022. This reported to Council, via the Bushfire Advisory Committee, the following aspects:

- The strategic performance outcomes of the role;
- The specific level of training, skill development and succession planning that has occurred for the Shire's brigade volunteers;
- The potential for a volunteer Chief Bushfire Control Officer to be sourced locally (being a separate role to the CESM) as a result of such training and development which has occurred.

This culminated in the December 2022 meeting, whereby Council resolved to continue the CESM partnership subject to (inter alia) a review of the Business Plan including consideration of consolidated feedback from the Shire's Volunteer Bush Fire Brigades.

This is the purpose of this report.

**Community / Stakeholder Consultation**

In respect of consideration of the three year review of the CESM role, this was considered at the November 2022 BFAC meeting, and subsequently by Council. Membership of BFAC includes the following stakeholders:

**Voting Delegates**

Cr Michelle Rich	Council Delegate
Cr Dave Atwell	Council Delegate
Leigh Mulholland	Chief Bush Fire Control Officer
Chris Burgess	Keysbrook Captain (Chairperson)
Mike Ross	Oakford Captain (Deputy Chairperson)
Jess Gibson	Byford Captain
Nathan Carrall	Emergency Support Brigade Captain
Sarah Davis	Jarrahdale Captain
Scott Jones	Serpentine Captain
Nathan Houweling	Mundijong Captain



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**Non-Voting Delegates**

Andrew Trosic	Director Development Services
Dave Richer	Coordinator Emergency Services
Paul Southam	District Officer South East Department Fire and Emergency Services
Brodie Selby	Department of Biodiversity, Conservation and Attractions
Ken Elliott	Deputy Chief Bush Fire Control Officer 1
Jason White	Deputy Chief Bush Fire Control Officer 2
Chris Wells	Deputy Chief Bush Fire Control Officer 3
David Gibson Deputy	Chief Bush Fire Control Officer 4

Consistent with the December resolution, Officers invited and received consolidated feedback from the Shire's Volunteer Bush Fire Brigades. This has been specifically considered in the preparation of this report, the associated proposed Business Plan, and showcase key performance indicators.

Should Council resolve to support the proposed Business Plan, it will be provided to DFES for their agreement and then used to guide the work and accountabilities of the CESM role.

**Statutory Environment**

The role of the CESM as Chief Bush Fire Control Officer, in respect of a request made by the Local Government pursuant to *section 38A(1) and (2) of the Bush Fires Act 1954*:

- (1) At the request of a local government the FES Commissioner may designate a person employed in the Department as the Chief Bush Fire Control Officer for the district of that local government.*
- (2) Where a Chief Bush Fire Control Officer has been designated under subsection (1) for a district the local government is not to appoint a Chief Bush Fire Control Officer under section 38(1).*

Responsibilities of the Chief pursuant to the s3.5 and 3.6 of the *Bush Fire Brigades Local Law 2021*:

**3.5 Managerial Role of Chief Bush Fire Control Officer**

*Subject to any directions by the Local Government, the Chief Bush Fire Control Officer has primary managerial responsibility for the organisation and maintenance of bush fire brigades.*

**3.6 Duties of Chief Bush Fire Control Officer**

*The duties of the Chief Bush Fire Control Officer include:*

- (i) provide leadership to volunteer bush fire brigades;*
- (ii) monitor bush fire brigades' resourcing, equipment (including protective clothing) and training levels and report thereon with recommendations at least once a year to the Local Government or as directed by the Chief Executive Officer;*
- (iii) liaise with the Local Government concerning fire prevention/suppression matters generally and directions to be issued by the Local Government to Bush Fire Control Officers (including those who issue permits to burn) bush fire brigades or brigade officers; and*
- (iv) ensure that bush fire brigades are registered and that lists of brigade members are maintained.*



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**Comment**

The proposed Business Plan has been formulated based on the resolution of Council at the December 2022 meeting. This identified two particular areas for action:

- *the review of the Business Plan to clarify roles, responsibilities and subsequent accountabilities of the CESM role;*
- *obtaining consolidated feedback from the Shire's Volunteer Bush Fire Brigades to be included in the proposed Business Plan.*

**Consolidated Feedback from the Volunteer Bushfire Brigades**

Officers have received feedback from each of the volunteer brigades as requested by Council's resolution. This consolidated feedback is collated below. The verbatim feedback received from brigades is provided within **attachments 2 - 8**. The following consolidated feedback is provided for Council's consideration, and has formed the proposed Business Plan as provided within **attachment 1**.

**1. Overarching feedback**

- It is noted that the Business Plan is generic in nature across the State's CESM programs;
- Strategic opportunity to clarify accountabilities between the Emergency Services Service Team within the Shire, and the CESM role, to increase the success and output of the overall management and administration of brigades;
- Opportunity to clarify and align accountabilities between the Shire ES Team and the CESM role;
- More effective monitoring, review and performance against the Business Plan is needed. This needs to be done in a collaborative manner including consideration of stakeholder views.

**2. Influence on member training, skill development, training program delivery, mentorship leadership training and succession planning**

- Training progress is now formalised and documented. A succession program has been implemented for the leadership group in each brigade. This is supported to continue;
- As a result of the current CESM arrangements, it has been noted that there has been increased opportunities for brigade members to attend training courses through the Shire, neighbouring local governments and DFES;
- The CESM is requested to be more involved with training including brigade, DFES courses and presenting. The CESM currently has had limited input into Shire run DFES courses;
- The CESM is requested to manage the training program with the Shire, engaging staff to create training programs and to work with the volunteer training team as the volunteer trainer's workload is currently excessive;
- The annual assessment program has been implemented and all the Shire Brigades have participated, resulting in increased response capability in the brigades;
- Members have felt more comfortable knowing that they have the support they require at incidents. They feel that they are trusted to do their job and to work to manage incidents and if required, there is support when incidents escalate;





- 
- Members expressed the need for a focus on enhancing the Incident Management Team (IMT) skills across all brigades. In particular, a focus on personnel developing the capability to undertake various IMT roles such as planning, logistics and operations;
  - There needs to be more work around succession planning.
3. Influence on bushfire mitigation, prevention, and preparedness
- While there has been an improvement in bushfire management and mitigation programs, an area for further development is liaising with local brigades about programs within their allocated fire district;
  - Some brigades expressed they have not completed any extra burns since the implementation of a CESM. Follow up work is rarely conducted after burns. Far more controlled burns are needed;
  - Brigade members advised it was good to see the UCL land along South Western Highway has had maintenance/mitigation work completed on it;
  - Some members feel like the Shire does not fully understand mitigation works and requirements;
  - Support was offered for the current program to involve Indigenous perspective, and insight into brigade burning practices;
  - Brigades would like to see more invested in mitigation works, with greater collaboration and involvement of brigades;
  - Concerns regarding insufficient personnel involved in mitigation duties. Many overgrown verges etc. Dangerous areas need to be identified and dealt with;
  - Brigades expressed appreciation for the level of community engagement of the CESM. They feel that this is an important aspect of the CESM program and managing our largely rural interface. Some discussion raised the fact that there needs to be more work done between the CESM, Emergency Services Service Team and landowners, in respect of private firefighting units at incidents;
  - It was expressed that the use of private vehicles needs to be clarified and agreed upon, as they can be an important part of early suppression efforts. Officers note the need to carefully consider this and particularly the risk;
  - Bushfire Advisory Team (BAT) - they have worked with the CESM at rural urban interface events and trialled ideas on how to work with community; although there needs to be more input into the organisation of BAT from the CESM.
4. Influence on response coordination at incidents, incident management, deployments, and strike teams
- Communication and coordination of preformed teams is better;
  - Dual brigade response works. Still have issues with the mapped areas but is working well when getting on top of incidents;
  - Incident management - more responsibility has fallen on Deputies, who are volunteers. This needs to be reviewed especially in respect of the CESM / Chief being available during the high threat period, and not being deployed. Officers have raised this with DFES also given the risk associated with the landscape of the Shire and adverse weather conditions;
  - Resourcing of incidents is quickly done;
-



- Consideration for brigade members to access more deployments and strike teams and a lot more organisation when on strike teams. Officers note however that this needs careful balancing so as to ensure the Shire is not left with a resource / response gap;
  - Members support the improved relationship with DFES and better flow of information;
  - Building relationships with members has been outstanding - especially during COVID. The CESM should be congratulated for this;
  - Brigades are more connected with DFES.
5. Influence on brigade functioning such as the provision of PPE, equipment, facilities etc.
- CESM has ensured availability of supplies and PPE for members. CESM has always assisted with ensuring all outstanding matters are resolved;
  - CESM is promoting WHS priorities in partnership with other service units. There does remain further works to be completed, in light of the recent WHS audits;
  - PPE is always prompt with renewal;
  - Vehicle fault reporting and rectification is an area to focus on, noting staff changes have impacted coordination at times;
  - Ability to claim from the ESL has increased as a result of closer engagement with DFES.
6. Influence on working partnerships with the Shire and DFES
- Brigade members agree that the 'sense-of-voice' of brigades has increased in relation to both the Shire and DFES collaboration. They feel the CESM program has assisted the working relationship with DFES and has had positive effects in advocating position/needs to DFES. The members also expressed they feel their needs and concerns are being better advocated at the Shire, although there are still some opportunities for improvement;
  - Improved communication to ensure that all brigades are aware of developments and/or meeting items that will or may impact the brigades;
  - The CESM program has provided greater engagement between volunteers and DFES.
7. Overall Comments on the CESM Program
- Overall, the members of the Brigades are happy with the current work and progress of the CESM program. They are happy with the current path that the Emergency Services Department within the Shire are on, and wish this to continue. It was further noted there is still plenty of work to be done and many improvements to be made, however brigade members advised they look forward to working to make these improvements together;
  - Given the increasing work demands, legislative requirements and tasks, incident complexities and occupational health and safety aspects, the brigades are of the view that the CESM should also continue to hold the position of Chief Bush Fire Control Officer for the Shire of Serpentine Jarrahdale;
  - Some brigades advocate for the ongoing need for a volunteer BFB representative to be on the interview panel when appointing a new CESM. This allows for a CESM to be chosen who has the right focus and ability to work with and connect with volunteers and the brigades. This has occurred previously insofar that deputy chiefs have been involved;
  - In regard to growth and development, it is imperative that succession planning and development is captured in the business case moving forward, to ensure a pathway is



developed and growth opportunities are provided that balance the benefits to the service that brigades provide, the long-term stability of the service within the Shire, and the individual career growth opportunities of the volunteers.

This consolidated feedback reveals a number of key themes that are valuable to the consideration of the proposed Business Plan. These include:

- (a) Greater promotion of the shared responsibility message. This should include, inter alia, the CESM undertaking annual visits to all schools within the Shire to promote the fire safety and fire plan messaging;
- (b) Coordinating the two brigade inputs to the new Oakford / Emergency Support Brigade Station being built;
- (c) Pursuing grant opportunities specific to important capital projects, such as conversion of fire danger rating signs to become electronic and for top up funds towards new capital projects;
- (d) Undertaking controlled burning of verges and Shire reserves, with all brigades having the opportunity to undertake this work;
- (e) Working with the Shire's Work Health and Safety Officer (Emergency Services) to implement the WHS reform projects pertaining IT and procedures and training and development;
- (f) Preparation and implementation of a success plan for each brigade, in consultation with brigade personnel;
- (g) Preparation, implementation, monitoring and review of the training and development program for all brigades, ensuring effective and efficient access to training requirements so that all volunteers have minimum skills and capabilities at all times;
- (h) Collaboration with MRWA and ARC Infrastructure to gain greater control of fuel loads along highway and rail corridors, with the opportunity to engage in partnership with local brigades to undertake burns.

These are captured in the proposed business plan, as priority actions, together with other business actions, to be addressed over the coming three years.

## **Options and Implications**

### Option 1

That Council:

1. ENDORSES the proposed Business Plan which sets out key outcomes and deliverables for the Community Emergency Services Manager position, as contained within **attachment 1**.
2. REQUESTS that the Department of Fire and Emergency Services endorses the Business Plan;
3. REQUESTS an annual report of progress against the Business Plan, via the November 2023 Bushfire Advisory Committee Meeting, at the December meeting of Council.

### Option 2

That Council DOES NOT ENDORSE the proposed Business Plan.

Option 1 is recommended.



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**Conclusion**

Officers recommend Council note the recommendations.

**Attachments (available under separate cover)**

- **10.1.7 - attachment 1** - Proposed Business Plan - Revised (E23/1402)
- **10.1.7 - attachment 2** - Byford BFB Captain CESM Discussion Report (IN23/2510)
- **10.1.7 - attachment 3** - ESB CESM Discussion Report (IN23/2511)
- **10.1.7 - attachment 4** - Jarrahdale BFB Captain CESM Discussion Report (IN23/2512)
- **10.1.7 - attachment 5** - Keysbrook BFB Captain CESM Discussion Report (IN23/2513)
- **10.1.7 - attachment 6** - Mundijong BFB Captain CESM Discussion Report (IN23/2514)
- **10.1.7 - attachment 7** - Oakford BFB CESM Discussion Report (IN23/2515)
- **10.1.7 - attachment 8** - Serpentine BFB - CESM Discussion Report (IN23/2516)

**Alignment with our Strategic Community Plan**

<b>Outcome 1.3</b>	A safe place to live
<b>Strategy 1.3.1</b>	Comply with relevant local and state laws, in the interests of the community
<b>Strategy 1.3.2</b>	Support local emergency services
<b>Strategy 1.3.3</b>	Enhance community safety

**Financial Implications**

The CESM role is 50% funded by the Shire, and 50% funded by DFES. This effectively replaces the 100% Shire funded Manager Emergency Service and Community Safety, representing a cost saving of circa \$60,000 to \$70,000.





## 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 be the lowest strategic risk option, by continuing the CESM role as a central component to the Shire’s emergency management responsibilities.						
2	That Council does not endorse the proposed Business Plan which creates a gap in documenting key responsibilities for the CESM role.	Current Business Plan	Physical or Psychological	Possible	Moderate	MODERATE	Clear reasons for why the proposed Business Plan is not acceptable.

**Voting Requirements:** Simple Majority

## Officer Recommendation

**That Council:**

- ENDORSES** the proposed Business Plan which sets out key outcomes and deliverables for the Community Emergency Services Manager position, as contained within attachment 1.
- REQUESTS** that the Department of Fire and Emergency Services endorses the Business Plan;
- REQUESTS** an annual report of progress against the Business Plan, via the November 2023 Bushfire Advisory Committee Meeting, at the December meeting of Council.

**10.2 Infrastructure Services reports:**

<b>10.2.1 - Minutes of the Rivers Regional Council – 15 December 2022 (SJ581)</b>	
<b>Responsible Officer:</b>	Director Infrastructure Services
<b>Senior Officer:</b>	Director Infrastructure Services
<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> .

**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 15 December 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 15 December 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.



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**Options and Implications**Option1

That Council NOTES the unconfirmed minutes of the Rivers Regional Council meeting held on 15 December 2022 as contained in **attachment 1**.

Option 2

That Council DOES NOT NOTE the unconfirmed minutes of the Rivers Regional Council meeting held on 15 December 2022.

Option 1 is recommended.

**Conclusion**

As a member of the RRC, the unconfirmed minutes of the RRC Ordinary Council Meeting held on 15 December 2022 are attached for Council's information.

**Attachments (available under separate cover)**

- **10.2.1 - attachment 1** - Rivers Regional Council Ordinary Council Meeting Minutes – 15 December 2022 (IN22/26349)

**Alignment with our Strategic Community Plan**

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

**Financial Implications**

Nil.

**Risk Implications**

Nil.

**Voting Requirements:** Simple Majority

**Officer Recommendation**

That Council NOTES the unconfirmed minutes of the Rivers Regional Council meeting held on 15 December 2022 as contained in attachment 1.

**10.2.2 - Award Request for Tender RFT 13/2022 - Nettleton Road - Widening and Resurfacing - (SJ4059)**

<b>Responsible Officer:</b>	Infrastructure Projects Lead
<b>Senior Officer:</b>	Director Infrastructure Services
<b>Disclosure of Officer's 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> .

**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 13/2022 - Nettleton Road – Widening and Resurfacing and for Council to award the contract to the best value for money tenderer as proposed by the evaluation panel recommendation.

**Relevant Previous Decisions of Council**

The project was approved by Council as part of the 2022/2023 Annual Budget and modified at the Ordinary Council Meeting – 12 December 2022 – OCM306/12/22.

*Special Council Meeting – 6 December 2021 – SCM081/12/21 – COUNCIL RESOLUTION / Officer Recommendation – **extract***

*That Council:*

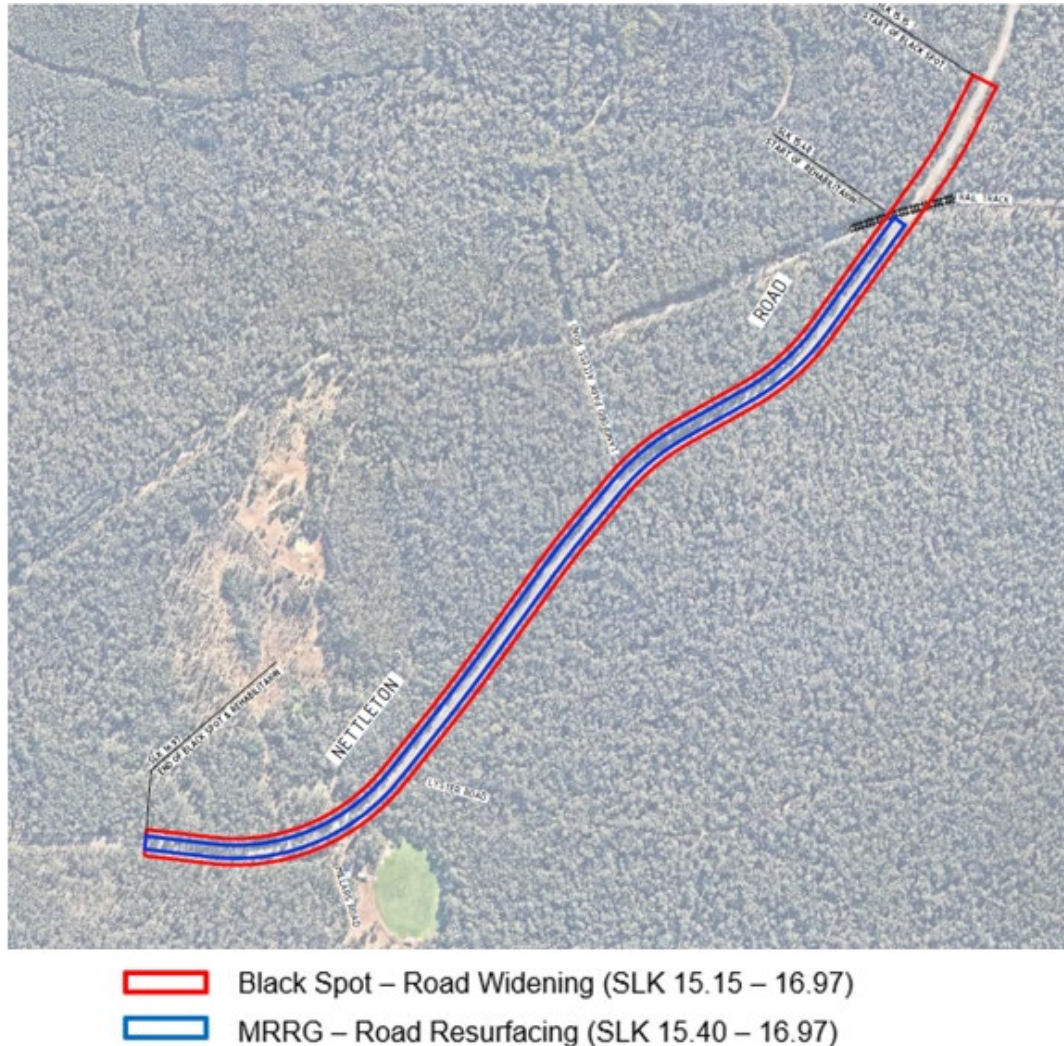
- 1. NOTES RFT09/2021 – Nettleton Road/Keirnan Street Pavement Reconstruction did not receive a response from the market.*
- 2. In accordance with Regulation 11(c) of the Local Government (Functions and General) Regulations 1996, NOTES that tenders for this work do not need to be publicly advertised as within the last six months that a tender for RFT09/2021 Nettleton Road/Keirnan Street Pavement Reconstruction were publicly invited but that no tender was received.*
- 3. REQUESTS the Chief Executive Officer conduct an invitation to quote process, to identify contractors on the WALGA panel to deliver these projects.*





## Background

Nettleton Road is classified as a Regional Distributor Road located within the Shire of Serpentine Jarrahdale. The road is 17.8 km long situated between the South Western Highway in the locality of Byford, extending through Karrakup and terminates at Jarrahdale Road in Jarrahdale.



**Figure1: Location Map**

The project comprised of two sub-projects and is funded separately by two funding agencies:

- The first section of road from 250m north of the decommissioned railway to 260m west of Millars Road - SLK 15.15 to 16.97 (1.82 km) is funded by the Australian Government Black Spot (AGBS) Program.
- The second section of road from the decommissioned railway to 260m west of Millars Road - SLK 15.40 to 16.97 (1.57 km) is funded by the Metropolitan Regional Road Group (MRRG) Rehabilitation Program.

The Shire has received grant funding to improve a section of Nettleton Road through successful applications to the Australian Government Black Spot (AGBS) Program and the Metropolitan Regional Road Group (MRRG) Rehabilitation Program. The revised approved funding from AGBS and MRRG are \$772,934 (an increase from previous \$540,000) and \$304,975 respectively (unchanged); and together with the Shire's contribution of \$415,716, the total project budget to deliver both sub-projects (Road Widening and Road Resurfacing) is \$1,493,625.



The first funding application was made to the AGBS Program to improve the road safety. This section of the road was identified as a Black Spot based on the number of accidents with 5 crashes during the five-year period preceding the grant application. These accidents resulted in four hospitalisations and one requiring medical treatment. There are two speed zones through this section of road (80km/hr and 100km/hr). Given the existing roadside environment and approach sight distance, the effective treatment measures considered are to widen the road with 1m sealed shoulders, remove vegetation on road verges, install crash barriers and advisory speed signs on curves including installation of delineation in both directions to improve the sight distance and overall road safety.

The second application was made to the MRRG Rehabilitation Program. This application was to fund improvement to the road pavement at this section of the road which is in a poor condition. The proposed treatment included removal of existing wearing course and installation of new road seal. This meets the objectives of the MRRG's Rehabilitation program in pavement renewal and extension of asset life.

The project was previously advertised in 2021-22 via tender RFT09/2021 and no submissions were received. Following the tender process, the Shire procured the construction delivery via WALGA's vendor panel in December 2021. Unfortunately, only two submissions were received, and the lowest price was in excess of the 2021-22 approved budget. The submissions were rejected by Council and the quotation was not awarded.

Following a revised cost estimate of the project taking into consideration recent cost escalation across the construction industry, the Shire's annual supply contract rates and internal costs, it was found that the project budget was insufficient to complete the construction works. In order to bring the project within budget, the original 2.78 km section of road to be treated has been shortened by 960m to 1.82km.

In addition to the reduction in scope, to ensure delivery of the project within a revised budget, Officers had requested \$232,934 additional funding from AGBS. The request for both the reduction in project scope as well as additional funding were presented to MRWA and AGBS for consideration and the Shire's request for both variations were approved.

The procurement of these two sub-projects were combined into one project as both projects' footprints overlapped, and the proposed treatments complement each other. This also have the added benefit of cost savings from only having to provide once for traffic management and the mobilisation/demobilisation of plants and labour, instead of twice if the two sub-projects are procured separately. In addition, the Shire is obligated to deliver both funding programs within the 2022-23 period without any further extension of time consideration by the funding agencies.

### **Community / Stakeholder Consultation**

Nil.



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**Submissions**

The Request for Tender RFT 13/2022 - Nettleton Road - Widening and Resurfacing was advertised on Saturday, 10 December 2022 and closed at 2pm on Thursday, 19 January 2023.

The Tender was advertised in the following papers:

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

Four (4) 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	Delta Group
2	Downer EDI Works Pty Ltd
3	Remote Civils Australia Pty Ltd
4	WCP Civil Pty Ltd

**Evaluation Panel**

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

- Infrastructure Projects Lead;
- Senior Project Engineer;
- Engineering Designs 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	55%
Relevant experience with: <ul style="list-style-type: none"><li>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</li></ul>	15%
Tenderers' Resources, Key Personnel, Skills and Experience with: <ul style="list-style-type: none"><li>Capacity to deliver the services including:</li><li>Key personnel / Professional skills;</li><li>Describe the key personnel who will be involved in the work, including past work of a similar nature.</li></ul>	15%
Demonstrated Understanding/Experience with: <ul style="list-style-type: none"><li>Project schedule;</li><li>Process for delivery of goods/services;</li><li>Project Management Plan;</li><li>Critical assumptions; and</li><li>Any additional information.</li></ul>	15%

## 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 WCP Civil Pty Ltd was assessed as being the best value for money that meets the Shire's requirements.

The tender evaluation panel therefore recommends the tender submission made by WCP Civil Pty Ltd be accepted.

## Statutory Environment

It is important for elected members to understand what legislation they are dealing with and how it impacts on any decision they might make. Debate can become confusing when elected members talk about 'approving' something when in fact they do not have this power.

An explanation should be provided with regard to any legislation that might impact on the ultimate decision of the Council. This part of the report should contribute to the overall information available to elected members. It is not enough to simply quote the section of legislation: the implications of the legislation should be explained.





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**

The following options have been identified:

Option 1

That Council:

1. AWARDS Tender RFT 13/2022 - Nettleton Road - Widening and Resurfacing to WCP Civil Pty Ltd to the value of \$ 1,031,008.01, excluding GST, as contained within **CONFIDENTIAL attachment 1**; and
2. AUTHORISES the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 13/2022 - Nettleton Road - Widening and Resurfacing.

Option 2

That Council DOES NOT AWARD the contract and retender.

Option 3

That Council DOES NOT AWARD the contract and NOT retender i.e. – nil action.

Option 4

That Council REASSESS and appoint an alternative tenderer.

Option 1 is recommended.

**Conclusion**

WCP Civil 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 WCP Civil Pty Ltd.

**Attachments (available under separate cover)**

- **10.2.2 – CONFIDENTIAL attachment 1** – RFT 13/2022 - Nettleton Road - Widening and Resurfacing - Evaluation Report (E23/504)
- **10.2.2 – CONFIDENTIAL attachment 2** – RFT 13/2022 - Nettleton Road - Widening and Resurfacing - Pricing Schedule (E23/1181)
- **10.2.2 – CONFIDENTIAL attachment 3** - RFT 13/2022 - Nettleton Road - Widening and Resurfacing - Probity Certificate (E23/1393)

**Alignment with our Strategic Community Plan**

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

**Financial Implications**

The funding for this tender is included in the 2022/2023 Annual Budget to undertake the works.

The budget for the project was amended during the 12 December 2022 Ordinary Council Meeting to reflect the successful request for additional funding from the AGBS Program and corresponding slight decrease to the Council's contribution to this project.

The recommended Tenderer is within the budgeted allocation.

The total allocated budget for the project is \$1,493,625 excluding GST which includes Shire on-costs.

<b>TOTAL Project Budget</b>	<b>\$1,493,625</b>
Australian Government Black Spot Program contribution	\$772,934
MRRG Rehabilitation Program contribution	\$304,975
Council contribution	\$415,716



### 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 proceeds with recommendation to award and project run over budget.	Budget process, internal costing and reviews	Financial	Unlikely	Moderate	MODERATE	Accept Officer Recommendation
2 & 3	Not awarding the contract to the successful Tenderer and road works do not occur.	Nil	Organisational Performance	Unlikely	Moderate	MODERATE	Accept Officer Recommendation
4	Poor selection of contractor to provide quality works.	Procurement policy and process	Organisational Performance	Rare	Moderate	LOW	Accept Officer Recommendation

**Voting Requirements:** Simple Majority

### Officer Recommendation

That Council:

- AWARDS** Tender RFT 13/2022 - Nettleton Road - Widening and Resurfacing to WCP Civil Pty Ltd to the value of \$1,031,008.01, excluding GST, as contained within CONFIDENTIAL attachment 1; and
- AUTHORISES** the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 13/2022 - Nettleton Road - Widening and Resurfacing.



<b>10.2.3 - Award Request for Tender – RFT 10/2022 – Project Manager (Infrastructure) (SJ3999)</b>	
<b>Responsible Officer:</b>	Manager Major Projects
<b>Senior Officer:</b>	Director Infrastructure Services
<b>Disclosure of Officer's 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> .

**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 10/2022 for the Provision of a Project Manager (Infrastructure) - Shire of Serpentine Jarrahdale and for Council to award the contract to the best value for money tenderer as proposed by the evaluation panel recommendation.

**Relevant Previous Decisions of Council**

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

**Background**

The reason for advertising this role is to assist with project management services in support of the upcoming major projects for the Shire including but not limited to:

- Administration Building and Council Chambers Refurbishment;
- Operations Centre and Workshop Refurbishment;
- Oakford Fire Brigade Station.

Whilst the Shire does have an internal project delivery team, from time to time, major projects may require additional project management services. The role may include providing services during design, procurement, and construction phases of the projects. The role can vary from project manager, contract administrator to site superintendent. Whilst the scope currently is limited to building projects, the services can also be used for delivery of other infrastructure related projects.

**Community / Stakeholder Consultation**

Nil.





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**Comment**

All tender submissions received were assessed against the evaluation criteria and the qualitative and quantitative results of this assessment and prices are documented in **CONFIDENTIAL attachment 1**.

**Submissions**

The Request for Tender RFT 10/2022 – Project Manager (Infrastructure) was advertised on Saturday, 17 September 2022 and closed at 2pm on Friday, 28 October 2022.

The Tender was advertised in the following papers:

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

Seven (7) 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	Bedivere Group
2	Successful Projects (Brett David Investments Pty Ltd)
3	Johnstaff Projects (WA) Pty Ltd
4	McDowell Affleck Pty Ltd
5	OP Properties Pty Ltd
6	RPS AAP Consulting Pty Ltd
7	TSA Management Pty Ltd

**Evaluation Panel**

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

- Director Corporate Services;
- Director Infrastructure Services;
- Manager Major Projects.

All members of the evaluation panel have made a conflict of interest declaration in writing confirming that they have no relationships with any of the tenders / quoters. 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	50%
Relevant experience with: <ul style="list-style-type: none"><li>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</li></ul>	20%
Tenderers' Resources, Key Personnel, Skills and Experience with: <ul style="list-style-type: none"><li>Capacity to deliver the services including:</li><li>Key personnel / Professional skills;</li><li>Describe the key personnel who will be involved in the work, including past work of a similar nature.</li></ul>	20%
Demonstrated Understanding/Experience with: <ul style="list-style-type: none"><li>Project schedule;</li><li>Process for delivery of goods/services;</li><li>Project Management Plan;</li><li>Critical assumptions; and</li><li>Any additional information.</li></ul>	10%

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

The tender evaluation panel therefore recommends the tender submission made by *Successful Projects* 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

The following options have been identified:

#### Option 1

That Council:

1. AWARDS Tender RFT 10/2022 - Project Manager (Infrastructure) to *Successful Projects* in accordance with **CONFIDENTIAL attachment 1** and **2**; for an Initial period of three (3) years (1 March 2023 till 28 February 2026) with an optional extension of one (1) year, plus one (1) year (Total 5 years) at the Chief Executive Officer's discretion;
2. AUTHORISES the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 10/2022 - Project Manager (Infrastructure).

#### Option 2

That Council NOT AWARD the contract and retender.

#### Option 3

That Council NOT AWARD the contract and NOT retender – nil action.

#### Option 4

That Council REASSESS and appoint an alternative tenderer.

Option 1 is recommended.

### Conclusion

Project management is a critical and necessary role in the delivery of capital projects. Currently there is a Major Projects Delivery Team within the Infrastructure Directorate, however, in order to ensure continuity of major projects from start to completion successfully, it is important to acquire additional supportive project management services. As such, *Successful Projects* has been assessed as being able to meet those requirements. 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 *Successful Projects*.

### Attachments (available under separate cover)

- **10.2.3 – CONFIDENTIAL attachment 1** – RFT 10/2022 – Project Manager (Infrastructure) - Evaluation Report (E23/377)
- **10.2.3 – CONFIDENTIAL attachment 2** – RFT 10/2022 – Project Manager (Infrastructure) – Pricing Schedule (E23/378)



### Alignment with our Strategic Community Plan

<b>Outcome 4.1</b>	A resilient, efficient and effective organisation
<b>Strategy 4.1.1</b>	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources
<b>Outcome 4.2</b>	A strategically focused Council
<b>Strategy 4.2.2</b>	Ensure appropriate long term strategic and operational planning is undertaken and considered when making decisions
<b>Strategy 4.2.3</b>	Provide clear strategic direction to the administration

### Financial Implications

There are no immediate financial implications associated with this report. The expenditure associated with the tender is accounted for in 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	Recommended Consultant is unable to provide the level of service required.	The service standards required, and conditions are clearly outlined in the Contract.	Organisational Performance	Likely	Major	MODERATE	Endorse Officer Recommendation
2 & 3	Shire operates without a Contract in place for Project Management Services.	Procurement of Project Management Services would be on a quote basis as per the Shire's procurement policy and this will decrease the amount of works undertaken due to the increased administrative tasks required to procure services as well as slow down progression of the project.	Reputation	Likely	Moderate	SIGNIFICANT	Endorse Officer Recommendation





4	Council selecting an applicant contrary to the evaluation report may affect the probity of the procurement process resulting in reputation damage.	Nil	Reputation	Possible	Moderate	MODERATE	Endorse Officer Recommendation
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**Voting Requirements:** Simple Majority

### **Officer Recommendation**

#### **That Council:**

- 1. AWARDS Tender RFT 10/2022 - Project Manager (Infrastructure) to *Successful Projects* in accordance with CONFIDENTIAL attachment 1 and 2; for an Initial period three (3) years (1 March 2023 till 28 February 2026) with an optional extension of one (1) year, plus one (1) year (Total 5 years) at the Chief Executive Officers discretion;**
- 2. AUTHORISES the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 10/2022 - Project Manager (Infrastructure).**



<b>10.2.4 - Award Request for Tender – RFT 12/2022 – Kargotich Road Reconstruction - Stage 1 (SJ4055)</b>	
<b>Responsible Officer:</b>	Strategic Projects Lead
<b>Senior Officer:</b>	Director Infrastructure Services
<b>Disclosure of Officer's 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> .

**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 12/2022 - Kargotich Road Reconstruction - Stage 1 and for Council to award the contract to the best value for money tenderer as proposed by the evaluation panel recommendation.

**Relevant Previous Decisions of Council**

<i>Ordinary Council Meeting – 19 July 2021 – OCM196/07/21 - COUNCIL RESOLUTION / Officer Recommendation - <b>extract</b></i> <i>That Council:</i> <i>3. NOTES the correspondence from Main Roads regarding the election commitment of \$18 million for upgrade of local roads and that this is reflected in the draft 2021/22 Financial Year budget and Corporate Business Plan for Council consideration; and</i>
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**Background**

The Shire had secured funding through the State election commitment to rehabilitate three major roads (hypergrowth road upgrades) within the Shire, one of which is Kargotich Road. The election commitments for which the Shire will have responsibility to deliver are outlined in **attachment 4**. There is no funding contribution by the Shire towards any of these projects.

The total funding allocation by the State Government for the three hypergrowth road projects is \$18M from which \$9.3 million is allocated to Kargotich Road upgrade project. In order to satisfy the funding agreement conditions, the allocated funding is required to be spent before the next State Government election. Below table shows the funding allocation for each project:



Road name	Allocated funding
Kargotich Road 9.65km (Rowley Road to Bishop Road)	\$9.3M
Orton Road – 6.35km (Kings Road to Hopkinson Road)	\$4.1M
Soldiers Road – 5.00km (Section A: Abernethy Road to Turner Road Section B: 140m North of Cardup Siding Road to Daisy Road Section C: Bushlark Close to Keirnan Street)	\$4.6M

Following completion of detailed investigations and design, it became evident that the allocated funding is insufficient to cover the cost of the three projects due to extensive service relocation, land acquisition, construction of new infrastructure and upgrade of existing. These include construction of new roundabouts at existing intersections along Kargotich Road (i.e. Kargotich-Abernethy, Kargotich-Orton and Kargotich-Gossage) and upgrade of existing drainage. The scope developed following the detailed design is significantly more than was initially envisaged. Managing these projects in accordance with the Shire's project management framework has ensured detailed project planning and scoping is undertaken early which is a good outcome in the long term. In addition, there has been significant cost escalation across the construction industry during the past few years.

Since completion of detailed investigation and revised costing, Officers have reviewed the priority of the three hypergrowth projects and staged the works based on the road safety improvement, traffic data, pavement condition and funding availability. The Shire has also approached the funding body to consider re-allocation of funding between the projects. (Refer to **attachment 5**).

The design and construction of Kargotich Road from Rowley Road (SLK 0.00) to Bishop Road (SLK 10.0) has been divided into seven stages. Extensive service relocation, land acquisition and vegetation clearing are the main contributing factors to complexity of some of the stages.

Stage	Location
1	Rowley Road to Thomas Road
2	Thomas Road to Abernethy Road and upgrade of Abernethy and Kargotich Road intersection to roundabout
3	Abernethy Road to Orton Road
4	Upgrade of Orton and Kargotich Road intersection to roundabout
5	Orton Road to Gossage Road
6	Upgrade of Gossage and Kargotich Road intersection to roundabout
7	Gossage Road to Bishop Road

Staging and reallocation of the funding between projects will allow the Shire to commence the construction of stage 1 and potentially stage 2 after obtaining the relevant permits, relocating the utility services and acquiring land for the construction of roundabout at Abernethy and Kargotich intersection. This will mean the road is upgraded in an orderly manner from north to south.



Extra funding from State Government or other source of funding including Black Spot program should be considered for construction of the remaining stages over the coming years.

Stage 1 of Kargotich Road is located between Rowley Road (SLK 0.00) to Thomas Road (SLK 3.13) and is classified as access road based on the road hierarchy and rural road based on the functional class with 70km/h posted speed sign. The road has direct access to residential properties. The existing road pavement is constructed with a chip seal of 7.4 m width, and gravel shoulders of approximately 1.0 m width as a single carriageway in each direction. There have been six major crashes recorded for this section during the last 5 years, one of which has resulted in a fatality.

There are severe pavement deformations along this section of the road which pose a major road safety hazard. The pavement deformation and surface damage has been highlighted in road safety audit report conducted as part of the design scope development. The existing road safety barriers are sub-standard and require replacement. The Shire has received numerous complaints from the residents and road users for this section of the road. It should be noted that the pavement deformation will be exacerbated by time and make the road more unsafe if not treated soon. It has become evident that poor quality subgrade and basecourse material, high ground water level and lack of functional drainage system have contributed to severe deformation in pavement.

The section of Kargotich Road between Rowley Road and Kargotich Road has traffic volume of 746 vehicles per day, however the percentage of heavy vehicle is high at 14.7%. Construction of Thomas and Kargotich Road roundabouts (design and constructed by Main Roads WA and to be completed by March 2024 – **attachment 6**) and development of Lot 200 at intersection of Rowley and Kargotich Road (anticipated to be completed by end of 2024 – **attachment 7**) will significantly increase the traffic in the area.

The scope of works for stage 1 includes pavement rehabilitation and resurfacing, road widening (to form a pavement with two 3.5 m traffic lanes and a 1.0 sealed shoulder), upgrade of safety barriers, upgrade and cleaning of the existing table drains and pruning of the trees within the clear zone.

In order to improve the pavement strength, the existing unsuitable subgrade and basecourse material will be removed and replaced with suitable pavement material and compacted to required strength. A portion of imported material to construct the pavement will be recycled crushed concrete. The top 200mm of the pavement will be strengthened by using stabilised foam bitumen and the wearing course will be 40mm Dense Grade Asphalt.

Officers have undertaken detailed due diligence to minimise vegetation clearing and only three trees that are very close to the edge of the road will be removed.

It is anticipated that construction to be completed in approximately five months from the date the contract is awarded. The pretender construction cost estimate including the project management and contingencies is \$4.1M.

Once the project completed and road upgraded, a safer road for all road users will be provided and asset life will be significantly extended.

The Shire commencing delivery of these hypergrowth road election commitments will increase credibility of the Shire and position the organisation well to attract further funding for road upgrades at future elections.

Council should be aware however, that if the tender is awarded and the State Government does not agree to reallocate funds from Soldiers Road to Kargotich Road this will require Officers to reconsider the-scope, prioritisation and re-staging of the remaining stages of Kargotich road



particularly Stage 2. This will result in a reduction of proposed scope for stage 2 Kargotich Road. Officers consider this is a relatively low risk as Kargotich Road is clearly a priority but it is a risk non the less. As part of the proposal to reallocate funding, Officers have communicated the proposal to MRWA and their response to the proposed changes has been quite positive, however the final approval should come from the Minister's office.



**Kargotich Road – Section from Rowley Road to Bishop Road**





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**Community / Stakeholder Consultation**Policy Concept Forum – Hypergrowth Road presentation

<b>Meeting Date</b>	06 February 2023
<b>Councillors in Attendance</b>	Cr Rich, Cr Byas, Cr Coales, Cr Duggin, Cr Mack, Cr Strange, Cr Strautins

Residents with direct access from Kargotich Road have been consulted by way of letter drop which included the information on concept design. Residents were requested to send their comments in writing or by accessing the Shire's website where the project concept was uploaded. In addition, a workshop was also arranged on Thursday, 25 August 2022 where residents and community members in general had the opportunity to attend, ask questions and provide feedback. Comments and feedback received through the Shire's website, submissions in writing and at the workshop were all collated and taken into consideration when developing the detailed design.

**Submissions**

The Request for Tender RFT 12/2022 - Kargotich Road Reconstruction - Stage 1 was advertised on Wednesday, 7 December 2022 and closed at 2pm on Thursday, 19 January 2023.

The Tender was advertised in the following papers:

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

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	Doongurra Civil Mining
2	WCP Civil Pty Ltd

**Evaluation Panel**

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

- Manager Major Projects;
- Strategic Projects Lead;
- Engineering Developments 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	60%
Relevant experience with: <ul style="list-style-type: none"><li>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</li></ul>	15%
Tenderers' Resources, Key Personnel, Skills and Experience with: <ul style="list-style-type: none"><li>Capacity to deliver the services including:</li><li>Key personnel / Professional skills;</li><li>Describe the key personnel who will be involved in the work, including past work of a similar nature.</li></ul>	10%
Demonstrated Understanding/Experience with: <ul style="list-style-type: none"><li>Project schedule;</li><li>Process for delivery of goods/services;</li><li>Project Management Plan;</li><li>Critical assumptions; and</li><li>Any additional information.</li></ul>	15%

## 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 WCP Civil Pty Ltd was assessed as being the best value for money that meets the Shire's requirements.

The tender evaluation panel therefore recommends the tender submission made by WCP Civil 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

The following options have been identified:

#### Option 1

That Council:

1. AWARDS Tender RFT 12/2022 - Kargotich Road Reconstruction - Stage 1 to WCP Civil Pty Ltd to the value of \$2,591,165.64, excluding GST, as contained within **CONFIDENTIAL attachment 1**;
2. AUTHORISES the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 12/2022 - Kargotich Road Reconstruction - Stage 1;
3. NOTES the 2022-2026 Corporate Business Plan will be updated to reflect the revised road program and budget amendments in a future Performance Report;
4. Pursuant to section 6.8 of the *Local Government Act 1995*, ADOPTS the schedule of variations to the 2022-2023 Budget listed below:

Account Number	Type	Account Description	Debit \$	Credit \$
6400-80297-4802-000	Increase Expenditure	Upgrades of Roads – Kargotich – Capital Expenditure	3,574,500	
6400-80297-4802-000	Increase Income	Upgrades of Roads – Kargotich – Grant- Capital - State		3,574,500
<b>Reason:</b> Increase Capital Expenditure budget for the Upgrade of Kargotich Road to enable the commencement of construction works. This project is fully funded from the State Government funding- Election Commitments.				

#### Option 2

That Council NOT AWARD the contract and retender / requote.

#### Option 3

That Council NOT AWARD the contract and NOT retender / requote i.e. – nil action.

#### Option 4

That Council REASSESS and appoint an alternative tenderer / quoter.

Option 1 is recommended.



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**Conclusion**

WCP Civil 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 WCP Civil Pty Ltd.

**Attachments (available under separate cover)**

- **10.2.4 – CONFIDENTIAL attachment 1** – RFT 12-2022 - Kargotich Road Reconstruction - Stage 1 - Evaluation Report (E23/502)
- **10.2.4 – CONFIDENTIAL attachment 2** – RFT 12-2022 - Kargotich Road Reconstruction - Stage 1 – Pricing Schedule (E23/1495)
- **10.2.4 – CONFIDENTIAL attachment 3** – RFT 12-2022 - Kargotich Road Reconstruction - Stage 1 - Probity Certificate (E23/1578)
- **10.2.4 – attachment 4** - Letter from Main Roads - Election Commitments 2021 - Orton, Soldiers and Kargotich Roads (IN21/16442)
- **10.2.4 – attachment 5** – Hypergrowth Road Projects - PowerPoint presentation - update to PCF - 6 February 2023 - includes Funding reallocation proposal (E23/1415)
- **10.2.4 – attachment 6** – Thomas and Kargotich Road intersection upgrade (IN23/2827)
- **10.2.4 – attachment 7** – Lot 200 development at intersection of Rowley and Kargotich Road (IN23/2837)

**Alignment with our Strategic Community Plan**

<b>Outcome 1.3</b>	A safe place to live
<b>Strategy 1.3.3</b>	Enhance community safety
<b>Outcome 3.3</b>	An innovative, connected transport network
<b>Strategy 3.3.1</b>	Maintain, enhance and rationalise the Shire's transport network in accordance with affordable sound Asset Management Plans
<b>Outcome 3.4</b>	An innovation centre of excellence
<b>Strategy 3.4.1</b>	Identify and promote innovation and education opportunities
<b>Outcome 4.1</b>	A resilient, efficient and effective organisation
<b>Strategy 4.1.1</b>	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources
<b>Strategy 4.1.2</b>	Maximise the Shire's brand and reputation in the community



### Financial Implications

In the 2022/2023 Annual Budget there is currently a budget of \$1,208,913 (22/23: \$817,000+ unspent design budget from 21-22: \$391,912) remaining of which \$500,000 was for initial construction therefore the remaining of \$708,913 was for design and project management. Below table shows the existing budget arrangement:

Kargotich Road	21-22	22-23	23-24	24-25	Total
Design	650,000.00	225,000.00			<b>875,000.00</b>
Construction		500,000.00	3,574,500.00	4,006,500.00	<b>8,081,000.00</b>
Internal Costs		92,000.00	92,000.00	160,000.00	<b>344,000.00</b>
Total	<b>650,000.00</b>	<b>817,000.00</b>	<b>3,666,500.00</b>	<b>4,166,500.00</b>	<b>9,300,000.00</b>
Unspent from 21-22		<b>391,913.00</b>			
Total		<b>1,208,913.00</b>			

In order to commence a construction, a formal budget variation is required. Accordingly, approval is sought for the following budget adjustments for the reasons specified:

Account Number	Type	Account Description	Debit \$	Credit \$
6400-80297-4802-000	Increase Expenditure	Upgrades of Roads – Kargotich – Capital Expenditure	3,574,500	
6400-80297-4802-000	Increase Income	Upgrades of Roads – Kargotich – Grant- Capital - State		3,574,500

**Reason:** Increase Capital Expenditure budget for the Upgrade of Kargotich Road to enable the commencement of construction works. This project is fully funded from the State Government funding- Election Commitments.

Table below represent the budget arrangement after amendment:

Kargotich Road	21-22	22-23	23-24	24-25	Total
Design	650,000.00	225,000.00			<b>875,000.00</b>
Construction		4,074,500.00		4,006,500.00	<b>8,081,000.00</b>
Internal Costs		92,000.00	92,000.00	160,000.00	<b>344,000.00</b>
Total	<b>650,000.00</b>	<b>4,391,500.00</b>	<b>3,666,500.00</b>	<b>4,166,500.00</b>	<b>9,300,000.00</b>
Unspent from 21-22		<b>391,913.00</b>			
Total		<b>4,783,413.00</b>			





### 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 proceeds with recommendation to award and projects run over budget.	Budget process, internal costing and reviews.	Financial	Unlikely	Moderate	MODERATE	Accept Officer Recommendation
2 & 3	Not awarding the contract to the successful Tenderer and road works do not occur.	Nil	Organisational Performance	Unlikely	Moderate	MODERATE	Accept Officer Recommendation
4	Poor selection of contractor to provide quality works.	Procurement policy and process	Organisational Performance	Rare	Moderate	LOW	Accept Officer Recommendation



**Voting Requirements:** Simple Majority

**Officer Recommendation**

**That Council:**

1. **AWARDS** Tender RFT 12/2022 - Kargotich Road Reconstruction - Stage 1 to WCP Civil Pty Ltd to the value of \$2,591,165.64, excluding GST, as contained within **CONFIDENTIAL** attachment 1;
2. **AUTHORISES** the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 12/2022 - Kargotich Road Reconstruction - Stage 1;
3. **NOTES** the 2022-2026 Corporate Business Plan will be updated to reflect the revised road program and budget amendments in a future Performance Report;
4. Pursuant to section 6.8 of the Local Government Act 1995, **ADOPTS** the schedule of variations to the 2022-2023 Budget listed below:

Account Number	Type	Account Description	Debit \$	Credit \$
6400-80297-4802-000	Increase Expenditure	Upgrades of Roads – Kargotich – Capital Expenditure	3,574,500	
6400-80297-4802-000	Increase Income	Upgrades of Roads – Kargotich – Grant- Capital - State		3,574,500

**Reason:** Increase Capital Expenditure budget for the Upgrade of Kargotich Road to enable the commencement of construction works. This project is fully funded from the State Government funding- Election Commitments.



<b>10.2.5 – Byford Tennis Courts - Amendment to management model (SJ802)</b>	
<b>Responsible Officer:</b>	Manager Waste Fleet and Facilities
<b>Senior Officer/s:</b>	Director Infrastructure Services
<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> .

**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 amending the management model for the Byford Tennis Courts to allow for operations to be determined at Officer level.

**Relevant Previous Decisions of Council**

*Ordinary Council Meeting – 17 February 2020 – OCM029/02/20 - COUNCIL RESOLUTION - extract*

*That Council:*

- 1. APPROVES the Byford Tennis Club Major Grant application for \$29,500 ex GST;*
- 3. APPROVES the total budget of \$39,081 ex GST including a 10% contingency, to be expended from account LFP528 Major Grant Scheme; and*
- 4. APPROVES the management model for Byford Tennis Courts to be unlocked for public use.*

*Ordinary Council Meeting – 19 November 2019 – OCM267/11/19 - COUNCIL RESOLUTION*

*That Council*

- 1. SUPPORTS in-principle, the need for the resurface of the asphalt and acrylic layers of the Byford Tennis Courts, and*
- 2. RESOLVES to consider the project at the Corporate Business Plan Review Process including considerations of external funding options for the project.*

**Background**

The Byford Tennis Courts were originally constructed in 1981. The courts are constructed from asphalt with an acrylic surface. Acrylic resurfacing work was completed in 2002 and court repairs and works for the installation of tree barriers were completed in 2017.

In August 2019, the Byford Tennis Club applied for funding via the Shire's Major Grants Program for a total of \$29,500 ex GST to complete crack repairs, lay a fiberglass coating and apply a new acrylic surface to extend the life of the courts. Council resolved in principle to support the resurfacing of the courts, but to consider the project as part of a wider Corporate Business Plan review and consider how best to fund the project.



The Corporate Business Plan review was undertaken in December 2019 and the Byford Tennis Courts renewal was highlighted as a Flagship project to be completed. In addition to the resurfacing of the courts, the project included Consider multi-court line marking for netball, basketball, and tennis to provide more options for community use.

The project budget was approved by Council at its meeting of 17 February 2020 and the works were completed in February 2022.

Since the courts have been unlocked for public use starting February 2022, the facility has been the subject of targeted vandalism on a regular basis. Temporary CCTV cameras were installed in an attempt to combat the issue; however, these did not prove to be a deterrent.

## **Community / Stakeholder Consultation**

### Policy Concept Forum

Nil.

No formal consultation has been undertaken.

A complaint was received from Mr Fell in November 2022. Mr Fell is one of the regular individual hirers of the courts. The complaint was in relation to the continuing issues of vandalism and conflicts created by some users accessing the courts without booking the facility whilst other groups had pre booked the courts. In response to Mr Fell's complaint, Officers spoke with him on 24 January 2023.

## **Statutory Environment**

Council Policy 5.1.4 sets out the parameters for hiring out Shire facilities. The current proposal is aligned to the policy.

## **Comment**

Since the facility has been kept unlocked, the two major challenges that have been identified with leaving the facility unlocked are vandalism and conflict between the court users.

During 2022, the Shire received 37 reports of vandalism at the Byford courts and pavilion. The damage recorded included graffiti, broken windows, damage to the fencing surrounding the courts, cut tennis court nets, and damage to the net winding mechanism. There has been one incidence of theft of the basketball hoops. There is also a significant littering issue associated with leaving the courts unlocked. The Shires facilities maintenance staff logged 127 hours responding to vandalism incidents in the corresponding period. The approximate cost associated with repairing the damage caused by vandalism is provided in the financial section of this report.

The courts can be booked by members of the public through the Shire's Spacetoco bookings website. This website records show that the courts are used weekly by the Byford Tennis Club and have sporadic/seasonal commercial bookings from a fitness group and a junior tennis coaching group. The remainder of users who book via the Spacetoco system are casual hirers, but it should be noted that the same users hire on a regular (usually weekly) basis to play tennis. In 2022, the courts had a total of 256 separate bookings ranging from 1 to 4 hours each.

Several instances of conflict have arisen where members of the public have booked the courts via the Spacetoco system and have arrived to find the courts in use by others who have not made a booking.



Operating the courts as a closed bookable facility through Spacetoco will restrict access to those with a bona fide booking and will remove the risk of conflict between casual users without a booking. Locking the facility in this way is intended to keep out opportunist troublemakers and therefore reduce the incidence of vandalism. Any vandalism should be easier to monitor.

The Shire has 2 other tennis facilities in Serpentine and Jarrahdale. Serpentine tennis courts are unlocked. There has not been an issue with vandalism in this area and there are seldom any bookings made via the Spacetoco system. Jarrahdale tennis courts are locked. The courts are booked regularly, together with the pavilion, by Jarrahdale playgroup. No other users have made bookings for this facility in 2022. The Shire has recently added Basketball court hire at Court Grammar School. This is a locked facility.

This report recommends that the Byford Tennis Courts be operated as a closed bookable facility through the "Spacetoco" booking platform to reduce the opportunity for vandalism and the potential for conflict which currently exists between those users who have booked the courts versus those who have not. This requires an amendment to the current Management Model.

The Officer recommendation enables the opportunity for a trial to be conducted for the revised operating model. It is suggested that the trial period is continued for a minimum of 6 months in duration. Following the trial period, the trialed management model will be evaluated by Officers and appropriate changes introduced if required. These changes may include reverting back to the current management model where the facility is kept unlocked if found to be the preferred option.

The recommended changes in the operation of the tennis courts are to be advised publicly via the Shire's website and Notices placed directly on the courts 2 weeks prior to the changes being implemented.

Casual/community hire is free. Commercial use of the courts incurs a booking fee of \$5 per hour with a minimum bookable period of 4 hours. The courts can be booked via the "Spacetoco" website by members of the community on a 24-hour 7 day per week basis.

## **Options and Implications**

### Option1

That Council RESOLVES that

1. The facility be kept locked but available for use through the Spacetoco booking system for a trial period of for 6 months ;
2. If the trial is deemed satisfactory, the facility continues to be managed by the Spacetoco booking system; and
3. AUTHORISES the Chief Executive Officer to determine the ongoing management model for the operation of the Byford Tennis Courts.

The implications of this option are:

- Securing facility reduces the likelihood of future vandalism;
- Improves resource efficiency and reduces maintenance costs associated with repairing damage caused by vandalism and rubbish removal;
- Eliminates conflict between various users who have booked the facility and users accessing courts without a booking;
- Users will be required to book the courts by using Shire's Spacetoco booking system.





- Provides the opportunity for a trial period to be undertaken to ascertain the impact of closing the courts to those without a verified booking. The recommended period for such a trial is 6 months.

#### Option 2

That Council DOES NOT amend the management model for the Byford Tennis Courts.

The implications of this option are:

- Continued vandalism of courts and associated maintenance cost;
- Ongoing potential for conflict between users who book the facility and those who use the courts without a booking;
- Courts remain unlocked and available.

Option 1 is recommended

#### **Conclusion**

The Byford Courts currently remain unlocked in accordance with the management model approved by Council at the meeting of 17 February 2020.

Leaving the facility unlocked has resulted in ongoing incidents of vandalism and conflict between users who book the courts via the Shires Spacetoco website and those who use the courts without a booking. This report recommends that Council amends the management model to alleviate these issues.

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

Nil.

#### **Alignment with our Strategic Community Plan**

<b>Outcome 1.1</b>	A healthy, active, connected and inclusive community
<b>Strategy 1.1.1</b>	Provide well planned and maintained public open space and community infrastructure
<b>Outcome 1.3</b>	A safe place to live
<b>Strategy 1.3.3</b>	Enhance Community Safety
<b>Strategy 4.1.1</b>	Provide efficient, effective, innovative and professional management of Shire operations to deliver the best outcome for the community within allocated resources.

#### **Financial Implications**

During 2022, the cost of materials and contractors required to rectify damage to the courts and pavilion was approximately \$6,400. In addition, costs associated with Shire Maintenance Officers time responding to vandalism incidents was approximately \$5,100. Should the Officer's recommendation be endorsed, it is anticipated expenditure for contractors and materials will decrease through the prevention of vandalism.



## 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	Complaints about restricting public access.	Bookings accessible to all members of the public via Shires Spacetoco booking system	Reputation	Possible	Minor	MODERATE	
2	Continuation of the vandalism and conflict between user groups	Nil	Social / Community Outcomes	Likely	Moderate	SIGNIFICANT	

**Voting Requirements:** Simple Majority

## Officer Recommendation

That Council **RESOLVES** that:

1. The facility be kept locked but available for use through the Spacetoco booking system for a trial period of for 6 months;
2. If the trial is deemed satisfactory, the facility continues to be managed by the Spacetoco booking system; and
3. **AUTHORISES** the Chief Executive Officer to determine the ongoing management model for the operation of the Byford Tennis Courts.



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**10.3 Corporate Services reports:**

<b>10.3.1 - Confirmation of Payment of Creditors – December 2022 (SJ801)</b>	
<b>Responsible Officer:</b>	Manager Finance
<b>Senior Officer:</b>	Director Corporate Services
<b>Disclosure of Officer's 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> .

**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.



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**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 December 2022 to 31 December 2022 is provided in **attachment 1**.

**Options and Implications**Option 1

That Council RECEIVES the Schedule of Accounts as paid under delegated authority from 1 December 2022 to 31 December 2022, totalling \$4,973,904.71.

Option 2

That Council DOES NOT RECEIVE the Schedule of Accounts as paid under delegated authority from 1 December 2022 to 31 December 2022, totalling \$4,973,904.71.

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 December 2022 (E23/21)
- **10.3.1 - attachment 2** – Westpac Purchasing Card Report – 28 October 2022 to 27 November 2022 – Redacted (E23/17)

**Alignment with our Strategic Community Plan**

<b>Outcome 4.1</b>	A resilient, efficient and effective organisation
<b>Strategy 4.1.1</b>	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 December 2022 to 31 December 2022 totalled \$4,973,904.71.



## 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	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

## Officer Recommendation

That Council **RECEIVES** the Schedule of Accounts as paid under delegated authority from 1 December 2022 to 31 December 2022, totalling \$4,973,904.71 as contained in attachment 1.





<b>10.3.2 - Confirmation of Payment of Creditors – January 2023 (SJ801)</b>	
<b>Responsible Officer:</b>	Manager Finance
<b>Senior Officer:</b>	Director Corporate Services
<b>Disclosure of Officer's 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> .

**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 January 2023 to 31 January 2023 is provided in **attachment 1**.

### **Options and Implications**

#### Option 1

That Council RECEIVES the Schedule of Accounts as paid under delegated authority from 1 January 2023 to 31 January 2023, totalling \$2,950,385.76.

#### Option 2

That Council DOES NOT RECEIVE the Schedule of Accounts as paid under delegated authority from 1 January 2023 to 31 January 2023, totalling \$2,950,385.76.

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 31 January 2023 (E23/1301)
- **10.3.2 - attachment 2** – Westpac Purchasing Card Report – 28 November 2022 to 27 December 2022 – Redacted (E23/1303)

### **Alignment with our Strategic Community Plan**

<b>Outcome 4.1</b>	A resilient, efficient and effective organisation
<b>Strategy 4.1.1</b>	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 January 2023 to 31 January 2023 totalled \$2,950,385.76.

**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	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

**Officer Recommendation**

**That Council RECEIVES the Schedule of Accounts as paid under delegated authority from 1 January 2023 to 31 January 2023, totalling \$2,950,385.76 as contained in attachment 1.**



<b>10.3.3 - Monthly Financial Report – November 2022 (SJ801)</b>	
<b>Responsible Officer:</b>	Manager Finance
<b>Senior Officer:</b>	Director Corporate Services
<b>Disclosure of Officer's 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> .

**Authority / Discretion**

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

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

This report is about the financial position of the Shire as at 30 November 2022.

**Relevant Previous Decisions of Council**

<i>Special Council Meeting – 25 July 2022 – SCM026/07/22 - COUNCIL RESOLUTION – extract</i> <i>8. 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 2022/23 for reporting material variances shall be:</i> <i>a) 10% of the amended budget; or</i> <i>b) \$10,000 of the amended budget.</i> <i>Whichever is greater.</i> <i>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.</i>
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**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 30 November 2022.

The municipal surplus as at 30 November 2022 is \$25,062,684 which is favourable, compared to a budgeted surplus for the same period of \$22,442,615. The primary cause of this is a higher than anticipated 2022/23 opening surplus position.

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

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

### Fees and Charges

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

### Interest Earnings

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

### Other Revenue

Favourable variance of \$230,838 due primarily to:

- A credit was received from Local Government Insurance Scheme (LGIS) for workers compensation for 21/22 of \$60,618 due to lower wages than originally anticipated.
- Reimbursement from Department of Fire and Emergency Services for road flooding - \$28,370.
- Reimbursement on legal cost from rates outstanding debtors for various assessment fees- \$102,752.

### Profit on Asset Disposal

No variance analysis required, variance to budget is less than \$10,000.

## **Operating Expenses**

### Employee Costs

Favourable variance of \$426,216 due to vacant positions within the organisation.

### Materials and Contracts

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





Utility Charges

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

Depreciation on Non-Current Assets

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

Insurance Expenses

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

Interest 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, variance to budget is less than \$10,000.

**Other**

Capital Expenditure

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

Refer to Capital Works Expenditure within **attachment 1** for further details.

Non-Operating Grants, Subsidies and Contributions

Favourable variance of \$1,560,282 due primarily to unbudgeted Developer Contributions received:

- Byford DCP - \$514,047;
- Community Infrastructure DCP - \$119,512;
- West Mundijong DCP – \$840,974.

Proceeds from Disposal of Assets

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

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 \$10,000.

Transfers to/from Cash Backed Reserves (Restricted Assets)

Variance in Transfer to Reserve of \$1,493,696 due primarily to:

- Byford DCP - \$514,047;
- Community Infrastructure DCP - \$119,512;
- West Mundijong DCP – \$840,974.

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



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**Options and Implications**Option 1

That Council RECEIVES the Monthly Financial Report for November 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 November 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.

**Conclusion**

Nil.

**Attachments (available under separate cover)**

- **10.3.3 - attachment 1** – Monthly Financial Report - November 2022 (E23/6)

**Alignment with our Strategic Community Plan**

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

**Financial Implications**

As at 30 November 2022, the Shire's respective cash position was as follows:

Municipal Fund:           \$17,316,189

Trust Fund:               \$304,221



## 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	That Council does not receive the Monthly Financial Report for May 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

## Officer Recommendation

**That Council RECEIVES the Monthly Financial Report for November 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.**



<b>10.3.4 - Monthly Financial Report – December 2022 (SJ801)</b>	
<b>Responsible Officer:</b>	Manager Finance
<b>Senior Officer:</b>	Director Corporate Services
<b>Disclosure of Officer's 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> .

**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 December 2022.

**Relevant Previous Decisions of Council**

<i>Special Council Meeting – 25 July 2022 – SCM026/07/22 - COUNCIL RESOLUTION – extract</i> <i>8. 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 2022/23 for reporting material variances shall be:</i> <i>a) 10% of the amended budget; or</i> <i>b) \$10,000 of the amended budget.</i> <i>Whichever is greater.</i> <i>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.</i>
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**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 report contained in **attachment 1** shows the month end position as at the end of 31 December 2022.

The municipal surplus as at 31 December 2022 is \$21,771,129 which is favourable, compared to a budgeted surplus for the same period of \$18,007,547. The primary cause of this is a higher than anticipated 2022/23 opening surplus position.

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 \$137,882 due primarily to:

- Unbudgeted Annual contribution received for \$24,188 for King Road pavement deterioration costs
- Recognition of the Bushfire Mitigation grant funding - \$71,437.75

### Fees and Charges

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

### Interest Earnings

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

### Other Revenue

Favourable variance of \$202,685 due primarily to:

- A credit was received from Local Government Insurance Scheme (LGIS) for workers compensation for 21/22 of \$60,618 due to lower wages than originally anticipated.
- Reimbursement on legal cost from rates outstanding debtors for various assessment fees – \$102,752

### Profit on Asset Disposal

No variance analysis required, variance to budget is less than \$10,000.





## **Operating Expenses**

### Employee Costs

Favourable variance of \$218,818 due to vacant positions within the organisation.

### Materials and Contracts

Favourable variance of \$1,418,824 due primarily to carryforward projects of \$992,000. It is anticipated that these works will commence in the second half of the financial year and the budget phasing will be amended to reflect this in the next quarterly financial review.

### Utility Charges

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

### Depreciation on Non-Current Assets

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

### Insurance Expenses

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

### Interest 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, variance to budget is less than \$10,000.

## **Other**

### Capital Expenditure

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

Refer to Capital Works Expenditure within **attachment 1** for further details.

### Non-Operating Grants, Subsidies and Contributions

Favourable variance of \$1,452,644 due primarily to unbudgeted Developer Contributions received:

- Byford DCP - \$514,047;
- Community Infrastructure DCP - \$179,679;
- West Mundijong DCP- \$840,974

### Proceeds from Disposal of Assets

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

### 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%.



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

Variance in Transfer to Reserve of \$1,541,686 due primarily to:

- Byford DCP - \$514,047;
- Community Infrastructure DCP - \$179,679;
- West Mundijong DCP- \$840,974

Transfer from Reserve - No variance analysis required, variance to budget is less than 10%.

**Options and Implications****Option 1**

That Council RECEIVES the Monthly Financial Report for December 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 December 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.

**Conclusion**

Nil.

**Attachments (available under separate cover)**

- **10.3.4 - attachment 1** – Monthly Financial Report - December 2022 (E23/951)

**Alignment with our Strategic Community Plan**

<b>Outcome 4.1</b>	A resilient, efficient and effective organisation
<b>Strategy 4.1.1</b>	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 December 2022, the Shire's respective cash position was as follows:

Municipal Fund: \$13,347,639

Trust Fund: \$304,221



## 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	That Council does not receive the Monthly Financial Report for May 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

## Officer Recommendation

That Council **RECEIVES** the Monthly Financial Report for December 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.



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<b>10.3.5 - Changes to Method of Valuation used for Rating Purposes post consultation (SJ274)</b>	
<b>Responsible Officer:</b>	Manager Finance
<b>Senior Officer:</b>	Director Corporate Services
<b>Disclosure of Officer's 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> .

**This report will be distributed prior to the Ordinary Council Meeting.**



<b>10.3.6 – Council Policy Review - Health and Safety (SJ526-02)</b>	
<b>Responsible Officer:</b>	Manager Governance and Strategy
<b>Senior Officer:</b>	Director Corporate Services
<b>Disclosure of Officer's 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> .

**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 revised Council Policy – Health and Safety.

**Relevant Previous Decisions of Council**

*Special Council Meeting – 24 October 2022 – SCM028/10/22 - COUNCIL RESOLUTION / Officer Recommendation - **extract***

*That Council NOTES that the following activities will be deferred for the time being to enable the ward and representation review to occur and AGREES to their deferment being reflected in the Corporate Business Plan and CEO KPIs where required:*

- *Project Management Framework embedding and strengthening;*
- *Implementation of findings of the Abernethy Road Inquiry including procurement enhancement*
- *Strategic Community Plan review;*
- *local government policy review; and*
- *preparation of the Shire's first Integrity Framework.*

*Ordinary Council Meeting – 20 June 2022 – OCM146/06/22 - COUNCIL RESOLUTION / Officer Recommendation*

*That Council NOTES the proposed forward calendar of routine policy review in attachment 1.*

**Background**

At the June 2022 Ordinary Council Meeting, Council noted the proposed forward calendar of routine policy review. This calendar identified the following Council policies for review by March 2023:

- Election Signs on Road Reserves and Shire Land
- Fireworks
- Health and Safety
- Vehicle Crossings Subsidy





- Health Services Functions in Relation to the *Environmental Protection Act 1986*
- Road Closures for Events

At the Special Council Meeting on 24 October 2022, Council noted the local government policy review would be deferred for the time being, to enable prioritisation of the ward and representation review to occur. Officers continue to review Council Policies where possible and time permitting. Schedules may vary from the proposed Forward Calendar, however a commitment to continue a policy review between prioritised workloads, remains.

This report deals with the review of one (1) Council Policy - Health and Safety.

### **Community / Stakeholder Consultation**

As the Health and Safety Policy outlines the Shire's approach to and application of a Work, Health and Safety system, community consultation is not required. Consultation internally has occurred through management forums and the Policy forms part of worker inductions (staff, volunteers and contractors).

#### Policy Concept Forum

Nil.

### **Statutory Environment**

#### Review of Council Policies

Section 2.7 of the *Local Government Act 1995* provides that the role of Council is to 'determine the local government's policies. The amendment, adoption or rescindment of any Council Policy must therefore be resolved by Council.

#### Council Policy – Health and Safety

The primary legislation considered in the review of Council Policy – Health and Safety is the *Work Health and Safety Act 2020* and *Work Health and Safety (General) Regulations 2022*.

The *Work Health and Safety Act 2020* provides a framework to protect the health, safety and welfare of workers in Western Australian workplaces, and of other people who might be affected by the work.

The *Work Health and Safety Act 2020* aims to:

- protect the health and safety of workers and other people by eliminating or minimising risks arising from work or workplaces
- ensure fair and effective representation, consultation and cooperation to address and resolve health and safety issues in the workplace
- encourage unions and employer organisations to take a constructive role in improving work health and safety practices
- assist businesses and workers to achieve a healthier and safer working environment
- promote information, education and training on work health and safety
- provide effective compliance and enforcement measures
- deliver continuous improvement and progressively higher standards of work health and safety.



Section 27 of the *Work Health and Safety Act 2020* (Duty of officers) requires the Shire to exercise due diligence to ensure the compliance with its health and safety duties. This duty relates to the strategic, structural, policy and key resourcing decisions — that is, how the place is run. The adoption of a Work, Health and Safety Policy is the highest document in a Work, Health and Safety system that cements the commitment to undertaking this duty.

### **Comment**

The review of Council Policy – Health and Safety was focused on ensuring alignment to the new Work, Health and Safety legislation introduced in 2022. This includes:

- applying the Policy to include the term Workers as opposed to Employee to incorporate Volunteers and Contractors, and to include visitors
- updating the responsibilities and accountabilities for all levels of management and workers
- removing outdated references and terminology to previous legislation
- inclusion of several new definitions integral to the application of the new legislation
- realigning the Shire's principles to a safe and healthy workplace cognisant of the enhancements underway to improve health and safety at the Shire.

The revised Council Policy – Health and Safety incorporating the above amendments is provided for Council's consideration at **attachment 1**. The adoption of the revised Policy is an important step towards realigning and maturing the Shire's work health and safety systems to the new legislation.

The revisions proposed in the policy are not considered to be contentious.

### **Options and Implications**

#### Option 1

That Council ADOPTS Council Policy – Health and Safety as amended in **attachment 1**.

#### Option 2

That Council ADOPTS Council Policy – Health and Safety as contained in **attachment 1** with the following amendments:

*[Amendments to be specified by the Councillor moving the motion]*

#### Option 3

That Council DOES NOT ADOPT the revised Council Policy – Health and Safety.

Option 1 is recommended.

### **Conclusion**

Council Policy – Health and Safety outlines the Shire's commitment and approach to ensuring an effective Workplace Health and Safety Management System is maintained and continually improved.



**Attachments (available under separate cover)**

- **10.3.6 – attachment 1** - Council Policy – Health and Safety (E23/1521)
- **10.3.6 – attachment 2** - Council Policy – Health and Safety – Tracked Changes (E23/1522)

**Alignment with our Strategic Community Plan**

<b>Outcome 4.2</b>	A strategically focused Council
<b>Strategy 4.2.3</b>	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	There are no significant risks associated with option 1.						
2	Amendments made may not be informed by sufficient operational information.	Nil	Organisational Performance	Unlikely	Minor	LOW	Nil
3	If Council does not adopt the revised Policy, the Shire will continue to have out of date Policies and will not achieve the policy review schedule. This may be looked unfavourably on at future regulation 17 reviews. Additionally, outdated policies increase risks associated with compliance and efficiencies as they may not address the current operational environment.	Nil	Organisational Performance	Possible	Minor	MODERATE	Nil.

**Voting Requirements:** Simple Majority

**Officer Recommendation**

**That Council ADOPTS Council Policy – Health and Safety as amended in attachment 1.**



## 10.4 Community Engagement reports:

<b>10.4.1 – Local Emergency Management Committee (LEMC) Information Report (SJ716-02)</b>	
<b>Responsible Officer:</b>	Director Community Engagement
<b>Senior Officer:</b>	Chief Executive Officer
<b>Disclosure of Officer's 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> .

### Authority / Discretion

Information	For the Council / Committee to note.
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### Report Purpose

The purpose of this report is for Council to receive the minutes from the Shire of Serpentine Jarrahdale Local Emergency Management Committee (LEMC) meeting held on 13 December 2022.

### Relevant Previous Decisions of Council

*Ordinary Council Meeting – 21 November 2022 - OCM286/11/22 - COUNCIL RESOLUTION / Officer Recommendation*  
*That Council RECEIVES the minutes of the Shire of Serpentine Jarrahdale Local Emergency Management Committee meeting held 11 October 2022 contained in attachment 1.*

### Background

Section 38 of the *Emergency Management Act 2005* requires that the Shire of Serpentine Jarrahdale convene a Local Emergency Management Committee (LEMC). The Shire of Serpentine Jarrahdale LEMC operates under a Terms of Reference as endorsed by Council; however, the LEMC is not a Committee of Council as described in the *Local Government Act 1995*.

### Community / Stakeholder Consultation

Nil.

### Statutory Environment

*Emergency Management Act 2005*

*Section 38 local emergency management committees*

- (1) A local government is to establish one or more local emergency management committees for the local government's district.*
- (2) If more than one local emergency management committee is established, the local government is to specify the area in respect of which the committee is to exercise its functions.*



*(3) A local emergency management committee consists of —*

- (a) a chairman and other members appointed by the relevant local government in accordance with subsection (4); and*
- (b) if the local emergency coordinator is not appointed as chairman of the committee, the local emergency coordinator for the local government district.*

*(4) Subject to this section, the constitution and procedures of a local emergency management committee, and the terms and conditions of appointment of members, are to be determined by the SEMC.*

**Section 39 Functions of local emergency management committees**

*The functions of a local emergency management committee are, in relation to its district or the area for which it is established —*

- (a) to advise and assist the local government in ensuring that local emergency management arrangements are established for its district; and*
- (b) to liaise with public authorities and other persons in the development, review and testing of local emergency management arrangements; and*
- (c) to carry out other emergency management activities as directed by the SEMC or prescribed by the regulations.*

**Comment**

A LEMC meeting was held on 13 December 2022 with the minutes of the meeting at **attachment 1**. A summary of key matters raised at LEMC is below. There are no recommendations for Council to consider at this time.

The LEMC participated in 'Exercise Scorcher' and discussed impacts, roles and responsibilities, plans and arrangements in place for a declared Heatwave event with power failure. Gaps and considerations highlighted in the post exercise report will be considered by LEMC at their meeting in March 2023. Additionally, LEMC identified two additional exercises to be prepared for future meetings.

The Emergency Animal Welfare Plan has undergone a review with the first draft provided to LEMC for comment.

Nine Shire Officers and eight Serpentine Jarrahdale Community Recreation Centre Officers recently attended Welfare Centre training provided by the Department of Communities. The training was hosted at the Serpentine Jarrahdale Community Recreation Centre enabling hands on training at our primary Welfare Centre facility. There was also 23 attendees from supporting service providers and surrounding local government in attendance.

Appendix 11 of the Local Emergency Management Arrangements has been updated with the Local Emergency Welfare Plan – East Metro – Armadale Region – December 2022. There are no changes to the Plan, only annual updates to confidential contact and facility details.





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**Options and Implications**Option1

That Council RECEIVES the minutes of the Shire of Serpentine Jarrahdale Local Emergency Management Committee meeting held 13 December 2022 contained in **attachment 1**.

Option 2

That Council DOES NOT RECEIVE the minutes of the Shire of Serpentine Jarrahdale Local Emergency Management Committee meeting held 13 December 2022 contained in **attachment 1**.

Option 1 is recommended.

**Conclusion**

The minutes of the Local Emergency Management Committee meeting held 13 December 2022 are provided to Council for information.

**Attachments (available under separate cover)**

- **10.4.1 - attachment 1** – Local Emergency Management Committee (LEMC) - Minutes – 13 December 2022 (E22/15872)

**Alignment with our Strategic Community Plan**

<b>Outcome 1.3</b>	A safe place to live
<b>Strategy 1.3.1</b>	Comply with relevant local and state laws, in the interests of the community
<b>Strategy 1.3.2</b>	Support local emergency services
<b>Strategy 1.3.3</b>	Enhance community safety

**Financial Implications**

There are no financial implications for Council receiving the minutes.

**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	That the LEMC members feel their contribution is not respected.	Nil	Reputation	Rare	Moderate	LOW	Nil

**Voting Requirements:** Simple Majority

**Officer Recommendation**

That Council **RECEIVES** the minutes of the Shire of Serpentine Jarrahdale Local Emergency Management Committee meeting held 13 December 2022 contained in attachment 1.



<b>10.4.2 – Anzac Day 2023 (SJ3942)</b>	
<b>Responsible Officer:</b>	Manager Community Activation
<b>Senior Officer:</b>	Director Community Engagement
<b>Disclosure of Officer's 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> .

**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 preferred location for the 2023 Anzac Day Shire ceremony.

**Relevant Previous Decisions of Council**

<p><i>Ordinary Council Meeting – 20 June 2022 - OCM147/06/22 - COUNCIL RESOLUTION / Officer Recommendation</i></p> <p><i>That Council:</i></p> <ol style="list-style-type: none"><li><i>1. NOTES the summary of events for the 2021/2022 financial year as contained in attachment 2;</i></li><li><i>2. ENDORSES the proposed draft calendar of events for the 2022/2023 financial year as contained in attachment 3;</i></li><li><i>3. ENDORSES changes to the Australia Day Event as follows:</i><ol style="list-style-type: none"><li><i>a) Continuation of breakfast with volunteer groups for Australia Day Ceremony participants only; and</i></li><li><i>b) Delivery of the community Australia Day components (including community cricket match) as part of an evening Food Truck Fiesta event in Byford; and</i></li></ol></li><li><i>4. NOTES a constant review and minor variations of events on the draft 2022/2023 financial year calendar may be required in line with operational requirements.</i></li></ol>
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Ordinary Council Meeting – 18 May 2020 - OCM126/05/20 - COUNCIL RESOLUTION / Officer Recommendation - **extract**

*That Council:*

1. *REPEALS Council Policy – Community Grants as contained in attachment 1;*
2. *ADOPTS Council Policy 5.1.7 – Community Funding as contained in attachment 2;*
3. *REQUESTS the Chief Executive Officer to advise the Serpentine Jarrahdale Food and Farm Alliance Inc and Serpentine Jarrahdale RSL to apply for funding for future events through the Major Events Grant, on expiration of the funding MOU's between the organisation and the Shire;*
5. *ENDORSES the funding commitment of \$10,000 per year as outlined in the existing MOU for the Serpentine Jarrahdale RSL ANZAC Day Dawn Service, be met from the Community Grants Reserve as part of the Major Events Grants allocation for the 2020/2021 and 2021/2022 financial year;*

Ordinary Council Meeting – 28 August 2017 - OCM108/08/17 - COUNCIL DECISION / Officer Recommendation - **extract**

*That Council:*

2. *AUTHORISES the Chief Executive Officer to execute MOU's with the Serpentine Jarrahdale RSL, Lions Club of Serpentine Jarrahdale and Food and Farm Alliance Inc., in accordance with funding amounts approved in the 2017/18 Budget.*

## Background

In accordance with the Department of Veterans' Affairs publication 'Use of the word 'Anzac' Guidelines' this report uses the term 'Anzac' to describe the Anzac Day event.

Council Policy 1.1.10 - Civic Functions, Ceremonies and Receptions and Use of the Civic Centre (**attachment 1**) states the following:

### Anzac Day Ceremony

*The Shire hosts an annual Anzac Day ceremony, the location of which is rotated through the different localities of the Shire. Following the conclusion of the Anzac Day Ceremony, all attendees are invited to share in light refreshments. This event is an open invitation to the whole community. Event details are coordinated through a community partnership working group by the Community Services Team in liaison with the Executive Services Team.*

The Anzac Day ceremony delivered by the Shire on the 25 April (as described in Council Policy 1.1.10), consists of a Processional March and Commemorative Service. Historically, form-up commences at approximately 8.45am through the local Volunteer Bush Fire Brigade, for step off at 9am travelling to the commemorative service location. The service concludes by 10am, with a community morning tea. These commemorations are generally planned and supported by the collective efforts of Shire Officers and community volunteers.



The table below outlines the rotation of location for Shire's Anzac Day ceremonies:

Year	Location
2022	Serpentine
2021	Cancelled – COVID-19 restrictions
2020	Cancelled – COVID-19 restrictions
2019	Mundijong
2018	Jarrahdale
2017	Byford

On the current rotation, the 2023 Anzac Day ceremony is scheduled to occur in Byford.

This report outlines the general pre-planning considerations relevant to 2023 Anzac Day activities, and requests Council to confirm preferred location for the Anzac Day ceremony given some of the opportunities and challenges identified.

### **Community / Stakeholder Consultation**

Officers have met with representatives of the Returned and Services League - Serpentine Jarrahdale Sub-Branch (RSL sub branch) on several occasions since the 2022 event, in preparation for 2023. The most recent meetings occurred on 24 October 2022, 7 November 2022, 10 January 2023 and 31 January 2023. The RSL sub branch delivers the Anzac Day Dawn Service.

Officers have also met with community representatives who volunteer in assisting with the coordination of the Processional March and morning tea. These meetings occurred 10 January 2023 and 31 January 2023, with the RSL sub branch representatives also in attendance.

Outcomes of stakeholder and community engagement is addressed in the comment section of this report.

### **Statutory Environment**

*Council Policy 1.1.10 - Civic Functions, Ceremonies and Receptions and Use of the Civic Centre.*

### **Comment**

#### *Location and site analysis for 2023 Anzac Day Ceremony*

There are 2 sites within Byford that have previously hosted Anzac Day ceremonies. Preliminary planning conversations have occurred with the Returned and Services League (Serpentine Jarrahdale Sub-Branch) and community volunteers regarding both sites:

Site 1: Anzac Memorial Park (Anzac Crescent and Doley Road, Byford)

Site 2: Original Anzac Memorial/Cenotaph (located at the back of 858 South Western Highway - the SJ Library Services building).

Opportunities and constraints of the 2 historically utilised Byford sites were identified and as such, a broader overview of Anzac Day ceremony considerations across all Shire of Serpentine Jarrahdale locations was undertaken. **Attachment 2** provides a summary of these event considerations (as well as site images) for general reference.





Council is requested to note that other Byford locations have been briefly considered, such as Briggs Park. However, as no recognised Anzac commemorative infrastructure is located at any other site (such as flag poles, cenotaphs or plaques) it was determined that this is likely to create confusion in the community regarding location of the service and as a result, only sites with formal Anzac Commemorative infrastructure on site have been listed in the summarised attachment.

Officers recognise that regardless of the selected location for the Shire's Anzac Day ceremony, community members will commemorate and recognise Anzac Day in a variety of ways consistent with individual preferences. This includes, but is not limited to:

- attendance at any/all of the Shire cenotaph/memorial locations (at any time of the day);
- attendance at other Anzac Day ceremonies across the Perth metropolitan region;
- driveway vigils similar to those instigated through Covid; and
- informal community gatherings.

*Anzac Day Dawn Service Funding MOU - Returned and Services League (Serpentine Jarrahdale Sub-Branch)*

The Shire has historically provided financial support to the RSL for the delivery of the Dawn Service via an MOU, to the value of \$10,000 (resolved by Council at the August 2017 Ordinary Council Meeting). The MOU expired following the 2022 event, and as such an application for financial support via the Major Event Scheme in Round One of the 2022/23 financial year was required if the RSL intended to request financial support for 2023 (per Council's resolution at the May 2020 Ordinary Council Meeting).

The RSL have not requested financial support from the Shire for the 2023 Dawn Service and there is no MOU in place for the 2023 event.

*2023 Anzac Day Ceremony Recommendation*

The residential population for Byford has increased 25% since the last Anzac Day ceremony was hosted at the Site 1 location in 2017. The Byford population has increased a remarkable 167% since the last Anzac Day ceremony was hosted at the Site 2 location in 2013 [forecast ID data]. Combined with population increases shire-wide and a return to face to face services post Covid, Officers anticipate attendance numbers for 2023 to exceed all previous services.

In considering event delivery requirements that provide a safe, welcoming and respectful environment consistent with previous Anzac Day events, Officers recommend hosting the 2023 Anzac Day ceremony in Mundijong based on the following:

- Both Byford sites are significantly constrained for the anticipated numbers expected to attend the Anzac Day ceremony and a positive attendee experience could not be assured, even with investment in traffic management and associated event infrastructure.
- Traffic management requirements are most effectively managed at the Mundijong site, given availability of alternative routes and parking options.
- Engagement with representatives from the Returned and Services League Serpentine Jarrahdale Sub-Branch have indicated support for the Mundijong location, as provided in **attachment 3**, where they have indicated they would also hold their Dawn Service, should the Mundijong location be endorsed for the 2023 Shire Anzac Day ceremony.



- Cost efficiencies can be achieved through sharing infrastructure by having all services/activities for Anzac Day at the one location (e.g.: Dawn Service, Processional March, Commemorative Service and community morning tea).
- Community representatives who volunteer in assisting with the coordination of the Processional March and morning tea) have indicated support for the Mundijong location, and is provided at **attachment 4**.

## Options and Implications

### Option 1

That Council:

1. AGREES to host the 2023 Anzac Day ceremony (being a Processional March and Commemorative Service) in Mundijong for 2023.
2. NOTES an amount of \$6,000 is currently allocated in account 4300-15702 (Anzac Day) and that the delivery of the Shire's 2023 Anzac Day ceremony at Mundijong will require an additional \$6,000 and a budget adjustment will be addressed as part of the Quarter 2 budget review process to cater for larger crowds and increases in costs.
3. NOTES the rotation as outlined in *Council Policy 1.1.10 - Civic Functions, Ceremonies and Receptions and Use of the Civic Centre* has not been achieved and REQUESTS the Chief Executive Officer undertake a policy review in consultation with stakeholders, post the Anzac Day 2023 commemorations.
4. REQUESTS Chief Executive Officer advise relevant stakeholders - including the RSL (Serpentine Jarrahdale Sub-Branch) - of the endorsed location for the Shire's 2023 Anzac Day ceremony and work with these stakeholders to deliver Anzac Day commemorations for 2023.

### Option 2

That Council:

1. AGREES to host the 2023 Anzac Day ceremony (being a processional march and commemorative service) in \_\_\_\_\_ for 2023.  
*[Councillor moving this option to insert location]*
2. NOTES that the delivery of the Shire's 2023 Anzac Day ceremony at \_\_\_\_\_ will require an additional \$\_\_\_\_\_ and a budget adjustment will be addressed as part of the Quarter 2 budget review process to cater for larger crowds and increases in costs.  
*[Councillor moving this option to insert location and additional cost – refer to Financial Implications section of this report]*
3. REQUESTS Chief Executive Officer advise relevant stakeholders - including the RSL (Serpentine Jarrahdale Sub-Branch) - of the endorsed 2023 Anzac Day ceremony location, and work with these stakeholders to deliver Anzac Day commemorations for 2023.
4. REQUESTS the Chief Executive Officer undertake a review of Council Policy 1.1.10 - Civic Functions, Ceremonies and Receptions and Use of the Civic Centre in consultation with stakeholders, post the Anzac Day 2023 commemorations.

Option 1 is recommended.



## Conclusion

The Shire's Anzac Day ceremony consists of a Processional March and Commemorative Service. It is an annual civic event hosted within the Shire on 25 April. The event is run with the support of community representatives and Volunteer Bush Fire Brigades, with a morning tea for the community following the march and service.

In accordance with Council Policy the Anzac Day ceremony rotates between the four major localities of the Shire (Serpentine, Byford, Jarrahdale, Mundijong). The rotation for 2023 being Byford.

Shire Officers do not recommend either of the Byford sites for the following reasons:

- Minimal onsite infrastructure to facilitate ceremony.
- No specific location within proximity to site for processional march form-up.
- Insufficient space for attendee "overflow" based on anticipated attendee numbers.
- Attendee experience likely to be compromised where unable to comfortably view ceremony, as a result of anticipated numbers.
- Traffic management requirements and impact on residents and businesses.

Following an assessment of event delivery requirements for an Anzac Day Ceremony, Officers are recommending to change the 2023 rotation to Mundijong.

## Attachments (available under separate cover)

- **10.4.2 - attachment 1** - Council Policy 1.1.10 - Civic Functions, Ceremonies and Receptions and Use of the Civic Centre (E23/1675)
- **10.4.2 - attachment 2** – Summary of Shire of Serpentine Jarrahdale Anzac Day ceremony event delivery considerations per location (E23/1607)
- **10.4.2 - attachment 3** – Communication from Returned and Services League (Serpentine Jarrahdale Sub-Branch) (E23/1680)
- **10.4.2 - attachment 4** – Communication from community stakeholders (E23/1664)

## Alignment with our Strategic Community Plan

<b>Outcome 1.1</b>	A healthy, active, connected and inclusive community
<b>Strategy 1.1.1</b>	Provide well planned and maintained public open space and community infrastructure
<b>Strategy 1.1.2</b>	Provide a healthy community environment
<b>Outcome 1.2</b>	A recognised culture and heritage
<b>Strategy 1.2.1</b>	Recognise local heritage
<b>Outcome 4.1</b>	A resilient, efficient and effective organisation
<b>Strategy 4.1.1</b>	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources
<b>Strategy 4.1.2</b>	Maximise the Shire's brand and reputation in the community
<b>Outcome 4.2</b>	A strategically focused Council
<b>Strategy 4.2.1</b>	Build and promote strategic relationships in the Shire's interest.
<b>Strategy 4.2.3</b>	Provide clear strategic direction to the administration



### Financial Implications

An amount of \$6,000 is currently allocated in account 4300-15702 (Anzac Day) for the 2023 Anzac Day ceremony. This budget will be insufficient to host the Anzac Day ceremony at any of the historical Shire of Serpentine Jarrahdale ceremony locations (including either Byford location) as a result of recent quotation processes. Increased costs are most specifically relevant to traffic management and infrastructure requirements at each site for anticipated attendance numbers, and an increase in the cost of audio visual services.

The estimated costs for event delivery at the various Shire locations based quotes received and the additional budget required is:

Location	Estimated Event Delivery Cost	Additional Budget Required
Byford Site 1	\$21,000	\$15,000
Byford Site 2	\$23,000	\$17,000
Jarrahdale	\$14,000	\$8,000
Mundijong	\$12,000	\$6,000
Serpentine	\$14,000	\$8,000

### 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	Change in location from Byford leads to discontent and criticism from community.	Engagement with community stakeholders to date.	Reputation	Possible	Moderate	MODERATE	Joint communication strategy with key stakeholders to be developed.
2	Progressing a ceremony location without stakeholder support leads to discontent and criticism from community.	Accept Officers Recommendation	Reputation	Likely	Minor	MODERATE	Nil.



**Voting Requirements:** Simple Majority

**Officer Recommendation**

**That Council:**

1. **AGREES** to host the 2023 Anzac Day ceremony (being a Processional March and Commemorative Service) in Mundijong for 2023.
2. **NOTES** an amount of \$6,000 is currently allocated in account 4300-15702 (Anzac Day) and that the delivery of the Shire's 2023 Anzac Day ceremony at Mundijong will require an additional \$6,000 and a budget adjustment will be addressed as part of the Quarter 2 budget review process to cater for larger crowds and increases in costs.
3. **NOTES** the rotation as outlined in *Council Policy 1.1.10 - Civic Functions, Ceremonies and Receptions and Use of the Civic Centre* has not been achieved and **REQUESTS** the Chief Executive Officer undertake a policy review in consultation with stakeholders, post the Anzac Day 2023 commemorations.
4. **REQUESTS** Chief Executive Officer advise relevant stakeholders - including the RSL (Serpentine Jarrahdale Sub-Branch) - of the endorsed location for the Shire's 2023 Anzac Day ceremony and work with these stakeholders to deliver Anzac Day commemorations for 2023.





## 10.5 Executive Services reports:

<b>10.5.1 – Rivers Regional Subsidiary – Adoption of revised charter following Minister comment and appointment of board member (SJ581-2)</b>	
<b>Responsible Officer:</b>	Manager Governance and Strategy
<b>Senior Officer:</b>	Chief Executive Officer
<b>Disclosure of Officer's 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> .

### 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 adopting the revised charter of the proposed Rivers Regional Subsidiary (the Subsidiary) following comment from the Minister for Local Government and appointment of a Board Member and Deputy Board Member in accordance with the provisions of the Charter to enable the transition of the Rivers Regional Council to the Subsidiary.

### Relevant Previous Decisions of Council

*Ordinary Council Meeting – 17 May 2021 – OCM119/05/21 - COUNCIL RESOLUTION / Officer Recommendation*

*That Council:*

*AUTHORISES the Shire President and the Chief Executive Officer to execute the Rivers Regional Subsidiary Charter as contained in attachment 1 via the Common Seal.*

*Ordinary Council Meeting – 15 March 2021 – OCM055/03/21 - COUNCIL RESOLUTION / Officer Recommendation - **extract***

*That Council:*

- 1. SUPPORTS the transition from Rivers Regional Council to a Regional Subsidiary.*
- 2. SUPPORTS the Rivers Regional Council prepare an application to the Minister for Local Government to form the Rivers Regional Subsidiary in accordance with the Charter and Business Plan with a preferred establishment date as 60 days following the Minister's approval.*
- 3. AUTHORISES the Shire President and the Chief Executive Officer to execute via the Common Seal:*
  - a. Deed of Dissolution of the Rivers Regional Council (attachment 1);*
  - b. Deed of Asset Transfer (attachment 2);*
  - c. Deed of Novation (attachment 3).*



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## Background

The Rivers Regional Council (RRC) is a regional local government established under the *Local Government Act 1995* (the Act) formed by the Cities of Armadale, Gosnells, Mandurah, South Perth and the Shires of Murray and Serpentine Jarrahdale to manage strategic waste issues on behalf of member local governments.

For several years, member local governments have explored moving from a regional local government model to a subsidiary created under a different head of power under the Act. This is believed to be the first subsidiary created under the legislation.

To this end all participating members, including the Shire of Serpentine Jarrahdale resolved during 2020 and 2021 to wind up the RRC and transition to the Subsidiary. This decision occurred considerable revisions to draft versions of establishing documents to ensure that the subsidiary's governance arrangements were sound and fit for purpose.

An application to form the RRS was submitted to the Minister for Local Government on 9 June 2021. Following review, the Minister has now written to the RRC CEO advising that they are willing to support the creation of the subsidiary pending the agreement by member local governments of minor amendments to the Charter. A copy of the Minister's correspondence is contained in **attachment 1**.

## Community / Stakeholder Consultation

Nil.

## Statutory Environment

The *Local Government (Regional Subsidiaries) Regulations 1996* sets out the requirements in making a proposal to the Minister.

Under Regulation 4, after the last day for submissions, each local government must consider any submissions made to that local government and, if it agrees to do so, may apply to the Minister.

Regulation 5(1) of the *Local Government (Regional Subsidiaries) Regulations 2017* requires that the application to establish a regional subsidiary must be made in the form determined by the Minister. The Department of Local Government, Sport and Cultural Industries Approval Policy establishes the form and contents required for this application.

## Comment

### Revised charter

The key amendments required to the Charter are:

- requirement for the CEO to be a natural person
- restricting the objects of the Charter to waste Management related projects
- information requested by one participant to be provided to all participants
- any agreement to undertake projects outside the current Waste Agreements to require approval of all RRS members regardless of who participates and shares the costs
- clarification on how projects are to be funded.

A copy of the Charter with the amendments is provided in **attachment 2**.



Officers support the proposed amendments to the Charter as they strengthen governance of the entity and are consistent with proposals that were put forward by Officers during the drafting.

Ministerial approval is required for both winding up the Council and transition to a regional subsidiary. The operative date for the RRC windup is 60 days after the Minister has approved the RRS or 14 Days after receipt of the final Audit.

The Department's policy requires the Charter must be adopted by absolute majority.

#### Appointment of Board member

Under Clause 8.2 of the Charter the Subsidiary is to have a Board that has the responsibility to manage the business and other affairs of the Subsidiary ensuring that the Subsidiary acts in accordance with this Charter.

Participating local governments are required to appoint one employee as a board member and one employee as a deputy board member for a period not exceeding four years. The Charter requires that the person be a natural person. This means that a person not a position is to be appointed.

The charter does not permit Council to appoint Councillors to the board.

Board members are not to be paid fees unless the majority of participating local governments agree. There is no proposal at this time for board members to be paid fees.

Officers recommend that Council appoints Mr Reza Najafzadeh, Director Infrastructure as Board Member for a period of four years commencing on the day that the Rivers Regional Subsidiary becomes operative.

In respect to the Deputy position as the Manager Waste and Fleet has been recently vacated, it is recommended that Council hold off appointing a Deputy until that position is filled. This matter would be presented to Council following an appointment to the role.

### **Options and Implications**

#### Option 1

That Council:

1. ADOPTS the revised Charter for the Rivers Regional Subsidiary.
2. AUTHORISES the Shire President and the Chief Executive Officer to execute the revised Rivers Regional Subsidiary Charter as contained in **attachment 2** via the Common Seal.
3. APPOINTS Reza Najafzadeh as a Board Member of the Rivers Regional Subsidiary under clause 8.2 of the Charter in **attachment 3** for a period of four years commencing on the operative day of the Rivers Regional Council windup.
4. NOTES that a separate report for Council to consider appointing a Deputy Board Member of the Rivers Regional Subsidiary under clause 8.2 of the Charter in **attachment 3** for a period of four years commencing on the operative day of the Rivers Regional Council windup will be presented to Council following the recruitment of the Manager Waste and Fleet position.

#### Option 2

That Council REQUESTS that the Chief Executive Officer advise the Chief Executive Officer that the Shire does not support the proposed amendments to the Charter.

Option 1 is recommended.



### Conclusion

The Minister for Local Government has advised that he conditionally supports the transition from Rivers Regional Council to Rivers Regional Subsidiary on the proviso that local governments adopt a modified Charter. The modifications proposed by the Minister are supported by Officers and will enable the State's first regional subsidiary to be established.

### Attachments (available under separate cover)

- **10.5.1 - attachment 1** – Correspondence from the Minister for Local Government (E23/428)
- **10.5.1 - attachment 2** - revised Charter of the Rivers Regional Council Subsidiary with changes marked (E23/429)
- **10.5.1 - attachment 3** - revised Charter of the Rivers Regional Council Subsidiary Final (E23/430)

### Alignment with our Strategic Community Plan

<b>Outcome 4.2</b>	A strategically focused Council
<b>Strategy 4.2.3</b>	Provide clear strategic direction to the administration

### Financial Implications

There are no immediate financial implications associated with 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 are no significant risks considered with this option						
2	Reputational impact with other local governments	Nil	Reputation	Unlikely	Major	SIGNIFICANT	



**Voting Requirements:** Absolute Majority (required by Departmental policy)

**Officer Recommendation**

**That Council:**

- 1. ADOPTS the revised Charter for the Rivers Regional Subsidiary.**
- 2. AUTHORISES the Shire President and the Chief Executive Officer to execute the revised Rivers Regional Subsidiary Charter as contained in attachment 2 via the Common Seal.**
- 3. APPOINTS Reza Najafzadeh as a Board Member of the Rivers Regional Subsidiary under clause 8.2 of the Charter in attachment 3 for a period of four years commencing on the operative day of the Rivers Regional Council windup.**
- 4. NOTES that a separate report for Council to consider appointing a Deputy Board Member of the Rivers Regional Subsidiary under clause 8.2 of the Charter in attachment 3 for a period of four years commencing on the operative day of the Rivers Regional Council windup will be presented to Council following the recruitment of the Manager Waste and Fleet position.**





**10.6 Confidential reports:  
Nil reports.**



- 11. Urgent business:**
- 12. Councillor questions of which notice has been given:**
- 13. Closure:**