



MINUTES

COUNCIL MEETING

17 AUGUST 2023

## TABLE OF CONTENTS

1.	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS:.....		4
2.	ANNOUNCEMENTS BY THE PRESIDENT: .....		4
3.	ATTENDANCE: .....		4
4.	DECLARATIONS OF INTEREST: Nil. ....		5
5.	PUBLIC QUESTION TIME:.....		5
6.	PRESENTATIONS: .....		5
7.	CONFIRMATION OF MINUTES: .....		5
8.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN: Nil.....		5
9.	COUNCIL OFFICERS' REPORTS: .....		5
<b>29229</b>	9.1.2 Financial Contributions Toward Busselton Margaret River Regional Airport .....		7
<b>29230</b>	9.2.1 Quarterly Report - April to June 2023 - Business Directorate.....		11
<b>29231</b>	9.3.1 Council Financial Payments for July 2023.....		13
<b>29232</b>	9.3.2 Monthly Financial Activity Statement - June 2023.....		17
<b>29233</b>	9.5.1 Request for Letter of Support For Dual Naming of the Frankland River .....		20
<b>29234</b>	9.5.3 Quarterly Report - April to June 2023 - Development and Regulation Directorate.....		24
<b>29235</b>	9.5.4 Delegated Planning Decisions for June and July 2023 .....		26
<b>29236</b>	9.5.6 Proposed Submission on Draft Operational Policy 2.3 Planning for Public Open Space.....		29
<b>29237</b>	9.5.7 Request for Support in Principle - Future Development of Lot 21 (No 285) Perup Road, Manjimup.....		33
<b>29238</b>	9.7.1 Proposed Annual Firebreak and Fuel Hazard Reduction Notice 2023-2024.....		41
<b>29239</b>	9.9.2 Request to Endorse Draft Pemberton Sports Complex Operational and Governance Model Review Report for Public Comment .....		44
<b>29240</b>	9.11.1 Proposal for Renaming the Walpole Public Library .....		50
<b>29241</b>	9.1.1 Consideration of Submissions and Final Adoption of Proposed Shire of Manjimup Bush Fire Brigades Local Law 2023 .....		54
<b>29242</b>	9.5.5 Proposed Variation to Local Planning Scheme No. 4 to Keep Two Cats at Lot 39 (7) Burton Close Walpole .....		59
<b>29243</b>	9.9.1 Assessment of Club Night Lights Program Small Grants Round Application 2023/24 - Manjimup Speedway Club Inc. ....		66
	9.5.2 Proposed Retrospective Application for a Dam at Lot 8160, 30499 South Western Highway, Quinninup.....		71
10.	LATE REPORTS: .....		79
11.	QUESTIONS FROM MEMBERS:.....		81
12.	MOTIONS FOR CONSIDERATION AT THE FOLLOWING MEETING: Nil. ....		81

13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY  
DECISION OF THE MEETING: Nil.....81

14. MEETING CLOSED TO THE PUBLIC:.....81

15. APPLICATIONS FOR LEAVE OF ABSENCE: Nil. ....82

16. CLOSURE: .....82

## SHIRE OF MANJIMUP

Minutes of the Ordinary Meeting of Council held in the Council Chamber, Thursday, 17 August 2023.

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

The Shire President declared the meeting open at 5.30pm.

Councillor Skoss made the following Acknowledgement to Country.

We acknowledge the Minang and Pibelmun peoples of the Noongar nation as the traditional owners of the lands on which we meet.

We are entering the Noongar season of Djilba – transition of winter into spring. This is signified by acacia and peppermint species which are poised to explode into flower so we will soon see the proliferation of yellow and white blossom.

We acknowledge the wisdom and knowledge that has been accumulated and passed down over more than 40,000 years.

We should endeavour to develop deep understandings to enable all Australians to tread more lightly on this land.

### 2. ANNOUNCEMENTS BY THE PRESIDENT:

The Shire President made the following announcements:

- I attended two meetings of the Chief Executive Officer Recruitment Panel.
- I attended a Teams meeting with the Local Government Insurance Scheme Board.

### 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 Brian Robinson (Interim Chief Executive Officer)

Mr Greg Lockwood (Director Business)

Ms Evy Apeldoorn (Acting Director Community Services)

Ms Jocelyn Baister (Acting Director Development & Regulation)  
Mr Michael Leers (Director Works & Services)  
Ms Gaye Burridge (Corporate Administration Officer)  
Mr Jason Giadresco (Senior Governance Officer)

**Media**

Melissa Pedelty

**Gallery**

Nil.

3.1 Apologies: Nil.

3.2 Leave Of Absence: Nil.

**4. DECLARATIONS OF INTEREST: Nil.**

**5. PUBLIC QUESTION TIME:**

5.1 Response to public questions taken on notice: Nil.

5.2 Public Question Time: Nil.

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

**29227**

**That the Minutes of the Ordinary Meeting of the Council held on  
27 July 2023 be confirmed.**

**MOTION CARRIED 11/0**

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

**9. COUNCIL OFFICERS' REPORTS:**

**MOVED: Eiby, W**

**SECONDED: Dawson Vidovich, S**

**29228**

**"That Council adopt the recommendations contained in the Council  
Officers and Committee Reports on pages 1 – 73 of the Agenda with the  
exception of:**

**CARRIED: 11/0**

**FOR: Cr Buegge; Cr Dawson Vidovich; Cr Eiby; Cr Jenkins; Cr  
Lawrence; Cr Omodei; Cr Skoss; Cr Taylor; Cr Ventris; Cr Willcox; Cr  
Winfield.**

**AGAINST: Nil.**

9.1.1	Consideration of Submissions and Final Adoption of Proposed Shire of Manjimup Bush Fire Brigades Local Law 2023
9.5.5	Proposed Variation to Local Planning Scheme No. 4 to Keep Two Cats at Lot 39 (7) Burton Close Walpole
9.9.1	Assessment of Club Night Lights Program Small Grants Round Application 2023/24 - Manjimup Speedway Club Inc.

**Items passed by En Bloc Resolution**

- 9.1.2 Financial Contributions Toward Busselton Margaret River Regional Airport
- 9.2.1 Quarterly Report - April to June 2023 - Business Directorate
- 9.3.1 Council Financial Payments for July 2023
- 9.3.2 Monthly Financial Activity Statement - June 2023
- 9.5.1 Request for Letter of Support For Dual Naming of the Frankland River
- 9.5.3 Quarterly Report - April to June 2023 - Development and Regulation Directorate
- 9.5.4 Delegated Planning Decisions for June and July 2023
- 9.5.6 Proposed Submission on Draft Operational Policy 2.3 Planning for Public Open Space
- 9.5.7 Request for Support in Principle - Future Development of Lot 21 (No 285) Perup Road, Manjimup
- 9.7.1 Proposed Annual Firebreak and Fuel Hazard Reduction Notice 2023-2024
- 9.9.2 Request to Endorse Draft Pemberton Sports Complex Operational and Governance Model Review Report for Public Comment
- 9.11.1 Proposal for Renaming the Walpole Public Library

**Withdrawn**

- 9.5.2 Proposed Retrospective Application for a Dam at Lot 8160, 30499 South Western Highway, Quinninup

## APPENDIX

### 9.1.2 Financial Contributions Toward Busselton Margaret River Regional Airport

<b>PROPONENT OWNER</b>	City of Busselton
<b>LOCATION / ADDRESS:</b>	86 Neville Hyder Drive, Yalyalup
<b>WARD:</b>	N/A
<b>ZONE:</b>	N/A
<b>DIRECTORATE:</b>	Office of CEO
<b>FILE REFERENCE:</b>	F160189
<b>LEGISLATION:</b>	N/A
<b>AUTHOR:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	7 August 2023
<b>DECLARATION OF INTEREST:</b>	Nil

#### BACKGROUND:

At its Ordinary Meeting held on 24 August 2017, Council considered a request from the City of Busselton for a financial contribution of \$10,000 over five (5) years toward an Airline Marketing Fund relating to the Busselton Margaret River Regional Airport (BMRRA).

The City of Busselton's request outlined the economic benefits of direct interstate and international flights for the wider South West Region including air freight, establishing a "paddock to plate" supply chain via underbelly cargo. A copy of the request as presented to Council in August 2017 is appended.

**APPENDIX: 9.1.2(A)**

In response, Council resolved (Resolution 27137) as follows:

**"That Council agree to fund \$2,000 per year for the next five financial years toward the City of Busselton's Airport Marketing Fund as part of the Shire of Manjimup's annual Marketing Budget."**

An excerpt of the relevant meeting minutes is appended.

**APPENDIX: 9.1.2(B)**

Impacts associated with the COVID-19 pandemic resulted in delays to commencement of Jetstar interstate flights. As a result, the City of Busselton did not invoice the Shire of Manjimup for its contribution for the 2021/22 or 2022/23 financial years.

Council is now requested to extend the period for payments up to and including the 2025/26 financial year.

#### PUBLIC CONSULTATION UNDERTAKEN:

Nil.

**COMMENT (Includes Options):**

Attraction and retention of airline carriers with international and interstate destinations is a key element for the success of the BMRRA and the Airport Marketing Fund is essential tool in increasing the profile of the airport and the region. In recognition of this, in 2017 the City of Busselton committed to a contribution of \$3.5 million and other regional partners committed to a total of \$200,000 towards the Marketing Fund over a five year period.

The following is a summary of some of the significant milestones associated with the Airport and the BMRRA:

- 2018 - The airport received the “Airport Innovation and Excellence Award for Infrastructure Development – Regional Airport” at the 2018 National Australian Airports Association Awards;
- 2019 – The Airport was designated as an International Alternate, meaning that the facility could be used by international airlines when diverted from Perth due to weather or other unforeseen situations;
- 2019 – Jetstar announced a three times weekly service between Busselton and Melbourne, commencing in 2020;
- 2020 – The City of Busselton won the category “Boosting Productivity through Infrastructure Award” at the National Awards for Local Government;
- 2022 – First Jetstar direct flights connecting Melbourne to Busselton commenced in April 2022.

The commencement of interstate flights was initially planned for 2020, but was delayed to due complications associated with state border closures and other initiatives employed in response to the COVID-19 pandemic.

To date, including the 2023/24 financial year, the Shire of Manjimup has contributed \$6,000 of the \$10,000 commitment given in 2017. Given that the payment of \$2,000 each year within the 2024/25 and 2025/2026 financial years is consistent with the commitment given in 2017, it is recommended that extension of the period over which contributions are made be supported.

**STATUTORY ENVIRONMENT:**

Nil.

**POLICY / STRATEGIC IMPLICATIONS:**

Council’s previous decision to contribute \$10,000 over 5 years is consistent with the following Community Goals and Strategies as outlined within the Shire of Manjimup’s Strategic Community Plan 2021-2031:

Community Goals

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

Strategies

B8. *Advocate for industry and links to intrastate, interstate and global markets and develop relationships that may assist the prosperity of the region.*



*E3. Actively participate in regional, state and national alliances to return benefit to the community.*

**ORGANISATIONAL RISK MANAGEMENT:**

Although Council's 2017 decision was based on payments of \$2,000 over five consecutive years, only \$6,000 of the \$10,000 total have been made to date. Should Council not agree to make additional payments of \$2,000 within the 2024/25 and 2025/26 financial years, there is potential for reputational damage.

**FINANCIAL IMPLICATIONS:**

The Shire commits considerable funds to marketing and promotion each year. Should Council agree with the Officer recommendation, this amount will be sourced from annual budget allocations relating to marketing.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: The BMRRA has the potential to provide medium to long term economic benefit to the Shire of Manjimup in the industry sectors of tourism and agriculture.

Social: Having an airport in close proximity to the Shire of Manjimup that offers international and interstate air travel destinations is considered to have positive social benefit to the community.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council, having regard to the following, agree to contribute \$2,000 per year within the 2024/25 and 2025/26 financial years to the Busselton Margaret River Regional Airport – Airline Marketing fund as part of the Shire of Manjimup's annual marketing budget:**

- a) **The City of Busselton did not invoice the Shire of Manjimup for its \$2,000 annual contribution towards the Airline Marketing Fund for the 2020/21 and 2021/22 financial years; and**
- b) **Commitment to payment of the contribution within the 2024/25 and 2025/26 financial years is consistent in the Council's commitment to a total of \$10,000 in accordance with Council Resolution 27137 passed on 24 August 2017.**

**COUNCIL RESOLUTION:**

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

**29229**

**That Council, having regard to the following, agree to contribute \$2,000 per year within the 2024/25 and 2025/26 financial years to the Busselton Margaret River Regional Airport – Airline Marketing fund as part of the**

**Shire of Manjimup's annual marketing budget:**

- a) **The City of Busselton did not invoice the Shire of Manjimup for its \$2,000 annual contribution towards the Airline Marketing Fund for the 2020/21 and 2021/22 financial years; and**
- b) **Commitment to payment of the contribution within the 2024/25 and 2025/26 financial years is consistent in the Council's commitment to a total of \$10,000 in accordance with Council Resolution 27137 passed on 24 August 2017.**

**ADOPTED BY EN BLOC RESOLUTION: 11/0**

**ATTACHMENT****9.2.1 Quarterly Report - April to June 2023 - Business Directorate**

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	Shire of Manjimup
<b>WARD:</b>	All
<b>ZONE:</b>	N/A
<b>DIRECTORATE:</b>	Business
<b>FILE REFERENCE:</b>	F160966
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Greg Lockwood
<b>DATE OF REPORT:</b>	18 August 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

A report outlining activities for the quarter ending June 2023 for the Business Directorate is attached.

**ATTACHMENT: 9.2.1(1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

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

**STATUTORY ENVIRONMENT:**

Nil.

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

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

**FINANCIAL IMPLICATIONS:**

Nil.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS: SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receive the April to June 2023 Quarterly Report – Business Directorate as contained in the Attachment: 9.2.1(1).**

**COUNCIL RESOLUTION:**

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

**29230**

**That Council receive the April to June 2023 Quarterly Report – Business Directorate as contained in the Attachment: 9.2.1(1).**

**ADOPTED BY EN BLOC RESOLUTION: 11/0**

## ATTACHMENT

## 9.3.1 Council Financial Payments for July 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>	Craig Martyn
<b>DATE OF REPORT:</b>	3 August 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):**

Accounts for payment totalling \$2,239,918.01 for the month of July 2023 are listed below and in the attachment. Corporate Card transactions for June 2023 are detailed below.

**ATTACHMENT: 9.3.1(1)**

Vouchers for the expenditure are available for inspection at the Council Meeting of 17 August 2023.

<b>Fund</b>	<b>Vouchers</b>	<b>Amount</b>
Municipal	95353 – 95382	\$120,968.83
Trust Fund	-	\$0.00
<b>Total Cheques for Month of July 2023</b>		<b>\$120,968.83</b>

Electronic Funds Transfer (EFT) expenditure batch reports are available for inspection at the Council Meeting of 17 August 2023.

<b>Fund</b>	<b>Batch</b>	<b>Amount</b>
Municipal	275 – 278	\$2,106,106.19
Direct Debit		\$12,842.99
<b>Total EFT for Month of July 2023</b>		<b>\$2,118,949.18</b>

**Corporate Credit Card transactions 22 May 2023 – 20 June 2023 (paid 4 July 2023) – Municipal Account**

WO.46.1101	Star Link Australia Internet Subscription for Windy Harbour	\$139.00
WO.2423.6003	EG Fuelco Fuel for 1006WA	\$196.82
WO.4.1221	Adobe Creative Cloud Subscription 12/06/2023 - 11/07/23	\$79.99
WO.6.1101	City of Perth Parking Parking Fee - Financial Workshop - DB - 19/5/23	\$17.16
WO.680.1133	Westnet Internet 1/7/23 to 1/08/23 wallib@westnet.com.au	\$89.95
WO.98.1410	Westnet Internet 1/7/23 to 1/8/23 mjpses@westnet.co.au	\$79.99
WO.13.1294	CodeTwo Renewal for Code Two Email Signatures	\$1,421.90
WO.2.1184	Farmhouse Pizza Council Meal 14/06/2023	\$187.00
WO.688.1346	DV Safe Phone Mobile Phone Donation Box	\$85.00
WO.945.6007	Western Power High Load Vehicle Permit - SW District	\$120.00
WO.14.1101	Go Daddy Premium DNS Renewal	\$263.34
WO.6.1317	Trybooking LGIS S/W Work Care Forum	\$209.50
WO.7.1101	Dept. Water & Environmental Regulation Clearing Permit - Lawn Cemetery	\$2,600.00
WO.571.1606	Anaconda Bunbury Zoleo Global Satellite Communicator	\$320.00
WO.571.1346	Zoleo Inc Connection & Subscription Fee - 23/5/23 to 22/6/23	\$72.00
WO.575.1101	Coles Manjimup Food Items for Reconciliation Breakfast	\$67.25
WO.575.1101	Coles Manjimup Items for Shire Consultation @ Old Top Notch Cafe Building	\$27.40
WO.575.1101	Woolworths Manjimup Food Items for Reconciliation Breakfast	\$20.00
WO.575.1101	BP Manjimup Fire Wood for Shire Consultation @ Old Top Notch Cafe Building	\$36.00
WO.7.1101	Brayco Commercial 3 Tier Trolley for Town Hall Kitchen	\$504.00
WO.573.1035	Symbion Australia Arginaid and Arginine Power - HACCC 30/05/23	\$123.18
WO.575.1101	Southern Roasting Manjimup Coffees - Education Visions Breakfast Meeting	\$56.62
WO.2.1189	Crown Promenade Perth CR. Wendy Eiby - Attendance @ Accessible	\$266.24

	Tourism Forum	
WO.573.1035	Ibis Styles East Perth HCP Client & Support Worker Perth Accommodation	\$382.26
WO.575.1101	Blue Tiger Café Manjimup Meeting With P Karahoutis RAP Noongar Dist.	\$12.00
WO.575.1101	Woolworths Manjimup Pemberton Hub - Kitchen/Toilet Supplies	\$109.65
WO.575.1340	Our Community Pty Ltd Annual Subscription to Our Community	\$400.00
WO.573.1035	Ibis Styles East Perth HCP Client & Support Worker Perth Accommodation	\$382.26
WO.575.1101	Pemberton General Store Cleaning Items & Mat for Pemberton Hub	\$55.85
WO.2399.1544	DSAK Pty Ltd Manjimup Cable Ties for Pemberton Hub	\$0.85
WO.575.1101	Bunnings Bunbury Pemberton Hub - 2x mats and Door Guard	\$77.01
WO.575.1340	Grants Hub Pty Ltd Premium Annual Subscription	\$486.00
<b>Total Credit Card Payments for June 2023</b>		<b>\$8,888.22</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 note the July 2023 accounts for payment totalling \$2,239,918.01 including the Corporate Card transactions for June 2023 as detailed and in the Attachment: 9.3.1.(1).**

**COUNCIL RESOLUTION:**

**MOVED: Eiby, W**

**SECONDED: Dawson Vidovich, S**

**29231**

**That Council note the July 2023 accounts for payment totalling \$2,239,918.01 including the Corporate Card transactions for June 2023 as detailed and in the Attachment: 9.3.1.(1).**

**ADOPTED BY EN BLOC RESOLUTION: 11/0**



## ATTACHMENT

## 9.3.2 Monthly Financial Activity Statement - June 2023

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	Whole Shire
<b>LOCATION / ADDRESS:</b>	Whole Shire
<b>WARD:</b>	Whole Shire
<b>ZONE:</b>	N/A
<b>DIRECTORATE:</b>	Business
<b>FILE REFERENCE:</b>	F160188
<b>LEGISLATION:</b>	<i>Local Government Act 1995; Local Government (Financial Management Regulations) 1996</i>
<b>AUTHOR:</b>	Greg Lockwood
<b>DATE OF REPORT:</b>	4 August 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

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

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

The Financial Activity Statement report for the period to 30 June 2023 is attached. The report is summarised by Function/Activity with operating comments via department. The report also provides a Rate Setting Statement and Statement of Comprehensive Income in the Type format in anticipation of changes to monthly reporting requirements proposed by the Department of Local Government.

**ATTACHMENT: 9.3.2 (1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

The financial performance for the Shire of Manjimup to the 30 June 2023 is a projected net surplus of \$165,228. The actual estimated surplus to 30 June 2023 is \$7,503,688, however this figure includes a significant advance payment of the 2023/24 Financial Assistance Grants, and projects that are incomplete and require being carried forward into the 2023/24 financial year, being \$7,388,460.

The projected surplus is based on provisional actuals to 30 June 2023. These figures will be amended as the accounts are finalised leading into the auditing of the 2022/23 Annual Financial Accounts.

To the 30 June 2023 there have been some moderate issues both in the positive and in the negative influencing the Shire's end of year position. Listed below are the more prominent items, with explanation of the variance with a more expansive list in the Operating comments of this report.

The major components that form part of the \$7,503,688 surplus are:

- Advance Payment of Financial Assistance Grants - \$4,848,597;
- Various Infrastructure Road Projects - \$1,730,439;
- Light Vehicles (net of trades) - \$98,000;
- Road Asset Condition Pickup - \$88,040;
- Shire Promotional Plan - \$43,194;
- Recreation Development Program - \$48,847;
- Local Planning Strategy - \$87,704;
- Pemberton Community Colocation Redevelopment (Muni) - \$90,213;
- Various minor capital items - \$54,792; and
- Various minor operational items \$413,862.

Whilst the Shire of Manjimup ends the year with a moderate surplus position, there have been many items that have both positively and negatively affected the end of year position.

Items that are negatively affecting the end of year carry forward position are:

- Interim Rates – loss \$18,244;
- Manjimup AquaCentre Electricity – loss \$61,752;
- Power Up Museum Income – loss \$54,720;
- Ranger Salaries – loss \$31,644;
- Road Maintenance (all categories) – loss \$217,073; and
- Paveline Truck liquidation (reserve funded) – loss \$376,617.

Items that are supporting the end of year position and minimising losses through the 2022/23 financial year are:

- Light Vehicle Trade – surplus \$47,209;
- Advertising – surplus \$19,932;
- Development Application Fees – surplus \$46,677;
- Fire Prevention Council Reserves – surplus \$37,963. A considerable amount of work has been carried out through the Mitigation Activity Fund grant;
- Interest Received – surplus \$177,006;
- Community Services Salaries/Superannuation – surplus \$116,860;
- Signage – surplus \$60,331; and
- Works Overhead Recoup – surplus \$166,040.

Whilst the final end of year position will not be determined until the Annual Financial Accounts have been audited in August/September it is expected that the reported \$165,228 should only receive minor adjustments as the accounts are finalised. Once the accounts have been fully audited the confirmed the carried forward surplus will be brought back to Council for consideration via the December 2023 budget review.

For more detail regarding individual budgets and their variances please view the operating comments section of the attachment.

**STATUTORY ENVIRONMENT:**

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

**POLICY / STRATEGIC IMPLICATIONS:**

Nil.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

As described in above summary.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:**

**SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

That Council receive the Monthly Financial Activity Statement Report for June 2023 as per Attachment: 9.3.2(1).

**COUNCIL RESOLUTION:**

**MOVED: Eiby, W**

**SECONDED: Dawson Vidovich, S**

**29232**

That Council receive the Monthly Financial Activity Statement Report for June 2023 as per Attachment: 9.3.2(1).

**ADOPTED BY EN BLOC RESOLUTION: 11/0**

**ATTACHMENT****9.5.1 Request for Letter of Support For Dual Naming of the Frankland River**

<b>PROPONENT</b>	Shire of Denmark
<b>OWNER</b>	Crown Reserve
<b>LOCATION / ADDRESS:</b>	Whole Shire
<b>WARD:</b>	Whole Shire
<b>ZONE:</b>	Whole Shire
<b>DIRECTORATE:</b>	Development and Regulation
<b>FILE REFERENCE:</b>	F180245
<b>LEGISLATION:</b>	Nil
<b>AUTHOR:</b>	Ann Bentley/Brian Robinson
<b>DATE OF REPORT:</b>	21 July 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

Whilst located adjacent to the common boundary between the Shires of Manjimup and Denmark, the majority of the Frankland River is located within the Shire of Denmark. Correspondence has been received from consultants acting on behalf of the Shire of Denmark seeking the Shire of Manjimup's support to the dual naming of the Frankland River.

After consulting with the South West Aboriginal Land and Sea Council (SWALSC) and the Traditional Owners, Wagyl Kaip Southern Noongar Cultural Advice Committee, the Shire of Denmark is seeking approval from Landgate to apply the dual name of Kwakoorillup/Frankland River. Information supplied by the Shire of Denmark and their consultant, advises that the name Kwakoorillup:

- a) Means "Place of the Quokka" in Noongar;
- b) Was the name of the river as originally recorded by WN Clark in 1842, albeit that he spelt it with a "Qu" rather than a "Kw"; and
- c) The meaning of the Noongar name was supplied by knowledge of local Aboriginal Elders and community representatives and referenced to the publication "*A Nyoongar Wordlist from the South-West of Western Australia*" (compiled by Peter Bindon & Ross Chadwick, WA Museum, 1992).

A copy of the correspondence is shown attached.

**ATTACHMENT: 9.5.1(1)**

By way of further background information, officers from the Shire of Denmark have also supplied a report on the "*Dual Naming of Iconic Landscapes*" dated 3 January 2023. The report outlines the background to the Shire of Denmark's research and the SWALSC and Wagyl Kaip endorsement of indigenous dual naming proposal. A copy of that report is attached.

**ATTACHMENT: 9.5.1 (2)**

Council is requested to consider supporting the Shire of Denmark's request.

**PUBLIC CONSULTATION UNDERTAKEN:**

The Shire of Denmark initially obtained endorsement and support for the dual naming iconic landscapes from the SWALSC and Wagyl Kaip in 2012. The Traditional Owners, Wagyl Kaip Southern Noongar Cultural Advice Committee, reaffirmed this support in April 2023.

The Shire of Denmark have also consulted with; Bunbury Noongar Boodja Language and Cultural Centre, Denmark Historical Society, Department of Biodiversity Conservation and Attractions, Department of Planning Lands and Heritage (previously Department of Aboriginal Affairs), Landgate, and Shire of Denmark community.

Given the level of research and consultation with traditional owners, no further consultation process is recommended.

**COMMENT (Includes Options):**

To assist Council in considering the Shire of Denmark's request, the following information and advice is provided:

Frankland River Reserve

As detailed within the background section of this agenda item, much of the Frankland River is located within the Shire of Denmark. That said, the lower reaches of the river (approximately 4km in length) are located within the Shire of Manjimup. A plan showing the extent of the river that is located within the Shire of Manjimup is shown attached.

**ATTACHMENT: 9.5.1(3)**

Reflect Reconciliation Action Plan

The Shire of Manjimup's *Reflect Reconciliation Action Plan* (RAP) outlines that by building cultural awareness and sharing the history and significance of Aboriginal and Torres Strait Islander peoples and their customs, respect is fostered and enhanced within the community. Supporting the dual naming proposal is an opportunity to implement an initiative consistent with Actions 8 and 9 of the RAP, being:

*Action 8 – Build visible demonstrations of respect to Aboriginal and Torres Strait Islander people within the Shire of Manjimup Communities;*

*Action 9 – Implement initiatives and processes which seek to preserve Aboriginal and Torres Strait Island cultural heritage.*

Shire of Manjimup Policy 3.1.6

The Shire of Manjimup Policy 3.1.6 Naming of Shire Assets, Tree Plantings, Memorials and Plaques provides context for ensuring that a consistent, fair and equitable assessment of the naming of Shire-managed public spaces is undertaken. As the Frankland River is not a Shire-managed public space, the provisions of Policy 3.1.6 do not strictly apply.

The above said, Policy 3.1.6 identifies that “*In particular cases, naming practice should take into account local Noongar languages*”.

#### Consultation with Main Roads WA

It is noted that the Shire of Denmark has not advised if Main Roads WA have been consulted. As the signage for the Frankland River is located on the bridge, under the control of Main Roads WA, it is recommended that the Shire of Denmark be encouraged to liaise with MRWA for any updates to the signage, should the dual naming come into effect.

#### Conclusion

Dual naming of the Frankland River as proposed by the Shire of Denmark is consistent with Action 9 of the Shire of Manjimup’s RAP and is consistent with Landgate’s *Aboriginal and Dual Naming Guidelines*.

Given the level of consultation undertaken by the Shire of Denmark and the historical use of the proposed name in local indigenous culture, it is recommended that Council support the request.

#### **STATUTORY ENVIRONMENT:**

The official naming of features, localities and roads within Western Australia is regulated under Section 26 and 26A of the *Land Administration Act 1997*. The State Government department of Landgate administers the act under delegation from the Minister for Lands is responsible for the Act, having regard to the advice and recommendations of the Geographic Names Committee.

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

As outlined in the Comment Section.

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

Nil.

#### **FINANCIAL IMPLICATIONS:**

Nil.

#### **SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS: SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

- 1. Support the Shire of Denmark's proposal for the dual naming of the Kwakoorillup/Frankland River to the Landgate Geographic Names Committee; and**
- 2. Encourage the Shire of Denmark to liaise with Main Roads Western Australia for the updating of signage on the bridge that crosses the Frankland River should the dual naming come into effect.**

**COUNCIL RESOLUTION:**

**MOVED: Eiby, W**

**SECONDED: Dawson Vidovich, S**

**29233**

**That Council:**

- 1. Support the Shire of Denmark's proposal for the dual naming of the Kwakoorillup/Frankland River to the Landgate Geographic Names Committee; and**
- 2. Encourage the Shire of Denmark to liaise with Main Roads Western Australia for the updating of signage on the bridge that crosses the Frankland River should the dual naming come into effect.**

**ADOPTED BY EN BLOC RESOLUTION: 11/0**

**ATTACHMENT****9.5.3 Quarterly Report - April to June 2023 - Development and Regulation Directorate**

<b>PROPONENT OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	Shire of Manjimup
<b>WARD:</b>	Whole of Shire
<b>ZONE:</b>	All
<b>DIRECTORATE:</b>	N/A
<b>FILE REFERENCE:</b>	Development and Regulation
<b>LEGISLATION:</b>	F160966
<b>AUTHOR:</b>	Various
<b>DATE OF REPORT:</b>	Jocelyn Baister
<b>DECLARATION OF INTEREST:</b>	31 July 2023
	Nil

**BACKGROUND:**

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

A report detailing the activities of Shire Officers within the Development and Regulation Directorate is attached for the period of April to June 2023 for Councillors Information and Reference.

**ATTACHMENT: 9.5.3 (1)**

It should be noted that due to limited staff resources over the period of January to March 2023, a quarterly report had not been prepared and presented to Council for consideration.

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

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

**STATUTORY ENVIRONMENT:**

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

**POLICY / STRATEGIC IMPLICATIONS:**

As outlined in Attachment: 9.5.3 (1).



**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

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

**SUSTAINABILITY:**

Environmental: As stated in Attachment.

Economic: As stated in Attachment.

Social: As stated in Attachment.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council receive the April to June 2023 Quarterly Report for the Development and Regulation Directorate as contained in Attachment: 9.5.3 (1).**

**COUNCIL RESOLUTION:**

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

**29234**

**That Council receive the April to June 2023 Quarterly Report for the Development and Regulation Directorate as contained in Attachment: 9.5.3 (1).**

**ADOPTED BY EN BLOC RESOLUTION: 11/0**

## ATTACHMENT

## 9.5.4 Delegated Planning Decisions for June and July 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 and 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>	Jocelyn Baister
<b>DATE OF REPORT:</b>	2 August 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 June and July 2023.

**ATTACHMENT: 9.5.4 (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 June 2023, five (5) 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 June 2023 compared to June 2022:

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

	<b>June 2022</b>	<b>June 2023</b>
<b>Delegated Decisions</b>	15 (\$471,750)	5 (\$92,000)
<b>Council Decisions</b>	3 (\$73,000)	4 (\$210,000)
<b>Total</b>	<b>18 (\$544,750)</b>	<b>9 (\$302,200)</b>

During July 2023, four (4) development applications were determined under delegated authority. **Table 2** shows the number and value of development applications determined under both delegated authority and by Council for July 2023 compared to July 2022:

**Table 2: Planning Decisions Made July 2022 and 2023**

	July 2022	July 2023
<b>Delegated Decisions</b>	8 (\$578,030)	4 (\$956,500)
<b>Council Decisions</b>	10 (\$796,538)	4 (\$1,680,000)
<b>Total</b>	<b>18 (\$1,374,568)</b>	<b>8 (\$2,636,500)</b>

**Table 3** compares the Year-To-Date statistics for delegated authority and Council decisions for 2022-23 compared to the previous Financial Year:

**Table 3: Planning Decisions Made Year-To-Date 2021-22 and 2022-23**

	YTD 2021-22	YTD 2022-23
<b>Delegated Decisions</b>	119 (\$11,207,226)	120 (\$10,525,989)
<b>Council Decisions</b>	52 (\$10,924,688)	71 (\$10,067,275)
<b>Total</b>	<b>171 (\$22,131,914)</b>	<b>191 (\$20,593,264)</b>

**Table 4** compares the Year-To-Date statistics for delegated authority and Council decisions for 2023-24 compared to the previous Financial Year:

**Table 4: Planning Decisions Made Year-To-Date 2022-23 and 2023-2024**

	YTD 2022-23	YTD 2023-24
<b>Delegated Decisions</b>	8 (\$578,030)	4 (\$956,500)
<b>Council Decisions</b>	10 (\$796,538)	4 (\$1,680,000)
<b>Total</b>	<b>18 (\$1,374,568)</b>	<b>8 (\$2,636,500)</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 June and July 2023 as per Attachment: 9.5.4 (1).**

**COUNCIL RESOLUTION:**

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

**29235**

**That Council receives the report on Delegated Development Approvals for June and July 2023 as per Attachment: 9.5.4 (1).**

**ADOPTED BY EN BLOC RESOLUTION: 11/0**

**ATTACHMENT****9.5.6 Proposed Submission on Draft Operational Policy 2.3 Planning for Public Open Space**

<b>PROPONENT</b>	Western Australian Planning Commission
<b>OWNER</b>	N/A
<b>LOCATION / ADDRESS:</b>	N/A
<b>WARD:</b>	Various
<b>ZONE:</b>	Town Centre / Residential
<b>DIRECTORATE:</b>	Development and Regulation
<b>FILE REFERENCE:</b>	F230107
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i>
<b>AUTHOR:</b>	Jocelyn Baister
<b>DATE OF REPORT:</b>	3 August 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The Western Australian Planning Commission's Development Control Policy 2.3 - Public Open Space in Residential Areas (the current Policy), has been in place for over 50 years. It has provided the advice and guidelines required to ensure adequate Public Open Space (POS), across most suburbs of Western Australia, as they developed.

A copy of the current Policy is attached.

**ATTACHMENT: 9.5.6 (1)**

Now that suburbs are being redeveloped with more housing (known as infill) and a greater mix of housing types, the Department of Planning Lands and Heritage (DPLH) has reviewed the policy to ensure the open space demands and expectation of the community continue to be met into the future. Different considerations apply to smaller subdivisions creating five lots or less in established suburbs previously subdivided and for subdivisions that create a mix of residential and non-residential land uses.

The Western Australian Planning Commission through DPLH have released draft Operational Policy 2.3 Planning for Public Open Space (the draft Policy) for public comment. The draft policy outlines proposed updated provisions relating to POS, including cash contributions for infill development greater clarity and consistency around the circumstances when POS contributions can be charged and the calculation of the contribution.

A copy of the draft Policy is provided attached.

**ATTACHMENT: 9.5.6(2)**

Council is requested to endorse the Shire of Manjimup's proposed submission and survey responses in regard to the consultation on the draft Policy.

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

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

New Residential Estates

Public open space, such as neighbourhood parks and sporting fields, is currently provided at a minimum of 10% of a new residential area, calculated by land area. The draft policy seeks to retain this requirement for new residential areas.

The draft Policy aims to provide clarity that all forms of land subdivision, that increase the demand for POS, can be subject to a contribution requirement, including all types of strata subdivision.

When new residential lots are created, the developer is required to contribute the cost of providing adequate POS by either providing land or a cash towards the cost of purchasing land for POS or improving POS facilities. Under the current Policy, all proposals that increase the number of lots can potentially be required to make a land or monetary contribution to POS, including smaller subdivisions (above 2 lots) and built strata subdivisions. However, in practice these subdivisions may not have contributed to POS as there is limited guidance in the current policy.

The Shire has not provided DPLH comments on a large residential subdivision proposal in a number of years, however has previously taken POS cash in lieu contributions for infill subdivisions within the Manjimup area.

Infill Residential Development/Subdivision

Changes are proposed to the calculation of the contribution from those subdividing land to make the POS contribution process simpler, more predictable, fairer and more consistent. These changes include:

- Unless an endorsed POS analysis has been undertaken to reduce the contributions for infill subdivision, the default contribution is to be 5%;
- Where one additional lot is proposed (such as three from two) a reduction to a default of 2.5% will apply;
- Apartments or grouped dwelling subdivisions with publicly accessible private open space may reduce the contribution in limited circumstances;
- Mixed use development may reduce the contribution proportional to the planned residential component to a default rate of 5% (for low to medium density) and 7.5% (high density);
- Regional subdivisions may be given a concession given the role other forms of public green spaces have in the community; and
- Non-residential subdivisions are typically exempt from POS contribution unless the contribution rate has been established in an approved planning document.

The current type of applications being assessed by the Shire are for minor boundary amendments or for less than five lots, which do not trigger POS contributions. Although the proposed change to provide the default of 5% contribution for infill subdivision (regardless of scale) would be beneficial to the Shire of Manjimup area, other changes such as the ability to seek concessions in regional areas would be detrimental, should the request be justified.

Details contained within the Survey Questions shown at Attachment 9.5.6(2) prompt discussion on varying matters such as:

- Providing POS contributions for non-residential or rural living land uses;
- Whether the reduction to 5% contribution for infill subdivision is supported;
- Whether the cash contributions should be spent within the suburb within a 5 year timeframe;
- Whether the cash contribution calculated for infill should be changed from a percentage of the value of land to a fee per lot; and
- Whether the local government supports legislation change to enable POS contributions to be sought from grouped or multiple dwelling applications.

A copy of the Shire's draft response to the Survey Questions is provided attached for Council's endorsement.

**ATTACHMENT: 9.5.6 (3)**

### Conclusion

The proposed change, to reduce POS contributions for infill subdivisions, will have a significant impact on the rate in which cash contributions are collected, which enable the Shire to either purchase land for POS or improve and upgrade current POS sites. It is recommended that Council endorse the Shire's submission on the draft Policy advocating for the contributions to remain at 10%.

Other potential changes that are discussed within the Survey Questions may or may not transpire in the final version of the draft Policy. Council is requested to consider the Shire's responses at Attachment 9.5.6 (3).

### **STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005.*

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

The Shire's submission on the draft Policy aligns with the Shire of Manjimup's Strategic Community Plan 2021-2031, namely D10. Provide for public parks and playgrounds that are accessible and attractive with well-maintained amenities and equipment.

### **ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

Utilising cash contributions received from subdivisions to upgrade existing POS areas requires endorsement from the Minister for Planning. A relaxation in the percentage of POS contributions may reduce to cash in lieu contributions received by the Shire.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: A reduction in the percentage received for POS contributions could result in the Shire needing to contribute a greater portion of its own funds to upgrade existing POS in areas being developed or subdivided.

Social: Providing local POS is important to delivering a high quality of living and amenity to residents of a community.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

- 1. Note the proposed changes to the calculations for collecting Public Open Space contributions as outlined in draft Operational Policy 2.3 Planning for Open Space; and**
- 2. Endorse the Interim Chief Executive Officer's submission on the proposed changes outlined in point 1 above, to be aligned with the responses to the Survey Questions provided at Attachment 9.5.6 (3).**

**COUNCIL RESOLUTION:**

**MOVED: Eiby, W**

**SECONDED: Dawson Vidovich, S**

**29236**

**That Council:**

- 1. Note the proposed changes to the calculations for collecting Public Open Space contributions as outlined in draft Operational Policy 2.3 Planning for Open Space; and**
- 2. Endorse the Interim Chief Executive Officer's submission on the proposed changes outlined in point 1 above, to be aligned with the responses to the Survey Questions provided at Attachment 9.5.6 (3).**

**ADOPTED BY EN BLOC RESOLUTION: 11/0**



**ATTACHMENT  
APPENDIX**

**9.5.7 Request for Support in Principle - Future Development of Lot 21 (No 285) Perup Road, Manjimup**

<b>PROPONENT</b>	Martin Richards Planning & Urban Design
<b>OWNER</b>	Rumenos Developments Pty Ltd
<b>LOCATION / ADDRESS:</b>	Lot 21 (No 285) Perup Road, Balbarrup
<b>WARD:</b>	Central
<b>ZONE:</b>	Current – Rural Residential Proposed – General Agriculture
<b>DIRECTORATE:</b>	Office of the CEO
<b>FILE REFERENCE:</b>	DA22/61; P56134
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i>
<b>AUTHOR:</b>	Brian Robinson
<b>DATE OF REPORT:</b>	4 August 2023
<b>DECLARATION OF INTEREST:</b>	Nil

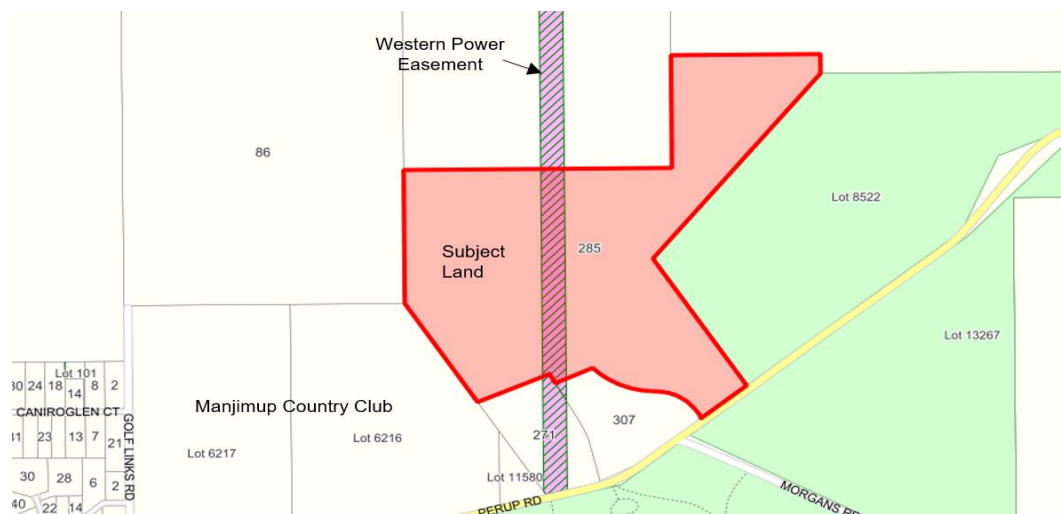
**BACKGROUND:**

The purpose of this agenda item is to outline a request that has been received seeking “in principle support” to the future development of Lot 21 Perup Road. Whilst a summary of the proposed development is provided overleaf, a full copy of the request, including a concept plan is attached.

**ATTACHMENT: 9.5.7(1)**

As shown below, the property is located east of the Manjimup Townsite on the northern side of Perup Road. State Forest abuts the eastern boundary, whilst agricultural land is located to the north and north-west. Portion of the western side boundary abuts the Manjimup Country Club, whilst two rural-residential lots separate portion of Lot 21 from Perup Road. Vehicle access is currently provided via an easement through 307 Perup Road.

**Location Plan**



Currently the land is developed with a single dwelling, several outbuildings and several small dams. As reflected on the Location Plan, a Western Power Easement runs north south through the property.

At its Ordinary Meeting held in November 2022, Council resolved (Resolution 28945) to adopt Local Planning Scheme Amendment No 27 (the Amendment) for the purposes of advertising with the intent of rezoning the land from “Rural Residential” to “General Agriculture”. Further comments on the status of the amendment are provided within the comment section below.

Although the Scheme Amendment is not yet finalised, the landowner is seeking “In Principle Support” to a development consisting of:

- A Microbrewery & Bar/Restaurant;
- Reception/Function/Business Centre;
- A Caravan Park;
- Hop plantation(s); and
- Dam for irrigation, recreation and aquaculture.

A concept plan of the proposed development is included within Attachment: 9.5.7(1). The applicant has verbally advised that a decision to support in principle will be used in support of an application for grant funding.

Council is requested to consider granting support in principle having regard to the advice provided within the Comment Section below.

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

To assist Council in its consideration of the request, the following comments are offered:

Current and Past Zoning

The provisions of Local Planning Scheme No 4 include the subject land within the “Rural-Residential” Zone. This zone reflected the intent of Amendment No 67 to Town Planning Scheme No 2., which rezoned the land from “Rural” to “Special Rural” in 1996.

Proposed Zoning

As reflected within background section of this agenda item, Local Planning Scheme Amendment No 27 proposes to rezone the subject land from “Rural Residential” to “General Agriculture”. It is stated within the Amendment documentation that the purpose of the rezoning is to facilitate a development as shown within the submitted concept plan.

The proposed amendment was assessed by the Environmental Protection Authority, who determined that the amendment did not require formal assessment in terms of the potential for environmental impact.

Council is advised that at the time of preparing this agenda item:

- a) Amendment No 27 was in the process of being advertised for public comment in accordance with legislative requirements, with the comment period closing on 16 August 2023; and
- b) Submissions had been received from Main Roads Western Australia and the Department of Biodiversity, Conservation and Attractions

It is anticipated that an agenda item will be prepared for Council consideration at its 7 September 2023 meeting, whereby Council will be requested to consider adopting the amendment for final approval, having regard to the submissions received.

#### Land Use Classifications

The proposed land uses are consistent with the following land use definitions as contained within Local Planning Scheme No 2 (the Scheme):

*“Agriculture – Extensive” means premises used for the raising of stock or crops but does not include agriculture – intensive or animal husbandry – intensive;*

*“Aquaculture” - means any fish farming operation for which a Fish Farm license issued pursuant to the provisions of Part V of the Fisheries Act, 1905 (as amended), and the Fisheries Regulations, 1938 (as amended), is required;*

*“Brewery” - means land and buildings used for the brewing of alcoholic and non-alcoholic beverages and the associated bottling, packaging and distribution of the goods produced;*

*“Caravan Park” - means an area set aside for the parking of caravans under the by-laws of the local government or the Health Act (Caravan Parks and Camping Grounds) Regulations 1974, made pursuant to the provisions of the Health Act 1911 (as amended), or any amendment thereto, or any regulation or by-laws from time to time standing in place of them;*

*“Private Recreation” – means the use of land for parks, gardens, playgrounds, sports arenas or other grounds for recreation which are not normally open to the public without charge;*

*“Reception Centre” - means premises used for functions on formal or ceremonial occasions but not for un-hosted use for general entertainment purposes;*

*“Restaurant” - means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the Liquor Licensing Act 1988;*

### Land Use Permissibility

With the exception of the uses “Aquaculture” and “Restaurant”, which are “A” uses within the Rural-Residential Zone, all other proposed uses are prohibited under the current zoning. The Scheme defines an “A” use *“means that the use 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”*.

It is noted however, all of the proposed uses are capable of being considered and approved in the event that the land is rezoned to the General Agriculture Zone as proposed by the provisions of Local Planning Scheme Amendment No 27. The Local Government’s prior approval is not required for “Agriculture-Extensive” land uses within the General Agriculture Zone.

### In Principle Decisions

Local Planning Policy No 6.1.1 outlines the Shire of Manjimup’s adopted position with respect to in principle decisions. Within Section 1 of the Policy, it is recognised that local government is occasionally requested to provide “in-principle support” to a particular land use proposal and that this process is favoured by some developers.

However, the Policy also highlights that:

- a) Development Approval to land use and developments within the Shire can only be granted following the assessment of formal applications lodged in accordance with the provisions of the Scheme and the *Planning and Development (Local Planning Scheme) Regulations 2015; and*
- b) In the absence of a formal application, processed in accordance with the Scheme, there is no legal basis for a local government to make an “in-principle decision”.

Given this, clause 1.1 of the Policy states *“The local government will not make a decision relating to the use or development of land unless it is subject to an Application for Planning Approval...”*. A copy of the Policy is appended.

### **APPENDIX: 9.5.7(A)**

As the above provisions are within a Local Planning Policy, it is open to Council to vary the policy and provided in-principle support as requested. It should however be noted that:

- a) Unless otherwise stated, a decision to support in principle could be construed as unconditional support to both the Scheme Amendment and the resultant development;
- b) The authority to approve and gazette a Local Planning Scheme Amendment rests with the Minister for Planning and not the Shire. The development would be prohibited in the event the Minister refuses the amendment.

- c) It is recommended that any decision to support in principle is subject to various matters including the submission and approval of an Application for Planning Approval;
- d) Resolving to provide support in principle could result in the creation of a precedent where others may seek support in principle to land use or development within the future.

It should also be noted that any resolution to provide in principle support should only be provided on a “without prejudice basis”, ensuring that Council is not providing any commitment to grant approval to an application which must be assessed on its merits. Given this and the fact the discretion to grant final approval to Amendment No 27 rests with the Minister for Planning, the effect of providing support in principle would be largely negated.

#### Matters to be Considered

As prescribed within the Scheme and the *Planning and Development (Local Planning Scheme) Regulations 2015*, a local government is required to have regard to various matters when determining applications for Development Approval. Such matters include, but are not limited to:

- a) The aims and provisions of the Scheme;
- b) Any approved State Planning Policies of the Commission;
- c) The compatibility of a use or development with its setting including the potential impact on the use and enjoyment of adjacent and nearby land;
- d) The likely effect of the proposal on the natural environment and any means that are proposed to protect or mitigate impacts on the natural environment; and
- e) Whether the proposed means of vehicle access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles.

An assessment against the above, and other relevant matters, can only be undertaken following the receipt of a formal application supported by a suitable level of information.

#### Conclusion

Whilst the concept plan appears to demonstrate a resultant development that would be consistent with the stated purpose of Local Planning Scheme Amendment No 27 and requirements of the Scheme and the *Caravan Park and Camping Grounds Act 1995*, a formal assessment cannot be made until such time as the land is zoned General Agriculture and an application for Planning Approval is made. Given this and other information provided within the Comment section above, it is recommended that Council not support the applicants request for support in principle to the submitted concept plan.

As an alternative, it is recommended that Council request the Interim Chief Executive Officer to prepare a suitably conditioned letter of support to the proposal outlining the proposals consistency with:

- a) The General Agriculture Zone as proposed within Local Planning Scheme Amendment No 27; and
- b) The Community Goals and Strategies outlined within the Shire of Manjimup Strategic Community Plan.

**STATUTORY ENVIRONMENT:**

*Planning and Development Act 1995, Planning and Development (Local Planning Scheme) Regulations 2015 and Local Planning Scheme No 4.*

**POLICY / STRATEGIC IMPLICATIONS:**

The Shire of Manjimup's Strategic Community Plan 2021-2031 identifies the following Community Goals and Strategies that are relevant to the request:

Community Goals

- 2.3 *The local economy is diversified and supports a range of industries and job opportunities; and*
- 2.6 *Our region grows in reputation as a world-class culinary, agricultural, environmental and trails tourism destination.*

Strategies

- 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 Forest Food Council;*
- B12 *Provide development opportunities and support local small business to thrive;*
- B16. *Support services and infrastructure to encourage caravan and RV Tourism; and*
- D7. *Review or amend the Local Planning Scheme to meet the changing needs of community and industry.*

The proposed concept plan is consistent with the above Community Goals and Strategies.

**ORGANISATIONAL RISK MANAGEMENT:**

As outlined within the Comment section of this agenda item.

**FINANCIAL IMPLICATIONS:**

Nil.

**SUSTAINABILITY:**

Environmental: The Environmental Protection Authority has identified that the potential for environmental impact does not require formal assessment in accordance with the Environmental Protection Act 1986. Further assessment of the potential impact will be undertaken following the receipt of a formal application for the Shire's prior Development Approval.

Economic: Supporting the landowners' proposal will provide the landowner with an opportunity to consider the development of the land in accordance with the proposed General Agriculture Zone.

Social: Development of the land as outlined within the submitted Concept Plan will provide opportunities for additional tourist accommodation and experiences within the region.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

1. Advise the applicant it is not prepared to support in principle the development of Lot 21 Perup Road, Balbarrup as reflected in the concept plan shown at Attachment: 9.5.7(1) for the following reasons:
  - a) Resolving to provide Support in Principle would be contrary to the provisions of Local Planning Policy 6.1.1 – General Applications for Planning Consent;
  - b) The majority of uses as detailed within the submitted concept plan are not capable of being approved in accordance with the current zoning under Local Planning Scheme No 4.
  
2. Notwithstanding Point 1 above, request the Interim Chief Executive Officer to prepare a letter of support to the development of Lot 21 for the uses reflected within the submitted concept plan on the basis that:
  - a) the proposal is consistent with the Community Goals and Strategies as outlined within the Shire of Manjimup’s Strategic Community Plan 2021-2031; and
  - b) The uses outlined within the submitted concept plan would be consistent with the provisions of Local Planning Scheme No 2 should the Minister of Planning grant final approval to Amendment No 27.

**COUNCIL RESOLUTION:**

**MOVED: Eiby, W**

**SECONDED: Dawson Vidovich, S**

**29237**

**That Council:**

1. Advise the applicant it is not prepared to support in principle the development of Lot 21 Perup Road, Balbarrup as reflected in the concept plan shown at Attachment: 9.5.7(1) for the following reasons:
  - a) Resolving to provide Support in Principle would be contrary to the provisions of Local Planning Policy 6.1.1 – General Applications for Planning Consent;
  - b) The majority of uses as detailed within the submitted concept plan are not capable of being approved in accordance with the current zoning under Local Planning Scheme No 4.

- 2. Notwithstanding Point 1 above, request the Interim Chief Executive Officer to prepare a letter of support to the development of Lot 21 for the uses reflected within the submitted concept plan on the basis that:**
- a) the proposal is consistent with the Community Goals and Strategies as outlined within the Shire of Manjimup's Strategic Community Plan 2021-2031; and**
  - b) The uses outlined within the submitted concept plan would be consistent with the provisions of Local Planning Scheme No 2 should the Minister of Planning grant final approval to Amendment No 27.**

**ADOPTED BY EN BLOC RESOLUTION: 11/0**



**ATTACHMENT****9.7.1 Proposed Annual Firebreak and Fuel Hazard Reduction Notice 2023-2024**

<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>	Development and Regulation
<b>FILE REFERENCE:</b>	F160102
<b>LEGISLATION:</b>	<i>Bush Fire Act 1954</i>
<b>AUTHOR:</b>	Todd Ridley
<b>DATE OF REPORT:</b>	19 July 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

Each year the Shire of Manjimup approves the Annual Firebreak and Fuel Hazard Reduction Notice (the notice), which contains fire prevention requirements and regulated burning times for all landowners and occupiers within the Shire to be applied to the next fire season.

A copy of the proposed *2023/2024 Annual Firebreak and Fuel Hazard Reduction Notice* is attached.

**ATTACHMENT: 9.7.1 (1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

**COMMENT (Includes Options):**

A copy of the draft notice was presented to Council's Bush Fire Advisory Committee (BFAC) at its 12 July 2023 meeting. As reflected within the 27 July 2023 agenda, item 9.16.4 the BFAC resolved to recommend that the draft notice be adopted.

It is considered that the requirements of the draft notice adequately address fire prevention and mitigation issues across the Shire of Manjimup. The BFAC and Shire Officers consider the needs of landowners, environmental issues, bush fire modelling, current State Government Legislation / Policy and the requirements for volunteer bush fire brigades and first responders, when drafting the annual notice.

Consideration is also given to residents that wish to further protect their houses from the threat of bushfire and address Bushfire Attack Levels introduced into bushfire prone areas.

**STATUTORY ENVIRONMENT:**

Section 33 of the *Bush Fires Act 1954* provides that a local authority may publish a notice requiring bushfire mitigation measures be prepared and maintained as specified and for the period necessary. Local authorities may direct landowners or occupiers of land by notice to prepare such mitigation measures within the time specified on the notice. Similarly, the cleaning up of any fire hazard may be ordered.

Each year the Shire of Manjimup publishes the notice in the Manjimup Bridgetown Times and local community newsletters. Copies of the notice are distributed to all landowners within the Shire of Manjimup and a copy is placed on the Shire website in accordance with the statutory requirements of the *Bush Fires Act 1954*.

In addition to the statutory requirements, Shire Officers hold and attend public meetings and forums across the Shire to educate landowners on the requirements of the notice. Individual landowners are encouraged through media releases to contact Shire Officers for clarification on the notice if required.

There have been two small additions to the notice this year. The addition of Land Category "Special Use" which has been previously missing from the notice and the addition of "combustible" to the definition of Fire Break. This was to eliminate any confusion of the requirements of a firebreak.

**POLICY / STRATEGIC IMPLICATIONS:**

Adoption of notice is consistent with the following recommendations of the *Shire of Manjimup's Strategic Community Plan 2021 – 2031*:

- *Strategy A5 - Manage fuel hazards to minimise the risk of serious fire threat to ecosystems, human life and property; and*
- *Strategy C13 - Plan for emergency and natural disaster response, management, evacuation and recovery.*

**ORGANISATIONAL RISK MANAGEMENT:**

A review of the notice is undertaken on an annual basis by Shire Officers in consultation with the BFAC to ensure emerging risks associated with fire on private property are addressed during the coming fire season, minimising the risk to life and property.

**FINANCIAL IMPLICATIONS:**

The cost of producing and publishing the notice is included in the 2023/24 annual budget.

**SUSTAINABILITY:**

Environmental: Fire has the potential to decimate the natural and built environment if preventative and operational bush fire strategies are not adequate.

Economic: The economic consequence of fire can be devastating. Fire has the ability to destroy entire agricultural areas in particular with the potential to ruin the livelihood of many people.

Social: The social consequence of fire can also be devastating to individuals and the community.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council adopt the *2023/2024 Annual Firebreak and Fuel Hazard Reduction Notice* pursuant to Section 33 of the *Bush Fires Act 1954* as shown at Attachment: 9.7.1(1).**

**COUNCIL RESOLUTION:**

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

**29238**

**That Council adopt the *2023/2024 Annual Firebreak and Fuel Hazard Reduction Notice* pursuant to Section 33 of the *Bush Fires Act 1954* as shown at Attachment: 9.7.1(1).**

**ADOPTED BY EN BLOC RESOLUTION: 11/0**

**ATTACHMENT****9.9.2 Request to Endorse Draft Pemberton Sports Complex Operational and Governance Model Review Report for Public Comment**

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	NA
<b>WARD:</b>	NA
<b>ZONE:</b>	NA
<b>DIRECTORATE:</b>	Community Services
<b>FILE REFERENCE:</b>	F220168
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Evy Apeldoorn
<b>DATE OF REPORT:</b>	2 August 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

A draft Pemberton Sports Complex Operational and Governance Model Review report has been prepared. This draft report was presented to Council during the Information Briefing session on 27 July 2023.

The purpose of this report is to seek Council approval to release the draft Pemberton Sports Complex Operational and Governance Model Review report for public comment. The draft report is attached.

**ATTACHMENT: 9.9.2 (1)****PUBLIC CONSULTATION UNDERTAKEN:**

The Shire appointed consultant engaged to undertake the review conducted an initial face to face stakeholder meeting and electronic community and user group consultation via phone, email, and internet correspondence. The response rate for the community survey was high, with 133 community members participating.

**COMMENT (Includes Options):**Objectives

The objective of this review is to recommend the best practice operational and governance model for the Pemberton Sports Complex (the Complex) and to provide recommendations for the implementation of that model. The focus is to make a recommendation on the best governance model to ensure that the Complex remains open for the benefit of the Pemberton community. It is acknowledged within the report that the acceptance of any recommendations within this report need to be endorsed or otherwise by both the Pemberton Sports Club (the Club) and by the Shire of Manjimup if municipal funding is recommended.

### Review Process

Following a request for financial assistance from the Club on 18 May 2022, Council moved at its Ordinary Meeting of 16 June 2022 to facilitate a review of the operational model of the Complex, to be funded in the 2022/23 budget.

Upon Council's adoption of the 2022/23 budget late July 2022, a comprehensive Request for Quote was prepared by Shire Officers to procure a suitably qualified consultant to undertake a multifaceted review of the operational model of the Complex. Through an open competitive Request for Quote process, the proposal of SGL Consulting Group (SGL) was assessed as the preferred submission based on its high quality and value for money. Following the request to Council at its Ordinary Meeting on 8 December 2022 for a budget amendment to allow for the review to be undertaken, SGL was appointed as project consultant in December 2022.

SGL commenced the review in January 2023, collecting data and undertaking consultation with various stakeholders of the Complex and the community. Upon analysis of data provided by stakeholders and collected in the consultation, SGL prepared and presented a draft report to Council on 27 July 2023.

SGL analysed the current governance arrangements for the Complex and reviewed the financial performance of the Club. Other matters investigated included governance model options, stakeholder consultation, liquor license, property rates, historic financial support from the Shire, and benchmarking of fees with other sport and recreation or community facilities located in shires adjacent to the Shire of Manjimup. Through this assessment, the draft report provides the below recommendations.

### Recommendations

The draft report investigates 7 different management models, with the current arrangement of the Club continuing as lessee and entering a Fee for Service Arrangement (Option 7 in the draft report) being recommended as the preferred governance arrangement for the Complex.

Specific recommendations for consideration by the Club and the Shire of Manjimup include:

1. The Club and the Shire of Manjimup should negotiate and enter a Fee for Service Agreement to maintain and promote the delivery of community sport and recreation services/activities at the Complex. The fee for service recommended under this arrangement is approximately \$770 per week (\$40,040 per annum). This fee for service amount reflects the economies of scale that is achieved through this model, with the Club managing both the bar trading and the sport and community facility spaces. Alternative models will lead to duplication of costs, and inefficiencies leading to higher costs for both the Club and the Shire.
2. Supplementary steps to stabilise the financial position of the Club, including:

- To develop key documentation/processes which will enable it to strategically plan for the future, including a business and asset management plan; and
  - To review its funding model to secure a greater commitment from all user groups. This includes entering licences where possible with user groups for facility use with a mechanism to share revenues from increased bar sales.
3. Formalise all club activities in the Club Constitution (if required).
  4. More formal arrangements to be put in place with seasonal users of the Complex. This will provide user groups with certainty of facility of access to meet their respective needs and provide the Club with more certainty in facility use and associated revenue streams.
    - Licence to Occupy - To provide certainty of facility access to meet their needs it is recommended that licence arrangements are negotiated and implemented with seasonal/regular user groups; and
    - Hire Arrangements - It is recommended that the Club continue to offer hire arrangements for short-term or irregular one-off uses of the Complex. Hire arrangements should continue to be via published rates and the hirer accepting the Club's specific terms and conditions for facility hire.
  5. Options should be explored and discussions held with community groups who may be compatible with co-location within the Complex. Requirements for facility modification as result of co-locations could only be determined once a viable arrangement has been identified.
  6. Electricity costs have been identified as a significant operating expense for the Club, and this cost is anticipated to continue to grow into the future. As noted in the financial statement attached to agenda item 9.3.1 of this same Council meeting, the electricity costs for the Complex over the past month were \$3,253. In order to help mitigate the impact of this cost, the Club (with the assistance of from the Shire) should undertake an update to the 2014 energy cost audit with a new energy use audit with a view to:
    - Explore options to reduce the size of the cold room and break it down to a cold room and store room (not refrigerated);
    - Shut down the freezer for the kitchen area and utilise a smaller fit for purpose freezer which would provide more efficient cold storage options; and
    - Consider installation of sub electricity and water meters so usage can be tracked between discreet optional components of the Complex. Consider installation of battery storage and other enhancements to the existing solar installation at the Complex.
  7. Water charges increased significantly during 2021/22. The main cause should be investigated if not already known as it could potentially relate to a water leak. It is recommended that a water usage audit be undertaken by the Club to determine where water is consumed and potential water saving options to be implemented at the Complex.
  8. Future license agreements with user groups include a mechanism for a percentage rebate to the licence fee from alcohol sales to each club/user group. Such an arrangement will provide an incentive for clubs to promote use of the bar and help to boost sales from bar takings and in turn would benefit the clubs or user groups themselves. It is important that any rebate

mechanism be developed with consideration to the fact that although the clubs do not currently receive a percentage of profit from sales, they also do not contribute towards the costs of cleaning, bar management, electricity, water, and other building maintenance. These elements should all be considered when determining an appropriate rebate formula.

9. The Club should further explore (in consultation with the Shire) how the valuation for the Complex is undertaken and whether a more equitable calculation could be considered by the Valuer General, based on the community benefit, type, and frequency of use of the Complex by sporting clubs and respective users. In the event a more equitable valuation were adopted, this could assist in reduction in the ratable area and therefore rates paid by the Club.

It is requested that this draft report be released for public comment as it is essential that the community has opportunity to provide feedback. Upon the draft report being endorsed by Council to release for public comment, SGL will arrange sessions with the Club, user groups of the Complex, and the wider community. The public comment period will remain open for submissions for a further 14 days following these sessions.

#### **STATUTORY ENVIRONMENT:**

*Local Government Act 1995.*

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

Shire of Manjimup Strategic Community Plan 2021-2031:

- Strategy C1. Encourage co-locations, partnerships and resource sharing to deliver community services.
- Strategy C18. Create, support and promote a broad range of sporting, recreational and social opportunities that are accessible and inclusive for all ages and abilities.
- Strategy D5. Develop and maintain community infrastructure to a service-level that meets the community's needs.
- Strategy D12. Assist communities to build and maintain sport and recreation facilities whilst encouraging co-locations, collaborations and resource sharing wherever possible.

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

Taking a proactive stance and investing in the strategic review of the operational model for the Complex has the potential to mitigate reputational damage of the Shire. Ongoing rate waivers and debt write-off may be criticised by competitors, members of the community, and other like sporting and recreation entities. Supporting a commercial style undertaking with public funds may create an uneven playing field.

The public comment process will provide a meaningful opportunity for stakeholders and the community to participate in the review.

**FINANCIAL IMPLICATIONS:**

The costs associated with undertaking the review, including the public consultation process, were already approved in the 2022/23 Shire budget. No further funds are requested for this process.

Should Council wish to progress with the governance model for the Complex as recommended in the draft report, then the Club and the Shire should negotiate and enter a Fee for Service Agreement to maintain and promote the delivery of community sport and recreation services/activities at the Complex. The fee for service recommended under this arrangement is approximately \$770 per week (\$40,040 per annum). Any potential annual increases to be negotiated into the Fee for Service Agreement are to be consistent and equitable with similar arrangements between the Shire and other community groups.

As mentioned in the Council agenda item of 16 June 2022, it should be noted that further funds may be required in the future should the review findings recommend building amendments to improve the effectiveness and efficiency of the governance and/or operations of the Complex. Any new investment is to be levelled against its benefits. Complex users may also be in a position to seek grant funding to achieve some of the potential investment outcomes. If Shire funds are requested to implement some of these building amendments, a request for funding would require consideration in the 2024/25 budget, as the adopted 2023/24 budget does not contain any specific allowance for this.

It should be noted that additional funds have been incorporated into the 2023/24 budget to assist the Club with their operations of the Complex whilst this review is being finalised.

**SUSTAINABILITY:**

Environmental: Nil.

Economic: A review of the operational model of the Complex aims to benefit its economic sustainability.

Social: The Complex provides the local Pemberton community with a variety of facilities for recreational and social activities. The continued viability of the Complex is important to the social wellbeing and connectivity of the Pemberton community.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

- 1. Endorse the release of the draft Pemberton Sports Complex Operational and Governance Model Review report, as per Attachment: 9.9.2 (1), with the period for submissions to be closed 14 days after the community consultation sessions held in Pemberton; and**



2. Await a further report for Council's consideration following the closure of the consultation period.

**COUNCIL RESOLUTION:**

**MOVED: Eiby, W**

**SECONDED: Dawson Vidovich, S**

**29239**

**That Council:**

1. Endorse the release of the draft Pemberton Sports Complex Operational and Governance Model Review report, as per Attachment: 9.9.2 (1), with the period for submissions to be closed 14 days after the community consultation sessions held in Pemberton; and
2. Await a further report for Council's consideration following the closure of the consultation period.

**ADOPTED BY EN BLOC RESOLUTION: 11/0**

**ATTACHMENT  
APPENDIX**

**9.11.1 Proposal for Renaming the Walpole Public Library**

<b>PROPONENT OWNER</b>	Walpole Community Resource Centre Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	Walpole Library, 2 Pier Street, Walpole
<b>WARD:</b>	South Ward
<b>ZONE:</b>	Walpole Town Centre
<b>DIRECTORATE:</b>	Community Services
<b>FILE REFERENCE:</b>	F160240
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Vanda Dei-Tos
<b>DATE OF REPORT:</b>	3 August 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

The Walpole Community Resource Centre (WCRC) is coordinating a community initiative to rename the Walpole Public Library the “Elizabeth Gerner Walpole Library”. The submission from WCRC outlines that Ms Gerner became involved in the Walpole Library soon after moving to the town in 1969 and became the Secretary/Librarian in 1970. In this role, she was instrumental in facilitating the library’s inclusion in the State Library Service in 1982 and engendering a love of reading in borrowers across generations. The submission, including supporting documentation, is attached.

**ATTACHMENT: 9.11.1 (1)**

During recent Council Informal Briefing Sessions, Councillor Willcox briefed Councillors on the above proposal and undertakings of the WCRC.

The purpose of this report is to seek Council consideration of the formal submission received from the WCRC to rename the Walpole Public Library the ‘Elizabeth Gerner Walpole Library’ as assessed against Policy 3.1.6 *Naming of Shire Assets, Tree Plantings, Memorials and Plaques*. The policy is appended.

**APPENDIX: 9.11.1(A)**

**PUBLIC CONSULTATION UNDERTAKEN:**

No consultation has been undertaken by the Shire of Manjimup, however the WCRC has conducted extensive consultation as follows:

- Articles in the *Walpole Weekly*, encouraging locals to express their opinion on whether the library should be renamed in honour of Ms Gerner;
- Online voting was available from 5 to 30 April 2023 and interested locals could call into the WCRC to cast a written vote; and
- Received letters of support.

The result was strong support for renaming the library with some 91 votes endorsing the name change and only 3 opposing it.

**COMMENT (Includes Options):**

Based on the community support received for the proposal the WCRC unanimously voted in favour of seeking the renaming of the library at its Management Committee Meeting of Friday 26 May 2023.

The WCRC's request to rename the Walpole Library is consistent with the Shire's policy on Naming of Shire Assets, Tree Plantings, Memorials and Plaques. Specifically, the request meets relevant criteria outlined in section C of the policy which covers the commemoration of individuals in naming Shire assets as follows:

*“Having contributed significantly to the development, protection or enhancement of the greater region that has produced long-term improvements in the area or community.”*

Renaming the library recognises the significant contribution Elizabeth Gerner made to the town through 33 years of dedicated service.

After moving to Walpole in 1969, Ms Gerner, became the town's Secretary/Librarian the following year and remained in the role until her retirement in 2001. During that time, she was successful in having the Walpole Library join the State Library Service in 1982 when it became the 200<sup>th</sup> public library in the State. Ms Gerner was a passionate and tireless advocate for encouraging children to lose themselves in stories from an early age. She was an avid reader and committed to sharing this love of books with visitors to the library.

*“Have a long-term association with a local community group or service club (no less than 20 years). Service to the community or organisation must have been voluntary.”*

Ms Gerner was a widely known and highly respected member of the Walpole community due to her involvement in activities that supported locals and the town more generally. In addition to her many years as the town's Librarian, Ms Gerner was actively involved in a wide range of community groups and activities including as a member of the Walpole Nornalup (WN) and Districts Historical Society (for 30 years), WN Tourism Association, WCRC Committee (for 20 years) and the Walpole Health Advisory Committee. Ms Gerner and her husband also hosted Outward Bound activities on their property.

*“Preferably be recognised in memoriam.”*

Ms Gerner passed away in 2022. Renaming the Walpole Library in her honour will be a lasting tribute to her unstinting support for the Walpole community.

*“Be endorsed by the deceased person's immediate family.”*

The proposed renaming of the library in Ms Gerner's honour is fully supported by her husband, Thomas Gerner.

Furthermore, the WCRC has on behalf of the community, met all the requirements for Naming Proposals for Public Spaces and Community Infrastructure detailed in section four of the policy:

- Addressing the request to the Shire's CEO
- Evidence of support from an elected member of the Shire
- Address of the building or place to be named.
- A site plan clearly identifying the location and boundaries of the asset to be named.
- Documentation providing the reason for the choice of name including the history, meaning, significance and relevance to the town, locality and/or Warren-Blackwood or Walpole-Nornalup region or national/international contribution.

The State Library of Western Australia (SLWA) has confirmed that it will not alter the naming conventions for the Walpole Library within its network. However, it fully supports the renaming of the library at the local level.

In conclusion it is recommended that the Council endorse the formal renaming of the Walpole Library the 'Elizabeth Gerner Walpole Library' but continue to follow the State Library naming convention and maintain operational reference as the Walpole Library.

#### **STATUTORY ENVIRONMENT:**

*Local Government Act 1995.*

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

Shire Policy 3.1.6 Community Services – Community Development – Naming of Shire Assets, Tree Plantings, Memorials and Plaques.

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

Nil.

#### **FINANCIAL IMPLICATIONS:**

The costs associated with the name change relate almost exclusively to the development and installation of new signage and a didactic panel detailing Ms Gerner' story and links to the library. The total cost will be approximately \$950 and will be covered from the 2023/24 Library and Information Services operational budget.

#### **SUSTAINABILITY:**

Environmental: Nil.

Economic: Nil.

Social: This is a community-initiated project that will strengthen Walpole's social capital. Community members have dedicated their time, interest and talents to recognising the significant contribution that one of their own has made to the town through many years of service. It provides a sense of place and ownership and chronicles a story of the town.

**VOTING REQUIREMENTS: SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

- 1. Support the Walpole Community Resource Centre's request for renaming the Walpole Library the Elizabeth Gerner Walpole Library; and**
- 2. Note that it will not alter the naming conventions for the Walpole Library within the Public Library network.**

**COUNCIL RESOLUTION:**

**MOVED: Eiby, W**

**SECONDED: Dawson Vidovich, S**

**29240**

**That Council:**

- 1. Support the Walpole Community Resource Centre's request for renaming the Walpole Library the Elizabeth Gerner Walpole Library; and**
- 2. Note that it will not alter the naming conventions for the Walpole Library within the Public Library network.**

**ADOPTED BY EN BLOC RESOLUTION: 11/0**

**ATTACHMENT  
APPENDIX**

**9.1.1 Consideration of Submissions and Final Adoption of Proposed Shire of Manjimup Bush Fire Brigades Local Law 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>	N/A
<b>DIRECTORATE:</b>	Office of CEO
<b>FILE REFERENCE:</b>	F170066
<b>LEGISLATION:</b>	<i>Local Government Act 1995</i>
<b>AUTHOR:</b>	Jason Giadresco
<b>DATE OF REPORT:</b>	21 July 2023
<b>DECLARATION OF INTEREST:</b>	Nil

**BACKGROUND:**

At its 13 April 2023 Ordinary Meeting, Council considered the proposed *Shire of Manjimup Bush Fire Brigades Local Law 2023* (the Local Law) resolving unanimously (Resolution 29098) as follows:

“That Council:

1. 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 Bushfire Brigades Local Law 2023*, as shown at 9.1.1 (1) with the following purpose and effect:

Purpose – to provide for the adequate governance of bushfire brigades throughout the Shire of Manjimup.

Effect – to repeal the outdated By-Law and ensure the legal constitution of all bushfire brigades within the Shire of Manjimup.

2. Advertise the Bushfire Brigades Local Law as referred to in point 1 above for a period of not less than 6 weeks in accordance with Statewide and Local Public Notice provisions;
3. In accordance with the *Local Government Act 1995* section 3.12(3) advise the Ministers for Local Government and Emergency Services of the proposed local law; and
4. Await a further report on the *Shire of Manjimup Bushfire Brigades Local Law 2023* following the completion of the advertising period referred to in point 2 above.”

A copy of the Draft Local Law as adopted by Council for the purposes of advertising is appended.

**APPENDIX: 9.1.1(A)**

Following a mandatory period of public comment, the submissions received highlighted a number of minor textual changes recommended to be made to the Local Law by the Department of Local Government, Sport and Cultural Industries (DLGSC) and Department of Fire and Emergency Services (DFES). A copy of the modified *Shire of Manjimup Bush Fire Brigades Local Law 2023*

is attached containing the recommended changes to the draft previously adopted by Council.

**ATTACHMENT: 9.1.1 (1)**

Council is requested to consider the adoption of the Local Law as modified.

**PUBLIC CONSULTATION UNDERTAKEN:**

A notice of the proposed Local Law was advertised in the *Manjimup – Bridgetown Times* inviting submissions over a 6-week period by 20 July 2023. The time limit for submissions complied with the provisions of the *Local Government Act 1995*.

A copy of the proposed Local Law was also made available to be viewed at the Shire Administration Centre, local public libraries and on the Shire's website.

No members of the public provided any comment on the proposed Local Law. Two submissions from DLGSC and DFES were received. It is noted that the submission from DFES was received late. A copy of these submissions are attached, and are discussed below.

**ATTACHMENT: 9.1.1 (2)**

**COMMENT (Includes Options):**

Local Law Content

The proposed Local Law is closely based on the content of the *Shire of Williams Bushfire Brigades Local Law 2022* being the most recent and relevant example available. The Local Law will provide the legal framework governing, and giving a head of power to, the constitution and operation of volunteer brigades within the Shire. The primary components of the Local Law are summarised as follows:

- The head of power to establish and name a brigade;
- Clarification of the brigade hierarchy of control and the appointment, duties and responsibilities of brigade officers;
- The maintenance of firefighting appliances; and
- The appointment, employment, payment, dismissal and duties of Bush Fire Control Officers.

It should also be noted that the Shire's Bush Fire Advisory Committee resolved to support the draft Local Law at its meeting held 22 March 2023.

Consideration of Submissions

The content of the submissions received on the proposed Local Law are discussed below:

*DLGSC*

The submission received from DLGSC dated 18 July 2023 noted that:

- The Local Law is partially made under the *Bushfire Act 1954*;
- Notes that DFES possesses 'subject specific' knowledge, and it is recommended that it be included in the Local Law; and
- Suggested a minor renumbering of clause 2.2 to clause 3, and the italicisation of the 1940 By-law.

The above recommendations are supported and have been included in the revised draft Local Law where appropriate. It is considered that the comments made by DLGSC have been adequately addressed.

### *DFES*

The late submission received 2 August 2023 from DFES notes:

- That it is not able to provide specific advice on the proposed Local Laws and Council may wish to seek a legal opinion to ensure the Local Laws are compliant with legislation. It is noted this comment is contrary to the advice provided by the DLGSC above;
- Notes that the Local Law is based on the *Shire of Williams Bush Fire Brigades Local Law 2022*, but should also consider the outcomes of a previous decision made by JSCDL in 2018 on the *City of Rockingham Bush Fire Control and Bush Fire Brigades Amendment Local Law 2018* and the WALGA template Bush Fire Brigades Local Law; and
- Noted that the Shire may wish, as a matter of policy, to consider including eligibility criteria (as given in the subsidiary *Fire Brigade Regulations 1943*) for volunteers in brigades formed under the *Fire Brigades Act 1954*. The author of this report notes that the legislation has been incorrectly referenced, with the *Fire Brigades Act 1942* being the correct legislative title.

Given that the Joint Standing Committee on Delegated Legislation (JSCDL) has recently passed the *Shire of Williams Bush Fire Brigades Local Law 2022* on which the proposed Local Law is based on, Shire Officers are confident that the Local Law will be accepted by the JSCDL. A review of undertakings issued by JSCDL from December 2021 on approved Local Laws shows that the Shire of Williams local law was accepted by the JSCDL without amendment. It is noted that volunteer eligibility criteria is provided for in the Shire's Bush Fire Brigades Operational Procedures 2022 - 2027. A copy of these procedures is available on the Shire website.

No changes to the Local Law are proposed in consideration of the DFES submission

### Local Law Procedure

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

<b>Step</b>		<b>Status</b>
<b>1</b>	Drafting of a local law;	Completed.
<b>2</b>	Council resolving to make a local law and the presiding member to give notice of the purpose and effect of the local law;	Completed.
<b>3</b>	Providing Statewide public notice summarising and calling for submissions within a specified time frame of no less than six weeks;	Completed.
<b>4</b>	Providing copies of the proposed local law to DLGSC and DFES for submission to the relevant Minister;	Completed.
<b>5</b>	Council resolving by absolute majority to make the local law taking into consideration any submission made;	<b>The purpose of</b>



Step		Status
		<b>this agenda item</b>
6	Publishing the local law in the Government Gazette;	TBD
7	Providing Statewide public notice that the local law is to come into effect; and	TBD
8	Providing an explanatory memorandum to the Joint Standing Committee on Delegated Legislation for assessment.	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 DLGSC and the advice provided by DFES are not considered to be significant enough to warrant recommencing the process.

Should Council resolve to adopt the Local Law in accordance with the Officer Recommendation below, Shire Officers will then proceed to completing steps 6, 7 and 8 of the procedure shown in the table above.

#### **STATUTORY ENVIRONMENT:**

*Local Government Act 1995* sections 3.12 to 3.17 provide the process to adopt a new Local Law and to repeal an old one; and  
*Bush Fires Act 1954*.

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

The adoption of a new Bushfire Brigades Local Law will ensure that Shire Officers have adequate statutory authority to ensure the good governance of bushfire brigades within the district.

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

The introduction of a new Bushfire Brigades Local Law will mitigate any future risk in the ongoing governance of bush brigades and their ability to operate in an emergency.

#### **FINANCIAL IMPLICATIONS:**

Costs associated with gazetting the Local Law will be wholly contained within the Shire's approved budget for the 2023/24 financial year.

#### **SUSTAINABILITY:**

Environmental: Volunteer bushfire brigades serve an important role in the protection and maintenance of the local environment either through fire mitigation activities or active response to bushfire events.

Economic: Nil.

Social: The local community looks to its emergency services volunteers for protection and support during fire events. This proposed Local Law serves to ensure that bushfire brigades are legislatively able to operate.

**VOTING REQUIREMENTS: ABSOLUTE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

1. Note the submissions received from the Department of Local Government, Sport and Cultural Industries and Department of Fire and Emergency Services to the draft *Shire of Manjimup Bush Fire Local Law 2023*;
2. Adopts the *Shire of Manjimup Bush Fire Local Law 2023* as modified in accordance with section 3.12 of the *Local Government Act 1995* and contained at Attachment 9.1.1 (1); and
3. Authorises the Shire President and Interim Chief Executive Officer to execute the gazettal of the *Shire of Manjimup Bush Fire Local Law 2023* and affix the Common Seal.

**COUNCIL RESOLUTION:**

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

**29241**

**That Council:**

1. Note the submissions received from the Department of Local Government, Sport and Cultural Industries and Department of Fire and Emergency Services to the draft *Shire of Manjimup Bush Fire Local Law 2023*;
2. Adopts the *Shire of Manjimup Bush Fire Local Law 2023* as modified in accordance with section 3.12 of the *Local Government Act 1995* and contained at Attachment 9.1.1 (1); and
3. Authorises the Shire President and Interim Chief Executive Officer to execute the gazettal of the *Shire of Manjimup Bush Fire Local Law 2023* and affix the Common Seal.

**MOTION CARRIED 11/0**

**FOR: Cr Buegge; Cr Dawson Vidovich; Cr Eiby; Cr Jenkins; Cr Lawrence; Cr Omodei; Cr Skoss; Cr Taylor; Cr Ventris; Cr Willcox; Cr Winfield.**

**AGAINST: Nil.**

## ATTACHMENT

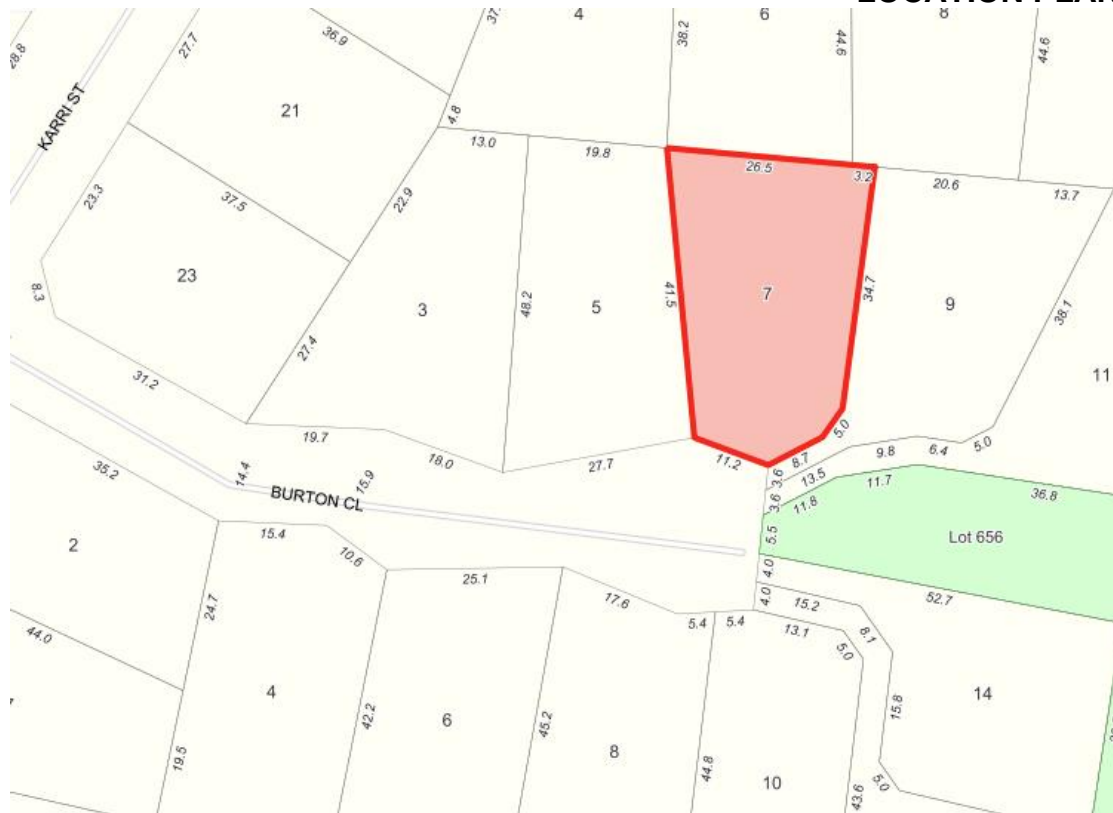
### 9.5.5 Proposed Variation to Local Planning Scheme No. 4 to Keep Two Cats at Lot 39 (7) Burton Close Walpole

<b>PROPONENT</b>	Mr I M Woodhams
<b>OWNER</b>	Mr I M & Mrs M Woodhams
<b>LOCATION / ADDRESS:</b>	Lot 39 (7) Burton Close, Walpole
<b>WARD:</b>	South
<b>ZONE:</b>	Residential R10
<b>DIRECTORATE:</b>	Development and Regulation
<b>FILE REFERENCE:</b>	DA23/84 P54456
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005</i>
<b>AUTHOR:</b>	Jocelyn Baister
<b>DATE OF REPORT:</b>	2 August 2023
<b>DECLARATION OF INTEREST:</b>	Nil

#### BACKGROUND:

Council is in receipt of an application to vary the provisions of Local Planning Scheme No. 4 (the Scheme) to enable the applicant to keep two cats. The subject property, located at Lot 39 (7) Burton Close, Walpole, is 1,035m<sup>2</sup> and consists of a Dwelling and Outbuilding. The land owners have owned and resided at the property since 2003. A location plan is provided below.

#### LOCATION PLAN



The applicant is seeking retrospective approval to keep two cats at the property, details of the application are summarised below:

- The cats are to be kept inside at all times;

- When the weather permits, the cats are taken outside and into a commercial cat enclosure 3.6m x 1.8m and 1.8m in height;
- The Dwelling is fitted with self-closing security doors; and
- The cats are shut in the enclosure or a bedroom when visitors or trades persons attend the property.

Information submitted with the application is provided attached.

**ATTACHMENT: 9.5.5 (1)**

Due to the retrospective nature of the application and the conflict with the *Shire of Manjimup Cat Local Law 2021*, Council is being requested to consider and determine the application.

**PUBLIC CONSULTATION UNDERTAKEN:**

The application was referred to adjoining neighbours for a period of 21 days. The proposal was also referred to the Department of Biodiversity Conservation and Attractions (DBCA) for a period of 42 days. No comments were received from the adjoining neighbours during the consultation period.

DBCA advised that it had no objection to the proposal, providing the owners ensure the cat enclosure is secure and maintained to reduce the risk of escaping cats. A condition has been included to this effect and the comments are attached.

**ATTACHMENT: 9.5.5 (2)**

**COMMENT (Includes Options):**

The Scheme designates the subject property as zoned Residential with an applicable density of R10. Clause 2.7 enables the local government the power to make planning precinct statements to guide development, rezoning or subdivision within a planning precinct.

The subject property is located within the Boronia Ridge Residential Estate Planning Precinct and therefore the associated provision applicable to this application is as follows:

- (xiv) No domestic cat or cats (felis catus) shall be kept or be caused to be kept on the land.*

It is Shire Officers understanding that the provision was included by the State environmental department due to the environmentally sensitive area dedication and to ensure the protection of native fauna.

The Scheme amendment to Town Planning Scheme No. 2 was processed in the mid-1990's when it was more common for cats to roam freely and have a significant impact on the local wildlife. With the introduction of outdoor cat enclosures, cat owners can have the certainty that their cat not only will be protected from predators, but the local wildlife will also be protected.

### 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.”*

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

- (i) the aims and provisions of the Scheme and any other relevant Local Planning Scheme operating within the Scheme area;*
- (v) any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;*
- (viii) the content and objective of Planning Precinct Statements set out in Schedule 8 of this Scheme;*
- (x) the compatibility of a use or development with its setting including the potential impact on the use and enjoyment of adjacent and nearby land and taking into consideration any Special Control Area;*
- (xiii) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment; and*
- (xv) the preservation of the amenity of the locality;*

To assist Council in determining the application, the following comments are offered in respect of the matters to be considered:

### Setbacks

The proposed cat enclosure achieves compliance with the development standards for the Residential Zone and is permitted development, aligning with the definition of an incidental structure (domestic animal enclosure) under clause 8.4 of the Scheme.

### Boronia Ridge Planning Precinct Statement

As mentioned above, Schedule 8 contains the requirement that restricts the keeping of cats within the planning precinct area. Prior planning approval is required to vary this requirement.

### 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 keeping of cats has been occurring for some time and it has only been brought to the attention of the Shire with the introduction of the requirements to register domestic cat ownership.

### Preservation of Environment and Amenity

The native flora and fauna within the Boronia Ridge Estate and greater Walpole areas are important aspects which add to the amenity of the area. It is the opinion of Shire Officers that receiving an application to keep cats does not diminish the importance of the protection of flora and fauna. By keeping cats indoors or within outdoor enclosures, the risk of cats roaming and harming the native fauna is reduced, if not mitigated.

### Shire of Manjimup Cat Local Law 2021 (Cat Local Law)

When preparing the Cat Local Law, Shire Rangers referred to the Scheme provisions which restrict cats within certain areas, either in Schedule 2 for Rural Residential Zoned areas or Schedule 8 for Boronia Ridge Planning Precinct and defined Cat Prohibited Areas.

Whilst there is flexibility in the Scheme to vary requirements, there is no ability for a landowner or occupier to obtain a permit under the Cat Local Law to keep a cat within Prohibited Areas.

Clause 1.9 of the Scheme provides guidance to the local government when a provision of the Scheme is inconsistent with a local law, the provision of the Scheme prevails. Therefore, the ability of the Shire to vary requirements of the Scheme through clause 5.5 means that a planning approval for that variation would prevail over the requirements of the local law.

However, to ensure that there is a transparent determination, it is recommended that Council resolve to not take action for a breach of the requirements of the Cat Local Law.

### Ongoing Future Approach

It is assumed there was gap in time between the Cat Local Law coming into effect and the requirement to register cat ownership with the Shire. As such there were approximately five (5) cats registered on three properties in areas now defined as Cat Prohibited Areas.

Shire Officers are aware and are in receipt of similar applications for two other properties where cats are being kept, that are within Prohibited Areas.

To ensure that no more cats are approved within prohibited areas, Shire Officers are recommending that all cats being registered after the introduction of the Cat Local Law, must not be registered to a property listed within a Cat Prohibited Area, and that no further variations to the Scheme are supported.

### Conclusion

It is acknowledged that there was a period of time when landowners had been allowed to register cats in areas which were later defined as Cat Prohibited Areas. To provide a fair and reasonable resolution to the conflict, an application for planning approval to vary the requirements of the Scheme is supported and approval is recommended.

**STATUTORY ENVIRONMENT:**

*Planning and Development Act 2005, Local Planning Scheme No. 4 and Shire of Manjimup Cat Local Law 2021.*

**POLICY / STRATEGIC IMPLICATIONS:**

Support of the application will assist in the delivery of the following Strategies under the Shire of Manjimup Strategic Community Plan 2021-31:

- A1.** *Support initiatives that protect and nurture biodiversity and endemic species;*
- A8.** *Effectively use development and land policies to protect and rehabilitate the environment whilst balancing the needs of the community*
- B10.** *Ensure the regulatory environment is easy to navigate and development, business and industry-friendly.*

**ORGANISATIONAL RISK MANAGEMENT:**

Appropriate conditions are required to be imposed to ensure the intent of the Scheme provisions are achieved.

**FINANCIAL IMPLICATIONS:**

Nil.

**SUSTAINABILITY:**

Environmental: Keeping cats indoors or in an outdoor enclosure should reduce if not mitigate impact on native fauna.

Economic: Nil.

Social: Nil.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

- 1. In accordance with clause 5.5 and Part 10 of Local Planning Scheme No. 4 grant approval for the keeping of two cats at Lot 39 (7) Burton Close, Walpole, application TP81/2023 in accordance with the plans and information submitted, subject to the following conditions:**
  - a. The development hereby approved is to be carried out generally in accordance with the plans and specifications submitted with the application and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire of Manjimup;**

Reference	Document Title	Date Received
1.	Management Plan	19 June 2023
2.	Site Plan	19 June 2023

- b. The cats permitted to be keep at Lot 39 (7) Burton Close, Walpole are to be confined to indoors, within the outdoor enclosure or restrained at all times, to the satisfaction of the Shire of Manjimup;
- c. The cat enclosure is to be kept secure and maintained so there is no risk of escaping cats; and
- d. This approval to keep cats only relates to the cats currently being kept at the subject property as listed below and is not transferrable to other Cat Prohibited Areas or other cats:

Breed	Age	Microchip	Sterilised	Sex	Registration
Tabby	16 Years	978101080237830	Yes	Female	912/2025
Tabby	Unknown	978101080411517	Yes	Female	260 / Lifetime

- 2. Note that the Shire of Manjimup will not take action against the applicant for the breach against the Shire of Manjimup's Cat Local Law 2021 for keeping cats within a Cat Prohibited Area.

#### **COUNCIL RESOLUTION:**

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

**29242**

**That Council:**

- 1. In accordance with clause 5.5 and Part 10 of Local Planning Scheme No. 4 grant approval for the keeping of two cats at Lot 39 (7) Burton Close, Walpole, application TP81/2023 in accordance with the plans and information submitted, subject to the following conditions:
  - a. The development hereby approved is to be carried out generally in accordance with the plans and specifications submitted with the application and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire of Manjimup;

Reference	Document Title	Date Received
1.	Management Plan	19 June 2023
2.	Site Plan	19 June 2023

- b. The cats permitted to be keep at Lot 39 (7) Burton Close, Walpole are to be confined to indoors, within the outdoor enclosure or restrained at all times, to the satisfaction of the Shire of Manjimup;
- c. The cat enclosure is to be kept secure and maintained so there is no risk of escaping cats; and



- d. This approval to keep cats only relates to the cats currently being kept at the subject property as listed below and is not transferrable to other Cat Prohibited Areas or other cats:

Breed	Age	Microchip	Sterilised	Sex	Registration
Tabby	16 Years	978101080237830	Yes	Female	912/2025
Tabby	Unknown	978101080411517	Yes	Female	260 / Lifetime

2. Note that the Shire of Manjimup will not take action against the applicant for the breach against the Shire of Manjimup's Cat Local Law 2021 for keeping cats within a Cat Prohibited Area.

**MOTION CARRIED 10/1**

**FOR: Cr Buegge; Cr Dawson Vidovich; Cr Eiby; Cr Jenkins; Cr Lawrence; Cr Omodei; Cr Skoss; Cr Taylor; Cr Ventris; Cr Willcox;**

**AGAINST: Cr Winfield.**

### 9.9.1 Assessment of Club Night Lights Program Small Grants Round Application 2023/24 - Manjimup Speedway Club Inc.

<b>PROPONENT OWNER</b>	Manjimup Speedway Club Inc. Crown land vested in the Shire of Manjimup
<b>LOCATION / ADDRESS:</b>	46 Middlesex Road, Lot 13005, Middlesex, Reserve 29798
<b>WARD:</b>	East
<b>ZONE:</b>	Parks and Recreation
<b>DIRECTORATE:</b>	Community Services
<b>FILE REFERENCE:</b>	F160254
<b>LEGISLATION:</b>	Nil
<b>AUTHOR:</b>	Shammara Markotis
<b>DATE OF REPORT:</b>	1 August 2023
<b>DECLARATION OF INTEREST:</b>	Nil

#### **BACKGROUND:**

The purpose of the Club Night Lights Program (CNLP), offered by the Department of Local Government, Sport and Cultural Industries (DLGSC) is to provide financial assistance to community groups and local government authorities to develop sustainable floodlighting infrastructure for sport.

The 2023/24 CNLP Small Grants round, for projects up to \$500,000, closes on 31 August 2023. In accordance with the State Government's guidelines for these grant programs it is a requirement that applications be assessed by Council, on merit and listed in order of priority, prior to submission to the DLGSC.

Council has received one (1) application for the 2023/24 CNLP Small Grants round from the Manjimup Speedway Club Inc (the Club). The Club has previously submitted a grant application for this project to the CNLP program, which was presented to Council at the meeting held 30 September 2021. The grant application to DLGSC was supported by Council, however was unsuccessful.

The purpose of this report is to comply with the grant requirements and seek Council's determination on the support of the application received.

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

Nil.

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

The Manjimup Speedway Club Inc is a long-standing club based in Middlesex with a membership of 80 people. The Club holds a lease over the existing speedway site on Reserve 29798, Middlesex Road. The speedway facilities include a clay track, concrete track fencing, clubrooms, holding pen and public amenities.

The Club has advised that there is an identified need to upgrade the existing track lighting, which consists of 31 wooden poles with halogen lights, to a 240-volt lighting system with 31 metal poles and 62 new LED light fittings. Furthermore, the project will include the ability to run the lighting via a generator in the event of a power outage, which is something that the facility currently lacks.

Upgraded LED lighting will provide better visibility on the track leading to a safer racing experience for drivers, as well as a better viewing experience for spectators. Upgraded lighting will also provide an ongoing reduction of running costs of the lights for the Club. The lighting upgrade is a requirement for the Club to be able to continue to run race meetings in the evening/night as the current lighting level (ranging from 60 to 180 lux across the track) does not meet the WA Speedway Commission's requirement for 200 lux lighting across the entire track.. It is also anticipated that upgraded lighting will allow the Club to be more competitive when applying to host state and national title events, which are typically run over a number of nights and lead to economic benefits for the community.

Should the application be successful the Club may need to consider planning requirements to consider potential impact of the increased lighting levels on neighbouring properties

The replacement of wooden poles for steel poles will reduce the Club's need to regularly replace old poles. Additionally, emergency lighting around the track is required in the instance of a power outage during a race meeting, to ensure the safety of competitors, officials, and spectators.

The proposed project will offer a safer racing circuit which will benefit current drivers, as well as encourage new junior drivers to take up the sport.

It should be noted that the Club has applied for co-funding for this project through the Native Forest Transitions (NFT) Community Small Grants Round 1 and is expecting notification of the outcome of this application within the next few weeks. The Club has indicated that should the NFT application be unsuccessful, they may withdraw their application to the CNLP.

The project costs of \$431,000 ex GST will be funded, if the CNLP and NFT applications are successful, as follows:

<b>Source of funding</b>	<b>Amount ex GST</b>	<b>Status</b>
Manjimup Speedway Club - Cash	\$100,000	Confirmed
Manjimup Speedway Club - Volunteer labour	\$41,000	
Native Forest Transition – Community Small Grants Round 1	\$90,000	Pending
CNLP Grant	\$200,000	Pending
<b>Total project cost</b>	<b>\$431,000</b>	

Typically, the financial request towards a CNLP application is for one-third of the total project cost, however the Club has been advised by DLGSC that due to the project's regional location and the sustainability initiative of installing LED lighting, the application is eligible for a development bonus and therefore may apply for up to 50% of the total project cost.

The following table shows the assessment of the proposed project by the Club in relation to the ranking considerations outlined in Council Policy 3.1.2 - Financial Assistance Towards Sport and Recreation Capital Projects including CSRFF.

<b>Ranking considerations</b>	<b>Assessment of proposed project</b>
Inclusion or compatibility with Shire's Sport and Recreation Strategic Plan	It is acknowledged in the Shire of Manjimup Sport and Recreation Strategic Plan 2014-2024 that the track facilities are high grade but require constant maintenance to comply with safety standards.
Inclusion or compatibility with key Shire strategic documents	Whilst there is no comment pertaining to the Speedway Club in the Shire's Strategic Community Plan 2021-2031, its following strategies are relevant: <ul style="list-style-type: none"> <li>- C18. Create, support and promote a broad range sporting, recreational and social opportunities that are accessible and inclusive for all ages and abilities.</li> <li>- C19. Support public events to ensure they are successful and safe.</li> <li>- D12. Assist communities to build and maintain sport and recreation facilities whilst encouraging co-locations, collaborations and resource sharing wherever possible.</li> </ul>
Inclusion or compatibility with the Shire's budget	Not applicable as no Shire contribution is requested.
Timeliness of proposed implementation	Timely proposal as the combination of CNLP and NFT funding (if successful) will allow the Club to realise this project within their means.
Judgement of extent to which the project funding is secured	The Club's financial contribution is secured. The outcome of its application to the NFT Community Small Grants round is expected in the coming weeks, prior to the closing date for CNLP applications.
Project readiness	The project is ready for implementation.
Any other related concerns or implications	Nil.

In summary, the project is supported under the recommendations of the Shire's current strategic documents, all required (financial and in kind) contributions towards the application have been either secured or applied for, and the project can be regarded as 'project ready'. The project has considerable merit and benefits to the Manjimup Speedway Club and its wider

community/visitors. Based on the full weight of the above discussion it is recommended that Council support the Club's application for the CNLP 2023/24 round.

#### **STATUTORY ENVIRONMENT:**

Nil.

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

Supporting this application will assist in achieving the following:

- Shire of Manjimup Community Strategic Plan 2021 – 2031:
  - Strategy C18: Create, support and promote a broad range sporting, recreational and social opportunities that are accessible and inclusive for all ages and abilities.
  - Strategy C19: Support public events to ensure they are successful and safe.
  - Strategy D12: Assist communities to build and maintain sport and recreation facilities whilst encouraging co-locations, collaborations and resource sharing wherever possible.
- Shire of Manjimup Sport and Recreation Strategic Plan 2014-2024; and
- Policy 3.1.2 Financial Assistance Towards Sport and Recreation Capital Projects including CSRFF.

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

There are minimal risks to supporting the Manjimup Speedway Club application. As the speedway facilities are on a Reserve vested in the Shire of Manjimup, asset management of the facilities would become the responsibility of the Shire should the Club fold or not meet its annual financial obligations.

#### **FINANCIAL IMPLICATIONS:**

The Manjimup Speedway Club is not seeking a financial contribution from Council towards this project. The Club will be responsible for the maintenance of their proposed new lighting, in accordance with its lease agreement with the Shire. On this basis there are no financial implications of the Club's project to Council.

#### **SUSTAINABILITY:**

Environmental: LED lighting is far more energy efficient and has a reduced environmental impact in comparison to traditional lighting. LED lighting will also result in lower usage costs for the Club.

Economic: Improved sporting facilities provides opportunities for increased regional competition and associated economic spin off related to increased visitation.

Social: The proposal offers a positive step forward towards growing the sport of speedway in the Shire of Manjimup.

**VOTING REQUIREMENTS:                      SIMPLE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council advise the Department of Local Government and Cultural Industries that the Manjimup Speedway Club's application for the Club Night Lights Program has considerable merit and will deliver benefits to the Shire of Manjimup, and as such Council supports the application.**

**COUNCIL RESOLUTION:**

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

**29243**

**That Council advise the Department of Local Government and Cultural Industries that the Manjimup Speedway Club's application for the Club Night Lights Program has considerable merit and will deliver benefits to the Shire of Manjimup, and as such Council supports the application.**

**MOTION CARRIED 11/0**

**FOR: Cr Buegge; Cr Dawson Vidovich; Cr Eiby; Cr Jenkins; Cr Lawrence; Cr Omodei; Cr Skoss; Cr Taylor; Cr Ventris; Cr Willcox; Cr Winfield.**

**AGAINST: Nil.**

**THIS ITEM WAS WITHDRAWN BY THE PROPONENT PRIOR TO THE COMMENCEMENT OF THE MEETING.**

## ATTACHMENT

### 9.5.2 Proposed Retrospective Application for a Dam at Lot 8160, 30499 South Western Highway, Quinninup

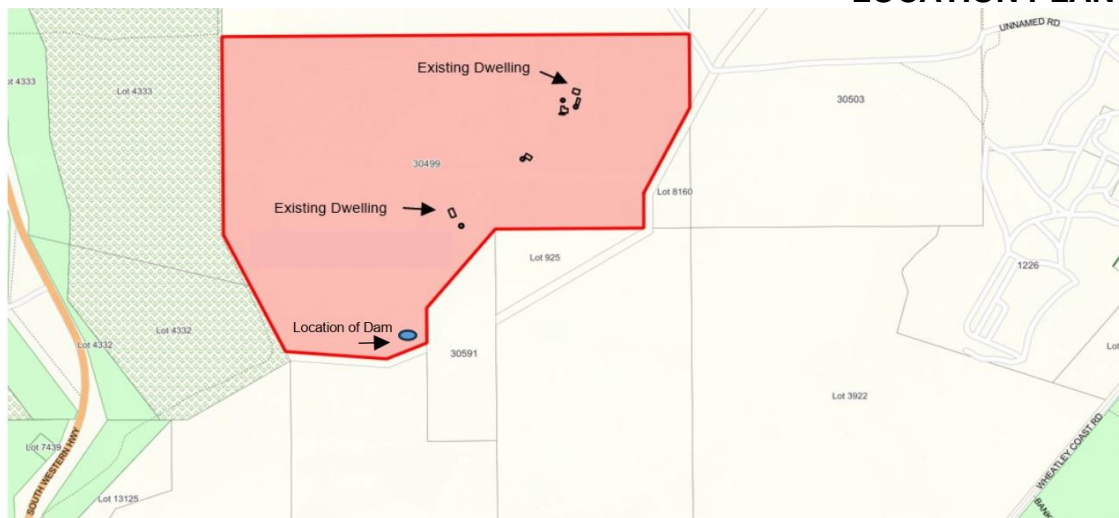
<b>PROPONENT OWNER</b>	Mrs H Chvojka Mr T A & Mrs H R Chvojka
<b>LOCATION / ADDRESS:</b>	Lot 8160, 30499 South Western highway, Quinninup
<b>WARD:</b>	East
<b>ZONE:</b>	General Agriculture
<b>DIRECTORATE:</b>	Statutory Planning
<b>FILE REFERENCE:</b>	P56463, DA23/46 & TP49/2023
<b>LEGISLATION:</b>	<i>Planning and Development Act 2005, Local Government Act 1995</i>
<b>AUTHOR:</b>	Karleha Brown/Jocelyn Baister
<b>DATE OF REPORT:</b>	27 July 2023
<b>DECLARATION OF INTEREST:</b>	Nil

#### BACKGROUND:

A retrospective planning application has been received for a Dam, with a proposed capacity modification, at Lot 8160 (30499) South Western Highway, Quinninup.

The subject property is 57.51ha and is located to the east of State Forest. Access to the property from the highway is via State managed land and an unmade, unnamed road reserve located to the south of the Dam. The land is predominantly pasture and contains two dwellings along with several outbuildings and rainwater tanks. A location plan providing the location of the development on the property is shown below.

#### LOCATION PLAN



The applicant is seeking retrospective planning approval for a 29m long and 45m wide dam. The applicants excavated an existing 2.9m round soak and utilised the slope of the land to form the dam walls. The plans indicate a 3m wide wall with the toe of the dam wall 8m to the boundary. As part of the approval, the applicant is also proposing to expand the dam capacity by moving the dam walls, 5m to the east and north and 10m to the west.

Plans submitted by the applicant indicate that the final dam design with the proposed expansion will be setback 33m from the boundary of Lot 30591, with no further extension towards the road reserve boundary. A copy of the development plans including management details are attached.

**ATTACHMENT: 9.5.2 (1)**

**PUBLIC CONSULTATION UNDERTAKEN:**

The proposal was advertised in accordance with clause 9.6 of the Shire of Manjimup's Local Planning Scheme No. 4 (the Scheme) to the adjoining landowners for a period of 21 days and to the Department of Biodiversity Conservation and Attractions (DBCA) and Department of Environment and Regulation (DWER) for a 42-day period.

In response, DBCA advised that they had no objection or comment on the proposal. DWER advised that no licensing of the dam was required under the *Rights in Water and Irrigation Act 1914* (RIWI 1914), with reference to generic guidelines to prevent chemicals entering the dam and causing subsequent damage to the water resources. One submission was received from an adjoining landowner. A copy of the submissions are attached and discussed in the comment section below.

**ATTACHMENT: 9.5.2 (2)**

**COMMENT (Includes Options):**

The subject land is zoned General Agriculture by the provisions of the Scheme.

Zoning Purpose

The purpose of the General Agriculture 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.

Consistent with the purpose, an objective for the zone relevant to this application is to support appropriate non-rural uses where they are compatible with adjoining nearby rural uses, environmental attributes, and landscape to compliment the primary production use of the land where a site contains remnant vegetation.

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;*
- (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, bushfire or any other risk;*
- (xv) *the preservation of the amenity of the locality; and*
- (xxvi) *any relevant submissions received on the application.*

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

#### 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 further than 20m from the boundaries of the subject land.

Given the proposed setbacks, approval to the proposed development may only be granted through a relaxation of the setback requirements.

#### Setbacks

In accordance with the provisions of the Scheme, Dams are to be setback 20m from all boundaries unless otherwise approved. The applicant has stated that the Dam has been constructed 8m from the road reserve boundary.

It should be noted that from a recent site inspection of the property that what has been constructed on site, does not align with the plans submitted. The cross-section shows that the Dam wall is 3m wide, with an 8m setback to the road reserve. The site inspection has demonstrated that the wall is 8m wide with the toe of the Dam wall and overflow pipe located in the road reserve. It could be assumed the landowner has measured from water to the boundary. A satellite image of the Dam is provided attached confirming the site inspection findings.

#### **ATTACHMENT: 9.5.2(3)**

#### 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.”*

In this case, a relaxation to the boundary has been assessed against Local Planning Policy 6.1.22 – Dams (the Policy) to determine if it is consistent with the requirements of clause 10.2, and the likely impact of an approval on either the subject land or adjacent property.

### Policy Assessment

The application has been assessed against the provisions of the Policy. The risk assessment indicates that the Dam would be considered a low risk given the Dam has been designed by the owner and that an emergency spillway is to be constructed during the expansion.

<b>Risk Category</b>	<b>Score</b>
Construction Type (Soak with runoff Catchment)	1
Volume 0-10ML (0.5ML)	1
Wall Height 0-5m (2m)	1
Dam Wall Design (designed by owner or others)	3
Infrastructure Downstream (Road Infrastructure)	2
Overflow Infrastructure (Dam by-pass & overflow by others)	1
<b>TOTAL</b>	<b>9</b>

In accordance with provision 6.2 of the Policy, Dams that score less than 10 when assessed against the risk matrix are considered low risk.

As outlined in the Policy it is recommended that advice notes be included on any approval relating to a low-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.

Although assessed as a low-risk Dam it is evident by the photos taken on site that drainage associated with the Dam has caused significant damage to the road reserve. It may be appropriate for the risk matrix to be reviewed in order to avoid similar situations.

Notwithstanding the above, it should be noted that the applicant has stated that they have agreed to construct a culvert under the existing road to direct the water away from property.

### Submissions

#### *Adjoining Landowner at Lot 30951*

A submission has been received from the adjoining landowner at Lot 30951 raising concern to the implications the Dam has created to their property access. It should be noted that the Dam is setback in accordance with the Scheme to the landowner's property boundary, the applicant purely seeks a relaxation to the setback requirements to the Shire's road reserve.

The submission raises concern regarding:

- The lack of setback distance of the Dam wall to the road reserve boundary and the inability of the overflow water to be contained and managed on site;

- The design of the Dam and the placement of the overflow pipe allows water from the Dam to overflow into the road reserve, throughout most of the year. The constructed swales are within the road reserve; and
- That when the Dam was excavated the fill was placed around the Dam without any erosion control causing the water that sheets over the land and from the Dam to carry the loose soil over the road.

The neighbours' concerns have been addressed under drainage management and Damage to the road below.

#### *DWER*

The submission from DWER advises that no licensing was required under the *Rights in Water and Irrigation Act 1914* (RIWI Act 1914), with reference to generic guidelines to prevent chemicals entering the Dam and causing subsequent Damage to the water resources. Advice notes addressing the above is recommended in the event Council grant retrospective approve for the Dam and the proposed modifications.

#### Existing Drainage Management

The Dam overflow is constructed with an 8m long PVC pipe that directs water into the road reserve. To reduce the waters intensification toward the road reserve, a swale has been constructed to channel the water in an east-west direction away from the unconstructed road, however the swale is located within the road reserve.

#### Damage to the Road

It is evident from recent rain events, that the constructed drainage is not sufficient, as overflow water has eroded parts of the unconstructed road that provides access to Lot 30951. The damage caused is shown in photos at Attachment 9.5.2 (2) that form part of the submission from the neighbouring landowner.

Due to the impact the Dam has created on the road reserve, the applicant has agreed to install a 30cm wide by up to 4m long heavy-duty plastic culvert to direct the overflow under the road and onto the adjacent property and to repair the road.

Given there is currently no setback to the boundary and it appears that the toe of the wall is in fact within the reserve, additional rock pitching and recontouring will be also required to prevent water scouring the Dam wall and road reserve. A setback of 5m would allow for site contouring to allow water to collect and be directed to the under road culvert within the property boundary.

As such, it is recommended that the current application be refused and the applicant be encouraged to reapply for the Dam with a 5m setback.

Legal Action

In accordance with the *Local Government Act 1995*, Clause 9.5 Enforcement, the applicant is to repair the damage caused by overflow water from the unauthorised Dam to the unconstructed road to the satisfaction of the Shire of Manjimup. Failure to repair the road to the Shire's satisfaction may result in the Chief Executive Officer commencing legal action against the applicant.

Given the costs associated with the repair of the road which will need to be met by the landowner, Shire Officers have issued a Modified Penalty to the landowner for the unauthorised construction of the Dam under the *Planning and Development Act 2005*, rather than prosecution, which could result in a more significant penalty being imposed.

Conclusion

Considering the above, it is recommended that Council refuse the retrospective Dam due to the toe of the Dam encroaching into the road reserve. The reduced setback distance is inconsistent with Council's approach to a minimum Dam setback of 5m and does not allow for the water to return to the natural water course before leaving the property boundary.

Section 218 of the *Planning and Development Act 2005* and clause 11.4.1 of the Scheme provides the ability for Council to refuse the retrospective Dam application and the proposed expansion. Justification for the refusal is that the current application does not adequately demonstrate that the Dam overflow and subsequent drainage can be adequately constructed and channelled to the appropriate drainage infrastructure within the confines of the subject property.

To remedy the damage caused to the unconstructed road as required under the *Local Government Act 1995*, the landowner should be required to remove the dam improvement and the swales and drainage infrastructure within the unnamed road reserve and repair the damage to the unconstructed road to the satisfaction of the Shire of Manjimup.

The applicants should also be encouraged to submit a new application for a Dam in accordance with the Policy for consideration.

**STATUTORY ENVIRONMENT:**

*Local Government Act 1995*, *Planning and Development Act 2005* and Shire of Manjimup Local Planning Scheme No 4.

**POLICY / STRATEGIC IMPLICATIONS:**

As outlined above, the application has been assessed against Local Planning Policy 6.1.22 – Dams.

**ORGANISATIONAL RISK MANAGEMENT:**

Nil.

**FINANCIAL IMPLICATIONS:**

The required application fee has been paid in accordance with the Schedule of Fees and Charges as adopted within 2022/23 Annual Budget.

**SUSTAINABILITY:**

Environmental: The proposal was referred to the relevant State agency responsible for environmental impact assessment with no recommendations.

Economic: Establishing a water storage area will assist towards a suitable supply of water for the applicant's stock.

Social: Nil.

**VOTING REQUIREMENTS: ABSOLUTE MAJORITY**

**OFFICER RECOMMENDATION:**

**That Council:**

1. Refuse to grant approval for the retrospective Dam and its proposed modifications at Lot 8160 (30499) South Western Highway, Quinninup in accordance with Part 10 of Local Planning Scheme No. 4 for to the following reasons:
  - a) Approval for the reduced setback of the unauthorised Dam with a setback of less than five (5) metres is inconsistent with Council approach to Dam setback reductions;
  - b) The reduced setback distance does not provide suitable distance for the Dam overflow to be managed appropriately within the property boundary which is damaging the road surface causing an adverse impact on the amenity of the adjoining landowners and their use of the unnamed road reserve.
2. Encourage the applicant to submit a new application for a Dam, with a proposed setback of 5 metres to the unnamed road reserve and with appropriate drainage management;
3. Grant delegated authority to the Interim Chief Executive Officer, to determine the new application for a Dam at Lot 8160 (30499) South Western Highway, with a 5 metre setback to the unnamed road reserve and to the satisfaction of the Shire of Manjimup;
4. Within 90 days require the land owner to:
  - a. Remove the dam and associated drainage infrastructure from the road reserve;
  - b. Recontour the land to its previous condition; and
  - c. Repair the unconstructed road to the satisfaction of the Shire of Manjimup.

**Advice to Applicant**

- i. **Should the landowner fail to repair the road, in accordance with Clause 9.5 Enforcement of the *Local Government Act 1995*, the Chief Executive Officer may take legal action against the landowner for damage to the unconstructed road caused by the unauthorised Dam.**

**10. LATE REPORTS:****OFFICER RECOMMENDATION:**

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

**29244**

**That Council goes behind closed doors to consider:**

**Item as under Section 5.23(2) (a) it deals with a matter affecting an employee or employees.**

**MOTION CARRIED 11/0**

**FOR:** Cr Buegge; Cr Dawson Vidovich; Cr Eiby; Cr Jenkins; Cr Lawrence; Cr Omodei; Cr Skoss; Cr Taylor; Cr Ventris; Cr Willcox; Cr Winfield.

**AGAINST: Nil.**

People in the gallery and members of staff not required, left the Chamber at 5.42pm.

**Unconfirmed Minutes of the Chief Executive Officer Recruitment Panel  
Meeting held 14 August 2023**

<b>PROPONENT</b>	Shire of Manjimup
<b>OWNER</b>	N/A
<b>LOCATION / ADDRESS:</b>	N/A
<b>WARD:</b>	Whole of Shire
<b>ZONE:</b>	N/A
<b>DIRECTORATE:</b>	Office of CEO
<b>FILE REFERENCE:</b>	F170461
<b>LEGISLATION:</b>	<i>Local Government Act 1996, Local Government (Administration) Regulations 1996</i>
<b>AUTHOR:</b>	Greg Lockwood
<b>DATE OF REPORT:</b>	15 August 2023
<b>DECLARATION OF INTEREST:</b>	Nil

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

**29245**

**That Council come from behind closed doors.**

**MOTION CARRIED 11/0**

**FOR: Cr Buegge; Cr Dawson Vidovich; Cr Eiby; Cr Jenkins; Cr Lawrence; Cr Omodei; Cr Skoss; Cr Taylor; Cr Ventris; Cr Willcox; Cr Winfield.**

**AGAINST: Nil.**

Staff and members of the gallery returned to the Chamber at 5.57pm.

14.2 Public reading of resolutions that may be made public.

### **RESOLUTION WAS READ OUT**

**That Council:**

- 1. Accept the minutes of the Chief Executive Officer Recruitment Panel meeting held 14 August 2023 as per the TABLED document;**
- 2. Receive the HR Consultant's recruitment reports as detailed in the TABLED document;**
- 3. Approve the Chief Executive Officer Recruitment Panel's recommendation and the making of the offer to the preferred candidate to be employed in the position of Chief Executive Officer;**
- 4. Approve the Chief Executive Officer Contract of Employment, including the terms of the contract, as detailed in Attachment: L.1(1);**
- 5. Authorise the Shire President to execute the Chief Executive Officer Contract of Employment in accordance with the terms of the Chief Executive Officer Contract of Employment with minor amendments that do not alter the key terms agreed to by Council as outlined in Attachment: L.1(1);**
- 6. Notes that subject to the preferred candidate accepting the terms of the Chief Executive Officer employment contract, the applicant is appointed to the position of Chief Executive Officer; and**
- 7. Notes that if the preferred candidate does not agree to the Council's approved terms of the Chief Executive Officer employment contract, the amendments will be provided to Council for approval before the contract is executed.**



**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. MEETING CLOSED TO THE PUBLIC:**

15. APPLICATIONS FOR LEAVE OF ABSENCE: Nil.

16. CLOSURE:

In closing I acknowledge the contributions of pioneers and group settlers who opened up this land and through their efforts allow us to enjoy the lifestyle we live today.

There being no further business to discuss the Shire President thanked those in attendance and closed the meeting at 6.01pm.

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

**Paul Omodei  
Shire President**