



MINUTES

COUNCIL MEETING

7 SEPTEMBER 2023

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SHIRE OF MANJIMUP

Minutes of the Ordinary Meeting of Council held in the Council Chamber,
Thursday, 7 September 2023.

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS:

The Shire President declared the meeting open at 5.30pm.

Councillor Jenkins made an Acknowledgement to Country:

'I acknowledge and respect the traditional lands of all aboriginal people and pay respect to the elders past and present. I ask that all people that walk, work and live on the lands in the Manjimup Shire be respectful of Aboriginal culture and traditions and keep building a brighter future together.'

2. ANNOUNCEMENTS BY THE PRESIDENT:

The Shire President made the following announcements:

- I attended a South Western Australia Local Government Association meeting in Nannup with the Interim Chief Executive Officer.
- I attended a Pemberton Co-Location Advisory Committee meeting in Pemberton with the Interim Chief Executive Officer and the Acting Director Community Services.
- I have introduced you to the Chief Executive Officer elect Ben Rose and introduced him to internal and external staff.
- Met with Mr Mario Casotti this morning, with Deputy Shire President Denise Jenkins.
- The Shire President advised that he would not be standing for Shire President in the upcoming Local Government Elections. I am committed to being a Councillor until 2025 when I will be retiring at that point.

3. ATTENDANCE:

PRESENT:

Councillors

Cr P Omodei (Shire President)

Cr D Buegge

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 Craig Martyn (Acting Director Business)
 Ms Evy Apeldoorn (Acting Director Community Services)
 Mr Peter Krispyn (Acting Director Development & Regulation)
 Mr Michael Leers (Director Works & Services)
 Ms Gaye BurrIDGE (Corporate Administration Officer)
 Mr Jason Giadresco (Senior Governance Officer)

Gallery

Phoebe Adams	Tahlia Rose
Annabel Sewell	Paul Daniels
Chevelle Davies	Ross Craig
Robyn McCreanor	David Giblett
Suzanne Miles	Nancy Giblett
Ben Rose	Steve Miolin

- 3.1 Apologies:
 Councillor Susan Dawson Vidovich was an apology for this meeting.
- 3.2 Leave Of Absence:
 Councillor Wendy Eiby has been granted a Leave of Absence for this meeting.

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: Jenkins, D SECONDED: Buegge, D

29252

That the Minutes of the Special Meeting of the Council held on 24 August 2023 be confirmed.

CARRIED: 9/0

FOR: Cr Buegge; Cr Jenkins; Cr Lawrence; Cr Omodei; Cr Skoss; Cr Taylor; Cr Ventris; Cr Willcox; Cr Winfield.

AGAINST: Nil.

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

9. COUNCIL OFFICERS' REPORTS:

MOVED: Jenkins, D SECONDED: Buegge, D

29253

"That council adopt the recommendations contained in the council officers and committee reports on pages 1 – 74 of the agenda with the exception of:

- 9.12.2 Proposed Road Closure and Amalgamation of Favero Road Reserve and a Portion of Unnamed and Unconstructed Road Reserve in the Vicinity of Favero Road, Yeagarup
- 9.15.1 Informal Meeting Notes of the Northcliffe Forest Park Management Committee Meeting held 19 July 2023
- 9.16.2 Unconfirmed Minutes of the Access and Inclusion Advisory Committee Meeting held on 10 August 2023

CARRIED: 9/0

FOR: Cr Buegge; Cr Jenkins; Cr Lawrence; Cr Omodei; Cr Skoss; Cr Taylor; Cr Ventris; Cr Willcox; Cr Winfield.

AGAINST: Nil.

Items passed by En Bloc Resolution

- 9.2.1 Proposed Surrender of Lot 201 from Reserve 42817 Doc Ryan Close, Pemberton
- 9.3.1 Adoption of Material Variance / Percentage 2023/2024 Financial Year
- 9.3.2 Monthly Statement of Financial Activity - July 2023
- 9.5.2 Proposed Subdivision at Lot 303 and 655 Karri Street, Walpole
- 9.5.3 Consideration of Submissions and Final Adoption of Proposed Amendment 27 to Local Planning Scheme No 4 Perup Road, Balbarrup
- 9.9.1 Proposed Endorsement of Draft Access and Inclusion Plan 2024-2029 for Public Comment
- 9.12.1 Proposed Reclassification of North Walpole Road and Thompson Road, Walpole to Restricted Access Vehicle Type 4
- 9.12.3 Request for Council to Commit to being a RoadWise Council
- 9.16.1 Unconfirmed Minutes of the Manjimup Rea Park and Collier Street

Withdrawn

- 9.5.1 Consideration of Submissions and Final Approval of Amendment 26 at Lot 60 Dingup Road, Dingup
- 9.5.4 Application for Retrospective Approval for Rural Workers Accommodation, Grouped Dwellings, Industry - Rural, Agriculture Extensive and Proposed Additional Rural Workers Accommodation at Lot 100 (122) Etherington Road, Beedelup

9.2.1 Proposed Surrender of Lot 201 from Reserve 42817 Doc Ryan Close, Pemberton

PROPONENT	Shire of Manjimup
OWNER	Crown (Management Order to Shire)
LOCATION / ADDRESS:	Reserve 42817, Lot 201 Doc Ryan Close, Pemberton
WARD:	West
ZONE:	Public Purposes
DIRECTORATE:	Business
FILE REFERENCE:	F220096
LEGISLATION:	<i>Local Government Act 1995</i> <i>Land Administration Act 1997</i>
AUTHOR:	Jasmine Bamess
DATE OF REPORT:	15 August 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

Reserve 42817, between Doc Ryan Close and Hepple Place, Pemberton for the purpose of 'Park' currently comprises Lots 201 and 351 as shown below, with the Management Order to the Shire of Manjimup.



St John Ambulance Western Australia Ltd have tenure of adjoining Lot 231, 8 Doc Ryan Close, currently by a Crown Grant in Trust.

The Department of Planning, Lands and Heritage (DPLH) has received a request from St John Ambulance Western Australia Ltd to acquire management of Lot 201 for amalgamation with adjoining Lot 231 to then expand the Pemberton Ambulance Sub Centre facilities. It is proposed this would include accommodation, similar to the Manjimup and other ambulance sub centres.

Prior to making a determination, DPLH is requesting Council's comment on the St John Ambulance request.

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

St John Ambulance approached the Shire in 2019 regarding potential land tenure options and permission to undertake a feasibility study relating to Lot 201.

The recommendation is to surrender management of Lot 201 as the Shire of Manjimup has no foreseeable Shire land use for Lot 201 and the proposal supports the expansion of facilities to meet operational requirements for ambulance services in Pemberton. The Shire will retain management of Lot 351.

Proposed development will be considered in detail through statutory approval application processes. St John have been advised that the Shire has no intention to construct or seal an extension of Doc Ryan Close to service Lot 201.

The intention is that Lots 201 and 231 will be amalgamated and a new reserve created for the purpose of 'Ambulance Centre' with management order to St John Ambulance Western Australia Ltd (or a similar arrangement and entity).

STATUTORY ENVIRONMENT:

The Department of Planning, Lands and Heritage issue management orders in accordance with the *Land Administration Act 1997*.

POLICY / STRATEGIC IMPLICATIONS:

Council Policy 1.2.8 *Authority to Execute Documents on Behalf of Council* requires all matters concerning changes to Crown reserves with management orders to the Shire to be put before Council for authorisation.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

Nil.

SUSTAINABILITY:Environmental: Nil.Economic: Nil.Social: Nil.**VOTING REQUIREMENTS: SIMPLE MAJORITY****OFFICER RECOMMENDATION:**

That Council authorise the Chief Executive Officer to surrender management of Lot 201 Doc Ryan Close, Pemberton from Reserve 42817, subject to the State of Western Australia granting management to St John Ambulance Western Australia Ltd or a related entity, subject to the following conditions:

- a) Lot 201 being amalgamated with the adjacent Lot 231 vested with St John Ambulance Western Australia or related entity;
- b) St John Ambulance being advised that the Shire of Manjimup has no current plans or intention to construct that portion of Lot 351 abutting the site as a Local Road.

COUNCIL RESOLUTION:**MOVED: Jenkins, D SECONDED: Buegge, D****29254**

That Council authorise the Chief Executive Officer to surrender management of Lot 201 Doc Ryan Close, Pemberton from Reserve 42817, subject to the State of Western Australia granting management to St John Ambulance Western Australia Ltd or a related entity, subject to the following conditions:

- a) Lot 201 being amalgamated with the adjacent Lot 231 vested with St John Ambulance Western Australia or related entity;
- b) St John Ambulance being advised that the Shire of Manjimup has no current plans or intention to construct that portion of Lot 351 abutting the site as a Local Road.

ADOPTED BY EN BLOC RESOLUTION: 9/0

9.3.1 Adoption of Material Variance / Percentage 2023/2024 Financial Year

PROPONENT	Shire of Manjimup
OWNER	N/A
LOCATION / ADDRESS:	N/A
WARD:	Whole Shire
ZONE:	N/A
DIRECTORATE:	Business Directorate
FILE REFERENCE:	F160188
LEGISLATION:	<i>Local Government Act 1995; Local Government (Financial Management) Regulations 1996</i>
AUTHOR:	Greg Lockwood
DATE OF REPORT:	8 September 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

The *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996* require that each financial year a local government is to adopt a materiality level for the purpose of reporting variances in the monthly statement of financial activity.

The *Local Government (Financial Management) Regulations 1996* – Financial Reports includes Regulation 34 requiring the local government to prepare each month a statement of financial activity, as set out in the Rate Setting Statement included in the annual budget.

Regulation 34 (1) lists the details to be included in the statement of financial activity, among which are **material variances** between budget estimates and actual amounts of expenditure, revenue and income to the end of the month to which the statement relates.

Regulation 34 (2) (b) requires an **explanation** to be provided to Council for each of the material variances shown in each statement of financial activity. *Regulation 34 (5)* prescribes that each financial year, a local government is to adopt a **percentage or value**, calculated in accordance with accounting standard AAS 5 (AASB 1031), to be used in statements of financial activity for reporting material variances.

This report recommends the percentage or value to be adopted in determining material variances for the purposes of *Regulation 34* of the *Local Government (Financial Management) Regulations 1996* as amended, during the current financial year.

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

Whilst considering the best method to report material variances to Council, it is important to remember that Council has budget expenditure categories ranging from \$12,640 through to \$9,715.739 and the method adopted should extract material variances that are relevant to all levels of budget.

It is recommended that Council adopt a value method, using the following sliding scale based on normal expenditure values.

Value Range of Department Operating Budget Total Expenditure	Reportable Variance Amount
\$0 to \$300,000	\$3,000
\$300,001 to \$500,000	\$5,000
\$500,001 to \$700,000	\$7,000
\$700,001 to above	\$10,000

Whilst the value range is determined from expenditure totals, any material variances on income that are greater than the "Reportable Variance Amount" will also be reported.

The recommended value method variances listed above have been used for reporting in Monthly Financial Activity Statements for the past ten financial years and these values have been found to be effective in measuring what is an important material variance for reporting to Council.

STATUTORY ENVIRONMENT:

Local Government Act 1995, section 6.8; and *Local Government (Financial Management) Regulations 1996*, r.34(5).

POLICY / STRATEGIC IMPLICATIONS:

Nil.

ORGANISATIONAL RISK MANAGEMENT:

Having clear guidelines to the level of reportable variances reduces risk of misstatements or omissions in the Monthly Financial Activity Statement.

FINANCIAL IMPLICATIONS:

Nil.

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: Nil.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council adopt the recommended “Value Range” and Reportable Variance Amounts” as following for the 2023/2024 Financial Year:

Value Range of Departmental Operating	Reportable Variance Amounts
\$0 to \$300,000	\$3,000
\$300,001 to \$500,000	\$5,000
\$500,001 to \$700,000	\$7,000
\$700,001 to above	\$10,000

COUNCIL RESOLUTION:

MOVED: Jenkins, D SECONDED: Buegge, D

29255

That Council adopt the recommended “Value Range” and Reportable Variance Amounts” as following for the 2023/2024 Financial Year:

Value Range of Departmental Operating	Reportable Variance Amounts
\$0 to \$300,000	\$3,000
\$300,001 to \$500,000	\$5,000
\$500,001 to \$700,000	\$7,000
\$700,001 to above	\$10,000

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.3.2 Monthly Statement of Financial Activity - July 2023**

PROPONENT	Shire of Manjimup
OWNER	Whole Shire
LOCATION / ADDRESS:	Whole Shire
WARD:	Whole Shire
ZONE:	N/A
DIRECTORATE:	Business
FILE REFERENCE:	F160188
LEGISLATION:	<i>Local Government Act 1995; Local Government (Financial Management Regulations) 1996</i>
AUTHOR:	Greg Lockwood
DATE OF REPORT:	24 August 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

The *Local Government (Financial Management) Regulations 1996* require monthly Statement of Financial Activity 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 Statement of Financial Activity report for the period to 31 July 2023 is attached. The report is summarised by Type with operating comments identifying departments with a reportable variance.

ATTACHMENT: 9.3.2 (1)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

The financial performance for the Shire of Manjimup to the 31 July 2023 is a projected profit of \$131,849, due to an increase in the Shire's annual Financial Assistance Grant.

The start to the 2023/24 financial year has been quiet, which has been due mainly to the end of July adoption of the 2023/24 Shire of Manjimup budget. Until the budget is adopted and rate income begins to be received, staff are generally restricted to non-discretionary operational expenditure or grant expenditure only.

On the 16 August 2023 Shire staff received advice from the Department of Local Government, Sport and Cultural Industries on the 2023/24 final

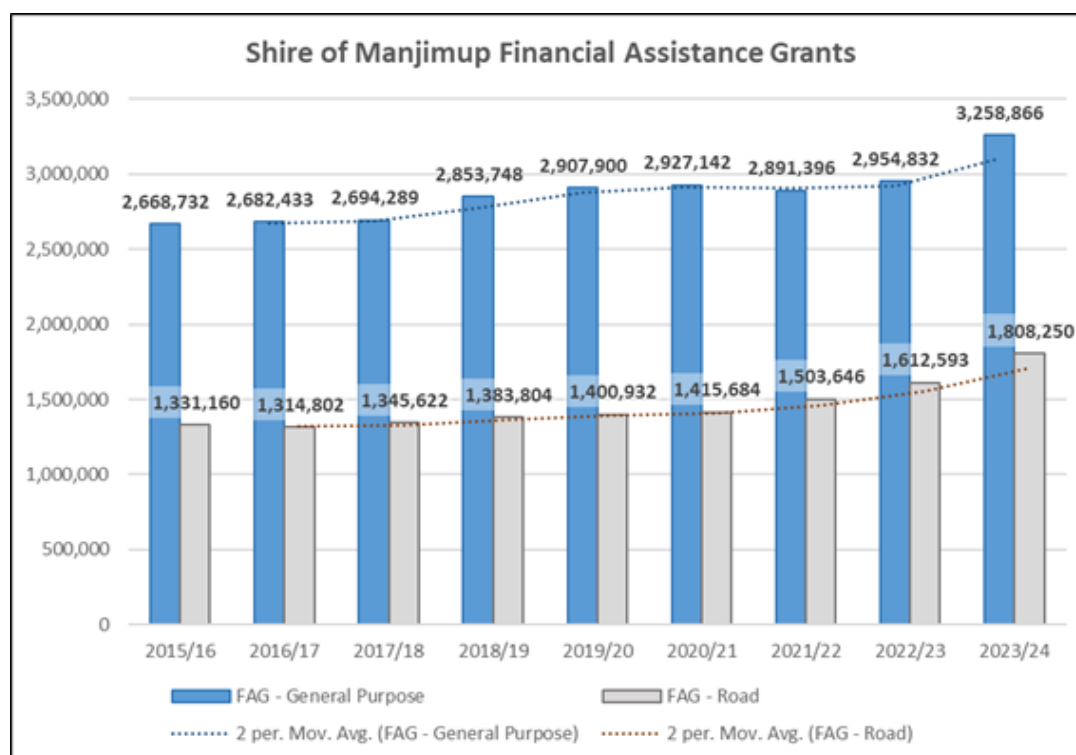
Financial Assistance Grant (FAG) allocations. The Shire of Manjimup's allocation has increased moderately on the original estimates that made up the 2023/24 adopted budget.

The allocation compared to budget is:

	2023/24 Allocation	2023/24 Adopted Budget (inc early Payment)	(Shortfall) / Excess
General Purpose Grant			
2023/2024 GP Grant Allocation	3,258,866	3,127,017	131,849
Road Grant			
2023/2024 Road Grant Allocation	1,808,250	1,721,850	86,400
Total Financial Assistance Grant	5,067,116	4,848,867	218,249

The gain of \$131,849 from the Financial Assistance Grant – General Purpose will require some form of budget adjustment to utilise the gain. It would be prudent to wait until approximately November 2023 when the 2022/23 Annual Financial accounts have been fully audited in case of a possible loss that may require funding, however at this point a loss is unlikely.

The Financial Assistance Grant for Roads continues trending upwards with an additional \$86,400 expected to be received above budget. The road grant is calculated by the Grants Commission through the use of an Asset Preservation Model which assesses the average annual cost of maintaining each local government's road network.



The Asset Preservation model takes into account the following:

- Annual and recurrent maintenance costs; and
- Reconstruction at the end of a road's useful life.

As the additional grant income is directly related to the costs of maintaining roads a budget adjustment in September 2023 will propose a budget adjustment increase to the Unsealed Road Maintenance accounts by \$86,400.

Other than the aforementioned grants, no other major discrepancies have come to light in the first month after adopting the 2023/24 budget, and with appropriate adjustments for the grant shortfalls, and with sound financial management going forward by all departments, Council should be in a neutral or minor surplus position at the 30 June 2024.

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 Statement of Financial Activity Report for July 2023 as per Attachment: 9.3.2(1).

COUNCIL RESOLUTION:

MOVED: Jenkins, D SECONDED: Buegge, D

29256

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

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT APPENDIX

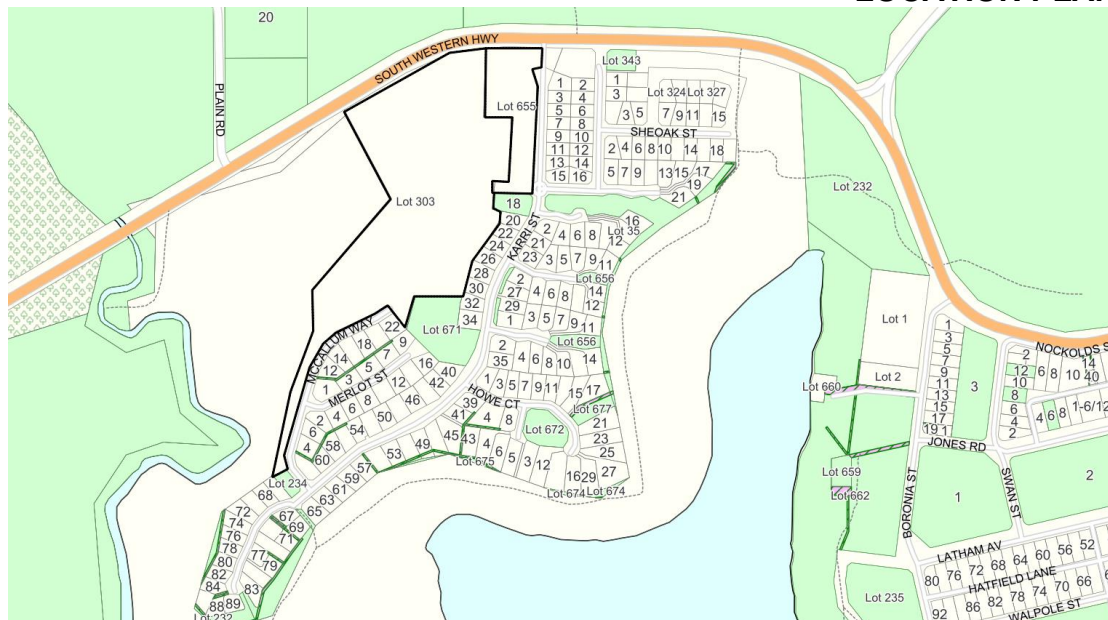
9.5.2 Proposed Subdivision at Lot 303 and 655 Karri Street, Walpole

PROPONENT OWNER	South Pride Pty Ltd Sunland Pty Ltd, State of Western Australia
LOCATION / ADDRESS:	Lots 303 and 655 Karri Street, Walpole
WARD:	South
ZONE:	Residential R10
DIRECTORATE:	Development and Regulation
FILE REFERENCE:	DA23/112 P57532, 50062 WAPC163890
LEGISLATION:	Planning and Development Act 2005
AUTHOR:	Karleha Brown; Jocelyn Baister
DATE OF REPORT:	16 August 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

The Western Australian Planning Commission (WAPC) is seeking comment on the proposed subdivision of Lots 303 and 655 Karri Street, Walpole. The subject properties are located south of South Western Highway and west of Karri Street. A location plan is provided below.

LOCATION PLAN



The proposed subdivision, which is intended to be an additional stage of Boronia Ridge Estate, is identified within the Shire of Manjimup Local Planning Scheme No 4 (the Scheme) as Residential and is identified as WP1 – Walpole 1 – Boronia Ridge Estate. A copy of the subdivision plan is attached.

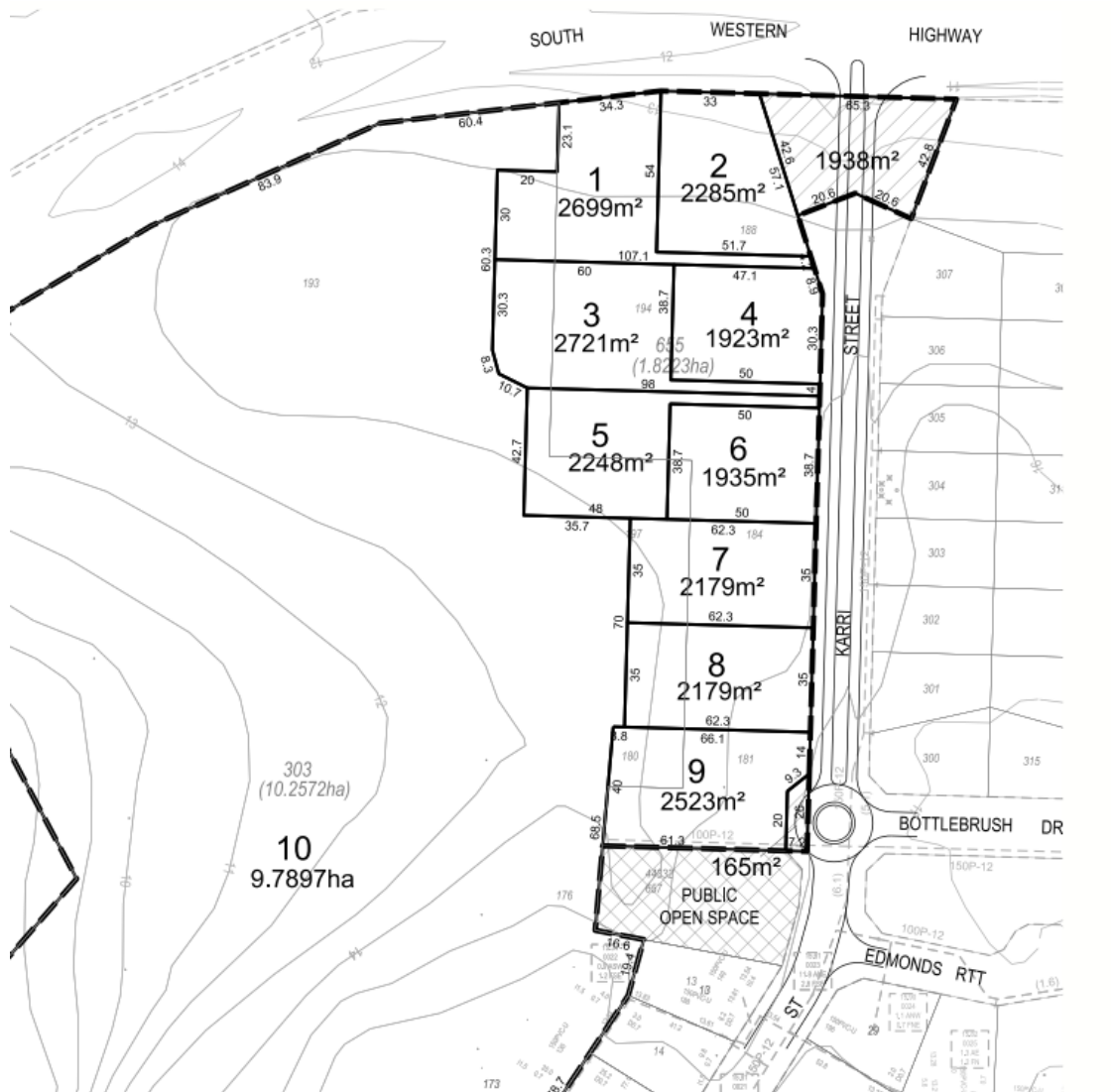
ATTACHMENT: 9.5.2 (1)

Lot 655 is the balance of the freehold land remaining from the development of Boronia Ridge Estate, is 1.822 hectares in size and is owned by Sunland Pty Ltd. Lot 303 is 10.257 ha in size and is under the ownership of the State of Western Australia (the State). The owner of Lot 655 previously held a Crown Lease over Lot 303 but relinquished that lease due to issues associated with the subdivision / development of the land.

The proposal seeks approval for a ten (10) Lot subdivision, over Lot 655 South Western Highway and a portion of Lot 303. The Lots 1 to 9 are proposed to range from 1923m² to 2,721m² in size for residential development. The balance of 9.787ha of land, being Lot 10 is proposed to remain under the ownership of the State.

Proposed lots 1, 3, 5 and 6-9, in addition to a portion of Lot 655, include part of Lot 303 that is being purchased from the State. Lots 2 and 4 are being created from the parent title of Lot 655. A portion of the proposed plan of subdivision is shown below.

PROPOSED PLAN OF SUBDIVISION



Included as part of this subdivision is the ceding of a 1,936m² portion of Lot 655 for the reservation of a road for the Karri Street intersection. This portion of land currently comprises a constructed section of Karri Street which intersects with South Western Highway and will resolve the legal road access to the Boronia Ridge Estate.

All proposed lots will have road frontage to Karri Street. Proposed Lots 1 and 2, which share a boundary with South Western Highway will have a 0.1m Public Access Way to restrict direct vehicle access to the highway. Proposed Lots 1, 3 and 5 are of battle-axe design located behind proposed lots 2, 4 and 6.

Council is requested to determine the response to the WAPC as support to the application involves the use of discretion not delegated to Shire Officers due to the number of lots being created being greater than five (5).

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

Local Planning Scheme No. 4 (the Scheme) Compliance

As stated above, the subject property is zoned Residential R10 by the Scheme. The purpose of the Residential Zone is to provide for the adequate provision of suitably located land to provide for a varied urban residential environment to meet the needs of the community and to promote the amenity of residential areas.

With the objective to:

- (i) provide for a range of housing choice with high level of amenity in residential areas and which reflects a non-metropolitan lifestyle;
- (ii) provide for the adequate supply of suitably located land to meet the ongoing residential needs of the community consistent with the Residential Design Codes;
- (vi) ensure development and use are appropriately serviced; and
- (vii) ensure that the density of development takes cognisance of the availability of reticulated sewerage, the effluent disposal characteristics of the land and other servicing and environmental factors.

The proposed continuation of Boronia Ridge Estate utilises existing services that have already been provided for by the previous subdivision stages and allows for additional freehold lots to be provided in the Walpole area in keeping with the amenity of the area.

Clause 4.1(ix), of Schedule 8, refers to the requirement for all residences or any other buildings being prohibited to be located outside of the building envelope as shown on the endorsed Structure Plan. The intent of the building envelopes are to protect as much remnant vegetation as possible. As such any approved subdivision should provide for building envelopes and

appropriate conditions be imposed to ensure purchases are aware of the existence of building envelopes.

As addressed above the proposed subdivision complies with the R10 density of the Scheme. With larger lot sizes of 2000m² on average, these lot sizes reflect an R5 density. To prevent further subdivision potential in the future, it is acknowledged that in preparing the new local planning scheme, the density should be down-coded to R5. An R5 density requires a greater front and rear setbacks than that of an R10 coding. The greater setbacks required for this density will allow for the retention of remnant vegetation or revegetation to be required as a condition of development.

Shire Officers have found that the previous imposition of building envelopes has resulted in unnecessary applications to vary the applicable envelope. Historically the prescribed building envelopes were not located based on site conditions and resulted in similar boundary setbacks for each lot, without being informed by the existing vegetation on the property. Given the low density can provide for a greater retention of remnant vegetation, it is recommended that this requirement not be imposed on any future subdivision.

To further support this view it is likely that in order to achieve the proposed bushfire rating, the developer or future landowner will need to remove a significant amount of vegetation and setback development from vegetation located adjacent. Clause 4.1(xiii) of Schedule eight of the Scheme protects the native vegetation within Boronia Ridge Estate and other Clauses within the Scheme provide the Shire will have the ability to condition rehabilitation following the building construction.

State Planning Policy 7.3 Residential Design Codes Volume 1

As stated above the subject properties are identified as Residential with a density code of R10 by the Scheme. The development controls of the density are provided by the Residential Design Codes (R Codes). Table 1 of the R Codes prescribes a minimum lot size of 875m² and an average lot size of 1000m². The lot sizes as part of this application are on average 2000m² in size, meeting this R Code density requirements.

State Planning Policy 5.4 Road and Rail Noise

South Western Highway is identified as an 'Other Significant Freight/Traffic Route'. Apart from proposed Lots 8 and 9, the subject land is located in the trigger distance for assessment under State Planning Policy 5.4 Road and Rail Noise (SPP 5.4)

SPP 5.4 will impact on the design requirements for proposed Lots 1 and 2 which will need to be built to 'quiet house A package' or mitigation measures will need to be established in accordance with a noise management plan. As outlined in the SPP 5.4 Guidelines, a quiet house design aims to reduce the impact of noise to meet the noise targets where reasonable and practical, through a combination of lot and building design and if required through certain construction standards that generally rely on improving wall and roof insulation and glazing thickness.

Structure Plan

In July 2006 a Structure Plan was endorsed over Lot 650 and Lot 669 Boronia Ridge Walpole, providing guidance on subdivision design for the Boronia Ridge Estate. Whilst the current subdivision proposal does not strictly adhere to the approved Structure Plan, it should be noted that the landowner was unable to implement the approved structure plan design due to Main Roads not supporting the extension of McCallum Way to become secondary access.

APPENDIX: 9.5.2(A)

Whilst Main Roads has not supported a secondary road access, there is potential for a strategic firebreak to be located on the western side of the proposed lots, providing a secondary escape emergency route.

It is also noted that a vegetated buffer abutting the South Western Highway which was shown on the Structure Plan is not reflected in the current subdivision design. Establishment of a vegetated buffer as shown on the structure plan would potentially pose issues in terms of future residential development due to Bushfire Attack Level ratings.

State Planning Policy 3.7 Planning in Bush Fire Prone Areas

Due to the dense remnant vegetation located on the subject properties, the land is designated as a Bush Fire Prone Area. The proposed subdivision is required to adhere to State Planning Policy 3.7 Planning in Bush Fire Prone Areas State Policy (SPP3.7).

The intent of SPP 3.7 is to implement effective, risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure.

To meet this requirement the applicant has prepared a Bush Fire Management Plan (BMP), which has been assessed by the Shire of Manjimup's Community Emergency Services Manager. The assessment identified there are elements of the BMP that are considered to not meet the Shire's requirements resulting in the following comments:

- The BMP states there is no ecological communities listed in the area, however Shire records indicate that the whole area has Threatened Ecological Communities;
- Consideration will need to be given to the costs associated with maintaining the "Low Threat" area as part of the Shire of Manjimup's Fuel Hazard Reduction and Mitigation Plan 2020 – 2025;
- The "Low Threat" area is proposed to be handed over to the Shire of Manjimup to maintain 12 months after subdivision approval. Shire Officers, in their assessment, raised concerns regarding the timing of the potential vesting and the overall management of the balance of Lot 303;
- The proposed Fire Break should be constructed to the standards as are stipulated in the guidelines and have a gated entry point and crossover to the South Western Highway and remove any Firebreak reference;

- Considering that is the last stage of the Boronia Ridge Subdivision it is strongly recommended that the developer be required to construct a Fire Service Access Route (FSAR) from McCallum Way through to the South Western Highway. A low threat area then should be constructed between the Fire Service Access Route and the proposed lots.

To achieve a desirable fire management outcome for the whole estate it is considered by Shire Officers that the applicant needs to address the matters raised above to ensure the final stage of subdivision for Boronia Ridge Estate meets best practice fire management measures.

Development Control Policy 2.3 Public Open Space in Residential Areas

It should be noted that the Boronia Ridge Estate has delivered greater than the required contribution of land for Public Open Space in accordance with Development Control Policy 2.3 Public Open Space in Residential Areas (DC2.3). The BMP prepared in support of the proposed subdivision has indicated that land will be required to be managed by the Shire in a low threat status. To enable this to occur, the Shire would need to be granted vesting or legal management over the land in question.

Servicing

The report submitted in support of the proposed subdivision has indicated that the lots will be connected to the necessary services continuing from the existing Boronia Ridge development. Services such as reticulated water for potable water and firefighting services, reticulated sewerage new lots and the extension of the existing electricity services.

Recommendation

It is recommended that the application be supported subject to conditions including, implementation of the bushfire management plan and the provision of a fire service access route. In the event that the WAPC support and approve the proposal, recommended conditions have been included in the Officer Recommendation.

STATUTORY ENVIRONMENT:

Planning and Development Act 2005 (as amended) and Shire of Manjimup Local Planning Scheme No 4.

POLICY / STRATEGIC IMPLICATIONS:

Nil.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

Nil.

SUSTAINABILITY:

Environmental: The proposed subdivision design implies that a large amount of clearing of native vegetation to address bush fire requirements will occur,

there is a potential to impact on the amenity and environment of the area should the proposal be implemented in the current format.

Economic: Introducing additional people to the area will create a higher demand on local businesses and services.

Social: Releasing additional land for residential development in Walpole has the potential to increase the current population and improve the community.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council advise the Western Australian Planning Commission that although the Shire of Manjimup supports the intent of the proposed subdivision at Lots 303 and 655 Karri Street, Walpole, it recommends that the application WAPC 163890 be approved subject to the following conditions:

- 1. The landowner/applicant shall provide a written undertaking to advise prospective purchasers of the provisions of the local government's local planning scheme that relate to the use and management of the land;**
- 2. Prior to the commencement of subdivisional works, measures being undertaken to identify any vegetation on the site worthy of retention, including any potential habitat or foraging trees for threatened fauna species, and protection measures implemented to ensure such vegetation is not impacted by subdivisional works;**
- 3. A fence restricting vehicle and pedestrian access to the foreshore and wetland reserve is to be constructed on the western boundary of lots to protect native vegetation;**
- 4. Information is to be provided to demonstrate that the measures contained in the bushfire management plan (Version 1.1/17 July 2023) that address the following:**
 - (a) Fire Service Access Route provided in accordance with the requirements of Table 6 and a Strategic Water Tank provided within the road reserve or dedicated lot;**
 - (b) Install private driveways;**
 - (c) Establish Asset Protection Zones;**
 - (d) Provide Scheme water to all lots;**
 - (e) Manage the 20m low-fuel zone to the developments western boundary; and****have been implemented during subdivisional works. This information should include a notice of 'Certification by Bushfire Consultant';**
- 5. A 6m wide emergency access way in accordance with the approved plan of subdivision is to be provided. The provision of necessary access rights for the emergency access way as an easement under Sections 195 and 196 of the *Land Administration Act 1997* in favour of the Local Government and/or public authority for emergency fire purposes and the deed of easement**

to specify care and management of the easement area is by the Local Government; and

6. Satisfactory arrangements being made with the local government for the partial cost of upgrading Karri Street to allow for access to the proposed lots if required.

COUNCIL RESOLUTION:

29257

MOVED: Jenkins, D

SECONDED: Buegge, D

That Council advise the Western Australian Planning Commission that although the Shire of Manjimup supports the intent of the proposed subdivision at Lots 303 and 655 Karri Street, Walpole, it recommends that the application WAPC 163890 be approved subject to the following conditions:

1. The landowner/applicant shall provide a written undertaking to advise prospective purchasers of the provisions of the local government's local planning scheme that relate to the use and management of the land;
2. Prior to the commencement of subdivisional works, measures being undertaken to identify any vegetation on the site worthy of retention, including any potential habitat or foraging trees for threatened fauna species, and protection measures implemented to ensure such vegetation is not impacted by subdivisional works;
3. A fence restricting vehicle and pedestrian access to the foreshore and wetland reserve is to be constructed on the western boundary of lots to protect native vegetation;
4. Information is to be provided to demonstrate that the measures contained in the bushfire management plan (Version 1.1/17 July 2023) that address the following:
 - (a) Fire Service Access Route provided in accordance with the requirements of Table 6 and a Strategic Water Tank provided within the road reserve or dedicated lot;
 - (b) Install private driveways;
 - (c) Establish Asset Protection Zones;
 - (d) Provide Scheme water to all lots;
 - (e) Manage the 20m low-fuel zone to the developments western boundary; and
 have been implemented during subdivisional works. This information should include a notice of 'Certification by Bushfire Consultant';
5. A 6m wide emergency access way in accordance with the approved plan of subdivision is to be provided. The provision of necessary access rights for the emergency access way as an easement under Sections 195 and 196 of the *Land Administration Act 1997* in favour of the Local Government and/or public authority for emergency fire purposes and the deed of easement to specify care and management of the easement area is by the Local Government; and

- 6. Satisfactory arrangements being made with the local government for the partial cost of upgrading Karri Street to allow for access to the proposed lots if required.**

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT APPENDIX

9.5.3 Consideration of Submissions and Final Adoption of Proposed Amendment 27 to Local Planning Scheme No 4 Perup Road, Balbarrup

PROPONENT	Martin Richards Planning
OWNER	Rumenos Development Pty Ltd
LOCATION / ADDRESS:	Lot 21 (285) Perup Road, Balbarrup
WARD:	North
ZONE:	Rural Residential
DIRECTORATE:	Development and Regulation
FILE REFERENCE:	DA22/61; P56134
LEGISLATION:	<i>Planning and Development Act 2005</i>
AUTHOR:	Jocelyn Baister
DATE OF REPORT:	16 August 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

Council initiated Amendment No. 27 to Shire of Manjimup Local Planning Scheme No. 4 (the Scheme) at its Ordinary Meeting 5 May 2022 in order to:

- rezone Lot 21 (285) Perup Road, Balbarrup from Rural Residential to General Agriculture and
- to modify the provisions relating to Rural Residential Area RR9 accordingly.

On receipt of the amendment documents, Council further resolved at its 17 November 2022 Ordinary Meeting to adopt the Amendment for the purposes of advertising. An excerpt from the May and November 2022 meeting minutes, incorporating the Officer reports are appended.

APPENDIX: 9.5.3 (A)

A copy of the amendment document, as advertised is shown attached.

ATTACHMENT: 9.5.3(1)

With advertising now complete, the purpose of this report is to request Council to determine whether to proceed with the amendment, with or without modification, having regards to the submissions received.

PUBLIC CONSULTATION UNDERTAKEN:

A formal 42-day public submission period was undertaken in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015* (the Regulations) and Councils resolution of the 17 November 2022. The advertising period included a public notice in the Manjimup-Bridgetown Times on 5 July 2023. The amendment was also advertised on the Shire of Manjimup website, correspondence was forwarded to relevant government agencies and surrounding landowners and a sign was placed on site.

Comments on the proposal closed on 16 August 2023, with five submissions received from government agencies, and no comments from the public. Whilst all agencies that provided comments had no objections to the proposal, the Department of Water and Environmental Regulation (DWER) requested that the applicants be advised that there are restrictions with regards to clearing and water licensing.

All submissions have been summarised in the attached Schedule of Submissions.

ATTACHMENT: 9.5.3 (2)

The matters raised in the submissions are addressed in the Comment section below.

COMMENT (Includes Options):

All comments made in the submissions are summarised in the Schedule of Submissions. However, the main issues that were raised are discussed below:

Department of Water and Environmental Regulation (DWER)

DWER have provided comments with regards to the availability of water and that the subject property is located within the Warren River and Tributaries Surface Water Area, any taking of water can therefore be subject to licensing. DWER further advised that no new water licence will be issued without a trade or transfer of current water license entitlements. Shire Officers note that a water license would not be required for an off stream or catchment Dam.

DWER also provided comment in regard to the property being located in an area subject to the *Country Areas Water Supply Act 1947* (CAWS Act) and that clearing restrictions will apply.

Shire Officers are of the opinion that the legislative requirements surrounding water licensing, although more applicable to the General Agriculture than Rural Residential, still apply no matter the zoning of the property and does not require modification to the amendment.

Similarly, the requirement for licenses to clear under the CAWS Act are applicable and does not require modification to the documentation.

Therefore, as a result of the advertising no modifications are recommended.

Administrative Modifications

It is noted that the amendment documentation, as advertised, contains a number of errors including reference to the Shire of Murray. Appropriate modifications are recommended within the Schedule of Modifications provided attached.

ATTACHMENT: 9.5.3(3)

Conclusion

The submissions received do not identify any matter that prevents the Amendment proceeding to final adoption. It is recommended that Amendment No. 27 be approved by Council.

STATUTORY ENVIRONMENT:

Planning and Development Act 2005 and Planning and Development (Local Planning Schemes) Regulations 2015.

POLICY / STRATEGIC IMPLICATIONS:

Whilst the proposed amendment to rezone the subject property to General Agriculture is not consistent with the Local Planning Strategy, this particular property was not reviewed at the time to return to a Rural land use zone where a similar property to the north of Perup Road was identified as a possibility. The proposed rezone is consistent with the South West Infrastructure Plan.

Amending the zoning of the subject land as proposed is consistent with the following Community Goals and Strategies relating to 'Our Prosperity' as identified in the Shire of Manjimup Strategic Community Plan 2021-31:

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 businesses to thrive;*
- B16 Support services and infrastructure to encourage caravan and RV Tourism; and*
- D7 Review and amend the Local Planning Scheme to meet the changing needs of community and industry.*

Preliminary advice from the applicant indicates that they are seeking to pursue a tourist related development including a mix of chalets, caravan bays, camping sites and other business ventures including a possible brewery. Such a development would still need to be assessed against the requirements of the Scheme, if and when approval is sought.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

The required application fee for a Standard Scheme Amendment has been paid in accordance with the Schedule of Fees and Charges, adopted as part of the 2022/23 annual budget. The applicant will also be responsible for reimbursement of all costs associated with advertising of the proposal once known.

SUSTAINABILITY:

Environmental: The State agencies for environmental regulation have reviewed the amendment documentation and provided no objection to the proposal.

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

Social: Although supporting the applicants' proposal will remove up to 37 future Rural-Residential lots from the Scheme, adequate undeveloped Rural-Residential land remains zoned and is being considered through the draft Local Planning Strategy. This land, subject to respective landowners' actions, will be adequate to meet the needs for such allotments for the foreseeable future.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council:

1. Pursuant to Regulation 50(3) of the *Planning and Development (Local Planning Scheme) Regulations 2015* endorses the Schedule of Submissions relating to Amendment No. 27 as attached at 9.5.3 (2)
2. Pursuant to Regulation 50(3)(b) of the *Planning and Development (Local Planning Scheme) Regulations* endorses the Schedule of Modifications relating to Amendment No. 27 as attached 9.5.3 (3) and requests these be incorporated into Amendment No. 27 by the Minister for Planning; and
3. Pursuant to section 75 of the *Planning and Development Act 2005* and Regulation 50(3) of the *Planning and Development (Local Planning Scheme) Regulations 2015* adopts Amendment No. 27 to the Shire of Manjimup Local Planning Scheme No. 4 as attached at 9.5.3 (1), subject to those modifications outlined in Point 2 above.

COUNCIL RESOLUTION:**MOVED: Jenkins, D****SECONDED: Buegge, D****29258****That Council:**

- 1. Pursuant to Regulation 50(3) of the *Planning and Development (Local Planning Scheme) Regulations 2015* endorses the Schedule of Submissions relating to Amendment No. 27 as attached at 9.5.3 (2)**
- 2. Pursuant to Regulation 50(3)(b) of the *Planning and Development (Local Planning Scheme) Regulations* endorses the Schedule of Modifications relating to Amendment No. 27 as attached 9.5.3 (3) and requests these be incorporated into Amendment No. 27 by the Minister for Planning; and**
- 3. Pursuant to section 75 of the *Planning and Development Act 2005* and Regulation 50(3) of the *Planning and Development (Local Planning Scheme) Regulations 2015* adopts Amendment No. 27 to the Shire of Manjimup Local Planning Scheme No. 4 as attached at 9.5.3 (1), subject to those modifications outlined in Point 2 above.**

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT APPENDIX

9.9.1 Proposed Endorsement of Draft Access and Inclusion Plan 2024-2029 for Public Comment

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Whole of Shire
WARD:	Whole of Shire
ZONE:	Whole of Shire
DIRECTORATE:	Community Services
FILE REFERENCE:	F160026
LEGISLATION:	<i>Local Government Act 1995 and Disability Services Act 1993 and others as stated.</i>
AUTHOR:	Emily O'Neil; Evy Apeldoorn
DATE OF REPORT:	17 August 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

The current Shire of Manjimup Disability Access and Inclusion Plan 2018-2023 expired on 31 August 2023. The current plan is appended.

APPENDIX: 9.9.1(A)

It is a legislative requirement to update the Access and Inclusion Plan, and as such a draft Access and Inclusion Plan 2024-2029 has been prepared. The draft Plan is attached.

ATTACHMENT: 9.9.1(1)

The purpose of this report is to seek Council endorsement to release the Shire of Manjimup Draft Access and Inclusion Plan 2024-2029 for community and stakeholder comment.

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

The Draft Access and Inclusion Plan 2024-2029 was developed as a result of the following process:

1. Officer review of the 2013-2018 Plan was conducted with a focus on ensuring the currency and relevancy of Plan's data through updating demographic statistics, referenced literature, and legislative requirements. The seven outcomes legislated by the *Disability Services Act 1993* have not changed since the implementation of the current Plan.
2. Shire of Manjimup staff were asked to provide comment on the current Plan, in particular on the Action Plan and the monitoring and measurement of the key performance indicators.

3. Feedback was collected from the Shire of Manjimup Access and Advisory Committee on the current Plan.

All feedback was collated and considered in the preparation of the draft Plan, with the following key findings:

- As the 2018-2023 was developed through a substantial review, and the seven outcomes legislated by the *Disability Services Act 1993* have not changed since, it was found that the recommendations in the current Plan including the Action Plan are still relevant. Some minor textual changes were made for clarification purposes;
- Updated Action Plan outcomes aligned to the seven standards of the *Disability Services Regulations 2004*;
- Updated information from the Australian Bureau of Statistics has been included in the Shire Profile from the 2021 Census, 2018 and 2021 Australian Early Development Census (AEDC), and 2021 Socio-Economic Indexes for Areas (SEIFA). Some amendments have been made to the key performance indicators including minor review of language, removal of completed indicators and indicators that presented repetitive deliverables;
- Minor amendments have been made to the strategies within the Action Plan, including reviewing the Directorates delegated responsibility for strategies, and updating the stakeholders and resources to reflect current documentation;
- Inclusion of Acknowledgement of Country and reference to the Shire's Vision, Mission, and Values;
- Inclusion of Translating and Interpreting Service information and 'Easy Read' Executive Summary to support the accessibility of the Plan for individuals with a wide range of communication needs; and
- Overview provided of Access and Inclusion accomplishments since 2018.

The above findings have been considered during the preparation of the draft Plan. Council endorsement is now sought to release the draft Plan for the purpose of public consultation.

STATUTORY ENVIRONMENT:

The following legislation is applicable:

- *Commonwealth Disability Discrimination Act 1992.*
- *The Disability (Access to Premises – Buildings) Standards (2010)* from the *Commonwealth Disability Discrimination Act 1992.*
- *Equal Opportunity Act 1984.*
- *Disability Services Act 1993.*
- *Disability Services Regulations 2004.*
- *Building Act 2011.*

POLICY / STRATEGIC IMPLICATIONS:

The below Shire of Manjimup strategies and policies are relevant to access and inclusion:

- Shire of Manjimup Strategic Community Plan (2021-2031) – there are several community goals and strategies within this Plan which reference access and inclusion.

- Shire of Manjimup Access and Inclusion Plan (2018-2023) - this Plan, under review.
- Policy 3.8.1 Access and Inclusion Policy (2021-2023) – due for review.

ORGANISATIONAL RISK MANAGEMENT:

It is requested that this draft Plan be released for public comment as it is imperative that the community has opportunity to provide feedback.

Whilst the Department of Communities ordinarily requires the updated Plan to be submitted by the date specified on the previous plan (31 August 2023), a request for extended timeframe has been sought and approved. The Plan must be lodged with the Disability Services Commission by December 2023. Therefore a 28-day comment period is proposed, ensuring that Council consider the final adoption, in light of the submissions, at its 26 October 2023 meeting.

FINANCIAL IMPLICATIONS:

There are no additional financial implications for the Shire of Manjimup to conduct the public consultation. Costs associated with public consultation are covered by operational budgets.

However, any new Access and Inclusion Plan adopted by Council may have financial implications. In saying this the cost of delivering outcomes should largely be covered within general operational budgets as planning for access and inclusion should be a standard process.

It is anticipated that community involvement, external grants and alternative funding sources will play a significant role. In saying this, planning for and providing seed funding and supporting resources from Council may be the catalyst needed to progress various strategies.

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: Public consultation is an opportunity for all community members to engage in a meaningful discussion and collaboration around the accessibility and inclusivity of their community.

VOTING REQUIREMENTS:

SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council endorse the Shire of Manjimup Draft Access and Inclusion Plan 2024-2029 as per Attachment: 9.9.1(1) for the purpose of public consultation for period of 28-days.

COUNCIL RESOLUTION:

MOVED: Jenkins, D SECONDED: Buegge, D

29259

That Council endorse the Shire of Manjimup Draft Access and Inclusion Plan 2024-2029 as per Attachment: 9.9.1(1) for the purpose of public consultation for period of 28-days.

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.12.1 Proposed Reclassification of North Walpole Road and Thompson Road, Walpole to Restricted Access Vehicle Type 4**

PROPONENT	Main Roads Western Australia Heavy Vehicle Services
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Walpole
WARD:	Coastal
ZONE:	Road Reserve
DIRECTORATE:	Works & Services
FILE REFERENCE:	F160373
LEGISLATION:	<i>Local Government Act 1995; Road Traffic Vehicles Act 2002; Road Traffic (Vehicle) Regulations 2014</i>
AUTHOR:	Catherine Mills
DATE OF REPORT:	11 August 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

Main Roads Western Australia (MRWA) Heavy Vehicles Services (HVS) have received a request to reclassify North Walpole Road, (from RSN 1706 North Walpole Road to Beardmore Road) and Thomson Road, Walpole (from Myalgelup Road to Beardmore/North Walpole Road intersection), for Restricted Access Vehicles (RAV) Network 4 (Tandem Drive). Currently, neither of these sections permit heavy haulage.

A copy of the request can be found in the attachment.

ATTACHMENT: 9.12.1(1)

The purpose of this report is for Council to determine their level of support for these sections of the Shire's Road network to be reclassified to Network 4 Restricted Access Vehicle (RAV). The MRWA provided "RAV Benefits" document can be viewed in the attachment and a scheduled MRWA assessment of the roads for safety is yet to be carried out.

ATTACHMENT: 9.12.1(2)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

A vehicle is classed as a Restricted Access Vehicle (RAV) if that vehicle alone or together with any load, exceeds one or more of the following limits:

- mass limit prescribed in Part 3 of the *Road Traffic (Vehicle) Regulations 2014*; or one of the following dimension limits:
 - a width of 2.5m;

- a height of 4.3m;
- a length of 12.5m in the case of a motor vehicle that is not part of a combination; or
- a length of 19m in the case of a combination; and
- any other dimension specified in the *Road Traffic (Vehicle) Regulations 2014*.

Typically, RAV 2, 3 and 4 vehicles consist of a prime mover with a semi-trailer plus additional pig or dog trailer. RAV 2 vehicles will have 3, 4 or 5 axle groups and do not exceed 27.5metres in overall length. RAV 3 and RAV 4 vehicles will have 5 axle groups and do not exceed 27.5metres in overall length. The RAV 4 vehicles have the same configuration as RAV 2/3 vehicles, however they have an extra axle allowing for the increase in weight from 84 tonne to 87.5 tonne.

Below is a graphic display of RAV 2,3 and 4 vehicles.

Permits are required to operate certain types of RAVs in WA and are an instrument issued by the Commissioner of MRWA to grant access for these vehicles to use certain parts of the road network under specific operating conditions. All RAVs require a permit, unless they are authorised under a class of notice issued by either the Commissioner of Main Roads or the Director General of Transport.

While RAV access provides productivity benefits to the transport industry, there are also considerable benefits to road managers and the local community. These benefits are all based around reducing the number of heavy vehicle movements on the road and include reducing risk exposure (e.g. reducing potential for serious crashes), reducing carbon emissions, reducing heavy vehicle noise, and in some cases reducing congestion and reducing road wear.

Therefore, in order to improve road safety and industry efficiency, reduce the number of vehicles on the road at any one time and improve the working life of the sealed and unsealed road network, Shire Officers recommend that Council approve the proposed upgrade to the Shire's RAV Network.

STATUTORY ENVIRONMENT:

Local Government Act 1995, Road Traffic Vehicles Act 2002, Road Traffic (Vehicle) Regulations 2014, MRWA Traffic Management for Works on Roads – Code of Practice February 2023.

POLICY / STRATEGIC IMPLICATIONS:

Approval of this request is compliant with the Council Policy 9.1.1 Road Use Approval for Permit Type Loads, Main Roads WA Guidelines for Approving RAV Access.

ORGANISATIONAL RISK MANAGEMENT:

There is a low risk of any consequence to the organisation by implementing the change.

FINANCIAL IMPLICATIONS:

Cost impact of additional mass freight tasks on road condition have potential to be significant if the number of heavy haulage vehicles increase. However, using a RAV Network 4 is expected to reduce the overall number of vehicles travelling on Shire roads. As such these impacts on the Shires Road network can be considered cost neutral.

SUSTAINABILITY:

Environmental: Nil.

Economic: Greater savings for the majority of Heavy Haulage companies due to the reduced number of trips required.

Social: Though the community may feel impacted by larger vehicles on the road, at any one time there is expected to be a decrease in the overall number of heavy vehicles on Shire roads.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council Request Main Roads Western Australia Heavy Vehicles Service to:

- 1. Reclassify North Walpole Road (from RSN 1706 North Walpole Road to Beardmore Road) to RAV Network 4; and**
- 2. Reclassify Thomson Road, Walpole (from Myalgelup Road to Beardmore/North Walpole Road intersection) to RAV Network 4.**

COUNCIL RESOLUTION:

MOVED: Jenkins, D SECONDED: Buegge, D

29260

That Council Request Main Roads Western Australia Heavy Vehicles Service to:

- 1. Reclassify North Walpole Road (from RSN 1706 North Walpole Road to Beardmore Road) to RAV Network 4; and**
- 2. Reclassify Thomson Road, Walpole (from Myalgelup Road to Beardmore/North Walpole Road intersection) to RAV Network 4.**

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.12.3 Request for Council to Commit to being a RoadWise Council**

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Whole of Shire
WARD:	All
ZONE:	NA
DIRECTORATE:	Works and Services
FILE REFERENCE:	F160571
LEGISLATION:	NA
AUTHOR:	Michael Leers
DATE OF REPORT:	29 August 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

The Western Australian Local Government Association (WALGA) has invited the Shire of Manjimup to become a RoadWise Council. This new WALGA initiative has been developed to encourage, motivate, and support local governments to incorporate best practice road safety principles and policy across their business services with the aim to reduce the number of people killed and seriously injured on local roads. Council is requested to consider the invitation from WALGA to register as a RoadWise Council. This will demonstrate leadership towards initiatives and actions to improve road safety outcomes for our communities. A copy of the WALGA invitation is attached

ATTACHMENT: 9.12.3 (1)**PUBLIC CONSULTATION UNDERTAKEN:**

Nil.

COMMENT (Includes Options):

The new RoadWise Councils Framework informs the approach WALGA's road safety team takes in supporting local governments in working towards delivering best practice road safety. The Framework takes into account the elements which determine the level of safety of the road transport system within the context of Local Governments.

To register, local governments can accept the invitation by providing a Council resolution or a written declaration of commitment to road safety and nominating at least two Shire Officers to be the primary point of contact for road safety matters.

The benefits for local governments that register as RoadWise Councils include:

- Use of the RoadWise logo;
- Priority access to WALGA's road safety services and products;
- Exclusive quarterly meetings and support from a Road Safety Advisor;

- Priority access to participate in WALGA's road safety policy development, training, professional development forums and knowledge-sharing workshops offered by WALGA;
- Access to incentives and sponsored programs; and
- Participation in the new RoadWise Recognised initiative.

The RoadWise Recognised aspect of being a RoadWise Council provides formal recognition for, and enables benchmarking and monitoring of road safety management, actions and interventions. RoadWise Recognised will assist local governments with continuous improvement in road safety actions and outcomes through regular support, monitoring and sharing of information.

Local governments are encouraged to remain registered RoadWise Councils to ensure they have access to specialist advice and assistance in managing road safety at a local level to the best of their capacity and capability.

STATUTORY ENVIRONMENT:

Though there is no legislation governing Council's decision, road authorities owe all road users a duty of care and must do what is reasonable to be aware of deficiencies in the road transport system, to assess and prioritise them, and have a system for remedying them.

POLICY / STRATEGIC IMPLICATIONS:

The Shire's Policy 9.1.21 Road Traffic Safety ensures a robust approach to road traffic safety, embedding Safe System methodology through the implementation of a Road Safety Management System across the Shire's organisational activities. This brings a public health focus to road safety and involves all aspects of the road system working together to eliminate death and serious injury.

ORGANISATIONAL RISK MANAGEMENT:

Becoming a RoadWise Council reduces risk for all users of road traffic systems and improves road safety.

FINANCIAL IMPLICATIONS:

Any minor expenditure will be covered by the Shire's normal operation budget. These cost should be offset by the additional RoadWise services to the Shire as part of the agreement.

SUSTAINABILITY:

Environmental: Nil.

Economic: Reducing or eliminating road trauma has an exponential effect on reducing costs to the community

Social: A safe and usable road network helps provide for good social cohesion for the community.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council accept the Western Australian Local Government Association's invitation for the Shire of Manjimup to register as a RoadWise Council.

COUNCIL RESOLUTION:

MOVED: Jenkins, D SECONDED: Buegge, D

29261

That Council accept the Western Australian Local Government Association's invitation for the Shire of Manjimup to register as a RoadWise Council.

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.16.1 Unconfirmed Minutes of the Manjimup Rea Park and Collier Street Redevelopment Advisory Committee Meeting held 15 August 2023**

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Manjimup
WARD:	Central
ZONE:	Parks and Recreation
DIRECTORATE:	Community Services
FILE REFERENCE:	F210096
LEGISLATION:	<i>Local Government Act 1995</i>
AUTHOR:	Shammara Markotis
DATE OF REPORT:	16 August 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

The Manjimup Rea Park and Collier Street Redevelopment (MRCR) Advisory Committee is an Advisory Committee of Council, formed in accordance with Part 5 of the *Local Government Act 1995*.

The purpose of the Committee is:

- *“To provide advice to Council on the Manjimup Rea Park & Collier Street Redevelopment Project for the duration of the Project, including the Planning & Design and Construction & Implementation stages;*
- *To make recommendations to Council in regard to matters that will improve the planning, design, construction, and future use and sustainability of the sport and recreation facilities at the Rea Park & Collier Street Precinct for the benefit of the broader community;*
- *To provide input into and feedback on design, research sport specific needs, and contribute to ideas for the Project;*
- *To provide advice on trends in sport and recreation (e.g. participation rates, regulations, facilities) where relevant to the Project;*
- *Representative Members acknowledge and accept their role as a representative of their sport (rather than a particular club) and to act as a key liaison for that sport; and*
- *Communicate and inform represented groups and the local community regarding activities of the Committee”.*

The purpose of this report is to present the unconfirmed minutes of the MRCR Advisory Committee meeting held on 15 August 2023, as attached, for Council consideration.

ATTACHMENT: 9.16.1(1)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

There are no recommendations made by the MRCR Advisory Committee requiring a Council decision.

STATUTORY ENVIRONMENT:

Local Government Act 1995.

POLICY / STRATEGIC IMPLICATIONS:

The purpose of the Committee supports the following strategies within the 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.
- Strategy D13 - Support the development of a state-level sporting facility in the township of Manjimup.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

Nil.

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

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

VOTING REQUIREMENTS:

SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council receive the unconfirmed meeting minutes of the Manjimup Rea Park and Collier Street Redevelopment Advisory Committee meeting held 15 August 2023 as per Attachment: 9.16.1(1).

COUNCIL RESOLUTION:

MOVED: Jenkins, D SECONDED: Buegge, D

29262

That Council receive the unconfirmed meeting minutes of the Manjimup Rea Park and Collier Street Redevelopment Advisory Committee meeting held 15 August 2023 as per Attachment: 9.16.1(1).

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT

9.12.2 Proposed Road Closure and Amalgamation of Favero Road Reserve and a Portion of Unnamed and Unconstructed Road Reserve in the Vicinity of Favero Road, Yeagarup

PROPONENT	Papillon Holdings Pty Ltd
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Vicinity of Favero Road, Yeagarup
WARD:	West
ZONE:	Road Reserve
DIRECTORATE:	Works & Services
FILE REFERENCE:	F230054
LEGISLATION:	<i>Local Government Act 1995</i> <i>Land Administration Act 1997</i>
AUTHOR:	Michael Leers
DATE OF REPORT:	8 August 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

At the Ordinary Council Meeting of 25 May 2023, Council resolved to publicly advertise its proposal to approve public consultation, for a period of 35 days, for the proposed closure and amalgamation of Favero Road Reserve and a Portion of Unnamed/Unconstructed Road Reserve in the vicinity of Favero Road, Yeagarup. A copy of Councils resolution is provided below:

29153

That Council:

1. Advise the applicants that it is prepared to support the closure of a Portion of Favero Road Reserve and a Portion of unnamed/unconstructed road reserve in the vicinity of Favero Road, Yeagarup subject to:
 - a. no objections received in response to the public consultation period detailed in point 2 below;
 - b. subject to all approvals being in place with Department of Water Environmental Regulation prior to road closure; and
 - c. subject to amalgamation of Lots 8209, 8556, and 7262 prior to road closure;
2. Approve the undertaking of public consultation process regarding the proposed closure of a portion of Favero Road and a portion of the unnamed/unconstructed road reserve and subsequent amalgamation into adjacent property Lot 8209 Favero Road in accordance with the requirements of the *Land Administration Act 1997*, for a period of 35 days;
3. Subject to no objections being received in response to the advertising referred to in point 2 above, grant delegated authority to the Temporary Chief Executive Officer to forward a request to

the Minister of Lands for approval to close the road reserve in accordance with section 58 of the *Land Administration Act 1997*;

4. Indemnify the Minister of Lands against any claim for compensation resulting from the proposed road closure; and
5. Request the Temporary Chief Executive Officer to arrange for an agenda item be prepared for Council consideration should any objection be received as a result of the public consultation.

CARRIED: 9/0

Following the period of required public consultation, Councillors are now asked to consider the results for the closure having regard to the submissions received.

PUBLIC CONSULTATION UNDERTAKEN:

The proposed closure was advertised in the Manjimup-Bridgetown Times on 14 June 2023. Written correspondence was sent to the following adjoining stakeholders on 7 and 8 June 2023:

- Western Power;
- Telstra;
- Water Corporation;
- Department of Biodiversity, Conservation and Attractions;
- Department of Water and Environmental Regulation;
- Department of Mines, industry Regulation and Safety;
- Department of Planning Lands and Heritage;
- Nuovo Pty Ltd; and
- Stephen & Esther Mills.

As a result of the consultation process, a total of 8 submissions were received. A summary of the submissions are included in the attachment.

ATTACHMENT: 9.12.2 (1)

- One (1) submission has been identified as an objection from Department of Biodiversity Conservation and Attractions (DBCA); and
- Seven (7) submissions have been identified as supportive or raising no objection to any elements of the proposal.

All full submissions are available for Council to view prior to, or on the day of the Council Meeting on request.

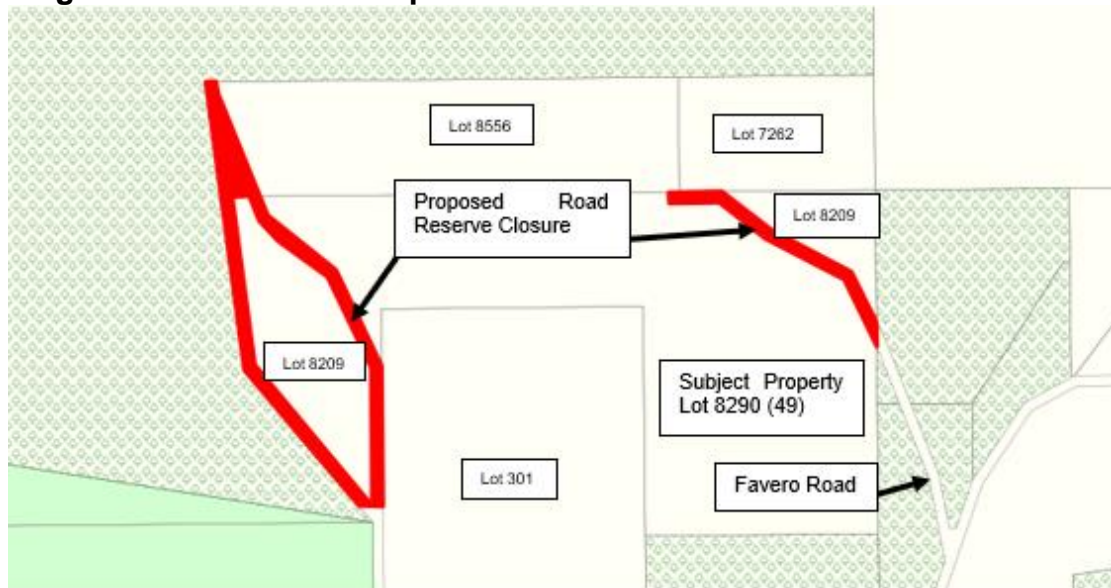
COMMENT (Includes Options):

The proponent's intention is to close these portions of road to facilitate the construction of new dams. During the consultation process, DBCA objected to the closure of the portion road reserve that is western most on the original proposal. This section of road is unconstructed and unnamed and is adjacent to Treen Brook State Forest. The basis of the DBCA objection is that this section of road reserve has an existing track that is periodically used by DBCA as a management boundary separating the State Forest from the private

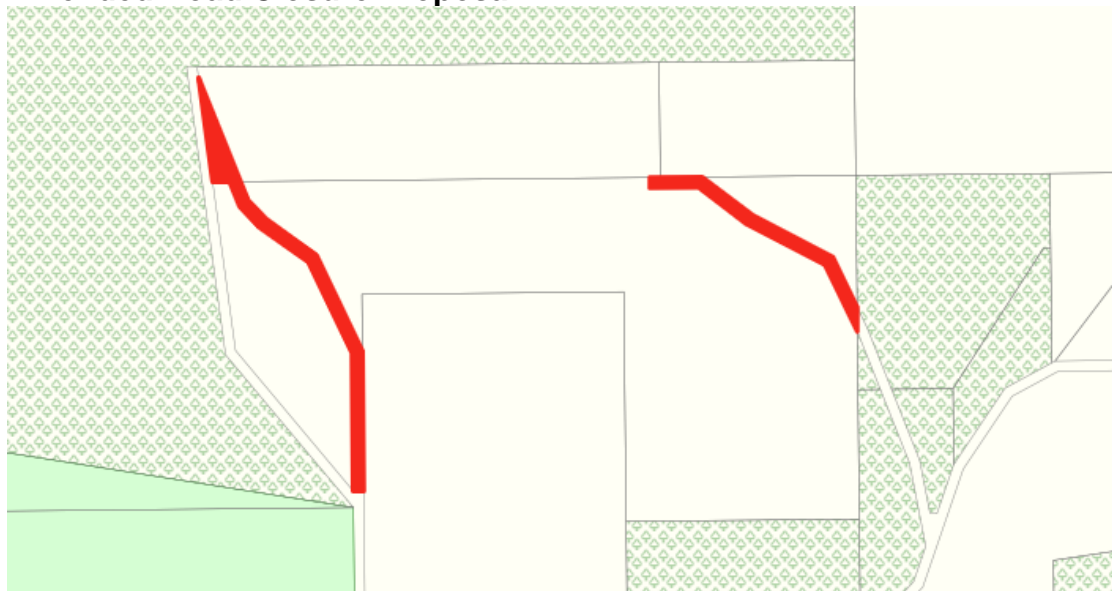
property. The continued use of this track is essential for DBCA's ongoing prescribed burning practices, and for access to protect from bushfire the adjacent forest values and private property. As such, it is recommended that DBCA be invited to amalgamate this portion of Unnamed Road into the adjacent State Forest.

Shire Officers support this objection and have liaised with the proponent who has agreed to a new proposal. The maps below show the original proposal and the amended proposal.

Original Road Closure Proposal



Amended Road Closure Proposal



Considering that all parties agree to keep the DBCA required portion of road reserve open, it is recommended that Council support the amended proposal.

STATUTORY ENVIRONMENT:

Land Administration Act 1997 details the process for closing a road. Essentially, Council is required to make a recommendation to the Minister for Lands after considering public comment. The associated Regulations detail the public consultation required.

The *Local Government Act 1995* requires public notice for partial or whole road closure.

POLICY / STRATEGIC IMPLICATIONS:

Road closures are primarily at the policy level of decision making. Council is asked to weigh the rights and concerns of an individual against the rights of the greater community. Due to the common law perpetual right to use a dedicated road, both statutes that deal with road closures include a process of public consultation ensuring the merits of the competing rights are appropriately considered by the decision maker. The cost of amalgamating the land into the freehold block, along with the purchase value of the land will be met by the proponent.

ORGANISATIONAL RISK MANAGEMENT:

There is no risk to the organisation by following road closure procedures as guided by the *Land Administration Act 1997*.

FINANCIAL IMPLICATIONS:

Nil. The cost of any surveying and land transfers will be entirely negotiated by the Department of Planning Lands & Heritage.

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: Open and transparent communication ensures the Shire is seen to be acting with fairness and equity to all parties.

VOTING REQUIREMENTS:

ABSOLUTE MAJORITY

OFFICER RECOMMENDATION:

That Council:

1. Advise Department of Biodiversity Conservation and Attractions that Council supports their objection and have amended the proposal accordingly;
2. Invite the Department of Biodiversity Conservation and Attractions to amalgamate the portion of the unconstructed and Unnamed Road in the vicinity of Favero Road into the adjacent Treen Brook State Forest;

3. Advise the applicant that the proposed closure has been amended;
4. Grant delegated authority to the Chief Executive Officer to forward a request to the Minister for Lands for approval to close the subject portions of road reserve in accordance with Section 58 of the *Land Administration Act 1997*; and
5. Indemnify the Minister for Lands against any claim for compensation resulting from the proposed road closure.

COUNCIL RESOLUTION:

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

29263

That Council:

1. Advise Department of Biodiversity Conservation and Attractions that Council supports their objection and have amended the proposal accordingly;
2. Invite the Department of Biodiversity Conservation and Attractions to amalgamate the portion of the unconstructed and Unnamed Road in the vicinity of Favero Road into the adjacent Treen Brook State Forest;
3. Advise the applicant that the proposed closure has been amended;
4. Grant delegated authority to the Chief Executive Officer to forward a request to the Minister for Lands for approval to close the subject portions of road reserve in accordance with Section 58 of the *Land Administration Act 1997*; and
5. Indemnify the Minister for Lands against any claim for compensation resulting from the proposed road closure.

CARRIED: 9/0

FOR: Cr Buegge; Cr Jenkins; Cr Lawrence; Cr Omodei; Cr Skoss; Cr Taylor; Cr Ventris; Cr Willcox; Cr Winfield.

AGAINST: Nil.

ATTACHMENT**9.15.1 Informal Meeting Notes of the Northcliffe Forest Park Management Committee Meeting held 19 July 2023**

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Northcliffe Forest Park
WARD:	Coastal
ZONE:	N/A
DIRECTORATE:	Works & Services
FILE REFERENCE:	F170372
LEGISLATION:	<i>Local Government Act 1995</i>
AUTHOR:	Nicole Booth
DATE OF REPORT:	11 August 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

The Northcliffe Forest Park Management Committee is a Management Committee of Council, formed in accordance with Part 5 of the *Local Government Act of 1995*.

This report is to present the informal meeting notes of the Northcliffe Forest Park Management Committee meeting held on 19 July 2023, as attached.

ATTACHMENT: 9.15.1(1)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

As the Committee did not achieve quorum there are no recommendations to present to Council.

STATUTORY ENVIRONMENT:

Local Government Act 1995.

POLICY / STRATEGIC IMPLICATIONS:

Management Committees of Council ensure appropriate levels of community involvement in assisting the Shire manage its public open space and the relevant infrastructure assets.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

The Northcliffe Forest Park Management Committee is responsible for the management of the budget allocated for the Northcliffe Forest Park's maintenance, capital improvements and reserves.

SUSTAINABILITY:

Environmental: The Northcliffe Forest Park is a heavily vegetated reserve in close proximity to the town providing both social benefits and public safety concerns in respect to fire management.

Economic: Nil.

Social: The Northcliffe Forest Park is an important recreational, environmental and cultural reserve for the Northcliffe community.

VOTING REQUIREMENTS: ABSOLUTE MAJORITY

OFFICER RECOMMENDATION:

That Council note the informal notes of the Northcliffe Forest Park Management Committee meeting held 19 July 2023, as per Attachment: 9.15.1(1).

COUNCIL RESOLUTION:

MOVED: Taylor, R SECONDED: Jenkins, D

29264

That Council note the informal notes of the Northcliffe Forest Park Management Committee meeting held 19 July 2023, as per Attachment: 9.15.1(1).

CARRIED: 9/0

FOR: Cr Buegge; Cr Jenkins; Cr Lawrence; Cr Omodei; Cr Skoss; Cr Taylor; Cr Ventris; Cr Willcox; Cr Winfield.

AGAINST: Nil.

ATTACHMENT**9.16.2 Unconfirmed Minutes of the Access and Inclusion Advisory Committee Meeting held on 10 August 2023**

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Whole of Shire
WARD:	Whole of Shire
ZONE:	All
DIRECTORATE:	Community Services
FILE REFERENCE:	F170381
LEGISLATION:	<i>Disability Services Act 1993</i> <i>Commonwealth Disability Discrimination Act 1992</i> <i>Equal Opportunity Act WA 1998</i> <i>Local Government Act 1995</i>
AUTHOR:	Georgia Schipp; Kelsie Brown
DATE OF REPORT:	22 August 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

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

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

The purpose of this report is to present the unconfirmed Minutes, including Action Items, of the AIAC meeting held 10 August 2023, as attached, for Council consideration.

ATTACHMENT: 9.16.2(1)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

At the Council meeting held on 15 June 2023, Council resolved the following (Resolution 29174):

- ***“Consider supporting the investigation and subsequent implementation of the Pragmatic Organisation Dynamic Display Communication project, including the installation of communication signage at yet to be determined community facilities; and***
- ***Consider increasing the annual operational budget ‘to implement DAIP Plan’ from \$2,000 to \$5,000 to facilitate the purchase and installation of the Pragmatic Organisation Dynamic Display signage.”***

Further to the above, it should be noted that the Pragmatic Organisation Dynamic Display (PODD) is one example of a singular communication tool of Augmentative and Alternative Communication (AAC). AAC includes unaided communication, such as facial expressions, body posture, gestures or sign language and aided modes such as communication boards, devices, signage, PODD books etc. Many people use AAC to communicate when they cannot effectively communicate through speech. These include, but are not limited to, people with a disability or disorder, people with language barriers (such as international travellers), and post medical conditions or surgeries (e.g. stroke).

After further discussions held at the Access & Inclusion Meeting on 10 August 2023 around implementation of AAC, the Committee propose that signage be implemented at the Manjimup Regional AquaCentre and the Manjimup Public Library. This is envisaged by the Committee to be the first stage of a broader roll out of the AAC concept with the overarching goal of enhancing accessibility and promoting inclusiveness within our Shire. The above Shire operated facilities were identified as suitable locations for initial roll out as they are frequently utilised by all members of the community. Additionally, the Committee propose that the Manjimup Heritage Park as the location for the future installation of a communication board.

There are three Committee recommendations relating to the implementation of AAC that require a decision of Council, being:

Committee Recommendation	Officer Recommendation
That Council support the trial of AAC at the Manjimup Regional AquaCentre and Manjimup Public Library.	<p>It is recommended that Council endorse the AAC concept in principle as a suitable method to enhancing accessibility and promotive inclusiveness within the Shire of Manjimup.</p> <p>The proposed implementation of AAC signage at these facilities is supported.</p>

That Council support the investigation of training opportunities associated with the introduction of Augmentative and Alternative Communication mentioned in the above Shire facilities including trainer costs, staff professional development and whole of community awareness training.	<p>Staff training at the above facilities has been identified as a key component for AAC implementation and as such, is supported.</p> <p>Increasing community awareness of AAC is also supported as this is considered essential for a successful implementation of the concept.</p>
That Council support the research of copyright, production, and installation of the Augmentative and Alternative Communication boards, including cost estimates at Manjimup Heritage Park Playground.	<p>At the Council meeting of 15 June 2023 Council moved to support the investigation and subsequent implementation of such board, including the installation at yet to be determined community facilities.</p> <p>The proposed location for the first AAC Board to be in the Manjimup Heritage Park is supported in principle, however will require further discussion with the Manjimup Heritage Park Advisory Committee.</p>

STATUTORY ENVIRONMENT:

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

POLICY / STRATEGIC IMPLICATIONS:

The purpose of the Committee supports the following Shire plan and policy:

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

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

The implementation costs of the AAC concept will vary depending on which methods are being proposed. Where Shire Officer training is required, the costs for this can be accommodated through the operational budget. Community awareness/promotion of AAC can also be covered by the operational budget. For larger initiatives, grant funding opportunities will be sought.

In the 2023/2024 operational budget, Council has increased the available amount for Access and Inclusion initiatives to \$4,000. This funding can assist with AAC implementation or as seed funding towards grant applications.

SUSTAINABILITY:

Environmental: Nil.

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

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

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

That Council:

1. Receive the unconfirmed minutes of the Access and Inclusion Advisory Committee meeting held 10 August 2023 as per Attachment 9.16.2(1);
2. Endorse the Augmentative and Alternative Communication concept to enhance the accessibility and promote inclusiveness within the Shire of Manjimup;
3. Support the first stage of implementation of Augmentative and Alternative Communication signage at the Manjimup Regional AquaCentre and the Manjimup Public Library; and
4. Consider supporting the investigation and subsequent implementation of an Augmentative and Alternative Communication Board at the Manjimup Heritage Park, pending further discussion with the Manjimup Heritage Park Advisory Committee.

COUNCIL RESOLUTION:

MOVED: Skoss, K SECONDED: Buegge, D

29265

That Council:

1. Receive the unconfirmed minutes of the Access and Inclusion Advisory Committee meeting held 10 August 2023 as per Attachment 9.16.2(1);
2. Endorse the Augmentative and Alternative Communication concept to enhance the accessibility and promote inclusiveness within the Shire of Manjimup;
3. Support the first stage of implementation of Augmentative and Alternative Communication signage at the Manjimup Regional AquaCentre and the Manjimup Public Library; and
4. Consider supporting the investigation and subsequent

implementation of an Augmentative and Alternative Communication Board at the Manjimup Heritage Park, pending further discussion with the Manjimup Heritage Park Advisory Committee.

CARRIED: 9/0

FOR: Cr Buegge; 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 APPENDIX

9.5.1 Consideration of Submissions and Final Approval of Amendment 26 at Lot 60 Dingup Road, Dingup

PROPONENT	Edge Planning & Property
OWNER	BL Nicol
LOCATION / ADDRESS:	Lot 60 Dingup Road, Dingup
WARD:	East
ZONE:	Rural Residential (RR26)
DIRECTORATE:	Development and Regulation
FILE REFERENCE:	DA22/9; P55612
LEGISLATION:	<i>Planning and Development Act 2005</i>
AUTHOR:	Kaylene Roberts
DATE OF REPORT:	11 August 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

Council initiated Amendment No. 26 to Shire of Manjimup Local Planning Scheme No. 4 (the Scheme) at its Ordinary Meeting held 24 March 2022 in order to rezone the subject land as Priority Agriculture. An excerpt of the March meeting minutes, incorporating the officer report is appended.

APPENDIX: 9.5.1 (A)

As reflected within the Scheme Amendment documentation, the intent of the amendment is to rezone the subject land as Priority Agriculture from Rural Residential.

A copy of the amendment document, as advertised is shown attached.

ATTACHMENT: 9.5.1(1)

With the advertising now complete, the purpose of this report is to request Council to determine whether to proceed with the amendment, with or without modification, having regard to the submissions received.

PUBLIC CONSULTATION UNDERTAKEN:

A formal 42-day public submission period was undertaken in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* and Council's resolution of 24 March 2022. The advertising period included a public notice in the Manjimup-Bridgetown Times on 12 July 2023. The amendment was also advertised on the Shire of Manjimup Website, correspondence was forwarded to relevant government agencies and surrounding landowners and a sign was placed on site.

Comments on the proposal closed on 23 August 2023 with a total of 15 submissions being received from government agencies and members of the

public. All of the public submissions were in support of the amendment with the exception of one landowner.

Whilst the majority of the government agencies that provided comments had no objections to the proposal, the Department of Health (DoH) stated that the commitment of the 300m buffer should be formally adopted.

All submissions have been summarised in the attached Schedule of Submissions and are addressed in the comment section below.

ATTACHMENT: 9.5.1 (2)

COMMENT (Includes Options):

To assist Council in considering the submissions, the following comments are offered.

Response to Submissions

Department of Health (DoH)

DoH have provided comments with regards to the impacts and public health risks arising from the proposed encroachment of incompatible land uses. DOH recommend a minimum buffer of 300m to any future intensive agriculture and existing residential land uses.

The proponent has committed to restricting the intensive cultivation of perennial crops within 300m of all off-site residential dwellings by proposing a 300m separation buffer including a vegetated buffer as part of the rezoning application.

Conditions to this effect have been introduced into the recommended Schedule of Modifications, proposing the introduction of a Restricted Use into Schedule 18 of the Scheme.

Adjacent Landowner Submission

One submission was received from an adjoining neighbour who objected to the proposal for the following reasons:

Buffer

The neighbour has referred to the Amendment documentation and raised concerns that the recommendation to have a 10m buffer, 5m firebreak and a 50m 'no spray zone' falls short of the Environmental Protection Authority (EPA) guidelines of 100 – 500m for orchards, vineyards and market gardens to sensitive uses (such as dwellings). The adjacent dwelling is 104m from the shared boundary and as such have requested a 100m buffer from the shared boundary be considered. As mentioned above the proponent has committed to a proposed 300m separation buffer which will achieve this requirement.

In addition, the neighbour is in support of the proposed list of buffer vegetation species.

Dust, Spray Drift, Noise, Spraying Conditions, Chemicals Used

The adjacent landowner has raised concerns with regards to dealing with dust, spray drift, spraying conditions, chemicals to be used, water use, weather and buffers and queried ongoing monitoring to ensure that chemicals are only sprayed when the wind speeds are between 3 – 15kms per hour blowing away from sensitive areas or chemicals appropriate to minimise effect on frogs, bees and aquatic systems are chosen.

The environmental report submitted considered the risks/impacts associated with the intensive agricultural activities and recommended various management strategies which will address EPA requirements of land use compatibility and should satisfy the concerns raised.

Modifications to Amendment

There are a range of mitigation measures relating to the amendment. Shire Officers have concerns that the proposed amendment to rezone will provide for exemptions in respect to new agricultural activities. In order to ensure that the future (permitted) land uses do not create land use conflicts, it is recommended to include a Restricted Use assignment to the land through RU3 assignment in Mapping and conditions within Schedule 18.

A recommended Schedule of Modifications to the Amendment, responding to submissions received, has been prepared and is attached. The modification proposed will require additional information to be included in Schedule 18 of the Scheme text.

ATTACHMENT: 9.5.1(3)

Only the Minister for Planning may modify a Scheme amendment after advertising. It is therefore recommended that Council request the Minister for Planning approve the amendment subject to the recommended modifications.

STATUTORY ENVIRONMENT:

Planning and Development Act 2005 and Planning and Development (Local Planning Schemes) Regulations 2015.

POLICY / STRATEGIC IMPLICATIONS:

Amending the zoning of the subject land as proposed is consistent with the following Community Goals and Strategies as identified in the Shire of Manjimup Strategic Community Plan 2021 -2031:

Strategies

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

Goals

- A10 *Encourage all aspects of sustainable farming and agriculture.*
- B4 *Support sustainable agricultural expansion, value-adding and downstream processing, research and development, culinary and agri-*

tourism, land protections, and continued support for the Southern Forests Food Council.

C15 Manage environmental health risks in the community.

D7 Review or amend the Local Planning Scheme to meet the changing needs of community and industry.

ORGANISATIONAL RISK MANAGEMENT:

Whilst separation distances to agricultural activities are outlined within external health and environmental legislation, the proposed modification to include restrictions to what may be otherwise exempt land uses should mitigate the impacts of those activities on surrounding sensitive land uses.

FINANCIAL IMPLICATIONS:

The Amendment Fees have been paid by the applicant in accordance with the Schedule of Fees and Charges, adopted by Council as part of the 2022/23 budget. Reimbursement of all advertising costs associated with the advertising will be the responsibility of the applicant.

SUSTAINABILITY:

Environmental: The amendment documentation has been reviewed by State agencies for environmental regulation which have provided no objection to the proposal. Controls are proposed to ensure risk to the health of the surrounding neighbours is reduced.

Economic: By supporting the landowner's proposal, it will provide an opportunity to consider development and use of the land in accordance with the proposed zoning of Priority Agriculture.

Social: Nil.

VOTING REQUIREMENTS:

SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council:

1. Pursuant to Regulation 50 (2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* endorse the Schedule of Submissions relating to Amendment No. 26 as attached at 9.5.1 (2);
2. Pursuant to Regulation 50 (3)(b) of the Planning and Development (Local Planning Scheme) Regulations endorses the Schedule of Modifications relating to Amendment No. 26 as attached at 9.5.1(3) and requests these be incorporated into Amendment No. 26 by the Minister for Planning; and
3. Pursuant to section 75 of the Planning and Development Act 2005 and Regulation 50 (3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* adopts Amendment No. 26 to Shire of Manjimup Local Planning Scheme No. 4 as attached at 9.5.1(1).

This Item was withdrawn by the proponent prior to the commencement of the Council Meeting.

ATTACHMENT

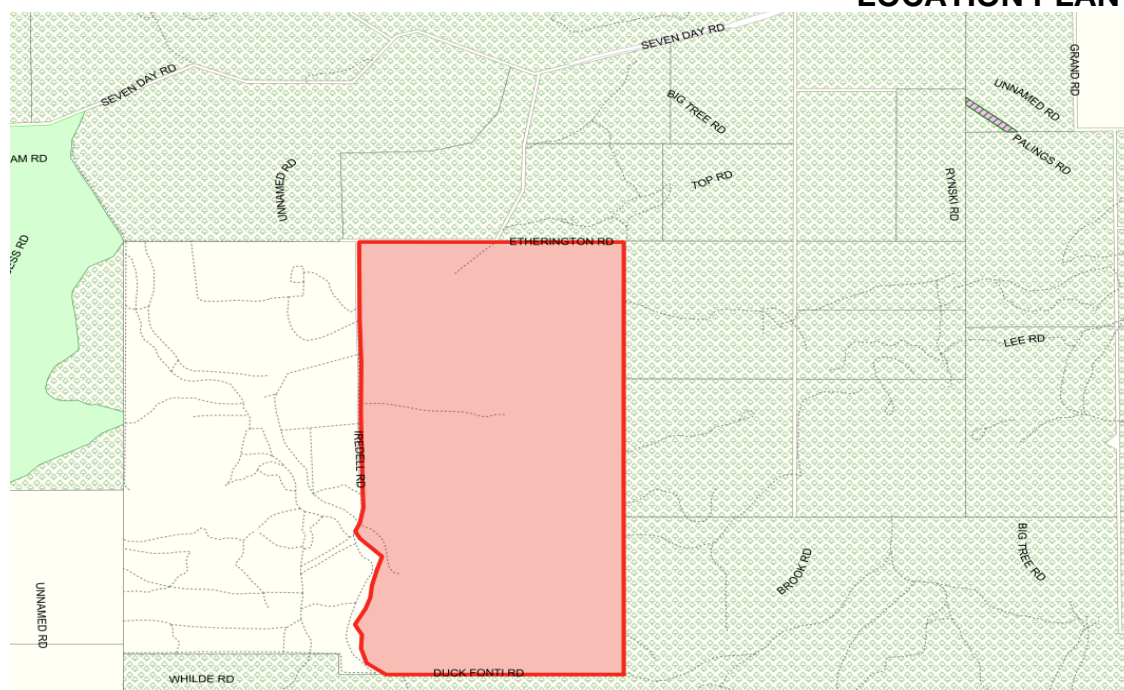
9.5.4 Application for Retrospective Approval for Rural Workers Accommodation, Grouped Dwellings, Industry - Rural, Agriculture Extensive and Proposed Additional Rural Workers Accommodation at Lot 100 (122) Etherington Road, Beedelup

PROPONENT	Harley Dykstra Pty Ltd
OWNER	Mecca Holdings Pty Ltd & Red Moon Property Holdings Pty Ltd
LOCATION / ADDRESS:	Lot 100 (122) Etherington Road, Beedelup
WARD:	West
ZONE:	Priority Agriculture
DIRECTORATE:	Development and Regulation
FILE REFERENCE:	DA23/76 P58097
LEGISLATION:	<i>Planning and Development Act 2005</i>
AUTHOR:	Jocelyn Baister
DATE OF REPORT:	21 August 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

Lot 100 Etherington Road, Beedelup is 430.5 hectares in area and is located to the south of Seven Day Road. The property is surrounded by State Forest to the north, south and east. A similar sized parcel of land is located to the west. Development of the property is associated with the establishment of an orchard. A location plan is provided below.

LOCATION PLAN



In 2021 an audit of aerial imagery identified that a substantial level of development/ building work had occurred on the property despite no approvals being granted. Shire Officers initially contacted the landowner in June 2021 with correspondence identifying building works that may have been undertaken at the property without the necessary approvals being obtained.

A site meeting was subsequently held with a representative from the company, where following an explanation of the severity of the suspected offences under Planning, Building and Health legislation, an apology was offered. The landowner has since engaged Tecon Building Surveyors and Harley Dykstra to assist in the legitimising of the unauthorised works.

As a result the applicant is now seeking retrospective planning approval for:

- Expansion of land used for Agriculture – Intensive;
- (T, S, R) intensification of Industry – Rural to legitimise the additional floor area;
- (D) a 5,142m² machinery shed;
- (P) Office building including tearoom and ablutions;
- (O) 58.85m² Chemical store shed;
- (N) 336.34m² Storage shed;
- (F) 709.698m² Workshop including office, ablutions and laundry (previously machinery shed);
- (A, J) two dwellings for permanent staff accommodation;
- (J1) a four bed transportable with ensuites; and
- (E) an increase from Rural Workers Accommodation housing 12 to 36 seasonal workers.

The applicant is also seeking approval for additional Rural Workers Accommodation to house an extra 12 seasonal workers which have been placed site and plumbed in without any approval. A copy of the proposal and plans are attached.

ATTACHMENT: 9.5.4 (1)

PUBLIC CONSULTATION UNDERTAKEN:

The application was advertised in accordance with Clause 9.6 of the Local Planning Scheme No 4 (the Scheme) for a 42-day period. A notice was placed on the Shire's website, in the local paper, a sign was placed on site and advice of the application was forwarded to the Ward Councillors. The application was also forwarded to the Department of Water and Environmental Regulation (DWER), the Department of Biodiversity Conservation and Attractions (DBCA) and the Department of Fire and Emergency Services (DFES).

Submissions closed on the 9 August 2023, however DFES has requested additional time until the 28 August 2023. DBCA had no objections to the proposal however provided advice related to ongoing fire management practises. DWER advised that the proposal has the potential for impact on the environment and water resources.

At the time of writing, comments had not been received from DFES. An officer from DFES has advised that comments have been delayed until 30 August 2023. A copy of the comments will be provided to Council at the meeting if available.

Copies of the submissions are provided attached whilst their content is addressed in the Comment section below.

ATTACHMENT: 9.5.4 (2)

COMMENT (Includes Options):

The subject property is zoned Priority Agriculture by the Scheme. In addition the land is located within Special Control Area 1 – Lefroy Brook Catchment Area. The purpose of the zone as outlined in Clause 4.2 of the Scheme is to provide for intensive agricultural and horticultural production where water resources exist, while the objectives encourage value adding opportunities to agricultural products at the source.

In accordance with clause 6.1.5 of the Scheme all development is prohibited without prior approval of the local government, including land use and development listed in clause 8.4 Permitted Development.

Non-compliance

A review of Shire records indicates that the approvals were previously obtained for six permanent dwellings (for staff) and one short stay accommodation building and an Industry–Rural (Cool Store) of 4,620m². Plans submitted in 1992 and 1995 indicated existing ‘single men’s quarters/pickers accommodation’.

Through examination of aerial photography and inspection of the site, Shire Officers are of the opinion the following development had occurred without the required prior approval(s):

- a dwelling and shed located 25m to the south of Etherington Road, which does not have any record of approval from planning, building or health legislations;
- an additional transportable dwelling and four room donga within the staff accommodation cluster which does not have any approvals from planning, building and health;
- a 5,142m² open sided structure inclusive of office, tearoom and separate ablutions that does not have planning, building or health approvals;
- an unknown number of rural workers accommodation that do not have planning, building or health approvals (including patio structure over that does not have building approval);
- three permanent dwellings in the cluster that have received planning approval however do not have building permits;
- a main office that does not have planning, building or health approvals; and
- an Industry-Rural (Cool Store shed) that has been expanded to approximately 6,000m².

Matters to be Considered

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; and*
- “(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.*”

To guide Council in its determination of the application the following comments are offered:

Land Use Classification

The expansion of the Agriculture – Intensive (orchards) including the main office, workshop and open sided structure is consistent with the land use definition being – *premises used for trade or commercial purposes, including outbuildings and earthworks, association with the following:*

- a) *The production of grapes, vegetable, flowers, exotic or native plants, or fruit or nuts;*
- b) *The establishment and operation of plant or fruit nurseries, and;*
- c) *The development of land for irrigation fodder production or irrigation pasture (including turf farms).*

The expansion to the existing Cool Store facility is consistent with the land use classification of ‘Industry – Rural’, being either “*an industry handling, treating, processing or packing rural products; or a workshop servicing plant or equipment used for rural purposes*”.

The two dwellings for permanent staff and their respective families and a four room transportable, in addition to the six dwellings that have already approval is consistent with the definition for Dwelling – Grouped being – *a dwelling (a building or portion of a building being used, adapted or designed or intended to be used for the purpose of human habitation on a permanent basis) that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above or below another.*

The addition of accommodation to house seasonal workers is consistent with the definition for Rural Workers Accommodation meaning – *a building located on a rural landholding which is used for short stay, sleeping quarters for seasonal, temporary or migratory workers working on that landholding and is to be incidental to the agricultural use of that land.*

Land Use Permissibility

The table below summarises the land use permissibility of each of the uses mentioned above.

Agriculture – Intensive (orchards)	P
Industry – Rural	A
Dwelling – Grouped	X
Rural Workers Accommodation	A

Agriculture – Intensive (orchards) is a ‘P’ use with the Priority Agriculture Zone. That is it is a use that *“is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme.”*

An Industry – Rural and Rural Workers Accommodation are both an ‘A’ use within the Priority Agricultural Zone. That is, they are uses that are *“not permitted unless the local government has exercised its discretion by granting approval after giving special notice in accordance with Clause 9.6.”* As detailed in the public consultation section above, advertising of the application has been completed.

A Dwelling – Grouped is an ‘X’ use within the Priority Agriculture Zone meaning it is a use that is not permitted by the Scheme. As mentioned in the background section, the Shire has on record seven (7) dwellings on the property prior to the introduction of the current Scheme provisions. It is not known how the development application was assessed, as a Grouped Dwelling was also not permitted under Town Planning Scheme No. 2.

There are currently eight (8) permanent dwellings on the property occupied by staff and their families, one other was approved to change to short stay accommodation and is used by the owner on occasion. Of the eight dwellings there are two that have no approvals at all. Therefore, for the remainder of the report the assessment will focus on the two unauthorised dwellings.

Consistency with Zoning

The proposed expansion to the Industry – Rural and the Agriculture – Intensive is considered to meet the objectives of the zone as it allows for the intensive horticultural activities where water resources exist and provides for the storage of produce within close proximity to the growing of produce, reducing the negative impacts of transport

Development Requirements of the Scheme

In accordance with clause 5.34.2.4(a) of the Scheme, with the exception of a single dwelling, where the proposed development is for non-agricultural purposes, the local government shall require a 100 metre setback from existing agricultural land uses on adjoining land. None of the dwellings on the property can achieve the required 100 metre separation to agricultural activities, with the closest being at 25 metres to the orchard operations.

Notwithstanding the 100m requirement, in accordance with clause 5.34.2.4(b) a lesser setback may be approved *“where the applicant can demonstrate to the satisfaction of the local government that land use conflicts may be ameliorated by appropriate management design or buffer planting.”*

Management of this is within the control of the landowner and appropriate measures could be put in place to ameliorate land use conflicts.

Given the subject premises is already in existence, should Council approve the additional dwellings, it is recommended that the landowner be required to ensure the tenants are made aware that the dwelling is located within a priority agricultural area and may therefore be subject to impacts associated with rural activities.

Additional Dwellings (Grouped)

Clause 5.34.2.6 enables the local government to approve up to two dwellings, including any approved caretakers dwelling where the need for that accommodation is justified. However, clause 5.34.2.6 (iv) states regardless of other provisions of the Scheme, the local government “*will not support 3 or more dwellings on any title/lot regardless of the dwelling type (dwelling, ancillary accommodation, caretakers dwelling, rural workers accommodation)*”

The nine (9) dwellings plus Rural Workers Accommodation far exceeds the number considered acceptable under the Scheme provisions. Seven (7) of the dwellings are existing and part of previous approvals.

Shire Officers attended the property and gained a greater understanding of the use of the permanent dwellings, the onsite manager advised that not all the dwellings were occupied. Therefore, should the two unauthorised dwellings be refused, no immediate impact to the operations of the business is anticipated.

It should be noted that the two dwelling which have no approvals may only be approved through a relaxation of Scheme standards/requirements.

Rural Workers Accommodation

Clause 5.34.2.7 of the Scheme states that where a property has been developed for agricultural purposes, ‘Rural Worker’s Accommodation’ is permitted provided it can be demonstrated to the satisfaction of the local government that a demand exists. As detailed in the background section above, the subject land is developed with a substantial orchard and associated dams. The property consists of at least four different types of produce, extending the harvesting period from October to May each year. As the harvesting hours are Monday to Friday from 7am to 4pm and the property is in a somewhat isolated location, the landowner has the preference to provide accommodation onsite to the seasonal workforce. Additional casual staff are brought in from accommodation in Manjimup as well during harvest.

The provisions of the Scheme currently restrict the occupation of ‘Rural Workers Accommodation’ to short stay, meaning that no person may occupy the accommodation for a period of more than 3 months within any 12-month period. In order to remove the 3 month limitation Council initiated Amendment No. 29 to reflect farm crop diversification and lingered harvesting/growing seasons. The amendment has recently been referred to the Environmental Protection Authority and the Department of Planning Lands and Heritage,

however as it is considered a Basic Amendment it will not require advertising for public comment.

Parking Requirements

Although Industry-Rural is not listed as a use in Table 2: Car Parking Requirements, it is reasonable to assume that the parking requirements would be similar to Industry – General being 1 car bay per 100m². With the addition of 1,380m² of floor space, the additional parking requirements would be 14 bays.

In accordance with clause 5.17.9 of the Scheme, except as otherwise approved by Council, all parking bays and the associated accessways are required to be constructed with a sealed drained surface comprising bitumen seal, concrete, brick paving or pea-gravel seal on a compacted gravel base with satisfactory:

- (i) Drainage to a sump and connected to the local governments main drain system;
- (ii) Surface lines being marked out to show the manner in which the parking is to be used; and
- (iii) Landscaping where large parking areas are involved to effectively screen the paved area from view from the street and within the parking area to provide shade.

In this case, access to the main development is provided by a bitumen seal and some parking is available on concrete aprons associated with the main Cool Store, the balance of the parking and associated accessways are constructed of pea gravel. Although formalisation of the parking and line marking is recommended in accordance with the Scheme, given the size of the property, the fact the majority of the land consists of orchard and there is no drainage systems in the area, formal drainage systems and landscaping are not recommended.

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, the following elements of the application may only be approved through a relaxation of standard:

- the setback to agricultural activities;
- the number of dwellings permitted; and
- the increased time for occupancy within the Rural Workers Accommodation.

The intent of these standards is to limit the potential for agricultural activities to impact on the health and amenity of residents, whom which might normally not be aware or anticipate the impacts.

Housing Considerations

As detailed within section entitled Additional Dwellings above, clause 5.34.2.6 (iv) of the Scheme states that regardless of other Scheme provisions, the local government *“will not support 3 or more dwellings on any title/lot regardless of the dwelling type.”*

In support of the retrospective application for an additional two dwellings the applicant has advised as follows:

“The orchard employs permanent workers, with these staff offered onsite accommodation due to the lack of housing available nearby and to incentivise the move to a rural area. Specifically, dwelling A houses the orchard manager with J & L housing general workers.

Without these housing options onsite, it would be significantly more difficult to find employees. As such, these dwellings are necessary in order to effectively carry out the orchard operations.”

Limiting the number of dwellings on a Priority Agriculture zoned property is consistent with the need to avoid land use conflict or the introduction of uses that may restrict agricultural activities undertaken on either the property on which the development is located, or adjacent land. As mentioned previously none of the staff accommodation dwellings achieve a 100m separation distance to the agricultural activities and approval may put those residents at risk of impact from noise, odour, dust or spray drift.

Despite the existing approved permanent staff dwellings on the property, an application for nine dwellings on a property zoned Priority Agriculture is not supported by Shire Officers due to the legal precedent that this would create. As such it is recommended that the two unauthorised dwellings and the associated four room transportable be refused and ordered to be removed from the property within 90 days.

Bushfire Prone Area

The property is located within a ‘bushfire prone’ area as declared by the Commissioner for Fire and Emergency Services. The applicant has had a Bushfire Attack Level (BAL) assessment undertaken by an accredited Assessor which has identified that there are multiple buildings located within a BAL Flame Zone (FZ). The BAL assessor has identified that all buildings can achieve a BAL 29 with the implementation of an appropriate Asset Protection Zone (APZ). The APZ will be achieved with a combination of a managed/removed vegetation within an area offset from the habitable building or hazard reduction in accordance with the Shire of Manjimup’s Annual Fire Break and Hazard Reduction Notice.

Where the removal or modification to onsite native vegetation is required, detailed flora and fauna assessments and applications for clearing permits will be required. It is recommended that the Bushfire Management Plan (BMP) implementation schedule be conditioned to be adhered to as part of any conditions of approval.

State Government Agency Submissions

As mentioned previously submissions were received from DBCA and DWER. The proposal was also referred to DFES as Shire Officers had differing opinions to the applicant regarding the vulnerable nature of the casual picking workers accommodation. As comments have not been received from DFES, it is recommended that a condition be included ensuring that the BMP is reviewed having regard to the DFES comments and to the satisfaction of the Shire. Preliminary comments from DFES indicate that it has concerns regarding the emergency evacuation plan and the emergency access to the property.

DWER Submission

DWER has advised that it has identified that the proposal has the potential for impact on the environment and water resources in respect to:

- the effluent disposal, potential nutrient and pathogen impacts, separation to groundwater;
- machinery wash down and chemical storage; and
- clearing of native vegetation.

Shire Officers have reviewed the advice from DWER with regards to the Public Drinking Water Source Area and native vegetation clearing and have included in the Officer Recommendation, conditions and advice regarding:

- Aerobic Treatment Units for effluent disposal and upgrade of existing systems with 100m separation to waterways and 2m separation to ground water;
- Bunding shall be installed to ensure stormwater from the machinery washdown area does not enter the water ways or the dam and a vegetated buffer from the washdown area to sensitive water resources is established; and
- An emergency response plan prepared to handle potential contaminant spills and high-risk activities such as mechanical repairs be undertaken on an impervious hardstand surface.

Following a recent site inspection, Shire Officers are of the opinion that the existing effluent disposal systems on the property do not comply with the above requirement and new/replacement effluent disposal system(s) are required.

It is also recommended that the applicant/operator be advised of the requirements for permits and licenses under the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* and the *Country Areas Water Supply Act 1947*.

Health and Building Requirements

Majority of the development that has occurred without planning approval has also occurred without approvals required pursuant to the current *Building Act 2011*, former *Local Government (Miscellaneous Provisions) Act 1960*, the *Health (Miscellaneous Provisions) Act 2016* and former *Health Act 1911*. A summary of the records on file that the Shire has is provided attached.

ATTACHMENT: 9.5.4(3)

The following examples are provided to Council in order to highlight the severity of the non-compliance with applicable legislation:

- a) It is suspected that there are up to 15 or more on-site effluent disposal systems on-site. According to Council records there are three on-site effluent disposal (septic systems) approved on-site, although it would be plausible that Shire records may not extend through the periods when the systems were installed;
- b) numerous dwellings, sheds, offices, 5000+ m2 machinery shed and the extension to the Cool Store building do not have either a building licence or permit issued nor have there been any occupancy permits granted for the use of any Class 2-9 buildings. These would be considered multiple offences under the *Building Act 2011* should a building prosecution proceed.

The proposed development will need to meet the health and building requirements to be considered fully compliant. An advice note in regard to these aspects will be included on any approval granted by Council.

Retrospective Application

A decision to grant retrospective approval does not prevent the local government from taking action for a breach of the Scheme requirement for prior approval to be granted.

Legal Action

In accordance with the provisions of the *Planning and Development Act 2005*, a modified penalty may be issued 'in lieu' of a formal prosecution for a breach of the Scheme. In this case, given the significant level of development undertaken without prior approval, the use of a modified penalty is not considered appropriate, and it is recommended that legal action be commenced against the landowners for a breach of the Scheme.

In addition to the provisions noted above the *Building Act 2011* also contains provisions which relate to the undertaking of building work without a building permit. The penalties associated with offences under this act can include imprisonment if found guilty of a third offence. It is believed that multiple offences have been committed in relation to this property.

Shire Officers will be in contact with the DoH regarding the unauthorised septic systems at the property and working with that agency in any action it chooses to take.

Given the severity of, and the number of offences that have been committed in terms of planning, building and health legislation, the Interim Chief Executive Officer has issued instructions to the Shire Solicitors to commence a range of legal actions.

Conclusion

Significant development has been undertaken without approvals. Although majority of the development is acceptable as being incidental to the ongoing operations of a commercial orchard, the environmental impacts have not been considered and mitigated. Whilst it is recommended that most of the development is retrospectively approved, two of the staff accommodation dwellings and associated four bedroom transportable are recommended for refusal.

Shire Officers will be working closely with legal representation in order to commence legal action with regards to the breaches against the planning and building legislation.

STATUTORY ENVIRONMENT:

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

In accordance with Part 8 – Development of Land of the Scheme, the Shire's prior planning approval is required to be obtained unless the development is identified as 'Permitted Development under clause 8.4. Given that the subject intensification of land use within the premises commenced without a valid approval, the land uses have been undertaken in breach of Part 8 of the Scheme.

Having regard to the following matters, it is recommended that legal action be commenced for a breach of the Scheme:

- a) None of the development is exempt under clause 8.4 due to the location within a Special Control Area;
- b) The landowners have completed substantial extensions to the warehouse resulting in intensification of an Industry – Rural land use;
- c) The landowners have constructed additional sheds, staff accommodation and rural workers accommodation; and
- d) The land owner has expanded the Agriculture – Intensive land use.

POLICY / STRATEGIC IMPLICATIONS:

The expansion to Industry-Rural, Rural Outbuildings and Rural Workers Accommodation will assist the Shire in achieving Goals and Strategies of the Strategic Community Plan 2021-2031 being:

Community Goals

- 2.2 Existing core industries, such as agriculture and timber, are resilient, innovative and sustainable;
- 2.4 Industry and development is not hindered by excessive or complex regulations.

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 Forests Food Council.
- B12. Provide development opportunities and support local small businesses to thrive.
- B5. Collaborate with other stakeholders to develop a transient and seasonal worker strategy to balance their safety, accommodation and employment needs with the needs and aspirations of the residential community.

ORGANISATIONAL RISK MANAGEMENT:

The Shire of Manjimup has been working with the landowner for a number of years in order to legitimise all the unauthorised development across the property. By processing the development application and initiating legal action, the Shire is upholding its regulatory function and setting a precedence for not tolerating unauthorised developments.

FINANCIAL IMPLICATIONS:

The required retrospective application fee has been paid by the applicant. Any costs associated with legal action for a breach of Local Planning Scheme No. 4, will be sourced from within the Shire's annual adopted budget the awarding of costs will be sought should the legal action be successful.

SUSTAINABILITY:

Environmental: Environmental considerations have been identified as part of the DWER submission.

Economic: The application if approved, will allow the agricultural activity on the lot to operate in a more efficient manner.

Social: Nil.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council:

1. In accordance with Clause 8.6 and Part 10 of Shire of Manjimup Local Planning Scheme No.4, grants retrospective planning approval for the extension to Agriculture – Intensive, Industry – Rural (Cool Store), additional (24) Rural Workers accommodation, Workshops, Office and Machinery Shed as well as grant approval for additional accommodation for up to 50 Rural Workers at Lot 100 (122) Etherington Road, Beedelup (Application TP 84/2023) in accordance with the plans and specifications attached at Attachment 9.5.4 (1) and subject to the following conditions:
 - a) The development permitted shall be carried out generally in accordance with the plans and specifications as listed below:

Reference	Document Title	Date Received
22902-B	Planning Report	22 June 2023
22902-01	Existing Site Plan	22 June 2023
A002	Building L – Mario's House	22 June 2023
A002	Building P – Office Plan	22 June 2023
A004	Building P – Office Elevations	22 June 2023
A002	Buildings T, S, R, Q Shed Plan 1	22 June 2023
A003	Buildings T, S, R, Q Shed Plan 2	22 June 2023
A004	Buildings T, S, R, Q Shed Elevations	22 June 2023
A003	Building D – Shed Elevations	22 June 2023
A002	Building D – Shed Plan	22 June 2023
A002	Building E – Workers Accommodation Plan	22 June 2023
A003	Building E – Workers Accommodation Shelter	22 June 2023
A002	Building F - Workshop	22 June 2023
A004	Building F – Workshop Elevations	22 June 2023

- b) Unless otherwise approved an adequate supply of potable water through the provision of not less than 1 rainwater tanks is to be provided per permanent dwelling which are to have a storage capacity of not less than 135,000 litres located in a position so as to be accessible as a source of water for fire fighting.
- c) An adequate potable water supply based on 159 litres of water per day per person shall be supplied for the consumption by the Rural Workers Accommodation;
- d) Unless otherwise approved by the Shire of Manjimup, this approval is limited to the accommodation of a maximum of 50 persons at any one time, each being rural casual workers employed in rural activities undertaken by the landowner;
- e) A minimum of 1 accessibility car bay shall be maintained on site at all times in accordance with the Australian Standard 2890.1-2009, and connected to a continuous path to the main entrance of the building or facility. The design and signage of the bay(s) and the path(s) are to be in accordance with the Australian Standard 1428.1-2009.
- f) Prior to the issue of any building approvals relating to the now existing development and proposed new facilities, a management plan must be provided detailing the intended

treatment of wastewater including storm water. Estimated volumes and details of evaporative dams and drains or other storage for wastewater must be provided.

- g) All waste materials and by-products of vehicle wash-down areas on the subject property must be contained on site and directed to a suitable waste treatment facility (eg. triple-interceptor) to the satisfaction of the Shire of Manjimup;
- h) All stormwater and drainage runoff is to be retained on the subject property to the satisfaction of the Shire of Manjimup.
- i) An emergency response plan be in shall be prepared guided by the Department of Water Environmental Regulation's Water Quality Protection Note 10 – Contaminant spills — emergency response plan and implemented for the life of the development associated with the machinery washdown and servicing areas;
- j) The use hereby approved must not create community safety concerns, or otherwise adversely affect the amenity of the subject locality by reason of (or the appearance or emission of) smoke, fumes, noise, vibration, odour, vapour, dust, waste water, waste products or other pollutants to the satisfaction of the Shire of Manjimup;
- k) The applicant must implement all of the recommendations contained in the Bushfire Management Plan prepared by (*Bushfire Prone Planning*) dated (18 August 2022) and approved by the Shire of Manjimup for the duration of the development;
- l) The Bushfire Management Plan referred to in condition K above, shall be reviewed having regards of comments received from the Department of Fire and Emergency Services, to the satisfaction of the Shire of Manjimup;
- m) Prior to the use or occupation of the development, the Asset Protection Zone (APZ) must be established and the property thereafter maintained in accordance with the Bushfire Management Plan as approved by the Shire of Manjimup;
- n) A Section 70A Notification pursuant to the *Transfer of Land Act 1893* (or as amended) must be placed on the titles of all lots, at the full cost of the applicant, alerting landowners to the existence of the approved Bushfire Fire Management Plan and advising landowners of their obligations in respect to the use and ongoing management of the land; and
- o) Firebreaks and low fuel zones are to be installed and maintained to the satisfaction of the Shire of Manjimup around all boundaries and buildings on the subject property, in accordance with the requirements of the Annual Shire Firebreak Notice endorsed by Shire of Manjimup.

Advice to Applicant

- i. This Development approval is NOT considered building approval. Required building approvals must be formally applied for and obtained from the Shire of Manjimup for all unauthorised buildings;
- ii. The approved development must comply with all relevant provisions of the *Health (Miscellaneous Provisions) Act 2016* and the *Building Act 2011*;
- iii. With regards to Condition g) to mitigate the risk of chemicals to the Public Drinking Water Source Area:
 - a. fuel and chemical tanks should be managed in accordance with WQPN 56 – Tanks for fuel and chemical storage near sensitive water resources (Dec 2018), adopting measures such as but not limited to ensuring tank storage to 5000L or less, bunding and storage over impervious hardstand surfaces;
 - b. handling and use of chemicals and fuels should be in accordance with WQPN no. 65: Toxic and hazardous substances (April 2015), and following Australian Standards as appropriate;
 - c. high risk activities such as but not limited to mechanical repairs should occur over an impervious hardstand surface, away from waterways, drainage lines and waterbodies, where spills can be fully contained consistent with WQPN 10;
 - d. control measures such as, but not limited to bunding be in place to ensure stormwater from the machinery washdown area and other potentially contaminating activities do not enter drainage lines, waterways or the dam;
 - e. where appropriate, wash down areas and associated drainage facilities should have a minimum vegetated separation distance from water bodies as described in our WQPN 6 Vegetated buffers to sensitive water resources (Feb 2006); and
 - f. stormwater management be consistent with Department of Water and Environmental Regulation's WQPN 68 – Mechanical equipment wash down (September 2013).
- iv. The proponent is advised to liaise with the Shire of Manjimup Environmental Health Services section to determine the suitability of existing wastewater system based on condition and current/future wastewater volumes. An upgrade to the wastewater system may be required in conjunction with new amenities construction;
- v. Prior to lodging an application for building approvals, certain conditions of planning approval may need to be satisfied in order for an amended Bushfire Attack Level (BAL) assessment to be lodged as part of the building permit. This may involve

clearing and other measures to downgrade the BAL rating. Prior to the use or occupation of the development, the Asset Protection Zone (APZ) must be established, and the property thereafter maintained in accordance with the Bushfire Management Plan as approved by the Shire of Manjimup;

- vi. Where clearing of land is involved in any proposed development, the approval of the Department of Water and Environmental Regulation may be required under the provisions of the *Environmental Protection Act 1986* and the *Country Areas Water Supply Act 1947*; and
 - vii. The Department of Biodiversity Conservation and Attractions advises that the property may be affected by the following activities that occur in the adjoining State Forest Reserve:
 - a) prescribed burning for the enhancement and conservation of biodiversity values and/or fire hazard reduction purposes;
 - b) application of herbicides and other chemicals for weed and plant disease control;
 - c) feral animal control; and
 - d) road construction and maintenance.
2. Refuse the Dwellings labelled A, J, and four room transportable J1 on the site plan shown at attachment 9.5.4 (1) and order that the buildings are required to be removed from the property within 90 days of notification.

Reference	Document Title	Date Received
A002	Building A – Marks House	22 June 2023
A002	Building J – John’s House Plan	22 June 2023
A002	Building J1 – Donga Type 3 - Ensuite	22 June 2023

10. LATE REPORTS: Nil.

11. QUESTIONS FROM MEMBERS:

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

11.2 Questions from members: Nil.

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

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

14. APPLICATIONS FOR LEAVE OF ABSENCE: Nil.

15. 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 5.47pm.

SIGNED:.....DATE:

**Paul Omodei
Shire President**