



SHIRE OF
HARVEY



Ordinary Council Meeting **Agenda**

Australind Council Chamber

Tuesday, 23 November 2021

4PM

Shire of Harvey
Ordinary Council Meeting

Dear Councillor,

Notice is hereby given that the next meeting of the Harvey Shire Council will be held in the Australind Council Chamber, Mulgara Street, Australind, on Tuesday, 23 November 2021 commencing at 4pm.

The business to be transacted is shown in the Agenda hereunder.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Annie Riordan', with a stylized flourish at the end.

Annie Riordan
Chief Executive Officer

18 November 2021.

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1. Official Opening**Disclaimer**

Members of the Public are advised that recommendations to Council contained within this Agenda can be subject to alteration. Applicants and other interested parties should refrain from taking any action until such time as written advice is received confirming Council's decision with respect to any particular issue.

Any statement or insinuation of approval regarding any planning or development application made during an Ordinary Council Meeting is not to be taken as notice of approval from the Shire. The Shire advises that anyone who has an application lodged with the Shire must obtain and should only rely on written confirmation of the outcome of the application, and any conditions attached to the decision made by Council regarding the application.

Council Members and the Community are reminded that should an exception resolution be passed by Council, that this has the effect of making the decision, to accept the Officer Recommendation stated in the agenda, without change, as the Council's decision.

An audio and/or visual record will be made of these proceedings to assist in the taking of minutes.

Acknowledgement of Country

The Shire of Harvey acknowledges the traditional custodians of the land and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures; and to Elders both past and present.

2. Record of Apologies and Leave of Absence**3. Applications for Leave of Absence****4. Reading from a Book of Learning and Wisdom**

Read by Cr. Bromham.

5. Declarations of Members' and Officers' Personal Interest**6. Response to Previous Questions Taken on Notice****7. Public Question Time****8. Petitions/Deputations/Presentations****9. Announcements by Presiding Members or CEO Without Discussion**

10. Confirmation of Minutes

Ordinary Council Meeting - Tuesday, 26 October 2021.

Recommendation

That the Minutes of the Council Meeting held on Tuesday, 26 October 2021, as printed be confirmed as a true and correct record.

11. Receipt of Minutes and Recommendations from Committees

Bushfire Advisory Committee - Monday, 15 November 2021.

Recommendation

That the Minutes of the Bushfire Advisory Committee Meeting held on Monday, 15 November 2021, as printed be received.

12. Officer's Reports

12.1. Chief Executive Officer

Item No.	12.1.1.
Subject:	Quarterly Report, Quarter One 2021 – 2022
Proponent:	Shire of Harvey
Location:	Shire of Harvey
Reporting Officer:	Corporate and Community Engagement Officer
Authorising Officer:	Chief Executive Officer
File No.:	B000388
Attachments:	1. Quarterly Report Quarter One 2021 2022 [12.1.1.1 - 58 pages]

Summary

The Integrated Planning and Reporting Framework and Guidelines (2016) issued by the Department of Local Government, Sports and Cultural Industries (DLGSC) recommended that it is best practice for the Shire to report quarterly progress against the Corporate Business Plan to Council. This is the first Quarterly Report and covers the period 1 July 2021 – 30 September 2021 (quarter one).

During the reporting period, of the 182 projects reported against:

- 75% are on track (In Progress or Ongoing);
- 6% have been 'Completed';
- 15% are 'Not yet started';
- 2% are 'On hold';
- 1% are 'Behind Schedule'; and
- 1% 'Carried forward'.

The Quarterly Report, Quarter One 2021 – 2022 (refer **Attachment 1**) is now presented for Council to receive.

Background

Section 5.56(1) of the *Local Government Act 1995* requires all local governments to have a plan for the future of the district and under the Local Government (Administration) Regulations 1996, all local governments in Western Australia are required to have adopted two key documents: a Strategic Community Plan (SCP) and a Corporate Business Plan (CBP). These documents are supported by an Informing Strategy. Together these documents drive the development of each local government's Annual Budget.

The Integrated Planning and Reporting Framework and Guidelines (2016) issued by the DLGSC that guides the SCP and CBP process require that regular monitoring and reporting of these plans are undertaken. This quarterly update forms part of this key reporting process.

The Corporate Business Plan 2021 – 2025 sets out the projects and services the Shire aims to deliver over the next four years that work towards achieving the goals identified in the SCP. The CBP is a key business planning tool for the Shire and acts as the intermediary document between the SCP and Shire's Annual Budget. It is reviewed and updated every year, with progress and achievements reported on in the Annual Report.

The Corporate Business Plan 2021 – 2025 was adopted by Council on 27 July 2021.

Comment

The Quarterly Report is designed to provide information on the progress and milestones of key projects in the Shire's CBP for the financial year 2021 – 2022.

The projects in the Quarterly Report are presented with a commentary on the timeline for completion of the project, progress of the project and updates of specific actions relating to the project.

Noted in the Quarterly Report are some minor wording changes as a result of the annual review and reporting process to some actions and some corporate performance indicators to clarify and make them more meaningful. The targets for the corporate performance indicators are, unless stated otherwise, the annual targets from the CBP. These are part of the review process and are adjusted if targets that provide better clarity are identified. Additionally, some actions have been split into a and b sections to allow for better clarity in reporting. For Council's information, a note has been placed against the relevant actions to indicate those that have been changed in the Quarterly Report (refer **Attachment 1**).

Projects not planned to start during the current financial year in the CBP 2021 – 2025 are not reported until scheduled. Projects marked as 'Not started yet' are planned to begin this financial year but to be started later in the year. Due to projects not planned to start this financial year not being reported on, some actions have no projects listed underneath them as all projects for that action are planned for future financial years.

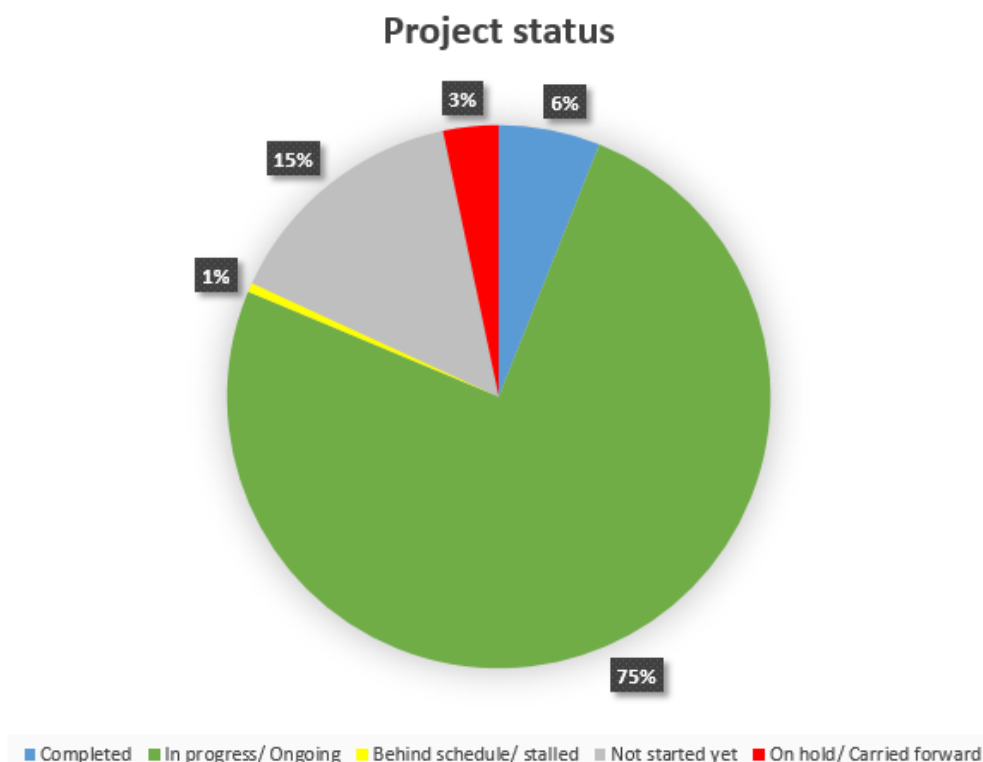
Quarter One Results

Of the 182 projects reported against:

- 11 are blue ('Completed');
- 137 are green ('In Progress' or 'Ongoing' meaning they are on track and to be delivered on time and on budget);
- one is yellow ('Behind schedule');
- 27 are grey ('Not started yet'); and
- six are red ('On hold' or 'Carried forward' meaning action has been taken to hold or defer the item).

Projects reported on as 'Behind Schedule,' 'On hold,' 'Stalled' or 'Carried forward' will continue to be monitored and required consideration of changes will be addressed through the budget development and review the process as well as the CBP review process and amendments will be made where necessary.

Project status	Definition	Number of projects	%
Completed	These projects are completed in full.	11	6%
In progress/ Ongoing	These projects are on track to be delivered on time and on budget.	137	75%
Behind schedule/ stalled	These projects have fallen behind their projected timeline or suffered a set back that has put them at risk.	1	1%
Not started yet	These projects have not started yet.	27	15%
On hold/ Carried forward	These projects have had action taken to hold or defer them.	6	3%
Total		182	100%



At the end of quarter one (30 September 2021), 11 projects were marked as 'Completed'. These include:

1.1.3	Harvey Region Tourism Strategic Plan	1.1.3.3	Conduct a feasibility study into the delivery of visitor servicing, tourism development, destination marketing, industry support and events in the region	Completed	Completed. Report presented to Council.
2.1.4	Library and Information Services	2.1.4.5	Participate in the South West Library consortia	Completed	Licence renewed for an additional five years.
2.2.1	Community Safety and Crime	2.2.1.3	Improve Riverdale Road Street lighting	Completed	Grant acquitted.
		2.2.1.4	Leschenault Leisure	Completed	Grant acquitted

	Prevention		Centre path lighting Stage 2		
2.4.3	Partnerships	2.4.3.2	Ongoing support of the South West Aboriginal Health Hub Facility	Completed	Letter of support provided.
3.1.1	Foreshore Management Plans	3.1.1.1	Partnership with Department of Biodiversity, Conservation and Attractions to implement management plans for Kalgulup Regional Park and Yalgorup National Park	Completed	Ongoing liaison with regional park Project Officer/ Coordinator
3.3.8	Single Use Plastics Policy	3.3.8.1	Implement the Single Use Plastics Policy across Shire services and facilities	Completed	Outcomes of the policy are being implemented.
3.4.1	Dune restoration	3.4.1.1	Complete the Binningup dune restoration project in partnership with Binningup Coastcare and Environment Group and Coastwest	Completed	Reporting due September – audit due October 30
5.1.1	Communication and engagement Plan	5.1.1.2	Implement the Shire's online engagement platform Have Your Say	Completed	Implemented and functioning on website.
5.3.1	Organisational Values	5.3.1.1	Develop and embed the new Organisational Values Charter	Completed	Working with staff to develop values behaviours.
5.4.5	Information Management	5.4.5.1	Undertake a review and update of the Shire's Records Management Plan	Completed	Records Management Plan provided to State Records for approval

At the end of quarter one (30 September 2021), seven projects were marked as 'On hold,' 'Carried forward' or 'Behind schedule'. These projects are:

2.2.4	Bushfire Risk Mitigation	2.2.4.1	Redevelop the Leschenault Volunteer Fire Brigade building	On hold	Funding was not received from Department of Fire and Emergency Services
3.2.2	Biodiversity Strategy	3.2.2.1	Finalise the new Biodiversity Strategy to ensure protection of environmental assets (flora and fauna)	Behind Schedule	Strategy to be finalised in conjunction with Local Planning Scheme
4.1.3	Urban Forest Project	4.1.3.1	Clifton Park Urban Forest – extension of path network	On hold	On hold pending allocation of funding.

4.3.1	Townscape Plans	4.3.1.3	Uduc Road streetscape improvements	On hold	Options being investigated.
4.4.3	Heritage Preservation and Activation	4.4.3.2	Develop and implement a Heritage Strategy that includes recommendations for the Harvey Interment Camp Shrine and museums	On hold	Meeting with Department of Planning, Lands and Heritage and Department of Education Scheduled.
4.5.1	Harvey Community Precinct	4.5.1.3	Harvey Community Precinct Stage2 construction	Carried forward	Commencement once detailed design is completed.
4.5.2	Australind Community Precinct	4.5.2.3	Australind Community Precinct Stage 1 construction	Carried forward	Commencement once detailed design is completed.

Details of the remaining 164 projects that are 'In progress,' 'Ongoing' or 'Not started yet' are outlined in the Quarterly Report (refer **Attachment 1**).

Statutory/Policy Environment

Local Government Act 1995 – Section 5.56 requests Western Australian local governments to produce a plan for the future of the district.

Local Government (Administration) Regulations 1996 states:

“A Strategic Community Plan and a Corporate Business Plan, together form a Plan for the Future of a district.”

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

Goal 5: A representative leadership that is future thinking, transparent and accountable

Objective 5.5 Integrated strategic planning and reporting to drive continuous improvement

Community Engagement

Community Participation Goal

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

No stakeholder feedback was required for the Quarterly Report however, the projects reported on in this report were included in the CBP after extensive community consultation as part of the creation of the SCP, and as part of the Annual Budget process. Once the report is adopted it will be advertised widely as well as being publicly available.

Promise to the Community

Inform: We will keep you informed.

The adopted Quarterly Report will be available on the Shire's website, with public notices made via online and print media channels (Facebook, 4 O'clock Report) as well as being disseminated through the Place Advisory Groups.

Risk Management

The Risk Theme Profile identified as part of this report is **Failure to Fulfil Compliance Requirements**. The consequence could be **Compliance** if the requirements of both the *Local Government Act 1995* and the Local Government (Administration) Regulations 1996 are not met in terms of the Shire having a plan for the future of the district. Another consequence could be **Reputational** if the public perceives that the Shire does not have the business planning tools in place to manage ratepayer money in transparent and accountable manner. The measure of Consequence is **Minor**, and the likelihood is **Unlikely**, giving an overall risk rating of **Low**. Both risks will be mitigated through adherence to the Integrated Planning and Reporting framework.

Budget Implications

The cost of the projects and actions contained within the Quarterly Progress Report as per the Annual Budget and Forward Capital Works Program.

Authority/Discretion

Executive: The substantial direction setting and oversight role of the Council e.g., adopting plans and reports, accepting tenders, directing operations, setting, and amending budgets.

Voting Requirements

Simple majority.

Officer's Recommendation

That Council receives the Quarterly Report, Quarter One 2021 – 2022 as provided in **Attachment 1**.

Item No.	12.1.2.
Subject:	Delegations Review
Proponent:	Shire of Harvey
Location:	Shire of Harvey
Reporting Officer:	Manager Governance
Authorising Officer:	Chief Executive Officer
File No.:	CC/U/003
Attachments:	<ol style="list-style-type: none"> 1. Proposed Additional Delegations [12.1.2.1 - 33 pages] 2. Existing Delegation to be Revoked [12.1.2.2 - 1 page] 3. Existing Delegation to be Amended [12.1.2.3 - 2 pages] 4. Draft Amended Policy 1.1.4 - Financial Hardship [12.1.2.4 - 4 pages] 5. Existing Policy 2.2.11 - Purchasing Policy [12.1.2.5 - 6 pages] 6. Draft Amended Policy 2.2.11 - Purchasing Policy [12.1.2.6 - 10 pages] 7. Draft Policy 2.3.15 - More than the Prescribed Number of Dogs [12.1.2.7 - 3 pages]

Summary

The purpose of this report is to provide additional direction for the Administration to efficiently perform the required functions of the Shire. Officers have reviewed Council's Delegation Register and recommends as follows:

- Adopts additional delegations (refer **Attachment 1**);
- Amends existing delegations (refer **Attachment 2**);
- Revokes one existing delegation (refer **Attachment 3**);
- Amends existing Policies (refer **Attachments 4 and 6**); and
- Adopts a new Policy (refer **Attachment 7**).

Background

A delegation is the process prescribed in legislation for assigning authority to exercise an express power or duty from the delegate (Council) to another person (Chief Executive Officer) (CEO). The aim of delegated authority is to assist with improving the time taken to make decisions within the constraints allowed by the relevant legislation.

In line with the *Local Government Act 1995*, a Council is required to provide good governance to the people in the district and be predominantly concerned with higher level policy matters for their local government. Duties and powers which are operational in nature, but exercise a discretion, should be delegated to the CEO. Powers and duties can be delegated to CEOs with conditions attached which limits the exercise of powers or discharge of duties to circumstances prescribed by the Council. For example, a permit application which does not satisfy the conditions attached to a delegation, must be referred to the Council for determination.

At its Ordinary Meeting held on 24 November 2020, Council adopted a new Delegations Register prepared by Officers in accordance with the Delegations Template produced by the Western Australian Local Government Association (WALGA).

Officers have reviewed the Delegations Register against WALGA's Template and of the existing 105 delegations within the current Template, Council has adopted 54 of these.

This report proposes the adoption of:

- A further 33 delegations;
- Minor amendments to one existing delegation; and
- The revocation of one existing delegation.

Comment

As a result of the review against WALGA's Template, the following provides briefing details of additional delegations proposed (refer **Attachment 1**):

Local Government Act 1995

- 1.3.2 Audit Committee – delegates some duties to the Audit Committee;
- 1.1.10 Performing functions outside the district – determine circumstances where it is appropriate for functions to be performed outside the district;
- 1.1.11 Compensation – damage incurred when performing executive functions – assess and determine extent of damage to private property arising directly from the performance of executive functions and make payment of compensation;
- 1.1.12 Powers of entry – provides power to enter land to perform a function under the Act;
- 1.1.13 Declare vehicle is abandoned vehicle wreck – declare that an impounded vehicle is an abandoned vehicle wreck;
- 1.1.14 Confiscated or uncollected goods – refuse to allow impounded goods to be collected until costs paid. Sell or otherwise dispose of confiscated or uncollected goods or vehicles and recover expenses for the disposal;
- 1.1.15 Disposal of sick or injured animals – determine when an impounded animal is ill or injured and to humanely destroy and dispose when treatment is not practicable;
- 1.1.16 Control reserves and certain unvested facilities – agree to method for control and management of unvested facility partially located within two or more local government districts;
- 1.1.17 Obstruction of footpaths and thoroughfares – authority to determine matters relating to the obstruction of footpaths and thoroughfares;
- 1.1.18 Gates across public thoroughfares – authority to determine requests for the installation of gates across public thoroughfares;
- 1.1.19 Public thoroughfares – dangerous excavations - authority to determine matters relating to dangerous excavations near a public thoroughfare;
- 1.1.20 Crossing – construction, repair and removal - authority to determine matters relating to crossovers;
- 1.1.21 Private works on, over or under public places - authority to determine matters relating to private works near public places;
- 1.1.22 Give notice to prevent damage to local government property from wind erosion and sand drift – giving notice to landowner/occupier that clearing land may cause adjoining local government

land to be affected by wind erosion or sand drift;

- 1.1.23 Expressions of interest for goods and services – determine when to seek, and invite, expressions of interest for the supply of goods or services;
- 1.1.24 Rate record amendment – determine any requirement to amend the rate record for the 5 years preceding the current financial year;
- 1.1.25 Agreement as to payment of rates and service charges – make an agreement for the payment of rates or service charges in accordance with Council Policy 1.1.4 - Financial Hardship;
- 1.1.26 Recovery of rates or service charges – recover rates or service charges, and costs of the recovery, in court and lodge or withdraw a caveat to preclude land dealings where payment of rates or service charges are in arrears;
- 1.1.27 Recovery of rates debts – require lessee to pay rent – require lessee to pay its rent to the Shire where unpaid rates or service charges exist;
- 1.1.28 Recovery of rates debts – actions to take possession of the land – take possession of land where rates or services charges remain unpaid for at least 3 years;
- 1.1.29 Rate record – objections – extend time for a person to make an objection to a rate record and to consider the objection;
- 1.1.30 Renewal or extension of contracts during a State of Emergency – execute a renewal or extension to the term of a contract that will expire within 3 months, for a period up to 12 months without calling for tenders. This new delegation requires amendments to Council Policy 2.2.11 Purchasing; and
- 1.1.31 Procurement of goods or services required to address a State of Emergency – determine particular goods or services with a certain purchasing value are required for the purpose of addressing a hazard to which a State of Emergency declaration relates. This new delegation requires amendments to Council Policy 2.2.11 Purchasing.

Building Act 2011

- 2.1.7 Inspection and copies of building records – determine a request to inspect and copy a building record;
- 2.1.8 Referrals and issuing Certificates – refer uncertified applications to a building surveyor who is not employed by the local government. Issue a certificate whether or not the land is located within the district;
- 2.1.9 Private pool barrier – alternative and performance solutions – approve alternative and performance solutions for private swimming pool barriers; and
- 2.1.10 Smoke alarms – alternative solutions - approve alternative solutions for fire detection and early warning.

Dog Act 1974

- 5.1.9 Kennel establishments – determine an application for a kennel licence; and
- 5.1.10 More than the prescribed number of dogs – allow more than the prescribed number of dogs.

Food Act 2008

6.1.7 Debt recovery - allows the recovery of costs incurred to store and dispose of seized items.

Graffiti Vandalism Act 2016

7.1.2 Notices – deal with objections and give effect to notices – determine an objection to a notice and take action to give effect to notice;

7.1.3 Obliterate graffiti on private property – remove graffiti on private property without consent of the landowner or occupier; and

7.1.4 Powers of entry – give notice of intended entry and obtain warrant to enable entry.

Minor amendments are proposed to the following existing delegation (refer **Attachment 2**):

9.1.1 Advertising of applications – removal of references to clause 34 for consistency with recent amendments to the Planning and Development (Local Planning Schemes) Regulations 2015;

The following existing delegation is proposed to be revoked (refer **Attachment 3**):

4.1.4 Appoint authorised persons – the relevant section of the Cat Act 2011 has been deleted and appointing authorised persons under this Act is included in existing delegation 1.2.1 Appointment of authorised persons.

Due to proposed new delegations, existing Council Policies require amendments and a new Policy is proposed as follows:

1.1.4 Financial Hardship Policy – this requires amendment to relate to rates and service charges levied for the 2021 – 2022 financial year (refer **Attachment 4**);

2.2.11 Purchasing Policy – this requires amendment to:

- Update sections relating to policy objectives, purchasing thresholds, tender exemption, sole source of supply and anti-avoidance; and
- Include provisions relating to emergency purchases, contract renewals, extension and variations, sustainable procurement, record keeping and non-compliance with the Policy.

These proposed amendments will bring this Policy into alignment with WALGA's Template Policy. **Attachment 5** provides the current Policy with proposed amendments identified and **Attachment 6** provides the proposed amended Policy; and

2.3.15 More than the prescribed number of dogs – this new Policy details the assessment process to be utilised by Officers when exercising proposed delegation 5.1.10 (refer **Attachment 7**).

It is to be noted that despite Officers having delegations, Officers will in some instances not exercise the delegation and refer the matter to Council for determination.

Statutory/Policy Environment**Local Government Act 1995****5.42. Delegation of some powers and duties to CEO**

(1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge

of any of its duties under —

- (a) this Act other than those referred to in section 5.43; or*
- (b) the Planning and Development Act 2005 section 214(2), (3) or (5).*

** Absolute majority required.*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*

5.43. Limits on delegations to CEO 28

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority of the council;*
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) appointing an auditor;*
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;*
- (f) borrowing money on behalf of the local government;*
- (g) hearing or determining an objection of a kind referred to in section 9.5;*
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;*
- (h) any power or duty that requires the approval of the Minister or the Governor;*
- (i) such other powers or duties as may be prescribed.*

5.44. CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.*
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —*
 - (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and*
 - (b) the exercise of that power or the discharge of that duty by the CEO's delegate, are subject to any conditions imposed by the local government on its delegation to the CEO.*

(4) *Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.*

(5) *In subsections (3) and (4) — conditions includes qualifications, limitations or exceptions.*

5.45. *Other matters relevant to delegations under this Division*

(1) *Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —*

(a) *a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and*

(b) *any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.*

(2) *Nothing in this Division is to be read as preventing —*

(a) *a local government from performing any of its functions by acting through a person other than the CEO; or*

(b) *a CEO from performing any of his or her functions by acting through another person.*

5.46. *Register of, and records relevant to, delegations to CEO and employees*

(1) *The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.*

(2) *At least once every financial year, delegations made under this Division are to be reviewed by the delegator.*

(3) *A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.*

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

Goal 5: A representative leadership that is future thinking, transparent and accountable.

Objective 5.3 Accountable leadership supported by a professional and skilled administration.

Objective 5.4 Sound governance, including financial, asset and risk management.

Community Engagement

Community Participation Goal

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

Promise to the Community

Inform: We will keep you informed.

Risk Management

The Risk Theme Profile identified as part of this report is **Business and Community Disruption, Failure to Fulfil Compliance Requirements and Inadequate Document and Management Practices**. The Consequence could be **Financial, Service Interruption, Compliance or Reputational**. The risk is considered **Minor** and the likelihood **Unlikely**, given that the Delegations are based on model templates in line with legislation, and where identified, checked by qualified professionals. This results in a **Low** risk being present.

Budget Implications

Nil.

Authority/Discretion

Legislative: Includes adopting local laws, town planning schemes and policies. It is also when Council reviews decisions made by Officers.

Voting Requirements

Absolute Majority

Officer's Recommendation

That Council:

1. Adopts the following additional Delegations as contained within **Attachment 1**;

Local Government Act 1995

- 1.3.2 Audit Committee;
- 1.1.10 Performing functions outside the district;
- 1.1.11 Compensation;
- 1.1.12 Powers of entry;
- 1.1.13 Declare vehicle is abandoned vehicle wreck;
- 1.1.14 Confiscated or uncollected goods;
- 1.1.15 Disposal of sick or injured animals;
- 1.1.16 Control reserves and certain unvested facilities;
- 1.1.17 Obstruction of footpaths and thoroughfares;
- 1.1.18 Gates across public thoroughfares;
- 1.1.19 Public thoroughfares;
- 1.1.20 Crossing – construction, repair and removal;
- 1.1.21 Private works on, over or under public places;
- 1.1.22 Give notice to prevent damage to local government property from wind erosion and sand;
- 1.1.23 Expressions of interest for goods and services;
- 1.1.24 Rate record amendment;
- 1.1.25 Agreement as to payment of rates and service charges;
- 1.1.26 Recovery of rates or service charges;
- 1.1.27 Recovery of rates debts – require lessee to pay rent;
- 1.1.28 Recovery of rates debts – actions to take possession of the land;
- 1.1.29 Rate record – objections;
- 1.1.30 Renewal or extension of contracts during a State of Emergency;
- 1.1.31 Procurement of goods or services required to address a State of Emergency;

Building Act 2011

- 2.1.7 Inspection and copies of building records;
- 2.1.8 Referrals and issuing Certificates;
- 2.1.9 Private pool barrier;
- 2.1.10 Smoke alarms – alternative solutions;

Dog Act 1974

- 5.1.9 Kennel establishments;
- 5.1.10 More than the prescribed number of dogs;

Food Act 2008

- 6.1.7 Debt recovery;

Graffiti Vandalism Act 2016

- 7.1.2 Notices – deal with objections and give effect to notices;
- 7.1.3 Obliterate graffiti on private property; and
- 7.1.4 Powers of entry;

2. Amends the following existing Delegation as contained in ***Attachment 2***:

- 9.1.1 Advertising of applications;

3. Revokes the following existing Delegation as contained in ***Attachment 3***:

- 4.1.4 Appoint authorised persons;

4. Amends the following existing Policies as contained in ***Attachments 4 and 6***:

- 1.1.4 Financial Hardship Policy;
- 2.2.11 Purchasing Policy; and

5. Adopts the following new Policy as contained in ***Attachment 7***:

- 2.3.15 More than the prescribed number of dogs.

BY ABSOLUTE MAJORITY

Item No.	12.1.3.
Subject:	Behaviour Complaints Committee Member Nominations
Proponent:	Shire of Harvey
Location:	Shire of Harvey
Reporting Officer:	Governance Compliance Officer
Authorising Officer:	Chief Executive Officer
File No.:	CC/C/002
Attachments:	Nil

Summary

The purpose of this report is to recommend the appointment of three Committee Members and three Deputy Committee Members to the Behaviour Complaints Committee.

Background

On 3 February 2021, the Local Government (Model Code of Conduct) Regulations introduced a mandatory Code of Conduct for Council Members, Committee Members and Candidates. The purpose of the Model Code is to guide decisions, actions and behaviours of Council Members, elected and unelected Committee Members and Candidates in Local Elections.

The Code of Conduct Complaints Policy was endorsed by Council at its Ordinary Meeting held on 27 July 2021 and as a result the Behaviour Complaints Committee (the Committee) was enacted. The Committee was established in accordance with Section 5.8 of the *Local Government Act 1995* (the Act).

The purpose of the Behaviour Complaints Committee is to deal with Behaviour Complaints made under Division 3 of the Shire of Harvey's Code of Conduct for Council Members. Committee Members and Candidates (Code of Conduct). Delegation No. 1.3.1 provides the Committee with the authority to:

- 1. Authority to make a finding as to whether an alleged breach, the subject of a complaint, has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur [MCC.cl.12(1) and (3)].*
- 2. In making any finding the Committee must also determine reasons for the finding [MCC.cl.12(7)].*
- 3. Where the finding is made that a breach has occurred, the authority to:*
 - a) take no further action [MCC.cl.12(4(a)); or*
 - b) prepare and implement a plan to address the behaviour of the person to whom the complaint related [MCC.cl.12(4)(b), (5) and (6)].*
- 4. Authority to dismiss a complaint and if dismissed, the Committee must also determine reasons for the dismissal [MCC.cl.13(1) and (2)].*

Given the recent Local Government Election, on 16 October 2021, all Council Committees, Advisory Groups and Delegate Committees require new appointments. Appointments to Council Committees, Advisory Groups and Delegate Committees are for a term of two-year coinciding with Local Government Elections in October, with the majority of appointments occurred at the Special Council Meeting on 18 October 2021.

Comment

The committee consists of Elected Members only, and the membership will comprise of at least three Committee Members and three Deputy Committee Members, appointed by Council in accordance with Section 5.10 and 5.11A of the Act. The Delegated Authority Condition prescribes that if an appointed Committee Member is identified in the Complaint as either the Complainant or the Respondent, they are to excuse themselves from the Committee's function by providing an apology. They are to be replaced for the duration of the handling of the subject Complaint by a Deputy Committee Member, selected by the Presiding Member of the Committee.

It is recommended that Council appoints three Committee Members and three Deputy Committee Members.

Statutory/Policy Environment

Local Government Act 1995: Sections, 5.8, 5.10, 5.11A and 5.16.

Local Government (Model Code of Conduct) Regulations 2021.

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

- Goal 5: *A representative leadership that is future thinking, transparent and accountable.*
- Objective 5.2 *Build partnerships and work collaboratively to amplify the outcomes that can be achieved*
- Objective 5.3 *Accountable leadership supported by a professional and skilled administration*
- Objective 5.4 *Sound governance, including financial, asset and risk management*

Community Engagement

Community Participation Goal

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

Promise to the Community

Inform: We will keep you informed.

Risk Management

The Risk Theme Profile identified as part of this report is **Compliance**. The Consequence could be **Compliance** if appointment to Committees is non-compliant with the statutory requirements. The risk is considered **Minor** and the likelihood **Unlikely**, given that it is mitigate by the report recommending the appointment to the Committee being by Absolute Majority, resulting in a **Low** Risk being present.

Budget Implications

Councillors are paid an annual allowance in lieu of individual meeting fees and the Budget includes an allocation for travel costs for meeting attendance.

Authority/Discretion

Legislative: Includes adopting local laws, town planning schemes and policies. It is also when Council reviews decisions made by Officers.

Voting Requirements

Absolute Majority.

Officer's Recommendation

That Council, pursuant to section 5.10(1) and 5.11A(1) of the *Local Government Act 1995*, appoints the following Elected Members as Committee and Deputy Committee Members to the Behaviour Complaints Committee for a two-year term expiring at the Ordinary Local Government Election October 2023:

Committee Members	1. Cr. _____
	2. Cr. _____
	3. Cr. _____

Deputy Committee	1. Cr. _____
Members	2. Cr. _____
	3. Cr. _____

BY ABSOLUTE MAJORITY

Item No.	12.1.4.
Subject:	Australind Community Precinct Consultation and Workshop Outcomes
Proponent:	Shire of Harvey
Location:	Australind
Reporting Officer:	Director Community and Lifestyle
Authorising Officer:	Chief Executive Officer
File No.:	B000372
Attachments:	<i>As per tabled Confidential Attachment 1</i>

Summary

This report presents the outcomes of a presentation and workshop based on an independent feasibility study and findings from the community consultation and engagement process that was undertaken to consider the needs in developing the Australind Community Precinct.

Officers are seeking Council support for the preferred Options that will be used to inform and finalise the Australind Community Precinct Feasibility Plan.

Background

Whilst engaging Council and community in dialogue surrounding the Harvey Community Precinct Project, it became apparent that there may be a necessity to develop both of the Shire's existing Civic and Community Centres, currently located in Australind at Mulgara Street and in Harvey at Uduc Road, simultaneously.

As a result, the Shire engaged a consultant to investigate both facilities from a workforce perspective to better understand the need behind redeveloping both facilities at the same time. Through this process, it was recognised that the library facilities and administration centre in Australind are currently undersized relative to the current and growing population needs, and that the community does not have access to fit-for-purpose community facilities.

A six-week consultation period with community on the identified locations and to provide input into the Feasibility Plan for the proposed Australind Community Precinct. Additionally, the Public were asked to identify their needs and future uses of the new facilities.

A workshop was convened with Councillors to receive the outcomes from the six-week community engagement process and discuss the findings and options. A report presenting the findings from the community consultation and engagement process was prepared for the September Ordinary Council Meeting. That report also requested Councillors to support a recommendation made to inform and finalise the Australind Community Precinct Feasibility Plan.

In providing preferred options, Officers considered economic and financial opportunities and costs, social connectivity, community needs and the environmental impacts to determine the recommendation made.

At its Ordinary Meeting held in September 2021, Council resolved the following:

That Council defer the decision until the November 2021 Ordinary Council Meeting in order to provide for further consideration of the options presented by Council.

During October 2021, Shire Officers were approached by the developer of the Treendale District Centre with an offer to purchase vacant land opposite the Treendale Shopping Centre. This site offers many of the positive attributes of the Australind Village Shopping Centre site, whilst addressing some of the negative feedback directed at the other options offered during the Community consultation. A workshop and feasibility presentation was held with Shire Officers and Councillors on 1 November

2021. The objectives were:

- To determine what factors were important for each location and discuss the pros and cons of each of the five options for the location of the Australind Community Precinct; and
- To discuss how best to provide clear direction on this matter at the November 2021 Ordinary Council Meeting.

The options presented included:

Option 1 – Existing Australind Administration Centre site:

- Location: Lot 208 (No. 5) Mulgara Street, Australind
- Site Size: 17,692m²
- Existing site features: Civic offices, town hall, library, youth centre, public parking, and driveways.

Option 2 – Leschenault Leisure Centre (LLC) site:

- Location: Lot 42 Leisure Drive, Australind
- Site size: 60.3ha
- Existing site features: Leschenault Leisure Centre
- Proposed site: Unused portion of the site, behind east of the existing centre.

Option 3 – Treendale “Triangle” site:

- Location: Lot 20 Grand Entrance, Australind
- Site size: 16,402m²
- Existing site features: Vacant lot.

Option 4 – Potential “new” Treendale site:

- Location: Lot 9536 The Promenade, Australind
- Site Size: 54,469m²
- Existing Site Features: Vacant lot

Option 5 – Facilities split over two or more sites

This report provides a summary of the key insights from the Workshop held on 1 November 2021 and discusses the two options for consideration in informing the final Australind Community Precinct Feasibility Plan.

Comment

Officers have considered the financial, social, and environmental advantages and challenges of each location for the future proposed Australind Community Precinct and considered these technicalities together with the critical feedback received from the community. The following location options were presented and discussed at the November 2021 Workshop:

Option 1: Current location in Australind***Outcome Option: Redevelop part of the current site and sell the remainder***

The current location will require a redevelopment through the demolition of the current facilities to recreate a purpose fit, multistorey building that caters for civic and community facilities that meets current and future community needs. This location was preferred by approximately 40% of the 180 respondents to the survey, due to the walking and transport options.

Selling part of the land to a developer would maximise on the opportunity for the project due to its proximity to the Leschenault Estuary. It is considered the economic and tourist benefits that this location provides will add to the future amenity and social opportunity of the area.

Option 2: Leschenault Recreation Park (LRP)***Outcome: Do not develop***

This is a readily available opportunity that presents minor social, environmental, and financial impacts in developing the Australind Community Precinct. This is Shire land held in freehold, with parking and an internal road network readily available. The site is accessed by a number of roads with public transport availability.

It has been raised in the community consultation that this location is valued by the community for its green open space and that currently there is significant traffic congestion due to community sport in the evening and on weekends. It is considered that a civic and community precinct would activate the site during business hours when it is currently quieter with pedestrian and vehicle traffic.

Option 3: Treendale Site (Triangle)***Outcome: Do not develop***

This site is not freehold land, is owned by the Crown, but is zoned for community use, meaning it can be developed by the Shire for community use, but not easily sold to a third party. There are environmental challenges in that it is the current breeding ground for the Banded Lapwing bird. This was raised during the consultation period by concerned members of the public as evidenced in the Consultation Report.

There are some accessibility challenges to this site, due to the busy road network surrounding the site and limited growth options for the footprint of the development and future expansion.

Option 4: Treendale Site (opposite the Treendale Shopping Centre)***Outcome Option: Purchase the site for development***

The site does not have any known environmental or traffic constraints as identified in Option 3, however would require financial investment from the Shire.

This option is advantageous in its proximity to existing retail, has the potential for creation of sufficient parking, is central to a high growth area and allows for the creation of a town square for Treendale and Australind.

Should this option be the preferred way forward, support mechanisms for members of community could be considered to alleviate challenges identified in the Consultation Report.

Option 5: Multiple Locations***Outcome: Do not develop***

Councillors discussed the nature and type of community and civic facilities intended for each location being Australind (community facilities) and LRP (civic facilities) and this option was confirmed as inappropriate.

Pros and Cons of the two preferred options

After examining each of the five locations above, the options were reduced to two, with the pros and cons of each summarised below:

Option 1: Current location in Australind***Pros:***

- This is the recognised historical location, with links to Henton cottage;
- Accessible by foot and vehicles, serviced by public transport and usually available parking;
- The iconic location at the Estuary foreshore enhances tourism value;
- With further discussion, there is land sale /development potential with Australind Village Shopping Centre owners, retaining 1Ha of land for Shire development;
- Facilities are adjacent to retail activity, with the potential to re-energise the centre; and
- If developed on prime tourism area, the facility would have street visibility.

Cons:

- Disruption to staff and services to public, this would delay the project;
- Current location is to the rear of the shopping centre and loading zone;
- Financial implications - demolition of current facilities, services and possible tree removal will add to the costs;
- Financial implication - Temporary housing of Library, Administration staff and front counter servicing;
- Potential delay to community project if a Master Plan is to be developed by the owner and shire to achieve the best outcome; and

- Parking garage would be required to ensure adequate facilities are maintained.

Option 4: Treendale Site (opposite the Treendale Shopping Centre)***Pros:***

- This is a greenfield site, with minimal constraints;
- Centralised location and easy access to current and future residential growth;
- Accessible by foot and vehicles, serviced by public transport and generally available parking;
- No disruption to staff or services to the public;
- Provision of a central town square, Shire offices and community facilities would encourage and revitalise/activate current and future retail, commercial and residential development;
- Immediate informal parking is available on adjacent land, allowing for stage infrastructure costs; and
- Sale of the Australind site would offset and add funding to the Treendale development.

Cons:

- Purchase of 1 ha of land from developer; and
- Community consultation and information required.

Common pros and cons applicable to both sites***Pros:***

- Sale of residential sites to the East of the Australind site (originally purchased as investment);
- Iconic, modern facilities to be built, fit-for-purpose and built for future needs;
- Both would be a multi-purpose, staged double-storey development;
- Provision of safe public amenity;
- Re-energise existing retail and encourage future development;
- Permeability of pedestrians through the site; and
- Draw for youth.

Cons:

- Parking facilities will need to be addressed; and
- Both sites are equidistant to the Shire of Dardanup's new development.

Discussion on Options

Rapid population growth of 3.24% per annum over the past ten years is set to continue within the Shire, with an additional 1,200 – 1,500 lots to be made available in the adjacent area of East Treendale in the future. The Shire is planning for the anticipated new level of demand for services and infrastructure in this area. The construction of the extension to The Promenade (to link with Kingston Drive) and supplementary road networks and main intersections, together with the Bunbury Outer Ring Road, direct traffic flow into and around the Australind – Leschenault area.

Both sites offer unique opportunities to build multipurpose community facilities that maximise on the potential to activate a socially connected, safe and accessible community. This approach provides the greatest flexibility when entering the design phase to tailor infrastructure and services that meet the differing needs and requirements of the community. Treendale is ideally placed to take advantage of the potential growth opportunities of further developments, as required, to meet the growing population needs. However, some long-term residents of Australind have noted their preference for the facilities at Australind to remain at that location.

Green open space is a valued asset recognised by the community and upheld by the Shire. This can be achieved at both sites, with potential compromises made at Australind.

An estimated timeframe and Conceptual Block Development Plans are included in the consultant's preliminary Feasibility Report (**Confidential Attachment 1**).

Process moving forward

The Chief Executive Officer is to instruct the consultant:

- To amend and complete the Feasibility Plan to include the new Treendale site;
- To include the estimated costs of the development options, based on a dollar per square meter basis;
- To include a traffic analysis; and
- To ensure that the project scope reflects the requirements noted in the Community Consultation report, but within budget or as a staged future development.

Shire Officers will design a new methodology based on the decision of the Council. This will:

- Establish the overall principals; for example: Value for Money - *“Council is responsible for administering effective decision making that is underpinned by effective financial management and best value to community”*;
- Sell key messages; for example: “42% of people aged between 35-54 indicated the *“Development and activation of your local town centres”* as *“poor to terrible”* MARKYT Community Scorecard January 2021;
- Formalise a Community Reference Group for each Precinct;
- Implement a further six-week Community Consultation Plan;

- Ensure that the lessons learnt on the last Australind Community Precinct Communication plan are incorporated to communicate the Vision for the Future; and
- Comprehensive review of all engagement with community e.g. MARKYT Community Scorecard, etc.

The two sites will be presented to the community for consideration.

The outcomes of this consultation are to be presented to Council in February 2022 for a decision on the preferred option.

Statutory/Policy Environment

N/A

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

- | | |
|----------------------|--|
| <i>Goal 4:</i> | <i>A liveable, sustainable and well-designed built environment that is accessible to all</i> |
| <i>Objective 4.5</i> | <i>Shire buildings, gardens and grounds are fit for purpose and well maintained</i> |
| <i>Goal 5:</i> | <i>A representative leadership that is future thinking, transparent and accountable.</i> |
| <i>Objective 5.1</i> | <i>Effective communication and engagement with the community</i> |

Community Engagement

Community Participation Goal

Involve: To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.

Promise to the Community

Involve: We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.

Risk Management

The Risk Theme Profile identified as part of this report is **Failure to communicate effectively with the community**. The Consequence could be **Reputational** if a Feasibility Plan is not completed. The risk is considered **Medium** but has been mitigated by the implementation of a Communication and Engagement Plan, with follow-up consultations as required. The likelihood is lowered to **Unlikely**, given that the Council have been consulted at the start of the process, independent consultants have issued the Shire Officers with the basis for a sound development, and that the public will be consulted through a variety of communication channels. This results in a **Low to Medium** risk rating being present.

Budget Implications

The Shire's Annual Budget 2021 – 2022 nominated project management funds to conduct the necessary investigations, consultation, and reports. This includes funding sources for the community and library facilities. Estimated costs have been determined on a dollar value based on the square

meterage of the concept block plan, as provided by the consultant in the preliminary Feasibility Report (**Confidential Attachment 1**).

Authority/Discretion

Executive: The substantial direction setting and oversight role of the Council. e.g., adopting plans and reports, accepting tenders, directing operations, setting, and amending budgets.

Voting Requirements

Simple Majority

Officer's Recommendation

That Council:

1. Adopts the two preferred locations for the Australind Community Precinct as:
 - a) Lot 208 Mulgara Street and Paris Road, Australind; and
 - b) Portion of Lot 9536 The Promenade, Australind (Treendale District Centre);
2. Consults with the community on the adopted two preferred locations; and
3. Receives a report in February 2022 to:
 - a) Receive the outcomes of the community consultation; and
 - b) Determine the site for the Australind Community Precinct.

12.2. Infrastructure Services

Item No.	12.2.1
Subject:	Application for Exemption to Keep More than the Prescribed Number of Dogs
Proponent:	Shire of Harvey
Location:	Harvey
Reporting Officer:	Manager Waste and Safety Services
Authorising Officer:	Director Infrastructure Services
File No.:	A001649
Attachments:	Confidential Attachment 1 – Item No. 12.2.1 Confidential Attachment 1a

Summary

An application has been received for an exemption to keep more than the prescribed number of dogs on a property in Harvey.

Following an assessment of the application, it is recommended that Council approves the application as per the recommendation contained in the confidential attachment (refer **Confidential Attachment 1 – Item No. 12.2.1 and Confidential Attachment 1a**)

Background

In accordance with the *Doc Act 1976*, it is a requirement that all dogs within the Shire of Harvey be registered. The dog owner needs to complete the relevant application form (Form 4) and pay the prescribed registration fees.

If a person, when registering a dog, discloses that it is for more than the prescribed number of dogs, more than two at any one property (unless the property is zoned General Farming or Intensive Farming), they are provided with an application form for the keeping of more than the prescribed number of dogs on any one property.

Once the Shire's Administration receives the completed form, Shire Rangers assess the application and adjoining owners are consulted.

Comment

The current application was considered and reviewed based on feedback received, suitably of the property to contain the number of dogs, history of complaints received and the welfare of the dogs including:

- Provisions of shade/water;
- Property fences;
- General condition of dogs;
- Cleanliness of property; and
- Size of property.

Statutory/Policy Environment

Dog Act 1976 – Section 26. Controls the number of dogs permitted. Section 26 (3) allows the Local Government to grant an exemption in respect of a limit on the keeping of dogs in any specified area.

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

<i>Goal 2:</i>	<i>A safe, accessible and connected community where everyone has the opportunity to contribute and belong.</i>
<i>Objective 2.2</i>	<i>Create a community where people are safe.</i>

Community Engagement

Community Participation Goal

Involve: To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.

Correspondence was sent to direct neighbouring properties advising of an application in their area.

Promise to the Community

Consult: We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision. We will seek your feedback on drafts and proposals.

Any comments received regarding the application are advised of the outcome of the application.

Risk Management

The Risk Theme Profile identified as part of this report is **Inadequate Environment Management** (considered the neighbourhood environment). The Consequence would be **Environment** if there are any justified complaints received due to a third dog being located at the premises. The Consequence rating is considered **Moderate** and the Likelihood as **Possible**, giving a **Moderate** rating.

Budget Implications

Nil.

Authority/Discretion

Quasi-Judicial: When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town development applications, building permits, applications for other permits/licenses (e.g. under *Health Act*, *Dog Act* or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

Voting Requirements

Simple Majority.

Officer's Recommendation

That Council approves the application as per ***Confidential Attachment 1 – Item No. 12.2.1.***

Item No.	12.2.2.
Subject:	Tender T102021 - The Promenade Extension
Proponent:	Shire of Harvey
Location:	Treendale (Locality of Australind)
Reporting Officer:	Manager Design and Development
Authorising Officer:	Director Infrastructure
File No.:	T102021
Attachments:	Confidential Attachment 1 – Item No. 12.2.2

Summary

Tender T102021 for The Promenade Extension (Paris Road to Ditchingham Place) closed on 28 October 2021 and at the close of tender, two tenders were received.

Following a detailed assessment of the tender submissions, the Evaluation Panel considered that the lowest tender received represented the best value for the Shire's operations. This report recommends that Council accepts the tender as per the recommendation contained in the confidential attachment (refer **Confidential Attachment 1 – Item No. 12.2.2**).

Background

Tenderers were advised that the Shire was seeking the services of suitably qualified contractors to undertake the construction of The Promenade Extension (Paris Road to Ditchingham Place). Works comprise the following:

- Preparation and implementation of a Safety Management Plan (including Traffic Management);
- Clearing and earthworks;
- Drainage – pipework and bioretention gardens;
- Road construction;
- Shared Path construction;
- Street lighting;
- Linemarking and signage;
- Landscaping; and
- Provision of all required QA and as-constructed drawings.

Details of all tenders received are included in **Confidential Attachment 1 – Item No. 12.2.2**.

Comment

Tenders Received

Tenders were received from Geographe Civil and GMF Contractors. The following evaluation criteria was applied in the assessment of the tenders:

Evaluation Criteria	Weighting
1. Financial Offer: <ul style="list-style-type: none"> The price shall include all costs and disbursements to provide the required service. Represents the "best value" for money for the Shire 	40%
2. Demonstrated Experience and Proposed Construction Methodology: <ul style="list-style-type: none"> Tenderers to provide full details of similar projects undertaken within the last two years A proposed phasing of works to minimise traffic disruption 	30%
3. Capability (Performance and Flexibility): <ul style="list-style-type: none"> Tenderers to submit evidence of the ability to provide timeous response in the provision of works Availability of site personnel (especially in the event of after-hours call-outs i.e. traffic management) Percentage of local content 	30%
TOTAL	100%

The Tender Evaluation Panel included the Manager Engineering Services, Manager Design and Development and Director Infrastructure Services. Each tender submission was assessed using the above criteria. The assessment is contained within **Confidential Attachment 1**.

Statutory/Policy Environment

Section 3.57 of the *Local Government Act 1995*, and Part 4 Local Government (Functions and General) Regulations 1996, provides a mechanism for the purchase of goods and services by Public Tender.

Regulation 18 of Local Government (Functions and General) Regulations 1996 – Choice of Tender gives Council the option to accept or decline a tender.

Shire of Harvey Policy 2.2.11 - Purchasing which provides compliance with the *Local Government Act 1995*, and the Local Government (Functions and General) Regulations 1996.

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

- Goal 3: *A natural environment that is highly valued, protected and enjoyed.*
- Goal 4: *A liveable, sustainable and well-designed built environment that is accessible to all.*
- Objective 4.2 *A connected and well maintained network of local roads, footpaths, cycle ways and trails.*

Community Engagement

Community Participation Goal

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

Promise to the Community

Inform: We will keep you informed.

Risk Management

The Risk Theme Profile identified as part of this report is **Inadequate Supplier/Contract Management**. The Consequence could be **Compliance** and **Financial Impact** if due process is not followed in terms of Council's Purchasing Policy and the *Local Government Act 1995*. The Risk Consequence is considered to be **Minor** and the likelihood **Unlikely** resulting in a **Low** risk being present.

Budget Implications

The 2021 – 2022 Budget has an allocation of \$1,888,049 for this project. (Refer **Confidential Attachment 1**).

Authority/Discretion

Executive: The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

Voting Requirements

Simple Majority

Officer's Recommendation

That Council awards Tender T102021 – The Promenade Extension as per the recommendation contained within **Confidential Attachment 1 – Item No. 12.2.2**.

Item No.	12.2.3.
Subject:	Tender T112021 - Cathedral Avenue Upgrade and Shared Path
Proponent:	Shire of Harvey
Location:	Leschenault
Reporting Officer:	Manager Design and Development
Authorising Officer:	Director Infrastructure Services
File No.:	T112021
Attachments:	Confidential Attachment 1 – Item No. 12.2.3

Summary

Tender T112021 for Cathedral Avenue Upgrade and Shared Path construction closed on 28 October 2021 and at the close of tender, two tenders were received.

Following a detailed assessment of the tender submissions, the Evaluation Panel considered that one tender submission represented the best value for the Shire's operations. This report recommends that Council accepts the tender as per the recommendation contained in the confidential attachment (refer **Confidential Attachment 1 – Item No. 12.2.3**).

Background

Tenderers were advised that the Shire was seeking the services of suitably qualified contractors to undertake an upgrade of Cathedral Avenue from Australind to Buffalo Roads, including the construction of a Shared Path from Lofthouse Drive to Buffalo Road. Works comprise the following:

- Preparation and implementation of a Safety Management Plan (including Traffic Management);
- Clearing and earthworks;
- Road widening construction;
- Asphalt overlays and speed hump construction;
- Shared Path construction (both on and off-road);
- Linemarking and signage; and
- Provision of all required QA and as-constructed drawings.

Details of all tenders received are included in **Confidential Attachment 1 – Item No. 12.2.3**.

Comment

Tenders Received

Tenders were received from Geographe Civil and GMF Contractors. The following evaluation criteria was applied in the assessment of the tenders:

Evaluation Criteria	Weighting
1. Financial Offer: <ul style="list-style-type: none"> The price shall include all costs and disbursements to provide the required service. Represents the "best value" for money for the Shire 	40%
2. Demonstrated Experience and Proposed Construction Methodology: <ul style="list-style-type: none"> Tenderers to provide full details of similar projects undertaken within the last two years A proposed phasing of works to minimise traffic disruption 	30%
3. Capability (Performance and Flexibility): <ul style="list-style-type: none"> Tenderers to submit evidence of the ability to provide timeous response in the provision of works Availability of site personnel (especially in the event of after-hours call-outs i.e. traffic management) Percentage of local content 	30%
TOTAL	100%

The Tender Evaluation Panel included the Manager Engineering Services, Manager Design and Development and Director Infrastructure Services. Each tender submission was assessed using the above criteria. The assessment is contained within **Confidential Attachment 1 – Item No. 5.2.3**.

Statutory/Policy Environment

Section 3.57 of the *Local Government Act 1995*, and Part 4 Local Government (Functions and General) Regulations 1996, provides a mechanism for the purchase of goods and services by Public Tender.

Regulation 18 of Local Government (Functions and General) Regulations 1996 – Choice of Tender gives Council the option to accept or decline a tender.

Shire of Harvey Policy 2.2.11 – Purchasing which provides compliance with the *Local Government Act 1995*, and the Local Government (Functions and General) Regulations 1996.

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

- Goal 3: A natural environment that is highly valued, protected and enjoyed.*
- Goal 4: A liveable, sustainable and well-designed built environment that is accessible to all.*
- Objective 4.2 A connected and well maintained network of local roads, footpaths, cycle ways and trails.*

Community Engagement

Community Participation Goal

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

Promise to the Community

Inform: We will keep you informed.

Risk Management

The Risk Theme Profile identified as part of this report is **Inadequate Supplier/Contract Management**. The Consequence could be **Compliance** and **Financial Impact** if due process is not followed in terms of Council's Purchasing Policy and the Local Government Act 1995. The Risk Consequence is considered to be **Minor** and the likelihood **Unlikely** resulting in a **Low** risk being present.

Budget Implications

The 2021 – 2022 Budget has an allocation of \$1,330,000 for this project, made up as follows:

- Cathedral Avenue – Construct/Seal Shoulders, Remove Hazards, Install Signage \$1,000,000 (Blackspot Funded by Commonwealth Government); and
- Cathedral Avenue Shared Path – Stage 1, \$330,000 (Funded by Department of Transport and the Shire of Harvey).

Authority/Discretion

Executive: The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

Voting Requirements

Simple Majority

Officer's Recommendation

That Council awards Tender T112021 – Cathedral Avenue Upgrade and Shared Path as per the recommendation contained within **Confidential Attachment 1 – Item No. 12.2.3**.

Item No.	12.2.4.
Subject:	Local Roads Community Infrastructure Program - Phase 3
Proponent:	Shire of Harvey
Location:	Shire of Harvey
Reporting Officer:	Director Infrastructure Services
Authorising Officer:	Chief Executive Officer
File No.:	SMB0006
Attachments:	Nil

Summary

The Local Roads and Community Infrastructure (LRCI) Program was announced on 22 May 2020. Through the 2020 – 2021 Budget, the Australian Government announced an extension of the LRCI Program, now referred to as LRCI Program Phase 2.

On 11 May 2021, as part of the 2021 – 2022 Budget, the Australian Government announced a further \$1 billion for the continuation of the LRCI Program Phase 3.

Under Phase 3 of the LRCI Program, Shire of Harvey will receive an additional funding allocation of \$1,337,510. This funding will be available from 1 January 2022, with construction due to be completed by 30 June 2023.

Background

The objective of the LRCI Program is to maintain and create jobs by stimulating additional infrastructure construction activity in communities across Australia.

The intended outcomes of the LRCI Program are to:

- Provide stimulus to protect and create local short-term employment opportunities through funding construction projects following the impacts of COVID-19; and
- Deliver benefits to communities, such as improved road safety, accessibility and visual amenity.

The Shire has previously received \$1,849,966 for LRCI Phases 1 and 2 as follows:

Phase 1

Project	Estimate	Category	Comments
Leisure Drive Shared Path	\$163,050	Community Infrastructure	Completed
Ridley Place Foreshore Reserve - CCTV / free WIFI	\$40,000	Community Infrastructure	Completed
Leschenault Leisure Centre Park Path Lighting	\$35,000	Community Infrastructure	Completed
Binningup - Coastal Infrastructure Improvements	\$35,000	Community Infrastructure	In progress
Brunswick Recreation Ground - Additional Parking	\$72,000	Community Infrastructure	In progress
Cookernup - Recreation amenity improvements	\$12,000	Community Infrastructure	Completed

Project	Estimate	Category	Comments
Landscaping Improvements Binningup	\$20,000	Community Infrastructure	Completed
Paris Rd Australind, Verge Beautification at Grand Entrance	\$45,705	Community Infrastructure	In progress
Riverdale Rd - Cookernup St Lights	\$30,000	Local Roads	Completed
LLC Path extensions	\$20,000	Local Roads	Completed
Safety Barrier Weir Road	\$45,000	Local Roads	Completed
Rest Area – South Western Hwy	\$75,000	Local Roads	Completed
Lakeshore Drive Lighting	\$76,000	Local Roads	Completed
TOTAL	\$668,755		

Phase 2

Project	LRCI Funding	Category	Status
The Boulevard / The Promenade Intersection Reconfiguration*	\$350,000	Local Roads	In progress
Ditchingham Place / Grand Entrance Reconfiguration*	\$160,000	Local Roads	In progress
Uduc Road rehabilitation between Young Street for 420m to Third Street*	\$100,000	Local Roads	Not Commenced
Path extension South Western Highway (Uduc Road to Hinge Rd)	\$84,211	Local Roads	Not Commenced
Path extension SWH (King St to Harvey River)	\$65,000	Local Roads	Completed
Playground Replacement Binningup	\$300,000	Community Infrastructure	In progress
Binningup Beachside facility	\$87,000	Community Infrastructure	In progress
Fencing Replacement at the Harvey Commonage	\$15,000	Community Infrastructure	Completed
Ridley Place Foreshore Reserve – Reticulation power upgrade/amenity improvements	\$30,000	Community Infrastructure	Completed
Total	\$1,181,211		

Note:* Funding made up from LRCI/RRG and/or Municipal funding

Comment

In accordance with the funding guidelines the following projects are eligible for funding:

Local Roads Projects

These are projects that involve the construction and/or maintenance of roads managed by local governments that support improved road safety outcomes and may include projects involving any of the following associated with a road:

- Traffic signs;
- Traffic control equipment;

- Street lighting equipment;
- A bridge or tunnel;
- A facility off the road used by heavy vehicles in connection with travel on the road (for example, a rest area or weigh station);
- Facilities off the road that support the visitor economy; and
- Road and verge maintenance, where additional to normal capital works schedules.

Community Infrastructure Projects

These may be projects that involve the construction, maintenance and/or improvements to Shire owned assets (including natural assets) that are accessible to the public.

'Generally accessible to the public' means that the project, or the amenity provided by the project, is accessible to the public at large. Some areas are clearly publicly accessible as they are areas that are open to all members of the public such as parks, playgrounds, footpaths, and roads.

Projects will also be considered publicly accessible if they are in a location that is:

- Publicly accessible to the wider public undertaking a specific activity (for example council operated sporting fields);
- Publicly accessible for a limited age group of the community as a whole i.e. a kindergarten building; or
- Used for the provision of an essential service or community service, as determined by the Department, and the amenity of the asset is publicly accessible and benefits the community.

All projects whether carried out on Shire owned land, or another type of public land, must deliver benefits to the community, such as improved accessibility, visual amenity, and/or safety. Examples of eligible works include:

- Closed Circuit TV (CCTV);
- Bicycle and walking paths;
- Painting or improvements to community facilities;
- Repairing and replacing fencing;
- Improved accessibility of community facilities and areas;
- Landscaping improvements, such as tree planting and beautification of roundabouts;
- Picnic shelters or barbeque facilities at community parks;
- Community/public art associated with an Eligible Project (Eligible Funding Recipients will need to provide a clear description of the conceptual basis of the artwork);
- Playgrounds and Skate Parks (including all ability playgrounds);
- Noise and vibration mitigation measures; and

- Off-road car parks (such as those at sporting grounds or parks).

Proposed Local Road Projects

Brunswick Recreation Ground Additional Parking

The Brunswick Recreation Ground Master Plan which was received by Council in April 2021 includes the provision of additional onsite parking near the Presidents Room and behind and near the vicinity of the HBLFC.

The works for parking behind and near the vicinity of the HBLFC are nearing completion and it is proposed that the parking near the President's room be implemented with the LRCI funding

Cookernup Accessibility Improvements

Officers have been approached by residents of Cookernup with mobility issues requesting that improvements be implemented along the existing limestone track on the northern side of Riverdale Road from the Community Hall to the general store. Officers have investigated the request and fully support the upgrade of the limestone track to a 2.0m wide sealed and drained constructed path.

Treendale/Australind Bus Shelters/Access Improvements/artwork

Requests have been received regarding the lack of bus shelters and access paths at various locations in both Australind and Treendale on bus routes. The proposal is to roll out bus shelters at strategic bus stop locations, improve access and incorporate artwork in the bus shelter designs where appropriate.

Seating along paths/interpretive signage

It has been requested that more seating be incorporated along paths, especially for the elderly and other users. Ideally a seat every 400 to 500m would be ideal. This would encourage more people of all ages to walk more. In addition to the seating it is proposed that more shade be provided where seating is to be located, including interpretive signage that provides information and history of the area.

Paths to be considered are the Old Coast Road shared path and Paris Road path, however other locations will also be considered.

Proposed Community Infrastructure Projects

Harvey Skate Park

The Shire of Harvey currently has a Skatepark located at the corner of Uduc Road and Young Street on the Harvey Recreation and Cultural Centre grounds.

In 2019, the Shire was presented with a petition signed by 155 people suggesting that the current skatepark location alongside the Harvey Recreation Ground needed to be reassessed/upgraded.

In March 2021, a consultant (CONVIC) was engaged to analyse both the current skatepark location and Meridan Park (corner Uduc and Hinge Roads) to identify the most suitable location for a new skatepark.

As reported to Council in April 2021, the CONVIC site assessment report identified Meridan Park above the current Skate Park location. Shire Officers proceeded to engage with key internal stakeholders to discuss the recommendation of the report. This group have agreed in principle to designing and building a skatepark at Meridan Park. The CONVIC report did not specify an exact location, rather it identified the Park as being the most suitable.

At its April 2021 Ordinary Meeting, Council endorsed the recommendations of CONVIC site assessment report proposing Meridan Park as the new location of the Harvey Skate Park and an allocation of \$40,000 was included in the 2021 – 2022 Budget to progress the Skate Park design.

CCTV / WIFI Australind Skatepark

The Community Safety and Crime Prevention Advisory Group highlighted the need for the provision of CCTV at the Australind Skatepark. The nature of this facility lends itself to the provision of safety measures to help protect its users.

The provision of CCTV also enables the accessibility to WiFi which would 'piggyback' on the back of the CCTV communications network.

It is proposed this project commence following the completion of the CCTV Strategy which is currently underway.

Project Cost Summary

Project	Estimate	Category	Subcategory	Comments
Brunswick Recreation Ground Additional Parking	\$82,510	Local Roads	Off road carparks	As per adopted Brunswick Recreation Ground Masterplan
Cookernup Accessibility Improvements	\$85,000	Local Roads	Traffic Safety Improvements	Proposed path improvements Riverdale Road
Treendale / Australind Bus shelters / access improvements / artwork	\$150,000	Community Infrastructure	Paths / access Improvements	Community requests to improve public amenities
Australind - Seating along Paths interpretive signage - Old Coast Road / Paris Road to include shade, landscaping and public art.	\$100,000	Community Infrastructure	Seating / landscaping / shade / artwork	Improvements in amenity for path users and the elderly
Harvey Skatepark	\$880,000	Community Infrastructure	Playgrounds and Skate Parks	Construct new Skatepark
Australind Skatepark - CCTV / free WIFI	\$40,000	Community Infrastructure	CCTV	Security for Skatepark
TOTAL	\$1,337,510			

Statutory/Policy Environment

Local Government Act 1995

Section 6.8(1)(b)

Unbudgeted Expenditure to be authorised in advance by Absolute Majority.

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

- Goal 3: *A natural environment that is highly valued, protected and enjoyed.*
- Goal 4: *A liveable, sustainable and well-designed built environment that is accessible to all.*
- Objective 4.1 *Playgrounds and parks are vibrant, accessible and well maintained.*
- Objective 4.2 *A connected and well maintained network of local roads, footpaths, cycle ways and trails.*

Community Engagement

Community Participation Goal

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

Promise to the Community

Inform: We will keep you informed.

Risk Management

The Risk Theme Profile identified as part of this report is **Inadequate Asset Sustainability Practices**. The Consequence could be **Financial Impact** and **Reputational**. The additional funds provided to the Shire will assist in implementing new assets therefore mitigating the financial risk and as such it is considered that a **Low** risk is present.

Budget Implications

Some of the projects listed above are included in the Long Term Financial Plan and some are based on requests received from the community, outcomes of Place Advisory Group meetings, and safety issues identified.

The value of the Phase 3 LRCI program allocated to the Shire of Harvey is \$1,337,510 and has not been included in the 2021 – 2022 Budget.

Authority/Discretion

Executive: The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

Voting Requirements

Absolute Majority

Officer's Recommendation

That Council:

1. Approves submitting the five projects as outlined in the report, for funding from Phase 3 of the Australian Government's proposed Local Roads and Community Infrastructure Program; and

2. Amends the 2021-2022 Budget to include the unbudgeted expenditure of \$1,337,510, to be fully funded by the Australian Government, to implement and complete the proposed projects as outlined in the report, by June 2023.

BY ABSOLUTE MAJORITY

12.3. Sustainable Development

Item No.	12.3.1.
Subject:	Proposed Vegetation Clearing (Place of Landscape Value) and Horticulture - Lots 6 and 8 Rigg Road, Myalup
Proponent:	Patane Farms
Location:	Lots 6 and 8 Rigg Road, Myalup
Reporting Officer:	Manager Planning Services
Authorising Officer:	Director Sustainable Development
File No.:	A015965
Attachments:	<ol style="list-style-type: none"> 1. Application Document [12.3.1.1 - 18 pages] 2. Location Plan [12.3.1.2 - 1 page] 3. Clearing Permit Application [12.3.1.3 - 4 pages] 4. EPBC Act Referral [12.3.1.4 - 21 pages] 5. Alternate Plan [12.3.1.5 - 1 page] 6. Summary of Submissions [12.3.1.6 - 8 pages] 7. Site Inspection Photos [12.3.1.7 - 3 pages]

Summary

An Application for Development Approval has been received for the “clearing of native vegetation within a Place of Landscape Value and Horticulture” at Lots 6 and 8 Rigg Road, Myalup (refer **Attachment 1**). The application is referred to Council as Officers have elected not to use their delegation due to the proposal’s significant impact to native vegetation and the Place of Landscape Value. It is recommended that the application be refused for the reasons detailed in the report and Officer’s Recommendation.

Background

This application was presented to Council, at its Ordinary Meeting held on 23 October 2021 and, at the request of the Applicant, a decision on the application was deferred to the November Meeting to allow the Applicant to provide additional information. The Applicant has since requested a further deferral of a decision to 31 March 2022 for the following reasons:

- Additional time is required to prepare and submit a suite of meaningful additional information in support of the application to address planning and environmental matters raised in the Shire’s 26 October 2021 agenda report;
- The Applicant’s environmental consultant is progressing a Clearing Permit and *Environment Protection and Biodiversity Conservation Act 1999* referral with the Department of Water and Environmental Regulation (DWER). DWER has not yet progressed with its assessment of the applications, which includes consideration of suitable offsets and undertaking a detailed environmental assessment of the proposal;
- The Applicant would like additional time to engage with the Shire and residents that made submissions during the advertising period in an attempt to resolve outstanding issues; and
- The deferral will not prejudice the Shire in any way.

Site Description

Lots 6 and 8 Rigg Road, Myalup are zoned “General Farming” under the Shire’s District Planning Scheme No. 1 (the Scheme) and the western portion of Lot 6 (of approximately 200m wide) is located within the Coastal Lakelands Place of Landscape Value. Under the Greater Bunbury Regional Scheme (GBRS), both lots are zoned “Rural”, and Lot 6 abuts the “Primary Regional Road” reserve for Forrest

Highway (refer **Attachment 2**).

Lot 6 has an area of 39.96ha, is irregular in shape and flat. It is bound by Forrest Highway to the west and Kookaburra Close and Freshwater Lakes residential properties to the east. The eastern portion of Lot 6 is predominantly clear of native vegetation, with the west portion being vegetated within mainly Tuart trees. A multiple use wetland runs through the centre of the property in a north-south direction.

Lot 8 has an area of 20.69ha, is regular in shape and flat. It is situated south-east of Lot 6 and directly south of Freshwater Lakes. There is an abundance of native vegetation throughout the site, with species including Peppermint, Jarrah and Marri present over a clear understory. There is an artificial wetland located towards the north-east of the property.

Site History

The subject sites are currently used for grazing of cattle. A previous application was submitted by the current landowner in March 2013 for Horticulture on the unvegetated south-western corner and eastern portion of Lot 6. At this time, referral agencies raised a number of issues relating to separation distances, wetland buffers, nutrient management and chemical spray drift. This application was not progressed by the Applicant.

An application for a Clearing Permit has been submitted to the Department of Water and Environmental Regulation (DWER) (CPS 9252/1) (refer **Attachment 3**). In addition, the Applicant referred the proposal under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) (refer **Attachment 4**) and the Department of Agriculture, Water and Environment (DAWE) has determined the proposed clearing is a "controlled action" as the sites contain potential for the following that are protected under the EPBC Act:

- Tuart (*Eucalyptus gomphocephala*) woodlands and forests of the Swan Coastal Plain threatened ecological community (Tuart TEC) – critically endangered;
- Forest Red-Tailed Black Cockatoo – vulnerable;
- Baudin's Black Cockatoo – endangered;
- Carnaby's Black Cockatoo – endangered; and
- Western Ringtail Possum – critically endangered.

The clearing applications will be assessed concurrently by DWER under their Bilateral Agreement with DAWE.

Proposal

Vegetation

The application proposes the clearing of 6.95ha of native vegetation (based on area covered by tree canopies). The application specifies that native vegetation on Lot 6 proposed to be cleared includes 92 Tuart trees (with canopies covering approximately 3.25ha), together with 117 trees suitably sized to provide breeding habitat for the Carnaby's and Forest Red-Tailed Black Cockatoo. Of these suitably sized breeding habitat trees, 10 have hollows suitable for breeding. Black cockatoo surveys undertaken identified potential Baudin's Cockatoo foraging habitat within Lot 8. Of the 6.95ha of native vegetation proposed to be cleared, it is estimated that approximately 5.72ha contains black cockatoo foraging habitat.

The proposed vegetation clearing will remove 117 trees on Lot 6 and 119 trees on Lot 8 that are suitably sized to provide breeding habitat for the black cockatoos. Lot 6 contains 15 trees with medium

to large hollows with the highest potential to be used by the black cockatoos. Ten trees contain hollows that are considered actually suitable for black cockatoo breeding and six of these had fresh chew marks in 2020 when a Targeted Fauna Survey was undertaken.

Horticulture

The application proposes to establish Horticulture for the production of vegetables such as potatoes, carrots, onions, and broccoli utilising approximately 19.1ha of Lot 6 and 12.9ha of Lot 8. The use of the sites for Horticulture will necessitate the need to install an irrigation sprinkler system and the Applicant proposes to redevelop the existing seasonal wetland and bore on Lot 6 and utilise the existing artificial wetland on Lot 8. No buildings are required to be constructed as all produce grown will be transported to the Applicant's main property on Peard Road for processing. The application also includes an Operations Management Plan and Waste Management Plan, which detail methods of mitigating against potential impacts of the proposed use.

The Applicant originally proposed to establish a 20m buffer adjacent to the eastern boundary of Lot 6 and the northern boundary of Lot 8. It is also proposed to establish a 50m buffer along a portion of the western boundary of Lot. The 20m buffer has been proposed to consist of 10m vegetation planting on either side of an artificial spray barrier, with the intention of protecting the nearby residents from adverse impacts associated with the proposed use.

Due to comments received from the Department of Health, the Applicant has reviewed the proposal and provided an alternative plan should their original proposal not be supported (refer **Attachment 5**). The alternative plan proposes:

- Reducing the area of Lot 6 to be occupied by Horticulture in order to provide an unvegetated 300m buffer adjoining the residential properties to the east; and
- Increasing the 20m buffer along the northern boundary of Lot 8 to 30m in addition to utilising 10m of the verge on the northern side of Rigg Road.

Advertising

Pursuant to Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Deemed Provisions), the application was advertised to surrounding landowners, including all residential properties in Kookaburra Close and Freshwater Lakes, for a period of 14 days concluding on 19 July 2021. A total of 29 submissions were received with all objecting to the proposal. A summary of the submissions received is provided in **Attachment 6**.

The application was also referred to the following State Government agencies:

- Department of Primary Industries and Regional Development (DPIRD);
- Department of Water and Environmental Regulation (DWER);
- Department of Health (DoH);
- Department of Biodiversity, Conservation and Attractions (DBCA); and
- Main Roads WA (MRWA).

Comments were received from DBCA, DoH, DWER and MRWA which are included in **Attachment 6**.

Comment

Proposal

The proposed use of “Horticulture” is defined by the Scheme as “*the intensive cultivation and production of grapes, flowers or vegetables for commercial purposes on any area exceeding 1,000m²*”. Horticulture is an “AA” use in the “General Farming” zone and is therefore a use that can be considered. All development (which includes land uses) and vegetation clearing within a Place of Landscape Value requires approval.

Vegetation

The vegetation on Lot 6 is identified as the Tuart (*Eucalyptus gomphocephala*) woodlands and forests of the Swan Coastal Plain threatened ecological community (Tuart TEC) which was listed in July 2019 under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) as “critically endangered”. Officers inspected the sites on 30 June 2021 and observed that the average height of the Tuarts was approximately 28m and they appeared healthy (refer **Attachment 7** for selected site photos). Provided that there is a direct correlation between the tree’s height and age, the trees are estimated to be approximately 200 years old. A mature Tuart tree has proven that it is resilient to past climatic extremes, and as such provides a secure habitat for fauna. Based on the site inspection, Officers confirmed the presence of:

- The Tuart TEC;
- Suitable habitat for the three protected Black Cockatoos; and
- Suitable habitat for the protected Western Ringtail Possum.

In March 2020, Council did not support the removal of six Tuart trees on Lot 29 Tredrea Place that were proposed for removal for an extractive industry licence. This matter is still being reviewed by the State Administrative Tribunal. Based on age, size and structure, the subject Tuarts are representative of the Tuart trees on Lot 29 Tredrea Place.

The vegetation survey submitted with the Clearing Permit application classifies vegetation on Lot 6 as being part of, and connected to, the patch of the Tuart TEC to the north on Lot 4424. Section 4.2 of the Environmental Protection Authority’s Technical Guidance (Flora and Vegetation Surveys for Environmental Impact Assessment) mentions that where “*the habitat extends outside a predefined survey area, the full extent of the population or community should be surveyed.*” Despite this, the targeted fauna survey submitted with the Clearing Permit application did not extend beyond the boundaries of the proposal site. Therefore, the potential impacts from the loss and fragmentation of habitat resulting from the proposed clearing has been underestimated.

Horticulture

The Environmental Protection Authority’s Guidelines for Separation Distances between Industrial and Sensitive Land Uses, in addition to the Department of Health’s Guidelines for Separation of Agricultural and Residential Land Uses – Establishment of Buffer Areas recommends a minimum default separation distance of 300m for market gardens. This minimum separation distance can be increased or decreased based on appropriate technical reports being providing to justify the change, such as a vegetated buffer that is established prior to the commencement of the use. As previously provided, the application originally proposed to establish a 20m buffer adjacent to the eastern boundary of Lot 6 and the northern boundary of Lot 8. It is also proposed to establish a 50m buffer along a portion of the western boundary of Lot. The 20m buffer has been proposed to consist of 10m vegetation planting on either side of an artificial spray barrier.

To justify the proposed reduction of the separation distances from 300m to 20m, the application details the following:

- Noise: farming vehicles are exempt from the Noise Regulations. Whilst irrigation equipment is not exempt, the proposed installation of the electric pump systems will be more than 300m (Lot 6) and 150m (Lot 8) from sensitive use boundaries;
- Dust: may be caused by bare-soil areas however Operations Management Plan provides that bare soil will be minimised by planting cover crops and maintaining irrigation, and rotary hoeing of residual broccoli matter will occur in a timely manner;
- Odours: source of odours would be the storage and application of organic fertilisers and chemicals. The Applicant has advised that organic fertilisers are not used in their operations; and
- Chemical spray drift: utilising the risk assessment of the “APVMA Operating Principles in relation to Spray Drift Risk” for low boom sprays with medium-course droplets results in a minimum separation distance of 15m for open fields and 10m with buffer elements.

Due to comments received from the Department of Health, the Applicant has reviewed the proposal and provided an alternative plan should their original proposal not be supported. The alternative plan proposes:

- Reducing the area of Lot 6 to be occupied by Horticulture in order to provide an unvegetated 300m buffer adjoining the residential properties to the east; and
- Increasing the 20m buffer along the northern boundary of Lot 8 to 30m in addition to utilising 10m of the verge on the northern side of Rigg Road.

Officers are supportive of the alternative buffer proposed for Lot 6 as this would be consistent with the recommended minimum separation distance. However, Officers are not supportive of the alternative buffer proposed for Lot 8 as it is still a large reduction to the recommended 300m separation distance and relies on Crown land (road reserve verge) forming part of the buffer.

Advertising

The most common concerns from nearby landowners and residents are detailed as follows:

Concern	Comment
Removal of significant vegetation and the impact that has on existing fauna.	As discussed above, Officers concur with these concerns given the vegetation is significant, is a TEC under the EPBC Act, is habitat for protected fauna and is mostly located within a Place of Landscape Value.
Contamination of Freshwater Lake.	As part of the Applicant's current groundwater licence with DWER, a Monitoring and Management Plan is in place.
Impacts associated with the use of herbicides and pesticides in close proximity to residents, including contamination of rainwater tanks.	The alternate buffer of 300m from the eastern boundary of Lot 6 is consistent with the EPA's recommended minimum buffer and therefore this would be sufficient. However, the reduced buffer on Lot 8 remains a concern and no technical information has been provided to confirm this as an appropriate buffer distance.
Noise and dust from machinery	Noise from farm machinery is exempt from the assigned noise levels and DWER is satisfied that

	potential noise from irrigation pump systems would be compliant. The Applicant has operational practices to reduce dust from bare soil and Officers note that the Applicant's other vegetable growing sites appear to be managed well to limit dust emissions.
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Matters to be Considered by the Local Government

Clause 67 of the Deemed Provisions provides matters Council is required to give due regard when considering an application. The Matters to be Considered relevant to the subject application are detailed and discussed below.

- *Aims and provisions of the Scheme – Clause 67(a)*

A relevant objective of the Scheme is *“to protect and preserve the more important natural flora and fauna habitats (ecosystem, biodiversity and essential ecological processes), and other environmentally sensitive areas ...”*

Supporting the clearing of native vegetation that:

- Is regionally and nationally significant;
- Is nationally protected; and
- Provides habitat for nationally protected fauna

would be contrary to this objective.

- *Approved State Planning Policies – Clause 67(c)*

A relevant objective of State Planning Policy 2: Environment and Natural Resources (SPP 2) is *“to protect, conserve and enhance the natural environment”*. The Policy also provides that:

- *“The implementation of planning decisions can have an impact on the environment ...”*
“... decision-making should:
 - *Avoid development that may result in unacceptable environmental damage.*
 - *Protect significant natural ... features, including sites and features significant as habitats and for their floral ... built ... visual or wilderness values.*
 - *Support conservation, protection and management of native remnant vegetation where possible, to enhance soil and land quality, water quality, biodiversity, fauna habitat, landscape, amenity values and ecosystem function.*
 - *Seek to avoid or minimise any adverse impacts, directly or indirectly, on areas of high biodiversity or conservation value as a result of changes in land use or development.*
 - *Identify and safeguard landscapes with high ... ecological values, as well as those of aesthetic, cultural or historical value to the community, and encourage the restoration of those that are degraded.*
- *“Biodiversity is also fundamental to the quality and character of the landscape and in providing ... aesthetic value and cultural identity. Planning should recognise the State’s biodiversity in considering changes of land use”.*

In addition to SPP 2, an objective of State Planning Policy 2.5: Rural Planning (SPP2.5) is to *“protect and sustainably manage environmental, landscape ... assets.”* The provisions of this Policy provide the following:

- *“seek to protect rural land as a State resource by:*
 - *ensuring retention and protection of rural land for biodiversity protection, natural resource management and protection of valued landscapes and views.*
- *intensive agriculture is generally supported and encouraged on rural land provided rural amenity and environmental impacts can be effectively managed.*
- *“Environmental and landscape attributes will be managed and improved by:*
 - *supporting the inclusion into strategies and schemes of provisions that promote protection of valued landscape and views, as required.*

The WAPC’s Rural Planning Guidelines provides that, when assessing proposals, consideration should be given to *“clearing of vegetation”*.

Supporting the clearing of the subject vegetation would be inconsistent with the above identified objectives and principles of these SPP’s and Guidelines.

- *Endorsed Local Planning Strategy – Clause 67(fa)*
A relevant objective of the Shire’s endorsed Local Planning Strategy is *“Protecting the significant areas of remnant vegetation, conservation category wetlands and local/regional ecological linkages.”*

Section 3.4.2 (Rural Land with Priority Agricultural Values) provides that *“consideration will be balanced against the environmental, visual ... objectives.”* Despite the site being identified under Greater Bunbury Region Scheme Policy as a Priority Agriculture area, consideration must be given to the environmental impacts of the proposal.

- *Amenity of the locality, including environmental impacts – Clause 67(n)*
Lot 6 is partially located within a designated Place of Landscape Value under the Scheme. A Place of Landscape Value is an area considered by the Shire as being of scientific, scenic or other value and should be:
 - retained in their present state;
 - restored to their original state; or
 - restored to a state acceptable to the local government.

As Lot 6 is adjacent to Forest Highway, it provides visual amenity for the commuters and the vegetation is valued for its environmental attributes. Schedule 2 of the Scheme provides that areas of particularly high wildlife potential should not be developed for human use. Therefore, the proposed vegetation clearing within the Place of Landscape Value is not supported.

- *Likely effect on natural environment – Clause 67(o)*
The removal of the existing vegetation on the site will have a significant effect on the natural environment.

The sites comprise a large number of trees, with canopies spaced close to one another, with a clear understory (due to previous and current grazing practices). Various fauna species rely on these characteristics to function and survive. It was noted in the survey submitted with the

Clearing Permit application that the vegetation provided, or could provide, habitat for the following species:

- Western Ringtail Possum: one was spotted on site during the assessors site visit. The presence of peppermint trees makes the area an ideal location for the Possums;
- All three species of the Black Cockatoo: While no Cockatoo's were identified during the site visits, it was noted that there was clear evidence Black Cockatoos had previous foraged and nested in the trees (chew marks around tree hollows);
- Reptiles; and
- Other mammals.

A tree that is considered 200+ years old provides an abundance of ecological benefits when compared to a younger tree. Mature trees have proven their resilience against past climatic extremes and provide a secure and reliable habitat for various fauna species. Given the abundance of vegetation on both the sites, the aforementioned local community of these species has a profound reliance on these trees for their wellbeing. The clearing of this vegetation will expose these animals to predators, while eliminating their food sources and habitat areas.

- *Provision for landscaping and preservation of vegetation – Clause 67(p)*

The vegetation on the sites contains an abundance of trees that should be preserved, hence their protected status. It was reported in the survey submitted with the Clearing Permit application that the site contained two threatened ecological communities consisting of the following tree species:

- Tuart;
- Jarrah;
- Marri;
- Peppermint; and
- Paperbark

All of these trees play a pivotal role in a functioning and healthy TEC that interacts cohesively to create a unique and significant environment.

TEC's in WA are protected under the EPBC Act. Section 41 part 3 (e) of this Act outline that the Minister has the ability to impose a condition that requires the holder of the authorisation to take specific measures on land of conservation value for the purpose of conserving and protecting the relevant species or relevant habitat.

- *Suitability of land – Clause 67(q)*

The removal of the trees, as identified in SPP 2, *“can have a profound effect on land quality by removing its protective cover and creating the potential for erosion, salinity and loss of soil and water quality.”* This being the case, the proposed vegetation clearing has the potential to create irreversible damage on the land quality.

- *Any submissions received – Clause 67(y)*

All public submissions received objected to the proposal and these objections, except for

impact on property values, are valid planning considerations. As detailed in the report and in **Attachment 6**, concerns relating to the clearing of the vegetation, impacts on fauna, and impacts of chemical spray drift are considered to be justified.

Request for Deferral

Whilst Officers acknowledge that deferring a decision on this application would not prejudice the Shire, it would impact nearby residents who would be in limbo for at least an additional five months awaiting a decision on this application. A determination on this application by Council is independent to DWER's assessment of the Clearing Permit application as a determination is required to be made giving consideration to the local planning framework. It is considered that the additional information to be provided by the Applicant in March 2022 will not alter the Officer's recommendation.

Conclusion

As detailed in the report, the subject application proposes to clear significant vegetation that is identified as the Tuart (*Eucalyptus gomphocephala*) woodlands and forests of the Swan Coastal Plain threatened ecological community which is listed under the EPBC Act as "critically endangered". This vegetation community provides habitat for the three protected Black Cockatoos (Forest Red-Tailed, Carnaby's and Baudin's) the protected Western Ringtail Possum. The western, 200m wide portion of Lot 6 is located within a Place of Landscape Value and removal of the vegetation would detract from the visual amenity of this area. In addition, the proposed horticultural use has the potential to impact nearby residential properties due to the proposed inadequate separation distances. The application has been assessed against the local planning framework and additional information to be submitted in March 2022 will not alter the outcome of the assessment. It is therefore recommended that the application be refused.

Statutory/Policy Environment

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

- Schedule 2 – Deemed Provisions, Clause 64 – Advertising Applications:

(1) *"The local government – "*

(a) *must advertise a complex application for development approval in accordance with subclause (3); and*

(b) *must advertise an application for development approval in accordance with subclause (4) if the application is not a complex application –*

(i) *relates to development that is a class A use in relation to the zone in which the development is located; or*

(ii) *relates to the extension of a non-conforming use; or*

(iii) *relates to development that does not comply with the requirements of this Scheme; or*

(iv) *relates to development of which the local government requires a heritage assessment to be carried out under clause 11(1); or*

(v) *is of a kind identified elsewhere in this Scheme as an application that is required to be advertised; and*

- (c) *may advertise any other application for development approval in accordance with subclause (4).*
- (2) *Subclause (1)(b)(iii) does not apply if the local government is satisfied that the non-compliance with the requirements of this Scheme is of a minor nature.”*
- Schedule 2 – Deemed Provisions, Clause 67 – Consideration of application by local government:
 - (2) *“In considering an application for development approval (other than an application on which approval cannot be granted under subclause (1)), the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —*
 - (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
 - (c) *any approved State planning policy;*
 - (fa) *any local planning strategy for this Scheme endorsed by the Commission*
 - (n) *the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
 - (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
 - (p) *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;*
 - (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk*
 - (y) *any submissions received on the application”*

Shire of Harvey District Planning Scheme No.1

- Clause 1.6 Scheme Objectives
 - “1.6.1 The objectives of the Scheme are:
 - (g) *to protect and preserve the more important natural flora and fauna habitats (ecosystem, biodiversity and essential ecological processes), and other environmentally sensitive areas that are prone to degradation on the principle that the extent and manner of use of these areas should be kept within their capabilities of being sustained without degradation in the long term.”*
- Clause 8.1 Places of Landscape Value – Development Requirements

“8.1.1 The places and buildings described in Schedule 1 and situated on the lands shown as Places of Landscape Value or Buildings and Places of Heritage Significance on the Scheme maps are considered by the local government to be of historic, architectural, scientific, scenic or other value and should be retained in their present state, or restored to their original state, or to a state acceptable to the local government.”

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

- Goal 1: A diversified and thriving economy that offers a wide range of business and work opportunities as well as consumer choice.*
- Objective 1.3 Sustainable urban, rural and industrial development*
- Goal 3: A natural environment that is highly valued, protected and enjoyed.*
- Objective 3.2 Manage and protect natural habitats, ecosystems and reserves*

Community Engagement

Community Participation Goal

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

Promise to the Community

Inform: We will keep you informed.

Risk Management

The Risk Theme Profile identified as part of this report is **Providing Inaccurate Advice/Information**. The Consequence could be **Environmental, Financial, Reputational or Compliance** if incorrect advice is given or a condition missed. The risk is considered **Minor** and the likelihood **Unlikely**, given that the report has been thoroughly researched, peer reviewed and provided by a qualified Shire Officer. This results in a **Low** risk being present.

Budget Implications

Nil.

Authority/Discretion

Quasi-Judicial: When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town development applications, building permits, applications for other permits/licenses (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

Voting Requirements

Simple Majority

Officer's Recommendation

That Council refuses the Application for Development Approval for "clearing of native vegetation within a Place of Landscape Value and Horticulture" on Lots 6 and 8 Rigg Road, Myalup, as the:

- a) Proposal is contrary to the following provisions of Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015:
 - i) Does not protect and preserve the more important natural flora and fauna habitats and is therefore contrary to Clause 67(a) and Clause 1.6.1(g) of the Shire of Harvey District Planning Scheme No. 1;
 - ii) Does not:
 - i. protect, conserve and enhance the natural environment;
 - ii. ensure the retention and protection of rural land for biodiversity protection;
 - iii. protect valued landscapes;
 - iv. effectively manage environmental impacts;
 - v. manage and improve environmental and landscape attributes;and is therefore contrary to Clause 67(c) and the objectives and principles of State Planning Policies 2.0 and 2.5;
 - iii) Does not protect significant areas of remnant vegetation or balance the environmental and visual objectives and is therefore contrary to Clauses 67(fa) and the Shire of Harvey's endorsed Local Planning Strategy;
 - iv) Will impact the environmental and amenity of the locality and does not give consideration to the landscape value of the vegetation on Lot 6 and is therefore contrary to Clause 67(n);
 - v) Will have a significant effect on the natural environment and is therefore contrary to Clause 67(o);
 - vi) Does not make provision for the preservation of vegetation and is therefore contrary to Clause 67(p);
 - vii) Has the potential to create irreversible damage to the land quality by creating the potential for erosion and loss of soil and is therefore contrary to Clause 67(q); and
 - viii) Having regard to Clause 67(y), public submissions received have raised valid concerns relating to the clearing of the vegetation, impacts on fauna and impacts of chemical spray drift;
- b) Proposal is inconsistent with the Environmental Protection Authority's 'Guidance for the Assessment of Environmental Factors: Separation Distances between Sensitive Land Uses' recommended minimum 300m separation distance; and
- c) Proposal is inconsistent with the Department of Health's 'Guidelines for Separation of Agricultural and Residential Land Uses – Establishment of Buffer Areas'.

Item No.	12.3.2.
Subject:	Proposed Extractive Industry (Sand) - Lot 4 Runnymede Road, Wellesley
Proponent:	B & J Catalano Pty Ltd
Location:	Lot 4 Runnymede Road, Wellesley
Reporting Officer:	Planning Officer
Authorising Officer:	Director Sustainable Development
File No.:	A002628/EX/004
Attachments:	<ol style="list-style-type: none"> 1. Application [12.3.2.1 - 72 pages] 2. Table of Submissions Sept 21 [8XAE] [12.3.2.2 - 2 pages]

Summary

An application for Development Approval and an Extractive Industry Licence application have been received for sand extraction on Lot 4 Runnymede Road, Wellesley (refer **Attachment 1**). Officers consider that the application warrants refusal and therefore referral to Council is required as Officers do not have delegation to refuse the application.

It is recommended that the application be refused as the proposal is contrary to the matters to be considered in Clause 67(2)(a), (c), (fa), (o), (p) and (q) of the Planning and Development (Local Planning Schemes) Regulations 2015, as detailed in this report.

Background

Site Description

Lot 4 Runnymede Road, Wellesley is zoned “Kemerton Industry Buffer” under the Shire’s District Planning Scheme No. 1 (the Scheme) and is located within 15kms of the Australind Village Shopping Centre and 4.3km east of Binningup townsite. The site is of regular shape with an area of 140.5ha and has a moderate slope varying from 15m AHD to 50m AHD.

The existing excavated areas are on the western portion of Lot 4, totalling 21ha and represents 15% of the entire Lot area. The remaining 120ha of the Lot has a dense coverage of high-quality jarrah/marri/banksia woodland. This area is known to be utilised by a wide range of native fauna species, including western ringtail possum and black cockatoos.

Site History

Prior to sand extraction commencing in 2007, the existing excavated area was pasture for grazing with some scattered trees. The 2007 extractive industry approval included the allowance of a nil setback to a portion of the northern boundary abutting Stage One of the adjoining Lot.

A second Development Approval was granted in April 2012, which expired in April 2017. The most recent approval was granted in July 2017, which expires in July 2022.

Proposal

The application proposes to extract sand from an additional area of 10ha which is occupied by native vegetation. Extraction is proposed in two stages of 5ha each as shown in figure 3 of the Applicant’s report (refer **Attachment 1**). It is estimated that 20,000m³ of sand will be removed annually. To maintain a 1m separation to the groundwater, a finished pit floor level of 9m AHD is proposed.

The application also proposes to rehabilitate the subject area, together with a portion of the existing extraction site, by revegetating with native vegetation. An Offset Revegetation Report has been provided as Appendix 7 of **Attachment 1**.

Advertising

Pursuant to Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Deemed Provisions), the application was advertised to nearby landowners and referral authorities for a period of 28 days concluding on 4 December 2020. Despite the application being advertised to landowners within 1km of the extraction site, no responses were received.

Comment

Proposal

The proposal involves the extraction of sand from an area of 10ha currently occupied by high quality bushland that supports several important fauna habitats and flora species and can be summarised as:

- The subject area contains banksia dominated woodlands of the Swan Coastal Plain which listed as a Priority 3 (P3) ecological community under the *Environmental Protection Act 1986* (EP Act). P3 requires survey and/or definition of the community, and evaluation of its conservation status. The Banksia Woodlands are also a threatened ecological community (TEC), listed as endangered under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).
- The vegetation is considered high quality habitat for the three State and Commonwealth- listed threatened black cockatoo species, *Calyptrorhynchus latirostris*, *Calyptrorhynchus baudinii* and *Calyptrorhynchus banksii naso*.
- The proposed extraction area lies within the Drummond Botanical Sub-district of the Darling Botanical District, which falls within the Southwest Botanical Province and is recognised as having a very high degree of species diversity being characterised by Banksia woodland on leached sands with Melaleuca swamps; woodlands of tuart (*Eucalyptus gomphocephala*), jarrah (*Eucalyptus marginata*) and marri (*Corymbia calophylla*).
- The majority of the vegetation on the site is in 'excellent' condition, which meets the criteria for inclusion within the EPBC Act listed Banksia Woodlands TEC.
- Two Priority flora have been recorded directly to the east of the proposed extraction area: *Acacia semitrullata* (P4); and *Caladenia speciosa* (P4).
- With respect to native vertebrate fauna, 17 mammals (including nine bat species), 76 bird, 28 reptile and three frog species have previously been recorded in the wider area, some of which have the potential to occur in sections of the subject site at times. Seven species of introduced animals could also frequent the area. Of the 124 native animals that are listed as occurring or potentially occurring in the area, six are endangered/vulnerable or in need of special protection under State and/or Federal legislation (i.e., Carnaby's black cockatoo, Baudin's black cockatoo, Forest red-tailed black cockatoo, peregrine falcon, southwestern brush-tailed phascogale, and western ringtail possum).
- With respect to fauna habitat values, the majority of the vegetation is in good to very good condition and would therefore have the capacity to support a wide range of the predicted fauna species.
- The area was found to contain 200 potential black cockatoo breeding habitat trees. Eight trees appear to contain hollows with larger entrances (greater than 10 cm) that were possibly big enough to allow the entry of a black cockatoo into a suitably sized and orientated branch/trunk, though none showed any sign of current or previous use by cockatoos for this purpose.

- Almost all the remnant vegetation present within the surveyed area (~18.9 ha) can be regarded as quality foraging habitat for black cockatoos given the presence of jarrah, marri and/or banksia in all areas.

Advertising

A total of three submissions were received from referral agencies. A summary of the submissions is provided in **Attachment 2**.

Matters to be Considered by the Local Government

Clause 67 of the Deemed Provisions provides matters that Council is required to give due regard to when considering an application. The following “Matters to be Considered” are relevant to this application and are discussed below:

- *The aims and provisions of this Scheme and any other - Clause 67 (2)(a)*

Objective (g) in clause 1.6.1 states as follows:

“to protect and preserve the more important natural flora and fauna habitats (ecosystem, biodiversity, and essential ecological processes), and other environmentally sensitive areas that are prone to degradation on the principle that the extent and manner of use of these areas should be kept within their capabilities of being sustained without degradation in the long term.”

This proposal is directly in conflict with this objective as it involves the removal of 10ha of high-quality native vegetation and priority flora. In addition, the native vegetation supports endangered and threatened fauna habitats.

Supporting the clearing of native vegetation that:

- Is regionally and nationally significant;
- Is nationally protected; and
- Provides habitat for nationally protected fauna

is contrary to this objective.

- *Approved State Planning Policies – Clause 67(2)(c)*

A relevant objective of State Planning Policy 2: Environment and Natural Resources (SPP 2) is “to protect, conserve and enhance the natural environment”. The Policy also provides that:

- *“The implementation of planning decisions can have an impact on the environment ...”*
“... decision-making should:
 - *Avoid development that may result in unacceptable environmental damage.*
 - *Protect significant natural ... features, including sites and features significant as habitats and for their floral ... built ... visual or wilderness values.*
 - *Support conservation, protection, and management of native remnant vegetation where possible, to enhance soil and land quality, water quality, biodiversity, fauna habitat, landscape, amenity values and ecosystem function.*

- *Seek to avoid or minimise any adverse impacts, directly or indirectly, on areas of high biodiversity or conservation value as a result of changes in land use or development.*
- *Identify and safeguard landscapes with high ... ecological values, as well as those of aesthetic, cultural or historical value to the community, and encourage the restoration of those that are degraded.*
- *“Biodiversity is also fundamental to the quality and character of the landscape and in providing ... aesthetic value and cultural identity. Planning should recognise the State’s biodiversity in considering changes of land use”*

In addition to SPP 2, State Planning Policy 2.4: Basic Raw Materials (SPP 2.4) provides the following:

- *avoid and/or minimise the potential negative impacts on amenity and the environment arising from an extractive industry, when identifying areas for future growth.*

Another State Planning Policy 2.5: Rural Planning (SPP 2.5) has an objective to “*protect and sustainably manage environmental, landscape ... assets.*” The provisions of this Policy provide the following:

- *seek to protect rural land as a State resource by:*
 - *ensuring retention and protection of rural land for biodiversity protection, natural resource management and protection of valued landscapes and views.*
- *intensive agriculture is generally supported and encouraged on rural land provided rural amenity and environmental impacts can be effectively managed.*
- *Environmental and landscape attributes will be managed and improved by:*
 - *supporting the inclusion into strategies and schemes of provisions that promote protection of valued landscape and views, as required.*

The Rural Planning Guidelines linked to SPP 2.5 provides that, when assessing proposals, consideration should be given to “*clearing of vegetation.*”

Supporting the clearing of the subject vegetation would therefore be inconsistent with the above identified objectives and principles of these SPP’s and Guidelines.

- *Endorsed Local Planning Strategy – Clause 67(2) (fa)*

A relevant objective of the Shire’s endorsed Local Planning Strategy is “*Protecting the significant areas of remnant vegetation, conservation category wetlands and local/regional ecological linkages.*”

- *Likely effect on natural environment – Clause 67(2)(o)*

The site comprises many trees, with canopies spaced close to one another. As stated in the Applicant’s report “*The area is largely comprised of a jarrah and marri open woodland over a banksia low woodland.*” “*Ground cover and low shrubs vary in density from area to area being very sparse at some locations and dense in others. Hollow bearing trees makeup about 25% of the trees present based on the habitat tree survey.*”

The vegetation includes a few flora species and provides habitat for several fauna species. As

such, the removal of the existing vegetation on the site will have a significant effect on the natural environment

- *Provision for landscaping and preservation of vegetation – Clause 67(2)(p)*

As provided in the Offset Revegetation Report, the excavated 10ha area will be “*revegetated to native vegetation to a good condition.*” Notwithstanding, the existing vegetation on the site should be preserved as it contains a high quality of trees that justify protection. The majority of the vegetation on the site is in ‘excellent’ condition, which meets the criteria for inclusion within the EPBC Act listed Banksia Woodlands TEC and is characterised by high quality Banksia woodland on leached sands with Melaleuca swamps; woodlands of tuart (*Eucalyptus gomphocephala*), jarrah (*Eucalyptus marginata*) and marri (*Corymbia calophylla*).

- *Suitability of land – Clause 67(2)(q)*

The removal of the trees, as identified in SPP 2, “*can have a profound effect on land quality by removing its protective cover and creating the potential for erosion, salinity and loss of soil and water quality.*” This being the case, the proposed vegetation clearing has the potential to create irreversible damage on the land quality.

Conclusion

As detailed in the Proposal section of this report, the subject area contains banksia dominated woodlands of the Swan Coastal Plain which is listed as a Priority 3 (P3) ecological community under the *Environmental Protection Act 1986* (EP Act). The Banksia Woodlands are also a threatened ecological community (TEC), and the vegetation is considered high quality habitat for the three State and Commonwealth- listed threatened black cockatoo species.

The proposed extraction area is recognised as having a very high degree of species diversity being characterised by Banksia woodland on leached sands with Melaleuca swamps; woodlands of tuart and is in ‘excellent’ condition, which meets the criteria for inclusion within the EPBC Act listed Banksia Woodlands TEC.

With respect to native vertebrate fauna, 17 mammals (including nine bat species), 76 bird, 28 reptile and three frog species have previously been recorded in the wider area, some of which have the potential to occur in sections of the subject site at times. Seven species of introduced animals could also frequent the area. Of the 124 native animals that are listed as occurring or potentially occurring in the area, six are endangered/vulnerable or in need of special protection under State and/or Federal legislation (i.e., Carnaby's black cockatoo, Baudin's black cockatoo, Forest red-tailed black cockatoo, peregrine falcon, southwestern brush-tailed phascogale and western ringtail possum).

The area was found to contain 200 potential black cockatoo breeding habitat trees and the remnant vegetation present within the surveyed area of 18.9ha can be regarded as quality foraging habitat for black cockatoos given the presence of jarrah, marri and/or banksia in all areas.

Given the above information regarding the environmental values of the land that is proposed to be extracted, it is considered that this application is contrary to the matters to be considered in Clause 67(2)(a), (c), (fa), (o), (p) and (q) of the Planning and Development (Local Planning Schemes) Regulations 2015 and therefore Officer's recommend the application be refused.

Statutory/Policy Environment

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

- Schedule 2 – Deemed Provisions, Section 64 – Advertising Applications:
 - (1) *“An application for development approval must be advertised under this clause if the proposed development – “*
 - (e) *is of a type that this Scheme requires to be advertised.”*
 - (3) *The local government may advertise, or require the applicant to advertise, an application for development approval in one or more of the following ways –*
 - (a) *By giving notice of the proposed use or development to owners and occupiers of properties in the vicinity of the development who, in the opinion of the local government, are likely to be affected by the granting of development approval, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is given to the person;*
 - (b) *By publishing a notice of the proposed use or development by electronic means in a form approved by the local government CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is published.”*
- Schedule 2 – Deemed Provisions, Clause 67 – Consideration of application by local government:
 - (2) *In considering an application for development approval (other than an application on which approval cannot be granted under subclause (1)), the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —*
 - (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
 - (c) *any approved State planning policy;*
 - (fa) *any local planning strategy for this Scheme endorsed by the Commission;*
 - (n) *the amenity of the locality including the following —*
 - i.) *environmental impacts of the development;*
 - ii.) *the character of the locality;*
 - iii.) *social impacts of the development;*
 - (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
 - (p) *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;

(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk

(za) the comments or submissions received from any authority consulted under clause 66

Shire of Harvey District Planning Scheme No.1

“1.6.1 The objectives of the Scheme are:

(g) to protect and preserve the more important natural flora and fauna habitats ecosystem, biodiversity, and essential ecological processes), and other environmentally sensitive areas that are prone to degradation on the principle that the extent and manner of use of these areas should be kept within their capabilities of being sustained without degradation in the long term.”

“4.8.1 The Kemerton Strategic Industrial Area is made up of the land zoned Kemerton Strategic Industry, Kemerton Ancillary Industry, and Kemerton Industry Buffer. The objectives of the Kemerton Strategic Industrial Area are to:

(b) provide industrial development areas that:

iii) achieve beneficial economic, environmental and community outcomes;

iv) enable environmental protection and management arrangements that minimise impact on the natural environment;”

Strategic Framework

The Shire’s Strategic Community Plan 2021 – 2031, states:

Goal 3: A natural environment that is highly valued, protected and enjoyed.

Objective 3.1 Adopt and encourage sustainable development practices.

Objective 3.2 Manage and protect natural habitats, ecosystems and reserves.

Objective 3.3 Sustainable resource use and waste management.

Community Engagement

Community Participation Goal

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

Promise to the Community

Inform: We will keep you informed.

Risk Management

The Risk Theme Profile identified as part of this report is **Providing Inaccurate Advice/Information**. The Consequence could be **Environmental, Financial, Reputational or Compliance** if incorrect advice is given or a condition missed. The risk is considered **Minor** and the likelihood **Unlikely**, given that the report has been thoroughly researched, peer reviewed and provided by a qualified Shire Officer. This results in a **Low** risk being present.

Budget Implications

Nil.

Authority/Discretion

Quasi-Judicial: When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town development applications, building permits, applications for other permits/licenses (e.g., under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

Voting Requirements

Simple Majority

Officer's Recommendation

That Council refuses the Application for Development Approval for Sand Extraction on Lot 4 Runnymede Road, Wellesley, as the proposal is contrary to the following provisions of Clause 67(2) of the Planning and Development (Local Planning Schemes) Regulations 2015:

- a) Does not protect and preserve the more important natural flora and fauna habitats and is therefore contrary to Clause 67(2)(a) and Clause 1.6.1(g) of the Shire of Harvey District Planning Scheme No. 1;
- b) Does not:
 - i) protect, conserve, and enhance the natural environment;
 - ii) ensure the retention and protection of rural land for biodiversity protection;
 - iii) protect valued landscapes;
 - iv) effectively manage environmental impacts;
 - v) manage and improve environmental and landscape attributes;

and is therefore contrary to Clause 67(2)(c) and the objectives and principles of State Planning Policies 2.0, 2.4 and 2.5;

- c) Does not protect significant areas of remnant vegetation or balance the environmental and visual objectives and is therefore contrary to Clauses 67(2) (fa) and the Shire of Harvey's endorsed Local Planning Strategy;
- d) Will have a significant effect on the natural environment and is therefore contrary to Clause 67(2)(o);

- e) Does not make provision for the preservation of vegetation and is therefore contrary to Clause 67(2)(p); and
- f) Has the potential to create irreversible damage to the land quality by creating the potential for erosion and loss of soil and is therefore contrary to Clause 67(2)(q).

Item No.	12.3.3.
Subject:	Use Not Listed (Rural Tourism) - Lot 101 (No. 124) Government Road, Roelands
Proponent:	Rise Urban Pty Ltd on behalf of M. Catalano
Location:	Lot 101 (No. 124) Government Road, Roelands
Reporting Officer:	Senior Planning Officer
Authorising Officer:	Director Sustainable Development
File No.:	A011876
Attachments:	<ol style="list-style-type: none"> 1. Application [12.3.3.1 - 24 pages] 2. Location Plan [12.3.3.2 - 1 page]

Summary

An application for Development Approval has been received for a 'Use Not Listed' (Rural Tourism) on Lot 101 (No. 124) Government Road, Roelands (refer **Attachment 1**). The application is referred to Council as Officers do not have delegation to determine that a 'Use Not Listed' may be consistent with the purpose and objectives of the 'Intensive Farming' zone.

It is recommended that Council determines the proposed 'Use Not Listed' may be consistent with the objectives of the zone and advertises the proposal. At the conclusion of the advertising period, should no adverse submissions be received, Officers have delegation to determine the application in accordance with Delegation 9.1.2 (9).

Background

Site Description

Lot 101 (No. 124) Government Road is zoned "Intensive Farming" with a small portion of land reserved for "Public Utility" under the Shire's District Planning Scheme No. 1 (the Scheme) and is within the locality of Roelands. The lot has road frontage to Government Road for the existing residence via an easement for access over Lot 105, and a road frontage to Chenar Place which is an unconstructed road reserve. The railway line is adjacent to the western boundary between the site and the South Western Highway. The site is of irregular shape with an area of 34.15ha and is mostly open paddocks for grazing of livestock (refer **Attachment 2**).

Site History

The site is included on the Shire's Local Heritage Survey under Category 3 and is known as 'Chenour Homestead'. This development would not have any impact on the cultural heritage significance of the heritage protected place.

Historically, the property was known as 'Chenar' and was a cattle stud farm in the early 1900's.

Proposal

The application proposes "Rural Tourism" consisting of a small-scale boutique café and retail space selling local arts and crafts, bespoke fashion items, local produce, and pre-loved items, as well as serving fresh, locally produced food and beverages. The proposed works include:

- Reconstruction and refurbishment of the existing dairy shed to meet contemporary building standards (class 6 of the Building Code of Australia);
- Internal fit-out of the dairy to provide a retail space and a café area;
- A decked area at the front (west side) of the dairy to provide alfresco seating area;

- Construction of Chenar Place to an agreed standard. As agreed with Shire Officers and the adjoining landowner, these works will include relocation of existing fencing, installation of a culvert, kerbing and asphalt treatment at the intersection of Chenar Place and Waterloo Road;
- Construction of a designated hardstand parking area within the site to accommodate a minimum of 13 parking bays; and
- Installation of suitable public ablutions facilities (including an approved effluent disposal system) adjacent to the dairy and parking area.

Comment

Land Use

The proposed use of “Rural Tourism” is not defined in the Scheme. For the purpose of this application, “Rural Tourism” means:

‘the use of land in a rural area to provide any of the following without compromising the rural amenity, natural environment or continued rural use of the land —

(a) attractions and activities that showcase art, culture, or heritage of the land;

(b) experiences of rural life on the land; or

(c) exploration of the natural environment on the land;’

The intent of the proposed “Rural Tourism” use is to capture uses that are already permitted within the Scheme and complement them with proposals that are not defined.

The overview of the application states that the business objective is:

“... to establish a small-scale boutique and café in a stylish but relaxed country setting, providing a meeting place for locals and tourists alike to gather and enjoy the beautiful rural property. The intention is to provide a family friendly rural experience with informal picnic areas and farm animals available for viewing, feeding and petting in a safe environment.”

Clause 4.2.4(b) of the Scheme makes provision for a “Use Not Listed” to be considered and provides that Council can *“determine by absolute majority that the proposed use may be consistent with the objectives and purpose of the zone.”*

The Policy Statement contained within Tables 25 & 26 (Intensive Farming) of the Scheme states *“...to protect from inappropriate use the valuable irrigated farmland in the Scheme area.”*

Officers consider that the proposal is intended to complement the existing farming practices and to create a rural experience for the public centred around the re-purposed historic dairy and stable buildings (potential future works) on site. The adaptation of the dairy sheds and stables will increase the lifespan of the buildings and preserve some of the iconic features that tell the history of the property. There is no foreseeable negative impact on the continuing use of the land for agricultural purposes, and land use conflicts may be managed for minimal impact, therefore, it may be consistent with the Policy Statement for the zone.

Traffic and Vehicle Access

The public access is proposed to be from Chenar Place on the southern boundary of the site adjacent to the existing dairy sheds. Chenar Place is currently an unconstructed 18m wide road reserve approximately 200m in length. The road will need to be constructed at the cost of the Applicant to

enable the development to occur. Shire Officers have inspected the road reserve with the Applicant, affected landowners and the construction company to determine the requirements. A legal agreement will be required to establish construction and maintenance responsibilities of the applicant.

As part of the road upgrade, there is fencing to be relocated, and the adjoining property entrance to Lot 106 will need to be re-aligned in consultation with the landowners.

Bushfire Prone Area

The property is partially located within a designated Bushfire Prone Area. There are no habitable buildings or public areas proposed within 100m of the designated Bushfire Prone Area, therefore it can be considered exempt from the requirements of SPP3.7 Planning for Bushfire Prone Areas.

Advertising

If Council determines that the proposed "Rural Tourism" use may be consistent with the objectives and purposes of the zone, pursuant to Clause 64 of the Planning and Development (Local Planning Schemes) Regulation 2015 (the Deemed Provisions), the application is required to be advertised for a period of at least 28 days for public comment.

In addition, pursuant to Clause 66 of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Deemed Provisions), the application is required to be referred to any relevant authorities for comments and recommendations.

Should no objections be received during the advertising period, Officers have delegation to approve the application as per Delegation 9.1.2 (9).

Existing Unauthorised Development

Upon initial inspection of the property, it was identified that there are existing improvements that have been made without necessary approvals from the Shire. These are:

- the sea container containing the commercial kitchen located adjacent to the dairy which will be used for the café food preparation; and
- the restored railway carriage and decking located within the grounds of the existing homestead (which will not be available to the public for use).

Both of these items will be rectified through the approval of this development and further necessary approvals sought from the Health and Building Business Units.

Conclusion

- It is considered that the proposed "Use Not Listed" (Rural Tourism) may be consistent with the objectives and purpose of the "Intensive Farming" zone. Officers therefore recommend that Council determine the proposed "Use Not Listed" may be consistent with the objectives and purpose of the zone.
- Officers do not consider that the proposed land use is of a type or form that could be incompatible with, or sensitive to agricultural activities within the area or vice versa.
- The proposal aligns with the Shire's principles to support local economic development by encouraging tourism destinations that are based on distinct characteristics, natural assets, and qualities.

- The proposal is for a small-scale business venture that will provide a local tourism destination for Roelands and potentially to provide a local food and beverage service to the growing population of the Roelands townsite from Wednesday through Sunday.

Statutory/Policy Environment

Greater Bunbury Region Scheme

Part 4 – Zones

12. “Purposes of zones

Land is classified into zones under the Scheme for the following purposes —

(e) Rural — to provide for the sustainable use of land for agriculture, assist in the conservation and wise use of natural resources including water, flora, fauna and minerals, provide a distinctive rural landscape setting for the urban areas and accommodate carefully planned rural living developments;”

Priority Agricultural Land Policy 2017

3. Application

3.1 This policy applies to land in the Greater Bunbury Region Scheme area that is:

- *adjacent to, or in close proximity (500 metres) to the priority agricultural land areas shown in Figure 1, and where the WAPC or the local government considers that the type or form of the proposed land use or development could be incompatible with, or sensitive to agricultural activities within these areas or vice versa.*

Schedule 2 – Deemed Provisions, Section 64 – Advertising Applications:

64. Advertising applications

(1) The local government —

(a) must advertise a complex application for development approval in accordance with subclause (3);

(3) For the purposes of subclause (1)(a), a complex application is advertised by doing all of the following —

(a) publishing in accordance with clause 87 —

(i) a notice of the proposed development in the form set out in clause 86(3); and

(ii) the application for development approval; and

(iii) any accompanying material in relation to the application that the local government considers should be published;

(b) giving notice of the proposed development —

(i) to the owners and occupiers of every property that is within 200 m of the proposed development; and

- (ii) *to any other owners and occupiers of properties in the vicinity of the proposed development who, in the opinion of the local government, are likely to be affected by the granting of development approval;*
- (6) *The period to be specified in a notice published or given, or on a sign erected, in accordance with subclause (3) in relation to a complex application is —*
 - (a) *the period of 28 days after the day on which the notice of the application is first published under subclause (3)(a); or*
 - (b) *a longer period agreed in writing between the applicant and the local government.*

Shire of Harvey District Planning Scheme No.1

Clause 4.2.4 - Zoning and Development Tables

“If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the land use categories the Council May: -

- (b) *Determine by absolute majority that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of Clause 64 of the Deemed Provisions in considering an application consent. In approving such an application, the local government may apply any conditions or development standard it deems necessary.”*

Table 25 & 26 – Zoning and Development Standards (Intensive Farming):

Policy Statement: Local government has identified by zoning and intends to protect from inappropriate use the valuable irrigated farmland in the Scheme area.

Shire of Harvey Economic Development Strategy 2020 – 2025

- *Focus Area 3 Tourism: Further develop the Harvey Region’s visitor economy through a range of initiatives.*
- *Focus Area 4 Towns and Infrastructure: Quality infrastructure enables expansion of local production capacity that leads to increased wealth, business growth and access to opportunities for employees.*

Shire of Harvey Delegations Register

Delegation No 9.1.2(9)

The Chief Executive Officer has delegated authority to approve an application for a ‘Use Not Listed’ that Council has determined ‘may be consistent with the purposes and objectives of the zone’ pursuant to Clause 4.2.4(b) of the District Planning Scheme No.1, subject to no objections being received during advertising of the application.

Strategic Framework

The Shire’s Strategic Community Plan 2021 – 2031, states:

- Goal 1:** *A diversified and thriving economy that offers a wide range of business and work opportunities as well as consumer choice.*
- Objective 1.1** *The Shire is a tourist destination of choice*

Objective 1.2 Create a business friendly environment to support and attract investment, competition and productivity

Objective 1.3 Sustainable urban, rural and industrial development

Community Engagement

Community Participation Goal

Consult: To provide the public feedback on analysis, alternatives and/or decisions.

Promise to the Community

Consult: We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision. We will seek your feedback on drafts and proposals.

Risk Management

The Risk Theme Profile identified as part of this report is **Providing Inaccurate Advice/Information**. The Consequences could be **Environmental, Financial, Reputational or Compliance** if an incorrect assessment of the land use occurs or insufficient community engagement occurs. The risk is considered **Minor** and the likelihood **Unlikely**, given that the report has been thoroughly researched, peer reviewed and provided by a qualified Shire Officer with a recommendation for the proposal to be advertised. This results in a **Low** risk being present.

Budget Implications

Nil.

Authority/Discretion

Quasi-Judicial: When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building permits, applications for other permits/licenses (e.g., under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

Voting Requirements

Recommendation 1 of 2 – Absolute Majority

Recommendation 2 of 2 – Simple Majority

Officer's Recommendation 1 of 2

That Council, pursuant to Clause 4.2.4(b) of the Shire of Harvey's District Planning Scheme No. 1, determines that the proposed "Use Not Listed" detailed in the Application for a Development Approval for Lot 101 (124) Government Road, Roelands can be considered as "Rural Tourism" which may be consistent with the objectives and purposes of the "Intensive Farming" zone.

BY ABSOLUTE MAJORITY

Officer's Recommendation 2 of 2

That Council notes the Application for Development Approval for Lot 101 (124) Government Road, Roelands for the proposed "Use Not Listed" (Rural Tourism) may be:

1. Advertised by Officers pursuant to Delegation No. 9.1.1; and
2. Approved by Officers pursuant to Delegation No. 9.1.2(9), subject to no adverse submissions being received during the public advertising period.

Item No.	12.3.4.
Subject:	Use Not Listed (Catering) - Lot 1 Rodgers Road, Uduc
Proponent:	K.H. and E.A. Dowd
Location:	Lot 1 Rodgers Road, Uduc
Reporting Officer:	Planning Officer - Graduate
Authorising Officer:	Director Sustainable Development
File No.:	A14953
Attachments:	<ol style="list-style-type: none"> 1. Application [12.3.4.1 - 6 pages] 2. Location Plan [12.3.4.2 - 1 page]

Summary

An application for Development Approval has been received for a 'Use Not Listed' (Catering) on Lot 1 Rodgers Road, Uduc (refer **Attachment 1**). The application is referred to Council as Officers do not have delegation to determine that a 'Use Not Listed' may be consistent with the purpose and objectives of the "General Farming" zone.

It is recommended that Council determines the proposed 'Use Not Listed' may be consistent with the objectives of the zone and advertises the proposal. At the completion of advertising, should no adverse submissions be received, Officers have delegation to determine the application in accordance with Delegation 9.1.2 (9).

Background

Site Description

Lot 1 Rodgers Road is zoned "General Farming" under the Shire's District Planning Scheme No. 1 (the Scheme) and is located within the locality of Uduc. The site is of irregular shape with an area of approximately 8ha and is within a designated bushfire prone area. The site has frontage to Rodgers Road and is located to the south of the Harvey Golf Club (R31486) (refer **Attachment 2**).

The property consists of a dwelling, shed and a rainwater tank and is predominately grassland with a scattering of trees towards the east and a patch of vegetation towards the west.

Proposal

The application proposes to convert a portion of the existing shed (9m x 6m area) into a commercial kitchen to produce food for the Applicant's catering business (Thyme and Place). The Applicant has advised that the kitchen is for catering preparations only, no events will be held at the property and no members of the public will visit the site. The proposed development is an internal fit-out and no demolition works, or the removal of any vegetation is required.

Comment

Land Use

The proposed use of "Catering" is not a use listed in, or defined by, the Scheme and is therefore considered a "Use Not Listed". Clause 4.2.4(b) makes provision for a "Use Not Listed" to be considered and provides that Council can *"determine by absolute majority that the proposed use may be consistent with the objectives and purpose of the zone."*

The Scheme does not provide a lot of guidance on the objectives of the General Farming zone, however the Policy Statement contained within Table 27 (General Farming zone) of the Scheme provides the following Policy Statement:

“Local government intends to encourage these areas to continue to be used for viable large scale farming activity. Local government will encourage and promote good farming, animal husbandry and soil conservation. Some limited tourist and recreational activity may be permitted where no adverse effect to the primary agricultural purpose of the zone will result.”

Officers do not consider that the proposed land use is of a type or form that could be incompatible with, or sensitive to agricultural activities within the area or vice versa. As such, Officers consider that the proposed land use can be considered consistent with the objective and purpose of the zone.

Advertising

If Council determines that the proposed “Catering” use may be consistent with the objectives and purposes of the zone, pursuant to Clause 64 of the Planning and Development (Local Planning Schemes) Regulation 2015 (the Deemed Provisions), the application is required to be advertised for a period of at least 14 days for public comment.

In addition, pursuant to Clause 66 of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Deemed Provisions), the application is required to be referred to relevant authorities for comments and recommendations.

Should no objections be received during the advertising period, Officers have delegation to approve the application as per Delegation 9.1.2 (9).

Conclusion

It is considered that the proposed “Use Not Listed” (Catering) is a use that may be consistent with the objectives and purpose of the General Farming zone. Officers therefore recommend that Council determine the proposed “Use Not Listed” consistent with the objectives of the zone.

Statutory/Policy Environment

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

- Schedule 2 – Deemed Provisions, Clause 1 – Terms used:

“complex application means —

(a) an application for approval of development that is a use of land if the use is not specifically referred to in the zoning table for this Scheme in respect of the zone in which the development is located;”

- Schedule 2 – Deemed Provisions, Section 64 – Advertising Applications:

(1) “The local government – “

(a) must advertise a complex application for development approval in accordance with subclause (3); and

(b) must advertise an application for development approval in accordance with subclause (4) if the application is not a complex application –

i. relates to development that is a class A use in relation to the zone in which the development is located; or

- ii. *relates to the extension of a non-conforming use; or*
- iii. *relates to development that does not comply with the requirements of this Scheme; or*
- iv. *relates to development of which the local government requires a heritage assessment to be carried out under clause 11(1); or*
- v. *is of a kind identified elsewhere in this Scheme as an application is this required to be advertised; and*

(c) *may advertise any other application for development approval in accordance with subclause (4).*

(2) *Subclause (1)(b)(iii) does not apply if the local government is satisfied that the non-compliance with the requirements of this Scheme is of a minor nature.”*

Shire of Harvey District Planning Scheme No.1

- Clause 4.2.4 - Zoning and Development Tables

“If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the land use categories the Council May: -

- (b) *Determine by absolute majority that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of Clause 64 of the Deemed Provisions in considering an application consent. In approving such an application, the local government may apply any conditions or development standard it deems necessary.”*

Shire of Harvey Delegations Register

- Delegation No. 9.1.1 - Advertising of applications

This provides Delegation to Officers to advertise development applications.

- Delegation No. 9.1.2 Development Applications

“To approve an Application for Development Approval for a “Use Not Listed” that Council has determined ‘may be consistent with the purposes and objectives of the zone [clause. 68]. Approval for a “Use Not Listed” Under Delegation 9, is subject to no objections being received during advertising of the application.”

Strategic Framework

The Shire’s Strategic Community Plan 2021 – 2031, states:

- | | |
|----------------------|---|
| <i>Goal 1:</i> | <i>A diversified and thriving economy that offers a wide range of business and work opportunities as well as consumer choice.</i> |
| <i>Objective 1.2</i> | <i>Create a business friendly environment to support and attract investment, competition and productivity.</i> |

Community Engagement

Community Participation Goal

Consult: To provide the public feedback on analysis, alternatives and/or decisions.

Promise to the Community

Consult: We will keep you informed, listen to, and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision. We will seek your feedback on drafts and proposals.

Risk Management

The Risk Theme Profile identified as part of this report is **Providing Inaccurate Advice/Information**. The Consequences could be **Environmental, Financial, Reputational or Compliance** if an incorrect assessment of the land use occurs or insufficient community engagement occurs. The risk is considered **Minor** and the likelihood **Unlikely**, given that the report has been thoroughly researched, peer reviewed and provided by a qualified Shire Officer with a recommendation for the proposal to be advertised. This results in a **Low** risk being present.

Budget Implications

Nil.

Authority/Discretion

Quasi-Judicial: When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building permits, applications for other permits/licenses (e.g., under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

Voting Requirements

Recommendation 1 of 2 – Absolute Majority

Recommendation 2 of 2 – Simple Majority

Officer's Recommendation 1 of 2

That Council, pursuant to Clause 4.2.4(b) of the Shire of Harvey's District Planning Scheme No. 1, determines that the proposed "Use Not Listed" detailed in the Application for a Development Approval for Lot 1 Rodgers Road, Uduc can be considered as a "Catering" land use which may be consistent with the objectives and purposes of the "General Farming" zone.

BY ABSOLUTE MAJORITY

Officer's Recommendation 2 of 2

That Council notes the Application for Development Approval for Lot 1 Rodgers Road, Uduc for the proposed "Use Not Listed" (Catering) can be:

1. Advertised by Officers pursuant to Delegation 9.1.1; and

2. Approved by Officers pursuant to No. 9.1.2(9), subject to no objections being received during the public advertising period.

Item No.	12.3.5.
Subject:	Shed Conversion to Dwelling - Lot 302 (No. 7) Gardiner Street, Roelands
Proponent:	Mr R. and Mrs T. English
Location:	Lot 302 (No. 7) Gardiner Street, Roelands
Reporting Officer:	Senior Environmental Health Officer
Authorising Officer:	Director Sustainable Development
File No.:	A016273
Attachments:	1. Location Plan [12.3.5.1 - 1 page] 2. Plans [12.3.5.2 - 3 pages]

Summary

A request has been received seeking approval to convert an existing shed into a dwelling at Lot 302 (No. 7) Gardiner Street, Roelands. Section 144 of the *Health (Miscellaneous Provisions) Act 1911* (the Act), provides Council the authority to approve this conversion.

It is recommended that this application be approved subject to conditions.

Background

An application was received on 21 July 2021, from Mr and Mrs English seeking conversion of their shed (retrospective unauthorised dwelling) to a dwelling. The building is 10.5m x 7m (73.5 m²), with a loft (storage only) measuring 23m² and a carport of 28.7 m².

Lot 302 (No.7) Gardiner Street, Roelands is zoned Residential and has an area of 973m² (refer **Attachment 1**). It is surrounded by dwellings and the existing residence is connected to an approved septic system.

Comment

Planning Comment

The request has been reviewed by the Shire's Planning Business Unit and it was deemed not to require Development Approval.

Health Comment

Pursuant to Section 144 of the Act, the Local Government may give consent for the building not erected as a dwelling to be converted into a dwelling.

Council has previously approved a number of sheds to dwelling conversions subject to conditions.

Health (Miscellaneous Provisions) Act 1911, Section 144

"144. Building not erected as dwelling not to be converted into one:

No person shall convert into or adapt or use a dwelling any building not originally constructed or erected as a dwelling-house, and no person shall let, or lease, or sublet, or sublease, or otherwise permit, whether for any consideration or gratuitously, the use of, the building as a dwelling, without having first obtained the consent of the Local Government of the district in which the building is situated, and complied (in case a conditional consent is given) with such conditions as the Local Government has seen fit to impose."

The converted structure will consist of a:

- Bedroom;
- Kitchen/living area;
- Bathroom/water closet/laundry; and
- Loft, balcony and carport.

The amenities within this proposed shed conversion comply with the minimum requirements for a dwelling under the Act (refer **Attachment 2**).

The ventilation of the building is to comply with Sewerage (Lighting, Ventilation and Construction) Regulations 1971, and the Building Code of Australia.

Building Comment

The Shire's Building Business Unit advises the following works would be required to convert the shed into a Class 1 habitable building:

- Damp proof reinforced floor construction;
- Walls and ceilings are insulated to a minimum standard and lined;
- Light and ventilation requirements;
- Compliance with energy efficient provisions; and
- Minimum ceiling height of 2.4m.

An application for a Building Permit has been submitted that satisfies the aforementioned requirements of the Building Code of Australia.

General Comment

It is to be noted that the Act can only address health related matters. The shed conversion could be made to comply with conditions required to make the building a Class 1 structure pursuant to the Building Code of Australia and *Health Act 1911*.

Statutory/Policy Environment

Health (Miscellaneous Provisions) Act 1911, Section 144 and subsidiary regulations gives Council the authority to approve the conversion of a shed to a dwelling subject to appropriate conditions.

Sewerage (Lighting, Ventilation and Construction) Regulations 1971.

Building Code of Australia sets the requirements for a Class 1 building.

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

- Goal 1: A diversified and thriving economy that offers a wide range of business and work opportunities as well as consumer choice.*
- Objective 1.3 Sustainable urban, rural and industrial development*
- Goal 2: A safe, accessible and connected community where everyone has the opportunity to contribute and belong.*
- Objective 2.1 To support people through all stages of life*

Community Engagement

Community Participation Goal

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

Promise to the Community

Inform: We will keep you informed.

Risk Management

The Risk Theme Profile identified as part of this report is **Providing Inaccurate Advice/information**. The Consequence could be **Financial**, **Reputational** or **Compliance** if an incorrect approval is given or a condition is missed. The risk is mitigated by the report being thoroughly researched, reviewed and provided by a qualified Shire Officer, resulting in **Low** risk being present.

Budget Implications

Nil.

Authority/Discretion

Quasi-Judicial: When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town development applications, building permits, applications for other permits/licenses (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

Voting Requirements

Simple Majority

Officer's Recommendation

That Council:

1. Approves the conversion of the shed at Lot 302 (No. 7) Gardiner Street, Roelands to a dwelling pursuant to Section 144 of the *Health (Miscellaneous Provisions) Act 1911*, subject to a Building Permit being obtained that satisfies the following requirements of the Building Code of Australia:
 - a) The floor being reinforced and damp proofed;

- b) Walls and ceilings being insulated to the minimum standard and lined;
 - c) Compliance with lighting and ventilation requirements;
 - d) Compliance with energy efficient provisions; and
 - e) A minimum ceiling height of 2.4m being achieved.
2. Advises the Applicant that the loft, balcony and carport extensions will need to comply with the Building Code of Australia.

Item No.	12.3.6.
Subject:	Shed Conversion to Dwelling - Lot 1047 Black Rock Road, Yarloop
Proponent:	Mr B. and Mrs D. Clark
Location:	Lot 1047 Black Rock Road, Yarloop
Reporting Officer:	Senior Environmental Health Officer
Authorising Officer:	Director Sustainable Development
File No.:	A000151
Attachments:	<ol style="list-style-type: none"> 1. Location Plan [12.3.6.1 - 1 page] 2. Plans [12.3.6.2 - 6 pages]

Summary

A request has been received seeking approval to convert an existing shed into a dwelling at Lot 1047 Black Rock Road, Yarloop. Section 144 of the *Health (Miscellaneous Provisions) Act 1911* (the Act), provides Council the authority to approve this conversion.

It is recommended that this application be approved subject to conditions.

Background

A retrospective application was received on 11 October 2021 from Mr and Mrs Clark seeking conversion of a 12m x 7.6m (91.2m²) shed to a dwelling with a verandah measuring 12m x 2.4m (28.8m²).

Lot 1047 Black Rock Road, Yarloop is zoned General Farming, has an area of 2.03ha and is located within a Place of Landscape Value (refer **Attachment 1**). It is surrounded by other farms and the State Forest. The shed is connected to an unapproved septic system.

Comment

Planning Comment

The request has been reviewed by the Shire's Planning Business Unit and it was deemed to not require a Development Approval.

Health Comment

Pursuant to Section 144 of the Act, the Local Government may give consent for the building not erected as a dwelling to be converted into a dwelling.

Council has previously approved a number of sheds to dwelling conversions subject to conditions.

Health (Miscellaneous Provisions) Act 1911, Section 144

"144. Building not erected as dwelling not to be converted into one:

No person shall convert into or adapt or use a dwelling any building not originally constructed or erected as a dwelling-house, and no person shall let, or lease, or sublet, or sublease, or otherwise permit, whether for any consideration or gratuitously, the use of, the building as a dwelling, without having first obtained the consent of the Local Government of the district in which the building is situated, and complied (in case a conditional consent is given) with such conditions as the Local Government has seen fit to impose."

The converted structure will consist of a:

- Bedroom;
- Kitchen/living area;
- Bathroom/water closet/laundry; and
- Verandah.

The amenities within this proposed shed conversion comply with the minimum requirements for a dwelling under the Act (refer **Attachment 2**).

The ventilation of the building is to comply with Sewerage (Lighting, Ventilation and Construction) Regulations 1971, and the Building Code of Australia.

Building Comment

The Shire's Building Business Unit advises the following works would be required to convert the shed into a Class 1 habitable building:

- Damp proof reinforced floor construction;
- Walls and ceilings are insulated to a minimum standard and lined;
- Light and ventilation requirements;
- Compliance with energy efficient provisions; and
- Minimum ceiling height of 2.4m.

An application for a Building Permit has been submitted and should satisfy the aforementioned requirements of the Building Code of Australia.

General Comment

It is to be noted that the Act can only address health related matters. The shed conversion could be made to comply with conditions required to make the building a Class 1 structure pursuant to the Building Code of Australia and *Health Act 1911*.

Statutory/Policy Environment

Health (Miscellaneous Provisions) Act 1911, Section 144 and subsidiary regulations gives Council the authority to approve the conversion of a shed to a dwelling subject to appropriate conditions.

Sewerage (Lighting, Ventilation and Construction) Regulations 1971.

Building Code of Australia sets the requirements for a Class 1 building.

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

- Goal 1: A diversified and thriving economy that offers a wide range of business and work opportunities as well as consumer choice.*
- Objective 1.3 Sustainable urban, rural and industrial development*
- Goal 2: A safe, accessible and connected community where everyone has the opportunity to contribute and belong.*
- Objective 2.1 To support people through all stages of life*

Community Engagement

Community Participation Goal

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

Promise to the Community

Inform: We will keep you informed.

Risk Management

The Risk Theme Profile identified as part of this report is **Providing Inaccurate Advice/information**. The Consequence could be **Financial, Reputational** or **Compliance** if an incorrect approval is given or a condition is missed. The risk is mitigated by the report being thoroughly researched, reviewed and provided by a qualified Shire Officer, resulting in **Low** risk being present.

Budget Implications

Nil.

Authority/Discretion

Quasi-Judicial: When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town development applications, building permits, applications for other permits/licenses (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

Voting Requirements

Simple Majority

Officer's Recommendation

That Council:

1. Approves the conversion of the shed at Lot 1047 Black Rock Road, Yarloop to a dwelling pursuant to Section 144 of the *Health (Miscellaneous Provisions) Act 1911*, subject to a Building Permit being obtained that satisfies the following requirements of the Building Code of Australia:
 - a) The floor being reinforced and damp proofed;

- b) Walls and ceilings being insulated to the minimum standard and lined;
 - c) Compliance with lighting and ventilation requirements;
 - d) Compliance with energy efficient provisions; and
 - e) A minimum ceiling height of 2.4m being achieved.
2. Advises the Applicant that the retrospective building permit application needs to include the following:
- a) The verandah extension; and
 - b) A retrospective septic system application.

12.4. Corporate Services

Item No.	12.4.1.
Subject:	Financial Statements as at 31 October 2021
Proponent:	Shire of Harvey
Location:	Shire of Harvey
Reporting Officer:	Manager Finance
Authorising Officer:	Director Corporate Services
File No.:	FM/S/006
Attachments:	1. October 21 Agenda [12.4.1.1 - 14 pages]

Summary

The Financial Statements as at 31 October 2021 are provided at **Attachment 1**.

The following key balances are provided to assist in reporting the Shire's financial performance.

	ACTUAL	BUDGET	VARIANCE
	31 October 2021	2021 – 2022	
Statement of Financial Performance			
Ordinary Revenue	\$33,630,878	\$45,448,883	\$11,818,005
Ordinary Expenditure	\$13,383,913	\$52,317,117	\$38,933,204
Capital Revenue	\$458,310	\$18,550,220	\$18,091,910
Capital Expenditure	\$808,151	\$23,102,452	\$22,294,301
End of Period Profit / (Loss)	\$25,749,810		
Statement of Financial Position			
Current Assets	\$60,960,424		
Net Assets	\$573,925,018		

It is recommended Council receive the Financial Statements (refer **Attachment 1**).

Background

In accordance with the provisions of Section 6.4 of the *Local Government Act 1995*, and Regulation 34(1) of the Local Government (Financial Management) Regulations 1996, a Local Government is to prepare each month a Statement of Financial Activity (refer **Attachment 1**) reporting on the revenue and expenditure as set out in the Annual Budget under Regulations 22 (1)(d) for the month.

Comment**Rates Revenue**

Rates revenue of \$22.5 million and rubbish rates of \$3.5 million was generated in August 2021. The due date for rates was 24 September 2021. Approximately 74% of the rates were collected by 31 October 2021.

Cash Flow and Interest Earnings

The Shire holds by way of cash and term deposit \$19.18 million in Municipal Funds and \$34.23 million in restricted Trust and Reserve Funds. The average interest rate on these funds is 0.28%. New term deposits are attracting a very low interest rate for 90 days of approximately 0.27%.

Operating Grants and Subsidies

46% of the 2021 – 2022 Financial Assistance Grants (FAGS) were received as an advance payment in the financial year 2020 – 2021. The next instalment for FAGS is due in November 2021.

Employee Costs

The financial statements reflect the first four months of the financial year, it is anticipated employee costs will remain on budget and in line with the Workforce Plan.

Materials, Contracts, Utilities and Other Expenses

The financial statements reflect the first four months of the financial year, and it is anticipated the Shire will operate within its means and in line with the Shire's adopted 2021 – 2022 Budget.

Capital Expenditure

The Shire budgeted to spend \$23.1 million on capital projects throughout the Shire in 2021 – 2022. Capital works have commenced in a number of areas including roads, building works and recreation works. Expenditure totalling \$808,151 has been reported at the end of October 2021. As more projects are completed, and as the Shire is invoiced for those works, the level of reported expenditure will increase.

Attachment 1 provides the Financial Report for the reporting period which includes the following:

- Statement of Financial Performance by Directorates;
- Statement of Financial Performance by Schedules;
- Statement of Financial Position;
- Notes to the Statement of Financial Performance and Financial Position;
- Total Municipal Revenue and Expenditure – graph;
- Statement of Cash at Bank – Loans;
- Statement of Cash at Bank – Reserves;
- Statement of Cash at Bank – Bonds and Deposits;
- Statement of Cash at Bank – Trust;
- Current Ratio – graph;
- Outstanding Rates – graph;
- Aged Debtors Summary – graph;
- Current Account Coverage – graph; and
- Statement of Investments.

The Notes to the Statement of Financial Performance, as well as the Notes to the Statement of Financial Position, include additional information reported on a by Program basis identifying reasons

for variances between budgets and actuals.

It should be noted that in the Financial Statements for October 2021, actual figures reported for the 2020 – 2021 financial year do not include the final figures and end of year adjustments for the year ended 30 June 2021. The final position for the 2020 – 2021 financial year will be reported in the 2020 – 2021 Annual Financial Statements.

Statutory/Policy Environment

Section 6.4 of the *Local Government Act 1995* requires financial reports to be prepared as prescribed.

Local Government (Financial Management) Regulation 1996, Regulation 34 prescribes the monthly financial reporting requirements of Council.

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

Goal 5: A representative leadership that is future thinking, transparent and accountable.

Objective 5.3 Accountable leadership supported by a professional and skilled administration

Objective 5.4 Sound governance, including financial, asset and risk management

Community Engagement

Community Participation Goal

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

Promise to the Community

Inform: We will keep you informed.

Risk Management

The Risk Theme Profile identified as part of this report is **Providing Inaccurate Advice/Information**. The Consequence could be **Financial**, **Reputational** or **Compliance** if the financial statements are not reported accurately, timely or in the required format. The risk is mitigated by Council receiving financial statements on a monthly basis and in a form that is in accordance with the *Local Government Act 1995* and associated Regulations, resulting in a **Low** risk being present.

Budget Implications

Review of the monthly accounts aids in ensuring works and services are undertaken and the Shire operates within its adopted Budget.

Authority/Discretion

Executive: The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

Voting Requirements

Simple Majority

Officer's Recommendation

That Council receives the Financial Statements as at 31 October 2021 at ***Attachment 1***.

Item No.	12.4.2.
Subject:	Listing of Accounts Paid - October 2021
Proponent:	Shire of Harvey
Location:	Shire of Harvey
Reporting Officer:	Manager Finance
Authorising Officer:	Director Corporate Services
File No.:	FM/S/006
Attachments:	1. Payments October 2021 v 2 [12.4.2.1 - 17 pages]

Summary

A listing of payments for goods and services for October 2021 is provided at **Attachment 1**. It is recommended that Council notes the attached payments.

Background

Pursuant to Section 5.42 of the *Local Government Act 1995* (Delegation of some powers and duties to CEO), Council has resolved to delegate to the Chief Executive Officer (Delegation No: 2.2.1) the exercise of its powers to make payments from the municipal and trust funds.

As a result of this delegation, there is a requirement under the Local Government (Financial Management) Regulations 1996, Regulation 13(3) for a list of payments to be prepared and presented to Council.

Comment

The list of accounts paid for the period of October 2021 is presented as **Attachment 1**, as summarised below.

<u>Voucher</u>	<u>Amount</u>
Schedule of Accounts	
Trust	
Cheques 3237 – 3239	\$360.00
EFT 57395 – 57494	\$241,495.92
Municipal	
EFT 57210 - EFT 57616	\$2,847,294.56
117306 – 117317	\$6,480.55
DD23170.1 - DD23255.21	\$154,483.80
CBA Credit Cards	\$9,250.42
Electronic Funds Submitted	\$1,135,789.76
Total	<u>\$4,395,155.01</u>

Statutory/Policy Environment

Local Government (Financial Management) Regulation 1996, Regulation 13 prescribes the reporting of payments to Council.

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

- Goal 5: A representative leadership that is future thinking, transparent and accountable.*
Objective 5.3 Accountable leadership supported by a professional and skilled administration
Objective 5.4 Sound governance, including financial, asset and risk management

Community Engagement**Community Participation Goal**

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

Promise to the Community

Inform: We will keep you informed.

Risk Management

The Risk Theme Profile identified as part of this report is **Providing Inaccurate Advice/Information**. There is no Consequence associated as Council is receiving financial information only with no recommendation on action or intervention.

Budget Implications

The payments listed above have been budgeted for in the Shire's 2021 – 2022 Budget.

Authority/Discretion

Executive: The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

Voting Requirements

Simple Majority

Officer's Recommendation

That Council notes the list of accounts paid at **Attachment 1** for the period of October 2021 totalling \$4,395,155.01.

12.5. Community and Lifestyle

Item No.	12.5.1.
Subject:	Tender T092021 - Leschenault Leisure Centre Court Expansion (Design, Design Development and Documentation)
Proponent:	Various Tenderers
Location:	Leschenault Leisure Centre
Reporting Officer:	Director Community and Lifestyle
Authorising Officer:	Chief Executive Officer
File No.:	T092021
Attachments:	Confidential Attachment 1 – Item No. 12.5.1

Summary

Tender T092021 for the Consultancy services for the Leschenault Leisure Centre Court Expansion – Design, Design Development and Documentation closed on 11 October 2021 and at the close of Tender, four tenders were received.

This report recommends that Council accepts the tender as per the recommendation contained in the confidential attachment (refer **Confidential Attachment 1 – Item No. 12.5.1**).

Background

Tenders were invited to submit a proposal for consultancy services for the Leschenault Leisure Centre Court Expansion Design, Design Development and Documentation. Tenders were required to detail the following:

- Design Workshops;
- Project Brief;
- Schematic Design Stage;
- Development Approval Stage;
- Design Documentation Stage; and
- Construction Documentation to Tender Stage.

Evaluation Summary

Item	Response
Contract Title	Consultant Services LLC Court Expansion – Design, Design Documentation and Documentation
Request Number	RFT - 092021
Advertising	TenderLink Date released: 6 September 2021
Tender Briefing Details	A mandatory tender briefing session was held on 22 September 2021 and via zoom.
Addenda Details	Two addenda were released. In summary: <ol style="list-style-type: none"> 1. Revision of Timelines 2. Demarcation of Roles and Responsibilities between Principal and Project Architect.
Request Closing Date	11 October 2021

Tenders were assessed against a Lump Sum Price Schedule and provision of Hourly Rates for additional work required by the Shire formed part of the tender. Tenders were then assessed by the Evaluation Panel (***Confidential Attachment 1 - Item No. 12.5.1***), through the application of the following Evaluation Criteria Assessment:

	Evaluation Criteria	Weighting
A	Relevant Experience and Capability	30%
B	Resourcing, Experience and Project Team	20%
C	Demonstrated Experience	20%
D	Price	30%

Comment

Tenders Received:

A total of four responses were received from the following organisations:

- Hodge Collard;
- Donovan Payne;
- H & H Architects; and
- T & Z Architects.

The following attended the Mandatory Briefing Session but opted to not respond to the Request for Tender.

- Carvalho Design Solutions; and
- Sphere Architects.

All Respondents met the Pre-Qualification Requirements and were passed through to the Evaluation Panel for Qualitative Assessment.

Statutory/Policy Environment

Section 3.57 of the *Local Government Act 1995*, and Part 4 Local Government (Functions and General) Regulations 1996, provides a mechanism for the purchase of goods and services by Public Tender.

Regulation 18 of Local Government (Functions and General) Regulations 1996 – Choice of Tender gives Council the option to accept or decline a tender.

Shire of Harvey Policy 2.2.11 – Purchasing provides compliance with the *Local Government Act 1995*, and the Local Government (Functions and General) Regulations 1996.

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

- Goal 2: A safe, accessible and connected community where everyone has the opportunity to contribute and belong.*
- Objective 2.7 An active and healthy community.*
- Goal 4: A liveable, sustainable and well-designed built environment that is accessible to all.*
- Objective 4.5 Shire buildings, gardens and grounds are fit for purpose and well maintained.*

Community Engagement

Community Participation Goal

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

Promise to the Community

Collaborate: We will work together with you to formulate solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.

Risk Management

The Risk Theme Profile identified as part of this report is **Inadequate Supplier/Contract Management**. The Consequence could be **Compliance** and **Financial Impact** if due process is not followed in terms of Council's Purchasing Policy and the *Local Government Act 1995*. The Risk Consequence is **Minor** and the likelihood **Unlikely** resulting in a **Low** risk being present.

Budget Implications

The State Government Budget Paper 1 2021 – 2022, has provided an allocation to support this activity.

The Shire's Annual Budget 2021 – 2022 includes an allocation of \$140,000 for this work to be completed.

Authority/Discretion

Legislative: Includes adopting local laws, town planning schemes and policies. It is also when Council reviews decisions made by Officers.

Voting Requirements

Simple Majority

Officer's Recommendation

That Council awards Tender T092021 – Leschenault Leisure Centre Court Expansion Design, Design Development and Documentation as per the **Confidential Attachment 1 – Item No. 12.5.1**.

Item No.	12.5.2.
Subject:	Australia Day Awards
Proponent:	Shire of Harvey
Location:	Shire of Harvey
Reporting Officer:	Manager Place
Authorising Officer:	Director Community and Lifestyle
File No.:	C/A/012 & A001861
Attachments:	<i>Confidential Attachment 1 as tabled at Agenda Briefing</i>

Summary

This report seeks consideration of the nominations for the 2022 Australia Day Awards to be presented at the Australia Day functions held in Australind, Harvey, Binningup and Brunswick Junction.

Background

Since 2003, the Australia Day Council of Western Australia has coordinated the Community Citizen of the Year Awards in partnership with local governments throughout the State.

The Awards comprise four categories:

- Community Citizen of the Year;
- Community Citizen of the Year Award – Youth (under 25 years of age);
- Community Citizen of the Year Award – Senior (over 65 years of age); and
- Active Citizenship – Group or Event.

Nominations for the 2022 Australia Day Community Citizen of the Year Awards opened 1 September and closed 31 October 2021. The Australia Day Council requires notification of the award recipients in the various categories by 6 December 2021.

The Shire's Awards, Honours and Prizes Advisory Group met on 15 November 2021 to consider the nominations and recommend award recipients. A copy of the Minutes of that meeting are tabled as per ***Confidential Attachment 1***.

Comment

Advertisements were placed in local papers, the Shire website and social media accounts inviting nominations for the awards.

Nominations for award categories received by the closing date of 31 October 2021, and corresponding scoring and recommendations presented by the Awards, Honours and Prizes Advisory Group, are tabled as per ***Confidential Attachment 1***.

Statutory/Policy Environment

Policy 3.1.1 Relates to Honours and Awards.

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

- Goal 2: A safe, accessible and connected community where everyone has the opportunity to contribute and belong.*
- Objective 2.3 Active and resilient community groups and volunteers.*

Community Engagement

Community Participation Goal

Inform: To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and

Promise to the Community

Inform: We will keep you informed.

Risk Management

The Risk Theme Profile identified as part of this report is **Providing Inaccurate Advice/Information**. The consequence could be **Reputational** if the awards are not presented to worthy recipients. This risk is mitigated through the scoring and review process of the Awards, Honours and Prizes Advisory Group. The risk consequence is assessed to be **Moderate** and the Likelihood **Unlikely** resulting in a **Moderate** risk being present.

Budget Implications

The annual cost to be a member of the Australia Day Council and participate in the Australia Day Awards is \$594.

Authority/Discretion

Executive: The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

Voting Requirements

Simple Majority

Officer's Recommendation

That Council:

1. Endorses the nominations for the Australia Day Awards 2022 as per **Confidential Attachment 1**; and
2. Presents the above awards at the 2022 Australia Day functions held in the Shire with the announcement of the award recipients being embargoed until the awards have been presented.

Item No.	12.5.3.
Subject:	Brunswick River Cottages Stage 3 Funding Application
Proponent:	Shire of Harvey
Location:	Lot 151 Clifton Road, Brunswick Junction
Reporting Officer:	Director Community and Lifestyle
Authorising Officer:	Chief Executive Officer
File No.:	F000254
Attachments:	1. Chrysalis Report V 1.0 QS November 2021 [12.5.3.1 - 17 pages]

Summary

This report requests that Council supports the submission of a \$4.9 million (excluding GST) funding application to the State Government for construction of Brunswick River Cottages Stage 3 and recommends that Council considers allocating \$1.2 million in the 2022 – 2023 draft Budget to mitigate the potential for cost overruns during construction provided in **Attachment 1**.

Background

Previous reports to Council have provided information on the planning, development, and construction of age-appropriate affordable accommodation at the Brunswick River Cottages site located at Lot 151 Clifton Road, Brunswick Junction. Stages 1 and 2 are now complete.

An investment ready Business Case and supporting documentation for the construction of Stage 3 is now awaiting funding. Officers completed a Master Plan, inclusive of detailed design and construction documentation and a quantity surveyors report in April 2020.

In June 2020, the Western Australian government announced the Social Housing Economic Recovery Package (SHERP), a housing stimulus package, with an estimated \$97 million targeted at the construction of new social housing assets. The Department of Communities is now inviting applications to SHERP Workstream 1: New Builds.

Officers conducted a new up to date cost structure for the development of Stage 3 in October 2021 in preparation of an application to the SHERP. The new up to date costs identify an increase in the project costs of \$1.2 million (**Attachment 1**).

Comment

A maximum amount of \$5 million is available through this funding opportunity. The development must be in a single location, on land that is owned and controlled by the applicant, and if successful, the grant amount is fixed, will not be increased to allow for cost increases over the life of the project, with practical completion expected to be no later than 30 December 2024.

Brunswick River Cottages Stage 3 is estimated to cost \$4.9 million. An updated cost report on the project, that included an assessment of the increases to the Building Cost Index over the most recent three years, regional loadings, and a scan of the construction industry resources such as labour and materials, has identified an additional \$1.2 million in contingencies. This projects the total project cost for Brunswick River Cottages Stage 3 to \$6.1 million. As such, it is a recommendation of this report that Council considers making the appropriate allowances in future budgets to allow for cost escalation.

Option A) Consider allocating \$1.2 million in the 2022 – 2023 draft Budget (Preferred Option)

Brunswick River Cottages Stage 3 is an investment ready project that has been developed with the Brunswick River Cottages Incorporated, Council and community over many years. There is a high confidence rating in the successful construction and future management of additional units at this site, due to the robust execution of Stage 1 and 2 and diligent planning of Stage 3.

Construction of Stage 1 and 2 were completed on time and on budget. An environmental scan of the current construction industry indicates that there is a higher than ordinary likelihood of project contingencies being required for developments commencing within the next six to 12 months.

The Brunswick River Cottages Incorporated (BRC Inc.) entered a self-supporting loan with the Shire for an amount of \$750,000 to assist with funding shortfalls for the construction of Lease for Life units that formed part of Stage 2. Whilst this arrangement was appreciated and facilitated a successful outcome, BRC Inc. are not willing to enter a new self-supporting loan for the construction of Stage 3.

Officers are seeking support for Option A and for Council to consider allocating \$1.2 million in the 2022 – 2023 draft Budget to mitigate the potential for cost overruns during construction. Should the project be successful in attracting grant funding, this nominal amount would mitigate the potential cost overrun of construction for Stage 3.

Option B) In due course, reduce scope of the project to align with potential funding allocations

In 2018, Council received funding of \$1.5 million, of a requested \$2.2 million, for the construction of Stage 2. At this time, the decision to build 12 units was reduced to eight units. The project was constructed on time and on budget and all eight units were occupied within the first few weeks after practical handover.

Should the Shire be successful in receiving the full amount of the funding application (\$4.9 million), the project scope could be amended to construct only eight of the intended 12 units, which would assist in keeping the project within the total project budget.

Should the Shire be successful in receiving only part of the funding application, the project scope could be amended to construct only eight units and remove the proposed community centre. For both amended scenarios, Officers will attempt to attract additional leveraged funding from sources yet to be identified.

There is a current waitlist of 30 prospective tenants who have been pre-screened and are deemed to meet the Band A requirements of Social Housing Income Eligibility Limits. These individuals identify as being in housing stress, requiring secure accommodation soon. Knowledge of the limited provisions for housing in the Shire, together with an understanding of the limited funding streams for housing construction, Officers do not recommend Council support this Option.

Statutory/Policy Environment

Nil

Strategic Framework

The Shire's Strategic Community Plan 2021 – 2031, states:

- | | |
|----------------------|--|
| <i>Goal 2:</i> | <i>A safe, accessible and connected community where everyone has the opportunity to contribute and belong.</i> |
| <i>Objective 2.1</i> | <i>To support people through all stages of life.</i> |
| <i>Goal 4:</i> | <i>A liveable, sustainable and well-designed built environment that is accessible to all.</i> |

Community Engagement

Community Participation Goal

Collaborate: To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.

Promise to the Community

Collaborate: We will work together with you to formulate solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.

Risk Management

The Risk Theme Profile identified as part of this report is **Providing Inaccurate Advice/Information**. The Consequence could be **Reputational** supporting the social housing needs of community and **Financial** if successful in receiving a grant. The Risk Consequence is **Moderate**, and the likelihood is **Likely**, resulting in a **Moderate** level of risk.

Budget Implications

There has been a recurrent allocation of \$200,000 in the Annual Budget since 2017 – 2018. This report recommends that a more accurate amount of \$1.2 million should be allocated.

Authority/Discretion

Executive: The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

Voting Requirements

Simple Majority

Officer's Recommendation

That Council:

1. Supports a funding application to State Government for \$4.9 million (excluding GST) for the construction of Brunswick River Cottages Stage 3; and
2. Lists an amount of \$1.2 million for consideration in the 2022 – 2023 draft Budget to mitigate the risk of project cost overruns.

13. Elected Members Motions of Which Previous Notice Has Been Given**14. Notice of Motion for Following Meeting****Notice of Motion for Following Meeting**

Cr. Beech requests that the following Notice of Motion be placed in the Ordinary Council Meeting Agenda for 23 November 2021.

That Council notes the adoption of the Greater Bunbury Sub Regional Strategy by the Western Australia Planning Commission requires a review of the Shire's Local Planning Strategy. As part of that review consideration is to be given to recommending Scheme provisions that set a size limit on additional dwellings on land zoned; Rural Residential, Priority Agriculture and Rural.

Officer Comment

Officers acknowledge the Notice of Motion was in response to a Council resolution to approve an oversized ancillary dwelling and oversized shed on a Rural Residential lot approximately five times the size of the average similarly zoned lot. Justification provided by Council at the time was that a larger sized lot should be able to accommodate a larger amount of development, should the merits of the proposal warrant support, and not be confined to a 'one size fits all' approach. The Notice of Motion is supported as it will provide officers with the guidance to review current planning framework to consider whether a more property based (area and attributes) is more appropriate than the current quantitative provisions.

15. Questions by Members of Which Due Notice Has Been Given**16. New Business of an Urgent Nature Introduced by Decision of Meeting****17. Matters Behind Closed Doors****17.1. Corporate Services****17.1.1 WALGA Energy Sustainability and Renewals Project Agreement****18. Closure of Meeting**