



Shire of
Serpentine
Jarrahdale

Special Council Meeting

Confirmed Minutes

5.00pm

Monday 24 June 2019

Purpose:

1. Section 31 - Reconsideration for Development Application for 'Transport Depot' – Lot 140, 79 Jarrah Road, Hopeland (PA18/900); and
2. The Adoption of the Special CEO Employment Committee Meeting Minutes – 17 June 2019 (Chief Executive Officer Recruitment Selection)

In accordance with *Local Government Act 1995*, Section 5.23(2), as item 6.2 - Chief Executive Officer Recruitment Selection refers to a confidential matter; this item may be discussed behind closed doors.

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In Person

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



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

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



Minutes of the Special Council Meeting of the Shire of Serpentine Jarrahdale held on Monday 24 June 2019 in the Council Chambers, Civic Centre, 6 Paterson Street, Mundijong.

The Shire President, Cr Rich declared the meeting open at 5.00pm and welcomed Councillors and Staff, and members of the gallery, and acknowledged that the meeting was being held on the traditional land of the Noongar People and paid her respects to their Elders past and present.

Minutes

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

In Attendance:

Councillors: M RichPresiding Member
D Atwell
M Byas
R Coales
B Denholm
D Gossage (present from 5.06pm)
K McConkey
J See

Officers: Ms H Sarcich..... Acting Chief Executive Officer
Mr A Trosic..... Director Development Services
Ms L Keys Acting Director Community Services
Mr A Bowman Manager Governance
Ms A Liersch Agendas and Minutes Officer (Minute Taker)

Apologies: Nil.

Observers:

Mr Tony Brown, Executive Manager Governance and Organisational Services; and Ms Lydia Highfield, Recruitment Manager, Western Australian Local Government Association.

Members of the Public – 5

2. Public question time:

2.1 Public questions

As there were no Public Questions submitted prior to the meeting, the Shire President, Councillor Rich asked if there were any public questions from the floor. No questions were asked.



3. Public statement time:

Public statement time commenced at 5.01pm.

Ross Underwood, Planning Solutions regarding item 6.1 – Reconsideration of a development application for a transport depot, Lot 140 Jarrah Road, Hopeland

Thank you for the opportunity to address Council. We have reviewed the additional information provided on pages 20-23 of the Council agenda and make the following comments.

Draft conditions

Firstly, we have reviewed the draft conditions which we are prepared to accept with a minor change (refer below). The proposed conditions do two things. First, they ensure the transport develop is used for activities that support the carrying out of rural pursuits. Second, the conditions maintain the amenity of the area.

Condition L – hours of operation

We seek a minor change to condition L to add ‘Sunday 9am – 7pm’ as a time in which this depot can operate. This is because the transport depot supports working farms, and farms operate all times of the year – they don’t shut down on Sundays. While the vehicles are moved infrequently, they are sometimes moved on Sundays. The proposed condition (new words in **bold**) is:

1. *The hours of operation of the development shall be between 7.00am to 7.00pm Monday to Saturday **and 9:00am to 7:00pm Sunday.***

Road condition

At the last Council meeting, the Council members asked whether there ought to be a condition relating to the road.

The test for determining whether Council can impose a condition requiring a road to be upgraded is whether the existing road will adequately and safely accommodate the additional traffic generated by the proposed development. In this case, the existing road can safely accommodate the typical 0-2 trips per day (maximum 28 per week) that the transport depot will generate. It would not be lawful to impose a road upgrade condition in this circumstance.

Thank you for your consideration of this matter.

Public statement time concluded at 5.05pm.

Councillor Gossage entered the meeting at 5.06pm.

4. Petitions and deputations:

Nil.



5. Declaration of Councillors and Officers interest:

Councillor McConkey declared an Indirect Financial interest in item 6.1 as the proponent is a supporter of Councillor McConkey's place of employment. Councillor McConkey will leave the Chambers while this item is discussed.

Mr Bowman, Manager Governance declared an Impartiality Interest in item 6.2 as Mr Bowman was an applicant that was not short listed.

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

Councillor McConkey declared an Indirect Financial interest in item 6.1 and left the Chambers at 5.07pm prior to this item being discussed.

This item was deferred at the 17 June 2019 Ordinary Council Meeting to allow for additional information to be provided.

Additional information has been included at the end of the report.

6.1 – Section 31 - Reconsideration for Development Application for 'Transport Depot' – Lot 140, 79 Jarrah Road, Hopeland (PA18/900)	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	Planning Solutions
Owner:	Spacer Tech Pty Ltd
Date of Receipt:	23 October 2018
Lot Area:	64.62ha
Town Planning Scheme No 2 Zoning:	'Rural'
Metropolitan Region Scheme Zoning:	'Rural'



Report Purpose

The purpose of the report is for Council to consider a development application for a 'Transport Depot' at Lot 140 Jarrah Road, Hopeland. The development application seeks approval for the construction of a hardstand area and a shed used for garaging of, what is portrayed in the application as, agricultural and earthmoving vehicles and machinery.

The development application is currently before the State Administrative Tribunal (SAT) following refusal of the proposal under delegation. This refusal was due to, inter alia, the proposal not being seen to support rural pursuits in the locality, built form and amenity impacts. Under the SAT orders, the Shire has been invited to reconsider its decision by 17 June 2019, pursuant to Section 31 of the *State Administrative Tribunal Act 2004*.

The application is presented to Council for the purpose of reconsideration. Due to officer concerns that the proposal still appears largely un-associated with supporting rural pursuits in the locality (as evidence by the applicant's website information) it is recommended that Council reaffirm the refusal.

Relevant Previous Decisions of Council

There is no previous Council decision relating to this item. The initial development application was refused under delegated authority on 24 December 2018. The reasons were as follows:

1. The proposed development is inconsistent with the objective of the 'Rural' zone in accordance with Clause 5.10.1 of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2. The proposed use is not considered to be a rural pursuit or an associated activity (storage in nature) that supports the carrying out of rural pursuits in the 'Rural' zone and such is inconsistent with the purpose and intent of the 'Rural' zone.
2. The proposal is contrary to Clause 67(m) of the deemed provisions which indicates that due regard should be given to the compatibility of a development with its setting, including but not limited to the likely effect of the height, bulk, scale, orientation and appearance of the development. The proposed outbuilding way of scale is incompatible with the rural zone.
3. The proposal is contrary to Clause 67 (n) of the deemed provision which indicates due regard should be given to the amenity of the locality including the character of the locality and the environmental impacts of the development. The proposed development is not considered an appropriate land use in this locality by way of scale, and is likely to adversely impact on the amenity and character of the locality and is incompatible with its setting.
4. The proposal is inconsistent with the objectives of the Rural Strategy Review 2013, and would adversely impact upon the rural character of the area.



Background

Existing Development

The subject site is 64.62ha in area and is bound by Jarrah Road to the north, Punrak Road to the east and private property (Lot 403, 538 Punrak Road, Hopeland) to the west. Access to the proposed 'Transport Depot' would be via a new driveway from Punrak Road.

The subject site comprises of an existing single dwelling and a rural workers dwelling, both located on the northern portion of the site. The rural workers dwelling was approved by the Shire in 2009 and is associated with an existing commercial beef cattle stud. The site also contains two existing storage sheds fronting Punrak Road and two dams located to the west of the single dwelling.

The site is generally cleared, containing a strip of remnant vegetation concentrated on the northern boundary of the property along Jarrah Road. A power line corridor runs in a north to south direction to the west of the property. The general locality comprises of rural properties used for a variety of rural uses that include grazing, equestrian activities, poultry farms, market gardens, extractive industries, cattle studs and rural lifestyle lots.



Figure 1: Aerial Photograph

Proposed Development

The development proposal which is currently before the SAT seeks approval for a 'Transport Depot' comprising the following aspects:

- Construction of a 20m by 45m (990m²) pale eucalypt colourbond shed with a wall height of 5.5m and ridge height of 6.02m.
- The shed will be used for the garaging of agricultural and earthmoving vehicles and machinery including articulated trucks, grain and fertiliser trucks, tractors, loaders, articulated dump trucks, crushers and excavators.



- The shed is setback 49.5m from Punrak Road and is proposed to be located adjacent to the northern corner of an existing shed fronting Punrak Road;
- Construction of a 2,661m² hardstand area in front of the proposed shed. The hardstand will be constructed of recycled asphalt materials over a limestone base;
- Construction of a driveway along the Punrak Road frontage, and a new crossover for commercial vehicles on Punrak Road;
- Construction of a post and wire fence around the perimeter of the 'Transport Depot' area;
- Planting of 40 trees comprising bottlebrush, cotton wood, liquid ambers, london planes, pear varieties and Chinese elms) along the Punrak Road frontage and along the north western and north eastern side of the shed, and seven paperbark trees along the southern frontage of Punrak Road;
- No employees will be based at the subject site, the only time people will attend the subject site is to collect or return a vehicle or machinery. No office or administrative activities will be undertaken at the subject site;
- Vehicles and machinery will be used on infrequent occasions, and will be kept on the subject site between periods of work;
- Vehicle movements to and from the subject site will be infrequent with 0-2 trips on most days;
- Minor servicing of vehicles and machinery may occur on the subject site. No major servicing or overhauls will be undertaken at the subject site; and
- Overnight accommodation of persons is not proposed as part of this application.

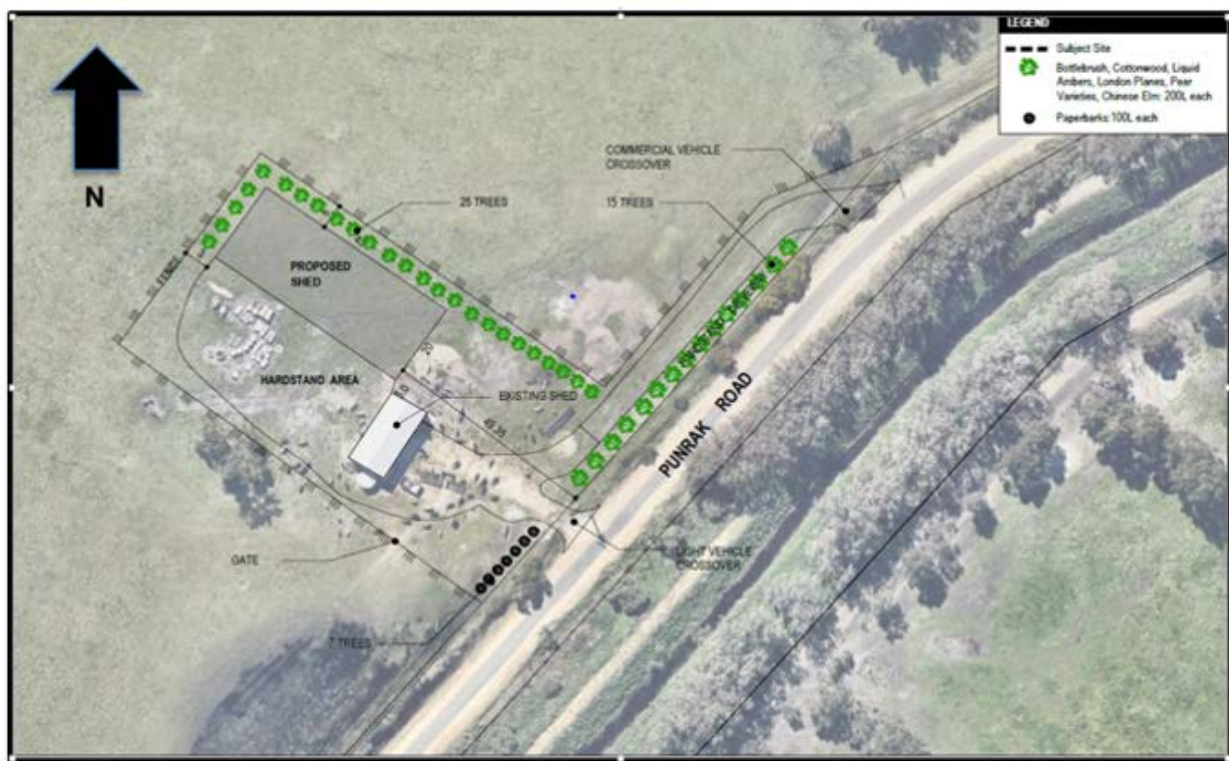


Figure 2: Site Plan



The details of the proposed vehicles and machinery as submitted are as follows:

- Up to 2 prime movers and associated trailers used to transport agricultural produce and equipment, grain, fertiliser and rural products such as wool;
- 1 stump grinder used to rehabilitate ex-plantation land into farm land;
- 1 low loader used to transport machinery and equipment like the stump grinder to farms;
- Up to 2 excavators/bulldozers used for construction of farm roads, dams and clearing fence lines;
- Up to 2 articulated dump trucks for cleaning out silted dams, creek crossing , culvert installs and removal of rocks;
- Up to 3 Crushers used for processing rocks on farmland; and
- Up to 2 loaders used for moving and loading earth and agricultural lime on farms.

The applicant provided information that the number of vehicles to be garaged at the 'Transport Depot' will vary from time-to-time depending on whether vehicles are in use on a farm or are undergoing repairs or servicing at an off-site workshop. This build the narrative of such machinery being primarily associated with rural pursuits.

In reviewing further information on the company background (<https://castleequipment.com.au/>) as well as detailed information on previous projects, officers cannot concur that the majority of this equipment is associated with rural pursuits.



On the contrary, the following ‘recent projects’ information is taken from the abovementioned website:

COMPANY HISTORY

Ongoing and Completed Projects include –

PROJECT - ONGOING	JOB DESCRIPTION	CONTRACT	YEAR	LOCATION
MAIN ROADS	CRUSHING AND SCREENING	MRWA Spec gravel	2019 - ONGOING	WALPOLE WA
GARDENERS	CRUSHING AND SCREENING	MRWA Spec gravel	2018-2019	WITCHCLIFFE WA
ROBINSONS	CRUSHING AND SCREENING	MRWA Spec gravel	2018	WITCHCLIFFE WA
CAPE CRUSHING	1100X800 JAW – WET HIRE	Talison Lithium	2018 – ONGOING	GREENBUSHES
ERTECH	633D SCRAPER WET HIRE	EE-SPE-108246-001	2018 – ONGOING	SARACEN GOLD MINE
GEORGIU	CRUSHING & SCREENING TO MRWA SPEC	7054 Marble Bar Rd STH Deviation	2018	ROY HILL
HIGHWAY CONSTRUCTION	D8, D9, D10, DUMPTRUCK & 633D WET HIRE	MRWA CONTRACT 185-15 PITHARA	2018- ONGOING	PITHARA
DECMIL	SCREENING GRAVEL & SUPPLY OF WET HIRE EQUIPMENT	BHP AREA C	2017 - 2018	MULLA MULLA
WBHO	CRUSHING & SCREENING – EQUIPMENT & LABOUR HIRE	Margaret River Perimeter Rd	FEB – APRIL 2018	MARGARET RIVER PERIMETER RD
MAIN ROADS	CRUSHING & SCREENING GRAVEL	SOUTH WEST BUNBURY 136,000 tonnes	2017- 2018	COWARAMUP WA
FULTON HOGAN	CRUSHING & SCREENING	Margaret River Perimeter Rd	2017 – 2018	WEST PIT, BRAMLEY LAYDOWN & THE CUT
PRIME EARTHMOVING	CRUSHING & SCREENING GRAVEL	60,000 tonnes	2017	BUSSELTON WA
NARROGIN EARTHMOVING & CONCRETE	ONGOING SUPPLY OF OUR RANGE OF PRODUCTS	Added concrete plant	2018 – ONGOING	NARROGIN WA
STONERIDGE QUARRY	CRUSHING & SCREENING LIMESTONE & DEMOLITION PRODUCT	3 Products: -75mm -38mm -ag lime -4mm -recycled product (brick & rubble)	MAR 2016 – ONGOING	HOPE VALLEY WA
MINJAR GOLD	CRUSHING & SCREENING GOLD ORE	-12mm Mill feed	FEB 2016 - 2018	MARVEL LOCH WA
SHIRE OF KULIN	SUPPLY OF ROAD BASE	7/10/14mm	ONGOING	KULIN WA
BORAL – SHIRE OF WICKEPIN	SUPPLY OF WASHED AGGREGATES –ROAD PROJECTS	7/10/14mm	ONGOING	NARROGIN WA
SHIRE OF KULIN	SUPPLY OF WASHED AGGREGATES	7/14mm	ONGOING	KULIN WA



PROJECT - ONGOING	JOB DESCRIPTION	CONTRACT	YEAR	LOCATION
WATER CORPORATION	SUPPLY OF AGGREGATES	10/20mm Blue Dust Rip Rap	ONGOING	NARROGIN WA
SHIRE OF PINGELLY	SUPPLY OF ROAD BASE/METAL BLUE DUST	Blue Dust Road base	ONGOING	PINGELLY WA
SHIRE OF WANDERING	SUPPLY OF RIP RAP	Rip Rap	ONGOING	WANDERING WA
URBAN RESOURCES	WET HIRE – D6	Subdivision, road formation, building site levelling	JUNE 2016	PEREGRINE ESTATE WA
MINDARIE REGIONAL COUNCIL	SCREENING SAND/LIMESTONE	-38mm	MAY/JUNE 2016	TAMALA PARK WA
HOLCIM	WET HIRE – DOZER D9	Pushing up overburden – sand pit	APRIL 2016	JANDABUP WA
CBH – CARDINAL CONTRACTING	CRUSHING & SCREENING GRAVEL	New grain facility – Road base - 38mm 40,000 tonnes	DEC 2015 - ONGOING	ALBANY WA
POSTANS QUARRY	CRUSHING AND SCREENING	Ag Lime	APR 2016 -	
GRIFFIN COAL	MINE SITE REHABILITATION	Dozer Scraper Grader	FEB - MAY 2016	COLLIE WA
NARROGIN QUARRY OPERATIONS	A SUBSIDIARY COMPANY OF CASTLE EQUIPMENT.	Increased crushing and supply of aggregate to the south-west of WA	JUN 2014 - ONGOING	NARROGIN WA
HANSON QUARRIES	SUPPLY OF 773, D8 DOZER WET HIRE	Supply of various of plant equipment & operators	FEB 2013 - 2019	BYFORD QUARRY & RED HILL QUARRY WA
BC IRON	CRUSHING HIGH GRADE IRON ORE	1.2 million tonnes	JUN 2015 – JAN 2016	NOVA NICKEL PROJECT WA
NOVA NICKEL PROJECT - RJV	CRUSHING BASECOURSE & SUBBASE	New access road & airstrip	JUL – DEC 2015	FRASER RANGE WA
BC IRON – VIENTO	CRUSHING & SCREENING IRON ORE	-12mm and fines	JUNE 2015 – JAN 2016	NULLAGINE WA
HANSON QUARRIES	SUPPLY OF 769 AND ARTICULATED DUMP TRUCKS WITH OPERATORS		FEB 2013- APRIL 2015	BYFORD HARD ROCK QUARRY & RED HILL QUARRY WA
HOLCIM QUARRIES	SUPPLY 6 X 773/769 DUMP TRUCKS & 65 & 75 TONNE EXCAVATORS WITH OPERATORS	Excavation and Removal of Overburden	MARCH 2013 - APRIL 2015	GOSNELLS WA
FMG – SOLOMON LEIGHTONS	CRUSHING & SCREENING IRON ORE	-12mm and fines 6 million tonnes	NOV 2012 – JUNE 2014	SOLOMON HUB WA



FMG CH232	CRUSHING & SCREENING RAIL BALLAST/ROAD BASE/ARMOUR ROCK	Rail ballast and -25mm 2 million tonnes	2011 – MARCH 2013	CHICHESTER HUB WA
FMG CH239	CRUSHING & SCREENING RAIL BALLAST/CONCRETE AGGREGATE/ROAD AGGREGATE	-12mm and fines 350,000 tonnes	MAY 2012 – NOV 2012	SOLOMON HUB WA
FMG CLOUDBREAK MINE	CRUSHING & SCREENING IRON ORE	-12mm and fines Excess of 7.4 million tonnes	2010 - 2011	CHICHESTER HUB WA
SINO IRON	CRUSHING AND SCREENING	Base Course 50,000 tonnes	2009-2010	CAPE PRESTON WA
ATLAS IRON	CRUSHING AND SCREENING	Iron ore 1 million tonnes	2008-2009	PARDOO WA
LEIGHTONS- ALCOA	CRUSHING AND SCREENING	Concrete and rail ballast 100,000 tonnes	2008-2009	KWINANA
BGC QUARRIES	CRUSHING AND SCREENING	50,000 tonnes	2008-2009	BGC QUARRIES
ABIGROUP	CRUSHING AND SCREENING	400,000 tonnes	2008	PORT HEDLAND WA
FMG CHAINAGE 232	CRUSHING AND SCREENING	Railway Ballast 400,000 tonnes	2007-2008	FMG CHAINAGE 232
BGC	CRUSHING AND SCREENING	Comprising selected materials and aggregates 1 million tonnes	2007-2008	BODDINGTON WA
MANDURAH RAIL LINE	CRUSHING AND SCREENING PROJECT	Comprising selected materials and aggregates 1 million tonnes	2007-2008	MANDURAH RAIL LINE WA
HOLCIM (AUSTRALIA)	WET/DRY HIRE EQUIPMENT		2006 - 2015	GOSNELS WA
HOLCIM (AUSTRALIA)	REGRINDING OF MATERIALS TO - 25		2006	GOSNELS WA
HANSON QUARRIES	QUARRY CRUSHING AGGREGATES		2005	BYFORD WA



This information unfortunately does not reflect the additional information that has been provided in support of the application. This is limited to a series of photographs, which depict some of the equipment being used for rural pursuits. Given however the reality of the current and completed projects of the applicant, officers do not form an opinion that the proposal is primarily about supporting rural pursuits. This places it in contravention with the objectives of the zone, and should be refused on this basis.

Initial Proposal

The table below provides comparison of the main differences between the initial proposal and the revised proposal subject of the reconsideration.

Item	Initial Proposal	Revised
Floor area of shed	1000m ² (50mx 20m)	900m ² (45mx20m)
Wall height of shed	5m	5.5m
Ridge height of shed	7.13m	6.02m
Type of vehicles and machines	Articulated trucks, loaders, articulated dump trucks crushers, excavators/bulldozers and a screen.	Stump grinder, prime movers and assorted trailers, low-loader, excavators/bulldozers, articulated dump trucks crushers and loaders.
Landscaping	No details of screening vegetation had been shown on the site plan.	Rural fencing is proposed around the transport depot site. Planting of trees is proposed along the north eastern and north western shed frontages and along the Punrak Road frontage.

Figure 3: Comparison Table

There has been little adjustment between the original and revised proposal, such that concerns on building bulk and scale remain valid.

SAT Proceedings

The development application was lodged with the Shire on 23 October 2018. The proposal was refused under delegation on 24 December 2018, as Officers were not satisfied that the land use and scale of the proposed shed was consistent with the objectives of the 'Rural' zone.

The applicant lodged an application for review of the Shire's decision to the SAT. At the directions hearing held on 12 February 2019, the SAT ordered the applicant to provide the



Shire with further information and amended plans in respect of the application by 15 April 2019.

Following this order, the Shire received the additional information on 27 February 2019. For the reasons mentioned above, officers are unable to form a planning position that the proposal will support rural pursuits in the locality. The majority of projects undertaken by the applicant are primarily to do with quarrying and mining, and the supply of construction materials and road building. Of the 49 current and recent projects listed, only 1 could have a potential connection with rural (gravel screening and crushing). This is unlikely however in the view of officers.

Community / Stakeholder Consultation

The initial application was advertised for a period of 21 days from 2 November 2018 to 23 November 2018, within a radius of 1km, in accordance with the Shire's Local Planning Policy 1.4 Public Consultation for Planning Matters. Four submissions were received as a result of the consultation. Two submitters objected to the proposal, which they considered not to be compatible with the 'Rural' zone. The other two submitters had no objections to the proposal subject to the applicant addressing amenity impacts associated with noise, wastewater disposal and stormwater disposal.

The revised application was readvertised to the objectors of the original application for a period of 21 days, from 27 February 2019 to 20 March 2019 in accordance with the Shire's Local Planning Policy 1.4 Public Consultation for Planning Matters.

As a result of this consultation a further objection was received raising the following concerns:

- The primary purpose for the proposal is for storage of equipment, which is not directly related to, or part of, rural activities conducted on the land;
- The proposal should be located in the Mundijong West Industrial Precinct, approval of the proposal will set undesirable precedence;
- The potential impact of the proposal on the groundwater (hydrocarbons in the wash-down) has not been adequately addressed; and
- The potential impact of the proposal by way of weed seeds and spreading of any plant pathogens (dieback) carried in by the equipment has not been addressed.

A full summary of the submissions and the applicant's response can be viewed as **attachment 2**. Officer comment can also be reviewed, which is consistent with the concerns raise in this report.



Statutory Environment

Legislation

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

State Planning Framework

- *Metropolitan region Scheme*
- *Draft South Metropolitan Peel Sub-Regional Framework Towards Perth and Peel 3.5 Million*
- *State Planning Policy 2.5 – Rural Planning*
- *Environmental Protection Authority Draft Environmental Assessment Guideline for Separation Distances Between Industrial and Sensitive Land Uses*

Local Planning Framework

- *Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2)*
- *Rural Strategy Review 2013*
- *Local Planning Policy 1.4 – Public Consultation for Planning Matters (LPP1.4)*
- *Local Planning Policy 4.6 – Landscape and Vegetation Policy (LPP4.6)*

Planning Assessment

Schedule 2, Part 9, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (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 in **attachment 3**. For the purposes of this report, the objections result in the proposal being presented to Council, and for Council to exercise discretion in respect of determining the application.

Land Use:

The proposed development is considered to fall under the use class of a 'Transport Depot' in accordance with Table I – Zoning Table of the Shire's Town Planning Scheme No.2 (TPS2). A 'Transport Depot' is an 'SA' use in the Rural Zone, meaning the use is not permitted unless Council has exercised its discretion to permit the use, after notice of the application has been given in accordance with Clause 64 of the Deemed Provisions.

'Transport Depot' is defined in Appendix 1 of TPS2 as follows:

Transport Depot – “*means land or buildings designed or used for one or more of the following purposes:*

- The parking or garaging of more than one commercial vehicle used or intended for use for the carriage of goods (including livestock) or persons.*
- The transfer of goods (including livestock) or passengers from one vehicle to another vehicle.*



(c) *The maintenance, repair or refuelling of vehicles referred to in (a) or (b) above.*

The above uses (a) to (c) inclusive, singularly or collectively may, with Council's planning consent, include as an incidental use overnight accommodation of patrons of the facilities."

The use is considered to fit the definition of Transport Depot., however as will be discussed following it cannot achieve the objectives of the zone due to it being un-associated with supporting rural pursuits.

Aims and Objectives of TPS2

The subject site is zoned 'Rural' under TPS2. The purpose and intent of the 'Rural' zone specified in clause 5.10.1 of TPS2 is to "*allocate land to accommodate the full range of rural pursuits and associated activities conducted in the Scheme Area.*"

While TPS2 does not define a 'rural pursuit', the general definition as determined by SAT relates to 'characteristics of the country' (*Attwell and City of Albany*). As described in the Proposed Development section of the report, Officers are not satisfied that each of the vehicles/machinery have a strong enough association and purpose of supporting the characteristics of the rural country. Furthermore, evidence taken from the applicant's website reveals almost all projects being associated with quarrying and mining activity. While the Shire has hard rock and other quarries in the rural zone of the Shire, these are not primarily the intent for the rural area – being for rural pursuits like agriculture and livestock.

While officers, pursuant to the Scheme, may be satisfied that a proposal can garage commercial vehicles which are used on farms, this proposal does not contain sufficient evidence to allow officers to form this opinion.

Rural Strategy 2013 Review:

The Shire's Rural Strategy is a strategic land use-planning document that identifies a range of distinct policy areas and policy overlays that provides a clear direction for strategic planning of the Shire's rural areas. The subject land is identified within the 'Rural Policy' area under the Shire's Rural Strategy 2013 Review. The policy area seeks to protect land for productive agriculture and preserve the rural lifestyle and character of the area. The policy area also promotes alternative agricultural land uses with economic benefits and less land degradation.

Officers have considered that the proposal cannot be supported in the policy area as it presents an 'alternative use' which is not directly supporting agricultural activities that is the objective for the area. While only occupying a small portion of the subject land, the nature of the activity is more industrial in nature and is not appropriate for the policy area according to the Rural Strategy 2013.

Amenity

Environmental Protection Authority (EPA) – Guidance Statement No.3

The Environmental Protection Authority's Guidance Statement 3 – Separation Distances between Industrial and Sensitive Land Uses, guides appropriate separation distances



between a ‘Transport Depot’ and sensitive land uses to avoid or minimise the potential for land use conflicts.

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 separation distance recommended between a ‘Transport Depot’ and sensitive land uses is 200 metres. The off-site health and amenity impacts associated with a ‘Transport Depot’ is primarily noise.

Figure 4 below identifies that there are no sensitive receptors (marked with red dots) within the generic 200m buffer. The proposed shed is located approximately 330m from the rural workers dwelling on the same site, and approximately 420m from the nearest sensitive receptor (dwelling) on an adjoining property. The proposal therefore exceeds the 200m generic distance for an Environmental Noise Report to be undertaken.

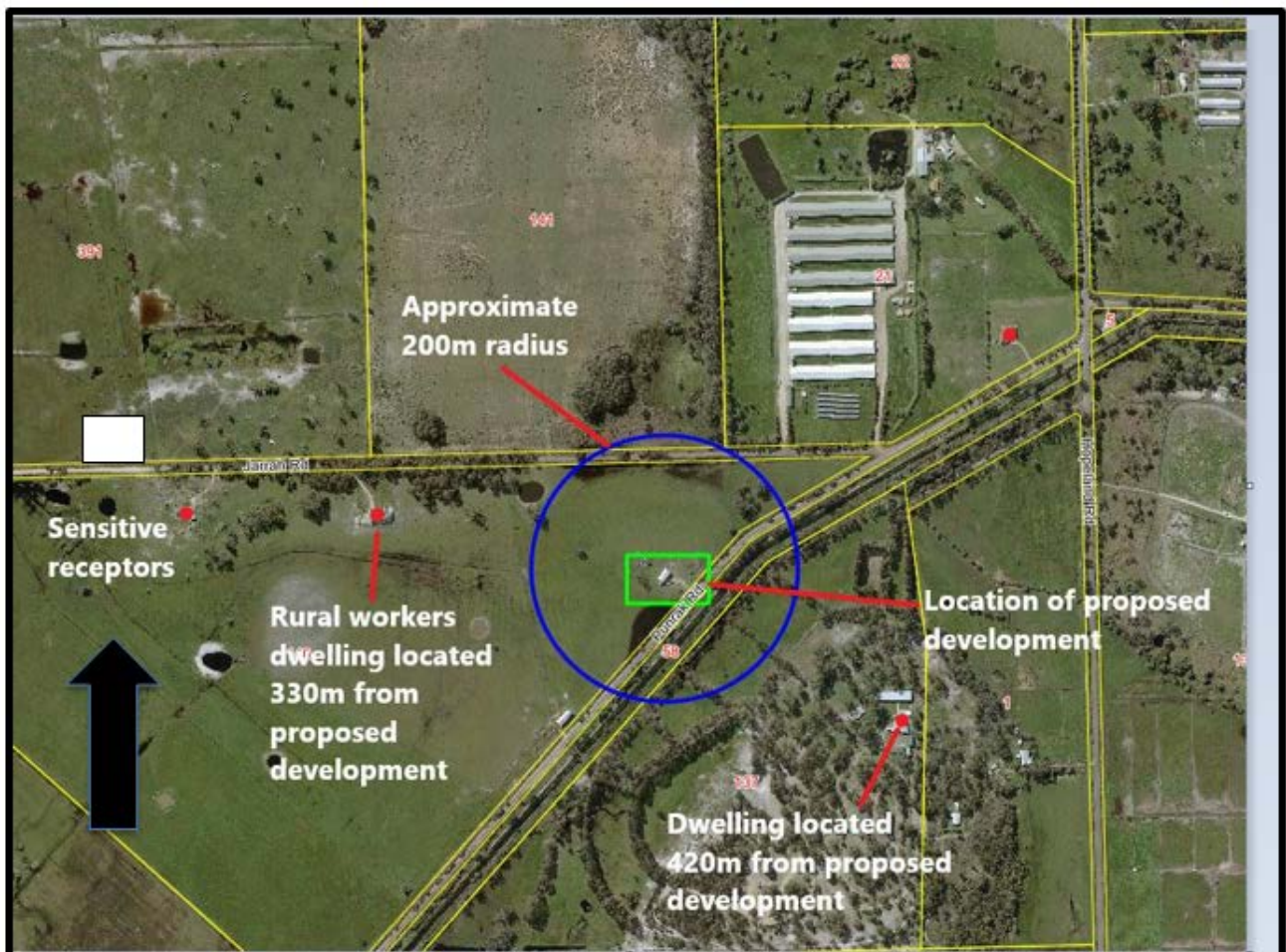


Figure 4 Separation Distance



Drainage

During the consultation process, concerns were raised regarding potential contamination of groundwater by wastewater from the wash down area that can contain petroleum hydrocarbons. On this point, the applicant provided information that no washing or major servicing activities will be undertaken at the 'Transport Depot'. The vehicles will be taken offsite to a workshop in East Rockingham for servicing and washing. In addition, the application does not propose to either store fuel or refuel commercial vehicles on site.

This is a difficult issue to regulate, however the application does provide information of such activities taking place offsite.

The shed will be constructed with an impervious floor that does not allow underground percolation of any potential contaminants. In addition, the application also proposes a hardstand over a limestone base around the shed, which will also reduce the risk of groundwater contamination. The subject site is not in close proximity to any natural (creeks, brooks, rivers) or proclaimed (wetlands) waterways.

The main risk therefore is from oils and hydrocarbons that would come to the site due to the movement of vehicles. This forms part of the overall planning considerations taken in the report.

Environmental Considerations

During the consultation process, concerns were raised regarding the potential risk and impact of weed seeds spreading and plant pathogens (dieback) entering the site via the agricultural and earthmoving vehicles and machinery carried in by the equipment.

The applicant has provided the following information with regards to these concerns:

- *The proponent currently manages the site as an operational farm. As a farm manager, he recognises the importance of the control of weeds which if unchecked could disrupt the productiveness of the farmland.*
- *The proponent is active in this respect, and has reported and assisted the Shire in controlling an outbreak of cotton bush in an adjacent drainage reserve.*
- *To manage weeds, all vehicles on the site will keep to the hardstand tracks. Any seeds dropped onto the hardstand tracks will not be able to grow. In addition, the proponent will regularly inspect the grounds of the transport depot to identify and remove any weeds.*
- *To manage dieback which is a disease caused by soil-borne fungus that can affect many agriculture crops, the proponent has an interest in managing vehicles to prevent the movement of soil and mud from infected areas.*
- *The vehicles parked at the transport depot will travel to farm sites on public roads, and will not enter known dieback quarantine areas.*
- *In areas suspected of having dieback, vehicles will be cleaned before leaving the work site. Additionally, all vehicles on the transport depot site will keep to the hardstand tracks.*

Notwithstanding the information that has been provided above, the Shire is concerned given many of the projects mentioned in the applicant's website information appear to be in various



locations across the State. This large degree of coverage provides some risk that vehicles may come in to contact with either known or unknown dieback infected areas.

Built Form

The proposed shed for garaging of the commercial vehicles has a total floor area of 900m² with a wall height of 5.5m and ridge of 6.02m. During the consultation period concerns were raised regarding construction of a large-scale building that has the potential to be visually intrusive and adversely impacting on the locality.

Officers note that large sheds are commonplace within rural areas and the appearance of these can be mitigated through siting, design and landscaping. Due to the setbacks proposed and rural style fencing around the shed, it is considered that the sheds will be prominent but not an unexpected aspect of the rural zone.

Traffic Movements

Clause 67(t) of the Deemed Provisions indicates that due regard should be given to the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.

The applicant provided information that the use of vehicles and machinery will be infrequent. Vehicle movements to and from the subject site will be between 0-2 trips on a typical day and up to a maximum of 8 trips per day as required. This would appear likely given the applicant's website showing project areas across WA and undertaking large projects. This resulting in infrequent movements.

In essence, a use like this in an industrial zone would be very compatible. However a use of this nature, in a zone and policy area where the Shire is seeking to support the agricultural intent, cannot be supported.

Options and Implications

Option 1

Council may resolve to reaffirm the refusal of the application.

Option 2

Council may resolve to approve the application contained within **attachment 1** for a proposed 'Transport Depot' at Lot 40 Jarrah Road, Hopeland, subject to conditions.

Option 1 is recommended.

Conclusion

The application seeks approval for 'Transport Depot' on rural zoned land. Despite additional information being provided through the SAT process, officers are unable to form a view that the proposal will legitimately support rural pursuits in the locality. This was a central reason to the previous refusal.



Attachments

- [Attachment 1](#) – Development Plans (E19/5927)
- [Attachment 2](#) – Summary of Submissions (E19/5895)
- [Attachment 3](#) – Technical Assessment (E19/6144)
- [Attachment 4](#) – Deputation from Planning Solutions (IN19/13095)

Alignment with our Strategic Community Plan

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

Financial Implications

Nil.

Risk Implications

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

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Further SAT processes	Possible (3)	Moderate (3)	Moderate (5-9)	Financial Impact - 1 Insignificant - Less than \$50,000	Accept Officer Recommendation



Risk Matrix

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

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

Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

Voting Requirements: Simple Majority

Officer Recommendation:

That Council REAFFIRMS the refusal dated 24 December 2018 of the application and advises the SAT accordingly.

Additional Information

Council considered this matter at its Ordinary Meeting on 17 June 2019, and deferred the item to enable the consideration of additional information. Additional information has been provided, which modifies the views and recommendation of assessing officers. This additional information is discussed following.

Officers initially considered that there was insufficient information to allow Officers to form the opinion that the proposed 'Transport Depot' met the objective of the 'Rural' zone. Additionally, in reviewing the recent SAT matter which dealt specifically with the proposed machinery/vehicles and equipment, Officers were not able to form a view that such could be completely associated with rural pursuits and other associated activities.

However, at the Ordinary Council Meeting held on 17 June 2019, the applicant provided Council and Officers with additional information (**attachment 4**) relating to the associated rural pursuits the commercial vehicles and equipment proposed to be garaged will support as part of the proposed 'Transport Depot'. The applicant deputised at the OCM and advised Council as follows:



“The intent of the transport depot is garage vehicles and machinery used on the proponent’s farms and farm contract use. The equipment is used for work on rural properties including:

- *Transporting wool, hay, produce and equipment to farms;*
- *Building farm roads and clearing fencelines;*
- *Building and mainlining farm dams;*
- *Removing rocks and stumps on farms to improve productive land;*
- *Producing agricultural lime to reduce acidity of farmland.*

Additionally, the applicants have addressed Officers concerns raised in relation to other activities undertaken by associated companies would also be potentially stored/transported:

“Castle Equipment has 140 pieces of equipment to service the mining industry, none of which will be garaged at the proposed transport depot. There are two reasons for this:

1. *Firstly the proposed shed would be nowhere near large enough to house the sheer volume of mining equipment owned by Castle Equipment. A shed and premises some 10-20 times larger than what is being proposed would be needed.*
2. *Secondly, Hopelands Road and Punrak Road are not approved by Main Roads for transporting the size and scale of equipment owned by Castle Equipment”.*

This has satisfied officers that there is a clear distinction between this proposal and broader non-rural mining activities that a company related to the landowner are involved in. In also considering the size of the shed, the category of road network and the activities that the vehicles will be associated with (as mentioned above), Officers can now form the opinion that the ‘Transport Depot’ will be used to support rural pursuits. Furthermore, that the vehicles associated with previous projects undertaken by Castle Equipment do not form part of this application.

Therefore, officers recommend that the proposal be approved subject to conditions.



Voting Requirements: Simple Majority

Revised Officer Recommendation:

1. That Council APPROVES the development application for a ‘Transport Depot’ on Lot 140, 79 Jarrah Road, Hopeland in accordance with Schedule 2, Part 9, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 (Deemed Provisions) 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-P10 received at the Shire’s Offices on 23 October 2018, 27 February 2019, and the 15 April 2019 and 1 May 2019
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- b. The Commercial Vehicles shall be parked within the shed as shown on the approved site plan only, and are not permitted to be parked adjacent to Punrak Road or the verge at any time.
- c. Mechanical servicing, repairs, painting, wash down or degreasing of the Commercial Vehicles, in part or whole, is not permitted on the subject land at any time. Minor repairs in accordance with the definition of ‘Transport Depot’ within the Shire of Serpentine Jarrahdale Town Planning Scheme No.02 will be permitted.
- d. Storage of fuel is not permitted on the subject land at any time.
- e. Prior to the commencement of development on site, a Construction and Operational Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale and thereafter implemented at all times. The Plan shall include but not be limited to the following information:
 - i. a log of all complaints received;
 - ii. a log of all actions taken in response to complaints;
 - iii. material disposal;
 - iv. traffic management ;
 - v. public safety and site security;
 - vi. dieback management.
- f. Prior to the commencement of development on site, a Landscape and Vegetation Management Plan, showing areas of retained vegetation and proposed additional planting, shall be submitted to and approved by the Shire of Serpentine Jarrahdale. Once approved, the Landscape and Vegetation Management Plan shall be implemented and thereafter maintained to the Shire’s satisfaction.
- g. Prior to the commencement of development on site, a detailed Stormwater Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale.



The approved Stormwater Plan shall be implemented and maintained thereafter.

- h. Prior to the commencement of development on site, a crossover shall be designed and constructed and thereafter maintained, in accordance with the approved plans and specifications to the satisfaction of the Shire of Serpentine Jarrahdale.
- i. The first 20 metres of the access road / driveway shall be surfaced with a non-dust generating material to the satisfaction of the of the Shire of Serpentine Jarrahdale.
- j. No vehicles, other than those listed below, shall be garaged within the 'Transport Depot' hereby approved without further planning approval from the Shire of Serpentine Jarrahdale.
 - i. Two prime movers and associated trailers used to transport agricultural produce and equipment, grain, fertiliser and rural products such as wool;
 - ii. One stump grinder used to rehabilitate ex-plantation land into a farm land;
 - iii. One low loader used to transport machinery and equipment like the stump grinder to farms;
 - iv. Two excavator/bulldozer used for construction of farm roads, dams and clearing fence lines;
 - v. Two articulated dump truck for cleaning out silted dams, creek crossing, culvert installs and removal of rocks;
 - vi. Three Crushers used for processing rocks on farmland; and
 - vii. Two loaders used for moving and loading earth and agricultural lime on farms.

Additional vehicles may be garaged within the approved development, however, all vehicles must be associated with a rural pursuit or associated activity.

- k. The total number of vehicle movements shall not exceed 14 inward and 14 outward movements per week.
- l. The hours of operation of the development shall be between 7.00am to 7.00pm Monday to Saturday.



SCM128/06/19

COUNCIL RESOLUTION

Moved Cr Byas, seconded Cr Denholm

That Council REAFFIRMS the refusal dated 24 December 2018 of the application and advises SAT accordingly.

MOTION CARRIED 4/3

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

Councillors Rich, Atwell, Byas and Denholm voted FOR the motion.

Councillors Coales, Gossage and See voted AGAINST the motion

Reason for difference to Officers Revised Recommendation

Council reaffirmed the Local Governments original decision of 24 December 2018 due to not being satisfied that the proposed transport depot would sufficiently support rural pursuits and associated activities, as required by Shire of Serpentine Jarrahdale Town Planning Scheme No. 2.

Councillor McConkey returned to the Chambers at 5.25pm.

Shire President, Councillor Rich advised Councillor McConkey of Council Resolution SCM128/06/19.



Mr Bowman, Manager Governance declared an Impartiality Interest in item 6.2.

6.2 Special CEO Employment Committee Meeting – 17 June 2019

That the [minutes and resolutions](#) contained therein of the Special CEO Employment Committee Meeting held on 17 June 2019 be endorsed (E19/7145).

SCM127/06/19

COUNCIL RESOLUTION

Moved Cr Denholm, seconded Cr McConkey

That the meeting is to be closed to members of the public whilst item 6.2 is discussed pursuant to section 5.23(2)(b) of the *Local Government Act 1995*.

MOTION CARRIED 4/4

The Shire President used her casting vote and voted FOR the motion.

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

Councillors Rich, Byas, Denholm and McConkey voted FOR the motion.
Councillors Atwell, Coales, Gossage and See voted AGAINST the motion

At 5.34pm, the meeting went behind closed doors.

All Members of the Public, Mr A Trosic, Director Development Services, Ms L Keys, Acting Director Community Services and Mr A Bowman, Manager Governance left the Chambers.

SCM128/06/19

COUNCIL RESOLUTION

Moved Cr Denholm, seconded Cr Byas

That Standing Orders 9.5, 9.6, 10.7 and 10.13 be suspended at 5.38pm in order to further discuss item 6.2.

CARRIED UNANIMOUSLY 8/0

Councillor McConkey left the meeting at 6.38pm.

Councillor McConkey returned to the meeting at 6.41pm.

SCM129/06/19

COUNCIL RESOLUTION

Moved Cr Atwell, seconded Cr Denholm

That Standing Orders be reinstated at 6.47pm.

CARRIED UNANIMOUSLY 8/0



SCM130/06/19

COUNCIL RESOLUTION

Moved Cr Byas, seconded Cr Atwell

That the [minutes and resolutions](#) contained therein of the Special CEO Employment Committee Meeting held on 17 June 2019 be endorsed (E19/7145) with the following amendments:

That Council

- a) Resolution 2 - delete ENDORSES, insert NOTES;**
- b) Resolution 2 – delete “is suitably qualified for the position and”;**
- c) Resolution 4 – after ‘REQUESTS that WALGA Recruitment Service and Employee Relations,’ insert “together with the Shire President and Presiding Member of the CEO Employment Committee,”**
- d) Resolution 4 – after ‘commences negotiations on a suitable employment contract, which is to be brought back to’ insert “Council for final adoption”.**
- e) Resolution 4 – delete “the CEO Employment Committee prior to making a final recommendation to Council.”**
- f) Resolution 5 – delete.**

CARRIED UNANIMOUSLY 8/0

*Reason for difference to CEO Employment Committee Recommendation
The preferred applicant will be decided by Council at a future Council Meeting.*

The resolution now reads:

That Council

1. RECEIVES the Confidential WALGA Recruitment and Selection report as contained in confidential attachment CEO003.1/06/19.
2. NOTES that Applicant 17 is the Committee’s preferred applicant for the position of Chief Executive Officer in accordance with section 5.36(2)(a) of the Local Government Act.
3. REQUESTS WALGA Recruitment Service to conduct character and qualification checks as described in section 7 of the WALGA Recruitment and Selection report as contained in confidential attachment CEO003.1/06/19 and a pre-employment medical for the preferred applicant.
4. REQUESTS that WALGA Recruitment Service and Employee Relations together with the Shire President and Presiding Member of the CEO Employment Committee, commences negotiations on a suitable employment contract, which is to be brought back to Council for final adoption.



SCM131/06/19

COUNCIL RESOLUTION

Moved Cr Denholm, seconded Cr Atwell

That the meeting be reopened to members of the public.

CARRIED UNANIMOUSLY 8/0

At 6.52pm the doors were reopened to Members of the Public. The Shire President, Councillor Rich advised Members of the Public and Officers that Council Resolution SCM130/06/19 was carried unanimously.

Councillor Rich read the Council Resolution to Members of the Public.

7. Motions of which notice has been given:

Nil.

8. Urgent business:

Nil.

9. Closure:

There being no further business, the Presiding Member declared the meeting closed at 6.55pm.

I certify that these minutes were confirmed at the
Ordinary Council Meeting held on the 15 July 2019.

.....
Presiding Member

.....02/09/19.....
Date