



MINUTES

COUNCIL MEETING

2 MARCH 2023

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## SHIRE OF MANJIMUP

Minutes of the Ordinary Meeting of Council held in the Northcliffe Town Hall, Zamia Street, Thursday, 2 March 2023.

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

The Shire President declared the meeting open at 5.30pm.

### 2. **ANNOUNCEMENTS BY THE PRESIDENT:**

The Shire President made the following announcements:

- The Chief Executive Officer, Andrew Campbell has accepted a role as the Chief Executive Officer of Northampton and we wish him all the best in his future endeavours.
- The Chief Executive Officer and I met with Peter Tapiolas from Parkside via Zoom a week ago.
- I attended the One Step Closer – Fund raiser for cancer at Pemberton.
- The Chief Executive Officer and I attended the South West Local Government Association meeting in Margaret River.
- I attended the funeral of Brian Piesse in Bunbury, who was previously the Shire President of Donnybrook Shire.
- I conducted inspections of dams in Manjimup and Pemberton to bring myself up to date with activities.
- The Chief Executive Officer and I met with Richard Tay from Manjimup Gallery Hotel.
- Yesterday I met with Sam Ramsey from National Emergency Management Agency.
- On the 7 March the Councils of Bridgetown-Greenbushes, Nannup, Boyup Brook and ourselves will be meeting with Ministers Jarvis and McGurk. Minister Jarvis is Minister for Agriculture and Food, Forests and Minister McGurk is Minister for Water. We will be discussing farm forestry and the impact it is having on Local Governments and potable water being made available for subdivision.

Councillor Dawson Vidovich made the acknowledgement to country.

“In the spirit of reconciliation the Shire of Manjimup acknowledges the traditional custodians of the land throughout Australia specifically throughout the South West and the Noongar people who are our traditional custodians and their connection to land, sea and community. This time is usually a time called Bunuru, traditionally the February and March time throughout the South West, characterized by long days and short nights, the hottest of the six Noongar seasons. Traditionally this was and still is a great time for living and fishing the coast, rivers and estuaries throughout the South West. Today we can hear the rain behind us in this beautiful Northcliffe location. We may be moving a little early this year into Djeran, the April/May season which is marked by cooler nights, dewy mornings and when the leaves start to fall to the ground. This is the time when the Salmon are prolific. We pay our respects to elders past, present and emerging and we extend that

acknowledgement to all Aboriginal and Torres Strait Islander people here with us today.”

### **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 Gail Ipsen Cutts (Director Community Services)  
 Mr Brian Robinson (Director Development & Regulation)  
 Mr Michael Leers (Director Works & Services)  
 Ms Gaye Burrridge (Corporate Administration Officer)  
 Mr Jason Giadresco (Senior Governance Officer)

##### **Gallery**

Malcolm Olston	Pauline Hewitt
Ken Gwynne	Mike Beanland
Carole Perry	Shashi Richards
Kay Gwynne	Jonathan Massey
Alana Mooman	

3.1 Apologies: Nil.

3.2 Leave Of Absence: Nil.

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

The Chief Executive Officer advised that he has received a Financial Interest declaration from Brian Robinson, Director of Development and Regulation.

Brian Robinson declared a Financial Interest in Item L.1 as the Chief Executive Officer has recommended appointing me to Acting Chief Executive Officer which would lead to my receiving financial benefit.

## 5. PUBLIC QUESTION TIME:

5.1 Response to public questions taken on notice: Nil.

5.2 Public Question Time

5.2.1 Ken Gwynne – 1857 Boorara Road, Boorara Brook.

- I am speaking on behalf of the Northcliffe Development Group.
- One year to go and Northcliffe will be 100 years old, the centenary of this very important town.
- A British newspaper owner, just after the first World War urged the British Government to talk to the West Australian Government, because there was a lot of out of work soldiers, who couldn't support families, but over here there was vast land that couldn't be developed as there were no workers.
- They got together and formed the Group Settlement Scheme. That newspaper owner was Lord Northcliffe, hence the name.
- This was the only settlement that didn't have a town. The other settlements in the area were reasonably close to towns.
- Groups of 20 families worked together in primitive conditions to clear the land, erect shed homes, grow food and hopefully survive. In addition they had to setup their hospitals, schools, trade arrangements with the closest town on rough track routes. Many didn't cope and left. Some survived and are still here today.
- In March next year we celebrate the centenary under the auspices of Northcliffe Development Group. The committee has been working for one year already. We have had excellent help from the Cherry Harmony Festival Committee and meetings have been very productive. And excellent help from Gail Ipsen Cutts.
- The programme has been put together already with many activities and events to be held over three days. The highlight being the opening of the historic Monroe House which is being delivered to Northcliffe within the next two weeks.
- We are talking about it to ask the Shire staff and Councillors to be open and be prepared to help us with any requests we make to you in the next 12 months.
- There will be an election later this year and if Councillors don't continue we ask that you pass on positive thoughts about the event to your successor.

**The Shire President responded:** I note with some sadness the passing of Jack O'Donnell last week who was the son-in-law of Jack Gabbedy who was the chairman of the Agricultural Bank in the time of the Group Settlement Scheme.

5.2.2 Pauline Hewitt - Dachet Road, Northcliffe.

- I am here representing Southern Forests Wildlife. We are a not-for-profit organisation who have tried to step into the shoes of Lesley Harrison, who we all know looked after the wildlife in this district for a really long time.
- A small group of us have stepped up to try and help the community take responsibility for the wildlife for themselves.
- We spend a lot of time volunteering with Department of Wildlife. We are helping Department of Wildlife and Department of Biodiversity, Conservation and Attractions finding Quokka and other endangered species in our region.
- We are helping people find all the different wildlife on their properties and trying identify Quokka habitat. We have been trained by Department of Wildlife to do this work.
- We see that the Shire is making grants for the community and we are hoping that the Shire could assist with purchasing cameras, batteries and sd cards so that we can help people on their properties find these animals.
- We are interested in Maze Park to make an education and information facility for the public where people who work with wildlife can source plantings and educate people about the kind of foods that wildlife use.
- We are hoping the Shire can assist with accessing grants as we don't know the process involved.

**The Chief Executive Officer responded:** The grants are open now and close 19 April 2023. Contact the Community Services Team they will be able to steer you in the right direction about the Community Grant process and how to apply for a grant.

In relation to the Maze we would be keen to work with a community group to have a look at any proposal for that particular site. Contact Michael Leers, Director Works and Services and Spencer Roberts, Manager of Park and Gardens and have a discussion with them and that may lead to a formal proposal. Then Council could consider a formal proposal based on its merits.

#### 5.2.3 Alana Moorman – 144 Boorara Road, Boorara Brook.

- At your last meeting in Northcliffe I asked for some footpaths and I want to say thank you for the work that has been done.
- The footpath that has been put in outside the retirement village doesn't go all the way down to the nursing post, I was hoping that it would do.
- The disabled bay that over by the toilets has no ramp up onto the footpath. I was hoping you could take a second look and see what can be done.

**The Director Works and Services responded:** The disabled bay next to the toilets is going to be shifted. We are just waiting for to line up a line marker, because we have to get a lot of line marking work in the

same vicinity to make it economically viable. We will be shifting the disabled bay to line up with the existing path for easy access.

With regard to the footpath outside the retirement village, the footpath on the other side of the road extends all the way to Windy Harbour Road and up to the other end which is Main Road. We have put footpath in that will connect to curb ramps which will make it easier to access the other side.

**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**

**29047**

**That the Minutes of the Ordinary Meeting of the Council held on 9 February 2023 be confirmed.**

**CARRIED: 11/0**

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

**9. COUNCIL OFFICERS' REPORTS:**

## ATTACHMENT

### 9.1.1 Consideration of Submissions and Final Adoption of Shire of Manjimup Cat Amendment Local Law 2022

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>WARD:</b>	All
<b>ZONE:</b>	All
<b>DIRECTORATE:</b>	Office of CEO; Development and Regulation
<b>FILE REFERENCE:</b>	F170066
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Jason Giadresco
<b>DATE OF REPORT:</b>	6 February 2023
<b>DECLARATION OF INTEREST:</b>	Nil

#### BACKGROUND:

At its 29 September 2022 Ordinary Meeting, Council resolved (Resolution 28895) to request the Chief Executive officer to arrange for the preparation of a Cat Amendment Local Law 2022 (the Local Law). A modified draft of the proposed Local Law as advertised is attached for Councillors' reference.

**ATTACHMENT: 9.1.1 (1)**

Council considered the Local Law, resolving:

**MOVED: Skoss, K**

**SECONDED: Dawson Vidovich, S**

**28895**

**That Council:**

1. Resolves to commence the process to create the *Shire of Manjimup Cat Amendment Local Law 2022* in accordance with section 3.12 of the *Local Government Act 1995*, as attached at 9.1.1 (1);

2. Pursuant to the *Local Government Act 1995* section 3.12(3) and (3a), and all other legislation enabling it, give Statewide and Local public notice that it intends to make the *Shire of Manjimup Cat Amendment Local Law 2022*, as shown at 9.1.1 (1) with the following purpose and effect:

**Purpose** – The purpose of the *Shire of Manjimup Cat Amendment Local Law 2022* is to amend the *Shire of Manjimup Cat Local Law 2021* to improve interpretation and enforceability.

**Effect** – The *Shire of Manjimup Cat Amendment Local Law 2022* is intended to:

- ☐ clarify interpretation of clause 4.3 of *Shire of Manjimup Cat Local Law 2021*; and
- ☐ add appropriate notation and capture all property lot numbers of Tingleview Estate, Walpole to ensure enforceability of the *Shire of Manjimup Cat Local Law 2021* is consistent with the development provisions for the Tingleview Estate as contained in the *Shire of Manjimup Local Planning Scheme No.4*;

3. Advertise the *Shire of Manjimup Cat Amendment Local Law 2022* as referred to

in point 2 above for a period of not less than 6 weeks in accordance with Statewide and Local public notice provisions;

4. In accordance with the *Local Government Act 1995* section 3.12(3) advise the Ministers for Local Government of the proposed amendment local law; and
5. Await a further report on the *Shire of Manjimup Cat Amendment Local Law 2022* following the completion of the advertising period referred to in point 2 above.

**CARRIED: 8/0**

Council is now requested to consider final endorsement of the Local Law having regard to the submission received from Department of Local Government, Sport and Cultural Industries (DLGSC).

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

A notice of the proposed Local Law was advertised in the *West Australian* newspaper and the *Manjimup – Bridgetown Times* inviting submissions over a 6-week period, closing on 7 December 2022. A copy of the proposed Local Law was also made available to be viewed at the Shire Administration Centre, Depot, local public libraries and on the Shire's website. The time limit for submissions complies with the provisions of the *Local Government Act 1995*.

No submissions from residents were received. A submission on the proposed Local Law was received from the DLGSC. A copy of the submission is attached.

#### **ATTACHMENT: 9.1.1 (2)**

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

As stated above, as part of the public consultation process, a copy of the proposed Local Law was referred to the DLGSC. Comment on the content of the DLGSC submission is provided below.

#### DLGSC Submission

The submission provides an assessment of the Local Law in three parts:

##### *Statutory Compliance – Public Notice requirements*

It was noted by DLGSC that a copy of the public notice for the draft local law was not provided to the Minister at the same time as it was provided for comment. The public notice has since been forwarded on to the DLGSC. No further action is required.

##### *Cat Prohibited Areas*

The DLGSC has the opinion that it is unclear whether the additional lots proposed to be added into Schedule 2 are private residential lots, or alternatively common areas such as parks and gardens. The submission also states that it is uncertain whether parliament intended the declaration of "cat prohibited areas" under the *Cat Act 2011* to be used over private residential land.

In response to the above, Shire Officers advise:

- a) the ability to declare an area as a “cat prohibited area” is conveyed by through clause 79 of the *Cat Act 2011* which allows local laws to be prepared “*specifying places where cats a prohibited absolutely.*”
- b) if it was intended that to restrict the ability to establish cat prohibition areas over private land, then clause 79(3)(f) of the *Cat Act 2011* would have more specifically stated that a local law could specify “*public place*”, which the Act defines as “*any place to which the public has lawful access*”. As the more general term “place” is used, it can only be assumed that the Act contemplated circumstances where the prohibition of cats may be warranted.

Within Western Australia, numerous subdivisions have been created where cats, or other animals have been expressly prohibited due to their potential impact on native fauna and the environment. This prohibition is usually due to the subdivisions close proximity to State Forest, National Park or other conservation estate. Generally speaking, environmental authorities have not been prepared to support the keeping of domestic animals on such land. Tingleview Estate and Boronia Ridge Estate in Walpole are examples of such subdivisions where there are specific restrictions on cats.

Lots within the Tingleview Estate are zoned ‘Rural Residential’ under Shire of Manjimup Local Planning Scheme No.4 (the Scheme). Under Schedule 2 of the Scheme, ‘Special Provisions’ apply to development and land use, including a provision that expressly prohibits the keeping of Cats within the Estate. A copy of the Special Provisions for Tingleview Estate (Area No. 8) are attached.

#### **ATTACHMENT: 9.1.1(3)**

Prior to the gazettal of the Shire's Cat Local Law 2021 there was no ability for administration staff to refuse to register a cat under the *Cat Act 2011*, to property where in fact the Local Planning Scheme expressly prohibits the keeping of a cat. By identifying such estates as areas where cats are expressly prohibited, Administration Officers are now able to prevent cats being registered to properties, contrary to the Scheme requirements.

Should the Joint Standing Committee on Delegated Legislation not support the amendment as proposed, residents of the Tingleview Estate will still be able to register a cat at their property under the *Cat Act 2011* and the Shire will be forced to take legal action under the *Planning and Development Act 2005* to ensure the keeping of cats ceases. Given that “places” can be identified where cats are expressly prohibited under the *Cat Act 2011*, it seems inappropriate that a landowner may pay to register the cat and then, as a minimum be fined \$500 (modified penalty) for keeping that same cat at the property.

Despite the advice of the DLGSC on cat prohibited areas, it is maintained that there are sufficient legal grounds through the *Cat Act 2011* to include those areas identified through the Local Law as cat prohibited areas. No changes to the Local law in this regard are proposed.

### *Minor Edits*

The submission recommends that minor edits of the Local Law be undertaken, including:

- Providing a resolution date for the making of the Local Law;
- Changing the citation in Clause 1.1 to italics;
- Italicising 'Government Gazette' in Clause 1.2; and
- Deleting 'c)' after Clause 2.3(b).

All typographical edits recommended by the DLGSC above have been included in the modified Local Law at Attachment 9.1.1 (1).

### Local Law Procedure

All proposed Local Laws are required to be legislated in accordance with the following procedure;

	<b>Step</b>	<b>Status</b>
1	Drafting of a local law;	Completed.
2	Council resolving to make a local law and the presiding member to give notice of the purpose and effect of the local law;	Completed.
3	Providing State wide public notice summarising and calling for submissions within a specified time frame of no less than six weeks;	Completed.
4	Providing a copy of the proposed local law to the Department of Local Government for submission to the relevant Minister;	Completed.
5	Council resolving by absolute majority to make the local law taking into consideration any submission made;	<b>The purpose of this agenda item</b>
6	Publishing the local law in the Government Gazette;	
7	Providing State wide public notice that the local law is to come into effect; and	
8	Providing an explanatory memorandum to the Joint Standing Committee on Delegated Legislation for assessment.	
		TBD
		TBD
		TBD

If at any stage during this process the Local Government alters a local law significantly from what was originally proposed the process must recommence from the beginning. The minor changes recommended by the DLGSC are not considered by the Shire to be significant enough to warrant recommencing the process.

In the event Council determines to approve this Local Law by absolute majority, Shire Officers will then schedule to have the Local Law published in the Government Gazette and provide state and local public notice of the law coming into effect. A copy will then be forwarded to the Joint Standing Committee on Delegated Legislation for consideration.

The Local Law will come into effect 2 weeks after the date of gazettal.

**STATUTORY ENVIRONMENT:**

*Local Government Act 1995* sections 3.12 to 3.17 provide the process to adopt a new local law.

**POLICY / STRATEGIC IMPLICATIONS:**

The proposed Local Law meets Community Goal 1.2 of the Shire of Manjimup Strategic Community Plan 2021 – 2031:

- “Development is managed sustainably and our environment is valued through policy and regulation.”

**ORGANISATIONAL RISK MANAGEMENT:**

Amendment of the Local Law as proposed will remove any ambiguity in interpretation and allow for improved enforcement of the prohibition of cats in area of Tingleview Estate, Walpole.

**FINANCIAL IMPLICATIONS:**

Costs associated with amending the Local Law will be contained with Council's adopted budget for the 2022/23 financial year.

**SUSTAINABILITY:**

Environmental: Cats have the potential to be a threat to native fauna if not controlled appropriately with Cat Prohibited areas, particularly environmentally sensitive areas.

Economic: Nil.

Social: It is anticipated that the introduction of this new Local Law will ensure that Shire Officers have the ability to effectively deal with complaints regarding cats creating a nuisance.

**VOTING REQUIREMENTS:****ABSOLUTE MAJORITY****OFFICER RECOMMENDATION:**

That Council:

1. Notes the submission received from the Department of Local Government, Sport and Cultural Industries to the draft *Shire of Manjimup Cat Amendment Local Law 2022* as provided at Attachment 9.1.1 (2);
2. In respect to the ability to establish Cat Prohibited Areas through Local Laws, advise the of Local Government, Sport and Cultural Industries that:
  - a) The Shire of Manjimup considers that if the provisions of the Cat Act 2011 were intended to be restricted to public lands, the term “Public Place” would have been used in clause 79(3)(f), which the Act defines as “any place to which the public has lawful access”.
  - b) Cats are already prohibited from the “Tingleview Estate” in accordance with Local Planning Scheme provisions applicable to the land and inclusion of the Estate within Schedule 2 of the

Shire of Manjimup Cat Local Law will prevent cats being registered to those properties. Failure to include the Estate within Schedule 2 could result in members of the public registering and keeping cats contrary to the Scheme provisions, for which penalties apply.

3. Adopts the *Shire of Manjimup Cat Amendment Local Law 2022* as modified in accordance with section 3.12 of the *Local Government Act 1995* and contained at Attachment 9.1.1 (1).

**COUNCIL RESOLUTION:**

**MOVED:** Eiby, W

**SECONDED:** Willcox, J

**29048**

**That Council:**

1. Notes the submission received from the Department of Local Government, Sport and Cultural Industries to the draft *Shire of Manjimup Cat Amendment Local Law 2022* as provided at Attachment 9.1.1 (2);
2. In respect to the ability to establish Cat Prohibited Areas through Local Laws, advise the of Local Government, Sport and Cultural Industries that:
  - a) The Shire of Manjimup considers that if the provisions of the Cat Act 2011 were intended to be restricted to public lands, the term “Public Place” would have been used in clause 79(3)(f), which the Act defines as “any place to which the public has lawful access”.
  - b) Cats are already prohibited from the “Tingleview Estate” in accordance with Local Planning Scheme provisions applicable to the land and inclusion of the Estate within Schedule 2 of the Shire of Manjimup Cat Local Law will prevent cats being registered to those properties. Failure to include the Estate within Schedule 2 could result in members of the public registering and keeping cats contrary to the Scheme provisions, for which penalties apply.
3. Adopts the *Shire of Manjimup Cat Amendment Local Law 2022* as modified in accordance with section 3.12 of the *Local Government Act 1995* and contained at Attachment 9.1.1 (1).

**CARRIED: 11/0**

**9.1.2 Local Government Elections October 2023 - Proposal to Use the Postal Election Method Conducted by the Western Australian Electoral Commissioner**

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	N/A
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>WARD:</b>	Urban and Rural (Proposed)
<b>ZONE:</b>	All
<b>DIRECTORATE:</b>	Office of CEO
<b>FILE REFERENCE:</b>	F160487
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Andrew Campbell
<b>DATE OF REPORT:</b>	16 February 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

At the Council meeting held 19 January 2023 Council resolved:

**MOVED: Skoss, K                      SECONDED: Winfield, C**

**29014**

**That Council:**

- 1) Acknowledge that the following factors have been taken into consideration as part of this Ward and Representation Review:
  - i. Communities of Interests;
  - ii. Physical and Topographical Features;
  - iii. Demographic Trends;
  - iv. Economic Factors; and
  - v. Ratio of Councillors to Electors in the Various Wards;
- 2) Instruct the Chief Executive Officer to report to the Local Government Advisory Board in the appropriate form before 14 February 2023, the proposal of the Shire of Manjimup to:
  - a) Adopt eight Councillors plus a directly elected Shire President to constitute the Council of the Shire of Manjimup effective for the local government election in October 2023;
  - b) Adopt a two Ward system identifying that the existing Central Ward is one Ward and existing North Ward, East Ward, West Ward, Coastal Ward and South Ward are combined as one Ward, comprising four Councillors in each new Ward effective for the local government election in October 2023;
  - c) Adopt the change to the name of the current Central Ward to Urban Ward;
  - d) Adopt the change to the name of the current North Ward,

**East Ward, West Ward, Coastal Ward and South Ward to Rural Ward;**

- e) Retain all Councillors elected to 2025 as part of transition to the new Council arrangements effective for the local government election in October 2023; and**
- 3) Acknowledge that at the local government election in October 2025 some terms of vacant Councillor positions will only be for two years as part of the transition to two year local government election cycles.**

**CARRIED: 11/0**

The resolution of Council was provided to the Local Government Advisory Board on 20 January 2023 and it is expected that it will be accepted and take effect as per the outlined timeframe.

On 3 February 2023 Hon John Carey MLA, Minister for Local Government, wrote to the Shire of Manjimup requesting that preparations for the 2023 Local Government elections occur in March 2023 to allow the Western Australian Electoral Commission to prepare for changes. A copy of the correspondence is attached.

**ATTACHMENT: 9.1.2 (1)**

The Western Australian Electoral Commission followed up on Minister Carey's correspondence to the Shire of Manjimup on 9 February 2023 providing a cost estimate for the conduct of the Local Government election in 2023.

**ATTACHMENT: 9.1.2(2)**

The next Local Government election is to be held on Saturday 21 October 2023 whereby under the new Council structure the following two Councillor vacancies arise:

<b>New Ward</b>	<b>Current sitting member</b>
Urban	Cr Dawson Vidovich, Cr Jenkins or Cr Taylor
Urban	Cr Dawson Vidovich, Cr Jenkins or Cr Taylor

In addition to the two vacancies, under the Local Government reform process, the Shire of Manjimup is being forced by proposed statute (which Council has now formally resolved to do) to have a directly elected Shire President instead of a Council elected Shire President. This creates the situation whereby an election process is also required to elect a Shire President.

As a result of the Local Government reform process and Council's resolution on 19 January 2023, the following Councillors with terms expiring in 2023 will no longer have positions but are able to nominate for the two Urban Ward vacancies identified above:

<b>Existing Ward</b>	<b>Current sitting member</b>
West	Cr Lawrence
North	Cr Skoss

Central	Cr Dawson Vidovich, Cr Jenkins, Cr Taylor
---------	--

Finally, as a result of the Local Government reform process and Council's resolution on 19 January 2023, the final Council structure will be as follows:

Ward	Members from October 2023
Shire President	Vacant (subject to election)
Urban	Cr Omodei
Urban	Cr Buegge
Urban	Vacant (subject to election)
Urban	Vacant (subject to election)
Rural	Cr Eiby
Rural	Cr Willcox
Rural	Cr Winfield
Rural	Cr Ventris

The *Local Government Act 1995* makes provision for Council to appoint the Western Australian Electoral Commissioner to conduct "postal" elections on behalf of Council in lieu of voting "in person". A decision to appoint the Western Australian Electoral Commissioner to conduct the election is recommended by the Minister for Local Government to be made in March 2023.

The purpose of this report is to recommend that Council confirm to the Western Australian Electoral Commissioner that it intends to undertake a postal election administered by the Western Australian Electoral Commission for the 2023 Local Government election.

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

Nil.

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

Council has determined to undertake postal voting as its preferred election method since 2017, which has significantly increased voter participation in Local Government elections with turnouts of 49.9% (2017), 37.6% (2019) and 42.9% (2021) since that time. Comparatively, the last "in person" election in 2015 for the contested Central Ward returned a voter turnout of just 16.3%.

Under the Western Australian Electoral Commission "postal" voting system, a package containing information about postal voting, the candidates' profiles, a ballot paper and reply-paid envelope is sent out to all eligible electors ahead of polling day who then complete the ballot paper and return it either by mail or hand delivery. The same would apply to a directly elected Shire President.

Postal voting has the advantage, particularly for disabled and elderly voters and those without access to transport, of providing the candidates profiles to every elector who can then cast an informed vote in their own home and arrange for its delivery.

The Western Australian Electoral Commission have estimated that it would cost \$54,000 (inc. GST) to conduct a "postal" election on the following basis:

- 7,050 electors;
- Response rate of 55%;

- 4 vacancies (noting this includes the directly elected Shire President and provision if the successful directly elected Shire President is a current Council member);
- Count to be conducted at the Shire of Manjimup offices (i.e. no building hire charges applicable);
- Appointment of a local (non-Shire) Returning Officer;
- Regular Australia Post delivery service to apply for the lodgement of election packages; and
- The change to optional preferential voting by electors and the increased work required for the count.

The quote excludes:

- Any legal expense incurred by Western Australian Electoral Commission in the Court of Disputed Returns (only if required);
- The cost of Local Government staff member/s to work on Polling Day;
- Priority postage from Australia Post is desired (estimated extra to be \$1,525 (inc. GST)); and
- Any unanticipated costs arising from public health requirements for the COVID-19 pandemic.

The Western Australian Electoral Commission's estimation is based on an estimated maximum scenario meaning that there is contested elections with a return rate of 55% achieved. Early indications suggest that there is significant interest from prospective candidates for the 2023 election to create a contested election however the final outcome is an unknown until nominations close. For the Shire to manage this election, it would incur considerable resources, employee time and costs to the Shire administration.

The information presented above indicates that "postal" election results in a significantly higher voter participation than "in person" voting. Given that the Western Australian Electoral Commission postal method is clearly demonstrated to be more representative, this is the option recommended to Council in the conduct of the 2023 Local Government elections.

#### **STATUTORY ENVIRONMENT:**

The *Local Government Act 1995* provides the statutory mechanism to conduct Local Government elections.

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

This initiative meets Strategy E6 of the Shire's Strategic Community Plan 2021-2031:

*E6: "Encourage greater community involvement in the Council election process."*

In addition to Strategy E6 above, this initiative meets Action E6.1 of the Corporate Business Plan 2022-2026 which is:

*E6.1 "Introduce postal voting as a mechanism to improve voter turnout in Council elections."*

**ORGANISATIONAL RISK MANAGEMENT:**

Given the importance of the event, having a third party conduct the election reduces organisational risk to the Shire.

**FINANCIAL IMPLICATIONS:**

The estimated cost of the 2023 Local Government election is \$54,000 (inc. GST). This figure is likely to be an increase of approximately \$20,000 (inc. GST) from the 2021 Local Government election.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Western Australian Electoral Commission “postal” election is widely proven to result in greater voter participation levels.

**VOTING REQUIREMENTS:**

**ABSOLUTE MAJORITY**

**OFFICER RECOMMENDATION:**

That Council:

1. Declare, in accordance with s.4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2023 ordinary Local Government election together with any other elections or polls which may be required; and
2. Determine, in accordance with s.4.61(2) of the *Local Government Act 1995*, that the method of conducting the 2023 ordinary Local Government election will be a postal election.

**COUNCIL RESOLUTION:**

**MOVED: Taylor, R**

**SECONDED: Eiby, W**

**29049**

That Council:

1. Declare, in accordance with s.4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2023 ordinary Local Government election together with any other elections or polls which may be required; and
2. Determine, in accordance with s.4.61(2) of the *Local Government Act 1995*, that the method of conducting the 2023 ordinary Local Government election will be a postal election.

**CARRIED: 11/0**

## ATTACHMENT

## 9.3.1 Council Financial Payments for January 2023

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	N/A
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>WARD:</b>	ALL
<b>ZONE:</b>	Whole of Shire
<b>DIRECTORATE:</b>	Business
<b>FILE REFERENCE:</b>	F160967
<b>LEGISLATION:</b>	<i>Local Government (Financial Management) Regulations 1996</i>
<b>AUTHOR:</b>	Tracie Williams / Craig Martyn
<b>DATE OF REPORT:</b>	17 February 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

It is a statutory requirement for a list of payments from the Municipal and Trust Funds to be presented to Council and included in the minutes.

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The Corporate Card transaction for November totalling \$10,775.44 (paid 2 December 2022), December Credit Card transactions totalling \$3,480.81 (paid 2 January 2023) and accounts for payment totalling \$1,042,893.94 for the month of January 2023 are listed below and in the attachment.

**ATTACHMENT: 9.3.1(1)**

Vouchers for the expenditure are available for inspection at the Council Meeting of 02 March 2023.

<b>Fund</b>	<b>Vouchers</b>	<b>Amount</b>
Municipal	95213 – 95227	\$243,937.47
Trust Fund	-	\$0.00
<b>Total Cheques for Month of January 2023</b>		<b>\$243,937.47</b>

Electronic Funds Transfer (EFT) expenditure batch reports are available for inspection at the Council Meeting of 2 March 2023.

<b>Fund</b>	<b>Batch</b>	<b>Amount</b>
Municipal	237 – 242	\$781,626.58
Direct Debit		\$20,329.89
<b>Total EFT for Month of January 2023</b>		<b>\$801,956.47</b>

**Corporate Credit Card transactions 21 October 2022 – 20 November 2022  
(paid 2 December 2022) – Municipal Account**

6.1299	Crown Towers LG Professionals Conference and CEO Forum 01/11/22	944.96
13.1294	GoDaddy Deluxe Linux Hosting Renewal	552.42
6.1317	LGISWA - WHS & Volunteer Bushfire fighters Forum 28/11/22	33.50
6.1101	Swan Taxis - RAC function 09/11/22	21.44
6.1101	GM Cabs - RAC Function 09/11/22	32.97
4.1221	Adobe Creative Cloud 12/11/22 - 11/12/22	79.99
7.1014	Corp Card Fee 20/11/22 CEO	18.25
19999.726 6.70	ATO BAS Return September 2022 21/10/22	4483.00
7.1014	Card Payment Fee BAS 21/10/22	34.52
7.1101	Dinner x 3 staff Datacom Event 31/10/22	66.00
7.1247	Datacom User Meeting Dinner x 3 staff 31/10/22	31.00
7.1101	Blue Tiger Cafe - 6 x coffees - Datacom visit 31/10/22	35.00
680.1133	Westnet Invoice 134057999: Internet Services 01/10/22 - 01/11/22 Walpole Library	89.95
98.1410	Westnet Invoice 134057999: Internet Services 01/10/22 - 01/11/22 Manjimup SES	79.99
83.1410	Westnet Invoice 134057999: Internet Services 01/10/22 - 01/11/22 Northcliffe BFB	49.95
7.1014	Corporate Card Fee DB 20/11/22	18.25
7.1101	Datacom User visit 3 x staff breakfast 1/11/22	44.40
1409.6003	Corrigin Roadhouse Fuel 1012WA 23/10/22	96.51
946.6003	Rosa Bus BP Bridgetown fuel card error 01/11/22	108.68
575.1317	Inclusion Solutions - Social Inclusion forum tickets x 2	33.50
573.1035	Super Pharmacy - Tubifast Bandage	54.85

571.1317	ACIA - Online Education Update	190.99
677.1235	Modern Teaching Aids - Specialty craft Supplies for Walpole Library Storytime activities	171.80
677.1094	Modern Teaching Aids - Specialty craft Supplies for Walpole Library Storytime activities	19.20
677.1235	Modern Teaching Aids - Specialty craft Supplies for Storytime activities	141.32
677.1094	Modern Teaching Aids - Specialty craft Supplies for Storytime activities	18.70
2.1184	Farmhouse Pizza - dinner for Council 17/11/22	183.00
7.1014	Corporate Card Fee DCS	18.25
687.1606	Varidesk - Standup Desk for Manager Technical Services	645.00
1170.6005	Zeptor Distributors - Battery protector & corrosion inhibitor	87.78
687.1317	Royal Aero Club of WA - Radio operator Certificate - Technical Officer	395.00
7.1014	Corporate Card Fee DW	18.25
570.1346	Starlink subscription 22/10/22 - 21/11/22	143.17
569.1317	The Sebel West Perth - Accommodation WALGA Planning Course Planning Customer Liaison Officer	438.00
2143.1101	2022 Perth 4WD Drive Show tickets x 4	48.00
569.1482	Local Planning Scheme No 4 - Amendment no 24	1,329.60
7.1014	Corporate Card Fee DDR	18.25
<b>Total Credit Card Payments for November 2022</b>		<b>\$10,775.44</b>

**Corporate Credit Card transactions 21 November 2022 – 20 December 2022 (paid 2 January 2023) – Municipal Account**

6.1391	CEO - Accommodation Quality Lighthouse Bunbury - Water Corporation board Stakeholder Meeting 21/11/22	223.21
6.1391	CEO - Accommodation SWDG Stakeholder Forum 01/12/22	259.83
6.1101	CEO Lunch 02/12/22 with CEO Shire of Denmark	30.95
4.1221	Adobe Creative Cloud 12/12/22 - 11/01/23	79.99
575.1391	Albany Apartment Hotel - Attendance DCS, ML & IS at Aboriginal event 21/11/22	425.60

575.1101	SP Chart and Map Shop - Cultural Maps	110.00
571.1194	Hisco - 1 x digital Thermometer	67.50
575.1101	HPAC - end of year BBQ 12 people staff and volunteers	34.57
575.1101	HPAC - end of year BBQ 12 people staff and volunteers	36.00
945.6007	Western power High Load Vehicle Permit for 08/12/22	120.00
3.1300	Gift Cards for Service & Employee Awards	500.00
3.1300	Gift Cards for Service & Employee Awards	350.00
97.1411	Vista Print - USB Flash Drive x 20 for BFB Training	329.80
570.1346	Starlink subscription Windy Harbour 22/11/22 - 21/12/22	143.17
680.1133	Westnet Invoice 134451738: Internet Services 01/12/22 - 01/01/23 Walpole Library	89.95
98.1410	Westnet Invoice 134451738: Internet Services 01/12/22 - 01/01/23 Manjimup SES	79.99
83.1410	Westnet Invoice 134451738: Internet Services 01/12/22 - 01/01/23 Walpole Library	49.95
7.1101	Refreshments Fence Cleaning 09/12/22	9.40
7.1101	Refreshments Fence Cleaning 09/12/22	10.70
7.1233	Kolor Kode - Files and clips for Records	530.20
<b>Total Credit Card Payments for December 2022</b>		<b>\$3,480.81</b>

**STATUTORY ENVIRONMENT:**

*Local Government (Financial Management) Regulations 1996, Regulations (12) and (13).*

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

As stated.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receive the Corporate Credit Card transactions for November totalling \$10,775.44 and note the January 2023 accounts for payment totalling \$1,045,893.94, including the Corporate Credit Card transactions for December 2022 for \$3,480.81 as detailed and in the Attachment: 9.3.1(1).**

**COUNCIL RESOLUTION:**

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

**29050**

**That Council receive the Corporate Credit Card transactions for November totalling \$10,775.44 and note the January 2023 accounts for payment totalling \$1,045,893.94, including the Corporate Credit Card transactions for December 2022 for \$3,480.81 as detailed and in the Attachment: 9.3.1(1).**

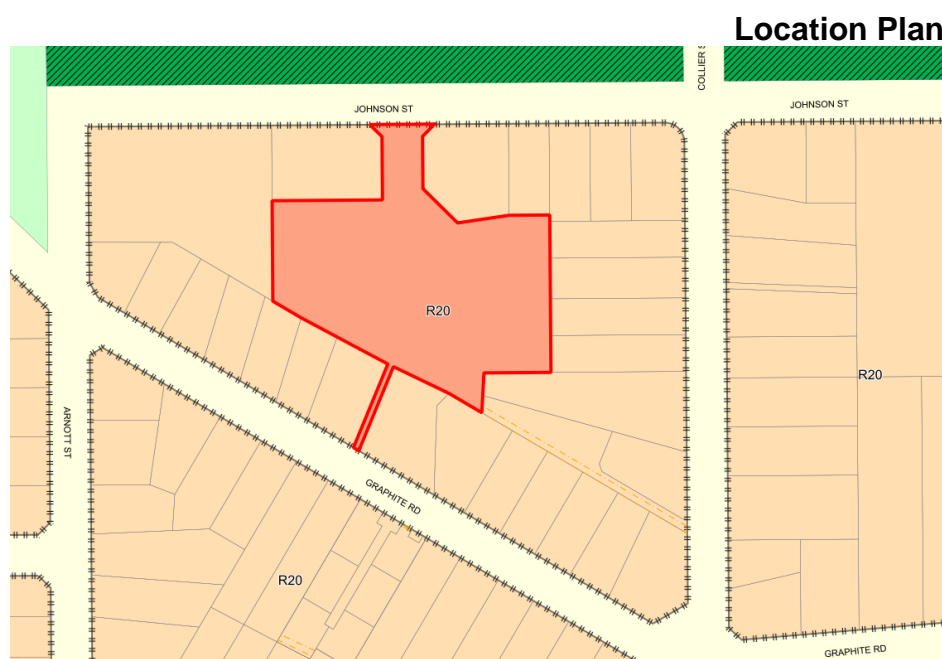
**CARRIED: 11/0**

**ATTACHMENT****9.5.1 Proposed Group Dwellings/Holiday Homes at Lot 501 (75) Johnson Street, Manjimup**

<b>PROPONENT</b>	Able Planning Consultants
<b>OWNER</b>	P Tagliaferri
<b>LOCATION / ADDRESS:</b>	Lot 501 (75) Johnson Street, Manjimup
<b>WARD:</b>	Central
<b>ZONE:</b>	Residential (R20)
<b>DIRECTORATE:</b>	Development & Regulation
<b>FILE REFERENCE:</b>	DA22/217 & P58112
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i>
<b>AUTHOR:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	27 January 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The subject land is a 5,613m<sup>2</sup> vacant property with a battle-axe configuration located on the southern side of Johnson Street opposite the Rea Park/Collier Street recreation complex as shown on the location plan below.



Council is requested to determine an application to construct three group dwellings within the eastern portion of the site, with each dwelling to be used for Short Stay Accommodation purposes. Plans submitted with the application indicate that each group dwelling will consist of two bedrooms, one bathroom and an open kitchen, dining and lounge room. Each unit will also have a verandah under the main roof.

Copies of the plans and management plan submitted in support of the application are shown attached.

**ATTACHMENT: 9.5.1(1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

The application was advertised in accordance with the requirements of Local Planning Scheme No 4 (the Scheme) with correspondence to the adjacent landowners, a sign on-site and advertisement via the Shire's website. In response one submission was received raising concerns regarding drainage impacts on their property.

Whilst the content of the submission is discussed within the Comment Section, a copy of the submission is shown attached.

**ATTACHMENT: 9.5.1(2)****COMMENT (Includes Options):**

The application as submitted effectively requires two decisions to be made. As detailed below, a Holiday House land use relates to the use of a "dwelling" for use as short term accommodation. The application therefore seeks approval to the proposed group dwellings and permission for the dwellings to be used for short stay accommodation purposes.

As outlined by the Scheme and provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 require that in determining applications for Development Approval the local government must 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 Scheme area;*
- (vi) *The local government's adopted Local Planning Strategy*
- (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 account any Special Control Area;*
- (xv) *Preservation of the amenity of the locality;*

**Zoning**

The provisions of the Scheme include the subject land within the Residential Zone, with an applicable density of R20 under the Residential Design Codes (R-Codes). This equates to a maximum density of one dwelling per 450m<sup>2</sup>.

**Zone Purpose and Objectives**

As outlined in clause 4.3 of the Scheme, the purpose of the Residential Zone is to *"provide for the adequate provision of suitably located land to provide for varied residential environment to meet the needs of the community and to promote the amenity of residential areas"*.

Consistent with this purpose, the objectives in managing and guiding land use include, but are not limited to:

- (i) *Provide for a range of housing choice with high amenity in residential areas and which reflects a non-metropolitan lifestyle;*
- (ii) *Provide for the adequate supply of suitably located land to meet the ongoing residential needs of the community consistent with the Residential Design Codes;*

- (iv) *Limit non-residential activities to those which create self-employment or creative activities, provided such activities have no detrimental effect on residential amenity; and*
- (vii) *Ensure that the density of development takes cognisance of the availability of reticulated sewerage, the effluent disposal characteristics of the land and other servicing and environmental factors.*

With respect to the current application, the proposed development of three group dwellings is consistent with the purpose and objectives of the zone. Their subsequent use for holiday accommodation must be assessed on its merits having regard to its compatibility with the amenity of the area and any potential impact on that amenity.

#### Land Use Classification

The Scheme defines “Group Dwellings” and “Holiday Houses” as follows:

*Group Dwelling – has the same meaning as is given to that term in the Residential Design Codes.*

*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 the family but including all people where the owner is a company;*
- but does not include a bed and breakfast.*

The Residential Design Codes of Western Australia (R-Codes) defines a group dwelling as “A dwelling that is one of two or more dwellings on the same lot....”. A Group Dwelling is therefore consistent with the definition of dwelling for the purposes of the Scheme’s definition of a Holiday House.

#### Land Use Permissibility

Table 1 of the Scheme identifies that Group Dwellings are a “D” use within the Residential Zone. That is a use that is not permitted unless the local government has exercised its discretion by granting planning approval.

The land use Holiday House is an “A” use within the Residential Zone. That is a use which is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with Clause 9.6. As detailed under the heading public consultation the proposal has been advertised with one submission being received.

#### R-Codes Assessment

With a current land area of 1.1342ha, the construction of three group dwellings complies with the permitted density of R20. In support of the application, the applicant submitted a R-Codes “Residential Development Compliance Checklist”.

As demonstrated by the checklist and confirmed by Shire Officers, the application as submitted complies with all requirements relating to setbacks, parking, access, private open space and all other requirements of the R-Codes.

#### Self-Contained Requirements

In order to be considered “Group Dwellings”, each of the proposed units is required to be self-contained. As reflected on the floor plans shown at Attachment: 9.5.1(1), the units as proposed do not contain a laundry and therefore they cannot be considered to be fully self-contained.

As various options exist to provide laundry facilities, either internally or through a small addition to the transportable buildings, should conditional approval be granted, it is recommended that a condition be imposed requiring revision of the plans to provide laundry facilities for each proposed dwelling.

#### Potential Impacts on Amenity

As Group Dwellings, the buildings would be utilised for residential purposes and there would be no anticipated detrimental impacts.

Generally speaking, the operation of short stay accommodation in the form of Holiday Houses has potential to impact on the amenity of an area through:

- a) Noise, given that the occupants are generally on holiday and therefore do not observe the same hours as adjacent residential premises;
- b) Pets being left behind whilst the occupants explore the area; and
- c) Car parking where multiple parties are staying at the same premises result.

The potential for impact is directly associated with the ongoing management of a development.

#### Proposed Management Arrangements

The applicant has supplied Management and Emergency Plan(s), which are shown attached.

#### **ATTACHMENT: 9.5.1(3)**

As reflected within the submitted Management Plan, the applicants are proposing that the development will be managed by a local real estate agent and no pets will be permitted. Each accommodation unit will have a maximum of four guests.

#### Local Planning Policy No 6.1.5 – Holiday Accommodation

Local Planning Policy 6.1.5 was adopted by Council to provide a set of development requirements and protocols for the effective management of holiday house operations. The application has been assessed against the Policy and is considered to be compliant other than the fact the applicant has not supplied a copy of their current Public Liability Insurance Certificate.

#### Adjacent Landowner Submission

Within the submission received, the adjacent landowner states that they are *“suffering from poor drainage due to the land behind our property being raised for the development. Our neighbour also suffers from the same problem”*. They furthermore state that *“Water collects on our properties and our septic tank is unable to function properly due to it being filled with ground water.”*

Whilst it is acknowledged that the adjacent landowner considers that there were no issues prior to earthworks on the adjacent property, it should be noted:

- a) Whilst some soil has been stockpiled on the property, the stockpiles are more than 50 metres from the common boundary with the submitters' land and no substantial earthworks have been undertaken;
- b) The fill has not been placed on the subject been, but has been placed on separate lots adjacent to Johnson Street. Sand fill has been used, which is considered permeable and would not impede the flow of stormwater; and
- c) As indicated by the submitter, it would appear that ground water is entering the authors effluent disposal system not surface water and the proposed development will not impact on groundwater in the area.

As outlined above, the adjacent landowner is of the view that development of the adjacent land has impacted on groundwater levels in the area. In the view of Shire Officers, this is not the case as the land is undeveloped and fill placed on the properties abutting Johnson Street is permeable.

#### Conclusion

The application before Council is unusual as it is seeking approval to establish three group dwellings, each of which will be used for Holiday Accommodation. Provided that each of the units is modified to be self-contained, they will each be considered to be a fully self-contained dwelling.

Provided that the designs are modified to ensure each dwelling is self-contained, the proposed Group Dwelling development will comply with all requirements of the Scheme and Residential Design Codes and conditional approval is recommended. Furthermore as the proposal is compliant with the requirements of Local Planning Policy 6.1.5, conditional approval is also recommended to the use of the dwellings for Holiday Accommodation purposes.

**STATUTORY ENVIRONMENT:**

Shire of Manjimup Local Planning Scheme No. 4 and *Planning and Development Act 2005*.

**POLICY / STRATEGIC IMPLICATIONS:**

As outlined in the comment section above, the application has been assessed in accordance with the provisions of Local Planning Policy 6.1.5 –*Holiday Accommodation*.

**ORGANISATIONAL RISK MANAGEMENT:**

Approval of this application by Council, provided that the Holiday House operates in accordance with the Scheme and Policy and enforced through conditional approval granted by Council, will not generate an organisational risk.

**FINANCIAL IMPLICATIONS:**

The required Development Application fee has been paid by the applicant.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: The application, if approved, will allow the proponent to increase business activity on the property and potentially increase the economic return of the property.

Social: No impact is anticipated on the amenity of the area provided that the Holiday Houses are appropriately managed.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

That Council in accordance with Part 10 of Shire of Manjimup Local Planning Scheme No. 4 grants planning approval for:

1. **Three Group Dwellings Lot 501 (75) Johnson Street, Manjimup in accordance with the submitted plans as attached at 9.5.1(1), and subject to the following conditions and advice notes:**

- a) **The use as permitted shall operate in accordance with the submitted plans and supporting documentation as listed below:**

Reference	Document Title	Date Received
1.	Site Plan	7 December 2022
2.	Floor Plans	7 December 2022

- b) **Notwithstanding condition No 1 above, the proposed floor plans shall be modified to ensure each group dwelling is fully self-contained (i.e. contains a laundry), prior to the application for a building permit;**
- c) **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;

- d) Prior to the occupation or use of the development hereby approved, the vehicle crossover to Johnson Street, the area set aside for the parking of vehicles, together with the associated internal access shall:
  - be constructed, drained and marked in accordance with Clause 5.17 of the Shire of Manjimup Local Planning Scheme No. 4 to the satisfaction of the Council prior to the commencement of the use hereby permitted.
  - thereafter be maintained to the satisfaction of the Council.
  - be made available for such use at all times and not used for any other purpose.
  - be properly formed to such levels that it can be used in accordance with the plan.
- e) Prior to lodging an application for a building permit, a detailed landscaping and reticulation plan for the subject site and/or the road verge(s) must be submitted to and approved to the satisfaction of the Shire of Manjimup, and must include the following:
  - i) The location, number and type of existing and proposed trees and shrubs including planter and/or tree pit sizes and planting density;
  - ii) Any lawns to be established; and
  - iii) Any proposed verge treatments.
- f) The approved landscaping and reticulation plan must be fully implemented within the first available planting season after the initial occupation of the development, and maintained thereafter, to the satisfaction of the Shire of Manjimup. Any species which fail to establish within the first two planting seasons following implementation must be replaced in consultation with and to the satisfaction of the Shire of Manjimup.
- g) The proposed development being connected to the Water Corporations reticulated sewerage service and water supply;
- d) The land in respect of which earthworks are to be carried out shall be compacted and stabilised to the specifications and satisfaction of the Shire of Manjimup and details of the required work shall be submitted to Shire of Manjimup as part of a building permit application;

#### **Advice to Applicant**

- (i) 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);

- (ii) The development must comply with the Health (Miscellaneous Provisions) Act 1911 and the Shire of Manjimup's Health Local Laws 2020;
- (iii) The approved development is required, under the provisions of the 'Building Code of Australia', to provide a minimum of 1 accommodation unit providing access and sanitary facilities for people with disabilities. [The proponent is invited to liaise with the Principal Building Surveyor for further information in respect to this].

**2. Use of the group dwellings approved under point 1 above as Holiday Houses subject to the following conditions and advice:**

- a) The use as permitted shall operate in accordance with the submitted plans and supporting documentation as listed below:

Reference	Document Title	Date Received
1.	Management Plan	6 January 2022
2.	Emergency Plan	6 January 2022

- b) The development approval is granted for a period expiring on 30 June 2024 only after which period the use shall cease unless an application to renew this use is submitted prior to the expiration of this period seeking approval for the Holiday House to be continued for a further period of 12 months has been submitted and approved by the Shire of Manjimup;
- c) The applicant is to ensure that their Public Liability Insurance is in place prior to commencement of the use and shall supply a copy of the same to the Shire of Manjimup, within 2 months of the date of this approval;
- d) The activity hereby approved shall be managed so as to not detrimentally impact on the amenity of the adjacent residential properties;
- e) The Holiday Accommodation is not to be occupied by a person for more than three (3) months within any twelve (12) month period. 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 on demand;
- e) The submitted management details form part of the application and shall be implemented on an ongoing basis to the satisfaction of the Shire of Manjimup. Contact details of the local manager shall be on display to the public prior to the commencement of use;

- f) The Emergency Evacuation Response Plan, including provision of the Manager's contact details, is to be displayed in the Holiday Accommodation at all times; and
- g) Unless otherwise approved by the Shire of Manjimup, signage associated with the activity hereby approved shall be restricted to a single advertisement not exceeding 0.2m<sup>2</sup>, which is to be located on the property.

**Advice to Applicant:**

- (i) Please note that the use of the building in the manner proposed requires the installation of additional smoke alarms and emergency lighting for a Class 1b building as detailed in the Building Code of Australia, Part 3.7.2, Smoke Alarms.
- (ii) In all buildings approved for use as a Holiday House, a system of emergency lighting will need to be installed to assist in evacuation of occupants in the event of fire and this lighting will need to:-
  - a) be activated by a smoke alarm(s); and
  - b) consist of:
    - lights incorporated into the smoke alarm itself; and
    - lighting located in the corridor, hallway or area served by the required smoke alarm(s).
- (iii) Prior to commencement of the use hereby approved, a Building Permit is required to be obtained from Building Services for the reclassification of the Dwelling to a Holiday House.
- (iv) The proposed development is to be registered as a "Lodging House" pursuant to the Shire of Manjimup Health Local Laws.

**COUNCIL RESOLUTION:**

**MOVED: Jenkins, D      SECONDED: Skoss, K**

**29051**

**That Council in accordance with Part 10 of Shire of Manjimup Local Planning Scheme No. 4 grants planning approval for:**

- 1. Three Group Dwellings Lot 501 (75) Johnson Street, Manjimup in accordance with the submitted plans as attached at 9.5.1(1), and subject to the following conditions and advice notes:
  - a) The use as permitted shall operate in accordance with the submitted plans and supporting documentation as listed below:

Reference	Document Title	Date Received
1.	Site Plan	7 December 2022
2.	Floor Plans	7 December 2022

- b) Notwithstanding condition No 1 above, the proposed floor plans shall be modified to ensure each group dwelling is fully self-contained (i.e. contains a laundry), prior to the application for a building permit;**
- c) 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;**
- d) Prior to the occupation or use of the development hereby approved, the vehicle crossover to Johnson Street, the area set aside for the parking of vehicles, together with the associated internal access shall:**
  - be constructed, drained and marked in accordance with Clause 5.17 of the Shire of Manjimup Local Planning Scheme No. 4 to the satisfaction of the Council prior to the commencement of the use hereby permitted.**
  - thereafter be maintained to the satisfaction of the Council.**
  - be made available for such use at all times and not used for any other purpose.**
  - be properly formed to such levels that it can be used in accordance with the plan.**
- e) Prior to lodging an application for a building permit, a detailed landscaping and reticulation plan for the subject site and/or the road verge(s) must be submitted to and approved to the satisfaction of the Shire of Manjimup, and must include the following:**
  - i) The location, number and type of existing and proposed trees and shrubs including planter and/or tree pit sizes and planting density;**
  - ii) Any lawns to be established; and**
  - iii) Any proposed verge treatments.**
- f) The approved landscaping and reticulation plan must be fully implemented within the first available planting season after the initial occupation of the development, and maintained thereafter, to the satisfaction of the Shire of Manjimup. Any species which fail to establish within the first two planting seasons following implementation must be replaced in consultation with and to the satisfaction of the Shire of Manjimup.**
- g) The proposed development being connected to the Water Corporations reticulated sewerage service and water supply;**
- d) The land in respect of which earthworks are to be carried out shall be compacted and stabilised to the specifications and satisfaction of the Shire of Manjimup and details of the required work shall be submitted to Shire of Manjimup as part**

of a building permit application;

**Advice to Applicant**

- (i) 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);
- (ii) The development must comply with the Health (Miscellaneous Provisions) Act 1911 and the Shire of Manjimup's Health Local Laws 2020;
- (iii) The approved development is required, under the provisions of the 'Building Code of Australia', to provide a minimum of 1 accommodation unit providing access and sanitary facilities for people with disabilities. [The proponent is invited to liaise with the Principal Building Surveyor for further information in respect to this].

**2. Use of the group dwellings approved under point 1 above as Holiday Houses subject to the following conditions and advice:**

- a) The use as permitted shall operate in accordance with the submitted plans and supporting documentation as listed below:

Reference	Document Title	Date Received
1.	Management Plan	6 January 2022
2.	Emergency Plan	6 January 2022

- b) The development approval is granted for a period expiring on 30 June 2024 only after which period the use shall cease unless an application to renew this use is submitted prior to the expiration of this period seeking approval for the Holiday House to be continued for a further period of 12 months has been submitted and approved by the Shire of Manjimup;
- c) The applicant is to ensure that their Public Liability Insurance is in place prior to commencement of the use and shall supply a copy of the same to the Shire of Manjimup, within 2 months of the date of this approval;
- d) The activity hereby approved shall be managed so as to not detrimentally impact on the amenity of the adjacent residential properties;
- e) The Holiday Accommodation is not to be occupied by a person for more than three (3) months within any twelve (12) month period. 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 on demand;
- e) The submitted management details form part of the

application and shall be implemented on an ongoing basis to the satisfaction of the Shire of Manjimup. Contact details of the local manager shall be on display to the public prior to the commencement of use;

- f) The Emergency Evacuation Response Plan, including provision of the Manager's contact details, is to be displayed in the Holiday Accommodation at all times; and
- g) Unless otherwise approved by the Shire of Manjimup, signage associated with the activity hereby approved shall be restricted to a single advertisement not exceeding 0.2m<sup>2</sup>, which is to be located on the property.

**Advice to Applicant:**

- (i) Please note that the use of the building in the manner proposed requires the installation of additional smoke alarms and emergency lighting for a Class 1b building as detailed in the Building Code of Australia, Part 3.7.2, Smoke Alarms.
- (ii) In all buildings approved for use as a Holiday House, a system of emergency lighting will need to be installed to assist in evacuation of occupants in the event of fire and this lighting will need to:-
  - a) be activated by a smoke alarm(s); and
  - b) consist of:
    - lights incorporated into the smoke alarm itself; and
    - lighting located in the corridor, hallway or area served by the required smoke alarm(s).
- (iii) Prior to commencement of the use hereby approved, a Building Permit is required to be obtained from Building Services for the reclassification of the Dwelling to a Holiday House.
- (iv) The proposed development is to be registered as a "Lodging House" pursuant to the Shire of Manjimup Health Local Laws.

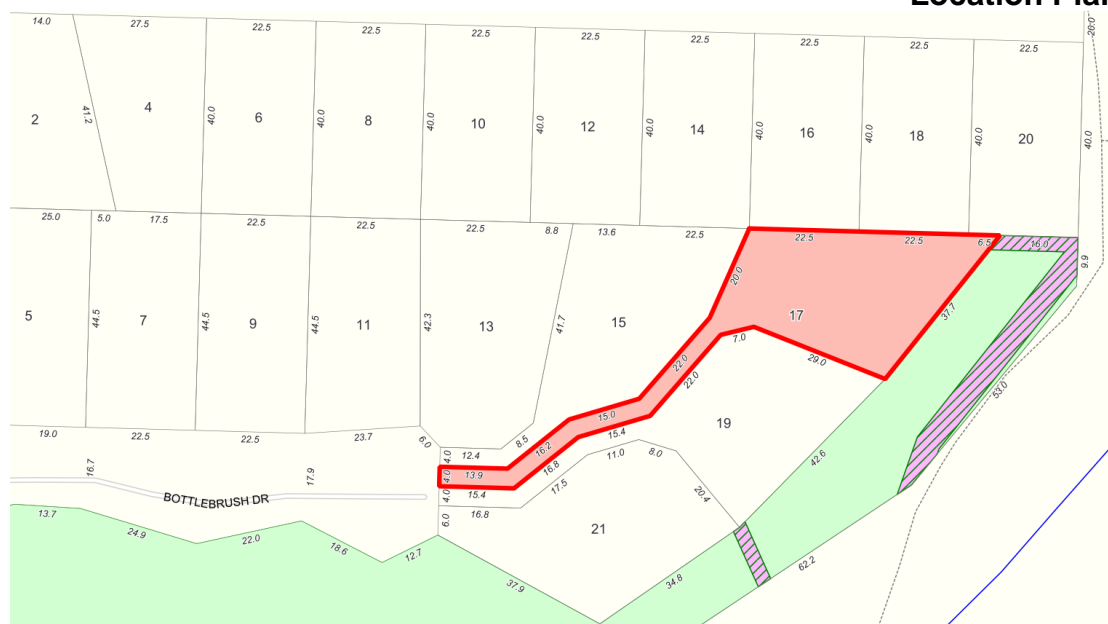
**CARRIED: 11/0**

**ATTACHMENT****9.5.2 Retrospective Application for Building Envelope Variation at Lot 10, 17 Bottlebrush Drive, Walpole**

<b>PROPONENT</b>	The Shack Building Company
<b>OWNER</b>	Ms H E Turner
<b>LOCATION / ADDRESS:</b>	Lot 10, 17 Bottlebrush Drive, WALPOLE
<b>WARD:</b>	South
<b>ZONE:</b>	Residential
<b>DIRECTORATE:</b>	Statutory Planning
<b>FILE REFERENCE:</b>	P52419 & DA22/197
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i>
<b>AUTHOR:</b>	Karleha Brown/Brian Robinson
<b>DATE OF REPORT:</b>	3 February 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

Lot 10, (No. 17) Bottlebrush Drive, Walpole is 1418m<sup>2</sup> battle-axe property in Boronia Ridge that backs onto the vegetated public open space forming part of the Walpole Inlet foreshore. A location plan of the subject property is shown below.

**Location Plan**

In 2020 approval was granted for the construction of a 171.3m<sup>2</sup> dwelling on the property, partially outside of the original building envelope. An error occurred during construction, which resulted in the dwelling being constructed 1.825m from the northern boundary, 1m closer than originally approved. Retrospective approval to the building's as constructed location is now sought.

A copy of correspondence from the applicant and the site plan demonstrating the building envelope variation is attached.

**ATTACHMENT: 9.5.2(1)**

Council is requested to determine the application as it involves the granting of a retrospective approval.

**PUBLIC CONSULTATION UNDERTAKEN:**

The proposal was referred to the adjoining neighbours for comment for a period of 21 days. During this period two submissions from the one neighbouring landowner were received. Copies of those submissions are shown attached, with their content addressed in the comment section.

**ATTACHMENT: 9.5.2 (2)**

**COMMENT (Includes Options):**

Local Planning Scheme No. 4 (the Scheme) includes the property within the Residential Zone with a density of R10. The Scheme also includes the land within Planning Precinct Walpole 1 – Boronia Ridge Residential Estate. The area is identified as Bushfire Prone.

To guide Council on the determination of this application, the following comments are offered:

Matters to be considered

In determining an application for planning approval, the local government is required to have regard to various matters as outlined within Clause 10.2 of the Scheme. These matters include, but are not limited to: -

- (i) *the aims and provisions of the Scheme and any other relevant Local Planning Scheme operating in the district;*
- (iii) *any approved State Planning Policies of Commission;*
- (xv) *the preservation of the amenity of the locality; and*
- (xxvi) *any relevant submissions received on the application.*

Any assessment against the above criteria is provided within the balance of this agenda item.

Walpole Planning Precinct Area WP1 – Boronia Ridge Residential Estate

In accordance with clause (ix) of the special provisions relating to Boronia Ridge all buildings are required to be located within the building envelope as shown on the endorsed in the Structure Plan. Notwithstanding this, the clause furthermore states that:

*“The local government may, at the request of a landowner, vary the position, shape or size of a building envelope where it is of the opinion that that the slope, vegetation or site conditions justify a variation. Building envelopes shall be sized to maximise the retention of vegetation.”*

In this case, the approved building envelope is setback 3m from the northern boundary and in 2020 the dwelling was approved with a minor variation to the approved envelope, reducing the northern boundary setback by 175mm to

2.825m. The applicants justified the variation as it reduced site works and allowed existing vegetation to remain on the property.

Subsequently the neighbouring landowner identified that the dwelling was constructed with a setback of 1.825m from the northern boundary. As demonstrated by photographs shown within the neighbours submission (refer Attachment: 9.5.2(2)), this has resulted in visual impacts as viewed from the neighbours property.

#### R-Codes

Whilst the dwelling has been constructed outside of the approved building envelope, it is noted that all setbacks are in keeping with the setback requirements for an R10 zone.

#### Submission

As stated above, two submissions have been received from a neighbouring landowner to the north. By way of summary, the landowner has stated:

- The setback is too close to the boundary and existing sewerage line;
- The height of the existing building is very intrusive into neighbours back yards;
- If the proposed setback goes ahead, it will allow other buildings to be built; and
- We do not live on small 400m<sup>2</sup> blocks and it is not acceptable in this area.

In their second submission, the adjacent landowner advises that their property is on the market and advised that they feel the obtrusive building may have put buyers off and devalued their property.

#### Impact on Amenity

The dwelling has a skillion roof design with a height of 4m. The scale of the building due to size, close proximity to the boundary and location on the property has resulted in the dwelling being a focal point from the outdoor living space of the neighbouring property, detrimentally impact on the amenity of the neighbouring property as demonstrated by the photograph attached to the adjacent landowners submission (Refer to Attachment: 9.5.2. (2)).

It is considered that the applicant should be required to undertake works so as to reduce the impact of the now constructed dwelling.

#### Screening

In an attempt to screen the dwelling, the neighbouring landowner obtained planning approval in June of 2022 to erect a screen that is 2.4m high. The screen is setback 2.4m from the adjoining boundary and is constructed of galvanised steel with shade cloth over 600mm on the top of the frame. A photograph demonstrating the above is attached.

**ATTACHMENT: 9.5.2(3)**

The screen does provide additional privacy by screening of the portion of dwelling as viewed from the adjacent property, however it is considered that more effective screening could be established by the applicant within the subject property.

The objective of the screen is to soften the appearance of the dwelling to the neighbouring property. This could be achieved by erecting a privacy screen above the existing 1.8m fence, to the height of 2.4 from ground level. To increase the fence height the applicant must consult the neighbouring landowner and obtain the relevant approvals as required by the *Shire of Manjimup Fencing Local Law 2012* Scheme and Building Code of Australia.

If the neighbouring landowner does not agree with what will effectively be an over height fence, an internal screen to the height of 2.4m must be erected in the internal boundary of the subject property to the satisfaction of the Shire Officers.

#### Retrospective Approval

In accordance with clause 8.6 of the Scheme, the local authority may grant approval to a development notwithstanding that the development has already commenced. In this case, the development has commenced, but approval is sought as the placement of the dwelling contravenes their planning approval.

#### Conclusion

As the dwelling is now constructed, it is recommended that the applicant be responsible for the erection of additional screening, reducing the visual impact of the dwelling on the neighbouring property.

#### **STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005*, Local Planning Scheme No.4 and Planning Policy 7.3 Residential Design Codes Volume 1.

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

Local Planning Policy 6.1.15 Boronia Ridge Estate Development Standards.

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

Nil.

#### **FINANCIAL IMPLICATIONS:**

The applicant has paid the required retrospective planning application fee.

#### **SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

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

That Council In accordance with Part 10 of the Shire of Manjimup Local Planning Scheme No. 4 grant retrospective planning approval to the variation of the building envelope at Lot 10, 17 Bottlebrush Drive, Walpole (Application TP197/2022) in accordance with the plans and specifications shown at Attachment: 9.5.2(1), by modifying Planning Approval DA20/49 dated 20 May 2020 as follows:

1) Modifying the table contained in condition 1) to read as follows:

Plan Ref	Title	Received
122174-01A	Feature Survey	13 March 2020
1	Site Plan	5 January 2023
A.02.1	Floor Plan	13 March 2020
A.03.1	Elevations	13 March 2020
A.03.2	Sections	13 March 2020

2) Including a new condition number 8, to read as follows:

8. The landowner is required to provide detailed plans of the proposed screening (2.4m high) along the boundary of Lot 340, 16 Sheoak Street, Walpole which demonstrate compliance with 61.15 Boronia Ridge Estate Development Standards and the Shire of Manjimup Local Fencing Law 2012 are to be submitted to and approved by the Shire of Manjimup by 14 April 2023.

**COUNCIL RESOLUTION:**

**MOVED:** Willcox, J      **SECONDED:** Lawrence, K

**29052**

That Council In accordance with Part 10 of the Shire of Manjimup Local Planning Scheme No. 4 grant retrospective planning approval to the variation of the building envelope at Lot 10, 17 Bottlebrush Drive, Walpole (Application TP197/2022) in accordance with the plans and specifications shown at Attachment: 9.5.2(1), by modifying Planning Approval DA20/49 dated 20 May 2020 as follows:

1) Modifying the table contained in condition 1) to read as follows:

Plan Ref	Title	Received
122174-01A	Feature Survey	13 March 2020
1	Site Plan	5 January 2023
A.02.1	Floor Plan	13 March 2020
A.03.1	Elevations	13 March 2020
A.03.2	Sections	13 March 2020

**2) Including a new condition number 8, to read as follows:**

- 8. The landowner is required to provide detailed plans of the proposed screening (2.4m high) along the boundary of Lot 340, 16 Sheoak Street, Walpole which demonstrate compliance with 61.15 Boronia Ridge Estate Development Standards and the Shire of Manjimup Local Fencing Law 2012 are to be submitted to and approved by the Shire of Manjimup by 14 April 2023.**

**CARRIED: 11/0**

**ATTACHMENT****9.5.3 Proposed Dam with Reduced Setback at Lot 9782 Middlesex Road, Middlesex**

<b>PROPONENT</b>	P Fardella
<b>OWNER</b>	Mrs E & Estate of Late A Milentis
<b>LOCATION / ADDRESS:</b>	Lot 9782, Middlesex Road Middlesex
<b>WARD:</b>	East
<b>ZONE:</b>	Priority Agriculture
<b>DIRECTORATE:</b>	Development and Regulation
<b>FILE REFERENCE:</b>	DA22/196 P51656
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i>
<b>AUTHOR:</b>	Karleha Brown/Brian Robinson
<b>DATE OF REPORT:</b>	6 February 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

Lot 9782 Middlesex Road, Middlesex is a 1.49ha property located approximately 2.5km from the intersection of South Western Highway and Middlesex Road, Middlesex, directly adjacent to the Starkies and Middlesex Road intersection. The property is part of a larger landholding under the same ownership which includes the abutting properties as shown on the location plan below.

**Location Plan**

Approval is being sought to increase the capacity of the existing spring fed dam that is located over the boundary of Lot 7822 and Lot 9782 Middlesex Road, Middlesex. The dam walls to the north and east are proposed to be setback 5m from road boundary of Middlesex Road. The outer dam walls is proposed to be approximately 4m and the inner dam wall 6m in height. The

dam will have a capacity of approximately 15 mega litres (ML). A copy of the information and plans of the proposal is attached.

**ATTACHMENT: 9.5.3(1)**

The applicant has stated that they intend on amalgamating the subject property with Lot 7822 Middlesex Road, increasing the property size to 19.3ha.

Council is requested to determine the application given that approval to the dam will require a relaxation of normal setback requirements relating to a property boundary.

**PUBLIC CONSULTATION UNDERTAKEN:**

As the abutting properties are under the same ownership, the application was only referred to the Department of Water and Environmental Regulation (DWER) and Western Power for a 42 day period.

Advice was received from both Western Power and DWER in relation to the proposal. A copy of the comments received are attached.

**ATTACHMENT: 9.5.3 (2)**

**COMMENT (Includes Options):**

The following comments are offered to assist Council in determining the application.

Zoning

The provisions of Local Planning Scheme No. 4 include the subject land within the Priority Agriculture Zone. The purpose of the zone is to provide for the sustainable use of rural land which primarily accommodates a range of rural pursuits compatible with the capability of the land and which retains the rural character and amenity of the locality.

The objectives of the Scheme relating to this zone encourage the use of rural land for commercial agricultural production.

Matters to be considered

As prescribed in clause 10.2 of the Scheme, the local government is required to have regard to various matters when determining an application for planning approval. These matters include, but not limited to:

- (i) *the aims and provisions of the Scheme and any other relevant Local Planning Scheme operating within the Scheme Area;*
- (vi) *the local government's adopted Local Planning Strategy and any Local Planning Policy adopted by the local government under Clause 2.4.....;*
- (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 fire or any other risk.*

The proposed dam is to be used for domestic and stock purposes, the objective of the dam is in keeping with the objective of the zone.

#### Exempted Development

In accordance with Clause 8.4 of the Scheme, dams located within the Priority Agriculture and General Agriculture zones are exempt from requiring planning approval where the lower edge of the dam wall, and any other part of the dam including the stored water is setback more than 20 metres from boundaries. Given the proposed setbacks, approval to the proposed development may only be granted through a relaxation of the setback requirements.

#### Submitted Dam Details

Through a desktop assessment, Shire Officers have identified that there appears to be some inconsistencies between the dam measurements indicated on the submitted form and the proposed site plan. Whilst the submitted form indicates that the dam walls would each be 70m in length, this would provide an approximate 20m setback to the boundary.

Although the submitted plan is not to scale, it provides essential information relating to the application, identifying a 5m setback to the toe of the proposed dam wall. With the dam wall having an external slope of 30° the back of the dam wall would commence at distance of approximately 15m from the boundary.

Whilst construction of the dam with a setback of 5m to the toe of the dam wall could result in wall lengths greater than 70m and a larger volume, the potential size difference is not considered significant given that it will not result in an increased risk assessment.

#### Relaxation of Standards

In accordance with clause 5.5 of the Scheme, the local government may approve an application for planning approval, despite the application not complying with a standard or requirement prescribed under the Scheme. However prior to relaxing a standard, the local government must be satisfied that:

- “(i) approval of the proposed development would be 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 users of the development, the inhabitants of the locality or the likely future development of the locality.”*

In this case, the relaxation of the setback is consistent with the requirements of clause 10.2, and the impact of an approval on either the subject land or adjacent property has been assessed against the Policy position.

#### Policy Assessment

The application has been assessed against the provisions of Local Planning Policy 6.1.22 – Dams (the Policy), given the requirement for the Lot 9782 Middlesex to be amalgamated with Lot 7822, the assessment was on a property with a holding size of 5 – 20ha. The proposed dam scored as follows:

<b>Risk Category</b>	<b>Score</b>
Construction Type (Catchment Dam – ground water)	1
Volume 10-100ML (100ML)	3
Wall Height (5-10m) 5m	2
Dam Wall Design (designed by contractor)	3
Infrastructure Downstream (no infrastructure)	3
Overflow Infrastructure (by others)	1
<b>TOTAL</b>	<b>11</b>

In accordance with provision 6.2 of the Policy, dams that score between 10 and 15 when assessed against the risk matrix are considered moderate risk. As outlined in the Policy, it is recommended that advice notes be included on any approval relating to a moderate risk dam, advising landowners that:

- The landowner is responsible for the structural integrity of the dam construction; and
- It is recommended that the proposed structure be certified by an appropriately qualified contractor or engineer.

#### Submissions Received

##### *Western Power*

As noted on the plan a Power line is located near the proposed new dam wall, running directly through the property. Due to this close proximity, Western Power were consulted. The response received does not provide any advice in regard to the development, however provided direction for the landowner to follow to seek further clarification and guidance with building the proposed dam in close proximity to their infrastructure.

##### *Department of Water and Environmental Regulation*

DWER has advised that they do not support the proposed dam on the basis that the surface water resource is fully allocated within the Warren River and Tributaries Surface Water Area. This advice seemed to be based on misinterpretation that the proposed dam would be fed from the overflow of the dam located on Lot 4 Middlesex Road, Middlesex.

Shire Officers sought clarification from DWER in regard to their response. New advice was provided from DWER who stated that they did not object to proposed expansion of the existing dam, given the dam is “Off Stream” and does appear to be associated with a spring. DWER advised that a dam should not be expanded above the capacities of an existing yield of the spring. As part of DWERS advice concern was raised in regard to the unlicensed dam on the adjoining Lot 4 and accordingly the following advice was provided.

It is considered in light of DWER’s submission the following advice notes are recommended to form part of the planning approval. The applicant is required to apply for a license under Section 5c of the Rights in Water and Irrigation Act 1914 for the existing dam on Lot 4. The pumping of water from the dam on Lot 4, Middlesex Road, is not permitted and will be subject to regulation upon licence being obtained.

Development over boundary line

The subject dam is located over the boundary of Lot 7822 and 9782, whilst the proposed extension of the dam wall is mainly in Lot 9782 Middlesex Road, it is recommended that the two lots be amalgamated. The proposed extension of the existing dam cannot be supported without both properties being amalgamated.

It is noted that the overflow of the dam is proposed to be directed into the existing dam on Lot 4 Middlesex Road, Middlesex. The overflow traversing over the boundary line in this instance is supported.

Conclusion

Conditional approval to the proposed dam is recommended on the basis that it has been assessed as being a Moderate Risk Dam in accordance with LPP 6.1.22 – Dams and the need for the dam has been demonstrated.

**STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005* and Shire of Manjimup Local Planning Scheme No. 4.

**POLICY / STRATEGIC IMPLICATIONS:**

As detailed within the Comment Section of this Agenda Item, the application has been assessed against Local Planning Policy 6.1.22 – Dams.

Approval to the application would be consistent with the following Strategy as contained within the Shire of Manjimup's Strategic Community Plan 2021-2031:

*B4. Support sustainable agricultural expansion, value-adding and downstream processing, research and development, culinary and agri-tourism, land protections, and continued support for the Southern Forests Food Council.*

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

The applicant has paid the fee required as per the Shire's 2022-2023 adopted fees and charges.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: An expanded dam as proposed will result in the landowner having access to an increased water supply to support future agriculture and horticultural activities 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 Dam with a Reduced Setback of five (5) metres to the northern east boundary at Lot 9782 Middlesex Road, Middlesex (Application TP 2022/193) in accordance with the plans and specifications shown at Attachment 9.5.3(1) and subject to the following conditions and advice:

- 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
1.	Dam locality plan	
2.	Dam design	
Form	Additional information for dam construction	

- 2) The applicant is required to amalgamate Lots 7822 and 9782 into a single title within 12 months;
- 3) The setbacks shown on the approved plans are to be to the toe of the dam wall;
- 4) Any and all overflow waters associated with the dam hereby approved shall be managed so as to not result in erosion or detrimental impacts on the neighbouring property to the satisfaction of the Shire of Manjimup; and
- 5) All pumps and ancillary equipment and structures being setback from property boundaries in accordance with the requirements of Shire of Manjimup Local Planning Scheme No. 4.

**Advice to Applicant:**

- a) It is the responsibility of the landowner to ensure that the dam is safely constructed and maintained and that it is recommended that the proposed structure be certified by a suitable qualified contractor or engineer.

**COUNCIL RESOLUTION:**

**MOVED: Skoss, K**

**SECONDED: Dawson Vidovich, S**

**29053**

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 Dam with a Reduced Setback of five (5) metres to the northern east boundary at Lot 9782 Middlesex Road, Middlesex (Application TP 2022/193) in accordance with the plans and specifications shown at

**Attachment 9.5.3(1) and subject to the following conditions and advice:**

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

<b>Reference</b>	<b>Document Title</b>	<b>Date Received</b>
<b>1.</b>	<b>Dam locality plan</b>	
<b>2.</b>	<b>Dam design</b>	
<b>Form</b>	<b>Additional information for dam construction</b>	

- 2) The applicant is required to amalgamate Lots 7822 and 9782 into a single title within 24 months;**
- 3) The setbacks shown on the approved plans are to be to the toe of the dam wall;**
- 4) Any and all overflow waters associated with the dam hereby approved shall be managed so as to not result in erosion or detrimental impacts on the neighbouring property to the satisfaction of the Shire of Manjimup; and**
- 5) All pumps and ancillary equipment and structures being setback from property boundaries in accordance with the requirements of Shire of Manjimup Local Planning Scheme No. 4.**

**Advice to Applicant:**

- a) It is the responsibility of the landowner to ensure that the dam is safely constructed and maintained and that it is recommended that the proposed structure be certified by a suitable qualified contractor or engineer.**

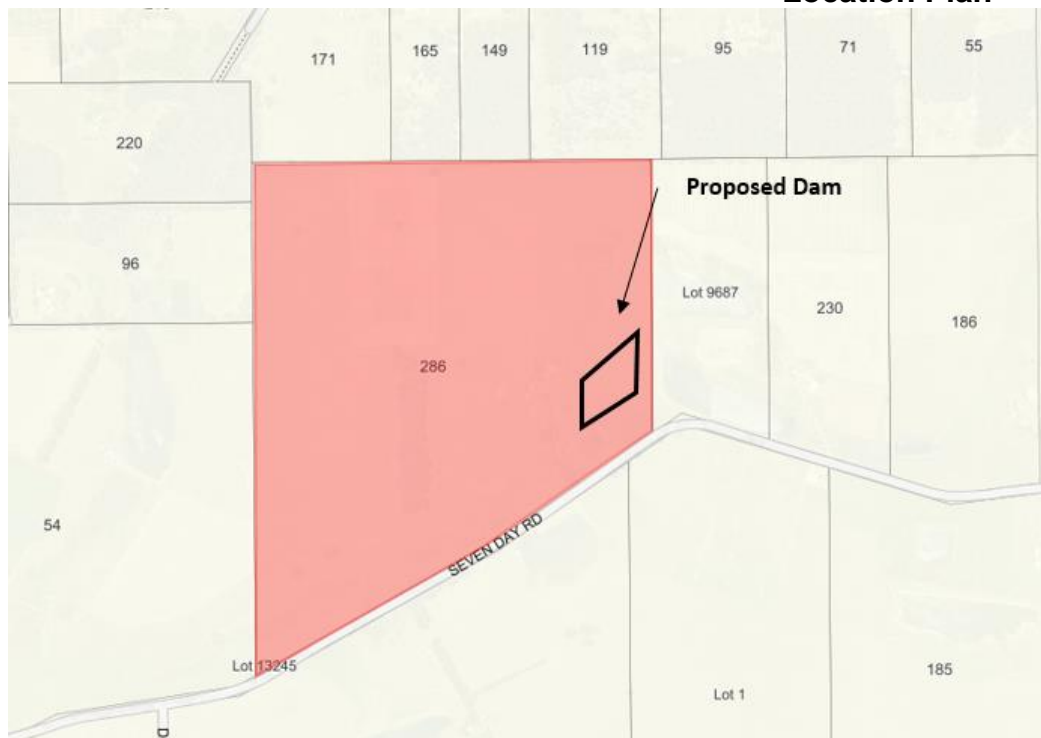
**CARRIED: 11/0**

**ATTACHMENT****9.5.4 Proposed Setback Reduction for a Dam at Lot 2716, 286 Seven Day Road, Deanmill**

<b>PROPONENT</b>	Mrs J Green
<b>OWNER</b>	Mrs J and Mr W Green
<b>LOCATION / ADDRESS:</b>	Lot 2716, 286 Seven Day Road, Deanmill
<b>WARD:</b>	Central
<b>ZONE:</b>	Rural Smallholdings
<b>DIRECTORATE:</b>	Statutory Planning
<b>FILE REFERENCE:</b>	DA22/206 P52616 TP 203/2022
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i>
<b>AUTHOR:</b>	Karleha Brown/Brian Robinson
<b>DATE OF REPORT:</b>	13 February 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

An application for planning approval has been received proposing the construction of a dam at Lot 2716, 286 Seven Day Road with a setback of 5 metres from the eastern side boundary. The property is 64.763 hectares in area and comprises a dwelling, associated outbuildings and two small dams, one being located adjacent to Seven Day Road, with the other adjacent to what the applicant has identified as a spring. A location plan is shown below.

**Location Plan**

Plans and details submitted with the application indicate that the dam wall fronting Seven Day Road will have a length of 150m, and project back 120m along the eastern boundary and 70m on the western edge of the dam. The

internal depth of the dam is 6 metres and a wall height of 5 metres. The dam will have a total capacity of 50-65 mega litres. The proposed dam is intended to be used for stock water. A copy of the submitted application and supporting information is shown attached.

**ATTACHMENT: 9.5.4 (1)**

Council is requested to determine the application given that the proposal requires approval of a reduced setback to the side boundary.

**PUBLIC CONSULTATION UNDERTAKEN:**

In accordance with the requirements of Local Planning Scheme No. 4 (the Scheme), the proposal was referred to the adjacent neighbours for comment. The proposal was also referred to the Department of Water and Environmental Regulation (DWER).

No submissions were received from adjoining landowners. DWER provided advice that they do not support the dam in its current form, requiring evidence for “spring right exemptions” claimed by the applicant. The content of the DWER correspondence is detailed in the Comment section below, whilst a copy is shown attached.

**ATTACHMENT: 9.5.4 (2)**

**COMMENT (Includes Options):**

The provisions of the Scheme include the subject land within the Rural Small Holdings Zone. In accordance with the provisions of the Scheme, the Shire’s prior planning approval is required for all dams located within the Rural Small Holdings Zone.

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

Setbacks

As prescribed by clause 5.34.2.4 of the Scheme, development within the Rural Small Holdings Zone is required to be setback from boundaries as follows:

- (a) Minimum front setback – 20 metres; and*
- (b) Minimum side setback – 10 metres;*

Plans submitted with the application indicates that dam will be setback 100 metres from Seven Day Road, front boundary and 380 metres from the rear.

Relaxation of Standards

Council may approve an application, despite the non-compliance with a standard or requirement prescribed by the Scheme in accordance with Clause 5.5.1 of the Scheme. The power conferred by this clause may only be exercised if the local government is satisfied that:

- (i) Approval to the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and

- (ii) The Non-compliance will not have any adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

Further information regarding the requirements of clause 10.2 are addressed below.

#### Matters to be Considered

In considering an application for planning approval, clause 10.2 of the Deemed to Apply provisions, applicable under the *Planning and Development (Local Planning Scheme) Regulations 2015* requires that the local government have regard to various matters, including but not limited to:

- (a) *The aims and provisions of the Scheme;*
- (m) *The compatibility of a use or development with its setting including the potential impact on the use and enjoyment of adjacent or nearby land;*
- (n) *The amenity of the locality including environmental impacts, character and social impacts;*
- (o) *The likely effect on the natural environment or water courses and any proposals to mitigate those impacts;*
- (q) *Whether the land 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;*
- (y) *Any relevant submissions received on the application.*

#### Zone Purpose and Objectives

The purpose of the Rural Smallholdings zone is to “*provide for rural lifestyle opportunities in strategic locations consistent and compatible with adjacent land use activity, landscape and environmental attributes of the land.*” Consistent with this purpose the Scheme outlines objectives for the zone which include encouragement of a range of rural and semi-rural pursuits on cleared land where part time or a full time income may be generated.

While the Scheme identifies that land zoned Rural Smallholdings Zone can potentially have a minimum lot size of 4ha, the subject property is substantially greater than this. With a 64.763ha lot size, the subject land is of a size normally zoned General or Priority Agriculture.

The subject property is located on Seven Day Road, where many agricultural activities are established. The applicants indicate that the dam will be used to provide a water supply for stock. The establishment of the proposed dam will support the agricultural activity on the property, consistent with the aims and objectives of the Rural Smallholdings zone.

#### Policy Assessment

The application has been assessed against the requirements of Local Planning Policy 6.1.22 – Dams. The assessment indicates that the dam would be considered moderate risk given the combination of design and down gradient infrastructure.

Risk Category	Score
Construction Type (On-stream 5-20Ha)	3
Volume (10-100ML)	3
Wall Height (0-5m)	2
Dam Wall Design (Earthmoving Contractor)	1
Downstream Infrastructure	3
Overflow infrastructure proposed (others)	1
TOTAL	13

In accordance with provision 6.2 of the Policy, dams that score between 10 and 15 when assessed against the risk matrix are considered moderate risk. As outlined in the Policy, it is recommended that advice notes be included on any approval relating to a moderate risk dam, advising landowners that:

- The landowner is responsible for the structural integrity of the dam construction; and
- It is recommended that the proposed structure be certified by an appropriately qualified contractor or engineer.

It should be noted that the applicant has indicated that the dam is an 'off-stream' dam. However data available to the Shire confirms that the dam is in fact 'On-Stream'. This has not however significantly impacted on the risk rating, which still falls under a score of 15.

#### Submission

As indicated above DWER do not support the proposed dam. The following is a summary of the DWER comments:

- The proponent must demonstrate that the yield from the 'spring' is 50-65ML, which has not been done;
- The current dam up stream would satisfy the exemption and can be used by the proponent to gather information to support the proposal, using the overflow pipe to determine the volume of discharge;
- If the volume is larger than the volume of the dam, the dam could be enlarged to accommodate the additional volume;
- A riparian dam, not exceeding 8ML may be supported (including the volume of the two smaller dams;
- The Upper Lefroy Catchment is fully allocated and no new licenced water is available under the *Rights in Water and Irrigation Act 1914*.

While it is open for Council to grant conditional approval to the proposed dam, the approval to take and store water must be obtained from DWER. It is recommended that a condition be imposed requiring the approval of DWER prior to the commencement of any works on site.

#### Conclusion

The proposed dam has been assessed as moderate risk in accordance with the relevant policy. Given this and having regard to the size of the property

and intended purpose of the water storage, construction of the dam with a reduced side setback is supported and conditional approval is recommended.

The above said, the Department of Water and Environmental Regulation's prior approval is required to construct the dam within a water course and to take and store water as proposed.

**STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005.*

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

The required application fee has been paid in accordance with the Schedule of Fees and Charges adopted as part of the 2022/23 annual budget.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: The proposed dam will support the agricultural productivity on the subject 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 Dam at Lot 2716, 286 Seven Day Road, Deanmill (Application TP 203/2022) in accordance with the plans and specifications shown at Attachment: 9.5.4(1) subject to the following conditions and advice:

- 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
1.	Site Plan	24 November 2022
2.	Dam	24 November 2022
3.	Additional Information for dam Construction	24 November 2022

- 2) Prior to commencement of works associated with the dam hereby approved, the applicant shall obtain the approval of the Department of Water and Environmental Regulation in respect of

the rights to take and store water as proposed and to construct the proposed dam on a water course as proposed; and

- 3) All pumps and ancillary equipment and structures not part of this approval being setback from property boundaries in accordance with the requirements of Shire of Manjimup Local Planning Scheme No.4.

**Advice to Applicant:**

- a) The applicant/landowner is responsible for the structural integrity of the dam construction and it is recommended that the proposed structure be certified by an appropriately qualified contractor or engineer.
- b) Further to condition 2) above, the applicant is advised that Department of Water and Environmental Regulation data sets held by the Shire indicate that the dam is in fact located on a water course, and the Departments approval is required for the location;
- c) The Department of Water and Environmental Regulation have advised that prior to approval being granted, the applicant must demonstrate that the yield of water from the spring is 50-65ML before approval can be granted. It is strongly recommended that the applicant liaise with the Department over this matter.

**COUNCIL RESOLUTION:**

**MOVED: Skoss, K**

**SECONDED: Winfield, C**

**29054**

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 Dam at Lot 2716, 286 Seven Day Road, Deanmill (Application TP 203/2022) in accordance with the plans and specifications shown at Attachment: 9.5.4(1) subject to the following conditions and advice:

- 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
1.	Site Plan	24 November 2022
2.	Dam	24 November 2022
3.	Additional Information for dam Construction	24 November 2022

- 2) All pumps and ancillary equipment and structures not part of this approval being setback from property boundaries in accordance with the requirements of Shire of Manjimup Local Planning Scheme No.4.

**Advice to Applicant:**

- a) The applicant/landowner is responsible for the structural integrity of the dam construction and it is recommended that the proposed structure be certified by an appropriately qualified contractor or engineer.
- b) Further to condition 2) above, the applicant is advised that Department of Water and Environmental Regulation data sets held by the Shire indicate that the dam is in fact located on a water course, and the Departments approval is required for the location;
- c) The Department of Water and Environmental Regulation have advised that prior to approval being granted, the applicant must demonstrate that the yield of water from the spring is 50-65ML before approval can be granted. It is strongly recommended that the applicant liaise with the Department over this matter; and
- d) Prior to commencement of works associated with the dam hereby approved, the applicant shall obtain the approval of the Department of Water and Environmental Regulation in respect of the rights to take and store water as proposed and to construct the proposed dam on a water course as proposed.

**CARRIED: 11/0**

## ATTACHMENT

## 9.5.5 Delegated Planning Decisions for January 2023

<b>PROPONENT:</b>	Shire of Manjimup
<b>OWNER:</b>	Various
<b>LOCATION / ADDRESS:</b>	Various
<b>WARD:</b>	Various
<b>ZONE:</b>	Various
<b>DIRECTORATE:</b>	Development & Regulation
<b>FILE REFERENCE:</b>	F170085
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i> <i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Kaylee Blee
<b>DATE OF REPORT:</b>	16 February 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

In order to ensure the efficient and timely processing of planning related applications, Council delegates authority to the Chief Executive Officer to conditionally approve applications for Development Approval that meet the requirements of both Local Planning Scheme No. 4 (the Scheme) and adopted Planning Policy.

Delegated planning decisions are reported to Council on a monthly basis to ensure that Council has an appropriate level of oversight on the use of this delegation. A register of Delegated Development Approvals, detailing those decisions made under delegated authority in January 2023 is attached.

**ATTACHMENT: 9.5.5 (1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Where required applications were advertised in accordance with the Scheme and Council's adopted Local Planning Policy as detailed in the Policy/Strategic Implications section below.

**COMMENT (Includes Options):**

During January 2023, eight (8) development applications were determined under delegated authority. **Table 1** shows the number and value of development applications determined under both delegated authority and by Council for January 2023 compared to January 2022:

**Table 1: Planning Decisions Made January 2022 and 2023**

	January 2022	January 2023
<b>Delegated Decisions</b>	9 (\$636,855)	6 (\$81,500)
<b>Council Decisions</b>	7 (\$2,344,531)	2 (\$48,000)
<b>Total</b>	<b>16 (\$2,981,386)</b>	<b>8 (\$129,500)</b>

**Table 2** compares the Year-To-Date statistics for delegated authority and Council decisions for 2022-23 compared to the previous Financial Year:

**Table 2: Planning Decisions Made Year-To-Date 2021-22 and 2022-23**

	YTD 2021-22	YTD 2022-23
<b>Delegated Decisions</b>	59 (\$7,451,201)	77 (\$5,440,186)
<b>Council Decisions</b>	33 (\$6,679,281)	40 (\$5,162,774)
<b>Total</b>	<b>92 (\$14,130,482)</b>	<b>117 (\$10,602,960)</b>

**STATUTORY ENVIRONMENT:**

The Scheme is a Local Planning Scheme, made in accordance with the *Planning and Development Act 2005* and associated regulations. Part 8 of the Scheme states that prior planning approval is required for all developments (including proposed land use), except those developments identified within Part 8.4 as being Permitted Development.

In accordance with Part 11.3 of the Scheme, Council has delegated a number of planning powers to the Chief Executive Officer. These powers have been on-delegated by the Chief Executive Officer to other Shire Officers in accordance with clause 11.3.3 of Local Planning Scheme No 4.

Clause 11.3.5 of the Scheme requires that a delegation under the Scheme is consistent with sections 5.45 and 5.46 of the *Local Government Act 1995* and the regulations referred to in clause 5.46 of that Act. Regulation 19 of the *Local Government (Administration) Regulations 1996* requires that a written record of each delegated decision be kept.

**POLICY / STRATEGIC IMPLICATIONS:**

Applications for Development Approval must be assessed against requirements of the Scheme and Local Planning Policies that have been adopted in accordance with Part 2 of the Scheme. These Policies include Local Planning Policy LPS4 6.1.2 *Advertising of Planning Proposals*, which details the level and scope of advertising required for Applications for Development Approval.

Each application processed under delegated authority has been processed and advertised, where required, and has been determined to be consistent with the requirements of all adopted Local Planning Policies.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

The required planning fees have been paid for all applications for Development Approval processed under delegated authority.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receives the report on Delegated Development Approvals for January 2023 as per Attachment: 9.5.5 (1).**

**COUNCIL RESOLUTION:**

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

**29055**

**That Council receives the report on Delegated Development Approvals for January 2023 as per Attachment: 9.5.5 (1).**

**CARRIED: 11/0**

**ATTACHMENT****9.5.6 Retrospective Application for Netting Structure - Lot 272 (No 170) Chopping Street, Manjimup**

<b>PROPONENT</b>	Mr JJ Mair
<b>OWNER</b>	Mr & Mrs Clay (new owners)
<b>LOCATION / ADDRESS:</b>	Lot 272 (No 170) Chopping Street, Manjimup
<b>WARD:</b>	Central
<b>ZONE:</b>	General Agriculture
<b>DIRECTORATE:</b>	Development & Regulation
<b>FILE REFERENCE:</b>	DA22/202 & P56753
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i>
<b>AUTHOR:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	20 February 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The subject land is a 3.8647ha property located on the corner of Chopping Street and Walker Street in southern portion of the Manjimup townsite. The property contains a substantial outbuilding, water tank and the unauthorised netting structure. A location plan is shown below.



It was brought to the attention of Shire Officers that the applicant, then owner of the subject land, had erected a 40m by 35m netting structure over an existing orchard on the property without prior planning approval. As reflected on the submitted plans, the structure is approximately 3.8m high with metal fencing approximately 80cm high installed at ground level. Copies of the submitted plans are shown attached.

**ATTACHMENT: 9.5.6 (1)**

As reflected on the submitted plans, the structure has been installed with a setback of 5-8m from the southern boundary, being to Walker Street.

Council is requested to determine the proposal due to the retrospective nature of the application and the proposed relaxation of the normal setback requirements.

**PUBLIC CONSULTATION UNDERTAKEN:**

The proposal was referred to adjacent nearby owners and the Civil Aviation Authority for comment. No comments or objections were received in response to the advertising period.

**COMMENT (Includes Options):**

The provisions of Local Planning Scheme No 4 (the Scheme), include the subject land within the General Agriculture Zone. Within this zone, the following setbacks apply:

- Minimum Front Setback – 30 metres;
- Minimum Side Setback – 10 metres; and
- Minimum Rear Setbacks – 30 metres.

As setbacks of 5-8m are proposed, approval may only be granted through a relaxation of standards.

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

Matters to be Considered

In determining applications for development approval, clause 10.2 of the Scheme requires that Council 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;*
- (ii) *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;*
- (xv) *The preservation of the amenity of the locality; and*
- (xvi) *the relationship of the proposal on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.*

Relaxation of Standards

In accordance with clause 5.5 of the Scheme, the local government may approve an application for planning approval, despite the application not complying with the standard or requirement prescribed under the Scheme. However prior to relaxing a standard, the local government must be satisfied that:

- “i) approval of the proposed development would be 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 users of the development, the inhabitants of the locality or the likely future development of the locality."*

An Assessment of the potential impact on the amenity of the area is provided below.

#### Impact on Amenity

The property is located within the General Agriculture Zone and the proposal relates to an existing/small orchard which has been established in accordance with the zone objectives and requirements.

The proposed structure has been erected with a setback of 5-8m to the Walker Street boundary whereas a setback of 10m would normally be required. That said, as the majority of the structure consists of supporting poles and netting, it is considered that the visual impact is not significantly different to that which would have result if the structure had been constructed with a setback of 10m to the Walker Street boundary.

#### Special Control Area No 8 – Airstrip Obstacle Limitation

In addition to its zoning, the Scheme includes the land within Special Control Area No 8 relating to Airstrip Obstacle Limitation. Before determining an application in this area, the local government is required to refer any development application to the relevant authority. In this case, no submission was received.

As outlined by Part 6.3.3 of the Special Control Area provisions, all new developments will not be permitted unless the proposed height of the development has been considered. In this case, the now existing netting structure is below the maximum height of the existing outbuilding. Given this and the fact no objection was received, the application may be considered for approval.

#### Conclusion

The proposed structure is located within the General Agriculture Zone and relates to a rural pursuit being undertaken on the property, namely an orchard. In Officers opinion the proposal is consistent with the rural amenity of the area.

Although the proposed location does not comply with normal setback requirements for the zone, the proposed setback reduction of between 2 and 5 does not significantly increase the visual impact of the structure. Given this conditional approval is recommended.

#### **STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005.*

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

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

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

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil as the orchard is not of a commercial scale.

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 retrospective planning approval to the proposed Dam with a Reduced Setback of five (5) metres to the Walker Street boundary at Lot 272 (No 170) Chopping Street, Manjimup in accordance with the plans and specifications shown at Attachment: 9.5.6(1) and subject to the following conditions and advice:

- 1) The development permitted shall not be modified or extended unless otherwise approved by the Shire of Manjimup; and
- 2) The development hereby approved shall be maintained in good repair to the satisfaction of the Shire of Manjimup for the life of the development.

**COUNCIL RESOLUTION:**

**MOVED: Omodei, P                      SECONDED: Dawson Vidovich, S**

**29056**

That Council in accordance with Part 10 and Clause 5.5 of the Shire of Manjimup Local Planning Scheme No. 4 grant retrospective planning approval to the netting structure to the Walker Street boundary at Lot 272 (No 170) Chopping Street, Manjimup in accordance with the plans and specifications shown at Attachment: 9.5.6(1) and subject to the following conditions and advice:

- 1) The development permitted shall not be modified or extended unless otherwise approved by the Shire of Manjimup; and
- 2) The development hereby approved shall be maintained in good repair to the satisfaction of the Shire of Manjimup for the life of the development.

**CARRIED: 11/0**

## ATTACHMENT

## 9.9.1 Proposed Approval of Manjimup Farmers Market Activities

<b>PROPONENT:</b>	Shire of Manjimup
<b>OWNER:</b>	Crown Reserve
<b>LOCATION / ADDRESS:</b>	Reserve 47284; Lot 874, 71-83 Mottram Street, Manjimup.
<b>WARD:</b>	Central
<b>ZONE:</b>	Municipal, Tourist and Community
<b>DIRECTORATE:</b>	Community
<b>FILE REFERENCE:</b>	F190365
<b>LEGISLATION:</b>	<i>Local Government Act (1998)</i> <i>Land Administration Act (1997)</i>
<b>AUTHOR:</b>	Gail Ipsen Cutts
<b>DATE OF REPORT:</b>	2 November 2022
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The Manjimup Farmers Market (MFM) was started by a group of dedicated farmers in 2003 who wanted to showcase the variety and abundance of produce grown in the area to visitors, and also to offer members of the public access to fresh local produce.

Manjimup Farmers Market Committee (MFMC) relocated to the current location in Manjin Park, by invitation of the Shire of Manjimup in 2011, with the marquee being secured by the Shire through a Federal Stimulus Grant. The MFM commenced as a monthly market held on the third Saturday of each month. The Marquee was to be made available to other users all other times.

**Location Plan**

Around 2013 the Markets became bimonthly and in October 2021 markets became weekly held every Saturday morning and on some additional public holidays and evenings. The latter shift to weekly has not been authorised by the Shire of Manjimup and the implications for all previous approvals, whether formal or informal, for associated matters such as: signage, thoroughfare closures, dump points, and stall holder commerciality now need to be revisited.

In March 2022 the MFM submitted a Community Grant requested \$5,000 for a structural report for the existing structure which triggered an extensive discussion by Council.

The Shire of Manjimup regards farmers markets as an important asset, however with the escalation of market regularity and associated implications Council deemed it necessary to firstly hold a Councillor workshop on the 16 June 2022, followed by a request to the Chief Executive Officer to open dialogue with the MFMC to discuss matters raised. Matters to be discussed included: market regularity; equity with CBD traders, prohibiting visitor access to services; thoroughfare closure every Saturday morning, craft versus limited farm produce/product, size is too small, and venue does not allow for expansion (alternative venues); signage no longer being deemed as temporary; fees and charges and approvals; and tourism benefit as markets are an attraction.

A meeting was held between the MFMC and Shire Officers on the 7 October 2022. Officers reported back to Council on the 17 November 2022 and Council subsequently requested that the MFMC and the Manjimup Chamber of Commerce both be given the opportunity to put their case forward. On 19 January 2023 the MFMC presented at the Councillor Information Briefing Session and the Chamber of Commerce declined to present noting that their members have no concerns with the weekly Saturday trading of the MFM.

The purpose of this agenda is to report back to Council in regard to the matters raised and to seek direction on matters pertaining to the MFM weekly Saturday trading and associated activities.

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

Nil.

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

##### Farmers Market Overview

The MFM are affiliated with the Australian Farmers Markets Association (AFMA) and WA Farmers Market association. The AFMA have the following definition on their website:

“A Farmers’ Market is a predominantly fresh food market that operates regularly within a community, at a focal public location that provides a suitable environment for farmers and specialty food producers to sell farm-origin and

associated value-added specialty foods for human consumption, and plant products, directly to customers". (<https://farmersmarkets.org.au/definitions/> )

"Best practice farmers' markets are food markets where the stallholders are the farmers, their families or farm staff. Resellers are not permitted. The emphasis is placed on farm-direct and artisan-made food sales. Plants, seeds, flowers, worm farms, compost, fodder and small livestock like poultry are also included, but craft items are typically excluded".  
(<https://farmersmarkets.org.au/definitions/> )

Further to the above however each affiliated farmers market has the right to develop their own Charter and Rules that must generally align with the AFMA. The MFMC Charter outlines the following:

#### Manjimup Farmers Market Mission:

The purpose of the MFM is to help producers and processors to sell their fresh produce direct to the public, near their source of origin, creating benefits to both the growers and the local community. Stall holders must have grown, bred, caught, pickled, brewed, smoked or baked the goods themselves or made or created their art or craft. The selection of produce available at the Farmers' Market will vary with the season.

#### Manjimup Farmers Market Objectives:

1. Provide a focus for, and act as facilitator in the promotion of producers of the Southern Forest region resulting in growth, development and promotion of regional produce.
2. Provide growers with the opportunity to network and develop their skills, and, through direct contact with their customers, gain greater knowledge of customer requirements.
3. Regularly provide a variety of local and quality fresh produce of an affordable nature to the residents of and visitors to, the Southern Forest region.
4. Provide an atmosphere that builds on our sense of community.
5. Provide an opportunity for the consumer to purchase directly from the producer.
6. Provide a place where people can shop in a friendly relaxed atmosphere.

#### Matter Raised

##### Location and Operations

MFM held at Manjin Park Marquee – a key impetus for the Shire to purchase the marquee was to create a home base for the MFM in Manjin Park.

In 2011, at the time of installation the MFM operated monthly. Since October 2021 they have operated weekly each Saturday morning 8am – 1pm.

The MFMC have made it clear that they have no desire or capacity to relocate the MFM to an alternative location. The easy access, on site storage, visible location (to passing traffic) and long vehicle parking meets the needs of the ageing volunteers, stallholders and visitors.

The MFMC have advised that their intention is not to expand the size of the markets but to build the market to its optimal capacity and achieve a consistent 'farmer/produce based' percentage in the current location.

#### Signage

As a monthly and fortnightly Saturday market, the MFM erected a temporary banner in the approved temporary event banner frame in the Main Roads Western Australia (MRWA) road reserve adjoining Manjin Park. As a weekly market this 'temporary' banner had effectively become a permanent sign, which is not permissible. The MFMC have now rectified this situation and the temporary banner is erected on the Thursday preceding each MFM and removed the Saturday afternoon.

Further to the above there are 4 temporary event banner frames in Manjimup. Banner frame allocation is guided by *Policy 3.1.5 Temporary Event Banners on Fixed Banner Frames*. Approval to display event banners is subject to application and demand. Officers endeavour to equitably allocate banner frame time to each applicant however it should be noted that the Manjin Park banner frame is not just for the MFM and as such from time to time it may not be available for MFM promotion.

In addition, the MFM display; 2 x feather banners (1 in Coronation Park and one in MRWA road reserve), 1 small corflute A frame sign (no caravan and MFM opening times) and information sign on the direction signpost on Mottram Street were being installed during each MFM. The MFMC have been advised that signage may not be installed within the MRWA road reserve adjoining Manjin Park.

The MFMC have requested approval for the following signage, in addition to the temporary event banner sign, within Shire managed reserve as delineated within the attached plan. All signage is to be installed just prior to the opening of the markets and removed immediately after.

#### **ATTACHMENT: 9.9.1(1)**

- 2 feather banners installed within Coronation Park. One near the war memorial and one to the northern end;
- 1 feather banner on the northern end entry into Manjin Park;
- 1 small A frame corflute sign with no caravan information and market times on northern entry to Manjin Park (to be used with large markets when thoroughfare is required to be closed) ;
- 1 small A frame corflute sign with market opening times on northern entry to Manjin Park (to be used for general markets; and
- 2 event ahead signs installed at the northern and southern entries to Manjin Park.

#### Thoroughfare Closure

As a monthly market the Shire had given approval to close the thoroughfare and supplied witches hats to facilitate this. The escalation to weekly Saturday markets and the installation of the dump point over recent years has caused

some concern in regard to the dump point being inaccessible to Recreational Vehicles (RV's) between 7.30 and 1.00pm every Saturday. Councillors further raised the concern that with the small size of many markets this closure and inconvenience to RV's seemed unnecessary.

The MFMC have confirmed that they have already commenced the practice of leaving the thoroughfare open for smaller regular markets, when market size exceeds the footprint capacity of the sealed market area, will require the thoroughfare to be closed.

If Council endorse weekly Saturday MFM, without conditioning thoroughfare closure, then the RV Dump point will remain inaccessible every Saturday 7.30am and 1pm. Council could approve the weekly Saturday markets but not the weekly road closure and advise that the thoroughfare must be maintained, with exceptions for the bigger known MFM events that occur throughout the year.

Furthermore, Council should note that if the Saturday markets grow to the envisaged regular capacity market size, then the thoroughfare and dump point access could potentially be closed each Saturday between 7.30am and 1.00pm.

#### Marketing and Expectation

Concerns had been raised in regard to the MFM website misleading visitor expectation which can lead to disappointment, negative feedback and reputational damage. The MFMC have advised that they are in the process of reviewing the information provided to better manage visitor expectation.

#### Commercial Inequity

The MFMC are an incorporated not for profit entity who apply for an annual Overarching Traders Permit, from the Shire of Manjimup.

Councillors raised concerns that weekly trading starts to blur the lines between commercial equity with businesses in the Commercial Business District who pay for their own utility costs and property fees. However, since the initial concern was raised the Manjimup Chamber of Commerce have advised that they have no concern with the MFM trading weekly.

#### Farmer Market Authenticity

As per the MFM Charter whilst there is a focus on fresh local produce/product and value adding to this the charter does include any *stall holders who must have grown, bred, caught, pickled, brewed, smoked or baked the goods themselves or made or created their art or craft.*

Data for the past 12 months, as attached, does illustrate that the traditional farmers market stallholder consistently exceeds other stall holder types.

#### **ATTACHMENT: 9.9.1 (2)**

A condition of the Overarching Traders Permit will be compliance with the outlined MFM Charter. This should eliminate stallholders selling second-hand

goods or items manufactured or produced external to the Southern Forest region.

#### Marquee Infrastructure

The marquee was installed in 2011 and is now 12 years old. As one would expect the cover material has begun to deteriorate with a number of small holes and extensive mildew staining. Whilst the cover does not pose a health risk it is becoming increasingly unsightly and the ability to clean it reduced due to the risk of increasing the holes in the fabric.

The MFMC are seeking Council endorsement to investigate options and funding for the replacement of the marquee cover.

#### Conclusion

Farmers markets in general are a quintessential characteristic of rural and regional communities adding vibrancy and depth to a community's character and offer a creative and social opportunity for community network and pride.

Farmers Markets, flea markets, car boot sales and craft markets are part and parcel of rural and regional life and offer an interesting opportunity for visitors to engage in community life, meet the producers, connect to the region and as such are increasingly recognised for their contribution to the visitor experience.

Upon reviewing the information and practices that are occurring it appears that many activities such as the closing of the thoroughfare, using witches' hats, using the event banner frame, storage, fees and charges etc have all been discussed and supported at some stage by various Shire Officers. The issues that have now arisen appear to be as a result of permissions given or agreements made within a monthly market context now being applied to a weekly Saturday market. It is now timely that the aforementioned matters be reviewed, and clear direction provided to the MFMC.

The MFMC have belatedly submitted an Overarching Traders Permit for a weekly Saturday MFM, this has not been processed and is awaiting Council direction. It is the Officers recommendation that the weekly Saturday markets be approved subject to annual compliance with trading, signage and thoroughfare conditions outlined. Further it is recommended that Council endorse the MFMC request to investigate options to replace and fund a new cover for the marquee.

#### **STATUTORY ENVIRONMENT:**

Manjin Park and Coronation Park are reserves vested with the Shire of Manjimup for their care, control and management.

*Local Government Act 1995 s.3.54 (1)* If land reserved under the *Land Administration Act 1997 s.46* is vested in or placed under the control and management of a local government, the local government may do anything for the purpose of controlling and managing that land that it could do under section 5 of the *Parks and Reserves Act 1895* '.

**POLICY / STRATEGIC IMPLICATIONS:**

*Policy 3.1.5 Temporary Event Banners on Fixed Banner Frames* guides Officers in allocating Banner Frames equitably to events, upon application.

Shire of Manjimup Strategic Community Plan 2021 – 2031:

2. Our Prosperity - Community Goal;

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

B4. Support sustainable agricultural expansion, value-adding and downstream processing, research and development, culinary and agritourism, land protections, and continued support for the Southern Forests Food Council;

B6. Encourage sustainable forest and timber industries, such as eco and adventure tourism, forest and fire management, craft wood, farmed timber and agroforestry;

B14. Encourage and support quality Southern Forests visitor servicing and marketing; and

B16. Support services and infrastructure to encourage caravan and RV tourism.

3. Our Community – Community Goals;

3.7 Our community is vibrant, dynamic and fun because we have access to a broad range of art, cultural, social and recreational opportunities; and

3.8 Diversity, inclusivity and harmony are the foundations of our strong community spirit and we celebrate and honour our diverse cultures, heritage and lifestyles:

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

C19. Support public events to ensure they are successful and safe; and

C20. Facilitate, develop and promote a broad range of cultural and art capabilities, facilities, events and achievements.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

There are no financial implications as a result of recommendations contained within this report. From time to time the MFMC may seek funding support from Council by way of community grants or as part of the annual budget process.

Endorsing the investigation, by the MFMC, to replace the current marquee cover could possibly lead to a request to Council to assist in funding the replacement cover. Any such request would be the subject of a further Agenda item to Council.

**SUSTAINABILITY:**

Environmental: Fresh produce purchased at farmers markets limits the carbon footprint of produce and minimises packaging waste.

Economic: Farmers markets provide an outlet for the sale of local produce and add to the value proposition for visitors to the region. Importantly they help narrate a regions story and build brand and character.

Social: Farmers markets add vibrancy and depth to a community's character and offer a creative and social opportunity for community networking and pride.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

1. **Acknowledge the value that the Manjimup Farmers Market bring to the community and visitor experience;**
2. **Advise the Manjimup Farmers Market Committee that the weekly Saturday market is approved subject to:**
  - a) **An Overarching Traders Permit application submitted annually and compliance with conditions outlined within the approved permit;**
  - b) **Stall holders having grown, bred, caught, pickled, brewed, smoked or baked the goods themselves or made or created their art or craft;**
3. **Grant approval to close the thoroughfare and dump point access only when stallholder numbers exceed the capacity of the marquee and concrete skirt footprint;**
4. **Advise that signage to be displayed in Main Roads Western Australia road reserve adjoining Manjin Park be limited to the approved banner frame only as follows:**
  - a) **Temporary Event Banner to be displayed Thursday to Saturday each week when approved;**
  - b) **Note that the Manjin Park Temporary Event Banner Frame may be allocated to other events in accordance with Policy 3.1.5 Temporary Event Banners on Fixed Banner Frames;**
5. **Advise that the following signage may be displayed during the Manjimup Farmers Market each Saturday, within Shire managed reserve only, as identified in attachment: 9.9.1(1), as follows:**
  - a) **Feather banners (3 total) in Coronation Park and Manjin Park;**
  - b) **No Caravan and market opening time corflute A frame sign located in the northern entrance of Manjin Park, only to be displayed when markets require thoroughfare closure due to market size;**

- c) Market opening time corflute A frame sign located in the northern entrance of Manjin Park for regular smaller markets;
  - d) Event ahead signs (total 2) to be placed north and south of the thoroughfare in Manjin Park to assist in the reduction of traffic speed; and
6. Endorse the Manjimup Farmers Market Committee to investigate options for and funding to replace the marquee cover.

#### **COUNCIL RESOLUTION:**

**MOVED:** Taylor, R

**SECONDED:** Dawson Vidovich, S

**29057**

**That Council:**

1. Acknowledge the value that the Manjimup Farmers Market bring to the community and visitor experience;
2. Advise the Manjimup Farmers Market Committee that the weekly Saturday market is approved subject to:
  - a) An Overarching Traders Permit application submitted annually and compliance with conditions outlined within the approved permit;
  - b) Stall holders having grown, bred, caught, pickled, brewed, smoked or baked the goods themselves or made or created their art or craft;
3. Grant approval to close the thoroughfare and dump point access only when stallholder numbers exceed the capacity of the marquee and concrete skirt footprint;
4. Advise that signage to be displayed in Main Roads Western Australia road reserve adjoining Manjin Park be limited to the approved banner frame only as follows:
  - a) Temporary Event Banner to be displayed Thursday to Saturday each week when approved;
  - b) Note that the Manjin Park Temporary Event Banner Frame may be allocated to other events in accordance with Policy 3.1.5 Temporary Event Banners on Fixed Banner Frames;
5. Advise that the following signage may be displayed during the Manjimup Farmers Market each Saturday, within Shire managed reserve only, as identified in attachment: 9.9.1(1), as follows:
  - a) Feather banners (3 total) in Coronation Park and Manjin Park;
  - b) No Caravan and market opening time corflute A frame sign located in the northern entrance of Manjin Park, only to be displayed when markets require thoroughfare closure due

to market size;

- c) Market opening time corflute A frame sign located in the northern entrance of Manjin Park for regular smaller markets;
  - d) Event ahead signs (total 2) to be placed north and south of the thoroughfare in Manjin Park to assist in the reduction of traffic speed; and
6. Endorse the Manjimup Farmers Market Committee to investigate options for and funding to replace the marquee cover.

**CARRIED: 11/0**

**ATTACHMENT****9.13.1 Award of Tender RFT 06/22 Supply of Gravel Manjimup and Surrounds**

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	Shire of Manjimup
<b>WARD:</b>	NA
<b>ZONE:</b>	NA
<b>DIRECTORATE:</b>	Works and Services
<b>FILE REFERENCE:</b>	F220212
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Michael Leers
<b>DATE OF REPORT:</b>	3 February 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

As a major component of the 2022/23 and expected 2023/24 Infrastructure Budget Capital Works Program, the Shire expects to purchase in excess of \$250,000 worth of gravel for upgrade and renewal of its sealed roads throughout the Shire. In order to secure fixed prices and to be compliant with regulatory procedure, a Request for Tender (RFT) was advertised for the supply of gravel for use in the Manjimup and surrounding areas. The RFT is seeking to appoint a panel of two to five suppliers for a two year period.

The purpose of this report is to present the results of the assessment of the RFT 06/22 Supply of Gravel Manjimup and Surrounds for Council's consideration.

**PUBLIC CONSULTATION UNDERTAKEN:**

Public advertising of the RFT was in the form of an advertisement in the West Australian Newspaper on 18 January 2023, in the Manjimup Bridgetown Times on 18 January 2023 and advertising on the Shire of Manjimup website from 18 January 2023, with the request for tender process closing 16 February 2023.

**COMMENT (Includes Options):**

Four (4) prospective tenderers downloaded documents from the Shire's website with a total of two (2) Tenders received by the specified closing time.

The Tender Evaluation Panel, comprising three Shire Officers, undertook to independently assess the Tenders received using an assessment matrix which considered Compliance Criteria and Qualitative Criteria as specified in the RFT. The matrix presented yes or no questions for Compliance Criteria and used a scoring method to assess the Qualitative Criteria.

The averaged evaluation assessment from the three (3) evaluators can be found in the attachment with a summary of the assessments shown below.

**ATTACHMENT: 9.13.1 (1)**

	<b>Weighted Score for Supply of Type 1 Gravel</b>					
	<b>(a) 20% Material Suitability</b>	<b>(b) 20% Extraction Permit</b>	<b>(c) 10% Material Availability</b>	<b>(c) 50% Price</b>	<b>Total Score</b>	<b>Ranking</b>
<b>Dronow Contracting</b>	12.3	13.3	7.0	19.9	52.5	2
<b>Catalano Pty Ltd</b>	13.5	13.3	6.0	30.1	62.9	1

The matrix referenced the terms and assessment criteria of the RFT document. In particular, the criteria for a current permit for gravel extraction and the Tenderer's ability to deliver suitable material identified as Type 1 material for use on road reconstruction. The assessment also scored the Tenderers 'Material Availability' which considered suitable access to the gravel source for Shire vehicles and is located such that it best suits the Shires needs. The specifications were appended to the RFT 06/22.

Both Tenders received were generally of good quality, providing all the information as required. The RFT requested that Tenderer's have a current extraction permit for the supply of gravel and that this was a component of the weighted selection criteria. The Shire can only purchase material from a permitted source. Both Tenders conformed to this request.

Both Tenderers are suitable for appointment given their located gravel source and their ability to supply material requested as specified in the RFT – gravel test results and proof of extraction permit at time of gravel purchase.

It is recommended that Council appoint both Tenderers to the panel, with the purchase of gravel being distributed so that it is most advantageous to the Shire in terms of location, availability and cost of material.

#### **STATUTORY ENVIRONMENT:**

The *Local Government Act 1995* and *Local Government (Functions and General) Regulations 1996* detail the Tender requirements for Local Government procurement of goods or services.

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

Tender assessment was undertaken applying the Council's Corporate Policy 2.3.8 Regional Price Preference, when applicable. The purchase of gravel and the Tender process is in accordance with the Council's Corporate Tendering Policy 2.3.6.

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

There is a high likelihood of severe consequence to the Shire if fixed rates for gravel supply are not secured.

#### **FINANCIAL IMPLICATIONS:**

Nil, as purchase of material will be in accordance with Council approved 2022/23 Budget.

**SUSTAINABILITY:**

Environmental: Effective use of raw materials for road construction purposes allows for a safe and useable road network.

Economic: Cost efficient supply of road construction materials enables for economical delivery of the Shire's Works Program.

Social: A safe and useable road network helps create good social and business connections.

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

**That Council award Tender RFT 06/22 Supply of Gravel Manjimup and Surrounds to:**

- a) Dronow Contracting for supply of Type 1 gravel at a cost of \$20.60 (ex GST) per tonne and supply and load Type 1 gravel at a cost of \$20.60 (ex GST) per tonne; and**
- b) Catalano Pty Ltd for supply of Type 1 gravel at a cost of \$13.90 (ex GST) per tonne and supply and load Type 1 gravel at a cost of \$15.60 (ex GST) per tonne.**

**COUNCIL RESOLUTION:**

**MOVED: Ventris, M                      SECONDED: Jenkins, D**

**29058**

**That Council award Tender RFT 06/22 Supply of Gravel Manjimup and Surrounds to:**

- a) Dronow Contracting for supply of Type 1 gravel at a cost of \$20.60 (ex GST) per tonne and supply and load Type 1 gravel at a cost of \$20.60 (ex GST) per tonne; and**
- b) Catalano Pty Ltd for supply of Type 1 gravel at a cost of \$13.90 (ex GST) per tonne and supply and load Type 1 gravel at a cost of \$15.60 (ex GST) per tonne.**

**CARRIED: 11/0**

## ATTACHMENT APPENDIX

### 9.16.1 Unconfirmed Minutes of the Access & Inclusion Advisory Committee Meeting held 2 February 2023

<b>PROPONENT:</b>	Shire of Manjimup
<b>OWNER:</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	Whole of Shire
<b>WARD:</b>	Whole of Shire
<b>ZONE:</b>	All
<b>DIRECTORATE:</b>	Community Services
<b>FILE REFERENCE:</b>	F170381
<b>LEGISLATION:</b>	<i>Disability Services Act 1993</i> <i>Commonwealth Disability Discrimination Act 1992</i> <i>Equal Opportunity Act WA 1998</i> <i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Shammara Markotis
<b>DATE OF REPORT:</b>	6 February 2023
<b>DECLARATION OF INTEREST:</b>	Nil

#### BACKGROUND:

The Access and Inclusion Advisory Committee (AIAC) is an Advisory Committee of Council, formed in accordance with Part 5 of the *Local Government Act 1995*.

The functions of the Committee are to:

- Promote the benefits of access and inclusion to the residents and businesses of the Shire of Manjimup;
- Be available to provide relevant advice on the development of proposals or plans for any activity, building or infrastructure within the Shire;
- Support and encourage partnership networks of local organisations that are best placed to collectively plan and coordinate strategies to address the needs of our local disability communities;
- Make recommendations to Council on matters arising not clearly dealt with by the Shire of Manjimup's Access and Inclusion Plan; and
- Monitor and review the Access and Inclusion Plan.

The current Committee's Terms of Reference are appended.

**APPENDIX: 9.16.1 (A)**

The purpose of this report is to present the unconfirmed Minutes and Action Items of the AIAC meeting held 2 February 2023, as attached for Council consideration.

**ATTACHMENT: 9.16.1(1)**

**ATTACHMENT: 9.16.1(2)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

There are 5 recommendations relating to representation on the AIAC that require a decision of Council.

Ross Davidson is on leave for 12 months from his role as Principal of the Manjimup Education Support Centre. His replacement, Chris Smith, attended the meeting as a guest and indicated a desire to join the committee for his contract period.

Furthermore, There With Care Support Solutions have ceased operations within Manjimup meaning that Amy Rudd will no longer be attending the AIAC meetings. Jasmine Stocks from APM (Local Area Coordinator - disability employment service) attended the meeting as a guest and wishes to join the committee.

Warren Country Health Service (WACHS) have indicated that Tyler Della Franca would like to take on the currently vacant WACHS (proxy) representative position on the committee.

<b>Committee Recommendation</b>	<b>Officer Recommendation</b>
That Council accept the resignation of Ross Davidson from the committee.	As per committee recommendation.
That Council endorse the nomination of Chris Smith in the Disability Support Services (Principal Manjimup Education Support Centre) representative position.	As per committee recommendation.
That Council accept the resignation of Amy Rudd from the committee.	As per committee recommendation
That Council endorse the nomination of Jasmine Stocks from APM in the Disability Support Services vacant representative position.	Not supported. Jasmine Stocks has advised by email that she has resigned from APM.
That Council endorse the nomination of Tyler Della Franca in the WA Country Health Service (proxy) representative position.	As per committee recommendation.

The proposed updated Terms of Reference are attached.

**ATTACHMENT: 9.16.1 (3)**

**STATUTORY ENVIRONMENT:**

- *Disability Services Act 1993*
- *Commonwealth Disability Discrimination Act 1992*
- *Equal Opportunity Act Western Australia 1998*
- *Local Government Act 1995*

**POLICY / STRATEGIC IMPLICATIONS:**

- *Shire of Manjimup Access and Inclusion Plan 2018-2023*
- *Shire of Manjimup Access and Inclusion Policy 3.8.1*

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

Nil.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Accessible and inclusive communities and visitor experiences have the potential to add to the visitor economy.

Social: The Shire of Manjimup is committed to ensuring that the community is an accessible and inclusive community for people with disability, their families and carers.

**VOTING REQUIREMENTS:**

**ABSOLUTE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

1. Receive the unconfirmed Minutes and Action Items of the Access and Inclusion Advisory Committee meeting held 2 February 2023 as shown in Attachment 9.16.1(1) and Attachment 9.16.1(2).
2. Accept the resignation Ross Davidson as the Disability Support Services representative (Principal Manjimup Education Support Centre);
3. Accept the nomination of Chris Smith as the Disability Support Services representative (Principal Manjimup Education Support Centre);
4. Accept the resignation of Amy Rudd as the Disability Support Services representative (There With Care Support Solutions);
5. Not endorse the nomination of Jasmine Stocks as the Disability Support Services representative (APM) as the nominee has withdrawn the nomination due to her resignation from APM;
6. Accept the nomination of Tyler Della Franca as the Warren Country Health Service (proxy) representative; and

7. Adopt the amended Terms of Reference of the Access & Inclusion Advisory Committee as per Attachment 9.16.1(3).

**COUNCIL RESOLUTION:**

**MOVED: Skoss, K**

**SECONDED: Dawson Vidovich, S**

**29059**

**That Council:**

1. Receive the unconfirmed Minutes and Action Items of the Access and Inclusion Advisory Committee meeting held 2 February 2023 as shown in Attachment 9.16.1(1) and Attachment 9.16.1(2).
2. Accept the resignation Ross Davidson as the Disability Support Services representative (Principal Manjimup Education Support Centre);
3. Accept the nomination of Chris Smith as the Disability Support Services representative (Principal Manjimup Education Support Centre);
4. Accept the resignation of Amy Rudd as the Disability Support Services representative (There With Care Support Solutions);
5. Not endorse the nomination of Jasmine Stocks as the Disability Support Services representative (APM) as the nominee has withdrawn the nomination due to her resignation from APM;
6. Accept the nomination of Tyler Della Franca as the Warren Country Health Service (proxy) representative; and
7. Adopt the amended Terms of Reference of the Access & Inclusion Advisory Committee as per Attachment 9.16.1(3).

**CARRIED: 11/0**

**ATTACHMENT****9.16.2 Unconfirmed Minutes of the Pemberton Town Activation Committee Meeting Held 7 February 2023**

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	Pemberton
<b>WARD:</b>	West
<b>ZONE:</b>	NA
<b>DIRECTORATE:</b>	Works and Services
<b>FILE REFERENCE:</b>	F170456
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Michael Leers
<b>DATE OF REPORT:</b>	16 February 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The Pemberton Town Activation Advisory Committee is an Advisory Committee of Council, formed in accordance with Part 5 of the *Local Government Act 1995*. The functions of the committee are:

- Identification of opportunities for space activation within the main street or adjacent open space;
- Liaison with other relevant community groups and / or service agencies over potential art or cultural projects; and
- Assisting Shire of Manjimup Officers in drafting design guidelines to guide future developments within the Town Centre precinct.

The purpose of this report is to accept the unconfirmed minutes of the Pemberton Town Activation Committee meeting held on 7 February 2023. A copy of the minutes is attached.

**ATTACHMENT: 9.16.2(1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

As reflected in the unconfirmed minutes, there are two committee recommendations, with only one recommendation requiring a Council resolution.

<b>Committee Recommendation</b>	<b>Officers Comment</b>
That the Pemberton Town Activation Advisory Committee support Pemberton Arts Group as the lead agency of this mural project and the Pemberton Arts Group will liaise with local businesses where murals are to be installed, consult with the	Supported and dealt with administratively and as part of the Committee's normal function.

Community with regards to the theme of the artwork, set design parameters for the project, investigate potential artists, all for review and consideration by this Committee	
That the Pemberton Town Activation Advisory Committee approve the Brockman Street Park Masterplan and request Council to consider approving funds for the project as part of its 2023/24 budget deliberations.	Officers support the Committee's recommendation in principle. However, Officers recommend that Council consider staging its commitments to the project so as to allow Council to more easily fund any financial contribution required.

The Pemberton Town Activation Advisory Committee have been working on finalising a Masterplan for the Pemberton Town Park and its playground for some two years. At this meeting the Committee was able to consider and approve the final Masterplan. The Masterplan is attached below.

**ATTACHMENT: 9.16.2(2)**

The estimated cost for the entire project is \$2,000,000. Through much of the time the Committee has been considering the Masterplan designs, it has had the intention of staging the project given the expected costs and also being cognizant of Council's ability to meet any grant funding contribution requirements. Further to this, the Committee also considered the assistance from volunteers and donated materials for construction in order to reduce costs. At this meeting, the Committee discussed the prioritisation of Stage 1 of the Masterplan because of the accessibility and inclusion components in and around the playground. Stage 1 of the Masterplan is mostly focused on the playground equipment and associated landscaping works, but also includes some 500 square metres of accessible path works, ACROD parking and park furniture such a seating. The estimated cost of Stage 1 of the Pemberton Town Park Masterplan is \$500,000.

As part of the recommendations to Council in this report, Council is requested to consider approving a budget allocation that can be used towards securing grant funding that will finance the construction of Stage 1 of the Pemberton Town Park Masterplan.

**STATUTORY ENVIRONMENT:**

*Local Government Act 1995.*

**POLICY / STRATEGIC IMPLICATIONS:**

Revitalisation of the Pemberton Town Centre will ensure that the town is accessible, attractive and inviting, whilst maintaining its unique character, consistent with Community Goal 4.4 as identified in the Shire's Strategic Community Plan 2021-2031.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

Though there is no financial implication for the 2022/23 Budget, Council is requested to consider providing an allocation for the project as part of Council's 2023/24 Budget deliberations. To assist Council with its decision, it should be noted that many of the grant funding providers that are likely to support this project will require 25% to 50% Shire contribution.

The Pemberton Town Park Playground has been identified for renewal in 2021/22 as part of the Council approved 2021/22 – 2036/37 Forward Capital Works Plan.

**SUSTAINABILITY:**

Environmental: The Committee aims to assist the Shire guide future developments in the town.

Economic: By addressing opportunities for space activation within the town centre, local businesses will benefit.

Social: The Terms of Reference for this committee pay particular attention to encouraging a cohesive social fabric.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

- 1. Receive the unconfirmed minutes of the Pemberton Town Activation Committee meeting held on 7 February 2023 as attached: 9.16.2(1); and**
- 2. Consider approving funds for Stage 1 of the Pemberton Town Park Masterplan as part of Council's 2023/24 budget deliberations.**

**COUNCIL RESOLUTION:**

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

**29060**

**That Council:**

- 1. Receive the unconfirmed minutes of the Pemberton Town Activation Committee meeting held on 7 February 2023 as attached: 9.16.2(1); and**
- 2. Consider approving funds for Stage 1 of the Pemberton Town Park Masterplan as part of Council's 2023/24 budget deliberations.**

**CARRIED: 11/0**

## 10. LATE REPORTS

Director Development and Regulation, Brian Robinson declared a Financial Interest in this Item as the Chief Executive Officer has recommended appointing me to Acting Chief Executive Officer, which would lead to my receiving financial benefit. Mr Robinson did not speak in the matter and left the Chamber at 6.11pm.

### ATTACHMENT

#### L.1 Resignation of Chief Executive Officer and Pathway for the Recruitment of a New Chief Executive Officer

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	N/A
<b>LOCATION / ADDRESS:</b>	N/A
<b>WARD:</b>	N/A
<b>ZONE:</b>	N/A
<b>DIRECTORATE:</b>	Office of the CEO
<b>FILE REFERENCE:</b>	F230040
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Andrew Campbell
<b>DATE OF REPORT:</b>	24 February 2023
<b>DECLARATION OF INTEREST:</b>	The author of this report is the existing Chief Executive Officer

#### BACKGROUND:

On Friday 24 February 2023 the Chief Executive Officer provided a notice of resignation to the Shire President in accordance with Clause 11.4(1) of his employment contract with the Shire of Manjimup.

Termination at will by the Chief Executive Officer under this Clause requires a three month notice period. The Chief Executive Officer has advised the Shire President of the proposal to work until the 17 March 2023 and then take the remaining three month notice period as accrued leave. The Chief Executive Officers' final day of employment is 18 May 2023.

The purpose of this report is for Council to consider the appointment of an Acting Chief Executive Officer during the period of leave of the Chief Executive Officer and to chart the pathway for Council's recruitment of a new Chief Executive Officer.

#### PUBLIC CONSULTATION UNDERTAKEN:

Nil.

#### COMMENT (Includes Options):

In accordance with Council Policy 2.1.3 *Appointment of Acting Chief Executive Officer and Senior Managers* Council is to appoint an Acting Chief

Executive Officer for any scheduled absence of the Chief Executive Officer that is more than four weeks in duration.

Whilst the Chief Executive Officer has rotated the Acting Chief Executive Officer role through each of the Shire of Manjimup's Directors under delegation in past years, it is considered in this instance that the Director of Development and Regulation, Mr Brian Robinson is best placed to be the Acting Chief Executive Officer for the period 20 March 2023 to 18 May 2023. After this time the Chief Executive Officer recruitment process is expected to be well underway and Council will be able to make further decisions on the Acting Chief Executive position until the Chief Executive Officer position is filled.

The process of appointing a Chief Executive Officer has changed significantly in recent times due to the Local Government reform process. The Chief Executive Officer Review Advisory Committee and Council Policy 1.2.12 *Chief Executive Officer Selection Panel* provide current guidance to the recruitment of a Chief Executive Officer. Councillors Omodei, Dawson Vidovich, Taylor, Skoss and Ventris are current members of the Chief Executive Officer Review Advisory Committee. The Terms of Reference for the Committee and the Policy document are provided for reference.

**ATTACHMENT: L.1(1)**

**ATTACHMENT: L.1(2)**

Council will need to determine whether to use a recruitment consultant, and who the "independent" person will be on the Chief Executive Officer Selection Panel in addition to a range of matters specifically related to the Chief Executive Officer position such as the job description. The correct mechanism to determine these matters is via the Chief Executive Officer Review Advisory Committee which should be convened forthwith. It is recommended that the Shire of Manjimup's Director Business, Mr Greg Lockwood, is the conduit to facilitate the administration of this process.

#### **STATUTORY ENVIRONMENT:**

The *Local Government Act 1995* and subsidiary legislation guides the statutory appointment process of the Chief Executive Officer.

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

The Chief Executive Officer Review Advisory Committee and Council Policy 1.2.12 *Chief Executive Officer Selection Panel* guide the process of recruitment of a Chief Executive Officer.

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

Under the recent reforms to the *Local Government Act 1995* it is critical to ensure that the correct statutory process is followed. If the correct process is not followed, the appointment of a new Chief Executive Officer may be disallowed by the State Government and Council will be required to recommence the process from the start.

**FINANCIAL IMPLICATIONS:**

The recruitment of a Chief Executive Officer is likely to come at a considerable expense primarily due to the use of a recruitment consultant and matters such as advertising. The financial expense will be required to be funded through the existing budget.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

- 1. Appoint Mr Brian Robinson as Acting Chief Executive Officer for the period of 20 March 2023 to 18 May 2023;**
- 2. Convene a meeting of the Chief Executive Officer Review Committee to discuss the recruitment of a Chief Executive Officer at the earliest convenience; and**
- 3. Appoint Mr Greg Lockwood as the administrative support to the Chief Executive Officer Review Committee.**

**COUNCIL RESOLUTION:**

**MOVED: Omodei, P              SECONDED: Taylor, R**

**29061**

**That Council:**

- 1. Appoint Mr Brian Robinson as Acting Chief Executive Officer for the period of 20 March 2023 to 18 May 2023;**
- 2. Convene a meeting of the Chief Executive Officer Review Committee to discuss the recruitment of a Chief Executive Officer at the earliest convenience; and**
- 3. Appoint Mr Greg Lockwood as the administrative support to the Chief Executive Officer Review Committee.**

**CARRIED: 11/0**

The Director Development and Regulation returned to the Chamber at 6.14pm.

**11. QUESTIONS FROM MEMBERS:**

11.1 Response to questions from members taken on notice: Nil.

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

**29062**

**That Council grant Councillor Cliff Winfield a Leave of Absence for the  
25 May 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 6.16pm.**

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

**Paul Omodei  
Shire President**