



MINUTES

COUNCIL MEETING

16 NOVEMBER 2023

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SHIRE OF MANJIMUP

Minutes of the Ordinary Meeting of Council held in the Council Chamber,
Thursday, 16 November 2023.

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS:

The Shire President declared the meeting open at 5.30pm.

2. ANNOUNCEMENTS BY THE PRESIDENT:

The Shire President made the following announcements:

- I attended the Town Teams Workshop.
- The Visitor Centre and Recfish West Trout Festival and released a couple of trout at Big Brook Dam with Councillor Ventris, with Councillor Omodei working on the barbeque.
- Attended the Warren Donnelly Advisory Committee.
- Attended Remembrance Day in Manjimup.
- Met with Shire President Julia Meldrum in Margaret River and Shire President Jenny Mountford in Bridgetown.
- Met with the incoming Chief Executive Officer Ben Rose.
- I attended the Native Forest Transition Grant Funding Workshop.
- Attended the Kearnan College graduation ceremony.

3. ATTENDANCE:

PRESENT:

Councillors

Shire President D Buegge

Cr J Darin

Cr W De Campo

Cr W Eiby

Cr S Miolin

Cr P Omodei

Cr M Ventris

Cr J Willcox

Cr C Winfield

Staff

Mr Brian Robinson (Interim Chief Executive Officer)

Mr Greg Lockwood (Director Business)

Ms Evy Apeldoorn (Acting Director Community Services)

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

Colin Crombie
 John Bendotti
 Christine Bendotti
 Ross Craig
 Ethel Hunt
 Laurie Hunt
 Emily O'Neil

Keith Liddelow
 Robyn Bowles
 Mary Nixon
 Samantha Gleeson
 Daniel Hocking
 Jocelyn Baister

3.1 Apologies: Nil.

3.2 Leave Of Absence: Nil.

4. DECLARATIONS OF INTEREST:

The Chief Executive Officer advised that he has received Impartiality and Financial Interest declarations from Councillors Eiby, Willcox, Ventris, Buegge, Darin, Omodei, De Campo and Ms Apeldoorn.

Councillor Omodei declared a Financial Interest in Item 9.1.2 as he is the proponent.

Councillor De Campo declared a Financial Interest with respect to the Notice of Motion as he leases land from Parkside and contracts to Parkside.

Councillor Eiby declared a Financial Interest in Item 9.1.3 as she will be applying for a vacant position with Southern Forests Community Landcare and there could be a perceived interest. Cr Eiby also declared Impartiality Interest in Items 14.1.1 as she nominated one of the Youth Citizen of the Year candidates and Item 9.5.2 as the General Store was a financial member of the Northcliffe Visitor Centre which I managed until last week.

Councillor Willcox declared an Impartiality Interest in Item 14.1.1 as she has close connections with some of the nominees.

Councillor Ventris declared an Impartiality Interest in Item 9.9.4 as his wife is a member of the Pemberton Sports Club.

Councillor Buegge declared an Impartiality Interest in Item 9.2.2 as one of her children plays for Deanmill Football Club.

Councillor Darin declared an Impartiality Interest in Item 14.1.1 as she nominated a citizen for the Australian of the Year.

5. PUBLIC QUESTION TIME:

5.1 Response to public questions taken on notice: Nil.

5.2 Public Question Time

5.2.1 Mary Nixon – Paul Road, Wilgarrup.

- Ms Nixon read from a prepared statement as shown in Attachment 5.2.1(1).
- Raised the issue of the project at 80 Rose Street not being completed and the costs involved in the delay to the completion of the project. Requesting a break down of the costs to the Shire caused by the delay.
- Outline the conditions of the current lease and whether a sale of property can occur prior to completion.
- Request the Manjimup Shire Council, on behalf of the ratepayers and residents write to the Minister for Mines to object to the impost of the proposed \$859 fee for lodging an objection to mining exploration.

ATTACHMENT 5.2.1(1)

The Shire President responded: This was discussed at length at the Warren Donnelly Water Advisory Committee with Department of Mines. There is a comment period that is open until the 21 November and I strongly suggest that you put your objections to that comment period as well. Hopefully that will have some clarification for the amount for the objections.

The Interim Chief Executive Officer responded: We have every intention of lodging an objection on behalf of Council. I am aware of probably 80% of the Chief Executive Officer's in the South West that are also wanting to object.

I believe it is also something that is being discussed at the South West Local Government Association and feeding up through the West Australian Local Government Association. As a matter of principle we don't believe anyone should have to pay to put their objections. We understand why they are trying to introduce it, to stop unfounded objections being lodged. There is surely a better process than imposing a fee on all objections.

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: Omodei, P SECONDED: Eiby, W

29331

That the Minutes of the Ordinary Meeting of the Council held on 26 October 2023 be confirmed.

CARRIED: 9/0

For: Cr D Buegge, Cr J Darin, Cr W De Campo, Cr W Eiby, Cr S Miolin, Cr P Omodei; Cr M Ventris; Cr J Willcox; Cr C Winfield.

Against: Nil.

8. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN:

Councillor De Campo declared a Financial Interest in this Item as he leases land from Parkside and is contracted to Parkside. Councillor De Campo did not speak or vote on the matter and left the Chamber at 5.52pm.

ATTACHMENT

8.1 Notice of Motion (Cr Omodei) - Pemberton Mill Site - Reserve 16354 Brockman Street, Pemberton

PROPONENT	Cr Paul Omodei
OWNER	Crown Reserve
LOCATION / ADDRESS:	Reserve 16354 Brockman Street, Pemberton
WARD:	Rural
ZONE:	Industry & Reserve for Parks and Recreation
DIRECTORATE:	Office of CEO
FILE REFERENCE:	P54628
LEGISLATION:	<i>Building Act 2011</i>
AUTHOR:	Brian Robinson
DATE OF REPORT:	15 November 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

At its Ordinary Meeting held on 26 October 2023, Cr Paul Omodei advised of the following notice of motion to be considered at the next meeting:

“Given the ongoing threat of asbestos, the unstable nature of the primary building on Reserve 16354, Lot 556 Brockman Street, Pemberton and the amount of disused material on Reserve 16354, the Acting Chief Executive Officer be requested to:

- 1. Issue a demolition order under section in accordance with Division 5 of the Building Act 2011;***
- 2. Require the removal of disused material from the site in order to reduce the potential of future fires on site, utilising relevant legislation; and***
- 3. Forward correspondence to the State Government, including the Premier’s Office expressing disappointment that no further remediation works have been undertaken on-site since the primary response to the structural fire on 8 December 2022 and urging immediate action on the matter to remove any future threat to the Pemberton community.”***

By way of further background on this matter, the on-site fire in December 2022 was a structural fire that resulted in the destruction of the main mill building. Prior to the closure of the mill, this building was the primary production building. With an area in excess of 4,300m², significant portions of the building were clad in asbestos.

As part of the initial response to the fire, the asbestos materials were encapsulated to prevent deterioration of the material. Consultants working on behalf of Parkside Group (the lessee) have been working with the State Government on a demolition and disposal plan, with the view to obtaining approval to bury the waste material on-site.

Prior to completing this agenda item, email advice was received from the Warren Blackwood's Member of the Legislative Assembly – Ms Jane Kelsbie, who advised that:

- i) Following a meeting with Parkside in early October, the Department of Planning, Lands and Heritage (DPLH) informed the Department of Water and Environmental Regulation that both Parkside and DPLH now consider that the preferred option to be the removal of the demolition waste off-site at an appropriately licensed facility;
- ii) Demolition is expected to be completed by December 2023; and
- iii) Once demolition has been completed, DPLH has indicated that it intends to conduct staged contamination investigations at the Mill, commencing in early 2024.

Council is now requested to consider the Notice of Motion having regard to the Shire Officers comments and advice provided in the Comment section below.

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

To assist Council in considering the notice of motion, the following information is provided:

State of Primary Mill Building

The primary mill building was significantly damaged, with the intensity of the fire resulting substantial structural damage. Due to the presence of asbestos materials, the fire resulted in the structural materials also be contaminated with asbestos. In order to stabilise the asbestos and prevent a health threat to the Pemberton community, the asbestos material was encapsulated.

As a result, all building materials will need to be treated as contaminated waste.

There is significant concern that the building in its current state would be extremely vulnerable to further damage which could result from storms or any further incident of fire.

Demolition Orders

In accordance with Part 8 Division 5 of the *Building Act 2011* (the Act), a local government may make an order, requiring a landowner to do specified building work. Such works can include demolition, dismantling, or removal of the building or incidental structures with a specific timeframe.

It is noted that in accordance with clause 8 of the the Act, the Act binds the Crown.

Demolition Vs Disposal

Following the fire event there were several meetings with the various government agencies involved in the response. Departments represented included the Department of Health, Department of Planning, Lands and Heritage (representing the landowner), Department of Water and Environmental Regulation and WorkSafe.

During those meetings, Shire representatives recommended that the building be brought down as soon as possible. To expedite the disposal process and minimise the potential for off-site impacts, Parkside's preference for burial of the material on-site was supported. In response, the Shire was advised that:

- a) The demolition and removal/disposal of contaminated waste is required to be a single action in Western Australia, meaning that the building could not be brought to the ground; and
- b) The proposed method of disposal was required to be approved.

Whilst the Shire could issue an order to demolish, the ability to comply with a Building Order could be substantially diminished due to the need to comply with other relevant legislation which requires agreement on a method of disposal.

Since that time Parkside's representatives have been liaising with the State over the potential for the material to be buried on-site. The advice received from Ms Kelsbie MLA indicates that both the State and Parkside now prefer to dispose of the material off site at an appropriately licensed facility.

The Shire of Manjimup has been requested on several occasions to provide permission for the waste materials to be disposed of at the Manjimup Recycling and Refuse Centre, being an appropriately licensed facility. However, as the disposal of this volume of contaminated waste would significantly reduce the life of the refuse site, these requests have not been supported.

Heritage Considerations

The Shire of Manjimup's Municipal Heritage Inventory (MHI) identifies the Mill Building and Chimney as being of heritage significance, with the Mill having a Heritage Management Category of "C". That is that the place should be retained and conserved if possible. Photographic records are recommended prior to any major redevelopment or demolition. Given the damaged state of the Mill Building, retention of the premises is not considered viable.

In addition to the primary mill buildings, the MHI identifies the Chimney as being of specific heritage significance being largely unmodified since its installation. The Chimney, which was not affected by the fire, is identified as having a Management Category of "B". That is being worthy of a high level of protection.

It is strongly recommended that the Chimney be retained on-site.

Other Waste Material and Contamination

The Pemberton Mill has a long history, first being developed, owned, and operated by the Western Australian State Government in 1913. Since the 1950's, the property has been leased by several timber industry-based companies. In turn each company has left behind materials related to the activities undertaken on the site.

As a result of the various changes in mill ownership and operational practices it has resulted in a significant amount of materials being stored on-site, giving the reserve an untidy appearance.

In addition to the reserve's appearance, historical practices associated with the industrial activities on-site together with a known burial of asbestos on site by the State Government mean that the site is considered a contaminated site. As indicated in the information provided by Ms Kelsbie MLA following demolition of the building, a detailed site investigation is to be undertaken.

Conclusion

Whilst the Shire of Manjimup has the ability to issue a demolition permit requiring demolition of the primary mill building, effectively no works can be undertaken until such as a contamination disposal plan is developed and approved by relevant state government agencies.

Given that Parkside and the State now appear to be in agreement that the asbestos contaminated materials are to be disposed of at an appropriately licensed land fill facility, the primary impediment that would have prevented compliance with a demolition order has been addressed. That said, Shire Officers have not received formal advice from the State that this is the case.

STATUTORY ENVIRONMENT:

Building Act 2011.

POLICY / STRATEGIC IMPLICATIONS:

Action to remove the threat of asbestos in the Pemberton Community and remove disused materials from the site would be consistent with the following recommendations of the Shire of Manjimup's Strategic Community Plan.

Community Goals

- 3.2 *The health and wellbeing of people of all ages and circumstances is supported within their own community;*
- 3.6 *Residents feel safe, secure, and comfortable at home, work and play.*

Strategies

C15 Manage Environmental Health Risks in the Community.

ORGANISATIONAL RISK MANAGEMENT:

Although the approval to disposal of asbestos does not rest with local government, there is a potential risk to reputation of the Local Government if there continues to be a lack of action and advocacy in respect of the demolition and removal of the contaminated waste from the site.

FINANCIAL IMPLICATIONS:

Additional costs could be incurred should the State appeal the Shire's Demolition Order.

SUSTAINABILITY:

Environmental: A failure to ensure the demolition and removal of the building could result in further impacts on the environment and community should the building suffer any further damage.

Economic: The potential for redevelopment of the site is currently impeded by the damaged infrastructure and the contaminated site status.

Social: As a significant site located on the main street of Pemberton, suitable presentation of the site is a valid requirement.

VOTING REQUIREMENTS:**SIMPLE MAJORITY****NOTICE OF MOTION:**

Given the ongoing threat of asbestos, the unstable nature of the primary building on Reserve 16354, Lot 556 Brockman Street, Pemberton and the amount of disused material on Reserve 16354, the Acting Chief Executive Officer be requested to:

- 1. Issue a demolition order under section in accordance with Division 5 of the *Building Act 2011*;**
- 2. Require the removal of disused material from the site in order to reduce the potential of future fires on site, utilising relevant legislation; and**
- 3. Forward correspondence to the State Government, including the Premier's Office expressing disappointment that no further remediation works have been undertaken on-site since the primary response to the structural fire on 8 December 2022 and urging immediate action on the matter to remove any future threat to the Pemberton community.**

COUNCIL RESOLUTION**NOTICE OF MOTION:****MOVED: Omodei, P****SECONDED: Ventris, M****29332**

Given the ongoing threat of asbestos, the unstable nature of the primary building on Reserve 16354, Lot 556 Brockman Street, Pemberton and the amount of disused material on Reserve 16354, the Acting Chief Executive Officer be requested to:

- 1. Issue a demolition order under section in accordance with Division 5 of the *Building Act 2011*;**
- 2. Require the removal of disused material from the site in order to reduce the potential of future fires on site, utilising relevant legislation; and**

3. Forward correspondence to the State Government, including the Premier's Office expressing disappointment that no further remediation works have been undertaken on-site since the primary response to the structural fire on 8 December 2022 and urging immediate action on the matter to remove any future threat to the Pemberton community.

CARRIED: 8/0

For: Cr D Buegge, Cr J Darin, Cr W Eiby, Cr S Miolin, Cr P Omodei; Cr M Ventris; Cr J Willcox; Cr C Winfield.

Against: Nil.

Councillor De Campo returned to the Chamber at 5.53pm.

9. COUNCIL OFFICERS' REPORTS:

MOVED: Eiby, W

SECONDED: Miolin, S

29333

"That Council adopt the recommendations contained in the Council Officers and Committee Reports on pages 1 – 149 of the Agenda with the exception of:

CARRIED: 9/0

For: Cr D Buegge, Cr J Darin, Cr W De Campo, Cr W Eiby, Cr S Miolin, Cr P Omodei; Cr M Ventris; Cr J Willcox; Cr C Winfield.

Against: Nil.

9.1.2	Request for Reimbursement of Travel Costs
9.1.3	Proposed License to Occupy Former Cafe Building at Manjimup Heritage Park - Part Lot 628 Reserve 26199 Edwards Street, Manjimup
9.3.3	Proposed Budget Review Adjustments - September 2023
9.5.1	Proposed Motel and Tourist Resort at Lots 71-82 Narocki Way, Chopping Street and Pritchard Street, Manjimup
9.5.6	Proposed Variation to Provisions of Local Planning Scheme No. 4 to Keep a Cat at Lot 29 (90) Jacksonii Avenue, Walpole
9.5.8	Proposed Subdivision at Lot 9002 (332) Golf Links Road, Pemberton (Amended Plans and Information)
9.9.2	Consideration of Fee Waiver for Manjimup Markets and More Event 2023
9.9.4	Request to Endorse Pemberton Sports Complex Operational and Governance Model Review Report
9.15.1	Unconfirmed Minutes of the Northcliffe Town Hall Management Committee held on 8 March 2023
9.15.2	Unconfirmed Minutes of the Airfield Management Committee held on 13 September 2023

Items passed by En Bloc Resolution

- 9.1.1 Proposed Minor Amendment to Council Policy 1.1.1 Council Meeting System
- 9.2.1 Proposed Lease to Northcliffe Recreation Association Incorporated
- 9.2.2 Proposed Lease and Licence to Occupy to Deanmill Football Club Inc.
- 9.3.1 Council Financial Payments for October 2023
- 9.3.2 Monthly Statement of Financial Activity - September 2023
- 9.5.2 Retrospective Application for Cool Room and Storage Room at Lot 3 (57) Zamia Street, Northcliffe
- 9.5.3 Proposed 'Pick your Own Fruit' at Lot 10911 (322) Franklin Road, Smith Brook
- 9.5.4 Proposed Signage (Pylon Sign) at Lot 10911, (322) Franklin Road Smith Brook
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- 9.5.10 Delegated Decisions for October 2023
- 9.9.1 Proposed Review of Council Policy 3.1.6 Naming of Shire Assets, Tree Plantings, Memorials and Plaques
- 9.9.3 Quarterly Report July - September 2023 - Community Services Directorate
- 9.12.1 Proposed Reclassification of Angove Road, Hull Road, Bridge Road and North Walpole Road to Restricted Access Vehicle Type 4 Accredited Mass Management Scheme Level 3
- 9.12.2 Proposed Locations for Locality Signs at Glenoran and Yanmah
- 9.16.1 Unconfirmed Minutes of the Manjimup Rea Park and Collier Street Redevelopment Advisory Committee Meeting held 17 October 2023
- 9.16.2 Unconfirmed Minutes of the Manjimup Recreation Advisory Committee Meeting held 16 October 2023
- 9.16.3 Unconfirmed Minutes of the Pemberton Community Hub Advisory Committee Meeting 17 October 2023
- 9.16.4 Unconfirmed Minutes of the Sustainability Advisory Committee Meeting held 18 October 2023

Withdrawn by Proponent

- 9.5.7 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

ATTACHMENT APPENDIX

9.1.1 Proposed Minor Amendment to Council Policy 1.1.1 Council Meeting System

PROPONENT	Shire of Manjimup
OWNER	N/A
LOCATION / ADDRESS:	N/A
WARD:	N/A
ZONE:	N/A
DIRECTORATE:	Office of CEO
FILE REFERENCE:	F160048
LEGISLATION:	<i>Local Government Act 1995</i>
AUTHOR:	Jason Giadresco
DATE OF REPORT:	31 October 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

At its Ordinary Council Meeting held 26 October 2023, Council considered proposed Council Meeting dates for 2024, determining (Resolution 29309):

That Council:

1. Adopt the following Council meeting date schedule for 2024 including outer town meetings; and

Council Meeting Dates for 2024		Locations
Thursday	18 January	Manjimup
Thursday	15 February	Manjimup
Thursday	14 March	Northcliffe
Thursday	11 April	Manjimup
Thursday	2 May	Manjimup
Thursday	23 May	Pemberton
Thursday	13 June	Manjimup
Thursday	11 July	Manjimup
Thursday	8 August	Manjimup
Thursday	22 August	Manjimup
Thursday	12 September	Walpole
Thursday	10 October	Manjimup
Thursday	7 November	Manjimup
Thursday	5 December	Manjimup

2. Give public notice of the 2024 Ordinary Council Meeting schedule as contained at point 1 above in accordance with the provisions of the *Local Government Act 1995*.

3. Adopt the change to a four weekly meeting schedule and bring a report to Council in the future reflecting this amendment to the Council meeting schedule in Council Policy 1.1.1.

The purpose of this report is to action Point 3 of Resolution 29309, amending the current Council Policy 1.1.1 Council Meeting System. A copy of the current policy is appended.

APPENDIX: 9.1.1 (A)

A copy of the proposed policy, with the minor amendment required by Council's resolution is attached.

ATTACHMENT: 9.1.1 (1)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

The amendment to the policy requires a simple change of wording in the 'Council Meeting Frequency and Start Time' section. The words 'rolling three-week' have been removed and replaced with 'four week'. This change is considered to meet the intent of Point 3 of Resolution 29309.

No further changes to the policy, aside from the updating of the administrative review dates on page 4 are recommended.

STATUTORY ENVIRONMENT:

Local Government Act 1995.

POLICY / STRATEGIC IMPLICATIONS:

Council can request the review of any of its policies at any time. Under Section 2.7 of the *Local Government Act 1995*, Council is responsible for the performance of the local government's functions, one of which is to determine its policies (Section 2.7(2)(b)).

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

Nil.

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: Nil.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council readopt Policy 1.1.1 Council Meeting System as proposed at attachment 9.1.1 (1).

COUNCIL RESOLUTION:

MOVED: Eiby, W SECONDED: Miolin, S

29334

That Council readopt Policy 1.1.1 Council Meeting System as proposed at attachment 9.1.1 (1).

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.2.1 Proposed Lease to Northcliffe Recreation Association Incorporated**

PROPONENT	Northcliffe Recreation Association Incorporated
OWNER	Management Order to Shire of Manjimup
LOCATION / ADDRESS:	Reserve 18775 Lot 66 George Gardner Drive, Northcliffe
WARD:	Rural
ZONE:	Parks and Recreation
DIRECTORATE:	Business
FILE REFERENCE:	F160742
LEGISLATION:	<i>Local Government Act 1995</i> <i>Land Administration Act 1997</i>
AUTHOR:	Jasmine Bamess
DATE OF REPORT:	3 November 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

Northcliffe Recreation Association Inc (NRA) leases portions of Reserve 18775 from the Shire of Manjimup, with the current lease to expire 31 December 2023. NRA have been responsible for the overall management of the recreation ground since 1998, with use by several individual sporting clubs.

LOCATION PLAN

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

The existing lease is for the portions of the reserve containing the buildings, tennis courts and bowling green. The proposed new lease area will be similar, with a slight increase to accommodate the NRA's new BBQ and seating area at the front of the Clem Collins recreation centre building.

ATTACHMENT: 9.2.1(1)

The oval is excluded from the lease area, NRA undertake grounds maintenance for the oval under a separate agreement with the Shire providing them an annual financial contribution.

The recommendation is to approve a new lease to continue the current arrangement.

STATUTORY ENVIRONMENT:

Section 3.58 of the *Local Government Act 1995* outlines requirements for leasing Shire land; however Section 30(b) of the *Local Government (Functions and General) Regulations 1996* exempts from these requirements leases to charitable, benevolent, educational, recreational, sporting or other like bodies, provided the members are not entitled to receive any pecuniary profit. The proposed lease complies with this exemption.

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

POLICY / STRATEGIC IMPLICATIONS:

In accordance with Council Policy 4.2.8 *Property Leasing*, it is proposed that the lease will be for a term of ten years, with a ten year renewal option, at a rental of ten dollars payable on demand.

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

ORGANISATIONAL RISK MANAGEMENT:

The proposed lease is to continue the existing arrangement.

FINANCIAL IMPLICATIONS:

Lessees are responsible for the lease preparation fee set in the annual fees and charges.

Responsibility for building maintenance, utilities and other outgoings will be in accordance with the schedule contained in Council Policy 4.2.8 *Property Leasing*.

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: NRA manage the recreation facilities making them available for use by the community and various sporting groups.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council approve a lease over that portion of Reserve 18775 as shown at Attachment 9.2.1(1) to Northcliffe Recreation Association Incorporated for a term of ten years, with an option of a further term of ten years, subject to the lease conditions being to the satisfaction of the Chief Executive Officer and approval of the Minister for Lands.

COUNCIL RESOLUTION:

MOVED: Eiby, W

SECONDED: Miolin, S

29335

That Council approve a lease over that portion of Reserve 18775 as shown at Attachment 9.2.1(1) to Northcliffe Recreation Association Incorporated for a term of ten years, with an option of a further term of ten years, subject to the lease conditions being to the satisfaction of the Chief Executive Officer and approval of the Minister for Lands.

ADOPTED BY EN BLOC RESOLUTION: 9/0

Councillor Buegge declared an Impartiality Interest in this Item as she has a child that plays for Deanmill Football Club. Cr Buegge declared that she would consider this matter on its merits and vote accordingly.

9.2.2 Proposed Lease and Licence to Occupy to Deanmill Football Club Inc.

PROPONENT	Deanmill Football Club Inc.
OWNER	Management Order to Shire of Manjimup
LOCATION / ADDRESS:	Reserve 47561, 575 Ipsen Street, Deanmill and Reserve 47823, Lot 13888 Ipsen Street, Deanmill
WARD:	Urban
ZONE:	Enterprise, Parks and Recreation
DIRECTORATE:	Business
FILE REFERENCE:	F160757, F160756
LEGISLATION:	<i>Local Government Act 1995</i> <i>Land Administration Act 1997</i>
AUTHOR:	Jasmine Bamess
DATE OF REPORT:	3 November 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

Deanmill Football Club Inc. (DFC) lease Reserve 47561, 575 Ipsen Street, Deanmill from the Shire of Manjimup for the Deanmill football oval and clubrooms. DFC also have a licence to occupy nearby Reserve 47823 which contains a small dam for the purpose of water supply to the oval. Both the lease and licence expire 31 December 2023.

LOCATION PLAN



PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

DFC own the buildings and various improvements on Reserve 47561. DFC lease the whole of the Reserve and are therefore also responsible for maintenance of the oval and surrounding grounds.

The recommendation is to approve a new lease and licence to continue the current arrangements.

STATUTORY ENVIRONMENT:

Section 3.58 of the *Local Government Act 1995* outlines requirements for leasing Shire land; however Section 30(b) of the *Local Government (Functions and General) Regulations 1996* exempts from these requirements leases to charitable, benevolent, educational, recreational, sporting or other like bodies, provided the members are not entitled to receive any pecuniary profit. The proposed lease and licence comply with this exemption.

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

POLICY / STRATEGIC IMPLICATIONS:

In accordance with Council Policy 4.2.8 *Property Leasing*, it is proposed that the lease will be for a term of ten years, with a ten year renewal option, at a rental of ten dollars (\$10) payable on demand.

The licence to occupy will be for a term of ten years, with no renewal option, due to the management order conditions for the reserve only permitting the Shire to licence the land for up to ten years. However, the recommendation includes approval for a subsequent licence to occupy to be issued if the lease is renewed for the further term of ten years. The second licence to occupy will be subject to the approval of the Minister for Lands at that time.

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

ORGANISATIONAL RISK MANAGEMENT:

The proposed lease and licence are continuation of the existing arrangements.

FINANCIAL IMPLICATIONS:

Lessees are responsible for the lease preparation fee set in the annual fees and charges.

The Shire provides an annual financial contribution to DFC for the maintenance of the oval and surrounding grounds on Reserve 47823, with a

memorandum of understanding outlining the expected and agreed maintenance activities.

Grading the gravel access from Ipsen Street to Reserve 47561 – informally known as John Todd Way, is an operational Shire expense.

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: Provision of sporting facilities for the community.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council approve the following to Deanmill Football Club Inc. subject to the conditions being to the satisfaction of the Chief Executive Officer and approvals of the Minister for Lands:

- 1. Lease of Reserve 47561 for a term of ten years, with an option of a further term of ten years;**
- 2. Licence to Occupy Reserve 47823 for a term of ten years, with no further term; and**
- 3. Subject to the Lease of Reserve 47561 being renewed and the Shire retaining the Management Order for Reserve 47823, a second Licence to Occupy Reserve 47823 for a term of ten years.**

COUNCIL RESOLUTION:

MOVED: Eiby, W SECONDED: Miolin, S

29336

That Council approve the following to Deanmill Football Club Inc. subject to the conditions being to the satisfaction of the Chief Executive Officer and approvals of the Minister for Lands:

- 1. Lease of Reserve 47561 for a term of ten years, with an option of a further term of ten years;**
- 2. Licence to Occupy Reserve 47823 for a term of ten years, with no further term; and**
- 3. Subject to the Lease of Reserve 47561 being renewed and the Shire retaining the Management Order for Reserve 47823, a second Licence to Occupy Reserve 47823 for a term of ten years.**

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.3.1 Council Financial Payments for October 2023**

PROPONENT	Shire of Manjimup
OWNER	N/A
LOCATION / ADDRESS:	Whole of Shire
WARD:	ALL
ZONE:	Whole of Shire
DIRECTORATE:	Business
FILE REFERENCE:	F160967
LEGISLATION:	<i>Local Government (Financial Management) Regulations 1996</i>
AUTHOR:	Judy Sutton
DATE OF REPORT:	31 October 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

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

Effective from 1 September 2023 local governments are required to disclose information about purchases made on purchasing cards, such as corporate cards, debit cards, store cards, fuel cards and taxi cards.

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

Accounts for payment totalling \$2,983,759.59 for the month of October 2023. Corporate Card transactions, Ampol and BP fuel cards for September 2023, Wright Express (Coles cards) transactions for September 2023 are attached.

ATTACHMENT: 9.3.1(1)

Vouchers for the expenditure are available for inspection at the Council Meeting of 16 November 2023.

Funds	Amount
Municipal	\$2,983,759.59
Trust Fund	\$0.00
Total	\$2,983,759.59

Electronic Funds Transfer (EFT), direct debits, cheque payments and payroll expenditure batch reports are available for inspection at the Council Meeting of 16 November 2023.

Fund	Batch	Amount
Municipal Payments for Month October 2023		
Cheque payments	95424 – 95443	\$18,779.37
EFT	289 – 294	\$2,042,414.53
Direct Debit		\$37,751.89
Payroll – October 2023		\$884,813.80
Total Payments – October 2023		\$2,983,759.59

Direct Debit for Card Payments	Amount
Corporate Credit Cards – September 2023	\$3,201.22
Wright Express - Coles – September 2023	\$451.15
Total	\$3,652.37
Direct Debit payments included on Warrant Listing Report - October 2023.	

Fuel Card Payments	Amount
BP Cards – September 2023	\$7,691.33
Ampol Cards – September 2023	\$3,406.34
Total	\$11,097.67
Electronic Funds Transfer (EFT) payments included on Warrant Listing Report - October 2023	

STATUTORY ENVIRONMENT:

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

POLICY / STRATEGIC IMPLICATIONS:

Nil.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

As stated.

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: Nil.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council note the October 2023 accounts for payment totalling \$2,983,759.59, as detailed within Attachment: 9.3.1(1).

COUNCIL RESOLUTION:

MOVED: Eiby, W

SECONDED: Miolin, S

29337

That Council note the October 2023 accounts for payment totalling \$2,983,759.59, as detailed within Attachment: 9.3.1(1).

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT

9.3.2 Monthly Statement of Financial Activity - September 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:	3 November 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 30 September 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 30 September 2023 is a projected profit of \$30,151.

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

There have been no significant issues identified in the September 2023 accounts. One moderate item as stated in the August 2023 monthly report is the overpayment of the 2024 Financial Assistance Grant.

In September 2023 Shire officers received advice from the Department of Local Government, Sport and Cultural Industries (DLGSCI) of an overpayment in the 2023/24 Financial Assistance Grant (FAG) allocations. Correspondence advised Shire Officers that a miscalculation had occurred, and the Shire of Manjimup received \$145,143 too much and this overpayment will be deducted from next year's FAG payment.

Based on the original "Final" advice from DLGSCI the total FAG has been fully allocated. As the Shire is in receipt of the funding, the 2023/24 budget will not be affected, and it is important to note that projects that utilised the additional funds were one off projects and a 2024/25 budget adjustment to remove the \$145,143 overpayment can be achieved without affecting ongoing services.

The 2024/25 budget will have a cash funding shortfall of \$145,143. To ameliorate this issue, it is proposed to use Interest Received to cover the shortfall. Interest Received has a conservative budget and to the end of September 2023 is \$81,455 ahead of budget. It is proposed that any additional funding from Interest Received remains unallocated and carried forward into the 2024/25 budget to cover the short payment.

A positive area to emerge to the 30 September 2023 is Planning Fees. At present Planning fees actuals are \$47,775 of a year to date budget of \$18,750. Whilst too early in the year to project an excess in income, it shows a high degree of positive economic activity in the Shire.

Other than the aforementioned grants, no other major discrepancies have come to light in the first quarter 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 September 2023 as per Attachment: 9.3.2(1).

COUNCIL RESOLUTION:

MOVED: Eiby, W SECONDED: Miolin, S

29338

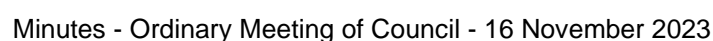
That Council receive the Monthly Statement of Financial Activity Report for September 2023 as per Attachment: 9.3.2(1).

ADOPTED BY EN BLOC RESOLUTION: 9/0

9.5.2 Retrospective Application for Cool Room and Storage Room at Lot 3 (57) Zamia Street, Northcliffe

BACKGROUND:

LOCATION PLAN



The proposal seeks retrospective planning application for a 3.2m x 5.5m building that comprises of coolroom and storage area to assist in the day-to-day operation of Cliffe Café and Northcliffe General Store that are currently operating within the building complex. A site plan and photographs are attached.

ATTACHMENT: 9.5.2 (1)

The application is currently being presented to Council for consideration as Shire Officers do not have the delegation to approve retrospective development.

PUBLIC CONSULTATION UNDERTAKEN:

The application was not required to be advertised as the application is not proposing any variations to the Local Planning Scheme No. 4 (the Scheme).

COMMENT (Includes Options):

The provisions of the Scheme include the subject land within the Town Centre Zone. The purpose of the zone is to provide a

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*
- (xv) the preservation of the amenity of the locality;*

Setback Requirements

Development in the Town Centre zone is permitted to have nil setbacks to all boundaries. The proposed coolroom and storage area complies with the requirement, the building is aligned with the existing buildings and are considered to be wholly located within the property boundaries.

Amenity

The coolroom and storage area is incidental to the existing café and is not considered to cause a detrimental impact on the amenity of the area. It is located within the confines of the property boundary and does not impact on the manoeuvrability, access or car parking to the existing building or surrounding area.

Conclusion

In light of the above as the coolroom and storage area are within the confines of the property boundary and as it is incidental to the existing Café and General Store enabling better functionality of the businesses it is recommended that retrospective planning approval be granted.

STATUTORY ENVIRONMENT:

Planning and Development Act 2005 and the Shire of Manjimup's Local Planning Scheme No. 4.

POLICY / STRATEGIC IMPLICATIONS:

Nil.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

The development application fee including the penalty fee for retrospective approval has been paid by the applicant.

SUSTAINABILITY:

Environmental: No vegetation was removed for the construction of the coolroom or storage area.

Economic: The coolroom will assist in the functionality of the existing café.

Social: Nil.

VOTING REQUIREMENTS:

SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council in accordance with clause 8.6 and Part 10 of the Shire of Manjimup Local Planning Scheme No. 4 grants retrospective planning approval to the proposed Coolroom and Storage Room at Lot 3 (57) Zamia Street, Northcliffe (Application TP141/2023) in accordance with the plan and information provided at Attachment 9.5.2 (1) subject to the following conditions and advice notes:

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

Reference	Document Title	Date Received
1.	Site Plan	2 October 2023
2	Photograph	2 November 2023

2. All stormwater and drainage runoff is to be retained on the subject property or to be provided with stormwater drainage connections to the drainage system in the area at the proponents cost to the satisfaction to the Shire of Manjimup.

COUNCIL RESOLUTION:

MOVED: Eiby, W

SECONDED: Miolin, S

29339

That Council in accordance with clause 8.6 and Part 10 of the Shire of Manjimup Local Planning Scheme No. 4 grants retrospective planning approval to the proposed Coolroom and Storage Room at Lot 3 (57)

Zamia Street, Northcliffe (Application TP141/2023) in accordance with the plan and information provided at Attachment 9.5.2 (1) subject to the following conditions and advice notes:

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

Reference	Document Title	Date Received
1.	Site Plan	2 October 2023
2	Photograph	2 November 2023

- 2. All stormwater and drainage runoff is to be retained on the subject property or to be provided with stormwater drainage connections to the drainage system in the area at the proponents cost to the satisfaction to the Shire of Manjimup.**

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.5.3 Proposed 'Pick your Own Fruit' at Lot 10911 (322) Franklin Road, Smith Brook**

PROPONENT	Mr S Vellios
OWNER	Mr P J De Silva
LOCATION / ADDRESS:	Lot 10911, 322 Franklin Road, Smith Brook
WARD:	Rural
ZONE:	Priority Agriculture
DIRECTORATE:	Development and Regulation
FILE REFERENCE:	P52461 TP128/2023 DA23/139
LEGISLATION:	<i>Planning and Development Act 2005</i>
AUTHOR:	Karleha Brown/Brian Robinson
DATE OF REPORT:	30 October 2023
DECLARATION OF INTEREST:	The Shire's Manager of Planning Services has a proximity interest and has not had any involvement in the processing of the application.

BACKGROUND:

Council is requested to consider a development application for 'Pick Your Own Fruit' at Lot 10911, (322) Franklin Road, Smith Brook. A location plan is shown below.

Location Plan

Lot 10911 is 61.51 hectares in size and is located on Franklin Road, 2.7km southeast from the intersection of Middlesex Road. The property is farmed for strawberries by the company Smashastrawb, and currently comprises of a dwelling, associated outbuildings, a large rural shed and two dams.

In June of this year Council approved the establishment of a 1,008m² Packing Shed on the property, for the applicant to process and pack their fruit on site for market.

The proposed 'Pick your Own' is to provide the customer experience to come to the site and to pick their own strawberries:

- Hours of operation are proposed between 9.00am and 2.00pm Saturdays and Sundays during for the months of October to May;
- The applicants anticipate that there will be a maximum of thirty people at any one-time picking fruit;
- The customers will enter the site through a gravel dual access driveway to a 41-bay car park. The owners have indicated they intend to upgrade to bitumen access within a year;
- The site will be managed through a manned office that will direct customers to the strawberry field; and
- The location of the strawberry field will change with crop rotation and fruit availability.

A copy of the proposed management plan and site plan is attached.

ATTACHMENT: 9.5.3(1)

Council is requested to consider the application as the proposed 'Pick your Own Fruit' is a "Use not Listed" within the Scheme. As a result, Council is required to determine the application.

The Shire has also received a separate application for a proposed advertisement (Pylon Sign) on the subject property, being the subject of Item 9.5.4 of this agenda.

PUBLIC CONSULTATION UNDERTAKEN:

The application was advertised in accordance with Clause 9.6 of the Shire of Manjimup Local Planning Scheme No.4 (the Scheme) for a 21-day period to all adjoining landowners, the then Ward Councillor and a notice in the newspaper. The Department of Biodiversity Attractions and Conservation as an adjoining landowner were also consulted of proposed development as required by the Scheme.

As a result of the consultation period two submissions were received. One from an adjoining landowner who supported the proposal, however raised concerns regarding the impact the increased traffic may generate to Franklin Road. DBCA stated that they have no objections to the proposal. Copies of the submissions are attached.

ATTACHMENT: 9.5.3 (2)

COMMENT (Includes Options):

The provisions of the Shire's Local Planning Scheme No 4 (the Scheme) include the subject land within the Priority Agriculture Zone. As identified by the Scheme, the purpose of the 'Priority Agriculture' Zone is to:

- provide for the sustainable use of high-quality agricultural land, particularly where water resources exist, preserving existing agricultural production and allowing for new agricultural production by securing suitable land and water resources; and
- to provide for intensive agricultural and horticultural production, including market gardens, orchards and vineyard enterprises.

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;*
- (xv) *the preservation of the amenity of the locality;*
- (xvii) *whether the proposed means of vehicular access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- (xxvi) *any relevant submissions received on the application.”*

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

Land Use Classification

The provisions of the Scheme define a “Wayside Stall” as a “*a building situated on private land, which offers for sale to the general public produce or any commodity which is produced on the land upon which the buildings are located*”. A Wayside Stall is a discretionary land use within the Priority Agriculture zone.

The use as proposed is comparable with a Wayside Stall activity in that the activity offers products to members of the public by way of a retail activity, albeit that the activity does not involve a building and customers ‘pick their own’.

Impact of Proposal on Amenity

In terms of on-site activity, Shire Officers consider that the proposed ‘Pick your Own Fruit’ will be similar to that generated from a permitted farming operation with employees picking the product. The applicant has stated that they anticipate a maximum of 30 people on the property at any one time.

That said, there is potential for traffic volumes to be greater than the traffic associated with normal farm operations, with trucks transporting packed fruit and/or workers individually commuting to harvest produce on the subject property. This impact is examined below.

Traffic Impact

As identified above, details submitted with the application indicate that up to 30 customers are anticipated at any one time. However, the total attendance is extremely difficult to predict, annual figures even more so. It is expected that volumes will vary greatly depending on the day of the week and weather.

Notwithstanding this, the seasonal nature of the pick your own activity will mean that annual the traffic volumes is not expected to increase significantly. It is therefore considered that there would be no justification to require the applicants to contribute to road upgrades or maintenance unless additional maintenance is requested above the Shire's standard maintenance program.

Conversely, the applicants are aware of the current conditions on Frankland Road, and it is recommended that an advice note be included on any approval to advise that the road is provided in an "as is" condition.

Site Access

Access to the proposed development is from the existing dual gravel driveway that is accessed from Franklin Road. This driveway is intended to service the recently approved Packing Shed and is considered a sufficient standard to service the proposed development. The standard of the cross over from Franklin Road has been assessed by Shire Offices and is considered satisfactory.

Carparking

The applicant has demonstrated that there are 41 car parking spaces, including one accessible bay to provide ample parking for the recently approved Packing Shed and the proposed 'Pick your Own Fruit' development. As addressed in the June 2023 report to Council for the "Industry-Rural", it was recommended that 6 bays be allocated for the packing shed, providing ample space for the "Pick your Own Fruit" proposal.

Management Details

The submitted management plan, states there will on-site signage and a fenced driveway to direct customers to the main car parking area where there will be a manned office to welcome customers onto the site and to direct them to the picking area. The applicant has stated that there will be transportable toilet facilities provided for the customers until the packing shed with associated ablution facilities are completed.

Fire Risk and Vulnerable Persons

To date it is noted that the site has been attended by customers with both local and tourist backgrounds. Tourists who may not be familiar with an area are vulnerable persons in the event of a bushfire as they are not familiar with the area.

In the absence of an Emergency Management Plan, it is recommended that a condition be imposed restricting operation on days with a Catastrophic Fire Danger Rating, avoiding exposure to bushfire hazards/risks when leaving the area.

Submissions

A neighbouring landowner raised no objection to the proposed development, however raised concerns for the potential degradation of Franklin Road and increased dust during the drier months from increased use of the road.

Whilst annual traffic volumes on Franklin Road are not anticipated to increase dramatically due to the seasonal nature of the activity, peak traffic volumes associated with the pick your own will impact on the road surface from time to time. Given this there is a risk that road users will seek additional maintenance on the road. Further information on this view is provided under the heading Organisational Risk.

Conclusion

It is recommended that the proposed "Pick your Own Fruit" be conditionally approved. It is considered that the proposed development will not generate a greater impact to the amenity of the locality and will be sufficiently contained and serviced within the confines of the subject property.

STATUTORY ENVIRONMENT:

Planning and Development Act 2005 and the Shire of Manjimup's Local Planning Scheme No. 4.

POLICY / STRATEGIC IMPLICATIONS:

Approval to the application as submitted would be consistent with the following Community Goals and Strategies identified within the Shire's Strategic Community Plan 2021-2031:

Community Goals

- 2.1 *New people and new businesses are attracted to the Region;*
- 2.2 *Existing core industries, such as agriculture and timber, are resilient, innovative and sustainable*
- 2.3 *The local economy is diversified and supports a range of industries and job opportunities;*
- 2.4 *Industry and development is not hindered by excessive or complex compliance regulations;*
- 2.5 *Local business thrives because it has access to information and support, and because the community maximises the use of local resources, services and products; and*
- 2.6 *The 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 contained support for the Southern Forests Food Council;*
- B10. *Establish purchasing preferences for the use of local resources, services and products; and*
- B12. *Provide development opportunities and support local small businesses to thrive.*

ORGANISATIONAL RISK MANAGEMENT:

Franklin Road provides road access to approximately fifteen (15) rural properties that have traditionally been developed and used for various rural

activities. With diversification of rural activities in recent years, vineyards and annual crops have resulted in greater traffic volumes than would be associated with more traditional broadacre farms. Although this increase has not been quantified.

Further increases in traffic volumes can be expected with conditional approvals granted to cellar door sales and the packing shed approved by Council in June this year. Individually, each of the approved uses does not result in significant additional traffic volumes, but due to the cumulative effect it is expected that increased maintenance and/or upgrading may be required in the future.

It is also noted that some four of the properties on Franklin Road do not currently contain a dwelling.

FINANCIAL IMPLICATIONS:

The required development application fee has been paid in accordance with the Shire of Manjimup Fees and Charges 2023/2024.

SUSTAINABILITY:

Environmental: The proposed development is not considered to generate a negative impact on the environment of the locality.

Economic: The diversification of existing rural land uses generates economic growth.

Social: The proposed development provides unique experience to the Manjimup and greater community.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council in accordance with Part 10 of the Shire of Manjimup Local Planning Scheme No.4 grants approval for “Pick Your Own Fruit” at Lot 10911 (322) Franklin Road, Smith Brook TP128/2023 in accordance with the submitted plans as attached at Attachment: 9.5.3 (1) and subject to the following conditions:

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

Reference	Document Title	Date Received
1.	Development Information	14 September 2023

- 2. Unless otherwise approved by the Shire of Manjimup the activity hereby approval shall not operate on days where a Catastrophic Fire Danger has been identified.**

Advice Note:

- a) The applicant is that Franklin Road is provided in an “as is” considered appropriate to support the proposal and no upgrade of the road is currently planned.
- b) The applicant is advised that Council is prepared to reconsider the requirements associated with condition No 2 above following the receipt of an Emergency Management Plan to the satisfaction of the Shire in consultation with the Department of Fire and Emergency Services.

COUNCIL RESOLUTION:**MOVED: Eiby, W****SECONDED: Miolin, S****29340**

That Council in accordance with Part 10 of the Shire of Manjimup Local Planning Scheme No.4 grants approval for “Pick Your Own Fruit’ at Lot 10911 (322) Franklin Road, Smith Brook TP128/2023 in accordance with the submitted plans as attached at Attachment: 9.5.3 (1) and subject to the following conditions:

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

Reference	Document Title	Date Received
1.	Development Information	14 September 2023

2. Unless otherwise approved by the Shire of Manjimup the activity hereby approval shall not operate on days where a Catastrophic Fire Danger has been identified.

Advice Note:

- a) The applicant is that Franklin Road is provided in an “as is” considered appropriate to support the proposal and no upgrade of the road is currently planned.
- b) The applicant is advised that Council is prepared to reconsider the requirements associated with condition No 2 above following the receipt of an Emergency Management Plan to the satisfaction of the Shire in consultation with the Department of Fire and Emergency Services.

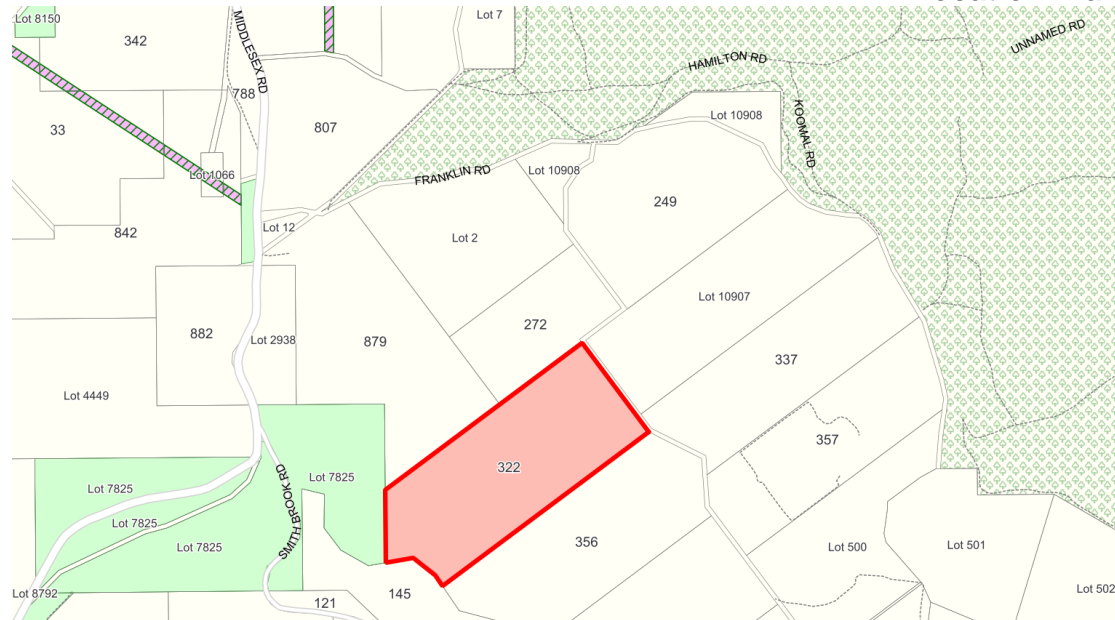
ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.5.4 Proposed Signage (Pylon Sign) at Lot 10911, (322) Franklin Road Smith Brook**

PROPONENT	Mr S Vellios
OWNER	Mr P J De Silva
LOCATION / ADDRESS:	Lot 10911, 322 Franklin Road, Smith Brook
WARD:	Rural
ZONE:	Priority Agriculture
DIRECTORATE:	Development and Regulation
FILE REFERENCE:	P52461 TP128/2023 DA23/137
LEGISLATION:	<i>Planning and Development Act 2005</i>
AUTHOR:	Karleha Brown
DATE OF REPORT:	26 October 2023
DECLARATION OF INTEREST:	The Shire's Manager of Planning Services has a proximity interest and has not participated in processing of the application.

BACKGROUND:

Council is requested to consider a development application for the establishment of an Advertisement, Pylon Sign at Lot 10911, (322) Franklin Road Smith Brook. A location plan is shown below.

Location Plan

Lot 10911 is 61.51 hectares in size and is located on Franklin Road, 2.7km southeast from the intersection of Middlesex Road. Currently the property contains a dwelling with associated outbuildings, a large rural shed, two dams and is currently farmed for strawberries by the company Smashastrawb. In June of this year Council approved the establishment of a 1,008m² Packing

Shed on the property, for the purpose of processing and packing the fruit on site for market.

The proposed Pylon Sign is 2.4m high, 2.4m wide with a ground clearance of 1.5m resulting in an overall height of 3.9m. The sign advertises Smashastrawb and is to be located 4m from the property boundary fronting Franklin Road. A copy of the sign and its location plan is attached.

ATTACHMENT: 9.5.4 (1)

The proposed Pylon Sign is required to be presented to Council for determination as the width and height of the sign does not meet the Acceptable Development requirements as detailed in Local Planning Policy 6.1.4 Advertising Devices and therefore requires Councils determination.

PUBLIC CONSULTATION UNDERTAKEN:

The application was advertised in accordance with Clause 9.6 of the Scheme for a period of 21 days to the neighbouring landowners. At the time of writing this report one submission had been received from an adjoining landowner in support of the proposal.

COMMENT (Includes Options):

The provisions of the Local Planning Scheme No. 4 (the Scheme) include the subject property within the Priority Agricultural. As prescribed by clause 5.29 of the Scheme, advertising signs require prior planning approval, unless they are identified as exempt under Schedule 15.

Council adopted Local Planning Policy LPS4 6.1.4 *Advertising Devices (Signage and Flags)* on 23 June 2019 to guide officers in assessing applications for Advertising Signage. The Policy defines a Pylon sign as a:

“Sign which is affixed to a structure which has one or more supports, where the overall height (inclusive of the supports) is greater than the signs horizontal dimension but does not include a Monolith Sign or a Directional Sign.

LPS4 6.1.4 Advertising Devices (Signage and Flags)

The Policy outlines the development criteria for assessing proposed Pylon Signs. Assessment of the application against these criteria confirms that the proposal complies, with exception to the allowable maximum width of 2m and minimum ground clearance of 2.4m. The variation of the sign against the Policy requirements is 0.4m in width and 0.9m in height.

The sign was made and previously displayed on the verge abutting the site without approval. The sign was removed early this year when a planning application was in process for the proposed Industry-Rural (Packing Shed). As the sign has already been made without consideration to the Policy requirements, the applicants are now seeking approval to the size variation.

The Policy states that where an application requires a variation to a provision outlined for the sign, assessment is to be made against the applicable performance standards of the Policy and clause 5.5 of the Scheme.

The Performance Standards, as set out in the Policy address the safety on the location of the signage and its impact on the amenity of the area. In this instance it is considered that as the sign is located on a rural property, it does not pose an impact on the surrounding amenity by way of visual clutter. The sign is also to be contained wholly within the property boundary therefore no impact on vehicle or pedestrian movement or safety is considered to occur.

Conclusion

Conditional approval is recommended for the proposed variations of the width and height of the proposed Pylon Sign given that the proposed location will not detrimentally impact on the amenity of the area.

STATUTORY ENVIRONMENT:

Planning and Development Act 2005 and the Shire of Manjimup's Local Planning Scheme No. 4.

POLICY / STRATEGIC IMPLICATIONS:

The provisions of Local Planning Policy LPS4 6.1.4 – Advertising Devices (Signage and Flags) apply, as detailed above.

A restriction on the number of signs approved will assist Council in delivering strategy D9 of the Strategic Community Plan 2021-2031 by regulating tourism-based and commercial roadside signage to ensure it is appropriate, well-maintained and does not negatively impact on landscape visual amenity.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

The required development application fee has been paid in accordance with the Shire of Manjimup Fees and Charges 2023/2024.

SUSTAINABILITY:

Environmental: Nil.

Economic: Advertising the business located on the subject site, will potentially increase customer direction and use benefiting economic activity.

Social: Nil.

VOTING REQUIREMENTS:

SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council in accordance with Part 10 of the Shire of Manjimup Local Planning Scheme No. grants planning approval for the Advertisement Pylon Sign at Lot 10911, (322) Franklin Road, Smith Brook (TP128/2023)

in accordance with the submitted plans as shown at Attachment 9.5.4(1) and subject to the following conditions:

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

Reference	Document Title	Date Received
1	Application for Development Approval	13 September 2023
2	Additional Information for Advertisements	13 September 2023
3	Site Plan	28 September 2023
4	Sign Design	13 September 2023

2. The sign shall be kept clean, free from unsightly matter and in good condition and presentation at all times.

ADVICE TO APPLICANT:

- a) This Development approval is NOT a building permit. A building permit must be formally applied for and obtained from Building Services BEFORE the installation of the sign hereby approved.

COUNCIL RESOLUTION:

MOVED: Eiby, W

SECONDED: Miolin, S

29341

That Council in accordance with Part 10 of the Shire of Manjimup Local Planning Scheme No. grants planning approval for the Advertisement Pylon Sign at Lot 10911, (322) Franklin Road, Smith Brook (TP128/2023) in accordance with the submitted plans as shown at Attachment 9.5.4(1) and subject to the following conditions:

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

Reference	Document Title	Date Received
1	Application for Development Approval	13 September 2023
2	Additional Information for Advertisements	13 September 2023
3	Site Plan	28 September 2023
4	Sign Design	13 September 2023

2. The sign shall be kept clean, free from unsightly matter and in good condition and presentation at all times.

ADVICE TO APPLICANT:

- a) This Development approval is NOT a building permit. A building permit must be formally applied for and obtained from Building Services BEFORE the installation of the sign hereby approved.

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.5.5 Retrospective Application for two Outbuildings at Lot 113 (250) Golf Links Road, Pemberton**

PROPONENT	Ms A Piper
OWNER	Ms A Piper
LOCATION / ADDRESS:	Lot 113 (250) Golf Links Road, Pemberton
WARD:	Rural
ZONE:	Special Use
DIRECTORATE:	Statutory Planning Services
FILE REFERENCE:	P58130 TP134/2023 DA23/122
LEGISLATION:	<i>Planning and Development Act 2005</i>
AUTHOR:	Karleha Brown
DATE OF REPORT:	30 October 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

A retrospective planning application has been received for two small outbuildings at Lot 113 (250) Golf Links Road, Pemberton. The property is 1 hectare in size and is zoned Special Use within the Shire of Manjimup Local Planning Scheme No 4 (the Scheme). A location plan is shown below.

LOCATION PLAN

The subject property is within stage one of Greenland's Estate. The property currently comprises an approved 75m² outbuilding and water tank which was granted approval in January 2022 and an additional two outbuildings of which are the subject of this application.

The two outbuildings are a wooden clad outbuilding being 10m² and a grey metal 3.45m² garden shed. The need for these outbuildings to obtain planning

approval is due to the property not having a dwelling as per Local Planning Policy 6.1.3 Outbuildings.

The purpose of the application being presented to Council for determination as Shire Offices do not have delegated authority to approve a retrospective application.

ATTACHMENT: 9.5.5 (1)

PUBLIC CONSULTATION UNDERTAKEN:

The application was advertised in accordance with Clause 9.6 of the Shire of Manjimup Local Planning Scheme No.4 (the Scheme) for a 21 day period to all adjoining landowners. At the time of writing this report no submission were received.

COMMENT (Includes Options):

Matters to be Considered

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

- (i) *the aims and provisions of the Scheme and any other relevant local Planning Scheme operating in the district;*
- (xv) *the preservation of the amenity of the locality; and*
- (xvi) *the relationship of the proposal to development on adjoining land or other land in the locality, including but not limited to, likely effect of the height, bulk, scale, orientation and appearance of the proposal.'*

Local Planning Policy 6.1.3 – Outbuildings

The two outbuildings meet the deemed-to-comply provisions, however the outbuilding policy states that there is a general presumption against approving domestic outbuildings and shipping containers on lots where a dwelling does not exist.

The applicant has indicated the placement of a future dwelling. However, no Building Permit has been sought at this stage. As a result of the advertising period, there were no objections raised. Therefore it considered that there is no detrimental impact on the amenity of the area.

The purpose of the two outbuildings is to provide additional storage for the applicant's belongings as they anticipate the construction of their new dwelling and for gardening requirements.

Local Planning Policy 6.1.17 Greenland Estate

This Policy provided development standard of design requirements and to achieve a consistent approach to residential development within the estate. The Policy states that the use of 'Shed Like' structures are not to be approved for human habitation.

In keeping with the Policy, the outbuildings have been constructed 80m from the road boundary within Building Envelope A. Building Envelope A is for the placement of outbuildings only.

Dwelling Requirement

The applicant, as part of the planning approval granted for the existing outbuilding, was to have substantially commenced the construction of a dwelling by January 2024, two years after the date of that approval. The applicant has not applied for a dwelling to date. As there is a general presumption against the approval of outbuildings on a property without the provision of a dwelling, the approval of additional outbuildings for the purpose of more storage where there is no dwelling existing is required.

The applicant is aware of this timeframe to construct a dwelling and is currently in the process of finalising designs. This application for additional outbuildings should not be the basis for that timeframe to be extended.

Conclusion

It is recommended that retrospective approval be granted for the two outbuildings subject to the applicant complying with their planning approval TP161/2021 dated 13 January 2022 and substantially commence a dwelling on the subject property by January 2024 or alternatively seeking an extension to this timeframe.

STATUTORY ENVIRONMENT:

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

POLICY / STRATEGIC IMPLICATIONS:

Compliance with Local Planning Policy LPS4 6.1.3 *Outbuildings* as discussed above.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

The development application fee including the penalty fee for retrospective approval has been paid by the applicant.

SUSTAINABILITY:

Environmental: No vegetation was required to be removed for the construction of the outbuildings.

Economic: Nil.

Social: Nil.

VOTING REQUIREMENTS: SIMPLE MAJORITY

That Council in accordance with Part 10 of the Shire of Manjimup Local Planning Scheme No. 4 grants retrospective planning approval to the proposed Outbuildings at Lot 113 (250) Golf Links Road, Pemberton (application TP134/2023) subject to the following conditions:

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

Reference	Document Title	Date Received
1.	Site Plan	21 September 2023
2.	Photographs of outbuildings	11 October 2023

2. The approved shed/outbuilding is not to be used for Human Habitation or any other purpose other than a domestic outbuilding, unless further approval from the Shire of Manjimup is obtained.

Advice to the Applicant:

- a. In accordance with the planning approval TP161/2021 granted for an Outbuilding on the subject property on 13 January 2022 a dwelling is to be substantially commenced in two (2) years from the date of the at approval being 13 January 2024, unless an extension to this timeframe is sought and granted. It is advised that this is lodged with the Shire of Manjimup without delay.

COUNCIL RESOLUTION

MOVED: Eiby, W SECONDED: Miolin, S

29342

That Council in accordance with Part 10 of the Shire of Manjimup Local Planning Scheme No. 4 grants retrospective planning approval to the proposed Outbuildings at Lot 113 (250) Golf Links Road, Pemberton (application TP134/2023) subject to the following conditions:

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

Reference	Document Title	Date Received
1.	Site Plan	21 September 2023
2.	Photographs of outbuildings	11 October 2023

2. The approved shed/outbuilding is not to be used for Human Habitation or any other purpose other than a domestic outbuilding, unless further approval from the Shire of Manjimup is obtained.

Advice to the Applicant:

- a. In accordance with the planning approval TP161/2021 granted for an Outbuilding on the subject property on 13 January 2022 a dwelling is to be substantially commenced in two (2) years from the date of the at approval being 13 January 2024, unless an extension to this timeframe is sought and granted. It is advised that this is lodged with the Shire of Manjimup without delay.

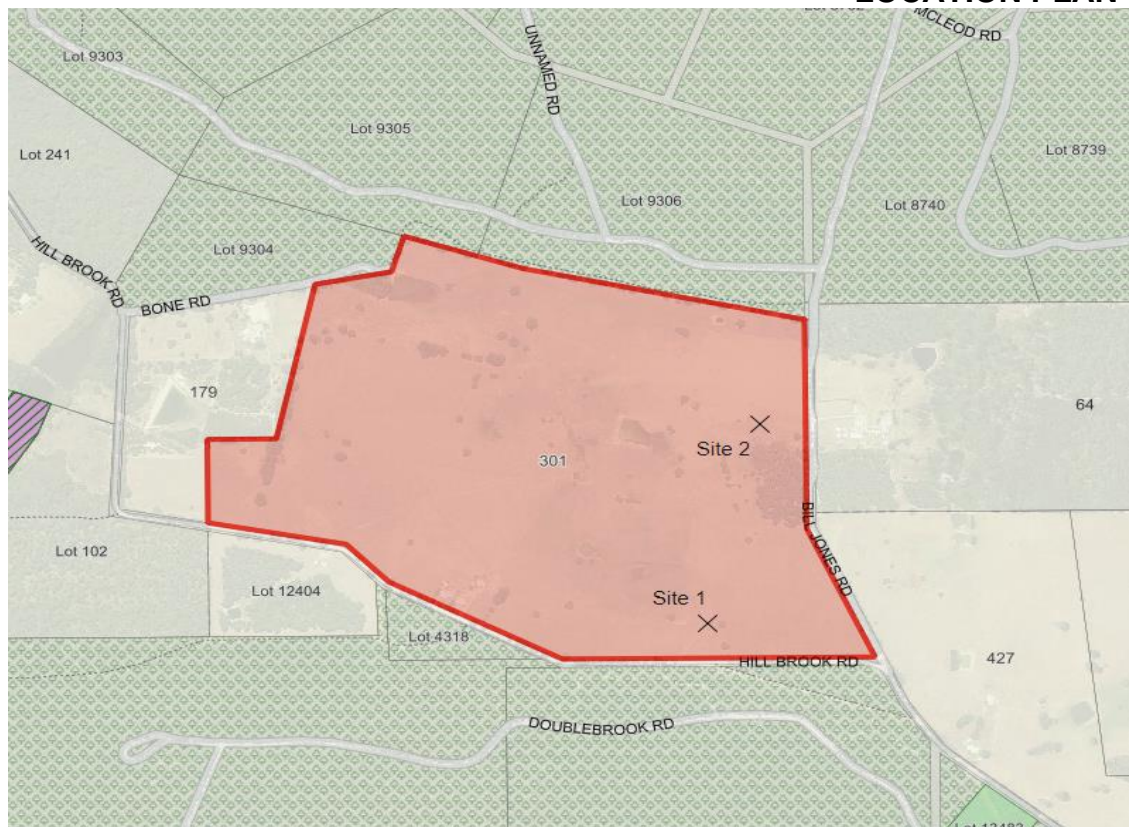
ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.5.9 Proposed Low-Impact Tourist Accommodation at Lot 12404 (301) Hill Brook Road, Crowea**

PROPONENT	Heyscape Pty Ltd
OWNER	Mr L R Bennett
LOCATION / ADDRESS:	Lot 12404 (301) Hillbrook Road, Crowea
WARD:	Rural
ZONE:	Priority Agriculture
DIRECTORATE:	Development and Regulation
FILE REFERENCE:	DA23/126 P55771
LEGISLATION:	<i>Planning and Development Act 2005</i>
AUTHOR:	Jocelyn Baister
DATE OF REPORT:	2 November 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

Lot 12404 Hill Brook Road, Crowea consists of two land parcels totalling 104ha in area and is bound by State Forest to the north and south-east, with land used for agricultural purposes to the east and west. The property contains two large dams, several smaller dams, a dwelling and a few Outbuildings. The property is used for agriculture. A location plan is shown below.

LOCATION PLAN

An application has been received for the placement of two cabins with maximum occupancy of two person in each. Details in support of the use, including a management plan are attached

ATTACHMENT: 9.5.9 (1)

As shown in Attachment 9.5.9 (1), each accommodation contains a sleeping area, kitchen, bathroom, separate toilet and outdoor deck. The key elements of the proposal are:

- A maximum number of guests as four (4) persons;
- The management of the property is undertaken by cabin supplier;
- The cleaning will be undertaken by a local cleaning contractor with maintenance completed by the cabin supplier;
- A sign is proposed on the two entrance gates;
- An emergency plan has been submitted and will be implemented;
- Parking areas are indicated on the site plan in the vicinity of the cabins;
- Bookings will be directly through the Heyscape website or AirBnb platform;
- Keys will be located in a lockbox for collection; and
- Guests are requested to take rubbish with them on departure.

The accommodation is to be provided within structures that will be delivered on wheels, however the applicant has advised that they will seek a building permit approval for the cabin and the decking. The accommodation units are not self-contained as they do not contain a laundry facility. Each cabin will be connected to a 10,000L water tank which will be filled from a local water carrier as required.

The application is referred to Council for determination as Shire Officers do not have the delegated authority to process applications of this land use classification.

PUBLIC CONSULTATION UNDERTAKEN:

The application was advertised in accordance with Clause 9.6 of Local Planning Scheme No. 4 (the Scheme) for a 21 day period to all adjoining landowners, within the local paper circulating the Shire, a sign on site and notification to the Ward Councillor. Submissions closed 25 October 2023.

The application was also referred to the Department of Biodiversity Conservation and Attractions (DBCA) due to the proximity of State Forest. The DBCA had no objections and requested the applicant be advised of its management practises on the adjoining land. A copy of the submission is attached.

ATTACHMENT: 9.5.9 (2)

COMMENT (Includes Options):

The provisions of the Shire of Manjimup's Local Planning Scheme No 4 (the Scheme) includes the subject land within the Priority Agriculture Zone. To assist Council, the following comments are offered:

The provisions of the Scheme define a:

cabin as a *“self-contained unit similar to a chalet but may lack ensuite facilities and may comprise only one room and is designed for short-stay guests, forming part of a tourism facility and where occupant by any person is limited to a maximum of three months in any 12 month period”.*

chalet as a *“self-contained unit usually comprising of cooking facilities, ensuite, living area and one or more bedrooms designed to accommodate short-stay guests, forming part of a tourism facility and where occupant by any person is limited to a maximum of three months in any 12 month period”.*

As the proposed accommodation structures do not form part of a designated tourism facility, the land use classification is more appropriately considered a Low-Impact Tourist Accommodation which is defined as follows:

low-impact tourist development - short stay *“is a development of predominately tourist nature which meets the criteria of “Low-Impact Development”*

As defined by the Scheme, ‘Low-Impact Development’ means the use and development of land in such a manner that does not detract from the rural and natural amenity of the locality, and includes the following criteria:

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

Given that the proposal, involves the use of structures, which are not self-contained, the use is best classified as “Low-Impact Tourist Development – Short Stay”. The proposal is considered consistent with the land use definition, given that its location is isolated from neighbouring properties and is connected to solar power with back up battery supply and water tanks for water supply.

Land Use Permissibility

Low-Impact Tourist Accommodation – Short Stay is an ‘A’ use within the Priority Agriculture Zone that is, a use which is *“not permitted unless the local government has exercised its discretion by granting approval after giving special notice in accordance with Clause 9.6”.*

Matters to be Considered

Clause 10.2 of the Scheme requires that Council has regard to various matters when determining an application for Development Approval. These matters include, but are not limited to:

- (i) *The aims and provisions of the Scheme and any relevant Local Planning Scheme operating within the Scheme area;*
- (vi) *The local government's adopted Local Planning Strategy and any Local Planning Policy adopted by the local government under Clause 2.4.;*
- (x) *The compatibility of a use or development with its setting including the potential impact on the use and enjoyment of adjacent and nearby land and taking into consideration any Special Control Area;*
- (xv) *the preservation of the amenity of the locality; and*
- (xvi) *the relationship of the proposal to development on adjoining land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.*

Advice on these matters is provided below.

Compliance with Holiday Accommodation Policy

Local Planning Policy No. 6.1.5 was adopted by Council to provide a set of development requirements and protocols for the effective management of holiday house operations. The application has been assessed against the Policy and is considered to be compliant apart from the nomination of a manager that resides or is otherwise situated within 30 minutes travel time.

Consistency with Zoning

The proposed tourist accommodation is considered to meet the objectives of the General Agriculture Zone, which include:-

- (iii) *to permit low impact tourist accommodation – short stay proposals where relevant provided that an impact from any such land uses or development is contained on site.*

The proposed Low-Impact Tourist Development – Short Stay will provide the owner with a source of income in addition to income that may be generated from rural activities undertaken on-site.

Impact on Amenity of the Area

Provided that the behaviour of future occupants is appropriately managed, the proposed short stay accommodation is not expected to have any impact upon the amenity of the surrounding area or environmental attributes of the area. It should be noted that the nominated local manager is the cabin supplier who are located in Port Kennedy. As such it is recommended that, should Council approve the application, that the applicant nominate a local manager prior to the commencement of the use.

Consistency with Adjacent Land use

Inspection of the site and examination of aerial photography indicates that there are a range of agricultural/rural activities being undertaken on the adjacent land in addition to either State Forest or National Park reserves.

Whilst occupation of the accommodation is not likely to restrict agricultural activities on the surrounding land, it is recommended that the applicants be required to advise prospective occupants that the accommodation is provided in a rural environment.

Potable Water Supply

The applicants have, in support of their application, advised that each accommodation unit will be connected to a 10,000 litre water tank. Shire Officers have advised adequate potable drinking water is required. They further advise that the quality of the water is to meet Australian Drinking Water Guidelines and that the Shire will undertake periodic sampling.

It is recommended that advice notes be included to ensure that the applicant is aware of the above requirements.

Conclusion

The use of these transportable structures for short stay accommodation as proposed is consistent with the land use definition of Low-Impact Tourist Accommodation – Short Stay and requirements of the Scheme. Conditional approval is therefore recommended.

STATUTORY ENVIRONMENT:

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

POLICY / STRATEGIC IMPLICATIONS:

By granting approval to the proposed use, Council will assist in the delivery of the following Strategies under the Shire of Manjimup Strategic Community Plan 2021-31:

B12. Provide development opportunities and support local small businesses to thrive.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

The required application fee has been paid by the applicant.

SUSTAINABILITY:

Environmental: The accommodation uses solar power, water tanks and waterless toilets, limiting any environmental impact associated with the proposal.

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

Social: Nil.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council, in accordance with Part 10 of the Shire of Manjimup Local Planning Scheme No 4 grants approval to the proposed “Low-Impact Tourist Accommodation” at Lot 12404 (301) Hill Brook Road, Crowea (TP 125/2023) in accordance with the submitted plans as shown as Attachment 9.5.9 (1) and subject to compliance with the following conditions:

1. The use as permitted shall operate in accordance with the submitted plans and supporting documents as listed below:

Reference	Document Title	Date Received
Image 1	Site Plan	31 August 2023
P2 of 8	Floor Plan	31 August 2023
P3 of 8	Deluxe Cabin Elevations	31 August 2023
1.	Management Plan	31 August 2023
2.	Emergency Plan	31 August 2023

2. Notwithstanding condition 1 above, prior to the commencement of the use, the applicant is to nominate a local manager located within 30 minutes of the accommodation to the satisfaction of the Shire of Manjimup;
3. The development approval is granted for a period expiring on 30th June 2025 only after which period the use shall cease unless an application to renew this use is submitted prior to the expiration of this period seeking approval for the Holiday Accommodation to be continued for a further period of 12 months has been submitted and approved by the Shire of Manjimup.
4. Arrangements being made to the satisfaction of the Shire of Manjimup Chief Executive Officer, for guests to be made aware that the accommodation hereby approved is located in an Agriculture Zone and that there is potential for existing rural operations in the area to impact on the amenity of the property to be affected by noise, odour, dust and spray drift.
5. The applicant is to supply a copy of their Public Liability Insurance to the Shire of Manjimup within 2 months of the date of this approval;
6. The Low Impact Tourist Accommodation – Short Stay is not to be occupied by a person for more than three (3) months within any twelve (12) month period. In this regard, the manager/operator is to maintain a register of guests and the duration of their occupation to the satisfaction of the Shire of Manjimup on demand;
7. The applicant shall provide a suitable source of potable drinking water at a rate of 300L day, with the quality of the water required to meet Australian Drinking Water Guidelines.

8. The potable water supply referred to in Condition 6, shall be maintained to the satisfaction of the Shire of Manjimup for the duration of the use hereby approved;
9. The Emergency Evacuation Response Plan, including the provision of the Manager's contact details, is to be displayed in the Low Impact Tourist Accommodation – Short Stay at all times
10. Prior to the commencement of the use hereby approved, a vehicle crossover between the subject land, Hill Brook Road and Bill Jones Road is to be located, designed, constructed to a rural standard and drained to the specification and satisfaction of the Shire of Manjimup; and
11. All parking for guests is to be provided for on-site.

Advice to Applicant:

- a) The approved development must comply with all relevant provisions of the *Health (Miscellaneous Provisions) Act, 1911*, and the *Building Act 2016*;
- b) Please note that the use of the accommodation proposed may require the installation of additional smoke alarms and emergency lighting for a Class 1b building as detailed in the Building Code of Australia, Part 3.7.2, Smoke Alarms;
- c) Prior to commencing development, an application to construct or install an apparatus for the treatment of sewage and the disposal of effluent and liquid wastes must be submitted for the approval of the Shire of Manjimup's Environmental Health Team, in accordance with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*;
- d) Leach drains or soak wells must not be located beneath areas subject to vehicular traffic;
- e) Further to Condition 6, the applicant is advised that potable drinking water is required to be provided at a rate of 300L/day, with water quality to comply with the Australian Drinking Water Guidelines and periodical testing of the water is required to verify this quality. In terms of bacterial quality there is a need to have an appropriate treatment method (ie chlorination or UV filter). It is recommended that the applicant liaise with the Shire's Principal Environmental Health Officer over these matters;
- f) All waste material not required for further onsite processing must be regularly removed from the site. All vehicles removing waste must have loads fully secured and contained so that no wastes are spilled or dust or odour is created to the satisfaction of the Shire of Manjimup;
- g) Firebreaks and low fuel zones are to be maintained to the satisfaction of the Shire of Manjimup around all boundaries, buildings on the subject property and the development hereby

approved, in accordance with the requirements of the Annual Shire Firebreak Notice endorsed by Shire of Manjimup

- h) The Department of Biodiversity Conservation and Attractions advises that from time to time the following activities may take place in the adjoining State Forest:
 - a. Prescribed burning for the enhancement and conservation of biodiversity and/or fire hazard reduction purposes;
 - b. Application of herbicides and other chemicals for weed and plant disease control; and
 - c. Road construction and maintenance; and
- i) The applicant is advised to liaise with the Shire of Manjimup in respect of any proposed directional signage.

COUNCIL RESOLUTION:

MOVED: Eiby, W

SECONDED: Miolin, S

29343

That Council, in accordance with Part 10 of the Shire of Manjimup Local Planning Scheme No 4 grants approval to the proposed “Low-Impact Tourist Accommodation” at Lot 12404 (301) Hill Brook Road, Crowea (TP 125/2023) in accordance with the submitted plans as shown as Attachment 9.5.9 (1) and subject to compliance with the following conditions:

1. The use as permitted shall operate in accordance with the submitted plans and supporting documents as listed below:

Reference	Document Title	Date Received
Image 1	Site Plan	31 August 2023
P2 of 8	Floor Plan	31 August 2023
P3 of 8	Deluxe Cabin Elevations	31 August 2023
1.	Management Plan	31 August 2023
2.	Emergency Plan	31 August 2023

2. Notwithstanding condition 1 above, prior to the commencement of the use, the applicant is to nominate a local manager located within 30 minutes of the accommodation to the satisfaction of the Shire of Manjimup;
3. The development approval is granted for a period expiring on 30th June 2025 only after which period the use shall cease unless an application to renew this use is submitted prior to the expiration of this period seeking approval for the Holiday Accommodation to be continued for a further period of 12 months has been submitted and approved by the Shire of Manjimup.
4. Arrangements being made to the satisfaction of the Shire of Manjimup Chief Executive Officer, for guests to be made aware that the accommodation hereby approved is located in an

Agriculture Zone and that there is potential for existing rural operations in the area to impact on the amenity of the property to be affected by noise, odour, dust and spray drift.

5. The applicant is to supply a copy of their Public Liability Insurance to the Shire of Manjimup within 2 months of the date of this approval;
6. The Low Impact Tourist Accommodation – Short Stay is not to be occupied by a person for more than three (3) months within any twelve (12) month period. In this regard, the manager/operator is to maintain a register of guests and the duration of their occupation to the satisfaction of the Shire of Manjimup on demand;
7. The applicant shall provide a suitable source of potable drinking water at a rate of 300L day, with the quality of the water required to meet Australian Drinking Water Guidelines.
8. The potable water supply referred to in Condition 6, shall be maintained to the satisfaction of the Shire of Manjimup for the duration of the use hereby approved;
9. The Emergency Evacuation Response Plan, including the provision of the Manager's contact details, is to be displayed in the Low Impact Tourist Accommodation – Short Stay at all times
10. Prior to the commencement of the use hereby approved, a vehicle crossover between the subject land, Hill Brook Road and Bill Jones Road is to be located, designed, constructed to a rural standard and drained to the specification and satisfaction of the Shire of Manjimup; and
11. All parking for guests is to be provided for on-site.

Advice to Applicant:

- a) The approved development must comply with all relevant provisions of the *Health (Miscellaneous Provisions) Act, 1911*, and the *Building Act 2016*;
- b) Please note that the use of the accommodation proposed may require the installation of additional smoke alarms and emergency lighting for a Class 1b building as detailed in the Building Code of Australia, Part 3.7.2, Smoke Alarms;
- c) Prior to commencing development, an application to construct or install an apparatus for the treatment of sewage and the disposal of effluent and liquid wastes must be submitted for the approval of the Shire of Manjimup's Environmental Health Team, in accordance with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*;
- d) Leach drains or soak wells must not be located beneath areas subject to vehicular traffic;

- e) Further to Condition 6, the applicant is advised that potable drinking water is required to be provided at a rate of 300L/day, with water quality to comply with the Australian Drinking Water Guidelines and periodical testing of the water is required to verify this quality. In terms of bacterial quality there is a need to have an appropriate treatment method (ie chlorination or UV filter). It is recommended that the applicant liaise with the Shire's Principal Environmental Health Officer over these matters;**
- f) All waste material not required for further onsite processing must be regularly removed from the site. All vehicles removing waste must have loads fully secured and contained so that no wastes are spilled or dust or odour is created to the satisfaction of the Shire of Manjimup;**
- g) Firebreaks and low fuel zones are to be maintained to the satisfaction of the Shire of Manjimup around all boundaries, buildings on the subject property and the development hereby approved, in accordance with the requirements of the Annual Shire Firebreak Notice endorsed by Shire of Manjimup**
- h) The Department of Biodiversity Conservation and Attractions advises that from time to time the following activities may take place in the adjoining State Forest:**
 - a. Prescribed burning for the enhancement and conservation of biodiversity and/or fire hazard reduction purposes;**
 - b. Application of herbicides and other chemicals for weed and plant disease control; and**
 - c. Road construction and maintenance; and**
- i) The applicant is advised to liaise with the Shire of Manjimup in respect of any proposed directional signage.**

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.5.10 Delegated Decisions for October 2023**

PROPONENT	Shire of Manjimup
OWNER	Various
LOCATION / ADDRESS:	Various
WARD:	Various
ZONE:	Various
DIRECTORATE:	Development and Regulation
FILE REFERENCE:	F170085
LEGISLATION:	<i>Planning and Development Act 2005</i> <i>Local Government Act 1995</i>
AUTHOR:	Jocelyn Baister
DATE OF REPORT:	3 November 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

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

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

ATTACHMENT: 9.5.10 (1)

PUBLIC CONSULTATION UNDERTAKEN:

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

COMMENT (Includes Options):

During October 2023, eleven (11) development applications were determined under delegated authority. Table 1 shows the number and value of development applications determined under both delegated authority and by Council for October 2023 compared to October 2022:

Table 1: Planning Decisions Made October 2022 and 2023

	October 2022	October 2023
Delegated Decisions	11 (\$487,126)	11 (\$2,962,385)
Council Decisions	5 (\$119,420)	6 (\$270,370)
Total	16 (\$606,546)	17 (\$3,232,755)

Table 2 compares the Year-To-Date statistics for delegated authority and Council decisions for 2023-24 compared to the previous Financial Year:

Table 2: Planning Decisions Made Year-To-Date 2022-23 and 2023-24

	YTD 2022-23	YTD 2023-24
Delegated Decisions	47 (\$2,284,772)	36 (\$5,815,846)
Council Decisions	29 (\$4,440,524)	12 (\$2,300,370)
Total	76 (\$6,725,296)	48 (\$8,116,216)

Whilst the number of applications determined has decreased in comparison to those of last Financial Year, it should be noted that the value and the level of complexity of applications have increased, as has the number required to be publically advertised.

During October 2023, no comments were provided to the Western Australian Planning Commission on proposed subdivisions.

STATUTORY ENVIRONMENT:

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

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

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

POLICY / STRATEGIC IMPLICATIONS:

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

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

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

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

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: Nil.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council receives the report on Delegated Development Approvals for October 2023 as shown at Attachment: 9.5.10 (1).

COUNCIL RESOLUTION:

MOVED: Eiby, W SECONDED: Miolin, S

29344

That Council receives the report on Delegated Development Approvals for October 2023 as shown at Attachment: 9.5.10 (1).

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT APPENDIX

9.9.1 Proposed Review of Council Policy 3.1.6 Naming of Shire Assets, Tree Plantings, Memorials and Plaques

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	N/A
WARD:	N/A
ZONE:	N/A
DIRECTORATE:	Community Services
FILE REFERENCE:	F161014
LEGISLATION:	<i>Local Government Act 1995, Land Administration Act 1997, and Land Information Authority Regulations 2007</i>
AUTHOR:	Kelsie Brown
DATE OF REPORT:	17 October 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

From time to time, Council is requested to consider the naming of new or existing community infrastructure, installation of memorial plaques or tree plantings. To facilitate well informed and measured decision-making, Council endorsed Policy 3.1.3 Naming of Shire Assets, Tree Plantings, Memorials and Plaques (the Policy) on 24 October 2019. A copy of the Policy is appended for Council's reference.

APPENDIX: 9.9.1(A)

Council policies are reviewed regularly to ensure consistency between the policies and Council decision making, to reflect any relative legislation changes and to respond to any community feedback. This Policy was due for review in October 2023.

Following review by Shire Officers, no changes are recommended to the content of the Policy. Some minor typographical errors were corrected as part of the review process. A copy of the reviewed Policy is attached for Council's consideration.

ATTACHMENT: 9.9.1(1)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

The Policy aims to provide Shire Officers with guidelines and criteria to assess requests pertaining to the naming of new or existing community infrastructure, installation of memorial furniture, plaques, and tree planting.

This Policy considers and provides guidance on:

- Naming of public open spaces, reserves and infrastructure;
- Renaming of community infrastructure of public space;
- Signage;
- Requirements for naming proposals for public spaces, community infrastructure, memorial furniture, plaques and tree planting; and
- The assessment process.

It is recommended that Council adopts the policy as attached.

STATUTORY ENVIRONMENT:

- *Local Government Act 1995;*
- *Land Administration Act 1997;* and
- *Land Information Authority Regulations 2007.*

POLICY/STRATEGIC IMPLICATIONS:

This Policy relates to the Community Strategic Plan 2021-2031 through Our Community 3.8 – Diversity, inclusivity and harmony are the foundations of our strong community spirit, and we celebrate and honour our diverse cultures, heritage and lifestyle.

ORGANISATIONAL RISK MANAGEMENT:

Naming of infrastructure has the potential to cause angst and disharmony within a community. The Policy endeavours to provide clear guidelines and assessment criteria to mitigate such risk.

FINANCIAL IMPLICATIONS:

All requests received would be assessed on their individual merit. Cost and long-term budget considerations will form part of the Officer report provided to Council.

SUSTAINABILITY:

Environmental: Planting of trees will have positive long-term benefits to parks and reserves.

Economic: Nil.

Social: Names and language used appropriately contribute to cultural and civic pride and a strong sense of connecting identity to place.

VOTING REQUIREMENTS:

SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council adopt amended Policy 3.1.6 Naming of Shire Assets, Tree Plantings, Memorials and Plaques as per Attachment: 9.9.1(1).

COUNCIL RESOLUTION:

MOVED: Eiby, W

SECONDED: Miolin, S

29345

That Council adopt amended Policy 3.1.6 Naming of Shire Assets, Tree Plantings, Memorials and Plaques as per Attachment: 9.9.1(1).

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.9.3 Quarterly Report July - September 2023 - Community Services Directorate**

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Shire of Manjimup
WARD:	Shire of Manjimup
ZONE:	N/A
DIRECTORATE:	Community Services
FILE REFERENCE:	F160966
LEGISLATION:	Various
AUTHOR:	Evy Apeldoorn
DATE OF REPORT:	23 October 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

Documentation outlining activities, grants, and donations data for the July - September 2023 quarter for the Community Services Directorate is attached for Councillors information.

ATTACHMENT: 9.9.3 (1)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

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

STATUTORY ENVIRONMENT:

Various.

POLICY / STRATEGIC IMPLICATIONS:

Nil.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

All activities were undertaken in accordance with the Shire of Manjimup's 2023/2024 Annual Budget.

SUSTAINABILITY:

Environmental: Nil.

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

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

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council receive the Community Services Directorate Quarterly Report July - September 2023 as contained in the Attachment: 9.9.3(1).

COUNCIL RESOLUTION:

MOVED: Eiby, W SECONDED: Miolin, S

29346

That Council receive the Community Services Directorate Quarterly Report July - September 2023 as contained in the Attachment: 9.9.3(1).

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.12.1 Proposed Reclassification of Angove Road, Hull Road, Bridge Road and North Walpole Road to Restricted Access Vehicle Type 4 Accredited Mass Management Scheme Level 3**

PROPONENT	Main Roads Western Australia Heavy Vehicle Services
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Walpole
WARD:	Rural
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:	Sean Tysoe
DATE OF REPORT:	30 October 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

Main Roads Western Australia (MRWA) Heavy Vehicles Services (HVS) have request comment for the Shire regarding the reclassification of Angove Road, (from Lot 10238 to Lot 10240 Angove Road) and Hull Road, (from Angove Road to North Walpole Road), for Restricted Access Vehicles (RAV) Network 4 (Tandem Drive). Currently, neither of these sections permit heavy haulage.

The request also seeks to reclassify Bridge Road (from North Walpole Road to Hazelvale Road) for RAV Network 4 (Tandem Drive). Currently, Bridge Road is for RAV 3 (Tandem Drive).

A diagram indicting the proposed sections of roads for reclassification is attached.

ATTACHMENT: 9.12.1(1)

Additionally, the request seeks to upgrade the Accredited Mass Management System (AMMS) to Network 4 Level 3 on the above-mentioned roads as well as North Walpole Road (from Bridge Road to Hull Road). North Walpole Road and Bridge Road are currently assigned Level 1 AMMS, Angove Road and Hull Road do not have a current level assigned.

The changes are summarised in **Table 1** along with the appropriate Straight Line Kilometres (SLK).

Table 1: Summary of proposed changes

RAV Requirements				
Road Name	From (SLK)	To (SLK)	Current Network	Requested Network
Angove Rd	Hull Rd (0.00)	Property Access (0.46)	Nil	RAV 4
Hull Rd	North Walpole Rd (0.00)	Angove Rd (4.00)	Nil	RAV 4
North Walpole Rd	Bridge Rd (7.47)	Hull Rd (14.16)	RAV 4	No change
Bridge Rd	North Walpole Rd (0.00)	Hazelvale Rd (6.85)	RAV 3	RAV 4
Mass Requirements				
Road Name	From (SLK)	To (SLK)	Current Level	Requested Level
Angove Rd	Angove Rd (0.00)	Hull Rd (0.46)	Nil	AMMS 3
Hull Rd	North Walpole Rd (0.00)	Angove Rd (4.00)	Nil	AMMS 3
North Walpole Rd	Bridge Rd (7.47)	Hull Rd (14.16)	AMMS 1	AMMS 3
Bridge Rd	North Walpole Rd (0.00)	Hazelvale Rd (6.85)	AMMS 1	AMMS 3

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) at a Accredited Mass Management System (AMMS) Level 3. The MRWA provided "RAV Benefits" document can be viewed in the attachment. A scheduled MRWA assessment of the roads for safety is yet to be carried out.

ATTACHMENT: 9.12.1 (2)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

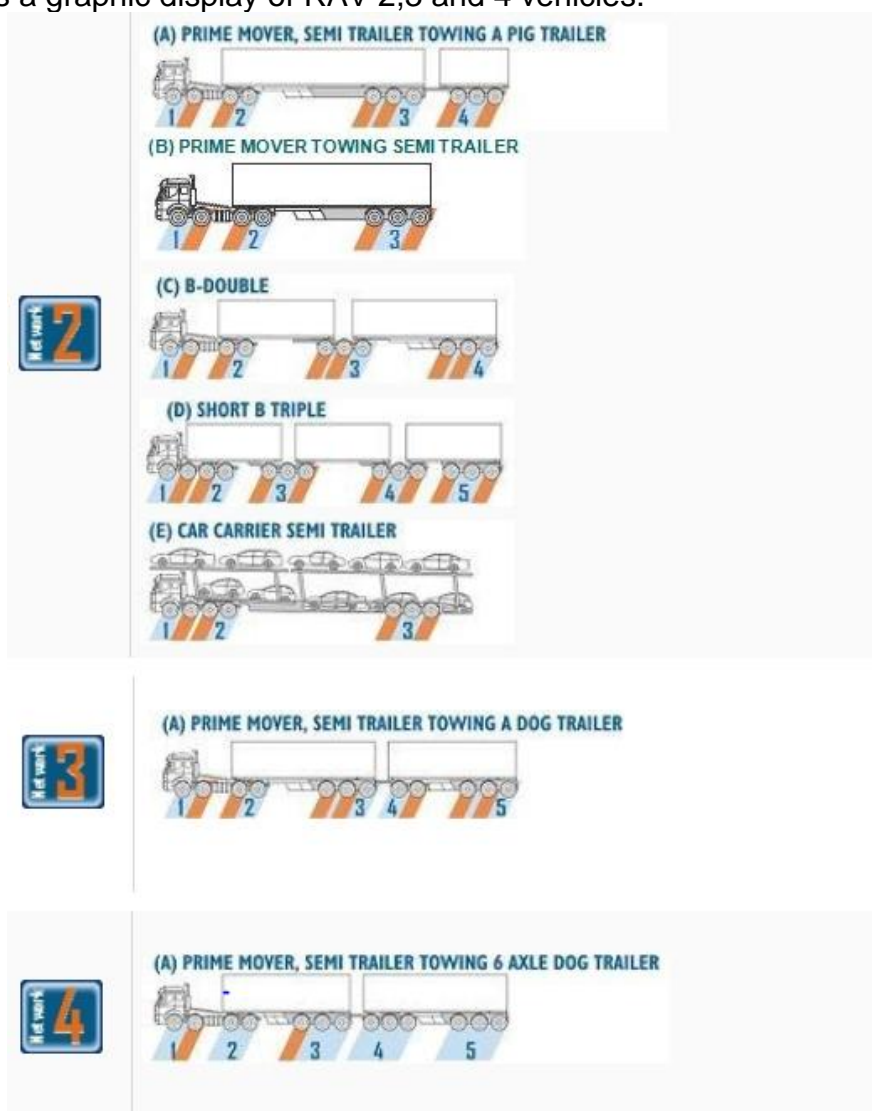
COMMENT (Includes Options):

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 27.5m in overall length. RAV 3 and RAV 4 vehicles will have 5 axle groups and do not exceed 27.5m 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.

Where AMMS is additional to RAV changes this needs the local Council approval also. Below is a graphic display of an AMMS N4.3.

RAV Category	RAV Description		Max. Mass & Approved Network		
			Level 1	Level 2	Level 3
Category 4		27.5 m	93.5 t	96.5 t	100 t
			N4.1	N4.2	N4.3

Essentially, the vehicle looks the same and has the same turning circle. However, in North Walpole Road and Bridge Road's scenario, there is an increased weight of 6.5 tonne on the road.

This will likely decrease the number of RAV movements on our network due to greater quantities of material being moved at any one time, i.e a lesser number of heavy vehicles on the road over time. It will also be more economical for suppliers and heavy haulage companies locally.

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.

To conclude, 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 and the Road Traffic (Vehicle) Regulations 2014.

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 AMMS N4.3 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 support the request for Main Roads Western Australia Heavy Vehicles Service to:

- 1. Reclassify Angove Road (from Lot 10238 to Lot 10240) to RAV Network 4, AMMS Level 3;**
- 2. Reclassify Hull Road (from Angove Road to North Walpole Road) to RAV Network 4, AMMS Level 3;**
- 3. Reclassify Bridge Road (from North Walpole Road to Hazelvale Road) to RAV Network 4, AMMS Level 3; and**
- 4. Reclassify North Walpole Road (from Bridge Road to Hull Road) to AMMS Level 3.**

COUNCIL RESOLUTION:

MOVED: Eiby, W

SECONDED: Miolin, S

29347That Council support the request for Main Roads Western Australia Heavy Vehicles Service to:

- 1. Reclassify Angove Road (from Lot 10238 to Lot 10240) to RAV Network 4, AMMS Level 3;**
- 2. Reclassify Hull Road (from Angove Road to North Walpole Road) to RAV Network 4, AMMS Level 3;**
- 3. Reclassify Bridge Road (from North Walpole Road to Hazelvale Road) to RAV Network 4, AMMS Level 3; and**
- 4. Reclassify North Walpole Road (from Bridge Road to Hull Road) to AMMS Level 3.**

ADOPTED BY EN BLOC RESOLUTION: 9/0

9.12.2 Proposed Locations for Locality Signs at Glenoran and Yanmah

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Glenoran and Yanmah
WARD:	Rural
ZONE:	NA
DIRECTORATE:	Works and Services
FILE REFERENCE:	F230194
LEGISLATION:	<i>Local Government Act 1995</i>
AUTHOR:	Michael Leers
DATE OF REPORT:	31 October 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

At the Council Information Briefing meeting of 27 July 2023, Shire Officers were requested to install locality signs at Glenoran and Yanmah. At the Council Information Briefing meeting of 28 September 2023, proposed locations for these signs were presented to Council for feedback. Following this presentation, Shire Officers were then requested to seek Council's decision for alternative locations for the Glenoran and Yanmah Locality signs.

As such, Council is requested to endorse the proposed locations for the Glenoran locality sign on Graphite Road at the corner of Jones Road and the Yanmah locality sign at the corner of Mitchelldean Road and Jones Road.

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

In 2011/12 Council informally made the decision to allocate signage to each locality within the Shire of Manjimup Boundary. Following Council's approval of the 2015/16 budget of \$48,000, Shire Officers then prepared a set of principles to guide the installation of any locality sign in the Shire. The principles included:

- Placement of the signage on a road which is managed by Shire of Manjimup and is closest to centre of locality unless a more exposed location close to this point is available (ie; an intersection or a more major road as per 9.1.14 Road Hierarchy Policy;
- Excluding the localities of Manjimup, Northcliffe, Pemberton, Walpole, Palgarup and Shannon as these localities have entry statements and/or green MRWA directional signage;
- In the localities of Deanmill, Quinninup and Jardee, the sign is to be installed on the major road running through the centre of hub; and
- First prioritising one locality (Deanmill, Boorara Brook, Dingup, Balbarrup, Broke and Channybearup) to be chosen by alphabetical

order from each of the then available six wards and thereafter upon request.

As a result, since 2018/19 the Shire has installed locality signs at the locations mentioned above and also at Middlesex and Smithbrook.

The proposed location of the Glenoran locality sign on Graphite Road was selected due to it being:

- Close to the centre of the locality;
- On a major road; and
- Close to the old Glenoran School, which closed in 1946, and the current Glenoran Bushfire Brigade shed.

The proposed location of the Yanmah locality sign, at the intersection of Mitchelldean Road and Jones Road, was selected due to it being:

- Close to the centre of the locality;
- At an exposed location, ie an intersection; and
- Adjacent the old, but still gazetted, Yanmah town site.

Council is requested to approve the proposed locations for the Glenoran and Yanmah locality signs as described above.

STATUTORY ENVIRONMENT:

Local Government Act 1995.

POLICY / STRATEGIC IMPLICATIONS:

The Shire's Corporate Business Plan 2023-2027 has a Community Goal 4.8 that states places of heritage value are recognised and retained. This is backed by action D9 which aims to regulate and manage tourism-based and commercial roadside signage to ensure it is appropriate, well-maintained and does not negatively impact on landscape visual amenity.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

Nil, as all costs will be accommodated within the appropriate 2023/24 Technical Services operational budget.

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: Provides residents and tourists with a sense of place and history for the locations.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council endorse the location of:

- the Glenoran locality sign at the southern side of the Graphite Road intersection with Jones Road; and
- the Yanmah locality sign at the southeast corner of the Mitchelldean Road intersection with Jones Road.

COUNCIL RESOLUTION:

MOVED: Eiby, W SECONDED: Miolin, S

29348

That Council endorse the location of:

- the Glenoran locality sign at the southern side of the Graphite Road intersection with Jones Road; and
- the Yanmah locality sign at the southeast corner of the Mitchelldean Road intersection with Jones Road.

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 17 October 2023**

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Manjimup
WARD:	Urban
ZONE:	Parks and Recreation
DIRECTORATE:	Community Services
FILE REFERENCE:	F210096
LEGISLATION:	<i>Local Government Act 1995</i>
AUTHOR:	Shammara Markotis
DATE OF REPORT:	18 October 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 17 October 2023, as attached, for Council consideration.

ATTACHMENT: 9.16.1 (1)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

Two weeks prior to the Advisory Committee meeting, all MRCR stakeholder clubs were provided with a proposed layout and location/orientation of the proposed new Amenities Building to service the Collier Street fields. During the meeting, the Committee discussed the proposal. As a result of this discussion, there is one recommendation of the Committee that requires a decision of Council.

Committee Recommendation	Officer Comment
That Council acknowledge that the Committee agree in principle to the proposed layout and location/orientation of the new Amenities Building as enclosed in the MRCR Advisory Committee meeting minutes.	Supported.

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:

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

- 1. Receive the unconfirmed meeting minutes of the Manjimup Rea Park and Collier Street Redevelopment Advisory Committee meeting held 17 October 2023 as per Attachment: 9.16.1(1); and**
- 2. Acknowledge that the Committee agree in principle to the proposed layout and location/orientation of the proposed new Amenities Building as enclosed in Attachment: 9.16.1.(1).**

COUNCIL RESOLUTION:

MOVED: Eiby, W

SECONDED: Miolin, S

29349

That Council:

- 1. Receive the unconfirmed meeting minutes of the Manjimup Rea Park and Collier Street Redevelopment Advisory Committee meeting held 17 October 2023 as per Attachment: 9.16.1(1); and**
- 2. Acknowledge that the Committee agree in principle to the proposed layout and location/orientation of the proposed new Amenities Building as enclosed in Attachment: 9.16.1.(1).**

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.16.2 Unconfirmed Minutes of the Manjimup Recreation Advisory Committee Meeting held 16 October 2023**

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Manjimup
WARD:	Urban
ZONE:	Parks and Recreation
DIRECTORATE:	Community Services
FILE REFERENCE:	F170452
LEGISLATION:	<i>Local Government Act 1995</i>
AUTHOR:	Shammara Markotis
DATE OF REPORT:	18 October 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

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

The purpose of the Committee is:

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

The purpose of this report is to present the unconfirmed minutes of the MRAC meeting held on 16 October 2023, as attached, for Council consideration.

ATTACHMENT: 9.16.2(1)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

There are no recommendations arising from this meeting that require a decision of Council.

STATUTORY ENVIRONMENT:

Local Government Act 1995.

POLICY / STRATEGIC IMPLICATIONS:

The purpose of the Committee supports the following strategy within the Shire of Manjimup Strategic Community Plan 2021-2031:

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

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

Nil.

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

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

VOTING REQUIREMENTS:

SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council receive the unconfirmed meeting notes of the Manjimup Recreation Advisory Committee Meeting held 16 October 2023 as per Attachment: 9.16.2(1).

COUNCIL RESOLUTION:

MOVED: Eiby, W

SECONDED: Miolin, S

29350

That Council receive the unconfirmed meeting notes of the Manjimup Recreation Advisory Committee Meeting held 16 October 2023 as per Attachment: 9.16.2(1).

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.16.3 Unconfirmed Minutes of the Pemberton Community Hub Advisory Committee Meeting 17 October 2023**

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Brockman Street, Pemberton (Reserve 19566)
WARD:	Rural
ZONE:	Public Purposes – Civic and Cultural
DIRECTORATE:	Community Services
FILE REFERENCE:	F210291
LEGISLATION:	<i>Local Government Act 1995</i>
AUTHOR:	Georgia Schipp
DATE OF REPORT:	19 October 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

The Pemberton Community Hub Advisory Committee is an Advisory Committee of Council formed under the provisions of the *Local Government Act 1995*.

The purpose of the Committee is:

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

The purpose of this agenda item is to receive the unconfirmed minutes of the meeting held on 17 October 2023 as attached.

ATTACHMENT: 9.16.3(1)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

There were no recommendations arising from this meeting requiring a Council decision.

STATUTORY ENVIRONMENT:

Local Government Act 1995.

POLICY / STRATEGIC IMPLICATIONS:

The Shire of Manjimup Strategic Community Plan 2021-2031 contains the following relevant strategies.

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

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

Nil.

SUSTAINABILITY:

Environmental: Nil.

Economic: Business support and visitor information are key services within the Pemberton community and contributors to the local and visitor economy.

Social: The preservation and interpretation of heritage is a significant contributor to social pride and the sense of place within the community. The Hub will provide a fit for purpose sustainable community space.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council receive the unconfirmed minutes of the Pemberton Community Hub Advisory Committee meeting held 17 October 2023 as per Attachment: 9.16.3(1).

COUNCIL RESOLUTION:

MOVED: Eiby, W

SECONDED: Miolin, S

29351

That Council receive the unconfirmed minutes of the Pemberton Community Hub Advisory Committee meeting held 17 October 2023 as per Attachment: 9.16.3(1).

ADOPTED BY EN BLOC RESOLUTION: 9/0

ATTACHMENT**9.16.4 Unconfirmed Minutes of the Sustainability Advisory Committee Meeting held 18 October 2023**

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Manjimup
WARD:	Whole of Shire
ZONE:	Whole of Shire
DIRECTORATE:	Development & Regulation
FILE REFERENCE:	F220159
LEGISLATION:	<i>Local Government Act 1995</i>
AUTHOR:	Ann Bentley
DATE OF REPORT:	1 November 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

The Sustainability Advisory Committee is an Advisory Committee of Council, formed under the provisions of the *Local Government Act 1995*. The functions of the Committee as outlined in the current Terms of Reference are:

1. Identification of opportunities for activation of sustainability practices in *the Shire of Manjimup*;
2. *Liaison with other relevant community groups and / or service agencies over potential sustainability projects*;
3. *Communicate and inform the local community about activities of the Committee*;
4. *To provide advice to Council on the development, management, and promotion of sustainability practices in the Shire of Manjimup*;
5. *To make recommendation to Council in regard to matters that will improve sustainability in the Shire of Manjimup for the benefit of the broader community; and*
6. *To provide advice on trends in sustainability (e.g., technologies, government policy).*

The purpose of this report is to present the unconfirmed minutes of the Sustainability Advisory Committee meeting held 18 October 2023, as attached, for Council consideration.

ATTACHMENT: 9.16.4 (1)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

The meeting held on 18 October 2023, was the first meeting to be held by the Sustainability Advisory Committee. The objectives of the Committee are:

To provide advice to Council regarding strategic policy direction with the aim of promoting sustainability outcomes that are environmentally responsible, socially, and culturally sound and economically viable. Advice to Council may be provided on the following sustainability topics:

- Climate change;
- Biodiversity;
- Built Environment;
- Land and waterway degradation;
- Water quality and conservation;
- Waste management;
- Community engagement and information sharing on sustainable practices; and
- Economic transition.

The Environmental Sustainability Officer outlined the progress that the Shire of Manjimup has made to date on sustainability measures, as attached for Council consideration. The Shire's progress to date was discussed by the Committee. As a result of this discussion, there are two recommendations of the Committee that requires a decision of Council.

Committee Recommendation	Officer Comment
That the Shire of Manjimup pursue the membership of becoming a Waterwise Council.	Supported. See comment below.
That the Shire Officer investigate the implementation of water sensitive urban design within Shire Operations.	Supported. See comment below.

Waterwise Council Program

The Waterwise Council Program is run by the Water Corporation in conjunction with the Department of Water and Environmental Regulation. The program supports councils in improving water efficiency and adopting waterwise practices in their operations and communities. Key achievements of the program to date are summarised as follows:

- 64 councils are participating in the program
- All 32 metro councils have been participating since 2021, reaching 2 million residents
- 32 regional councils participating
- In 2020-21, the Waterwise Greening Scheme funded 13 waterwise councils that created 216 waterwise verges, planted 621 waterwise trees and over 35,000 waterwise plants

It is free to join for local government authorities in Western Australia, with the following benefits available to Council's endorsed under the program.

- Free waterwise training for staff
- Waterwise materials to promote water conservation in the community
- Access to up to \$10,000 of waterwise greening scheme funding
- Data loggers to assist with leak detection
- Opportunity to participate in liveability projects and trials.

Whilst the program is free, becoming a Waterwise will require Officer resources from every Shire Directorate. Initially a monitoring and training phase may be undertaken to establish baseline data.

An example of the Waterwise Council Plan and MOU are attached.

ATTACHMENT: 9.16.4 (2)

Should Council support joining the waterwise program 'in principle', a further agenda item will be prepared for Council consideration.

For Councillors information, it is highlighted that an independent waterwise program was previously completed for the Manjimup Regional Aqua Centre, whereby the Aqua Centre achieved Gold Standard accreditation. Other targeted water efficiency programs have also been undertaken with the installation of sensor taps and low flush public toilets for example.

Water Sensitive Urban Design

Water sensitive urban design is an approach to the planning and design of urban environments that is 'sensitive' to the issues of water sustainability, resilience, and environmental protection. The approach integrates the urban water cycle (including potable water, wastewater, and stormwater) into built and natural landscapes to provide multiple benefits to society and the environment.

An introduction to Water Sensitive Urban Design, provided by the Department of Water, Environment and Regulation is shown attached.

ATTACHMENT: 9.16.4(3)

The ability to introduce Water Sensitive Urban Design is influenced by many factors including soil types and climatic conditions. Whilst the principles of new infrastructure designs being consistent with Water Sensitive Urban Design is supported by Shire Officers, the implementation of such designs can result in additional costs and or maintenance. Construction and maintenance of artificial wetlands for nutrient stripping for example.

In order to guide the future use of the Water Sensitive principles for new urban designs, it is recommended that an appropriate policy be developed for Council endorsement.

STATUTORY ENVIRONMENT:

Local Government Act 1995.

POLICY / STRATEGIC IMPLICATIONS:

The Strategic Community Plan 2021-2031 and Corporate Business Plan 2023-2027 identifies the relevant themes and strategies.

ORGANISATIONAL RISK MANAGEMENT:

Refer comment section above.

FINANCIAL IMPLICATIONS:

The financial implications of becoming a Waterwise Council include additional maintenance costs, infrastructure investment, potential savings in water costs and access to Waterwise grants. The Shire of Manjimup will be able to create an action plan that is within its resources and budgetary restraints. The action plan is then held under agreement through an MOU with Water Corporation.

SUSTAINABILITY:

Environmental: The careful management of water resources, both in terms of quantity and quality, is essential to support natural ecosystems as well as future growth and development. In a drying climate water resources will be impacted.

Economic: Investment in upgrades and maintenance has the potential to save costs on water usage.

Social: Water is fundamental to human life and the environment; it drives and facilitates economic development and provides social opportunities (pools, ovals, and amenity). Becoming drought resilient within Shire operations will benefit the community.

VOTING REQUIREMENTS:

SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council:

1. **Receive and note the unconfirmed minutes of the Sustainability Advisory Committee Meeting held 18 October 2023 as shown at Attachment: 9.16.4(1);**
2. **Request the Chief Executive Officer arrange for the preparation of an agenda item for a future meeting regarding the potential for the Shire of Manjimup to pursue membership of the Waterwise Council Program; and**
3. **Request the Chief Executive Officer to arrange for the preparation of an appropriate policy to guide the future use of water sensitive urban design principles in future urban infrastructure design.**

COUNCIL RESOLUTION:

MOVED: Eiby, W

SECONDED: Miolin, S

29352

That Council:

1. **Receive and note the unconfirmed minutes of the Sustainability Advisory Committee Meeting held 18 October 2023 as shown at**

Attachment: 9.16.4(1);

- 2. Request the Chief Executive Officer arrange for the preparation of an agenda item for a future meeting regarding the potential for the Shire of Manjimup to pursue membership of the Waterwise Council Program; and**
- 3. Request the Chief Executive Officer to arrange for the preparation of an appropriate policy to guide the future use of water sensitive urban design principles in future urban infrastructure design.**

ADOPTED BY EN BLOC RESOLUTION: 9/0

Councillor Omodei declared a Financial Interest in this Item as he is the Proponent of the Item. Councillor Omodei did not speak or vote on the matter and left the Chamber at 6.02pm.

APPENDIX

9.1.2 Request for Reimbursement of Travel Costs

PROPONENT	Cr Paul Omodei
OWNER	Not Applicable
LOCATION / ADDRESS:	Not Applicable
WARD:	Not Applicable
ZONE:	Not Applicable
DIRECTORATE:	Office of the CEO
FILE REFERENCE:	F160562
LEGISLATION:	<i>Local Government Act 1995</i>
AUTHOR:	Brian Robinson
DATE OF REPORT:	1 November 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

A request has been received from Cr Paul Omodei seeking the reimbursement for return airfares from Exmouth to Perth, being a total cost of \$1,404.42. The cost of flights was incurred so that the then Shire President could attend interviews for the position of Chief Executive Officer and the Ordinary Council Meeting held on 27 July 2023. Cr Omodei was in Exmouth on holiday at the time.

The reimbursement of Councillor expenses is guided by Council Policy 1.1.2 (the Policy), which was last reviewed in May 2021. A copy of the Policy, as adopted by Council is appended.

APPENDIX: 9.1.2 (A)

As the circumstances surrounding the request are not addressed within the Policy, Council is requested to consider and determine the matter accordance with clause 7 of the Policy which states:

“Requests from Councillors for the reimbursement of any other expenses other than those mentioned in 4 and 5 above, be subject of formal consideration by the Council.”

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

On 28 July the Chief Executive Officer Recruitment Panel held interviews for the position of Chief Executive Officer. Cr Omodei, wishing to attend the interviews, flew back from Exmouth to Perth and then drove to Manjimup. As he flew back on 26 July, he was also able to attend and Chair the Ordinary Council meeting on 27 July.

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

Justification of Request

The basis for Councillor Omodei's request is that the leave was pre-planned and resulted in a clash with the Chief Executive Officer Recruitment Panel interviews with the top five candidates. As the then Shire President, Cr Omodei considered that the matter was of such significant importance, it warranted his attendance at the meeting and through timing of those flights, Cr Omodei was also able to attend and chair the Ordinary Council meeting held on 27 July 2023.

Having travelled to Exmouth for a family holiday, Cr Omodei arranged flights to and from Perth and is now seeking re-imbursement of the costs.

Application for Leave

It is noted that Cr Omodei did not make application for leave from a Council meeting and was therefore performing as Shire President during the period he was away from Manjimup.

Statutory Framework

As outlined in the Statutory Environment section below, the re-imbursement of costs is regulated by *Local Government Act 1995 (the Act)* and the provisions of the *Local Government (Administration) Regulations 1996 (the Regulations)*. Whilst the Act and Regulations provide the statutory framework and identify generally those costs for which re-imbursement may be sought, there is room for interpretation.

In accordance with clause 5.99A of the Act, a local government may decide by absolute majority to pay an allowance instead of reimbursing all of a particular type of expense.

The Policy provides further guidance on how reimbursements for Council expenses are assessed and paid for Shire of Manjimup elected members. Relevant provisions of the Policy are detailed below.

Consistency with Policy

As prescribed within the Policy, Shire of Manjimup elected members Annual Meeting attendance fees and allowances for the Shire President and Deputy President are payable to elected members monthly, in arrears. The Policy also outlines that all elected members are paid 50% of the maximum Information Communication and Technology Allowance.

In terms of other re-imbursements, the Policy outlines provisions relating to Child Care, Reimbursement of Travelling and Accommodation Allowances. In terms of travel the policy provisions, shown at part 6 of Appendix: 9.1.2(A), are based on vehicle millage incurred when on Council business such as attendance at Shire meetings. Generally speaking, these allowances relate to travel between the Councillors place of residence and the meeting, training or conference.

As the Policy does not contemplate the re-imbursement of air fares, Council is requested to determine the application for re-imbursement.

Conclusion

The need for travel and the subsequent claim for re-imbursement resulted from unusual circumstances. The timing of the interviews for candidates could not have been known at the time Cr Omodei arranged the holiday.

As the Shire President, and key member of the Chief Executive Officer recruitment panel, it is considered that there was merit in the then Shire President returning to Manjimup to participate in the interview process in person.

STATUTORY ENVIRONMENT:

The reimbursement of Councillor expenses is regulated by the provisions of Part 5 – Division 8 of the Act and the provisions of the Regulations. In accordance with clause 5.98(2) of the Act, *“A council member who incurs an expense of a kind prescribed as being an expense –*

- (a) to be reimbursed by all local governments; or*
- (b) which may be approved by any local government and which has been approved by the local government for reimbursement,*

is entitled to be reimbursed for the expense in accordance with subsection (3).”

Subsection (7) outlines that *“A local government cannot make any payments to, or reimburse an expense of, a person who is a council member or a mayor or president unless the payment or reimbursement is in accordance with –*

- (a) this Division; or*
- (b) a policy adopted by the local government under section 5.129.*

The Regulations provide further guidance on the reimbursement of costs incurred by Councillors. As outlined withing clause 31 of the Regulations, the kinds of expenses that are to be re-imbursed are:

- (a) rental charges incurred by a council member in relation to one telephone and one facsimile machine; and*
- (b) child care and travel costs incurred by a council member because of the members attendance at a council meeting or meeting of a committee of which he or she is also a member; and*
- (c) child care and travel costs incurred by a council member in completing the training required by section 5.126(1).*

POLICY / STRATEGIC IMPLICATIONS:

Refer to comment section above.

ORGANISATIONAL RISK MANAGEMENT:

Risks associated with approval of the application for re-imbursement have been identified as follows:

- a) It could be perceived that the re-imbursement could set a precedent whereby an elected member may seek to attend a meeting in person

whilst not located at their primary place of residence by choice, subsequently seeking re-imbursement; and

- b) Public perception regarding the expenditure when attendance by electronic means was available.

The above said, Cr Omodei has expressed the view that his non-attendance at the interviews would not have projected an appropriate image.

FINANCIAL IMPLICATIONS:

Each financial year, Council adopts a budget allocation to cover the cost of Councillor travel and accommodation claims. For many years a budget of \$16,000 has been allocated. It is noted that in the 2021/22 financial year a total of \$18,360 was expended and in 2022/23 the actual expenditure has been estimated to be \$21,442.

Whilst a total of \$5,634 (ex GST) was expended from the account as at the end of October, it is noted that a number of Councillors have yet to seek travel re-imbursements for the previous period.

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: Nil.

VOTING REQUIREMENTS:

ABSOLUTE MAJORITY

OFFICER RECOMMENDATION:

That Council approve Councillor Paul Omodei's request for reimbursement of \$1,404.42 (incl GST) being for airfares associated with the Councillor attending the Chief Executive Officer Recruitment Panel interviews for five candidates on 28 July 2023.

COUNCIL RESOLUTION:

MOVED: Darin, J

SECONDED: De Campo, W

29353

That Council not approve Councillor Paul Omodei's request for reimbursement of \$1,404.42 (incl GST) being for airfares associated with the Councillor attending the Chief Executive Officer Recruitment Panel interviews for five candidates on 28 July 2023.

CARRIED: 5/3

For: Cr D Buegge, Cr J Darin, Cr W De Campo; Cr W Eiby, Cr J Willcox.

Against: Cr S Miolin; Cr M Ventris; Cr C Winfield.

Councillor Omodei returned to the Chamber at 6.09pm.

Councillor Eiby declared a Financial Interest in this Item as she will be applying for a vacant position with Southern Forest Community Landcare and there could be a perceived interest. Cr Eiby did not speak or vote on the matter and left the Chamber at 6.10pm.

ATTACHMENT

9.1.3 Proposed License to Occupy Former Cafe Building at Manjimup Heritage Park - Part Lot 628 Reserve 26199 Edwards Street, Manjimup

PROPONENT	Warren Catchment Council T/A Southern Forests Community Landcare
OWNER	Management Order to Shire of Manjimup
LOCATION / ADDRESS:	Part Lot 628 (Reserve 26199) Edwards Street, Manjimup.
WARD:	Urban
ZONE:	Recreation
DIRECTORATE:	Business
FILE REFERENCE:	F210118
LEGISLATION:	<i>Local Government Act 1995</i> <i>Land Administration Act 1997</i>
AUTHOR:	Brian Robinson
DATE OF REPORT:	6 November 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

Council is requested to determine a request from the Southern Forests Community Landcare (SFCL) who are seeking a lease over the former café building at the Manjimup Heritage Park, with a License to Occupy the premises for the balance of the 2023/24 financial year.

The Warren Catchment Council first wrote to Council requesting a peppercorn lease of the former café on Edwards Street in mid March 2023. With the group's current lease expiring, the group was seeking a long term lease for development and use of the building as a home for the Catchment Council and a "Community Sustainability and Landcare Hub". A copy of that original correspondence is shown attached.

ATTACHMENT: 9.1.3(1)

Shire Officers discussed the request with Councillors, who indicated a need to undertake consultation with the broader community to determine the best use of the building. This consultation, including a workshop held with interested parties, subsequently occurred on 24 May 2023.

The Shire's Director of Community Services outlined the findings of that consultation/workshop as part of the Informal Briefing Session held on 15

June 2023. In response Councillors requested that further discussion be undertaken with SFCL, as a potential lease to *“discuss design concepts and multifunction user options for the Old Café building”*. This information was conveyed to SFCL and an on-site meeting was held between SFCL and the Director of Community Services, prior to the Director going on leave.

SFCL made a further presentation to Council during the Informal Briefing Session held on 28 September 2023.

Since the SFCL has been working with Shire Officers to refine their proposal. During this consultation, the SFCL identified that:

- a) The Director of Community Services had made them aware there was no allocation for any refurbishment of the facility;
- b) SFCL would make application for external funding for improvements;
- c) If the existing kitchen area, if made more secure, would be a functional operation base from which to carry out Heritage Park-based and other activities;
- d) SFCL can immediately move into the kitchen area if the electricity is checked by an electrician, there are no leaks in the roof and ceiling, the room is secured with door replaced, doors fitted with dead locks, window security screens fitted on the eastern window.

Through further discussions over standard lease conditions (particularly ongoing tenant obligations) and having regard to the current state of the premises, it is apparent that a number of longer term issues need to be resolved (i.e. the SFCL’s desire to address current flooring, install a ceiling and heating) before a formal lease can be entered into.

The proponent has now requested a License to Occupy the premises until such time as a formal lease can be established.

ATTACHMENT: 9.1.3(2)

PUBLIC CONSULTATION UNDERTAKEN:

In August 2021 a request for Expressions of Interest was advertised, seeking to determine the level of interest in leasing the former Café site.

Subsequently on 24 May 2023, a workshop was held with interested parties to identify the best use for the premises.

COMMENT (Includes Options):

Details submitted with the application identify that SFCL is ultimately seeking to establish base for both the Warren Catchment Council and the SFCL for environmental and sustainability education and capacity building. SFCL are seeking sole occupancy of:

- a) The Former Café, including its verandah;
- b) The toilet under main roof; and
- c) The front (southern) Garden.

With a peppercorn rental fee requested by SFCL, they are intending to ultimately upgrade the building with interpretative displays, four secure offices and a meeting room that would be available for other community groups.

The objectives of SFCL have good synergy with components of the Shire's Management and Development Plan for the Heritage Park through the following areas:

- by activating the park through more events and community activities; increasing community involvement and participation in the park;
- actively engaging schools and using the park as an education resource;
- addressing growing visitor interest in flora and fauna interpretation;
- improve and develop representation of local Aboriginal heritage in the park;
- seek opportunities for introducing green technology in the park; and
- continue to develop the park as a representation of the flora diversity in our region

Whilst no objection is raised to the exclusive license to occupy the building and verandahs, it is recommended that an exclusive license should not extend over the southern garden bed until such time as further details are provided on the activities to be undertaken and intended presentation of the area. It may be prudent to defer a decision on the permanent use of the area until a lease is finalised.

STATUTORY ENVIRONMENT:

Section 3.58 of the *Local Government Act 1995* outlines requirements for leasing Shire land; however Section 30(b) of the *Local Government (Functions and General) Regulations 1996* exempts from these requirements leases to charitable, benevolent, educational, recreational, sporting or other like bodies, provided the members are not entitled to receive any pecuniary profit.

The proposed licence complies with this exemption.

POLICY / STRATEGIC IMPLICATIONS:

The licence to occupy is proposed to be for a term of one year, with no renewal option. It is expected that within this time period, the final details of a lease arrangement will be finalised and the intended lessee's requests for building improvements considered as part of the 2024/25 annual budget process.

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

ORGANISATIONAL RISK MANAGEMENT:

The proposed license to occupy comes with minimal risk provided that activities are restricted to the current building and verandahs on an 'as is'

basis". Some essential work such as an audit of the buildings electrical safety will be required.

FINANCIAL IMPLICATIONS:

Limited funding is available within the adopted budget for works on this building. In order to comply with the budget only essential items will be addressed in the event that Council agrees to the request.

Shire Officers will liaise with the proponent over future funding opportunities for building improvements and/or modifications.

SUSTAINABILITY:

Environmental: Approval to the applicants request will result in the creation of a 'one stop shop' for community information on Environmental Sustainability.

Economic: Opportunities for grant funding for future modification and improvements to the building will be actively be identified by SFCL and relevant Shire Officers.

Social: As an active community group, the ongoing operation of the Warren Catchment Council/SFCL is dependent on finding a new home given that their current lease is not to be renewed. Ongoing operation of the SFCL has direct social benefits through their educational approach.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council:

- 1. Grant Warren Catchment Council, trading as Southern Forest Community Landcare a license to occupy the former café on Edwards Street, being Part of Lot 628 (Reserve 26199) otherwise known as the Manjimup Heritage Park;**
- 2. The License to occupy being restricted to the Former Café Building and associated verandahs only; and**
- 3. The License to occupy be granted for the period up to 30 June 2024, with rent being \$10 payable on demand.**

Advice to Applicant:

- a) Southern Forest Landcare are advised that Council is not prepared to grant a license to occupy that portion of landscaped garden on the southern side of the building until such time as details of the proposed use and appropriate conditions of use have been identified by Shire Officers.**

COUNCIL RESOLUTION:**MOVED:** Darin, J**SECONDED:** De Campo, W**29354****That Council:**

1. **Grant Warren Catchment Council, trading as Southern Forest Community Landcare a license to occupy the former café on Edwards Street, being Part of Lot 628 (Reserve 26199) otherwise known as the Manjimup Heritage Park;**
2. **Prior to occupying the landscaped garden on the southern side of the building, a plan detailing the proposed use(s), presentation is to be developed to the satisfaction of the Shire of Manjimup; and**
3. **The License to occupy be granted for the period up to 30 June 2024, with rent being \$10 payable on demand.**

CARRIED: 8/0

For: Cr D Buegge, Cr J Darin, Cr W De Campo, Cr S Miolin, Cr P Omodei; Cr M Ventris; Cr J Willcox; Cr C Winfield.

Against: Nil.

Councillor Eiby returned to the Chamber at 6.13pm.

ATTACHMENT

9.3.3 Proposed Budget Review Adjustments - September 2023

PROPONENT	Shire of Manjimup
OWNER	Whole Shire
LOCATION / ADDRESS:	Whole Shire
WARD:	Whole Shire
ZONE:	N/A
DIRECTORATE:	Business
FILE REFERENCE:	F160191
LEGISLATION:	<i>Local Government Act 1995</i>
AUTHOR:	Greg Lockwood
DATE OF REPORT:	17 November 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

Following a review of the monthly accounts to 30 September 2023 a budget adjustment sheet has been prepared to reflect variations to expenditure and revenue compared to that contemplated in the adopted 2023/2024 Annual Budget.

ATTACHMENT: 9.3.3 (1)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

The September 2023 Monthly Financial Statement Report has been completed and is the subject of a separate agenda item providing an explanation of “actual” compared to “budget” for the three months of operation to 30 September 2023.

Adjustments for 2023/2024 adopted budget, already approved by Council by way of specific agenda items, are:

- Additional General Purpose Grant Funding \$131,849 – Allocation of additional General Purpose Grant funding to Refurbishment of Whim \$16,480 and 5D Brockman St Project \$115,369; and
- Unallocated General Purpose Grant \$70,000 – Allocation of \$70,000 to refurbish Pemberton Colocation Floor.

Proposed other adjustments not yet considered by Council are:

- Nil.

STATUTORY ENVIRONMENT:

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

POLICY / STRATEGIC IMPLICATIONS:

Nil.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

Details of the recommended budget adjustments are attached.

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: Nil.

VOTING REQUIREMENTS:

ABSOLUTE MAJORITY

OFFICER RECOMMENDATION:

That Council adopts the September 2023 budget adjustments as contained in Attachment: 9.3.3(1).

COUNCIL RESOLUTION:

MOVED: Omodei, P SECONDED: Eiby, W

29355

That Council adopts the September 2023 budget adjustments as contained in Attachment: 9.3.3(1).

CARRIED: 9/0

For: Cr D Buegge, Cr J Darin, Cr W De Campo, Cr W Eiby, Cr S Miolin, Cr P Omodei; Cr M Ventris; Cr J Willcox; Cr C Winfield.

Against: Nil.

PROPONENT OWNER	Scanlan Architects
LOCATION / ADDRESS:	Second GLT Pty Ltd
WARD:	Lots 71-82 Narocki Way, Chopping Street, and Pritchard Street, Manjimup
ZONE:	Urban
DIRECTORATE:	Town Centre
FILE REFERENCE:	Development and Regulation
LEGISLATION:	DA23/100 P52602
AUTHOR:	<i>Planning and Development Act 2005</i>
DATE OF REPORT:	Jocelyn Baister
DECLARATION OF INTEREST:	29 September 2023
	Nil

The subject land consists of 12 parcels, totals 3.69ha in area and is located either side of Narocki Way with frontage onto Chopping Street and Pritchard Street. Land to the west is developed for residential purposes, to the north for light industrial purposes and to the east there is a mix of land uses including the Manjimup Veterinary Clinic, a fitness studio and a mechanic. A location plan is provided below.

Minutes - Ordinary Meeting of Council - 16 November 2023

Council is in receipt of an application for planning approval for Holiday Accommodation (Hotel) and associated amenities comprising of:

- West of Narocki Way
 - 75 standard villas;
 - 4 Accessible villas;
 - 17x 1 bedroom studio villas;
 - 2 x Accessible 1 bedroom studio villas;
 - Indoor aquatic facility;
 - Gymnasium;
 - 3x Self-service breakfast area and dining area;
 - 3 x Breakout space and lounge areas;
 - Communal landscaped areas (including playground);
 - 3x Outdoor BBQ areas
 - 4x food kiosks;
 - 4x bin stores;
 - Parking for 123 cars;
 - One loading bay;
 - Two reversing bays;
 - One on-street bus bay; and
 - Three on-street car bays.

- East of Narocki Way
 - 18x standard 4 bedroom bungalows;
 - 2 accessible 4 bedroom bungalows;
 - 2x Dining areas;
 - 2x bin stores;
 - Outdoor aquatic facility;
 - Outdoor cinema;
 - Communal landscaped areas;
 - Parking for 24 cars; and
 - Coach bus rest area (grassed).

Whilst copies of the submitted plans are shown attached, A3 copies of the plans will be provided to elected members prior to the meeting.

ATTACHMENT: 9.5.1 (1)

Council is requested to determine the application as Shire officers do not have the delegation to determine development with a value of more than two million dollars and due to the nature of the land use classification.

Due to the value of the development, the applicant could have elected to have the application assessed by the Joint Development Assessment Panel, however has instead proceeded with an application for local authority approval.

PUBLIC CONSULTATION UNDERTAKEN:

The proposal was advertised in accordance with clause 9.6 of Local Planning Scheme No. 4 (the Scheme) for a period of 21 days for public comments and was referred to government agencies for a 42 day comment period.

Comments were received from Tourism WA, Water Corporation and the Department of Water and Environmental Regulation (DWER) with five (5) public submissions received. Concerns were raised by the public about the proposal, with one specifically objecting. Whilst the submissions are addressed in the Comments section below, a Schedule of Submissions and copies of the individual comments are provided attached.

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

The provisions of the Scheme include the land within the Town Centre Zone and within Planning Precinct 1d Manjimup Town Centre. The purpose of the zone is to provide for the establishment and ongoing development of nodes of diverse commercial, professional, tourist, entertainment, residential and community activities to service the populations of the surrounding areas.

Objectives of the zone applicable to this application include maintain opportunities for residential, grouped residential, tourist accommodation, offices and where appropriate service commercial and service industry suitable in a country town and compatible with the commercial and community functions of the town.

In considering an application for planning consent, clause 10.2 of the Scheme requires that the local government has regard to various matters, including, but not limited to:-

- (i) *the aims and provisions of the Scheme and any other relevant Local Planning Scheme operating within the Scheme area;*
- (vii) *the content and objective of Planning Precinct Statements set out in Schedule 8 of this Scheme;*
- (xi) *any social issues that have an effect on the amenity of the locality;*
- (xiv) *whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;*
- (xv) *the preservation of the amenity of the locality;*
- (xvi) *the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- (xvii) *whether the proposed means of vehicular access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- (xviii) *the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*

- (xxiii) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (xxvi) *any relevant submissions received on the application; and*
- (xxvii) *the comments or submissions received from any authority consulted under Clause 10.1.*

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

Land Use Classification

The completed application form describes the proposed development as 'Holiday Accommodation – Hotel and associated amenities'. From examination of the Scheme, the proposed development could be deemed to be consistent with either of the following definitions:

Hotel “means premises providing accommodation the subject of a hotel license under the Liquor Licensing Act 1988, and may include a betting agency on those premises, but does not include a tavern or a motel”.

Motel “means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the Liquor Licensing Act 1988”.

Tourist Resort “means integrated, purpose built, luxury or experiential premises for short stay guests comprising accommodation units and on site tourism facilities such as reception, restaurant, and leisure facilities like swimming pool, gymnasium, tennis courts, and where occupation by any person is limited to a maximum of three months in any 12 month period”.

As reflected on the submitted plans, the applicants are making special provision for vehicles, with allocated parking bays adjacent to each of the accommodation units on the western side. Given this, it is considered that the use is appropriately classified as a Motel with associated facilities to the west.

On the eastern side, a number of parking bays are provided equal to the number of rooms, bus parking is to be provided, there is a range of other activities for guests however there is no additional bays for staff or visitors, therefore this side of the development is considered to align with the land use classification of Tourist Resort.

Setbacks

Provisions of the Scheme do not identify specific setback requirements for development within the Town Centre Zone, but instead identify that:

- a) Site coverage of up to 100% where the local government is satisfied that adequate arrangements have been made in regard to access, car parking, traffic circulation of traffic, servicing and loading and unloading; and

- b) A zero setback from the front boundary may be permitted where landscaped and paved pedestrian areas are to be provided adjacent to the front boundary and the local government is satisfied on the above matters.

In this case the applicants are proposing a 4m setback to Pritchard and Chopping Streets and a 1.5m setback to all other boundaries.

Planning Precinct Statement

The subject property is located within Sub-precinct D of the Manjimup Town Centre. Generally landowners within the sub-precinct are encouraged to:

- develop commercial uses that require larger lots (sale of trucks/farm machinery/cars, sale of white goods, stock and station supplies);
- construct development that is visually interesting, with simple buildings that maintain the country character of the locality; and
- ensure development that is not detrimental to the residential amenity of the adjacent zones.

The proposed accommodation is located between Service Industry type uses and low density residential. The proposal, if managed and developed correctly could provide an effective transition between the land uses. However, the proposed Motel units located on the western boundary are shown as being setback 1.5m, to ensure that there is not an impact from noise such as air-conditioning units along this boundary, it is recommended that not air-conditioning units be located within the proposed 1.5m setback.

On the eastern side of the subject property, there is a potential for the noise generated at the Manjimup Veterinary Clinic to impact on guests staying in the Bungalows. It is recommended that the applicant be advised of the potential noise impacts generated by the adjoining light industrial land uses and encouraged to mitigate the noise intrusions.

As reflected on the submitted plans the applicant has identified a mix of materials responsive of the country locality such as timber batten fencing (internal). Additionally the applicant is indicating that Corten garden edging will be used and the plant selection will be predominately native.

The accommodation units will be single storey with each unit being orientated internally to the site. External fencing is proposed around the perimeter of the site in order to restrict unauthorised access to the site. The applicant has advised that where the property adjoins other land uses, a 2.1m Colorbond fence is proposed, whilst fencing proposed to sections of Pritchard Street and Narocki Way elevations is proposed to be 1.8m, chainlink steel fencing in charcoal colour. Whilst a chainlink steel fence is consistent with the *Shire of Manjimup Fencing Local Law 2012*, it is recommended that the applicant be encouraged to install fencing such as Garrison Fencing which may be more sympathetic to the location.

Local Amenity

With the introduction of a development of this intensity to an area that is currently developed with low density housing and diverse commercial developments, it is expected that the amenity of the area will be impacted and the 'landscape' altered. Given the land was originally developed as a light industry estate, where carpenters, electricians and mechanics could have been established, the proposal is considered to have a lesser impact than the intended development.

Concerns were raised with regards to the existing noise and odours being emitted from the commercial development to the east and how guests might not accept that these are considered normal for the area. It is recommended that the proponent be advised of these existing emissions and encouraged to introduce design elements in order to mitigate these factors.

Additional concerns have been raised regarding the clientele visiting the accommodation and the potential impact on the safety of the staff and patrons of working or visiting the commercial businesses late at night. Whilst it cannot be presumed that anti-social behaviour and crime will increase as a result of the proposed development, studies have found that with increases in activity in areas, passive surveillance is also increased which leads to an increased feeling of safety.

Drainage and Earthworks

A number of submitters have raised concerns regarding the current drainage of the subject property and the effect that the development will have on the surrounding land. Advice from DWER has supported the concerns by referring to the risk of flooding and the need to manage the stormwater to adequately direct the post development flows downstream in a suitable manner. It is recommended that details be provided prior to the application for Building Permit, that adequately provides for stormwater management.

During preliminary assessment of the application, Shire Officers were concerned that a substantial amount of fill would be required to address the drainage issues. Given the level change, it was expected that retaining walls would be required along the eastern boundary. The applicant reassured the Shire, that the natural ground levels were being utilised in the design and that no fill was required.

Comments have been received from neighbours with regards to the proposed finished floor levels and the delivery of fill to the subject property near the Chopping Street intersection. Shire Officers have been in contact with the landowner regarding the unauthorised importing of fill to the site. To date, there is an outstanding payment of a Modified Penalty. Should the Penalty remain unpaid, the Shire has the option to transfer the infringement to Fines and Enforcement or to withdraw the infringement and commence legal action. A further report will be presented to Council on these options.

Car Parking

In accordance with clause 5.17 of the Scheme the following off street car parking requirements apply to the proposed development:

Use	Minimum Number of Parking Spaces to be Provided	Proposal	Parking Required	Parking provided
Motel	1 per unit	98 units	98 bays	123 bays 3 on-street
	plus 1 per 25m ² of service area.	1,600m ² amenities	64 bays	
Tourist Resort	Not Listed Consider parking needs	20 Bungalows		24 bays 4 bus bays

The applicant has provided enough parking spaces to cater for one bay per each accommodation unit with an additional 29 bays available for staff, visitors and service providers. Additional parking will be provided on-street and for buses.

Whilst the parking design and number generally comply, it is noted that the parking bays proposed for standard bays do not comply with the minimum width outlined in Table 3 of the Scheme. It is also noted that accessible bays do not meet the minimum size requirements. Modification of the parking design will be required.

End of trip facilities

Tourism WA has encouraged that the applicant provide facilities to cater for cyclists of the Munda Biddi. Clause 10.2 refers to matters which the Shire is to have due regard to including whether adequate provisions have been made for pedestrians and cyclists. In this regard Tourism WA is suggesting bicycle racks and drying rooms. It is recommended that a condition be imposed for secure bicycle facilities at a rate of 1 rack for every 10 rooms be provided and shown prior to Building Permit application.

Landscaping

Provisions of the Scheme specify that a minimum of 5% of the site is required to be set aside for landscaping. In accordance with clause 5.13 of the Scheme, landscaping may consist of garden plantings and areas for pedestrian use. At the discretion of the local government landscaping may include natural bushland, swimming pools and areas under covered ways.

Notwithstanding the above, clause 5.13.3 of the Scheme states that the requirements for landscaping will be determined by Council on the merits of each case. In order to provide further guidance on this to applicants and Shire Officers alike, Council has adopted Local Planning Policy 6.1.8 – Landscaping.

As outlined within the Policy, a minimum three metre landscaping strip is required for commercial developments, except where development is approved with a nil setback. In this case, the applicant has not achieved a

sufficient setback to Narocki Way to allow for landscaping to the western side and is indicating landscaping to the verge as an alternative.

The policy states that applicants are encouraged to use waterwise plants and water sensitive urban design with a minimum of 75mm of mulch (25mm for native plant species). Unless otherwise justified, landscaped areas are required to be reticulated and the use of programmable irrigation controls and water efficient irrigation controllers is encouraged.

With respect to the subject proposal, the following comments are offered:

- applicants are proposing extensive paved areas within the site for pedestrian movement within the site along with landscaping adjacent to each proposed car parking bay; and
- the level of landscaping complies with the scheme requirements.

Submissions Received

In addition to the submissions mentioned above, other comments received raised concerns and questions with regards to:

- noise and dust during construction;
- questioning of the type of accommodation being provided;
- whether the facility will have a liquor license;
- the clearing of the vegetation on the property;
- whether the site is likely to have Aboriginal significance; and
- the capacity of the town services.

To assist Council is considering the submissions, the following comments are provided.

Construction noise and dust

With the scale of the development, it is anticipated that construction will be occurring over a number of years. Concerns have been raised regarding the amount of noise and dust that might be generated during construction. Whilst the developer will need to comply with the *Environmental Protection Act 1986* and its subsidiary legislations, it is recommended that the developer prepare and submit a construction management plan which addresses dust suppression, site office and material lay down areas, traffic management and noise management measures.

Land use classification and approvals

A couple of submissions were questioning the type of accommodation proposed and whether it will be run as a motel or will the property be run as workers accommodation (miners or backpackers). Whilst in this instance, the Shire has determined that the proposal best aligns with the definitions of Motel and Tourist Resort, all are classified as short-stay accommodation where the guests are not permanent residents.

Liquor License

One submission questioned if the facility will have a liquor license. Where the land use definition aligns to that of a type of liquor license, then the land owner may submit an application for a liquor license, however they are not

required to and this is in the control of Racing Gaming and Liquor at the Department of Local Government Sport and Cultural Industries.

Clearing of Vegetation

A couple of submitters have raised concerns regarding the impact of the development on the existing native vegetation on the property and road verge. The applicant has shown the existing native trees to be retained on the site located along the Chopping Street boundary. Internally all other vegetation is proposed to be removed. DWER have provided advice that the vegetation proposed to be removed is not considered to be native and indigenous to the area. It is recommended that should approval be granted, a condition be imposed ensuring the protection of the vegetation within the Shire's road verge.

Place of Aboriginal Significance

A comment has been received questioning the existence of Aboriginal Heritage in the area due to the headwaters to the Ringbark Creek. Whilst there are no sites registered in this area, the developer is encouraged to undertake its own due diligence in terms of Aboriginal Cultural Heritage as this process sits outside of the planning approval process.

Servicing Requirements

Two submissions were received that questioned whether the existing services in town can support the additional demand. The proposal was referred to the Water Corporation for comment, as the proposal will be required to connect to reticulated water and sewer services. Advice from the Water Corporation is that the services are available for the proponent to connect to.

Conclusion

Whilst the Shire has received a number of concerns regarding the proposal, it is considered by Shire Officers that with appropriate conditions the development can comply with the provisions of the Scheme and can achieve a quality development outcome.

STATUTORY ENVIRONMENT:

Planning and Development Act 2005, Local Planning Scheme No. 4 and relevant Planning Policies as adopted by Council.

POLICY / STRATEGIC IMPLICATIONS:

Approval to the application as submitted is consistent with Strategy B2 of the Shire of Manjimup's Community Strategic Plan 2021-31, being to:

B2: Attract business-class accommodation services to Manjimup.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

The required application fee has been paid in accordance with the Schedule of Fees and Charges adopted as part of the 2023/24 annual budget.

SUSTAINABILITY:

Environmental: No environmental impacts are anticipated.

Economic: Approval to the application as submitted will result in the creation of short term employment associated with development of the site and long term employment through its ongoing operation. The establishment of accommodation as proposed will add to existing accommodation options within the town, potentially attracting additional visitors to the Shire and region.

Social: The proposal is in close proximity to existing businesses that emit noise and residences which are sensitive to excessive noise. The final development will alter the amenity of the location for the foreseeable future.

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

That Council in accordance with Part 10 of the Shire of Manjimup Local Planning Scheme No. 4 grants planning approval to the proposed Motel and Tourist Resort at Lots 71-82 Narocki Way, Chopping Street and Pritchard Street, Manjimup in accordance with the submitted plans and specifications as attached at Attachment 9.5.1 (1), subject to compliance with the following conditions:

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

Reference	Document Title	Date Received
A1101	Site Plan	17 July 2023
A2100	GA Floor Plans	17 July 2023
A3100	Narocki Way West Elevation & Fence	17 July 2023
A3101	West Elevation & Boundary Fence	17 July 2023
A3102	Pritchard & Chopping Street Elevations	17 July 2023
A3103	Narocki Way East Elevation	17 July 2023
A3201	Accommodation Amenities - Pritchard	17 July 2023
A3202	Acacia Villas	17 July 2023
A3203	Gym Facilities	17 July 2023
A3204	Indoor Pool	17 July 2023
A3205	Accommodation Amenities - Narocki	17 July 2023
A3206	Flamingo Villas	17 July 2023
A3207	Bungalow Villas	17 July 2023
A3208	Bungalow Villas Amenities	17 July 2023
A3209	Outdoor Pool & Cinema Screen	17 July 2023
A3210	Food Kiosks	17 July 2023
A6000	Signage Location	17 July 2023

Form	Additional Information for	17 July 2023
	Advertisements	

2. Prior to the issue of a Building Permit, an urban water management plan is to be prepared and approved, to the satisfaction of the Shire of Manjimup;
3. The urban water management plan referred to in Condition 2, shall be implemented to the satisfaction of the Shire of Manjimup;
4. The applicant is to provide the finished floor levels for the proposed development to the western side of Narocki Way, as prior to the application for Building Permit;
5. A dilapidation report, prepared at the applicants expense, documenting the current state of the verge, footpath and road shall be prepared and submitted to the Shire of Manjimup for approval prior to the commencement of any works associated with the development;
6. Within 60 days of a Building Permit being issued, a detailed landscaping and reticulation plan for the subject site and/or the road verge(s) must be submitted to and approved to the satisfaction of the Shire of Manjimup;
7. The approved landscaping and reticulation plan must be fully implemented within the first available planting season after the initial occupation of the development, and maintained thereafter, to the satisfaction of the Shire of Manjimup. Any species which fail to establish within the first two planting seasons following implementation must be replaced in consultation with and to the satisfaction of the Shire of Manjimup;
8. Prior to the application for Building Permit a Waste Management Plan must be submitted to and approved by the Shire of Manjimup. The plan must include the following details to the satisfaction and specification of the Shire of Manjimup:
 - a) the location of bin storage areas and bin collection areas;
 - b) the number, volume and type of bins, and the type of waste to be placed in the bins;
 - c) details on the future ongoing management of the bins and the bin storage areas, including cleaning, rotation and moving bins to and from the bin collection areas; and
 - d) frequency of bin collections.
9. Prior to the application for Building Permit, the applicant must submit and have approved by the Shire of Manjimup, and thereafter implement to the satisfaction of the Shire of Manjimup, a construction management plan addressing the following matters:
 - a) How materials and equipment will be delivered and removed from the site;
 - b) How materials and equipment will be stored on the site;

- c) Parking arrangements for contractors;
 - d) Construction waste disposal strategy and location of waste disposal bins;
 - e) Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;
 - f) How risks of wind and/or water borne erosion and sedimentation will be minimised during and after the works; and
 - g) Other matters likely to impact on the surrounding properties.
10. Prior to the commencement of works, the applicant is to submit, and have approved to the satisfaction of the Shire of Manjimup, a detailed parking plan design which complies with Table 2 and 3 of Shire of Manjimup Local Planning Scheme No. 4, including 147 car parking bay/s, aisle widths, circulation areas, driveway/s and points of ingress and egress;
11. The construction works involved in the implementation of the development must not cause a nuisance to neighbours through noise, dust and/or sand drift;
12. Prior to the occupation or use of the development hereby approved, the area set aside for the parking of vehicles, together with the associated access lanes as delineated on the endorsed plan shall:
- a) be constructed, drained and marked in accordance with Clause 5.17 of the Shire of Manjimup Local Planning Scheme No. 4 to the satisfaction of the Council prior to the commencement of the use hereby permitted.
 - b) thereafter be maintained to the satisfaction of the Council.
 - c) be made available for such use at all times and not used for any other purpose.
 - d) be properly formed to such levels that it can be used in accordance with the plan.
13. Prior to the occupation of the development, vehicle crossovers between the subject land Pritchard Street, Chopping Street and Narocki Way are to be located, designed, constructed, sealed and drained to the specification and satisfaction of the Shire of Manjimup;
14. Prior to occupation of the development, a total of 11 bicycle parking facilities must be provided in accordance with Australian Standard AS 2890.3-2016 and to the satisfaction of the Shire of Manjimup. The facilities must thereafter be retained for the life of the development to the satisfaction of the Shire of Manjimup;
15. The development hereby approved shall be connected to the Water Corporation reticulated sewerage system;
16. All stormwater and drainage runoff is to be retained on the subject property or to be provided with stormwater drainage connections

to the drainage system in the area at the developers cost to the satisfaction of the Shire of Manjimup;

17. All piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters and bin storage areas must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the Shire of Manjimup, prior to lodging an application for a building permit;
18. 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; and
19. Any external lighting proposed on the subject property must be installed as to not have a detrimental impact upon traffic in the vicinity or upon the general amenity of neighbouring properties to the satisfaction of the Shire of Manjimup.

Advice to Applicant

- a) This Development approval is NOT a building permit. A building permit must be formally applied for and obtained from Building Services BEFORE the commencement of any site and/or development works;
- b) A minimum of 10 accessibility car bays shall be maintained on site at all times in accordance with the Australian Standard 2890.6 –2009, and connected to a continuous accessible path to the main entrance of the building or facility. The design and signage of the bay(s) and path(s) are to be in accordance with the Australian Standard 1428.1 – 2009;
- c) Existing commercial land uses to the east of the subject site may emit noise and odours which may not be acceptable to the guests staying in the Bungalow Villas, the proponent is encouraged to introduce design elements to mitigate these impacts;
- d) The applicant is encouraged to consider alternative fencing types to the chainlink fencing shown on the proposed plans;
- e) The development and associated uses are required to comply all relevant provisions of the *Health (Miscellaneous Provisions) Act 1911* (as Amended), *Health (Public Buildings) Regulations 1992*, the *Food Act 2008* and *Food Regulations 2009*. Prior to commencement of the uses hereby approved, various applications are required under this legislation and it is recommended that you liaise with the Shire of Manjimup's Environmental Health Team over the preparation, lodgement and approvals processes;

- f) Compliance with the *Health (Aquatic Facilities) Regulations 2007* is required. Construction of the aquatic facility is not permitted to commence until the written approval of the Executive Director, Public Health has been obtained;
- g) No earthworks are permitted until full details and particulars have been submitted to and approved by the Shire of Manjimup prior to a building permit being issued;
- h) Any retaining walls in excess of 500mm in height required in connection with development shall be so constructed as to accord with plans and specifications prepared by a practicing structural engineer to the satisfaction of the Shire of Manjimup and details and particulars of the certified plans and specifications shall be provided to Shire of Manjimup as part of any application for a building permit;
- i) Any ground levels differences at the boundaries of the land in excess of 150mm must be retained, or otherwise stabilised to the satisfaction of the Shire of Manjimup, prior to occupation of the approved development and fences shall not to be used for that purpose; and
- j) If public consumption of alcohol is likely to occur on the subject premises, additional requirements may be imposed by the Liquor Licensing Division of the Department of Local Government, Sport and Cultural Industries. It is recommended that the proponent consult with the Liquor Licensing Division, either directly (on 1800 634 541) or via the website: www.dlgsc.wa.gov.au for further information.

COUNCIL RESOLUTION:

MOVED: Winfield, C **SECONDED:** Miolin, S

29356

That Council defer consideration of the application for Development Approval to the proposed Motel and Tourist Resort at Lots 71-82 Narocki Way/Chopping Street and Pritchard Street, Manjimup to the Ordinary Meeting to be held on 7 December 2023 and invite the applicant and/or owner to present the plans in detail during the informal meeting to be held that day, in order that elected members can fully examine and discuss the proposal.

CARRIED: 9/0

For: Cr D Buegge, Cr J Darin, Cr W De Campo, Cr W Eiby, Cr S Miolin, Cr P Omodei; Cr M Ventris; Cr J Willcox; Cr C Winfield.

Against: Nil.

ATTACHMENT

9.5.6 Proposed Variation to Provisions of Local Planning Scheme No. 4 to Keep a Cat at Lot 29 (90) Jacksonii Avenue, Walpole

PROPONENT	Mr G J Potter
OWNER	Mr G J & Mrs D J Potter
LOCATION / ADDRESS:	Lot 29 (90) Jacksonii Avenue, Walpole
WARD:	Rural
ZONE:	Rural Residential
DIRECTORATE:	Development and Regulation
FILE REFERENCE:	DA23/93 P51902
LEGISLATION:	<i>Planning and Development Act 2005</i>
AUTHOR:	Jocelyn Baister
DATE OF REPORT:	31 October 2023
DECLARATION OF INTEREST:	Nil

This item was deferred at the 26 October 2023 meeting (Resolution 29326) to allow for Officers' to prepare a recommendation to refuse. Whilst the Officer's report and recommendation remains unchanged, should Council move to refuse the application the following reasons are recommended:

- 1. The applicants have a history of allowing their cats to wander outside and off their property;*
- 2. The applicants are not proposing an outdoor cat enclosure to allow the cat outdoors in a secure manner;*
- 3. The Tingleview Estate is surrounded on three sides by the pristine Walpole – Nornalup National Park which is known habitat of native wildlife; and*
- 4. The estate is a Rural – Residential zone and outside of the Gazetted Townsite.*

BACKGROUND:

Council is in receipt of an application to vary the provisions of Local Planning Scheme No. 4 (the Scheme) to enable the applicant to keep a cat in a cat prohibited area. The subject property, located at Lot 29 (90) Jacksonii Avenue, Walpole, is 2.2ha and consists of a Dwelling and Outbuilding. The land owners have owned and resided at the property since 2020. A location plan is provided overleaf.

LOCATION PLAN



The applicant is seeking approval to keep a cat at the property. The cat had previously been registered to the property under the *Cat Act 2011* through an administrative error, however after being found to be wandering off the

property the administrative error was identified. Subsequently the landowner's were ordered to remove the cat and were prosecuted under the *Planning and Development Act 2015* and the *Cat Act 2011*. The cat has been transferred out of the Shire and the landowners are seeking permission to allow the cat to return. Details of the application are summarised below:

- The cat, when or if permitted to return will live at the above mentioned residence inside the house. The downstairs bedrooms and laundry will not be opened for said cat;
- The applicant will be allocating upstairs sitting area for food, water and biscuits always and a wet meal once a day;
- A litter tray will be in an alfresco area, which there is two, one upstairs, one downstairs;
- Alfresco area provides a semi outdoors area which the breeze blows through shade cloth blinds;
- The applicant's house is escape proof for the cat and will be managed with the practice of entry and exit via the laundry. The laundry has an internal door and a door to the outside. Similar to that of sally port or an airlock system. The front door of the house is key locked and won't be used in the event of guests and visitors, there are a few combinations of isolating areas inside the home without risk of a visitor compromising the management plan; and
- Applicants are always home with the cat.

Information submitted with the application is provided attached.

ATTACHMENT: 9.5.6 (1)

Due to the objections received during consultation, Council is being requested to consider and determine the application.

PUBLIC CONSULTATION UNDERTAKEN:

The application was referred to adjoining neighbours for a period of 21 days. The proposal was also referred to the Department of Biodiversity Conservation and Attractions (DBCA) for a period of 42 days. Six objections and comments were received from adjoining neighbours and the wider Walpole area during the consultation period. A Schedule of submissions and copies of the individual submissions are provided attached.

ATTACHMENT: 9.5.6 (2)

COMMENT (Includes Options):

The Scheme designates the subject property as zoned Rural Residential Area 8 (RR8). Schedule 2 of the Scheme sets special provisions as they relate to RR8. The provision as it relates to this application is as follows:

1. *In order to protect the natural environment and the integrity of the adjacent Walpole – Nornalup National Park the following animals will not be kept:*
 - a. *Cats*
 - b. *Pigs*
 - c. *Goats.*

It is Shire Officer's understanding that the provision was included by the State agencies due to the environmentally sensitive area dedication and to ensure the protection of native fauna.

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

Relaxation of Standards

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

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

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

- (i) the aims and provisions of the Scheme and any other relevant Local Planning Scheme operating within the Scheme area;*
- (x) the compatibility of a use or development with its setting including the potential impact on the use and enjoyment of adjacent and nearby land and taking into consideration any Special Control Area;*
- (xiii) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment; and*
- (xv) the preservation of the amenity of the locality.*

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

Preservation of Environment and Amenity

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

Submissions Received

Six submissions were received from members of the public, two submissions were received from outside of the consultation area and two were from the same neighbouring property. All submissions either objected to the proposal or were not in support of the variation to allow cats in areas prohibited under the local law.

In response to the submissions received, it is recommended that conditions be included in any approval granted by Council ensuring that the cat is managed in a way as to only be kept indoors or within an outdoor enclosure. Should the land owner fail to comply with the conditions of approval, then the approval can be revoked and the land owners penalised.

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

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

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

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

Ongoing Future Approach

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

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

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

The third and final application for approval to keep a cat in a prohibited area is presented to Council at item 9.5.10.

Conclusion

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

STATUTORY ENVIRONMENT:

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

POLICY / STRATEGIC IMPLICATIONS:

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

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

ORGANISATIONAL RISK MANAGEMENT:

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

FINANCIAL IMPLICATIONS:

Nil.

SUSTAINABILITY:

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

Economic: Nil.

Social: Nil.

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

That Council:

1. In accordance with clause 5.5 and Part 10 of Local Planning Scheme No. 4 grant approval for the keeping of a cat at Lot 29 (90) Jacksonii Avenue, Walpole application TP2023/93 in accordance with the plans and information submitted, subject to the following conditions:

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

Reference	Document Title	Date Received
1.	Management Details	28 August 2023

- b. The cat is to be kept at Lot 29 (90) Jacksonii Avenue, Walpole, is to be confined to indoors and or contained within a suitable outdoor enclosure or restrained at all times, to the satisfaction of the Shire of Manjimup;
- c. Any cat enclosure is to be kept secure and maintained to prevent the escaping of a cat; and

- d. This approval to a keep cat only relates to the cat listed below and is not transferrable to other Cat Prohibited Areas or other cats:

Breed	Age	Microchip	Sterilised	Sex	Registration
Domestic Short Hair	6	953010001239026	Yes	Male	194

2. Note that the Shire of Manjimup will not take further action against the applicant for the breach against the Shire of Manjimup's Cat Local Law 2021 Amendment for the keeping of a cat within a Cat Prohibited Area, on the basis that Registration within the Shire of Manjimup has been granted.

COUNCIL RESOLUTION:

MOVED: Willcox, J **SECONDED:** Winfield, C

29357

That Council Refuse the proposed variation of Local Planning Scheme No 4 to keep a cat at Lot 29 (No 90) Jacksonii Avenue, Walpole for the following reasons:

1. Approval to the application as submitted would create an undesirable precedent for the variation of Special Provision number one (1) of Schedule Two applicable to Area No 8, which prohibits Cats, Pigs and Goats in order to protect the integrity of the Walpole-Nornalup National Park;
2. The applicants have a history of allowing their cats to wander outside and off their property;
3. The applicants are not proposing an outdoor cat enclosure to allow the cat outdoors in a secure manner;
4. The Tingleview Estate is surrounded on three sides by the pristine Walpole – Nornalup National Park which is known habitat of native wildlife; and
5. Variation of the Scheme provision would not be consistent with the requirements of clause 5.5.3 of Local Planning Scheme No 4 which requires that the local government shall only permit a variation where it is satisfied that the non-compliance will not have an adverse impact on the likely future development of the locality;

CARRIED: 9/0

For: Cr D Buegge, Cr J Darin, Cr W De Campo, Cr W Eiby, Cr S Miolin, Cr P Omodei; Cr M Ventris; Cr J Willcox; Cr C Winfield.

Against: Nil.

ATTACHMENT APPENDIX

9.5.8 Proposed Subdivision at Lot 9002 (332) Golf Links Road, Pemberton (Amended Plans and Information)

PROPONENT	Edge Planning & Property
OWNER	Greenland Pemberton Pty Ltd
LOCATION / ADDRESS:	Lot 9002 (332) Golf Links Road, Pemberton
WARD:	Rural
ZONE:	Special Use
DIRECTORATE:	Development and Regulation
FILE REFERENCE:	DA23/3 P58160
LEGISLATION:	<i>Planning and Development Act 2005</i>
AUTHOR:	Jocelyn Baister
DATE OF REPORT:	31 October 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

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

LOCATION PLAN



At its Ordinary Meeting 9 February 2023, Council considered the referred application for a proposed 130 lot subdivision of the eastern part of Greenland Estate (the Estate). The proposed lots ranged in area from 2,000m² to

9,006m², public open space of 2,036m², a “Shire Emergency Services Reserve” and two balance lots. Council resolved (Resolution 29029) as follows:

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

An excerpt from the Council Minutes including the history of the Estate are provided at Appendix A.

APPENDIX: 9.5.8 (A)

Council is now presented with an amended proposed subdivision, referred to the Shire of Manjimup by the Western Australian Planning Commission (WAPC) for comment. The applicant has updated the following documents in support of the application:

- Local Water Management Plan;
- Site Soil Evaluation;
- Traffic Impact Assessment;
- Concept Plan; and
- Staging Plan.

The key reason for the amended subdivision proposal was to address the advice from Main Roads Western Australia (MRWA) to relocate the Pemberton North Road and Vasse Highway intersection to the north-east. Other amendments have been made to address advice from the Department of Health (DoH) and the Department of Water and Environmental Regulation

(DWER) on the extent of the study area for the Site Soil Evaluation and the Local Water Management Plan. A copy of the amended plan of subdivision and staging plan is provided attached.

ATTACHMENT: 9.5.8 (1)

The amended plan proposes 125 residential lots ranging between 2,000m² and 8,226m², two balance lots containing existing dams, public open space of 2,079m² and a proposal to realign the southern part of the Pemberton North Road reserve to intersect Vasse Highway further east. The existing road reserve is proposed to be amalgamated into Lot 9001 for future development.

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

The subject property is zoned Special Use Area 7 by the Scheme. The purpose of the zone is to provide for those developments, which because of their special nature or complexity, cannot be appropriately located in other Scheme zones and which may consist of multiple uses.

With the objective to:

- i) Provide for development of uses and multiple use areas which, for reasons of their special nature or complexity, cannot be appropriately included in other Scheme zones;
- ii) Seek to ensure development impacts are contained on-site; and
- iii) Seek appropriate provision of infrastructure.

Part 5.42 – Special Use Zone

As outlined within clause 5.42.1

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

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

Development in the Zone

Land uses, subdivision and conditions of development and use will be in accordance with an endorsed Structure Plan including relevant

documentation adopted by the local government and identified in Schedule 6 of the Scheme.”

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

As outlined in Appendix A and reflected in the resolution, Council’s position on the requirement for an adopted Structure Plan has been presented to the WAPC. However, the WAPC has encouraged the applicant to proceed with the proposed subdivision application without the adopted plan.

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

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

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

As Council may be aware, advice from the Department of Planning Lands and Heritage (DPLH) has previously been received stating that there is no requirement to prepare a Structure Plan prior to the WAPC granting conditional subdivision approval. Notwithstanding this advice as there is several provisions within the Scheme requiring a Structure Plan to be prepared prior to subdivision, the Shire’s position has not been altered and has been reiterated in the Officer Recommendation.

However, to ensure that appropriate conditions are imposed if the WAPC were to grant conditional approval, recommended conditions of approval have been provided to Council for consideration.

Building Design Guidelines/Amenity

The proposal will create lots that are essentially classified as low density residential with a R5 (2,000m²) to R2.5 (4,000m²) classification. The

requirements within the Scheme to provide Building Design Guidelines ensures that development standards such as site coverage, setbacks and visual privacy is outlined for future land owners. The intent of the design guidelines was to achieve *"a higher standard of development sympathetic to Pemberton's character/climate that avoided replicating 'standard metropolitan building designs' and promote sustainability."* The Shire could either refer to State Planning Policy 7.3 Residential Design Codes Volume 1 (the R-Codes) through a revision to Local Planning Policy 6.1.17 Greenlands Estate Development Standards, or request the proponent to prepare specialised design guidelines for the next stages of subdivision.

It is Shire Officers opinion that although sustainability measures have been recently introduced into the R-Codes, the character of Pemberton would need to be outlined in a local planning policy. It is however evident through the delivery of buildings in Stage 1, the purchasers appear not to be achieving the intent to deliver a unique character to the building design. In fact, contrary to the conditions of planning approval, some have been found to reside within outbuildings without authorisation and contrary to the conditions of approval.

Council is requested to consider the visual impact of imposing a state wide low density housing design code over this area verses developing a local planning policy with provisions relating to housing design, which may introduce additional requirements on prospective purchasers.

Amended information

As stated in the Background section the applicant has provided an updated Local Water Management Plan, Site and Soil Evaluation, and Traffic Impact Assessment. Shire Officers have reviewed the information and provide the following comments for Council to consider:

Local Water Management Strategy (LWMS)

Whilst it is Shire Officer's opinion that the recommendations of the LWMS are credible, some statements regarding site groundwater monitoring and the lack of detail around stormwater management/design raise concerns. Shire Officer's agree that the preparation of an Urban Water Management Plan will be required to informed detailed engineering designs for earthworks and drainage details.

Statements within the LWMS infer that in some locations a 2m vertical separation distance is not able to be achieved without imported fill or subsoil drainage being installed prior to landowners being able to build on the land. These statements raise concerns for Shire Officers that potential purchasers may not be aware of the significant site works required and the unknown costs associated with these works. It is recommended that the Shire request the WAPC to impose these earthwork requirements onto the developer to:

- a) Ensure that finished levels of the proposed lots are sympathetic to the entire Estate and to mitigate the risk of having one lot with earthworks completed and the next opting for subsoil drainage; and
- b) Prospective purchasers will be fully aware of the site works expenses when agreeing to purchase the lots.

By ensuring that the developer undertakes to resolve this issue during subdivision civil works, a consistent streetscape can be delivered within the Estate.

Site and Soil Evaluation

The information submitted with the application clearly identifies the proposed lots that are affected with high ground water, requiring imported fill and those that need a secondary treatment unit for effluent disposal. Shire Officers have identified additional lots, that due to the natural ground level changes (approximately 5m from back to front) and the limited area for effluent disposal, a pump will likely be required. It is recommended that in addition to those already identified as needing a secondary treatment unit, that it is requested that the WAPC impose conditions relating to proposed Lots 203-210 as also having this requirement.

Traffic Impact Assessment

Shire Officers have reviewed the Traffic Impact Assessment and have no further comments to make. It is however noted that the applicants are proposing to deliver the realignment of Pemberton North Road once there is sufficient demand on the road network. To mitigate the risk of timing for the delivery of this substantial project, it is recommended that this realignment occur during Stage 2.

Servicing

The proponent has acknowledged that there is currently no reticulated water service to Lot 9002 however states that there is sufficient water allocation to accommodate full development on Lot 9002 in the short term and Lot 9001 in the long term. It appears that to ensure there is adequate pressure a high level water tank will be required and it is stated that the applicant is working with the Water Corporation to develop an approach to upgrading the water supply.

It is not clear from the application that there is sufficient water pressure to supply Stage 2 of the subdivision and the plan of subdivision does not indicate a location and reserve to be set aside for the Water Corporation infrastructure. It is recommended that the WAPC be advised that the Shire has concerns relating to this servicing infrastructure requirement and the provision of a reserve to cater for the elevated water tank.

Public Open Space

The proposed subdivision on Lot 9002 includes a 2,079m² reserve for Public Open Space (POS), the total land area of for this application is 48.45ha. Based on a standard requirement of 10% POS contribution, it is estimated that the development would normally be required to provide land (or a dollar value equal to) 4,845m². The applicant has justified the smaller provision of land based on the 'generous' lot sizes proposed, the recreational facilities in Pemberton, and that an area of POS will be provided on the land west of Pemberton North Road (Lot 9001) in the future.

There is no surety that the POS on Lot 9001 will be provided as the land is not part of this application and therefore it is recommended that the WAPC be requested to impose a condition requiring a contribution to be made equal to the 10% normally provided for in residential subdivisions.

Additionally, Shire Officers have concerns regarding the advertised sales plan for this subdivision, which shows no road frontage to the POS. Whilst the staging plan shows that the associated roads form part of the same stage as the POS, the developer may choose to deliver this stage in various sub-stages resulting in temporary cul-de-sacs and the reserve without road frontage. It is recommended that these concerns be relayed to the WAPC through conditions and the Shire not support temporary cul-de-sacs and all lots to have dedicated frontage.

The proposed subdivision includes two balance lots that contain existing dams. The plan of subdivision states that the dams are to be removed and additional geotechnical studies undertaken prior to the future subdivision of that land. Shire Officers have concerns regarding these balance lots being:

- the safety of the potential future children living in the Estate if the water bodies area not secured;
- where the water will be redirected to once the dam is filled in given the dams are located on water courses; and
- why these areas have not been identified for stormwater retention areas and passive POS, particularly given the stormwater designs are directing flows into these areas.

It is recommended that these concerns be relayed to the WAPC through conditions and advice notes.

Uniform Fencing

The Stage 1 lots fronting Golf Links Road, have been created with rural type fencing of post and wire construction. Lots 123-127 share a common boundary with lots that will be created with low density residential development and potentially an expectation that residential fencing will be delivered across the Estate. Shire Officers are concerned that there will be conflict between the Golf Links Road property's and the interface with the residential lots with desire for a greater level of privacy.

On the above basis, it is recommended that the WAPC be requested to impose a condition requiring the developer to install uniform fencing, not only to those lots abutting the POS but to the common boundary of Lots 123-127 and Lots 203-210.

Conclusion

Council's position on requiring a Structure Plan for Special Use area has not been amended as the Scheme provisions are clear on the requirement. However, as there remains some concerns on the proposed plan of subdivision it is prudent that the Shire provide the WAPC appropriate conditions and advice, in the event that an approval is granted.

STATUTORY ENVIRONMENT:

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

POLICY / STRATEGIC IMPLICATIONS:

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

ORGANISATIONAL RISK MANAGEMENT:

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

FINANCIAL IMPLICATIONS:

Nil.

SUSTAINABILITY:

Environmental: The proposal was referred to the Department of Health and the Department of Water and Environmental Regulation and amended to reflect the concerns.

Economic: Introducing additional people to the area will create a higher demand on local businesses and services. However due care is required to ensure the Shire is not burdened with infrastructure upgrade costs resulting from the development.

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

VOTING REQUIREMENTS:

SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council in accordance with section 142 of the *Planning and Development Act 2005* advise the Western Australian Planning Commission:

1. The Shire of Manjimup does not support the subdivision Lot 9002 Golf Links Road, Pemberton (WAPC 163163) prior to the completion of detailed structure planning addressing the specific requirements as detailed within Schedule 6 of the Shire's Local Planning Scheme No 4 including but not limited to:
 - a. An Access Strategy;
 - b. Building Design Guidelines;
 - c. Landscape Management Plan; and
 - d. An assessment of the future development potential for the 'Rural Tourist' sites.

2. That should the Western Australian Planning Commission support the subdivision of Lot 9002 Golf Links Road, Pemberton (WAPC 163163), the Shire of Manjimup requests the following conditions of approval:

- a. A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s) within 300m of agricultural activities. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

“The use of this lot may be affected by 24-hour operation of machinery, aerial spraying and generation of other noise, dust and odours arising from agricultural operations being carried out on surrounding land holdings.”

- b. Uniform fencing being constructed along the boundaries of lots abutting public open space and along the common boundary between proposed Lots 123-127 and Lots 203-210;
- c. A fence restricting pedestrian access to proposed balance Lots 9003 and 9004 is to be constructed on the boundaries shown on the plan dates 3 October 2023 until such time as the existing dams are removed or the land can be safely accessed by the public;
- d. Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on lot(s) at the time of subdivision approval being demolished and materials removed from the lot(s);
- e. Prior to the commencement of subdivisional works, an urban water management plan is to be prepared and approved, in consultation with the Department of Water and Environmental Regulation, consistent with any approved Local Water Management Strategy;
- f. Prior to the commencement of subdivision works and informed by the urban water management plan the proponent is to establish the high groundwater level and provide a minimum finished ground level at 1.5m above groundwater;
- g. Drainage easements and reserves as may be required by the local government for drainage infrastructure being shown on the diagram or plan of survey (deposited plan) as such, granted free of cost, and vested in that local government under Sections 152 and 167 of the *Planning and Development Act 2005*;
- h. A landscape plan being prepared, approved and implemented for the screen planting of Pemberton North

Road and Vasse Highway with appropriate native species to the specifications of the Local Government;

- i. Easement(s) in accordance with Section 195 of the *Land Administration Act 1997* specifying access rights for emergency fire purposes in favour of the Local Government and/or public authority are to be placed on the certificate(s) of title of the proposed lot(s) and the deed(s) of easement to specify care and management of the easement area is by the Local Government. Notice of this easement(s) is to be included on the diagram or plan of survey (deposited plan). The easement(s) are to state as follows:

“6 metre wide permanent emergency access way for vehicles is to be provided between Road 3 and Pemberton North Road parallel to Vasse Highway”

- j. An area(s) of land at least 4,845m² in area, in a position to be agreed with the Western Australian Planning Commission, being shown on the diagram or plan of survey (deposited plan) as a reserve for Public Open Space and vested in the Crown under *Section 152 of the Planning and Development Act 2005*, such land to be ceded free of cost and without any payment of compensation by the Crown;
- k. As an alternative to condition (J) the landowner/applicant shall make payment to the local government for the sum equivalent to the value of 10 per cent of the land (minus that provided), being that portion of the land that would otherwise be provided as open space, in accordance with Section 153 and 155 of the *Planning and Development Act 2005*;
- l. Arrangements being made for the proposed public open space to be developed by the landowner/applicant to a minimum standard and maintained for two summers through the implementation of an approved landscape plan providing for the development and maintenance of the proposed public open space in accordance with the requirements of Liveable Neighbourhoods and to the specifications of the local government;
- m. Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, to ensure that those lots not fronting an existing road are provided with frontage to a constructed road(s) connected by a constructed road(s) to the local road system and such road(s) are constructed and drained at the landowner/applicant's cost;
- n. Engineering drawings and specifications are to be submitted and approved, and subdivisional works

undertaken for construction of roads in accordance with the approved plan of subdivision, engineering drawings and specifications to ensure that:

- (a) street lighting in accordance with dark sky principles is installed on all new subdivisional roads to the standards of the relevant licensed service provider; and/or
 - (b) roads that have been designed to connect with existing or proposed roads abutting the subject land are coordinated so the road reserve location and width connect seamlessly.
- o. Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, for the provision of shared paths through and connecting to the application area to the satisfaction of the Western Australian Planning Commission. The approved shared paths are to be constructed by the landowner/applicant;
- p. Satisfactory arrangements being made with the local government for the full cost of upgrading and/or construction of Pemberton North Road to a standard of urban road, to be delivered as part of Stage 2 subdivision construction works;
- q. A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

"A reticulated sewerage service is not available to the lot(s)."
- r. A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

"For lot(s) 203-212, 138-143, 227 and 228, an on-site secondary treatment and disposal system for sewage will be required. Therefore, the developable area of the lot is reduced. There are ongoing landowner obligations to ensure that the treatment and disposal system is regularly maintained in accordance with relevant health regulations. Contact the local government for further information."
- s. A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be

included on the diagram or plan of survey (deposited plan).
The notification is to state as follows:

“A reticulated sewerage service is not available to the lot(s). As such, an on-site sewage system will be required. Clean fill to achieve a 1.4m clearance above high groundwater level may be required in order to achieve separation distances between sewage disposal system and groundwater.”

Advice to WAPC for Applicant

- i. In regard to Condition D a demolition permit may be required to be obtained from the local government prior to the commencement of demolition works.
- ii. Condition E has been imposed in accordance with Better Urban Water Management Guidelines (WAPC 2008). Further guidance on the contents of urban water management plans is provided in “Urban Water Management Plans: Guidelines for preparing and complying with subdivision conditions”;
- iii. The landowner/applicant is advised that no street verge trees are to be removed. Street verge trees are to be retained and protected from damage, including unauthorised pruning, unless otherwise approved by the local government. In this regard, the landowner/applicant is advised to liaise with the Shire of Manjimup prior to commencement of subdivisional works;
- iv. The landowner/applicant is advised to liaise with the Shire of Manjimup regarding the retention and protection of any trees of significance on the site, and investigating the potential for tree retention within the open space or setback areas of future development.
- v. With regard to Condition L, the development is to include full earthworks, reticulation, grassing of key areas, and pathways that form part of the overall pedestrian and/or cycle network;
- vi. The landowner/applicant and the local government are advised to refer to the Institute of Public Works Engineering Australasia Local Government Guidelines for Subdivisional Development (current edition). The guidelines set out the minimum best practice requirements recommended for subdivision construction and granting clearance of engineering conditions imposed;
- vii. In regard to Conditions M, N, O the landowner/applicant is advised that the road reserves, including the constructed carriageways, laneways, truncations, footpaths/dual use paths and car embayments, are to be generally consistent with the approved plan of subdivision;
- viii. In regard to Condition N the landowner/applicant is advised that to achieve the dark sky principles, new street lighting is to

comply with a correlated colour temperature of 3,000 kelvins or less, shielded luminaires and in accordance with AS/NZS 4282:2019 – Control of the obtrusive effects of outdoor lighting.

COUNCIL RESOLUTION:

Moved: De Campo, W Seconded: Ventris, M

29358

That Council in accordance with section 142 of the Planning and Development Act 2005 advise the Western Australian Planning Commission:

- 1. The Shire of Manjimup supports the subdivision Lot 9002 Golf Links Road, Pemberton (WAPC 163163).**
- 2. That should the Western Australian Planning Commission also support the subdivision of Lot 9002 Golf Links Road, Pemberton (WAPC 163163), the Shire of Manjimup requests the following conditions of approval:**
 - a. A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s) within 300m of agricultural activities. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:**

“The use of this lot may be affected by 24-hour operation of machinery, aerial spraying and generation of other noise, dust and odours arising from agricultural operations being carried out on surrounding land holdings.”
 - b. Uniform fencing being constructed along the boundaries of lots abutting public open space and along the common boundary between proposed Lots 123-127 and Lots 203-210;**
 - c. A fence restricting pedestrian access to proposed balance Lots 9003 and 9004 is to be constructed on the boundaries shown on the plan dates 3 October 2023 until such time as the existing dams are removed or the land can be safely accessed by the public;**
 - d. Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on lot(s) at the time of subdivision approval being demolished and materials removed from the lot(s);**
 - e. Prior to the commencement of subdivisional works, an urban water management plan is to be prepared and approved, in consultation with the Department of Water and**

Environmental Regulation, consistent with any approved Local Water Management Strategy;

- f. Prior to the commencement of subdivision works and informed by the urban water management plan the proponent is to establish the high groundwater level and provide a minimum finished ground level at 1.5m above groundwater;**
- g. Drainage easements and reserves as may be required by the local government for drainage infrastructure being shown on the diagram or plan of survey (deposited plan) as such, granted free of cost, and vested in that local government under Sections 152 and 167 of the Planning and Development Act 2005;**
- h. A landscape plan being prepared, approved and implemented for the screen planting of Pemberton North Road and Vasse Highway with appropriate native species to the specifications of the Local Government;**
- i. Easement(s) in accordance with Section 195 of the Land Administration Act 1997 specifying access rights for emergency fire purposes in favour of the Local Government and/or public authority are to be placed on the certificate(s) of title of the proposed lot(s) and the deed(s) of easement to specify care and management of the easement area is by the Local Government. Notice of this easement(s) is to be included on the diagram or plan of survey (deposited plan). The easement(s) are to state as follows:**

“6 metre wide permanent emergency access way for vehicles is to be provided between Road 3 and Pemberton North Road parallel to Vasse Highway”
- j. An area(s) of land at least 4,845m² in area, in a position to be agreed with the Western Australian Planning Commission, being shown on the diagram or plan of survey (deposited plan) as a reserve for Public Open Space and vested in the Crown under Section 152 of the Planning and Development Act 2005, such land to be ceded free of cost and without any payment of compensation by the Crown;**
- k. As an alternative to condition (J) the landowner/applicant shall make payment to the local government for the sum equivalent to the value of 10 per cent of the land (minus that provided), being that portion of the land that would otherwise be provided as open space, in accordance with Section 153 and 155 of the Planning and Development Act 2005;**
- l. Arrangements being made for the proposed public open space to be developed by the landowner/applicant to a minimum standard and maintained for two summers through the implementation of an approved landscape plan**

providing for the development and maintenance of the proposed public open space in accordance with the requirements of Liveable Neighbourhoods and to the specifications of the local government;

- m. Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, to ensure that those lots not fronting an existing road are provided with frontage to a constructed road(s) connected by a constructed road(s) to the local road system and such road(s) are constructed and drained at the landowner/applicant's cost;
- n. Engineering drawings and specifications are to be submitted and approved, and subdivisional works undertaken for construction of roads in accordance with the approved plan of subdivision, engineering drawings and specifications to ensure that:
 - (a) street lighting in accordance with dark sky principles is installed on all new subdivisional roads to the standards of the relevant licensed service provider; and/or
 - (b) roads that have been designed to connect with existing or proposed roads abutting the subject land are coordinated so the road reserve location and width connect seamlessly.
- o. Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, for the provision of shared paths through and connecting to the application area to the satisfaction of the Western Australian Planning Commission. The approved shared paths are to be constructed by the landowner/applicant;
- p. Satisfactory arrangements being made with the local government for the full cost of upgrading and/or construction of Pemberton North Road to a standard of urban road, to be delivered as part of Stage 2 subdivision construction works;
- q. A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:
 "A reticulated sewerage service is not available to the lot(s)."

- r. A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

“For lot(s) 203-212, 138-143, 227 and 228, an on-site secondary treatment and disposal system for sewage will be required. Therefore, the developable area of the lot is reduced. There are ongoing landowner obligations to ensure that the treatment and disposal system is regularly maintained in accordance with relevant health regulations. Contact the local government for further information.”

- s. A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

“A reticulated sewerage service is not available to the lot(s). As such, an on-site sewage system will be required. Clean fill to achieve a 1.4m clearance above high groundwater level may be required in order to achieve separation distances between sewage disposal system and groundwater.”

Advice to WAPC for Applicant

- i. In regard to Condition D a demolition permit may be required to be obtained from the local government prior to the commencement of demolition works.
- ii. Condition E has been imposed in accordance with Better Urban Water Management Guidelines (WAPC 2008). Further guidance on the contents of urban water management plans is provided in “Urban Water Management Plans: Guidelines for preparing and complying with subdivision conditions”;
- iii. The landowner/applicant is advised that no street verge trees are to be removed. Street verge trees are to be retained and protected from damage, including unauthorised pruning, unless otherwise approved by the local government. In this regard, the landowner/applicant is advised to liaise with the Shire of Manjimup prior to commencement of subdivisional works;
- iv. The landowner/applicant is advised to liaise with the Shire of Manjimup regarding the retention and protection of any trees of significance on the site, and investigating the potential for tree retention within the open space or setback areas of future development.
- v. With regard to Condition L, the development is to include full earthworks, reticulation, grassing of key areas, and pathways that

form part of the overall pedestrian and/or cycle network;

- vi. The landowner/applicant and the local government are advised to refer to the Institute of Public Works Engineering Australasia Local Government Guidelines for Subdivisional Development (current edition). The guidelines set out the minimum best practice requirements recommended for subdivision construction and granting clearance of engineering conditions imposed;
- vii. In regard to Conditions M, N, O the landowner/applicant is advised that the road reserves, including the constructed carriageways, laneways, truncations, footpaths/dual use paths and car embayments, are to be generally consistent with the approved plan of subdivision;
- viii. In regard to Condition N the landowner/applicant is advised that to achieve the dark sky principles, new street lighting is to comply with a correlated colour temperature of 3,000 kelvins or less, shielded luminaires and in accordance with AS/NZS 4282:2019 – Control of the obtrusive effects of outdoor lighting.

CARRIED: 9/0

For: Cr D Buegge, Cr J Darin, Cr W De Campo, Cr W Eiby, Cr S Miolin, Cr P Omodei; Cr M Ventris; Cr J Willcox; Cr C Winfield.

Against: Nil.

ATTACHMENT**9.9.2 Consideration of Fee Waiver for Manjimup Markets and More Event 2023**

PROPONENT	Manjimup Cherry Harmony Festival Inc.
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	N/A
WARD:	N/A
ZONE:	N/A
DIRECTORATE:	Community Services
FILE REFERENCE:	F230161
LEGISLATION:	<i>Local Government Act 1995</i>
AUTHOR:	Kelsie Brown
DATE OF REPORT:	20 October 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

Earlier this year, the Manjimup Cherry Harmony Festival (MCHF) Inc Committee advised the Shire that due to several factors, the 2023 MCHF has been cancelled. It is anticipated that the annual festival will return in 2024, in its original format.

In the absence of the 2023 festival, the Committee have decided to deliver a smaller scale event, being the Manjimup Markets and More to be held on Saturday 9 December 2023. This market style day will encompass stalls, live cooking demonstrations, food trucks, photography exhibitions, local produce, arts, log chops, live entertainment and more. Supporting the one-day event, multiple satellite events are being held at alternate locations across the Shire between 8 and 10 December 2023.

On 9 September 2023, the Shire received a request from the MCHF Inc to waive all fees associated with Shire venue hire to assist with the delivery of the Manjimup Markets and More event. A copy of the correspondence has been attached for Council reference.

ATTACHMENT: 9.9.2(1)

In addition to the above request, Shire Officers have confirmed with event organisers that the below fees, not included in the original correspondence, are also being requested to be waived:

- Event application fee;
- Music copyright; and
- Overarching traders permit.

In considering this request, it is appropriate to note that on 8 December 2022, Council determined through Resolution 28986 to move the below in relation to the 2022 MCHF:

COUNCIL RESOLUTION:

MOVED: Ventris, M SECONDED: Jenkins, D

28986

That Council:

1. **Approve the request by the Manjimup Cherry Harmony Festival Committee to:**
 - a) **waive venue hire fees of \$1,278.40, for the Sandra Donovan Sound Shell, Town Hall and Town Hall Kitchen;**
 - b) **waive the Event Application Fee of \$50;**
 - c) **waive the Overarching Traders Permit fee of \$125; and**
 - d) **waive all waste tipping fees;**
 - e) **waive all electricity usage at all venues;****for the 2022 Manjimup Cherry Harmony Festival;**
2. **Advise the Cherry Harmony Festival Committee to write to the Chief Executive Officer to waive venue bonds of \$500 in lieu of a written declaration of responsibility and agreement to “make good” any damages as per the 2022 adopted Schedule of Fees and Charges;**
3. **Not support the request by the Manjimup Cherry Harmony Festival Inc. to waive fully refundable key, fob and equipment bonds of \$325.00; and**
4. **Not support the request by the Manjimup Cherry Harmony Festival Inc. to waive post event venue cleaning charges of \$195.00.**

CARRIED: 11/0

Considering the above, the purpose of this report is to present to Council for determination a request for the waiver of fees related to the delivery of the Manjimup Markets and More event.

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

The Manjimup Markets and More event is solely run by volunteers, designed to encourage visitors to Manjimup and surrounding areas to showcase the regions produce and provide various entertainment for families. The applicant anticipates that the event will attract between 2,000 to 5,000 visitors.

In previous years as well as in the current financial year (2023/24), Council have supported the MCHF Inc through a \$5,000 allocation from the community grant program, providing funds to assist with promotion and marketing of the annual festival. In addition to these funds, the Shire have supported the festival through other means including provision of traffic management plan/signage, supply of event bins and tipping fee waiver, provision of additional toilet supplies for public amenities, event marketing and promotion through the Shire of Manjimup website.

Council has full discretion as to whether the request to waive all associated venue hire fees and charges is endorsed in part, in full, or refused. It is recommended that Council assess the request on merit and when deliberating this request, consider any justification to support the decision. The decision as determined, and in respect of fairness and transparency, will likely be regarded as a guiding precedence for other not-for-profit organisations seeking waivers of fees and charges for future events.

Venues Requested and Associated Fees and Charges

As indicated in the table below the venue fees and charges applicable to the Manjimup Markets and more, at the time of preparing this report, and subject to the submitted waiver request are summarised as follows:

Venue	Hire Fee	Key/Fob Bond	Utilities (est)	Music
Town Hall	\$320	\$50		
Town Hall Kitchen	\$252			
Manjin Park				
Coronation Park				
Brockman Street Precinct				\$11.65
Johnson Crescent				
Giblett Street				
TOTAL COSTS	\$572	\$50	\$600	\$11.65

Cleaning fees

Hirers are responsible for ensuring Shire facilities/grounds are left in a clean and tidy condition post event. Should this not occur, the Shire reserves the right to charge a cleaning fee, at a rate of \$40 per hour.

Event waste

In previous years, it was a requirement that event organisers complete a waste tipping fee application, in line with the 2023/2024 fees and charges. As the MCHF Inc are a not-for-profit community group, there is no fee attached to disposal of non-recyclable waste. To reflect this change, the Shire will provide the event organiser with a tipping fee voucher upon approval of the event. Furthermore, the Shire will also provide the allocated event waste bins and Containers for Change bins at no cost.

Overarching Traders Permit

Fees for trading in public places (including overarching traders, itinerant, food and other stalls) can be waived for not-for-profit community groups and registered charities at the discretion of the Shire's Chief Executive Officer. As such, approval for waiver of \$125 fee for one-off overarching traders permit for the event has already been granted.

Venue Bonds

A facility bond may apply to the hire of Shire facilities and is charged in addition to any appropriate hire fees based upon the level of risk the activity imposes to the facility. The bond is refundable upon conclusion of the hire on the condition that there is no damage to the facility, and that it is left in a clean condition. Given the nature of activities being undertaken in the Manjimup

Town Hall for the duration of the event, Officers have deemed the hire to be a low-risk function, therefore a \$0 bond charge applies.

Key bonds

In the event the hire requires access to a Shire facility by key/fob and/or swipe card, a \$50 bond is applicable. Key bonds are not eligible for waiver as they are used as a financial protection means for Council in the instance the key is lost and needs to be replaced.

Other fees and charges

In addition to the above, the Committee have also requested the waiver of:

- Event application fee (\$50);
- Music copyright fee (\$11.65); and
- Utility fee (estimated at \$600).

It is the Officer's recommendation that Council consider approval of the waiver for venue hire, utility charges and event application fees only. The recommended waiver gives recognition to the benefit that the Manjimup Markets and More event will deliver to the region's economy. Additionally, it acknowledges the many volunteers who contribute to delivering this community event and supports the financial and resource contribution already committed by the Shire of Manjimup.

Furthermore, it is recommended that Council refuse the request for waiver of associated key bonds and the music copyright fee as they are set to mitigate risk and to recover real costs.

Conclusion

Shire Officers support the waiver of venue hire costs, utility charges and event application fees only but not waiver associated key bonds and music copyright fees due to real costs cost recovery and setting precedence for other not-for-profit organisations seeking future waivers.

STATUTORY ENVIRONMENT:

Local Government Act 1995 Section 6.12(1)

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

- a) When adopting the annual budget, grant a discount of other incentive for the early payment of any amount of money;
- b) Waive or grant concessions in relation to any amount of money; or
- c) Write off any amount of money, which is owed to local government.

POLICY/STRATEGIC IMPLICATIONS:

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

2. Our Prosperity

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

B9. Encourage and support initiatives to encourage extended service provision and activate town centre.

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

3. Our Community

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

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

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

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

ORGANISATIONAL RISK MANAGEMENT:

Waiving of all fees and charges, which are already heavily subsidised, without considered and transparent justification, could be deemed as setting precedence for other not for profit hirers of community venues.

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

Further to the above and given the nature of the event a decision to waive hire fees could be justified and not regarded as one of setting precedence.

FINANCIAL IMPLICATIONS:

Whilst the dollar figures relating to this application are relatively small, there is a likelihood of a much bigger inherent financial risk to the organisation should the decision be made to waive all venue hire fees and charges and whereby other community groups perceive this as a precedence.

SUSTAINABILITY:

Environmental: The incentive to recycle containers for change reduces the amount of landfill created from the event.

Economic: Whilst the event may be on a smaller scale this year, it will still be an economic stimulator for the region, increasing both direct and indirect spend.

Social: The event stimulates the visitor economy and activates the Manjimup town centre, creating a sense of place and enhancing community spirit.

VOTING REQUIREMENTS: ABSOLUTE MAJORITY

OFFICER RECOMMENDATION:

That Council:

1. Approve the request by the Manjimup Cherry Harmony Festival Inc to:
 - a) waive venue hire fees of \$572.00 for the Town Hall and Town Hall Kitchen;
 - b) waive the Event Application Fee of \$50; and
 - c) waive all electricity usage fees at all venues;
 for the 2023 Manjimup Markets and More event;
2. Not support the request by the Manjimup Cherry Harmony Festival Inc. to waive refundable key bond of \$50.00 and music copyright fee of \$11.65; and
3. Note that the Overarching Traders Permit fee of \$125 has already been waived under delegated authority by the Shire's Interim Chief Executive Officer.

COUNCIL RESOLUTION:

MOVED: Darin, J SECONDED: Winfield, C

29359

That Council:

1. Approve the request by the Manjimup Cherry Harmony Festival Inc to:
 - a) waive venue hire fees of \$572.00 for the Town Hall and Town Hall Kitchen;
 - b) waive the Event Application Fee of \$50; and
 - c) waive all electricity usage fees at all venues;
 for the 2023 Manjimup Markets and More event;
2. Not support the request by the Manjimup Cherry Harmony Festival Inc. to waive refundable key bond of \$50.00 and music copyright fee of \$11.65; and
3. Note that the Overarching Traders Permit fee of \$125 has already been waived under delegated authority by the Shire's Interim Chief Executive Officer.

CARRIED: 9/0

For: Cr D Buegge, Cr J Darin, Cr W De Campo, Cr W Eiby, Cr S Miolin, Cr P Omodei; Cr M Ventris; Cr J Willcox; Cr C Winfield.

Against: Nil.

Councillor Ventris declared an Impartiality Interest in this Item as his wife is a member of Pemberton Sports Club. Councillor Ventris declared that he would consider this matter on its merits and vote accordingly.

ATTACHMENT

9.9.4 Request to Endorse Pemberton Sports Complex Operational and Governance Model Review Report

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	N/A
WARD:	N/A
ZONE:	N/A
DIRECTORATE:	Community Services
FILE REFERENCE:	F220168
LEGISLATION:	<i>Local Government Act 1995</i>
AUTHOR:	Evy Apeldoorn
DATE OF REPORT:	3 November 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

At the Ordinary meeting held 17 August 2023, Council was presented with a request to endorse the draft Pemberton Sports Complex Operational and Governance Model Review report. At that meeting Council resolved as follows:

COUNCIL RESOLUTION:

MOVED: Eiby, W

SECONDED: Dawson Vidovich, S

29239

That Council:

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

ADOPTED BY EN BLOC RESOLUTION: 11/0

The consultation period has now closed. The purpose of this report is to present the submissions to Council and to seek Council's endorsement of the final Pemberton Sports Complex Operational and Governance Model Review report. The report is attached.

ATTACHMENT: 9.9.4 (1)

Pending Council's endorsement of the report, this agenda item also seeks Council approval to allocate funds from the Recreation Ground/Facility Improvement Reserve for the purpose of implementing a number of recommendations of the report.

PUBLIC CONSULTATION UNDERTAKEN:

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

During the public consultation process of the draft Review Report, three public consultation sessions were facilitated by SGL Consulting at the Pemberton Sports Complex (the Complex) on 13 September 2023, with one directed to the Pemberton Sports Club Board, one to the current Complex user groups and one to the wider community. The sessions were well attended with approximately 40 individuals attending the sessions offered.

Following the public consultation sessions, the period for submissions on the draft report remained open until 27 September 2023. During this time the only submission received was from the Pemberton Sports Club (PSC). The submission is attached.

ATTACHMENT: 9.9.4(1)

In general, the PSC submission was supportive of the nine report recommendations, although the PSC raised a number of suggestions and queries regarding each recommendation which have been addressed in the attached Public Submission Schedule.

ATTACHMENT: 9.9.4 (3)

COMMENT (Includes Options):

To assist Council in considering the submission received from the PSC, the following comments are offered regarding the nine recommendations provided within the report:

Recommendation 1. Fee for Service Agreement

A Fee for Service Agreement between the Shire and the PSC to maintain and promote the delivery of community sport and recreation services/activities at the Complex with an annual fee of \$40,040 is recommended in the report. The PSC agree with this recommendation to enter into a Fee for Service Agreement. However, the PSC suggest a higher annual fee of \$69,200 on the basis of:

- \$40,000 - An operations Manager for \$770 (18 hours) per week;
- \$17,500 - Committee Secretary (4 hours per month) and Book Keeper (30 hours per month); and
- \$11,700 - Administration Officer (7.5 hours per week).

The fee recommended in the report reflects the economies of scale that is achieved through this model, with the Club managing both the bar trading and

the sport and community facility spaces. The fee will be available for the PSC to apply in the best way they see fit in order to ensure the effective community service.

In terms of the request for a Committee Secretary and Book Keeper, it should be noted that the financial details provided by the PSC, and as reflected within the attached Operation and Government Model Review Report, expended \$4,600 as Accountancy and Audit Fees. Furthermore, it would be anticipated that the majority of book keeping and administrative requirements would be associated with the operation of club portion of the complex (i.e non community centre activities).

In terms of past support, over the period from 2011/12 to 2022/23 the Shire contributed a total of \$279,117 towards the PSC to assist with the operations of the Complex. As this equates to an annual average contribution of \$23,265, it is considered the proposed amount of \$40,040 will put the PSC in a good financial position, enable the PSC to focus on operating and activating the Complex rather than on fundraising, whilst providing an incentive to continue to strive for costs efficiencies. As such the request for a higher fee is not supported.

In addition to seeking the total contribution of \$69,200, the PSC has also requested that the Shire provide additional services or pay an additional fee for service relating to cleaning of the courts, outside toilets which the PSC leave open outside of operational hours, waste collection, additional assistance with admin when required, set up for funerals and all security and access call outs.

In response, Shire Officers advise that cleaning is the responsibility of the PSC as per the lease agreement. Commonly cleaning costs of any facility are covered by the hire/user fees. Any such fees at the Complex which will be charged and received by the PSC. The requests for additional services cannot be supported in principle as the requested services are not provided to any of the other (recreation) centres leased to and operated by community groups and payment of a fee for service for these operational activities would not be considered equitable.

Furthermore, in response to a query from the PSC about the Recreation Centre Development Program, it is noted that the proposed Fee for Service Arrangement is separate from this Program. Under this Program Council intends, pending budget availability, to allocate funds (\$10,000 in 2023/24) to each of the town recreation centres operated by community groups (the Complex, Walpole Recreation Centre, and Northcliffe Recreation Grounds) to assist these centres with operating sustainably by contributing to initiatives that will lead to costs savings and/or increased revenue.

Recommendation 2. Supplementary Steps to Stabilise PSC Financial Position

The PSC agrees with the report recommendations to strategically plan for the future, including a business and asset management plan, and securing a greater funding commitment from all user groups. The PSC note they need support with this and have approached DLGSC for grant funding to engage an experienced consultant.

Recommendation 3. Formalise all Activities in Club Constitution.

The PSC agrees with this recommendation and note they need support with this, which can be provided by the same consultant mentioned in Recommendation 2.

Recommendation 4. Licence to Occupy

The PSC agrees with this recommendation to put in place more formal arrangements (Licences to Occupy and hire arrangements) with users of the Complex.

Recommendation 5. Explore Co-location Options

Options should be explored and discussions held with community groups who may be compatible to co-location within the Complex. The PSC agrees with this recommendation and is open to further discussion with several community groups.

Recommendation 6. Electricity Costs Reduction

Electricity costs have been identified as a significant operating expense for the Club, and this cost is anticipated to continue to grow into the future. In order to help mitigate the impact of this cost, the Club (with the assistance from the Shire) should undertake an energy use audit. The PSC support the recommendation to reduce the electricity costs and to undertake a usage audit.

To enable such electricity audit, additional submeters are required to be installed at the Complex, as there are currently only 5 electrical submeters which on average only capture 20-40% of the total usage. Shire Officers propose that five additional (three-phase) electrical submeters be installed in order to isolate the utility costs associated with individual high usage components/areas of the Complex. The funding required to undertake the installation of these meters is approximately \$6,000.

Recommendation 7. Water Usage Investigation

It is recommended that a water usage audit be undertaken by the Club to determine where water is consumed and potential water saving options to be implemented at the Complex. The PSC support this recommendation and have provided some suggestions for water saving options to explore. To assist with determining the water usage of the community part of the Complex, Shire Officers propose to install one water submeter.

Recommendation 8. Future Licence Agreements with User Groups

Future license agreements with user groups are recommended, which include a mechanism for a percentage rebate to the licence fee from alcohol sales to

each club/user group. The PSC agree in principle with this recommendation and is open to consider this in the future.

Recommendation 9. Explore Revaluation of Complex by Valuer General

The report recommends the Club in consultation with the Shire to explore how the valuation for the Complex is undertaken and whether a more equitable calculation could be considered by the Valuer General, which could assist in reduction in the ratable area and therefore rates paid by the Club. The PSC supports this recommendation.

It is noted that the PSC has apparently reduced the licensed area within the Centre, however the Shire has not received formal notification of this. One receipt of formal advice, a revised rates valuation can be pursued by the Shire.

Conclusion

Based on the feedback received following the public consultation sessions and public submission period there are no changes proposed to the draft Pemberton Sports Complex Operational and Governance Model Review report. Therefore, it is proposed that the final report be endorsed by Council with the annual fee for service being set at \$40,040, being in addition to the Recreation Centre Development Program and any Community Grants the PSC may apply for including the Youth grant.

Should Council wish to consider payment above the recommended \$40,040, it is recommended that that any increase (i.e a minor increase based on additional administration hours) should be justifiable, transparent and equitable with other recreation centres. As outlined within the Financial Implication Section of this agenda item, the financial impacts of any fee for service on the Shire's annual budget must be considered.

STATUTORY ENVIRONMENT:

Local Government Act 1995.

POLICY / STRATEGIC IMPLICATIONS:

The following strategies from the Shire of Manjimup Strategic Community Plan 2021-2031 are relevant to this matter:

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

ORGANISATIONAL RISK MANAGEMENT:

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

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

FINANCIAL IMPLICATIONS:

At the time of commencement of the review of the Complex' operational model, Council was informed that further funds may be required to implement recommendations of the review to improve the effectiveness and efficiency of the governance and/or operations of the Complex. Furthermore, it was noted that:

- Any new investment is to be levelled against its benefits;
- Funding for the implementation of further report recommendations should be factored into budget considerations for future years; and
- Complex users may also be in a position to seek grant funding to achieve some of the potential investment outcomes.

To work towards implementing Recommendations 6 and 7 of the report (to undertake an energy and water usage audit), it is proposed to utilise \$6,000 from the 2023/24 Recreation Centre Development Program funds for the supply and installation of the aforementioned electrical and water submeters as well as one gas submeter.

Should Council endorse the recommendations of the final Review report and its recommendations, then it will need to allocate funds in future annual budgets for the Fee for Service Arrangement (Recommendation 1). To ensure the fee for this Arrangement takes increasing operational costs into consideration, it is recommended to include an annual increase into the Arrangement (e.g. equal to the Shire's rates increase).

It should be noted that Council allocated a support payment of \$15,000 in the current (2023/24) budget to assist the Club while the review was being undertaken. As no funds for a Fee for Service have been allocated in the current budget, it is proposed that an additional funding amount of \$25,040 is made available from the Recreation Ground/Facility Improvement Reserve to enable the commencement of the Fee for Service Arrangement for the remainder of this financial year, to be paid to the Club upon signing of the Arrangement. The current balance in this Reserve account is \$65,484. The proposed expenditure of \$25,040 of this Reserve account will result in a remaining balance of \$40,444 in the Reserve.

SUSTAINABILITY:

Environmental: Nil.

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

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

VOTING REQUIREMENTS: ABSOLUTE MAJORITY

OFFICER RECOMMENDATION:

That Council:

1. Endorse the final Pemberton Sports Complex Operational and Governance Model Review and its recommendations as per Attachment: 9.9.4(1);
2. Request the Chief Executive Officer to develop a Fee for Service Agreement with the Pemberton Sports Club Inc. commencing on 1 July 2024; and
3. Approve a budget amendment to fund the remainder of the Pemberton Sports Club Fee for Service for 2023/24 and the installation of electrical, water and gas submeters at the Pemberton Sports Complex as per the following table.

Description	Current budget	Amended budget	Variation
Transfer from Recreation Ground/Facility Improvement Reserve	(\$330,881)	(\$355,921)	(\$25,040)
Pemberton Sports Club Support Payment (to be renamed Pemberton Sports Club Fee for Service)	\$15,000	\$40,040	\$25,040
Installation of utility sub meters at Pemberton Sports Complex	\$0	\$6,000	\$6,000
Allocation Recreation Centre Development Program 2023/24 to Pemberton Sports Club	(\$10,000)	(\$4,000)	(\$6,000)
Net Rate Funds			\$0

COUNCIL RESOLUTION:

MOVED: Ventris, M SECONDED: Omodei, P

29360

That Council:

- 1. Receive the final Pemberton Sports Complex Operational and Governance Model Review and its recommendations as per Attachment 9.9.4(1);**
- 2. Request the Chief Executive Officer to develop a Fee for Service Agreement with the Pemberton Sports Club Inc. commencing on 1 July 2024, at a per year \$58,000 plus the 24/25 rate rise, with an annual increase set at the annual rate rise percentage each year;**
- 3. Approve a budget amendment to fund the remainder of the Pemberton Sports Club Fee for Service for 2023/24 and the installation of electrical, water and gas submeters at the Pemberton Sports Complex as per the following table.**

Description	Current budget	Amended budget	Variation
Transfer from Recreation Ground/Facility Improvement Reserve	(\$330,881)	(\$379,881)	(\$49,000)
Pemberton Sports Club Fee for Service 23/24	\$0	\$43,000	\$43,000
Installation of utility sub meters at Pemberton Sports Complex	\$0	\$6,000	\$6,000
Net Rate Funds			\$0

- 4. The approved budget allocation of \$10,000 for the Recreation Centre Development Program to remain as adopted for the 2023/24 financial year and this payment to remain the same in subsequent budgets; and**
- 5. The Chief Executive Officer be requested to investigate possible avenues to achieve a reduction in the rates payable by the Pemberton Sports and provide an agenda item for Council consideration prior to the 2024/25 Annual Budget.**

Advice Note

As part of the service agreement referred to in condition 2 require a joint Pemberton Sports Club and Shire of Manjimup report every 6 months outlining the progress against the recommendation of the governance Model Review and Key Performance Indicators developed within the fee for service agreement.

CARRIED: 9/0

For: Cr D Buegge, Cr J Darin, Cr W De Campo, Cr W Eiby, Cr S Miolin, Cr P Omodei; Cr M Ventris; Cr J Willcox; Cr C Winfield.

Against: Nil.

ATTACHMENT**9.15.1 Unconfirmed Minutes of the Northcliffe Town Hall Management Committee held on 8 March 2023**

PROPONENT	Northcliffe Town Hall Management Committee
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Northcliffe Town Hall – 54-58 Zamia Street, Northcliffe
WARD:	Rural
ZONE:	Public Purposes
DIRECTORATE:	Development and Regulation
FILE REFERENCE:	F170371
LEGISLATION:	<i>Local Government Act 1995</i>
AUTHOR:	Robyn Filipiak/Peter Krispyn
DATE OF REPORT:	6 October 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

The Northcliffe Town Hall Management Committee is a Management Committee appointed by Council under the *Local Government Act 1995* to assist the Shire in the management of the Northcliffe Town Hall (the Town Hall) with the following functions in accordance with the Terms of Reference:

1. *Provide responsible management for the Northcliffe Town Hall.*
2. *Prepare a budget for consideration by Council.*
3. *Recommend fees and charges for adoption by Council.*
4. *Expend funds in accordance with the approved budget and in consultation with relevant manager.*
5. *Prepare an appropriate development plan in consultation with relevant Shire departments for Council consideration.*

The purpose of this item is to present the Committee's unconfirmed minutes for the meeting held on 8 March 2023 and detail a recommendation of the committee for Council's information/consideration.

ATTACHMENT: 9.15.1 (1)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

Following the meeting held on 8 March 2023 a request was received from the committee to have the Shire undertake the hall booking administration function due to there being no committee members available to continue to undertake this function. The delay in presenting the unconfirmed minutes to Council from the meeting held on 8 March 2023 has been due to the investigation into the booking system being undertaken. Following various options being investigated, the decision has been made to administer the

booking of the Northcliffe Town Hall through the Shire Administration Office in Manjimup.

As reflected in the unconfirmed minutes Gaye Van Hazendonk's resignation from the Northcliffe Town Hall Management Committee has been accepted by the Committee. The Committee has thanked Ms Van Hazendonk for her service and commitment to the Northcliffe Town Hall Management Committee. The Terms of Reference, adopted by Council at its special meeting on 24 October 2023 no longer

STATUTORY ENVIRONMENT:

As a Management Committee, the operation of the Northcliffe Town Hall Management Committee is required to comply with the *Local Government Act 1995*.

POLICY / STRATEGIC IMPLICATIONS:

Ongoing management of the Northcliffe Town Hall and recognition of contributions made by the community are consistent with the following strategies within the Shire of Manjimup Strategic Community Plan (2021 – 2031):

Strategy C2 – Support volunteer community groups, encourage participation (particularly in the areas of emergency management) and acknowledge contributions.

Strategy D5 – Develop and maintain community infrastructure to a service level that meets the community's needs.

ORGANISATIONAL RISK MANAGEMENT:

Nil.

FINANCIAL IMPLICATIONS:

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

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: The Northcliffe town Hall is an important communal facility for the Northcliffe community.

VOTING REQUIREMENTS:

SIMPLE MAJORITY

OFFICER RECOMMENDATION:

That Council receive the Unconfirmed Minutes of the Northcliffe Town Hall Management Committee held on 8 March 2023 as shown in Attachment: 9.15.1(1).

COUNCIL RESOLUTION:

MOVED: Eiby, W

SECONDED: Omodei, P

29361

That Council receive the Unconfirmed Minutes of the Northcliffe Town Hall Management Committee held on 8 March 2023 as shown in Attachment: 9.15.1(1).

CARRIED: 9/0

For: Cr D Buegge, Cr J Darin, Cr W De Campo, Cr W Eiby, Cr S Miolin, Cr P Omodei; Cr M Ventris; Cr J Willcox; Cr C Winfield.

Against: Nil.

**ATTACHMENT
APPENDIX**

**9.15.2 Unconfirmed Minutes of the Airfield Management Committee
held on 13 September 2023**

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Dawn Road, Manjimup
WARD:	Central
ZONE:	Public Purposes
DIRECTORATE:	Works & Services
FILE REFERENCE:	F170380
LEGISLATION:	<i>Local Government Act 1995</i> <i>Civil Aviation Safety Authority (CASA)</i> <i>Regulations 1998</i>
AUTHOR:	Catherine Mills
DATE OF REPORT:	26 September 2023
DECLARATION OF INTEREST:	Nil

BACKGROUND:

The purpose of this report is to present to Council the unconfirmed minutes of the Airfield Management Committee meeting held 13 September 2023. A copy of the unconfirmed minutes is attached.

ATTACHMENT: 9.15.2 (1)

PUBLIC CONSULTATION UNDERTAKEN:

Nil.

COMMENT (Includes Options):

There were two recommendations made by the Airfield Management Committee with both recommendations requiring Council approval.

Committee Recommendation	Officers Comment
The Committee accept the appointment of Jeff Bennett as the Department of Biodiversity Conservation and Attractions representative, accept Alison Raper as the proxy, and update the Terms of Reference accordingly.	Supported and dealt with as part of the recommendations to Council in this report.
That Council approve the transfer of \$20,000 from the Airfield Construction and Maintenance Reserve to the 2023/24 Airfield Maintenance operational budget for the required line marking.	Supported and dealt with as part of the recommendations to Council in this report.

As the Committee's recommendation to accept Jeffrey Bennett and Alison Raper (proxy) requires amendments to the Terms of Reference, the current
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Airfield Management Committee's Terms of Reference are appended for Council's review.

APPENDIX: 9.15.2 (A)

The proposed new Airfield Management Committee's Terms of Reference is included in the attachment.

ATTACHMENT: 9.15.2 (2)

The committee has also requested approval from Council to transfer money from the Airfield Construction and Maintenance Reserve for the line marking. These works have been brought to the attention of the committee after the annual technical inspection flagged the works as "immediate action required". A finding in this category relates to an issue that, in the opinion of the Airfield inspector, is a safety concern and corrective action must be taken at the earliest opportunity. Council is now asked to consider this request.

STATUTORY ENVIRONMENT:

Local Government Act 1995 and Civil Aviation Safety Authority (CASA) Regulations 1998 Part 123.

POLICY / STRATEGIC IMPLICATIONS:

The airfield services a large geographical area providing emergency access to firefighting and hospitals.

ORGANISATIONAL RISK MANAGEMENT:

There is no risk to the organisation with Council accepting the minutes and recommendations contained in this report.

FINANCIAL IMPLICATIONS:

In accordance with Council's adopted budget, with the current balance in this Reserve account is \$137,234. The proposed transfer of \$20,000 of this Reserve account will result in a remaining balance of \$117,234 left within the Reserve.

SUSTAINABILITY:

Environmental: Nil.

Economic: Nil.

Social: The Airfield is critical infrastructure to the community.

VOTING REQUIREMENTS:

ABSOLUTE MAJORITY

OFFICER RECOMMENDATION:

That Council:

1. **Receive the unconfirmed Minutes of the Airfield Management Committee Meeting held 13 September 2023, as shown in attachment: attachment: 9.15.2(1)**
2. **Approve the nomination of Jeffrey Bennett as The Department of Biodiversity Conservation and Attractions representative;**

3. Approve the nomination of Alison Raper as the Department of Biodiversity Conservation and Attractions proxy representative;
4. Adopt the amended Terms of Reference as shown in Appendix: 9.15.2(A); and
5. Approve the transfer of \$20,000 from the Airfield Construction and Maintenance Reserve to the 2023/24 Airfield Maintenance operational budget for the required line marking.

Description	Current Budget	Amended Budget	Variation
Transfer from Airfield Construction and Maintenance Reserve	(\$70,784)	(\$90,784)	(\$20,000)
Airfield Maintenance	\$20,647	\$40,647	\$20,000
Net Rate Funds			\$0

COUNCIL RESOLUTION:

MOVED: Winfield, C SECONDED: Eiby, W

29362

That Council:

1. Receive the unconfirmed Minutes of the Airfield Management Committee Meeting held 13 September 2023, as shown in attachment: attachment: 9.15.2(1)
2. Approve the nomination of Jeffrey Bennett as The Department of Biodiversity Conservation and Attractions representative;
3. Approve the nomination of Alison Raper as the Department of Biodiversity Conservation and Attractions proxy representative;
4. Adopt the amended Terms of Reference as shown in Appendix: 9.15.2(A); and
5. Approve the transfer of \$20,000 from the Airfield Construction and Maintenance Reserve to the 2023/24 Airfield Maintenance operational budget for the required line marking.

Description	Current Budget	Amended Budget	Variation
Transfer from Airfield Construction and Maintenance Reserve	(\$70,784)	(\$90,784)	(\$20,000)
Airfield Maintenance	\$20,647	\$40,647	\$20,000
Net Rate Funds			\$0

CARRIED: 9/0

For: Cr D Buegge, Cr J Darin, Cr W De Campo, Cr W Eiby, Cr S Miolin, Cr P Omodei; Cr M Ventris; Cr J Willcox; Cr C Winfield.

Against: Nil.

This item (9.5.7) was withdrawn from consideration by Council at this Ordinary Meeting by request of the landowner. The item will now be considered by Council at the 7 December 2023 Ordinary Council Meeting.

ATTACHMENT

9.5.7 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

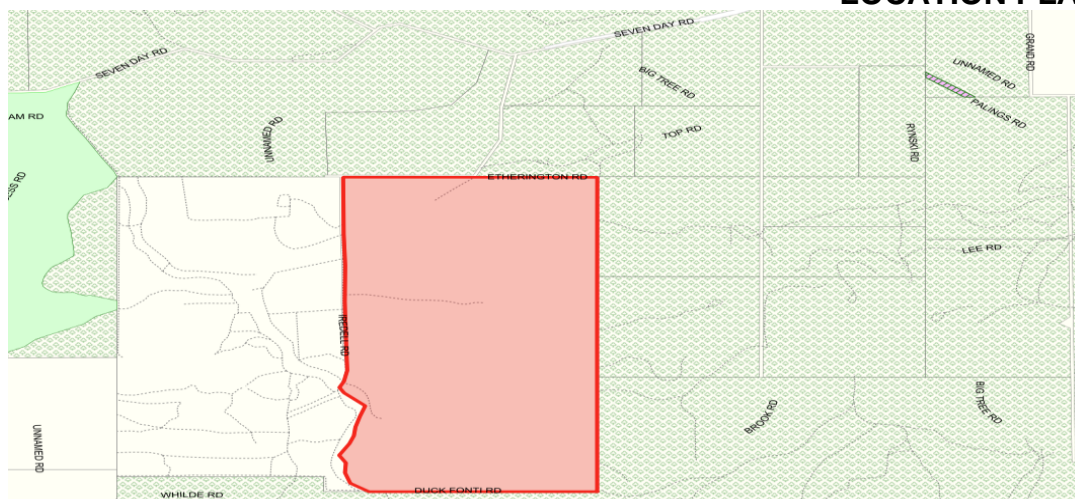
PROPONENT OWNER	Harley Dykstra Pty Ltd Mecca Holdings Pty Ltd & Red Moon Property Holdings Pty Ltd
LOCATION / ADDRESS:	Lot 100 (122) Etherington Road, Beedelup
WARD:	Rural
ZONE:	Priority Agriculture
DIRECTORATE:	Development and Regulation
FILE REFERENCE:	DA23/76 P58097
LEGISLATION:	<i>Planning and Development Act 2005</i>
AUTHOR:	Jocelyn Baister
DATE OF REPORT:	31 October 2023
DECLARATION OF INTEREST:	Nil

Council deferred consideration of this item at its Ordinary Meeting held on the 26 October 2023. The below item is represented to Council without modification. Correspondence was sent to the landowner and their representatives providing an opportunity to review the recommendation and request any amendments. At the time of writing this report no reply has been received.

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 sought. 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, a verbal 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 (donga); 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 14 seasonal workers to a total of 50, which have been placed on site and plumbed in without any approval. A copy of the proposal and plans are attached.

ATTACHMENT: 9.5.7 (1)

This report was initially prepared for the Ordinary Council meeting of the 7 September 2023, however was withdrawn from the Agenda at the request of the landowner. Subsequently, Shire Officers met with the applicant, landowner and the landowner's legal representative on site to discuss the proposal. As a result of the onsite meeting, the report has been slightly altered to reflect flexibility around the permanent dwellings on the property.

PUBLIC CONSULTATION UNDERTAKEN:

In July 2023, 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. DBCA had no objections to the proposal however provided advice related to ongoing fire management

practices. DWER advised that the proposal has the potential for impact on the environment and water resources.

The proposal was referred to DFES as Shire Officers had a differing opinion to the applicant with regards to the vulnerable land use association and the seasonal workers accommodation. DFES advised that modification to the Bushfire Management Plan (BMP) was required and that the workers brought to the site may not be familiar with the location and therefore may be less able to respond during an emergency and Council should consider this when determining if the users of the property are "Vulnerable".

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

ATTACHMENT: 9.5.7 (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 any 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 have identified the following development has occurred without the required prior approval(s):

- a dwelling and shed located 25m to the south of Etherington Road, which do 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 do not have any approvals from planning, building and health;
- a 5,142m² building being used for a Machinery Workshop and Store inclusive of office, tearoom and separate ablutions that do not have planning, building or health approvals;
- an unknown number of rural workers accommodation that do not have planning, building or health approvals (including a patio structure over the buildings that does not have building approval);
- three permanent dwellings in the cluster that have received planning approval 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.

It should be noted that the seven (7) previously authorised dwellings have no planning compliance issues.

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 Classifications

The expansion of the Agriculture – Intensive (orchards) including the main office, workshop 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 and construction of the structure used for Machinery Workshop are 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 unauthorised dwellings for permanent staff and their respective families and a four room donga, in addition to the six dwellings that have already approval, are 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.

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. For the remainder of the report the assessment will focus on the two unauthorised dwellings labelled A and J on the Site Plan.

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. The dwellings on the property cannot 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.

During conversations with the landowner onsite, Shire Officer’s were advised that as the workers were not residing in the dwellings during the day, the impacts from the agricultural activities were not an issue. Shire Officers consider this statement to not take into account other members of their family who may not be employed at the property, when the inhabitants might be unfit for work or on leave from work and staying home. Unlike other industries which have accommodation onsite, these dwellings are permanent accommodation for the staff, without another home to go to when they are not working.

Given the subject premises are 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 dwellings are 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 dwellings 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 contains 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 permanent locally based casual staff are used 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 in December 2022 to reflect farm crop diversification and longer 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 at the Cool Store, 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.

The Industry – Rural Machinery Workshop, normally attract a requirement for 50 car parking bays, however it was evident on site that parking is occurring ad-hoc and within the building itself.

Despite the demands for parking bays calculated above, it is Shire Officer's opinion that the only bays that require formalisation is those associated with the site office, labelled P on the site plan. All other parking demands at the

property is generated by employees and managed according to the use of the buildings.

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: with regards to

- 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 of 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 to additional dwellings 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 under the current Scheme. In order to provide flexibility to the landowner, as long as the development achieves compliance with the development standards of the Scheme, it is recommended that approval be granted to no more than seven (7) permanent dwellings. Two dwellings are recommended not be included in the retrospective approval and a condition relating to the removal of these buildings from the property within 90 days is included. Unless an application is received with 90 days for the relocation of the four-room donga the refusal and removal of this building from the property is also recommended.

Shire Officers are fully supportive of the increase to the Rural Workers Accommodation, subject to the compliance with other legislation and bushfire requirements, given the temporary habitation of the occupiers and the fact the occupiers would be employees only.

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 and 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, DWER and DFES. Comments from DFES indicate that it has concerns regarding the emergency evacuation plan and the emergency access to the property. It is recommended that the BMP be updated in response to the DFES comments, to the satisfaction of the Shire.

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 is to be prepared to handle potential contaminant spills and high-risk activities such as mechanical repairs be undertaken on an impervious hardstand surface.

Following site inspections, 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. An applicable advice note has been included in the recommendation in this regard.

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: 9.5.7(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, 5000m²+ 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 could be considered multiple offences under the *Building Act 2011*.

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 believed that legal action is a more appropriate deterrent for this extensive 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.

Shire Officers will be in contact with the Department of Health 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 a further report will be presented to Council at the next available meeting regarding the potential commencement of legal action.

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.

STATUTORY ENVIRONMENT:

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

As mentioned in the Comment section above, significant offences are believed to have occurred and a further report will be presented to Council with regards to legal action.

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, the Shire is upholding its regulatory function and setting a precedence to deter future unauthorised developments.

FINANCIAL IMPLICATIONS:

The required retrospective application fee has been paid by the applicant.

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 in total at Lot 100 (122) Etherington Road, Beedelup (Application TP 84/2023) in accordance with the plans and specifications attached at Attachment 9.5.7 (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
A002	Building A – Marks House	22 June 2023
A002	Building J – John's House Plan	22 June 2023

- b) Notwithstanding Condition a) above, no additional permanent dwellings are permitted to be located and used on the property, subject to compliance with development standards and to the satisfaction of the Shire of Manjimup. In this regard within 90 days of this determination two of the dwellings currently located at the property are to be removed;
- c) Unless otherwise approved an adequate supply of potable water through the provision of not less than 1 water tank is to be provided per permanent dwelling which is 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;
- d) 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;
- e) 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;

- f) A minimum of 1 accessible car bay shall be maintained on site at all times in accordance with the Australian Standard 2890.6-2009, and connected to a continuous path to the main entrance of the Office labelled Building P. The design and signage of the bay(s) and the path(s) are to be in accordance with the Australian Standard 1428.1-2009;
- g) 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 and all stormwater retained on the subject property to the satisfaction of the Shire of Manjimup;
- h) 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 (e.g. triple-interceptor) to the satisfaction of the Shire of Manjimup;
- i) An emergency response plan 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 l 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) The Asset Protection Zone (APZ) must be established within 90 days of this determination 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 Firebreak and Fuel Hazard Reduction 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 h) 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;**

- 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 four room transportable labelled J1 on the site plan shown at attachment 9.5.7 (1) for the following reasons:
- a) The building does not provide the minimum facilities to be classified as a dwelling and it is located within a cluster of permanent dwellings; and
 - b) Support of additional accommodation, which does not form part of the Rural Workers Accommodation precinct could set an undesirable precedence for accommodation in the Priority Agricultural Zone;
3. Note that a Direction Notice requiring the removal of Building J1 and two of the dwellings from the property, will be issued by the Shire of Manjimup.

10. LATE REPORTS

11. QUESTIONS FROM MEMBERS:

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

11.2 Questions from members: Nil.

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

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

14. MEETING CLOSED TO THE PUBLIC:

14.1 Matters for which the meeting may be closed.

VOTING REQUIREMENTS: SIMPLE MAJORITY

OFFICER RECOMMENDATION:

MOVED: Darin, J **SECONDED:** Omodei, P

29363

That Council goes behind closed doors to consider:

Item 14.1.1 as under Section 5.23(2) (h) it deals with such other matters as may be prescribed.

CARRIED: 9/0

For: Cr D Buegge, Cr J Darin, Cr W De Campo, Cr W Eiby, Cr S Miolin, Cr P Omodei; Cr M Ventris; Cr J Willcox; Cr C Winfield.

Against: Nil.

14.1.1 2024 Shire of Manjimup Citizen of the Year Awards

PROPONENT	Shire of Manjimup
OWNER	Shire of Manjimup
LOCATION / ADDRESS:	Whole of Shire
WARD:	All
ZONE:	Nil
DIRECTORATE:	Community Services
FILE REFERENCE:	F160394
LEGISLATION:	<i>Local Government Act 1995</i>
AUTHOR:	Emily O'Neil; Kelsie Brown
DATE OF REPORT:	23 October 2023
DECLARATION OF INTEREST:	Nil

MOVED: Darin, J **SECONDED:** De Campo, W

29364

That Council come from behind closed doors.

CARRIED: 9/0

14.2 Public reading of resolutions that may be made public.

RESOLUTION WAS READ OUT

That Council:

- 1. Suppress the names of the awardees and disclose them at 2024 Citizen of the Year Award Ceremony to be held at the Manjimup Art Gallery;**
- 2. Recommend the following awardees for the 2024 Citizen of the Year Awards;**
 - a. Citizen of the Year Name Suppressed.**
 - b. Youth Citizen of the Year Name Suppressed.**
 - c. Senior Citizen of the Year Name Suppressed.**
 - d. Active Citizenship Name Suppressed.**
- 3. Request the Chief Executive Officer to notify The Australia Day Council of Western Australia of the winners of each category, as above, by 30 November 2023.**

15. APPLICATIONS FOR LEAVE OF ABSENCE: Nil.

16. CLOSURE:

There being no further business to discuss the Shire President thanked those in attendance and closed the meeting at 7.38pm.

SIGNED:.....DATE:

**Donelle Buegge
Shire President**

Mary Nixon,
Paul Road, Wilgarrup.

Good evening Madam President, Shire councilors and shire staff.

In a letter to the then CEO Mr Andrew Campbell, dated the 24th October 2019 I raised the issue of the project at 80 Rose St. not being completed and the cost to the shire in the instance of this non completion within the three years of the lease being signed.

As the Manager for Business Development Acting CEO Mr Brian Robinson was and is very conversant with the project at 80 Giblett street from its inception; indeed the shire councilors showed their faith in his judgment and left the final iteration of the project design for him to approve.

Through the chair, could Mr. Robinson please give a summary of the costs to rate payers via waived lease monies, extension of time for completion, cost to ratepayers via staff hours working on the project, loss of "face" to the town as this prime location along the main entry way to Manjimup CBD is and has been for several years a construction site, and most unfortunately on that appears to be a purpose built as a mining camp.

Could the acting CEO also outline the conditions of the current lease and whether a sale of property can occur prior to completion of what was originally supposed to be 4 star tourist accommodation, the purpose for which it was deeded to the shire by the state government.

My second concern is a request. A request that the Manjimup Shire Council, on behalf of ratepayers and residents and in recognition of the importance of both the farm land and state forests within the shire boundaries, write forthwith to the Minister of Mines to object to the impost of the proposed \$859 fee for individuals and groups to object to mining exploration.

An right to object to a noxious industry should be a right that is freely available to all citizens and land holders.