



Shire of  
Serpentine  
Jarrahdale

# Ordinary Council Meeting Agenda

7pm

Monday, 20 November 2023

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## Contact Us

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### In Person

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



[www.sjshire.wa.gov.au](http://www.sjshire.wa.gov.au)



### 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 30 October 2023 -

Date	Type	President Coales	Cr Bishop	Cr Byas	Cr Duggin	Cr Jerrett	Cr Mack	Vacant
06/11/23	SCM	✓	✓	A	✓	✓	✓	
30/10/23	SCM	✓	✓	✓	✓	✓	✓	

### Council 1 January 2023 – 21 October 2023

Date	Type	Cr Rich	Cr Atwell	Cr Byas	Cr Coales	Cr Dagostino	Cr Duggin	Cr Mack	Cr Strange	Cr Strautins
16/10/23	OCM	✓	✓	✓	✓	✓	✓	A	✓	✓
09/10/23	Q & A (OCM)	✓	✓	✓	✓	A	✓	✓	✓	A
02/10/23	PCF	✓	✓	✓	✓	✓	✓	✓	A	✓
18/09/23	OCM	✓	✓	A	✓	EP	✓	✓	✓	A
11/09/23	Q & A (OCM)	✓	✓	✓	✓	✓	✓	✓	✓	✓
11/09/23	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
04/09/23	PCF	✓	✓	✓	A	A	✓	✓	✓	A
28/08/23	PCF	✓	A	A	✓	A	✓	✓	✓	✓
23/08/23	OCM reconvened	✓	✓	✓	✓	✓	✓	✓	✓	A
21/08/23	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
14/08/23	PCF cont. (from 07/08/23)	✓	✓	✓	A	✓	✓	✓	A	✓
14/08/23	Q & A (OCM)	✓	✓	✓	A	✓	✓	✓	✓	✓
07/08/23	PCF	✓	✓	A	A	✓	✓	✓	✓	✓



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## Ordinary Council Meeting Agenda Monday, 20 November 2023

Date	Type	Cr Rich	Cr Atwell	Cr Byas	Cr Coales	Cr Dagostino	Cr Duggin	Cr Mack	Cr Strange	Cr Strautins
02/08/23	WORKSHOP (CEO Employment - Presentation of self- assessment report against criteria)	✓	✓	✓	✓	A	✓	✓	A	✓
31/07/23	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
24/07/23	PCF	✓	✓	A	✓	A	✓	A	✓	✓
19/07/23	WORKSHOP (Budget)	✓	✓	A	✓	✓	✓	A	✓	✓
17/07/23	OCM	✓	✓	A	✓	A	✓	A	✓	✓
10/07/23	Q & A (OCM)	✓	✓	A	A	A	A	A	✓	✓
03/07/23	PCF	✓	✓	✓	A	A	A	✓	A	✓
26/06/23	PCF	✓	✓	A	✓	A	✓	✓	A	✓
21/06/23	OCM reconvened	✓	✓	A	✓	✓	✓	✓	✓	A
19/06/23	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
15/06/23	WORKSHOP (Budget)	✓	✓	A	✓	✓	✓	✓	✓	A
12/06/23	Q & A (OCM)	✓	✓	✓	✓	A	✓	A	A	A
07/06/23	WORKSHOP (Budget)	✓	A	A	✓	✓	✓	✓	✓	A
01/06/23	WORKSHOP (Budget)	✓	A	✓	A	✓	✓	✓	✓	A
29/05/23	PCF	✓	A	A	A	A	✓	✓	✓	A
25/05/23	WORKSHOP (Budget)	✓	✓	✓	✓	✓	✓	✓	A	✓
22/05/23	PCF	✓	✓	✓	✓	A	✓	✓	✓	A
15/05/23	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
08/05/23	Q & A (OCM)	✓	✓	A	✓	A	✓	✓	✓	A
08/05/23	WORKSHOP (Strategic Community Plan Major Review)	✓	✓	✓	✓	A	✓	✓	✓	A
01/05/23	PCF	✓	A	✓	✓	✓	✓	✓	✓	A
26/04/23	PCF	✓	A	✓	✓	A	✓	✓	A	A



Continued

## Ordinary Council Meeting Agenda Monday, 20 November 2023

Date	Type	Cr Rich	Cr Atwell	Cr Byas	Cr Coales	Cr Dagostino	Cr Duggin	Cr Mack	Cr Strange	Cr Strautins
17/04/23	OCM	✓	✓	A	✓	✓	✓	✓	A	✓
17/04/23	Q & A cont. (OCM)	✓	✓	A	✓	✓	✓	✓	A	✓
11/04/23	Q & A (OCM)	✓	✓	✓	A	A	✓	✓	A	A
03/04/23	PCF	✓	✓	A	✓	A	✓	✓	✓	✓
27/03/23	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓
20/03/23	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
20/03/23	Q & A cont. (OCM)	✓	✓	✓	✓	✓	✓	✓	✓	✓
13/03/23	Q & A (OCM)	✓	A	✓	✓	✓	✓	✓	✓	A
08/03/23	WORKSHOP (Status update / report on 2022-23 CEO KPIs)	✓	A	A	A	A	A	✓	✓	A
02/03/23	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
27/02/23	SCM	✓	✓	✓	✓	✓	✓	✓	A	✓
27/02/23	PCF	✓	✓	✓	✓	✓	✓	✓	A	✓
20/02/23	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
20/02/23	Q & A cont. (OCM)	✓	✓	✓	✓	✓	✓	✓	✓	✓
15/02/23	WORKSHOP (Community Perception Survey)	✓	✓	✓	✓	✓	✓	✓	✓	A
13/02/23	Q & A (OCM)	✓	✓	A	✓	A	✓	A	✓	✓
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	✓	✓





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## Ordinary Council Meeting Agenda Monday, 20 November 2023

Date	Type	Cr Rich	Cr Atwell	Cr Byas	Cr Coales	Cr Dagostino	Cr Duggin	Cr Mack	Cr Strange	Cr Strautins
23/01/23	WORKSHOP (Catalyse Presentation - Community Perception Scorecard)	✓	✓	✓	✓	✓	✓	A	✓	✓

A – Apology

LoA – Leave of Absence

NA – Non Attendance

EPNG – Electronic Participation Not Granted

EP - Electronic Participation



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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



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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 November 2023 in the Council Chambers, Civic Centre, 6 Paterson Street, Mundijong, commencing at 7pm.



Paul Martin

**Chief Executive Officer**

10 November 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, 16 October 2023**

Question asked by **Mrs Lee Bond** at the Ordinary Council Meeting, Monday, 16 October 2023. Correspondence was sent to Mrs Bond on Thursday, 26 October 2023 (E23/14019).

Question 1

How much is it costing for legal fees with regard to the matter involving a restraining order the President is defending against a ratepayer and confirm whether the ratepayers are paying for this?

*Response (Director Corporate Services)*

*As stated in the response to your question taken on notice at the 21 August 2023 Ordinary Council Meeting, the Shire holds a Management Liability Protection Insurance Policy with Local Government Insurance Scheme Western Australia.*

*When a claim is approved under the Shire's insurance, the Shire must pay the retention amount for the coverage. This is commonly referred to as the Insurance Excess and is valued at \$5,000.*

Questions asked by **Mr Nathan Bishop** at the Ordinary Council Meeting, Monday, 16 October 2023. Correspondence was sent to Mr Bishop on Thursday, 26 October 2023 (OC23/19333).

Question 1

What restrictions does the local government impose upon volunteer firefighters in respect of their right to vote in local government elections, and are these, if any, consistent with those placed upon other service persons (e.g. SES personnel, St John Ambulance Officers, Career Fire & Rescue Service firefighters, WA Police Force Officers) by the local government?



*Response (Director Corporate Services)*

*None. The eligibility criteria to vote in local government elections is set out in sections 4.29 and 4.30 of the Act. Legislation does not make distinctions on eligibility based on volunteer service or profession. The Western Australian Electoral Commission is ultimately responsible for determining eligibility to vote in local government elections.*

Question 2

How many complaints has the local government received in relation to volunteer firefighters voting in local government elections, and if so, have these complaints been responded to?

*Response (Director Corporate Services)*

*The Shire does not comment on staffing and volunteer management matters.*

Question 3

What role, if any, has elected members of Council had in considering, directing or re-directing to representatives for the local government, or responding to any complaints made?

*Response (Director Corporate Services)*

*The Shire does not comment on staffing and volunteer management matters.*

Questions asked by **Mr Garry Tomlinson** at the Ordinary Council Meeting, Monday, 16 October 2023. Correspondence was sent to Mr Tomlinson on Thursday, 26 October 2023 (OC23/19330).

Question 1

How much is it costing for legal fees regards to the matter involving the President and a ratepayer and confirm whether the ratepayers are paying for this or not?

*Response (Director Corporate Services)*

*The Shire holds a Management Liability Protection Insurance Policy with Local Government Insurance Scheme Western Australia.*

*When a claim is approved under the Shire's insurance, the Shire must pay the retention amount for the coverage. This is commonly referred to as the Insurance Excess and is valued at \$5,000.*

Question 2

How many lawyers are employed for this court case?

*Response (Director Corporate Services)*

*The Shire is not aware of the specifics of the quantum of legal representation in this matter for either party.*





Question asked by **Mr Steve Rosanthen** at the Ordinary Council Meeting, Monday, 16 October 2023.

Question 1

A lot of people in Byford and surrounding areas are trying to sell their houses, the R Zones are a grey area here, it varies too much. Other Councils its black and white, you know what you can do. Investors won't touch your house most of the time because it's a grey area. I just want to find out what's going on with the planning?

*(Director Development Services)*

*The Shire's new local planning scheme 3 has updated a number of the residential design codes as they relate to land within the residential areas of the Shire. In specific respect to Byford, there are still areas which require further structure planning, and this will further examine opportunities for residential densities to deliver the optimal mix of housing to meet the future needs of the community . The new planning scheme does make it clear what the residential densities are in areas outside those which require further structure planning.*

**2.2 Public questions:**

**3. Public statement time:**

**4. Petitions and deputations:**

**5. President's Report:**

**6. Declaration of Elected Members and Officer's interest:**

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

**7.1 Ordinary Council Meeting – 16 October 2023**

**That the minutes of the Ordinary Council Meeting held on 16 October 2023 be CONFIRMED (E23/14230).**

**7.2 Swearing In Ceremony / Special Council Meeting – 30 October 2023**

**That the minutes of the Swearing In Ceremony / Special Council Meeting held on 30 October 2023 be CONFIRMED (E23/14868).**

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

**That the minutes of the Special Council Meeting held on 6 November 2023 be CONFIRMED (E23/15193).**

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



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**Ordinary Council Meeting Agenda  
Monday, 20 November 2023**

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





## 10. Chief Executive Officer reports:

### 10.1 Development Services reports:

<b>10.1.1 - Proposed Extension of Extraction Timeframe and Amendment to Approved Area of Extraction for 'Mining Operations' - Lot 63, 1265 Hopeland Road, Keysbrook (PA23/371)</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:	Keysbrook Leucoxene Pty Ltd
Owner:	Doral Mineral Sands
Date of Receipt:	23 May 2023
Lot Area:	323.89 ha
Local Planning Scheme No 3 Zoning:	'Rural'
Metropolitan Region Scheme Zoning:	'Rural'

### Report Purpose

The purpose of this report is for Council to consider a development application and subsequently an Extractive Industry Licence (EIL) for 'Mining Operations' at Lot 63, 1265 Hopeland Road, Keysbrook. The application is seeking approval to allow excavation and processing of the remaining minerals within the approved mining area of Lot 63 for a further 18 months. The application also seeks approval to include an additional 142.3ha of land, located in the western portion of Lot 63, within the mining area. The application states that the increased area would result in an additional 65,000 tonnes of minerals.

The site was subject to a previous 'Extractive Industry' approval under Town Planning Scheme No. 2 (TPS2) granted by Council on 28 April 2014 (**attachment 1**) as part of an appeal through the State Administrative Tribunal (SAT). Under this approval, extraction of minerals on Lot 63 was required to cease on or by 29 June 2023. The subject application seeks approval to amend this approval to allow the continuation of mining and also extend the mining area beyond what was approved in 2014.

Through the SAT process, the Minister for Environment granted approval for the mining operations by issuing Statement No. 810 (Ministerial Approval) under the



*Environmental Protection Act 1986* (EP Act). The approved proposal has therefore been through an environmental impact assessment by the Environmental Protection Authority (EPA) in accordance with the *Environmental Protection Act 1986*.

The Ministerial Approval contains Conditions requiring a range of management plans and reporting on native vegetation, watercourses, wetlands, rehabilitation, weed and dieback, water, acid sulphate soils, noise, air quality and dust. A health impact assessment was also undertaken when the original application was lodged and was subsequently approved by SAT.

With regard to adding area to the previous Ministerial approval, the Minister has granted the requested amendments under section 45C (1) of the *Environmental Protection Act 1986*. No ministerial approvals are required to extend the timeframe of the mining operations. The Ministerial Approval is contained within **attachment 2**.

The report is presented to Council as three objections were received during the consultation process. Officers do not have delegated authority to determine development applications where three or more objections are received that cannot be satisfied by way of amendments or through the imposition of 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 that the impacts associated with the mining can be appropriately managed. Past operations have been undertaken per the Ministerial approval, and the associated regulatory framework the EIA provides.

It is therefore recommended that Council approve the application subject to Conditions. Council should note that all operations are required to comply with the Conditions imposed by the Minister. As such, Officers are not able to replicate these same Conditions, in order to maintain an efficient approach to compliance reporting and responsibilities.

**Relevant Previous Decisions of Council**

*Ordinary Council Meeting - 16 September 2019 - OCM198/09/19 - COUNCIL RESOLUTION / Amended Officer Recommendation*

1. That Council APPROVES the development application contained within attachment 4 for a 'Industry Extractive' at Lot 57 (367) Elliott Road, Keysbrook and Lots 101 (720), 103 (724), and 105 (722) Westcott Road, Keysbrook under the Shire of Serpentine Jarrahdale Town Planning Scheme No.2 and Metropolitan Region Scheme 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 (Extraction Plan) received at the Shire's Offices on 31 May 2019; P2 (Infrastructure Corridor Plan) received at the Shire's Offices on 22 July 2019; and P3 (Fire Management Plan) received at the Shire's Offices on 31 May 2019.
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b. Excavation (mining) activities must be completed by no later than 16 September 2024 (which does not include rehabilitation and related activities).

c. The approval lapses if the approved development is not substantially commenced within two years from 16 September 2019.



- d. *Prior to the commencement of any works, a Mosquito Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. Once approved, the Mosquito Management Plan shall be implemented in its entirety for the duration of the development.*
- e. *Prior to the commencement of any works, a Fauna Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. Once approved, the Fauna Management Plan shall be implemented in its entirety for the duration of the development.*
- f. *Prior to the commencement of any works, a Visual Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The plan shall provide detail in relation to the timing/staging of construction, stabilisation and seeding of the top soil bund. Once approved, the Visual Management Plan shall be implemented in its entirety for the duration of the development.*
- g. *Prior to commencement of any works, a plan is to be submitted to and approved by the Shire of Serpentine Jarrahdale identifying surface water drainage flows entering and exiting the lot boundaries. These surface water drainage flows shall be maintained at the lot boundary, for the duration of the development to the satisfaction of the Shire of Serpentine Jarrahdale.*
- h. *A Community Consultation Framework being submitted and approved by the Shire of Serpentine Jarrahdale prior to commencement of works. The Community Consultation Framework shall be implemented for the duration of the development to the satisfaction of the Shire.*
- i. *Complaint Management Procedures for the approved management plans shall be undertaken in accordance with the procedure set out in the approved Community Consultation Framework unless a more specific procedure is stipulated in an approved management plan.*
- j. *A compliance assessment report for the approved Visual Management Plan, Fire Management Plan, Mosquito Management Plan, Fauna Management Plan and Community Consultation framework must be lodged by 31 October each year during the term of approval or by other such time as may be agreed by the local government. The compliance assessment report shall:*
  - (a) Be in a form agreed to with the Shire of Serpentine Jarrahdale;*
  - (b) Assess whether the development has complied with each action required by the approved management plan, and report on any potential non-compliance and corrective actions taken;*
  - (c) Be endorsed by the developers Managing Director or a person delegated to sign on their behalf;*
  - (d) Be made publicly available.*
- k. *The site is to be kept in a neat and tidy condition at all times. When vehicles and equipment associated with the development are not in use they shall be located so as to minimise their view from neighbouring residents and public roads.*
- l. *The Site Manager will ensure that neighbours that have domestic water tanks collecting from the roof of a house or associated building with potential to be affected by dust emissions from the mining activities are aware of the opportunity to have the proponent wash down the roof of the potentially affected building prior to the onset of winter rain.*



*The Site Manager is responsible for ensuring that where neighbours elect to take up this offer, the roof washing is undertaken in a timely manner.*

*m. No mining operations shall occur within 300m of the existing residences unless otherwise agreed between the proponent and the owner of the residence.*

## Background

### Existing Development

The subject site has an area of 323.89ha and is bound by Hopeland Road to the west, an approved mining area to the east and south, and agricultural land to the north. The area to the north currently comprises of annual pasture, cattle grazing and horse agistment uses. The subject site is sparsely vegetated containing pockets of dense remnant vegetation within the proposed mining area. The area slopes gently from east to west between 36.5mAHD and 32mAHD.



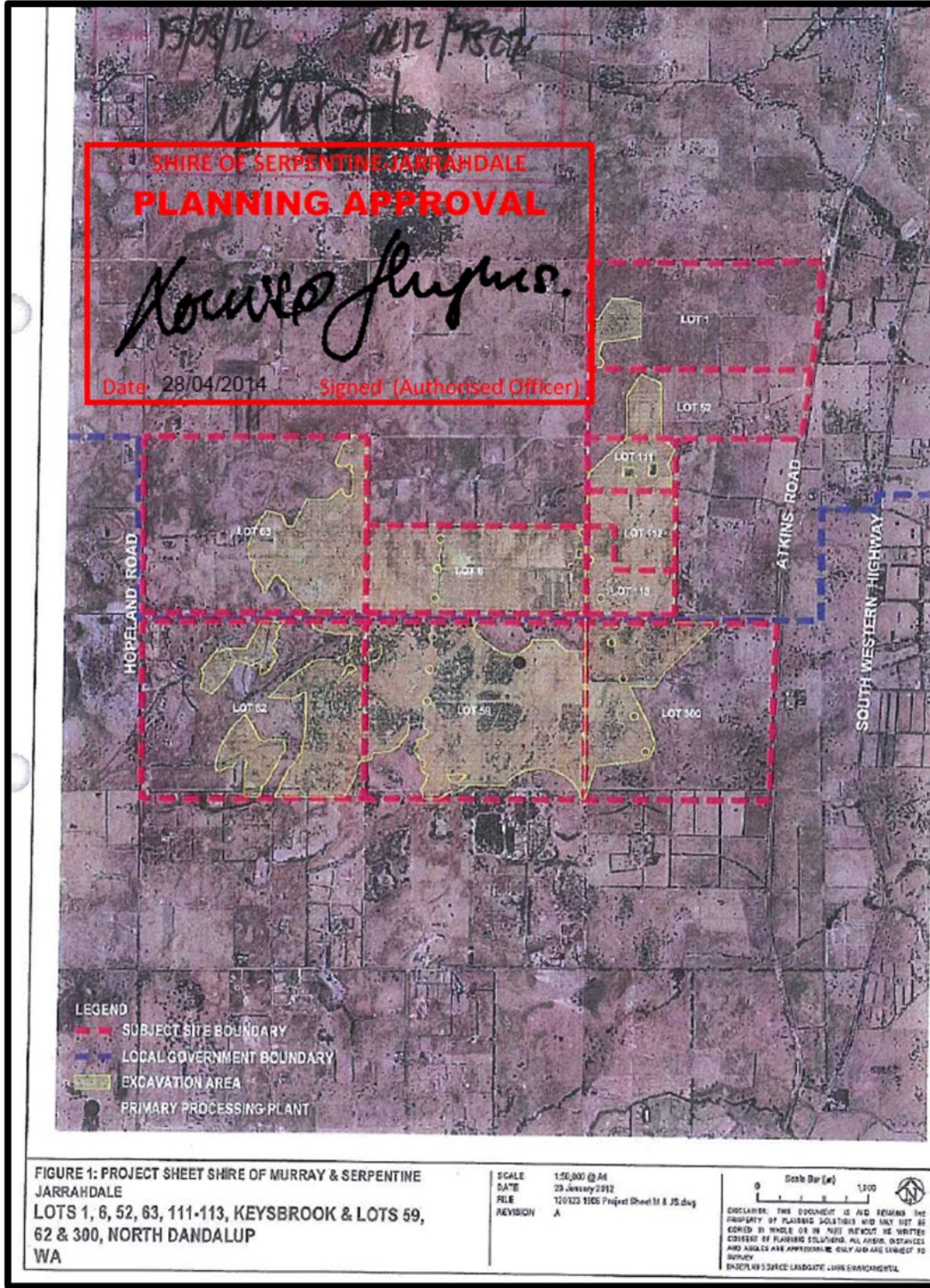
The site shares the southern boundary with the Shire of Murray. As previously stated, the existing mine area was approved under the *Environmental Protection Act 1986* (EP Act) and has existing development approvals for the all the stages of mining. The most recent approval being from the September 2019 Council meeting.





Approved Development

The site originally received approval on 28 April 2014 to extract minerals from Lot 63. The approved site plan is depicted following:



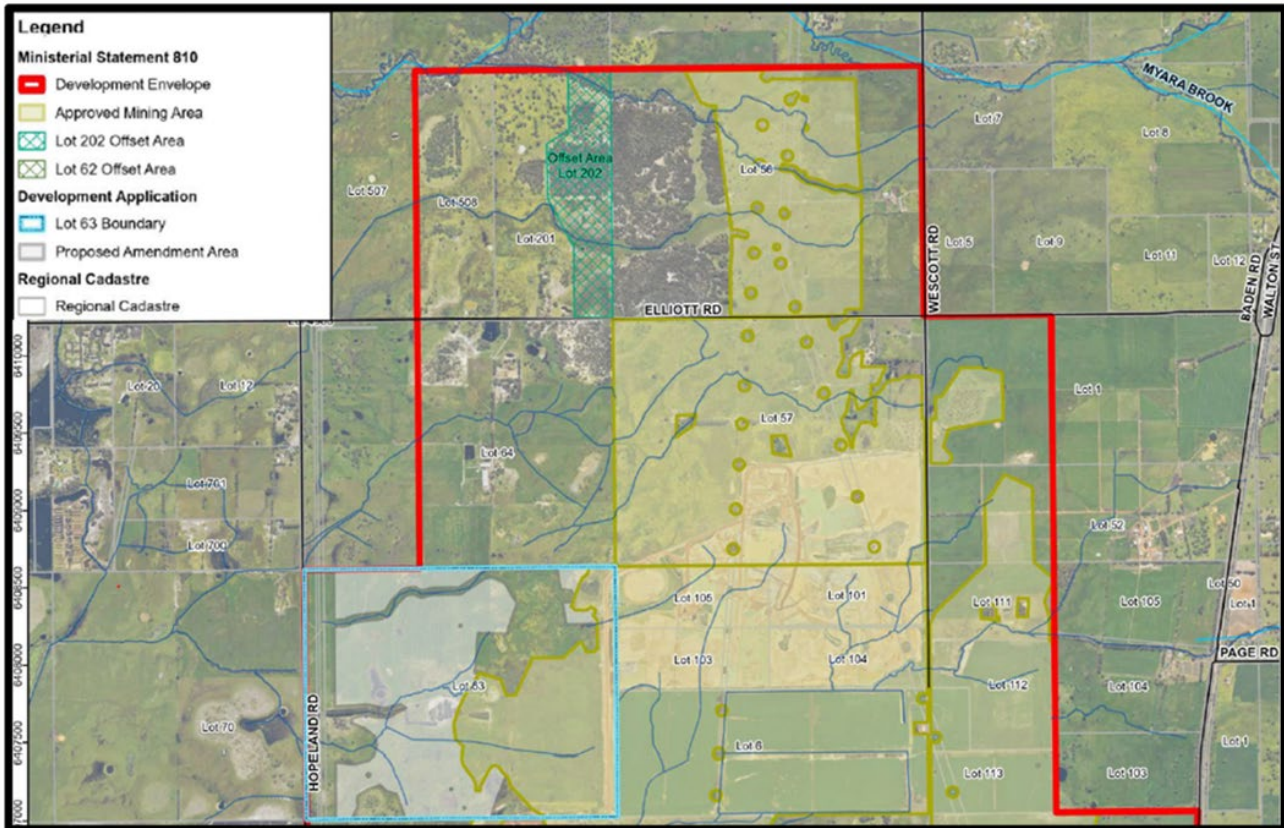
Condition 1 of the approval states that excavation and processing activities must be completed by no later than 29 June 2023. As such the development approval has now expired and no further extraction can occur on this lot until a further approval is obtained.





## Proposed Development

The proposed development seeks approval for the mining of minerals on Lot 63 for a further 18 months. It also seeks approval to extend the mining area to that which was approved. The proposed mining area is depicted following:



The operations include the mining and processing of heavy mineral sands from silica sand deposits present within the soils. The extracted mineral sands contain titanium mineral leucoxene and zircon which have a variety of commercial uses. The material is extracted and screened in the pit and then pumped via pipes to the concentrator plant within the Shire of Murray for processing. The Leucoxene and Zircon constitutes approximately 2.5% of the excavated material. The remainder majority of the material excavated is returned to the finished landscape through the rehabilitation process. Specifically, the application includes the following:

- Estimated mining of 65,000 tonnes of heavy mineral concentrate over a 142.3ha area;
- Mining activities are scheduled to take approximately 18 months, with a further two years to complete rehabilitation at the completion of the mining period;
- Mining within Lot 63 is proposed to occur in stages with the first quarter earmarked to commence in January 2024 and completion in July 2025;
- Mining will progress at between 15ha to 20ha per month. While a significant proportion of land rehabilitation post mining will also occur in this period, a further two years is provided for the completion of rehabilitation works;
- Hours of operation are 24 hours a day, seven days a week, however during evening and night time periods (7:00pm-7:00am) all mining earthwork activities cease and only mineral processing activities will be undertaken involving the screening plant fed by a front end loader and the wet concentrator plant would remain in operation; and



- Mining area infrastructure includes the screening plant, pipelines for transportation of water and ore slurry, electric substations and temporary overhead power lines.

The applicant has provided the use of the minerals as described in the table below:

Mineral	Common Use
Leucoxene	Feedstock for the production of titanium dioxide, a white pigment used in the manufacture of paper, paint, plastics and rubber and used as an inert filler in a variety of goods including toothpaste, sunscreens and some foodstuffs.
Zircon	Foundry sand Ceramics

Full details of the proposal are contained within **attachment 3**.

#### Excavation Program

The applicant provided information that the mining operations would involve four key stages, which are clearing of vegetation, topsoil stripping, ore extraction and rehabilitation of the land. The area is proposed to be mined at an average depth of between 1-2m, the maximum depth being 6m on sand dunes.

The method of extraction is described as follows:

- Topsoil will be removed to a nominal depth of 100mm, recovered, and stockpiled for future spreading directly onto areas to be revegetated;
- Some topsoil stockpiles will be positioned to act as visual and/or noise bunds along the boundaries of the mining area. The topsoil is returned to the mined areas later in the rehabilitation process;
- Excavated material is stockpiled and deposited in a mobile Mine Feed Unit (MFU), which screens the material to remove tree roots, rocks etc. and mixes the excavated material with water creating a 'slurry';
- The slurry is pumped through pipes to an off-site Wet Concentrator Plant (WCP), which separates the usable minerals from the slurry before pumping it back to the site, backfilling the already mined areas. Soil amendment is then added and the area is seeded and established back into pastoral land;
- Heavy Mineral Concentrate (HMC) produced at the wet Concentrator plant will be stockpiled on site prior to transporting to Doral's Picton Dry Separation Plant, located approximately 120km south of the mine, for separation using magnetic and electrostatic processes;
- Once processed, HMC products are hauled by truck to either the Bunbury Port or Fremantle Port for export; and
- The landform is rehabilitated and revegetated in stages in accordance with the Rehabilitation Management Plan and eventually restored to pasture and agricultural land.



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## **Community / Stakeholder Consultation**

The application was advertised for a period of 21 days from 1 June 2023 to 22 June 2023 to surrounding landowners within a 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 consultation, three letters of objection were received. It is important to note that the objectors are outside the 2km radius prescribed under the Ministerial Approval which is discussed later in the report. The objections are discussed under the relevant headings of the report and are summarised into the following issues:

- Noise;
- Dust;
- Clearing of vegetation; and
- Impact on the environment, groundwater and surface water.

A full copy of the submissions together with the applicant's response and Officer commentary is contained within **attachment 4**.

### **Stakeholder Consultation**

A Community Consultation Framework has been prepared to guide the applicant's engagement with the local community as a part of the existing mining operations. The applicant advised that stakeholder engagement has been ongoing throughout the life of the Keysbrook operations. This consultation has been in the form of regular meetings and community updates through newsletters as required for specific development or operational updates. In support of its plans to expand mining operations within Lot 63, engagement commenced at the start of 2021. Table 5 of the application details various stakeholder consultations that have occurred for the proposed expansion of mining operations.

### **Consultation with other Agencies or Consultants**

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

The application was referred to DWER who did not object to the proposal but provided advice on the following key issues and recommendations which can be viewed within the summary of submissions.

- Native Vegetation;
- Industry Regulation;
- Floodplain Management;
- Groundwater Licence; and
- Contaminated Sites.

#### Officer Comment

These recommendations are discussed within the relevant sections of the report. The site is subject to Keysbrook Mineral Sands Statement No. 810 (Ministerial Approval) which approved the proposal under the *Environmental Protection Act 1986* (EP Act). The Minister has granted the requested amendments under section 45C (1) of the *Environmental Protection Act 1986* to include that additional mining area.





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The Department of Mines, Industry Regulation and Safety (DMIRS)

The application was referred to DMIRS who provided the following comments:

- *DMIRS has determined that this proposal raises no significant issues with respect to mineral and petroleum resources, geothermal energy, and basic raw materials. DMIRS lodges no objections to the above extension of time and amendment.*

Department of Biodiversity, Conservation and Attractions (DBCA)

- *It is DBCA's expectation that the proposal will comply with the requirements of Ministerial Statement's 810 and 1089, the subsequent 46c and 45c Environmental Protection (EP) Act approvals, the Part V of the EP Act Environmental Licences, and that any additional mining areas will be subject to EPA assessment and advice.*

## **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
- State Planning Policy 2.5 - Rural Planning (SPP 2.5)
- State Planning Policy 2.1 - Peel Harvey Coastal Plan Catchment (SPP 2.1)
- State Planning Policy 2 - Environment and Natural Resources (SPP2)
- EPA's Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial and Sensitive Land Uses No. 3

### Local Planning Framework

- Shire of Serpentine Jarrahdale Local Planning Scheme No. 3 (LPS3)
- *Shire of Serpentine Jarrahdale Local Planning Strategy (LPS)*
- Local Planning Policy 1.4 - Public Consultation for Planning Matters (LPP1.4).
- Local Planning Policy 4.10 - Extractive Industries (Including Extraction of Mineral Sand and Other Minerals) (LPP 4.10)

## **Planning Assessment**

Clause 67 of the Deemed Provisions lists matters to be considered in the determination of development applications. A full assessment was carried out against the current planning framework in accordance with Clause 67 of the Deemed Provisions which can be viewed within the technical assessment **attachment 5**. As previously stated, the application has also undergone an assessment as part of the EIA process, which culminated in the Minister's decision to approve the development under the auspices of the *Environmental Protection Act 1986*. It is appropriate that a decision of a local government not seek to replicate or vary conditions that a Ministerial decision under the *Environmental Protection Act 1986* has imposed, and as such conditions imposed by the Ministerial Approval are not replicated within the Officer recommendation.



### Land Use

The application seeks approval for the extraction and processing of heavy mineral sands from silica sand deposits across the subject site. This falls within the land use category of 'Mining Operations' in accordance with LPS3, which is defined as:

***"Mining Operations - means premises where mining operations, as that term is defined in the Mining Act 1978 section 8(1), is carried out."***

The definition of Mining Operations under the Mining Act 1978 is as follows:

***"Mining Operations - means any mode or method of working whereby the earth or any rock structure stone fluid or mineral bearing substance may be disturbed removed washed sifted crushed leached roasted distilled evaporated smelted combusted or refined or dealt with for the purpose of obtaining any mineral or processed mineral resource therefrom whether it has been previously disturbed or not and includes -***

- (a) the removal of overburden by mechanical or other means and the stacking, deposit, storage and treatment of any substance considered to contain any mineral; and*
- (b) operations by means of which salt or other evaporites may be harvested; and*
- (c) operations by means of which mineral is recovered from the sea or a natural water supply; and*
- (d) operations by means of which a processed mineral resource is produced and recovered; and*
- (e) the doing of all acts incident or conducive to any such operation or purposes;"*

Within Table 3 - Zoning Table of LPS3 'Mining Operations' is an 'A' use in the zone meaning that the use is not permitted unless Council has exercised its discretion to permit the use after community consultation has been undertaken.

### Metropolitan Region Scheme (MRS)

As determined by SAT with the initial application, the Shire has delegated authority to determine the development applications under the MRS in this particular proposal.

### Ministerial Approval Statement No 810

As stated, the Minister for Environment approved the proposal under the *Environmental Protection Act 1986* (EP Act). This approval primarily relates to environmental protection and regulation and enforces a number of management plans that would generally be the responsibility of the Shire if there wasn't an environmental approval.

The Ministerial approval contains conditions requiring a comprehensive range of management plans and reporting on native vegetation, watercourses, wetlands rehabilitation, weed and dieback, water, acid sulphate soils, noise, air quality and dust. The specific management plans that are referenced in the Ministerial approval are as follows:

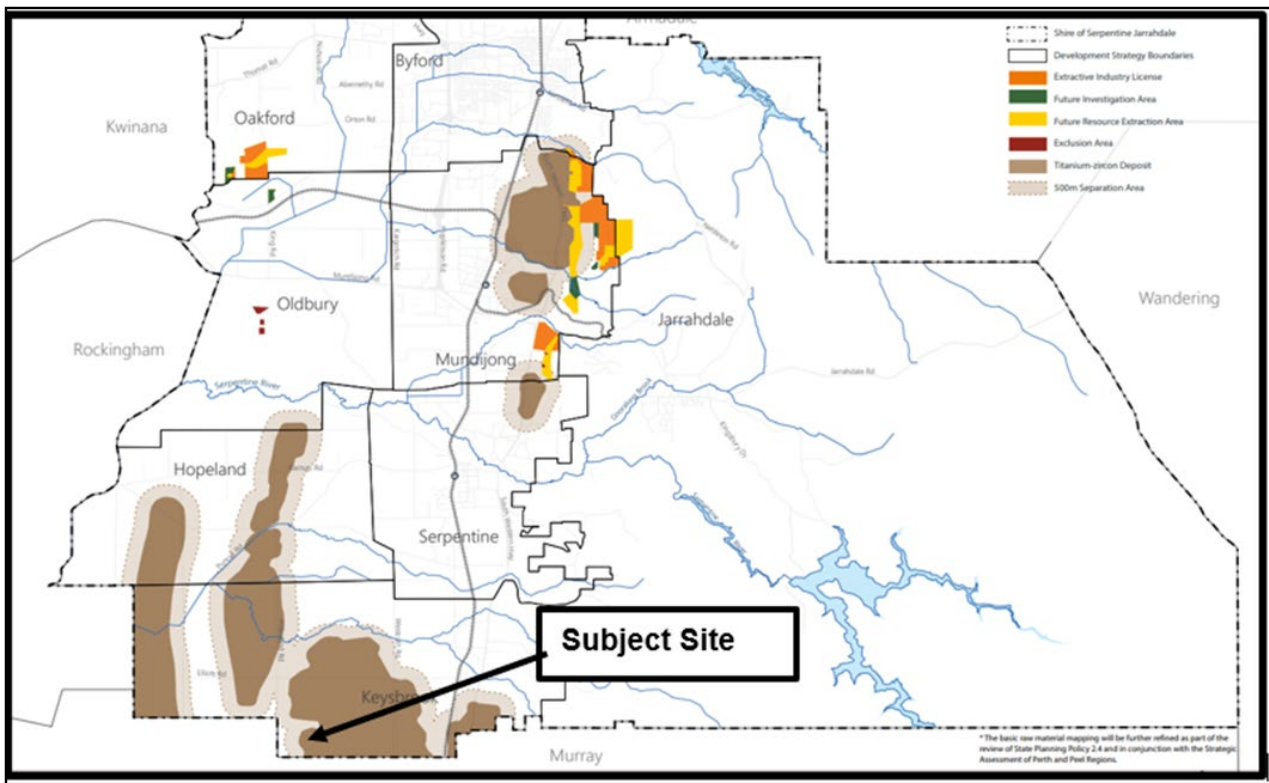
- Air Quality and Dust Management Plan;
- Acid Sulphate Soils Management Plan;
- Noise Monitoring Plan;
- Rehabilitation Management Plan;
- Dieback and Weed Management Plan;



- Nutrient Management Plan;
- Water Management Plan;
- Performance Review Report; and
- Compliance Assessment Plan.

### Local Planning Strategy (LPS)

The subject lot is designated as Rural Land under the LPS. The objectives of rural land under the LPS seek to protect large rural lots for productive rural uses and agricultural production. The LPS also recognises existing mining operations within the Shire registered with the Department of Mines, Industry Regulation and Safety, most notably for bauxite, titanium and zircon. The subject site is within a mining operation area for 'Titanium-zircon' deposits under the LPS as depicted following:



### Local Planning Scheme No.3 (LPS3)

The subject site is zoned 'Rural' under LPS3. The objectives of the zone are as follows:

- *To provide for the maintenance or enhancement of specific local rural character.*
- *To protect 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 limited range of non-rural land uses, only where they have demonstrated a direct benefit to the local community and are compatible with surrounding rural uses.*

Whilst the proposal is not strictly considered a 'rural use', mining operations of this nature are typically located in rural areas due to the location of the minerals. The site is an established mining operation that has been in existence for over a decade carried out alongside rural uses. It is considered that the use is compatible with the existing surrounding rural uses. Furthermore, at the end of the mining operations the site will be rehabilitated back to pasture land. Given the majority of the excavated material is returned to the landscape this particular operation has less impact on the rural landscape than a typical extractive industry.

The proposal is considered to benefit the local rural community through the rehabilitation process. The addition of soil amendments and planting of native vegetation contributes towards providing more productive rural land for future uses.

The subject site is located within Special Control Area 3 - Agri Food Processing and Production (SCA3) of LPS3. The provisions of SCA3 aim to minimise land uses that impact agri-food processing and production processing industries on potentially incompatible and sensitive land uses. The application details that progressively the land would be rehabilitated to pastureland with a productive capacity that would fully support future agriculture land uses. The pasture program includes the use of appropriate seed mixes and fertilisers/soil ameliorants. The proposal would only temporarily restrict the opportunity for agricultural pursuits within Lot 63 for a period of approximately four years, which is considered to be reasonable in the context of mining.

Sequential mining and progressive rehabilitation may result in parts of the area being returned to agricultural land uses well within this timeframe. Rehabilitation of mined areas within the project area to date has demonstrated the ability to re-establish agricultural land with an enhanced ability to retain nutrients and moisture, which is consequently of improved agricultural productivity, consistent with government strategic planning objectives for the development of the Peel Food Zone.

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

The purpose of this policy is to protect and preserve 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. Within the Perth and Peel Region, it is recognised that rural land will become more contested as land is required for other purposes including mineral sand mining. An extract from the State Planning Policy 2.5: Agricultural and Rural Land Use Planning states the following:

*“Mineral extraction should be regarded as generally acceptable, subject to assessment on their individual merits in rural areas. In order to assess the individual merits of a proposal, an application must be accompanied by sufficient information to demonstrate potential impacts on amenity, the potential for land use conflict and the potential to threaten the viability of agricultural pursuits on adjacent and nearby properties.”*

As previously stated, rehabilitation will result in the land returning to pasture once excavation is complete and the land would be suitable to be used for productive rural uses. As discussed, rehabilitation of the land commences soon after ore excavation is completed. The process involves backfilling the mine void with sand and clay tailings returned from the Wet Concentrator Plant. The image below shows previously mined areas that have been rehabilitated.





Plate 5: Pasture establishment on rehabilitation area (October 2018)

The rehabilitation is considered to ultimately achieve consistency with the aims of SPP2.5.

State Planning Policy 2.0 - Environment and Natural Resources (SPP2.0)

SPP 2.0 identifies mineral resources, petroleum resources and basic raw materials as important natural resource assets and a vital part of the economy, contributing 30% of Western Australia's gross domestic product. The policy indicates that mineral production is very diverse with over 50 different minerals in commercial production. Generally, the policy provides a framework to decision making bodies on matters concerning the environment and natural resources which should be taken into account in planning decision-making, while acknowledging the inherent difficulties of balancing conflicting needs.

Officers consider that this application is consistent with the policy as it processes minerals that directly and indirectly contributes to the West Australian economy. The application provides that current market pricing is strong for the products of leucosene and zircon minerals in the orebody. The project currently provides employment for approximately 75 staff comprising of employees and contractors from within and around the Shire.

Officers consider the proposal can adequately address the environmental requirements through the implementation of management plans, as well as conditions that regulate these aspects. Officers are satisfied that the proposed extraction of ore if carefully managed will not result in land degradation and will not have a detrimental impact on the amenity of the locality, consistent with state planning policy framework.

State Planning Policy No. 2.1 - The Peel-Harvey Coastal Plain Catchment

The subject site is located within the Peel-Harvey catchment area. This policy ensures that changes to land use within the catchment to the Peel-Harvey Estuarine System are controlled so as to avoid and minimise environmental damage. Land uses which are likely to drain towards the Peel-Harvey Estuarine System, should be managed to reduce or eliminate nutrient export from the land.

The majority of the proposal, including the southern section of Lot 63, is located within Nambelup Brook North sub catchment, which eventually discharges to in the Serpentine River Catchment System as shown in the diagram below:







State Planning Policy No. 2.9 - Water Resources

SPP 2.9 seeks to protect water resources and to minimise export of nutrient and non-nutrient contaminants entering water resources. The proposed mining area includes the superficial Bassendean sand aquifer and the deeper Leederville Aquifer which are likely to be impacted by the proposal during excavation of the mineral sands. Some pits will be excavated below the water table and will require dewatering to ensure safe operating conditions. The application details that the localised and temporary dewatering of the shallow aquifer is only required during the wetter months (winter and spring) and consequently is unlikely to affect superficial groundwater levels on surrounding properties. In summer and autumn, the groundwater level will usually be below the level of the pit floor and no dewatering will be required.

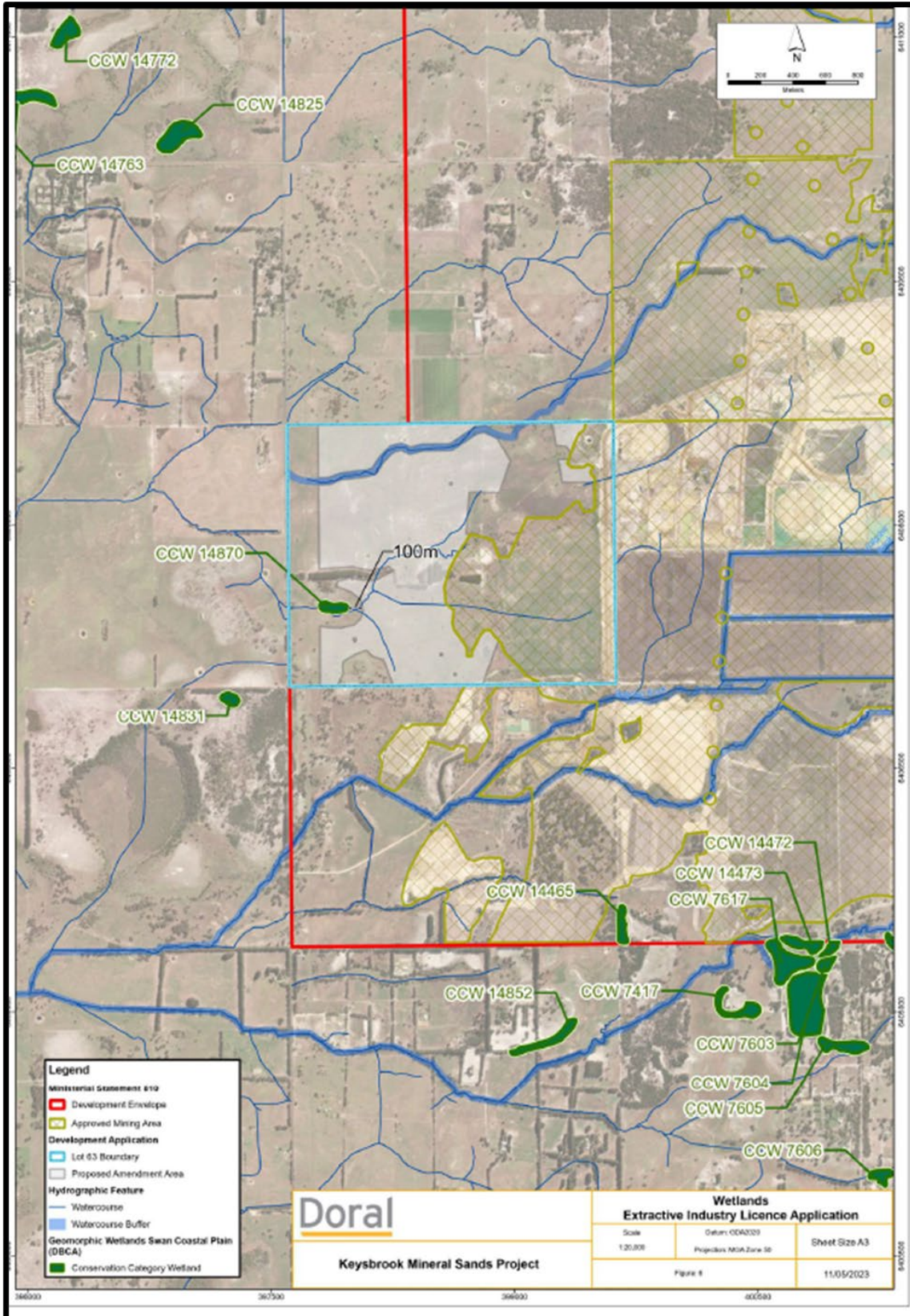
During the consultation period concerns were raised that the volume of groundwater to be abstracted, and dewatering required, would potentially impact on the availability of and quality of groundwater for domestic and rural uses. The applicant has provided information that the project to date, has not adversely compromised any existing local groundwater quality and quantity. Notwithstanding that, Officers consider that monitoring and management measures to prevent adverse impacts to local groundwater and surface water should be ongoing to ensure that adjoining sensitive receptors who also draw groundwater from the same aquifer are not adversely impacted upon. This is associated with Condition 11 of the Ministerial Approval which requires monthly monitoring of water levels and quarterly monitoring of the water quality to mitigate potential impacts caused by the mining operations and also to ensure the actual impacts are not greater than predicted.





## Wetlands

The subject site contains a Conservation Category Wetland (CCW) (UFI 14780) located on the western boundary of the area as seen in the figure following:







The CCW is listed under the Geomorphic Wetlands, Swan Coastal Plains dataset (GWSCP, DBCA-019) as a palmspan (seasonally waterlogged flat) type wetland. The majority of the site is mapped as palusplain wetlands that have been cleared for agriculture and classified as Multiple Use Wetlands (MUW). All proposed disturbance for the proposal is located within the MUW.

During the consultation period, concerns were raised that the project would result in a reduced water table potentially impacting negatively on the wetlands. The application details that the site has been designed and will be operated to minimise surface water flow changes and ensure that potential contaminants are not released into the wetland. To protect the wetland from any pollution a 100m buffer will be maintained between the wetland and operational areas of the mine, this is required by way of a condition under the Ministerial Approval. No direct disturbance to any CCW will occur as part of the proposal. In addition, the application provides that all mining activities would be undertaken in accordance with the Water Management Plan which defines the approach to be adopted for management of groundwater and surface water (Condition 11 of the Ministerial Approval). Officers are satisfied that the project would not adversely impact on the wetland and the existing water courses and drainage lines if the buffers are maintained as presented in the application.

The Department of Biodiversity, Conservation and Attractions (DBCA) considers that the proposal and any potential environmental impacts can be appropriately addressed through the existing planning framework. DBCA's expectation is that the proposal will comply with the requirements of the Ministerial approvals.

#### Local Planning Policy 4.10 - Extractive Industries (Including Extraction of Mineral Sand and Other Minerals) (LPP4.10)

LPP 4.10 defines mineral sands as “*sand containing economic quantity of titanium minerals*”. The policy sets out requirements when assessing an application for mineral sands situated on private land. Under the policy, if the ‘Acceptable Development’ criteria are met, an application is considered appropriate. If a proposal does not meet the Acceptable Development criteria, the applicant must demonstrate how the proposal meets the ‘Performance Criteria’. The proposal is considered generally consistent. A full assessment of the policy measures is contained within **attachment 5**.

In addition, Appendix B of the LPP specifically relates to applications for mineral extraction and lists matters that are required to be addressed as part of a development application. These matters include environmental factors, visual impact, transport, amenity and rehabilitation. These matters are all considered under the relevant headings of the report.

#### **Amenity**

##### Environmental Protection Authority (EPA) - Guidance Statement No.3

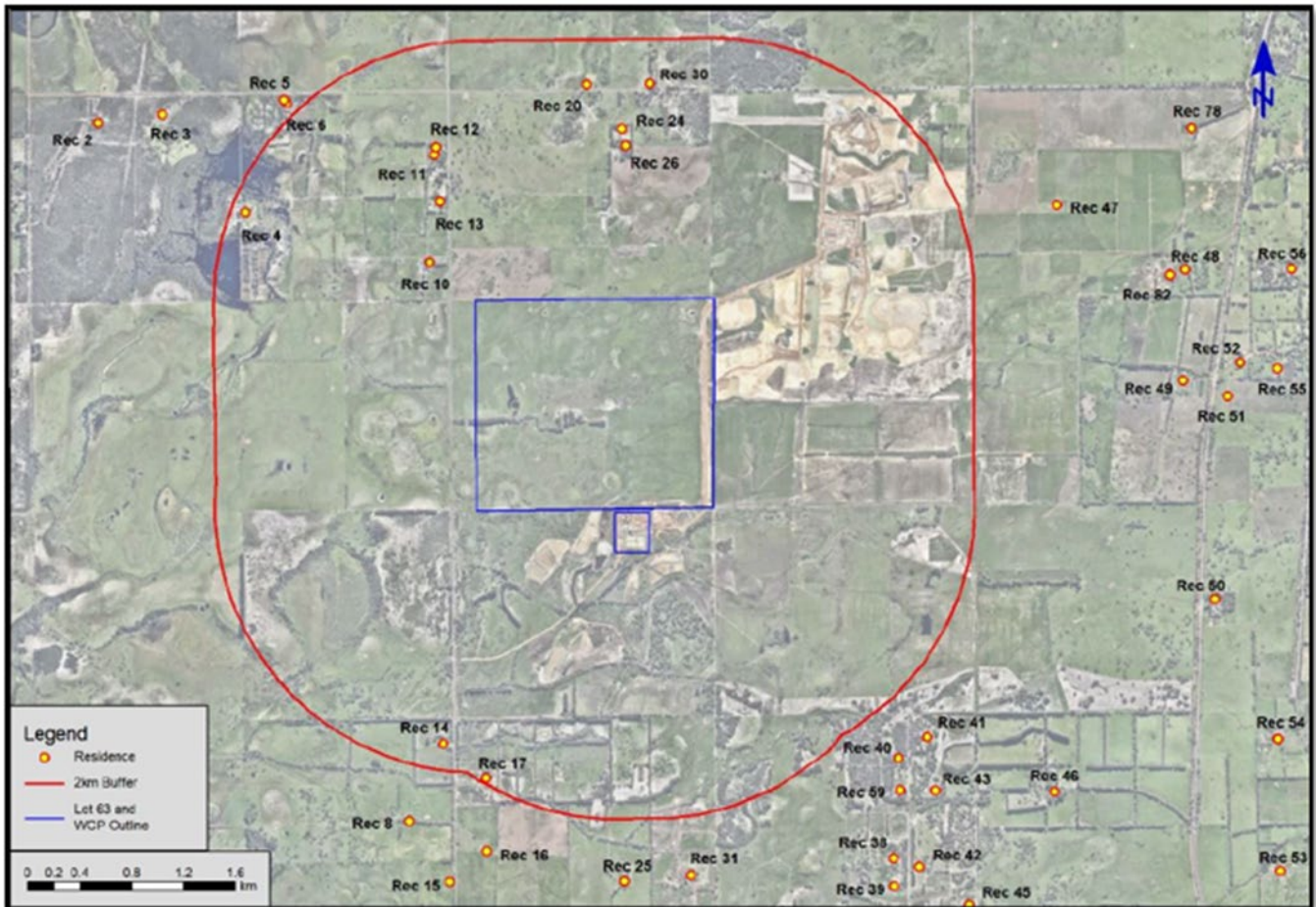
The Environmental Protection Authority Guidance Statement Note 3 - Separation Distances between Industrial and Sensitive Land Uses (Guidance Statement) provides guidance on generic separation distances between industries and sensitive land uses. The purpose of these separation distances is to avoid or minimise the potential for land use conflicts. The recommended separation distance between mineral sand (dry processing only) and sensitive land uses is 1km-2km.

Clause 2.3 of the document defines a sensitive land use as:

*“Land use sensitive to emissions from industry and infrastructure. Sensitive land uses include residential development, hospitals, hotels, motels, hostels, caravan parks, schools, nursing homes, child care facilities, shopping centres, playgrounds and some public buildings”.*



The sensitive receptors within the 2km radius are depicted in the diagram following:



**Location of Noise Sensitive Receptors within 2km of Proposed Mining Operations**

There are 12 sensitive receptors within the generic 2km separation distance. Two of the sensitive receptors to the south (Rec 14 and 17) are within the Shire of Murray, located outside the Shire boundary. Where sensitive receptors are located within the separation distance, technical reports are required to be provided to demonstrate how specific impacts (dust and noise) proposed to be managed.

As discussed above, the site is subject to a Ministerial Approval which provides a framework and process for amenity agreements to be put in place. Such an agreement acknowledges that from time to time amenity impacts may exceed what is considered expected or appropriate at sensitive receptors.

### Noise

Noise from a 24-hour mining operation has the potential to impact on the health of residents and amenity of a rural environment by way of noise. The project noise limits are based on the *Environmental Protection (Noise) Regulations 1997* (Regulations) and the requirements of the Ministerial Approval which stipulates separation distances that are required to be maintained between the mining operations and noise sensitive areas **unless** an amenity agreement is in place with the owner and/or occupier of the noise sensitive premises.

The applicant provided an Environmental Noise Impact Assessment (ENA) for the mining operations which can be viewed in **attachment 6**. The ENA describes noise modelling that has



been undertaken to demonstrate how mining processes and rehabilitation operations can be managed to achieve compliance with the project noise limits specifically set out in the Ministerial Approval and the *Environmental Protection (Noise) Regulations 1997* (the Regulations).

The Regulations set out the maximum allowable noise levels that may be received at nearby sensitive receptors. In this case, computer modelling Sound PLAN LLC was used to predict noise levels at the nearest sensitive receptors and to generate noise contours surrounding the operations.

In accordance with the Ministerial Approval, daytime noise emissions from mining and processing operations are not subject to noise limits for receptors with amenity agreements within 2km. However, indoor noise limits will apply during the evening and night-time periods. Since mining operations are restricted to daytime hours only, these indoor (evening and night time) limits are applicable to noise emissions at receptors within 2km of mineral processing activities. Beyond 2km, or for receivers without amenity agreements, noise emissions must comply with the Assigned Levels defined in the Regulations.

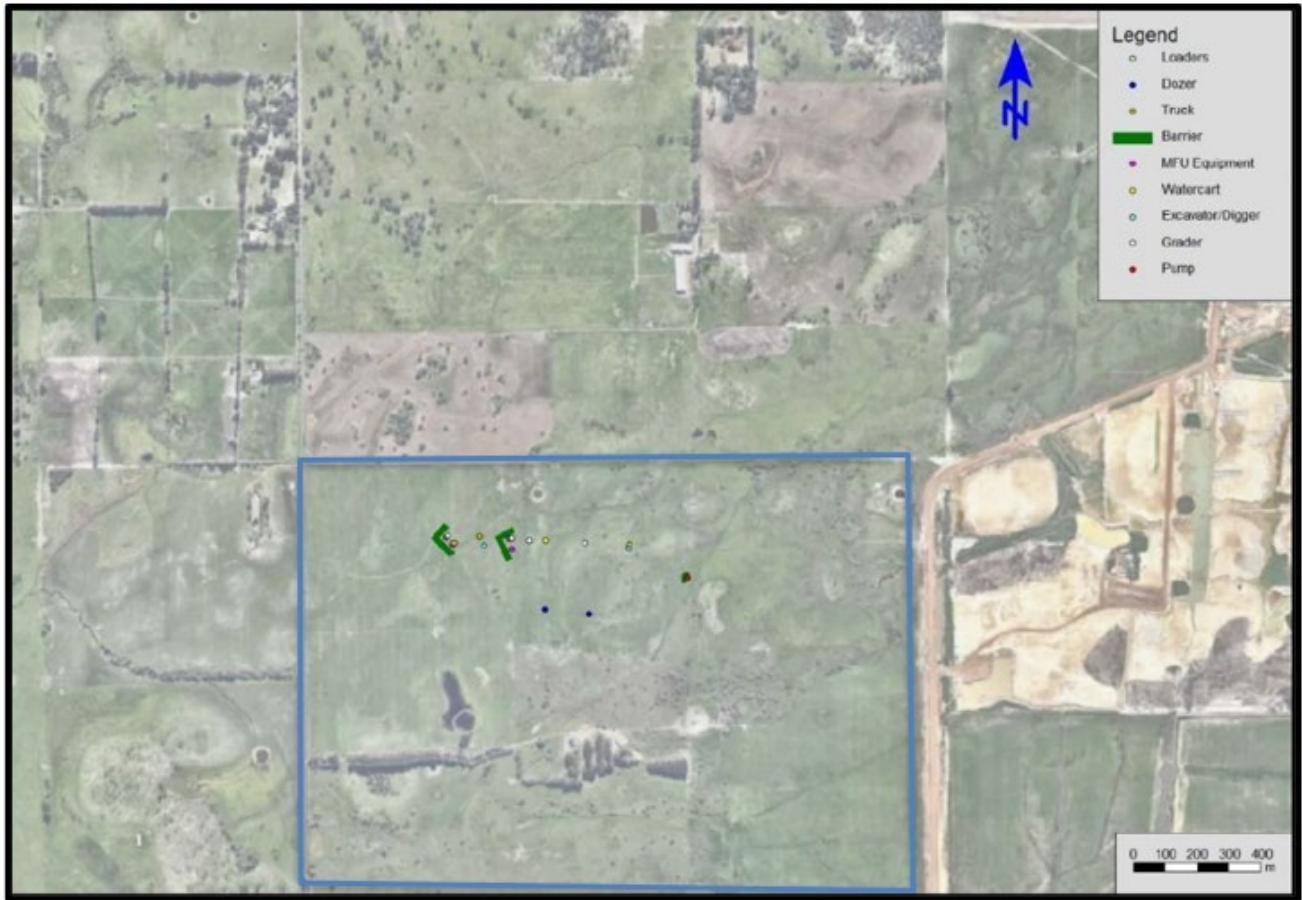
The Ministerial Approval requires that LA10 noise emission levels received indoors during evening and night-time periods do not exceed 30 dB(A) and 25 dB(A) (+ influencing factor) respectively.

**Table 2-2 – Project Noise Limits in dB(A)**

Receptors	Weekday	Evening and Sunday/Public Holiday	Night
Sensitive receptors with an amenity agreement	-	40	35
Sensitive receptors without an agreement	40	35	30

Noise modelling scenarios for day and night time operations were undertaken to assess noise generated from the proposal against the assigned levels for during the day and night. Noise generating sources and emissions included the extraction activities (use of excavators), the use of the front-end loader and haul trucks transferring the ore to the mobile screening plant. Maintenance activities also involve operation of the excavators, haul trucks dozers, graders and water trucks for rehabilitation and road preparation and maintenance activities. The figure following shows noise source locations and location of noise barriers:





Noise modelling scenarios have been developed with mining equipment situated at locations representing worst-case operational impacts for receptors within the 2km zone surrounding the operations. Noise level predictions have been undertaken for day and night-time operating scenarios:

- **Night-time:** Minerals processing operations only; and
- **Daytime:** Mining operations including ore extraction and transport, road maintenance and dust suppression, tailing and rehabilitation, plus minerals processing operations.



The results for night time operation scenarios for all properties within (or close to) the 2km zone surrounding the proposed operations are depicted following:

### 5.1 Night-time Mineral Processing

Table 5-1 – Noise Level Predictions for Night-time Operating Scenarios

Receptor <sup>9</sup>	Predicted Noise Level for Night-time Operating Scenario dB(A)
4	24.0
5	22.8
6	22.9
8	23.3
10	<b>33.6</b>
11	<b>32.3</b>
12	<b>32.3</b>
13	<b>32.5</b>
14	26.1
16	24.5
17	26.6
25	24.9
31	25.0

For the night time, modelled results demonstrate that some receptors (presented in bold) are likely to receive noise above the Assigned Levels of 30 dB(A). However, none are located beyond 2km and, therefore, predicted levels are below the project limits for all receptors with amenity agreements.



## 5.2 Daytime Mining & Mineral Processing

**Table 5-2 – Noise Level Predictions for Daytime Operating Scenario**

Receptor <sup>10</sup>	Predicted Noise Level for Daytime Operating Scenario dB(A)
4	37.2
5	36.1
6	36.3
8	32.2
10	<b>47.6</b>
11	<b>43.2</b>
12	<b>42.9</b>
13	<b>45.6</b>
14	35.1
16	32.0
17	34.4
25	31.3
31	31.2

For the day time, modelled results demonstrate that some receptors are likely to receive noise above the assigned levels. However, none are located beyond 2km and, therefore, predicted levels are below the project limits for all receptors with amenity agreements. As detailed in the tables above, the proposal would comply with the Noise Regulations and as such it is considered that the proposal would not result in adverse amenity impacts by way of noise. Compliance was demonstrated assuming implementation of the following noise mitigation measures:

- Noise bunds at mobile screening plants oriented to attenuate sound propagation towards the nearest affected receptors;
- Noise barrier at field pump oriented to attenuate sound propagation towards the nearest affected receptors;
- Predicted noise levels do not exceed the Assigned Levels at any receptors beyond the 2km buffer zone surrounding the mining operations; and
- Mineral processing can be undertaken at all times; however, mining operations are restricted to weekdays (Monday to Saturday) 12 only.

Furthermore, the Ministerial Approval recommends noise management and monitoring measure and as such it is considered that no further measures are required as part of this application.

### Dust

Mining Operations have the potential to generate dust during the mining stages including the removal of overburden, stripping of topsoil, mineral excavation, loading and stockpiling. Dust may also be generated by vehicles using the access roads within mining areas. Dust has the potential



to adversely impact amenity particularly due to the strong easterly and westerly winds prevalent in the locality. The application details that, based on the data from initial environmental impact assessment for the project, the highest risk of dust generation is from cleared or active areas exposed to easterly and south westerly winds during dry periods and that elevated dust levels exceeding threshold values were attributed to surrounding agricultural land and activities.

To support the application an updated Air Quality and Dust Management Plan (AQDMP) was submitted in accordance the Ministerial Approval (**attachment 7**). The application details that the updated AQDMP reflects improved dust management and monitoring practices through the review of ongoing mining activities.

The table below identifies the main sources of air borne dust as follows:

**TABLE 2: POTENTIAL AIR EMISSION PROJECT RISKS**

Source	Activity	Potential Pollutants	Inherent Risk
Mining & Exploration	Clearing and grubbing	Dust TSP, PM <sub>10</sub>	High
	Topsoil removal		
	Excavating		
	Truck loading		
	Heavy and light vehicle movements		
	General materials handling		
	Exposed areas susceptible to wind		
Land rehabilitation works			
Processing Area	Fixed plant	Dust TSP, PM <sub>10</sub>	Medium
	General materials handling		
	Exposed areas susceptible to wind		
Fuel consumption	Heavy mineral concentrate stockpiling	Dust TSP, PM <sub>10</sub>	Low
	Fixed and mobile plant		
	Pumps and compressors		
Ancillary	Heavy and light vehicles	Exhaust emissions NO <sub>x</sub> , SO <sub>x</sub> , CO, VOC's, PM <sub>10</sub>	Low <sup>1</sup>
	Fuel storage (venting)		
		VOC's, PAH's	Negligible <sup>2</sup>

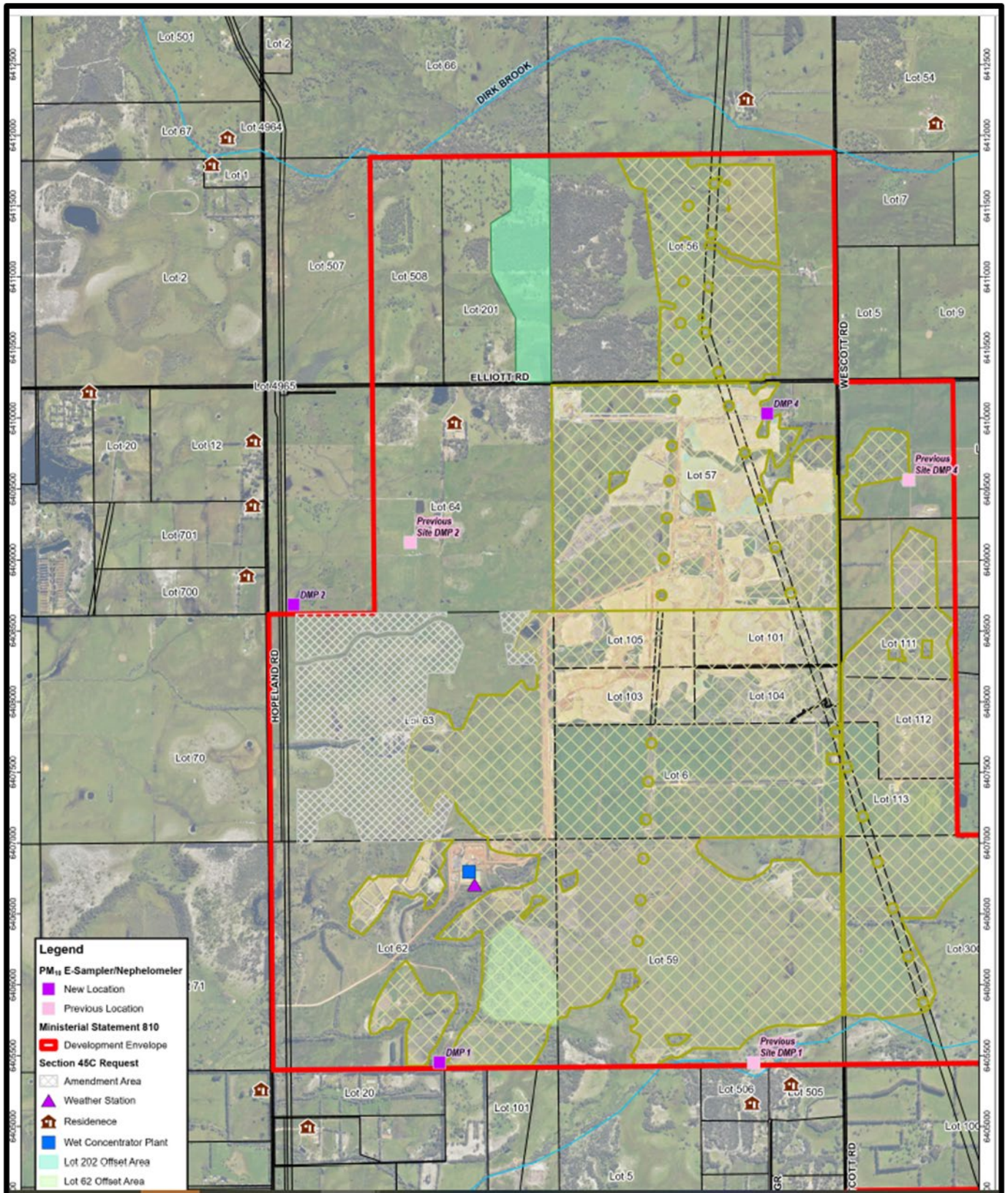
Modelling of air quality impacts from the initial mining operations was undertaken using the Victorian EPA's AUSPLUME (Version 6.0) air dispersion model. The model predicted potential worst-case ground-level concentrations of particulates and determined that without management and mitigation measures there was potential for air quality and dust impacts on those residences that are within 300m of active mining.

During the consultation process, concerns were raised in relation to dust impacting residents particularly to the north especially in summer with the high easterly winds.





To reduce the dust impacts on sensitive receptors and to improve dust management and monitoring practices, the AQDMP contains an intensive dust monitoring program which includes placement of monitoring equipment around the periphery of the project area as shown in the figure below:







The location of the monitors (nephelometers) was guided by the location of mining and rehabilitation activities, prevailing seasonal wind conditions, proximity of mining activity to sensitive human receptors and characterising of airborne dust concentrations upwind and downwind of the disturbance footprint. Data collected from the nephelometers would be analysed in conjunction with meteorological data to investigate and inform potential exceedances and address any dust concerns raised.

The application further details that the key overall dust management controls as follows:

- *Sowing of a 'dust crop' comprising of rye grass mix to open areas of profiled tails sand as an interim measure prior to the replacement of topsoil.*
- *Use of 'slime carts' which are modified water carts which allow the spreading of clay fines 'slimes' to open areas and stockpiles in preparation for and during moderate to high-risk weather conditions.*
- *Identification of activities and meteorological conditions conducive to dust generation.*
- *Establishment of standard practices to minimise dust generation. These practices reflect the risk of potential dust impacts on residents including their proximity to active mining.*
- *Use of weather forecasting to refine short term mine planning and associated activities;*
- *Monitoring of wind speed and direction, TSP and PM10 dust emissions from mining activities at selected boundary locations as well as at other locations within the Project area in order to identify and mitigate operational dust emissions.*
- *Implementation of a proactive consultation and communication procedure to inform residents of proposed mining activities in proximity to their dwellings and/or to respond to complaints efficiently.*
- *Development and implementation of contingency measures in the event of verified elevated dust events.*

Notwithstanding the amenity agreements that are in place for all sensitive receptors with the 2km radius, the operations are still required to comply with the air quality exceedance thresholds stipulated in the Ministerial Approvals. The application details additional operational dust management controls for worst case scenarios to be implemented when mining operations for this site are occurring with the 300m buffer as follows:

- *Planting dust crops during winter and spring - this process involves planting oats into areas that are not fully rehabbed to reduce dust lift;*
- *Suspending mining during high winds and commencing mining operations later in the morning once the easterly winds have eased;*
- *Ceasing afternoon mining operations in strong south westerly winds and running extra water carts during high winds and also after hours in the anticipation of high winds;*
- *Running water/clay fines carts 12 hours during night shifts 6pm to 6am when strong winds are forecast and increasing the fleet of water carts from 2 to 3 for extra application of water and clay fines;*
- *Application of clay fines as a dust suppressant, the application of clay fines via a water cart to provide a 'crust' on the soils surface to reduce dust lift off;*



- *Modifying a water cart to increase the application rate of clay fines via a dribble bar, providing a thicker crust that forms over the exposed soil.*

Based on the information provided, Officers consider that dust can be appropriately managed. The Ministerial Approval sets out the requirement to fully implement the management and monitoring measures and therefore Officers do not recommend further conditions in this regard.

### **Environmental Considerations**

#### Shire's Local Planning Policy No 26 - Biodiversity Planning (LPP26)

LPP26 recognises the need to protect, restore and manage the Shire's landscapes and biodiversity. The relevant objective of the policy is to protect, maintain and improve the viability of habitats, ecological communities, flora and fauna, and genetic diversity. The policy outlines measures to be taken to minimise the impact of the proposed development on biodiversity, including measures to restore and protect natural areas, ongoing management of natural areas, and revegetation of new areas.

#### Flora and Fauna

The long-lasting biodiversity impact that mining operations can have on a landscape and its potential impacts on flora and fauna is an important planning consideration. The operations include clearing of up to 0.13ha of miscellaneous isolated scattered shrubs/trees (melaleuca trees) which require removal to facilitate mining. During the consultation period, concerns were raised in regard to the clearing of native vegetation and its impact on the landscape and natural nesting habitats for local wildlife including the protected Black Cockatoo.

The application details that an additional Flora and Vegetation Survey of the proposed amendment area within Lot 63 and surrounds has been undertaken to assess the quality of the vegetation within the additional area. The assessment targeted a search for threatened and priority flora within the survey area. The assessment was against a criterion of rarity, biodiversity, representatives of flora and vegetation Condition.

As a result of the survey, it was identified that three species of significant black cockatoo use the region as foraging and breeding habitat. It was however identified that the mining area does not contain any declared or rare species of flora. It specifically states that no threatened flora or matters of National Environmental Significance (vegetation communities) occur within the mining area. The remnant vegetation areas in the proposed mine area are predominantly mature trees which do not contain foraging and/or breeding habitat for the protected Black Cockatoo.

The Department of Water and Environmental Regulation (DWER) consider the proposal likely to be exempt from requiring a clearing permit under Schedule 6, Clause 2 of the EP Act. The Minister has granted approval on the basis that these are not significant amendments as defined in section 3(1) of the *Environmental Protection Act 1986*. However, submitted that further applications for removal of trees may not be able to be considered under section 45C of the *Environmental Protection Act 1986*.

### **Rehabilitation and Management**

The long-lasting biodiversity impact that mining operations can have on a landscape is an important planning consideration. There is potential for such operations to degrade the landscape's visual and biodiversity value. Concerns were raised in regard to the rehabilitation of the site, the extended time of operations and the ability for the Shire to enforce the effective management and rehabilitation processes which have been proposed in the application to be able to retain the land to pastureland.



The applicant has provided a Conservation and Rehabilitation Management Plan contained within **attachment 8**. The plan outlines actions to be undertaken for the mine rehabilitation which considers the long-term stability and sustainability of the landforms, soils hydrology of the site and the re-establishment of ecosystem capacity to provide habitats for biota and services for people. The management plan also outlines the process of revegetation and biodiversity management that is to be continued over the site to ensure that it is rehabilitated over time to achieve final and full rehabilitation once the mining operations on the site has ceased.

The key provisions of the plan are aimed at returning the land to its pre-mining use through the implementation of broad actions to be undertaken for the rehabilitation process which includes progressive replanting, revegetation, erosion control and monitoring as follows:

- *Establishing self-sustaining local provenance native vegetation appropriate to the underlying landform in planned areas including: Establishing native vegetation corridors between local high value ecological areas.*
- *Establishing native vegetation at a ratio of not less than 1.4 hectares of revegetation for every one hectare of native vegetation cleared. Revegetated areas are required to be agreed with landowners to ensure they fit within the required management strategies of the land post mining.*
- *Monitoring will be undertaken to assess parameters related to pasture establishment during the period the rehabilitated land is managed. It is expected that pasture areas will be returned to the landowner within two years of rehabilitation being completed.*
- *Improving the ecological function of local major watercourses*
- *Ensure a net gain in the extent and quality of breeding and foraging habitat for the Carnaby's Black Cockatoo, Baudin's Black Cockatoo and the Forest Red-tailed Black Cockatoo.*
- *Re-establishment of functioning pasture.*
- *Re-establish a productive soil profile through the addition of lime, in accordance with rehabilitation procedures capable of supporting the target end land use.*
- *Weed and dieback Management.*

Officers are satisfied that through this plan, the site can be comprehensively rehabilitated over time once the extraction on the site has ceased.

#### Visual Amenity

To protect and enhance the landscape character and amenity of rural landscape likely to be impacted by mining operations, LPP 4.10 requires a Visual impact assessment to be undertaken in accordance with the "Visual Landscape Planning in Western Australia - a manual for evaluation, assessment, siting and design" Western Australian Planning Commission, 2007. The mining area generally presents a flat slightly undulating rural landscape as shown in the diagram following:





**View of the site from Hopeland Road**

Any visual impact would be on road users travelling along Hopeland Road and from elevated positions along the Darling Scarp to the east. The application details that visual screening for the operational phase will be predominantly achieved through the temporary use of soil bunds. As the land is returned to the pre-mining contours, the application considers that there is no long-term impact on landform or visual amenity given that the operation will be completed within 18 months.

With the existing approvals, the applicant submits Visual Impact Assessment compliance reports. Due to the close proximity of the proposed mining area to the road network and adjoining neighbours to the west, Officers considered that further screening would be required to ensure that development does not have an adverse visual impact on passing traffic and adjoining neighbours to the west. As such Officers recommend a Condition requiring a Landscaping Plan to require vegetation along the western boundary.





Traffic

Access for mine workers to and from the site would be via driveway onto Hopeland Road. The application also details those occasional deliveries of rehabilitation materials (e.g. compost and lime) will utilise Elliott Road to the north during periods of seasonal rehabilitation works. This is consistent with current practice, delivering materials to rehabilitation areas to the south via Westcott Road to the west. No haulage of heavy mineral concentrate will occur within the Shire. The haulage contractor responsible for transporting to Picton and either the Bunbury Port or Fremantle Port for export holds permits issued by Main Roads WA for the use of roads along the transport route for Restricted Access Vehicles.

Officers consider that traffic generated by the proposal would not adversely impact on network or that any upgrades are required.

Extractive Industry Licence

Under the Shire of Serpentine Jarrahdale Local Law: Extractive Industry, all such operations are required to obtain a license prior to the operations occurring. The criteria within the Local Law is generally assessed through the planning process. Key considerations are identified as amenity impacts, consultation and traffic impacts, which are all required to be assessed.

Officers do not have delegation to issue an Extractive Industry License; rather Council is required to determine this. Officers recommend Council approve the issue of a license conditionally as part of this process, for a period of one and half years.

**Options and Implications**

Option1

That Council:

1. APPROVES the development application for the ‘Mining Operations’ at Lot 63 Hopeland Road, Keysbrook subject to the following Conditions:
  - a. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other Conditions of this consent.

Plans and Specifications	P1 - Application Details received at the Shire on 23 May 2023 P2 - Environmental Noise Impact Assessment P3 - Dust Management Plan P4 - Rehabilitation Plan Amendment to Ministerial Statement 810 dated 16 October 2023
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- b. This approval is valid for a period of two years (24 months) from the date of this approval which does not include rehabilitation and related activities.
  - c. Prior to operation of the development, a Landscaping Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Plan shall identify additional screening to be planted along the western lot boundary, to effectively screen the development. The Plan shall identify a commitment to maintain and replace vegetation where necessary. Once approved, the Landscaping Plan must be implemented, and vegetation maintained.



- d. The landowner shall submit an annual report to the Shire by 31 March each year. The annual report shall include an internal compliance audit of all the development and licence approval Conditions and management plans. The annual report shall also provide details relating to complaints and complaint responses, and all proactive and reactive interventions taken to address issues raised or identified.
2. APPROVES an Extractive Industry Licence at Lot 63 Hopeland, Keysbrook under the Shire of Serpentine Jarrahdale Extractive Industries Local Law subject to the following Condition:
  - a. The landowner/licensee shall operate the site in accordance with the Shire of Serpentine Jarrahdale's Extractive Industry Local Law and the Shire's development approval Conditions for an extractive Industry at Lot 63 Hopeland Road, Keysbrook.
3. AUTHORISES the Chief Executive Officer to issue an Extractive Industry Licence, in accordance with this decision.

#### Option 2

That Council REFUSES the extension and amendment to the existing approval for the 'Mining Operations' at Lot 63, Hopeland Road, Keysbrook for the following reasons:

- a. The locality will be subject to unacceptable noise impacts which will adversely impact the amenity of the area;
- b. The locality will be subject to amenity impacts associated with dust, due to the extensive mining and the practical difficulties of maintaining dust control during and post mining periods.

Option 1 is recommended.

#### **Conclusion**

The application seeks approval for mining of mineral sands focused on producing zircon and leucoxene minerals for a period of eighteen months, with a further two years to complete rehabilitation at the completion of the mining period. The proposed development is subject to a Ministerial Statement, which governs many of the elements of the proposal that would otherwise be enforced by Local Government. Officers are satisfied that the management plans in place under the Ministerial Statement are sufficient to ensure the amenity of the area will be protected and recommend approval.

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

- **10.1.1 - attachment 1** - Development Approval (E23/13367)
- **10.1.1 - attachment 2** - Ministerial Approval (E23/14235)
- **10.1.1 - attachment 3** - Application Details (E23/14245)
- **10.1.1 - attachment 4** - Summary of Submissions (E23/7939)
- **10.1.1 - attachment 5** - Technical Assessment (E23/14243)
- **10.1.1 - attachment 6** - Environmental Noise Assessment (E23/13316)
- **10.1.1 - attachment 7** - Air Quality and Dust Management Plan (E23/13322)
- **10.1.1 - attachment 8** - Conservation and Rehabilitation Management Plan (E23/13325)



### Alignment with our Strategic Community Plan

<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.
<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

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	That Council approves the development but amenity issues arise and these cause community concerns.	Shire of Serpentine Jarrahdale Local Planning Scheme No. 3	Social / Community Outcomes	Possible	Moderate	MODERATE	Ensure suitable conditions so that these potential amenity impacts can be managed.
2	That Council refuses the development application for the 'Industry Extractive' and the decision is appealed to the SAT, which requires independent planning representation in order to defend the decision.	Shire of Serpentine Jarrahdale Local Planning Scheme No. 3	Financial	Possible	Moderate	MODERATE	Council provides detailed valid planning reasons for its decision.



**Voting Requirements:** Simple Majority

**Officer Recommendation**

**That Council:**

**1. APPROVES** the development application for the 'Mining Operations' at Lot 63 Hopeland Road, Keysbrook subject to the following Conditions:

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

<b>Plans and Specifications</b>	<b>P1 - Application Details received at the Shire on 23 May 2023 P2 - Environmental Noise Impact Assessment P3 - Dust Management Plan P4 - Rehabilitation Plan Amendment to Ministerial Statement 810 dated 16 October 2023</b>
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- b. This approval is valid for a period of two years (24 months) from the date of this approval which does not include rehabilitation and related activities.
- c. Prior to operation of the development, a Landscaping Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Plan shall identify additional screening to be planted along the western lot boundary, to effectively screen the development. The Plan shall identify a commitment to maintain and replace vegetation where necessary. Once approved, the Landscaping Plan must be implemented, and vegetation maintained.
- d. The landowner shall submit an annual report to the Shire by 31 March each year. The annual report shall include an internal compliance audit of all the development and licence approval Conditions and management plans. The annual report shall also provide details relating to complaints and complaint responses, and all proactive and reactive interventions taken to address issues raised or identified.
- 2. APPROVES** an Extractive Industry Licence at Lot 63 Hopeland, Keysbrook under the Shire of Serpentine Jarrahdale Extractive Industries Local Law subject to the following Condition:
- a. The landowner/licensee shall operate the site in accordance with the Shire of Serpentine Jarrahdale's Extractive Industry Local Law and the Shire's development approval Conditions for an extractive Industry at Lot 63 Hopeland Road, Keysbrook.
- 3. AUTHORISES** the Chief Executive Officer to issue an Extractive Industry Licence, in accordance with this decision.





**10.1.2 - Proposed 'Recreation - Private' (Gym and Swim School) and 'Shop' - Lot 2, 640 South Western Highway, Byford (PA23/391)**

<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:	CF Town Planning & Development
Owner:	Byford SVP Pty Ltd ATF The Stavretis Property Trust No. 3
Date of Receipt:	12 June 2023
Lot Area:	4,052m <sup>2</sup>
Local Planning Scheme No 3 Zoning:	'Urban Development' plus 'Additional Use 18'
Metropolitan Region Scheme Zoning:	'Urban Development'

**Report Purpose**

The purpose of this report is for Council to consider a development application for a 'Recreation - Private' land use (Gym and Swim School) and a 'Shop' at Lot 2, 640 South Western Highway, Byford.

The report is presented to Council as five submissions were received either objecting to or raising concerns with the proposal during the public consultation period. Officers do not have delegated authority to determine development applications where objections cannot be satisfied by way of amendments or through the imposition of conditions, in accordance with 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 planning framework and that the matters raised in the objections can be appropriately managed. It is therefore recommended that the application is approved subject to conditions.

**Relevant Previous Decisions of Council**

*Ordinary Council Meeting - 20 April 2020 - OCM091/04/20 – COUNCIL RESOLUTION / Officer Recommendation*

*That Council:*

- 1. Pursuant to Part 5 Schedule 2 Clause 35 (1) of the Planning and Development (Local Planning Schemes) Regulations 2015, ENDORSES the schedule of submissions and comments contained within attachment 2.*
- 2. Pursuant to Part 5 Schedule 2 Clause 36 of the Planning and Development (Local Planning Schemes) Regulations 2015, recommend to the Western Australian Planning Commission that the proposed Byford District Structure Plan amendment be APPROVED subject to this being a Special Use designation for Lot 2 South Western Highway, as set out in the Schedule of Modifications contained within attachment 3. Once modified, the Structure Plan amendment be forwarded to the Western Australian Planning Commission the following:*
  - a. A list of the submissions considered by the local government, as outlined within the Schedule of Submissions contained in attachment 2;*
  - b. Any comments by the local government in respect of those submissions, as outlined within the Schedule of Submissions contained in attachment 2;*
  - c. A schedule of any proposed modifications, as outlined in the Schedule of Modifications contained within attachment 3;*
  - d. The local government's assessment of the proposal based on appropriate planning principles, as contained within this Council report;*
  - e. A recommendation by the local government to approve the Byford District Structure Plan amendment, subject to modifications, as contained within this Council resolution.*

**Background**Existing Development

The subject site of approximately 4,000m<sup>2</sup> is located to the north of Byford. Thomas Road borders the site to the north and South Western Highway to the east, making the site a prominent gateway location into Byford from the north. The subject site is zoned 'Urban Development' under Local Planning Scheme No.3 (LPS3) and is designated 'Special Use' under the Byford District Structure Plan (DSP). The site has an additional use (No. 18) added pursuant to the new Scheme, which provides for a limited range of convenience retail/commercial land uses to occur, with provisions pertaining to development standards and interface considerations. Surrounding land uses primarily include residential development.



**Figure 1: Aerial image of the locality**

The subject site was historically used as a service station for approximately 45 years, from 1955 to 2000. This is a land use that has the potential to cause contamination. The site was reported to DWER because a series of contamination assessments, undertaken between 1999 and 2011, found that underground fuel infrastructure formerly present beneath the site had leaked, and that hydrocarbons were present in soil and groundwater.

Remedial works were undertaken in 2000 and 2003 where hydrocarbon-impacted soil was excavated and disposed of off-site, however, some impacted soil remained. Further investigations were carried out between 2003 and 2010 which found that soils had been successfully remediated to a depth of 4m but that hydrocarbons remained below 4m.

A detailed Health Risk Assessment undertaken in 2010 indicated that residual groundwater contamination and associated soil vapour does not pose an unacceptable risk to human health for commercial and industrial uses, subject to restrictions. However, the contamination may present an unacceptable risk for more sensitive land uses. The site is therefore classified by the Department of Environmental Regulation (DWER) as 'contaminated – remediation required'.

The subject land uses are commercial in nature but are however considered more sensitive than the service station land use. For this reason, the application has been referred to DWER – Contaminated Sites Branch for advice in this regard.

#### Proposed Development

The application seeks approval for the following components:

- A 970.45m<sup>2</sup> gym to the north of the site;
- A 365.66m<sup>2</sup> swim school to the east of the site;
- A 191.75m<sup>2</sup> shop to the south-east of the site;
- Landscaping proposed within the South Western Highway and Thomas Road verges; and
- Shared car parking facilities including 78 bays, and two access/egress points to the west (Hay Road).



Full details of the proposal are contained within **attachment 1**. Development plans of the proposal are shown following:

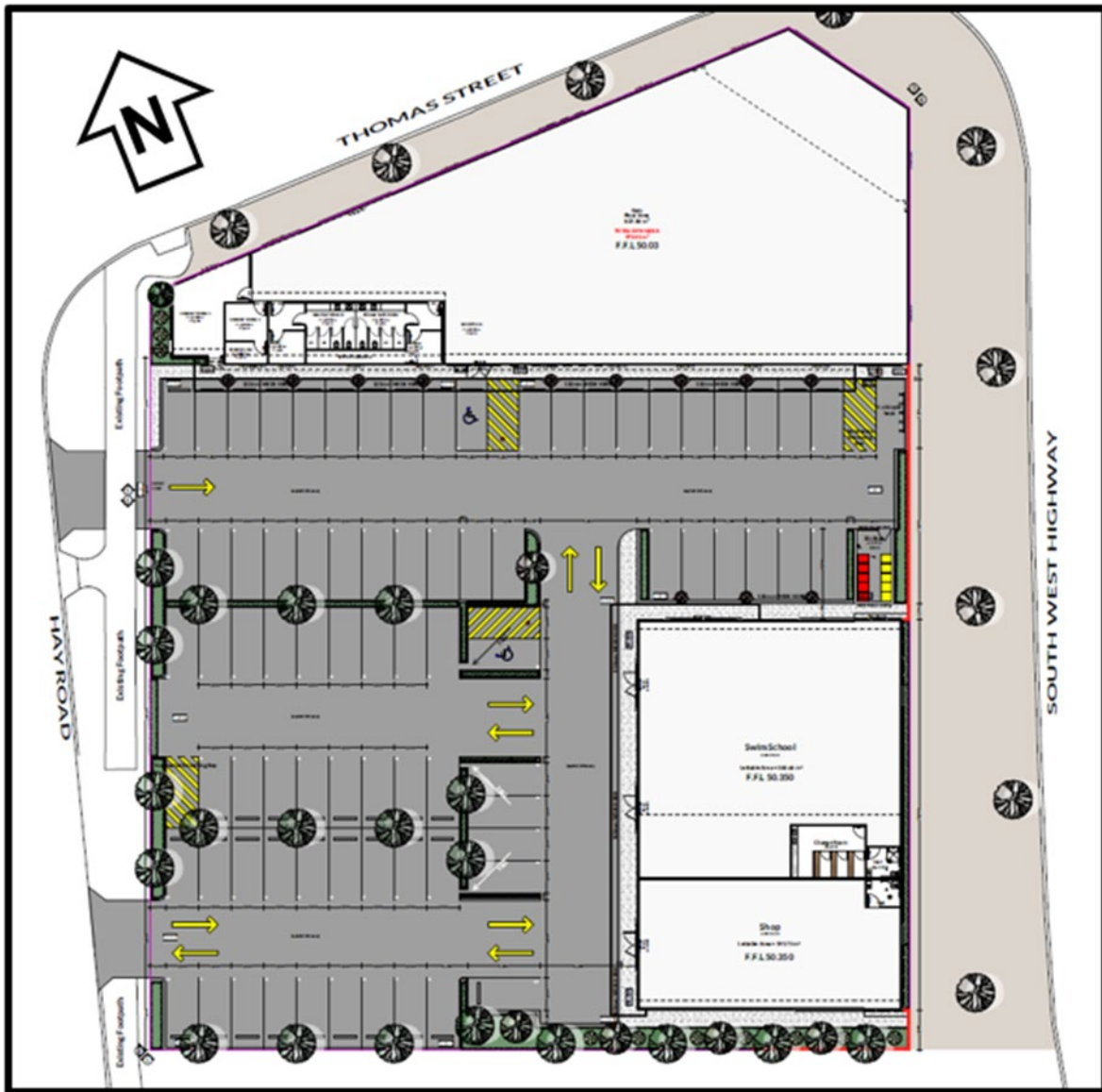


Figure 2: Site Plan





Figure 3: Perspective image of the swim school and shop



Figure 4: Perspective image of the gym

### Community / Stakeholder Consultation

The application was advertised for a period of 28 days from 21 June 2023 to 19 July 2023 to surrounding landowners within a 500m radius of the 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 consultation, seven submissions were received, consisting of five submissions either objecting or raising concerns with aspects of the proposal, and two submissions providing support or not raising objections.



The objections and concerns relate to the following issues which are discussed under the relevant headings of the report:

- Noise from the 24-hour operations;
- Traffic;
- Setback of the development to street boundaries by way of impact on pedestrians, vehicle sightlines and future road widening;
- Lighting; and
- Lack of parking.

A summary of the submissions received, including the applicant's response and Officer comments, is contained within **attachment 2**.

#### Main Roads Western Australia (MRWA)

Initially MRWA provided a submission advising that the Traffic Impact Assessment (TIA) identifies the development as 'high impact'. MRWA therefore requested further information in relation to the following:

- The ultimate layout of the Thomas Road and Hay Road intersection;
- Trip generation rates;
- Justification for the traffic flow distribution;
- Traffic count data; and
- A 'high impact assessment' and SIDRA analysis for both the Thomas Road/Hay Road and Thomas Road and South Western Highway intersections.

Subsequently, the applicant provided the requested information and MRWA provided a further submission advising that they have no objections to the proposal subject to conditions in relation to:

- Signage;
- No vehicular access from South Western Highway or Thomas Road; and
- No works being permitted in the road reserves without a permit.

These recommended conditions are reflected in the Officer recommendation.

#### Department of Water and Environmental Regulation – Contaminated Sites

As the site has been used for a potentially contaminating activity and is proposed to be developed for a more sensitive land use, DWER has recommended the following Condition and Advice Note

- a) *“Prior to commencement of development works, investigation for soil and groundwater contamination is to be carried out to determine if remediation is required.*

*If required, remediation, including validation of remediation, of any contamination identified shall be completed prior to the completion of construction works; to the satisfaction of the Shire of Serpentine Jarrahdale on advice from the Department of Water and Environmental Regulation, to ensure that the site is suitable for the proposed use.*



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*Investigations and remediation are to be carried out in compliance with the Contaminated Sites Act 2003 and current Department of Water and Environmental Regulation contaminated sites guidelines. (Department of Water and Environmental Regulation)*

**Advice**

*In relation to Condition [X] and in accordance with regulation 31(1)(c) of the Contaminated Sites Regulations 2006, a Mandatory Auditor's Report, prepared by an accredited contaminated sites auditor, will need to be submitted to the Department of Water and Environmental Regulation as evidence of compliance with Condition [X]. A current list of accredited auditors is available from [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)"*

This has been reflected in the Officer Recommendation.

**Statutory Environment**

Legislation

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

State Government Policies

- South Metropolitan Peel Sub-Regional Framework Towards Perth and Peel 3.5 Million
- State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP3.7)
- State Planning Policy 7.0 - Design of the Built Environment (SPP7.0)

Local Planning Framework

- Shire of Serpentine Jarrahdale Local Planning Strategy (Strategy)
- Shire of Serpentine Jarrahdale Local Planning Scheme No.3 (LPS3)
- Byford District Structure Plan 2023 (DSP)
- Local Planning Policy 1.4 - Public Consultation for Planning Matters (LPP1.4)
- Local Planning Policy 1.6 - Public Art for Major Developments (LPP1.6)
- Local Planning Policy 2.4 - Water Sensitive Design (LPP2.4)
- Local Planning Policy 4.15 - Bicycle Facilities Policy (LPP 4.15)
- Local Planning Policy 4.16 - Tree Retention and Planting (LPP4.16)
- Local Planning Policy No 24 - Designing Out Crime (LPP24)



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## Planning Assessment

Clause 67 of the Deemed Provisions lists matters to be considered in the determination of development applications. A full assessment was carried out against the planning framework in accordance with Clause 67 of the Deemed Provisions which can be viewed within **attachment 3**.

### Land Use

The gym and swim school are considered to fall within the 'Recreation - Private' land use and the shop is consistent with the 'Shop' land use. These land uses are defined under LPS3 as follows:

**Recreation - Private** - *"means premises that are -*

*(a) used for indoor or outdoor leisure, recreation or sport; and*

*(b) not usually open to the public without charge."*

**Shop** - *"means premises other than a bulky goods showroom, a liquor store large or a liquor store - small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services."*

The site is zoned 'Urban Development' under LPS3 where both land uses are discretionary uses with the 'Recreation - Private' land use requiring advertising.

Site specific land use permissibility is also contained within Schedule 1 - Additional Uses of LPS3. Under this schedule 'Recreation - Private' is a 'P' or permitted land use and the 'Shop' land use is an 'A' or discretionary use that requires advertising. The land uses are therefore capable of approval subject to a merits-based assessment.

### Local Planning Scheme No.3 (LPS3)

The objectives of the 'Urban Development' zone under LPS3 include the following:

*"To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development."*

Officers consider the proposal for a gym, swim school and shop are generally consistent with this. The proposed land uses are commercial in nature and offer services that support nearby residents.

Further to this, the additional use 18 under LPS3 provides for an objective to support a limited range of land uses that can be appropriately provided, having regard to the land's *"capacity to accommodate limited local convenience retail/commercial land uses in this location."*

The proposed development is considered to be generally aligned with the additional use objective also.

The site is designated 'Special Use' under the Byford District Structure Plan 2023 (DSP). Specific provisions outlining built form requirements are also included in the DSP and are now incorporated within the recently gazetted LPS3, via additional use 18. An assessment of these provisions is undertaken in the following section of the report.





### Form of Development

The planning framework now provides guiding principles and built form expectations for the specific site and states (inter alia):

*“The strategic location of this site at the intersection of South Western Highway and Thomas Road and the potential of this site to provide an entry statement to Byford requires other provisions to be included within the Byford District Structure Plan”.*

The site is prominently located at the entry to Byford from the north and careful consideration of the form of development is required to ensure a suitable entry statement, whilst respecting the interface with the existing residential development to the south and west. The relevant development standards contained within the DSP and LPS3 are addressed following:

<b>Byford District Structure Plan - Clause 1.7.2 &amp; LPS3 - Schedule 1 (A18) Assessment</b>	
<b>Provision</b>	<b>Comment</b>
<ul style="list-style-type: none"> <li>• In determining any application for development approval, the decision maker shall have regard to the scale and compatibility of proposed development with respect to the established residential amenity and character of the surrounding locality.</li> <li>• Development interfaces with existing residential development shall be designed to provide a compatible interface. Special design consideration should be demonstrated to address screening, separation, height and bulk moderation and/or noise attenuation measures necessary to mitigate potential impacts on adjacent premises.</li> </ul>	<p>The proposed buildings are single storey with a maximum height of 7.4m. The carpark interfaces with the residential development to the south and west. The buildings themselves would be located closer to the northern and eastern lot boundaries and therefore maintain a greater separation to the nearest dwellings to the south. The building directly abuts the Shire’s public open space reserve. As such, the built form effectively scales down towards the nearby residences, keeping the main commercial interface towards the key transit routes.</p> <p>The nearest residence to the south is directly adjacent to the proposed carpark. The carpark features landscaping internally and along lot boundaries. These measures are considered to soften the visual bulk of the buildings.</p> <p>Officers consider that a noise wall is warranted to the southern lot boundary to reduce amenity impacts to the nearest residences. This is discussed in detail within the noise and amenity section of the report.</p>
<ul style="list-style-type: none"> <li>• Built form shall be located/oriented to address Hay Street with active frontages to provide high quality street and pedestrian environment. Building design (including height, glazing, colours, textures and architectural</li> </ul>	<p>Complies. The swim school and shop propose active frontages to Hay Street. As seen following, the façade incorporates design elements such as articulation, an awning, differing building heights, a mixture of materials and large windows. Officers consider this provides a high degree of aesthetic interest, cognizant of rural and natural themes prevalent in the Shire. Through implementing these design features, Officers consider the development effectively provides a high-quality streetscape and pedestrian environment.</p>



**Byford District Structure Plan - Clause 1.7.2 & LPS3 - Schedule 1 (A18) Assessment**

Provision	Comment
<p>features) shall provide a high-quality aesthetic design that reflects a level of integration and consistency with the surrounding built form, and where relevant, address crime prevention and environment design principles. The position of the buildings (and any signage) shall have regard to the natural landscape and views from public vantage points.</p>	 <p>Clause 4.3(8) of LPS3 requires one tree for every four parking bays proposed. The development includes a total of 78 parking bays, requiring approximately 20 trees. The development as a whole provides 48 trees. Officers consider that this ensures a suitable level of vegetation cover is provided within the car parking area. This assists with managing issues of urban heat island effect and also improving the visual amenity of the development.</p> <p>With regard to crime prevention principles, this has been addressed in detail within the Local Planning Policy 24 - Designing Out Crime section of this report.</p> <p>Whilst the submitted plans include minimal signage, Officers recommend a condition requiring a Signage Strategy to be submitted and approved prior to the display of any signage.</p>
<ul style="list-style-type: none"> <li>Building form on the corner of Hay Street and Thomas Road shall be designed to reflect a prominent position with detailing to signify this corner. In terms of Thomas Road and South Western Highway frontages, development shall present aesthetic (non-active) edges only.</li> </ul>	<p>The building presents a detailed edge towards the Hay Street and Thomas Road corner. Design features including wooden paneling, windows and variation in building height are employed to identify the corner of the building.</p>  <p>Regarding the South Western Highway frontage, the development again complies with the requirement in that it</p>



Byford District Structure Plan - Clause 1.7.2 & LPS3 - Schedule 1 (A18) Assessment	
Provision	Comment
	<p>presents a suitably aesthetic, non-active façade. Officers consider that the façade of the swim school and shop tenancy also presents an opportunity for public art to be incorporated, as detailed below. A condition has been recommended to this effect.</p>  <p>The public art design is recommended to include natural and rural themes of the Shire, similar to the Dan Murphy's tenancy on George Street in the Byford Town Centre, as detailed following:</p> 
<ul style="list-style-type: none"> <li>Development shall be limited to a maximum of 1,000m<sup>2</sup> net lettable area (NLA) in aggregate across the site. No individual Shop-Retail tenancy shall exceed 500m<sup>2</sup> NLA floorspace.</li> </ul>	<p>The proposal seeks to vary this standard, by providing a net lettable area of 1527.86sqm which is above the 1,000sqm NLA. This is required to be assessed according to the underlying zoning of the subject land, and its specific zone based objectives.</p> <p>The objectives of the Urban Development zone seek:</p> <p><i>“To provide an intention of future land use and a basis for more detailed structure planning in accordance with the provisions of this Scheme.</i></p> <p><i>To provide for a range of residential densities to encourage a variety of residential accommodation.</i></p> <p><i>To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development.</i></p>



<b>Byford District Structure Plan - Clause 1.7.2 &amp; LPS3 - Schedule 1 (A18) Assessment</b>	
<b>Provision</b>	<b>Comment</b>
	<p><i>To provide an intermediate transitional zone following the lifting of an urban deferred zoning within the Metropolitan Region Scheme.</i></p> <p>The proposed development seeks approval for an aggregate Net Lettable Area (NLA) of 1,527.86m<sup>2</sup>. Of this, the shop retail component is only 192.75sqm.</p> <p>In consideration of the zone based objectives, the specific reference to “progressive and planned development of future urban areas” and “for commercial and other uses” provides guidance for assessment of the proposal. In this regard, the progressive and planned development of the activity centres for Byford needs careful consideration.</p> <p>The limit pertaining to net lettable area under the additional use provisions, recognises the importance of protecting the intended hierarchy of activity centres, which can support the sustainable development of centres overtime and their intended progressive and planned development. This is also an expressed outcome under Part 6(b) of State Planning Policy 4.2 (Activity Centres), which states that <i>“the primacy of activity centres is reinforced, and out-of-centre development does not undermine the hierarchy of activity centres.”</i></p> <p>Looking at the limit of 1,000sqm NLA, there is particular concern about the impact over development of the site could have in terms of activity centre development. There is also particular focus on the shop - retail component not exceeding 500sqm.</p> <p>In looking at over development from shop - retail perspectives, the definition of such is set through the Planning Land Use Category (PLUC) of Shop/Retail, which is defined as <i>“any activity which involves the sale of goods from a shop located separate to, and/or in, a shopping centre other than those included in Other Retail.”</i></p> <p>PLUC Other Retail deals with activities that are not normally accommodated in a shopping centre, by virtue of their scale and special nature of the goods (for example car sales yard or carpet showroom).</p> <p>In terms of this proposal however, both the gym and swim school come under the PLUC code of Entertainment/Recreational and Cultural, and do not constitute either PLUC Shop/Retail or Other Retail. This results in a likelihood that the main component of land use, is unlikely to have adverse impact on the progressive and planned development of the activity centres for Byford. The small component of shop - retail would also maintain the primacy of the developing main district centre to the south, and future</p>





<b>Byford District Structure Plan - Clause 1.7.2 &amp; LPS3 - Schedule 1 (A18) Assessment</b>	
<b>Provision</b>	<b>Comment</b>
	<p>neighbourhood centre to the west, which is a relevant assessment of compatibility with the zone.</p> <p>A key ongoing concern is that, should the uses seek to change over time, it would need to be very clear that the shop retail NLA component is limited to a maximum of 1,000sqm, and individually 500sqm. This forms a recommended condition of approval.</p> <p>As the site can also accommodate its carparking and access arrangements in a compliant manner with the Scheme, it is considered that the proposal provides for an extent of development that is manageable, and consistent with the planning framework. Furthermore, it is worth noting that the conditions restricting NLA under LPS3 relate to the 'additional uses' that are specific to this lot (as contained within Schedule 1). These uses and their permissibility are in addition to those uses listed in the Zoning Table. So, whilst the floor area restrictions are relevant to the proposed uses, as additional uses, there is the ability to exercise discretion and vary the requirements given the uses are also permissible under Zoning Table, not only as additional uses.</p>
<ul style="list-style-type: none"> <li>• Vehicle access is to be provided via Hay Road.</li> </ul>	<p>Vehicle access and egress are only proposed to Hay Road.</p>
<ul style="list-style-type: none"> <li>• Waste disposal and loading/unloading areas, internal to the site, are to be designed and located to reduce potential noise, visual and odour impacts on adjoining residential properties. Where possible, these areas should be integrated to improve internal traffic circulation.</li> </ul>	<p>The waste disposal area is located to the north-east of the site, set back from adjoining residential properties. It is screened by the buildings and a fence towards South Western Highway.</p> <p>The Traffic Impact Statement (TIS) suitably demonstrates that the movement of waste collection vehicles is safe and possible within the carpark.</p>
<ul style="list-style-type: none"> <li>• Landscaping is to form an integrated part of the development; include appropriate deep soil zones; and serve to screen car parking areas and positively interface with surrounding roads and residential properties. Landscaping should maximise the use of local native species.</li> </ul>	<p>The site features landscaped areas within the carpark and on the site boundaries. Officers consider that as the development abuts two significant verges, and that there are minimum setback setbacks to these boundaries, it is very important to moderate built form through an appropriately configured / layered landscaping treatment.</p> <p>This will require an updated landscaping plan, including an updated schedule to detail how vegetation shall be planted, the species to be planted, and the intended filtering of views to be achieved, etc.</p>



The proposed development is considered generally consistent with the built form requirements of the DSP and LPS3. The proposal results in a built form outcome that would suitably present as a landmark building when entering Byford. The built form also respects the interface of the site with residential development to the south and west.

### *Removal of Vegetation*

The site is predominantly cleared of vegetation, however, there are two local native red gum trees on the lot boundary in the south-eastern corner of the site. The position of the swim school and shop would result in the removal of these two trees. Local Planning Policy 4.16 - Tree Retention and Planting (LPP4.16) states that the removal of vegetation should generally not be supported unless they are suitably replaced. A Landscaping Plan has been provided that details planting broadly across the site. In addition to this landscaping, Officers have recommended a condition to require planting within the road reserves adjacent to the site which also addresses this in part. These measures are considered to sufficiently offset the loss of the two trees and satisfy the requirements of LPP4.16.

### Noise

Objections were received during the advertising period relating to noise. Officers consider that the protection of residential amenity is a key consideration during the planning assessment. It is also worth noting that the site is in close proximity to major transit routes, already potentially impacting upon amenity.

The applicant has provided an Acoustic Report to address the requirements of the *Environmental Protection (Noise) Regulations 1997 (Noise Regulations)* and potential amenity impacts. The closest sensitive receptors to the development are depicted following:



Figure 5: Image of the nearby sensitive receptors to this development



The acoustic assessment considers the main noise sources from the development as:

- Noise from within the health studio; including music and exercise activities;
- Mechanical plant on the exterior of the buildings; and
- Vehicles; including movements, doors opening and closing and engine noise.

Modelling is used to determine whether these noise generating activities comply with the requirements of the Regulations. Factors that are input into this modelling include; meteorological information, existing background noise from South Western Highway and standard noise (decibels) generated by the above listed activities.

The following series of tables are extracted from the Acoustic Report. They display the modelled noise level received by the sensitive receptors (dwellings), as identified in Figure 4, compared with the acceptable assigned levels. Each table addresses a single noise source:

**TABLE 5.2 –ASSESSMENT OF L<sub>A10</sub> NOISE LEVEL EMISSIONS – GYM USE**

Receiver	Assessable Noise Level,	Applicable Times of Day	Applicable Assigned L <sub>A10</sub> Noise Level (dB)	Exceedance to Assigned Noise
R1	25	Night Period	41	Complies
R2	16			Complies
R3	28			Complies
R4	20			Complies

**TABLE 5.4 –ASSESSMENT OF L<sub>A10</sub> NOISE LEVEL EMISSIONS - MECHANICAL SERVICES**

Receiver	Assessable Noise Level, dB(A)	Applicable Times of Day	Applicable Assigned L <sub>A10</sub> Noise Level (dB)	Exceedance to Assigned Noise
R1	37	Night Period	41	Complies
R2	33			Complies
R3	41			Complies
R4	40			Complies

**TABLE 5.1 – ASSESSMENT OF L<sub>A1</sub> NOISE LEVEL EMISSIONS – CAR MOVEMENTS**

Receiver	Assessable Noise Level,	Applicable Times of Day	Applicable Assigned L <sub>A1</sub> Noise Level (dB)	Exceedance to Assigned Noise
R1	33	Night Period	51	Complies
R2	25			Complies
R3	45			Complies
R4	43			Complies



**TABLE 5.3 –ASSESSMENT OF  $L_{AMAX}$  NOISE LEVEL EMISSIONS - CAR DOOR SLAMS**

Receiver	Assessable Noise Level, dB(A)	Applicable Times of Day	Applicable Assigned $L_{A10}$ Noise Level (dB)	Exceedance to Assigned Noise
R1	48	Night Period	61	Complies
R2	40			Complies
R3	59			Complies
R4	57			Complies

**TABLE 5.3 – ASSESSMENT OF  $L_{AMAX}$  NOISE LEVEL EMISSIONS - CAR STARTS**

Receiver	Assessable Noise Level, dB(A)	Applicable Times of Day	Applicable Assigned $L_{A10}$ Noise Level (dB)	Exceedance to Assigned Noise
R1	37	Night Period	61	Complies
R2	29			Complies
R3	46			Complies
R4	46			Complies

The Acoustic Report concludes that noise generated by the development would comply with the *Noise Regulations* at all times. Notwithstanding compliance with the Regulations, Council should be satisfied that the level of noise received at the dwellings is conducive to the level of amenity expected within this particular locality. It is also acknowledged that during the consultation period, concerns were raised in relation to noise, in particular from the 24-hour operations of the gym.

The layout of the development positions the gym to the north of the site, resulting in noise from gym activities and vehicles (starting engines and doors slamming) being located away from the residential area as far as practically possible.

The noise levels from mechanical equipment and vehicle noise are considered close to the assigned noise levels. Additionally, the only egress point of the site is towards the southern lot boundary, abutting a sensitive receptor. This egress point is adjacent to a main bedroom and habitable rooms of the residence to the south, as depicted following:





**Figure 6: Proximity of bedroom to main crossover**

Based on this, Officers consider that a Noise Management Plan is warranted to ensure noise is appropriately managed in perpetuity and to ensure that neighbouring residents are not adversely impacted upon by noise. It is recommended that a Noise Management Plan should include:

- An acoustic noise wall barrier along the southern lot boundary, to be built by the developer;
- Details of suitable noise shielding or buffering material to be installed around mechanical plant equipment;
- Details of building design and construction methods to ensure noise from within the gym is contained and managed within the building; and
- Car parking management to require customers attending the gym during the sensitive night period to only use parking bays to the north of the carpark, closest to the gym.

Overall, the noise from the development is considered capable of being managed to ensure it does not have an adverse impact upon neighbouring residents, subject to the Noise Management Plan.

### Traffic

Clause 67 of the *Deemed Provisions*, specifically (s) and (t) relate to the ability of a development to manage access and egress arrangements, and whether traffic generated by a proposal would be suitable considering the local road network. Concerns were raised during the advertising period relating to the potential traffic impacts of the development. To address this the applicant has provided a Traffic Impact Assessment (TIA).

By way of context, the local road network consists of South Western Highway to the east, Thomas Road to the north and Hay Road to the west. Site access and egress are proposed to Hay Road.



South Western Highway is designated a 'Primary Regional Road' under the Metropolitan Region Scheme (MRS). The portion of Thomas Road adjacent to the site is designated an 'Other Regional Road' under the MRS. Both these fall under the jurisdiction of Main Roads Western Australia (MRWA) who raised no objections to the proposal. Hay Road is a local access road under the jurisdiction of the Shire.

Key changes to the local road network are currently being undertaken separate to this development. The Thomas Road overpass bridge construction has now been completed and results in a modified layout to the intersection of Hay Road and Thomas Road. This maintains the current traffic access arrangements.

#### *Traffic Volumes*

The Western Australian Planning Commission's Transport Impact Assessment Guidelines (TIA Guidelines) provide standards for considering the impact a development would have on the local road network. The TIA Guidelines state that where the development would result in an increase of more than 10% of the traffic volume on a particular road, then it may have a material impact on that road.

The TIA models that a total of 734 vehicles per day (vpd) would be generated by all three aspects of the development. These would all access Hay Road which has a maximum desirable volume of 3,000 vpd as an 'Access Road'. The TIA estimates that approximately 800-1,200 vpd occur currently on Hay Road based on the number of residences serviced by the road. Officers consider that the 734 trips generated by the development along with the 1,200 existing movements would be within the 3,000 trip capacity of Hay Road. While the development would result in a greater than 10% increase to traffic volume, Officers consider that Hay Road would remain within capacity as detailed within the TIA. Additionally, as the site is close to the end of Hay Road, most of the extent of Hay Road would not be impacted by the additional traffic. Thomas Road and South Western Highway, which are 'Primary Distributors', have greater capacity of approximately 25,000 to 30,000 vehicles.

#### *Road Network Efficiency*

The peak periods for the development as a whole would be from 7:00am to 8:00am for the AM peak period and 6:00pm to 7:00pm for the PM peak period. During these times it is modelled that 81 (AM) and 124 (PM) vehicle trips would be generated, respectively. These calculations are displayed below, with the red circle indicating the total trips and the blue circle indicating the number of trips attending the site or leaving the site in their respective directions:

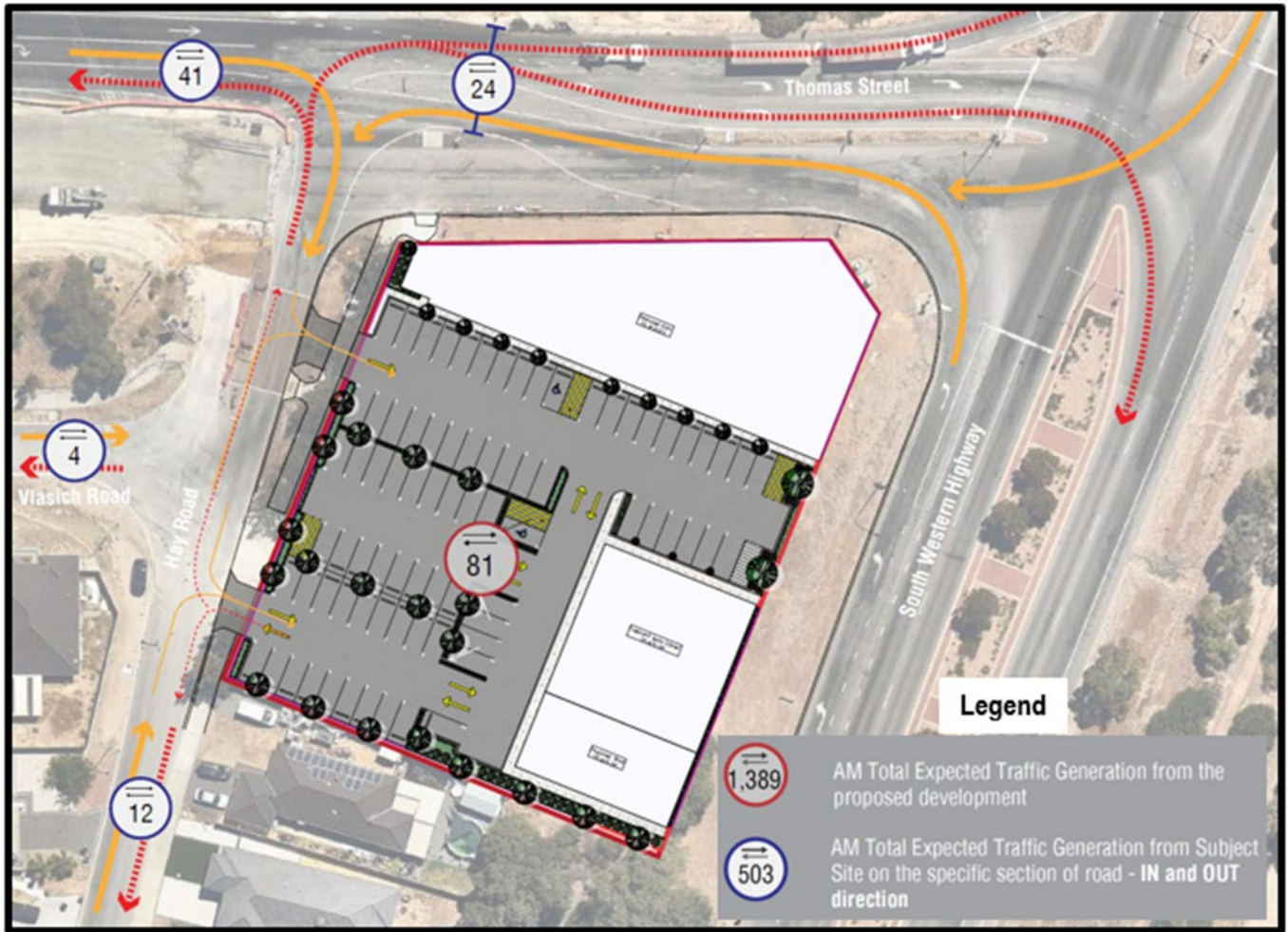


Figure 7: Peak AM period traffic distribution



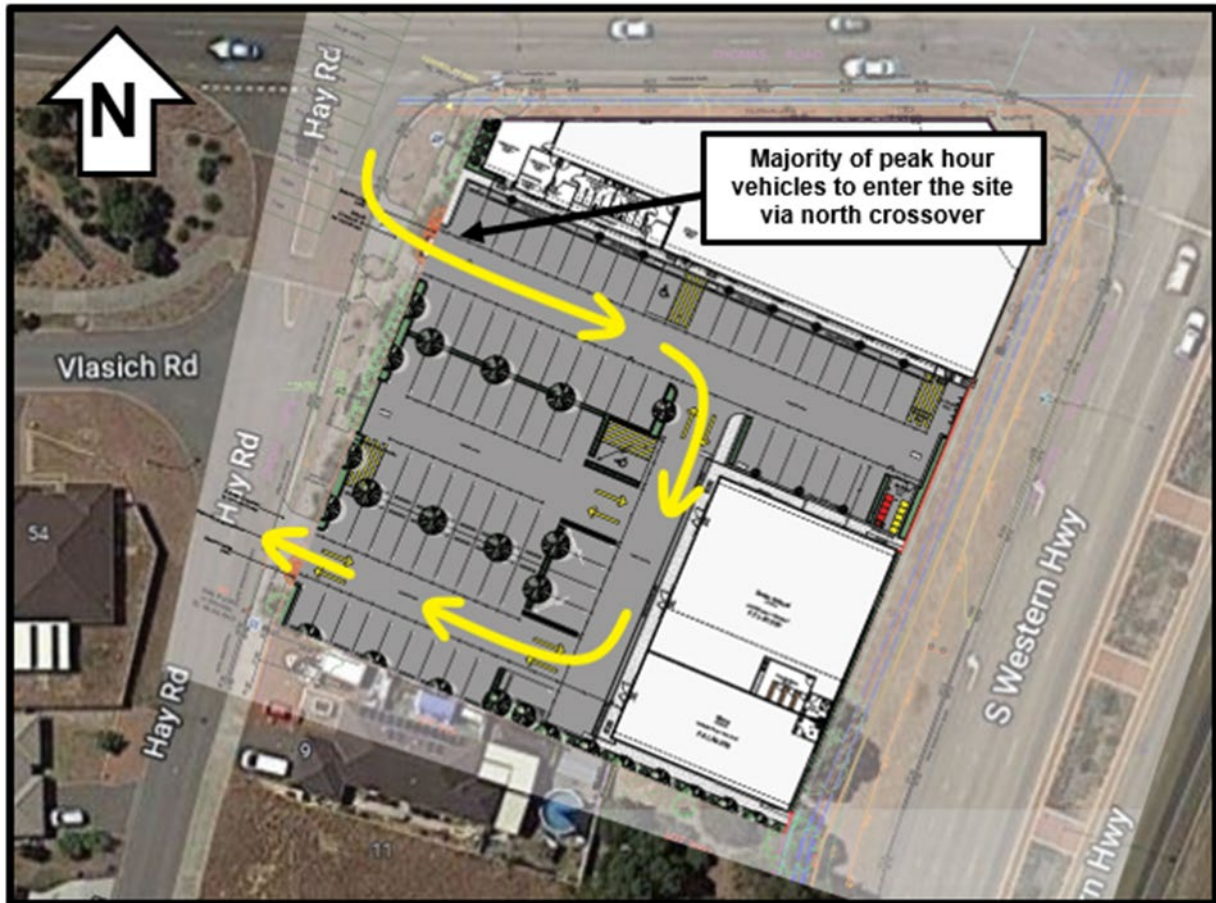


**Figure 8: Peak PM period traffic distribution**

As previously stated, MRWA raised concerns in relation to the potential for queueing on Thomas Road as vehicles enter the site as via Hay Road, especially during peak periods. As identified in the figures above, the majority of traffic attending site is projected to come from the west on Thomas Road. Subsequently, the applicant undertook a SIDRA analysis to determine whether the key intersections (Thomas Road/Hay Road and Hay Road/site entry) would perform in an effective manner given the projected increase in traffic. The results of the SIDRA analysis determined that all intersections would perform adequately accounting for the traffic generated by the proposal and the annual 3% background growth in a 2041 ultimate scenario. No significant queuing was identified and therefore no additional intersection or road upgrades are considered necessary. MRWA have since provided support for the proposal subject to conditions. These conditions have been incorporated into the Officer recommendation.

With regard to the access point and carpark layout, the TIA identifies that the majority of traffic attending the site would come from the north via Thomas Road, turn onto Hay Road and utilise the northern crossover to enter the site. This dominant vehicle movement is detailed as follows:





**Figure 9: The majority of vehicles are modelled to enter site via the north crossover**

The location of the northern crossover enables vehicles accessing the site to be quickly directed off Hay Road. Additionally, the sole egress point to the south-west ensures the greatest possible distance is maintained from the intersections of Hay Road/Vlasich Road and Hay Road/Thomas Road. These measures would help to minimise conflicts and increase driver safety. Officers consider that overall, the development appropriately manages traffic safety and that the road network has the capacity to accommodate the additional vehicles generated by the development.



### Car Parking

A concern was raised in objection to the proposal that the development would not have sufficient car parking. The relevant car parking standards under LPS3 are detailed below:

<b>Car Parking Assessment</b>					
<b>Land Use</b>	<b>LPS3 Requirement</b>	<b>Required Bays</b>	<b>Combined</b>	<b>Proposed</b>	<b>Complies?</b>
<b>Recreation - Private (Gym)</b>	1 space per 20m <sup>2</sup> of NLA, 1 bay per 4 spectator seats, 1 bay per employee	42.8 bays	77.3 bays	78 bays	Yes
<b>Recreation - Private (Swim School)</b>	1 space per 20m <sup>2</sup> of NLA, 1 bay per 4 spectator seats, 1 bay per employee	24.3 bays			
<b>Shop</b>	1 bay per 20m <sup>2</sup> of NLA	10.2 bays			

The proposed development complies with the LPS3 requirements and therefore Officers consider the car parking provision is adequate to cater for the development. In addition, the different uses would have differing peak periods which would further ameliorate strain on parking supply across the site.

### Waste Management

Each tenancy would be serviced by a central bin store area. Officers consider that if this is not correctly managed there is the potential for waste collection to result in an adverse impact to nearby residents by way of visual amenity and odour. The applicant has submitted a Waste Management Plan (WMP). The WMP details a 1.8m high masonry bin screen provided to ensure visual and odour impacts can be managed effectively. Officers recommend a condition requiring amended development plans demonstrating a suitable form and design of the bin store area screen.

### Bushfire Management

The subject site lies within a bushfire prone area and as such is required to be assessed against State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP3.7) and the associated Guidelines for Planning in Bushfire Prone Areas (Guidelines). SPP3.7 requires a Bushfire Attack Level (BAL) Assessment to be prepared and recommends that new development achieve a rating of BAL-29 or lower. The submitted BAL Assessment identifies a BAL rating of BAL-12.5 for the gym and a rating of BAL-29 for the swim school and shop, consistent with SPP3.7.

The applicant did not submit a Bushfire Management Plan (BMP) to address the provisions of the Guidelines required by SPP3.7. However, Officers consider the four key elements of the Guidelines; Siting, Location, Access and Water are capable of being achieved by the development. By way of siting and location, the development achieves an acceptable BAL rating as previously mentioned. In terms of access, in an emergency situation, there are multiple directions of escape as patrons may travel west on Thomas Road or either north or south on South Western Highway. Finally, the site is serviced by a mains water connection. Based on this, Officers consider that the development is generally consistent with the requirements of SPP3.7



and the Guidelines. A condition is recommended for the preparation of a BMP ensuring the elements of the Guidelines are accounted for.

Local Planning Policy No 24 - Designing Out Crime (LPP24)

Local Planning Policy No 24 - Designing Out Crime (LPP24) provides guidance and relevant considerations relating to Crime Prevention Through Environmental Design (CPTED). This is the notion that people’s behaviour is influenced by the design of the environment, including the built form. The key relevant considerations of LPP24 include ensuring suitable levels of passive surveillance from the development onto the public realm to discourage anti-social activities. In this instance, the development incorporates large windows into the design of the building facades. These face internally to the site and also externally, towards road reserves. Officers consider the general open lot layout promotes good internal passive surveillance opportunities. It is considered that these elements of the development would ensure a positive design outcome and contribute to discouraging negative behaviours across the site. Officers have also recommended a lighting plan as a condition to ensure suitable lighting of the car parking areas.

Public Art

The objective of LPP 1.6 - Public Art is to facilitate public art to enhance public enjoyment, engagement and understanding of places through the integration of public art. The policy sets out the requirements for physical and financial contributions for public art for any development valued at \$1 million or greater. As discussed, Officers consider there is good opportunity for a successful public art installation on the east façade of the swim school and shop building. A condition is recommended to address this.

**Options and Implications**

Option 1

That Council APPROVES the development application for the ‘Recreation - Private’ (Gym and Swim School) and ‘Shop’ Development at Lot 2, 640 South Western Highway, Byford subject to the following conditions:

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

Plans and Specifications	P1 - P14 received at the Shire Offices on 29 September 2023; Bushfire Attack Level Assessment (P15) dated 28 April 2023; Acoustic Assessment (P16) dated 27 September 2023; Revised Transport Impact Assessment (P17) dated 25 August 2023; and Waste Management Plan (P18) dated 16 May 2023.
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2. 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, to the satisfaction of the Shire of Serpentine Jarrahdale. Stormwater shall not be discharged into the Thomas Road or South Western Highway Road Reserves.



3. Prior to the issue of a building permit, a revised Landscaping Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The revised Landscaping Plan shall detail the following, to the satisfaction of the Shire of Serpentine Jarrahdale:
- a. Full landscaping of all adjoining road reserves, based upon a mix of ground cover shrubs, medium shrubs, trees and natural landscape elements (stones and masonry), which are configured to help moderate the prominent built form of the development;
  - b. Suitable street trees planted within the carpark, which are advanced at the time of their planting, in order to create sufficient and immediate urban tree canopy shade to help moderate the microclimate of the carpark;
  - c. A schedule of plantings, which details the species, the spacing/density of such species, the number to be planted, the size on planting and the size on maturity, and the approach to irrigation.

Once approved, the Landscaping Plan shall be implemented prior to occupation and maintained thereafter.

4. Prior to the issue of a building permit, amended plans shall be submitted to and approved by the Shire of Serpentine Jarrahdale which depict the following details:
- a. the masonry bin store screen;
  - b. the provision of an acoustic noise wall along the full width of the southern boundary.

Once approved, development shall be in accordance with these plans.

5. Prior to the issue of a building permit, a Noise Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Noise Management Plan shall detail the following, to the satisfaction of the Shire of Serpentine Jarrahdale:
- a. Provision of an acoustic noise wall along the south lot boundary;
  - b. Details of suitable noise shielding or buffering material to be installed around mechanical plant equipment;
  - c. Details of building design and construction methods to ensure noise from within the gym is contained and managed within the building; and
  - d. Car parking management to require customers attending the gym during the sensitive night period to only use parking bays to the north of the carpark, closest to the gym.

Once approved, the Noise Management Plan shall be adhered to at all times.

6. Prior to the lodgement of a building permit, a Bushfire Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Bushfire Management Plan shall demonstrate compliance with the requirements of State Planning Policy 3.7 - Planning in Bushfire Prone Areas and the Guidelines for Planning in Bushfire Prone Areas, to the satisfaction of the Shire of Serpentine Jarrahdale.
7. Prior to occupation, a signage plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale demonstrating compliance with Local Planning Policy 4.11 - Advertising. Once approved, signage shall be displayed in accordance with the approved plan.
8. No vehicular access is permitted to South Western Highway or Thomas Road.
9. No works are permitted within Thomas Road or South Western Highway Road Reserves unless Main Roads has issued a Working on Roads Permit.





10. Prior to issue of a building permit, a Lighting Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Lighting Plan shall demonstrate suitable lighting of the car parking and building facades, to the satisfaction of the Shire of Serpentine Jarrahdale.

11. *“Prior to commencement of development works, investigation for soil and groundwater contamination is to be carried out to determine if remediation is required.*

*If required, remediation, including validation of remediation, of any contamination identified shall be completed prior to the completion of construction works; to the satisfaction of the Shire of Serpentine Jarrahdale on advice from the Department of Water and Environmental Regulation, to ensure that the site is suitable for the proposed use.*

*Investigations and remediation are to be carried out in compliance with the Contaminated Sites Act 2003 and current Department of Water and Environmental Regulation contaminated sites guidelines. (Department of Water and Environmental Regulation)*

**Advice**

*In relation to Condition [11] and in accordance with regulation 31(1)(c) of the Contaminated Sites Regulations 2006, a Mandatory Auditor’s Report, prepared by an accredited contaminated sites auditor, will need to be submitted to the Department of Water and Environmental Regulation as evidence of compliance with Condition [11]. A current list of accredited auditors is available from [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)”*

Option 2

That Council REFUSES the development application for the ‘Recreation - Private’ (Gym and Swim School) and ‘Shop’ Development at Lot 2, 640 South Western Highway, Byford for the following reasons:

1. The development is considered to generate a level of traffic that cannot be safely accommodated within the current intersection design of Hay Road;
2. The development is considered to create an adverse amenity impact associated with vehicle noise and activity during the night, primarily coinciding with use of the all hours gym.

Option 1 is recommended.

**Conclusion**

The application seeks approval for a gym, swim school and shop. It is considered that the proposal is consistent with the planning framework and that the matters raised in the objections can be appropriately managed. It is therefore recommended that Council approve the application subject to conditions.

**Attachments (available under separate cover)**

- **10.1.2 - attachment 1** - Development plans (E23/13989)
- **10.1.2 - attachment 2** - Summary of Submissions (E23/13990)
- **10.1.2 - attachment 3** - Clause 67 Assessment (E23/13991)



### 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 considered to be associated with options 1						
2	That Council refuses the application, and an appeal is lodged with the State Administrative Tribunal.	Reasons for refusal reflecting valid planning concerns or variations.	Reputation	Possible	Moderate	MODERATE	Ensure that reasons for refusal are based on valid planning reasons.

**Voting Requirements:** Simple Majority

### Officer Recommendation

That Council **APPROVES** the development application for the 'Recreation - Private' (Gym and Swim School) and 'Shop' Development at Lot 2, 640 South Western Highway, Byford subject to the following conditions:

- 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 - P14 received at the Shire Offices on 29 September 2023;</b> <b>Bushfire Attack Level Assessment (P15) dated 28 April 2023;</b> <b>Acoustic Assessment (P16) dated 27 September 2023;</b> <b>Revised Transport Impact Assessment (P17) dated 25 August 2023;</b> <b>and</b> <b>Waste Management Plan (P18) dated 16 May 2023.</b>
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2. 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, to the satisfaction of the Shire of Serpentine Jarrahdale. Stormwater shall not be discharged into the Thomas Road or South Western Highway Road Reserves.
  3. Prior to the issue of a building permit, a revised Landscaping Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The revised Landscaping Plan shall detail the following, to the satisfaction of the Shire of Serpentine Jarrahdale:
    - a. Full landscaping of all adjoining road reserves, based upon a mix of ground cover shrubs, medium shrubs, trees and natural landscape elements (stones and masonry), which are configured to help moderate the prominent built form of the development;
    - b. Suitable street trees planted within the carpark, which are advanced at the time of their planting, in order to create sufficient and immediate urban tree canopy shade to help moderate the microclimate of the carpark;
    - c. A schedule of plantings, which details the species, the spacing/density of such species, the number to be planted, the size on planting and the size on maturity, and the approach to irrigation.

Once approved, the Landscaping Plan shall be implemented prior to occupation and maintained thereafter.

4. Prior to the issue of a building permit, amended plans shall be submitted to and approved by the Shire of Serpentine Jarrahdale which depict the following details:
  - a. the masonry bin store screen;
  - b. the provision of an acoustic noise wall along the full width of the southern boundary.

Once approved, development shall be in accordance with these plans.

5. Prior to the issue of a building permit, a Noise Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Noise Management Plan shall detail the following, to the satisfaction of the Shire of Serpentine Jarrahdale:
  - a. Provision of an acoustic noise wall along the south lot boundary;
  - b. Details of suitable noise shielding or buffering material to be installed around mechanical plant equipment;
  - c. Details of building design and construction methods to ensure noise from within the gym is contained and managed within the building; and
  - d. Car parking management to require customers attending the gym during the sensitive night period to only use parking bays to the north of the carpark, closest to the gym.

Once approved, the Noise Management Plan shall be adhered to at all times.

6. Prior to the lodgement of a building permit, a Bushfire Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Bushfire Management Plan shall demonstrate compliance with the requirements of State Planning Policy 3.7 - Planning in Bushfire Prone Areas and the Guidelines for Planning in Bushfire Prone Areas, to the satisfaction of the Shire of Serpentine Jarrahdale.
7. Prior to occupation, a signage plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale demonstrating compliance with Local Planning Policy 4.11 -



Advertising. Once approved, signage shall be displayed in accordance with the approved plan.

8. No vehicular access is permitted to South Western Highway or Thomas Road.
9. No works are permitted within Thomas Road or South Western Highway Road Reserves unless Main Roads has issued a Working on Roads Permit.
10. Prior to issue of a building permit, a Lighting Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Lighting Plan shall demonstrate suitable lighting of the car parking and building facades, to the satisfaction of the Shire of Serpentine Jarrahdale.
11. ***“Prior to commencement of development works, investigation for soil and groundwater contamination is to be carried out to determine if remediation is required.***

***If required, remediation, including validation of remediation, of any contamination identified shall be completed prior to the completion of construction works; to the satisfaction of the Shire of Serpentine Jarrahdale on advice from the Department of Water and Environmental Regulation, to ensure that the site is suitable for the proposed use.***

***Investigations and remediation are to be carried out in compliance with the Contaminated Sites Act 2003 and current Department of Water and Environmental Regulation contaminated sites guidelines. (Department of Water and Environmental Regulation)***

**Advice**

***In relation to Condition [11] and in accordance with regulation 31(1)(c) of the Contaminated Sites Regulations 2006, a Mandatory Auditor’s Report, prepared by an accredited contaminated sites auditor, will need to be submitted to the Department of Water and Environmental Regulation as evidence of compliance with Condition [11]. A current list of accredited auditors is available from [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)”***





**10.1.3 - Proposed Educational Establishment - Lot 218, 575 Abernethy Road, Oakford (PA23/588)**

<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:	Element Advisory Pty Ltd
Owner:	Free Reformed School Association
Date of Receipt:	9 August 2023
Lot Area:	37.31 hectares
Local Planning Scheme No 3 Zoning:	Rural
Metropolitan Region Scheme Zoning:	Rural

**Report Purpose**

The purpose of this report is for Council to consider a Responsible Authority Report (RAR) (**attachment 1**) prepared for a development application for an 'Educational Establishment' at Lot 218, 575 Abernethy Road, Oakford. The application proposes a combined kindergarten to year 12 campus, of an ultimate capacity of 1,200 students.

The application has a development value of more than \$10 million, and therefore is required to be determined by the Metro Outer Development Assessment Panel (MODAP). The MODAP will replace Council as the decision-making authority for the application in accordance with the *Planning and Development (Development Assessment Panels) Regulations 2011*. The report is presented to Council to consider the RAR that will be presented to the MODAP, consistent with established delegations.

The proposed development aligns with certain aspects of the planning framework and provides a land use that would potentially service and benefit the community. However, the development is considered to present an unacceptable impact to the local traffic network, insofar as proposing a major traffic generating development which will overwhelm the safe operating capacity of the current road network. While the application has proposed a limited upgrade to the intersection of Abernethy Road and Kargotich Road, and limited improvements to the abutting road frontages, technical assessment reveals this to be insufficient in providing for either a staged or full development outcome. Furthermore, the isolation of the land from a safe connected pedestrian path system, demonstrates that safe provision for pedestrians and cyclists has failed to take



place. Finally, the scale and degree of development is considered to pose serious amenity impacts on nearby properties, which may not be capable of moderation.

As a result, the RAR recommends that the application be refused for the following reasons:

- The development is considered to represent an adverse impact on the existing road environment, due to the volume of traffic generated by the development relying primarily on a single intersection to access the site and such intersection failing to provide a safe level of service.
- The proposed development has not provided sufficient information to demonstrate infrastructure issues will be addressed, or that the development is capable of being staged in a viable manner according to current infrastructure.
- There is no certainty to the adequate provision of pedestrian and vehicle infrastructure, insofar that there is no allocated State or Federal Government funding to undertake the intersection upgrade of Abernethy Road and Kargotich Road. This is expected to cost at least \$5m, taking account of the need for land acquisition and utility changes.

### Relevant Previous Decisions of Council

*Ordinary Council Meeting – 16 October 2023 – OCM255/10/23 - COUNCIL RESOLUTION / Officer Recommendation*

*That Council:*

1. *APPROVES the revised scope of work for the Hypergrowth Projects as below:*

<i>Road name</i>	<i>Allocated funding</i>
<i>Kargotich Road (Rowley Road to Orton Road)</i>	<i>\$10.1M</i>
<i>Orton Road (100m east of Bullock Drive to 1.8km east of King Road)</i>	<i>\$6.1M</i>
<i>Soldiers Road - Keirnan Street Roundabout and Cardup Siding Road Roundabout</i>	<i>\$1.75M</i>

2. *NOTES the vegetation clearing that will be required as contained within the body of the report and attachments 4 and 5.*
3. *REQUESTS the Chief Executive Officer to inform the funding body about the proposed changes to the scope.*
4. *REQUESTS the Chief Executive Officer explore funding opportunities for the remaining stages of the Hypergrowth Road projects.*

### Background

#### Existing Development

The subject site is approximately 37.31ha in area and located within the rural area of Oakford. The site is zoned 'Rural' under Local Planning Scheme No. 3 (LPS3) and adjoins 'Rural Residential' zoned land to the east. The site is bound by Kargotich Road to the east and Abernethy Road to the north. The site features undeveloped pastureland and scattered mature trees. There are strands of vegetation along the lot boundaries and fence lines. The subject site can be viewed following:

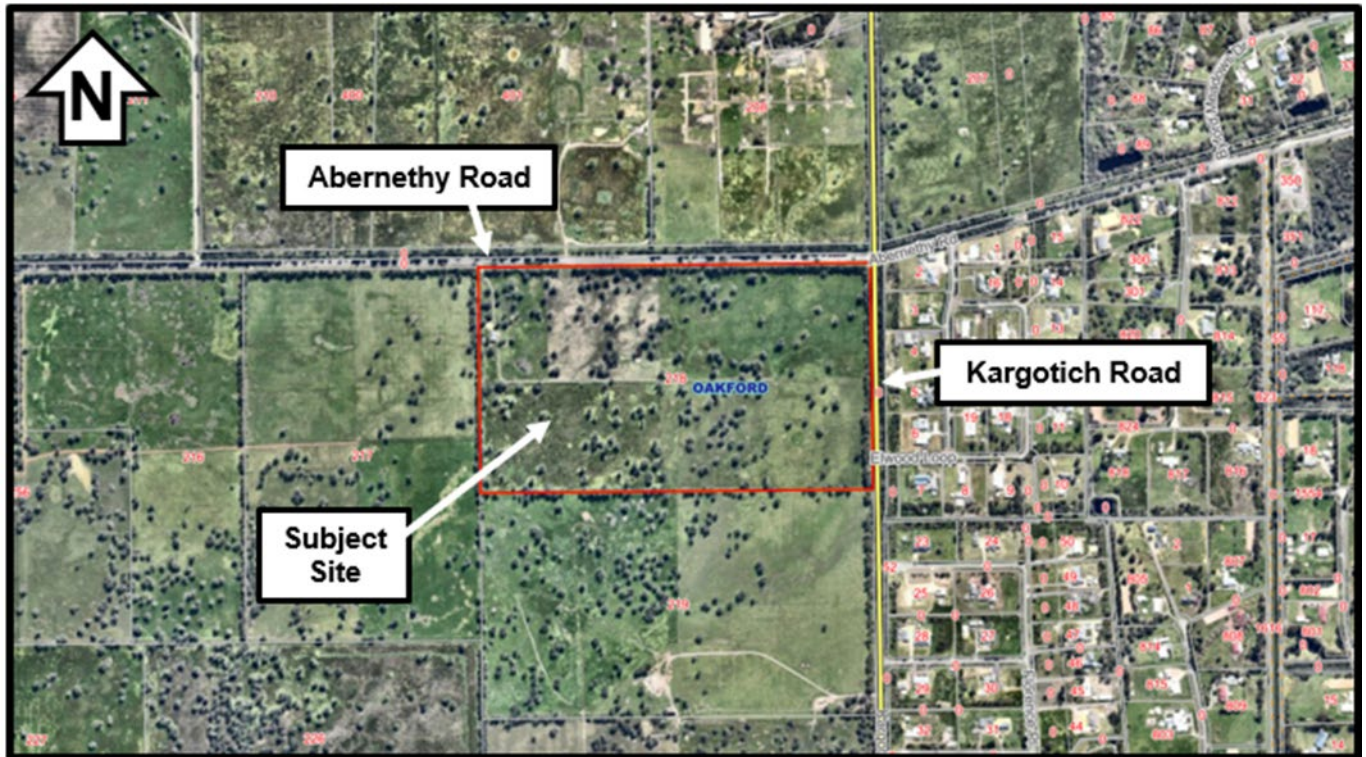


Figure 1: Aerial Locality

### Proposed Development

The application seeks approval for an 'Educational Establishment' comprising of the following components:

- An ultimate capacity of 1,200 students across the primary and secondary campus:
  - 432 primary school students (Years K-6) - two streams;
  - 768 secondary school students (Years 7-12) - four streams;
  - 45 primary school teachers;
  - 80 secondary school teachers;
  - 25 Administration staff.
- A staged development, which would see the construction of the secondary school component developed prior to the primary school.
- Operational hours:
  - Students arriving at the site at approximately 8:15am;
  - First classes beginning at 8:40am;
  - School finish times 3:00pm for primary and 3:15pm for secondary;
  - Unspecified extracurricular or outside of school hour activities are likely to occur during evenings or on weekends.
- A series of classrooms and learning facilities including; science buildings, a library, visual arts and music;
- Administrative buildings;





- Courtyards and hardcourt play areas;
- Ovals for sporting activities and events;
- Maintenance facilities;
- 564 carparking bays;
- Internal road network on the periphery of the site; and
- Landscaping and a central vegetated drainage corridor.

The site plan and perspectives of the proposal are shown following. The development plans in full are contained within **attachment 2**.

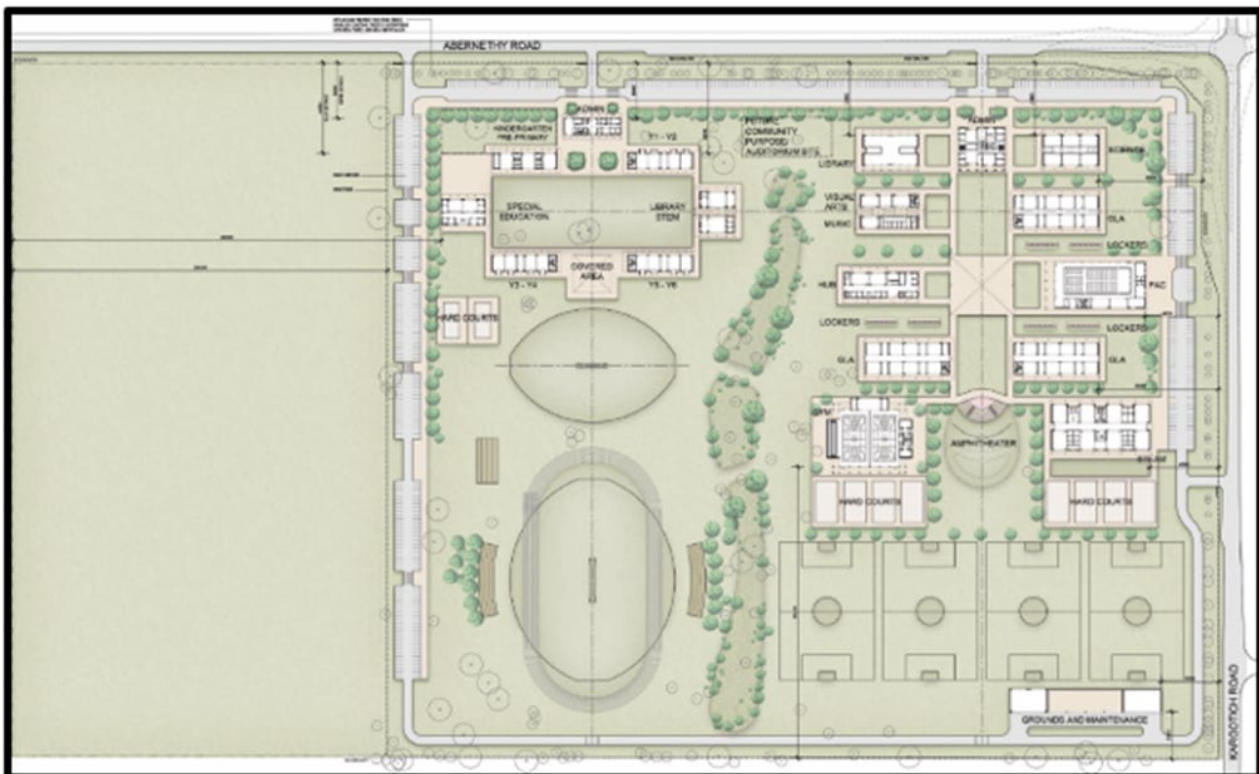


Figure 2: Site layout plan



Figure 3: Perspective of the gymnasium

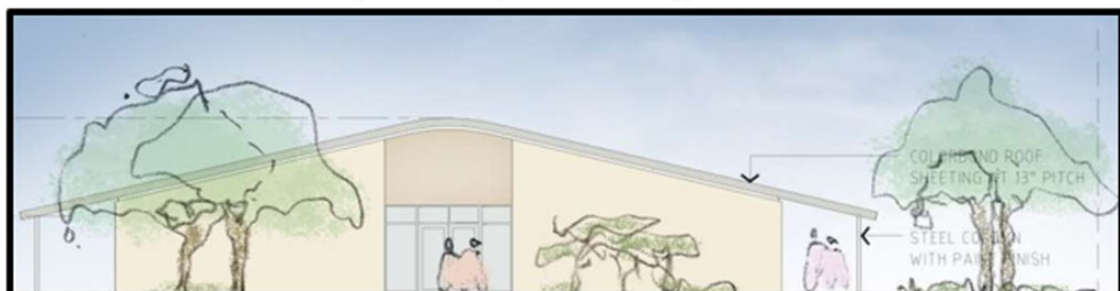


Figure 4: Perspective of a secondary classroom





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**Community / Stakeholder Consultation**

The application was advertised for a period of 21 days from 21 August 2023 to 11 September 2023 to surrounding landowners within a 500m 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 consultation, 63 submissions were received. This consisted of 44 submissions either objecting or raising concerns with aspects of the proposal and 19 submissions in support of the proposal, or that did not object to it.

The objections and concerns relate to the following issues which are discussed under the relevant headings of the report:

- Orderly and proper planning principles - lack of a Local Structure Plan or appropriate zoning/designation for this site;
- Traffic safety and existing road infrastructure capacity;
- Visual amenity and rural character;
- Noise and vibrations;
- Privacy impacts to nearby residents;
- Contradicts the intent for the Rural zone in the Local Planning Strategy;
- Strain on groundwater supply;
- Increase to bushfire threat;
- Tree removal and revegetation - impacting local fauna and rural character;
- Environmental impacts;
- Burden to telecommunications infrastructure; and
- Lack of direct benefit to the local community.

The full submissions and the applicant's response and Officer comments is contained within **attachment 3**.

**Main Roads Western Australia (MRWA)**

MRWA provided a submission that raised no objections to the development. MRWA provided supplemental comments and principles to guide assessment of the Traffic Impact Assessment, which was incorporated in the Officer assessment.

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

DWER do not support the development in its current form. However, DWER made recommendations to address issues including groundwater management, DWER's works licence process, site and soil evaluation, flood management, native vegetation clearing and stormwater management. Advice was also provided from DWER's Noise Branch providing considerations relating to amenity impacts of the proposal. This advice of DWER has been provided to the applicant and where relevant considerations informed the Officer's report.



Department of Fire and Emergency Services (DFES)

DFES provided a submission that raised no objections to the development. DFES provided advice regarding the assessment of the Bushfire Emergency Plan and a minor modification to the Bushfire Attack Level assessment. Officers consider these matters could form conditions of determination if a favourable recommendation is contemplated by Council or the MODAP.

Department of Health (DoH)

DoH provided comments on wastewater management, drinking water management, mosquito management and chemical hazards. These matters have been considered in the assessment of the proposal.

Department of Education (DoE)

DoE provided a submission that raised no objections to the development.

Water Corporation

Water Corporation provided a submission advising that the development is situated 2.5km from the nearest extension of the water network and 3.2km from the nearest suitable connection point to the sewer network. This advice was forwarded to the applicant and considered as part of Officers assessment of the proposal.

**Statutory Environment**

Legislation

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

State Government Policies

- State Planning Policy 2.5 - Rural Planning;
- State Planning Policy 3.7 - Planning in Bushfire Prone Areas;
- State Planning Policy 7.0 - Design of the Built Environment;
- Operational Policy 2.4 - Planning for School Sites;

Local Planning Framework

- Shire of Serpentine Jarrahdale Local Planning Strategy (Strategy);
- Shire of Serpentine Jarrahdale Local Planning Scheme No.3 (LPS3);
- Local Planning Policy 1.4 - Public Consultation on Planning Matters Policy (LPP1.4);
- Local Planning Policy 1.6 - Public Art for Major Developments (LPP1.6);
- Local Planning Policy 2.4 - Water Sensitive Design (LPP2.4);
- Local Planning Policy 4.15 - Bicycle Facilities Policy (LPP 4.15);
- Local Planning Policy 4.16 - Tree Retention and Planting (LPP4.16);
- Draft Local Planning Policy 4.26 - Development in the Rural Zone (LPP4.26).



## **Planning Assessment**

Clause 67 of the Deemed Provisions lists matters to be considered in the determination of development applications. A full assessment was carried out against the planning framework in accordance with Clause 67 of the Deemed Provisions which can be viewed within **attachment 4**.

### Orderly and Proper Planning

Several of the objections received against the development during the advertising period raised concern that the development was not consistent with Clause 5.1.1(a) of the Shire's previous Town Planning Scheme No.2 (TPS2). TPS2 was the scheme at the time the application was advertised. Clause 5.1.1 stated:

*"5.1.1 The power conferred by this Clause, and Clause 67 of the Deemed Provisions, may only be exercised if the Council is satisfied that:*

- a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenity of the locality;"*

There is no equivalent provision within the newly gazetted Local Planning Scheme No.3 (LPS3). However, orderly and proper planning principles are still relevant to the assessment of this application, in accordance with Clause 67(2)(b) of the *Deemed Provisions*. Therefore, Officers have undertaken a detailed assessment of the proposal, considering all relevant planning instruments in accordance with the principles of orderly and proper planning.

### Land Use

The proposal falls within the 'Educational Establishment' land use. This is defined under LPS3 as follows:

**Educational Establishment** – *"means premises used for the purposes of providing education including premises used for a school, higher education institution, business college, academy or other educational institution."*

The subject site is zoned 'Rural' under the Shire's LPS3. The 'Educational Establishment' land use is 'D' or discretionary within the 'Rural' zone. The use may therefore be permitted subject to a merits-based assessment.

### Local Planning Scheme No.3 (LPS3) and Local Planning Strategy (LPS)

The Shire's Local Planning Scheme No.3 (LPS3) provides several objectives for the 'Rural' zone which guide development in the zone. These objectives are addressed following:

*"To provide for the maintenance or enhancement of specific local rural character."*

The subject site is characterised by broad open paddocks purposed for the grazing of animals. The site features scattered vegetation and dense strands of trees along lot boundaries and fence lines. This is also typical of land to the west, north and south of the site. Within the locality there are scattered rural farmsteads with clustered development and equine activities. Another key feature of the locality is the nearby rural residential estate to the east. This sees properties range from one to two hectares in area. The locality also features arterial rural roads that are bordered by dense tree strands, such as Kargotich Road and Abernethy Road. Several of these features are identified as follows:

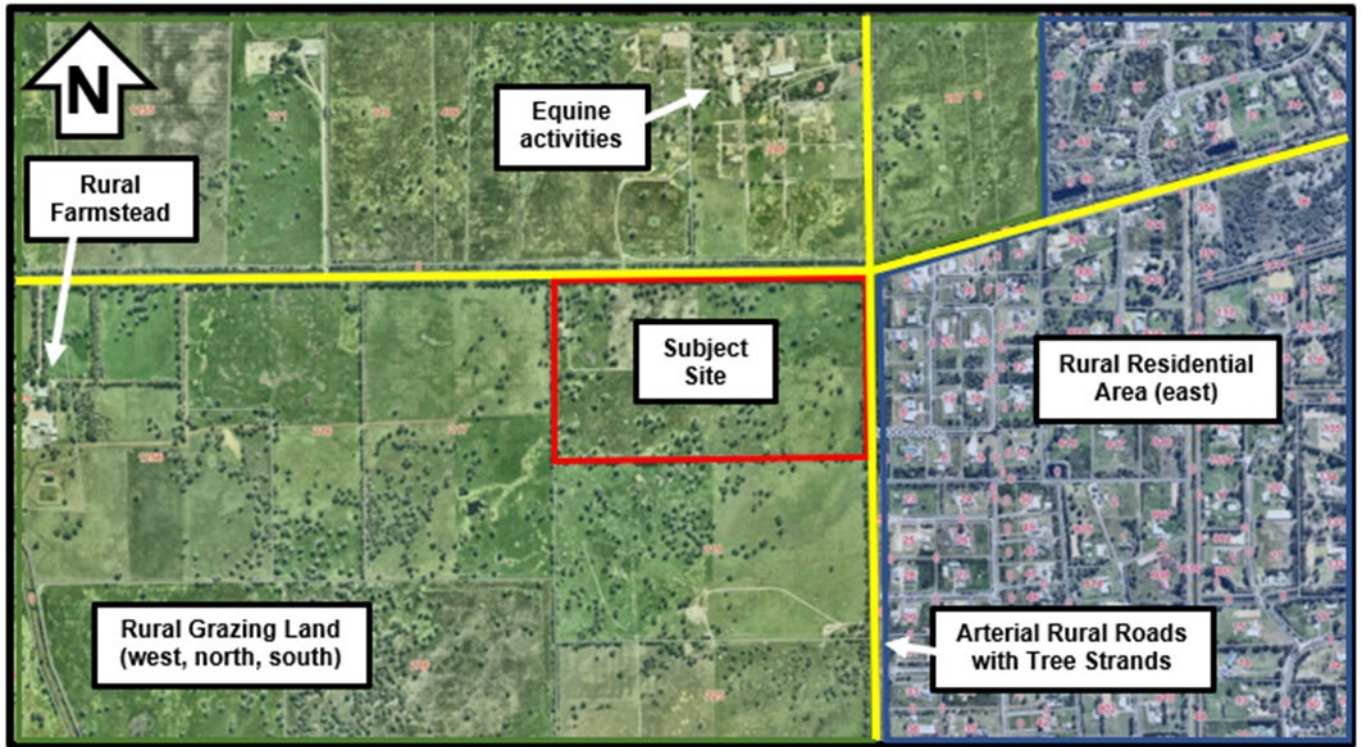


Figure 5: Local character

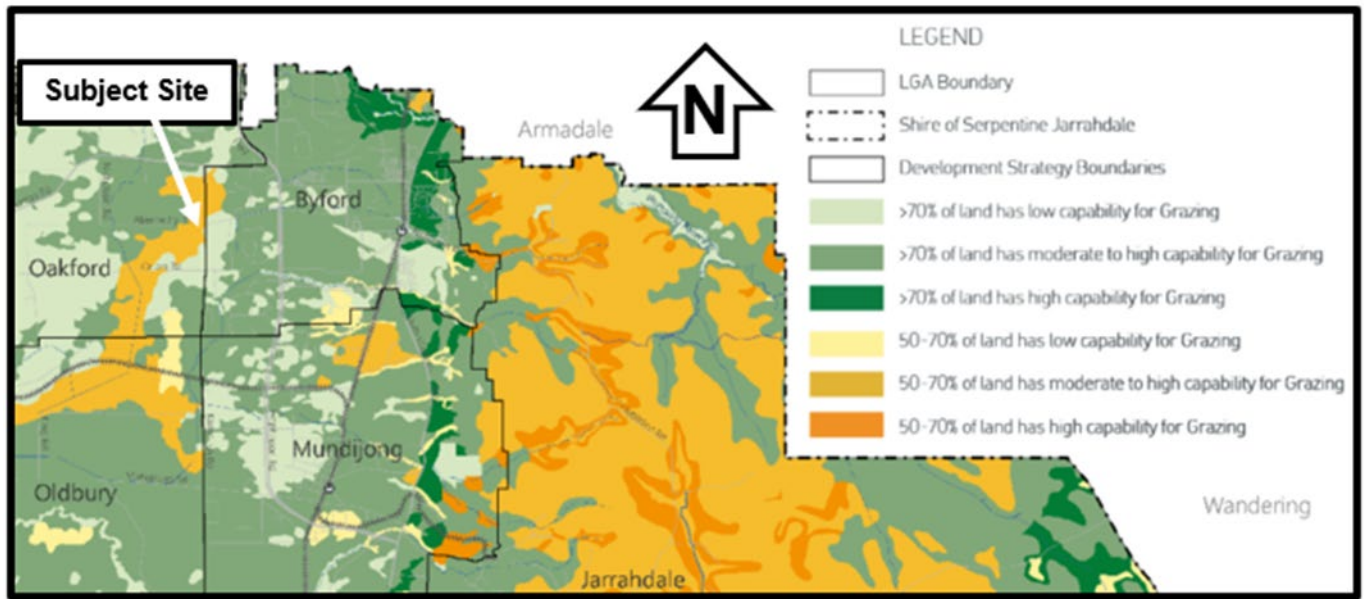
A key concern raised in objection to the development is that it would not be consistent with the existing local rural character. Whilst the proposal by way of land use, is a land use that can be considered within the 'Rural' zone, careful consideration should be given to the form, scale, degree and extent of development to ensure that it would not detract from the locality. This is discussed further within the 'Form of Development' section of the report.

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

The intent of this objective is to ensure the preservation of rural land for productive rural pursuits and land uses. This aligns with the objectives of the Shire's Local Planning Strategy (LPS). Provision 4.9 of the LPS identifies that a careful balance is required when considering development in the 'Rural' zone. This is due to challenges resulting from the competition of land for productive rural uses and non-productive rural uses (i.e. residential, landscape and environmental purposes). Varying forces including industrial and urban land uses further vie for rural land. Of specific relevance to this proposal, provision 5.4 of the LPS identifies that, "Pressure for non-rural activities to locate on rural zoned land (eg: private schools) due to unavailability of suitable and/or affordable land in urban locations". Officers consider that for the proposal to be contemplated, careful consideration should be given to its impact on surrounding rural land uses.

In terms of established rural uses in the locality the dominant productive rural use is grazing. The LPS identifies that 50-70% of the site has a moderate to high capability for grazing activities. This is shown through the extract below:





**Figure 6: Extracted map from the LPS identifying grazing capability**

The LPS mapping of this site for other rural uses generally shows low capacity for annual horticulture, perennial horticulture and dryland cropping activities. It is evident, based on the Local Planning Strategy, that capability would exist for productive rural use in the form of livestock grazing.

*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.*

The site is in an environmentally sensitive area, being within a 'floodplain'. Additionally, the site features scattered local native *Casuarina Obesa* or Swamp She-Oaks trees. Consideration has been given to matters pertaining to the environment within the 'Environment' section of the report.

*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.*

The above objectives of the 'Rural' zone seek to ensure that appropriate land uses are located within rural areas. These land uses should not compromise future rural development in the locality. The proposal introduces a new sensitive land use. It is not certain to predict what may occur in the rural zoned land over time which adjoins to the north, south and west of the land. If, for example, an intense rural type industry was proposed (i.e. such as a feedlot or abattoir) Officers consider such rural uses would be limited as a result of an educational establishment being approved. The presence of the school may also compromise the ability of neighbouring lots to be used for grazing purposes (i.e. cattle, sheep, horses), depending on scale and intensity of farming proposed. The proposed development may therefore be potentially at odds with this objective.

*To provide for a limited range of non-rural land uses, only where they have demonstrated a direct benefit to the local community and are compatible with surrounding rural uses.*

While the proposal does not provide specifically for a productive rural or agricultural use, the intent of the zone under LPS3 is to allow for land uses which provide benefit to the local community and do not adversely impact surrounding rural uses. Officers consider the proposal for an 'Educational Establishment' could be consistent with this. In terms of local community benefit, Officers note that the applicant's intent for the development is to enable relocation of an existing private high



school premises (John Calvin School, Byford) to the subject site. It is considered that the development would facilitate the expansion of this existing private community-based facility within the Shire. Officers consider in this regard the proposal demonstrates a potential benefit to a potential portion of the local community.

#### Local Planning Policy 4.26 - Development in the Rural Zone (LPP4.26)

At the Ordinary Council Meeting of 18 September 2023, Council endorsed the draft Local Planning Policy 4.26 - Development in the Rural Zone (LPP4.26) for the purpose of advertising. This was prepared in light of the new LPS3 coming into affect. Advertising is currently underway, and as such may be considered in light of this proposal, especially as the draft LPP aims to further articulate the interpretation of the objectives of the Rural zone pertaining to non-rural uses.

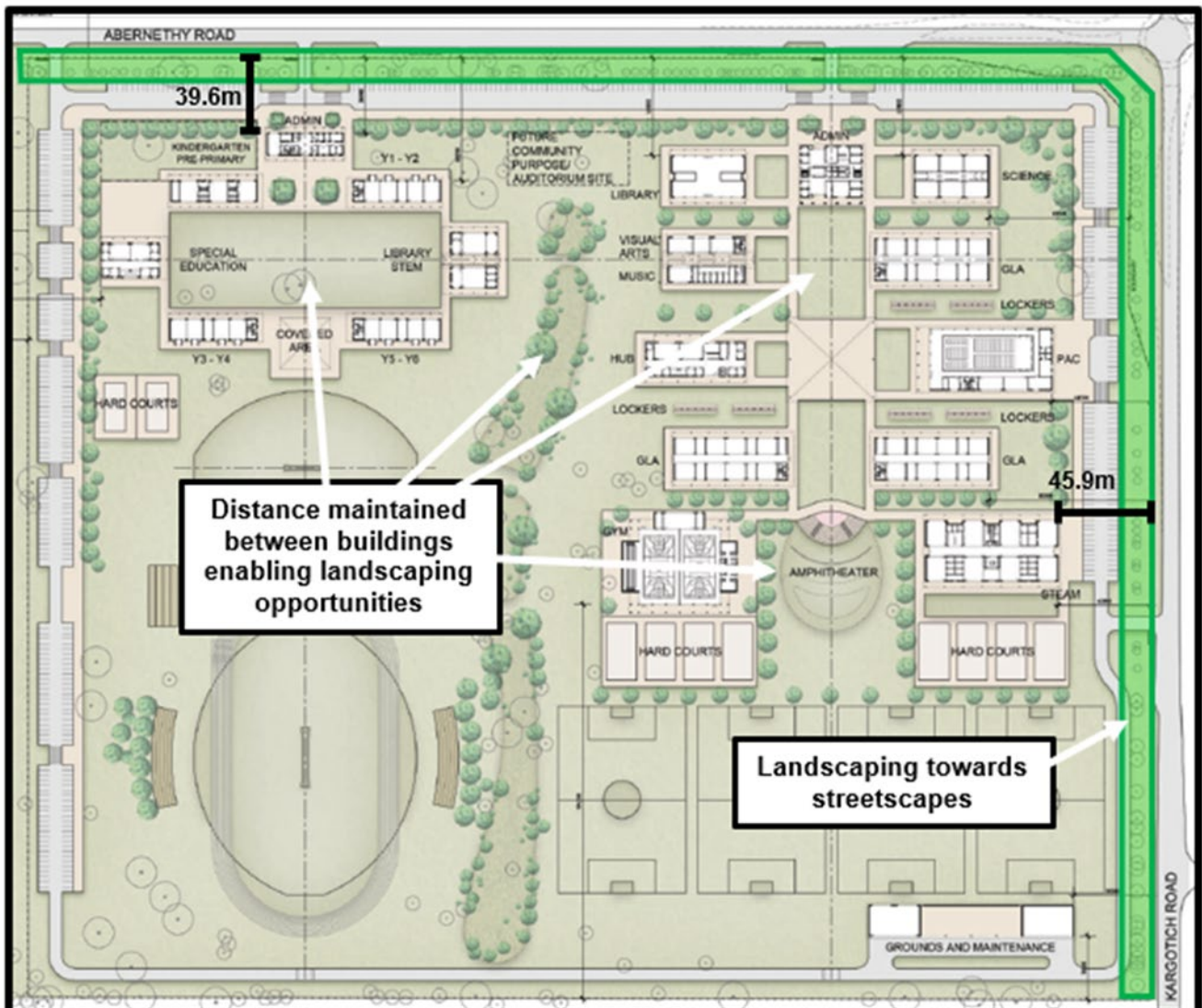
LPP4.26 acknowledges that a wide range of 'non-rural' land uses can be considered for approval within the 'Rural' zone, according to LPS3. LPP4.26 assists with the consideration of these 'non-rural' land uses in that it identifies potentially beneficial uses, which 'Educational Establishments' are identified as. Potentially beneficial land uses are to be assessed against the following considerations according to LPP4.26:

- A benefit analysis of the proposal to ensure the development is beneficial to the local community;
- Whether rural uses are impacted by the proposal on the site or on surrounding land;
- Built form character;
- Impacts to traffic, amenity and other external impacts.

These considerations provide additional guidance to decision makers, expanding on the objectives of the zone under LPS3. Officers consider that broadly the development as a private 'Educational Establishment' provides a degree of benefit to the local community. There is however a concern pertaining to the size and extent of the proposal, as most of the site (25.7ha of the 37.3ha) is to be utilised for the school which creates uncertainty as to the capability of balance rural uses to occur. It is noted, however, that grazing of livestock could still take place on the balance 11.57ha. Built form character is considered to reflect rural character, with an approach which adopts expansive yet simple building forms, mimicking elements like large rural sheds. There is primarily a concern held pertaining to impacts to traffic and amenity, as described following in the report.

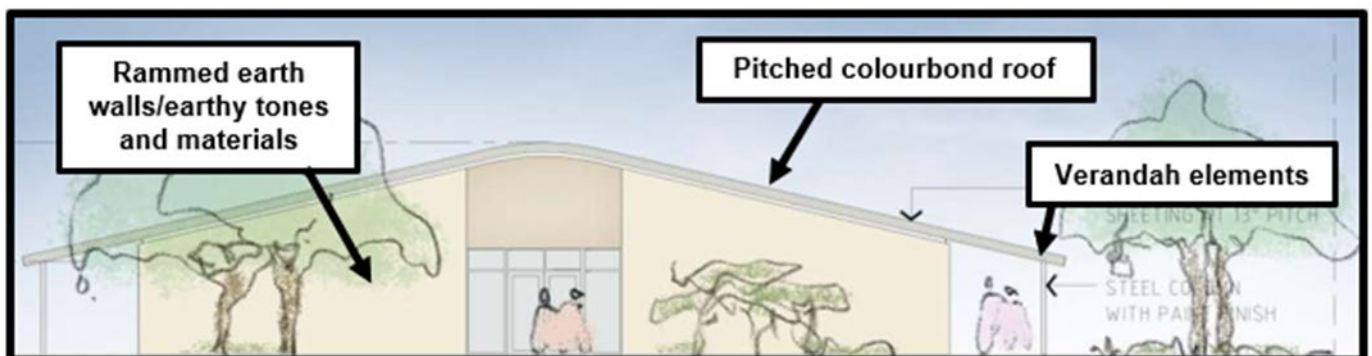
#### Form of Development

The relevant built form standards applicable to this development are contained within Schedule 4 of LPS3. Section 4.2 requires development in the 'Rural' zone to be set back 20m from the primary street lot boundary and 10m to other lot boundaries. The proposed site layout is compliant with this requirement. The development is spaced out generously across the site. The nearest building is an admin block, set back 36.9m from the Abernethy Road (primary street) lot boundary. Additionally, buildings are set back from one another, ensuring sufficient space for the planting of trees and landscaping areas between buildings. Officers consider that this form of development would ensure a maintenance of rural character. The moderated built form of the school through the appropriately spacing out development ensures broad views of rural and natural features can be maintained. The built form of the site would therefore not dominate the streetscapes adjacent to the site, ensuring opportunities for natural landscape features such as rows of trees and vegetation to be prominent.



**Figure 7: Buildings are sited and spaced out to enable maintenance of rural aesthetic**

The development proposes mostly a functional form and height of buildings, enabling sufficient space for school activities. The incorporation of design elements such as large, pitched roofs and verandahs assists with a maintenance of a rural aesthetic in the design. This is not dissimilar to the form of large rural farm sheds. Furthermore, the proposal would mainly consist of materials such as rammed earth walls and colourbond roofs (which resemble tin roofs). The use of earthy tones and materials ensures rural character is maintained.



**Figure 8: Design of buildings**





Officers consider this built form design compliments the rural characteristics of the locality, consistent with the previously mentioned objective of the zone:

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

The proposal seeks to install a black steel post, garrison styled fence of a 2.4m height on the perimeter of the school site. Officers note that while the fence is visually permeable, the height, form and material of the fence is not commonly associated with a rural landscape. The fence would be obtrusive and impact the visual amenity, especially to the adjoining streetscapes and the rural residential estate to the east. Should the development be considered for approval, the approach to fencing would be recommended to change, insofar that a fencing style such as earth blocks or rammed earth structure be adopted, with the infill garrison sections being a less dominant aspect.

#### Operational Policy 2.4 - Planning for School Sites (OP24)

In 2022 the Western Australian Planning Commission (WAPC) prepared OP24 to guide planning for and the development of school sites. The relevant objectives of OP24 have been detailed and addressed as follows:

<b>OP2.4 Objectives Assessment</b>	
<b>Objective</b>	<b>Officer Comment</b>
<ul style="list-style-type: none"> <li>• <i>To make provision for school sites and other education facilities and services related to community needs;</i></li> <li>• <i>To establish the preferred location and design elements for school sites and other education facilities;</i></li> </ul>	<p>OP24 acknowledges that the development of private or independent schools, such as the proposed, often draw students from a larger area. Demand for these sites does not often occur until after neighbourhoods have been developed. It is acknowledged there is an increase in demand and need for the provision of private educational facilities. Such models are becoming increasingly popular and as such appropriate planning is required to avoid adverse outcomes.</p> <p>School sites are best identified and planned for through structure planning. However, with the subject proposal on a piece of land not designated for further subdivision or development, structure planning will not take place. This places detailed consideration of structural elements, like infrastructure coordination, on the development assessment stage.</p> <p>In this regard, Officers consider there to be a lack of coordination and certainty in respect of infrastructure, specifically pertaining to the current road and pedestrian access arrangements being insufficient to accommodate either a part or full development of the school. While Officers have already identified the need to upgrade the intersection of Abernethy Road and Kargotich Road to a full roundabout, there is no certainty as to when this will occur.</p> <p>There is no State or Federal funding allocated for this project, nor any contribution proposed by this development. This is expected to cost at least \$5m, taking account of the need for land acquisition and utility changes. In the opinion of Officers, it is not considered reasonable to condition this requirement on the development to deliver.</p>





<b>OP2.4 Objectives Assessment</b>	
<b>Objective</b>	<b>Officer Comment</b>
	<p>The original and updated traffic assessment does correctly identify concerns pertaining to the approach along Abernethy Road, from the east. In the technical opinion of Officers, it is concluded that the intersection is not capable of adequate safe operation, given level of service E (for right and through movements without upgrade) and level of service D and C (for right and through movements with minor upgrade of a right turn pocket on Abernethy Road approach). These levels of service and average delay during peak times, are discussed further in this report.</p> <p>These objectives of OP24 highlight the necessity of detailed assessment through the development application process to ensure the suitability of the site and the impact of the development on the locality.</p>
<ul style="list-style-type: none"> <li>• <i>To ensure that school sites are developable, serviceable and have suitable and safe access;</i></li> <li>• <i>To ensure that the design and layout of the movement network around school sites provides for the safety of pedestrians, cyclists and road users, and encourages active transport.</i></li> </ul>	<p>The impact to the road network is a key consideration for this proposal, given the large volume of traffic expected to be generated at AM and PM peak times. This is an important consideration, given the site is proposed to be located in the rural area of the Shire. In such areas, and specifically in this area, the road infrastructure is not designed to cater for a level of demand proposed by a large traffic generating land use like a 1,200 pupil school, requiring careful assessment regarding infrastructure performance, upgrades, safety, service levels and assumptions. Technical Officer assessment, including by the Shire's Traffic Engineer, is explained further in the report.</p> <p>In respect of the objective for safe pedestrian and cyclist movement, Officers considering that the proposal is not acceptable on the basis that it includes no detail of extending the existing path network to connect to the development. While the applicant does advise that visitation to the school is through private car and bus methods, Officers note that OP2.4 provides provisions including 3.5.6 as follows:</p> <p style="padding-left: 40px;"><i>3.5.6 School sites should prioritise pedestrian and bike movement networks, and where appropriate, pedestrian paths are to be provided on both sides of the roads that are in close proximity to school sites. These networks should lead as directly, conveniently and safely as possible to the school. If there is a need to cross significant distributor roads, careful consideration should be given to the nature of the crossing, whether it is by grade-separation, controlled lights, intersection separation, manned crossing or other acceptable alternatives.</i></p> <p>This is further discussed following.</p>



In summary, OP24 heightens the importance of ensuring that appropriate siting and infrastructure is provided to ensure a successful school site. The following section of the report details Officers considerations in this regard.

Traffic, transport and pedestrian access issues

As part of the application, a Transport Impact Assessment (TIA) was submitted (**attachment 5**). The existing local road network includes Abernethy Road to the north and Kargotich Road to the east. Abernethy Road is an 'Access Road' classification with a speed limit of 80km/hr to the east of Kargotich Road and "50km/h in built up areas or 110km/h outside built up areas" adjacent to the site. Kargotich Road is a 'Regional Distributor' classification with a speed limit of 90km/hr. It is acknowledged the speed limits would be reduced, per the program of 40km/hr limits during set times around schools. The local road network is shown in the following Figure:



**Figure 9: Existing local road network**

The main intersection near to the site is the intersection of Kargotich Road/Abernethy Road, to the north-east of the site. This is a four-way intersection with stop signs at the Abernethy Road ends, giving priority to traffic on Kargotich Road.

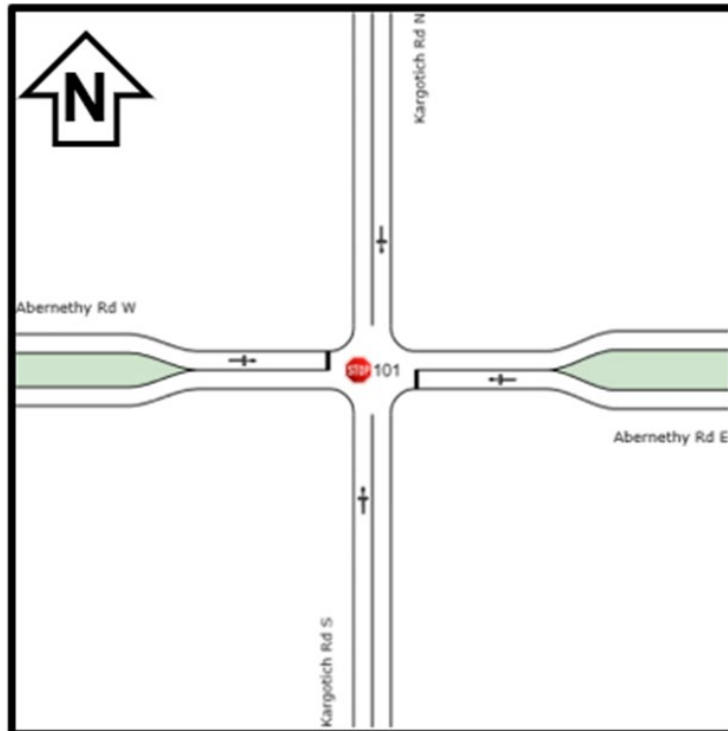


Figure 10: Intersection layout

In terms of the background traffic volumes, it is identified that there are currently hundreds of vehicles travelling through the intersection of Kargotich Road/Abernethy Road during the peak periods. Existing traffic counts for the intersection are shown in the following Figure, which distinguished the peak AM period movements in the lighter shaded boxes and the peak PM period movements in the darker shaded boxes:

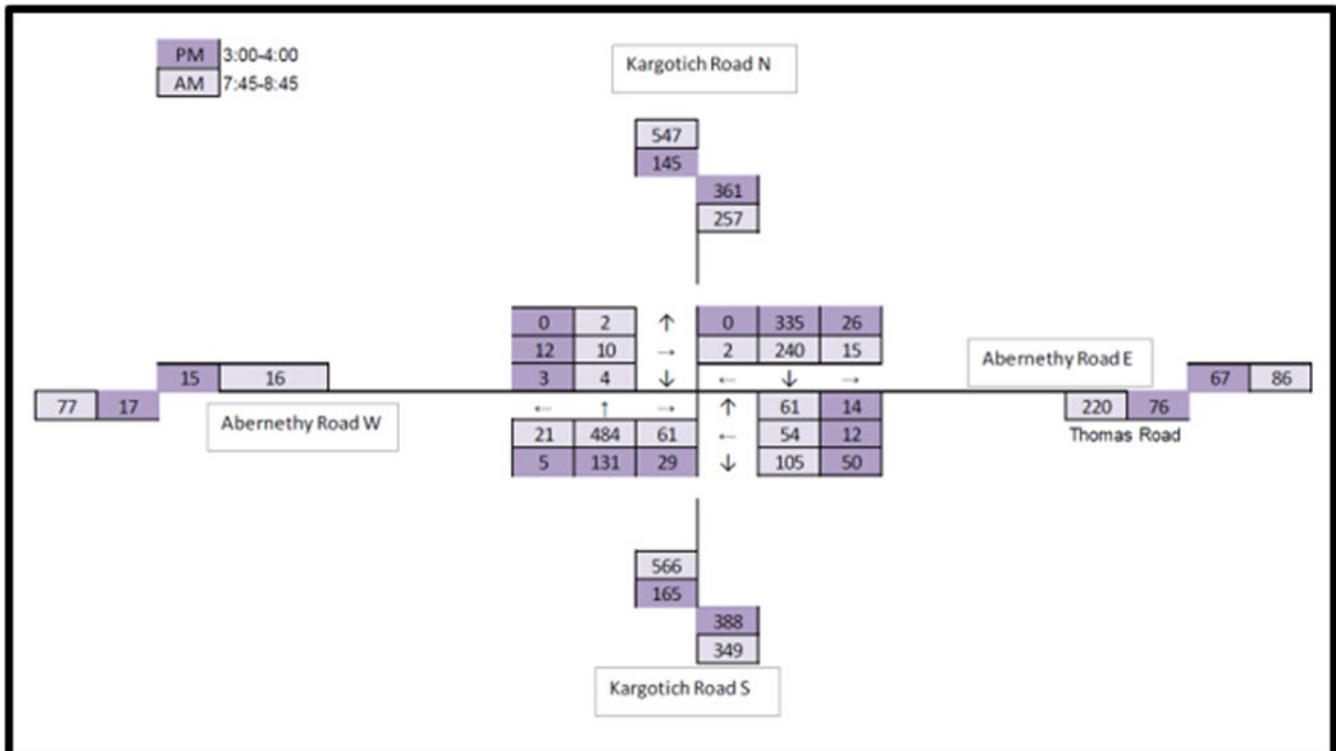


Figure 11: Existing traffic at the Kargotich Road/Abernethy Road intersection during peak periods



The recorded crashes at this intersection in the last five years shows one which occurred on 5 May 2022 at 08:35 hours. This was a right angle intersection crash, hospital grade severity. Along the full extent of Kargotich Road, between Thomas Road and Mundijong Road, there have been 24 crashes in the past five years including:

- Four property damage minor;
- 12 property damage major;
- Three medical treatment required;
- Five hospital treatment required.

Some upgrades to Kargotich Road are occurring, with Council's recent decision at the October 2023 meeting noting the scope of the Kargotich Road upgrade, from Rowley Road to Orton Road. This does not include any upgrade to, inter alia, the intersection of Abernethy Road and Kargotich Road. That report in October discussed (refer page 133):

*"It should be noted that construction of the roundabouts at Abernethy Road, Orton Road and Gossage Road plus the upgrade of the straight sections of Kargotich Road between Orton Road and Bishop Road are not included in the current budget and will not be delivered until further funding becomes available in future. Additional funding from the State Government or any other funding source, such as the Black Spot program, should be considered for the construction of the remaining stages. It is particularly important to prioritise the construction of roundabouts at the intersection of Abernethy and Orton Road when seeking future funding in the coming years as both these intersections are known Black Spots. The suggested enhancements, including upgrading the intersections to roundabouts will have a substantial positive impact on road safety and must be given top priority."*

(Emphasis added)

#### *Proposed Upgrades to the Road Network*

In the broader locality, Main Roads Western Australia (MRWA) are undertaking upgrade works to Thomas Road to the north of the site. This includes the installation of a roundabout to the intersection of Thomas Road and Kargotich Road, which will likely attract further traffic to utilise the regional distribution function of Kargotich Road (considering also the roundabout at Mundijong Road). Furthermore, to the east of the site, MRWA is also undertaking the extension of Tonkin Highway. With Abernethy Road not having direct connectivity with Tonkin Highway, it is forecast that traffic may utilise outbound and inbound movements to Byford via the Abernethy Road / Kargotich Road / Thomas Road path as shown following:



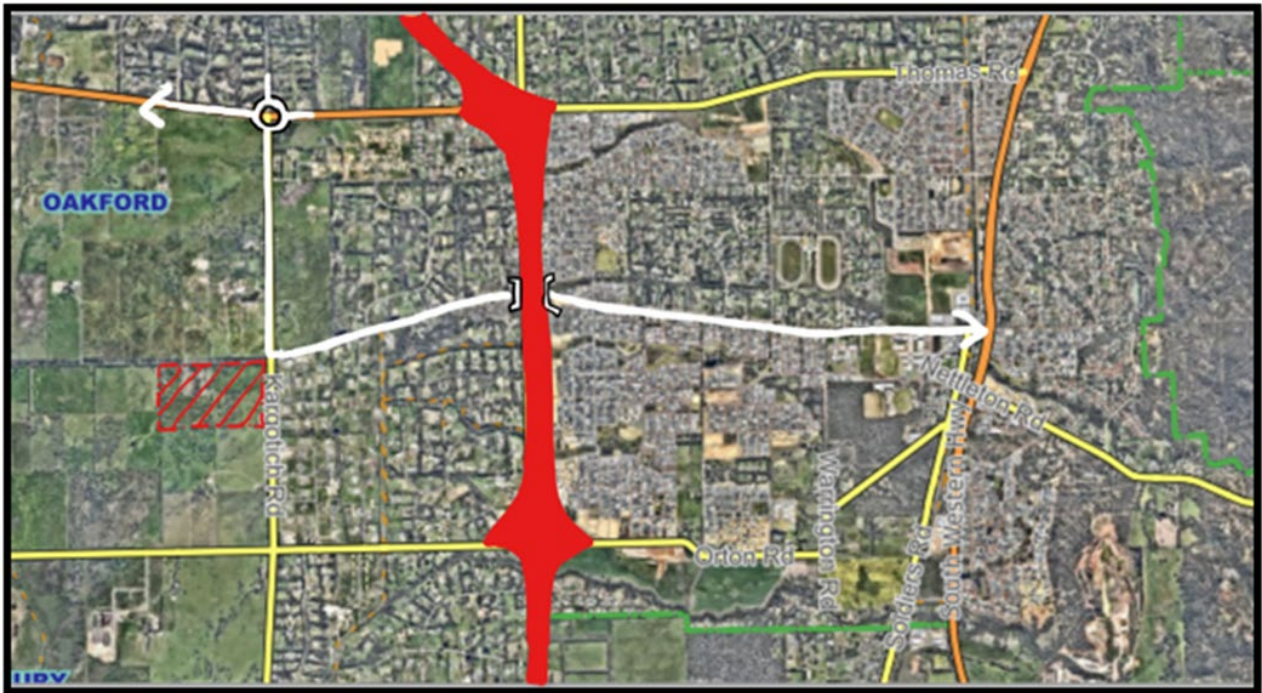


Figure 12: Proposed Upgrades to the Road Network

This movement can be safely achieved, once roundabouts are installed at all key cross roads. This includes:

- Abernethy Road and Hopkinson Road (to be delivered by MRWA);
- Abernethy Road and Kargotich Road (uncertain).

This would also be a utilised movement to and from the school.

At the time the application was being prepared, the applicant consulted with MRWA regarding the upgrade of Kargotich Road. The advice provided was that Kargotich Road was to be upgraded by the Shire. As already discussed in this report, the scope of the Kargotich Road upgrade does not address or include the Abernethy Road intersection upgrade.

In terms of the project to upgrade the intersection, extensive service relocations and land acquisition processes are required to be able to construct the roundabout. There is no detail cost estimate beyond an expected starting cost of circa \$5m. The land acquisition process is still being undertaken in the background to facilitate a future roundabout, but delivery is reliant on either State or Federal funding. This results in this proposal being unable to rely upon any future roundabout, given the lack of certainty to it eventuating.

### Traffic Volumes

In line with Clause 67.2(s) of the *Deemed Provisions*, the impact of traffic generated by the development is a material consideration in the assessment of development applications. A total of six traffic accidents have occurred near the site between 2018 and 2022. As already discussed, the most recent traffic accident at the intersection was on 5 May 2022, during the AM peak, and resulted in hospitalisation.

Given additional traffic would be generated by the development, careful consideration of its impact is required to ensure vehicle safety is not further compromised. A significant number of community objections received raise serious concerns that the proposal would adversely impact the locality by way of traffic volume, safety and congestion.



The TIA identifies that the traffic generated by the proposed development would generally comprise of standard passenger vehicles. The application states that eight school buses (57 seats) and other delivery vehicles would also attend the site. The greatest volume of traffic generated by schools are usually during drop-off/pick-up periods. Peak periods of traffic generation by the development would be 7:45am to 8:45am during the AM peak and 3:00pm to 4:00pm during the PM peak.

The TIA states that once fully developed and at full capacity the proposed school would generate “a total of approximately 1000 vehicles during the AM peak hour and 1000 vehicles during the PM peak hour”. This accounts for the two movements involved in school drop-offs/pick-ups, or in other words 500 vehicles attend the site and then those same 500 vehicles leave. It is unclear from the TIA’s assumptions whether this accounts for not only vehicles associated with students, but also staff and bus vehicle movement.

The trip distribution analysis projects that the majority of traffic would attend the site from the north on Thomas Road (30%) and from the east on Abernethy Road (40%). This for both inbound and outbound traffic, of which the inbound is displayed in the below Figure. Furthermore, most vehicles will enter the site via the Abernethy Road entry points.



Figure 13: Inbound traffic distribution

The TIA’s traffic distribution modelling suggests that the majority of the traffic associated with the development would utilise the intersection of Kargotich Road/Abernethy Road. This equates to approximately an additional 700 vehicles travelling through the intersection during the peak AM and PM hour, at the full capacity scenario. This is a significant increase to traffic utilising the intersection, and cannot be safely accommodated in the technical opinion of Officers, including traffic engineering assessment.





A SIDRA analysis was undertaken to analyse the performance of the intersection, with the installation of a roundabout. The results of the SIDRA analysis in this scenario identified that the intersection would generally perform at a sufficient level to manage traffic generated by the proposal at full buildout. This accounts for existing traffic and projected background increases. A good level of service would be provided, with minimal waiting periods and que backs at the intersection. This is agreed by Officers, which is the basis for pursuing the roundabout solution.

As mentioned earlier, the roundabout implementation is uncertain and must be discounted from consideration. The applicant has then modelled a scenario where there is no roundabout. In response, the applicant provided a supplemental TIA, containing additional SIDRA analysis (**attachment 6**). The amended SIDRA analysis modelled the efficiency of the existing intersection in 2028, when Stage 1 of the school is developed (being the secondary school). Stage 1 would involve the relocation of the secondary school from the Byford campus to the subject site, comprising 568 students. In this scenario the results are as follows:

Intersection Approach		Weekday AM Peak				Weekday PM Peak			
		DOS	Delay (s)	LOS	95% Back of Queue (m)	DOS	Delay (s)	LOS	95% Back of Queue (m)
South: Kargotich Rd S	L	0.357	7.4	A	2.7	0.207	7.4	A	2.7
	T	0.357	0.0	A	2.7	0.207	0.0	A	2.7
	R	0.357	12.9	B	2.7	0.207	13.0	B	2.7
East: Abernethy Rd E	L	0.846	24.4	C	24.3	0.311	10.8	B	4.1
	T	0.846	35.7	E	24.3	0.311	15.7	C	4.1
	R	0.846	45.4	E	24.3	0.311	21.9	C	4.1
North: Kargotich Rd N	L	0.296	7.6	A	3.9	0.320	7.6	A	3.3
	T	0.296	0.6	A	3.9	0.320	0.6	A	3.3
	R	0.296	15.6	C	3.9	0.320	10.3	B	3.3
West: Abernethy Rd W	L	0.467	10.9	B	7.0	0.381	9.0	A	6.2
	T	0.467	20.5	C	7.0	0.381	16.3	C	6.2
	R	0.467	30.1	D	7.0	0.381	21.2	C	6.2
All vehicles		0.846	11.6	NA	24.3	0.381	7.1	NA	6.2

**Figure 14: SIDRA results - scenario with no intersection upgrade and Stage 1 of the school implemented**

The Level of Service (LOS) categories identified in the above Figure range from 'A' to 'F'. The east approach along Abernethy Road is modelled as having a 'level E' LOS, which is defined to include unreasonable and undesirable delays, and intersection close to failure. Specifically it shows:

- An undesirable saturation level (above 0.8);
- A delay of 35s for through traffic, 45s for right hand turn traffic and 24s for left turn traffic;
- Traffic ques of around 24m.



Officers are also concerned by the suggested que length of only 24m. Given the compounding delays of 45s for right hand turn movements and 35s for through movements, the technical assessment by Officers is that ques may be in excess of this.

The delays experienced during the morning peak at a right turn movement from Abernethy Road east are also 5s from reaching a 'level F' category, which in that case the intersection would be intersection failure.

This makes the proposal unacceptable from the traffic impact and safety perspective. Such would cause significant delays for vehicles travelling through the intersection. Movements associated with the western approach to the intersection from Abernethy Road are considered to be mostly generated by the school. The SIDRA results indicates that this traffic movement exiting the school will find difficulty in travelling through to Abernethy Road eastbound, or turning right onto Kargotich Road southbound. Furthermore, Officers consider these significant delays may result in greater queuing times that what is modelled above.

These impacts are considered to have the potential to adversely impact driver behaviours. Behavioural impacts include an increased likelihood that vehicles will attempt to take risky manoeuvres or timing when enter the intersection. Unsignalised intersections are generally considered less safe compared with roundabouts or signalised intersections, which adds to this vehicular safety concern. Officers further note that the applicant anticipates several private bus services being used by students. The above modelling appears to account for light (i.e. passenger) vehicles only. Movement of school buses through the intersection would further compromise traffic safety through increased queuing lengths and delay times than that indicated in the modelling.

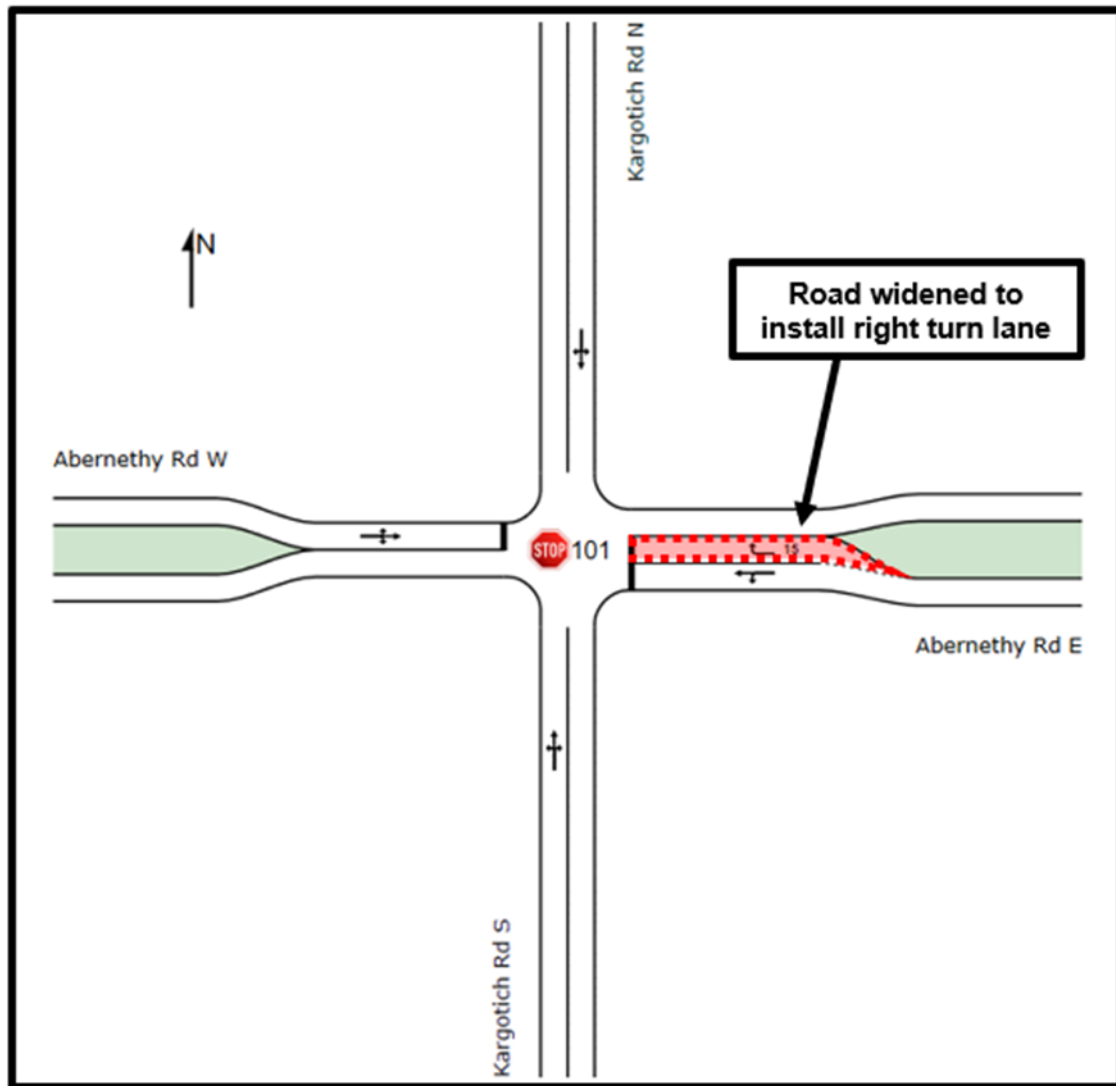
The modelling in Figure 11 was based on the first stage of development. Even with one stage, the school is unable to safely be accommodated based on the current intersection and lack of certainty to any intersection improvements. To contemplate either a staged or full development approval, would not represent orderly and proper planning.

Officers conclude that the intersection would need to be upgraded to operate in an effective manner, to accommodate the first stage of the development. As discussed earlier, the funding of the roundabout has not been secured and the timeframe of its construction is uncertain. It is considered that the roundabout is fundamental to an approval of the development and without it the road network is incapable of adequately facilitating the traffic generated.

Officers have also noted that it would not appear reasonable to load the cost of a roundabout on the applicant. Not only is this cost unknown, and likely more than \$5m, there is no certainty as to the conclusion of land acquisition processes and the applicant has no ability to affect such acquisition of third party land.

Based on this discussion with the applicant, the applicant has recommended an additional potential solution to install a right turn lane on the eastern approach along Abernethy Road to its intersection with Kargotich Road. The intention of this is to alleviate pressure on the intersection resulting from a build-up of traffic from the east. The design treatment is depicted following:





**Figure 15: Proposed additional 15m long turning lane**

The applicant provided amended SIDRA modelling for this intersection, based on the scenario with the additional lane. This shows, according to the applicant, a reduction in queuing at the eastern end of the intersection. This results in the LOS being slightly improved to 'level D' and a reduction in the degree of saturation experienced at this end of the intersection.



Intersection Approach	Weekday AM Peak					Weekday PM Peak			
		DOS	Delay (s)	LOS	95% Back of Queue (m)	DOS	Delay (s)	LOS	95% Back of Queue (m)
South: Kargotich Rd S	L	0.358	7.4	A	2.7	0.208	7.4	A	2.7
	T	0.358	0.0	A	2.7	0.208	0.0	A	2.7
	R	0.358	12.7	B	2.7	0.208	12.8	B	2.7
East: Abernethy Rd E	L	0.489	12.2	B	8.1	0.282	10.5	B	3.6
	T	0.489	22.0	C	8.1	0.282	15.4	C	3.6
	R	0.366	27.1	D	4.0	0.034	18.3	C	0.3
North: Kargotich Rd N	L	0.297	7.6	A	4.0	0.321	7.6	A	3.4
	T	0.297	0.6	A	4.0	0.321	0.6	A	3.4
	R	0.297	15.3	C	4.0	0.321	10.0	A	3.4
West: Abernethy Rd W	L	0.480	11.0	B	7.2	0.390	9.1	A	6.5
	T	0.480	20.7	C	7.2	0.390	16.4	C	6.5
	R	0.480	30.0	D	7.2	0.390	21.0	C	6.5
All vehicles		0.489	8.7	NA	8.1	0.390	7.0	NA	6.5

**Figure 16: SIDRA modelling of the intersection based on the additional turning lane**

Despite the proposed additional lane, the change of service to 'level D' changes from 'over capacity' to 'just under capacity'. The turning lane is only 15m in length, therefore only two or three vehicles could utilise it. Given the still significant wait times for traffic turning right from Abernethy Road onto Kargotich Road northbound, traffic may still queue beyond the turning lane, reducing the intersection back to a single lane in any case. This design solution is based upon the first stage of the school only and does not address the full capacity of 1,200 students proposed.

Officers consider that if a turning lane is provided at the east side of the intersection, then it is reasonable to expect that a mirrored treatment should be installed on the west side of the intersection for vehicles leaving the site. The required widening, tree removal and service relocation required to facilitate this is not documented by the proposal, with no information that depicts whether this is practical or if the applicant agrees to fund this full cost impact. Officers also consider it to be inconsistent with orderly and proper planning to relocate infrastructure, only then to require the same infrastructure to be relocated again to accommodate the roundabout.

Officers are not confident that the proposed turning lane would address safety, congestion or saturation to the extent suggested by the application. Officers are also not certain as to the ability to construct the infrastructure, and the applicant has not documented a 15% full designed and costed proposal, which would need to form the basis of a clear commitment to be included as part of a competent development application.

As part of these additional measures, the applicant proposes to require their school buses to leave the site in a west direction on Abernethy Road. The intent is to reduce the number of vehicles entering the intersection during peak period. On review, the road quality to the west of the site on Abernethy Road is not of a sufficient quality to cater for the buses. Neither would this significantly reduce the number of vehicles or delays at the intersection, given the large volume of traffic expected to be generated by parents leaving the site.

To the west, Abernethy Road is rated as a very poor asset. Further, it is very limited and highly restricted in terms of upgrading, given the significant arch of trees, known as the 'cathedral of trees', which require protection. Accordingly, it would be unsafe for bus movements to be direction in a west bound direction. The following image shows the extensive 3m pavement that exists.



Another factor to consider is the efficacy of vehicles turning into the site. The three access points would be located off Abernethy Road. With the number of vehicles likely generated by the proposal it is important to ensure vehicles do not queue back onto Abernethy Road, further compounding impacts to the nearby intersection. The distribution data shows a relatively even spread of vehicles across these access points (Figure 11). Officers consider the provision of an auxiliary turn lane of approximately 32m would support efficient access to the site. As shown below, the traffic turning into the high school (red) would not result in queue backs impacting buses or traffic moving to the primary school entry (blue). The SIDRA analysis indicates that all access points would operate at a good level, with no queue backs or service delays.

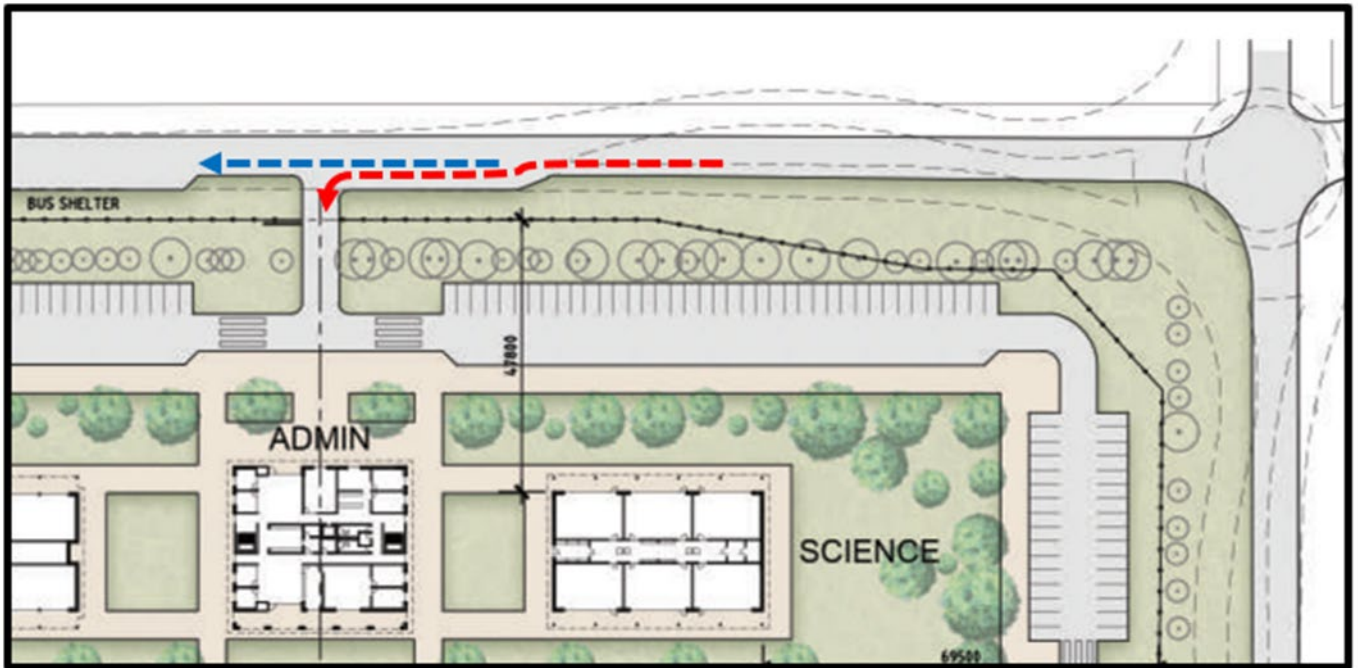


Figure 18: Provided auxiliary turn lane into first access point

### *Pedestrian Access*

There is a low level of pedestrian infrastructure in the locality due to the rural setting of the site. The provision of safe and sufficient pedestrian infrastructure is considered vital in planning for successful school sites. This is reiterated within clause 3.5.6 of OP24 which states:

*“School sites should prioritise pedestrian and bike movement networks, and where appropriate...These networks should lead as directly, conveniently and safely as possible to the school.”*

The applicant anticipates that students would not ride or walk to the school and would rather use the private buses provided by the school if they are not driven by parents. This appears at odds with State Government policy in the planning of school sites. Officers consider that a number of students could ride to the school from surrounding suburbs. This is the case with other private school sites within the Shire such as Court Grammar, where students ride to school despite the school being set on the periphery of the urban area. Therefore, in line with the relevant policy framework, provision of suitable connection to existing pedestrian infrastructure on Thomas Road (to the north) and Byford (to the east) should be required. However, this has not been proposed by the applicant. Officers are not of the view that such is an incidental aspect to condition, and therefore as a result of the applicant choosing to omit this infrastructure, the application cannot be supported.

In concluding the analysis of traffic, transport and pedestrian access aspects, there are a number of issues which are unresolved by the application. These contribute to the recommendation for refusal, due to the development being inconsistent with the planning framework.

It should be noted that an Option 2 has been provided by Officers, should Council seek an option for recommending approval.

It is important to ensure that this option seeks to impose valid planning conditions, in aiming to address relevant planning aspects. This is particularly relevant to the noted infrastructure issues, which are considered substantial and a challenge in striking an effective balance to ensure conditions are valid. This test of validity is specifically:





1. it must have a planning purpose;
2. it must relate to the development to which it is applied, and
3. it is not unreasonable, in that no reasonable planning authority could have imposed it.

With regard to the infrastructure issues, there needs to be Conditions which address the inadequacies associated with:

1. Intersection treatment of Kargotich Road and Abernethy Road;
2. Upgrading to the section of Abernethy Road, between Kargotich Road and Nicholson Road; and
3. Provision of footpath connectivity, linking the surrounding neighbourhoods to facilitate safe pedestrian access.

The Conditions are based upon the following:

1. Contribution to the intersection upgrade based on proportional contribution of the school's traffic to this intersection. This is a contribution given the works involve a proportional Shire funding component.
2. The applicant undertaking the full upgrade to the section of Abernethy Road, between Kargotich Road and Nicholson Road.
3. The applicant undertaking the full construction of a new footpath connection along Abernethy Road, between Kargotich Road and Hopkinson Road.
4. The applicant undertaking the full construction of a new footpath connection along Kargotich Road, between Thomas Road and Abernethy Road.

With regard to the intersection of Kargotich Road and Abernethy Road

Prior to the issue of a building permit, the applicant shall pay an intersection upgrade contribution to the Shire of Serpentine Jarrahdale of \$2,720,348.20, which is based upon the proportional contribution of additional traffic that the development generates through the intersection of Kargotich Road and Abernethy Road, at the critical AM and PM peak times which directly result in the requirement to upgrade that intersection. This contribution is based on the following application information:

Existing traffic during AM peak approaching intersection	1059
Existing traffic during PM peak approaching intersection	617
Additional traffic during AM peak approaching intersection	1000
Additional traffic during PM peak approaching intersection	1000
Total traffic	3676
Proportion from school	54%
Cost of upgrade	\$5,000,000
Required contribution	\$2,720,348.20



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With regard to the upgrade of Abernethy Road, between Kargotich Road and Hopkinson Road

Prior to the commencement of operations, the existing road pavement of Abernethy Road, between Kargotich Road and Nicholson Road, is to be widened to a 6m asphalt standard with 1m compacted gravel shoulders. This however does not include the section of road beneath the 'cathedral of trees', which is instead to be upgraded to only the width possible that will not adversely impact the health or survivability of any of the trees whatsoever. Plans are to be submitted to and approved by the Shire, prior to the issue of a building permit, and must include a detailed arborist assessment of the cathedral of trees section of the road, that indicates how that section of road upgrade will occur in a viable way without impacting any of the trees.

With regard to the Abernethy Road footpath

Plans are to be submitted to and approved by the Shire of Serpentine Jarrahdale prior to the issue of a building permit, demonstrating the provision of a suitable footpath on the southern side of Abernethy Road, which links the development to the extent of footpath which exists on Abernethy Road, east of Hopkinson Road. The footpath shall be fully constructed by the applicant at its sole cost, and must be completed prior to the commencement of the school's operations.

With regard to the Kargotich Road footpath

Plans are to be submitted to and approved by the Shire of Serpentine Jarrahdale prior to the issue of a building permit, demonstrating the provision of a suitable footpath on the eastern side of Kargotich Road, which links the development to the extent of footpath being currently built by Main Roads WA as part of the Kargotich Road / Thomas Road roundabout. The footpath shall be fully constructed by the applicant at its sole cost, and must be completed prior to the commencement of the school's operations.

*Carparking*

Under LPS3 an 'Educational Establishment' is required to provide 14 parking bays per 100 students. As the ultimate capacity for the proposal is to accommodate 1,200 students, this equates to a requirement for 168 parking bays. The proposal incorporates the provision of 546 parking bays, including those bituminised and onsite grassed areas capable of use as overflow parking. Officers consider the parking provision is sufficient for the development.

*Bicycle Parking Facilities*

Under LPS3 the requirements for bicycle parking are to provide one bay per four students for an 'Educational Establishment'. The proposal does not incorporate the provision of any bicycled bays currently. The justification for this is that the proposal is not within a walkable or rideable catchment, so no students will ride bikes. As discussed previously, Officers consider students would still ride or walk to the school despite the school being set on the periphery of the urban area. Being only 4km from the centre of Byford, riding appears feasible. Officers consider that should support for the development be considered, then suitable provision of bicycle parking and end-of-trip facilities should be required as a condition of determination.

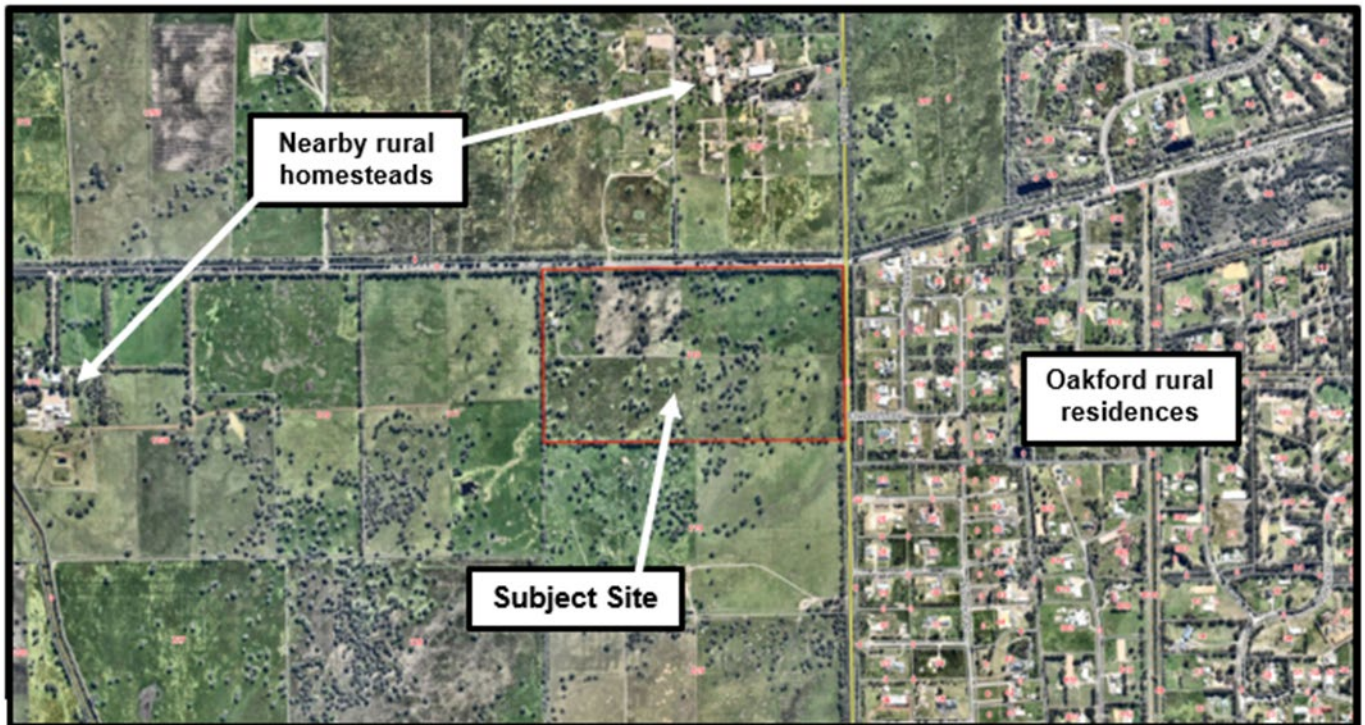
Noise

Several objections were received during the advertising period relating to noise. Officers consider that the protection of rural amenity for neighbours is a key consideration during the planning assessment, in accordance with Clause 67(2)(n) of the *Deemed Provisions*.

The applicant has provided an acoustic report to address the requirements of the *Environmental Protection (Noise) Regulations 1997 (Noise Regulations)*. The acoustic report states that the proposal as an educational facility would be exempt from the requirements of the Noise



Regulations, as it is classified as 'Community Noise'. However, if the community noise is increased and has a detrimental effect on the environment so that it exceeds the benefit to the community of the activity that gives rise to that noise, then the DWER may serve a noise control notice on the owner or occupier. Notwithstanding this, the mechanical services associated with the educational facility need to comply with the *Noise Regulations*. Furthermore, the requirements of the *Noise Regulations* are key in determining the amenity impact of the development on the locality by way of noise. The closest neighbouring residences are found in the rural residential areas to the east, as depicted below:



**Figure 19: Image of the nearby sensitive receptors to this development**

The acoustic report provided by the applicant considers the following key noise sources for this development:

- Noise from vehicle movements within the development;
- Outdoor play areas such as basketball courts;
- Mechanical services such as plant noise;
- Breakout noise from the gymnasium and associated activities; and
- Outdoor noise from the amphitheatre.

Modelling is used to determine whether these noise generating activities comply with the requirements of the *Noise Regulations*. Factors that are input into this modelling include; meteorological information, the geography of the locality, existing background noise from nearby roads and standard noise (decibels) generated by the above listed activities.

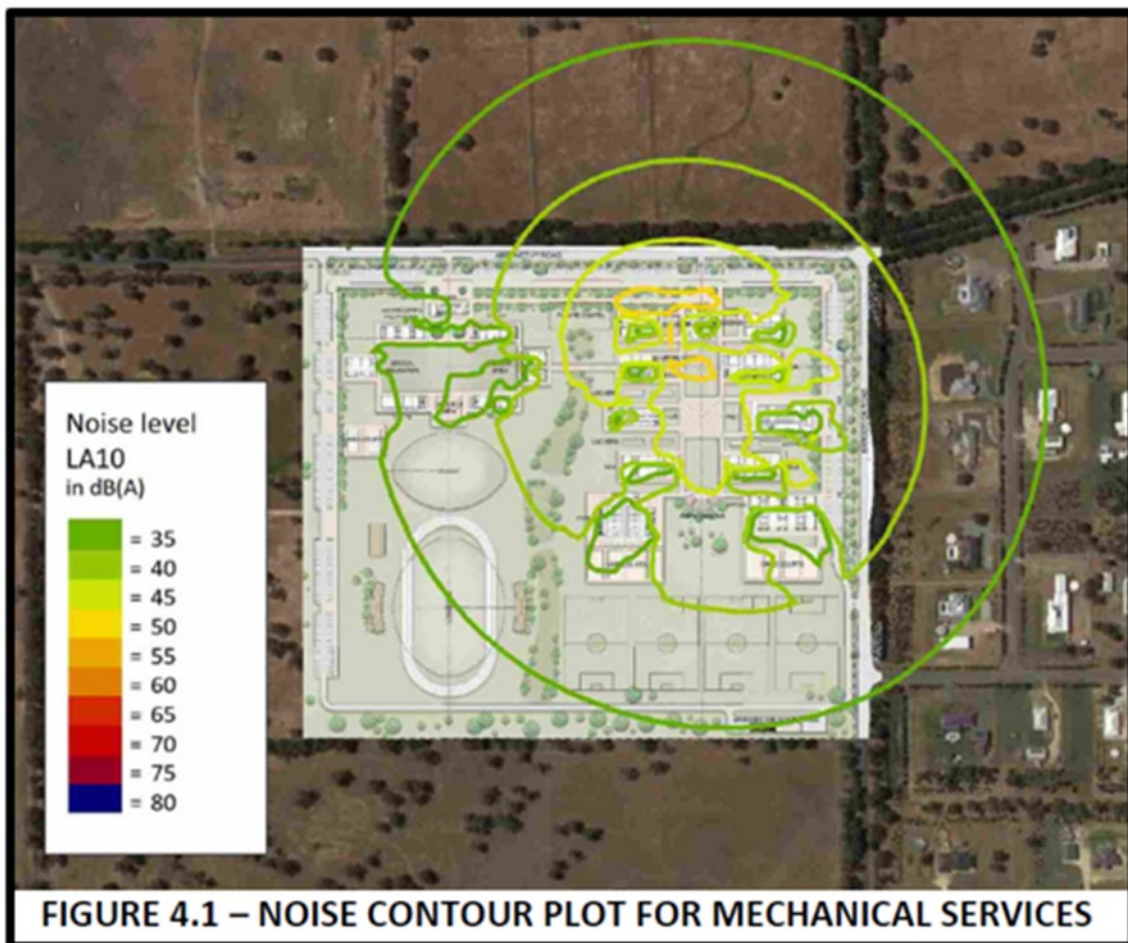
The following series of Figures are extracted from the acoustic report. These display the acoustic map modelling undertaken for each of these noise sources. The noise levels emanating from the sources are depicted in relation to their proximity to nearby residences. In addition, there are different types of noise sources considered which are as follows:





- $LA_{10}$  - This is noise with a duration of 10% of the measured period (for example, they would occur for 6 minutes in an hour). They are typically low impulsive noises, which have a high frequency or longer duration. The  $LA_{10}$  considered to represent the “intrusive” noise level.
- $LA_1$  - This is noise with a duration of 1% of the measured period (for example, they would occur for 36 seconds in an hour). They are typically more impulsive, though less frequent. The  $LA_1$  is typically used to measure the averages of the maximum noise level.
- $L_{Amax}$  - This is the singular maximum noise level during the measurement. These types of noises typical last a very short period, though are highly impulsive.
- $L_{Aeq}$  - This relates to noise sources that measured of a specified period, usually 4, 8 hours or 16-hour noise average. Typically, this is applied to sources such as traffic noise from a road, which occurs over a long period of time.

The first noise source considered relates to noise generated from mechanical equipment and services. This is projected to result in a noise level of 37 decibels (dB) being received at the nearest sensitive receptors. This is compliant with the assigned level of 45dB for  $LA_{10}$  noise. It is noted that this only relates to the day-period (7:00am to 7:00pm). Officers consider that any out of hours activities occurring on site that would make use of the mechanical services would likely exceed acceptable assigned levels. Therefore, further design elements (i.e. noise shielding) would need to be applied to further mitigate noise.



**Figure 20: Noise modelled for mechanical services and equipment**





The next noise source modelled was relating to outdoor activities, of which the acoustic report indicates the basketball courts would be the most impactful. Officers note that there are basketball courts proposed to the south and east of the site, situated approximately 140m from nearby residences to the east. Noise is modelled to be received at these residences at 42dB, complying with the 55dB requirement for LA1 noise.

Officers consider that given basketball activities may occur for extended periods during recess, lunch, during sports classes or after school, the LA10 noise category may be more applicable. Despite this, the modelling would still suggest compliance with the *Noise Regulations* as the requirement would be to meet 45dB of LA10 noise. While the projection of 42dB complies, Officers consider it is close to the assigned levels. Therefore, additional design considerations such as the provision of a noise wall are considered applicable to assist in managing the amenity of nearby residents effectively.

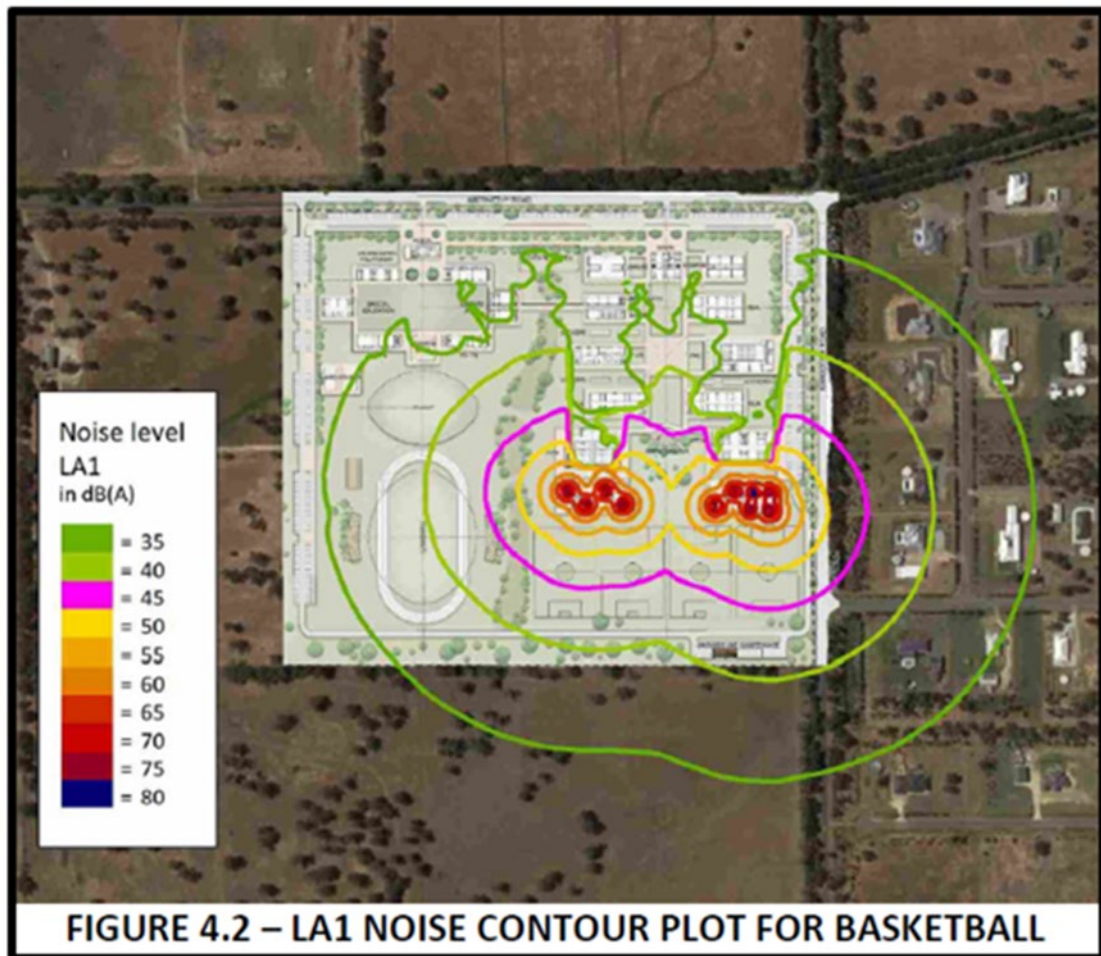


Figure 21: Noise modelled from the noisiest outdoor activities (basketball)



Noise modelling was also undertaken for other outdoor activities, specifically the use of the amphitheatre. This may include the use of sound systems should events occur outdoors. The modelling suggests noise of 38dB would be received at sensitive receptors for this source. This is compliant with the assigned 45dB for the applicable LA10 noise category.

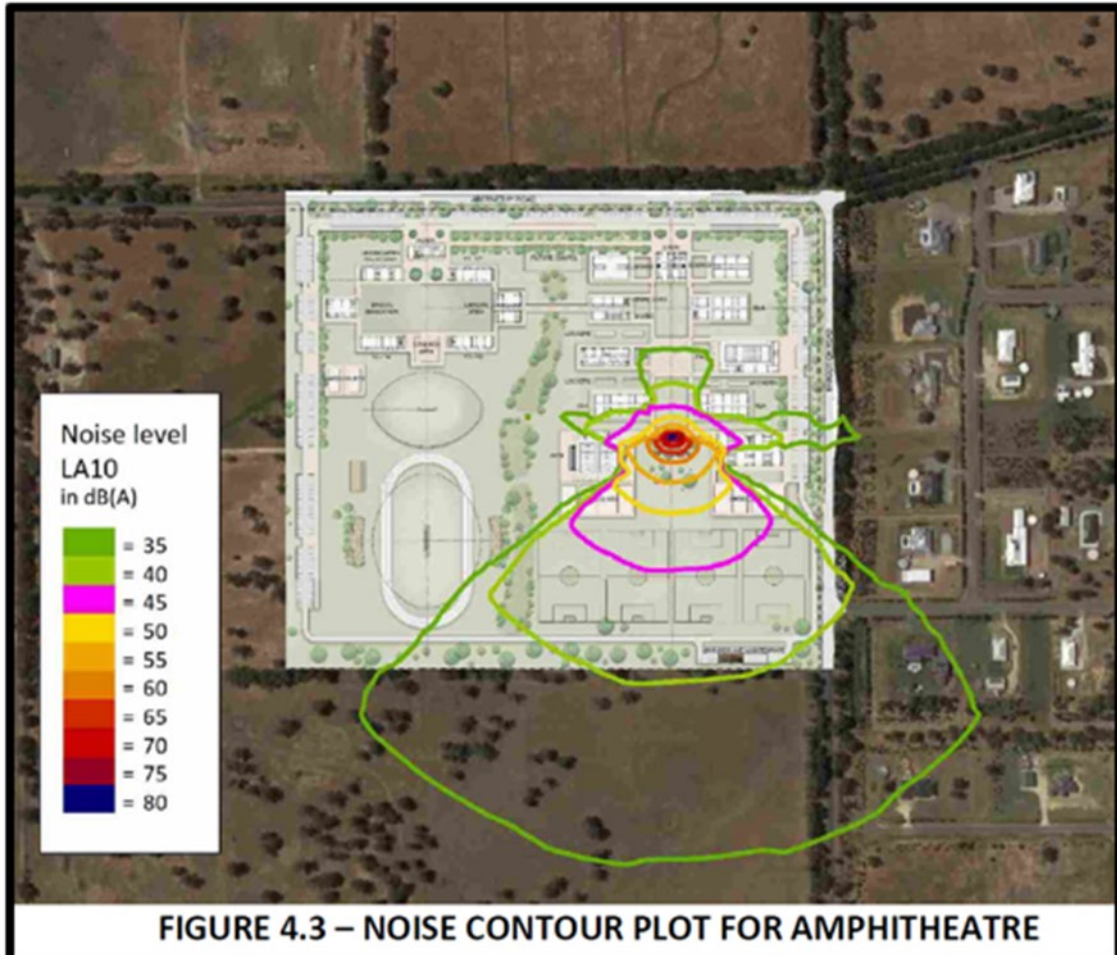
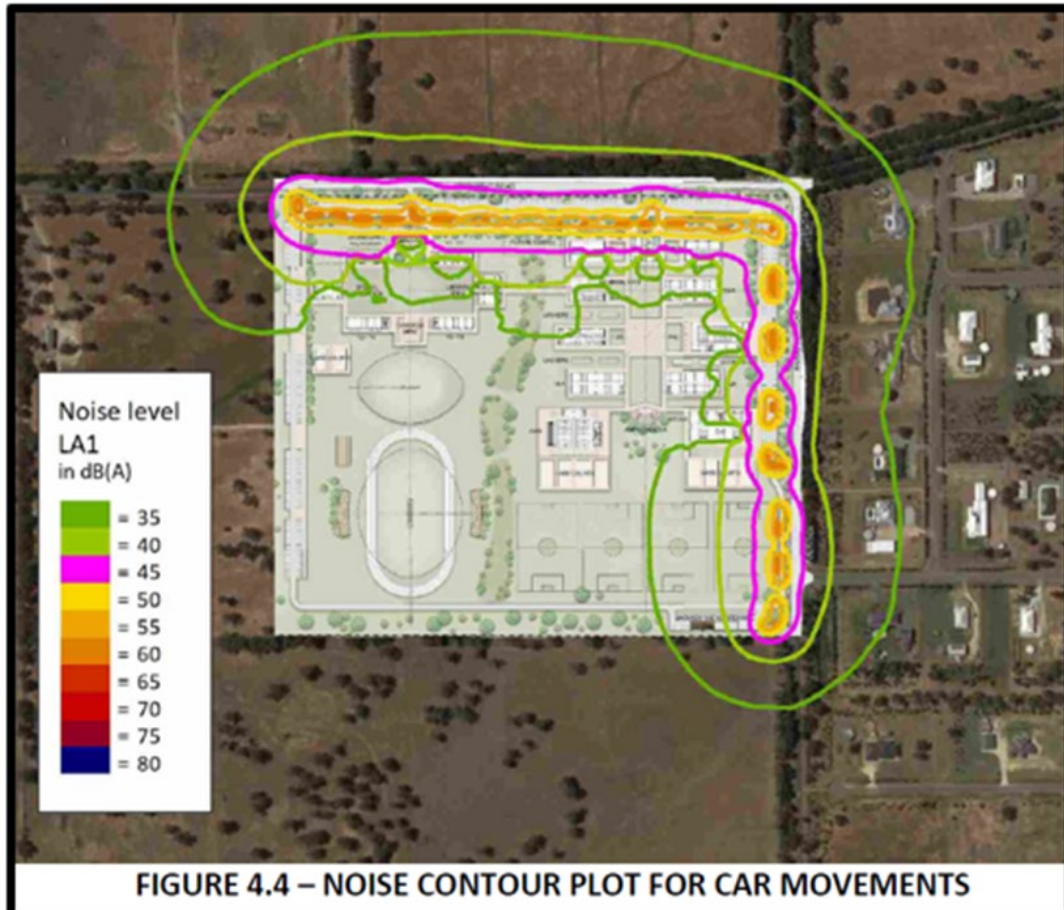


Figure 22: Noise modelled from the noisiest outdoor activities (amphitheatre)



Noise modelling was also undertaken for car movements associated with the site. This primarily includes vehicles as they move internally, within the carpark of the site. The modelling suggests noise of 39dB would be received at sensitive receptors for this source. This is compliant with the assigned 55dB for the applied LA1 noise category. Officers dispute the use of the LA1 noise category, considering LA10 would be more applicable given noise from car movements is likely to occur over a more extended period. This is especially the case during school drop off and pick up times. Regardless, the modelled 39dB would still comply with the LA10 assigned level of 45dB.

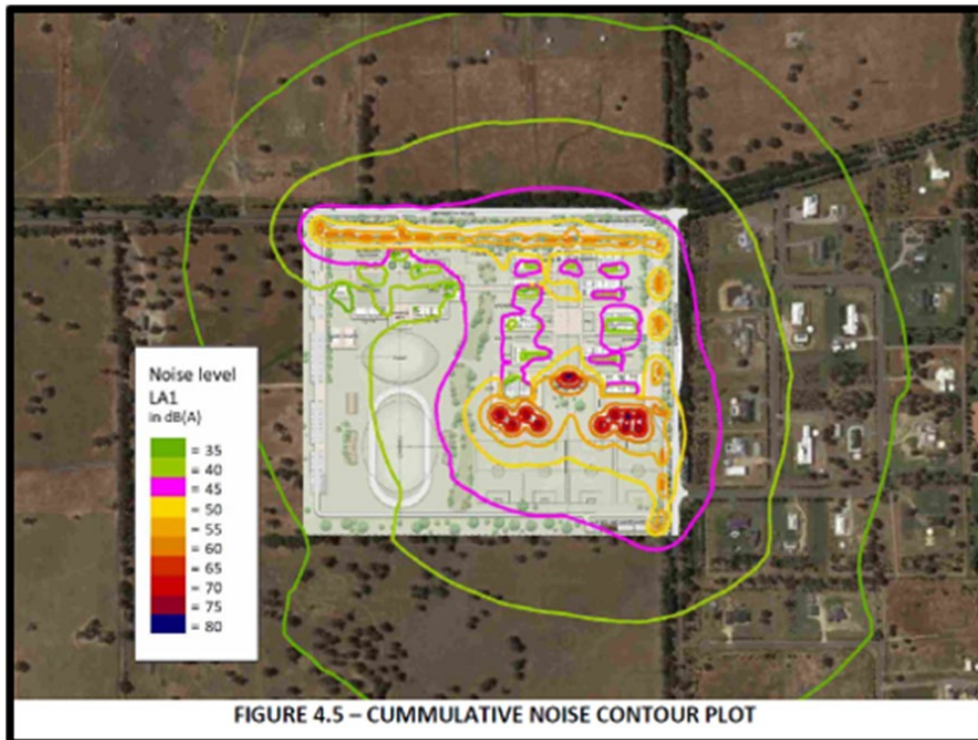


**Figure 23: Noise modelling for internal car movements**





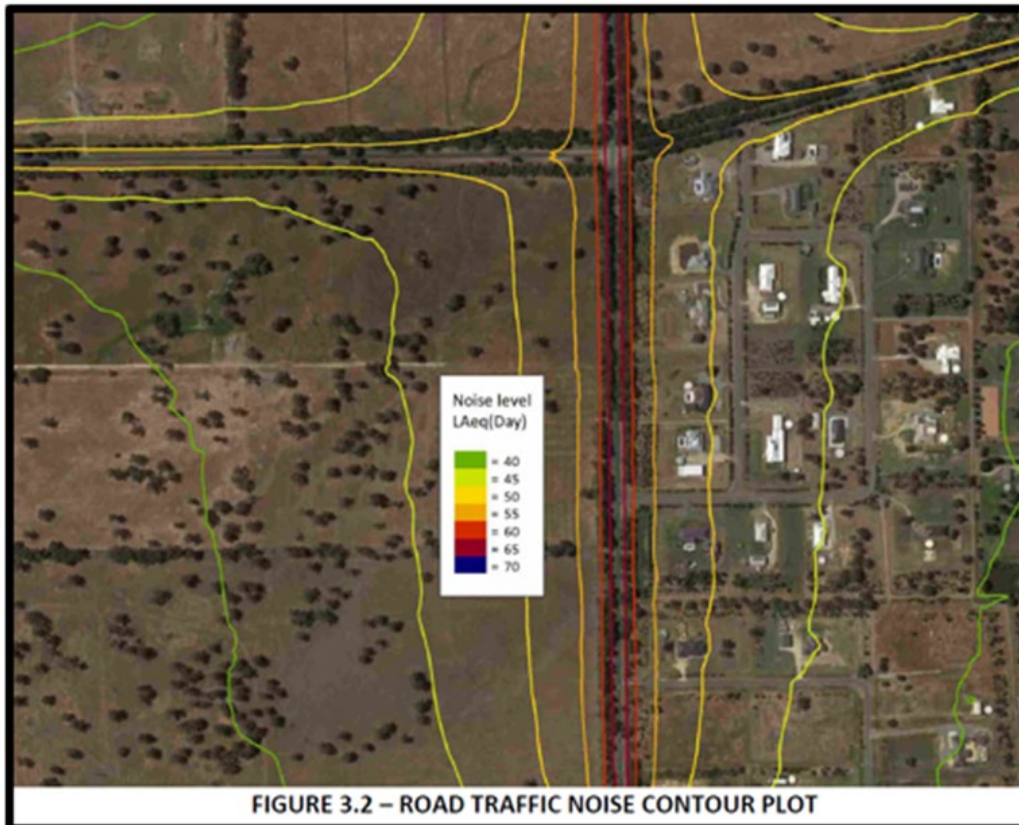
In summary, the acoustic report provides a depiction of all noise generated accumulatively by the development in the following Figure.



**Figure 24: Cumulative noise generated by the development**

The modelling within the acoustic report demonstrates a general level of compliance with the *Noise Regulations*. The highest noise level received at the closest nearby residences would be between 40-45dB. This meets the assigned noise level for LA<sub>10</sub> and LA<sub>1</sub> noise which are 45dB and 55dB respectively. By way of additional justification, the acoustic report rationalises that the noise generated by existing traffic on Kargotich Road (50-55dB) is greater than that which would be generated by the development. The assertion in this regard is that noise levels generated by the school would be masked and exceeded by existing traffic noise from Abernethy Road and Kargotich Road. This is displayed in the Figure below:





**Figure 25: Noise levels generated by existing traffic in the locality**

Officers consider that despite complying with the *Noise Regulations*, the modelled noise only just meets the assigned levels. Furthermore, comparing noise generated from the traffic on Kargotich Road and Abernethy Road ( $L_{Aeq}$ ) and noise generated by the school ( $LA_{10}$  or  $LA_1$ ), is not considered a relevant comparison. This is given noise under  $L_{Aeq}$  may only reach its maximum average over a four, eight or 16-hour period. Meaning there are far longer periods between when noise from this source would be noticeable, compared with the more frequent and intense noise generating activities of the school.

Officers consider as the development maintains general compliance with the *Noise Regulations* it would be in keeping with the expected amenity of the locality, by way of noise. However, it is considered reasonable that additional design measures be applied to further reduce and mitigate noise levels received by sensitive receptors in the locality. Therefore, should Council recommend support for the development a condition has been provided to require a detailed Noise Management Plan be prepared by an accredited acoustic consultant.

### Environment

Clause 67 of the *Deemed Provisions*, specifically (o) requires consideration of the effect of the development on the natural environment and any measures proposed to protect or mitigate impacts.

### *Geomorphic Wetland*

The entire site is classified as a 'Multiple Use' category wetland according to the Department of Biodiversity, Conservation and Attractions (DBCA) database. The 'Multiple Use' category is a classification of wetland refers to those wetlands that have very few or limited remaining environmental values. Many of the former environmental functions of the wetlands in the Oakford area were historically compromised by farming activities in the region.



Figure 26: 'Multiple Use' category wetland on the site (yellow overlay)

As the wetland in the area no longer provides those significant environmental value and functions, the wetland value of the site would not further be compromised by the proposed development.

#### *Removal of Vegetation*

Officers note that several submissions have been received relating to the impacts of the development on the rural landscape features of the site. These raise concern relating to the possible impacts on local fauna and removal of habitat for endangered Black Cockatoos.

The site features local native *Casuarina Obesa* or Swamp She-Oaks trees scattered broadly across the centre of the site. There are also significant rows of *Corymbia Calophylla* or Spotted Gum trees along the northern and eastern lot boundaries of the site that make up a significant part of the landscape characteristics of the locality. The application proposes to broadly develop the site, which will result in the removal of a significant portion of the trees. The intent of the proposal is to retain the significant rows of trees on the lot boundaries, as well as proposing significant revegetation across the site.

The Shire's Local Planning Policy 4.16 - Tree Retention and Planting (LPP4.16) provides relevant considerations where development proposes tree removal. Importantly, the objectives and relevant principles to be considered from LPP4.16 include; ensuring managing impacts to the rural landscape, consideration of local native vegetation and habitats for animals, and revegetation.

The application would impact several native She-Oaks, scattered centrally within the site. The environment section of the applicant's preliminary site investigation report details that these native She-Oaks may provide nesting habitat for Black Cockatoos. However, the report also acknowledges that the site was historically cleared of vegetation for the purposes of farming and





grazing. The earliest aerial imagery (70 years ago) indicates that overtime scattered regrowth has occurred, meaning many of the trees have been established for some time. This regrowth has been compromised overtime as some trees were removed. As there is not a significant volume or community of trees, it is considered there would be limited quality nesting habitats.

Officers consider that while removal of existing vegetation is proposed, which does form part of the character of the locality, the site is zoned 'Rural' enabling land uses to be contemplated that require the clearing to facilitate the use. Furthermore, the application provides a concept landscape masterplan which would see significant revegetation efforts undertaken throughout the site. This includes the provision of a central landscaping corridor and additional vegetation to be planted as screening along lot boundaries. Furthermore, the development would be sited to enable landscaping between classrooms and other buildings. Officers consider that this provides opportunity to ensure local native vegetation is replaced in the locality and so a detailed Landscaping Plan would be required to achieve this and should the development be supported. Therefore, Officers consider the proposal is consistent with the objectives and requirements of LPP4.16.

### Stormwater

The geology of the site is characterised by clayey soils with a low capacity for water infiltration. During winter months it is not uncommon for prolonged waterlogging and ponding of water in localised surface depressions to occur. Furthermore, the site is noted as being within a 'floodplain'. This means there is only a small separation between the groundwater and natural ground level. It ranges across the site, being 0.1m below ground level at its highest and 0.6m at lowest. As the site has a low infiltration rate, surface water moves in a slow manner from the north-east to the south-west of site resulting from the gentle fall of the land. These features are described below:

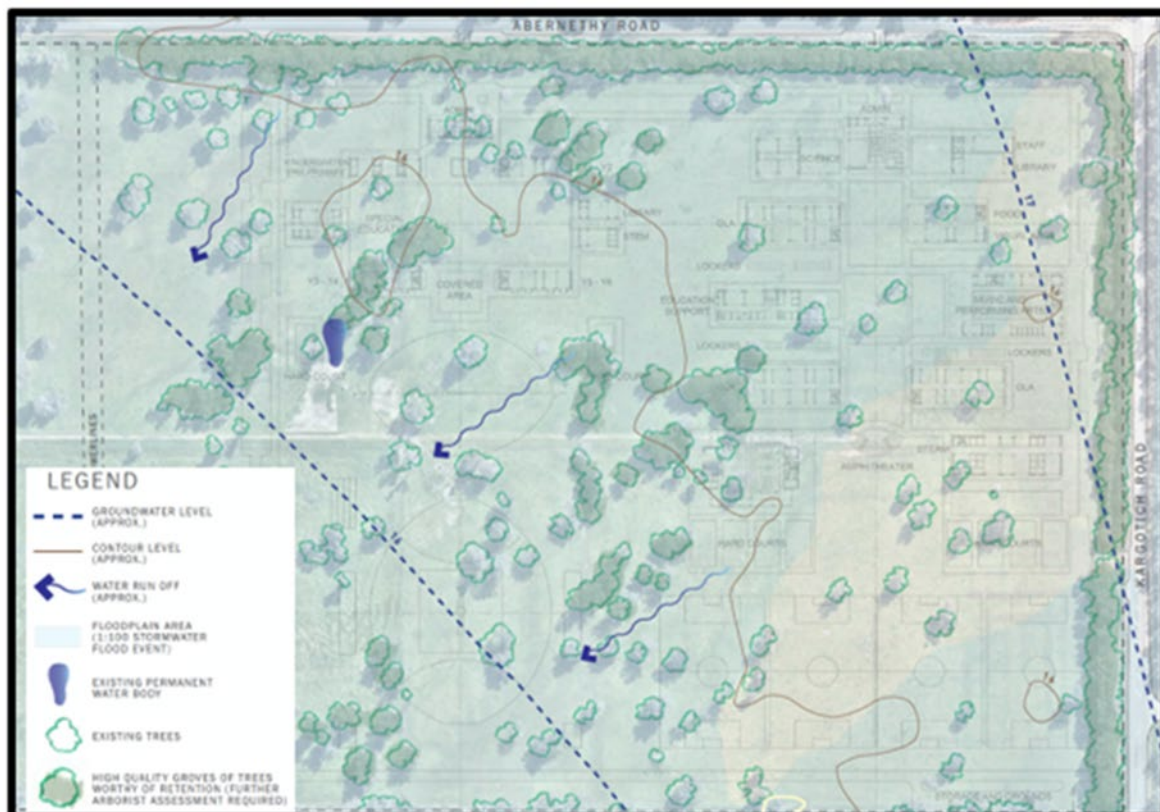


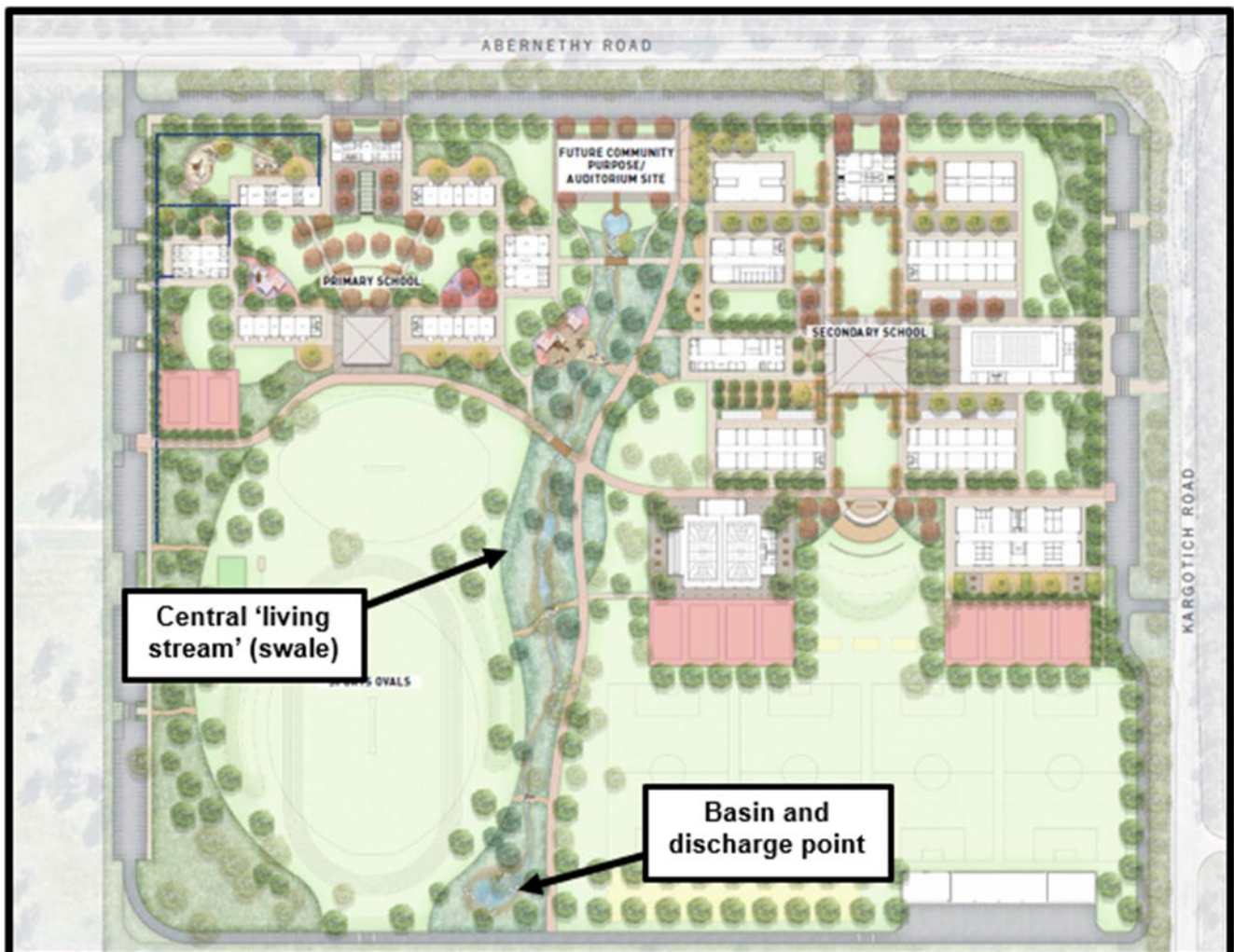
Figure 27: Map showing the whole site as a floodplain and surface water movements



Given this context of the site, careful consideration of stormwater management is required for this development. The applicant has supplied a Water Management Strategy (WMS) which is prepared by JDA Consultant Hydrologists. The WMS acknowledges that detailed engineering and the preparation of a stormwater management system is required to be undertaken yet. This would form a Stormwater Management Plan (SWMP). However, the WMS proposes the following methodology:

- Creation of a 'living stream' centrally to the site, acting as a drainage swale to detain stormwater events.
- The grading of the drainage swale from the north down to the south, to prevent extended ponding of water and to maintain the natural direction of surface water movement.
- Overflow from large storm events to be discharged at a release point to the south of the drainage swale.
- Managing water quality through filtering stormwater via grassed swales and the vegetated drainage swale.
- Minimum habitable building floor levels having a 0.3m clearance from the top water level of the drainage swale.

The following Figure identifies the central 'living stream' concept:



**Figure 28: Location of proposed 'living stream' or drainage swale**





**Figure 29: Concept image of the 'living stream' or drainage swale**

Officers consider that in principle there is merit to the methodology of stormwater management proposed. The 'living stream' concept provides a model consistent with the 'wetland' nature of the site. Furthermore, it would provide opportunity the planting of native vegetation which can strip nutrients and contaminants, managing the quality of water entering the ground. The proposal in its current form would need additional details regarding the following:

- The amount of fill required across the site to ensure suitable separation from groundwater.
- The required capacity of the 'living stream' to be able to function as an effective drainage basin for storm events.
- What the impact of the overflow outlet will be on the adjoining property to the south.
- How water quality will be effectively managed given runoff of hydrocarbon particles from carpark areas and the volume of fertiliser application required resulting from the large oval areas.

The methods identified in the WMS can be supported in principle, though their effectiveness would need to be confirmed through undertaking site analysis, engineering assessment and preparation of a detailed SWMP. Officers recommend should the development be supported, then a condition requiring a detailed SWMP be prepared and approved by the Shire should be included in the determination.

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

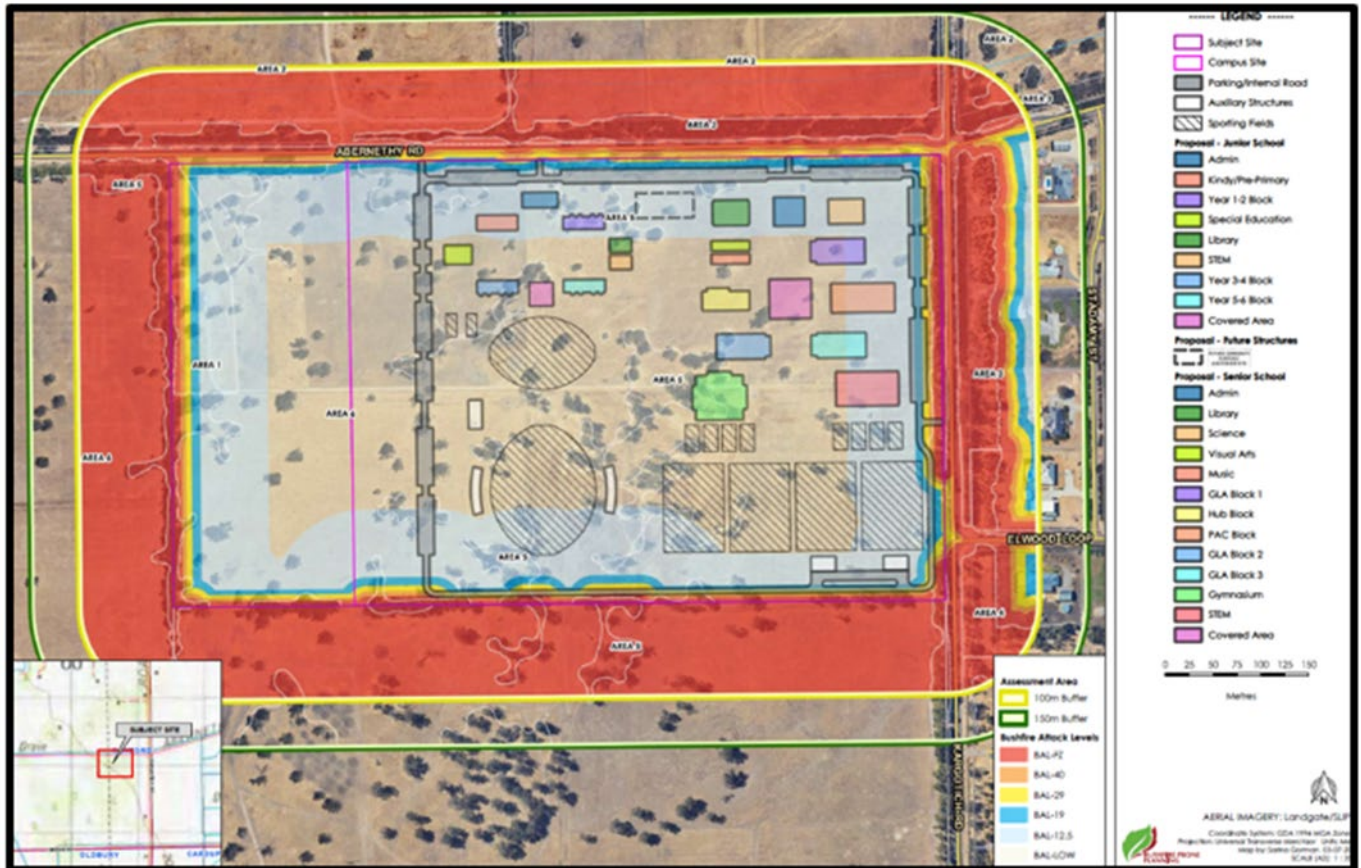
The subject site is located within a Bushfire Prone Area and subject to assessment under SPP3.7, which classifies Educational Establishments as 'vulnerable' land uses requiring the submission of a Bushfire Management Plan (BMP) to be jointly endorsed by the local government and the Department of Fire and Emergency Services (DFES). As previously stated, DFES has provided a submission not objecting to the development. The BMP is required to achieve consistency with the Guidelines for Planning in Bushfire Prone Areas (Guidelines). An assessment against the elements of the Guidelines follows.

Concern was raised through the community submissions that the development would increase bushfire risk to the adjoining residences to the east. However, Officers note that the proposed management plan includes commitment to managing the vegetated and grassed areas of the site. Officers therefore consider the development would not result in an increased bushfire risk to the locality.



*Location, Siting and Design:*

The BAL contour map provided within the BMP assessed the impact of vegetation on the lot boundaries and surrounding properties. The highest risk buildings of the development would be in an area with a BAL rating of BAL-12.5. This is subject to maintaining all land within the lot boundaries as an asset protection zone (APZ).



**Figure 30: BAL contour map identifying BAL12.5 as the highest risk-rating for buildings**

*Vehicular Access:*

The Guidelines require for development to have suitable two-way egress from a site in case of a bushfire. The subject site has direct access to Abernethy Road which is constructed of bitumen, and not less than 6m wide. Abernethy Road provides access to Kargotich Road, which enables a north or south escape. Additionally, Abernethy Road provides means of escape in a west direction towards Thomas Road and then Kwinana Freeway, as well as in an east direction to Byford. Therefore, the location of the site and existing road network permit suitable access and egress for the community and emergency services personnel in the event of a bushfire.



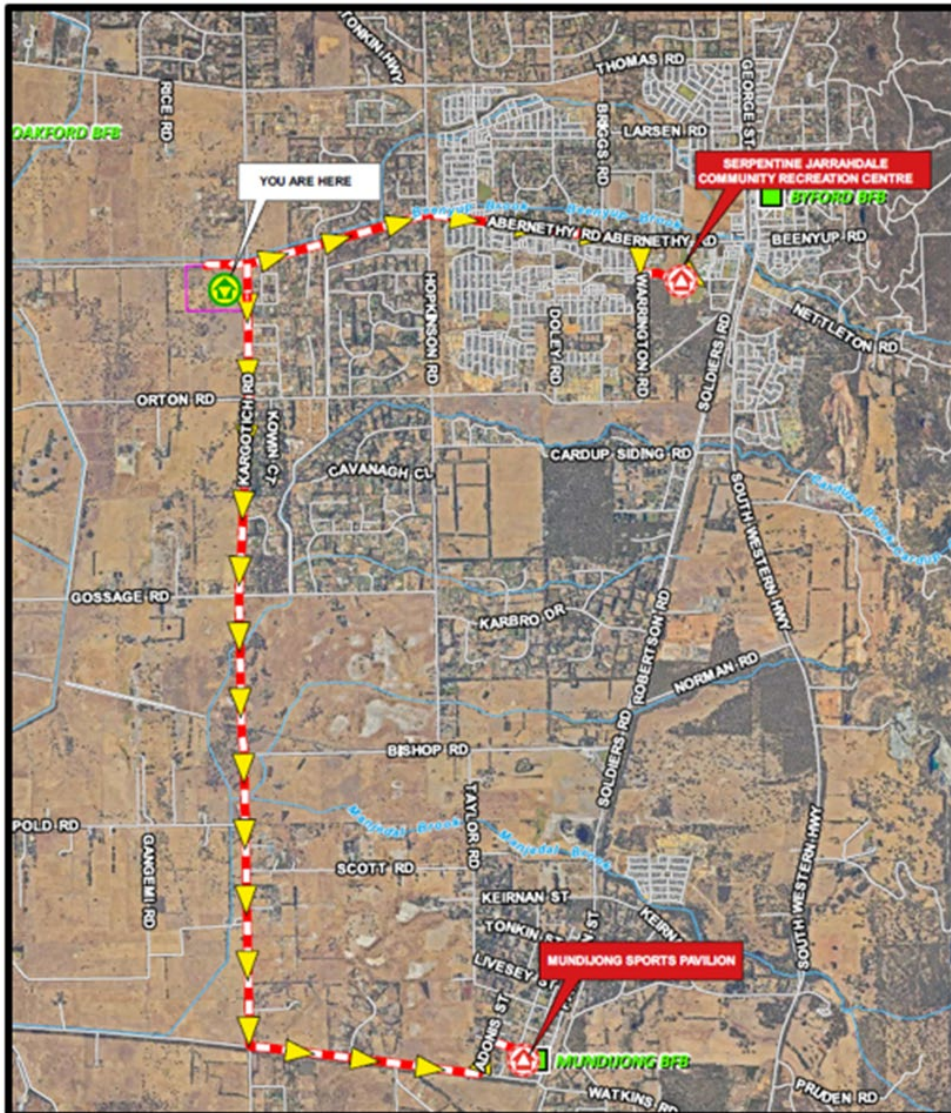


Figure 31: Two-way emergency egress directions identified in the BEP

*Provision of Water:*

The BMP identifies that in terms of providing a water source, a future reticulated water supply will be established at the site. Appropriately located hydrant connection points will be provided for the use of emergency services.

In summary, the BMP demonstrates consistency with the provisions and elements of the Guidelines relating to Siting, Location, Access and Water.

*Bushfire Emergency Plan:*

DFES also commented on the Bushfire Emergency Plan (BEP) provided within the application, highlighting that the considerations within Clause 5.5.4 of the Guidelines would be relevant to the BEP. As mentioned before the site has suitable capacity for emergency evacuation due to the multiple directions available to egress from the site. Additionally, overall the BEP identifies the gymnasium and covered areas as suitable locations where onsite sheltering can occur, which has a low bushfire risk (BAL-Low). The BEP would also suitably rely on early warning and response methods to remove students and teachers as soon as an emergency is identified. Despite this, Officers consider the BEP provides insufficient detail in relation to the following aspects of Clause 5.5.4 of the Guidelines:





- Details of evacuation or onsite sheltering procedures, accounting for the significant number of students and teachers at the facility;
- Whether there are people with disability, medically dependent, young children or the elderly attending the site;
- Methods of warning and communication;
- Noting there is no direct vehicle access to the onsite shelter locations, how will safe transition from onsite shelters to evacuation occur;
- How emergency services are to access the internal buildings of the site given the access roads are on the periphery of the site;
- The means of transport that would be provided to ensure evacuation occurs in a safe and timely manner;
- Identified of persons to coordinate emergency procedures and responsibilities of staff and personnel during an emergency.

Therefore, should Council support the development, Officers recommend a condition requiring an amended BEP be provided to fully address the requirements of Clause 5.5.4 of the Guidelines.

#### Local Planning Policy 1.6 - (LPP 1.6) - Public Art for Major Developments

The objectives of LPP 1.6 - Public Art is to facilitate public art to enhance public enjoyment, engagement and understanding of places through the integration of public art. The policy sets out the requirements for physical and financial contributions for public art for any development valued at \$1 million or greater. A condition should be imposed requiring the applicant to contribute towards public art in accordance with the policy in the event of an approval.

#### Servicing strategy

The application includes the following details:

### 6.8 Servicing

The campus is proposed to be connected to the reticulated water, power networks and an appropriate wastewater disposal solution.

The development will be required to fully fund the construction of either a private pumping station or an approved onsite effluent disposal system to the satisfaction of the Department of Health. A private pressure main and pump would connect and discharge to the existing gravity sewer network managed by the Water Corporation within Byford, approximately 3.2km east of the subject site. Alternatively, onsite effluent disposal may be accommodated onsite, subject to approval by the Department of Health.

Water Corporation has advised that to provide a potable water service to the development, a new water main would need to be extended to the site and would involve constructing approximately 2.5km of DN150 water main along Abernethy Rd to connect into Water Corporation's existing DN200 water main at the intersection of Abernethy Rd and Tourmaline Boulevard. All costs associated within this water extension are the responsibility of the client (FRSA).

The existing Power network currently has capacity to service the proposed development. The site will require at least two HV feeders to be extended to the development and it is likely that the development will require Western Power network reinforcement/augmentation. With consideration of potential staging of the proposed development, the initial portion (High School and Administration) will have an estimated load of 600kVA. Given this and the subsequent primary school load, a minimum of one 1000kVA Non MPS transformer will be required. Furthermore, the site will require a minimum of one HV switchgear kiosk to bring the HV power network into the development in both instances.

Further detail regarding the servicing requirements for the school campus are contained within the servicing report prepared by JDSi.

*Refer to Appendix K – Servicing Report*

*Refer to Appendix L – Site and Soil Evaluation*



**Options and Implications**

Option 1

That Council RESOLVES the following Responsible Authority Report Recommendation:

1. That the Metro Outer Joint Development Assessment Panel REFUSES the development application for the proposed Educational Establishment at Lot 218, 575 Abernethy Road, Oakford, as contained within **attachment 2**, for the following reasons:
  - a. The development is considered to represent an adverse impact on the existing road environment, due to the volume of traffic generated by the development relying primarily on a single intersection to access the site and such intersection failing to provide a safe level of service.
  - b. The proposed development has not provided sufficient information to demonstrate how infrastructure issues will be addressed, or that the development is capable of being staged in a viable manner according to current infrastructure levels.
  - c. There is no certainty to the adequate provision of pedestrian or vehicle infrastructure, insofar that there is no allocated funding to undertake these works. The expected cost of full pedestrian and road infrastructure improvements is expected to be between \$5m to \$10m, taking account of the need for land acquisition, utility changes, clearing permits, offsets etc. The development is considered to have an adverse impact on the existing locality, due to the volume of traffic generated by the development relying primarily on a single intersection to access the site.

Option 2

That Council RESOLVES the following Responsible Authority Report Recommendation:

1. That the Metro Outer Joint Development Assessment Panel APPROVES the development application for the proposed Educational Establishment at Lot 218, 575 Abernethy Road, Oakford, as contained within **attachment 2**, for the following reasons:
  - 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 its consent.

Plans Specification	and	Development Plans dated June 2022 Traffic Impact Assessment dated July 2023 Supplemental Traffic Impact Assessment dated October 2023 Water Management Strategy dated July 2023 Acoustic Report dated October 2023 Bushfire Management Plan and Bushfire Emergency Plan dated July 2023
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- b. Prior to lodgement of a Building Permit, a detailed Stormwater Management Plan must be submitted to and approved by the Shire of Serpentine Jarrahdale, on advice of the Department of Water and Environmental Regulation. The Stormwater Management Plan must be developed in accordance with Local Planning Policy 2.4: Water Sensitive Urban Design Guidelines.
  - c. The vehicle parking areas, accessways, internal roads and crossover must:



- i. Be designed in accordance with the relevant Australian/New Zealand Standard;
- ii. Include a suitable number of car parking spaces dedicated to people with disability designed in accordance with the relevant Australian/New Zealand Standard;
- iii. 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.

- d. Prior to lodgement 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.
- e. Prior to lodgement of a Building Permit, plans of public art shall be provided to and approved by the Shire of Serpentine Jarrahdale, in accordance with Local Planning Policy 1.6 - Public Art. Such art is to be established prior to occupation of the development.
- f. Prior to issue of a Building Permit, an application to construct or install an apparatus for the treatment of sewage and the disposal of effluent and liquid wastes must be submitted and approved by the Shire of Serpentine Jarrahdale, in accordance with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.
- g. Prior to issuing of a Building Permit, a Signage Strategy must be submitted to and approved by the Shire of Serpentine Jarrahdale. The Strategy shall demonstrate compliance with Local Planning Policy 4.11 - Advertising Signs. Once approved, signage shall be displayed and maintained in accordance with the strategy.
- h. Prior to the commencement of the development, a Waste Management Plan must be submitted to and approved by the Shire. Once approved, development must be in accordance with the approval Waste Management Plan.
- i. Prior to the commencement of the development, a Construction Management Plan must be submitted and approved by the Shire. The Construction Management Plan must be prepared to address dust and noise from construction and traffic management during the peak periods. Once approved, the Construction Management Plan shall be adhered to in its entirety.
- j. Prior to the lodgement of a Building Permit, an amended Bushfire Attack Level Assessment shall be provided to the Shire of Serpentine Jarrahdale. An updated vegetation and topography map and table shall be provided identifying separation distance measurements from buildings to the classified vegetation, to the satisfaction of the Shire of Serpentine Jarrahdale.
- k. Prior to the lodgement of a building permit, a Landscaping Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Landscaping Plan shall detail the following, to the satisfaction of the Shire of Serpentine Jarrahdale:
  - i. Provision of vegetative landscaping within the adjoining verges of the site;
  - ii. Detailed planting regime and plans, identifying the number of plants, species, size of tubs; and





iii. A schedule of planting including the how vegetation is planted, monitored for failure and replaced where required.

Once approved, the Landscaping Plan shall be implemented prior to occupation and maintained thereafter.

- I. Prior to the lodgement of a building permit, a Development Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Development Plans shall detail the following to the satisfaction of the Shire of Serpentine Jarrahdale:
  - i. Amended fencing in keeping with rural character and aesthetic;
  - ii. An amended layout of pedestrian infrastructure connecting the school site to car park areas, the bus stop locations and the required connection to upgraded pedestrian infrastructure the streetscape; and
  - iii. Provision of bicycle parking and end-of-trip facilities in accordance with the requirements of Local Planning Scheme No. 3.
- m. Prior to the commencement of the development, a Mosquito Management Plan must be submitted to and approved by the Shire. The Mosquito Management Plan shall demonstrate appropriate management of artificial water bodies or drainage basins created as part of the development.
- n. Prior to the lodgement of a building permit, a detailed Noise Management Plan prepared by a suitably qualified acoustic consultant shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Noise Management Plan shall address the following to the satisfaction of the Shire of Serpentine Jarrahdale:
  - i. Adoption of recommendations of the stamped Acoustic Report;
  - ii. Provision of additional design measures to mitigate amenity impacts to nearby sensitive receptors; and
  - iii. Appropriate restrictions and measures to manage noise generated from afterschool activities or events that occur outside of normal school hours.

Once approved, the Noise Management Plan shall be implemented prior to occupation and maintained thereafter.

- o. Prior to the commencement of the development, a revised Bushfire Emergency Plan shall be submitted to and approved by the Shire. The Bushfire Emergency Plan shall demonstrate appropriate emergency management measures in accordance with State Planning Policy 3.7 - Planning in Bushfire Prone Areas and Clause 5.5.4 of the Guidelines for Planning in Bushfire Prone Areas.
- p. Prior to the issue of a building permit, the applicant shall pay an intersection upgrade contribution to the Shire of Serpentine Jarrahdale of \$2,720,348.20, which is based upon the proportional contribution of additional traffic that the development generates through the intersection of Kargotich Road and Abernethy Road, at the critical AM and PM peak times which directly result in the requirement to upgrade that intersection. This contribution is based on the following application information:



Existing traffic during AM peak approaching intersection	1059
Existing traffic during PM peak approaching intersection	617
Additional traffic during AM peak approaching intersection	1000
Additional traffic during PM peak approaching intersection	1000
Total traffic	3676
Proportion from school	54%
Cost of upgrade	\$5,000,000
Required contribution	\$2,720,348.20

- q. Prior to the commencement of operations, the existing road pavement of Abernethy Road, between Kargotich Road and Nicholson Road, is to be widened to a 6m asphalt standard with 1m compacted gravel shoulders. This however does not include the section of road beneath the 'cathedral of trees', which is instead to be upgraded to only the width possible that will not adversely impact the health or survivability of any of the trees whatsoever. Plans are to be submitted to and approved by the Shire, prior to the issue of a building permit, and must include a detailed arborist assessment of the cathedral of trees section of the road, that indicates how that section of road upgrade will occur in a viable way without impacting any of the trees.
- r. Plans are to be submitted to and approved by the Shire of Serpentine Jarrahdale prior to the issue of a building permit, demonstrating the provision of a suitable footpath on the southern side of Abernethy Road, which links the development to the extent of footpath which exists on Abernethy Road, east of Hopkinson Road. The footpath shall be fully constructed by the applicant at its sole cost, and must be completed prior to the commencement of the school's operations.
- s. Plans are to be submitted to and approved by the Shire of Serpentine Jarrahdale prior to the issue of a building permit, demonstrating the provision of a suitable footpath on the eastern side of Kargotich Road, which links the development to the extent of footpath being currently built by Main Roads WA as part of the Kargotich Road / Thomas Road roundabout. The footpath shall be fully constructed by the applicant at its sole cost, and must be completed prior to the commencement of the school's operations.

Option 1 is recommended.

### **Conclusion**

The application seeks approval for an 'Educational Establishment' at the subject site. Officers consider that, while some limited merit to the development exists, there are substantial planning issues that are not adequately addressed or overcome by the proposal. On this basis it is recommended for refused by the MODAP.

**Attachments (available under separate cover)**

- **10.1.3 - attachment 1** - Responsible Authority Report (E23/14509)
- **10.1.3 - attachment 2** - Development Plans (E23/14510)
- **10.1.3 - attachment 3** - Summary of Submissions (E23/14511)
- **10.1.3 - attachment 4** - Clause 67 Assessment (E23/14512)
- **10.1.3 - attachment 5** - Transport Impact Assessment (E23/14515)
- **10.1.3 - attachment 6** - Supplemental Transport Impact Assessment (E23/14517)

**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 1.3.1</b>	Comply with relevant local and state laws, in the interests of the community
<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 2.2</b>	A sustainable natural environment
<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.
<b>Outcome 3.4</b>	An innovation centre of excellence
<b>Strategy 3.4.1</b>	Identify and promote innovation and education opportunities

**Financial Implications**

If the development was approved, there is a significant risk that the Shire would need to secure funding for major infrastructure, being road and pedestrian pathways. This cost is unknown, but predicted to be more than \$5m.





### 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 is considered the lowest risk option possible. There are no apparent risks associated with refusal.						
2	That the DAP approved the development, and no infrastructure improvements occur which creates an unsafe situation for the community.	Nil.	Social / Community Outcomes	Possible	Major	SIGNIFICANT	Advocacy at all levels of government to try to secure funding to upgrade intersections and construct paths.

**Voting Requirements:** Simple Majority

### Officer Recommendation

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

1. That the Metro Outer Joint Development Assessment Panel **REFUSES** the development application for the proposed Educational Establishment at Lot 218, 575 Abernethy Road, Oakford, as contained within attachment 2, for the following reasons:
  - a. The development is considered to represent an adverse impact on the existing road environment, due to the volume of traffic generated by the development relying primarily on a single intersection to access the site and such intersection failing to provide a safe level of service.
  - b. The proposed development has not provided sufficient information to demonstrate how infrastructure issues will be addressed, or that the development is capable of being staged in a viable manner according to current infrastructure levels.
  - c. There is no certainty to the adequate provision of pedestrian or vehicle infrastructure, insofar that there is no allocated funding to undertake these works. The expected cost of full pedestrian and road infrastructure improvements is expected to be between \$5m to \$10m, taking account of the need for land acquisition, utility changes, clearing permits, offsets etc. The development is considered to have an adverse impact on the existing locality, due to the volume of traffic generated by the development relying primarily on a single intersection to access the site.



**10.1.4 - Proposed Road Naming Application - Lot 9121 Doley Road, Byford (PA23/484)**

<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:	MNG
Owner:	LWP Byford Syndicate Pty Ltd
Date of Receipt:	5 July 2023
Lot Area:	2.5ha
Town Planning Scheme No 2 Zoning:	'Urban Development'
Metropolitan Region Scheme Zoning:	'Urban'

**Report Purpose**

The purpose of this report is for Council to consider a proposal for six new road names associated with a subdivision at Lot 9121 Doley Road, Byford. Four alternative names are also presented to Council for endorsement in the instance Landgate do not support the preferred names.

This road naming proposal is presented to Council for endorsement as Officers do not have delegated authority to endorse road naming proposals. Officers consider that the proposed road names are consistent with the existing theme of Australian War history within the locality.

Officers recommend that Council endorse the proposed road names based on compliance with the Policies and Standards for Geographical Naming in Western Australia (Landgate Policy) and Local Planning Policy 1.7 - Road Naming (LPP 1.7).



## Relevant Previous Decisions of Council

*Ordinary Council Meeting - 19 June 2023 - OCM133/06/23 - COUNCIL RESOLUTION / Officer Recommendation*

*That Council:*

- 1. ENDORSES the additional road names contained in attachment 1 to be added to the Shire's existing list of road name options.*
- 2. REFERS the additional names to the Geographic Names Committee for their endorsement.*
- 3. Following endorsement under Part (2), NOTES the updated list will be made available for applicants to consider as part of proposing road names for future subdivisions, in accordance with clause 26A(3) of the Land Administration Act 1997.*

## Background

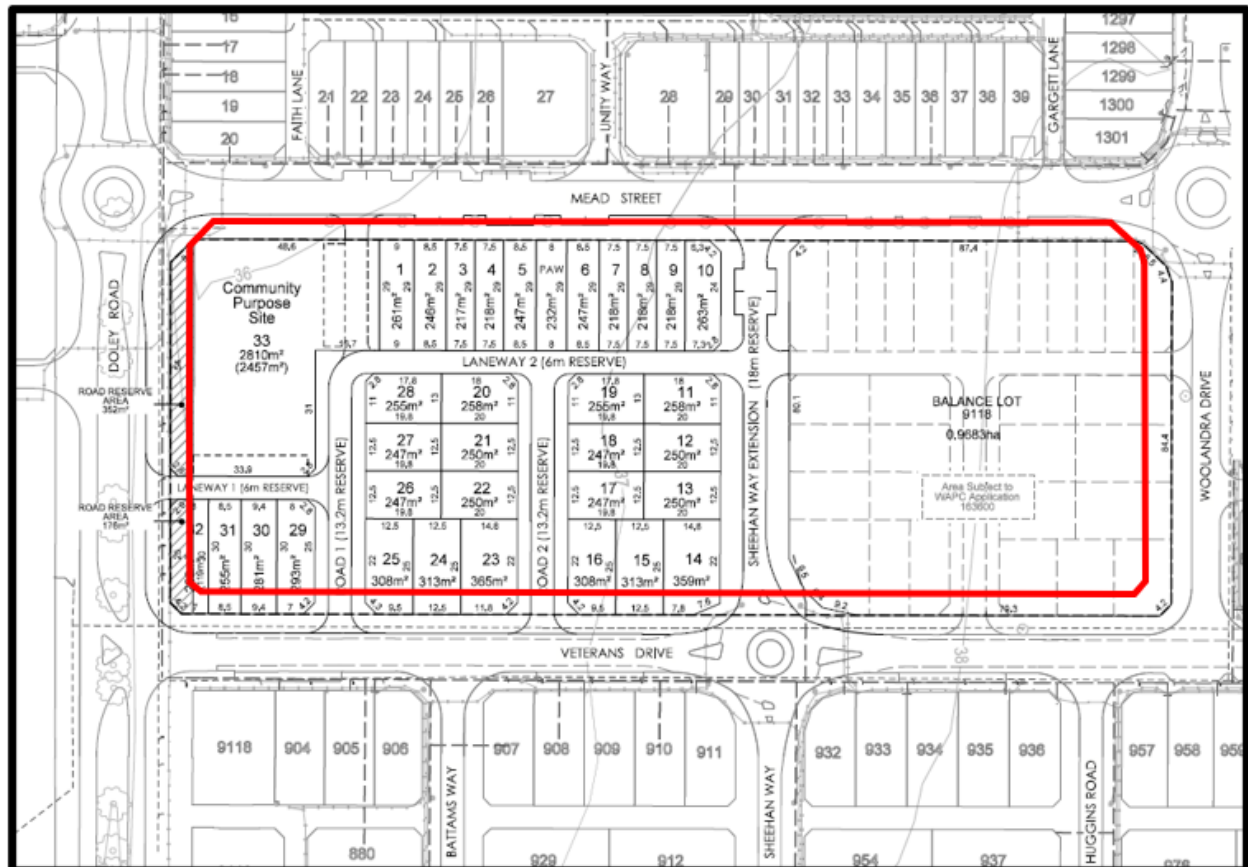
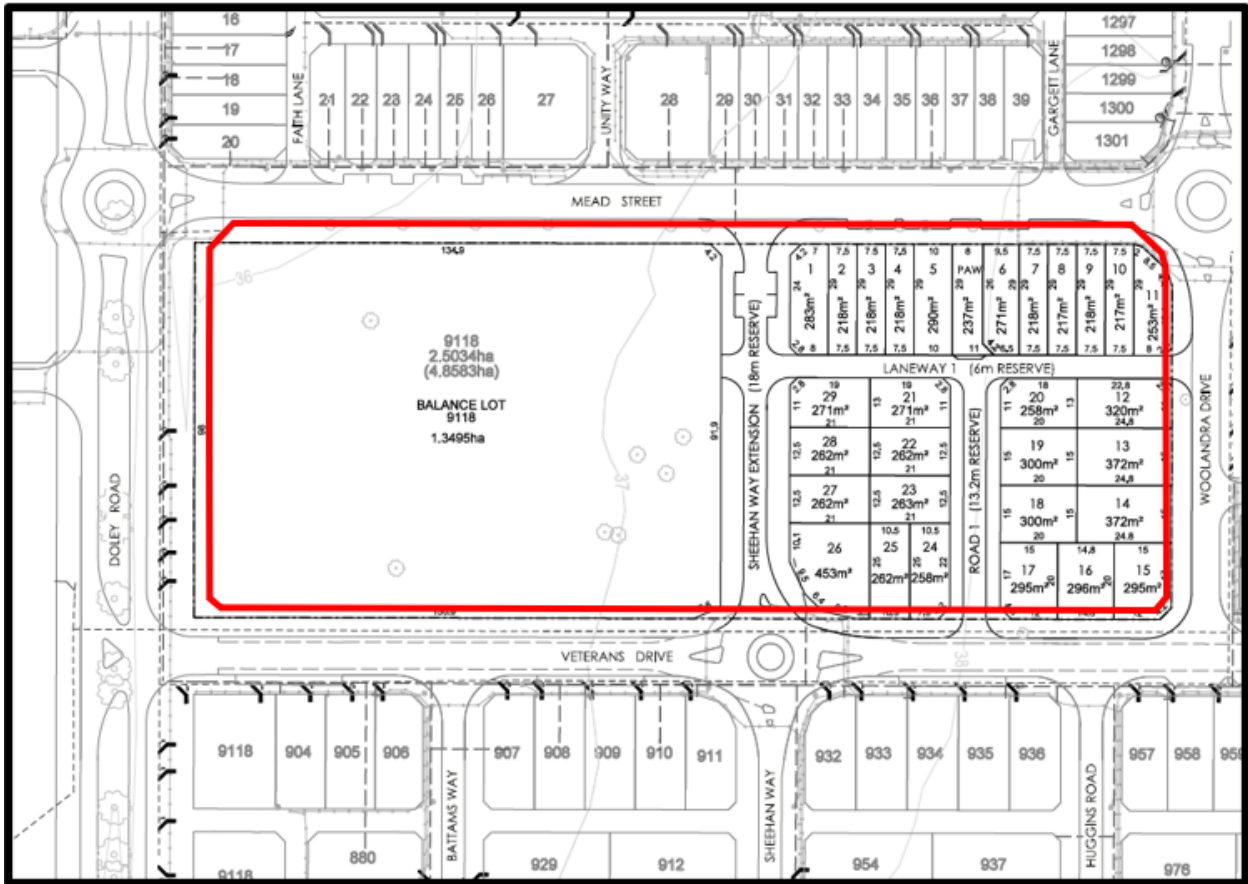
The site is bound by Mead Street to the north, Doley Road to the west, Veterans Drive to the south and Woolandra Drive to the east. The site is located to the south of the Glades Neighbourhood Centre, as depicted following:



**Figure 1: Aerial image of the subject site**

The subdivision of the subject site was split into two separate applications, the western portion and the eastern portion. Approval for both subdivision applications has been issued by the Western Australian Planning Commission (WAPC) however the conditions have not yet all been cleared. The approved subdivision layouts can be viewed as follows:



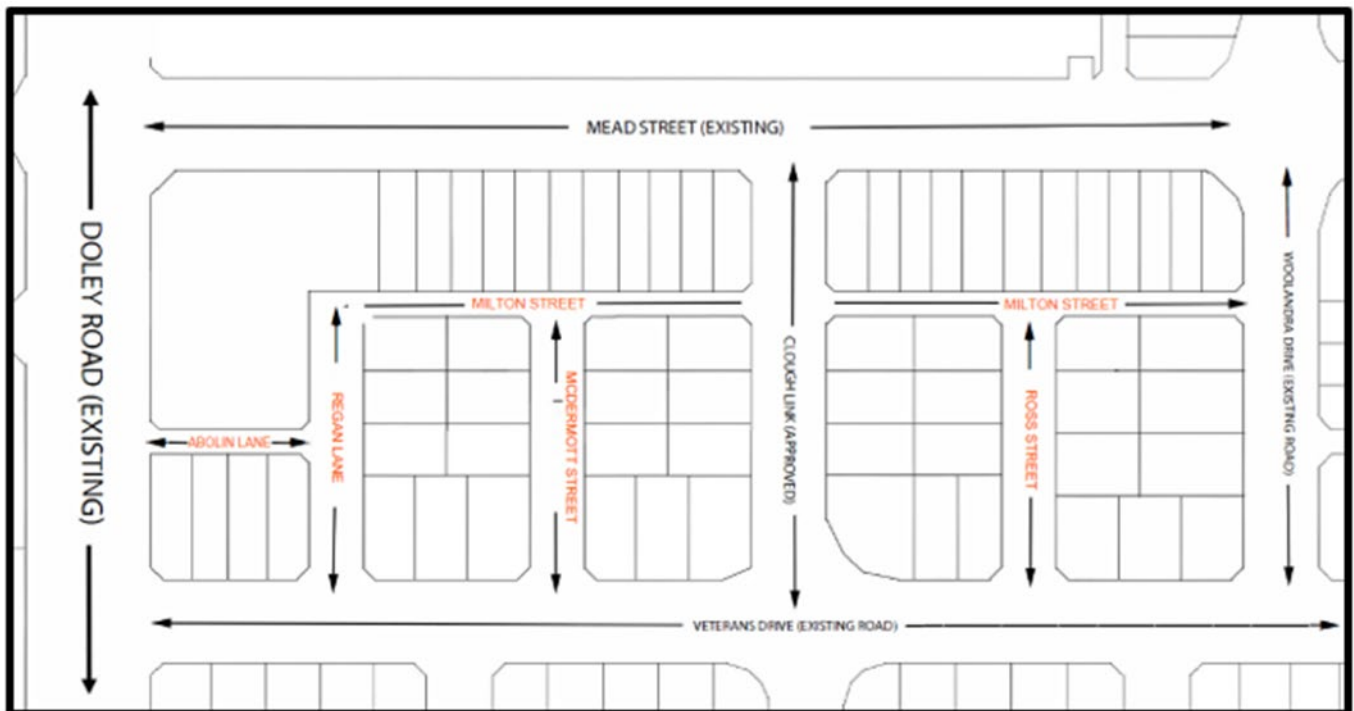




Roads created by subdivision are required to be named in accordance with Clause 26A of the *Land Administration Act 1997*. The naming process requires the relevant Local Government to endorse names for roads created as part of subdivision. Those names endorsed by the Local Government must then be forwarded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

### Proposal

As previously stated, the subject application (**attachment 1**) proposes the naming of six new roads to be created. The applicant has also submitted four names to be endorsed as second preference names in the instance that Council does not endorse the preferred names. The roads and proposed names are shown in the following plan:



**Figure 2: Created roads subject to naming proposal**

Local Planning Policy 1.7 - Road Naming Policy (LPP1.7) indicates where more than four road names are proposed then a theme should be submitted to Council for approval. In this case, road names in the locality are in keeping with the theme of Australian War history. Nearby names such as ‘Gallipoli Avenue’ and ‘Veterans Drive’ are examples of this.

In keeping with this theme, the proposed and reserve names are the surnames of fallen Australian servicemen, who were part of the Shire community, who lost their lives during World War I. These names were selected from the previously approved list of War Service Personnel that Council endorsed as suitable options for road names at its Ordinary Council Meeting of 19 June 2023.

These war service personnel were recorded as having lived and worked in the Serpentine Jarrahdale locality prior to enlistment, and therefore they have significant value to the history of Serpentine Jarrahdale. Officers consider the proposal is consistent with LPP1.7 which lists preferred themes for road names including: “*War casualty lists and thematic names*”.



The proposed and backup names along with their description as provided by the applicant are detailed in the following table:

<b>Road Name Table</b>	
<b>Proposed Preferred Names</b>	<b>Background</b>
Road 1: Abolin Lane	Martin Abolin - listed on the Jarrahdale War Memorial. Mr Abolin enlisted at the Blackboy Hill Camp, Western Australia on 22 January 1916. He was killed in action on 8 June 1917, in Messines, Belgium. His occupation was previously as a timber worker in the Jarrahdale area.
Road 2: Milton Street	George Milton - listed on the Jarrahdale War Memorial. Mr Milton enlisted at the Blackboy Hill Camp, Western Australia. He was declared to have been killed in action on 16 April 1917 in Lagnicourt, France. His occupation was previously as a Labourer in the Jarrahdale area.
Road 3: Regan Lane	John Regan - listed on the Australian War Memorial. Mr Regan enlisted at the Claremont training camp on 21 October 1914. He died of his wounds on 7 August 1915 at a military hospital in Alexandria, Egypt. Mr Regan was previously a school teacher at Jarrahdale Primary School.
Road 4: McDermott Street	Alfred George McDermott - listed on the Jarrahdale Honour Roll. Mr McDermott enlisted at the Blackboy Hill Camp, Western Australia. He was killed in action on 29 September 1918 at Quennemont Farm, France. His occupation previously was as a Storekeeper in the Jarrahdale area.
Road 5: Ross Street	Harold Ross - listed on the Jarrahdale War Memorial. Mr Ross enlisted in Perth on 18 December 1915. He was killed in action on 8 June 1918 at Ploegsteert Wood, Belgium. His occupation was previously as a Labourer in the Jarrahdale area.
Road 6: Clough Link	Joseph Clough - listed on the Jarrahdale War Memorial. Clough is a previously approved road name, which will be the central road link through the site. Mr Clough enlisted on 14 February 1916. He was wounded in action on 1 June 2018. His occupation was listed as a Mill Hand from Jarrahdale.





<b>Reserve Names</b>	<b>Background</b>
Barnett	Alexander Barnett - listed on the Jarrahdale War Memorial Mr Barnett enlisted on 10 September 1914. He was killed in action between 25-28 April 1915 at Anzac Cove, Gallipoli Peninsula. His occupation was previously as a Mill Hand in the Jarrahdale area.
Fuhrmann	Herbert Fuhrmann - listed on the Jarrahdale War Memorial Mr Fuhrmann enlisted on 24 December 1915. He was killed in action on 8 August 1917 at Messines, France. His occupation was previously as a Timber Hearer in the Jarrahdale area.
Goodchild	Rupert Arthur Kent Goodchild - listed on the Jarrahdale Honour Roll. Mr Goodchild enlisted on 21 September 1914. He was killed in action on 26 April 1915 at Anzac Cove, Gallipoli, Turkey. His occupation was previously as a Survey Hand in the Jarrahdale area.
Gregg	Rupert Gregg - listed on the Jarrahdale War Memorial. Mr Gregg enlisted on 21 February 1916. He was wounded in action multiple times between 1917-1918. Gregg died of his wounds on 26 August 1918 near Bray, France. His occupation was previously as a Horse Driver in the Jarrahdale area.

**Community / Stakeholder Consultation**

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

**Statutory Environment**Legislation

- *Land Administration Act 1997*

State Government Policies

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

Local Planning Framework

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



## Planning Assessment

An assessment of the proposed road names against the provisions of LPP 1.7 is as follows:

<b>Policy Assessment</b>	
<b>Policy Requirement</b>	<b>Officer Comment</b>
Consideration of current and future street names	The proposed road names are not currently in use within the Shire area and have not been proposed to be used in the future for any other estates within the Shire. No duplicates in surrounding Local Government areas within 10km have been identified.
Consideration shall be given to current and future street numbering to ensure numbering is sequential, easy to follow and considers future density increases	Officers consider the proposal to be acceptable in light of the existing and future street numbering for the area.
The origin of each name shall be clearly stated and subsequently recorded	The origin and background of the proposed and reserve road names have been documented in the road name table, earlier in this report.
Names shall not be offensive or likely to give offence, incongruous or commercial in nature	The proposed and reserve names are not considered to be offensive, incongruous, or commercial in nature.
Names shall be easy to read, spell and pronounce in order to assist emergency services, service providers and the travelling public	In terms of easiness to read, spell and pronounce, the names are simple to read or pronounce, and so would not cause complexities for emergency services, service providers or the travelling public.
Unduly long names and names that comprise of two or more words should generally be avoided	The proposed preferred names comprise of no more than nine letters in length and are no more than one word.
Proposals for road names shall include an appropriate road type suffix	The proposed suffixes are considered to be appropriate and consistent with suffix definitions under the Landgate policy. Street (St) - Public roadway in a town, city or urban area, especially a paved thoroughfare with footpaths and buildings along one or both sides. Lane (Ln) - Narrow way between walls, buildings or a narrow country or city roadway The proposed suffixes are considered suitable as they generally are reflective of the proposed carriageway.
Practical application of road names to maps and plans shall be considered such as the long street names should not be allocated to short roads	As shown on the road name plan earlier in this report, the road names are commensurate with the length of the road and are considered to be practical.

Based on the above, the recommended names are considered appropriate.



## Options and Implications

### Option 1

That Council:

1. ENDORSES the following road names in accordance with section 26A(3) of the *Land Administration Act 1997*; and forwards the proposed road name as contained within **attachment 1** to Landgate for final approval:
  - a. Abolin
  - b. Milton
  - c. McDermott
  - d. Regan
  - e. Ross
  - f. Clough
2. ENDORSES the following second preference road names in accordance with section 26A(3) of the *Land Administration Act 1997*; to be used in the event that the first preference names are not deemed acceptable by Landgate:
  - a. Barnett
  - b. Fuhrmann
  - c. Goodchild
  - d. Gregg
3. ENDORSES 'Local Australian War Service Personnel' as a preferred theme for future road names in the Byford suburb.

### Option 2

That Council:

1. REFUSES TO ENDORSE the proposed road names.
2. ADVISES the applicant to consider different naming options.

Option 1 is recommended.

## Conclusion

Council endorsement is sought for six proposed road names to be used within the approved subdivisions at the subject site. The proposed road names are based upon a theme of Australian War Service Personnel from World War I. The proposed names are considered consistent with the requirements of LPP1.7 and Landgate's road naming policy. It is therefore recommended that Council endorse the proposed names.

## Attachments (available under separate cover)

- **10.1.4 - attachment 1 - Road Layout Plan (E23/14153)**





**Alignment with our Strategic Community Plan**

<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

**Financial Implications**

Nil.

**Risk Implications**

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There are no risks associated with this option.						
2	Council not support the names causing a delay in the application, which could delay lot creation and residential land supply within Byford.	Policies and Standards for Geographical naming in Western Australia  Local Planning Policy 1.7 - Road Naming	Social / Community Outcomes	Possible	Moderate	MODERATE	Give reasons for decision



**Voting Requirements:** Simple Majority

**Officer Recommendation**

**That Council:**

1. **ENDORSES** the following road names in accordance with section 26A(3) of the *Land Administration Act 1997*; and forwards the proposed road name as contained within attachment 1 to Landgate for final approval:
  - a. Abolin
  - b. Milton
  - c. McDermott
  - d. Regan
  - e. Ross
  - f. Clough
2. **ENDORSES** the following second preference road names in accordance with section 26A(3) of the *Land Administration Act 1997*; to be used in the event that the first preference names are not deemed acceptable by Landgate:
  - a. Barnett
  - b. Fuhrmann
  - c. Goodchild
  - d. Gregg
3. **ENDORSES** 'Local Australian War Service Personnel' as a preferred theme for future road names in the Byford suburb.



**10.1.5 - Retrospective 'Motor Vehicle Repair' and Prospective Additions - Lot 234, 10 Walters Road, Byford (PA23/598)**

<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:	Urbanista Town Planning
Owner:	Eray Dervish
Date of Receipt:	9 August 2023
Lot Area:	4,267m <sup>2</sup>
Local Planning Scheme No 3 Zoning:	'Urban Development'
Metropolitan Region Scheme Zoning:	'Urban'

**Report Purpose**

The purpose of this report is for Council to consider a development application for a retrospective 'Motor Vehicle Repair' land use at Lot 234, 10 Walters Road, Byford. The retrospective development application was received by the Shire resulting from a compliance investigation. The application also seeks approval for prospective additions which have not yet been constructed.

Three submissions either objecting to or raising concerns with the proposal were received during the public consultation period. Officers do not have delegated authority to determine development applications where more than two objections are received that cannot be addressed through amendments or the imposition of Conditions, in accordance with Delegated Authority 12.1.1 - Determination of Development Application.

The site is currently zoned 'Urban Development' under Local Planning Scheme No.3 (LPS3) with a designation of 'Residential' under the Stanley Road Local Structure Plan (LSP). This LSP coincides with a highly fragmented arrangement of lots, which has delayed any subdivision and development taking place under the structure of the LSP.

The proposal is a discretionary use in the 'Urban Development' zone, which includes careful consideration for how to provide for orderly transition to the ultimate outcome anticipated by the LSP.

Upon completion of subdivision and development according to the LSP and the integration of the LSP into the Scheme as new zones and reserves, the proposal would be designated a prohibited use in the 'Residential' zone.



For the reasons discussed in the report, it is considered that the continuation of the interim proposal for a time limited period, would not prejudice the future planning of the area and would help in managing the orderly transition of land use over time.

It is also considered that the concerns raised in the objections can be appropriately managed, with Conditions. It is therefore recommended that the development application is approved to allow the continuation of the existing use for a further five-year period, with any extension beyond this time being the subject of a new development application.

### **Relevant Previous Decisions of Council**

There are no previous Council decisions relating to this application.

### **Background**

#### Existing Development

The subject site has an area of 4,267m<sup>2</sup> and is located within the Byford Townsite (Old Quarter) residential area, north-east of the Town Centre. The site is developed with a single dwelling and a shed being used for the retrospective business, as depicted following:



**Figure 1: Aerial image of subject site**





The site is located on the northern side of Walters Road, which is predominantly low density in character, while the south side of the road are smaller residential sized lots, as depicted following. To the immediate west of the site is an approved child care premises.



Figure 2: Aerial image of subject site and surrounds

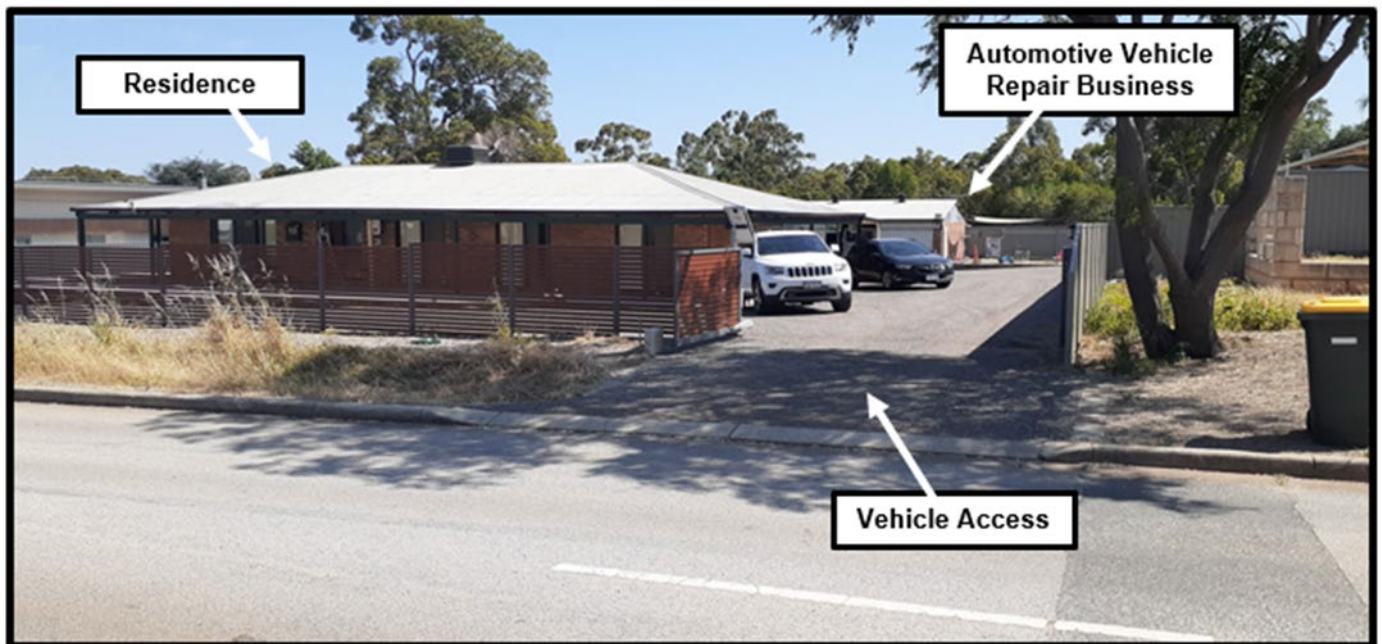


Figure 3: Street view of the subject site





**Figure 4: View of the child care premises to the west**

#### Compliance Process and SAT Proceedings

In response to a complaint being received, Officers contacted the landowner on 5 December 2022 to advise that the use did not have, and required, development approval. A development application had not been submitted and assessed, and therefore unlawful development was taking place.

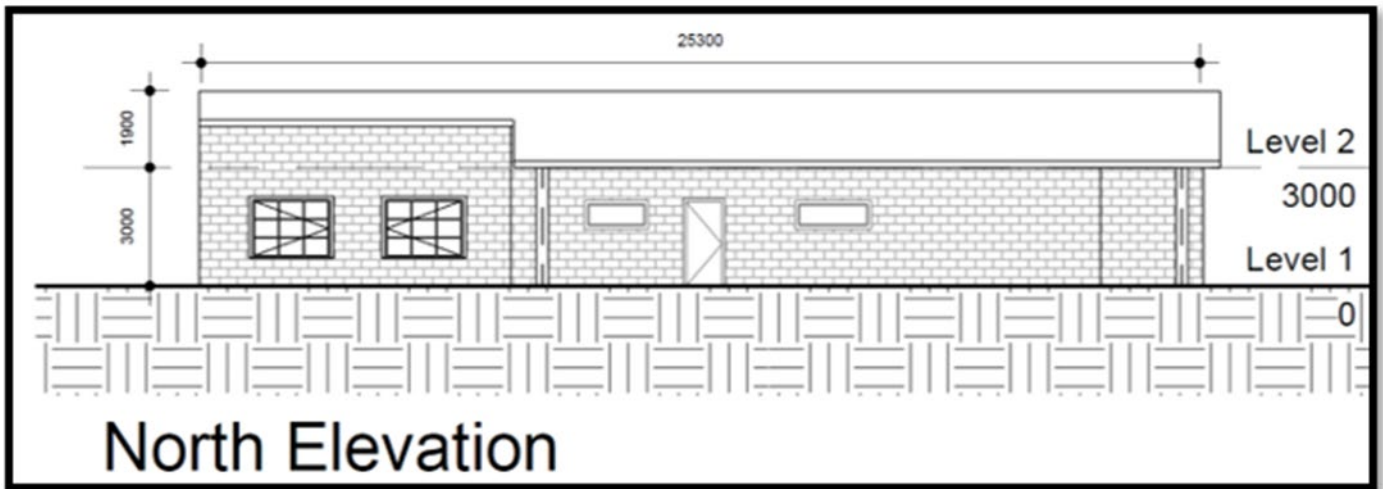
Subsequently, a Direction Notice was issued on 2 February 2023 requiring the development to cease. The landowner appealed the Direction Notice to the SAT which resulted in mediation, and the applicant working towards the submission of a competent development application to allow the proposal to be assessed. This application was received by the Shire on 9 August 2023 and the SAT proceedings are now on hold until the subject development application is determined.

#### Retrospective Development

The application seeks retrospective approval for the use of 'Motor Vehicle Repair'. Details of the operations are as follows:

- Motor vehicle repairs to be undertaken within an existing building (150m<sup>2</sup>) to the rear of the main residence;
- The business offers servicing and repair of motor vehicles including oil and filter, coolant, brake fluid, transmission fluid, power steering fluid, belts and hoses, air and fuel filters, spark plugs etc;
- Parking area provided to the west of the motor vehicle repair building;
- There will be no change to vehicle access;
- The occupier of the dwelling on the land operates the business and employs one additional person who do not reside at the site;
- The business does not offer any panel beating or spray-painting services.
- Hours of operation are 7:00am to 6:00pm from Monday to Friday;





**Figure 6: Rear elevation - office extension (left), shed extension (right), patio along the rear extent of the shed**

### **Community / Stakeholder Consultation**

Advertising was carried out for a period of 21 days from 21 August 2023 to 11 September 2023 whereby four submissions were received. Three submissions were received either objecting to or raising concerns with the proposal. The key concerns of the submissions are listed below. The full submissions are contained within **attachment 2**.

- This type of business should be located in a commercial or industrial area and not a residential area;
- Disposal and managing oil, chemicals, batteries and dangerous waste;
- Storage of additional vehicles at the site; and
- Potential to impact on nearby sensitive residential and child care premises land uses.

The concerns of the submitters are discussed and addressed under the relevant headings of the report.

### **Statutory Environment**

#### Legislation

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

#### Local Planning Framework

- Shire of Serpentine Jarrahdale Local Planning Scheme No.3 (LPS3)
- Byford District Structure Plan 2023
- Byford Townsite Detailed Area Plan
- Stanley Road Precinct Local Structure Plan

#### Local Planning Policies

- Local Planning Policy 1.4 - Public Consultation for Planning Matters (LPP1.4)





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## Planning Assessment

Clause 67 of the Deemed Provisions lists matters to be considered in the determination of development applications. A comprehensive assessment has been undertaken in accordance with Clause 67 of the Deemed Provisions (**attachment 3**). For the purpose of this report, discussion is confined to the objections received and where Council is required to exercise discretion.

### Land Use

Submissions received in objection to the proposal raise concern that the type of business proposed is not in keeping with the area and would be more appropriate in an industrial or commercial area. The proposal seeks to continue to use the land for vehicle servicing and repairs which falls within the 'Motor Vehicle Repair' land use defined under LPS3 as follows:

*“premises used for or in connection with -*

*(a) electrical and mechanical repairs, or overhauls, to vehicles other than panel beating, spray painting or chassis reshaping of vehicles; or*

*(b) repairs to tyres other than recapping or retreading of tyres.”*

Pursuant to 'Table 3 - Zoning Table' of LPS3, the land use of 'Motor Vehicle Repair' is an 'A' use in the 'Urban Development' zone which means *“that the use is not permitted unless the local government has exercised its discretion by granting development approval after advertising the application in accordance with clause 64 of the deemed provisions.”* Therefore, Council has discretion to permit the use.

### Local Planning Scheme No. 3

The objectives of the 'Urban Development' zone seek:

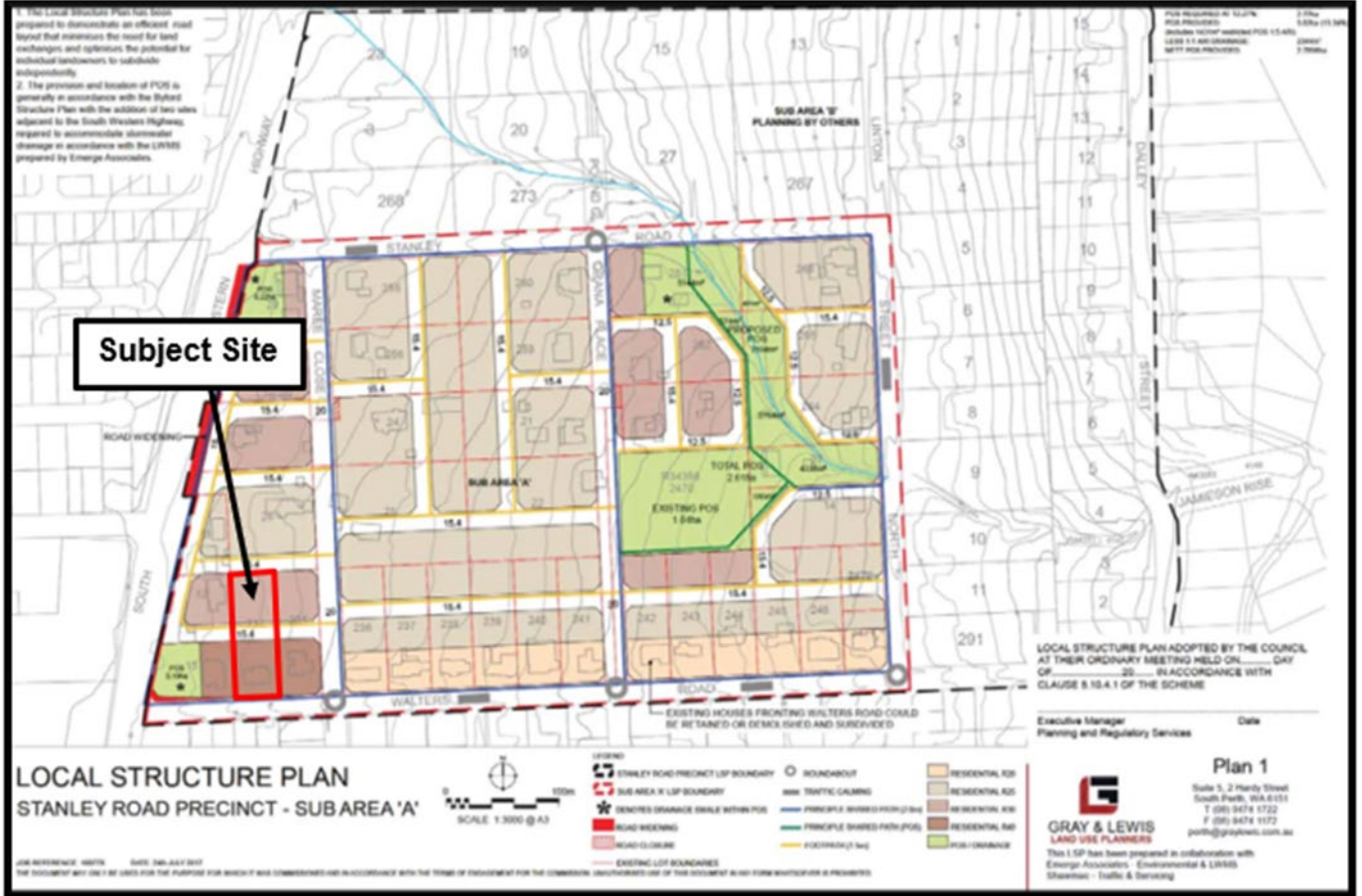
- *“To provide an intention of future land use and a basis for more detailed structure planning in accordance with the provisions of this Scheme.*
- *To provide for a range of residential densities to encourage a variety of residential accommodation.*
- *To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development.*
- *To provide an intermediate transitional zone following the lifting of an urban deferred zoning within the Metropolitan Region Scheme.”*

It is important to acknowledge that the 'Urban Development' zone acts as a transitional zone while planning for the development of future urban areas and allows for the consideration of commercial uses normally associated with residential development. This is important to manage the risk of an area becoming blighted by inactivity, if interim productive and beneficial uses cannot be provided for. Whilst the area lies within an approved LSP, the highly fragmented lot ownership has resulted in the area being yet to start a transition to its ultimate plan as a residential estate community. Therefore, in the interim, given the subject lot has an area of over 4,000m<sup>2</sup> and is separated from the established higher density residential area to the south, it is considered appropriate for the use to continue as currently operating for a limited time until the LSP area is progressed.



Stanley Road Precinct Local Structure Plan

Under the Local Structure Plan (LSP), the subject site has a 'Residential' designation (R30 and R40) as shown in Figure 7 following:



**Figure 7: Stanley Road Precinct Local Structure Plan**

As previously stated, pursuant to 'Table 3 - Zoning Table' of LPS3, 'Motor Vehicle Repair' in the 'Residential' zone is an 'X' use which means that upon completion of the structure plan and integration of zones into the Scheme, there would be no discretion available to permit the use. The proposal is therefore inconsistent with the LSP in the long term, and would not be considered appropriate to support without carefully considering the merits of a time limited approval.

Given the indicative road layout on the LSP, it is likely that subdivision would need to occur in a coordinated manner and unlikely to occur on an individual basis per lot. It is therefore anticipated that there will be no increase in residential development in the LSP area in the foreseeable future. Subsequently, it is considered appropriate to support the proposal subject to a time limited approval of five years.

This period would allow the operator sufficient time to arrange a more suitable premise to relocate to and continue their business, whilst the area remains in transition. Alternatively, the applicant may choose to reapply in five years time for a further approval, which would need to be assessed at that point in terms of the extent (or otherwise) of implementation of the LSP that has occurred.

This time limited approach will also allow time for further development of the Shire's light industrial areas which are currently limited. Officers consider it important to support these types of businesses during transitional periods so long as amenity impacts can be managed.



Form of Development

As outlined previously, the application also seeks prospective approval for the following:

- Shed extension to the west, 2.4m x 10.1m (24m<sup>2</sup>)
- Office addition adjacent to the east of the existing shed, 7.9m x 10.1m (80m<sup>2</sup>)
- Patio addition adjacent to the rear of the existing shed, 17.5m x 5.5m (96m<sup>2</sup>)
- Shipping container addition between proposed office and patio additions, 6.1m x 2.3m (14m<sup>2</sup>)

The main element of concern with the proposed additions is the nil setback of the proposed eastern side of the office structure. Being within a future residential area coded R30 to R40, deemed to comply boundary walls (which is what the office structure would be) are limited in height to 3.5m. This proposed wall is 4.9m. A wall of that height, without major openings, should normally be setback at 1.1m. Officers recommend this increased setback as a Condition of approval, which will result in a reduced office size measuring 6.8m side (instead of 7.9m as proposed).

Other than this, the built form of the development is generally modest in scale and is considered that its appearance is consistent with development in the locality. The shed extension, patio and sea container are considered to be set back appropriately from the closest lot boundary to the east so as to not have an adverse amenity impact. There is an outbuilding and a sea container located in close proximity to the boundary on the adjacent lot to the east, separated by a parking area. Additionally, the subject site has a lower ground level than the site to the east. An image showing the relationship of the subject development with the adjacent lot and a photograph from the street is shown following:



Figure 8: Development adjacent to the neighbours outbuilding and sea container





**Figure 9: View of the residence to the east from the Walters Road streetscape**

Whilst the use is only considered appropriate for a further temporary period, given the modest form and scale of the additions, they are considered to remain consistent with development in the locality and capable of transitioning to a use associated with a 'Single House' in the future.

#### Noise

Several of the objections received raised concerns in relation to noise generated by the development. An Environmental Acoustic Assessment (EAA) prepared by Herring Storer Acoustics was provided as part of the application. The EAA identifies the closest sensitive receptors (dwellings and child care premises) to this development as depicted below:



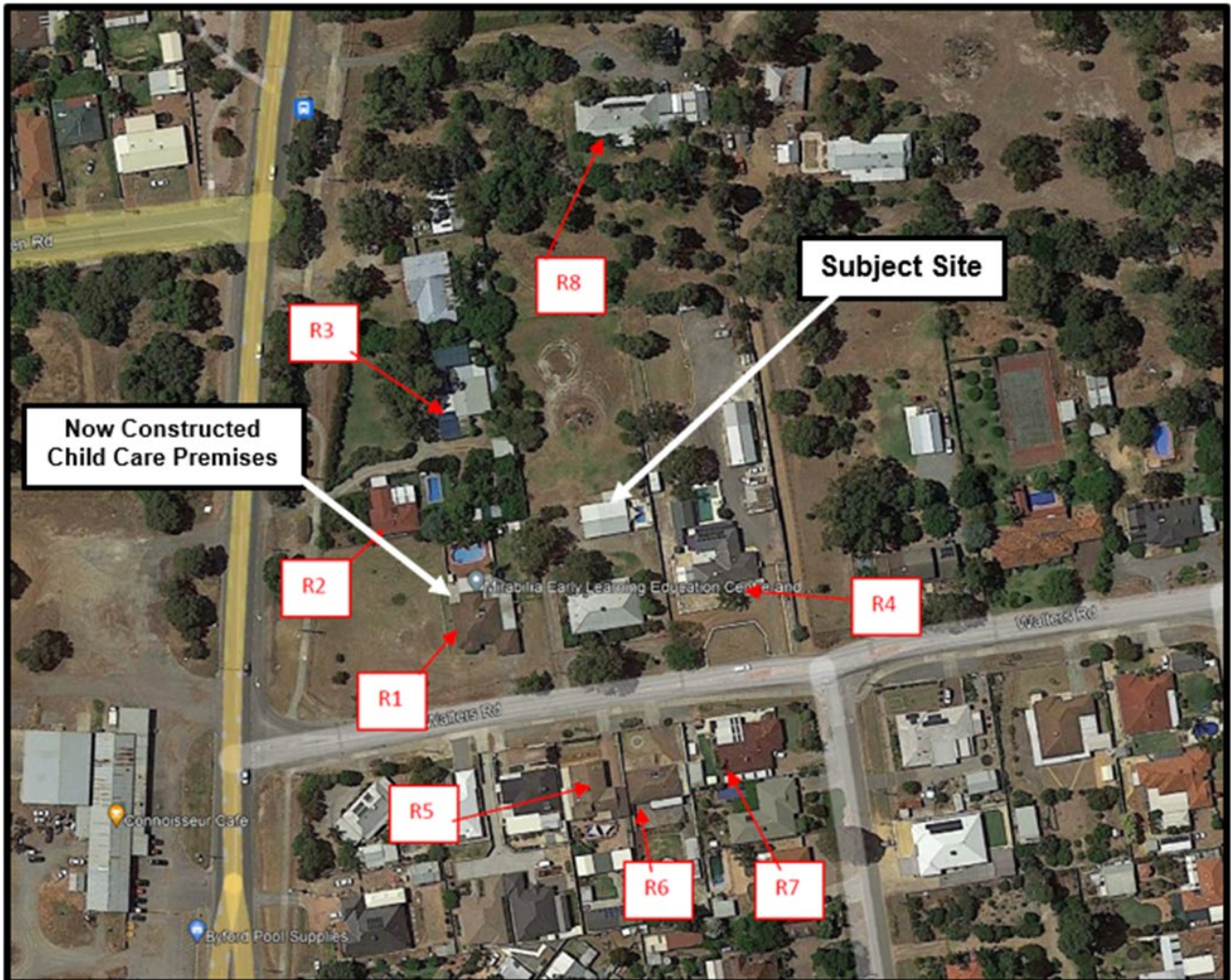


Figure 10: Location of Sensitive Noise Receptors

Whilst there are no prescribed recommended separation distances for this land use, given the proximity and number of sensitive receptors in the vicinity, it is important to ensure that noise generated from the development does not have adverse amenity impacts. The EAA assessed the noise generated from the operations against the assigned levels of the *Environmental Protection (Noise) Regulations 1997*.

The EAA identified the two main noise sources being mechanical equipment (compressor, tech gun, rattle gun, air gun and ratchet gun) and door slams. The business employs two employees however, the application details that it is unlikely that both employees would operate such equipment at the same time. Modelling within the EAA therefore only accounted for one piece of equipment being used at any one time.

The EAA assesses noise based on three scenarios. The first scenario models noise from equipment when used in the shed whilst the door is open. The table below demonstrates that the assigned noise levels cannot be complied with in this instance at five of the eight sensitive receptors.



<b>TABLE 6.2 – ASSESSMENT OF L<sub>A1</sub> NOISE LEVEL EMISSIONS VEHICLE MECHANIC (DAY PERIOD, ALL MECH UNITS)</b>				
Location	Assessable Noise Level, dB(A)	Applicable Times of Day	Applicable Assigned L <sub>A1</sub> Noise Level (dB)	Exceedance to Assigned Noise Level (dB)
R1	71	Day Period	61	+10
R2	71	Day Period	61	+10
R3	72	Day Period	61	+11
R4	55	Day Period	57	Complies
R5	54	Day Period	57	Complies
R6	54	Day Period	57	Complies
R7	64	Day Period	57	+7
R8	61	Day Period	57	+4

**Figure 11: Noise level exceedances shown on the right column**

Noise level exceedances of 10 and 11 decibels is considered to represent an unacceptable impact to the amenity of adjoining residences, and is not supported. Of particular concern would be the residences to the west of site, including the child care premises. To ensure this does not occur, a Condition is recommended to ensure that the doors must be kept closed at all times that machinery is in use.

The EAA models a second scenario where noise generating equipment is used within the shed with the doors closed. The table below demonstrates that noise generated from this scenario is compliant with the Regulations as detailed below:

<b>TABLE 6.4 – ASSESSMENT OF L<sub>A1</sub> NOISE LEVEL EMISSIONS VEHICLE MECHANIC (DAY PERIOD, NO RATTLE AND AIR GUN OUTSIDE, WORKSHOP DOORS CLOSED WHEN OPERATING RATTLE AND AIR GUNS INSIDE)</b>				
Location	Assessable Noise Level, dB(A)	Applicable Times of Day	Applicable Assigned L <sub>A1</sub> Noise Level (dB)	Exceedance to Assigned Noise Level (dB)
R1	44	Day Period	61	Complies
R2	41	Day Period	61	Complies
R3	42	Day Period	61	Complies
R4	45	Day Period	57	Complies
R5	33	Day Period	57	Complies
R6	44	Day Period	57	Complies
R7	54	Day Period	57	Complies
R8	51	Day Period	57	Complies

**Figure 12: Mechanical Equipment operating within the shed with the door closed**





The EAA also modelled a scenario of noise generated from car door slams when vehicles are brought to the site. This is accounted for all periods of the day, including night period which are the most sensitive periods. The table below details that this noise source is compliant with the Regulations at all times.

Location	Assessable Noise Level, dB(A)	Applicable Times of Day	Applicable Assigned L <sub>AMax</sub> Noise Level (dB)	Exceedance to Assigned Noise Level (dB)
R1	56	All Hours	71	Complies
R2	52	All Hours	71	Complies
R3	52	All Hours	71	Complies
R4	59	Night Period	67	Complies
R5	36	Night Period	67	Complies
R6	34	Night Period	67	Complies
R7	47	Night Period	67	Complies
R8	44	Night Period	67	Complies

**Figure 13: Location of Sensitive Noise Receptors - Car Door Slams**

The EAA demonstrates that compliance with the Regulations is achieved only when the doors of the shed are closed and only one piece of machinery is being used at any one time. Officers consider that to ensure an appropriate level of amenity is afforded to surrounding residents and that compliance is achieved in perpetuity, a Noise Management Plan (NMP) should be prepared, and the hours of operation should be restricted. A Condition has been recommended to reflect this and the NMP is required to include the following:

- The use of mechanical equipment within the shed only;
- The shed doors are to be closed whilst machinery is in operation;
- Only one piece of mechanical equipment shall be in operation at any one time;
- The operation of the business is to be restricted to the daytime;
- Installing noise mitigation measures on all plant equipment (i.e. air conditioning units);
- A noise complaints management procedure;
- A requirement to cease all operations of the business should any noise complaints be received, to allow these to be investigated and rectified before recommending operations.

These measures are considered to further address potential amenity impacts whilst the area transitions in character and to ensure the noise levels remain compliant.

#### Environmental Considerations

Submissions received raised concerns that engine oil and other fluids may pose a risk to the natural environment in the event there is spillage. Additionally, washdown of working areas may also result in hydrocarbons or other chemicals entering the environment. Officers note that the works are generally contained within an existing shed with a concrete floor. There are however





vehicle repairs currently being undertaken outside the shed. The extension of the shed will negate this requirement. To ensure appropriate management of potential spillage and in turn any adverse environmental impacts, a Condition is recommended requiring all repairs to be undertaken within the shed only. Additional Conditions are also proposed in relation to the storage and disposal of any liquid waste.

### Car Parking and Traffic

Pursuant to 'Clause 4.3 – Car Parking Requirements' of LPS3, the use of 'Motor Vehicle Repair' is required to provide one parking bay per 100m<sup>2</sup> of net leasable area (NLA) and one bay per employee. The business area would have a NLA of approximately 255m<sup>2</sup> which requires three car bays, with the two employees requiring a further two bays. The submitted site plan compliantly provides for three staff bays and four visitor bays. Nevertheless, it is recommended that a Condition of approval state that *"All vehicles associated with the motor vehicle repair business are to be parked within the boundaries of the subject property and are not permitted to be parked on the adjacent road or verge at any time."* This aims to ensure that visual amenity is maintained and the site accommodates the use within its boundaries.

In terms of traffic, no Traffic Impact Statement (TIS) has been submitted with the application. The application does however anticipate that there would be no more than four customers per day. This traffic generation is considered modest and not dissimilar to the expected traffic generation of a 'Home Business'. As such, it is considered that the local road network is capable of accommodating the vehicles associated with the development. The proposal does not require any change to the location of the access and driveway as already approved.

### **Options and Implications**

#### Option 1

That Council APPROVES the development application for 'Motor Vehicle Repair' at Lot 234, 10 Walters Road, Byford as contained in **attachment 1**, subject to the following Conditions:

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

Plans and Specifications	P1-3 received at the Shire's Offices on 3 August 2023. P4 Environmental Acoustic Assessment prepared by Herring Storer Acoustics and dated May 2023.
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2. This approval is valid for a period of five years, after which the approval expires. Upon expiry, the approved development must cease.
3. The hours of operation of the 'Motor Vehicle Repair' business are restricted to 7:00am to 6:00pm Monday to Friday. Operations are not permitted on Saturdays, Sundays and/or Public Holidays.
4. A maximum of four customers are permitted to attend the premises per day.
5. All motor vehicle service and repairs must occur within the shed at all times, and the shed door must be closed during any operation of the mechanical equipment of compressor, tech gun, rattle gun, air gun and ratchet gun. Only one piece of mechanical equipment is permitted to be in use at anytime.



6. Liquid waste associated with the 'Motor Vehicle Repair' business is to be disposed of through a licensed operator on a monthly basis.
7. Drums used for the storage of liquid waste must be stored in an adequately bunded area and undercover.
8. Within 60 days of approval, a suitable Noise Management Plan shall be submitted to, and approved by, the Shire of Serpentine Jarrahdale. Submission of the Plan must be within 30 days, to allow the Shire 30 days for assessment. The Noise Management Plan shall address the following to the satisfaction of the Shire of Serpentine Jarrahdale:
  - a. The use of mechanical equipment within the shed only;
  - b. The shed doors are to be closed whilst machinery is in operation;
  - c. Only one piece of mechanical equipment shall be in operation at any one time;
  - d. The operation of the business is to be restricted to the daytime;
  - e. Installing noise mitigation measures on all plant equipment (i.e. air conditioning units);
  - f. A noise complaints management procedure;
  - g. A requirement to cease all operations of the business should any noise complaints be received, to allow these to be investigated and rectified before recommending operations.

Once approved, the Noise Management Plan shall be adhered to at all times.

9. Prior to the submission of a building permit, amended plans shall be submitted to and approved by the Shire of Serpentine Jarrahdale. These plans shall depict a 1.1m minimum setback of the office extension from the eastern lot boundary. Once approved, development shall be in accordance with the approved amended plan.

### Option 2

That Council REFUSES the development application for 'Motor Vehicle Repair' at Lot 234, 10 Walters Road, Byford as contained in **attachment 1**, for the following reasons:

1. The use is not consistent with the endorsed Local Structure Plan, which depicts a medium density residential development. Allowing the use to occur, even on a time limited basis, would prejudice the proper and orderly implementation of the approval Structure Plan.
2. Noise impacts associated with the development, whilst compliant with the *Environmental Protection (Noise) Regulations 1997*, will pose an adverse amenity impact by virtue of observable industrial impulsive noises being generated.

Option 1 is recommended.

### **Conclusion**

The application seeks retrospective approval for a 'Motor Vehicle Repair' business. Due to the current planning framework, it is considered that the use should only be approved to continue for a temporary period until the area has transitioned in accordance with the LSP. The application is therefore recommended for approval for a term of five years, subject to Conditions.



**Attachments (available under separate cover)**

- **10.1.5 - attachment 1** - Development Plans (E23/14208)
- **10.1.5 - attachment 2** - Summary of Submissions (E23/11059)
- **10.1.5 - attachment 3** - Clause 67 Assessment (E23/14209)

**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 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	Council approving the application and the development impacting on amenity.	Shire of Serpentine Jarrahdale Local Planning Scheme No. 3 and the effective imposition of Conditions.	Reputation	Possible	Minor	MODERATE	Ensuring operations comply with such Conditions
2	The applicant seeking a review of the decision by the SAT, which requires independent planning representation in order to defend the decision of Council which differs from the Officer recommendation, causing costs to be incurred.	Shire of Serpentine Jarrahdale Local Planning Scheme No. 3, Reasons for refusal.	Financial	Possible	Minor	LOW	Ensure appropriate reasons for refusal





**Voting Requirements:** Simple Majority

### Officer Recommendation

That Council **APPROVES** the development application for 'Motor Vehicle Repair' at Lot 234, 10 Walters Road, Byford as contained in attachment 1, subject to the following Conditions:

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

Plans and Specifications	P1-3 received at the Shire's Offices on 3 August 2023. P4 Environmental Acoustic Assessment prepared by Herring Storer Acoustics and dated May 2023.
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2. This approval is valid for a period of five years, after which the approval expires. Upon expiry, the approved development must cease.
3. The hours of operation of the 'Motor Vehicle Repair' business are restricted to 7:00am to 6:00pm Monday to Friday. Operations are not permitted on Saturdays, Sundays and/or Public Holidays.
4. A maximum of four customers are permitted to attend the premises per day.
5. All motor vehicle service and repairs must occur within the shed at all times, and the shed door must be closed during any operation of the mechanical equipment of compressor, tech gun, rattle gun, air gun and ratchet gun. Only one piece of mechanical equipment is permitted to be in use at any time.
6. Liquid waste associated with the 'Motor Vehicle Repair' business is to be disposed of through a licensed operator on a monthly basis.
7. Drums used for the storage of liquid waste must be stored in an adequately bunded area and undercover.
8. Within 60 days of approval, a suitable Noise Management Plan shall be submitted to, and approved by, the Shire of Serpentine Jarrahdale. Submission of the Plan must be within 30 days, to allow the Shire 30 days for assessment. The Noise Management Plan shall address the following to the satisfaction of the Shire of Serpentine Jarrahdale:
  - a. The use of mechanical equipment within the shed only;
  - b. The shed doors are to be closed whilst machinery is in operation;
  - c. Only one piece of mechanical equipment shall be in operation at any one time;
  - d. The operation of the business is to be restricted to the daytime;
  - e. Installing noise mitigation measures on all plant equipment (i.e. air conditioning units);
  - f. A noise complaints management procedure;
  - g. A requirement to cease all operations of the business should any noise complaints be received, to allow these to be investigated and rectified before recommending operations.

Once approved, the Noise Management Plan shall be adhered to at all times.



Continued

## Ordinary Council Meeting Agenda Monday, 20 November 2023

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- 9. Prior to the submission of a building permit, amended plans shall be submitted to and approved by the Shire of Serpentine Jarrahdale. These plans shall depict a 1.1m minimum setback of the office extension from the eastern lot boundary. Once approved, development shall be in accordance with the approved amended plan.**



**10.1.6 - Retrospective Development Application for 'Motor Vehicle Repair' - Lot 244, 54 Walters Road, Byford (PA23/421)**

<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:	Benjamin Offringa
Owner:	Remelt Offringa
Date of Receipt:	12 July 2023
Lot Area:	4265m <sup>2</sup>
Local Planning Scheme No 3 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 'Motor Vehicle Repair' at Lot 244, 54 Walters Road, Byford.

Five submissions either objecting to, or raising concerns with, the proposal were received during the public consultation period. Officers do not have delegated authority to determine development applications where more than two objections are received that cannot be addressed through amendments or the imposition of conditions, in accordance with Delegated Authority 12.1.1 - Determination of Development Application.

The site is currently zoned 'Urban Development' under Local Planning Scheme No.3 (LPS3) with a designation of 'Residential' under the Stanley Road Local Structure Plan (LSP). This LSP coincides with a highly fragmented arrangement of lots, which has delayed any subdivision and development taking place under the structure of the LSP.

The proposal is a discretionary use in the 'Urban Development' zone, which includes careful consideration for how to provide for orderly transition to the ultimate outcome anticipated by the LSP.

Upon completion of subdivision and development according to the LSP and the integration of the LSP into the Scheme as new zones and reserves, the proposal would be designated a prohibited use in the 'Residential' zone.





For the reasons discussed in the report, it is considered that the continuation of the interim proposal for a time limited period, would not prejudice the future planning of the area and would help in managing the orderly transition of land use over time.

It is also considered that the concerns raised in the objections can be appropriately managed, with conditions. It is therefore recommended that the development application is approved to allow the continuation of the existing use for a further five-year period, with any extension beyond this time being the subject of a new development application.

### **Relevant Previous Decisions of Council**

There is no previous Council decision relating to this application.

### **Background**

#### Existing Development

The subject site has an area of 4265m<sup>2</sup> and is located within the Byford Townsite (Old Quarter) residential area, north-east of the Town Centre. The site is developed with a single dwelling and an outbuilding, as depicted following:



**Figure 1: Aerial image of subject site**





The site is located on the northern side of Walters Road which is predominantly low density in character, while the south side of the road are smaller residential sized lots, as depicted following:

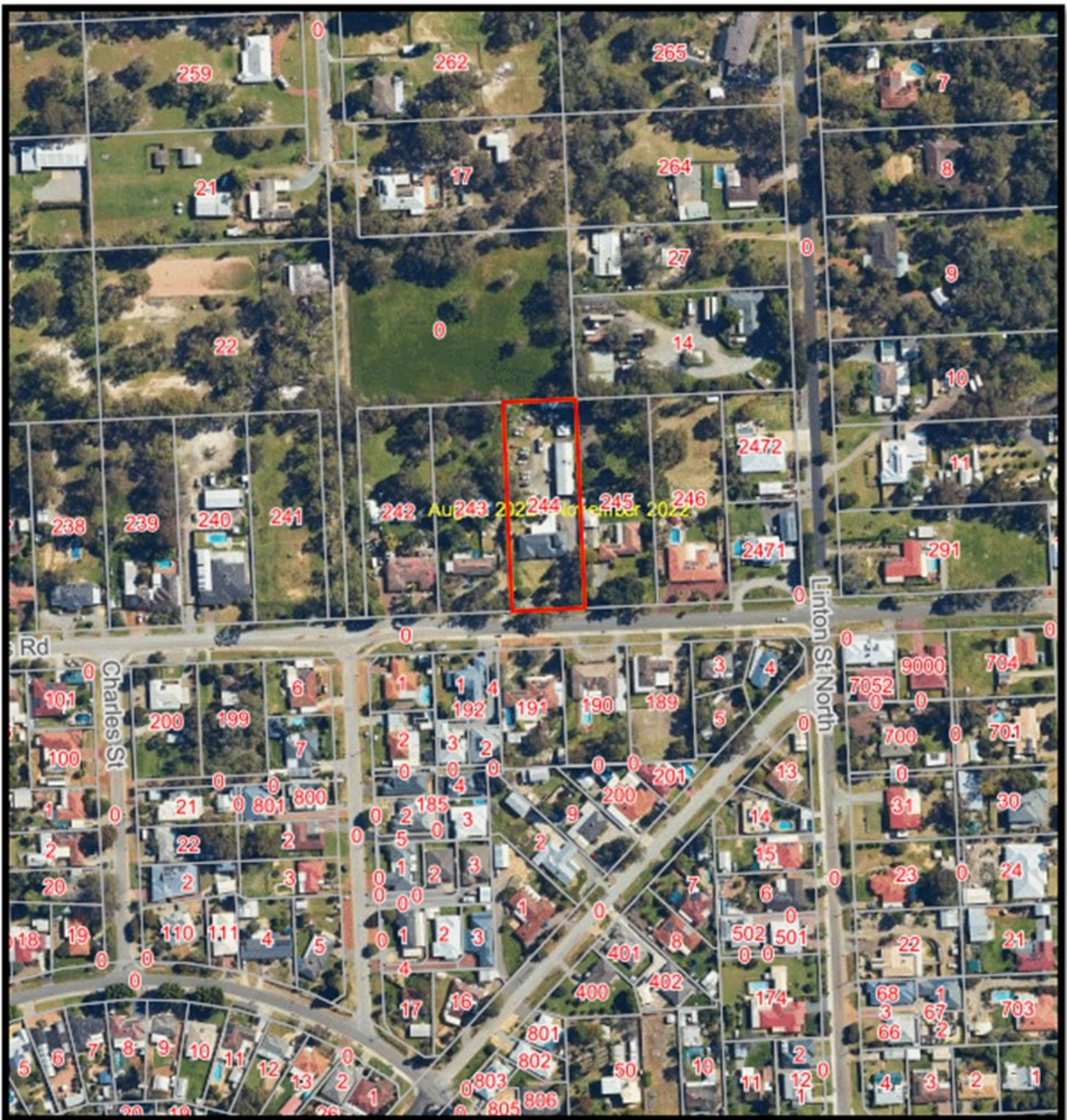


Figure 2: Aerial image of subject site and surrounds





**Figure 3: View from the south (Walters Road) of the subject site**

### Planning History

Development approval was granted for a 'Home Business' (Mobile Mechanic) on the subject site on 9 May 2014 under delegated authority. This approval was enacted and has been in operation since. However, the operations have expanded beyond what was initially approved and beyond what is permitted under the land use definition of 'Home Business'. The table following describes the changes between the Conditions of that approval and what is currently being undertaken according to the applicant:

<b>Condition</b>	<b>Currently Occurring</b>
<i>A maximum of three customers are permitted to attend the premise per day.</i>	Estimate of eight customers per day.
<i>Not more than one customer to attend the premise at any one time.</i>	No restriction on how many customers are allowed to attend at any one time.
<i>Not more than 136sqm of the dwelling or an outbuilding is permitted to be used for the purpose of the home business</i>	The outbuilding used for motor vehicle repairs has a floor area of 262m <sup>2</sup> and as such cannot fall within the definition of a Home Business.

### Development

The application seeks retrospective approval for the use of 'Motor Vehicle Repair'. Details of the operations are as follows:

- Motor vehicle repairs to be undertaken within an existing building (262m<sup>2</sup>) adjacent to the eastern lot boundary and to the rear of the main residence;
- Parking area provided to the west of the motor vehicle repair building;
- There will be no change to vehicle access, however a section of driveway providing access to the motor vehicle repair building would be compacted;
- The occupier of the dwelling on the land operates the business and employs two tradesmen and an apprentice who do not reside at the site;



- Waste oil and filters are removed from the site by a private contractor once a month;
- Scrap metal is taken to a wrecking yard on a regular basis;
- Traffic movements (20 vehicle trips per day) include delivery of spare parts, test drives, customer drop off and pick up of vehicles, and tow trucks;
- Hours of operation are 7.30am to 4.30pm from Monday to Friday; and
- Estimate of eight customers per day.

The site plan is depicted following, full details of the proposal are contained within **attachment 1**.



Figure 4: Site layout plan





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## Community / Stakeholder Consultation

Advertising was carried out for a period of 21 days from 4 August 2023 to 25 August 2023 whereby five submissions were received either objecting to or raising concerns with the proposal. The key concerns of the submissions are listed following. The full submissions along with the applicant's response is contained within **attachment 2**.

- This type of business should be located in a commercial / light industrial area (with proper washdown bays and oil collection facilities) and not a residential area; and
- The streets are used as a test track and speed limits are being exceeded.

### *Officer Comment:*

Conditions are recommended to ensure that waste associated with the business is disposed of through a licensed operator on a monthly basis. In addition, drums used for the storage of liquid waste must be stored in an adequately bunded area and undercover. It is worth noting these Conditions were imposed on the initially approved 'Home Business' and since the commencement of the operations no issues or complaints have been received in this regard.

In relation to vehicles being test driven on the street, it is considered that Conditions restricting the number of customers and hours of operation to mitigate traffic impacts on the local area and the concerns of the submitters.

## Statutory Environment

### Legislation

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

### Local Planning Framework

- Shire of Serpentine Jarrahdale Local Planning Scheme No.3 (LPS3)
- Byford Townsite Detailed Area Plan
- Stanley Road Precinct Local Structure Plan

### Local Planning Policies

- 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 comprehensive assessment has been undertaken in accordance with Clause 67 of the Deemed Provisions (**attachment 3**). For the purpose of this report, discussion is confined to the objections received and where Council is required to exercise discretion.

### Land Use

The proposal seeks to use the land for vehicle servicing and repairs considered to fall within the 'Motor Vehicle Repair' land use defined under LPS3 as:

*“premises used for or in connection with-*



*(a) electrical and mechanical repairs, or overhauls, to vehicles other than panel beating, spray painting or chassis reshaping of vehicles; or*

*(b) repairs to tyres other than recapping or retreading of tyres.”*

Pursuant to 'Table 3- Zoning Table' of LPS3, the land use of 'Motor Vehicle Repair' is an 'A' use in the 'Urban Development' zone which means *“that the use is not permitted unless the local government has exercised its discretion by granting development approval after advertising the application in accordance with clause 64 of the deemed provisions.”* Therefore, Council has discretion to permit the use.

### Local Planning Scheme No. 3

The objectives of the 'Urban Development' zone seek:

- *“To provide an intention of future land use and a basis for more detailed structure planning in accordance with the provisions of this Scheme.*
- *To provide for a range of residential densities to encourage a variety of residential accommodation.*
- *To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development.*
- *To provide an intermediate transitional zone following the lifting of an urban deferred zoning within the Metropolitan Region Scheme.”*

It is important to acknowledge that the 'Urban Development' zone acts as a transitional zone while planning for the development of future urban areas and allows for the consideration of commercial uses normally associated with residential development. This is important to manage the risk of an area becoming blighted by inactivity, if interim productive and beneficial uses cannot be provided for. Whilst the area lies within an approved LSP, the highly fragmented lot ownership has resulted in the area being yet to start a transition to its ultimate plan as a residential estate community. Therefore, in the interim, given the subject lot has an area of over 4,000m<sup>2</sup> and is separated from the established higher density residential area to the south, it is considered appropriate for the use to continue as currently operating for a limited time until the LSP area is progressed.

### Stanley Road Precinct Local Structure Plan

Under the Local Structure Plan (LSP), the subject site has a 'Residential' designation (R20, R25 and R30) as shown in Figure 5 following.

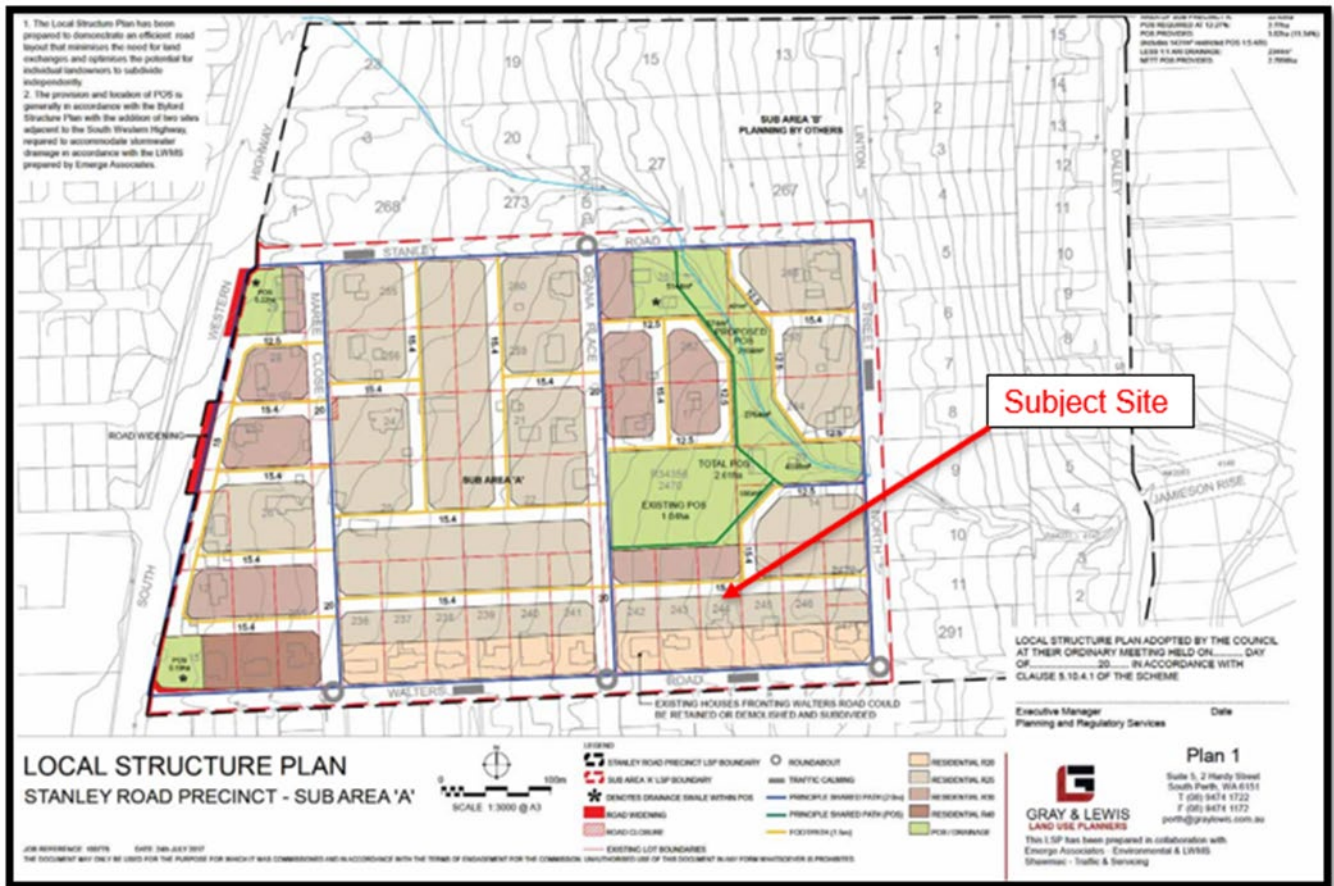


Figure 5: Stanley Road Precinct Local Structure Plan

As previously stated, pursuant to 'Table 3- Zoning Table' of LPS3, 'Motor Vehicle Repair' in the 'Residential' zone is an 'X' use which means that upon completion of the structure plan and integration of zones into the Scheme, there would be no discretion available to permit the use. The proposal is therefore inconsistent with the LSP in the long term, and would not be considered appropriate to support without carefully considering the merits of a time limited approval.

Given the indicative road layout on the LSP, it is likely that subdivision would need to occur in a coordinated manner and unlikely to occur on an individual basis per lot. It is therefore anticipated that there will be no increase in residential development in the LSP area in the foreseeable future. Subsequently, it is considered appropriate to support the proposal subject to a time limited approval of five years.

This period would allow the operator sufficient time to arrange a more suitable premise to relocate to and continue their business, whilst the area remains in transition. Alternatively, the applicant may choose to reapply in five years time for a further approval, which would need to be assessed at that point in terms of the extent (or otherwise) of implementation of the LSP that has occurred.

This time limited approach will also allow time for further development of the Shire's light industrial areas which are currently limited. Officers consider it important to the support these types of businesses during transitional periods so long as amenity impacts can be managed.

### Noise

An Environmental Acoustic Report (EAP) prepared by Herring Storer Acoustics and dated June 2023 was submitted with the application. The EAP identifies the closest sensitive receptors (dwellings) to this development as depicted following:





For this development, the closest residential premises of concern are located, as shown on Figure 3.1 below.



**Figure 6: Location of Sensitive Noise Receptors**

Whilst there are no prescribed recommended separation distances for this land use, given the proximity and number of sensitive receptors in the vicinity, it is important to ensure that noise generated from the development does not have adverse amenity impacts. The EAP assessed the noise generated from the operations against the assigned levels of the *Environmental Protection (Noise) Regulations 1997*.

The EAP identified two main noise sources of mechanical equipment (i.e. rattle gun, air nozzle and battery ratchet) and door slams. The tables following demonstrate that the main noise sources comply with the assigned noise levels and no further noise mitigation measures are required.





**TABLE 6.2 – ASSESSMENT OF L<sub>A1</sub> NOISE LEVEL EMISSIONS  
VEHICLE MECHANIC (DAY PERIOD, ALL MECH UNITS)**

Location	Assessable Noise Level, dB(A)	Applicable Times of Day	Applicable Assigned L <sub>A1</sub> Noise Level (dB)	Exceedance to Assigned Noise Level (dB)
R1	37	Day Period	55	Complies
R2	39	Day Period	55	Complies
R3	38	Day Period	55	Complies
R4	41	Day Period	55	Complies
R5	46	Day Period	55	Complies
R6	47	Day Period	55	Complies
R7	44	Day Period	55	Complies
R8	27	Day Period	55	Complies
R9	22	Day Period	55	Complies
R10	22	Day Period	55	Complies
R11	25	Day Period	55	Complies

**Figure 7: Location of Sensitive Noise Receptors - Mechanical Equipment**

**TABLE 6.5 – APPLICABLE ADJUSTMENTS AND ASSESSABLE L<sub>A10</sub> NOISE LEVELS, dB(A)  
CAR DOOR SLAMS – NIGHT PERIOD**

Location	Calculated Noise Level, dB(A)	Applicable Adjustments to Measured Noise Levels, dB(A)			Assessable Noise Level, dB(A)
		Where Noise Emission is NOT music			
		Tonality	Modulation	Impulsiveness	
R1	19	-	-	+10	29
R2	22	-	-	+10	32
R3	16	-	-	+10	26
R4	20	-	-	+10	30
R5	26	-	-	+10	36
R6	42	-	-	+10	52
R7	38	-	-	+10	48
R8	32	-	-	+10	42
R9	37	-	-	+10	47
R10	24	-	-	+10	34
R11	28	-	-	+10	38

**Figure 8: Location of Sensitive Noise Receptors - Car Door Slams**

Nevertheless, to ensure an appropriate level of amenity is afforded to surrounding residents, it is recommended that Conditions are imposed to restrict the operations to daylight hours (and not including Sundays and Public Holidays) and works be confined to inside the workshop building. The measures are considered to further address amenity impacts whilst the area transitions in character and to ensure the noise levels remain compliant. It is worth noting that since the approval for the initial operations, no noise complaints have been received by the Shire.



Car Parking and Traffic

Pursuant to 'Clause 4.3 – Car Parking Requirements' of LPS3, the use of 'Motor Vehicle Repair' is required to provide one parking bay per 100sqm of net leasable area (NLA) and one bay per employee. The workshop has a NLA of 262m<sup>2</sup> which requires three car bays and three employees requiring a further three bays. The subject site is large enough to be able to manage its parking internal to the site. Furthermore, it is recommended that a Condition of approval state that *“All vehicles associated with the motor vehicle repair business are to be parked within the boundaries of the subject property and are not permitted to be parked on the adjacent road or verge at any time.”*

The application states that there would be no more than eight customers on average per day. This traffic generation is considered modest and not dissimilar to the expected traffic generation of a 'Home Business'. As such, it is considered that the local road network is capable of accommodating the vehicles associated with the development.

**Options and Implications**

Option 1

That Council APPROVES the development application for 'Motor Vehicle Repair' at Lot 244, 54 Walters Road, 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	P1 received at the Shire's Offices on 12 July 2023. P2 Environmental Acoustic Assessment prepared by Herring Storer Acoustics and dated June 2023.
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- b. This approval is valid for a period of five years, after which the approval expires. Upon expiry, the approved development must cease.
- c. The hours of operation of the 'Motor Vehicle Repair' business are restricted to 7.30am to 4.30pm Monday to Saturday, and not including Sundays or Public Holidays.
- d. A maximum of eight customers are permitted to attend the premises per day.
- e. Motor vehicle service and repairs must not occur outside the 'Work Space' building as depicted on the approved plans.
- f. Liquid waste associated with the 'Motor Vehicle Repair' business is to be disposed of through a licensed operator on a monthly basis.
- g. Drums used for the storage of liquid waste must be stored in an adequately bunded area and undercover.

Option 2

That Council REFUSES the development application for 'Motor Vehicle Repair' at Lot 244, 54 Walters Road, Byford as contained in **attachment 1**, for the following reasons:

- 1. The use is not consistent with the endorsed Local Structure Plan, which depicts a medium density residential development interfacing future public open space. Allowing the use to occur, even on a time limited basis, would prejudice the proper and orderly implementation of the approval Structure Plan.



2. Noise impacts associated with the development, whilst compliant with the *Environmental Protection (Noise) Regulations 1997*, will pose an adverse amenity impact by virtue of observable industrial impulsive noises being generated.

Option 1 is recommended.

### **Conclusion**

The application seeks retrospective approval for a 'Motor Vehicle Repair' business. The business was initially approved as a 'Home Business' but has since expanded beyond the scope of the approval. Due to the current planning framework, it is considered that the use should only be approved to continue for a temporary period until the area has transitioned in accordance with the LSP. The application is therefore recommended for approval for a term of five years, subject to conditions.

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

- **10.1.6 - attachment 1** - Development Plans (E23/13326)
- **10.1.6 - attachment 2** - Summary of Submissions (E23/10386)
- **10.1.6 - attachment 3** - Technical Assessment (E23/13328)

### **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 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	Council approving the application and the development impacting on amenity.	Shire of Serpentine Jarrahdale Local Planning Scheme No. 3 and the effective imposition of Conditions.	Reputation	Possible	Minor	MODERATE	Ensuring operations comply with such Conditions.
2	The applicant seeking a review of the decision by the SAT, which requires independent planning representation in order to defend the decision of Council which differs from the Officer recommendation, causing costs to be incurred.	Shire of Serpentine Jarrahdale Local Planning Scheme No. 3, Reasons for refusal.	Financial	Possible	Minor	LOW	Ensure appropriate reasons for refusal.





**Voting Requirements:** Simple Majority

**Officer Recommendation**

**That Council APPROVES the development application for ‘Motor Vehicle Repair’ at Lot 244, 54 Walters Road, 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.**

<b>Plans and Specifications</b>	<b>P1 received at the Shire’s Offices on 12 July 2023. P2 Environmental Acoustic Assessment prepared by Herring Storer Acoustics and dated June 2023.</b>
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- b. **This approval is valid for a period of five years, after which the approval expires. Upon expiry, the approved development must cease.**
- c. **The hours of operation of the ‘Motor Vehicle Repair’ business are restricted to 7.30am to 4.30pm Monday to Saturday, and not including Sundays or Public Holidays.**
- d. **A maximum of eight customers are permitted to attend the premises per day.**
- e. **Motor vehicle service and repairs must not occur outside the ‘Work Space’ building as depicted on the approved plans.**
- f. **Liquid waste associated with the ‘Motor Vehicle Repair’ business is to be disposed of through a licensed operator on a monthly basis.**
- g. **Drums used for the storage of liquid waste must be stored in an adequately bunded area and undercover.**



**10.1.7 - Amendment to Local Planning Policy 1.5 - Exempt Development relating to Container Deposit Scheme Infrastructure (SJ4181)**

<b>Responsible Officer:</b>	Manager Statutory Planning and Compliance
<b>Senior Officer/s:</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**

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

The purpose of this report is for Council to adopt a minor amendment to Local Planning Policy 1.5 - Exempt Development (LPP1.5). The amendment seeks to provide exemptions for development associated with the Container Deposit Scheme (CDS), based upon the Western Australian Planning Commission guidance in this regard.

The amendment to LPP1.5 seeks to exempt certain forms of CDS infrastructure from the requirement to obtain development approval. This infrastructure is guided by Position Statement: Container Deposit Scheme Infrastructure (Position Statement) which includes within it model provisions suggesting what forms of CDS should and should not be exempt from development approval.

The proposed amendment to LPP1.5 would result in those forms of CDS infrastructure that are compliant with the model provisions under the Position Statement being exempt from the requirement to obtain development approval.

It is recommended Council adopt a minor amendment to LPP1.5, to reference the Position Statement model provisions, with such minor amendments shown in **attachment 2**.

**Relevant Previous Decisions of Council**

There are no previous Council decisions relating to this matter.

**Background**

The Western Australian Government has implemented the CDS to complement existing kerbside recycling services. In September 2020 a Position Statement was published to outline how the infrastructure associated with the scheme should be considered and assessed through the planning system. The Position Statement aims to set out a coordinated approach to the provision of CDS infrastructure in ensuring it is located appropriately and setting out minimum development standards to exempt the requirement to obtain development approval. With further requests being made to expand CDS options within the Shire, it is timely to consider how to optimise the planning framework to deal with such requests.



## Community / Stakeholder Consultation

There is no requirement to advertise the adoption of the provisions contained within the model provisions of the Position Statement where no modifications are proposed, subject to notifying the Western Australian Planning Commission (WAPC). Further, Officers consider the amendment to LPP1.5 to reference the model provisions of the Position Statement to be a minor amendment, which will not require the policy to be subject to public advertising.

## Statutory Environment

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

## Comment

CDS infrastructure to which the model provisions relate include the following:

- Container collection cages - used generally for storage of containers only and not refunds. Containers are usually collected by an organisation i.e school or not for profit club and they arrange collection and receipt of the refund;
- In shop / over-the-counter / bag drop return points; and
- Reverse vending Machines (small and large).

An example of a large vending machine is depicted following:



*Large reverse vending machine*

The objectives of the model provisions are to:

- Ensure a coordinated approach to the provision of CDS infrastructure throughout WA;
- Ensure that appropriate locations are chosen for the installation of CDS infrastructure;





- Ensure the timely roll-out of infrastructure in support of the scheme's establishment and ongoing operational needs; and
- Establish minimum development requirements to exempt certain CDS infrastructure from requiring planning approval, for adoption by local governments.

The model provisions sets specific criteria in relation to location, visual amenity, operational amenity, and development footprint. Where a particular form of CDS infrastructure meets the criteria, it would be exempt from the requirement to obtain development approval. It is worth noting that the development must result in the use achieving compliance with Local Planning Scheme No. 3 for it to be eligible for such an exemption. This includes but is not limited to car parking requirements, setbacks and retention of vegetation.

By referencing development consistent with the model provisions of the Position Statement within LPP1.5, exemptions would be effectively implemented.

With regard to location, the provisions also restrict the zone in which the infrastructure may be located in order to be exempt as follows:

<b>1. Specified exemptions</b>	
1.1	The development or operation of a large reverse vending machine is development for which development approval is not required where it complies with all the relevant development standards outlined below (unless otherwise agreed by the local government), and may take place in any zone, with the exception of: (a) residential, urban development, and special residential zones; and (b) rural, rural residential, and rural smallholding zones.
1.2	The development of a container collection cage is development for which development approval is not required where it complies with all the relevant development standards outlined below (unless otherwise agreed by the local government), and may take place in any zone, including a residential or rural zone or public purpose reserve where the land is lawfully used for the purposes of: (a) civic use; and/or (b) community purpose; and/or (c) educational establishment.

Development approval would also still be required for infrastructure located on land in a heritage protected place.

Overall, it is considered that the provisions would ensure the infrastructure is placed in locations where it is incidental to the existing use i.e. shopping centres, schools and community facilities. The provisions go further to impose particular sizes and setbacks of infrastructure so as not to adversely impact on the rural character of the Shire. It is considered that adopting the model provisions via reference within LPP1.5 would exempt a form of low-risk development from the requirement to obtain development approval, as well as encourage environmentally friendly practices.



## Options and Implications

### Option 1

That Council:

1. ADOPTS amended Local Planning Policy 1.5 - Exempt Development as contained within **attachment 2** in accordance with Clause 4(3)(b)(ii) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
2. PUBLISHES a notification in the newspaper advising that Local Planning Policy 1.5 - Exempt Development has been adopted in accordance with Clause 4(4) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

### Option 2

That Council DOES NOT ADOPT amended LPP1.5

Option 1 is recommended.

## Conclusion

The role of planning in the ongoing implementation of the CDS is to ensure that the infrastructure required to facilitate the scheme is established in appropriate locations, and dealt with from a risk based perspective. Officers recommend that Council adopt a minor amendment to LPP1.5 to provide exemptions from the requirement to obtain development approval for container deposit scheme infrastructure proposals, which satisfy minimum development standards within the model provisions of the WAPC Position Statement.

## Attachments (available under separate cover)

- **10.1.7 - attachment 1** - Position Statement: Container Deposit Scheme Infrastructure (E23/14330).
- **10.1.7 - attachment 2** - Amended Local Planning Policy 1.5 - Exempt Development (E23/5134).

## Alignment with our Strategic Community Plan

<b>Outcome 3.1</b>	A commercially diverse and prosperous economy
<b>Strategy 3.1.1</b>	Actively support new and existing local business within the district.
<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

## Financial Implications

Nil.



## Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Cont rols	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	Council adopts amended LPP 1.5	There are no risks associated with Option 1					
2	If Council resolves not to proceed with the amendment to LPP 1.5, the planning framework would be requiring approval for minor low risk forms of development which would delay outcomes and impact on the most efficient resource allocation for the organisation.	LPS3	Organisational Performance	Unlikely	Moderate	MODERATE	Accept Officer Recommendation

**Voting Requirements:** Simple Majority

## Officer Recommendation

**That Council:**

1. **ADOPTS** amended Local Planning Policy 1.5 - Exempt Development as contained within attachment 2 in accordance with Clause 4(3)(b)(ii) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
2. **PUBLISHES** a notification in the newspaper advising that Local Planning Policy 1.5 - Exempt Development has been adopted in accordance with Clause 4(4) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.



**10.1.8 - Proposed Metropolitan Region Scheme Amendment - Lot 30 Soldiers Road, Cardup - Request for Comment (PA22/538)**

<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**

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:	Western Australian Planning Commission
Owner:	Land Group WA - Cardup Pty Ltd
Date of Receipt:	15 September 2023
Lot Area:	59.8 ha
Local Planning Scheme No 3 Zoning:	Rural
Metropolitan Region Scheme Zoning:	Rural

**Report Purpose**

The purpose of this report is for Council to consider the proposed Metropolitan Region Scheme (MRS) Amendment to rezone Lot 30 Soldiers Road, Cardup from 'Rural' to 'Urban' under the MRS. It is recommended Council provide comment to the Western Australian Planning Commission (WAPC) recommending support for the rezoning, based on the various regional planning considerations and opportunities and alignment to the Shire's local planning framework.

**Relevant Previous Decisions of Council**

*Ordinary Council Meeting - 19 September 2022 - OCM222/09/22 - COUNCIL RESOLUTION / Officer Recommendation*

*That Council PROVIDES preliminary comments of SUPPORT in accordance with the content of this report to the Western Australian Planning Commission, on the Proposed Metropolitan Region Scheme Amendment - Lot 30 Soldiers Road, Cardup.*





## Background

At the Ordinary Council Meeting held on 19 September 2022, Council resolved to provide preliminary comments of support to the WAPC on a proposed MRS Amendment to rezone Lot 30 Soldiers Road, Cardup from 'Rural' to 'Urban'. The WAPC has since progressed the Proposed MRS Amendment to formal advertising and are seeking public comment on the proposal.

The Proposed MRS Amendment seeks to rezone a 59.8ha portion of land located at Lot 30 Soldiers Road, Cardup from 'Rural' to 'Urban'. The Proposed MRS Amendment is considered to be a minor amendment. The subject land, which forms part of the future Mundijong Urban Precinct, is located to the north-west of Soldiers Road and Bishop Road as shown in Figure 1. The subject site has operated as a farm for livestock grazing since the 1970s, with several fenced open paddocks, a dwelling, various sheds, and structures. A water course traverses the central portion of the site in an east-west direction and is bordered by trees and some remnant vegetation. The Proposed MRS Amendment is shown in Figure 2.



Figure 1: Subject Site

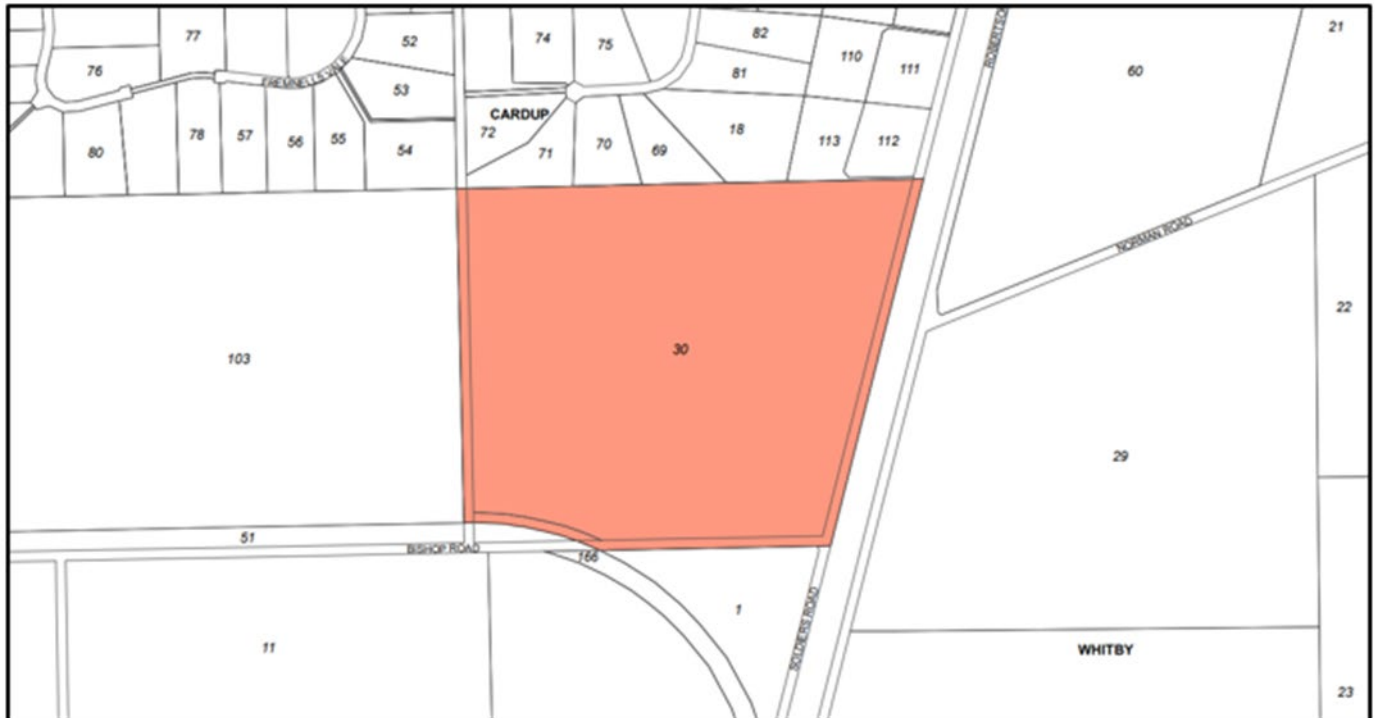


Figure 2: Proposed MRS Amendment

## Community / Stakeholder Consultation

The Proposed MRS Amendment is being advertised by the WAPC for public comment for a period of 60 days from 15 September 2023 until 17 November 2023. The formal advertising period provides an opportunity for the Shire, Government agencies, stakeholders and the community to make formal comment on the Proposed MRS Amendment. At the conclusion of the formal advertising period, the WAPC will consider all submissions received prior to making a recommendation to the Minister under Section 59 of the *Planning and Development Act 2005*.

## Statutory Environment

### Legislation

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

### State Government Policies

- Perth and Peel @ 3.5 Million - South Metropolitan Peel Sub-Regional Planning Framework
- State Planning Policy suite

### Local Planning Framework

- Shire of Serpentine Jarrahdale Local Planning Strategy
- Shire of Serpentine Jarrahdale Local Planning Scheme No. 3
- Mundijong District Structure Plan
- Local Planning Policy suite



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## **Planning Assessment**

### Planning Framework

#### *Perth and Peel @ 3.5 Million Sub-Regional Planning Framework*

The WAPC's Perth and Peel @ 3.5 Million Sub-Regional Planning Frameworks provide a land use planning and infrastructure framework to accommodate 3.5 million people by 2050, defining the urban form of the Perth and Peel regions. Under the South Metropolitan Peel Sub-Regional Planning Framework, the subject site is identified as 'Urban Expansion'. The Framework document defines Urban Expansion as '*land that has been identified for future urban development*'. The subject site is identified by the Framework document as consolidating and rounding off the Mundijong urban area.

#### *Local Planning Strategy*

The subject site is identified as part of Development Investigation Area (DIA) 1 - Bishop Road Precinct under the Shire's approved Local Planning Strategy. The Local Planning Strategy states that all the DIAs identified by the Strategy are located adjacent to existing urban areas and have the potential to be contained within logical boundaries such as major roads. Section 3.1.6 of the Local Planning Strategy outlines a development vision and intent for DIA 1, specifying the matters that require further consideration. These matters include innovative housing opportunities, resource and energy efficiency, managing the transition in land use and density to ensure land use compatibility, landscape protection and the surrounding road network. The Proposed MRS Amendment is consistent with the Shire's Local Planning Strategy.

#### *Local Planning Scheme No. 3*

The subject site is zoned 'Rural' under the Shire's approved Local Planning Scheme No.3. The Proposed MRS Amendment report states that under Section 126(3) of the *Planning and Development Act 2005*, the WAPC has the option of concurrently amending the respective local planning scheme to rezone the land being rezoned 'Urban' under the MRS to a 'Development' zone in the local planning scheme. The report further states that in accordance with standard practice, a decision on the concurrent amendment of the local planning scheme will be made after the close of the public submission period. The Shire is supportive of the concurrent amendment processes, due to the assistance it provides in helping streamline planning processes.

#### *Mundijong District Structure Plan*

The Mundijong District Structure Plan (DSP) was adopted by Council at the Ordinary Council Meeting held on 16 November 2020. The Mundijong DSP was considered by the Statutory Planning Committee (SPC) of the WAPC at its meeting on 29 August 2023. The SPC resolved at this meeting to approve the Mundijong District Structure Plan as a framework for future land use and development subject to a schedule of modifications.



The WAPC required the subject site to be identified as urban land within the Mundijong DSP and be included within a new Local Structure Plan (LSP) Area for Cardup South. The Cardup South LSP Area includes Lot 30 Soldiers Road, Cardup and Lot 103 Bishop Road, Cardup. The Mundijong DSP was required to include the provision of a centrally located primary school in this LSP Area, with an area of District/Neighbourhood Open Space being shown abutting the primary school. Key Matters to be addressed within the LSP Area for Cardup South at the future structure plan stage outlined within the Mundijong DSP include the following:

- *Allowance for any land requirements associated with a rail crossing / interchange.*
- *Possible road widening requirements associated with Soldiers Road, Bishop Road and Bett Road.*
- *Noise mitigation.*
- *Bushfire hazard management.*
- *Verify, retain and protect local natural areas.*
- *Protect wetlands, watercourses and catchments.*
- *Preserve fringing vegetation along roads and waterways.*
- *Consideration of third pipe system.*

The Proposed MRS Amendment is consistent with the urban designation under the Mundijong DSP. Future structure planning of the site can address the identified key matters for consideration within the LSP Area for Cardup South.

#### Transport Network

The subject site is bound by Soldiers Road to the east, Bishop Road to south and a proposed north-south District Distributor Road to the west, which extends northwards from Bishop Road, as identified by the Mundijong DSP. The Minister's decision to remove the Planning Investigation Area over the Cardup rural living area to the north of the subject site, means the further extension of this north-south road through this rural living area to the north is not required or supported. Under the State and local strategic planning framework, the Cardup rural living area is to remain an equestrian focussed Rural Residential zone, that reinforces a land use separation between the Byford urban area and the Mundijong urban area. Road connectivity between a residential neighbourhood and an equestrian area is no longer supported. North-south traffic flows can more appropriately be accommodated via the future Hopkinson Road/Doley Road connection, providing a north-south linkage between the Proposed MRS Amendment area and the Byford locality. Additionally, Soldiers Road provides excellent opportunities for connectivity.

The subject site adjoins an existing railway to the east and the Kwinana Freight Rail to the south. The subject site falls within the State Planning Policy 5.4 Road and Rail Noise recommended 200m trigger distance for assessment of transport noise impacts from the Kwinana Freight Railway. Additionally, noise is to be expected to be received from train horns that must be used approaching the level crossing to the south. Potential noise impacts from the Kwinana Freight Rail should be addressed and the interface between the rail and the proposed urban area must be sensitively managed. A vegetation shelter belt should be retained to the north of the freight rail to address this interface. Consideration should also be given to the interface of the proposed urban area with Soldiers Road and the adjacent potential future passenger railway. There are many mature native trees within the road reserve of Soldiers Road on the eastern boundary, which creates a rural tree lined vista.





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### Rural Living Interface

The subject site abuts the established Cardup rural living area to the north, which is zoned 'Rural Residential RR-2' under the Shire's Local Planning Scheme No. 3. This area is comprised of existing rural living properties which are approximately 2ha in size. The interface between the Proposed MRS Amendment area and the rural living area must be managed with an appropriate transition in density to minimise adverse impacts on the rural living land uses, amenity and character. Many of the properties abutting the subject site accommodate equestrian activities which should be protected with an appropriate separation to future residential land uses at the subject site.

A sensitive transition in residential density should be identified at the northern interface of the subject site, providing homestead lots with low residential densities (2,000sqm to 4,000sqm), which can accommodate retention of the existing shelterbelt of trees within such allotments. Alternatively, a perimeter shelterbelt linear open space could be utilised as part of such transition and interface. Visual amenity impacts to the rural living properties should be addressed with measures such as landscaped planted buffers and vegetation screening. This is important to retain the established rural lifestyle character and visual amenity of the rural living area. Management of this interface is dependent upon such transitional design arrangements that have been identified for the land.

### Industrial Interface

The Cardup Business Park is currently located to the north-east of the subject site and allows for general industry land uses, provided such land uses have no adverse offsite impacts. At the Ordinary Council Meeting held on 18 September 2023, Council resolved to provide the WAPC with preliminary comments of conditional support for a proposed MRS Amendment to rezone the land within the Cardup Business Park from 'Industry' to 'Urban', with the condition being the exclusion of the land at the northern end of the precinct to retain sufficient industry zoned land to protect existing development and ensure effective interfacing. Industrial development within the Cardup Business Park is constrained given the urban and rural living areas which surround the site that prevent future expansion. As demand for industrial land within the Shire increases, the expansion of the West Mundijong Industrial Area further west provides a more logical and strategic opportunity to accommodate industrial growth than the Cardup Business Park.

An unapproved concrete product making general industry is currently operating within the Cardup Business Park, approximately 220m from the site of the Proposed MRS Amendment. This operation is currently seeking a retrospective development approval, which is yet to be determined. It is noted that existing dwellings and residents of Cardup are located closer to the general industry than this subject land, and have raised a number of complaints about adverse impacts experienced from the unapproved operations. As a result of the documented and verified adverse impacts associated with emissions from the operations, the DWER imposed an Environmental Protection Notice on the general industry. This restricts operations from taking place, until such time that DWER are satisfied that emissions are capable of being managed in a compliant manner. This will require such operations to manage its impacts, without creating an unacceptable amenity outcome.

### Water Management

An existing water course traverses the subject site, which will be developed as a multiple use corridor (MUC) as part of the future development of the site. This central MUC will provide an ordering element for the future development. Consideration should be given to the amount of land required for the water course, drainage and an appropriate foreshore reserve. As the site is



located on clay soils with limited infiltration, an area of land may be required for drainage. Future planning of the subject site should ensure that the function of public open space areas includes useable active recreational spaces. A Local Water Management Strategy (LWMS) will be required to be provided at the future structure planning stage to address these matters.

### Environmental Considerations

The subject site accommodates existing vegetation along the site boundaries and the existing water course. It should be noted that there is significant value in the individual and shelter belt tree retention at the subject site. It is recommended that an assessment of trees be undertaken at the structure plan stage to determine tree retention and identify trees that provide habitat for black cockatoos, as well as broader landscape values. Significant trees for retention should be indicatively identified at the future structure plan stage to ensure trees are incorporated into public open space and road reserves.

Native vegetation within road reserves should be retained, with the Soldiers Road reserve being identified as a Bush Forever site. Fauna management and relocation should also be addressed as part of the future structure planning of the site, given the potential habitat at the site. Local native species should be recommended for future landscaping to support a sustainable, resource efficient approach to the proposed development. The Bushfire Management Plan, which will accompany the future structure planning of the site, should allow for vegetation retention and revegetation of the water course.

### Sustainable Development Approach

There is potential for the subject site to be developed to provide affordable housing and sustainable housing opportunities in the locality. This aligns with the objectives specified for the subject site under the Shire's Local Planning Strategy and the Mundijong DSP. The site has the capacity to be developed into 'themed' neighbourhoods, under the overarching sustainable development vision.

## **Options and Implications**

### Option 1

That Council PROVIDES comments of SUPPORT in accordance with the content of this report to the Western Australian Planning Commission, on the Proposed Metropolitan Region Scheme Amendment - Lot 30 Soldiers Road, Cardup.

### Option 2

That Council PROVIDES comments NOT SUPPORTING the Proposed Metropolitan Region Scheme Amendment - Lot 30 Soldiers Road, Cardup to the Western Australian Planning Commission.

Option 1 is recommended.



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**Conclusion**

The Proposed MRS Amendment seeks to rezone 59.8ha of land located to the north of Mundijong from 'Rural' to 'Urban'. The subject site is identified as 'Urban Expansion' under the WAPC's South Metropolitan Peel Sub-Regional Planning Framework, 'DIA 1' under the Shire's Local Planning Strategy and 'Urban' under the Mundijong DSP. Key considerations for the proposal include the planning framework, the transport network, interface management, water management and environmental considerations. Officers recommend the Proposed MRS Amendment be supported subject to these considerations.

**Attachments (available under separate cover)**

- **10.1.8 - attachment 1** - Proposed MRS Amendment Report (IN23/22757)

**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 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 2.2</b>	A sustainable natural environment
<b>Strategy 2.2.1</b>	Develop, maintain and implement plans for the management and maintenance of Shire controlled parks, reserves, and natural assets
<b>Strategy 2.2.2</b>	Seek to minimise resource usage and continue to maximise reuse opportunities
<b>Strategy 2.2.3</b>	Continue to minimise the volume and impact of waste generated with the district
<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

**Financial Implications**

There are no direct financial implications relating to 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	This option is considered the lowest strategic risk option.						
2	That Council PROVIDES comments NOT SUPPORTING the Proposed Metropolitan Region Scheme Amendment - Lot 30 Soldiers Road, Cardup to the Western Australian Planning Commission, which delays the implementation of the Shire's adopted planning framework.	Planning legislation and framework.	Social / Community Outcomes	Possible	Moderate	MODERATE	Provide reason for decision.

**Voting Requirements:** Simple Majority

### Officer Recommendation

**That Council PROVIDES comments of SUPPORT in accordance with the content of this report to the Western Australian Planning Commission, on the Proposed Metropolitan Region Scheme Amendment - Lot 30 Soldiers Road, Cardup.**





**10.1.9 - Mundijong District Structure Plan and Mundijong Town Centre (Precinct F1) Precinct Structure Plan Update (SJ307)**

<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**

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 update Council on the recent approval of the Mundijong District Structure Plan (DSP) subject to modifications, and how this is associated with the subsequent Area F1 Precinct Structure Plan (PSP) project.

Officers note that completing all of the modifications for the DSP will help inform the PSP, and also provide potentially additional opportunities associated with activity centre size, makeup and extent.

It is recommended that Council note the outcome of the Mundijong DSP, and the steps to be taken to affect the modifications required by the WAPC.

**Relevant Previous Decisions of Council**

*Ordinary Council Meeting - 19 June 2023 - OCM138/06/23 - COUNCIL RESOLUTION / Officer Recommendation*

*That Council:*

- 1. In response to the Area F1 Precinct Structure Plan KPI, NOTES that a consultant was not able to be engaged, despite three attempts, due to the situation in the current market which lacks spare capacity to deliver the project.*
- 2. NOTES and ENDORSES a revised approach to undertake the project in house.*
- 3. NOTES that consistent with the Shire's Project Management Framework, the pre-project phase of feasibility will be re-started based on the revised project approach, and this restart/review will inform updates to project timing; capacity of current project budget to deliver revised approach and; staff resource implications.*
- 4. NOTES that a future report will be presented as part of the Corporate Business Plan, to update the project based on the outcomes of Part 3.*



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**Background**

The Mundijong F1 Precinct Structure Plan is a current project in the Corporate Business Plan, to be completed over the next three years. Informing that document is the DSP, which was adopted by Council in 2021 and sent to the WAPC for approval. After a prolonged period of assessment by the WAPC, accounting for the significant challenges that coordinating hypergrowth poses, the WAPC at its Statutory Planning Committee meeting held on 29 August 2023 approved the Mundijong DSP subject to modifications. These modifications are extensive, and need to be completed as the next planning priority for Mundijong.

**Community / Stakeholder Consultation**

Nil.

**Statutory Environment**

- *Planning and Development Act 2005*
- *Local Government Act 1995*

**Comment**

The WAPC, at its Statutory Planning Committee meeting held 29 August 2023, approved the Mundijong DSP subject to a range of modifications. This final determination is a significant step in the development process as it provides the framework for the development of Mundijong, and takes into consideration the infrastructure projects and other matters that have been initiated around Mundijong and the need for subsequent local and precinct structure planning to be coordinated.

The WAPC approval was subject to 83 modifications, that require (inter alia) four large studies to be updated and incorporated into the DSP. The major studies that require revision are:

- Activity Centres Background Paper
- Bushfire Hazard Level Assessment
- District Water Management Strategy
- Transport Impact Assessment

It is anticipated that the costs to do this will be in the region of between \$80,000 - \$100,000.

At the same time as this, the Shire is embarking on the Area F1 Precinct Structure Plan, which will provide the detailed planning framework for the Mundijong Town Centre. By firstly undertaking the modifications to the DSP, there is a number of potential opportunities that may arise, especially in respect of the activity centre aspects. Area F1 comprises the civic and governance activity centre, and thus could be enhanced by the modifications that include an updated Activity Centres study.

The current Area F1 project has a balance of \$178,500. Given the studies required the finalise of the Mundijong DSP, and will directly and specifically also feed into the Area F1 PSP, it is recommended this be the logical step taken to be completed first so that the PSP can be optimised to the maximum potential possible.



For reference, the following image shows the DSP in comparison to the Area F1 PSP:

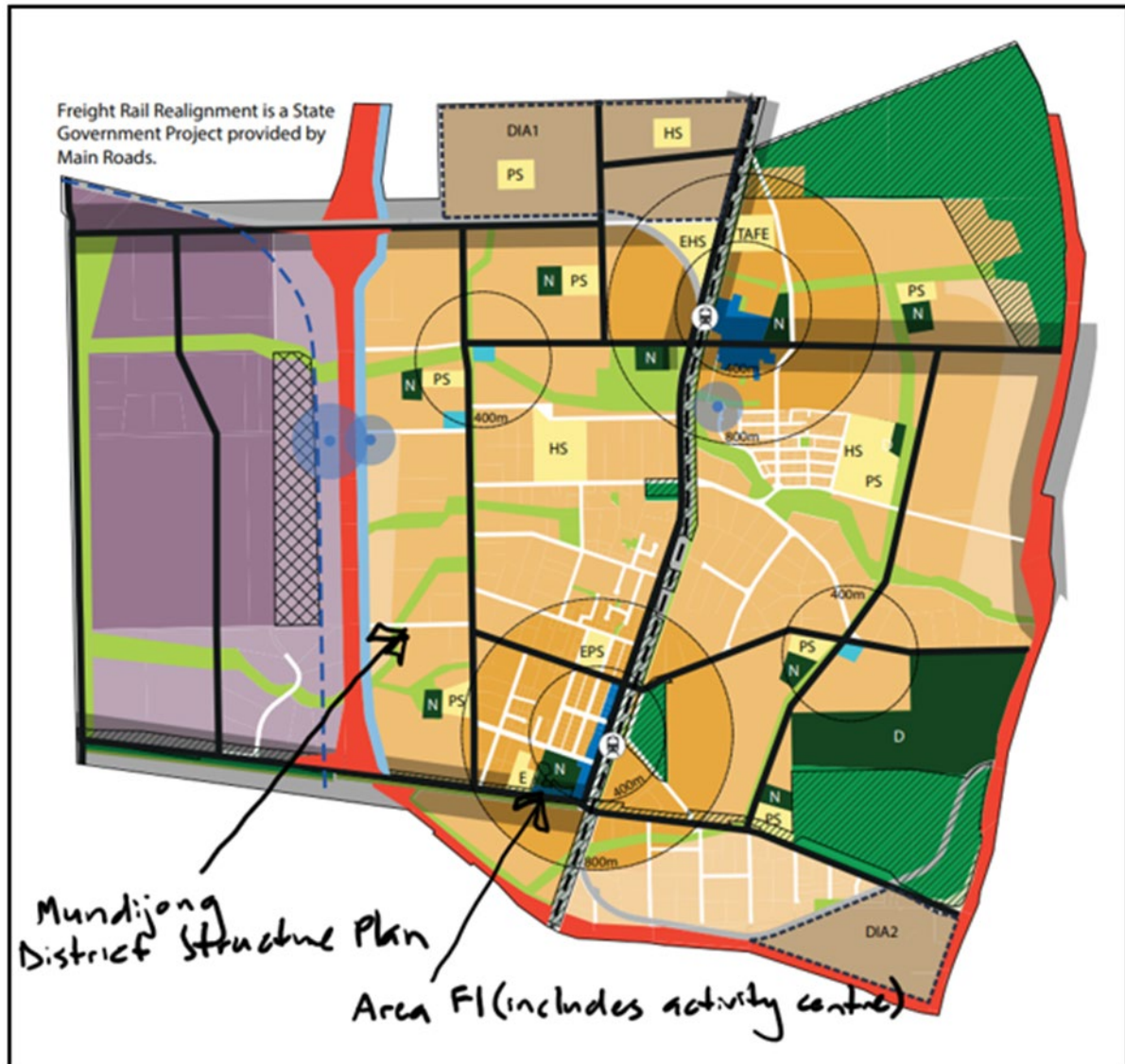


Figure 1: District Structure Plan and Precinct Structure Plan areas

In respect of CBP implications, there are no current project delay expected to the Mundijong Town Centre PSP, given the associated studies taking place would have in any case been a part requirement of commencing this project.



## Options and Implications

### Option 1

That Council:

1. NOTES the recent approval, subject to modifications, of the Mundijong District Structure Plan by the Western Australian Planning Commission.
2. NOTES the progress to be made in completing the modifications using funds within the Area F1 Precinct Structure Plan Project.

### Option 2

That Council:

1. NOTES the recent approval, subject to modifications, of the Mundijong District Structure Plan by the Western Australian Planning Commission.
2. REQUESTS as part of the mid year budget review, additional funds be identified (separate to the Area F1 Precinct Structure Plan Project) to undertake the modifications.

Option 1 is recommended.

## Conclusion

The WAPC's recent approval of the Mundijong District Structure Plan, with modifications, requires prioritisation for completion, given the direct relevance to subsequent local and precinct structure planning. Officers identify that, due to alignment with the current PSP project which has resource allocated within the budget, the modifications are appropriate to be funded as part of that project.

## Attachments (available under separate cover)

- **10.1.9 - attachment 1** - Schedule of modifications required for the Mundijong District Structure Plan (E23/14462)

## Alignment with our Strategic Community Plan

This proposal aligns with these specific objectives outlined in the Strategic Community Plan, in these respects.

<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

## Financial Implications

As discussed in the report, given the alignment of the studies required by the modifications within the current PSP project, it is appropriate to fund these via the current project.





### 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 is considered the lowest strategic risk option.						
2	Delaying actioning of the modifications at this point could in turn delay the overall advancement of the Precinct Structure Plan project, causing a delay in the creation of the planning framework for Area F1.	Planning framework	Organisational Performance	Possible	Moderate	MODERATE	Nil

**Voting Requirements:** Simple Majority

### Officer Recommendation

**That Council:**

1. **NOTES** the recent approval, subject to modifications, of the Mundijong District Structure Plan by the Western Australian Planning Commission.
2. **REQUESTS** as part of the mid year budget review, additional funds be identified (separate to the Area F1 Precinct Structure Plan Project) to undertake the modifications.



**10.1.10 - Draft Local Planning Policy 2.8 - Public Open Space Standards (SJ2541)**

<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 preparing a Draft Local Planning Policy (LPP) and determine if satisfactory for advertising in accordance with Clause 4 of the Deemed Provisions of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 3.

The Draft LPP relates to the standards for Public Open Space (POS) within the Shire of Serpentine Jarrahdale. The Draft LPP seeks to articulate Council's position on the planning, provision, location, design, development and viable asset delivery of Public Open Space (POS), and is to be considered by applicants and administration in the various design, assessment, and determination phases associated with POS.

If Council agrees with the Draft LPP, it will give the opportunity for community and stakeholder consultation to occur, and submissions considered. Following this, the Draft LPP would be reported back to Council to determine whether to ultimately adopt. Officers recommend that Council resolves to prepare the Draft LPP and formally advertise it.

**Relevant Previous Decisions of Council**

*Ordinary Council Meeting - 23 July 2018 - OCM063/07/18 - COUNCIL RESOLUTION / Officer Recommendation - **extract***

*That Council:*

- 1. Pursuant to Clause 4(3)(b)(i & ii) of Part 2 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 resolves to adopt the new and revised Local Planning Policies as listed within OCM063.2/07/18.*
- 3. Pursuant to Clause 4(4) of Part 2 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, publish a notice of the adoption of new and revised Local Planning Policies within OCM063.2/07/18.*

Local Planning Policy 2.8 was adopted as one of a suite of policies submitted to Council in 2018.



## **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 Draft LPP 2.8 seeks to:

- Ensure that POS is delivered in a manner which optimises community benefit;
- Provides local interpretation of the Western Australian Planning Commission's (WAPC's) Liveable Neighbourhoods Operational Policy (Liveable Neighbourhoods); and
- Guide Council, its Officers and applicants in the planning for POS.

It also seeks to ensure sustainable, cost-effective maintenance and asset management throughout whole of life of POS.

The Draft LPP is set up to address the following:

1. Objective, scope and purpose.
2. Policy provisions:
  - General
  - Distribution of POS
  - Development of POS
  - Sport POS design
  - Location of POS
  - Co-location of POS with School Sites
  - Community Purpose Sites
  - POS in Industrial Areas
  - Landscape and Vegetation Management Plans
  - Urban Water Management within POS
  - Irrigation of POS
  - Multiple Use Corridors
  - Playgrounds
  - Barbeques
  - Toilet Facilities
  - Cash-in-Lieu of POS
  - Viable asset management
  - Consultation
  - Schedule 1 - Public Open Space Requirements
  - Schedule 2 - Public Open Space Hierarchy & Development Requirements
  - Schedule 3 - Play Equipment Items



Issues experienced with the current LPP 2.8 include its ability to deliver suitable and quality POS outcomes that consider key design elements such as functionality, accessibility and inclusivity, future community need and relevance to current policies reflected in recent State Planning Policy requirements.

There is also a need to provide a better understanding of the expectation of POS outcomes for developers and / or future purchasers of land in areas of the Shire designated for POS. Providing an updated LPP that seeks to address these issues will allow for more effective and efficient means of assessing and determining appropriate outcomes for POS and allow for discretion in an appropriate planning manner.

### **Community / Stakeholder Consultation**

If Council resolve that the Draft LPP is satisfactory for advertising, a notice would be published in a newspaper circulating within the Scheme area, in accordance with Clause 4 of the Deemed Provisions. This would include:

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

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

### **Statutory Environment**

#### Legislation

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

#### State Government Policies

- Liveable Neighbourhoods

#### Local Planning Framework

- Shire of Serpentine Jarrahdale Local Planning Scheme No. 3

### **Comment**

The Draft LPP seeks to articulate the Shire's position on the planning, provision, location, design, development, and interim maintenance of POS. It is intended to be considered by applicants, administration, stakeholders and Council in the design, assessment and determination of Scheme amendments; structure plans; local development plans; subdivision applications and; development applications.

The stated objectives of the Draft LPP are to ensure Public Open Space areas provide a balance of the following:

- Sufficient area for active recreation sporting activities;
- A diversity of recreational uses and options for the community;
- Hydrozoned parks, ensuring that useable and sustainable areas of irrigated turf are provided;





- Natural areas protecting and enabling the enhancement of local natural assets and habitats whilst providing the community with managed access;
- Incorporation of water sensitive urban design principles;
- Appropriate levels of amenity, in accordance with Schedule 2;
- Environmental sustainability;
- Effective playground equipment with a preference to sustainable sourced wooden based nature play equipment over plastic equipment, that is accessible to all ages and abilities, in accordance with Schedule 2 and 3;
- Sufficient space and separation to enable shade trees and an increase in canopy cover;
- Economically sustainable parks that ensures easy and cost-effective maintenance.

With respect of formulating the Draft LPP, a cross functional team was formed to analyse the current situation and issues that were emerging in terms of POS provision. The following was documented:

- Unclear policy guidance in respect of what constitutes 'suitable design' of POS, contemplating functionality, accessibility, connectivity, useability, asset provisions and safety in POS design;
- The acceptable circumstances for drainage integration within POS, especially the upper limits whereby drainage may be considered as a suitable integrated element;
- Absent policy guidance in respect of the situations whereby toilets may be suitable for design and inclusion within POS;
- How to manage shade within POS, which contributes both to year round useability and also achievement towards urban tree canopy objectives of the Shire's Urban and Rural Forest Strategy 2018-2028;
- Complementary infrastructure design to be associated with the provision of small activity nodes such as BBQ areas;
- How cash in lieu of POS matters outside Development Contribution Areas are to be considered an exceptional circumstance;
- How imperative it was to effect good design in circumstances of considering colocation, to ensure oval functionality (size / configuration / flexibility / accessibility) is not compromised;
- How multiple use corridors needed a closer design focus, given situations of inconsistent provision which has led (in some circumstances) to high asset costs associated with the maintenance and management.

There have also been issues identified in terms of the trajectory which current Government policy pertaining to groundwater access is on, that points to reduced allocations of groundwater for use when the rate of growth and new POS provision is only accelerating in the Shire. This is also compounded by the unique microclimate of the Shire, whereby cooling from the sea breeze is not achieved to the same degree which areas closer to the coast enjoy. This places a large expectation on POS to be a green and well hydrated component of the landscape, that can aid in cooling the microclimate, as a way to combat the broader macroclimatic features of the weather on a particular day.



The consideration of these issues has resulted in the writing of the draft LPP. It is recommended that the next step be considered by Council, being to adopt the Draft LPP for the purposes of community consultation.

### **Options and Implications**

#### Option 1

That Council, pursuant to Clause 4(1) of the Deemed Provisions RESOLVES to prepare Draft Local Planning Policy 2.8 Public Open Space Standards and REQUESTS the Chief Executive Officer to advertise Local Planning Policy 2.8 Public Open Space Standards in accordance with Clause 87 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

#### Option 2

That Council resolves NOT TO PROCEED with Draft Local Planning Policy 2.8 Public Open Space Standards.

Option 1 is recommended.

### **Conclusion**

The Draft LPP relates to the standards for the provision of POS within the Shire, to ensure that POS is delivered in a manner which optimises community benefit, provides local interpretation of the WAPC Liveable Neighbourhoods Operational Policy; guides Council, Officers and applicants in the planning for POS. It seeks to ensure sustainable design and asset management, and across the landscape a more effective provision of this important element of land use. Officers recommend that the Council resolves to formally advertise the Draft LPP.

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

- **10.1.10 - attachment 1** - Draft LPP 2.8 Public Open Space Standards (E23/14483).

### **Alignment with our Strategic Community**

<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**

The draft policy also includes a draft provision on the consideration of specified area rating, where a developer seeks to impose a level of POS creation which exceeds the standard set through the LPP. Such examples could include created water bodies, elevated board walks and structure surrounding such water bodies, highly embellished boulevard treatments including ornamental lighting, significant adventure playgrounds, etc.

There is also an alternative avenue to specified area rating identified, which includes an extended maintenance period as a result of POS development above set standards. This would be from the required two years, to seven years.



### Risk Implications

Risk has been assessed on the Officer Options and Implication:

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 ad hoc situation may continue to produce poor outcomes for the Shire, community and public realm.	Planning Framework	Reputation	Possible	Moderate	MODERATE	Accept Officer Recommendation

**Voting Requirements:** Simple Majority

### Officer Recommendation

**That Council, pursuant to Clause 4(1) of the Deemed Provisions RESOLVES to prepare Draft Local Planning Policy 2.8 Public Open Space Standards and REQUESTS the Chief Executive Officer to advertise Local Planning Policy 2.8 Public Open Space Standards in accordance with Clause 87 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**



**10.1.11 - Proposed funding offer for accessibility upgrade to South Western Highway, Byford (PA23/649)**

<b>Responsible Officer:</b>	Manager Economic Development
<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**

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 a funding offer that has been received, which seeks a joint funding approach to deliver an accessibility improvement along South Western Highway.

This accessibility improvement is specifically the construction of a dedicated highway U-turn facility, south of Abernethy Road and north of Nettleton Road. This is intended to address accessibility and safety for vehicles travelling southbound on South Western Highway, and wanting to access properties on the western side of the highway. South Western Highway is a Main Roads Western Australia (MRWA) road asset, and the Shire is not responsible for its management or upgrade.

The funding proposal has been received from a prospective purchaser of land on the western side of the highway. They have made a partial funding offer, being 55% of the total project cost. They did request the Shire deliver the other 45%. The total cost of the project, including contingency and project management costs, is \$333,067.39. This offer has been made in writing, and is provided as **attachment 1**.

Officers note that as a MRWA road asset, the standard responsibilities for asset upgrades are either the asset owner, or an applicant undertaking a project with the consent of the asset owner. The Shire does not have a practice of expending funds on assets which it does not control or have responsibility for.

In noting this, it is therefore recommended that the Shire not accept the funding offer, but rather request the President and Chief Executive Officer approach the Local Member and representatives of MRWA, to advocate for MRWA's consideration to deliver the project in partnership with the offer made by the prospective purchaser.





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## Relevant Previous Decisions of Council

*Ordinary Council Meeting - 21 August 2023 - OCM201/08/23 COUNCIL RESOLUTION / Officer Recommendation*

*That Council:*

- 1. Pursuant to Clause 51 of the Deemed Provisions, ENDORSES the schedule of submissions and comments, as contained within attachment 3 and attachment 4.*
- 2. Pursuant to Clause 52(1) of the Deemed Provisions, APPROVES the amendment to 'Character Area H' of the Byford Townsite Local Development Plan, as contained within attachment 1.*
- 3. Pursuant to Clause 55(1) of the Deemed Provisions, PUBLISHES the approved amendment to 'Character Area H' of the Byford Townsite Local Development Plan.*
- 4. ENDORSES the South Western Highway (south of Abernethy Road) Access Strategy, as contained within attachment 5.*
- 5. NOTES that Main Roads WA has indicated that it is not in a position to fund the infrastructure denoted under the South Western Highway Access Strategy.*
- 6. REQUESTS Officers to explore options for infrastructure delivery in the form of pursuing any available State Government grants, and for a business case to be presented for funding consideration as part of Council's 2024/2025 draft budget.*
- 7. REQUESTS the Chief Executive Officer to write to Executive Director Infrastructure Planning and Land Services of the PTA, requesting they engage with the Shire and the community in order to commence a process of rail master planning between Byford and Mundijong. This rail master planning should seek to identify the practical options for a southern extension of passenger rail to Mundijong, preferred stabling / rail staging area and crossings of the rail.*

*Ordinary Council Meeting - 21 November 2022 - OCM267/11/22 - COUNCIL RESOLUTION / Officer Recommendation*

*That Council:*

- 1. ENDORSES the Draft Access Strategy for a U-turn pocket concept on South Western Highway as contained within attachment 1, for the purposes of community consultation for a period of 28 days.*
- 2. ENDORSES the proposed amendment to the 'Character H' Built Form and Aspirational requirements of the Byford Detailed Area Plan, as contained within attachment 2, for the purposes of community consultation in accordance with Schedule 2, Part 6, clause 50 (2) of the Planning and Development (Local Planning Schemes) Regulations 2015.*
- 3. REQUESTS the Chief Executive Officer write to Main Roads WA, requesting their consideration to fund the final project (as determined following community consultation) as part of future budget allocations.*



## Background

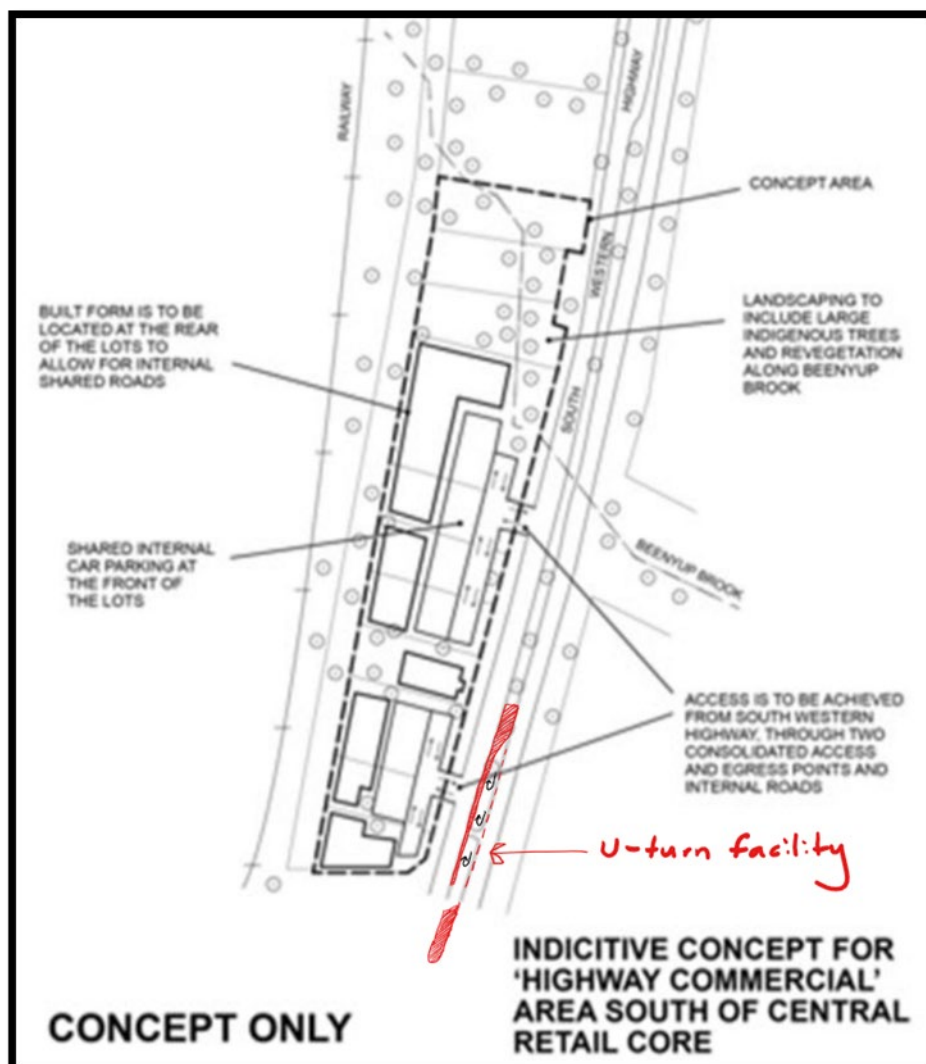
Council, at its Ordinary Council Meeting of 21 November 2022, endorsed a Draft Access Strategy for U-Turn pocket concept on South Western Highway, for the purposes of community consultation.

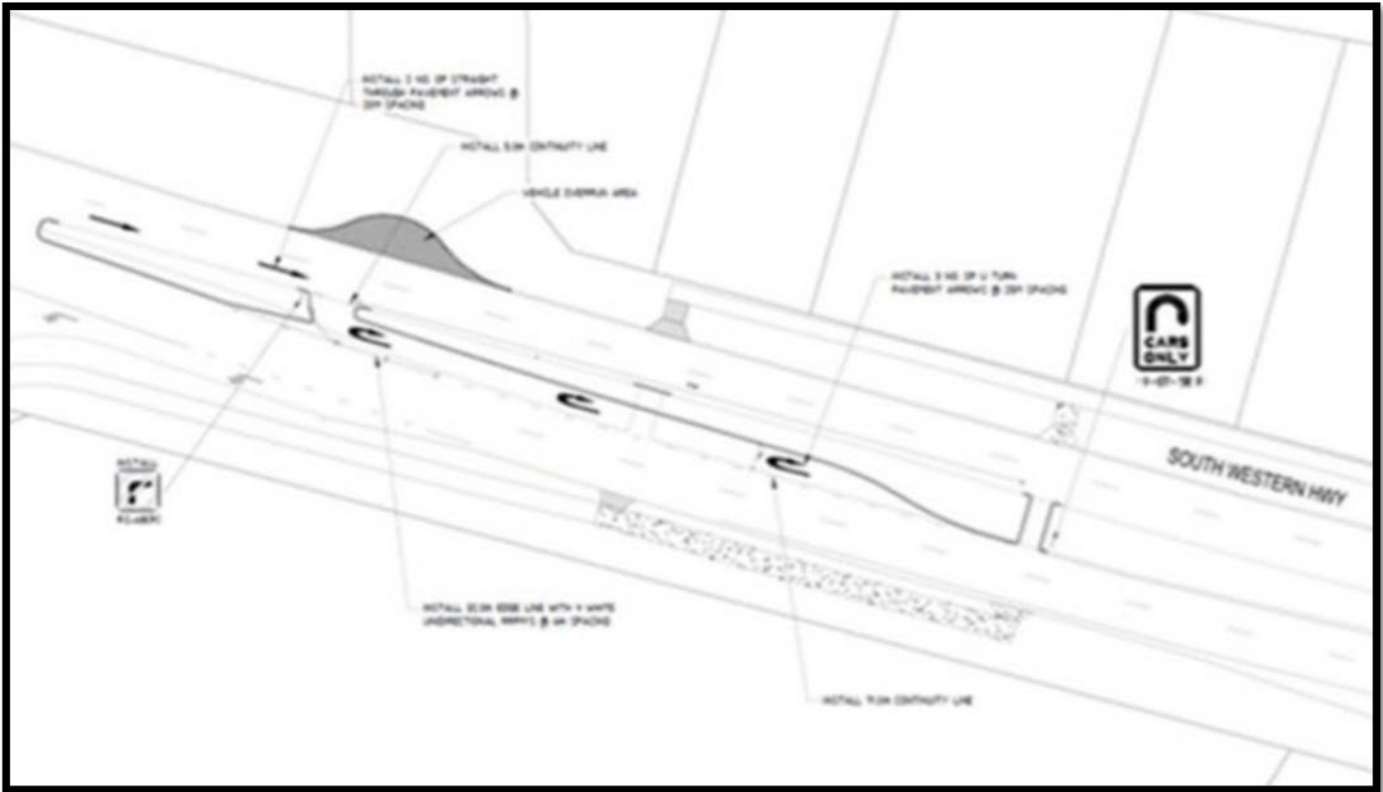
This proposal was prepared by Officers, noting the problems with accessibility currently faced by the strip of properties on the western side of South Western Highway, south of Abernethy Road and north of Nettleton Road. It was identified that:

1. There was a community safety issue in vicinity of the South Western Highway and Nettleton Road intersection due to unlawful U-turn movements being performed by southbound traffic trying to access properties north and west of Nettleton Road;
2. There was a commercial development issue, insofar that Council's vision for a strip of commercial development south of Byford tavern, was being limited by the absence of vehicle access for south bound traffic along South Western Highway.

Officers advanced a design concept, which was advertised to the community and stakeholders, and supported by Main Roads Western Australia (MRWA). This concept is shown following, together with the intended layout of 'future' commercial development.

Council endorsed the following concept at the 21 August 2023 meeting:





Also following, is an example of the concept used along Canning Highway, near Norma Road.



Upon finalising this concept, a prospective purchaser approached the Shire, advising that they wished to advance a significant commercial investment and development, which would deliver new businesses and jobs to Byford. The applicant advised, however, that such development could only prove viable if the access solution was delivered. A copy of the written approach received from the applicant is provided as **attachment 1**.



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**Community / Stakeholder Consultation**

Consultation for the proposed access strategy has already occurred, and the concept already endorsed. If the concept was implemented, it would be implementing an accessibility improvement which would benefit the current community.

**Statutory Environment**

- *Local Government Act 1995*

**Comment**

As mentioned, Officers have received an approach from a prospective purchaser, offering to fund 55% of the access solution endorsed at the August 2023 meeting. They have indicated that they would like the Shire to fund the remaining portion, and deliver the project. The offer includes towards the full cost of the project, which extends to cover overheads of the Shire, consultant costs and contingencies.

South Western Highway is a Main Roads road, which places asset management responsibilities on that agency. The Shire has continued to help find a solution for the access challenges south of Abernethy Road, and north of Nettleton Road, undertaking (in this case) concept design and community engagement for the concept.

However, Officers do not consider that the Shire should be expected to deliver a project which the asset owner (who has asset management responsibilities) would otherwise be required to. This is particularly important as South Western Highway has a number of constraints placed upon aspects like road intersection treatments and development interfaces, all of which are requirements imposed by MRWA.

It is therefore the position of Officers that MRWA ought to be the agency responsible for delivering what has been identified as an important asset improvement, to address community benefit, particularly in light of managing safe movements in the high growth area of Byford.

Officers also consider that an approach from a prospective purchaser, seeking to help fund the project, is something that may be an opportunity to promote as a unique partnership to be embraced by the State Government in helping maintain coordinated infrastructure delivery for the fastest growing area in WA.

For this reason, the Officer recommendation is that the Shire not accept the funding offer, but rather request the President and Chief Executive Officer approach the Local Member and representatives of MRWA, to advocate for MRWA's consideration to deliver the project in partnership with the offer made by the prospective purchaser.





## Options and Implications

### Option 1

That Council:

1. DOES NOT ACCEPT the funding offer provided in **attachment 1**.
2. REQUESTS the President and Chief Executive Officer approach the Local Member, Hugh Jones MLA, representatives of MRWA, and representatives of the Minister for Transport, to advocate for MRWA's consideration to deliver the project in partnership with the offer made.

### Option 2

That Council:

1. APPROVES the following budget variation in order to deliver the U-Turn South Western Highway, Byford project:

Account Number	Type	Account Description	Debit \$	Credit \$
6400-NEW-6600-0000	Increase Expenditure	Roads - Capital Purchases	150,000	
5300-17501-4004-0000	Increase Income	Rates Revenue – Interim Rates		150,000
<b>Reason:</b> 45% contribution towards the project as part of the funding agreement, funded from higher than anticipated interim rates as a result of new property creation, construction of new residences and valuation corrections by Landgate.				

2. NOTES that the project will not commence until payment of \$183,187.06 (55% of project cost) is received from the external party.

Option 1 is recommended.

## Conclusion

This report has described the background and current status for the project with the aim of providing increased safety and community benefit on a Main Roads road. It is recommended, for the reasons outlined in this report, that the Shire not accept the funding offer but rather advocate for MRWA as the asset owner to deliver the project in partnership with the offer received.

## Attachments (available under separate cover)

- **10.1.11 - attachment 1** - Carmel Letter Access Strategy Funding (E23/14448)

## 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 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

The Officer Recommendation will have no financial impact. However, if Council went with Option 2, a budget amendment would be required as per below.

Account Number	Type	Account Description	Debit \$	Credit \$
6400-NEW-6600-0000	Increase Expenditure	Roads - Capital Purchases	150,000	
5300-17501-4004-0000	Increase Income	Rates Revenue – Interim Rates		150,000

**Reason:** 45% contribution towards the project as part of the funding agreement, funded from higher than anticipated interim rates as a result of new property creation, construction of new residences and valuation corrections by Landgate.

### Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There is the risk that the project will not be agreed by MRWA.	Ensure advocacy in partnership with the Local Member, MRWA and Minister for Transport representatives.	Social Community Outcomes /	Possible	Moderate	MODERATE	Nil
2	Undertaking the project on an asset with is not a Shire responsibility, even with part funding, will divert funds that could be used for other important road projects that are Shire assets.	Nil	Social Community Outcomes /	Possible	Moderate	MODERATE	Accept Officer recommendation



Continued

## Ordinary Council Meeting Agenda Monday, 20 November 2023

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**Voting Requirements:** Absolute Majority

### **Officer Recommendation**

**That Council:**

- 1. DOES NOT ACCEPT the funding offer provided in attachment 1.**
- 2. REQUESTS the President and Chief Executive Officer approach the Local Member, Hugh Jones MLA, representatives of MRWA, and representatives of the Minister for Transport, to advocate for MRWA's consideration to deliver the project in partnership with the offer made.**



**10.1.12 - Byford Train Station and Town Centre Parking Management - Proposal for Council Consideration (SJ2633-2)**

<b>Responsible Officer:</b>	Coordinator Community Safety
<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.
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**Report Purpose**

The purpose of this report is to seek Council's consideration of the Draft Byford Town Centre Parking Management Plan for the purposes of undertaking community consultation. This Draft Plan has been formulated in advance of the Byford Station Project being completed, recognising the need to manage how commuter parking occurs.

In discussing with other local governments that had recently received new stations, it was apparent that the PTA paid commuter carparks were not always being utilised by commuters, where unrestricted free parking was available nearby. It was also noted that in town centre areas, commuter parking outside the designated PTA carpark had the potential to impact business trade, by reducing accessibility for customers and reducing the turnover of bays during the day. In residential areas, commuter parking also impacted safe road use and accessibility by residents.

The Draft Byford Town Centre Parking Management Plan has been formulated with the objectives to:

- Establish appropriate time limited parking within the Byford Town Centre, in order direct commuter parking to utilise the PTA provided carpark only.
- Ensure an appropriate time limitation period is arrived at, noting town centre visits by customers can vary in time.

The Draft Plan has now been prepared, based on cross functional team input. It is recommended the Draft Plan be advertised for community consultation.

**Relevant Previous Decisions of Council**

There are no previous Council decisions relation to this matter.





## **Background**

The Byford Train Station is being built with 400 commuter parking bays, 100 bicycle stands and six bus stands. The station design includes a focus on promoting pedestrian, bus and cycle access, however there is also an expectation that a large component of commuters will access the station by private motor vehicle.

The PTA will be requiring a fee to utilise their parking station adjoining the train station, as it does across its entire network of stations and commuter carparks.

Based on consultation with other local governments, there has been some evidence of uncontrolled parking taking place which, depending on the particular context, has caused issues to occur.

This report presents a Draft Parking Management Plan for Council to consider endorsing for community consultation. This Draft Plan has been developed from the perspective of being proactive with respect of managing commuter parking, and ensuring the Shire maintains good accessibility of the town centre by customers throughout the day.

## **Community / Stakeholder Consultation**

This agenda report is to advise of the Draft Parking Management Plan, and to recommend that Council adopt this Draft Plan for the purposes of public and stakeholder consultation.

## **Statutory Environment**

The Draft Plan is based upon the Shire's Parking and Parking Facilities Local Law. This local law enables, inter alia, time limit restrictions to be imposed and compliance and (where necessary) enforcement undertaken. This is per s3(3)(b) which states:

*A person shall not park a vehicle in a parking area, except in accordance with both signs associated with the parking area, which includes a specified time, and with this local law.*

The Shire's Parking and Parking Facilities Local Law would ensure signs are enforceable by way of:

- Warning Notice / Verbal Warning.
- Infringement Notice (\$60).
- Court prosecution (maximum penalty \$1,000).

## **Comment**

In advance of the Byford Station Project being completed, Officers have been forecasting the necessary changes that may be required to address parking. Specifically, the introduction of a paid parking arrangement for commuters by the PTA could, if not managed effectively, see nearby street parking within the town centre utilised by commuters. This is because such parking areas are currently untimed, and not subject to any specific use restriction except for disability parking and loading zone parking.

Officers have prepared a Draft Parking Management Plan, which is based upon the following objectives:

- To establish appropriate time limited parking within the Byford Town Centre, in order direct commuter parking to utilise the PTA provided carpark only.



- To ensure an appropriate time limitation period is arrived at, noting town centre visits by customers can vary in time.

To address these objectives, the Draft Parking Management Plan proposes the following:

- Implement four-hour public street parking on all streets within the town centre area of Byford. This aims to ensure that the community have reliable access to street parking near businesses within the town centre, particularly those which do not have private parking available. This is particularly the built-up areas of businesses near the junction of Pitman Way and George Street.
- In addition to this, it will be recommended to all private businesses within the town centre which have their own on-site private parking, to implement private arrangements of four hour time limits for customer parking, while also providing parking for their staff and contractors. This would require private businesses to manage their own car parking however, given the Shire's Local Law is not intended to extend into managing private carparks.

At this stage, there is not any proposal to extend timed parking into nearby residential areas, given the degree of separation which exists and the expectation that commuter parking would not take place. This however could be a mistaken assumption, and therefore the proposed Community Engagement Plan includes questions about whether residents consider parking in surrounding residential streets to be a potential issue.

Also at this stage, the approach does not consider staff parking permits, given staff parking should be managed within available private parking or through other alternative approaches. This will be an important point to seek feedback from businesses on, given they rely not only on staff but also on ensuring customers can park and access their business to keep it operating.

The following images show the proposed areas for parking restrictions.



### Evans Way and George St (northern end)

**Red line** indicates "No  
Stopping Road or Verge"



### George Street and Pitman Way

**Red line** indicates "No  
Stopping Road or Verge"

**Green line** indicates  
"4 hour parking only"

**Yellow line** indicates  
existing "Loading Zone"







## George Street and Pitman Way Cont.

**Red line** indicates "No Stopping Road or Verge"

**Green line** indicates "4 hour parking only"

**Yellow line** indicates existing "Loading Zone"

**Blue line** indicates existing disabled bays



## George Street South

**Red line** indicates "No Stopping Road or Verge"

**Green line** indicates "4 hour parking only"







A Communications Plan has been prepared to ensure effective engagement occurs in respect of the Draft Parking Management Plan. Importantly, it is emphasised that Officers seek community feedback, and have not arrived at a final position especially in respect of residential areas, and seek community feedback to help shape whether this is needed or not. Likewise, business feedback is important to test assumptions about length of time etc.

It is proposed to directly write to all business owners and landowners on both side of streets where parking restrictions are proposed. Additionally, engagement with the broad community through 'Your Say SJ' will be important to capture broad views and feedback.

It is recommended that Council endorse the Draft Parking Management Plan for public comment, with such public comment to be undertaken as per the Communications Plan.

## Options and Implications

### Option 1

That Council:

1. ENDORSE for the purposes of community consultation, the Draft Parking Management Plan for Byford Town Centre, based on the plans contained in this report.
2. NOTE the Communications Plan provided in **attachment 1** will be used as the basis for community consultation.

### Option 2

That Council NOT ENDORSE the Draft Parking Management Plan for Byford Town Centre for the purposes of community consultation.

Option 1 is recommended.



## Conclusion

It is recommended that Council consider and endorse the Draft Parking Management Plan for community consultation. With respect of the intent of the Plan, Officers aim to ensure that commuters are properly encouraged to use the PTA provided paid parking station, and ensure street parking remains available for customers of the town centre. All submissions will be considered, and changes can be considered as part of reporting back to Council.

## Attachments (available under separate cover)

- **10.1.12 - attachment 1** - Byford Train Station Communications Plan (E23/11185)

## 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 1.3.1</b>	Comply with relevant local and state laws, in the interests of the community
<b>Strategy 1.3.3</b>	Enhance community safety
<b>Outcome 2.1</b>	A diverse, well planned built environment
<b>Strategy 3.1.1</b>	Actively support new and existing local businesses within the district.
<b>Outcome 3.3</b>	An innovative, connected transport network
<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

## Financial Implications

The implementation of the parking restrictions pictured would be approximately \$9,000 to purchase and install the required signage for the business area and the residential areas would be dependent on what areas are shown to be required after community consult or after the train station is completed.

There would likely be some incoming moneys as a result of infringements being issued by the Community Safety Team (Ranger Services), although revenue is not the purpose of enforcement actions.

Resources will need to be carefully managed, and it is likely that in future years, additional Ranger resource may be required.



### Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	Option 1 is considered the lowest strategic risk.						
2	No time limits are introduced and there is the risk that commuters start parking inappropriately within the town centre by utilising street parking which impacts the town centre.	There are no controls in the absence of timed parking	Social / Community Outcomes	Possible	Major	MODERATE	Support Officer recommendation

**Voting Requirements:** Simple Majority

### Officer Recommendation

**That Council:**

1. **ENDORSE** for the purposes of community consultation, the Draft Parking Management Plan for Byford Town Centre, based on the plans contained in this report.
2. **NOTE** the Communications Plan provided in attachment 1 will be used as the basis for community consultation.

**10.2 Infrastructure Services reports:**

<b>10.2.1 – Minutes of the Rivers Regional Council Meeting – 19 October 2023 (SJ2812)</b>	
<b>Responsible Officer:</b>	Manager Waste and Fleet
<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**

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 Ordinary Meeting held on 19 October 2023.

**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 (the Shire) is a member of the RRC.

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**

The RRC Council Meeting was held on 19 October 2023 at the City of Mandurah.

The following items, detailed in **attachment 1** were presented at the meeting:

- Payments for the Period 1 August 2023 to 30 September 2023;
- Financial Report for the Period 1 August 2023 to 30 September 2023;
- CEO Report.

All items were carried unanimously 9/0.





The next meeting will be held on Thursday, 14 December 2023 at the City of South Perth.

### **Options and Implications**

#### Option 1

That Council NOTES the unconfirmed minutes of the Rivers Regional Council Ordinary Meeting held on 19 October 2023 as contained in **attachment 1**.

#### Option 2

That Council DOES NOT NOTE the unconfirmed minutes of the Rivers Regional Council Ordinary Meeting held on 19 October 2023.

Option 1 is recommended.

### **Conclusion**

As a member of the RRC, the unconfirmed minutes of the RRC Ordinary Council Meeting held on 19 October 2023 are attached for Council's information.

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

- **10.2.1 - attachment 1** – Rivers Regional Council Ordinary Council Meeting Minutes – 19 October 2023 (IN23/23768)

### **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 Ordinary Meeting held on 19 October 2023 as contained in attachment 1.**



**10.2.2 - Award Request for Tender – RFT 06/2023 – Provision of Electrical Services (SJ4239)**

<b>Responsible Officer:</b>	Manager Operations
<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 inform the Council about the submissions received regarding Tender RFT 06/2023 for provision of Electrical Services and recommend that the contract be awarded to the tenderer offering the best value for money, in accordance with the evaluation panel's suggestion.

**Relevant Previous Decisions of Council**

*Ordinary Council Meeting – 18 February 2019 - OCM020/02/19 - COUNCIL RESOLUTION / Officer Recommendation:  
That Council AWARDS Tender RFT 03/2018 - Electrical Services to Auriemma Electrical Services as per confidential attachments 1 and 2, for the period of two (2) years with an option of an additional one (1) year following a review of service provided.*

**Background**

Currently, Shire Officers are obligated to request multiple quotations when undertaking electrical work to adhere to Council Policy 3.2.4, which aligns with the *Local Government Act 1995 (Functions and General) Regulations 1996*. This approach results in operational and procurement inefficiencies, causing delays in completing electrical projects and maintenance related works. To address these concerns and fulfill the Shire's ongoing building and asset management needs, a tender was formulated and publicly advertised to secure a qualified electrical services contractor for a three-year term.

Electrical services are generally procured locally in accordance with the Shire's purchasing policy. However, the existing assets held by the Shire necessitate implementation of a formal tender process and establishing a contract for the provision of Electrical Services to improve efficiencies and in compliance with Council Policy 3.2.4 and in compliance with the *Local Government Act 1995 (Functions and General) Regulations 1996*.

**Community / Stakeholder Consultation**

Nil.

**Submissions**

The Request for Tender RFT 06/2023 – Provision of Electrical Services was advertised on Saturday, 9 September 2023 and closed at 2.00pm on Tuesday, 3 October 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).

Nine (9) 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	AE Hoskins Building Services
2	Big Blue Thermal
3	Bugardi Contracting Pty Ltd
4	Downings Electrical Services
5	Infinity Electrical Solar
6	KDB Electrical
7	Lake Maintenance (WA) Pty Ltd
8	M Power U Pty Ltd
9	NC Electrical and Communications Pty Ltd

**Evaluation Panel**

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

- Coordinator Facility Maintenance;
- Coordinator Parks and Environment;
- Supervisor Facility Maintenance.

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



### Evaluation Criteria

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

EVALUATION CRITERIA	WEIGHTING
Price with quantities	60%
<p>Relevant experience with:</p> <ul style="list-style-type: none"> <li>• Describe your experience in completing similar requirements. Respondents shall as a minimum address the following information</li> <li>• Provide demonstrated relevant experience of the Company providing similar services to local, state governments or private over the past five years.</li> <li>• Detail experience in building electrical works, public parks &amp; street lighting works.</li> <li>• Detail experience in conducting electrical testing and tagging works.</li> <li>• Detail experience in providing the specialised electrical services (if applies)</li> </ul>	20%
<p><b>Key Personnel, Skills and Resources</b></p> <p>Provide information that explains the capacity of the Company to deliver the services including:</p> <ul style="list-style-type: none"> <li>• Key personnel and their Professional Qualifications, Licenses, Certifications, Accreditations and Relevant Experience;</li> <li>• Key personnel and their roles to this contract</li> </ul> <p>The tenderer shall state which key personnel will be involved in the contract and their roles within the Company. Include / describe the past work of a similar nature for each person.</p> <p><b>PLANT &amp; EQUIPMENT</b></p> <p>Supply details in an attachment.</p> <p>The tenderer shall demonstrate its ability to provide suitably maintained plant and equipment to complete the work as described in the specifications. Include a list of the plant and equipment which states the model, year of manufacture and a brief description of its use.</p> <p>The tenderer shall list all equipment tools, elevated working platform available inhouse and any dry hire agreements in place.</p> <p>The tenderer shall list any trade supply agreements in place for supply of electrical fixtures, wires, cables and fittings.</p> <p>The tenderer shall provide sub-contractor list if any.</p>	15%
<p><b>Demonstrated Understanding</b></p> <p>Tenderers should detail the process they intend to use to achieve the Requirements of the Specification.</p> <p>Use dot points to explain the process.</p> <p>The process should include a timetable for delivering the services</p>	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 Downings Electrical Services 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 Downings Electrical Services 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 06/2023 – Provision of Electrical Services to Downings Electrical Services in accordance with **CONFIDENTIAL attachment 1** and **2**, for an initial period of two (2) years (1 December 2023 till 30 November 2025) with an optional extension of one (1) year, plus one (1) year plus one (1) (Total five (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 06/2023 – Provision of Electrical Services.

#### Option 2

That Council NOT AWARD the contract and retender.

#### Option 3

That Council 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.



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**Conclusion**

Downings Electrical Services 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 Downings Electrical Services.

**Attachments (available under separate cover)**

- **10.2.2 – CONFIDENTIAL attachment 1** – RFT 06-2023 - Provision of Electrical Services - Evaluation Report (E23/14303)
- **10.2.2 – CONFIDENTIAL attachment 2** – RFT 06-2023 - Provision of Electrical Services - Schedule of Rates (E23/14304)

**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**

The funding for this tender is part of the 2023/2023 Facilities Maintenance operational budget, and it will continue to be allocated in the Facilities Maintenance operational budget for subsequent financial years.



**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	Not awarding the contract to the successful Tenderer.	Procurement of the supply of Electrical Services will be as per listed quote basis as per the Shires' procurement policy. This will decrease the amount of works undertaken administratively on tasks to procure goods including a rapid response to any fault of Electrical supply to Shire Facilities and Infrastructure.	Reputation	Likely	Moderate	MODERATE	
2, 3 and 4	Council selecting an applicant contrary to the evaluation report may affect the probity of the procurement process resulting in reputation damage	Procurement Policy	Reputation	Rare	Moderate	MODERATE	



**Voting Requirements:** Simple Majority

**Officer Recommendation**

**That Council:**

- 1. AWARDS Tender RFT 06/2023 – Provision of Electrical Services to Downings Electrical Services in accordance with CONFIDENTIAL attachment 1 and 2, for an initial period of two (2) years (1 December 2023 till 30 November 2025) with an optional extension of one (1) year, plus one (1) year plus one (1) (Total five (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 06/2023 – Provision of Electrical Services.**





**10.2.3 - Award Request for Tender – RFT 07/2023 - Provision of Plumbing Services (SJ4240)**

<b>Responsible Officer:</b>	Manager Operations
<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 inform the Council about the submissions received regarding Tender RFT 07/2023 for provision of Plumbing Services and recommend that the contract be awarded to the tenderer offering the best value for money, in accordance with the evaluation panel's suggestion.

**Relevant Previous Decisions of Council**

The project was approved by Council as part of the 2023/2024 Annual Budget.

*Ordinary Council Meeting – 18 February 2019 - OCM021/02/19 - COUNCIL RESOLUTION / Officer Recommendation:*

*That Council AWARDS Tender RFT 04/2018 - Plumbing Service, to Charter Plumbing & Gas as per confidential attachments 1 and 2, for a period of two (2) years with an option of an additional one (1) year following a review of performance and continued value for money assessment.*

**Background**

Shire Officers are obligated to request multiple price quotes when conducting plumbing work to adhere to Council Policy 3.2.4, which aligns with *the Local Government Act 1995 (Functions and General) Regulations 1996*. This approach has historically led to operational and procurement inefficiencies, causing delays in completing plumbing projects and maintenance activities. To address these concerns and fulfill the Shire's ongoing building and asset management needs, a tender was formulated and publicly advertised to secure a qualified plumbing services contractor for up to a five-year term.

Currently, plumbing services are generally procured locally in accordance with the Shire's purchasing policy. However, the existing assets held by the Shire necessitate the implementation of an annual supply contract through formal tender process for the provision of Plumbing Services, in adherence to Council Policy 3.2.4 and in compliance with the *Local Government Act 1995 (Functions and General) Regulations 1996*.



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**Community / Stakeholder Consultation**

Nil.

**Submissions**

The Request for Tender RFT 07/2023 - Provision of Plumbing Services was advertised on Saturday, 9 September 2023 and closed at 2.00pm on Tuesday, 3 October 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).

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	AE Hoskins Building Services
2	Bugardi Contracting Pty Ltd
3	Lake Maintenance (WA) Pty Ltd
4	Maxey Plumbing Pty Ltd
5	Mundys Plumbing Gas Pty Ltd
6	On Tap Services Pty Ltd
7	Plumbing Bros National Assist

**Evaluation Panel**

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

- Coordinator Facility Maintenance;
- Coordinator Parks and Environment;
- Supervisor Facility Maintenance.

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



## Evaluation Criteria

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

EVALUATION CRITERIA	WEIGHTING
Price with quantities	50%
<p>Relevant experience with:</p> <ul style="list-style-type: none"> <li>• Describe your experience in completing similar requirements. Provide demonstrated relevant experience of the Company providing similar services to local, state governments or private over the past five years.</li> <li>• Detail experience in building &amp; parks plumbing &amp; gas works</li> <li>• Detail experience in conducting plumbing valve testing and remedial works</li> <li>• Detail experience in maintaining hot water system</li> </ul>	20%
<p><b>Key Personnel, Skills and Resources</b></p> <p>Provide information that explains the capacity of the Company to deliver the services including:</p> <ul style="list-style-type: none"> <li>• Key personnel and their Professional Qualifications, Licenses, Certifications, Accreditations and Relevant Experience;</li> <li>• Key personnel and their roles to this contract</li> </ul> <p>The tenderer shall state which key personnel will be involved in the contract and their roles within the Company. Include / describe the past work of a similar nature for each person.</p> <p><b>PLANT &amp; EQUIPMENT</b></p> <p>Supply details in an attachment.</p> <p>The tenderer shall demonstrate its ability to provide suitably maintained plant and equipment to complete the work as described in the specifications. Include a list of the plant and equipment which states the model, year of manufacture and a brief description of its use.</p> <p>The tenderer shall list all equipment tools, elevated working platform available inhouse and any dry hire agreements in place.</p> <p>The tenderer shall list any trade supply agreements in place for supply of plumbing fixtures, wires, cables and fittings.</p> <p>The tenderer shall provide sub-contractor list if any.</p>	15%
<p><b>Demonstrated Understanding</b></p> <p>Respondents should demonstrate an appreciation of the contract requirements and provide an outline of their proposed methodology in an attachment.</p> <p>Provide a detailed programme showing how the service will be delivered to:</p> <p>Tenderers should include details such as:</p> <ul style="list-style-type: none"> <li>• Work management system- work requests, programmed and minor works request system logging, progress monitoring and reporting</li> <li>• Sample work or job reports</li> <li>• Sample report</li> </ul>	15%



EVALUATION CRITERIA	WEIGHTING
<ul style="list-style-type: none"> <li>• WHS checks</li> <li>• Out of office work management</li> <li>• Quotation and estimating.</li> </ul>	

### 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 Maxey Plumbing 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 Maxey Plumbing 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 07/2023 – Provision of Plumbing Services to Maxey Plumbing Pty Ltd in accordance with **CONFIDENTIAL attachment 1** and **2**, for an initial period of two (2) years (1 December 2023 till 30 November 2025) with an optional extension of one (1) year, plus one (1) year plus one (1) (Total five (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 07/2023 – Provision of Plumbing Services.

#### Option 2

That Council NOT AWARD the contract and retender.





Option 3

That Council 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**

Maxey Plumbing 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 Maxey Plumbing Pty Ltd.

**Attachments (available under separate cover)**

- **10.2.3 – CONFIDENTIAL attachment 1** – RFT 07/2023 - Provision of Plumbing Services - Evaluation Report (E23/14313)
- **10.2.3 – CONFIDENTIAL attachment 2** – RFT 07-2023 - Provision of Plumbing Services - Schedule of Rates (E23/14314)

**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>Strategy 4.1.2</b>	Maximise the Shire’s brand and reputation in the community

**Financial Implications**

The funding for this tender is part of the 2023/2024 Facilities Maintenance operational budget, and it will continue to be allocated in the Facilities Maintenance operational budget for subsequent financial years.



**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	Not awarding the contract to the successful Tenderer.	Procurement of the supply of Plumbing Servicing will be as per listed quote basis as per the Shires' procurement policy. This will decrease the amount of works undertaken administratively on tasks to procure goods including a rapid response to any fault of Facilities and Infrastructure	Reputation	Likely	Moderate	MODERATE	
2, 3 and 4	Council selecting an applicant contrary to the evaluation report may affect the probity of the procurement process resulting in reputation damage	Procurement Policy	Reputation	Rare	Moderate	MODERATE	



**Voting Requirements:** Simple Majority

**Officer Recommendation**

**That Council:**

- 1. AWARDS Tender RFT 07/2023 – Provision of Plumbing Services to Maxey Plumbing Pty Ltd in accordance with CONFIDENTIAL attachment 1 and 2, for an initial period of two (2) years (1 December 2023 till 30 November 2025) with an optional extension of one (1) year, plus one (1) year plus one (1) (Total five (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 07/2023 – Provision of Plumbing Services.**



**10.2.4 - Award Request for Tender – RFT 08/2023 - Provision of Minor Building Maintenance Services (SJ4241)**

<b>Responsible Officer:</b>	Manager Operations
<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 inform the Council about the submissions received regarding Tender RFT 08/2023 for provision of Minor Building Maintenance Services and recommend that the contract be awarded to the tenderer offering the best value for money, in accordance with the evaluation panel's suggestion.

**Relevant Previous Decisions of Council**

There are no previous Council decisions relating to the Provision of Minor Building Maintenance Services.

**Background**

Shire Officers are obligated to request multiple price quotes when conducting minor building maintenance work to adhere to Council Policy 3.2.4, which aligns with the *Local Government Act 1995 (Functions and General) Regulations 1996*. This approach has historically led to operational and procurement inefficiencies, causing delays in completing minor building projects and maintenance activities. To address these concerns and fulfill the Shire's ongoing building and asset management needs, a tender was formulated and publicly advertised to secure a qualified minor building services contractor for a three-year term.

Currently, minor building services are procured locally in accordance with the Shire's purchasing policy. However, the existing assets held by the Shire necessitate the implementation of an annual supply contract through formal tender process for the provision of Minor Building Maintenance Services, in adherence to Council Policy 3.2.4 and in compliance with the *Local Government Act 1995 (Functions and General) Regulations 1996*.

The proposed contract includes but is not limited to the following services:

- General handyman and related facilities maintenance works;
- General carpentry works including locksmith works and repairs, installation of new furniture and repairs, timber roof, deck & other framing;
- External and internal cladding and partitioning works;





- External and internal floor and wall tiling works;
- Flooring finishing works including tiles, vinyl, timber, brick/concrete pavement, and carpet;
- External and internal painting works- including patching and preparation;
- Minor concreting and paving works;
- Fencing works (new, repair, replacement, or disposal);
- Roof & drainage system (roof covering, gutters, downpipes, soak wells, etc) renewal, replacement, and repair works;
- Simple asset inspection and condition reports;
- Alteration's, renewals, upgrades, and refurbishments works of all internal and external building fabrics, consisting of structure, surface, fixture, or fittings associated with internal or external of building;
- Other make safe and demolition works.

**Community / Stakeholder Consultation**

Nil.

**Submissions**

The Request for Tender RFT 08/2023 - Provision of Minor Building Maintenance Services was advertised on Saturday 9 September 2023 and closed at 2.00pm on Tuesday 3 October 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);

Six (6) 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	AE Hoskins Building Services
2	Bidi Facility Services Pty Ltd
3	Bugardi Contracting Pty Ltd
4	Lake Maintenance (WA) Pty Ltd
5	Oban Group Pty Ltd
6	West to West Carpentry Services Pty Ltd



### Evaluation Panel

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

- Coordinator Facility Maintenance;
- Coordinator Parks and Environment;
- Supervisor Facility Maintenance.

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

### Evaluation Criteria

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

<b>EVALUATION CRITERIA</b>	<b>WEIGHTING</b>
Price with quantities	50%
<p><b>Relevant experience with:</b></p> <ul style="list-style-type: none"> <li>• Describe your experience in completing similar requirements. Respondents shall as a minimum address the following information</li> <li>• Provide demonstrated relevant experience of the Company providing similar services to local, state governments or private over the past five years.</li> <li>• Detail experience in various building services works</li> <li>• Detail experience in renovation and minor building repair works</li> </ul>	20%
<p><b>Key Personnel, Skills and Resources</b></p> <p>Provide information that explains the capacity of the Company to deliver the services including:</p> <ul style="list-style-type: none"> <li>• Key personnel and their Professional Qualifications, Licenses, Certifications, Accreditations and Relevant Experience;</li> <li>• Key personnel and their roles to this contract</li> </ul> <p>The tenderer shall state which key personnel will be involved in the contract and their roles within the Company. Include / describe the past work of a similar nature for each person.</p> <p><b>PLANT &amp; EQUIPMENT</b></p> <p>Supply details in an attachment.</p> <p>The tenderer shall demonstrate its ability to provide suitably maintained plant and equipment to complete the work as described in the specifications. Include a list of the plant and equipment which states the model, year of manufacture and a brief description of its use.</p> <p>The tenderer shall list all equipment tools, elevated working platform available inhouse and any dry hire agreements in place.</p>	15%



EVALUATION CRITERIA	WEIGHTING
The tenderer shall provide sub-contractor list if any.	
<p><b>Demonstrated Understanding</b></p> <p>Respondents should demonstrate an appreciation of the contract requirements and provide an outline of their proposed methodology in an attachment.</p> <p>Provide a detailed programme showing how the service will be delivered to:</p> <p>Tenderers should include details such as:</p> <ul style="list-style-type: none"> <li>• Work management system- work requests, programmed and minor works request system logging, progress monitoring and reporting</li> <li>• Sample work or job reports</li> <li>• Sample report</li> <li>• WHS checks</li> <li>• Out of office work management</li> <li>• Quotation and estimating.</li> <li>• WHS checks</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 AE Hoskins Building Services 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 AE Hoskins Building Services 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 08/2023 - Provision of Minor Building Maintenance Services to AE Hoskins Building Services in accordance with **CONFIDENTIAL attachment 1 and 2**, for an initial period of two (2) years (1 December 2023 till 30 November 2025) with an optional extension of one (1) year, plus one (1) year plus one (1) (Total five (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 08/2023 - Provision of Minor Building Maintenance Services.

Option 2

That Council NOT AWARD the contract and retender.

Option 3

That Council 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**

AE Hoskins Building Services 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 AE Hoskins Building Services.

**Attachments (available under separate cover)**

- **10.2.4 – CONFIDENTIAL attachment 1** – RFT 08/2023 - Provision of Minor Building Maintenance Services - -Evaluation Report (E23/14318)
- **10.2.4 – CONFIDENTIAL attachment 2** – RFT 08/2023 - Provision of Minor Building Maintenance Services - Schedule of Rates (E23/14320)

**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**

The funding for this tender is part of the 2023/2024 Facilities Maintenance operational budget, and it will continue to be allocated in the Facilities Maintenance operational budget for subsequent financial years.

**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	Not awarding the contract to the successful Tenderer.	Procurement of the supply of Building Service will be as per listed Hourly rate quote basis as per the Shires' procurement policy. This will decrease the amount of works undertaken administratively on tasks to procure these services including an Increased response to any fault of Facilities and Infrastructure	Reputation	Likely	Moderate	MODERATE	
2, 3 and 4	Council selecting an applicant contrary to the evaluation report may affect the probity of the procurement process resulting in reputation damage	Procurement Policy	Reputation	Rare	Moderate	MODERATE	



**Voting Requirements:** Simple Majority

**Officer Recommendation**

**That Council:**

- 1. AWARDS Tender RFT 08/2023 - Provision of Minor Building Maintenance Services to AE Hoskins Building Services in accordance with CONFIDENTIAL attachment 1 and 2, for an initial period of two (2) years (1 December 2023 till 30 November 2025) with an optional extension of one (1) year, plus one (1) year plus one (1) (Total five (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 08/2023 - Provision of Minor Building Maintenance Services.**



**10.2.5 - Award Request for Tender – RFT 09/2023 – Supply of Irrigation Pipe Sprinklers and Fittings (SJ4242)**

<b>Responsible Officer:</b>	Manager Operations
<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 RFT09/2023 Irrigation Pipe Sprinklers and Fittings 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**

*Ordinary Council Meeting - OCM019/02/19 – 18 February 2019 - COUNCIL RESOLUTION / Officer Recommendation:*

*That Council AWARDS Tender RFT 07/2018 - Irrigation Pipe Sprinklers and Fittings to Total Eden as per confidential attachments 1 and 2, for a period of two (2) years with an option of one (1) plus one (1) year.*

**Background**

As part of the Shire's ongoing requirement for the management of irrigation systems, a tender was prepared and advertised seeking suitable irrigation suppliers to supply Irrigation Pipe Sprinklers and Fittings to the Shire for a five-year period.

Irrigation pipes, sprinklers and fittings required for the maintenance of Shire owned parks and gardens assets are currently sourced locally in Byford through Nutrient Water (formally Total Eden). We do not have a current contract in place and all purchases follow the 3.2.4 Purchasing – Procurement of Goods or Services up to \$250,000 policy.

With an ever-increasing number of irrigated public open space assets being handed over to the Shire by developers combined with Shire's existing and ageing irrigation assets, there are operational efficiencies and potential significant cost savings to be achieved through an annual supply contract for the supply of Irrigation Pipe Sprinklers and Fittings. This will also be in compliance with Council Policy 3.2.4 - Purchasing and C *Local Government Act 1995 (Functions and General) Regulations 1996*.

**Community / Stakeholder Consultation**

Nil.



## Submissions

The Request for Tender RFT 09/2023 – Supply of Irrigation Pipe, Sprinklers and Fittings was advertised on Saturday 9 September 2023 and closed at 2.00pm on Tuesday 3 October 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).

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

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

Tender submissions were received from the following companies:

#	Company Name
1	Thinkwater Perth
2	Total Eden Pty Ltd T/A Nutrien Water
3	WA Reticulation Supplies

## Evaluation Panel

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

- Coordinator Parks and Environment;
- Parks Technical Officer;
- Supervisor Parks and Environment.

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

## Evaluation Criteria

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

EVALUATION CRITERIA	WEIGHTING
Price with quantities	90%
<p><b>Relevant Experience, Key Personnel, Skills, and Resources</b></p> <p>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.</p> <ul style="list-style-type: none"> <li>• Provide details of the store and warehouse location, include photographs as much as possible.</li> <li>• Provide details of products and inventory available or any supply agreements relevant to supply of irrigation materials.</li> </ul>	10%





### **Comment**

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

Following the assessment of all tender submissions, against the selection criteria, the tender submitted by WA Reticulation Supplies 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 WA Reticulation Supplies 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 09/2023 – Supply of Irrigation Pipe Sprinklers and Fittings to WA Reticulation Supplies in accordance with **CONFIDENTIAL attachment 1** and **2**, for an initial period of three (3) years (1 December 2023 till 30 November 2026) with an optional extension of one (1) year, plus one (1) (Total five (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 RFT 09/2023 – Supply of Irrigation Pipe Sprinklers and Fittings.

#### Option 2

That Council NOT AWARD the contract and retender.

#### Option 3

That Council 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.



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**Conclusion**

WA Reticulation Supplies 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 WA Reticulation Supplies.

**Attachments (available under separate cover)**

- **10.2.5 – CONFIDENTIAL attachment 1** – RFT 09/2023 - RFT 09/2023 – Supply of Irrigation Pipe Sprinklers and Fittings - Evaluation Report (E23/14324)
- **10.2.5 – CONFIDENTIAL attachment 2** – RFT 09/2023 – Supply of Irrigation Pipe Sprinklers and Fittings - Schedule of Rates (E23/14325)

**Alignment with our Strategic Community Plan**

<b>Strategy 2.2.1</b>	Develop, maintain and implement plans for the management and maintenance of Shire controlled parks, reserves, and natural assets
<b>Strategy 2.2.2</b>	Seek to minimise resource usage and continue to maximise reuse opportunities

**Financial Implications**

The funding for this tender is included in the 2023/2024 Parks and Gardens operational budget and will be included in the Parks and Gardens operational budget for future financial years.



**Risk Implications**

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	The Shire operates without a contract in place for provision of Supply of Irrigation Pipe Sprinklers and Fittings	Procurement of the supply of Irrigation Pipe Sprinklers and Fittings will be as per listed quote basis as per the Shires' procurement policy. This will decrease the amount of works undertaken administratively on tasks to procure goods including a rapid response to any failure of irrigation infrastructure	Reputation	Likely	Moderate	MODERATE	
2, 3 and 4	Council selecting an applicant contrary to the evaluation report may affect the probity of the procurement process resulting in reputation damage	Procurement Policy	Reputation	Rare	Moderate	MODERATE	



Continued

## Ordinary Council Meeting Agenda Monday, 20 November 2023

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**Voting Requirements:** Simple Majority

### Officer Recommendation

**That Council:**

- 1. AWARDS Tender RFT 09/2023 – Supply of Irrigation Pipe Sprinklers and Fittings to WA Reticulation Supplies in accordance with CONFIDENTIAL attachment 1 and 2, for an initial period of three (3) years (1 December 2023 till 30 November 2026) with an optional extension of one (1) year, plus one (1) (Total five (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 RFT 09/2023 – Supply of Irrigation Pipe Sprinklers and Fittings.**





### 10.2.6 – Appointments for Cemeteries Advisory Group (SJ226)

<b>Responsible Officer:</b>	Natural Reserves Specialist
<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

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

The purpose of this report is to enable Council to consider appointments to the Cemeteries Advisory Group following the 2023 ordinary local government election.

#### Relevant Previous Decisions of Council

Nil.

#### Background

The Cemeteries Advisory Group provides advice to the Shire on matters related to the maintenance and historical significance of Cemeteries. The group's membership has historically featured volunteers with an interest in the upkeep and history of the cemeteries in the district. The group has also had two Council representatives on the group since its inception in 2000.

In December 2019, Council adopted a policy to formalise the appointment of Council delegates and representation on external organisations, including community groups.

The policy notes that being a Councillor delegate is consistent with section 2.10 of the *Local Government Act 1995* which provides that the role of a Councillor includes representing the interests of electors, ratepayers and residents of the district; providing leadership and guidance to the community in the district; and facilitating communication between the community and the Council.

The policy also notes that appointees to external bodies and forums are delegates of the Council and as such will take a position on any matter consistent with formally established Council position, or with the Council's known strategic vision or direction.

#### Community / Stakeholder Consultation

Expressions of Interest (EOI) were called for external members to the Cemeteries Advisory Group between 7 September to 13 October 2023.

A public notice was placed in the Examiner Newspaper on 7 September 2023.

Information outlining the purpose of the Cemeteries Advisory Group and the Expression of Interest (EOI) process were published on the Shire's website over this same period.



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Additional promotion of the expression of interest was undertaken by way of:

- Shire of Serpentine Jarrahdale Facebook posts.
- SJ Matters Group Facebook posts.
- Content in the September email editions of SJ Matters.
- News feed post on the Access and Inclusion Your Say SJ platform.
- Website news article on the Shire website.
- A direct email detailing the expression of interest process, including the Terms of Reference was sent to members of the existing Cemeteries Advisory Group, local community and sporting groups and local service providers and agencies.

A total of three (3) EOI nominations were received by the closing date (13 October 2023), and three (3) nominations received after the closing date. All of these responses have been included within **CONFIDENTIAL attachment 2** for Council consideration.

The Terms of Reference (**attachment 1**) has been amended to be a total of six community members to reflect the current nominations (**CONFIDENTIAL attachment 2**). Upon appointment, group members will be given a copy of the amended (current) Terms of Reference.

The Cemeteries Advisory Group meets twice yearly and as required. Meetings have generally been held on Wednesday afternoons.

### **Statutory Environment**

The Cemeteries Advisory Group is not a Committee of Council and does not have delegated authority of Council. The Advisory Group has no power to make decisions on behalf of Council.

Membership of groups expires at each ordinary local government election. Therefore, Council is requested to consider making appointments to the Cemeteries Advisory Group.

### **Options and Implications**

#### Option 1

That Council:

1. APPOINTS the six (6) Community Members who nominated as per **CONFIDENTIAL attachment 2** to the Cemeteries Advisory Group for the period ending at the next ordinary local government election:
  - Community Member – Applicant # 1
  - Community Member – Applicant # 2
  - Community Member – Applicant # 3
  - Community Member – Applicant # 4
  - Community Member – Applicant # 5
  - Community Member – Applicant # 6
2. APPOINTS the following Elected Members to the Cemeteries Advisory Group for the period ending at the next ordinary local government election:
  - \_\_\_\_\_



- \_\_\_\_\_ (Deputy)
- \_\_\_\_\_
- \_\_\_\_\_ (Deputy)

3. REQUESTS that the Chief Executive Officer to amend the terms of reference to give effect to Council's resolution.

Option 2

That Council DOES NOT APPOINT any Elected Members or Community Members and REQUESTS that the vacant community member positions be advertised via an expression of interest.

Option 1 is recommended.

**Conclusion**

The Cemeteries Advisory Group provides a means of direct engagement between the Shire and community members with a specific interest in the Shire's cemeteries.

**Attachments (available under separate cover)**

- **10.2.6 - attachment 1** – Cemeteries Advisory Group – amended Terms of Reference (E19/16306)
- **10.2.6 – CONFIDENTIAL attachment 2** – EOI - Community Member Information (E23/14785)

**Alignment with our Strategic Community Plan**

<b>Outcome 4.1</b>	A resilient, efficient and effective organisation
<b>Strategy 4.1.2</b>	Maximise the Shire's brand and reputation in the community
<b>Outcome 4.2</b>	A strategically focussed Council
<b>Strategy 4.2.2</b>	Ensure appropriate long term strategic and operational planning is undertaken and considered when making decisions.

**Financial Implications**

Nil.



### Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
There are significant issues associated with option 1							
2	There is a delay in the group being able to hold any meetings until such time as members appointed		Reputation	Possible	Minor	MODERATE	

**Voting Requirements:** Simple Majority

### Officer Recommendation

That Council:

1. **APPOINTS** the six (6) Community Members who nominated as per CONFIDENTIAL attachment 2 to the Cemeteries Advisory Group for the period ending at the next ordinary local government election:
  - Community Member – Applicant # 1
  - Community Member – Applicant # 2
  - Community Member – Applicant # 3
  - Community Member – Applicant # 4
  - Community Member – Applicant # 5
  - Community Member – Applicant # 6
2. **APPOINTS** the following Elected Members to the Cemeteries Advisory Group for the period ending at the next ordinary local government election:
  - \_\_\_\_\_
  - \_\_\_\_\_ (Deputy)
  - \_\_\_\_\_
  - \_\_\_\_\_ (Deputy)
3. **REQUESTS** that the Chief Executive Officer to amend the terms of reference to give effect to Council's resolution.





**10.2.7 – Road Closure – Unnamed road reserve, Keysbrook (SJ141)**

<b>Responsible Officer:</b>	Manager Engineering Services
<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 request Council to consider the advertising of and permanent closure of an unnamed road reserve in Keysbrook. The road reserve is located east of lots 1 to 3 Page Road, Keysbrook. As part of this closure process, the creation of a new road reserve on the western boundary of lots 1 to 3 Page Road is required.

**Relevant Previous Decisions of Council**

There are no previous Council decisions relating to this matter.

**Background**

The Shire received an application to close an unnamed road reserve in Keysbrook from the owners of Lots 1 to 3 Page Road, Keysbrook on 22 October 2020. The application is included in **attachment 3**. The road reserve is not required for any access or traffic movements. The road reserve abuts privately owned properties on each side. The land is in the ownership of the same parties on each side of the road reserve, with the road reserve effectively dissecting the land as shown in Figure 1. Each of these properties currently have alternative road access. The road reserve does not contain any services and a road pavement has not been constructed within the subject road reserve and the road reserve has never been used for access.

The current road reserve is maintained and managed by the owners of Lots 1 to 3 Page Road, Keysbrook. The owners have requested to purchase the existing unnamed road reserve. The owner of Lot 3 Page Road, Keysbrook also owns Lot 2 Page Road, Keysbrook and the neighboring properties of Lots 1420, 3, 275, 356 and 1 South Western Highway.

Stakeholder Consultation was undertaken by the Shire regarding the permanent closure of the unnamed on the 3 March 2021. The Stakeholders included NBN Co., Department of Water and Environmental Regulation, Department of Biodiversity and Attraction, Water Corporation, Telstra Corporation Limited, Arc Infrastructure, Main Roads Western Australia, Western Power Corporation and ATCO Gas Pty Ltd. At this initial stage, only the closure of the unnamed road reserve was proposed. The creation of the new road reserve to the West was not proposed.

Main Roads WA and Arc Infrastructure had objections to the closure as outlined in **attachment 1**. The main concern raised by Main Roads WA and Arc Infrastructure was regarding the closure



of the road reserve without having a new road reserve created to address future access requirements. This concern will be addressed by the creation of a new road reserve on the western boundary adjoining the rail corridor as outlined in **attachment 2**.

At the time of the stakeholder consultation, the Shire did not seek Council endorsement for advertising and closure of the road reserve. Advertising and stakeholder consultation needs to be conducted for the proposed closure of the unnamed road Reserve. The Owners of Lot 1 to 3 Page Road, Keysbrook paid the Shire a total of \$1,321.00 on 22 October 2020 for the Initial request (\$1,015.00) and advertising administration fee (\$306.00) for the road closure in accordance with the Shire's fees and charges schedule at the time. However, the Shire did not proceed with advertising the road closure.

The Owners of Lot 1 to 3 Page Road, Keysbrook enquired about the progress on this matter with the Shire last year. Following a review of the Shire records, it was found that the process was not completed at the time and needed to be re-commenced.

## **Community / Stakeholder Consultation**

### Policy Concept Forum

Nil.

Advertising of the road closure has not been undertaken in accordance with section 58 of the *Land Administration Act 1997* (LAA).

Stakeholder Consultation has been undertaken regarding the permanent closure of the unnamed road reserve. Main Roads WA and Arc Infrastructure have objections to the closure as outlined in **attachment 1** – Proposed Realignment Road Reserve (Unnamed) — Stakeholder Comments, and **attachment 4**.

The concerns raised by Main Roads WA and Arc Infrastructure could be addressed by the creation of a new road reserve on the Western boundary adjoining the rail corridor as outlined in **attachment 2**. Advertising and Stakeholder Consultation would need to be conducted for the proposed road closure.

Given the consultation was undertaken in March 2021, this is outdated and will be undertaken again as part of advertising of the road closure.

## **Statutory Environment**

The request to permanently close a road reserve is made under the *Land Administration Act 1997 Part 5 Division 1 section 58*.

The legal process is to request the Minister for Lands to close the road. If the Minister for Lands supports the closure request, then the land becomes Unallocated Crown Land. Once unallocated, all or a portion of the land may be amalgamated into neighbouring lots. For reference, the relevant section of the Act is provided below:

- (1) *When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*
- (2) *When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.*
- (3) *A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of*



*motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.*

*(4) On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) —*

*(a) by order grant the request; or*

*(b) direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or*

*(c) refuse the request.*

*(5) If the Minister grants a request under subsection (4) —*

*(a) the road concerned is closed on and from the day on which the relevant order is registered; and*

*(b) any rights suspended under section 55(3)(a) cease to be so suspended.*

*(6) When a road is closed under this section, the land comprising the former road —*

*(a) becomes unallocated Crown land; or*

*(b) if a lease continues to subsist in that land by virtue of section 57(2), remains Crown land.*

Purchase of a closed road reserve for a nominal or discounted price is considered under the *Land Administration Act 1997 Part 6 Division 2 section 75*. For reference the relevant section of the Act is provided below:

*(1) The Minister may transfer Crown land in fee simple subject to such conditions concerning the use of the land (the **specified use**) as the Minister determines.*

*(2) For the purposes of this section and of section 76, the unimproved value of conditional tenure land must be calculated as if the use of the land were not subject to any conditions.*

*(3) The fee simple of conditional tenure land may be transferred under subsection (1) for a nominal price or a discounted price because of the community benefit to be provided by the proposed development of the conditional tenure land for the specified use.*

The drawing shown below highlights the existing location of the unnamed road reserve, east of Lots 1 to 3 Page Road, Keysbrook. The owner of lot 3 Page Road also owns Lot 2 Page Road, and the neighboring properties of Lot 1420, 3, 275, 356 and 1 South Western Highway. More detailed information on the permanent closure of the unnamed road reserve, located to the east of Lot 1 to 3 Page Road and the creation of a new road reserve on the Western boundary is included in **attachment 2**.



Figure 1- Existing Road Reserve (Unnamed), Keysbrook

### Comment

The Shire received a formal request to initially close the unnamed road reserve, Keysbrook from the Owners of Lot 1 to 3 Page Road, Keysbrook on 22 October 2020. Stakeholder Consultation was undertaken regarding the permanent closure of the unnamed road reserve.

Initial stakeholder consultation with Main Roads WA and Arc Infrastructure resulted in objections to the closure from these two authorities as outlined in **attachment 1**, relating to future access arrangements. The concerns raised by Main Roads WA and Arc Infrastructure are addressed by creating a new road reserve on the western boundary adjoining the rail corridor as outlined in **attachment 2**.

In reviewing this application, further discussions held with Main Roads WA last year and early this year resulted in amendments to the applicant's original proposed plan of lot amalgamations to facilitate the road closure. Advice provided in March 2023 by Main Roads WA indicated their





support for the closure subject to the imposition of a number of conditions on the applicant relating to the current access arrangements onto South Western Highway from the lots when redevelopment of the lots occurs. This support and conditions are provided in **attachment 4**.

The advice from Main Roads WA also indicated a road in the new road reserve to be constructed and extended North to connect with Elliott Road, to be constructed by the Shire. This would not be undertaken by the Shire directly as indicated by Main Roads WA. The Shire would impose this as a condition associated with any future subdivision or development application for the lots, in order to provide access to the lots when subsequently the access to South Western Highway will be removed by Main Roads WA.

The Owners of Lot 1-3 Page Road undertake to purchase the current unnamed road reserve when the road reserve closure is finalized. The Owners of Lots 1 to 3 Page Road have accepted the full cost of the road closure of the Road Reserve and creation of the new road reserve. The creation of the new road reserve will ensure Lot 1 on Plan D24805 and Lot 3 on plan D70186 adjoining the rail corridor will have access to a road reserve. If the road closure proceeds and the deposited plan, **attachment 2** is lodged for the amalgamation of the closed road reserve with the adjacent lots, this will also trigger the subdivision process with the Department of Planning, Lands and Heritage to create the new road reserve along the Western boundary of the lots, also indicated within **attachment 2**. The cost of this process will be the responsibility of the applicant. In addition, if the road closure proceeds to advertising, the cost of the advertising will also be the responsibility of the applicant.

The creation of the new road reserve will ensure the future compliance with WAPC Development Control Policy 5.1- Regional Roads (Vehicular access) by creating the ability of the subject lots to gain vehicle access via local road instead of South Western Highway. This would ensure the ability for those lots to have vehicle access to a secondary (local) road frontage is also advantageous for emergency access/egress, particularly in recognized bushfire prone areas such as the subject rural location.

## **Options and Implications**

### Option 1

That Council:

1. ENDORSES the closure of the unnamed road reserve, Keysbrook east of Lots 1 to 3 Page Road, Keysbrook, as indicated within **attachment 2**;
2. PROCEEDS with advertising of the closure at the cost of the applicant in accordance with Section 58(3) of the *Land Administration Act 1997*, for a period of not less than 35 days; and
3. Subject to no objections being received during the advertising period required in 2. above, formally REQUESTS, pursuant to Section 58(1) of the *Land Administration Act 1997*, the Minister for Lands to formally close the portion of road as depicted in **attachment 2**.

### Option 2

That Council DOES NOT ENDORSE the closure of the unnamed road reserve, Keysbrook east of Lots 1 to 3 Page Road, Keysbrook for advertising of the proposed closure.

Option 1 is recommended.



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**Conclusion**

The proposed road closure is based on a request from adjacent landowners who are currently managing the land and dissects their land ownership. The applicant agrees to acquire and amalgamate the closed road reserve with their land and accept full cost of the road closure process and creation of the new road reserve.

**Attachments (available under separate cover)**

- **10.2.7 - attachment 1** – Proposed unnamed road reserve closure — Stakeholder Comments (E22/4877)
- **10.2.7 - attachment 2** – Proposed unnamed road reserve closure – Proposed subdivision and amalgamation plan (E23/14471)
- **10.2.7 - attachment 3** - Formal request for the closure of Road Reserve (Unnamed), (IN22/14959)
- **10.2.7 – attachment 4** - Formal response from Main Roads WA to request for the closure of unnamed road reserve, (E23/14470)

**Alignment with our Strategic Community Plan**

<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 1.3.1</b>	Comply with relevant local and state laws, in the interests of the community
<b>Outcome 3.3</b>	An innovative, connected transport network

**Financial Implications**

There are no financial Implications for the Shire. The owners of Lots 1-3 Page Road, Keysbrook have paid an application fee and advertising for the Proposed Realignment Road Reserve.



### 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 do not support the closure and advertising.	Landowners become aggrieved and stop maintaining the unnamed Road Reserve causing the Shire Financial and Reputational Hardship	Financial	Possible	Moderate	MODERATE	

**Voting Requirements:** Simple Majority

### Officer Recommendation

**That Council:**

1. **ENDORSES** the closure of the unnamed road reserve, Keysbrook east of Lots 1 to 3 Page Road, Keysbrook, as indicated within attachment 2;
2. **PROCEEDS** with advertising of the closure at the cost of the applicant in accordance with Section 58(3) of the *Land Administration Act 1997*, for a period of not less than 35 days; and
3. Subject to no objections being received during the advertising period required in 2. above, formally **REQUESTS**, pursuant to Section 58(1) of the *Land Administration Act 1997*, the Minister for Lands to formally close the portion of road as depicted in attachment 2.



**10.2.8 – Council to Consent to dedication of unallocated crown land to road reserve – intersection of Kargotich Road and Abernethy Road, Oakford (SJ3786)**

<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 seek a council resolution for the dedication of Unallocated Crown Land (UCL) to road reserve at the intersection of Kargotich Road and Abernethy Road as part of the Kargotich Road upgrade project and authorizing the Chief Executive Officer to prepare a written confirmation that the Shire has complied with section 56(2) of the *Land Administration Act 1997 (WA)*.

**Relevant Previous Decisions of Council**

*Ordinary Council Meeting – 16 October 2023 – OCM255/10/23 - COUNCIL RESOLUTION / Officer Recommendation*

*That Council:*

*1. APPROVES the revised scope of work for the Hypergrowth Projects as below:*

<i>Road name</i>	<i>Allocated funding</i>
<i>Kargotich Road (Rowley Road to Orton Road)</i>	<i>\$10.1M</i>
<i>Orton Road (100m east of Bullock Drive to 1.8km east of King Road)</i>	<i>\$6.1M</i>
<i>Soldiers Road - Keirman Street Roundabout and Cardup Siding Road Roundabout</i>	<i>\$1.75M</i>

*2. NOTES the vegetation clearing that will be required as contained within the body of the report and attachments 4 and 5.*

*3. REQUESTS the Chief Executive Officer to inform the funding body about the proposed changes to the scope.*

*4. REQUESTS the Chief Executive Officer explore funding opportunities for the remaining stages of the Hypergrowth Road projects.*





*Ordinary Council Meeting – 19 July 2021 – OCM196/07/21 - COUNCIL RESOLUTION / Officer Recommendation - **extract***

*That Council:*

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*

## Background

The Shire had secured funding through the State Government election commitment to upgrade three major roads (hypergrowth road upgrades) within the Shire, including Orton Road, Kargotich Road and Soldiers Road. The election commitments for which the Shire will have responsibility to deliver are outlined in **attachment 1**. These projects are fully funded by the State Government with no funding contribution by the Shire.

Design and construction of Kargotich Road from Rowley Road (SLK 0.00) to Bishop Road (SLK 10.0) was 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

Kargotich Road Stage 1, section between Rowley Road to Thomas Road was awarded in March 2023 and has already reached completion, with only the installation of line marking and signage remaining.

Originally, Stage 2 of the Kargotich Road project covered the section of Kargotich Road between Thomas Road and Abernethy Road, including upgrade of the Abernethy and Kargotich Road intersection into a roundabout. However, due to extensive service relocation and land acquisition requirements and lengthy time needed to complete these tasks, the project completion could not be achieved within the timeframe required by the funding agreement conditions which require the project to be completed before the next State Government elections. Accordingly, the project scope was redefined to remove the construction of the roundabout from the project scope.

To address this change in scope of work, in accordance with the Shire's project management framework, project change board approved the change in scope of the project and remove the construction component of the roundabout. However, the project change board agreed to proceed with the land acquisition component in order to complete one of the more time-consuming components of the project to enable the project to reach construction tender ready stage when future funding becomes available to construct the roundabout. In addition to this, advance



completion of land acquisition component of the project will significantly increase the likelihood of the project being successful in attracting future grant funding.

The revised scope of Stage 2 of the project includes construction of the straight section of Kargotich Road from Thomas Road to Abernethy Road plus land acquisition required for the construction of roundabout at Kargotich Road and Abernethy Road.

At early design stages when the roundabout was identified as the preferred treatment for the intersection of Kargotich and Abernethy Road, it became evident that additional land would need to be acquired to accommodate road widening and construction of the proposed roundabout. (See **attachment 2**).

In order to construct the roundabout as per the detailed design, a total of 1.12 hectares of land needs to be acquired. The land to be acquired consists of 0.54 hectares of private land including portion from Lots 207, 208, and 218 and 0.58 hectares of as unallocated crown land (UCL) as shown in table 1 below and the Figure 1 in the following page.

The UCL is situated on the Northeast (Lot 146) and Northwest (Lot 147) corners of Abernethy and Kargotich Road intersection. There is an existing open drain located with the UCL which is managed by Water Corporation. As part of the roundabout construction, this drain will be reconstructed in a new alignment within the road reservation.

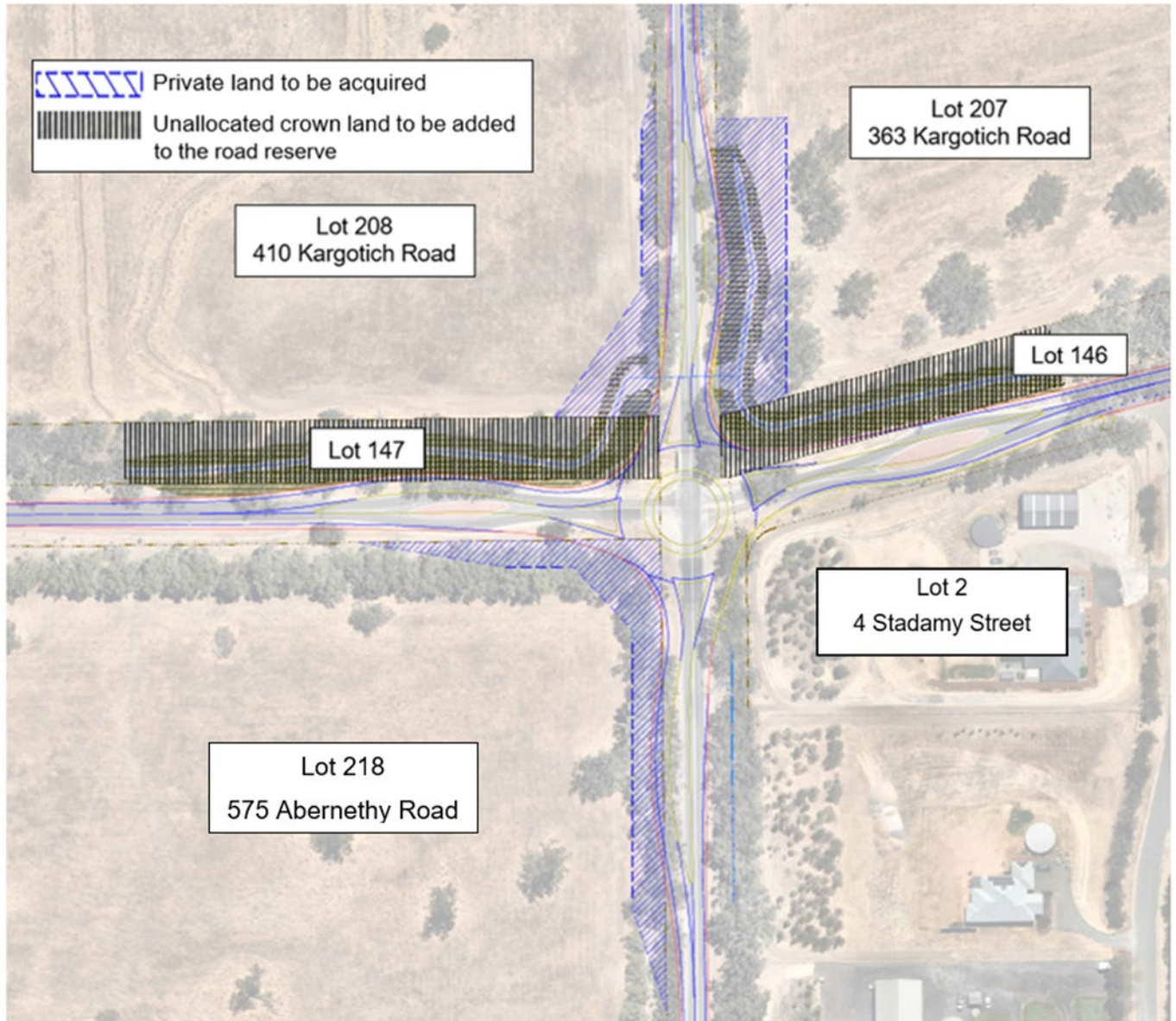
The specific area to be acquired from each lot is outlined in Table 1 below.

**Table 1: List of affected lots**

Address	Location	Land to be acquired (m2)	Description
Lot 207 363 Kargotich Road	Northwest side	2112	Private property/Farmland
Lot 208 410 Kargotich Road	Northeast side	1121	Private property/Farmland
Lot 218 575 Abernethy Road	Southwest side	2168	Private property/Farmland
Lot 146 Unallocated crown land	Northwest side	2299	Unallocated crown land
Lot 147 Unallocated crown land	Northeast side	3527	Unallocated crown land



**Figure 1: Extent of required land to be added to the road reserve.**



In May 2023, the Shire engaged a qualified land surveyor and a legal firm (Civic Legal) to initiate the land acquisition process. As part of that process to acquire land from private properties, a subdivision application was submitted to the Western Australian Planning Commission (WAPC). Independent land valuation advice was obtained (refer **CONFIDENTIAL attachment 3**), and a letter of offer to purchase land from affected private land owners will be presented to residents in November 2023.

In order to acquire unallocated crown land, a road dedication request was submitted to the Department of Planning, Lands and Heritage (DPLH) to amalgamate this unallocated crown land with the road reserve (refer **attachment 4**).

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

<b>Meeting Date</b>	6 Feb 2023
<b>Councillors in Attendance</b>	Cr Rich, Cr Byas, Cr Coales, Cr Dagostino, Cr Mack, Cr Strange, Cr Strautins

Residents with direct access from all three Hypergrowth road projects 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, separate workshops were also arranged (Kargotich Road: 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 of the projects.

**Statutory Environment**

To enable the land to be dedicated as road reserve, it is a requirement of the *Land Administration Act 1997* that local government resolve to dedicate the road in accordance with the *Land Administration Regulations 1998*.

**Comment**

For the purpose of the present road dedication request in relation to Lots 146 and 147, the Shire will therefore need to provide:

- Written confirmation that the Shire has resolved to make the request, details of the date when the relevant resolution was passed, and any other information relating to that resolution that the Minister may require (in accordance with r 8(a)); and
- Written confirmation that the local government has complied with section 56(2) of the LA Act (in accordance with r 8(f)).

It is important to note that the proposed land acquisition and boundary alignment are necessary to accommodate the construction of a roundabout at the intersection of Kargotich and Abernethy Road.





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## Options and Implications

### Option 1

That Council:

1. REQUESTS that the Minister for Lands dedicate the unallocated crown land situated on Lots 146 and 146 on DP 202681 as road reserve for the proposed Kargotich and Abernethy Roundabout construction, pursuant to section 56 (1)(a) of the *Land Administration Act 1997* (WA); and
2. APPROVES delivery of the request to the Minister in the form of the Crown Land Enquiry Form – Road Dedication that was submitted to the Department of Planning, Lands and Heritage by Civic Legal on behalf of the Shire on 13 September 2023 including all annexures and supporting documents contained therein in compliance with section 56(2) of the *Land Administration Act 1997 (WA)* and regulation 8 of the *Land Administration Regulations 1998 (WA)*.

### Option 2

That Council DOES NOT REQUEST the Minister for Lands to dedicate unallocated crown land (Lots 146 and 146 on DP 202681) as road reserve for the proposed Kargotich and Abernethy Roundabout construction.

Option 1 is recommended.

## Conclusion

To facilitate the construction of a roundabout at the Kargotich and Abernethy Road intersection and accommodate the proposed road widening, additional land acquisition is necessary. A total of 1.12 hectares of land, consisting of both private properties and unallocated crown land, must be procured. As part of this land acquisition process, unallocated crown land needs to be amalgamated with the road reserve. To achieve this, a formal road dedication request was submitted to the Department of Planning, Lands, and Heritage (DPLH). DPLH has stipulated that the Shire of Serpentine-Jarrahdale Council must provide a resolution and written confirmation, affirming compliance with section 56(2) of the Land Administration Act in accordance with the Land Administration Regulations of 1998. This proposed land acquisition is indispensable for the successful implementation of the roundabout, and to support this, the aforementioned Council resolution and written confirmation are essential.

## Attachments (available under separate cover)

- **10.2.8 - attachment 1** – Letter from Main Roads - Election Commitments 2021 - Orton, Soldiers and Kargotich Roads (IN21/16442)
- **10.2.8 - attachment 2** - Hypergrowth projects - Kargotich and Abernethy Intersection - land acquisition drawing (E23/14502)
- **10.2.8 - CONFIDENTIAL attachment 3** - Kargotich & Abernethy Intersection - Land valuation advice - Lot 207-208-218 (IN23/23696)
- **10.2.8 – attachment 4** - Kargotich & Abernethy Roundabout - Land acquisition - Crown Land enquiry form.pdf (E23/14503)



### 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
<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

### Financial Implications

Below table shows the budget arrangement for Kargotich Road upgrade project. This report has no financial implication on current year budget.

<b>Kargotich Road</b>	<b>21-22</b>	<b>22-23</b>	<b>23-24</b>	<b>24-25</b>	<b>Total</b>
Design	650,000.00	225,000.00			<b>875,000.00</b>
Construction		4,074,500.0	1,000,000.00	3,655,250.00	<b>8,729,750.00</b>
Internal Costs		92,000.00	136,000.00	320,000.00	<b>548,000.00</b>
<b>Total</b>	<b>650,000.00</b>	<b>4,391,500.0</b>	<b>1,136,000.00</b>	<b>3,975,250.00</b>	<b>10,152,750.0</b>

### Risk Implications

<b>Officer Option</b>	<b>Risk Description</b>	<b>Controls</b>	<b>Principal Consequence Category</b>	<b>Risk Assessment</b>			<b>Risk Mitigation Strategies (to further lower the risk rating if required)</b>
				<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Rating</b>	
1	There are no risks associated with option 1						
2	That Council refuses to request the Minister for Lands to dedicate unallocated crown land as a road.	Nil	Financial	Likely	Major	HIGH	Nil



**Voting Requirements:** Simple Majority

**Officer Recommendation**

**That Council:**

- 1. REQUESTS that the Minister for Lands dedicate the unallocated crown land situated on Lots 146 and 146 on DP 202681 as road reserve for the proposed Kargotich and Abernethy Roundabout construction, pursuant to section 56 (1)(a) of the *Land Administration Act 1997 (WA)*; and**
- 2. APPROVES delivery of the request to the Minister in the form of the Crown Land Enquiry Form – Road Dedication that was submitted to the Department of Planning, Lands and Heritage by Civic Legal on behalf of the Shire on 13 September 2023 including all annexures and supporting documents contained therein in compliance with section 56(2) of the *Land Administration Act 1997 (WA)* and regulation 8 of the *Land Administration Regulations 1998 (WA)*.**



**10.2.9 – Notice of intention to dispose of property - 1 Evelyn Street Mundijong – Mundijong Sales Yards (L049)**

<b>Responsible Officer:</b>	Manager Operations
<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 for Council to consider approving a public notice advertising its intention to dispose of 1 Evelyn Street Mundijong – Mundijong Sales Yards via a lease with Mr Graham Michael Melling (ABN 72 597 402 133), operator of the Mundijong Markets in accordance with the *Local Government Act 1995*.

**Relevant Previous Decisions of Council**

*Ordinary Council Meeting - 21 November 2022 - OCM278/11/22 - COUNCIL RESOLUTION  
In accordance with clause 12.1 of the Standing Orders Local Law 2002 (as Amended) that the Council proceed to the next business.*

*Ordinary Council Meeting 18 May 2020 - OCM124/05/20 - COUNCIL RESOLUTION  
That Council:*

- 1. APPROVES the Shire President and Chief Executive Officer to engross the lease agreement as contained within confidential attachment 1 with Mundijong Markets for Lot 1 Evelyn Street, Mundijong subject to the inclusion in Appendix B of the requirement to prepare a Weed Management Plan and Weed Management Schedule to the satisfaction of the Shire of Serpentine Jarrahdale; and*
- 2. INSTRUCTS the Chief Executive Officer to undertake a facility audit and inspection prior to engrossing the lease for the purposes of safety and environmental health.*

*Ordinary Council Meeting – 16 December 2019 - OCM305/12/19 - COUNCIL RESOLUTION / Officer Recommendation*

*That Council:*

- 1. NOTES the request received from Serpentine Jarrahdale Food and Farm Alliance Inc. to allow the lease application to lapse, as per confidential attachment 2 of this report and;*
- 2. In accordance with section 3.58 of the Local Government Act 1995, ADVERTISES for a period of 21 days, its intent to dispose of the land at Lot 1 Evelyn Street, Mundijong to*





*Mundijong Markets for a term of 5 years plus a further 5 year extension, at a rental rate of \$6,840 per annum (inclusive of GST) and annual CPI increase, plus outgoings to be paid by the tenant and no further renewal option and;*

3. *NOTES that a report detailing any submissions received will be presented to Council for consideration at the February 2020 Ordinary Council Meeting.*

*Ordinary Council Meeting - 18 February 2019 – OCM 030/02/19 - COUNCIL RESOLUTION / Officer Recommendation:*

*That Council:*

1. a) *INSTRUCTS the Chief Executive Officer to call for Expressions of Interest for a commercial or community lease of Lot 1 Evelyn Street, Mundijong and;*  
b) *NOTES that a report detailing all submissions will be presented to Council for consideration at the July 2019 Ordinary Council Meeting;*
2. *INSTRUCTS the Chief Executive Officer to obtain a market valuation for Lot 1 Evelyn Street, Mundijong to a maximum value of \$4,000.00 ex GST, and records the expenditure as per the following budget variation:*

<i>Account code</i>	<i>Description</i>	<i>Debit \$</i>	<i>Credit \$</i>
<i>CDO532</i>	<i>Property Valuation Expenses</i>	<i>\$4,000</i>	
<i>CDO531</i>	<i>Legal Expenses</i>		<i>\$4,000</i>

## **Background**

Lot 1 Evelyn Street, Mundijong has been used as the venue for operation of the Mundijong Saleyards/Markets for over 30 years. The Shire purchased the lot in 1999 for the purpose of land banking for future development. The land was managed under a lease agreement with Statewide Livestock that expired in 2009. In December 2018, Statewide Livestock advised the Shire that it wished to terminate its occupancy arrangement. Statewide advised that they had sold the business to Graham Michael Melling, who has continued to operate the Mundijong Markets. In February 2019, Council called an invitation for Expressions of Interest for commercial or community leases for the property.

At its meeting of 18 May 2020, Council resolved to engross a lease agreement with Graham Michael Melling, operating as Mundijong Markets, subject to the requirement for the proponent to prepare a Weed Management Plan and Weed Management Schedule to the satisfaction of the Shire. Council further resolved to instruct the Chief Executive Officer to undertake a facility audit and inspection prior to engrossing the lease for the purposes of safety and environmental health.

A satisfactory weed management plan was subsequently received by the Shire and in October 2020, the Shire's building surveyors undertook a site audit focusing on the building structures. The audit identified defects in most structures which could affect the health and safety of the occupiers and visitors to the site. The subsequent report found that the site required extensive repairs and the removal/closure of some structures.

A structural engineers report has been obtained which identified several buildings needed to be closed off to the public. These are the two stock yard shelters (which were closed in September 2022), the structure covering the patio, the covered stock yard (pending removal of the roof structures in each case). It was also noted that the steel dome of the tunnel structure needs to be removed. This is in addition to those matters identified in the Shire's Building compliance audit.



The Shire's Building compliance audit also identified that the toilets were non-compliant and should be closed.

The proposed lease which was presented to Council at the Ordinary Council Meeting on 18 May 2020, provides that the Lessee takes the premises in its existing condition and the Lessor does not warrant that the premises are adequate for the purposes of the Lessee. The Shire does however, as owner of the land, have a duty of care to those that use the premises to the extent covered by legislation.

Considering that the site has continued to be used as the venue for Mundijong Markets, operated by Graham Michael Melling without a formal lease or agreement, the Shire may be liable if an incident occurs due to the defects noted. It is therefore important that appropriate action is taken to address the issues of concern raised in the building surveyor's report should the site continue to be used as a venue for markets and be accessible by the public.

It should be noted that the land occupied by the Mundijong Markets has been earmarked for major urban development in the Mundijong/Whitby District Structure Plan. It is anticipated that development of the area will commence in 2032. At this time, land values will be maximised, and disposal of the land will yield the optimum return to the Shire. In the interim period, land values remain low. The continued use as a sales yard in the intervening period is best use for the land, maximizing the rental return for the land, meeting community needs and will reduce the burden of maintenance costs the Shire is responsible for.

Shire Officers engaged a licensed valuer to undertake a market rental valuation for the property in October 2023. The valuers assessed the rental value of the property in its current condition to be \$6,000 per annum plus outgoings costs and GST, refer **attachment 3**.

### Community / Stakeholder Consultation

#### Policy Concept Forum

<b>Meeting Date</b>	2 October 2023
<b>Councillors in Attendance</b>	Cr Rich, Cr Atwell, Cr Byas, Cr Coales, Cr Dagostino, Cr Duggin, Cr Mack, Cr Strautins,

<b>Meeting Date</b>	7 February 2022
<b>Councillors in Attendance</b>	Cr Rich, Cr Atwell, Cr Byas, Cr Singh, Cr Strautins, Cr Duggin

#### Graham Michael Melling Consultation

Shire Officers have engaged with the operator of Mundijong Markets via email communication and face to face meetings to discuss the current building condition and remediation works that are required. Whilst the Shire owns the structures on site, the operator has indicated they would be willing to undertake some of the remediation works at their cost. This is detailed in the Comment section of this report.

After internal Officer and Executive meetings, an additional meeting in September 2023 was held with the operators of Mundijong Markets to resolve the status of the building utilisation, management of the Health and Safety risk and to resolve the building access and remediation until the lease is executed.



## Statutory Environment

*The Work Health and Safety Act 2020;*

*Building code of Australia (BCA) (being volumes 1 and 2 of the National Construction Code Series);*

Section 3.58 of the *Local Government Act 1995* regulates the disposal of Council property. With the following conditions:

*A local government can dispose of property if, before agreeing to dispose of the property —*

*(a) it gives local public notice of the proposed disposition —*

*(i) describing the property concerned; and*

*(ii) giving details of the proposed disposition; and*

*(iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*

*and*

*(b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*

## Comment

The Shire's Building Surveyor's inspection found that the structures at the Saleyards have degraded to a poor condition and are subpar in terms of compliance with current building standards. Overall, the site requires attention in the form of repairs or removal of some structures and replacement with compliant structures with the necessary approvals.

The table below shows initial summary findings for each of the structures.

Item	Building	Report Findings	Risk level
1	A Kitchen with server window	Servery hatch door poses WH&S risk – remove and replace	Low
2	B Site Office	Significant deterioration of structure (ceilings, wall lining) - repair or replace structure.	Medium
3	C Shed converted to kitchen	Significant deterioration to structure (internal and external) – repair or replace	Medium
4	D Patio adjoining Kitchen Server	Generally good condition – engage structural engineer to inspect & certify. Structural engineer advised to close pending removal of the roof structure.	High
5	E Stock yard Shelter	Structures severely rusted – repair or replace Structural engineer advised to close.	High



Item	Building	Report Findings	Risk level
6	F Second Stock Yard Shelter	Structures severely rusted – repair or replace. Structural engineer advised to close	High
7	G Roof covered stock yard	Roof gutters sagging, structural timbers rotting – engage structural engineer to inspect and provide sizes for replacement members, remove & replace structural timbers, check roof fasteners. Structural engineer advised to close pending removal of the roof structure	High
8	H1 Female toilet	Outhouse buildings in poor condition and require replacing. Close due to public health issue	High
	H2 Male Toilet		High

The receipt of the Engineers report led to an extensive negotiation process to determine a mutually beneficial solution, taking into consideration the cost implications and community benefits of the market operation the operators have commenced the required remediation works for structures used for the Market operation, including replacing the Site Office. This was agreed on the basis that a decision regarding the long-term lease is progressed by the Shire.

The term of the draft proposed lease is five (5) years with a five (5) year extension option. Council approved the lease to be engrossed at its meeting of 18 May 2020. Shire Officers confirmed that the operators considered this to be a long-term lease. The operators were advised that a proposal would be submitted for Council consideration based on the options discussed. As per Ordinary Council Meeting 18 May 2020 - OCM124/05/20 - there was no consideration for approval for any capital expenditure on the part of the Shire. Council included the requirement to undertake a facility audit and inspection prior to engrossing the lease for the purposes of safety and environmental health. This report identified several non-compliances that required remediation which increased the risk profile to be managed.

Officers continued to work with the operator to as of 4 September 2023, the operators confirmed that they would undertake the actions summarised in the below table:

Item	Building	Used by Markets	Action	Responsibility
1	Structure A (Blue Kitchen)	Y	Replace servery door with roller door or rehing so downward opening	Saleyards Operator
2	Structure B (Office Building)	Y	Remove and replace existing structure is to be used by Saleyard Operator	Saleyards Operator Building approval required to be completed by April 2024.
3	Structure C (Office Building)	Y	Close and secure building and cease use	Saleyards Operator





Item	Building	Used by Markets	Action	Responsibility
4	Structure D (Patio Area)	Y	Rectify cantilevered attachment to adjoining building and undertake any modifications required subject to engineer's report	Saleyards Operator - modifications arising from the Building Surveyors Report. To be completed by 18/9/23
5	Structure E (Stockyard Shelter)	N	Close to public access. Undertake repairs required subject to Structural Engineers report if continued use as storeroom proposed	Operator - repairs arising from Building Surveyors Report
6	Structure F (Second Stockyard Shelter)	N	Close to public access (completed) Undertake repairs required subject to Structural Engineers report if continued use as storeroom proposed	Saleyards Operator - repairs arising from Building Surveyors Report
7	Structure G (Roof covered stockyard)	Y	Replace rotted structural timbers and undertake repairs in accordance with Structural Engineers report	Saleyards Operator - repairs arising from Building Surveyors Report. Target completion by 22/9/23.
8	Structure H1 & H2 (Toilets)	Y	Close and secure existing structures and replace with transportable units. Arrange connection of plumbing.	Saleyards operator to provide transportable toilets
9	Steel Frame Dome	Y	Remove top section of structure	Saleyards operator has agreed to remove the upper portion target completion 15/9/23

Completion of the proposed actions will effectively rectify the health and safety issues identified in the Building Surveyor's Report.

Noting the ongoing delay to finalise this matter, subsequent Officer meetings were held to resolve a way forward until the lease has been approved by the Council.

Lease fees have not been invoiced due to the lease not having been executed. It was intended that the Lease be executed following the Ordinary Council Meeting in May 2020. Had this occurred, the lessee would have been required to pay the annual rental of \$6,840 CPI adjusted together with annual CPI uplifts from say 1 July 2020. On this basis, revenue foregone including the relevant CPI increases to date is \$29,651.76 (includes CPI annual increases).

At the meeting held with the operators of Mundijong Markets (4 September 2023) cost contributions in lieu of rent arrears (unvoiced lease fees) were discussed. The Operators of Mundijong Markets agreed to installing and maintaining transportable toilets to support their operations as the toilets were temporarily closed by the Shire on 6 October 2023. The non-



compliant toilets have recently been closed by installing solid barriers and signage to ensure they are not accessible by visitors to site.

The occupier has continued to operate and have benefit of the property. The occupier has continued to pay utility charges of electricity and water and the cost to maintain the fire and weed management requirements for the site as intended in the proposed lease agreement.

The two-stock yard shelters were closed as required in September 2022; however, the balance of actions was not actioned on receipt of the Engineer's Report. Accordingly, a review of the current risk and cost implications for the Shire was conducted, and this has informed the current recommendation for Council consideration.

The status of the safety management actions for the buildings as of 28 September 2023 are the operators were to replace the stock yard shelter, roof, and timber trusses to support the welfare of animals (shade), this work is yet to be completed. Completion of these works will be a condition of the lease execution, should Council resolve to offer the lease to the current occupier. Remedial actions for the canteen hatch door connections are complete, patio has had three extra post supports added, the fitted additional dome shelter has been removed.

It should be noted that the Shire has been provided a copy of the certificate of currency for the Proponent's Public Liability insurance policy for Mundijong Markets. The policy limit is ten (10) million dollars and is current for the 12-month period between 10 December 2022 to 10 December 2023.

Given the length of time since Council's original decision and the extensive negotiations following the facility audit and inspection for the purposes of safety and environmental health, the disposal process must be restarted to ensure compliance with section 3.58 of the *Local Government Act 1995*.

Compliance with Section 3.58 requires that the:

- Shire provides local public notice of the proposed disposition describing the property concerned, details of the proposed disposition and inviting submissions to be made before the date to be specified in the notice (not less than 2 weeks after the notice is first given).
- Council must consider any submissions made and any decisions made must be recorded in the minutes of that meeting.
- The details to be incorporated in the notice must include:
  - i. Names of parties concerned.
  - ii. Consideration to be received by local authority.
  - iii. Market value of the disposition carried out within 6 months prior to the date of the disposition. If more than 6 months old Council must resolve that it believes the value to be a true indication of the value at the time of the disposition.

After the expiration of the advertised Notice of the Disposal (by lease) period, a report will be bought back to the council for consideration.



Legend	Structure
A	Kitchen with server window
B	Office Building
C	Shed converted to Kitchen
D	Patio area adjoining Kitchen server
E	Stockyard Shelter
F	A second stock yard shelter
G	Roof covered Stock Yard
H1	Female toilets
H2	Male Toilets
I	Steel frame dome structure for grow tunnels

Map and Legend





## Options and Implications

### Option 1

That Council:

1. REQUESTS in accordance with section 3.58(3) of the *Local Government Act 1995* that the Chief Executive Officer gives local public notice of the proposed disposition of lot 1, Evelyn Street, Mundijong to Graham Michael Melling ABN No. 72 587 402 133 as contained within **attachment 2**;
2. REQUESTS that any submissions received are presented to Council.

### Option 2

That Council:

1. REQUESTS the Chief Executive Officer not to give local public notice for 1 Evelyn Street, Mundijong;
2. REQUESTS the Chief Executive Officer to issue instructions to the current occupier of the land, Graham Michael Melling to vacate the premises and accept the impact to the Community and the additional annual ongoing site maintenance costs (currently \$3,500 per annum); and
3. REQUESTS the Chief Executive Officer recommence a process to identify potential options for the property.

Option 1 is recommended.

## Conclusion

At its Ordinary Council Meeting on 18 May 2020 Council resolved to instruct the Chief Executive Officer to undertake a facility audit and inspection prior to engrossing the lease for the purposes of safety and environmental health. The subsequent report, and further structural engineers report, found that the site required extensive repairs and the removal/closure of some structures.

Following an extensive consultation process, the operator of the Mundijong Markets is undertaking the required remediation works on the structures utilised for the Market operation and will provide the necessary transportable toilets whilst operating.

Completion of the remediation action proposed in this report effectively rectifies the health and safety issues identified in the Building Surveyors Report and will be conducted by the operator of the Mundijong Saleyards.

To be compliant with section 3.58(3) of the *Local Government Act 1995*, Council must advertise a local public notice of the proposed disposition through a local public notice for 14 days. The local public notice will include the recently completed independent valuation of market rental value range, which has been assessed to be \$6,000 per annum net plus outgoings and GST, refer **attachment 3**. After the conclusion of the advertising process, a report to council will be prepared requesting that Council consider the submissions received. In the event that the Shire does not receive any submissions, Council will be presented with a report to consider execution of a lease with the current occupiers.





**Attachments (available under separate cover)**

- **10.2.9 – attachment 1** – Mundijong Sales Yard Building and Incidental Structures inspection report (E22/10788)
- **10.2.9 – attachment 2** – draft Public Notice of Disposal of Land (E23/13023)
- **10.2.9 - attachment 3** – Market Rental valuation report – October 2023 (IN23/24852)

**Alignment with our Strategic Community Plan**

<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**

Nil if lease is executed.

If site is vacant, an annual cost of \$3,500 per year will be incurred for fire and weed management on site.

**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	Receiving submissions will potentially delay resolution of occupancy of the site extending the liability and risk period for the Shire due to occupancy without any formal lease.	Shire has been provided a copy of the certificate of currency for the Proponents Public Liability insurance policy for Mundijong Markets. The policy limit is \$10million.	Financial	Likely	Moderate	SIGNIFICANT	
2	Community impacts and concerns publicly expressed leading to reputational damage	Nil	Reputation	Likely	Moderate	SIGNIFICANT	



Continued

## Ordinary Council Meeting Agenda Monday, 20 November 2023

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**Voting Requirements:** Simple Majority

### Officer Recommendation

#### That Council:

1. **REQUESTS** in accordance with section 3.58(3) of the *Local Government Act 1995* that the Chief Executive Officer gives local public notice of the proposed disposition of lot 1, Evelyn Street, Mundijong to Graham Michael Melling ABN No. 72 587 402 133 as contained within attached 2;
2. **REQUESTS** that any submissions received are presented to Council.



**10.2.10 – Appointment of Members to the Rivers Regional Council and Appointment of Rivers Regional Subsidiary Deputy (SJ4324)**

<b>Responsible Officer:</b>	Manager Governance and Strategy
<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**

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

The purpose of this report is to enable Council to consider appointing members to the Rivers Regional Council (RRC).

**Relevant Previous Decisions of Council**

*Special Council Meeting – 6 November 2023 - SCM023/11/23 - COUNCIL RESOLUTION  
That the matter be DEFERRED to the next Ordinary Council Meeting.*

*Ordinary Council Meeting – 20 February 2023 - OCM034/02/23*

*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.*



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## Background

The RRC is a formal regional Council body corporate, established under section 3.61 of the Act by the member Councils for the purpose of developing a domestic waste disposal solution. As an outcome of the collective development of a waste disposal solution, the RRC and member Councils (including the Shire of Serpentine Jarrahdale) entered into the contracts, through a public tender process, with Kwinana Waste to Energy (KWtE), for the development of a waste to energy facility.

Council had previously approved the windup of the RRC.

## Community / Stakeholder Consultation

Nil.

## Statutory Environment

RRC is a Regional Local Government established under section 3.61 of the Act.

As a Regional Local Government, the RRC is its own legal entity formed through an agreement by the seven member local governments. As its own legal entity and a separate local government created under the Act, the RRC is responsible for compliance with provisions of the Act and other legislation.

## Comment

RRC members including the Shire of Serpentine Jarrahdale have previously resolved to wind-up the RRC and transition to a Regional Subsidiary. This action requires the approval of the Minister for Local Government.

In February 2023, Council resolved to authorise the Shire President and Chief Executive Officer to execute the revised Rivers Regional Subsidiary Charter which once executed by all member local governments would enable the Minister to dissolve the RRC.

The City of Armadale executed the agreements in October 2023, Officers have been advised that the windup of the RRC should up occur by April 2024.

As a local government in its own right, members of the RRC set meeting fees within the bands set by the Salaries and Allowances Tribunal. The RRC has advised that the Sitting Fees for 23/24 paid quarterly are as below:

- Chair \$5,150.00, per quarter
- Deputy Chair \$2,575.00 per quarter
- Councillors \$1931.25 per quarter

## Process for appointing Councillors

By convention the process that Council uses to appoint Councillors is first to call for nominations. If there are more nominations than positions the following occurs:

- a draw is conducted for positions on a ballot paper.
- each Councillor nominee is given an opportunity to speak in favour of their appointment with the order of speakers determined by position on the ballot paper.
- a secret ballot is undertaken on a first past the post basis.





Following the announcement of the results of the secret ballot Council must make a resolution for the appointment to take effect.

Rivers Regional Subsidiary – Deputy Member

In February 2023, Council appointed the Director Infrastructure Services to be the Shire's appointed member to the Rivers Regional Subsidiary when that group is established. At the time the Shire's Manager Waste position was vacant and Council was advised that the option of appointing the successful applicant to the role would be presented to Council. With this now the case, Council is recommended to appoint Mr Darrell Monteiro, Manager Waste and Fleet as the Deputy Board Member of the Rivers Regional Subsidiary for a period of four years commencing on the operative day of the Rivers Regional Council windup. There are no financial implications associated with this matter as Rivers Regional Subsidiary members are not paid.

**Options and Implications**

Option 1

That Council:

1. APPOINTS the following Elected Members as members of the Rivers Regional Council:
  - \_\_\_\_\_
  - \_\_\_\_\_
2. APPOINTS the following Elected Members as respective Deputy members of the Rivers Regional Council:
  - \_\_\_\_\_
  - \_\_\_\_\_
3. APPOINTS Mr Darrell Monteiro, Manager Waste and Fleet as the Deputy Board Member of the Rivers Regional Subsidiary for a period of four years commencing on the operative day of the Rivers Regional Council windup.

Option 2

That Council DOES NOT APPOINT members to the Rivers Regional Council.

Option 1 is recommended.

**Conclusion**

Pending the Minister's approval to formally wind-up the RRC, it is recommended that the Shire continues to have representation on the RRC. This can only occur through the appointment of Councillors as members.

**Attachments (available under separate cover)**

Nil.



### 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.
<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

Meeting fees per the above are paid for by the RRC in accordance with the Act.

### Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There are no material risks associated with this option						
2	The Shire will not have representation on the RRC		Organisational Performance	Possible	Minor	MODERATE	



**Voting Requirements:** Simple Majority

**Officer Recommendation**

**That Council:**

- 1. APPOINTS the following Elected Members as members of the Rivers Regional Council:**
  - \_\_\_\_\_
  - \_\_\_\_\_
- 2. APPOINTS the following Elected Members as respective Deputy members of the Rivers Regional Council:**
  - \_\_\_\_\_
  - \_\_\_\_\_
- 3. APPOINTS Mr Darrell Monteiro, Manager Waste and Fleet as the Deputy Board Member of the Rivers Regional Subsidiary for a period of four years commencing on the operative day of the Rivers Regional Council windup.**

**10.3 Corporate Services reports:**

<b>10.3.1 - Confirmation of Payment of Creditors – October 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 01 October 2023 to 31 October 2023 is provided in **attachment 1**.

### Options and Implications

#### Option 1

That Council RECEIVES the Schedule of Accounts as paid under delegated authority from 01 October 2023 to 31 October 2023, totalling \$3,868,199.02.

#### Option 2

That Council DOES NOT RECEIVE the Schedule of Accounts as paid under delegated authority from 01 October 2023 to 31 October 2023, totalling \$3,868,199.02.

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 October 2023 (E23/14774)
- **10.3.1 - attachment 2** – Westpac Purchasing Card Report – 28 August 2023 to 27 September 2023 – Redacted (E23/14775)
- **10.3.1 - attachment 3** – Fuel Purchasing Cards Report – 01 September 2023 to 30 September 2023 – Redacted (E23/14776)

### 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 01 October 2023 to 31 October 2023 totalled \$3,868,199.02.

### 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 01 October 2023 to 31 October 2023 totalling \$3,868,199.02 as contained in attachment 1.**



### 10.3.2 - Monthly Financial Report – September 2023 (SJ4229)

<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 September 2023.

#### Relevant Previous Decisions of Council

*Special Council Meeting – 31 July 2023 – SCM016/07/23 - COUNCIL RESOLUTION – extract*

7. 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:

a)  $\geq 10\%$  of the amended budget and  $\geq \$10,000$  of the amended budget; or

b)  $\geq \$150,000$  of the amended budget

*In addition, the material variance limit will be applied to each Nature and Type Classification for Operating and Financing Activities and each Project for Investing Activities (Capital).*

#### 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 by Nature and Type.

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. Furthermore, Council has resolved that each Capital project outside of the materiality thresholds be reported on separately. This gives an indication that the Shire is performing against expectations at a point in time.

#### Community / Stakeholder Consultation

Nil.



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**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 September 2023.

The municipal surplus as at 30 September 2023 is \$33,051,873 which is favourable, compared to a budgeted amount of \$28,265,565. This primary due to a higher than anticipated opening position. It is worth noting that the opening position for 2022/23 may change, pending the finalisation of the 2022/23 Financial reports.

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

**Operating Activities****Favourable variance in Operating Activities****Operating Revenue**Rates

Favourable permanent variance of \$397,156 primarily due to:

- Interim Rates – \$397,156

Operating Grants, Subsidies and Contributions

No variance analysis required, variance to budget is less than \$10,000

Fees and Charges

Favourable variance of \$177,919 primarily due to:

- Waste Administration – Permanent variance of \$31,243 and temporary variance of \$52,776 due to timing
- Temporary variance in Development Application fees for the period due to timing- \$73,292

Interest Earnings

Favourable permanent variance of \$57,451 primarily due to:

- Increase in rates instalment interest than anticipated - \$91,514

Other Revenue

Favourable permanent variance of \$160,661 primarily due to:

- Refund received from Telstra - \$82,672
- Credit received from LGIS for workers compensation insurance for wages adjustment for 2022-2023 – \$70,471





Profit on Asset Disposal

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

**Operating Expenses**

Employee Costs

Favourable permanent variance of \$732,964 primarily due to vacancies across organisation.

Materials and Contracts

Favourable variance of \$960,157 primarily due to:

- Timing variance within Natural Area Management - \$221,573
- Timing variance within Fire Breaks and Fire Emergency Management for the period - \$183,015
- Timing variance within Waste for the period- \$111,901
- Timing variance within Tree Maintenance - \$63,250

Utility Charges

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

Depreciation

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

Finance Costs

No variance analysis required, variance to budget is less than \$10,000

Insurance Expenses

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

Other Expenditure

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

Loss on Disposal of Assets

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

**Investing Activities**

Contributions/Grants for the Construction of Assets

Favourable temporary variance of \$2,087,139 primarily due to:

- Byford DCP - \$1,447,355
- Community Infrastructure DCP - \$237,597
- West Mundijong DCP - \$7,573

Proceeds from Disposal of Assets

Favourable variance of \$24,091 sale of an vehicle.

Capital Expenditure

Unfavourable temporary variance of \$2,557,678 primarily due to:

- Final Carryforward budget adjustments pending for:



- Upgrades of Roads - Kargotich - Stage 1 - \$1,251,444
- Admin Building Revelopment - Stage 2 - \$367,900
- Keirnan Development - Stage 1A - \$152,572
- Road Reseal - Whitby Street, Mundijong - \$158,753
- Depot Administration Refurbishment - \$84,061
- Larsen Road (SLK 0.2- SLK1.64) - \$88,555
- Mundijong Road & King Rd Intersection - \$57,851
- SJ Community Rec Centre - \$49,481
- Health & Safety Corrective Actions - \$43,580
- ERP System Implementation - \$38,149 favourable temporary variance due to timing of project delivery.

As resolved by Council, Officers are required to comment on any project that has a material year to date variance, please refer to Capital Works Expenditure within **attachment 1** for commentary on individual projects.

### **Financing Activities**

#### Proceeds from new Borrowings

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

#### Transfer from Reserve

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

#### Repayment of new Borrowings

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

#### Payment for principal portion of lease liabilities

No variance analysis required, variance to budget is less than \$10,000

#### Transfer to Reserve

Variance of \$1,799,011 due primarily to

- Byford DCP - \$1,447,355
- Community Infrastructure DCP - \$237,597
- West Mundijong DCP - \$7,573



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**Options and Implications**Option 1

That Council RECEIVES the Monthly Financial Report for September 2023 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 September 2023, 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)**

- **10.3.2 - attachment 1** – Monthly Financial Report – September 2023 (E23/14640)

**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 September 2023, the Shire's respective cash position was as follows:

Municipal Fund:	\$16,697,621
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 September 2023 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.





### 10.3.3 – September 2023 Quarterly Budget Review (SJ4229)

<b>Responsible Officer:</b>	Manager Finance
<b>Senior Officer:</b>	Director Corporate 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

This report represents the quarterly review of the 2023/2024 Budget. A number of budget variations are proposed as part of this review.

#### Relevant Previous Decisions of Council

*Special Council Meeting – 21 July 2023 - SCM016/07/23 - COUNCIL RESOLUTION – extract*

*The Council ADOPTS, in accordance with section 6.2 of the Local Government Act 1995, the Municipal Fund Budget as contained in attachment 1, Amended Statutory Statements and Notes (including supplementary information) for the year ending 30 June 2024 incorporating amendments as per the following table:*

<i>Description</i>	<i>Expenditure Type</i>	<i>Amount</i>
<i>Increase Transfer to Reserve – Investment Reserve</i>	<i>Transfer to Reserve</i>	<i>\$55,789</i>

#### Background

Changes to the Annual Budget are required during the year as circumstances change from when the Annual Budget was adopted by Council at the beginning of the financial year. Amendments to the Annual Budget will ensure that tight fiscal control is maintained on the Shire's finances.

Officers conducted meetings during the month of October with each directorates management to review Budget vs Actual expenditure as at 30<sup>th</sup> September 2023 as well as review the progress of operational, maintenance and capital projects. During this time, management could present amendments to budget for consideration with appropriate reasoning, which are presented within this report.

#### Community / Stakeholder Consultation

There has been no community / stakeholder consultation regarding this recommendation.



### Statutory Environment

- Local Government Act 1995

#### 6.8. Expenditure from municipal fund not included in annual budget

(1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —

(a) is incurred in a financial year before the adoption of the annual budget by the local government; or

(b) is authorised in advance by resolution\*; or

(c) is authorised in advance by the mayor or president in an emergency.

### Comment

The 2023/2024 Budget has been reviewed and approval is sought for the following budget adjustments for the reasons specified:

### Capital Works

The following Capital projects have been identified as requiring adjustments to the current budget and will result in an additional total budget required of \$72,400.

Account Number	Type	Account Description	Debit \$	Credit \$
6600-NEW-6600-0000	Increase Expenditure	Council Chambers Upgrade – Capital Purchase	92,400	
6600-NEW-5000-000	Increase Income	Council Chambers Upgrade – Transfer from Admin Building Reserve		75,000
<p><b>Reason:</b> To progress Council Chambers Upgrade to enable compliance with future legislation requiring the video streaming and recording of Council meetings. From 1 January 2025, legislation will require Councils to record and stream video of Council and Committee meetings and record proceedings from parts of the meetings closed to the public. The Shire currently audio records Council Meetings but upgrades to the audio-visual system is required to enable video screening. These improvements will also improve audio quality in the public gallery which the Shire from time to time receives negative feedback. In addition, upgrades to the public gallery seating area through the introduction of a carpeted marker between Council and galley and a seated area for members of the public are intended to improve the aesthetics and professional appearance of the Chambers as the seat of governance in the district.</p>				
6300-NEW-6600-0000	Increase Expenditure	New Vehicle – Manager Waste, Plant and Fleet – Capital Purchase	55,000	
<p><b>Reason:</b> Purchase of Manager, Waste &amp; Fleet vehicle as per contract, prior manager had opted for an allowance.</p>				
6000-89000-4908-0000	Increase Transfer to reserve	Byford Developer Contributions - Transfer to Reserve - Byford DCP	1,447,355	
6000-89000-5204-0000	Increase Income	Byford Developer Contributions – Capital Contributions- Byford DCP		1,447,355



Account Number	Type	Account Description	Debit \$	Credit \$
6000-89001-4909-0000	Increase Transfer to reserve	Community Infrastructure DCP Contributions – Transfer to Reserve- Community Infrastructure DCP	237,597	
6000-89001-5210-0000	Increase Income	Community Infrastructure DCP Contributions - Capital Contributions - Community Infrastructure DCP		237,597
6000-89002-4911-0000	Increase Transfer to reserve	Mundijong Urban DCP Contributions – Transfer to Reserve – Mundijong Urban	7,573	
6000-89002-5242-0000	Increase Income	Mundijong Urban DCP Contributions – Capital Contribution– Mundijong Urban		7,573
<b>Reason:</b> Recognition of Developer Contribution funds received year to date as well as the corresponding transfer to reserve.				

### Operating Projects

The 2023/2024 Operating Budget has been reviewed and approval is sought for the following budget adjustments for the reasons specified.

The result of these adjustments is a saving of \$72,400 which will be allocated to facilitate the shortfall in funding required for the capital projects outlined above.

Account Number	Type	Account Description	Debit \$	Credit \$
3300-14000-6050-0000	Increase Expenditure	Operations - Public Works Overheads - Training	45,000	
<b>Reason:</b> Additional budget required to ensure WHS compliance, and that Shire WHS risk is effectively managed. Additional budget will also ensure that staff receive minimum mandatory training for required certification to ensure completion of required program/maintenance works.				
3300-14000-6160-0000	Increase Expenditure	Operations - Public Works Overheads - Minor Equipment Purchases	33,000	
<b>Reason:</b> A stocktake of parks equipment has been performed which has shown small plant equipment requires renewal and additional purchases are required to ensure there is sufficient equipment for a fully resourced team.				
3220-13100-6230-0000	Increase Expenditure	Project Design – Consultancy	122,500	
<b>Reason:</b> Shire Officers have been advised by MRWA that 6 out of the 7 Black Spot grant funding applications submitted by the Shire, totalling approximately \$9M, will be funded as part of the 24/25, 25/26 and 26/27 State and Federal Black Spot funding programs. Once these projects are approved as part of each corresponding financial year budget, the delivery				



Account Number	Type	Account Description	Debit \$	Credit \$
<p>timeframe is limited to 12 months of that same financial year ending 30 June, as required by the funding body. Due to the lengthy timeframe required to obtain vegetation clearing permits (6 to 18 months lead time) and Western Power services relocation (12 to 18 months lead time) it is important to commence the process for both the clearing permit and service relocation works well in advance of project construction stage. There is no budget allocated to undertake these preliminary works in the current budget. Accordingly, this funding is required to complete the preliminary works including obtaining clearing permits and completing the survey and design component of Western Power assets relocation works in advance of construction. For the 2024/25 financial year projects that this budget is required, the total projects value is \$5.368M.</p>				
2000-12005-6230-0000	Increase Expenditure	Development Services - Clem Kentish Reserve Masterplan – Consultancy	30,000	
<p><b>Reason:</b> As per OCM resolution 137/06/23 at meeting held on 19 June 2023, prior to further progress of the proposed masterplan a business case is required for consideration in the 24/25 budget to undertake drainage improvements to the oval. To meet this timeline the investigation of design and costing is to be undertaken in the current financial year and funds are required.</p>				
4400-NEW-6230-0000	Increase Expenditure	Kalimna Oval Lighting Design – Consultancy	15,300	
<p><b>Reason:</b> To develop a lighting design to assist the Shire in submitting a Club Night Lights Program application with Department of Local Government Sport and Cultural Industries, to secure a one-third funding contribution through the Community Sporting and Recreation Facilities Fund (CSRFF) to provide lighting at Kalimna Oval, Byford.</p>				
4400-NEW-6230-0000	Increase Expenditure	Serpentine Sports Ground Lighting and Turf Design– Consultancy	35,300	
<p><b>Reason:</b> To develop lighting and turf design documentation to assist the Shire in submitting a Forward Planning Round application to secure a one-third funding contribution through the Community Sporting and Recreation Facilities Fund (CSRFF) to improve lighting and turf facilities at the Serpentine Sports Ground.</p>				
5300-17302-5200-0000	Increase Expenditure	Reserve Transfer - Transfer to Reserve – Administration Building	229,660	
<p><b>Reason:</b> Transfer of overbudget revenue surplus to administration building reserve.</p>				
5300-17510-6230-0000	Increase Expenditure	Asset Management – Consultancy	75,000	
<p><b>Reason:</b> Master scheduling resource/software essential to scheduling of planned maintenance for playgrounds, verges, facilities, parks and gardens as per CEO KPI 2.</p>				
3300-14000-6000-0000	Increase Expenditure	Public Works Overheads - Salaries and Wages	32,938	
3300-14000-6020-0000	Increase Expenditure	Public Works Overheads - Annual Leave	3,365	





Account Number	Type	Account Description	Debit \$	Credit \$
3300-14000-6010-0000	Increase Expenditure	Public Works Overheads - Sick Leave	1,432	
3300-14000-6030-0000	Increase Expenditure	Public Works Overheads - Superannuation	3,909	
3300-14000-6005-0000	Increase Expenditure	Public Works Overheads - Workers Comp	595	
3300-14000-6050-0000	Increase Expenditure	Public Works Overheads - Training	1,000	
3300-14000-6058-0000	Increase Expenditure	Public Works Overheads - Uniform	1,000	
5100-17200-6264-0000	Increase Expenditure	Information Technology - Minor Equipment Purchases	4,100	
<p><b>Reason:</b> Contracts Officer – The Depot Operations and Waste service delivery was reviewed during the 22/23 financial year by Glen Flood Group. The review resulted in 76 recommendations to be implemented to improve service delivery. Some of these improvements required annual supply contracts to be implemented and managed to increase efficiencies in procuring goods and services, i.e. electrical, plumbing, building maintenance services, irrigation parts supply etc. These annual supply contracts will ensure compliance with Shire’s purchasing policy and legislative requirements in addition to improvements in delivery of maintenance services. This position will assist in developing, implementing and managing some of these contract whilst also providing support and assistance to the Operations management team.</p> <p>Further information regarding this position can be found in <b>attachment 2</b>.</p>				
3300-14000-6000-0000	Increase Expenditure	Public Works Overheads - Salaries and Wages	27,449	
3300-14000-6020-0000	Increase Expenditure	Public Works Overheads - Annual Leave	2,804	
3300-14000-6010-0000	Increase Expenditure	Public Works Overheads - Sick Leave	1,193	
3300-14000-6030-0000	Increase Expenditure	Public Works Overheads - Superannuation	3,257	
3300-14000-6005-0000	Increase Expenditure	Public Works Overheads - Workers Comp	496	
3300-14000-6050-0000	Increase Expenditure	Public Works Overheads - Training	1,000	
3300-14000-6058-0000	Increase Expenditure	Public Works Overheads - Uniform	1,000	
5100-17200-6264-0000	Increase Expenditure	Information Technology - Minor Equipment Purchases	4,100	
<p><b>Reason:</b> Process and Administration Support Officer – Operations position required in order to provide comprehensive process and administrative support to the infrastructure services directorate and the Operations Manager to provide support and capacity to deliver the development and implementation of systems and processes to improve efficiency and effectiveness of maintenance delivery.</p>				



Account Number	Type	Account Description	Debit \$	Credit \$
Further information regarding this position can be found in <b>attachment 1</b> .				
5200-17102-6000-0000	Increase Expenditure	Project Management Office - Salaries and Wages	39,807	
5200-17102-6020-0000	Increase Expenditure	Project Management Office - Annual Leave	4,067	
5200-17102-6010-0000	Increase Expenditure	Project Management Office - Sick Leave	1,730	
5200-17102-6030-0000	Increase Expenditure	Project Management Office - Superannuation	4,725	
5200-17102-6059-0000	Increase Expenditure	Project Management Office - Workers Comp	720	
5200-17102-6050-0000	Increase Expenditure	Project Management Office - Training	1,000	
5100-17200-6264-0000	Increase Expenditure	Information Technology - Minor Equipment Purchases	4,100	
<p><b>Reason:</b> Project Management Office Administrator position required in order to provide administrative support to office to allow for capacity to continue with implementation of project management frameworks and other important projects including but not limited to the Corporate Business Plan review and Abernethy Road Enquiry.</p> <p>Further information regarding this position can be found in <b>attachment 3</b>.</p>				
3230-13404-6230-0000	Increase Expenditure	Waste – FOGO – Consultancy	20,000	
<p><b>Reason:</b> As per OCM resolution CR23/124 during June 2023 a bin composition audit for Food Organics Garden Organics (FOGO) bin system is required, with a subsequent report to council with the findings to follow.</p>				
3300-14001-6230-0000	Increase Expenditure	Natural Area Management – Consultancy	10,000	
3300-14001-4140-0000	Increase Income	Natural Area Management – Grant – Operating – WALGA		10,000
<p><b>Reason:</b> New Grant provided from WALGA and associated expenditure for a Local biodiversity &amp; native vegetation management project called “Roadside Conservation Values in the Shire of Serpentine Jarrahdale”. This grant is for the delivery of a roadside conservation values report and shape files which provides information on the biodiversity value of roadsides and where more detailed surveys may be required for future development conflicts.</p>				
4300-15703-6131-0000	Increase Expenditure	Event – Christmas – Program Activities	10,000	
4300-15703-4116-0000	Increase Income	Event – Christmas - Sponsorship		10,000
<p><b>Reason:</b> Sponsorship received for Christmas event and associated increased expenditure for program activities.</p>				



Account Number	Type	Account Description	Debit \$	Credit \$
4300-15430-6276-0000	Increase Expenditure	Donations - Community Grant/Sponsorship	8,500	
4300-15434-6276-0000	Decrease Expenditure	Fee Waiver - Community Grant/Sponsorship		8,500
<b>Reason:</b> As per OCM resolution OCM262/10/23 at meeting held on 16 <sup>th</sup> October 2023, Outgoing Sponsorship (Community Contribution) to Sport Aircraft Buildings Inc for the Annual Fly-in 50 <sup>th</sup> Anniversary event.				
5300-17300-4100-0000	Increase Income	General Purpose Funding – Grants Commission		71,787
5300-17300-4101-0000	Increase Income	General Purpose Funding – Direct – Local Roads		62,919
<b>Reason:</b> Additional Financial Assistance Grants received.				
5300-17501-4004-0000	Increase Income	Rates Revenue – Interim Rates		562,301
<b>Reason:</b> Interim rates received to date higher than anticipated due to: New property creation, construction of new residences and valuation corrections by Landgate.				
5300-17501-4530-0000	Increase Income	Interest Revenue – Interest on instalment		57,000
<b>Reason:</b> Interest on instalment revenue higher than anticipated.				
5300-17300-4700-0000	Increase Income	General Purpose Funding – Reimbursement		69,940
<b>Reason:</b> LGIS reimbursement on actual wages adjustment as at 30/06/2023.				

## Options and Implications

### Option 1

That Council ADOPT the September 2023 Quarterly Budget Review report and pursuant to section 6.8 of the Local Government Act 1995, APPROVES the schedule of variations to the 2023/24 Budget as contained within this report.

### Option 2

That Council DOES NOT ADOPT the September 2023 Quarterly Budget Review report and pursuant to section 6.8 of the Local Government Act 1995, DOES NOT APPROVE the schedule of variations to the 2023/24 as contained within this report.

Option 1 is recommended.



## Conclusion

A Quarter 1 review of the Annual Budget has been done. A list of budget variations requiring approval has been identified.

Whilst it is unusual to propose new FTEs at a first quarter budget review, the following factors have led to this occurring:

- Securing of large forward road funding (approximately \$9million) impacting upon the need for project planning and early works, and additional resources to support the good management of the projects, being an additional Project Management Office Administrator, based on lessons learnt from previous major road projects.
- Implementation of the Glen Flood Review for the depot, which originally proposed a high level manager position to assist in implementing the recommendations will be replaced with administrative support to the existing Manager Operations. Further, the Glen Flood Review proposed the establishment of annual supply tenders (items on this Agenda) which will require appropriate contract management support.

## Attachments (available under separate cover)

- **10.3.3 – attachment 1** – Business Case – Process and Admin Support Officer - Operations (E23/14505)
- **10.3.3 – attachment 2** – Business Case – Contracts Officer - Operations (E23/14506)
- **10.3.3 – attachment 3** – Business Case – PMO Administrator (E23/14507)

## Alignment with our Strategic Community Plan

<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

## Financial Implications

Any material variances that have an impact on the outcome of the budgeted closing surplus position are detailed in this report.





### Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There are no significant risk associated with Council adopting the budget amendments.						
2	Council DOES NOT adopt budget adjustments leading to poor fiscal management resulting in financial risk due to overspending as well being non compliance with Financial regulations.	The organisation undertakes a quarterly finance and costing review prior to making council recommendation. Law restricts expenditure when expenditure from municipal fund not included in annual budget unless authorised by resolution.	Financial	Unlikely	Moderate	MODERATE	Accept officer recommendation (Option 1)

**Voting Requirements:** Absolute Majority

### Officer Recommendation

**That Council ADOPTS the September 2023 Quarterly Budget Review report and pursuant to section 6.8 of the Local Government Act 1995, APPROVES the schedule of variations to the 2023/24 Budget as contained within this report and detailed below:**

Account Number	Type	Account Description	Debit \$	Credit \$
6600-NEW-6600-0000	Increase Expenditure	Council Chambers Upgrade – Capital Purchase	92,400	
6600-NEW-5000-000	Increase Income	Council Chambers Upgrade – Transfer from Admin Building Reserve		75,000
6300-NEW-6600-0000	Increase Expenditure	New Vehicle – Manager Waste, Plant and Fleet – Capital Purchase	55,000	



Account Number	Type	Account Description	Debit \$	Credit \$
6000-89000-4908-0000	Increase Transfer to reserve	Byford Developer Contributions - Transfer to Reserve - Byford DCP	1,447,355	
6000-89000-5204-0000	Increase Income	Byford Developer Contributions – Capital Contributions- Byford DCP		1,447,355
6000-89001-4909-0000	Increase Transfer to reserve	Community Infrastructure DCP Contributions – Transfer to Reserve- Community Infrastructure DCP	237,597	
6000-89001-5210-0000	Increase Income	Community Infrastructure DCP Contributions - Capital Contributions - Community Infrastructure DCP		237,597
6000-89002-4911-0000	Increase Transfer to reserve	Mundijong Urban DCP Contributions – Transfer to Reserve – Mundijong Urban	7,573	
6000-89002-5242-0000	Increase Income	Mundijong Urban DCP Contributions – Capital Contribution– Mundijong Urban		7,573
3300-14000-6050-0000	Increase Expenditure	Operations - Public Works Overheads - Training	45,000	
3300-14000-6160-0000	Increase Expenditure	Operations - Public Works Overheads - Minor Equipment Purchases	33,000	
3220-13100-6230-0000	Increase Expenditure	Project Design – Consultancy	122,500	
2000-12005-6230-0000	Increase Expenditure	Development Services - Clem Kentish Reserve Masterplan – Consultancy	30,000	
4400-NEW-6230-0000	Increase Expenditure	Kalimna Oval Lighting Design – Consultancy	15,300	
4400-NEW-6230-0000	Increase Expenditure	Serpentine Sports Ground Lighting and Turf Design– Consultancy	35,300	
5300-17302-5200-0000	Increase Expenditure	Reserve Transfer - Transfer to Reserve – Administration Building	229,660	
5300-17510-6230-0000	Increase Expenditure	Asset Management – Consultancy	75,000	
3300-14000-6000-0000	Increase Expenditure	Public Works Overheads - Salaries and Wages	32,938	



Continued

**Ordinary Council Meeting Agenda  
Monday, 20 November 2023**

<b>Account Number</b>	<b>Type</b>	<b>Account Description</b>	<b>Debit \$</b>	<b>Credit \$</b>
3300-14000-6020-0000	Increase Expenditure	Public Works Overheads - Annual Leave	3,365	
3300-14000-6010-0000	Increase Expenditure	Public Works Overheads - Sick Leave	1,432	
3300-14000-6030-0000	Increase Expenditure	Public Works Overheads - Superannuation	3,909	
3300-14000-6005-0000	Increase Expenditure	Public Works Overheads - Workers Comp	595	
3300-14000-6050-0000	Increase Expenditure	Public Works Overheads - Training	1,000	
3300-14000-6058-0000	Increase Expenditure	Public Works Overheads - Uniform	1,000	
5100-17200-6264-0000	Increase Expenditure	Information Technology - Minor Equipment Purchases	4,100	
3300-14000-6000-0000	Increase Expenditure	Public Works Overheads - Salaries and Wages	27,449	
3300-14000-6020-0000	Increase Expenditure	Public Works Overheads - Annual Leave	2,804	
3300-14000-6010-0000	Increase Expenditure	Public Works Overheads - Sick Leave	1,193	
3300-14000-6030-0000	Increase Expenditure	Public Works Overheads - Superannuation	3,257	
3300-14000-6005-0000	Increase Expenditure	Public Works Overheads - Workers Comp	496	
3300-14000-6050-0000	Increase Expenditure	Public Works Overheads - Training	1,000	
3300-14000-6058-0000	Increase Expenditure	Public Works Overheads - Uniform	1,000	
5100-17200-6264-0000	Increase Expenditure	Information Technology - Minor Equipment Purchases	4,100	
5200-17102-6000-0000	Increase Expenditure	Project Management Office - Salaries and Wages	39,807	
5200-17102-6020-0000	Increase Expenditure	Project Management Office - Annual Leave	4,067	
5200-17102-6010-0000	Increase Expenditure	Project Management Office - Sick Leave	1,730	
5200-17102-6030-0000	Increase Expenditure	Project Management Office - Superannuation	4,725	
5200-17102-6059-0000	Increase Expenditure	Project Management Office - Workers Comp	720	
5200-17102-6050-0000	Increase Expenditure	Project Management Office - Training	1,000	



Continued

**Ordinary Council Meeting Agenda  
Monday, 20 November 2023**

<b>Account Number</b>	<b>Type</b>	<b>Account Description</b>	<b>Debit \$</b>	<b>Credit \$</b>
5100-17200-6264-0000	Increase Expenditure	Information Technology - Minor Equipment Purchases	4,100	
3230-13404-6230-0000	Increase Expenditure	Waste – FOGO – Consultancy	20,000	
3300-14001-6230-0000	Increase Expenditure	Natural Area Management – Consultancy	10,000	
3300-14001-4140-0000	Increase Income	Natural Area Management – Grant – Operating – WALGA		10,000
4300-15703-6131-0000	Increase Expenditure	Event – Christmas – Program Activities	10,000	
4300-15703-4116-0000	Increase Income	Event – Christmas - Sponsorship		10,000
4300-15430-6276-0000	Increase Expenditure	Donations - Community Grant/Sponsorship	8,500	
4300-15434-6276-0000	Decrease Expenditure	Fee Waiver - Community Grant/Sponsorship		8,500
5300-17300-4100-0000	Increase Income	General Purpose Funding – Grants Commission		71,787
5300-17300-4101-0000	Increase Income	General Purpose Funding – Direct – Local Roads		62,919
5300-17501-4004-0000	Increase Income	Rates Revenue – Interim Rates		562,301
5300-17501-4530-0000	Increase Income	Interest Revenue – Interest on instalment		57,000
5300-17300-4700-0000	Increase Income	General Purpose Funding – Reimbursement		69,940





**10.3.4 – Corporate Business Plan Performance Report – July to September 2023 (SJ940-3)**

<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**

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

**Report Purpose**

The purpose of this report is to provide Council with a quarterly performance report against the 2023-27 Corporate Business Plan (CBP) for the period 1 July to 30 September 2023 and an amended CBP for consideration.

**Relevant Previous Decisions of Council**

*Ordinary Council Meeting – 21 August 2023 – OCM214/08/23 - COUNCIL RESOLUTION / Officer Recommendation*

*That Council:*

1. *NOTES the performance report against the 2022-26 Corporate Business Plan for the period 1 April to 30 June 2023 as contained in this report and attachment 1.*
2. *NOTES the Corporate Business Plan Performance Report on the 2022-2023 Financial Year as contained in this report.*

*Special Council Meeting – 31 July 2023 – SCM017/07/23 – COUNCIL RESOLUTION / Officer Recommendation*

*That Council:*

1. *ADOPTS the Long Term Financial Plan 2023-33 at attachment 1 with the following amendments to represent a 5% increase to rates yield:
 
  - *Additional transfer of \$55,789 to the investment reserve to support income producing opportunities; and*
  - *Increase the future transfer to investment reserve line to reflect the change of rates yield revenue in future years.**
2. *ADOPTS the Corporate Business Plan 2023-27 at attachment 3;*
3. *NOTES the Chief Executive Officer will apply the Shire's Corporate Branding in finalising the Corporate Business Plan for publication; and*



4. *NOTES a major review of the Corporate Business Plan will be undertaken in 2023-24 following the 2023 local government election and adoption of the 2023-33 Council Plan.*

## **Background**

On 31 July 2023, Council adopted the Shire of Serpentine Jarrahdale Corporate Business Plan 2023-27 (SCM017/07/23).

The Corporate Business Plan 2023-27 is the Shire of Serpentine Jarrahdale's four-year delivery program, aligned to the Shire's Integrated Planning and Reporting Framework (i.e. Strategic Community Plan, Annual Budget, Long Term Financial Plan and other supporting strategies). The purpose of the plan is to operationalise the Community's vision and the Shire's strategic objectives through the establishment of actions that address each strategy contained within the Strategic Community Plan.

The Shire of Serpentine Jarrahdale has established periodic performance reporting against the 2023-27 Corporate Business Plan to provide Council and the Community with an update towards the achievement of these actions, such as the delivery of key projects and the successful implementation of service level changes.

## **Community / Stakeholder Consultation**

Nil.

## **Statutory Environment**

Local governments have a statutory obligation under s5.56(1) of the *Local Government Act 1995* (WA) ('the Act') to plan for the future of their district. Regulations have been made under s5.56(2) of the Act to provide minimum requirements for IPR.

Regulations 19C and 19DA of the *Local Government (Administration) Regulations 1996* (WA) ('the Regulations') require a local government to ensure that a Strategic Community Plan and Corporate Business Plan are made for its district. Any amendments to a Corporate Business Plan must be adopted by absolute majority (Regulation 19DA(6)).

Guidelines for the monitoring and reporting against the Corporate Business Plan are outlined in the Integrated Planning and Reporting Framework and Guideline September 2016 issued by the Department of Local Government, Sport and Cultural Industries. The Guideline states, "*it is open to local governments to design complementary means of reporting progress and outcomes to the community*".

### **Reform of the *Local Government Act 1995***

The State Government is reforming the *Local Government Act 1995*. Theme 6 – 'Improved Financial Management and Reporting' proposes to amend the *Local Government (Administration) Regulations 1996* to replace the Strategic Community Plan with a Council Plan. This change is likely to have a flow on impact on the Corporate Business Plan, however the detail is not currently known. Advice from the Department of Local Government, Sport and Cultural Industries obtained during the Shire's major review of the Strategic Community Plan advised that the Department are currently progressing the policy work behind the Integrated Planning and Reporting Framework reforms. From a compliance perspective, Regulation 19DA of the *Local Government (Administration) Regulations 1996* remains in place until new regulations are in effect and provisions commence.








### Comment

The Shire of Serpentine Jarrahdale has completed a quarterly performance report against the 2023-27 Corporate Business Plan for the period 1 July to 30 September 2023 ('the Report'). The Report is contained in **attachment 1** for the Council to note.

As the Report relates to the period up to 30 September 2023, changes to projects that have occurred in the period from 1 October 2023 will be reflected in subsequent reports.

### Report Structure

Grouped under each key objective area of the Strategic Community Plan (People, Place, Prosperity, Progressive), the Report provides a narrative update against each respective action of the CBP's Delivery Program. To ensure consistency and to enable summary reporting, each action is also allocated a traffic light status in accordance with the following key:

Status	Selection Criteria
 On Track or Complete	Action is complete or on target.
 At Risk or Behind Target	<p>Minor issues have put achievement of the project due date or level of service at risk.</p> <p>or</p> <p>Minor issues have put the project/service behind target.</p> <p>The causes for this are being managed by routine procedures and the issues are likely to be resolved by the next reporting period.</p>
 Critical	Major issues have prevented the service/project from commencing or continuing. The causes for this do/will require significant action to rectify and the issues are likely to be ongoing into future reporting periods
 On hold	Work is unable to commence due to a dependency (e.g. awaiting grant funding or completion of another project).
 Deferred or Not Proceeding	<p>Action is no longer proceeding within its planned year of the Corporate Business Plan but will be occurring within a future year of the Corporate Business Plan.</p> <p>Or</p> <p>Action is no longer proceeding within the timeframe of the current Corporate Business Plan. This may be due to a change in direction caused by external factors (e.g. loss of grant funding / change of government) or a change of direction by Council.</p>



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## Report Summary

The Report provides an update against 113 actions in the Corporate Business Plan. Statistics this period show:

- **84%** are on track or complete (95/113);
- **16%** are at risk or behind target (18/113);
- **0%** are critical;
- **0%** are on hold; and
- **0%** are deferred or not proceeding.

Key achievements and highlights this reporting period are as follows:

- Adoption of the 2023-24 Annual Budget, 2023-27 Corporate Business Plan and 2023-33 Long Term Financial Plan.
- Gazettal of Local Planning Scheme No. 3.
- Adoption of the Community Infrastructure Development Contribution Plan Report 3 (CIDCP3), following annual review.
- Adoption of the Development Contribution Plan Report No. 7 (DCP7) for Development Contribution Area 1 (DCA1); the Development Contribution Plan Report No. 4 (DCP4) for the West Mundijong Industrial DCP; and Development Contribution Plan Report No. 1 (DCP1) for the Mundijong-Whitby Urban Traditional Infrastructure DCP.
- Adoption of the Community Safety and Crime Prevention Plan 2023-27.
- Award of Tenders for the following projects:
  - Administration Building – Staff Amenities Refurbishment
  - Bore and Pump Maintenance Services
- Endorsement of the Peel Alliance Policy Position Statement – Mining and Extractive Industries, including a contribution towards advocacy for the Policy Position Statement.
- Adoption of the Access and Inclusion Plan 2023-28 and associated five-year Implementation Plan.
- Resolved to become a member of National Growth Areas Alliance for a period of three years.
- Delivery of SJ Plastic Free July / Plastic Free Living Program.
- Delivery of Youth and Recreation activities including Laser Tag SJ and Beyond Skate: Jam events, and the re-opening the Youth Space at Briggs Park.
- Celebration of SJ Library Services first birthday, attracting 553 visitors.
- Commencement of a trial period whereby the SJ Mobile Library Service visits Whitby and Keysbrook communities, and the SJ Library extends trading hours on Saturdays.
- Delivery of two Citizenship ceremonies, with 124 attendees across both events.
- Award of 19 Sporting Travel Grants and 1 Friendly Neighbourhood Grant.
- Completion of widening and resurfacing of Whitby Street, Mundijong (Butcher Street to Anstey Street including Anstey Street intersection).





- Completion of Clifton Street bus shelter, which features the “Lost Creatures” artwork by Hayley Welsh, continuing the street art theme already featured on the SJ Library external walls.
- Managed 96 compliance enquiries, 53 compliance site inspections and 22 new complaints in relation to unauthorised development.
- A successful application to the 2023-24 Bushfire Mitigation Activity Fund, securing \$500,000 in grant funding to support the ongoing implementation of bushfire risk management.



The **18** actions identified as **at risk or behind target** are:

Action 1:	<u>Byford Skatepark (Construction of Stage 2)</u> Construct stage 2 of the Byford Skatepark - extension, 3 on 3 basketball and parkour elements, shade and landscaping.	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		Y	<input checked="" type="checkbox"/>	N	<input type="checkbox"/>
		DLGSC grant			
Comment:	The project is currently in the detailed design phase which involves preparing plans for construction. However, the Shire has received a request for further information from Department of Water and Environmental Regulation (DWER), regarding the clearing permit for the onsite trees to be removed. Until the clearing permit is resolved, construction cannot proceed.				
Remedial Action:	The clearing permit is to be issued by DWER, and the Shire will work with the Department, until they are satisfied that the clearing of the trees has been suitably addressed and the permit for clearing is issued.				


Action 2:	<u>Depot Accommodation Upgrades</u> Refurbishment to the current Depot Accommodation.	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>
Comment:	Project completed - Temporary occupancy issued. Items outstanding for permanent occupancy (universal access) are being addressed. This may require cost consideration through the Project Management Framework.				
Remedial Action:	Cost considerations will be managed in accordance with the Project Management Framework.				






Action 3:	<u>Keirnan Park Recreation Precinct (Construction of Stage 1A)</u> Construct Stage 1A of the Keirnan Park Sports Recreation Precinct – AFL/cricket oval, pavilion and supporting infrastructure (FAA with Department of Local Government).	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		Y	<input checked="" type="checkbox"/>	N	<input type="checkbox"/>
		DLGSC grant			
Comment:	<p>The Keirnan Park project is currently having a H2 investigation which has been delayed due to the wet ground conditions at Keirnan Park. Originally planned to have the bore drilled in August, the drilling machine (30 tonne) is still unable to access the site at the western end where the bore is required by Dept of Water and Environmental Regulation (DWER).</p> <p>Until the ground dries out the investigation cannot be completed. A dry October should result in access being available late October to early November 2023.</p> <p>The Clearing permit application is ongoing. The Shire is expecting Dept. of Climate Change, Energy, the Environment and Water (DCCEEW) to give a status update in late October 2023.</p>				
Remedial Action:	<p>The Shire is regularly making contact with the H2 water assessment and clearing permit consultants to ensure they are engaging with the relevant government departments and their sub-contractors to ensure the works expedited. Impacts from issues described above continue to be managed in accordance with the Project Management Framework.</p>				

Action 4:	<u>Universal Access and Inclusion Program (2022-23 Carry-Forward)</u> Deliver access and inclusion improvements on Shire facilities.	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>
Comment:	<p>No further progress has been made during this reporting period, however following the recruitment of the Project Support Officer in mid-October, the Officer will be liaising directly with the Access and Inclusion consultant in Q2 to finalise prioritisation of identified projects and tasks.</p> <p>This will inform a program of works to be scheduled to commence in Q3.</p>				
Remedial Action:	<p>The recruitment of a Facilities Project Support Officer in Q2 will be tasked to manage the coordination and prioritisation of tasks, in consultation with the Access and Inclusion consultant, to inform a program of works to be scheduled for commencement in Q3.</p>				



Action 5:	<u>Fire Danger Sign Upgrade (2022-23 Carry-Forward)</u>	Status			
		Q1	Q2	Q3	Q4
					
		Grant funded:			
		Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>
Comment:	During this reporting period, Officers have been organising the installation of signage, which is expected to be completed by 30 October 2023.				
Remedial Action:	Signage is expected to be completed by 30 October 2023.				

Action 6:	<u>Minor Facility Renewals (2021-22 Carry-Forward)</u> - SJ Recreation Centre doors, septic and stage - Mundijong Landcare Building (electrical wiring and switchboard)	Status			
		Q1	Q2	Q3	Q4
					
					
		Grant funded:			
		Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>
Comment:	<p>Project updates for this reporting period are as follows:</p> <p>- SJ Recreation Centre doors, septic and stage: These items are being incorporated as part of the projects identified within the Building Condition Audit &amp; Life Cycle Costing report. Some aspects of this project may require reassessment (due to prioritisation of projects within the available budget) and will be managed in accordance with the Project Management Framework.</p> <p>- Mundijong Landcare Building (electrical wiring and switchboard): As per team planning, this project is scheduled to commence in Q2.</p>				
Remedial Action:	The Facilities Team has recently recruited a Project Support Officer to provide assistance with project delivery. This addition to the team will contribute to the efficient management and coordination of tasks, further enhancing project outcomes. Project prioritisation, where required, will be managed in accordance with the Shire's Project Management Framework.				

Action 7:	<u>Minor Facility Renewals (2022-23 Carry-Forward)</u> SJ Community Recreation Centre - Solar PV System	Status			
		Q1	Q2	Q3	Q4
					
		Grant funded:			
		Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>
Comment:	During this reporting period, Shire Officers consulted with commercial solar providers for advice on optimum design and installation for the recreation centre. The information gained during these consultations, is used to inform the scope of works for tender.				



	<p>5 quotes have been received to date for installation, from providers recommended by Switch Your Thinking. Site visits were also arranged at SJ Recreation Centre, and 4 out of 5 providers attended.</p> <p>The next steps for this project is to engage expert consultants to assess and evolve the scope in readiness for Request for Quote, which is expected to be advertised in Q2. The consultants will assess the potential design challenges of the project, and provide optimum design and cost effective solutions.</p> <p>This project is at risk for delivery by the current target date of 31 March 2024 based on the advice from contractors consulted to date, that Western Power's approval process for larger systems such as this, is taking over six months at a minimum to approve.</p>
Remedial Action:	Expert consultants are being engaged to assess and evolve the scope in readiness for Request for Quote, which is expected to be advertised in Q2.

Action 8:	<u>Minor Facility New (Projects)</u> Depot Refurbishment - Outdoor Canopy	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>
Comment:	During this reporting period, the design and scope have been confirmed and cheapest option has been priced. Installation costs exceed the original budgeted allowance, and a request for additional funds is being presented to the Project Change Board in November, accordingly.				
Remedial Action:	Project and cost to be managed in accordance with the Project Management Framework, and presented to the Project Change Board for consideration, in November.				

Action 9:	<u>Mundijong Town Centre Precinct Structure Plan</u> Develop a Mundijong-Whitby Town Centre Precinct Structure Plan.	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>
Comment:	During the reporting period, the WA Planning Commission resolved a number of modifications to the Mundijong District Structure Plan, including undertaking additional studies into activity centres, the bushfire hazard level assessment, district water management, the transport impact assessment and infrastructure and services strategy. The implementation of these modifications will need to be done first, given they lead into the start of the Precinct Structure Plan. These are specifically studies that will help inform the Precinct Structure Plan.				





Remedial Action:	A report will be presented to Council at the November Ordinary Council Meeting, updating Council in this regard. The additional studies will be funded within the same project, given their related purpose.
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Action 10:	<u>Heritage Park Business Case</u> Development of Heritage Park Business Case.	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		<input type="checkbox"/>	N	<input checked="" type="checkbox"/>	

Comment:	The Jarrahdale Heritage Park Business Case was finalised and presented to Council on a Policy Concept Forum on 28 September 2023. The purpose of this was to inform Council decision making regarding the feasibility of entering a lease of the site with the National Trust of WA, to support the Shire’s aspiration to become an accredited trail and horse riding town. As required under s3.59 of the <i>Local Government Act 1995</i> , a Business Plan must be developed, advertised and presented to Council for adoption. The document is currently under development.
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Remedial Action:	The Business Plan is currently under development and will be presented to Council at a future meeting.
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Action 11:	<u>Organisational Development Roadmap</u> Implement the actions within the Organisational Development RoadMap.	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		<input type="checkbox"/>	N	<input checked="" type="checkbox"/>	

Comment:	The new Values and Purpose and Accountability Framework has been developed but not rolled out. The delays are due to other major priorities for the People and Development team that are time sensitive. Launch of the new Values and Purpose framework is expected Q2.  Work on the Employee Value Proposition (Benefits Review) has commenced and will be ready for review and approval by EMG by the end of December. A Supervisors and Coordinators Development program has now been developed and the procurement process for a facilitator will commence shortly. Manager Development Programs for new Managers have now commenced.
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Remedial Action:	Resourcing is being reviewed to ensure that the remaining project timeline is achieved.
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Action 12:	<u>Waste Transfer Station Planning</u> Undertake detailed site planning to enhance control measures for accepting and processing waste.	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>
Comment:	<p>During the quarter, Officers completed three months of rigorous ID checks and collection of data. A detailed site survey was also completed. Quotes have been received for concept development and detailed design.</p> <p>* Given the recent closure of the site due to the environmental hazard (detailed in item 11.1 of the October Ordinary Council Meeting), continuation of this project is at risk and awaits further direction, on presentation of a follow-up report to Council before the end of 2023, including options for management of remediation and management of the Watkins Road Waste and Recycling Transfer Station (OCM268/10/23).</p>				
Remedial Action:	Project awaits further direction from Council, due to recent closure of the site.				

Action 13:	<u>Drainage Waste Material Disposal</u> Removal and disposal of stockpiled waste material and investigation of ongoing solution.	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>
Comment:	*This project requires future reassessment due to the current health and safety risks associated with the closure of the Waste Transfer Station (detailed in item 11.1 of the October Ordinary Council Meeting).				
Remedial Action:	A future report will be presented to Council on the matter, for consideration.				

Action 14:	<u>Scrivener Road – Gravel Pit</u> Investigation of gravel pit at Scrivener Road for Shire use.	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>
Comment:	Review of Cost/Benefit for the project is underway and will be presented to the Project Change Board for review.				
Remedial Action:	Cost benefit review is underway.				



Action 15:	<u>Hypergrowth Road Priorities</u> Prepare a strategic Hypergrowth road advocacy and forward works plan.	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>
Comment:	The due date of 30 September for this project has not been met, however, during the reporting period, Officers have prepared the brief and issued the request for quote to update the existing Hypergrowth Road Priority Plan. A consultant was appointed in late September, and a new draft list of the top 20 roads for upgrade, including their scope and estimated costs is expected on 23 October.				
Remedial Action:	No specific remedial action is required, the project will be completed in time to inform the advocacy process and the project is now being monitored by the Advocacy Project Steering Group.				

Action 16:	<u>Building Services</u> Provide efficient and effective building compliance services.	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>
Comment:	<p>The average percentage of certified permits determined within the statutory 10 working days was 76% for this period. This is a critical decrease from the 90% in the previous period. This is due to resourcing challenges associated with staff vacancies, which have been a focus to have addressed. The average percentage of uncertified permits determined within the statutory 25 working days was also down for this period at 65%. This is a significant decrease from the 93% in the previous period. This has had an adverse financial impact on the Shire, with the legislation requiring the Shire to refund building application fees for those 24% of certified applications and 35% of uncertified applications for this period.</p> <p>As the fastest growth area in the State, there is a real challenge in being able to maintain service levels if any resources are reduced by staff leaving or becoming unavailable for an extended period. Staff recruitment is however heading in a positive direction, and it is expected to see an improvement next quarter. All resources will continue to be allocated to dealing with applications, which means no proactive building site inspections are able to occur.</p>				
Remedial Action:	Filling the vacant Building Surveyor positions is imperative in order to maintain the high workloads and meet the expectations of our customers and community. Seeking efficiencies in our current assessment processes and interdepartmental processes will also assist in getting our approval timeframes to a more acceptable state. OneComm delivery is vital to efficiency in 2024.				



Action 17:	<u>Environmental Health</u> Provide efficient, effective, compliant environmental health services.	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>
Comment:	This quarter was particularly challenging for the health team, following previous two quarters with reduced staff due to departures - this has had a significant impact on services levels of the Shire. The Public Health Officer position was filled in mid-July which provided assistance. However, despite this, there was significant pressure on the team to complete the high volume of accumulated regulatory work and associated administrative burden. The planned health premise assessments were not completed within the target tolerance however customer service and incoming enquiries were maintained to a high standard.				
Remedial Action:	Acting on the proposed remedial action in the last quarter, an additional 1.0 FTE Environmental Health Officer position was filled as well as the Senior Environmental Health Officer role, and Development Support Officer role with start dates commencing throughout October. The next quarter of onboarding new staff and maintaining existing staff is considered remedial action to re-stabilise full delivery of the service team plan.				

Action 18:	<u>Civil Maintenance</u> Maintenance of Civil Infrastructure including road, footpath and kerb maintenance, drains, street cleaning, streetlights and reactive maintenance.	Status			
		Q1	Q2	Q3	Q4
		Grant funded:			
		Y	<input type="checkbox"/>	N	<input checked="" type="checkbox"/>
Comment:	Footpath and road shoulder maintenance on track. Drainage management is currently behind target due to impacts of waste disposal constraints.				
Remedial Action:	Drainage maintenance has been scheduled to commence in Q2.				

Details of the remaining 95 actions **on track** this reporting period are outlined in **attachment 1**. Further commentary on these results is provided later in this report under the conclusion.

#### Corporate Business Plan Amendments

To uphold the principle of an Integrated Planning and Reporting Framework and to ensure the Corporate Business Plan (CBP) remains aligned to the Shire's Annual Budget and other supporting strategies, Officers recommend Council amend the CBP following each quarterly budget review and corporate business plan performance reporting process. Conscious of the requirement to uphold the integrity of reporting against the CBP Key Performance Indicators, the following principles are applied when considering whether to amend the CBP:





1. If there is a Council resolution, projects may be amended to match. This can include amendments to project descriptions, start and finish dates, and milestones. It can also include the removal of a project and the addition of a project.
2. If the project has not commenced for a planned reason (such as awaiting grant funds, recruitment of a resource or the completion of another project), once this dependency is no longer the project can be updated to reflect its new timeline.
3. Any amendments made as a result of quarterly budget reviews and formal change requests approved in accordance with the Project Management Framework are to be reflected.

In line with the above-mentioned principles, the following amendments to the Corporate Business Plan are proposed:

*Under Principle One:*

Nil.

*Under Principle Two:*

Nil.

*Under Principle Three:*

As outlined in the July to September 2023 Budget Review at agenda item 10.3.3 of the October 2023 Ordinary Council Meeting, subject to Council adoption:

- Project funding for the 'Clem Kentish Reserve Master Plan' Strategic Operating Project increased by \$30,000 for consultancy to investigate drainage improvement, design and costing.

These amendments are detailed in tracked changes at **attachment 2**.

### **Corporate Business Plan Key Performance Indicators**

The Corporate Business Plan 2023-27 contains the following Key Performance Indicators:

1. 80% of strategic operating projects are completed by their due date
2. 80% of road projects planned to be constructed are delivered
3. Improvement is seen in all key result areas of the community perceptions survey
4. Improvement is seen in the Performance Index Score of the Employee Scorecard Survey
5. Financial Sustainability – maintain a financial health indicator above 70.

A progress update on each KPI, including a projected end of year result, is provided below for the Council to note.

KPI 1: 80% of strategic operating projects are completed by their due date

Projected Result: 74% (17/23)

Comment:

The Corporate Business Plan 2023-27 contains 23 Strategic Operating Projects due between 1 July 2023 to 30 June 2024. As at 30 September, sixteen (16) are on track, six (6) are flagged as 'at risk / behind schedule' and one (1) project has been completed on time.



The projected result for this KPI is 74% (17/23), which assumes:

- Four (4) projects identified as 'at risk or behind target' in this report (Waste Transfer Station Planning, Drainage Waste Material Disposal, Scrivener Road Gravel Pit and Organisational Development Roadmap) do not get back on track.
- The sixteen (16) projects reported on track in this report, remain on track and are completed by their due dates. This includes one (1) project which is scheduled to commence next quarter (West Mundijong Industrial Area – Utility Research Project).

Note - the following Strategic Operating Project has been completed by the due date:

- Disability Access and Inclusion Plan 2022-27 (due 30 September 2023, completed 18 September 2023)

Note – the following two (2) Strategic Operating Projects were due for completion on 30 September 2023, and have not been completed by the due date:

- Heritage Park Business Case
- Hypergrowth Road Priorities

KPI 2: 80% of road projects planned to be constructed are delivered

Projected Result: 100% (15/15)

Comment:

There are ten (10) major capital road projects and five (5) minor capital road projects due to be constructed by 30 June 2024. Of these, thirteen (13) are 'on track' and the following two (2) projects are complete:

- Whitby Street, Mundijong
- Nicholson Road and Foxtan Drive

The projected result for this KPI is 100% (15/15) which assumes all projects remain on track and are completed by their due dates.

KPI 3: Improvement is seen in all key result areas of the community perceptions survey

Comment: Not applicable – the survey is carried out biannually and is not due again until 2024-25.

KPI 4: Improvement is seen in the Performance Index Score of the Employee Scorecard Survey

Comment: Not applicable – the employee survey is conducted biannually and is not due again until 2024-25.

KPI 5: Financial Sustainability – maintain a financial health indicator above 70

Comment: 71 for the 2022-23 financial year.

A result for 2023-24 will be reported on completion of the financial year, subject to completion of the audited financials.



## **Options and Implications**

### Option 1

That Council:

1. NOTES the performance report against the 2023-27 Corporate Business Plan for the period 1 July to 30 September 2023 as contained in this report and **attachment 1**.
2. ADOPTS the amendments to the Corporate Business Plan 2023-27 as outlined in this report and **attachment 2**.

There are no implications associated with this option.

### Option 2

That Council:

1. NOTES the performance report against the 2023-27 Corporate Business Plan for the period 1 July to 30 September 2023 as contained in this report and **attachment 1**.
2. ADOPTS the amendments to the Corporate Business Plan 2023-27 as outlined in this report and **attachment 2**, with the following exclusion:
  - Project funding for the 'Clem Kentish Reserve Master Plan' Strategic Operating Project for consultancy to investigate drainage improvement, design and costing.

There are no implications associated with this option.

### Option 3

That Council:

1. NOTES the performance report against the 2023-27 Corporate Business Plan for the period 1 July to 30 September 2023 as contained in this report and **attachment 1**.
2. DOES NOT ADOPT the amendments to the Corporate Business Plan 2023-27 as outlined in this report and **attachment 2**.

Refer to Risk Implications for the implications associated with this option.

Option 1 is recommended.

## **Conclusion**

The performance reporting against the Corporate Business Plan this reporting period details 16% of actions are currently 'at risk or behind target' and 84% are on track or complete. Major Capital Projects 'at risk or behind target' continue to be managed in accordance with the Project Management Framework. Strategic Operating Projects 'at risk or behind target' are under review as outlined in the remedial actions of the report, to either rectify issues so the projects recover to 'on track', or assess the next steps for future reporting to Council. Pleasingly, all road projects due for delivery in 2023-24 are currently 'on track'. The recruitment of various roles across the Development Services, Infrastructure Services and Community Engagement directorates during this quarter to address ongoing resource shortages, is necessary groundwork to support the successful delivery of projects and service levels for the remainder of the 2023-24 financial year and beyond. Planning for a major review of the Corporate Business Plan has also commenced this quarter, which will result in a refreshed 4-year delivery plan which integrates and prioritises



the Shire's key deliverables and future initiatives, in alignment with the community's vision, and balanced against organisational capacity.

**Attachments (available under separate cover)**

- **10.3.4 - attachment 1** – Corporate Business Plan 2023-27 Performance Report 1 July to 30 September 2023 (E23/15082)
- **10.3.4 - attachment 2** – Corporate Business Plan 2023-27 Quarter One Review – Tracked Changes (E23/14635)

**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**

There are no financial implications associated with the Officer Options.

**Risk 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 and 2	There are no significant risks associated with Option 1 and 2.						
3	If Council do not adopt the CBP, this will result in documents that are not aligned with the annual budget. This will create a fragmented environment for the Shire to operate in.	Existing Corporate Business Plan 2023-27  2023-24 Annual Budget	Organisational Performance	Unlikely	Moderate	MODERATE	Nil.





Continued

## Ordinary Council Meeting Agenda Monday, 20 November 2023

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**Voting Requirements:** Absolute Majority (Regulation 19DA(6) of the  
*Local Government (Administration) Regulations 1996*)

### Officer Recommendation

#### That Council:

1. **NOTES** the performance report against the **2023-27 Corporate Business Plan** for the period 1 July to 30 September 2023 as contained in this report and attachment 1.
2. **ADOPTS** the amendments to the **Corporate Business Plan 2023-27** as outlined in this report and attachment 2.



**10.3.5 – Council Policy Review – Alcohol Consumption, Civic Dinner, Farmland Concessions, Flags and Christmas Closure (SJ526-02)**

<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, as part of the Shire's policy review cycle, consider:

1. adopting revisions to:
  - Council Policy 3.2.7 – Farmland Concessions;
  - Council Policy 5.4.1 – Flags;
  - Council Policy 5.1.12 – Christmas Closure; and
2. rescinding:
  - Council Policy 1.1.9 – Alcohol Consumption; and
  - Council Policy 1.1.1 – Civic Dinner.

**Relevant Previous Decisions of Council**

*Special Council Meeting – 24 October 2022 – SCM028/10/22 - COUNCIL RESOLUTION - extract*

9. *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. 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. With the completion of the ward and representation review in the first part of 2023, work on the policy review forward calendar is being progressed in earnest.

This report deals with the review of five (5) Council Policies being:

- Farmland Concessions
- Flags
- Christmas Closure
- Alcohol Consumption, and
- Civic Dinner.

## **Community / Stakeholder Consultation**

Nil.

## **Policy Concept Forum**

<b>Meeting Date</b>	02/10/2023
<b>Councillors in Attendance</b>	Cr Rich, Cr Atwell, Cr Byas, Cr Coales, Cr Dagostino, Cr Duggin, Cr Mack, Cr Strautins

## **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.

## **Comment**

### Council Policy – Farmland Concessions

Council provides a rate concession to properties maintaining genuine farming interests. It ensures that Council is protecting and developing appropriate agricultural and horticultural industries and pursuits within the Shire of Serpentine Jarrahdale. This Policy outlines the eligibility criteria for a farmland concession.

Minor amendments deal with an unintended consequence in the event of subdivision and sale. In the instance of subdivision, the farmland purpose will no longer be valid and revert to the rural rate category code, if the criteria for eligibility for the concession is no longer met on any lot. In the instance of sale, the farmland purpose will no longer be valid and will revert to the rural rate category code, if the criteria for eligibility for the concession is no longer met.



These amendments are detailed in **attachment 1**. Given that the amendments are minor and do not amend the eligibility criteria or application of the concession, community consultation is not proposed and Officers recommend adoption by Council of the Policy as contained in **attachment 2**.

#### Council Policy – Flags

This Policy guides Shire Officers of the Shire's protocols and practice of flying, displaying, and lowering flags to half-mast ensuring that this is exercised in a consistent, respectful, and appropriate manner at Shire owned/managed premises. Proposed amendments provide for clearer arrangements for multiple flagpole configurations to ensure alignment with the Commonwealth protocol and provide clarity for half-mast arrangements.

These amendments are detailed in **attachment 3**. Given that the amendments are minor, community consultation is not proposed, and Officers recommend adoption by Council of the Policy as contained in **attachment 4**.

#### Council Policy – Christmas Closure

This Policy provides guidance for the closure of various Shire Services over the Christmas and New Year period. Proposed amendments update the names of Shire facilities and locations as well as ensuring consistency in Christmas closure arrangements across the Shire.

These amendments are detailed in **attachment 5**. Given that the amendments are minor, community consultation is not proposed, and Officers recommend adoption by Council of the Policy as contained in **attachment 6**.

#### Council Policy – Alcohol Consumption

This Policy intended to identify the usage and consumption of alcohol at prescribed functions and events that Councillors and staff attended while fulfilling their role and representing the Shire. The Policy, however, no longer reflects the current practices at the Shire and necessary elements are covered in Council Policy 1.1.17 – Refreshments and Alcohol Policy. Officers therefore recommend this policy as contained in **attachment 7** is rescinded by Council.

#### Council Policy – Civic Dinner

Civic Dinners are no longer held at the Shire and are not anticipated to return in the foreseeable future. Due to this, community consultation is not proposed, and Officers recommend rescission by Council of the Policy as contained in **attachment 8**.

### **Options and Implications**

#### Option 1

That Council:

1. ADOPTS Council Policy 3.2.7 – Farmland Concessions as contained in **attachment 2**, Council Policy 5.4.1 – Flags as contained in **attachment 4**, and Council Policy 5.1.12 – Christmas Closure as contained in **attachment 6**.
2. RECINDS Council Policy 3.2.11 - Council Policy 1.1.9 – Alcohol Consumption as contained in **attachment 7**, and Council Policy 1.1.1 – Civic Dinner as contained in **attachment 8**.





### Option 2

That Council:

1. ADOPTS Council Policy 3.2.7 – Farmland Concessions as contained in **attachment 2**, Council Policy 5.4.1 – Flags as contained in **attachment 4** and Council Policy 5.1.12 – Christmas Closure as contained in **attachment 6** with the following amendments:

*[Amendments to be specified by the Councillor moving the motion]*

2. RECINDS Council Policy 3.2.11 - Council Policy 1.1.9 – Alcohol Consumption as contained in **attachment 7**, and Council Policy 1.1.1 – Civic Dinner as contained in **attachment 8**.

### Option 3

That Council:

1. DOES NOT ADOPT Council Policy 3.2.7 – Farmland Concessions as contained in **attachment 2**, Council Policy 5.4.1 – Flags as contained in **attachment 4**, and Council Policy 5.1.12 – Christmas Closure as contained in **attachment 6**.
2. DOES NOT RECIND Council Policy 3.2.11 - Council Policy 1.1.9 – Alcohol Consumption as contained in **attachment 7**, and Council Policy 1.1.1 – Civic Dinner as contained in **attachment 8**.

Option 1 is recommended.

### **Conclusion**

As part of the Shire’s policy review program, the amendments and rescindments of policies are presented for Council’s consideration.

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

- **10.3.5 - attachment 1** – draft Council Policy 3.2.7 – Farmland Concessions – track changes (E23/13254)
- **10.3.5 - attachment 2** – draft Council Policy 3.2.7 – Farmland Concessions (E23/9214)
- **10.3.5 - attachment 3** – draft Council Policy 5.4.1 – Flags track changes - (E23/13264)
- **10.3.5 - attachment 4** – draft Council Policy 5.4.1 – Flags (E23/12453)
- **10.3.5 - attachment 5** – draft Council Policy 5.1.12 – Christmas Closure – track changes (E23/13263)
- **10.3.5 - attachment 6** – draft Council Policy 5.1.12 – Christmas Closure (E23/12451)
- **10.3.5 - attachment 7** – draft Council Policy 1.1.9 – Alcohol Consumption (E17/12370)
- **10.3.5 - attachment 8** – draft Council Policy 1.1.1 – Civic Dinner (E17/10964)

### **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	If Council recommends revisions to the policies, these may not be informed by sufficient operational information.	Nil	Organisational Performance	Unlikely	Minor	LOW	
3	If Council does not adopt or rescind the revised Policies, 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	

**Voting Requirements:** Simple Majority

### Officer Recommendation

**That Council:**

1. **ADOPTS Council Policy 3.2.7 – Farmland Concessions as contained in attachment 1, Council Policy 5.4.1 – Flags as contained in attachment 3, and Council Policy 5.1.12 – Christmas Closure as contained in attachment 5.**
2. **RECINDS Council Policy 3.2.11 - Council Policy 1.1.9 – Alcohol Consumption as contained in attachment 7, and Council Policy 1.1.1 – Civic Dinner as contained in attachment 8.**

**10.3.6 – Fixing the date and method of the North Ward Extraordinary Election (SJ4353)**

<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:

- fixing the date of the North Ward Extraordinary Election; and
- seeking the written agreement of the Western Australian Electoral Commissioner under section 4.20(4) of the Act to conduct the election by the method chosen by Council.

**Relevant Previous Decisions of Council**

Nil.

**Background**

A vacancy exists for the office of Councillor in the North Ward with a term expiry of 8 October 2025. The vacancy was created following the declaration of the results of the 2023 ordinary local government election on 23 October 2023.

Under section 4.9 of the *Local Government Act 1995*, the Council has one month to fix the date of the extraordinary election.

On 31 October 2023, the Electoral Commissioner wrote to the Chief Executive Officer advising that earliest possible date the WAEC would conduct an election was 1 March 2023 and that an extension of period of holding the position vacant greater than four months had been provided to the Shire (as it had for all local governments with an extraordinary vacancy to fill) (**attachment 1**).

**Community / Stakeholder Consultation**

Nil.

**Statutory Environment**

Section 4.9 of the *Local Government Act 1995* provides that:

- (1) Any poll needed for an extraordinary election is to be held on a day decided on and fixed —
- (a) by the mayor or president, in writing, if a day has not already been fixed under paragraph (b); or



- (b) by the council at a meeting held within one month after the vacancy occurs, if a day has not already been fixed under paragraph (a).
- (2) The election day fixed for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with but, unless the Electoral Commissioner approves or section 4.10(b) applies, it cannot be later than 4 months after the vacancy occurs.
- (3) If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to —
- (a) fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with; and
  - (b) advise the CEO of the day fixed.

In respect to the method by which an election is to be held:

- section 4.20 of the Act provides that the CEO is the Returning Officer in a local government election unless written approval is first obtained from the Western Australian Electoral Commissioner; and
- section 4.61 of the Act provides that elections can be held either as a postal election or a voting in person election. Under 4.61(4) of the Act only the WAEC may conduct a postal election.

Electronic voting is not an option and in a letter dated 14 December 2022, the Minister noted that electronic voting was not being pursued at this time (**attachment 2**).

## **Comment**

### Date of extraordinary election

The holding on an election involves a combination of a practical and legislative timetable. Certain events associated with an election must occur within a certain timeframe.

The strict legislative timetable means that the earliest election could be held is in February 2023. In practical terms, planning for an orderly and organised election and avoiding Christmas and New Year for key milestones such as close of rolls and nomination period requires a longer time period.

In accordance with section 4.9 of the Act, the Electoral Commissioner has approved the election day being fixed greater than 4 months after the vacancy (**attachment 1**).

Considering logistics and the timing of school and public holidays, Officers propose that Council fix the date of the election on one of the following Saturdays in March 2024:

- 16 March 2024; or
- 23 March 2024.





The dates of the key election milestones for each of these dates is set out in the table below:

Last day for local governments to gain agreement from the WAEC to conduct the election	27/12/2023	3/01/2024
Statewide public notice of the closing date and time for elector enrolments	13/01/2024	20/01/2024
Close of rolls	19/01/2024	26/01/2024*  * 29/01/2024 as a result of public holiday
Nominations open	25/01/2024	1/02/2024
Nominations close	1/02/2024	8/02/2024
Last date that early voting could commence	19/02/2024	26/02/2024
<b>Election day</b>	<b>16/03/2024</b>	<b>23/03/2024</b>

Overall, Officers recommend an election date of 23 March 2024. This date is preferred over 16 March 2023 because it avoids a conflict with the Australia Day public holiday during the nomination period. A 16 March 2024 election date would effectively reduce the available nomination period by one day.

In the event that the election was held on 23 March 2024, the swearing in ceremony could be held on Monday, 25 March 2024 or soon thereafter in the week following. With an extraordinary election there is no requirement for a Special Council Meeting to be held after the swearing in and there is no business for Council with the election of Deputy President and seating allocation already occurring at the Special Council Meeting following the 2023 ordinary local government election.

### Method of conducting election

Officers recommended that the 2022 fresh election and 2023 ordinary local government election be conducted via the in-person voting method.

The Officer's report presented at the April 2023 Ordinary Council Meeting discussed the following factors at length:

- participation rate
- election integrity
- cost; and
- complexity and logistics.

With the benefit of conducting two elections via the in-person method, these factors are now better understood.

### *Participation rate*

Participation rates for in-person elections are less than those associated with postal elections.

Across the district the participation rate at the 2023 ordinary local government election was 14.30 per cent and at the 2022 fresh election in the North Ward 7.49 per cent.



The rate of 14.30 per cent at the 2023 election exceeded Officer expectations and was assisted through the implementation of a communication strategy that involved Variable Message Boards, newspaper advertising, social media and other collateral. The costs of this marketing campaign was almost \$25,000.

The election was also promoted extensively by candidates through signage and social media and an unknown proportion of voters participated because they attended early polling places on Saturday, 14 October with the original intention of voting in the Commonwealth referendum.

While investment resulted in a higher than expected turnout rate, the participation rate is lower compared to postal elections. The lowest turnout figure for any ward in the 2021, 2019 and 2017, 2015 ordinary local government elections was 23 per cent and participation rates of greater than 30 per cent have occurred.

Put differently at the 2023 ordinary local government election, more than 85 per cent of eligible electors did not participate.

At the 2023 ordinary local government elections of neighbouring local governments that employed the postal method the City of Armadale's turnout was 29.4 per cent, the City of Kwinana was 30.09 per cent and the Shire of Murray the turnout was 27.91%.

The Shire was one of eight local governments that ran in-person elections in 2023. The others being:

- Shire of Broome
- Town of Cambridge
- Shire of Cocos (Keeling) Islands
- Shire of Cranbrook
- Shire of Derby/West Kimberley
- Shire of East Pilbara
- Shire of Menzies

Of these local governments the only comparable local government in the Town of Cambridge. The Town of Cambridge's participation rate of 25.6% was high. However, this turnout may have resulted from a \$50,000 promotional campaign and more than 1,500 postal votes being received (approximately 28% of the votes) by the Town.

A participation rate for an in-person extraordinary election will likely yield a participation rate less than fresh election held in 2022 at 7.49 per cent and may be closer to the 2.5% achieved at a recent in-person election in the City of Swan.

### *Election integrity*

The integrity of the election remains a key consideration. Officers continue to be of the view that neither postal voting nor in-person voting are immune entirely to fraud. As noted in the Officer's report in April 2023, proving that election misconduct has not occurred is perhaps more difficult than proving that misconduct has.

While a postal election does provide the opportunity to commit electoral fraud through theft and voter impersonation, an in-person election can also be compromised through criminal activity. With a lower participation rate, the potential impact of electoral misconduct or error in an in-person election is greater than a postal election.



From the experience of the 2023 ordinary local government, Officers observe that the in-person voting method involves considerable handling of electoral materials such as ballot papers and ballot boxes which creates the opportunity for error and issues that could impact electoral integrity greater than what might be first thought. Efforts to mitigate this risk come at an opportunity cost.

#### *Cost*

The costs of a postal election are estimated to be approximately \$30,000. The cost of a voting in person election is estimated to be approximately \$22,000. However, with the marketing associated with the change, an in-person election ultimately may be more costly than a postal election. While the costs of the 2023 ordinary local government election are yet to be finalised at the time of preparing this report, this is expected to be the case of the 2023 election.

On a per vote basis, an in-person election is significantly greater in respect to cost. As noted from the Town of Cambridge, where many voters elect to exercise their right to request a postal vote in an in-person election, the costs can be even greater.

#### *Complexity and logistics*

The organisation of the 2023 ordinary local government election involved considerable coordination with a combination of Shire employees, Shire employees employed by the WAEC, and other persons employed by the WAEC working as polling workers across multiple sites for five weeks of polling. Transportation of electoral materials and their safe storage also brought complexity and diverted resources from other initiatives.

In the North Ward, the 858 Co-Lab Facility was employed as a polling place which while convenient for electors resulted in the exclusion of other users for the periods of polling. Officers working at polling places including at the Shire's Customer Service had limited capacity to perform their general responsibilities while working during the early voting period which was an impact that was greater than initially anticipated.

An in-person election in the North Ward would likely seek to use the 858 Co-Lab Facility again which would result in its unavailability for the times that it was used as a polling place, including during early voting.

#### *Recommendation regarding method*

On balance based on the experience conducting two elections via the in-person method, Officers recommend returning to the postal method. Despite considerable investment and the profile, including the efforts of candidates through election signage, the election a turnout rate of 14 per cent was half of the figure expected in a postal election.

The in-person election involved an opportunity cost to governance, customer service and communications that was greater than the relative opportunity cost involved in a postal election. The investment resulted in a successful in-person election but Officers do not regard this as sustainable.

To ensure continuity it is recommended that Council seek the WAEC's consent to conduct the 2023 extraordinary election as well as the 2025 and 2027 ordinary elections via the postal voting method. This approach will provide certainty, reduce administrative overheads and future marketing costs.

#### *Implications of option 2 – in-person election*

If Council wishes to proceed with option 2, it is recommended that Council consider funding a promotional campaign to promote the opportunity to vote. This promotional campaign would be required to alert electors to the opportunity to vote and advise of polling locations because unlike



the postal method, electors in an in-person election must actively seek out a polling location which is open.

To achieve a participation rate of greater than 14 per cent, may require a promotional campaign akin to that at the Town of Cambridge which was estimated to be \$50,000. Given the costs of the extraordinary election, implementation of a communication strategy required for an in-person election to achieve a reasonable participation rate might exceed the costs of the conducting the election.

In addition, if Council was to proceed with an in-person election it is recommended that Council approve funding a dedicated Customer Service Officer for the hours of operation in the lead up to the election. The value would be dependent of hours of operation of polling places.

#### *Alternatives to the WAEC*

The only alternative to the WAEC conducting the election is that the CEO acts as Returning Officer. This means that the CEO would be responsible for all aspects of the election including:

- Preparing and printing the required ballot papers
- Preparing and distributing postal ballots
- Adjudicating disputes between candidates and interpreting electoral law
- Managing the appointment of scrutineers
- Counting the election result and declaring the winner using the CountWA software.

To assist the few local governments that do not employ the WAEC, the Department of Local Government, Sport and Cultural Industries produces the 321 page Returning Officer's Manual (**attachment 3**). The experience in Cambridge where the postal component of the in-person election was not performed correctly demonstrates the pitfalls of having the Returning Officer as the CEO.

In 2023, fifteen of the State's 139 local governments did not employ the WAEC. Just four of these local governments had an election as in the eleven other instances the number of nominations received did not exceed the number of vacancies. The largest of these local governments in terms of electors was the Shire of Christmas Island with approximately 960 electors with the next largest being the Shire of Carnamah with approximately 380 electors. This is compared to the Shire which has over 22,000 electors.

As noted in a previous report to Council on the matter in the event that any person wished to challenge the validity of the election result for any reason, including due to technical elements such as the accuracy of nomination forms or validity of election material, the Shire as the Returning Officer would be required to appear as a party in the matter regardless of the validity of the complaint.

This role would normally fall to the WAEC but because the Shire would be conducting the election on its own, any invalidity complaint would require the Shire to be represented in that legal action (it is important to note that in the case of the 2021 North Ward challenge, the Shire choose to launch an action through resolution of Council, if it did not only the WAEC would have been required to be the second party to the action.)

Section 4.96 of the Act states that:

*"1) The Electoral Commissioner or the returning officer may investigate whether misconduct, malpractice or maladministration has occurred in relation to an election.*





- 2) *An investigation can be carried out on the initiative of the Electoral Commissioner or returning officer or in response to a complaint or information received from any other person (including a candidate)."*

Section 4.97 of the Act states that:

*"A prosecution for an offence against this Part may be commenced by the returning officer or any person referred to in section 9.24(1)."*

These sections mean that the Electoral Commission as the Returning Officer or the CEO when the CEO is the Returning Officer have the same powers related to investigating electoral misconduct or prosecuting electoral offences. The CEO when acting as the Returning Officer does not have additional powers to investigate or commence prosecutions.

Likewise, having an employee of the body that is tasked with investigating electoral conduct and prosecution of electoral offences would appear to lend itself to accusations of bias and political interference. Officers believe that having an independent umpire adjudicate on these matters is most important from a good governance perspective and restoring confidence in local democracy and the integrity of elections.

While the CEO does have the ability to appoint a Deputy Returning Officer who may perform the Returning Officers duties if they are absent or cannot otherwise perform their duties, the appointing a Deputy Returning Officer to effectively conduct the election would not be in keeping with the intent of the legislation, especially section 4.20 of the Act which provides that the agreement of the WAEC is required prior to appointing someone other than the CEO to be responsible for the election.

The costs of not appointing the WAEC would include procurement of the CountWA software and governance personnel for the period of election planning and the election timetable. These would need to be employed at contractor rates and may be limited in their function as they would not be able to perform delegated functions. Governance functions such as coordinating Council business, coordinating the audit program, procurement, corporate business planning and oversight of the Shire's project and contract management framework would be diminished or halted entirely in this period.

The Shire is not resourced to conduct an election in its own right and even with a redistribution of funding required does not have ready access to expertise required and would struggle to procure such resource with any confidence. Given the importance of electoral integrity, Officers recommend to employ the WAEC and would caution against the alternative in the strongest possible terms.



## **Options and Implications**

### Option 1

That Council:

1. FIXES the date of the extraordinary election to fill the vacancy for the office of Councillor in the North Ward to be Saturday, 23 March 2024.
2. REQUESTS that the Chief Executive Officer seek the written agreement of the Western Australian Electoral Commissioner to conduct via the postal voting method for the:
  - extraordinary election to fill the vacancy for the office of Councillor in the North Ward on Saturday, 23 March 2024;
  - 2025 ordinary local government election;
  - 2027 ordinary local government election; and
  - any polls or any extraordinary or fresh elections to be held in the intervening period.
3. NOTES that a response from the Western Australian Electoral Commission will be presented to Council for consideration where Council will formally be requested to declare the Western Australian Electoral Commission to be responsible for the conduct of the above elections via the postal method.

### Option 2

That Council:

1. FIXES the date of the extraordinary election to fill the vacancy for the office of Councillor in the North Ward to be Saturday, 23 March 2024.
2. REQUESTS that the Chief Executive Officer seek the written agreement of the Western Australian Electoral Commissioner to conduct the extraordinary election to fill the vacancy for the office of Councillor in the North Ward on Saturday, 23 March 2024 via the in-person voting method.
3. NOTES that Council will be asked to make recommendations regarding polling places when Council is formally requested to declare the Western Australian Electoral Commission to be responsible for the conduct of the above election via the in-person method.
4. REQUESTS that the Chief Executive Officer prepare a draft communication strategy and NOTES that implementation of that communication strategy may exceed the election cost.
5. AGREES to funding an additional Customer Service Officer for duration of opening hours of polling places.

Option 1 is recommended.

## **Conclusion**

With the benefit of the experience conducting the two most recent elections via the in-person method which resulted in 92 per cent and 85 per cent of eligible electors not participating despite investment in marketing, Officers recommend a return to postal voting to ensure maximum possible participation in local government as a democratic institution.

**Attachments (available under separate cover)**

- **10.3.6 – attachment 1** – Correspondence from the Western Australian Electoral Commission (IN23/24114)
- **10.3.6 - attachment 2** – Correspondence from the Minister of Local Government regarding electronic voting (IN22/25849)
- **10.3.6 – attachment 3** – Returning Officer’s Manual (E23/14849)

**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**

An extraordinary election is a necessary but unbudgeted expense. The costs of the extraordinary election can be mitigated by holding the election in the March window identified in this report which would limit the requirement for additional resourcing.

The costs of a postal election are estimated to be approximately \$30,000. The cost of a voting in person election is estimated to be approximately \$22,000. The WAEC is required by law to charge on a cost recovery basis.

As noted above on a per vote basis, a postal election is more cost effective even excluding marketing. On a cost per vote basis, an in-person vote is around one-third more expensive.

In addition, to achieve a relatively high turn out rate for an in-person election involves considerable investment. In the case of the North Ward extraordinary election, this marketing budget may exceed the election costs.



### Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	That the decision to hold a postal election may result community concern relating to the integrity of the election.		Reputation	Possible	Moderate	MODERATE	
2	There is a reputation risk associated with the lower participation rate from the in-person election method		Reputation	Possible	Moderate	MODERATE	

**Voting Requirements:** Simple Majority

### Officer Recommendation

**That Council:**

1. **FIXES** the date of the extraordinary election to fill the vacancy for the office of Councillor in the North Ward to be Saturday, 23 March 2024.
2. **REQUESTS** that the Chief Executive Officer seek the written agreement of the Western Australian Electoral Commissioner to conduct via the postal voting method for the:
  - extraordinary election to fill the vacancy for the office of Councillor in the North Ward on Saturday, 23 March 2024;
  - 2025 ordinary local government election;
  - 2027 ordinary local government election; and
  - any polls or any extraordinary or fresh elections to be held in the intervening period.
3. **NOTES** that a response from the Western Australian Electoral Commission will be presented to Council for consideration where Council will formally be requested to declare the Western Australian Electoral Commission to be responsible for the conduct of the above elections via the postal method.



Continued

## Ordinary Council Meeting Agenda Monday, 20 November 2023

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### **10.4 Community Engagement reports:**

**Nil Reports.**





Continued

## Ordinary Council Meeting Agenda Monday, 20 November 2023

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### **10.5 Executive Services reports:**

**Nil Reports.**

**10.6 Confidential reports:**

The meeting is to be closed to members of the public whilst item 10.6.1 is discussed.

<b>10.6.1 – Criminal Procedure Act 2004 - Lot 9 (1599) Thomas Road, Oakford (PA23/505)</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> .

**Confidentiality Provisions**

This report is confidential in accordance with section 5.23(2) (d) and (f)(i) of the *Local Government Act 1995*, which permits the meeting to be closed to the public for business relating to the following:

- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
- (f) a matter that if disclosed, could be reasonably expected to —*
  - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law.*

A full report is provided to Elected Members under separate cover. The report is not available for publication.



Continued

## Ordinary Council Meeting Agenda Monday, 20 November 2023

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- 11. Urgent business:**
- 12. Elected Member questions of which notice has been given:**
- 13. Closure:**