



# MINUTES

## COUNCIL MEETING

9 FEBRUARY 2023

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## SHIRE OF MANJIMUP

Minutes of the Ordinary Meeting of Council held in the Walpole Community Hall, Thursday, 9 February 2023.

### 1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS:

The Shire President declared the meeting open at 5.30pm.

Councillor Willcox made the Acknowledgement to Country.

The Shire of Manjimup respectfully acknowledges the Noongar people as the Traditional Custodians of the lands in which we work throughout the region and we pay our respects to their Elders, past and present.

### 2. ANNOUNCEMENTS BY THE PRESIDENT:

The Shire President made the following announcements:

- I received this notice from Ben Rose, Shire President of Donnybrook. Late yesterday morning late Shire President Brian Piesse passed away.
- I met with the Director of Development and Regulation and signed Town Planning Rezoning documents.
- I attended Australia Day at the Pemberton Pool.
- I attended a meeting of the Warren Blackwood Alliance of Councils at Boyup Brook with Chief Executive Officer Andrew Campbell and Councillor Jenkins.
- I was interviewed by media regarding closure of the Manjimup Processing Centre (Parkside). ABC (radio and television), Channel Seven, 6PR and Manjimup Bridgetown Times. The issues have been about Manjimup Processing Centre and Nannup closure and Pemberton contamination and clean-up and Pemberton Tram closure.
- The Chief Executive Officer and I have a meeting scheduled for tomorrow with Peter Tapiolas, Managing Director of Parkside, regarding their future plans.
- I was advised by Ian Willis that the Pemberton Tram will be closed as of 6 February 2023.
- I met with the management of Southwest Haulage regarding the Manjimup Production Centre site.

### 3. ATTENDANCE:

#### PRESENT:

#### Councillors

Cr P Omodei (Shire President)

Cr D Buegge

Cr S Dawson Vidovich

Cr W Eiby

Cr D Jenkins  
 Cr K Lawrence  
 Cr K Skoss  
 Cr R Taylor  
 Cr M Ventris  
 Cr J Willcox  
 Cr C Winfield

### **Staff**

Mr Andrew Campbell (Chief Executive Officer)  
 Mr Greg Lockwood (Director Business)  
 Ms Evy Apeldoorn (Acting Director Community Services)  
 Mr Brian Robinson (Director Development & Regulation)  
 Mr Michael Leers (Director Works & Services)  
 Ms Gaye Burridge (Corporate Administration Officer)

### **Gallery**

Michael Filby  
 Natasha Viner

3.1 Apologies: Nil.

3.2 Leave Of Absence: Nil.

## **4. DECLARATIONS OF INTEREST:**

The Chief Executive Officer advised that he has received Impartiality Interests from Councillors Eiby and Omodei and a Financial Interest declaration from Councillor Winfield.

Councillor Eiby declared an Impartiality Interest in Item 9.9.4 as she is the manager of the Northcliffe Visitor Centre which is one of Southern Forests and Valleys stakeholders.

Councillor Omodei declared an Impartiality Interest in Item 9.16.2 as he is a member of the Pemberton Heritage and History Group.

Councillor Winfield declared a Financial Interest in Item 9.1.1 as he is a shareholder of a mining exploration company operating in Manjimup.

## **5. PUBLIC QUESTION TIME:**

5.1 Response to public questions taken on notice: Nil.

5.2 Public Question Time

5.2.1 Michael Filby, 6 Swan Street, Walpole.

- I have had a petition open for the last two months.
- It closed on the 31 January 2023 with 1446 signatures.
- The petition will be presented to the Legislative Council in about 2 weeks time by the National Party. We hope that the Greens will stand with them.
- Initiated because of the announcement by Mark McGowan of a Main Roads hub in Manjimup with 20 permanent

employees based and a benefit of \$35 million to the local community.

- We suggesting that one of employees start cleaning the highway from Mersea Road in the north to Vasse Highway in the south. It is their jurisdiction, they have the resources and manpower to do it.
- I would like to thank Wendy Eiby, Klaus Mueller, Phillipino Magic in Walpole, David Cross in Denmark and Malaga Mechanical in Perth.
- I would like to thank the Manjimup Shire, I have cleaned this area for 18 years. It has cost \$130,000 dollars at a \$1 a kilometre and the Shire has been the sole main supporter of that effort even though it is not under your jurisdiction. \$24,000 has been given by the Shire of Manjimup to assist over that period.
- The Shire of Manjimup has also acted as auspice the Keep Australia Beautiful.
- The Shire of Denmark and Main Roads have produced zero even though it is their jurisdiction.
- We are hoping the petition will go to a Panel in the Legislative Council. They have to respond by law.
- Thank the Shire of Manjimup and Walpole Community Resource Centre as without them it would not have got off the ground. Thank the National Party for formalising the actual petition.

## 6. PRESENTATIONS:

- 6.1 Petitions: Nil.
- 6.2 Presentations: Nil.
- 6.3 Deputations: Nil
- 6.4 Delegates' reports: Nil.
- 6.5 Conference reports: Nil.

## 7. CONFIRMATION OF MINUTES:

**MOVED: Eiby, W                      SECONDED: Taylor, R**

**29020**

**That the Minutes of the Ordinary Meeting of the Council held on 19 January 2023 be confirmed.**

**CARRIED: 11/0**

## 8. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN: Nil.

## 9. COUNCIL OFFICERS' REPORTS:

9.1.1	Minutes of the 2022 Annual Electors Meeting Held 12 January 2023
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9.1.2	Request for Waiver of Tipping Fees by Manjimup Community Op Shop Inc.
9.1.3	October to December 2022 Quarterly Report - Office of the CEO
9.2.1	Quarterly Report - October to December 2022 - Business Directorate
9.2.2	Proposed Airfield Hangar Lease Transfer
9.2.3	Proposed Lease from Western Power - Portion of Lot 1 Wheatley Coast Road, Quinninup
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9.16.2	Request from Shire President to Become a Member of the Pemberton Community Hub Advisory Committee
9.16.3	Proposed Adoption of Terms of Reference and Request for Nominations for Sustainability Advisory Committee
9.16.4	Unconfirmed Minutes of the Pemberton Community Hub Advisory Committee Meeting 17 January 2023

Councillor Winfield declared a Financial Interest in this Item as he is a shareholder of a mining company operating in Manjimup Shire. Councillor Winfield did not speak or vote on the matter and left the Chamber at 5.45pm.

**ATTACHMENT**

**9.1.1 Minutes of the 2022 Annual Electors Meeting Held 12 January 2023**

<b>PROPONENT OWNER</b>	Shire of Manjimup N/A
<b>LOCATION / ADDRESS:</b>	Shire of Manjimup Council Chambers, Corner Rose and Brockman Streets, Manjimup
<b>WARD:</b>	N/A
<b>ZONE:</b>	N/A
<b>DIRECTORATE:</b>	Office of CEO
<b>FILE REFERENCE:</b>	F161546
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Jason Giadresco
<b>DATE OF REPORT:</b>	11 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The 2022 Annual Electors Meeting was held in the Shire of Manjimup Council Chambers on Thursday 12 January 2023, commencing at 6:00pm. Attendees to the meeting are listed below:

<b>Electors</b>	<b>Councillors and Employees</b>
David Giblett	Cr Paul Omodei (Shire President)
Nancy Giblett	Cr Denise Jenkins (Deputy Shire President)
Ray Curo	Cr Susan Dawson Vidovich
Keith Liddelw	Cr Donelle Buegge
Robyn Bowles	Cr Murray Ventriss
Mary Nixon	Andrew Campbell (CEO)
Alan Lloyd	Jason Giadresco (SGO)
Kathy Dawson	

Attached are the minutes of the meeting. The minutes have been made publicly available on the Shire's website.

**ATTACHMENT: 9.1.1 (1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Notice of the Annual Electors Meeting was advertised for the minimum statutory requirement of 14 days in the Manjimup - Bridgetown Times and it was also placed on the Shire website.

**COMMENT (Includes Options):**

Elector Mary Nixon moved a Motion (seconded by Alan Lloyd) for Council's consideration:

**“When the Manjimup Shire is informed of any application for exploration, renewal of an exploration permit, application for extraction or any application pertaining to mining in the Shire of Manjimup that the CEO at that time see to it that residents and ratepayers in the immediate vicinity of those applications is advised via Australia Post and at the same time the electors of the Shire are informed via the Shire website, Antenno and the Shire Facebook page.”**

**Carried**

At first glance, the Motion as carried essentially would require the Shire to expend considerable organisational resources in order to deliver the outcomes requested. In the opinion of Shire officers, acceptance of the Motion as proposed carries financial and reputational risk and is beyond the scope of the Shire's responsibilities as discussed below.

In consideration of the Motion, the Shire's Director of Development and Regulation has advised that:

- a) The provisions of the *Mining Act 1978* (the Act) are enacted and enforced by Department of Mines, Industry Regulation and Safety (DMIRS), not local government. DMIRS already provide information relating to all current applications and tenements issued through their website. Notifying residents of mining tenements is beyond the Shire's area of responsibility;
- b) In accordance with Section 33 of the Act it is stipulated that the applicant must give notice not only to the local government, but the private landowners and their mortgagee where any tenement is proposed (remembering below 30m of depth is not their land unless their title was issued pre-1899). As outlined by clause 34(2) of the Act, the owner and occupier of private land and their mortgagee are entitled to be heard in relation to any application in respect of any portion of their land;
- c) Clause 7 of the *Mining Regulations 1981* stipulates that the written notice required under section 33 must be served within 14 days of the date of lodgement of the application and the timeframe for lodging objections is 21 days from the date of service of the documentation. The timeframe from the receipt of DMIRS notification by the Shire to advising landowners would leave very little, if any, time for affected landowners to respond; and
- d) Most mining tenements are extremely large in area and depending on the location and what someone may perceive as the immediate vicinity, this could involve dozens if not hundreds of letters being forwarded via Australia Post. The Shire does not have resources, budget nor the time required to identify landowners, draft correspondence etc. There is

also the risk that an affected landowner may be missed in being notified.

If Council were to support the Motion, the Shire would essentially be duplicating information and process that already exists and that is administered and determined by DMIRS. This may serve to confuse rather than clarify affected landowners who is ultimately responsible for the determination of the tenement application.

It is suggested that those persons who hold the view that there is inadequate consultation on tenements should be taking the matter up with DMIRS or their local member of Parliament with the view to having legislation and associated practices modified.

**STATUTORY ENVIRONMENT:**

Sections 5.27, 5.29 and 5.33 of the *Local Government Act 1995* require an Annual Electors Meeting to be held for each financial year and for decisions made at such meeting to be considered by the Council.

**POLICY / STRATEGIC IMPLICATIONS:**

In reference to the Motion, it is noted that the Shire is not a third-party advertiser of mining tenement applications. An existing consultation process is administered by DMIRS. Duplicating an existing consultative process should be avoided, may rather serve to confuse landowners as to who is actually responsible for consultation on mining tenements.

**ORGANISATIONAL RISK MANAGEMENT:**

There is considerable reputational risk to Council should a Shire-issued notification of a mining tenement application not be circulated to landowners in good time. Given the current local community sentiment around such applications, any mistake in not adequately notifying a landowner, or a landowner missing out on being notified would reflect poorly on the Shire.

**FINANCIAL IMPLICATIONS:**

Should Council determine to support the Motion, Shire officers may have to readjust budgets and scale back on other business activities to account for the financial and resource cost of providing landowners notification for mining tenement applications.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Whilst the Shire has a desire and responsibility to adequately engage and consult with its community, the proposed Motion is a considered a task beyond the core responsibilities of local government.

**VOTING REQUIREMENTS: SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

1. Receive the minutes of the 2022 Annual Electors Meeting held 12 January 2023 as shown at Attachment: 9.1.1(1) and note the matters raised by the electors at the meeting;
2. Receive the Motion moved by Mary Nixon and seconded by Alan Lloyd:
 

“When the Manjimup Shire is informed of any application for exploration, renewal of an exploration permit, application for extraction or any application pertaining to mining in the Shire of Manjimup that the CEO at that time see to it that residents and ratepayers in the immediate vicinity of those applications is advised via Australia Post and at the same time the electors of the Shire are informed via the Shire website, Antenno and the Shire Facebook page;” and
3. In response to Point 2 above, not support the Motion moved at the 2022 Annual Electors Meeting on the basis that:
  - an existing consultative process for landowners is administered through the *Mining Act 1978* and associated regulations by the statutory authority responsible for the determination of mining tenement applications, that being the Department of Mines, Industry Regulation and Safety;
  - information on mining tenements located in the Shire of Manjimup is already publicly available through the Department of Mines, Industry Regulation and Safety website; and
  - the financial cost and resource requirements needed to notify all landowners within a mining tenement application area are considered prohibitive.

**COUNCIL RESOLUTION:**

**MOVED: Dawson Vidovich, S SECONDED: Skoss, K**

**29021**

**That Council:**

1. Receive the minutes of the 2022 Annual Electors Meeting held 12 January 2023 as shown at Attachment: 9.1.1Error! No document variable supplied.(1) and note the matters raised by the electors at the meeting;

2. **Receive the Motion moved by Mary Nixon and seconded by Alan Lloyd:**

**“When the Manjimup Shire is informed of any application for exploration, renewal of an exploration permit, application for extraction or any application pertaining to mining in the Shire of Manjimup that the CEO at that time see to it that residents and ratepayers in the immediate vicinity of those applications is advised via Australia Post and at the same time the electors of the Shire are informed via the Shire website, Antenna and the Shire Facebook page”;**

3. **Defer a decision on the Motion identified in point 2 to enable the Shire administration to accurately quantify costs, consider organisational risk including legal matters, identify what other local government organisations are doing, and provide a range of potential options for consideration to assist Council in making a fully informed determination on the matter; and**
4. **Request the Chief Executive Officer to provide a for discussion at the next Council meeting.**

**CARRIED: 11/0**

Councillor Winfield returned to the Chamber at 5.56pm.

### 9.1.2 Request for Waiver of Tipping Fees by Manjimup Community Op Shop Inc.

<b>PROPONENT</b>	Manjimup Community Op Shop Inc.
<b>OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	N/A
<b>WARD:</b>	N/A
<b>ZONE:</b>	N/A
<b>DIRECTORATE:</b>	Office of CEO
<b>FILE REFERENCE:</b>	F160189
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Jason Giadresco
<b>DATE OF REPORT:</b>	27 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

#### **BACKGROUND:**

The Manjimup Community Op Shop Inc. (the Op Shop) has written to Council with a request for reimbursement and to waive tipping fees and charges to assist in the disposal of material received from the community by the group's volunteers at their premises in Manjimup.

In considering this request it is appropriate to consider that on 29 September 2022, Council determined through Resolution 28896 to:

#### **COUNCIL RESOLUTION:**

**MOVED: Ventris, M      SECONDED: Taylor, R**

**28896**

**That Council:**

1. In accordance with clauses 5.42(1) and 6.12(1)(b) of the *Local Government Act 1995* temporarily grant the Chief Executive Officer delegated authority to waive bonds, subject to receiving written undertakings from the user to make good any damage, for their full amount for the hire of the following Shire facilities:
  - a) Shire of Manjimup Art Gallery;
  - b) Collier Street Pavilion;
  - c) Manjimup Heritage Park;
  - d) Manjimup Indoor Sporting Pavilion;
  - e) Manjimup Town Hall;
  - f) Manjin Park;
  - g) Northcliffe Town Hall; and

**h) Site hire for markets and street functions.**

**This delegation may not be sub-delegated by the Chief Executive Officer to other employees.**

- 2. Note the delegated authority granted at Point 1 only pertains to the waiver of Shire facilities bonds for the following entities only:**
  - a) Non-commercial, not-for-profit organisations;**
  - b) Community groups located within the Shire of Manjimup;**
  - c) Sporting groups located within the Shire of Manjimup; and**
  - d) Charitable organisations;**
- 3. Note that the temporary delegation under 6.12(1)(b) of the *Local Government Act 1995* granted to the Chief Executive Officer at Point 1. above expires on 30 June 2023, unless it is included within the adoption of a revised Register of Delegations, Appointments and Authorisations within the current financial year; and**
- 4. Note that the request for the waiver of any fee or charge listed in the 2022/23 Shire of Manjimup Fees and Charges received from the entities described at Point 2(a)-(d), and not subject to delegated authority of the Chief Executive Officer, is to be determined by Absolute Majority decision of Council at an Ordinary Meeting until the adoption of the 2023/24 Shire of Manjimup Fees and Charges has been actioned.**

**CARRIED: 8/0**

Essentially, Resolution 28896 requires that any request to waive fees in the Shire of Manjimup Fees and Charges be presented to Council for determination across the 2022/23 financial year.

The *Local Government Act 1995* specifically excludes Council from delegating the ability to make decisions contrary to the approved budget to the Chief Executive Officer and instead requires these types of matters to be considered by Council utilising an Absolute Majority in the decision-making process.

Considering the above, the purpose of this report is to present to Council for determination a request for the reimbursement of tipping fees paid by the Op Shop, and the waiver of waste tipping fees for Op Shop ongoing.

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The Op Shop is operated and managed locally by volunteers who return profits made through the sale of donated items directly into Shire communities.

### Consideration of Request

Through advice provided by the Waste Management Officer, the Op Shop is seeking reimbursement of tipping fees paid and a waiver of tipping fees ongoing basis.

The waste being disposed of by the Op Shop is materials that have been donated but are deemed totally unsaleable and therefore need to be disposed of.

It is estimated that the Op Shop dumps approximately 55m<sup>3</sup> of unsaleable materials per year, with the tipping fees being in the region of \$1,500 (ex GST).

### Officer Comment

Given that the Op Shop are a not-for-profit charitable organisation, it is recommended that any fees invoiced be reimbursed by Council. The request for reimbursement is justified in that the actions of Op Shop volunteers in disposing of these unwanted items are contributing to the maintenance of the cleanliness and the aesthetic of public areas and the wider local community area. These actions also divert items from landfill.

Furthermore, it is recommended that tipping fees be waived for the remainder of the 2022-23 Financial Year. After that time, the Op Shop will need to reapply for any future waiver of tipping fees each financial year.

Council retains full discretion as to whether the request to waive or reimburse all associated tipping fees and charges is endorsed in part, in full, or refused. It is recommended that Council assess the request on merit and when deliberating this request give careful consideration to any justification to support the decision. The decision as determined, and in respect of fairness and transparency, will likely be regarded as a guiding precedence for other not-for-profit, charitable community groups seeking waivers of tipping fees and charges. It is also noted that Council at its Ordinary Meeting held 19 January 2023, granted a similar request for the waiver of fees by St. Vincent De Paul Society Inc (WA).

### Conclusion

With regard to the request discussed above, it is recommended that Council reimburse the Op Shop for any tipping fees charged since Council's resolution (28896) of 29 September 2022 and continue to waive all tipping fees until 30 June 2023. The fee reimbursement and waiver give recognition to the efforts of the volunteers to assist those persons in need in the Shire community.

### **STATUTORY ENVIRONMENT:**

*Local Government Act 1995* Section 6.12(1)

Subject to subsection (2) and any other written law, a local government may –

- a) When adopting the annual budget, grant a discount of other incentive for the early payment of any amount of money;
- b) Waive or grant concessions in relation to any amount of money; or

- c) Write off any amount of money, which is owed to local government.

**POLICY / STRATEGIC IMPLICATIONS:**

The Shire of Manjimup Strategic Community Plan 2021 – 2031 contains the following being relevant to the request:

- A15. - Continue to diversify waste management options and encourage waste avoidance, reduction, reuse and recycling; and
- C2. - Support volunteer community groups, encourage participation (particularly in the areas of emergency management) and acknowledge contributions to the community.

This is the second request made by a not-for-profit charitable community group in recent times for the waiver of tipping fees related to unsaleable materials received as a donation. There are potential cost implications for Council going forward, should it continue to grant the waiver of fees and charges for the disposal of waste for charitable community groups.

It should be noted that waiver of tipping fees for unsaleable goods cannot be guaranteed into the future beyond this financial year. Therefore, charitable community groups that take donations of goods may wish to review how they take receipt and process these donations in order to reduce the future cost of tipping fees to their organisation.

**ORGANISATIONAL RISK MANAGEMENT:**

Waiving of all fees and charges, which are already heavily subsidised, without considered and transparent justification, could be deemed as setting a guiding precedence for other not-for-profit charitable community groups. Council may need to offset this cost in the future through an increase in rates.

Any future review of the annual fees and charges to accommodate the future waiving of fees and charges will likely require an operational budget increase to accommodate this loss of revenue and ability to recover direct costs.

**FINANCIAL IMPLICATIONS:**

Whilst the dollar figures pertaining to this application are relatively small, there is a likelihood of a much bigger inherent financial risk to the organisation should the decision be made to waive all tipping fees and charges and whereby other charitable community groups that receive donated materials perceive this as a precedent.

**SUSTAINABILITY:**

Environmental: The waiver of tipping fees in this instance by Council is supportive of actions consistent with good community environmental stewardship.

Economic: Nil.

Social: The waiver of tipping fees by Council will allow for the Op Shop to reinvest those funds back into services and programs that will directly assist people in the local community.

**VOTING REQUIREMENTS: ABSOLUTE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

1. Approve the reimbursement of tipping fees paid by Manjimup Community Op Shop Inc. in the disposal of non-recyclable waste invoiced by the Shire of Manjimup between 29 September 2022 and 9 February 2023;
2. Advise the Manjimup Community Op Shop Inc. that tipping fees for non-recyclable waste are waived for the remainder of the 2022-2023 Financial Year; and
3. Advise the Manjimup Community Op Shop Inc. that waiver of tipping fees beyond the 2022-2023 Financial Year will be subject to annual written application to the Shire of Manjimup for consideration.

**COUNCIL RESOLUTION:**

**MOVED: Eiby, W**

**SECONDED: Buegge, D**

**29022**

**That Council:**

1. Approve the reimbursement of tipping fees paid by Manjimup Community Op Shop Inc. in the disposal of non-recyclable waste invoiced by the Shire of Manjimup between 29 September 2022 and 9 February 2023;
2. Advise the Manjimup Community Op Shop Inc. that tipping fees for non-recyclable waste are waived for the remainder of the 2022-2023 Financial Year; and
3. Advise the Manjimup Community Op Shop Inc. that waiver of tipping fees beyond the 2022-2023 Financial Year will be subject to annual written application to the Shire of Manjimup for consideration.

**MOTION CARRIED 10/1**

**FOR**

Cr D Buegge  
 Cr S Dawson Vidovich  
 Cr W Eiby  
 Cr D Jenkins  
 Cr K Lawrence  
 Cr P Omodei  
 Cr K Skoss  
 Cr R Taylor  
 Cr M Ventris  
 Cr C Winfield

**AGAINST**

Cr J Willcox

## ATTACHMENT

## 9.1.3 October to December 2022 Quarterly Report - Office of the CEO

<b>PROPONENT</b>	Chief Executive Officer
<b>OWNER</b>	N/A
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>WARD:</b>	All
<b>ZONE:</b>	All
<b>DIRECTORATE:</b>	Office of the CEO
<b>FILE REFERENCE:</b>	F160966
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Andrew Campbell
<b>DATE OF REPORT:</b>	30 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

A report outlining activities for quarter ending 31 December 2022 for the Office of the Chief Executive Officer is attached.

**ATTACHMENT: 9.1.3 (1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The report outlines progress on key activities undertaken by the Office of the CEO for the quarter and focus for the forthcoming quarter. The purpose of the report is to inform Councillors and provide an opportunity to respond to any queries arising on those activities.

**STATUTORY ENVIRONMENT:**

Nil.

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL IMPLICATIONS:**

Nil.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS: SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receive the October to December 2022 Quarterly Report – Office of the CEO as contained in Attachment: 9.1.3(1).**

**COUNCIL RESOLUTION:**

**MOVED: Dawson Vidovich, S SECONDED: Taylor, R**

**29023**

**That Council receive the October to December 2022 Quarterly Report – Office of the CEO as contained in Attachment: 9.1.3(1).**

**CARRIED: 11/0**

**ATTACHMENT****9.2.1 Quarterly Report - October to December 2022 - Business Directorate**

<b>PROPONENT OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	Shire of Manjimup
<b>WARD:</b>	All
<b>ZONE:</b>	N/A
<b>DIRECTORATE:</b>	Business
<b>FILE REFERENCE:</b>	F160966
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Greg Lockwood
<b>DATE OF REPORT:</b>	10 February 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

A report outlining activities for the quarter ending December 2022 for the Business Directorate is attached.

**ATTACHMENT: 9.2.1(1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The report outlines key activities that have occurred for the second quarter of 2022/2023. The purpose of the report is to inform Councillors and provide an opportunity to respond to any queries arising from those activities.

**STATUTORY ENVIRONMENT:**

Nil.

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

There is a medium risk with insignificant consequence to the organisation by not regularly reporting the directorate's progress to Council.

**FINANCIAL IMPLICATIONS:**

Nil.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receive the October to December 2022 Quarterly Report – Business Directorate as contained in the Attachment: 9.2.1(1).**

**COUNCIL RESOLUTION:**

**MOVED: Skoss, K                      SECONDED: Taylor, R**

**29024**

**That Council receive the October to December 2022 Quarterly Report – Business Directorate as contained in the Attachment: 9.2.1(1).**

**CARRIED: 11/0**

**ATTACHMENT****9.2.2 Proposed Airfield Hangar Lease Transfer**

<b>PROPONENT</b>	Sam Karamfiles
<b>OWNER</b>	Campbell Aviation Services Pty Ltd
<b>LOCATION / ADDRESS:</b>	Crown (Management Order to Shire) Portion of Reserve 33588, Lot 3005 Dawn Road, Manjimup
<b>WARD:</b>	Central
<b>ZONE:</b>	Public Purposes - Airfield
<b>DIRECTORATE:</b>	Business
<b>FILE REFERENCE:</b>	F160789
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i> <i>Land Administration Act 1997</i>
<b>AUTHOR:</b>	Jasmine Bamess
<b>DATE OF REPORT:</b>	25 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The Shire of Manjimup manages Airfield Reserve 33588 and leases portions for the permitted use of 'storage of aircraft, including maintenance and repair'. A request has been received to transfer one of the leases from Sam Karamfiles to Campbell Aviation Services Pty Ltd. Attached is a site plan of the lease in consideration.

**ATTACHMENT: 9.2.2 (1)****PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The ten year lease term is from 25 August 2018 to 24 August 2028 with a renewal option of a further five years to 24 August 2033. This is similar terms to the other leases on Reserve 33588. The lease terms and conditions will not change with the proposed transfer.

As this is a transfer of a lease that meets the purpose of the reserve, transfer is recommended.

**STATUTORY ENVIRONMENT:**

Section 3.58 of the *Local Government Act 1995* requires Council to advertise its intentions to dispose of property. However, the transfer/assignment of an existing lease does not constitute a 'disposition of property' from the Local Government's point of view and therefore public notice is not required for the transfer.

Each lease of Crown land and transfer of lease requires the approval of the Minister for Lands in accordance with section 18 of the *Land Administration Act 1997*.

**POLICY / STRATEGIC IMPLICATIONS:**

Council Policy 1.2.8 *Authority to Execute Documents on Behalf of Council* requires matters concerning the leasing of Shire managed land to be put before Council.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

The leaseholders will be responsible for any costs associated with the lease transfer.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council consent to the transfer of the lease of portion of Airfield Reserve 33588 from Sam Karamfiles to Campbell Aviation Services Pty Ltd, subject to the transfer proceeding and the consent of the Minister for Lands.**

**COUNCIL RESOLUTION:**

**MOVED: Jenkins, D              SECONDED: Dawson Vidovich, S**

**29025**

**That Council consent to the transfer of the lease of portion of Airfield Reserve 33588 from Sam Karamfiles to Campbell Aviation Services Pty Ltd, subject to the transfer proceeding and the consent of the Minister for Lands.**

**CARRIED: 11/0**

### 9.2.3 Proposed Lease from Western Power - Portion of Lot 1 Wheatley Coast Road, Quinninup

<b>PROPONENT OWNER</b>	Shire of Manjimup Electricity Networks Corporation trading as Western Power
<b>LOCATION / ADDRESS:</b>	Portion of Lot 1 Wheatley Coast Road, Quinninup
<b>WARD:</b>	East
<b>ZONE:</b>	Public Purposes – Civic and Cultural
<b>DIRECTORATE:</b>	Business
<b>FILE REFERENCE:</b>	F160082
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Jasmine Bamess
<b>DATE OF REPORT:</b>	25 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

#### BACKGROUND:

The Shire of Manjimup leases portion of Lot 1 Wheatley Coast Road, Quinninup from Electricity Networks Corporation trading as Western Power for the permitted use of 'Communications Tower and Emergency Services'.

The lease is due to expire 21 April 2023.



#### PUBLIC CONSULTATION UNDERTAKEN:

Nil.

#### COMMENT (Includes Options):

Shire assets (tower and transportable building) are retained on the leased land for emergency services radio communications. Formerly it was used for television transmission prior to the change to digital television services.

Western Power have proposed the following for a new lease to continue the existing arrangement:

- Lease term of five years, with an option of a further term of five years;
- Shire to contribute towards legal costs up to \$780;
- Rental of \$740 per annum plus GST;
- Fixed annual rent review rate of 4% per annum; and
- Market rent review at the end of the five year term in April 2028.

The rental for the current year to 21 April 2023 is \$712, therefore Western Power have proposed a 4% increase for the commencement of the new lease.

Given the importance of the infrastructure for emergency management, it is recommended to renew the lease as proposed for 5 years with the renewal option for a further 5 years.

**STATUTORY ENVIRONMENT:**

Nil.

**POLICY / STRATEGIC IMPLICATIONS:**

Council Policy 1.2.8 *Authority to Execute Documents on Behalf of Council* requires matters concerning the leasing of land to the Shire to be put before Council.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

The Shire will be responsible for lease preparation costs and annual fees as outlined above with the funds to be sourced from fire prevention operational budgets.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:**

**SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council consent for the Chief Executive Officer to execute a lease agreement from Electricity Networks Corporation to the Shire of Manjimup for portion of Lot 1 Wheatley Coast Road, Quinninup for a term of five years, with an option of a further term of five years.**

**COUNCIL RESOLUTION:**

**MOVED: Buegge, D      SECONDED: Winfield, C**

**29026**

**That Council consent for the Chief Executive Officer to execute a lease agreement from Electricity Networks Corporation to the Shire of Manjimup for portion of Lot 1 Wheatley Coast Road, Quinninup for a term of five years, with an option of a further term of five years.**

**CARRIED: 11/0**

## ATTACHMENT

## 9.3.1 Proposed Budget Review Adjustments - December 2022

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	Whole Shire
<b>LOCATION / ADDRESS:</b>	Whole Shire
<b>WARD:</b>	Whole Shire
<b>ZONE:</b>	N/A
<b>DIRECTORATE:</b>	Business
<b>FILE REFERENCE:</b>	F160191
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Greg Lockwood
<b>DATE OF REPORT:</b>	10 February 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

Following a review of the monthly accounts to 31 December 2022 a budget adjustment sheet has been prepared to reflect variations to expenditure and revenue compared to that contemplated in the adopted 2022/2023 Annual Budget.

**ATTACHMENT: 9.3.1 (1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The December 2022 Monthly Financial Statement Report has been completed and is the subject of a separate agenda item providing a full explanation of “actual” compared to “budget” for the three months of operation to 31 December 2022.

Adjustments for 2022/2023 adopted budget, already approved by Council by way of specific agenda items, are:

- \$34,888 – Live Stream Council Meetings - inclusion of extra funding to cover price escalations and the replacement of the Council audio systems as part of project;
- \$100,000 Unallocated – Local Roads and Community Infrastructure Funding allocation to Speed Indicator and footpath renewal Pemberton as well as footpath renewal near Northcliffe public toilets;
- \$6,000 – Pemberton Sports Club Review – additional funding to appoint preferred supplier for review;
- \$85,571 – Sale of Grader – Recognise additional funds received for sale of grader to be transferred to Plant Reserve; and
- \$120,000 – Graphite Road construction – reallocate infrastructure funding to cover tender price for Graphite Roads works.

Proposed other adjustments not yet considered by Council are:

- \$4,100 – Exploring the Everyday – recognise FRRR Strengthening Rural Communities grant to carry out science experiences for children at the Shire’s four major towns; and
- \$449,000 reduction – Main Roads WA (MRWA) Grant – amend Bridge 8033 South West Hwy (Northern Arch) budget from \$500,000 to \$51,000 as per advice on administrative error from MRWA. Budget supplied was for design and construction however actual 2022/23 funding allocation is for design and three-dimensional modelling only.

**STATUTORY ENVIRONMENT:**

Section 6.8 (1) of the *Local Government Act 1995* requires that expenditure not be incurred for an additional purpose unless authorised by Council.

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

Details of the recommended budget adjustments are attached.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:**

**ABSOLUTE MAJORITY**

**OFFICER RECOMMENDATION:**

That Council adopts the December 2022 budget adjustments as contained in Attachment: 9.3.1(1).

**COUNCIL RESOLUTION:**

**MOVED: Skoss, K**

**SECONDED: Dawson Vidovich, S**

**29027**

That Council adopts the December 2022 budget adjustments as contained in Attachment: 9.3.1(1).

**CARRIED: 11/0**

## ATTACHMENT

## 9.3.2 Monthly Financial Activity Statement - December 2022

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	Whole Shire
<b>LOCATION / ADDRESS:</b>	Whole Shire
<b>WARD:</b>	Whole Shire
<b>ZONE:</b>	N/A
<b>DIRECTORATE:</b>	Business
<b>FILE REFERENCE:</b>	F160188
<b>LEGISLATION:</b>	<i>Local Government Act 1995; Local Government (Financial Management Regulations) 1996</i>
<b>AUTHOR:</b>	Greg Lockwood
<b>DATE OF REPORT:</b>	17 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The *Local Government (Financial Management) Regulations 1996* require monthly Financial Activity Statement reports to be prepared and presented to Council, containing the following information;

- Annual budget estimates;
- Estimates to end of month;
- Actual expenditure;
- Actual income;
- Material variances; and
- Net current assets.

The Financial Activity Statement report for the period to 31 December 2022 is attached. The report is summarised by Function/Activity with operating comments via department. The report also provides a Rate Setting Statement and Statement of Comprehensive Income in the Type format in anticipation of changes to monthly reporting requirements proposed by the Department of Local Government.

**ATTACHMENT: 9.3.2 (1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The financial performance for the Shire of Manjimup to the 31 December 2022 is a projected profit of \$72,548.

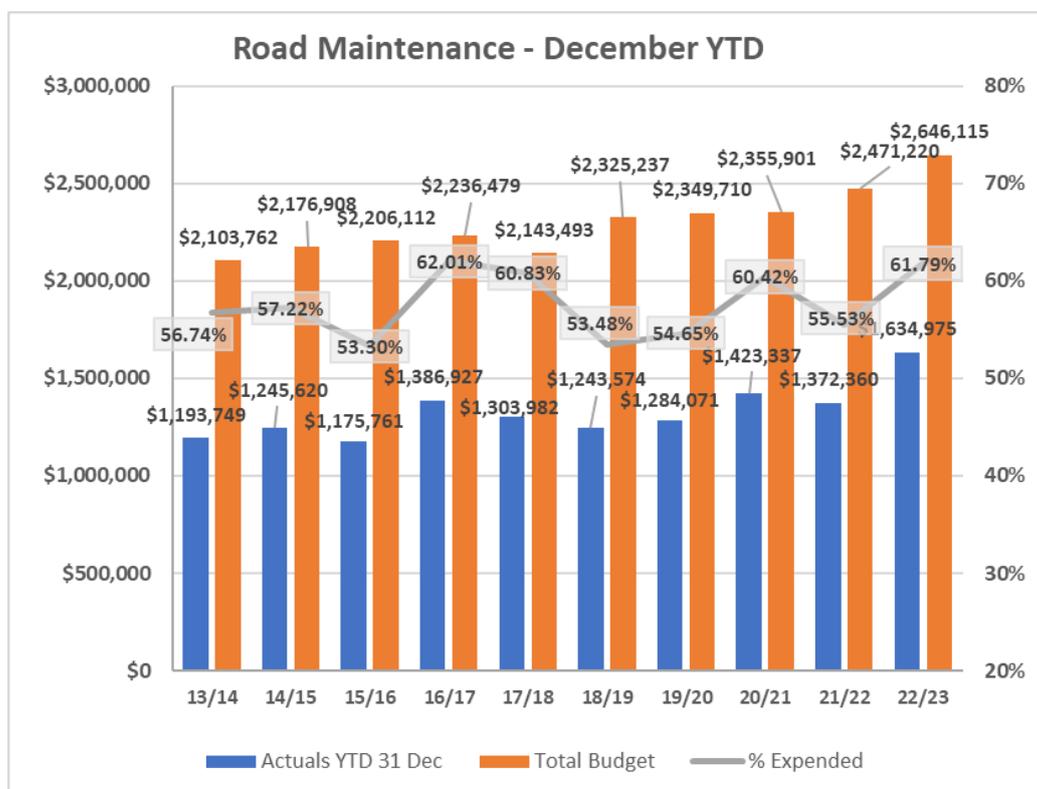
The projected profit is based on a conservative approach highlighting possible issues as they occur, which in most cases can be rectified or offset with under expenditure in other areas as the Shire progresses through the financial year.

There have been no significant issues identified in the December 2022 accounts. One moderate issue that is unlikely to be rectified by the 30 June 2023 is Power Up Electricity Museum Income. Whilst we are now entering the period of higher use, a comparison of income to a pro rata of the year-to-date budget shows entry fees \$35,000 behind budget, a conservative projection to the 30 June 2023 would show a loss of \$55,000.

A positive issue to date is Interest on Bank Accounts, to the 31 December 2022 actuals were \$123,966 with a whole year budget of \$60,000, in comparison only \$28,913 was received for the entire 2021/22 financial year. It is expected that the rate of interest generated will slow as we progress through the year with money being expended, however a conservative projection should see \$100,000 of additional income.

Development activity accounts again have shown strong performance in December. Planning Fees and Building Fees have jumped to \$22,382 ahead of the year-to-date budget, however a projection of additional income has not been calculated as this continued elevated activity cannot be guaranteed.

An area that is important to monitor at the halfway point of the year is Road Maintenance. July to November is traditionally a heavy road maintenance period, with drier weather triggering the move from road maintenance to the capital works program.



To 31 December 2022 road maintenance is at 61.79% expended, which is 6.26% higher than this time last year. In isolation this percentage looks like a concern but with favourable weather conditions and a completed capital program, maintenance accounts should be sufficiently recovered to meet road

maintenance in the last quarter of the financial year. It should also be noted that in December 2021 Storm Damage was \$183,496, some \$119,903 ahead of the year-to-date budget, however in December 2022 Storm damage has only reached \$78,011 only \$14,418 ahead of the year-to-date budget, reducing the overall stress on the Works operating budget.

Other than Entry Income at the Power Up Electricity Museum, no major discrepancies have come to light in the first six months after adopting the 2022/23 budget, and with sound financial management going forward by all departments, Council should be in a neutral or minor surplus position at the 30 June 2023.

**STATUTORY ENVIRONMENT:**

Section 6.8 of the *Local Government Act 1995* and *Financial Management Regulation 34*.

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

As described in above summary.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil

**VOTING REQUIREMENTS:**

**SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receive the Monthly Financial Activity Statement Report for December 2022 as per Attachment: 9.3.2(1).**

**COUNCIL RESOLUTION:**

**MOVED: Buegge, D**

**SECONDED: Eiby, W**

**29028**

**That Council receive the Monthly Financial Activity Statement Report for December 2022 as per Attachment: 9.3.2(1).**

**CARRIED: 11/0**

## ATTACHMENT APPENDIX

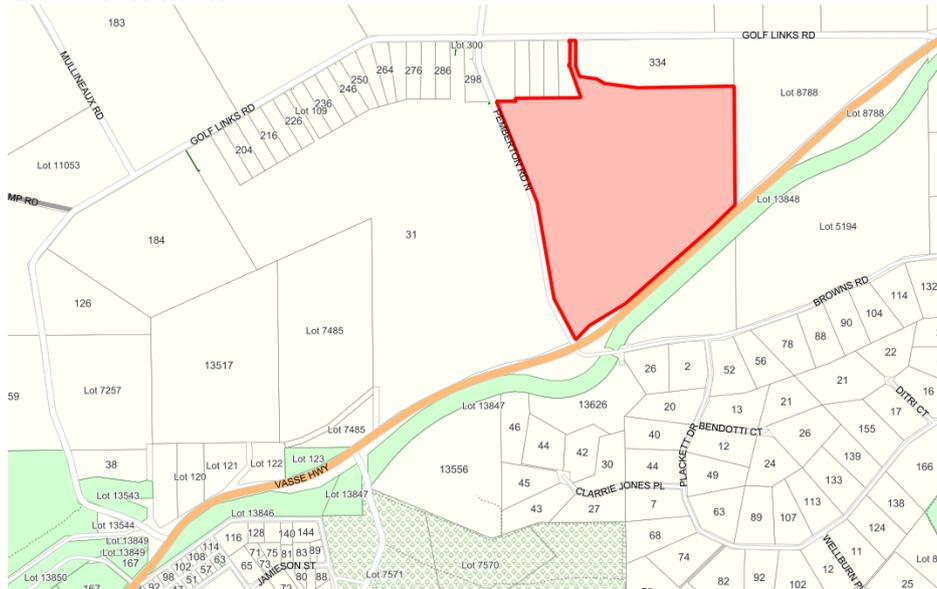
### 9.5.1 Proposed Subdivision at Lot 9002 (No 332) Golf Links Road, Pemberton

<b>PROPONENT</b>	Edge Planning & Property
<b>OWNER</b>	Greenland Pemberton Pty Ltd
<b>LOCATION / ADDRESS:</b>	Lot 9002 (No 332) Golf Links Road, Pemberton
<b>WARD:</b>	West
<b>ZONE:</b>	Special Use
<b>DIRECTORATE:</b>	Development & Regulation
<b>FILE REFERENCE:</b>	DA23/3 & P58160
<b>LEGISLATION:</b>	<i>Planning and Development Act 2015</i>
<b>AUTHOR:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	3 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

#### BACKGROUND:

The Greenland Estate (the Estate) is located on the south side of Golf Links Road, approximately 1km north east of the Pemberton Townsite. The estate comprises two separate parcels of land, being west and east of Pemberton Road North. As reflected on the location plan below, the developers have previously created 18 1ha lots from the western parcel and 5 lots ranging from 1ha to 2ha from the eastern parcel, with all new lots fronting Golf Links Road.

#### Location Plan



The Western Australian Planning Commission (WAPC) is now seeking comment on the proposed subdivision of the eastern part of the estate (Lot 9002) having an area of 48.45ha. If approved, the proposed subdivision will create 130 residential lots ranging from 2,000m<sup>2</sup> to 9,006m<sup>2</sup> in area, a public open space reserve of 2,036m<sup>2</sup>, a “Shire Emergency Services Reserve” and two balance lots. Each of the two balance lots contain dams and are notated

with the statement “Dam to be removed and additional geotechnical investigations to be undertaken”.

As shown on the proposed plan of subdivision, 120 of the lots will form the bulk of the estate located east of Pemberton Road North, with the lots ranging from 2,000m<sup>2</sup> to 3,380m<sup>2</sup>, whilst 10 larger properties are proposed with areas from 4,000m<sup>2</sup> to 9,006m<sup>2</sup> abutting Vasse Highway. Access to the majority of the lots will be provided via a total of 10 local road reserves, whilst 8 lots will be accessed from Pemberton North Road. A copy of the proposed plan of subdivision is shown attached.

**ATTACHMENT: 9.5.1(1)**

Amendment No 115 to the Shire’s then Town Planning Scheme No 2 rezoned the land from “Rural” to “Special Development” Zone. The Amendment as gazetted contained a Subdivision and Development Concept Plan and introduced scheme provisions relating to the future subdivision and development of the land. A copy of the approved Subdivision and Development Concept Plan is appended.

**APPENDIX: 9.5.1(A)**

At its Ordinary Meeting held on 29 September 2022 Council was requested to consider amending the endorsed Concept Plan. A copy of the applicants submission, as considered by Council, detailing the proposed changes and notations on the original concept plan are appended.

**APPENDIX: 9.5.1(B)**

In addition Shire Officers requested Council to consider a statement in the proponents submission that *“Based on recent Department of Planning, Lands and Heritage (DPLH) advice, there is no requirement to prepare a structure plan on either Lot 9000 or Lot 9001 prior to the Western Australian Planning Commission (WAPC) granting conditional subdivision approval. This is based on section 138(3) of the Planning and Development Act 2005.”*

By way of summary, Council resolved to:

- a) Support the variations proposed to the Subdivision and Development Concept Plan relating to the establishment of a Fire Service Access Route abutting Vasse highway and screening vegetation, subject to three conditions; and
- b) Advise the proponent and Department of Planning, Lands and Heritage that the Shire of Manjimup did not support the view that structure planning is not required, that it considered the need for structure planning was well documented and essential to ensure orderly and proper planning relating to the overall development of the estate, services, traffic management and infrastructure upgrades being addressed in a co-ordinated and timely manner.

An excerpt of the relevant minutes is appended.

**APPENDIX: 9.5.1 (C)**

Contrary to the advice of Council, an application for approval to the subdivision without Structure Planning has been made and the WAPC is seeking local government advice on the proposal.

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

To assist Council in considering the WAPC request for comment, the following comments are offered:

Zoning

The provisions of Local Planning Scheme No 4 (LPS No 4) include the subject land within the Special Use Zone area No 7. Provisions relating to the Subdivision and Development of the land are outlined within Part 5.42 of the Scheme and Schedule 6 of LPS No 4.

Part 5.42 – Special Use Zone

As outlined within clause 5.42.1 the Policies relating to the Special Use Zone as follows:

*“The local government policies in controlling development and influencing subdivision within the Special Use Zone will be to:*

- (i) Zone land to provide for special uses that do not readily fall within the zone categories of the Scheme;*
- (ii) Require preparation of a Structure Plan for adoption by the local government for developments which consist of multiple uses;*
- (iii) Ensure that new development/subdivision proposals reflect the settlement strategy in the adopted Local Planning Strategy; and*
- (iv) Ensure that large scale developments are located in close proximity to existing towns in strategically identified locations.*

*Development in the Zone*

*Land uses, subdivision and conditions of development and use will be in accordance with an endorsed Structure Plan including relevant documentation adopted by the local government and identified in Schedule 6 of the Scheme.”*

In addition to the above policies, clause 5.42.2 states that there is a general presumption against subdivision unless provided for in an adopted Structure Plan.

Schedule 6 – Special Use Zone No 7

Schedule 6 outlines a number of permitted uses and imposes a number of conditions of use on the Estate. Many of provisions relate to the need for Structure Planning reflected on the Subdivision Concept Plan shown at Appendix: 9.5.1(D). A copy of the Special Provisions are also appended.

**APPENDIX: 9.5.1(D)**

The conditions of use relating to a Structure Plan are summarised as follows:

1. Preparation of Structure Plan approved by the local government and Western Australian Planning Commission (WAPC) prior to any subdivision of land;
2. The required Structure Plan being generally in accordance with the endorsed *“Subdivision and Development Concept Plan adopted by the local government on 22/11/2007” and the landscape, agricultural, effluent and drainage assessments, included as part of the Amendment Report”*;
3. The following management plans being prepared to the satisfaction of the local government prior to the adoption of a Structure Plan:
  - A drainage management plan;
  - An access strategy addressing all accesses and suitable legal agreements between the Proponent and the Shire to clarify the approach to contributions for upgrading roads and intersections as well as staging of road infrastructure requirements;
  - Building Design Guidelines to achieve a higher standard sympathetic to Pemberton’s character/climate, that avoids replicating standard metropolitan building designs;
  - A Fire Management Plan;
  - An Agricultural Impact Assessment to address State Planning Policy No 2.5, compatibility with current adjoining/nearby agricultural land uses;
  - Requirements regarding advice on titles for all lots within 250m of Golf Links Road; and
  - A landscape management plan for local government approval for the strategic landscape design, a landscaping theme for the entire estate, revegetation to address natural resource management and water management requirements, street tree planting and visual impact analysis.
4. The community purpose site and Public Open Space being ceded free of cost and a ‘Memorandum of Understanding’ being prepared between the proponent and local government to ensure construction of a community facility at a future date consistent with the local government’s budgetary commitments.

#### Submitted Documentation

In support of the proposal, the applicant has submitted a number of documents that they hope will result in the need for structure planning to be waived. These documents include the following technical information as prepared by suitably qualified consultants:

- A Bushfire Management Plan, Bushfire Attack Level and Bushfire Hazard Level Assessment;
- Local Water Management Strategy;
- Servicing Report;
- Traffic Impact Assessment;
- Report on the Residential/Rural Interface (2007); and

- A staging plan.

The applicant has submitted this documentation in an attempt to demonstrate more detailed structure planning is not required.

A number of documents specified by the Scheme, and approved Concept Plan, as being required to inform a detailed structure plan have however not been supplied. These documents include:

- a) An Access Strategy and associated Deed of Agreement to clarify the approach to contributions for upgrading and staging of the works,
- b) A detailed landscape/water feature to be designed and located to the satisfaction of the Shire;
- c) Details on the approach to the developer's contribution towards a dual use path to Pemberton;
- d) A suitable level of detail associated with water sensitive urban design, legal agreement with the Shire to clarify the approach to contributions for upgrading roads;
- e) Building Design Guidelines;
- f) A Landscape Management Plan addressing strategic landscape design and themes; and
- g) An assessment of the future development potential of the "Rural Tourist" site; and
- h) Potential uses for the balance lots, currently containing dams.

In addition no detail has been provided in respect of what standard of boundary fencing will be established on the common boundary with the now existing 1ha lots off Golf Links Road.

#### Traffic Impact Assessment

In addition to the above, it is noted that the submitted Traffic Impact Assessment contains a number of conflicting statements and fatally does not take into account restricted access vehicles (RAV) using the existing roads which are approved RAV networks.

It is also noted that the Traffic Impact Assessment states that no traffic data was available for the local roads. Relevant Shire Officers advise no approach was made to Shire officers to discuss traffic management or road upgrading contributions or timing. The current Traffic Impact Assessment cannot be accepted.

#### Scale of Subdivision

When completed, the subdivision of whole of the Greenlands Estate will occupy an area of 123.7859ha, being equivalent to the site of the entire Pemberton Townsite. It will be the single largest residential estate in the history of the Shire of Manjimup.

#### Staging

A plan has been submitted showing that the subdivision will be staged, with stage 1 to contain 61 lots with 7-9 lots front Pemberton Road North. Stage 2 is shown as containing 71 lots, with the plan stating lot yield is yet to be

determined for the two balance lots. A copy of the submitted staging plan is shown attached.

**ATTACHMENT: 9.5.1(2)**

Water Supply

The submitted Engineering Servicing Report has identified that the current Water Corporation infrastructure is not capable of supporting the development as proposed. The advice states that a substantial upgrade of the water treatment plant will be required to service more than 30 lots and that while the developer is liaising with the Water Corporation, an upgrade is not currently on the 5 year upgrade program.

Timing of Development

As a result of issues associated with the supply of potable water a maximum of 30 lots can be serviced with a reticulated sewerage service, being just under half of Stage 1. With the timing of any upgrade to the Water Corporation water supply treatment plant unconfirmed, it is unknown when the balance of the subdivision could occur.

It should be noted that the Traffic Impact Assessment references that "Some forecasts suggest an uptake of about 50 properties per year, which would result in full development in about 8-9 years for a total of around 465 lots". Based on this, the author of the Assessment has assumed that for the purpose of the traffic assessment, full development by 2030. With the reticulated water supply only able to service approximately 30 lots at this stage, it is unlikely that these rates of development will be achieved and the Traffic Impact Assessment should be revised accordingly.

Structure Planning

Structure Plans provide the framework for the co-ordinated provision of services, infrastructure, land use and development of an area. In addition to the site specific provisions of the Scheme, clause 15 of the Deemed to Apply provisions contained in the *Planning and Development (Local Planning Schemes) Regulations 2015* states that:

*"A structure plan in respect of an area of land in the Scheme may be prepared if:*

- a) *The area is:*
  - (i) *All or part of a zone identified in this Scheme as an area suitable for urban or industrial development; and*
  - (ii) *Identified in this Scheme as an area requiring a structure plan to be prepared before any future subdivision or development in undertaken."*

Structure Plans are required to be advertised for public comment over a period of between 14 and 28 days, ensuring an open and transparent process.

At the time of Amendment No 115 to the Shire's then Town Planning Scheme No 2, members of the public were only given opportunity to provide comment on a broad brush concept plan. The concept plan clearly stated that more detailed structure planning was required.

These requirements have clearly been known to all parties including the landowner since Amendment 115 was gazetted in 2009. It should also be noted that the requirement for more detailed structure planning was highlighted within a number of the landowners own consultant reports, as well as ultimately the Scheme provisions that resulted.

It is strongly recommended that subdivision of the land should be opposed until such time as detailed structure planning has been completed taking into account the Scheme provisions and notations on the Concept Plan, allowing the more detailed proposal to be advertised. This will ensure an open and transparent process for all parties, including landowners abutting the site and members of the general public.

Given that potable water supply is only available for 30 of the proposed lots and an upgrade of the water supply is not currently within 5 year planning horizons, it is considered that completion of a structure planning will not unnecessarily delay the ultimate subdivision of the land.

#### Conclusion

The requirement for a detailed structure plan, along with the need to enter into a Deed of Agreement with the Shire regarding road infrastructure upgrading has been clearly documented within the Scheme and known by the land owner since gazettal of Amendment No 115 to Town Planning Scheme No 2 in 2009.

The applicant has attempted to justify proceeding without detailed structure planning and the agreement given the market demand for land and a statement that State Government Officers having advised them Structure Planning may not be required.

Shire Officers do not support the above justification and highlight that structure planning is clearly required in accordance with Clause 15 of the *Planning and Development (Local Planning Scheme) Regulations 1015* and Local Planning Scheme No 4. For this reason the application for subdivision is not supported at this time.

#### **STATUTORY ENVIRONMENT:**

Local Planning Scheme No 4, *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.

#### **POLICY / STRATEGIC IMPLICATIONS:**

Comments relating to strategic implications and relevant considerations have been provided in the Comment Section of this agenda item.

#### **ORGANISATIONAL RISK MANAGEMENT:**

Should subdivision of the land proceed without the pre-requisite structure planning and firm agreement regarding the timing and upgrading requirements relating to roads and infrastructure, there is potential for the Shire to be left with costs associated with road upgrades resulting from the proposed subdivision.

**FINANCIAL IMPLICATIONS:**

Nil.

**SUSTAINABILITY:**

Environmental: Additional information is required to determine potential environmental impacts.

Economic: Subdivision of the land as proposed will provide a substantial number of lots supporting the future growth of Pemberton and the Shire generally. However due care is required to ensure the Shire is not burdened with infrastructure upgrade costs resulting from the development.

Social: Subdivision of the land as proposed will provide a substantial number of lots supporting the future growth of Pemberton and the Shire generally.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council advise the Western Australian Planning Commission:**

- 1. The Shire of Manjimup does not support the subdivision of the land prior to the completion of detailed structure planning addressing the specific requirements as detailed within Schedule 6 of the Shire's Local Planning Scheme No 4;**
- 2. Given the significant scale of the development, being equivalent to the size of the current Pemberton Townsite, it is appropriate that structure planning, including the required public consultation is undertaken in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*, ensuring an open and transparent process;**
- 3. Issues such as servicing with a potable water supply must be resolved prior to support of the subdivision in the scale proposed;**
- 4. The submitted Traffic Impact Statement contains numerous errors and does not address existing traffic volumes on the local roads, which are available from the Shire, nor the fact the local roads are included on the Restricted Access Vehicle network; and**
- 5. That having regard to the fact that significant upgrades are required to the Water Corporations potable water treatment plant in order to service the current proposed subdivision and that such plans are not currently within the 5 year program, sufficient time is available for the proponent to complete detailed structure planning as proposed within Amendment No 115 to Town Planning Scheme No 2 and now reflected within the Scheme.**

**COUNCIL RESOLUTION:**

**MOVED: Omodei, P      SECONDED: Winfield, C**

**29029**

**That Council advise the Western Australian Planning Commission:**

- 1. The Shire of Manjimup does not support the subdivision of the land prior to the completion of detailed structure planning addressing the specific requirements as detailed within Schedule 6 of the Shire's Local Planning Scheme No 4;**
- 2. Given the significant scale of the development, being equivalent to the size of the current Pemberton Townsite, it is appropriate that structure planning, including the required public consultation is undertaken in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*, ensuring an open and transparent process;**
- 3. Issues such as servicing with a potable water supply must be resolved prior to support of the subdivision in the scale proposed;**
- 4. The submitted Traffic Impact Statement contains numerous errors and does not address existing traffic volumes on the local roads, which are available from the Shire, nor the fact the local roads are included on the Restricted Access Vehicle network; and**
- 5. That having regard to the fact that significant upgrades are required to the Water Corporations potable water treatment plant in order to service the current proposed subdivision and that such plans are not currently within the 5 year program, sufficient time is available for the proponent to complete detailed structure planning as proposed within Amendment No 115 to Town Planning Scheme No 2 and now reflected within the Scheme.**

**MOTION CARRIED 8/3**

**FOR**

Cr S Dawson Vidovich  
 Cr W Eiby  
 Cr D Jenkins  
 Cr P Omodei  
 Cr K Skoss  
 Cr R Taylor  
 Cr J Willcox  
 Cr C Winfield

**AGAINST**

Cr D Buegge  
 Cr K Lawrence  
 Cr M Ventris

## ATTACHMENT

## 9.5.2 Proposed Dwelling-Single at Lot 168 Karri Lane, Quinninup

<b>PROPONENT</b>	Fox Modular
<b>OWNER</b>	Ms N J Reilly
<b>LOCATION / ADDRESS:</b>	Lot 168 Karri Lane, Quinninup
<b>WARD:</b>	East
<b>ZONE:</b>	Residential R2.5
<b>DIRECTORATE:</b>	Development and Regulation
<b>FILE REFERENCE:</b>	DA22/187; P55512
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i>
<b>AUTHOR:</b>	Kaylene Roberts/Brian Robinson
<b>DATE OF REPORT:</b>	10 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

Council is requested to consider an application for a Dwelling – Single at Lot 168 Karri Lane, Quinninup. The subject property is 2,141m<sup>2</sup> and is located on the eastern side of Quinninup Dam in the Karri Lakes Estate. A location plan is provided below.



The application is proposing a modular dwelling with a floor area of 76m<sup>2</sup>, comprising two bedrooms, one with an ensuite, open plan living/dining/kitchen area and a combined laundry/main bathroom. If approved the dwelling will be constructed of steel frame with the external walls be clad in a mixture of timber cladding, matrix cladding and Colorbond® trimdeck cladding. A copy of the submitted plans are attached.

**ATTACHMENT: 9.5.2(1)**

Council is requested to consider the application as Shire Officers do not have the delegated authority to determine the application as the proposed floor area does not comply with the minimum floor area specified for development with the Karri Lakes Estate, Quinninup.

**PUBLIC CONSULTATION UNDERTAKEN:**

The application was referred to the adjoining landowners for comment for a 21 day period and to the Department of Biodiversity, Conservation and Attractions (DBCA) for a 42 day period. At the close of advertising, comments were received from DBCA and an adjoining landowner.

The comments received are attached with their content discussed within the Comment section below.

**ATTACHMENT: 9.5.2(2)**

It should be noted that previously, when the Lake formed part of a drinking water catchment, comments were routinely sought from the Department of Water and Environmental Regulation (DWER). Whilst DWER comments are no longer required as a result of the drinking water catchment being de-proclaimed, the application was referred to DWER prior to past practices being modified and comment has been received. As the comments received are generalised to the estate, reiterating past comments and were not specific to the application, the comments have not been addressed in this agenda item. A copy of the DWER comment is available to Councillors on request.

**COMMENT (Includes Options):**

The provisions of the Shire of Manjimup's Local Planning Scheme No. 4 (the Scheme) include the subject land within the Residential Zone. The Scheme maps apply a maximum density of R2.5, being a minimum lot size of 4,000m<sup>2</sup> in accordance with State Planning Policy 7.3 – Residential Design Codes Volume 1 (the R-Codes).

Clause 10.2 of the Scheme prescribes that in determining applications for planning approval, the local government must have regard to various matters. Relevant considerations for subject application are as follows:

- (i) *the aims and provisions of the Scheme and any other relevant Local Planning Scheme operating within the Scheme area;*
- (vii) *the content and objective of Planning Precinct Statements set out in Schedule 8 of this Scheme;*
- (x) *the compatibility of a use or development with its setting including the potential impact on the use and enjoyment of adjacent and nearby land and taking into consideration any Special Control Area;*
- (xiv) *whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush for any other risk;*
- (xv) *the preservation of the amenity of the locality; and*
- (xvi) *the relationship of the proposal to development on adjoining land or other land in the locality, including but not limited to, likely effect of the height, bulk, scale, orientation and appearance of the proposal.*

To assist Council in determining the application, the following comments are offered:

### Scheme Objectives

The application as submitted is consistent with the objectives of the Residential Zone as it provides a residential dwelling for the landowner.

### Planning Precinct Provisions

As outlined in Schedule 8 - Clause 1 of the Scheme, Planning Precincts are identified to:

- Ensure retention of the character of the precincts as a whole and the buildings within them while recognising the historic, townscape, environmental or other significance of the precinct;
- Require development or works adhere as closely as possible to the intent of the policy statement and development guidelines; and
- Require buildings or other structures are of design and materials compatible with other buildings in the Precinct

The Karri Lakes Estate is located within Planning Precinct 5 – Quinninup (Karri Lakes), which provides guidelines for development within the area. Whilst specific objectives are not identified for the precinct, the special provisions are based around the protection of existing vegetation outside of the building envelope, whilst ensuring a minimum development standard and protection of the lake as a resource.

The proposal as submitted complies with all requirements for the precinct, other than clause 5.3.6 which requires a minimum floor area of 100m<sup>2</sup> (excluding verandah's carports and garages). As the application proposes a dwelling with a floor area of less than 100m<sup>2</sup>, the application may only be approved by relaxing the scheme requirements.

### Letter of Justification

The applicant has supplied a letter stating that the vision for the property was to create a beautiful high-quality home, with as minimal an environmental impact that fits into the surrounding landscape whilst meeting the relevant bushfire prevention requirements.

In support of the application, the applicant has stated that the dwelling is sufficient in size to meet the function and current purpose, minimises the visual footprint of the built environment from the road and for neighbours, also minimises the number of trees and amount of vegetation to be removed.

A copy of the letter of justification is included within Attachment: 9.5.2(1).

### Relaxation of Standards

Despite a development not complying with a standard or requirement of the Scheme, the application may still be approved in accordance with Part 5.5 of the Scheme. In considering such developments, Part 5.5 requires that:

- i) Consult potentially affected parties and have regard to any views expressed prior to determining the application;

- ii) The application is only approved after having regard to the criteria set out in clause 10.2; and
- iii) The non-compliance will not have an adverse effect upon the occupiers or uses of the development, the inhabitants of the locality or the likely future development of the locality.

In this case, the property contains a significant level of vegetation that will effectively screen the development when viewed from the road reserve or adjacent land. It is also noted that no comments or objections were received from the adjacent landowner.

State Planning Policy No. 3.7 (SPP No. 3.7)

This policy outlines land use planning considerations in respect of bushfire risk management in Western Australia. Bushfire Prone mapping provided by the Department of Fire and Emergency Services indicate that whole of the Karri Lake Estate, including the subject land, is bushfire prone. Development proposals within bushfire prone areas are to be accompanied by:

- a) an assessment of the Bushfire Attack Level (BAL); and
- b) a Bushfire Management Plan (BMP) demonstrating compliance with the bushfire protection requirements.

In this case, the applicant has submitted a BAL report which indicates that the current vegetation results in an attack level of Flame Zone. A copy of the submitted BAL assessment is shown attached.

**ATTACHMENT: 9.5.2(3)**

The report identifies that the BAL can be reduced provided that identified areas are modified, increased separation distances from vegetation and establishment of Asset Protection Zones. As Bushfire Management Plan has not been submitted in support of the application, appropriate conditions should be imposed to require the submission, approval and ongoing implementation of such a plan.

In accordance with clause 6.7.1 of SPP No. 3.7, applications for a single dwelling on an existing lot having an area of 1,100m<sup>2</sup> or greater is considered Minor Development. Whilst minor development may be approved where a BAL-40 or BAL-FZ applies, measures must be taken to ensure that the bushfire hazard level is not increased and the siting of the buildings has been optimised.

Annual Firebreak Notice

In accordance with the Shire's Annual Firebreak and Hazard Reduction Notice, a "Building Protection Zone" is required to be established and maintained for a minimum of 20 metres, measured from any external wall of the dwelling. Within this area owners are required to:

- Remove all flammable material within 20 metres of any dwelling or outbuilding;

- Ensure no trees over hang the dwelling, no shrub or live standing trees are located within 2 metres and tree trunks within the Building Protection Zone are free of branches to a height of 2 metres; and
- Ensure shrubs are not located under the trees, nor planted in clumps greater than 5m<sup>2</sup>, with clumps separated by 5 metres.

The submitted BAL demonstrates that ongoing compliance with the Annual Firebreak and Hazard Reduction Notice will ensure that the identified BAL rating will be maintained.

### Submissions Received

#### *DBCA Submission*

DBCA have advised that *“all fire protection requirements, including firebreaks to shire guidelines, water supply and hazard separation zones should be provided for on the property itself and there should be no exception that any fire protection measures will be provided for the proponent on the adjacent department-managed lands.”*

The Department has no objections to the proposal provided that due consideration is given to the above mentioned.

#### *Adjacent Landowner*

The adjacent landowners have not objected to the proposal, but have expressed concern regarding the current lack of a driveway. Should the application be approved, access to the property needs to be established to facilitate the works and construction. Completion of a formal driveway and crossover to Karri Lane should be required prior to occupation of the dwelling in accordance with normal Shire standards.

### Conclusion

Although the proposed dwelling does not meet the minimum floor area requirements outlined for the Planning Precinct, the design complies with all other requirements and through the retention of existing vegetation, views of the dwelling will be filtered.

Having regard to the above, the applicants submitted letter of justification and the fact the dwelling is of modular construction, it is recommended that the proposed dwelling size be accepted and conditional approval granted.

### **STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005.*

### **POLICY / STRATEGIC IMPLICATIONS:**

The Shire of Manjimup’s Strategic Community Plan 2021-2031 outlines the following Community Goals and Strategies that are relevant to the application:

#### *Community Goals*

- 1.2 Development is managed sustainably and our environment is valued through policy and regulation; and
- 2.1 New People and new businesses are attracted to the region.

Approval to the application as submitted would be consistent with these goals.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

The required application fee for the Dwelling-Single has been paid.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

That Council in accordance with Part 10 and Clause 5.5 of the Shire of Manjimup Local Planning Scheme No. 4 grant planning approval to the Proposed Dwelling – Single at Lot 168 Karri Lane, Quinninup (Application TP186/2022) in accordance with the plans and specifications shown at Attachment 9.5.2(1) and subject to the following conditions and advice:

1. The development hereby approved is to be carried out generally in accordance with the plans and specifications submitted with the application and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire of Manjimup.

Reference	Document Title	Date Received
Sheet 1	Site Plan	2 November 2022
Sheet 2	Floor Plan	2 November 2022
Sheet 3	Elevations	2 November 2022

2. Prior to the submission of an application for a Building Permit, the landowner shall arrange for the preparation of a Bushfire Management Plan, by a suitably qualified consultant, to the satisfaction of the Shire of Manjimup;
3. The on-going management provisions of the (BAL) Assessment and Bushfire Management Plan referred to in point 2 above, shall thereafter be permanently maintained to the satisfaction of the Shire of Manjimup;
4. Prior to the commencement of the development hereby approved, vehicle access shall be established to facilitate the works, with a vehicle crossover between the subject land and Karri Lane is to be located, designed, constructed, sealed and drained to the satisfaction of the Shire of Manjimup prior to occupation of the dwelling hereby approved;

5. All stormwater and drainage runoff is to be retained on the subject property or to be provided with stormwater drainage connections to the drainage system in the area at the developers cost to the satisfaction of the Shire of Manjimup;
6. All habitable buildings are to be constructed in accordance with the Australian Standard “Construction of Buildings in Bushfire Prone Areas” to the satisfaction of the Shire of Manjimup;
7. The proposed development shall be clad or coloured to complement either the surroundings in which it is located or adjoining developments to the satisfaction of the Shire of Manjimup but the use of reflective materials and colours is not permitted; and
8. Unless otherwise approved by the Shire of Manjimup, the clearing on the subject land shall be restricted to the areas shown on the development application plan and in accordance with the Shire of Manjimup Firebreak and Fuel Hazard Notice.

#### Advice

- a. This Development approval is NOT a building permit. A building permit must be formally applied for and obtained from Building Services BEFORE the commencement of any site and/or development works;
- b. The Department of Water and Environmental Regulation must be contacted with regard to the clearing to be undertaken to clarify the need for approval in accordance with the provisions of the *Environmental Protection Act 1986* and *Country Areas Water Supply Act 1947*;
- c. The development the subject of this development approval, must comply with the requirements of the *Health (Miscellaneous Provisions) Act 1911* and the Shire of Manjimup’s Health Local Laws 2020; and
- d. Prior to commencing development, an application to construct or install an apparatus for the treatment of sewage and the disposal of effluent and liquid wastes must be submitted for the approval of the Shire of Manjimup’s Environmental Health Team, in accordance with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.

#### **COUNCIL RESOLUTION:**

**MOVED: Eiby, W**

**SECONDED: Winfield, C**

**29030**

**That Council in accordance with Part 10 and Clause 5.5 of the Shire of Manjimup Local Planning Scheme No. 4 grant planning approval to the Proposed Dwelling – Single at Lot 168 Karri Lane, Quinninup (Application TP186/2022) in accordance with the plans and specifications shown at Attachment 9.5.2(1) and subject to the following**

**conditions and advice:**

1. The development hereby approved is to be carried out generally in accordance with the plans and specifications submitted with the application and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire of Manjimup.

Reference	Document Title	Date Received
Sheet 1	Site Plan	2 November 2022
Sheet 2	Floor Plan	2 November 2022
Sheet 3	Elevations	2 November 2022

2. Prior to the submission of an application for a Building Permit, the landowner shall arrange for the preparation of a Bushfire Management Plan, by a suitably qualified consultant, to the satisfaction of the Shire of Manjimup;
3. The on-going management provisions of the (BAL) Assessment and Bushfire Management Plan referred to in point 2 above, shall thereafter be permanently maintained to the satisfaction of the Shire of Manjimup;
4. Prior to the commencement of the development hereby approved, vehicle access shall be established to facilitate the works, with a vehicle crossover between the subject land and Karri Lane is to be located, designed, constructed, sealed and drained to the satisfaction of the Shire of Manjimup prior to occupation of the dwelling hereby approved;
5. All stormwater and drainage runoff is to be retained on the subject property or to be provided with stormwater drainage connections to the drainage system in the area at the developers cost to the satisfaction of the Shire of Manjimup;
6. All habitable buildings are to be constructed in accordance with the Australian Standard "Construction of Buildings in Bushfire Prone Areas" to the satisfaction of the Shire of Manjimup;
7. The proposed development shall be clad or coloured to complement either the surroundings in which it is located or adjoining developments to the satisfaction of the Shire of Manjimup but the use of reflective materials and colours is not permitted; and
8. Unless otherwise approved by the Shire of Manjimup, the clearing on the subject land shall be restricted to the areas shown on the development application plan and in accordance with the Shire of Manjimup Firebreak and Fuel Hazard Notice.

**Advice**

- a. This Development approval is NOT a building permit. A building permit must be formally applied for and obtained from Building Services BEFORE the commencement of any site and/or development works;
- b. The Department of Water and Environmental Regulation must be

contacted with regard to the clearing to be undertaken to clarify the need for approval in accordance with the provisions of the *Environmental Protection Act 1986* and *Country Areas Water Supply Act 1947*;

- c. The development the subject of this development approval, must comply with the requirements of the *Health (Miscellaneous Provisions) Act 1911* and the Shire of Manjimup's Health Local Laws 2020; and
- d. Prior to commencing development, an application to construct or install an apparatus for the treatment of sewage and the disposal of effluent and liquid wastes must be submitted for the approval of the Shire of Manjimup's Environmental Health Team, in accordance with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.

**CARRIED: 11/0**

**ATTACHMENT  
APPENDIX**

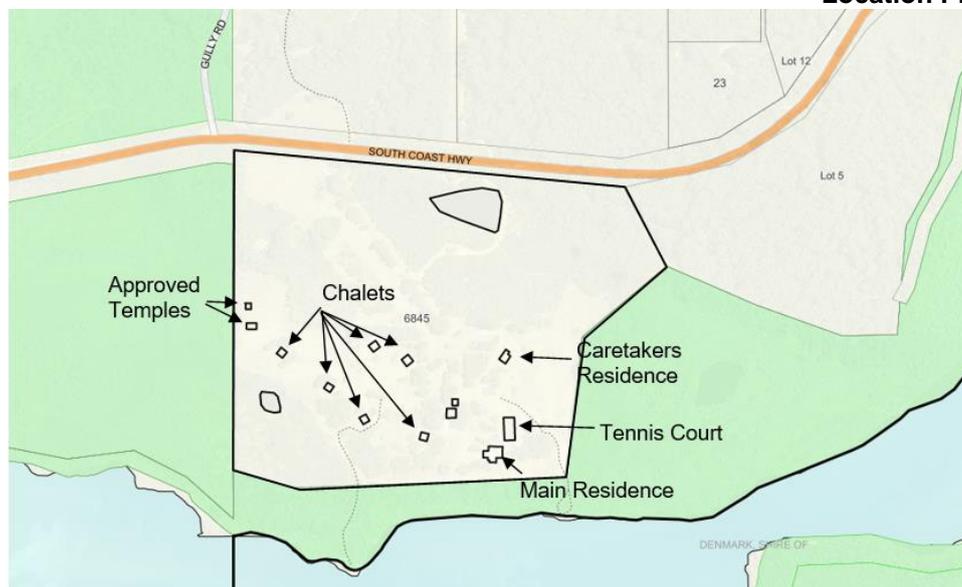
**9.5.3 Proposed Change of Use - Caretakers Residence to Chalet at Lot 4 (6845) South Coast Highway, Walpole**

<b>PROPONENT</b>	Mohanji Foundation
<b>OWNER</b>	Mohanji Foundation
<b>LOCATION / ADDRESS:</b>	Lot 4 (6845) South Coast Highway, Walpole
<b>WARD:</b>	South
<b>ZONE:</b>	Rural-Residential/Additional Use Zone
<b>DIRECTORATE:</b>	Development & Regulation
<b>FILE REFERENCE:</b>	DA22/226 & P52984
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i>
<b>AUTHOR:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	18 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil.

**BACKGROUND:**

The subject land is a 23.1178ha property located on the southern side of the South Coast Highway, one property west of the Shire's eastern border. Previously known as Riverside Retreat, the property is developed with six chalets, a caretakers cottage, some recreational facilities and two dams.

**Location Plan**



Council is requested to determine an application to change the use of the existing Caretakers Residence to a chalet, allowing the landowners to cater for more guests on the property. Currently containing two bedrooms, the applicants are proposing to establish a third bedroom. A copy of the submitted plans are attached.

**ATTACHMENT: 9.5.3(1)**

Council is requested to determine the application as Shire Officers do not have delegation to approve an additional chalet on the property.

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

Local Planning Scheme No 4 (the Scheme) states that in determining applications for development approval, the local government is required to have regard to various matters, including but not limited to:

- (i) *the aims and provisions of the Scheme and any other relevant Local Planning Scheme operating within the Scheme area;*
- (x) *the compatibility of a use or development with its setting, including the potential impact on the use and enjoyment of adjacent and nearby land and taking into consideration any Special Control Area;*
- (xvii) *whether the proposed means of vehicular access to an egress from the site are adequate and whether adequate provision has been made for loading, unloading, manoeuvring, and parking of vehicles;*
- (xxvi) *the comments and submissions received from any authority that has been consulted; and*
- (xxvii) *any other planning consideration the local government considers relevant.*

To assist Council in considering this application, the following comments are offered:

Zoning

At the time of its gazettal, the Scheme included the subject land within the "Rural Conservation" Zone. Subsequently Amendment No 4 was gazetted, rezoning the land from "Rural Conservation" to "Rural-Residential" being Rural-Residential Area No 30 as shown in Schedule 2 of the Scheme. In addition, the land was within the Additional Use Zone, being Area No 11 within Schedule 9 of the Scheme.

The purpose of the amendment was to:

- a) Facilitate the subdivision of the land into 10 Rural Residential lots ranging from 1.27ha to 3.9ha in area; and
- b) Allow the additional permitted uses of Chalets and a Caretakers Dwelling on the nominated tourist lot (the 3.9ha lot) with future expansion of the tourist facilities to be generally in accordance with the endorsed Structure Plan.

A copy of the endorsed Structure Plan is appended.

**APPENDIX: 9.5.3(A)**

The current owners have indicated that they do not wish to pursue subdivision of the land, but wish to develop the entire property for their purposes. The owners are aware a Scheme Amendment is required in order to prevent the

future subdivision and allow additional development for its intended purpose of a wellness retreat, but they are yet to commence the process.

An assessment of the proposal against the current Scheme provisions is provided below under the heading of Consistency with Current Zoning.

### Development History

The existing development, previously known as “Riverside Retreat” was approved under previous Town Planning Scheme No 2. The current Lodging House Approval identifies that there is a total of 14 bedrooms available for a maximum of 29 guests.

As its meeting held on 20 October 2022, Council resolved to grant conditional approval to two temples adjacent to the western boundary. The temples are described as:

1. A Ganesh Temple – being a simple 3m by 3m structure with a Ganesh statue located on a raised plinth; and
2. A Baba Temple – being an 8m by 12.9m (103m<sup>2</sup>) building containing a raised plinth being 5.6m by 5.6m featuring a statue of Sai Baba.

At its Ordinary Meeting on 17 November 2022, Council resolved to refuse a larger meditation hall on the basis that the application was not consistent with the approved structure plan and the development as proposed was not at a scale consistent with the current level of short stay accommodation, which the current Lodging House occupancy certificate states is limited to 29 people.

As detailed in the background section of this agenda item, the applicants are now seeking to change the use of the existing caretaker’s residence to short stay residential.

### Land Use Definitions

Two land use definitions are relevant to the determination of the submitted application, being:

*“Holiday House” – means a dwelling together with its associated outbuildings:*

- (a) Designed primarily as a dwelling house for permanent residential purposes whether or not occupied periodically as such; and*
- (b) Used, whether or not for commercial gain or reward from time to time for unsupervised, short stay accommodation purposes, excluding people that are members of the owner’s family but including all people where the owner is a company’*

*But does not include a “bed and breakfast: facility.”*

*“Chalet” – means an individual self-contained unit usually comprising cooking facilities, ensuite, living area and one or more bedrooms destined to accommodate short-stay guests, forming part of a tourism facility and*

*where occupation by any person is limited to a maximum of three months in any 12 month period.*

Use of the existing caretaker's residence for short stay purposes would be consistent with either of the above definitions.

#### Consistency with Current Zoning

The current zoning and Scheme provisions outline that a "Holiday House" is an "A" use within the Rural Residential Zoning. That is a use that is not permitted unless special approval is granted after advertising of the proposal.

In addition, the Scheme permits Chalets as an additional use under Schedule 9. However the conditions of use state that the tourist uses are restricted to the "tourist lot" as shown on the structure plan and that any future expansion of tourist uses shall be *"generally in accordance with the structure plan endorsed for the subject land."*

The existing caretakers dwelling is located within future lot 6 as shown on the structure plan. Whilst it is not located within the nominated "tourist lot", it is noted that:

- a) One of the existing chalets is located within proposed lot 3 as shown on the structure plan (outside of the nominated tourist lot);
- b) If subdivision was to proceed in accordance with the provisions relating to Rural-Residential Zone – Area No 30, the ongoing use of the chalet on future lot 3 and the caretaker's residence on future lot 6 could be permitted under the land use "Holiday House";
- c) There would be potential to convert the premises to a single dwelling in the event that the land is subdivided; and
- d) Approval to the application would therefore not prejudice the future subdivision of the land in accordance with the current scheme provisions.

The above said, as the caretakers dwelling is not located within the "tourist lot" identified on the structure plan, approval to the application will require a variation to the Scheme requirement for development to be generally consistent with the adopted structure plan.

#### Variation of Standards

As outlined by Part 5.5 of the Scheme, where a development does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance approve the application provided that:

- i) it consults affected parties and has regard to their views;
- ii) it has regard to the criteria set out in clause 10.2; and
- iii) is satisfied that the non-compliance will not have an adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

In this case, provided that an on-site management presence is maintained within the primary dwelling, approval to the proposal is unlikely to result in any detrimental impacts given that it relates to the conversion of an existing building. Approval to the application could therefore be granted pursuant to Part 5.5 of the Scheme.

#### Upgrading of Existing Building

As indicated within the Background Section, the applicants are proposing to upgrade the existing two bedroom dwelling to three bedrooms. In order to achieve this, they are proposing to convert portion of an existing sunroom.

Both the Shire's Environmental Health and Building Sections have identified that the existing sunroom will need to be upgraded to ensure compliance with building and environmental health requirements before the third proposed bedroom could be used for that purpose. Should Council approve the application, it is recommended that appropriate advice notes are included.

#### Conclusion

While the proposed conversion of the caretakers residence will allow additional short stay accommodation within the site, it is not considered that the proposal will significantly vary from the intent of the current scheme provisions.

Given this and the comments made above, variation of the Scheme requirements would be consistent with the requirements of Part 5.5 and conditional approval is therefore recommended.

#### **STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005* and Local Planning Scheme No 4.

#### **POLICY / STRATEGIC IMPLICATIONS:**

Approval to the application as submitted would be consistent with Community Goal 2.4 as outlined within the Shire of Manjimup's Community Strategic Plan being that "*Industry and development is not hindered by excessive or complex compliance regulations*".

#### **ORGANISATIONAL RISK MANAGEMENT:**

Nil.

#### **FINANCIAL IMPLICATIONS:**

The required application fee has been paid in accordance with the adopted Schedule of Fees and Charges.

#### **SUSTAINABILITY:**

Environmental: Nil.

Economic: Approval to the application will permit the landowner to provide to additional short stay accommodation guests on the property.

Social: Nil.

**VOTING REQUIREMENTS: SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

That Council in accordance with Part 10 and Clause 5.5 of the Shire of Manjimup Local Planning Scheme No. 4 grant planning approval to the Proposed Change of Use from “Caretakers Dwelling” to “Chalet” at Lot 4 South Coast Highway, Walpole in accordance with the plans and specifications shown at Attachment: 9.5.3(1), subject to compliance with the following conditions and advice:

1. The development hereby approved is to be carried out generally in accordance with the plans and specifications submitted with the application and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire of Manjimup:

Reference	Document Title	Date Received
Sheet 1	Supporting Correspondence	15 December 2022
Sheet 2	Site Plan	15 December 2022
Sheet 3	Floor Plan	15 December 2022

2. The accommodation hereby approved shall not be occupied by any person for a period of more than 3 months in any 12 month period;
3. The approved Chalet being provided with a potable water supply at all times to the satisfaction of the Shire of Manjimup; and
4. An on-site manager is to reside on the property at all times.

**Advice Notes:**

- a) This Development approval is NOT a building permit. A building permit must be formally applied for and obtained from Building Services BEFORE the commencement of any site and/or development works. (Land clearing to facilitate development and BAL report is permitted).
- b) Prior to the establishment of the third bedroom as shown on the approved plans, the applicant shall complete such upgrades as required to ensure compliance with minimum standards for habitable accommodation;
- c) The development must comply with the *Health (Miscellaneous Provisions) Act 1911* and the Shire of Manjimup’s Health Local Laws 2020; and
- d) Further to advice note c) above, prior to commencement of the use hereby approved, the existing Lodging House approval shall be updated to the satisfaction of the Shire of Manjimup.

**COUNCIL RESOLUTION:**

**MOVED: Willcox, J      SECONDED: Eiby, W**

**29031**

That Council in accordance with Part 10 and Clause 5.5 of the Shire of Manjimup Local Planning Scheme No. 4 grant planning approval to the Proposed Change of Use from “Caretakers Dwelling” to “Chalet” at Lot 4 South Coast Highway, Walpole in accordance with the plans and specifications shown at Attachment: 9.5.3(1), subject to compliance with the following conditions and advice:

1. The development hereby approved is to be carried out generally in accordance with the plans and specifications submitted with the application and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire of Manjimup:

Reference	Document Title	Date Received
Sheet 1	Supporting Correspondence	15 December 2022
Sheet 2	Site Plan	15 December 2022
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2. The accommodation hereby approved shall not be occupied by any person for a period of more than 3 months in any 12 month period;
3. The approved Chalet being provided with a potable water supply at all times to the satisfaction of the Shire of Manjimup; and
4. An on-site manager is to reside on the property at all times.

**Advice Notes:**

- a) This Development approval is NOT a building permit. A building permit must be formally applied for and obtained from Building Services BEFORE the commencement of any site and/or development works. (Land clearing to facilitate development and BAL report is permitted).
- b) Prior to the establishment of the third bedroom as shown on the approved plans, the applicant shall complete such upgrades as required to ensure compliance with minimum standards for habitable accommodation;
- c) The development must comply with the *Health (Miscellaneous Provisions) Act 1911* and the Shire of Manjimup’s Health Local Laws 2020; and
- d) Further to advice note c) above, prior to commencement of the use hereby approved, the existing Lodging House approval shall be updated to the satisfaction of the Shire of Manjimup.

**CARRIED: 11/0**

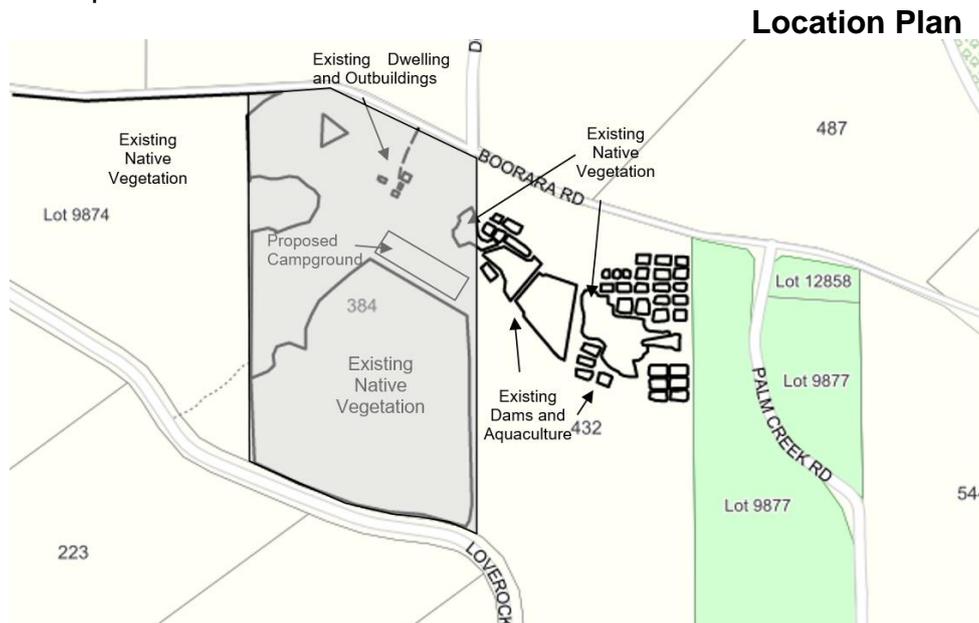
## ATTACHMENT

### 9.5.4 Proposed Low Impact Tourist Accommodation - Lot 9875 (384) Boorara Road, Boorara Brook

<b>PROPONENT OWNER</b>	Mr W S Rudd
<b>LOCATION / ADDRESS:</b>	Lot 9875 (384) Boorara Road, Boorara Brook
<b>WARD:</b>	Coastal
<b>ZONE:</b>	Priority Agriculture
<b>DIRECTORATE:</b>	Development & Regulation
<b>FILE REFERENCE:</b>	DA22/183 & P55785
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i>
<b>AUTHOR:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	25 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

#### BACKGROUND:

The Shire is in receipt of an application for a Nature Based Caravan Park catering for up to 100 guests at Lot 9875 (384) Boorara Road, Boorara Brook. A location plan is shown below.



The property, having an area of 53.684ha is currently developed with a dwelling and three outbuildings, along with three small dams located northwest of the existing dwelling. The southern half of the property contains a significant level of native vegetation and a disused private airstrip abutting the vegetation.

While the application form states that approval is sought for Low Impact Tourist Development, the submitted documentation refers to the development catering for 100 people. The landowner has now clarified that they are seeking approval to provide a total of 36 caravan sites within an area being

approximately 200m long by 40m deep (8,000m<sup>2</sup>). As detailed on the submitted plans, the applicant is proposing to cater for self-contained vehicles only and the camping area will be setback 21m from the native vegetation on portion of the disused private airstrip.

A copy of a revised site plan, the submitted documentation and a more recent site plan are shown attached.

**ATTACHMENT: 9.5.4(1)**

Council is requested to consider the application as Shire Officers do not have the delegated authority to determine applications for a Low Impact Tourist Accommodation in a Priority Agriculture Zone.

**PUBLIC CONSULTATION UNDERTAKEN:**

The proposal was advertised in accordance with clause 9.6 of the Shire of Manjimup's Local Planning Scheme No. 4 (the Scheme) to the neighbouring landowners for a period of 21 days and to the Department of Fire and Emergency (DFES) and the Department of Planning, Lands and Heritage for a 42-day period.

In response, two (2) submissions were received from DFES and a neighbouring landowner. Whilst the content of submissions is summarised and responded to in the Comment section below, full copies of the submissions are attached.

**ATTACHMENT: 9.5.4 (2)**

**COMMENT (Includes Options):**

In determining an application for planning approval, Clause 10.2 of the Scheme requires that various matters are taken into account, including but not limited to:

- “(i) the aims and provisions of the Scheme and any other relevant Local Planning Scheme operating within the Scheme area;*
- (iii) any approved State Planning Policies of the Commission;*
- (xiv) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk.”*

Zoning and Zone Purpose

The Scheme includes the subject land within the Priority Agriculture Zone. The purpose of this zone is to *“provide for the sustainable use of high quality agricultural land, particularly where water resources exist, preserving existing agricultural production and allowing for new agricultural production by securing suitable land and water resources.*

*To provide for intensive agricultural and horticultural production, including market gardens, orchards and vineyard enterprise.”*

Consistent with the purpose, an objective for the zone relevant to this application is to low impact tourist accommodation – short stay proposals

where relevant, provided that any impact from any such land uses or development is contained on-site.

#### Land Use Definition

'Low Impact Tourism Accommodation' means that the use and development of land in such a manner that does not detract from the rural and natural amenity of the locality, and includes the following criteria –

- “(a) development being located so as to avoid ridge line, escarpments or visually exposed sites and situated where screening vegetation or landform can be utilised;*
- (b) use and development being sensitively located and designed to minimise impact on vegetation, water courses, soils quality and existing land uses;*
- (c) development being of a scale and nature so as to be self-sustaining on the lot, or demonstrating the ability to provide servicing without significant modifications to existing infrastructure;*
- (d) development that by the nature of its scale, design, colours, materials, landscaping and use, has minimal impact on its site and surrounding areas; and*
- (e) where the land use and any development had minimal off-site consequence.”*

#### Land Use Permissibility

“Low Impact Tourism Accommodation” is an ‘A’ use in the Priority Agriculture zone. That is a use not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with Clause 9.6 of the Scheme.

#### Accommodation Limits

Clause 5.34.2.4(f) of the Scheme outlines that within the Priority Agriculture Zone, Low Impact Tourism Accommodation *“is limited to not more than 4 chalets or guest bedrooms to accommodate no more than 20 persons or equivalent accommodation types (including bed and breakfast facilities).”*

The applicant has verbally advised that they are expecting the majority of sites to be occupied by 2 guests in a single self-contained vehicle, with the occasional family also attending. On this basis 10 sites would be generally be consistent with the restriction on accommodation numbers prescribed by the Scheme.

Approval to any forms of accommodation to accommodate more than 20 persons may only be granted through a relaxation of the Scheme Requirements. Further advice on Variation of the Scheme requirements is provided overleaf.

It should be noted that Council has on various occasions accepted a Nature Based Caravan Park as an alternative form of accommodation that can be deemed to be consistent with definition of Low Impact Tourist Accommodation. The latest such decision related to the approval of 10 Nature Based Caravan Park sites at Lot 4 (34) Lawson Road, Callcup.

### Variation of Scheme Requirements

As outlined by Part 5.5 of the Scheme, where a development does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance approve the application provided that:

- a) it consults affected parties and has regard to their views;
- b) it has regard to the criteria set out in clause 10.2; and
- c) is satisfied that the non-compliance will not have an adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

In this case, provided that the development is appropriately managed, the greatest potential for an adverse effect to result relates to appearance of the development.

### Visual Impact

In terms of the proposed accommodation location, the site is located so as to minimise the impact on vegetation, water courses etc. However the provision of 36 caravan sites within an area of 8,000m<sup>2</sup> is likely to have an appearance of standard caravan park, without any facilities being provided, rather than that of a Nature Based Caravan Park. Although the location is positioned where the occupants would be visible from the road, it is situated over 250 metres from the road frontage.

The visual impact associated with the proposal could be reduced through the planting of additional vegetation in the area of the proposed caravan sites and through the establishment of a vegetated buffer between the proposed area of development and the roadway. The applicant has indicated a desire to plant trees in the area of the development and is not opposed to the establishment of a vegetated buffer.

The visual impact could also be substantially reduced by restricting the number of caravan sites until such time as the additional vegetation is established. In order to limit the potential impact, it is recommended that the number of sites be limited to 20. Provided that additional vegetation is established as discussed above, it is considered that the development will not result in a significant visual impact.

The landowner can apply for an increase in this limit once toilets are provided on-site, with any new application also to be assessed against the definition of Lot Impact Tourist Development.

### State Planning Policy 3.7 (SPP No 3.7) – Planning in Bushfire Prone Areas

The property is located within an area declared as 'bushfire prone' by the Fire and Emergency Services Commissioner under the *Fire and Emergency Services Act 1998*. The applicant has had a Bush Fire Management Plan and Bush Fire Emergency Evacuation Plan prepared (as shown at Attachment: 9.5.4(1)).

The report identifies the bushfire risk as Extreme Bush Fire Hazard Level due to the continuous vegetation to the south west of the subject camping site. Although the area set aside for camping ranges from a 12.5 to a 29 BAL, it should be noted that the occupants will not be in permanent structures and will be moveable, able to leave the area in the event of a bushfire.

As outlined within the submitted Bushfire Emergency Evacuation Plan, the landowner will be responsible for, amongst other things, daily monitoring of the Fire Danger Rating and will ensure that the campground is closed when the "Catastrophic Fire Danger Rating" is applied. The potential risks to guests during the event of a fire is reduced, given the Manager/owner resides on the subject property and through effective communication and warning signs of the extreme risk.

It is however noted that the map shown on page 10 indicates a "place of last resort". Further comment on this approach is provided in response to the submission received from DFES below.

In terms of access, access to and from the site is available to the west or east along Boorara Road. Movement to the west is identified as being the safer route given the availability to move on to developed linkage roads quicker and easier.

The proposal is consistent with the definition of vulnerable land use being a land use where persons may be less able to respond in a bushfire emergency, including short-stay accommodation where users are unaware of their surroundings and may need assistance or direction in the event of a bushfire. The closure of facility during period of Catastrophic Fire danger will reduce the potential risks to guests.

#### DFES Submission

The submission received from Department of Fire and Emergency Services (DFES) recommends not to support the proposed development due to their interpretation that the proposal does not fully comply with Planning for Bushfire Guidelines. The DFES officer highlights that the application does not meet the intent of Element 5: Vulnerable Tourism Land Uses as the proposal seeks to intensify the land use of the subject property with an extreme bushfire hazard both in and surrounding the subject property. DFES recommends a number of modifications to the BMP to respond to the areas of non-compliance to influence appropriate bushfire management measures.

The landowner has arranged for their Bushfire Consultant to liaise with Shire Officers and DFES representatives to discuss the recommended modifications to the BMP. As a minimum reference to a "last place of resort" needs to be removed from the BMP and comments made by DFES in terms of access needs to be considered.

The above said, it must be acknowledged that the landowner/operator resides on site and they will be monitoring the Fire Danger Rating Index, closing the

facility during periods of Catastrophic Fire Danger. For these reasons, conditional approval is recommended.

#### Other Submissions Received

At the time of writing this report there was one submission received from a neighbouring landowner who operates a similar tourism business “Northcliffe Bush Camp” previously known as “Sid’s Campground” which is southwest of the subject property. The submission raises concern that the proposed site does not meet the definition of a “Nature Based Park” and is unsuitable.

The submission raises comment that the proposed location of the camping ground is not nature based due to:

- the proposed site being a previously operational air strip;
- the proximity of the proposed camp site to the existing dwelling and neighbouring Aquaculture Ponds; and
- the lack of buffer to limit or control artificial light and noise intrusion from Boorara Brook Road to the camp site.

As detailed under the heading “*Caravan and Camping Grounds Regulations 1997*”, the landowner’s residence and outbuildings associated with the rural use of the property are located approximately 100 metres from the western edge of the camping area. It is also noted that an Aquaculture farm established on the neighbouring property to the east is also approximately 70m setback to the closest pond wall.

The Regulations state that for a Nature Based Park a prime consideration is whether the location is in a primarily undisturbed natural setting surrounded by vegetation. A natural landscape can also include an agricultural setting. In this instance the location of the camping area does offer an agricultural setting with the ability for the guests to enjoy both the agricultural as well as a native vegetated landscape that is on offer on the subject property.

The proposed location of the camping area is setback approximately 280m from Boorara Brook Road. The potential impact to the campers in way of noise and artificial light is considered to be minimal given Boorara Brook Road is only a road servicing various farms east of the subject property. The setback distance of 280m from Boorara Brook Road, will also provide a sufficient distance to reduce the potential impact to the campers from the road. The planting of additional screen vegetation could further reduce the impact and is recommended.

The submission received also questions the need for an additional facility in the Northcliffe area, expressing the view that the proposal fails to demonstrate how it will result in net community benefit. It should be noted that the existing facilities and commercial competition are not valid planning considerations. It is considered that the proposed facility is very small scale and will provide an opportunity for a different camping experience in proximity to the Northcliffe townsite.

Caravan and Camping Grounds Regulations 1997

The *Caravan and Camping Grounds Regulations 1997* set out how various caravan parks and camping areas are classified and the level of facilities that are required to be provided. In terms of the current proposal, being for a Nature Based Caravan Park, the following facilities are normally required:

- Entrance roads and two way roads within the nature based park are to be 6 metres in width, one way roads are 4 metres in width;
- Although facilities roads are to be constructed and maintained as is approved, they need not be paved or sealed;
- Unless otherwise approved, a nature based park is required to have at least two toilets for every 20 sites;
- As many showers and hand basins as is approved;
- Each shower is to meet an identified set of standards and unless as otherwise approved, have water, not less than 45 degrees;
- At least 1 fire extinguisher in an area accessible to all persons in the facility;
- Unless otherwise approved, a tap for use by all occupiers; and
- Rubbish bins provided as approved.

As the applicant is proposing to cater for self-contained vehicles only, it is recommended that requirements relating to showers, hand basins and taps be waived. The provision of a dump point is not required for Nature Based Parks.

Although the proposal is for self contained facilities the legislation does not permit requirements relating to toilets for Nature Based Parks to be waived. This is given that occupants are permitted to stay for periods of up to 28 day in length. Whilst not initially not proposing the establishment of toilet facilities, discussions with the applicant indicates that they are prepared to establish toilet facilities, but the details of such development (i.e. location and form) are not known at this time. Given this, it is recommended that the approval be limited to 10 sites until such time as suitable toilet facilities are approved and established.

Recommendation

The development as submitted it is not considered to be consistent with the definition of a Low Impact Tourism. Whilst the rural/bush outlook of the camping area is considered to be consistent with the definition of a Nature-Based Caravan Park, it is recommended that:

- a) the maximum number of sites be limited to 20;
- b) the planting of additional vegetation in proximity of the camping sites and in the form of screening vegetation be required; and
- c) Until toilet facilities, as required by the Caravan Parks and Camping Ground Regulations are provided, the maximum number of sites be further limited to 10 sites.

Irrespective of the application achieving compliance with the Scheme and Regulations, DFES has identified that in their opinion the current Bushfire Management and Evacuation Plans fail to meet the *State Planning Policy 3.7 Planning in Bush Fire Prone Areas*. Whilst the submitted consultant report indicates that in their view the proposal complies, Shire Officers agree that some modification of the documents is required prior to commencement of the proposal and the consultant is currently liaising with DFES regarding the recommended modifications.

Notwithstanding that some modification of the Bushfire documentation is required, the fact the owner resides on the site and there will be a requirement for the facility to close during periods of Catastrophic Fire Danger, dramatically reduces the potential risk to campers. It is therefore recommended that conditional approval be granted.

It is however recommended that a condition be imposed to require revision of the Bushfire Management Plan and Bushfire Emergency Evacuation Plan to the satisfaction of the Shire's Community Emergency Services Manager prior to commencement of the activity.

**STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005, Caravan and Camping Grounds Act 1995, Local Planning Scheme No. 4 and State Planning Policy 3.7 Planning in Bushfire Prone Areas.*

**POLICY / STRATEGIC IMPLICATIONS:**

Approval to the application is consistent with Strategy B12 of the Shire of Manjimup's Strategic Community Plan 2021 – 2031, being to *“provide development opportunities and support local small businesses to thrive.”*

**ORGANISATIONAL RISK MANAGEMENT:**

In determining the application, due care needs to be taken to ensure that fire risks associated bushfire are minimised.

**FINANCIAL IMPLICATIONS:**

The required development application fees have been paid by the applicant.

**SUSTAINABILITY:**

Environmental: The proposed nature based camp is sympathetic to the environment and provided the maximum number of sites are restricted and additional vegetation is planted the scale of the development will not cause a negative impact on the natural environment.

Economic: The proposed business will provide the landowner with an additional source of income and the tourists will benefit the area by bringing business to Northcliffe and surrounding town sites.

Social: Management Plans addressing all potential risks associated with the intensification of the subject property needs to be appropriately addressed in accordance with the Scheme and other relevant State Policies.

**VOTING REQUIREMENTS: SIMPLE MAJORITY****OFFICER RECOMMENDATION:**

**That Council:**

- 1. In accordance with Part 10 and Clause 5.5 of the Shire of Manjimup's Local Planning Scheme No 4, grant approval to the proposed Low Impact Tourism Accommodation (Nature Based Park) at Lot 9875, 384 Boorara Brook Road, Boorara Brook subject to compliance with the following conditions:**

- a) The development hereby approved is to be carried out generally in accordance with the plans and specifications submitted with the application and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire of Manjimup:**

<b>Reference</b>	<b>Document Title</b>	<b>Date Received</b>
<b>1.</b>	<b>Application for Development Approval</b>	<b>21 October 2022</b>
<b>2.</b>	<b>Bushfire Management and Bushfire Emergency Evacuation Plan</b>	<b>27 September 2022</b>

- b) Notwithstanding condition a), the proposed plans being revised to provide a maximum of 20 sites only;**
- c) Notwithstanding condition No's a) and b) above, the applicant shall operate a maximum of 10 sites only, until such time as toilet facilities are proposed, approved and established in accordance with the requirements of the *Caravan Park and Camping Grounds Regulations 1997*;**
- d) The Low-Impact Tourist Accommodation shall close to guests and not operate during period of Catastrophic Fire Danger;**
- e) Prior to commencement of the use hereby approved, the applicant shall Amend the Bushfire Management/Evacuation Plan reflecting the changes to ensure compliance with the requirements of the State Planning Policy No 3.7 and the Western Australian Planning Commissions Position Statement – Tourism Land Uses in Bushfire Prone Areas to the satisfaction of the Shire's Community Emergency Services Manager Department;**
- f) Prior to commencement of the use hereby approved, the internal caravan park roads shall be constructed of gravel or other material to the satisfaction of the Shire of Manjimup;**
- g) Prior to commencement of the use hereby approved, all management measures contained within the Bushfire Management Plan/Evacuation Plan as approved shall be implemented to the satisfaction of the Shire of Manjimup;**

- h) The Low Impact Tourist Development – Short Stay hereby approved is limited to a maximum of twenty (20) persons on the premises at any one time to the satisfaction of the local government, as provided in Shire of Manjimup Local Planning Scheme No. 4;**
- i) The landowner ensuring that all vehicles are fully self-contained, that is contain their own toilet, shower and cooking facilities;**
- j) No individual is to occupy the accommodation for more than twenty-eight (28) days within three (3) month period as provided in the Nature Based Park Guidelines, December 2014. In this regard, the Manager/Operator is to maintain a register of guests and the duration of their occupation to the satisfaction of the Shire of Manjimup, and the register shall be made available for perusal by Shire Officers on demand;**
- k) The submitted management details which form part of the application, shall be implemented on an ongoing basis to the satisfaction of the Shire of Manjimup;**
- l) Rubbish storage areas are to be designed and located to minimise noise, odour, visual intrusion and/or other factors potentially adversely affecting the character and/or amenity of Nature Based Park users and properties in the vicinity to the satisfaction of the Shire of Manjimup;**
- m) A fire extinguisher shall be provided at a central point, made available to all guests to the satisfaction of the Shire of Manjimup; and**
- n) Prior to commencement of the use hereby approved, the applicant shall supply plans for the planting of additional vegetation within the area of the proposed development and in order to screen the proposed development from view from Boorara Road. Such vegetation to be to the satisfaction of the Shire of Manjimup shall be established within 6 months and from thereon be maintained for the life of the development.**

**Advice notes:**

- (i) This Development Approval is NOT a building permit. A building permit must be formally applied for and obtained from Building Services prior to any use of the existing building for purposes associated with the use hereby approved; and**
  - (ii) This Development Approval is NOT a Caravan Park License. A license to operate the park must be obtained prior to campers attending the property.**
- 2. Pursuant to the provisions of the Caravan Parks and Camping Grounds Regulations 1997, waive the following requirements on the grounds that camping sites are restricted to self-contained vehicles only:**
- (i) The provision of showers and basins in accordance with clause 23(2);**

- (ii) Washing up facilities for campers in accordance with clause 31(1); and
- (iii) Provision of a tap in accordance with clause 40 of the Regulations.

**COUNCIL RESOLUTION:**

**MOVED: Eiby, W                      SECONDED: Ventris, M**

**29032**

**That Council:**

1. In accordance with Part 10 and Clause 5.5 of the Shire of Manjimup's Local Planning Scheme No 4, grant approval to the proposed Low Impact Tourism Accommodation (Nature Based Park) at Lot 9875, 384 Boorara Brook Road, Boorara Brook subject to compliance with the following conditions:

- a) The development hereby approved is to be carried out generally in accordance with the plans and specifications submitted with the application and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire of Manjimup:

Reference	Document Title	Date Received
1.	Application for Development Approval	21 October 2022
2.	Bushfire Management and Bushfire Emergency Evacuation Plan	27 September 2022

- b) Notwithstanding condition a), the proposed plans being revised to provide a maximum of 20 sites only;
- c) Notwithstanding condition No's a) and b) above, the applicant shall operate a maximum of 18 sites only, until such time as toilet facilities are proposed, approved and established in accordance with the requirements of the Caravan Park and Camping Grounds Regulations 1997;”
- d) The Low-Impact Tourist Accommodation shall close to guests and not operate during period of Catastrophic Fire Danger;
- e) Prior to commencement of the use hereby approved, the applicant shall Amend the Bushfire Management/Evacuation Plan reflecting the changes to ensure compliance with the requirements of the State Planning Policy No 3.7 and the Western Australian Planning Commissions Position Statement – Tourism Land Uses in Bushfire Prone Areas to the satisfaction of the Shire's Community Emergency Services Manager Department;
- f) Prior to commencement of the use hereby approved, the internal caravan park roads shall be constructed of gravel or other material to the satisfaction of the Shire of Manjimup;

- g) Prior to commencement of the use hereby approved, all management measures contained within the Bushfire Management Plan/Evacuation Plan as approved shall be implemented to the satisfaction of the Shire of Manjimup;
- h) The Low Impact Tourist Development – Short Stay hereby approved is limited to a maximum of thirty six (36) persons on the premises at any one time to the satisfaction of the local government, as provided in Shire of Manjimup Local Planning Scheme No. 4;
- i) The landowner ensuring that all vehicles are fully self-contained, that is contain their own toilet, shower and cooking facilities;
- j) No individual is to occupy the accommodation for more than twenty-eight (28) days within three (3) month period as provided in the Nature Based Park Guidelines, December 2014. In this regard, the Manager/Operator is to maintain a register of guests and the duration of their occupation to the satisfaction of the Shire of Manjimup, and the register shall be made available for perusal by Shire Officers on demand;
- k) The submitted management details which form part of the application, shall be implemented on an ongoing basis to the satisfaction of the Shire of Manjimup;
- l) Rubbish storage areas are to be designed and located to minimise noise, odour, visual intrusion and/or other factors potentially adversely affecting the character and/or amenity of Nature Based Park users and properties in the vicinity to the satisfaction of the Shire of Manjimup;
- m) A fire extinguisher shall be provided at a central point, made available to all guests to the satisfaction of the Shire of Manjimup; and
- n) Prior to commencement of the use hereby approved, the applicant shall supply plans for the planting of additional vegetation within the area of the proposed development and in order to screen the proposed development from view from Boorara Road. Such vegetation to be to the satisfaction of the Shire of Manjimup shall be established within 6 months and from thereon be maintained for the life of the development.

**Advice notes:**

- (i) This Development Approval is NOT a building permit. A building permit must be formally applied for and obtained from Building Services prior to any use of the existing building for purposes associated with the use hereby approved; and
- (ii) This Development Approval is NOT a Caravan Park License. A license to operate the park must be obtained prior to campers attending the property.

**2. Pursuant to the provisions of the Caravan Parks and Camping**

**Grounds Regulations 1997, waive the following requirements on the grounds that camping sites are restricted to self-contained vehicles only:**

- (i) The provision of showers and basins in accordance with clause 23(2);**
- (ii) Washing up facilities for campers in accordance with clause 31(1); and**
- (iii) Provision of a tap in accordance with clause 40 of the Regulations.**

**CARRIED: 11/0**

**ATTACHMENT****9.5.5 Proposed Land Clearing at Lot 135 (17) Karri Lane, Quinninup**

<b>PROPONENT</b>	Ms D C Heydon
<b>OWNER</b>	Ms D C Heydon
<b>LOCATION / ADDRESS:</b>	Lot 135 (17) Karri Lane, Quinninup
<b>WARD:</b>	East
<b>ZONE:</b>	Residential R2.5
<b>DIRECTORATE:</b>	Development and Regulation
<b>FILE REFERENCE:</b>	DA22/185; P56681
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i>
<b>AUTHOR:</b>	Kaylene Roberts/Brian Robinson
<b>DATE OF REPORT:</b>	27 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

Council is requested to consider an application for Land Clearing of building envelope at Lot 135 (17) Karri Lane, Quinninup. The subject property has an area of 3,748m<sup>2</sup> and is located to the south-western side of Quinninup Dam in the Karri Lakes Estate. The subject property is also located within a planning precinct – Quinninup Precinct QP1 (Karri Lakes). A location plan is provided below.

**Location Plan**

The applicant is proposing to clear the approved building envelope for a future dwelling as well as a further 2 metres outside of the building envelope for fire safety and also parkland clearing of timber on the south end of the property. The application as submitted states that a single – dwelling is to be constructed within 3 years. At this stage, no dwelling has been designed or is being proposed.

A copy of the submitted site plan and a letter of justification is shown attached.

**ATTACHMENT: 9.5.5 (1)**

Council is requested to consider the application as Shire officers do not have the delegation to vary the Scheme requirements in this case.

**PUBLIC CONSULTATION UNDERTAKEN:**

The application was referred to the adjoining landowners for comment for a 21 day period and to the Department of Biodiversity, Conservation and Attractions (DBCA) for a 42 day period. In response, DBCA have advised that they have no objection or comment to make. A copy of the submission is attached.

**ATTACHMENT: 9.5.5(2)**

It should be noted that previously, when the Lake formed part of a drinking water catchment, comments were routinely sought from the Department of Water and Environmental Regulation (DWER). Whilst DWER comments are no longer required as a result of the drinking water catchment being de-proclaimed, the application was referred to DWER prior to past practices being modified and comment has been received. As the comments received are generalised to the estate, reiterating past comments and were not specific to the application, the comments have not been addressed in this agenda item. A copy of the DWER comment is available to Councillors on request.

**COMMENT (Includes Options):**

The provisions of the Shire of Manjimup's Local Planning Scheme No. 4 (the Scheme) include the subject land within the Residential Zone. The Scheme maps apply a maximum density of R2.5, being a maximum lot size of 4,000m<sup>2</sup> in accordance with State Planning Policy 7.3 – Residential Design Codes Volume 1 (the R-Codes).

Clause 10.2 of the Scheme prescribes that in determining applications for planning approval, the local government must have regard to various matters. Relevant considerations for subject application are as follows:

- (vii) *the content and objective of Planning Precinct Statements set out in Schedule 8 of the Scheme;*
- (x) *the compatibility of a use or development with its setting including potential impact on the use and enjoyment of adjacent and nearby land and taking into consideration any Special Control Area;*
- (xiv) *whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;*
- (xv) *the preservation of the amenity of the locality; and*
- (xvi) *the relationship of the proposal to development on adjoining land or on other land in the locality, including but not limited to likely effect of the height, bulk, scale, orientation and appearance of the proposal*

To assist Council in determining the application, the following comments are offered:

### Planning Precinct Provisions

As outlined in Schedule 8 - Clause 1 of the Scheme, Planning Precincts are identified to:

- Ensure retention of the character of the precincts as a whole and the buildings within them while recognising the historic, townscape, environmental or other significance of the precinct;
- Require development or works adhere as closely as possible to the intent of the policy statement and development guidelines;
- Require buildings or other structures are of design and materials compatible with other buildings in the Precinct

The Karri Lakes Estate is located within Planning Precinct 5 – Quinninup (Karri Lakes), which provides guidelines for development within the area. As outlined within clause 5.3.2 of the Precinct provisions, *“a landowner may clear up to 800m<sup>2</sup> of live standing trees within the approved building envelope or area permitted for development on the lot with other clearing to provide for vehicular access to the road system and requirements for fire control to the satisfaction of the local government. Clearing of additional non-native trees will be considered on its merits by the local government”*.

As reflected at Attachment: 9.5.5(1), Lot 135 contains a building envelope being 25m by 36m, equating to an area of 900m<sup>2</sup>. With clearing proposed 2m beyond the building envelope, the applicant is proposing to clear 1,160m<sup>2</sup>. Approval to the application would therefore be granting approval to clear 360m<sup>2</sup> more than the 800m<sup>2</sup> normally permitted by the Scheme. This does not include clearing for an access driveway into the property.

Should the applicant not be able to clear the extra 2 metres they have verbally advised that they would be satisfied with just the clearing of building envelope.

### State Planning Policy No. 3.7 (SPP No. 3.7)

This policy outlines land use planning considerations in respect of bushfire risk management in Western Australia. Bushfire Prone mapping provided by the Department of Fire and Emergency Services indicate that whole of the Karri Lakes Estate, including the subject land, is bushfire prone. In accordance with SPP No. 3.7, applications for development within bushfire prone areas are to be accompanied by:

- a) an assessment of the Bushfire Attack Level (BAL); and
- b) a Bushfire Management Plan (BMP) demonstrating compliance with the bushfire protection requirements.

The applicant has submitted a BAL report stating the existing vegetation would result in a rating of BAL- Flame Zone (BAL-FZ). The report however identifies that the BAL rating could be reduced to BAL-40 through clearing and potentially relocating the proposed dwelling closer to the western boundary. A copy of the BAL report is shown attached.

**ATTACHMENT: 9.5.5(3)**

No Bushfire Management Plan has been submitted at this stage, which is considered acceptable given that there are currently no formal plans for the dwelling.

In accordance with clause 6.7.1 of SPP No. 3.7, applications for a single dwelling on an existing lot having an area of 1,100m<sup>2</sup> or greater is considered Minor Development. Whilst minor development may be approved where a BAL-40 or BAL-FZ applies, measures must be taken to ensure that the bushfire hazard level is not increased and the siting of the buildings has been optimised. With no formal house plans proposed, it is not possible to determine if the siting of future buildings have been optimised.

#### Annual Firebreak Notice

In accordance with the Shire's Annual Firebreak and Hazard Reduction Notice, a "Building Protection Zone" is required to be established and maintained for a minimum of 20 metres, measured from any external wall of the dwelling. Within this area owners are required to:

- Remove all flammable material within 20 metres of any dwelling or outbuilding;
- Ensure no trees over hang the dwelling, no shrub or live standing trees are located within 2 metres and tree trunks are free of branches to a height of 2 metres within the Building Protection Zone; and
- Ensure shrubs are not located under the trees, nor planted in clumps greater than 5m<sup>2</sup>, with clumps separated by 5 metres.

#### Relaxation of Standards

In accordance with Part 5.5 of the Scheme, where a proposed development does not comply with a standard or requirements of the Scheme the application may, despite the non-compliance, be approved by Council. In considering such an application, clause 5.5.2 requires that any landowners which may be affected are consulted.

As stipulated in clause 5.5.3, a relaxation of a standard or requirement of the Scheme may only be granted if the local government is satisfied that:

- i) Approval of the proposed development would appropriate having regard to the criteria set out in clause 10.2; and
- ii) The non-compliance will not have an adverse effect upon the occupiers or uses of the development, the inhabitants of the locality or the likely future development of the locality.

In this it should be noted that the proximity of vegetation to a future dwelling, or associated development is substantially influenced by the design, location and orientation of the future development. For example a larger dwelling may require more clearing to achieve a lower BAL.

If approval was granted to the clearing as proposed, this would not guarantee a certain BAL level as the proposed position of the development could change. It would be open for approval to be sought to locate the dwelling

elsewhere within the building envelope, which would also result in additional clearing being required in order to comply with the requirements of the Annual Firebreak and Hazard Reduction Notice.

Given the above, it is recommended that the application to clear as submitted should not be supported and clearing should be limited to 800m<sup>2</sup> in accordance with the Scheme provisions.

### Conclusion

Whilst the intent to reduce the level of vegetation and therefore the likely future BAL rating is understood, given that there is no formal proposal or designs for a future dwelling or associated infrastructure at this stage, the clearing of an area greater than that allowed for by the Scheme is not considered justified.

Although conditional approval is proposed, it is recommended that clearing be limited to a maximum of 800m<sup>2</sup> in accordance with the Scheme provisions.

### **STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005*

### **POLICY / STRATEGIC IMPLICATIONS:**

The proposed land clearing application has been assessed against the following Strategies contained within the Strategic Community Plan 2021 – 2031:

- A5.** *Manage fuel hazards to minimise the risk of serious fire threat to ecosystems, human life and property.*
- A8.** *Effectively use development and land policies to protect and rehabilitate the environment whilst balancing the needs of the community.*

### **ORGANISATIONAL RISK MANAGEMENT:**

Should Council grant approval to the clearing of 1,160m<sup>2</sup> (not including an associated driveway) in the absence of the formal proposal of a dwelling, an undesirable precedent would be created.

### **FINANCIAL IMPLICATIONS:**

The required application fee has been paid in accordance with the adopted schedule of fees and charges.

### **SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: The existing vegetation within the Karri Lakes Estate is a key element in respect of the areas amenity and the removal of vegetation should be managed so as not to detrimentally impact on the area.

**VOTING REQUIREMENTS: SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

That Council in accordance with Part 10 of the Shire of Manjimup Local Planning Scheme No 4 grants planning approval for Land Clearing at Lot 135 (17) Karri Lane, Quinninup (Application TP184/2022) as outlined in the plans attached at 9.5.5 (1) and subject to the following conditions:

1. The development permitted shall be carried out generally in accordance with the plans and specifications submitted as listed below:

Reference	Document Title	Date Received
Sheet 1	Site Plan	10 November 2022

2. Notwithstanding condition No 1 above, the proposed clearing shall be limited to a maximum of 800m<sup>2</sup> of the approved building envelope only;
3. Prior to the commencement of the clearing hereby approved, the approved building envelope shall be established by a licensed land surveyor; and
4. All stormwater and drainage runoff is to be retained on the subject property or to be provided with stormwater drainage connections to the drainage system in the area at the developers cost to the satisfaction of the Shire of Manjimup.

**Advice to Applicant**

- a. The applicant is advised that the Shire of Manjimup does not support the proposal to clear the area proposed in the absence of formal plans to establish a dwelling on the land. An application for clearing more than 800m<sup>2</sup> will only be considered following the receipt of a formal proposal to construct a dwelling, which will need to be accompanied by a revised Bushfire Attack Level Assessment specific to that dwelling design; and.
- b. Prior to undertaking any clearing of the land, it is recommended that the applicant liaise with the Department of Water and Environmental Regulation to confirm if a permit to clear will be required under the provisions of the *Environmental Protection Act 1986*.

**COUNCIL RESOLUTION:**

**MOVED: Winfield, C      SECONDED: , Jenkins, D**

**29033**

That Council in accordance with Part 10 of the Shire of Manjimup Local Planning Scheme No 4 grants planning approval for Land Clearing at Lot 135 (17) Karri Lane, Quinninup (Application TP184/2022) as outlined in

the plans attached at 9.5.5 (1) and subject to the following conditions:

1. The development permitted shall be carried out generally in accordance with the plans and specifications submitted as listed below:

Reference	Document Title	Date Received
Sheet 1	Site Plan	10 November 2022

2. Notwithstanding condition No 1 above, the proposed clearing shall be limited to a maximum of 800m<sup>2</sup> of the approved building envelope only;
3. Prior to the commencement of the clearing hereby approved, the approved building envelope shall be established by a licensed land surveyor; and
4. All stormwater and drainage runoff is to be retained on the subject property or to be provided with stormwater drainage connections to the drainage system in the area at the developers cost to the satisfaction of the Shire of Manjimup.

**Advice to Applicant**

- a. The applicant is advised that the Shire of Manjimup does not support the proposal to clear the area proposed in the absence of formal plans to establish a dwelling on the land. An application for clearing more than 800m<sup>2</sup> will only be considered following the receipt of a formal proposal to construct a dwelling, which will need to be accompanied by a revised Bushfire Attack Level Assessment specific to that dwelling design; and.
- b. Prior to undertaking any clearing of the land, it is recommended that the applicant liaise with the Department of Water and Environmental Regulation to confirm if a permit to clear will be required under the provisions of the *Environmental Protection Act 1986*.

**CARRIED: 11/0**

**ATTACHMENT****9.5.6 Quarterly Report - October to December 2022 - Director of Development and Regulation**

<b>PROPONENT OWNER</b>	Director of Development & Regulation
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>WARD:</b>	All
<b>ZONE:</b>	N/A
<b>DIRECTORATE:</b>	Development & Regulation
<b>FILE REFERENCE:</b>	F160966
<b>LEGISLATION:</b>	Various
<b>AUTHOR:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	27 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The Development & Regulation Directorate administers the Shire's functions with reference to Building, Building Maintenance, Bushfire, Environment, Environmental Health, Statutory and Strategic Planning, Rangers and the day to day management of the Windy Harbour campground and settlement.

A report detailing the activities of Shire Officers within the Development & Regulation Directorate is attached for the period of October to December 2022 for Councillors Information and Reference.

**ATTACHMENT: 9.5.6(1)****PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The purpose of this agenda item is to inform Councillors of the activities undertaken, the status of activities with respect to the Shire of Manjimup's Strategic Community Plan 2021-2031 and to provide an opportunity to raise queries in respect of those activities.

**STATUTORY ENVIRONMENT:**

Various legislation as applicable to the activities undertaken within the Directorate.

**POLICY / STRATEGIC IMPLICATIONS:**

As outlined in Attachment: 9.5.6(1).

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

All activities were undertaken in accordance with the Shire of Manjimup's 2022/23 Annual Budget.

**SUSTAINABILITY:**

Environmental: As stated in Attachment.

Economic: As stated in Attachment.

Social: As stated in Attachment.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receive the October to December 2022 Quarterly Report for the Development and Regulation Directorate as contained in Attachment: 9.5.6(1).**

**COUNCIL RESOLUTION:**

**MOVED: Eiby, W                      SECONDED: Taylor, R**

**29034**

**That Council receive the October to December 2022 Quarterly Report for the Development and Regulation Directorate as contained in Attachment: 9.5.6(1).**

**CARRIED: 11/0**

**ATTACHMENT  
APPENDIX**

**9.9.1 Proposed Review of Policy 3.1.3 Community Funds Allocation**

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	NA
<b>WARD:</b>	NA
<b>ZONE:</b>	NA
<b>DIRECTORATE:</b>	Community Services
<b>FILE REFERENCE:</b>	F160252
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Evy Apeldoorn; Greg Lockwood
<b>DATE OF REPORT:</b>	24 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

At the Council meeting held on 8 December 2022, Council resolved the following (Minute 28979) as part of their response to Council agenda item *Further Direction Required to Implement the Decision of Council (Minute 28964) Pemberton Community Hub Made on 17 November 2022*:

<b>MOVED: Omodei, P</b>	<b>SECONDED: Jenkins, D</b>
<b>28979</b>	
<b>That Council:</b>	
<b>1. Request Shire Officers to reassess the eligibility, limits and categories of general and financial assistance grants available to community groups in the annual community grants program due to the increasing operating costs borne by local organisations;</b>	

Furthermore, the Council agenda item *2023 Arts Acquisitive Prize – Request by Pemberton Arts Group Seeking Variation to Policy 3.1.3 Community Funds Allocation* on 8 December 2022 (Minute 28973) identified the need to review the Policy in regard to arts acquisitive prizes.

At the time of its initial adoption in 2011, the policy formalised Council's position in regard to the annual allocation of funds to support the activity of community groups. The policy objectives are to provide guidance to Council, Officers and the community for a consistent and transparent program of funds allocation across the three community categories of general groups, youth and events. A copy of the existing policy is appended.

**APPENDIX: 9.9.1(A)**

The policy has been reviewed and amended to include a Financial Hardship category to assist with operational costs, and guidance for requests for arts (acquisition) prizes as outlined in the Comments section. The amended policy is attached.

**ATTACHMENT: 9.9.1(1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**Community Fund Policy

In accordance with the current policy Council endeavours to allocate 2% of the prior year's rates revenue to the Community Fund Program. While this amount may, over time, reflect growth or decline in Council rate base, the number of applications for funds and the total sum of funds applied for are growing steadily, with the program being oversubscribed each year. These circumstances require a robust set of conditions and criteria framing a clear and transparent funding program so that Council, Officers and community applicants can all participate or fulfil their respective roles in the program with confidence.

Financial Hardship

It is acknowledged by Council, with the moving of the motion on the 8 December 2022, that Community Groups are suffering hardship through increasing costs across the groups' areas of operation. These include but are not limited to;

- Electricity;
- Water;
- Insurance;
- Building maintenance;
- Annual pest inspections; and
- Administrative burden with increased legislation/compliance.

Typically, the majority of groups have limited ability to raise additional income to cover costs that do not add value to the experience of members. This added burden, if not arrested, could potentially have disastrous consequences to many groups' longevity.

As per the presentation by the Shire's Chief Executive Officer during the Council Information Briefing on the 17 January 2023 it is proposed to increase Community Funds by 0.5% to 2.5% of the previous year's rates and allocate 0.75% (\$75,507 in the current financial year) of the Funds to a category to assist community groups with Financial Hardship.

The proposed amendment to the Community Funds Allocation will see the current category of Financial Assistance amended to Financial Hardship. Whilst Financial Assistance, in its present form does support groups in hardship, Financial Assistance can mean other levels of support like financial assistance to purchase a new security system etc, which should actually come from the General Grant category. By renaming the category to Financial Hardship the category's name clearly articulates its purpose and intent.

It is proposed to have three subcategories to cover the various sizes and cost burdens of community groups, being:

**Cat. 2A – Financial assistance – community care/service function and high need (up to \$5,000)**

This category is for community groups with a care/service function to the community, or community groups deemed in high need by Council.

**Cat. 2B - Financial assistance – with premises (up to \$3,000)**

When a community group occupy a building there are associated costs with utilities, maintenance and building insurance.

**Cat. 2C – Financial assistance – no premises (up to \$1,500)**

Community groups that do not have the burden of building outgoings but may have escalations of costs related to volunteer insurance, equipment costs, etc.

It should be noted that it is at Council’s discretion as to what level of funding a particular group is allocated based on their application and demonstrated need.

A review of the 2021/22 and 2022/23 Financial Assistance Grants shows an allocation to nine community groups, which supply various services, ranging from \$800 to \$3,500 totalling \$18,131 per year. Should these groups apply again, be considered by Council under the revised Policy, and be allocated similar funding, then there would be approximately \$57,000 to be allocated amongst any new applications that have merit.

Arts (Acquisitive) Prizes

In the Council agenda item *2023 Arts Acquisitive Prize – Request by Pemberton Arts Group Seeking Variation to Policy 3.1.3 Community Funds Allocation* on 8 December 2022 it was noted that the existing Community Fund Policy is silent on a number of matters in regard to arts acquisitive prizes, including:

- Possibility for the applicant to add funds to the acquisitive prize to allow for purchasing a more expensive artwork;
- Ownership of acquired artwork, particularly relevant if the applicant adds funds to the prize;
- Display location for public enjoyment of the acquired artwork; and
- Public safety considerations for acquired artwork.

To guide future applications and to provide clarity on the above matters, currently not addressed in the policy, it is recommended to amend the Policy by including these matters. A clear and transparent policy is imperative, as arts (acquisitive) prizes may be applied for by a wide range of community groups across various arts media.

At the Ordinary Council Meeting held 12 February 2015 Council moved to allocate \$5,000 for the purpose of an acquisitive prize to the Pemberton Arts Group (PAG) at the inaugural Unearthed Festival in May 2015. This decision was aligned with Council’s desire to “expand, conserve and display the Shire’s art collection for everyone to study and enjoy” as outlined in the Shire’s Art and Culture Strategic Plan 2013-2023. Following this decision, funds have been allocated by Council in the operational budget upon annual requests. To

date PAG have been the only recipient of the acquisitive arts prize, with the exception of the financial year 2021/22 when the funds had not been requested by a group and Council moved to purchase an artwork from a local artist.

Over the past years Council has received an increasing number of requests and enquiries from community groups for funds towards arts prizes and arts acquisitive prizes. To ensure consistency and equity in the manner these requests are being submitted and considered, arts (acquisitive) prizes were included in the Shire's *Community Funds Allocation Policy 3.1.3* at its most recent review, adopted by Council at its Ordinary meeting on 11 February 2022.

As it is Council's intent for these prizes to support and encourage growth and stimulation of the local arts and cultural environment, it is stipulated in the existing Policy that, to be eligible for community grant funding for arts (acquisitive) prizes, the arts competition/exhibition should be held within the Shire of Manjimup, and the winning/awarded artists are to be residents of the Shire of Manjimup.

In accordance with Council's intent to support growth and stimulation of the local arts, it is recommended to retain the residency criteria (i.e. to reside in the Shire of Manjimup) for artists to be awarded with Shire allocated prizes. However, it is acknowledged that, when an applicant adds funds to the Shire's acquisitive prize amount, and a larger/more expensive artwork is purchased, that there is merit to allow for a wider region of artist residency.

In the longer term, it would mean a more varied Shire art collection with a wider group of artists represented. Furthermore, as evidenced by the Manjimup Art Prize works which were collected over a number of years, some of the paintings in that collection are early works by artists who have gone on to become quite famous. As such the acquisitive prize does, to an extent, represent an investment for Shire ratepayers regardless of whether the winning artist is local or from further afield.

The following additions have been made to the policy stipulating that any artwork which is acquired with (assistance of) the Shire's acquisitive prize will:

- Be added to the Shire's arts collection, thus owned and insured by the Shire;
- Be displayed for public viewing at a location in the Shire of Manjimup to be decided in discussion between the applicant and the Shire, noting the following:
  - It needs to be located on land under management and control of the Shire of Manjimup;
  - The proposed location for the artwork is to be included in the Community Grant application;
  - Selection of sculptures or larger art pieces requiring transportation and installation may incur considerable extra costs. The Community Grant applicant is responsible to consider these costs in their application and identify any additional

funding sources. Any additional funds requested from the Shire of Manjimup will need to be determined by Council.

- Need to meet public safety and security considerations (including: no sharp edges, no finger pinching points, not climbable, securable against fire, theft, etc.); and
- Be selected by a selection panel, which is to be established by the applicant, and is to include an elected member.

The inclusion of transport and installation in the policy is particularly relevant for larger artwork, which can require significant engineering and incur unbudgeted expenditure.

It is recommended that a selection checklist be developed to assist the elected member on the selection panel with selecting an artwork that meets the criteria of the policy.

#### Other Amendments

An addition has been made to condition H of the Community Fund program in the Policy to clarify that, if warranted by circumstances, groups can apply for multiple applications in one grant round. Where multiple grant applications are submitted by a group in one grant round, the group is to indicate the priority of each application.

Another minor addition was made to Category 3 of the Program to broaden the funding opportunities for youth, to include facilitated youth development programs besides the already included youth groups.

Commonly the annual grants round opens on 1 February and closes, as per the Policy at the end of March. To allow for sufficient time for the review of this Policy as per this agenda item, associated changes to the application forms, and informing community groups of the Policy amendments, it is suggested to defer the opening and closing dates for the upcoming 2023/24 round to respectively 22 February and 19 April 2023. This will still allow for the processing and inclusion of the applications in Council's 2023/24 budget process.

Furthermore, it is recommended an Occasional Committee of Council to be established to undertake the assessment of the grant applications and make recommendations to Council about the allocation of community funds to the applicants. An agenda item for the establishment of this committee will be presented to Council within the next months.

#### **STATUTORY ENVIRONMENT:**

*Local Government Act (1995) s6.7*

#### **POLICY / STRATEGIC IMPLICATIONS:**

Shire of Manjimup Corporate Business Plan 2022-2026:

- C2 Support volunteer community groups, encourage participation (particularly in areas of emergency management and acknowledge Contributions to the community.

- C2.4 Provide annual Community Grants to community groups and not-for-profit organisations for projects or activities that have a focus on benefiting communities within the Shire; and
- C2.5 Provide acknowledgement and support to a diverse range of local volunteer groups (both operational and financial support).

The inclusion of arts (acquisitive) prizes into this policy is supported by the following recommendations from the Arts & Culture Strategic Plan 2013 – 2023:

- 1.1.2 Provide financial assistance for arts and cultural activities to relevant community groups through the Council's Community Funds Allocation;
- 1.1.3 Our local artists are recognised and honoured for their significant contribution to their field; and
- 1.6.2 Develop and Implement an Arts Prize and Acquisition Policy to Grow the Shire's Art collection.

#### **ORGANISATIONAL RISK MANAGEMENT:**

This policy guides the appropriate administration and funds allocation of the Community Funds Program. The policy provides guidelines for officers in the correct administration of the program, for applicants in their selection of the appropriate funding category to apply for funds within and for Council in their allocation of funds.

The intent of this policy is to provide clarity, consistency and transparency to the community and the applicants as well as to officers when preparing reports with recommendations to Council on the decision-making process thus controlling organisational risk.

#### **FINANCIAL IMPLICATIONS:**

Application of this amended policy requires Council to allocate 2.5% of the prior year's rate revenue to the Community Funds Program annually being an additional 0.5% or \$50,338 for the 2023/24 budget.

Funds for an arts acquisitive prize are allocated in the Community Services annual operational budget.

#### **SUSTAINABILITY:**

Environmental: Nil.

Economic: This Policy guides the allocation of Council funds to a variety of community groups, projects and events which in turn supports opportunity for those recipients to improve their economic sustainability.

Social: In supporting the arts activities and events of various community groups, this Policy and the Arts (Acquisitive) Prizes provide for enhanced social and artistic opportunities across the Shire.

**VOTING REQUIREMENTS: SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

1. Adopt amended Policy 3.1.3 Community Funds Allocation as per Attachment: 9.9.1(1);
2. Approve the deferral of the opening and closing dates for the 2023/24 Community Fund round to 22 February and 19 April 2023 respectively; and
3. Await a further report to establish an Occasional Committee of Council to undertake the assessment of the grant applications and make recommendations to Council about the allocation of community funds.

**COUNCIL RESOLUTION:**

**MOVED: Eiby, W                      SECONDED: Jenkins, D**

**29035**

**That Council:**

1. Adopt amended Policy 3.1.3 Community Funds Allocation as per Attachment: 9.9.1(1);
2. Approve the deferral of the opening and closing dates for the 2023/24 Community Fund round to 22 February and 19 April 2023 respectively; and
3. Await a further report to establish an Occasional Committee of Council to undertake the assessment of the grant applications and make recommendations to Council about the allocation of community funds.

**MOTION CARRIED 8/3**

**FOR**

Cr D Buegge  
 Cr S Dawson Vidovich  
 Cr W Eiby  
 Cr D Jenkins  
 Cr K Skoss  
 Cr R Taylor  
 Cr J Willcox  
 Cr C Winfield

**AGAINST**

Cr K Lawrence  
 Cr P Omodei  
 Cr M Ventris

### 9.9.2 Pemberton Community Co-location Project - Request for Additional Funding and Consideration of Waiving of Liquidated Damages

<b>PROPONENT OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	Shire of Manjimup Lot 500 Brockman Street Pemberton
<b>WARD:</b>	West
<b>ZONE:</b>	Public Purposes
<b>DIRECTORATE:</b>	Community Services
<b>FILE REFERENCE:</b>	F200384
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Gail Ipsen Cutts
<b>DATE OF REPORT:</b>	27 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

#### BACKGROUND:

The Pemberton Community Co-location Project is a collaboration of seven (7) community not-for-profit groups in Pemberton working towards a 'fit-for-purpose' solution. This project addresses a number of issues in current facilities and operations. The primary focus of the project is to deliver long-term surety to the Pemberton community that key services will continue and their capacity to service the community strengthened.

After extensive consultation and planning, in March 2020 Lotterywest announced a substantial funding contribution to the project which was met with funding from the Shire and other groups involved in the project.

The scope of the design was developed in response to a number of issues identified by the stakeholders and agreed by all parties. The design consultation, and subsequent architectural contract, resulted in documentation that was released for tender for construction in December 2020.

At its meeting held 21 January 2021 Council awarded RFT 04/20 Pemberton Community Co-location Redevelopment to Karamfiles Builders for the price of \$2,000,578 (ex GST) and increased the Shire's cash contribution to the project by \$495,482 (ex GST). On the 27 May 2021 a further price adjustment of \$34,934 was endorsed. This report is appended as it provides a comprehensive background to the price adjustment proposal at that time.

#### **APPENDIX: 9.9.2(A)**

A significant concern for the project has always been that the project has been undertaken in an environment of unprecedented building and with construction industry challenges. Whilst many of the challenges have been met with tight fiscal management there are a number of matters with additional financial implications requiring further Council consideration. These are:

- Liquidated damages as per contract between Shire of Manjimup and Karamfiles Builders;
- Ventilation and air conditioning – workshop space;
- Exposed eaves – Returned Services League (RSL) building;
- Fence / Safety guard of service laneway bordering the Country Women’s Association (CWA) and Department of Fire and Emergency services (DFES) buildings;
- RSL servery window – documentation error;
- Additional door request - Community Resource Centre (CRC) small office door;
- Signage and general landscaping.

The purpose of this report is to seek Council approval to amend the 2022/23 budget to allocate funds to deliver the additional works, as outlined above, for the Pemberton Community Co-location Project.

#### **PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

#### **COMMENT (Includes Options):**

##### Liquidated Damages

Liquidated damages are a provision within the executed AS4000-1997 General conditions of contract that fixes the sum payable as damages for a party’s breach. Shire of Manjimup and Karamfiles Builders liquidated damages for the Pemberton Community Colocation Redevelopment was \$200 per week.

The current building and construction challenges are nationwide with numerous building companies collapsing. Project management have worked closely with the Contractor and understand only too well the challenges they have faced.

A significant concern for the project has been delivering the project within budget and within timeframe. In the unprecedented environment of escalating building and construction industry challenges, trades availability, material supply and resourcing have caused significant delays in the project. The contracted practical completion date has not been achieved.

Practical completion was scheduled for 6 June 2022. All buildings are now at lock up and practical completion is envisaged end March 2023, exceeding contracted date by 9 months. The majority of these delays have not been within the Builders control and as such Officers recommend that liquidated damages for exceeding practical completion date be waived.

It is recommended that the waiver be subject to practical completion being achieved by 31 March 2023.

##### Ventilation and Air Conditioning Cost \$35,000 (Ex GST)

During the negotiated contract price adjustment, outlined in the appended Agenda of 27 May 2021, heating, ventilation and air conditioning changes to

the Infant Health building were introduced as a saving of \$67,250 (Ex GST). What has now come to light is that to achieve this saving the contractors adjusted price had incorrectly removed all ventilation and air conditioning from both the Museum (Infant Health Building) and the new workshop space. Upon investigation it appears that the Contractor has confused the various space names and purpose and had incorrectly assumed the request to remove ventilation and air-conditioning included in the entire Museum and Art space. Whilst the project budget benefited from this saving, it inadvertently also removed an essential element.

Ventilation across all workshop spaces, kiln room extraction and air conditioning in the Arts Workshop is required for both building compliance, safety and comfort and as such additional funding support from Council is recommended.

Exposed eaves Cost \$6,000 (Ex GST)

With the refurbishment of the RSL building exterior and new main entry to the redevelopment the existing exposed eaves have become unsightly. It is recommended that this matter be rectified with the installation of design pine battens to the underside of the Main Entry and South RSL building side.

A quote has been received from the Contractor to complete works to the value of \$4,094. Inclusive of painting the final cost is estimated at \$6,000.

Fence / safety guard service laneway Cost \$7,000 (Ex GST)

The service laneway to the rear of the precinct is to provide one way access for the lessees who have storage units fronting the service lane, it is not a thoroughfare. The service lane also acts as an expanded event and community space for such activities as RSL gatherings, markets or art events.

As can be viewed on the attached image the drop between the service lane and the DFES and CWA land is significant and a safety hazard for vehicles accessing the lane and pedestrians enjoying the community space.

**ATTACHMENT: 9.9.2(1)**

A steel fence that slopes on either end of the service lane has been determined as the safest option, given the space restrictions and will also act as a privacy screen for DFES activities. The fence is graduated in height to still create the feel of connection between the CWA and the Pemberton Hub activities whilst screening the CWA shed and backyard.

Servery window Cost \$6,000 (Ex GST)

An amendment error in the design drawings sets resulted in the servery window in the RSL building kitchen being replaced with a sliding panel window. Council committed, at its meeting of 17 November 2022 (Item 28964) to replacing this window with a servery window and install a new door as follows:

- 8. Shire to install a Servery window to the RSL Kitchen and a door to the Centrelink office during construction or soon after the completion of construction and handover to a maximum total cost of \$4,400.**

Preliminary cost estimations received indicate that the window replacement alone will be in the vicinity of \$6,000 and as such it is recommended that this amount be considered by Council.

Door CRC Cost \$2,000 (Ex GST)

Post construction commencement the CRC requested that an open Centrelink Hub be changed to include a doorway and a door. The Builder accommodated the creation of a doorway and relocation of wiring within the general build but advised that the additional door and door hardware would have an extra cost of around \$2,000. The CRC did not accept payment of this figure and as such the door did not get installed. Council at its meeting of 17 November 2022 accepted responsibility to install the door as follows:

**8. Shire to install a Servery window to the RSL Kitchen and a door to the Centrelink office during construction or soon after the completion of construction and handover to a maximum total cost of \$4,400.**

Preliminary cost estimations received indicate that the new door and hardware will be in the vicinity of \$2,000 and as such it is recommended that this amount be considered by Council.

Signage and landscaping Cost \$15,000 (Ex GST)

The signage allocation within the build was trimmed back to primarily deliver key external signage. Stakeholders are requesting that the internal wayfinding signage be included as well as an additional 'you are here' style map in the main entry area.

Soft landscaping and outdoor furniture were removed from the revised project budget to achieve the award of tender. The landscape design for the precinct was in the vicinity of \$100,000 including all furniture, shade sails and drinking fountain. It had been anticipated that landscaping and outdoor furniture would be delivered as part of the Lotterywest Fit Out and Place Making Grant, however Lotterywest did not approve any landscaping or community outdoor space funding.

Whilst the requested small budget will only deliver basic soft landscaping it will result in a more finished and aesthetic precinct that is welcoming to partners and visitors. Project partners and Council may build on the outdoor space over time and are already investigating grants for outdoor furniture, shade sails and water fountains.

Funding Source

Due to the one-off nature of the expenditure listed above, it is proposed to use additional income received to date that has not been budgeted for in the 2022/23 adopted budget. It is proposed to use the unallocated \$27,548 Financial Assistance Grant – General Purpose, with the remaining \$43,452 being funded from additional interest received from the investment of Municipal and Reserve as per Investment Policy 4.1.1. By using this income on one-off expenditure, the funding will be available in the 2023/24 budget to fund other activities.

It is important to note that this report does not address the contracted project and budget. At this point all under and over expenditures are being managed within the approved budget with minor adjustments. The final budget position will be presented at project completion.

The Pemberton Community Co-location Project is a significant infrastructure project for the Pemberton community and as such it is recommended that Council support the allocation of additional funds to ensure a safe, compliant and aesthetic precinct is delivered.

#### **STATUTORY ENVIRONMENT:**

*Local Government Act 1995.*

#### **POLICY / STRATEGIC IMPLICATIONS:**

The significance of the proposed Pemberton Community Co-location project is supported in the following strategic documents:

Strategic Community Plan 2021-2031:

C1. Encourage co-locations, partnerships and resource sharing to delivery community services.

Corporate Business Plan 2022-2026

3.1 The range of support services in our community are useful, empowering and aligned to community needs now and in the future:

C1. Encourage co-locations, partnerships and resource sharing to deliver community services;

- C1.1 Progress the Pemberton Co-location Project to develop a new shared and comanaged facility for the Pemberton Visitor Centre, Community Resource Centre and Public Library and associated groups.

4.2 Community infrastructure is delivered and maintained at a level of service that is aligned with community needs now and in the future.

#### **ORGANISATIONAL RISK MANAGEMENT:**

This project has been on the table for many years, reputationally the organisation will benefit from the delivery of a project that is finished, inclusive of basic soft landscaping. The proposed expenditure detailed within this report will ensure that the Pemberton Community Hub Project is delivered in such a way that it is compliant, safe, inclusive and supportive of the co-location partners and the needs of the broader community.

Reputational damage could result from not supporting the additional expenditure and essentially not delivering a 'finished' project.

#### **FINANCIAL IMPLICATIONS:**

This matter relates to Regulation 21(A) of the *Local Government (Functions and General) Regulations 1996* as copied below:

**21A. Varying a contract for the supply of good and services.**

If local government has entered into a contract for the supply of goods and services with a successful tenderer, the contract must not be varied unless –

- (a) the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or
- (b) the variation is a renewal or extension of the term of the contract as described in regulation 11(2)(j).

Costs provided in this report are conservative industry estimates. If approved quotes are being sought and all purchasing will be undertaken in accordance with the Shire Purchasing Policy.

Due to the one-off nature of the expenditure listed above, it is proposed to use additional income received to date that has not been budgeted for in the 2022/23 adopted budget. It is proposed to use the unallocated \$27,548 Financial Assistance Grant – General Purpose, with the remaining \$43,452 being funded from additional interest received from the investment of Municipal and Reserve as per Investment Policy 4.1.1. By using this income on one-off expenditure, the funding will be available in the 2023/24 budget to fund other activities.

**SUSTAINABILITY:**

Environmental: Soft landscaping will soften and cool the community hub outdoor space and blend the space with the surrounding environment.

Economic: Proceeding with the officer recommendation, whilst requiring some additional funding, would likely deliver a community building that has the presence and polish to engage visitors and residents alike.

Social: A number of stakeholders are currently located in temporary or dilapidated facilities. Progressing with the current construction contract would guarantee their relocation into the new facility sooner, and therefore providing a higher quality of service to the community.

**VOTING REQUIREMENTS:                      ABSOLUTE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

- 1. Agree to not seek Liquidated Damages from Karamfiles Builders for exceeding practical completion deadline, subject to practical completion being achieved by 31 March 2023;**
- 2. Approve the allocation of budget to undertake the following additional works at the Pemberton Community Co-location including compliance ventilation and air conditioning, pine battens to the exposed eaves, steel fence along the boundary side of the service lane, servery window, additional door, signage and general landscaping; and**
- 3. Approve the adjustment of \$71,000 in the Shire of Manjimup 2022-2023 Annual Budget to recognise expenditure in accordance with the following table:**

Description	Current Budget	Amended Budget	Variation
Financial Assistance Grant - General Purpose	(\$807,807)	(\$835,355)	(\$27,548)
Interest - Municipal/Reserve Investments	(\$60,000)	(\$103,452)	(\$43,452)
Pemberton Colocation Project - Additions	\$0	\$71,000	\$71,000
Net Rate Funds			\$0

**COUNCIL RESOLUTION:**

**MOVED: Skoss, K            SECONDED: Ventris, M**

**29036**

**That Council:**

1. Agree to not seek Liquidated Damages from Karamfiles Builders for exceeding practical completion deadline, subject to practical completion being achieved by 31 March 2023;
2. Approve the allocation of budget to undertake the following additional works at the Pemberton Community Co-location including compliance ventilation and air conditioning, pine battens to the exposed eaves, steel fence along the boundary side of the service lane, servery window, additional door, signage and general landscaping; and
3. Approve the adjustment of \$71,000 in the Shire of Manjimup 2022-2023 Annual Budget to recognise expenditure in accordance with the following table:

Description	Current Budget	Amended Budget	Variation
Financial Assistance Grant - General Purpose	(\$807,807)	(\$835,355)	(\$27,548)
Interest - Municipal/Reserve Investments	(\$60,000)	(\$103,452)	(\$43,452)
Pemberton Colocation Project - Additions	\$0	\$71,000	\$71,000
Net Rate Funds			\$0

**CARRIED: 11/0**

**ATTACHMENT****9.9.3 Quarterly Report October 2022 - December 2022 - Community Services Directorate**

<b>PROPONENT OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	Shire of Manjimup
<b>WARD:</b>	Shire of Manjimup
<b>ZONE:</b>	N/A
<b>DIRECTORATE:</b>	Community Services
<b>FILE REFERENCE:</b>	F160966
<b>LEGISLATION:</b>	Various
<b>AUTHOR:</b>	Gail Ipsen Cutts
<b>DATE OF REPORT:</b>	27 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

Documentation outlining activities, grants and donations data for the October – December 2022 quarter for the Community Services Directorate is attached for Councillors information.

**ATTACHMENT: 9.9.3 (1)****PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The purpose of the report is to inform Councillors of activities and provide an opportunity to respond to any queries arising from those activities.

**STATUTORY ENVIRONMENT:**

Various.

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

All activities were undertaken in accordance with the Shire of Manjimup's 2022/2023 Annual Budget.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Financial support of all four visitor centres and community events, as well as a focus on marketing and promotion of the regions assets is strategically targeted to grow the visitor economy and encourage investment in the sector.

Social: Community facilities, programmes and services play a significant role in delivering the lifestyle and wellness opportunities throughout the Shire and as such contribute to the attractiveness of the Shire to live, play and invest in.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receive the Community Services Directorate Quarterly Report October - December 2022 as contained in the Attachment: 9.9.3(1).**

**COUNCIL RESOLUTION:**

**MOVED: Eiby, W                      SECONDED: Dawson Vidovich, S**

**29037**

**That Council receive the Community Services Directorate Quarterly Report October - December 2022 as contained in the Attachment: 9.9.3(1).**

**CARRIED: 11/0**

Councillor Eiby declared an Impartiality Interest in this Item as she is the Manager of the Northcliffe Visitor Centre which is one of the Southern Forests and Valleys Stakeholders. Councillor Eiby declared that she would consider the matter on its merits and vote accordingly.

## ATTACHMENT

### 9.9.4 Draft Southern Forest and Valleys Tourism Marketing and Destination Opportunities Plan - Proposed Consideration

<b>PROPONENT</b>	Warren Blackwood Alliance of Councils
<b>OWNER</b>	Warren Blackwood Alliance of Councils
<b>LOCATION / ADDRESS:</b>	Johnson Crescent Manjimup
<b>WARD:</b>	All
<b>ZONE:</b>	All
<b>DIRECTORATE:</b>	Community Services
<b>FILE REFERENCE:</b>	F180259
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Gail Ipsen Cutts
<b>DATE OF REPORT:</b>	27 January 2023
<b>DECLARATION OF INTEREST:</b>	The author is the Southern Forest and Valleys representative on Australia's Southwest Board.

#### BACKGROUND:

In 2021 the Warren Blackwood Alliance of Councils formally endorsed the inclusion of the Southern Forest and Valleys Local Tourism Organisation (SFVLTO) within its operational model. The SFVLTO includes the Shires of Manjimup, Nannup, Bridgetown-Greenbushes, Boyup Brook and the town of Balingup, noting that the Shire of Donnybrook-Balingup is not part of the SFVLTO. Council endorsed 3 years of funding towards the revised model, with 2022/23 being \$60,750 and \$49,500 in 2023/24.

The key purpose of the SFVLTO is to:

- Develop, manage and produce websites, social media and digital content for Southern Forests and Valleys (SFV) including SFV and Total Trails website; social media and image and video library;
- Work with tourism industry to facilitate their presence on SFV website and social media; and
- Conduct marketing of whole region (in conjunction with Australia's Southwest (ASW) as required).

In 2021 the SFVLTO appointed a consultant to prepare a Tourism Marketing and Destination Opportunities Plan (the Plan). The Alliance members have now been asked to endorse this draft Plan (copy attached). **ATTACHMENT:**

**9.9.4(1)**

The purpose of this report is to present the Plan with Officer comment for Council consideration.

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

As presented the Plan provides a good background to the tourism market, digital marketing and destination opportunities for the Southern Forest and Valleys region. However, in saying this the Plan, contracted in late 2021, is no longer current and does not adequately reflect current industry data or key industry documentation for Western Australia. The following overview comments are provided to assist Council in considering whether the Plan is ready for endorsement.

Financial Implications

The draft Plan has been presented to Council for consideration without any associated cost or indicative strategic priorities that would guide Council and Officers in prioritising marketing and tourism expenditure over the next 3 – 5 years. Partner local governments need clarity as to what is funded by the existing annual contribution and what will need to be funded as separate buy in campaigns and partnerships.

By way of example the current document uses very loose wording of ‘may or could’ partner ASW at the Caravan and Camping Show, there is no actual commitment, and this creates frustration. For example, ASW invited the SFVLTO to partner with them at the WA Caravan and Camping Show 2023 which was declined. If the SFVLTO had accepted the invite, as intermated in the Plan, each local government would have paid around \$200 and the region promoted as a whole. More importantly as an annual event this could be included in an annual marketing budget so that each local government can make an informed choice as to whether to allocate funds. In this instance the Shire of Manjimup will partner ASW and promote the Southern Forests region on its own at a cost of \$2,000.

WA Tourism Destination Management Plan

The Plan would do well to reference the Tourism Western Australian (TWA) *Destination Management Plan (TDMP) 2022/23*, as this document provides a destination overview for each of the local tourism organisations within the ASW region. This TDMP has been developed by the TWA as a blueprint for destination management and opportunities in the southwest.

The tourism industry within Australia is quite hierarchical, with each level focusing on different components of the whole tourism market. The Plan would benefit readers by providing a hierarchical overview of the tourism industry structure in Western Australia and the southwest. This would illustrate the clear relationships between state government, industry peak bodies, regional tourism organisation, local tourism organisations and local government and visitor centres. This is important in order to understand how to partner and who to partner with to maximise any investment in tourism marketing or destination development.

### Acknowledgment to Country

The Acknowledgement to Country needs to be amended to respectfully acknowledge all language groups of the Noongar traditional custodians and not just the Piblemen (Bibbulman) and Wadandi people. The SFVLTO region includes the traditional lands of the Wadandi, Bibbulman, Kaniyang and Minang people.

### Representative Local Governments

The Plan clearly notes that only Balingup in the Shire of Donnybrook is included in the SFVLTO however the document references tourism activities and images from Donnybrook town. This is odd when considering the wealth of images and examples of tourism across the actual partner region.

### Document Proofreading and Editing

The document requires proofreading. In addition, it may be prudent, within the current economic climate, to remove reference to the SFV region as being home to the timber industry.

A revision of the Plan is recommended to ensure that it is not immediately out of date.

In conclusion the Plan presents a strong initiative from the SFVLTO to focus on growing the visitor economy and capacity within the region. However, endorsing the Plan in its current form, without any financial accountability or clear actions and in respect of other matters as presented above, is not recommended.

## **STATUTORY ENVIRONMENT:**

*Local Government Act 1995*

## **POLICY / STRATEGIC IMPLICATIONS:**

Corporate Business Plan 2022 – 2026:

Our Prosperity: 2.6 The region grows in reputation as a world-class culinary, agricultural, environmental and trails tourism destination.

- B13 Support a Local Tourism Organisation to coordinate the efforts of government and industry in marketing and developing visitor services, amenities and attractions across the region.
- B14 Encourage and support quality Southern Forests visitor servicing and marketing.
- B15. Further develop the 'Trails Hub' tourism destination concept and facilitate the implementation of a range of trail options connecting to and linking key destinations.

## **ORGANISATIONAL RISK MANAGEMENT:**

There is no risk to deferring the endorsement of this Plan. However, should Council elect to endorse the Plan as is, it is essentially committing to something that has no financial accountability and misrepresents the region in terms of local government partners and traditional custodian language groups.

In its current form the Plan will not provide guidance to Council or Officers in terms of prioritising marketing and tourism budget expenditure.

**FINANCIAL IMPLICATIONS:**

Endorsing a Plan that has no budget or financial overview can intimate that Council supports the implementation of the Plan irrespective of the cost. This is not good fiscal management. Ideally the Plan will outline what is inclusive of the current financial commitment and what is exclusive and essentially a buy in marketing campaign option.

**SUSTAINABILITY:**

Environmental: Nature based tourism managed well has the potential to increase the awareness and care of natural environments as well as stimulate the visitor economy.

Economic: The SFBVTA is focused on promoting, marketing and packaging the region and increasing visitation as destination of choice all of which will grow the visitor economy.

Social: Increased visitation to the region strengthens community buoyancy, social life and activity. Marketing and promotion of the region and all of its assets will stimulate a sense of place and local pride.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council does not endorse the proposed Southern Forest and Valleys Tourism Marketing and Destination Opportunities Plan until the following amendments and inclusions are undertaken:**

- a. **Strategic Priorities and Action Plan need to be supported by a minimum 3-year indicative budget noting funding source;**
- b. **Appropriate reference to the Tourism Western Australia Destination Management Plan and the recommendations pertaining to the Southern Forest and Valleys Region;**
- c. **Provision of a hierarchical flow chart showing the structure of Tourism in Western Australia and the Southwest;**
- d. **Acknowledgement of Country to be inclusive of all Noongar language groups located within the Southern Forest and Valleys region including Wadandi, Bibbulman, Kaniyang and Minang;**
- e. **Removal of reference and images pertaining to Donnybrook town; and**
- f. **Document proofreading and editing.**

**COUNCIL RESOLUTION:****MOVED: Omodei, P      SECONDED: Lawrence, K****29038****That Council supports the proposed Southern Forest and Valleys Tourism Marketing and Destination Opportunities Plan subject to the following amendments and inclusions:**

- a. Strategic Priorities and Action Plan supported by a minimum 3-year indicative budget noting funding source.**
- b. Appropriate reference to the Tourism Western Australia Destination Management Plan and the recommendations pertaining to the Southern Forest and Valleys Region.**
- c. Provision of a hierarchical flow chart showing the structure of Tourism in Western Australia and the Southwest.**
- d. Acknowledgement of Country to include of all Noongar language groups located within the Southern Forest and Valleys region including Wadandi, Bibbulmun, Kaniyang and Minang;**
- e. Document and proofreading and editing’.**

**MOTION CARRIED 10/1****FOR**

Cr D Buegge  
 Cr S Dawson Vidovich  
 Cr W Eiby  
 Cr D Jenkins  
 Cr K Lawrence  
 Cr P Omodei  
 Cr K Skoss  
 Cr R Taylor  
 Cr M Ventris  
 Cr J Willcox

**AGAINST**

Cr C Winfield

**ATTACHMENT****9.13.1 Quarterly Report October to December 2022 - Works and Services**

<b>PROPONENT OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	Shire of Manjimup
<b>WARD:</b>	All
<b>ZONE:</b>	NA
<b>DIRECTORATE:</b>	Works and Services
<b>FILE REFERENCE:</b>	F160966
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Michael Leers
<b>DATE OF REPORT:</b>	23 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

A report outlining activities for the quarter ending 31 December 2022 for the Works and Services Directorate is attached.

**ATTACHMENT: 9.13.1 (1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The report outlines progress on key activities undertaken by the Works and Services Directorate during the reporting period. The purpose of the report is to inform Councillors and provide an opportunity to respond to any queries arising on those activities.

**STATUTORY ENVIRONMENT:**

*Local Government Act 1995.*

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

There is a medium risk with insignificant consequence to the organisation when not regularly reporting the directorate's progress to Council.

**FINANCIAL IMPLICATIONS:**

Nil.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:                   SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receive the October to December 2022 Quarterly Report – Works and Services as contained in Attachment: 9.13.1(1).**

**COUNCIL RESOLUTION:**

**MOVED: Eiby, W                   SECONDED: Buegge, D**

**29039**

**That Council receive the October to December 2022 Quarterly Report – Works and Services as contained in Attachment: 9.13.1(1).**

**CARRIED: 11/0**

**ATTACHMENT  
APPENDIX**

**9.16.1 Proposed Nomination for the Manjimup Recreation Advisory Committee**

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	Manjimup
<b>WARD:</b>	Central
<b>ZONE:</b>	Parks and Recreation
<b>DIRECTORATE:</b>	Community Services
<b>FILE REFERENCE:</b>	F170452
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Shammara Markotis
<b>DATE OF REPORT:</b>	24 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The Manjimup Recreation Advisory Committee (MRAC) is an Advisory Committee of Council, formed in accordance with Part 5 of the *Local Government Act 1995*.

The purpose of the Committee is:

- *“To provide advice to Council on the development, management and promotion of sport and recreation facilities in Manjimup;*
- *To make recommendation to Council in regard to matters that will improve the use and sustainability of the sport and recreation facilities in Manjimup for the benefit of the broader community;*
- *To provide advice on trends in sport and recreation (e.g. participation rates, regulations, facilities);*
- *To guide & provide feedback to Council and staff in relation to strengthening key programs (such as: KidSport, GoodSport, Youth, Seniors, Club Development, Access & Inclusion);*
- *To provide feedback and advice in regard to financial matters pertaining to sport and recreation; and*
- *To provide feedback and advice in terms of Council’s annual adoption of fees and charges.”*

The current Terms of Reference as adopted by Council are appended.

**APPENDIX: 9.16.1(A)**

In November 2022, the following current MRAC members have tendered their resignations from the committee:

- Renae Adams (Basketball representative)
- David Hanratty (Football representative proxy)
- Angelo Femia (Cricket representative proxy)

Due to a large number of vacancies on the committee, an advertisement calling for new nominations was advertised widely to the public. Nominations have closed and Council is now requested to consider adopting the revised Terms of Reference, accepting the three aforementioned resignations and single nomination received. A copy of the revised draft Terms of Reference is attached.

**ATTACHMENT: 9.16.1(1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

An advertisement calling for nominations to the committee was advertised in the Manjimup Bridgetown Times, on the Shire's Facebook page and was widely circulated to sporting clubs within Manjimup. Only one nomination was received to fill one of the vacant roles.

**COMMENT (Includes Options):**

In response to the call for nominations, the following single nomination for the Warren Equestrian Centre representative position has been received:

- Mrs Jo Luzny – current Secretary of the Warren Equestrian Centre

A copy of the nomination is available to elected members on request.

Should the nomination be accepted, the committee would comprise of nine members with voting rights and two members holding proxy representative positions. Five voting positions and seven proxy representative positions would remain vacant. It should be noted that the committee quorum is six voting members.

As there appears to be a lack of interest from the sporting community in filling the vacant committee roles, the future direction of MRAC will be discussed with the committee at its next meeting. Options for the future of the committee (including continuation of the committee, possible disbandment, potential replacement with an annual sport and recreation forum) will be presented to Council once appropriate consultation has been undertaken.

**STATUTORY ENVIRONMENT:**

*Local Government Act 1995.*

**POLICY / STRATEGIC IMPLICATIONS:**

Shire of Manjimup Strategic Community Plan 2021-2031:

Strategy C18 – Create, support and promote a broad range of sporting, recreational and social opportunities that are accessible and inclusive for all ages and abilities.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

Nil.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Collaboration between sporting clubs and community members is important in the sustainable development of community sport and recreational facilities.

**VOTING REQUIREMENTS:                      ABSOLUTE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

1. **Accept the resignations of Renae Adams, David Hanratty and Angelo Femia from the Manjimup Recreation Advisory Committee and thank them for their contributions to the Committee;**
2. **Accept the nomination of Jo Luzny as the Warren Equestrian Centre Representative on the Manjimup Recreation Advisory Committee; and**
3. **Accept the revised Terms of Reference for the Manjimup Recreation Advisory Committee as per Attachment: 9.16.1(1).**

**COUNCIL RESOLUTION:**

**MOVED: Jenkins, D            SECONDED: Taylor, R**

**29040**

**That Council:**

1. **Accept the resignations of Renae Adams, David Hanratty and Angelo Femia from the Manjimup Recreation Advisory Committee and thank them for their contributions to the Committee;**
2. **Accept the nomination of Jo Luzny as the Warren Equestrian Centre Representative on the Manjimup Recreation Advisory Committee; and**
3. **Accept the revised Terms of Reference for the Manjimup Recreation Advisory Committee as per Attachment: 9.16.1(1).**

**CARRIED: 11/0**

Councillor Omodei declared an Impartiality Interest in this Item as he is a member of the Pemberton Heritage and History Group. Councillor Omodei declared that he would consider the matter on its merits and vote accordingly.

#### **9.16.2 Request from Shire President to Become a Member of the Pemberton Community Hub Advisory Committee**

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	Brockman Street, Pemberton (Reserve 19566)
<b>WARD:</b>	West
<b>ZONE:</b>	Public Purposes – Civic and Cultural
<b>DIRECTORATE:</b>	Community Services
<b>FILE REFERENCE:</b>	F210291
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Andrew Campbell
<b>DATE OF REPORT:</b>	25 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

#### **BACKGROUND:**

The Pemberton Community Hub Advisory Committee is an advisory committee of Council formed under the provisions of the *Local Government Act 1995*. The functions of the Committee outlined in the current Terms of Reference for the Advisory Committee are:

1. To ensure all facility stakeholders are working in collaboration in regard to the day-to-day management and general operations of the new Pemberton Community Hub;
2. To provide a platform for communication, troubleshooting and conflict resolution as the new co-location business model is bedded in;
3. To seek guidance from Council, on a need's basis, in regard to matters pertaining to the Hub;
4. To provide financial transparency and reporting in respect of the Hub management;
5. To address telecommunication issues as they arise;
6. To discuss facility hire and community access of the Hub;
7. To assist in identifying maintenance issues; and
8. To administer the functions and intentions of the Memorandum of Understanding (MOU).

The membership at the time of writing this report, understanding that there is a recommendation from the Pemberton Community Hub Advisory Committee for Council to amend the membership in a separate report in this agenda, was as follows:

**Members from 08 December 2022**

Cr. Ken Lawrence	Councillor
Cr Murray Ventris	Councillor (proxy)
Gail Ipsen Cutts	Director Community Services
Jessica Winters	Community Development Project Officer (Proxy)
Sherril Jackson	Librarian
Vanda Dei-Tos	Manager of Library and Cultural Services (proxy)
Anna Czerkasow	Pemberton Arts Group
Suzie Fellows	Pemberton Arts Group (proxy)
Mitchell Goddin	Pemberton Visitor Centre
Petula Holland	Pemberton Visitor Centre (proxy)
Gaye Van Hazendonk	Pemberton Community Resource Centre
Rob Baker	Pemberton Community Resource Centre (proxy)
Bob Hammond	Pemberton RSL
Noeleen Collings	Pemberton RSL (proxy)
Deanne Ventris	Pemberton Heritage & History Group
Vacant	Pemberton Heritage & History Group (proxy)
Ardal Nigg	Pemberton Chamber of Commerce & Industry
Jacqui Moltoni	Pemberton Chamber of Commerce & Industry (proxy)

On 21 January 2023 the Chief Executive Officer received a written request from Shire President, Paul Omodei, requesting appointment to the Pemberton Community Hub Advisory Committee as an additional voting member.

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

Under s5.10(4) of the *Local Government Act 1995*:

*If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*

The request received by the Chief Executive Officer is considered to be in accordance with the requirements of the *Local Government Act 1995* and on this basis it is recommended that Council endorse Shire President, Paul Omodei, as a voting member of the Pemberton Community Hub Advisory Committee.

**STATUTORY ENVIRONMENT:**

The power to support the request of the Shire President is contained within s5.10(4) of the *Local Government Act 1995*.

**POLICY / STRATEGIC IMPLICATIONS:**

Under s5.10(4) of the *Local Government Act 1995* it is considered that Council must appoint the Shire President to any Committee of Council upon request.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

Nil.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: The Pemberton Community Hub Balang Miya will play an integral role for community and social networking, training and development and artistic and cultural life within the Pemberton community.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**That Council:**

1. **Appoint Shire President, Paul Omodei, to the Pemberton Community Hub Advisory Committee as a voting member until 20 October 2023 in accordance with the provisions of the *Local Government Act 1995*; and**
2. **Amend the Pemberton Community Hub Advisory Committee Terms of Reference in accordance with point 1).**

**COUNCIL RESOLUTION**

**MOVED: Lawrence, K      SECONDED: Ventris, M**

**29041**

**That Council:**

1. **Appoint Shire President, Paul Omodei, to the Pemberton Community Hub Advisory Committee as a voting member until 20 October 2023 in accordance with the provisions of the *Local Government Act 1995*; and**
2. **Amend the Pemberton Community Hub Advisory Committee Terms of Reference in accordance with point 1).**

**CARRIED: 11/0**

Standing Orders were suspended at 6.54pm.

**SUSPENSION OF STANDING ORDERS:**

**MOVED: Eiby, W                      SECONDED: Dawson Vidovich, S**

**29042  
That Council Suspend Standing Orders.**

**CARRIED: 11/0**

Standing Orders were resumed at 6.57pm.

**RESUMPTION OF STANDING ORDERS:**

**MOVED: Eiby, W                      SECONDED: Dawson Vidovich, S**

**29043  
Council resumed Standing Orders.**

**CARRIED: 11/0**

**ATTACHMENT  
APPENDIX**

**9.16.3      Proposed Adoption of Terms of Reference and Request for Nominations for Sustainability Advisory Committee**

<b>PROPONENT OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	N/A
<b>WARD:</b>	N/A
<b>ZONE:</b>	Whole of Shire
<b>DIRECTORATE:</b>	N/A
<b>FILE REFERENCE:</b>	Office of CEO
<b>LEGISLATION:</b>	F170496
<b>AUTHOR:</b>	<i>Local Government Act 1995</i>
<b>DATE OF REPORT:</b>	Jason Giadresco
<b>DECLARATION OF INTEREST:</b>	27 January 2023
	Nil

**BACKGROUND:**

At the Council meeting 29 September 2022, Cr Skoss moved the following Notice of Motion:

**“That Council:**

- 1. Agree to consider establishing a Sustainability Advisory Committee;**
- 2. Request the Chief Executive Officer convene a workshop discussion between Councillors and the Senior Management**

- Team to establish draft Terms of Reference for a Sustainability Advisory Committee; and**
- 3. Give formal consideration to establishing a Sustainability Advisory Committee at the next available Council meeting after the workshop discussion occurs.”**

As a result of Cr Skoss’s Notice of Motion, the Chief Executive Officer prepared a report providing an assessment of the motion for Council’s consideration at the 20 October 2022 Council meeting (Resolution 28913). For Councillor’s reference, a copy of the report is appended.

**APPENDIX: 9.16.3 (A)**

Since that time, the Chief Executive Officer has held two workshops with Council to collectively construct an appropriate Terms of Reference for the proposed Sustainability Advisory Committee. Through the workshops, it was determined that an Advisory Committee with community representatives be established. The purpose of this report is to address point 3 of Cr Skoss’s Notice of Motion. A copy of the proposed Terms of Reference is attached.

**ATTACHMENT: 9.16.3 (1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The proposed establishment of the Sustainability Advisory Committee is to provide a forum through which the Shire community can provide advice to Council on sustainability issues and initiatives in accordance with the ‘Committee Objectives’ and ‘Function of Committee’ sections listed in the proposed Terms of Reference at Attachment **9.16.3 (1)**.

Membership

As workshopped with Council, the Committee itself will consist of 9 voting members and 4 non-voting members. The voting members include:

- 2 Councillors (and 1 proxy);
- 5 Community Members; and
- 2 Youth Community Members.

It is expected that the Committee Chair will be a Councillor.

The 4 non-voting members include:

- the Shire’s Director of Development & Regulation;
- the Shire’s Environmental Sustainability Officer;
- a Representative of Warren Catchments Council (WCC); and
- a Representative of the Department of Biodiversity, Conservation and Attractions (DBCA).

Additionally, the Shire’s Senior Governance Officer has been nominated as a proxy in the event the Director Development and Regulation is unable to attend a meeting. This has been reflected in the draft Terms of Reference.

Should Council determine to support the Officer Recommendation, Shire Officers will contact both the WCC and DBCA to request a representative to attend the Advisory Committee's meetings in an *ex-officio* capacity.

Public notice will also be given inviting nominations from community members and youth members. Alongside their nomination, potential community and youth candidates will be asked to provide a maximum 2-page statement detailing their interest and experience relevant to the sustainability topics listed under the 'Committee Objectives' section of the proposed Terms of Reference. Nominations will be returned to Council at a later date for consideration and appointment.

Additionally, Councillors are requested to consider from whom amongst themselves would be interested in participating on the Committee.

#### **STATUTORY ENVIRONMENT:**

Council can create an Advisory Committee with specified Terms of Reference in accordance with the requirements of the *Local Government Act 1995* (the Act).

Section 5.11 of the Act specifies that where a person is appointed to a Committee of the local government, their membership continues until, at the latest, the next ordinary elections day is held. As a result all Committee positions are effectively vacated, with members to be appointed by resolution of Council. The next local government election is in October 2023. Given the short term of the appointments, Council may wish to consider 'rolling over' the Community and Youth membership of the Committee for the following 2 years until October 2025.

In accordance with section 5.10(2) of the Act, each Council member is entitled to be a member of at least one committee.

#### **POLICY / STRATEGIC IMPLICATIONS:**

Both the Strategic Community Plan 2021-2031 and the Corporate Business Plan 2022-2026 contain the strategic theme of "Our Natural Environment" which guides the strategy and operations of the Shire of Manjimup in the sustainability area. The formulation of both of these plans received direct broad-based community feedback as to what the Shire of Manjimup should consider now and into the future.

#### **ORGANISATIONAL RISK MANAGEMENT:**

Nil.

#### **FINANCIAL IMPLICATIONS:**

The committee is an advisory committee only and therefore not responsible for the management of any budget. Any financial implications are to be determined by the Council.

As articulated in the Chief Executive Officer's report on the Notice of Motion at Appendix 9.16.3 (A), staff have doubts about the organisational resource capacity for this Committee. It was indicated in the report that significant projects or initiatives identified in the Corporate Business Plan or resource

hungry operational activities would require review and possible removal. This will be workshopped with Council as part of the annual review of the Corporate Business Plan in the coming months.

**SUSTAINABILITY:**

Environmental: The Committee will provide advice on sustainable environmental topics, including:

- Climate change;
- Biodiversity;
- Built Environment;
- Land and waterway degradation;
- Water quality and conservation; and
- Waste Management.

Economic: The Committee will provide advice on opportunities for potential sustainable economic transition within the Shire.

Social: The Committee will provide advice on community engagement and information sharing on sustainable practices.

**VOTING REQUIREMENTS:                    ABSOLUTE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

1. **Approve the establishment of the Sustainability Advisory Committee in accordance with the Terms of Reference at Attachment 9.16.3 (1);**
2. **Appoint Councillors \_\_\_\_\_ and \_\_\_\_\_ to the Sustainability Advisory Committee, with their terms expiring on 21 October 2023;**
3. **Appoint Councillor \_\_\_\_\_ as proxy member to the Sustainability Advisory Committee, with their term expiring on 21 October 2023;**
4. **Appoint the following Shire of Manjimup employees to the Sustainability Advisory Committee as non-voting members:**
  - **Mr Brian Robinson, Director Development and Regulation;**
  - **Mr Jason Giadresco, Senior Governance Officer (Proxy)**
  - **Ms Ann Bentley, Environmental Sustainability Officer;**
5. **Contact the Department of Biodiversity, Conservation and Attractions and Warren Catchments Council to request a representative to participate in the Sustainability Advisory Committee in an *ex-officio* capacity;**
6. **Issue public notice for a 21-day period inviting five (5) Community Member and two (2) Youth Member nominations for the Sustainability Advisory Committee; and**

7. Await a further report which will consider all Community and Youth nominations made to join the Sustainability Advisory Committee invited at Point 6. All nominations (except Youth Members) will be assessed in reference to the 'Committee Objectives' section of the Terms of Reference.

**COUNCIL RESOLUTION:**

**MOVED: Skoss, K**

**SECONDED: Taylor, R**

**29044**

**That Council:**

1. Approve the establishment of the Sustainability Advisory Committee in accordance with the Terms of Reference at Attachment 9.16.3 (1);
2. Appoint Councillors Donnelle Buegge as Chairperson and Wendy Eiby to the Sustainability Advisory Committee, with their terms expiring on 21 October 2023;
3. Appoint Councillor Kim Skoss as proxy member to the Sustainability Advisory Committee, with their term expiring on 21 October 2023;
4. Appoint the following Shire of Manjimup employees to the Sustainability Advisory Committee as non-voting members:
  - Mr Brian Robinson, Director Development and Regulation;
  - Mr Jason Giadresco, Senior Governance Officer (Proxy)
  - Ms Ann Bentley, Environmental Sustainability Officer;
5. Contact the Department of Biodiversity, Conservation and Attractions to request a representative to participate in the Sustainability Advisory Committee in an *ex-officio* capacity;
6. Issue public notice for a 21-day period inviting five (5) Community Member and two (2) Youth Member nominations for the Sustainability Advisory Committee; and
7. Await a further report which will consider all Community and Youth nominations made to join the Sustainability Advisory Committee invited at Point 6. All nominations (except Youth Members) will be assessed in reference to the 'Committee Objectives' section of the Terms of Reference; and
8. The representative for the Warren Catchments Council be included as a voting member of the Sustainability Advisory Committee; and
9. The Sustainability Advisory Committee quorum be adjusted from 5 voting member to 6 voting members.

**CARRIED: 11/0**

**ATTACHMENT  
APPENDIX**

**9.16.4 Unconfirmed Minutes of the Pemberton Community Hub  
Advisory Committee Meeting 17 January 2023**

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	Brockman Street, Pemberton (Reserve 19566)
<b>WARD:</b>	West
<b>ZONE:</b>	Public Purposes – Civic and Cultural
<b>DIRECTORATE:</b>	Community Services
<b>FILE REFERENCE:</b>	F170453
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Vanda Dei-Tos; Gail Ipsen Cutts
<b>DATE OF REPORT:</b>	25 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The Pemberton Community Hub Advisory Committee is an advisory committee of Council formed under the provisions of the *Local Government Act 1995*. The functions of the Committee outlined in the current Terms of Reference for the Advisory Committee are:

1. To ensure all facility stakeholders are working in collaboration in regard to the day-to-day management and general operations of the new Pemberton Community Hub;
2. To provide a platform for communication, troubleshooting and conflict resolution as the new co-location business model is bedded in;
3. To seek guidance from Council, on a need's basis, in regard to matters pertaining to the Hub;
4. To provide financial transparency and reporting in respect of the Hub Management;
5. To address telecommunication issues as they arise;
6. To discuss facility, hire and community access of the Hub;
7. To assist in identifying maintenance issues; and to administer the functions and intentions of the Memorandum of Understanding (MOU).

The purpose of this agenda item is to receive the unconfirmed minutes of the meeting held on the 17 January 2023 as attached and to consider the proposed amended Terms of Reference reflecting changes in the Committee membership. The current Terms of Reference are appended for Council information.

**ATTACHMENT: 9.16.4 (1)  
APPENDIX: 9.16.4 (A)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

There are two recommendations arising from this meeting. One recommendation will be dealt with administratively and the second requires a decision of Council.

<b>Committee Recommendation</b>	<b>Officer Recommendation</b>
All savings from fit-out purchases be reserved until all under and overspends are known. Any left-over monies to be used to balance these costs and/or fund new items as prioritised by the Committee	As per Committee Recommendation  This matter will be dealt with administratively as the funds relate to a fit-out schedule for grants received by the stakeholders for the Hub.
That Leanne Rowe be nominated as Pemberton Heritage and History Group Proxy.	As per Committee Recommendation.

Further to the above recommendations the recent resignation of Shire Officer Jessica Winters requires a further amendment to the Terms of Reference. The proposed amendment will remove Jessica Winters as the Community Development Officer proxy, leaving this position vacant for the time being.

The draft amended terms of reference for the Pemberton Community Hub Advisory Committee are attached.

**ATTACHMENT: 9.16.4 (2)**

**STATUTORY ENVIRONMENT:**

*Local Government Act 1995*

**POLICY / STRATEGIC IMPLICATIONS:**

Shire of Manjimup Strategic Community Plan 2021-2031.

- C1. Encourage co-locations, partnerships and resource sharing to deliver community services.
- C4. Maintain public libraries in all four towns and continue to expand and modernise services and activities.
- C18. Create, support and promote a broad range of sporting and recreational and social opportunities that are accessible and inclusive for all ages and abilities.
- C20. Facilitate, develop and promote a broad range of cultural and art capabilities, facilities, events and achievements.
- C22. Document and conserve local historical records, stories and artefacts and make them available for everyone to study and enjoy.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

Nil.

**SUSTAINABILITY:**Environmental: Nil.Economic: Nil.Social: The Pemberton Community Hub - Balang Miya will play an integral role for community and social networking, training and development and artistic and cultural life within the Pemberton community.**VOTING REQUIREMENTS: ABSOLUTE MAJORITY****OFFICER RECOMMENDATION:****That Council:**

1. Receive the unconfirmed minutes of the Pemberton Community Hub Advisory Committee meeting held 17 January 2023 as per Attachment: 9.16.4(1);
2. Accept the nomination of Leanne Rowe as Pemberton Heritage and History Group proxy;
3. Accept the resignation of Jessica Winters as Community Development Project Officer proxy; and
4. Adopt the amended Terms of Reference for the Pemberton Community Hub Advisory Committee as Attached: 9.16.4(2).

**COUNCIL RESOLUTION:****MOVED: Omodei, P      SECONDED: Jenkins, D****29045****That Council:**

1. Receive the unconfirmed minutes of the Pemberton Community Hub Advisory Committee meeting held 17 January 2023 as per Attachment: 9.16.4(1);
2. Accept the nomination of Leanne Rowe as Pemberton Heritage and History Group proxy;
3. Accept the resignation of Jessica Winters as Community Development Project Officer proxy; and
4. Adopt the amended Terms of Reference for the Pemberton Community Hub Advisory Committee as Attached: 9.16.4(2).

**CARRIED: 11/0**

**10. LATE REPORTS:** Nil.

**11. QUESTIONS FROM MEMBERS:**

11.1 Response to questions from members taken on notice:

**11.1.1 Response to Questions from Councillors Taken on Notice**

Councillor Ventris:

Would it be possible to get an income report from the two recent exhibitions held in the Manjimup Art Gallery? The commissions, income and the rentals to the two organisations in the current year?

**. ATTACHMENT 11.1(1)**

11.2 Questions from members: Nil.

**12. MOTIONS FOR CONSIDERATION AT THE FOLLOWING MEETING:**

Nil.

**13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING:** Nil.

**14. APPLICATIONS FOR LEAVE OF ABSENCE:**

**COUNCIL RESOLUTION:**

**MOVED: Skoss, K            SECONDED: Taylor, R**

**29046**

**That Council grant Councillor Eiby a Leave of Absence for 23 March 2023 Council Meeting and Councillor Dawson Vidovich a Leave of Absence for 13 April 2023 Council Meeting.**

**CARRIED: 11/0**

**15. CLOSURE:**

**There being no further business to discuss the Shire President thanked those in attendance and closed the meeting at 7.08pm.**

**SIGNED:.....DATE: .....**

**Paul Omodei  
Shire President**