SHIRE OF HARVEY

# Agenda Briefing Session
# **Agenda**

**Harvey Council Chamber**

**Tuesday, 21 February 2023**

**4PM**

# Shire of Harvey

## Agenda Briefing Session

Dear Councillor,

Notice is hereby given that the next meeting of the Harvey Shire Council will be held in the Harvey Council Chamber, Young Street, Harvey, on Tuesday, 21 February 2023 commencing at 4pm.

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

Yours faithfully,

**Dean Winter**
**Acting Chief Executive Officer**

17 February 2023.

# Agenda

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## 1. Official Opening

### Disclaimer

Agenda Briefing Sessions are used to inform Councillors on the items of business to be presented and discussed at the forthcoming Ordinary Council meeting.

These meetings are open to members of the public who may request to present a deputation to Council relating to an item on the Agenda.

No decisions are made at these meetings, although Councillors can request additional information or alternative wording be provided, to allow for motions to be prepared for consideration at the forthcoming Ordinary Council meeting.

Any statement regarding any planning or development application made during an Agenda Briefing Session, is not to be taken as notice of approval. 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.

An audio and visual record will be made, by means of livestreaming, of these proceedings and uploaded to the Shire's YouTube page for viewing.

### 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, present and emerging.

## 2. Record of Apologies and Leave of Absence

## 3. Declarations of Members' and Officers' Personal Interest

## 4. Deputations

## 5. Officer's Reports

### 5.1. Chief Executive Officer

| | |
|---|---|
| **Item No.** | **5.1.1.** |
| **Subject:** | **Diploma of Local Government by Elected Member Councillor Dakota Krispyn** |
| **Proponent:** | **Councillor Dakota Krispyn** |
| **Location:** | **Shire of Harvey** |
| **Reporting Officer:** | **Executive Assistant** |
| **Authorising Officer:** | **Chief Executive Officer** |
| **File No.:** | **CC/U/0645** |
| **Attachments:** | Nil |

### Summary

Councillor Dakota Krispyn is requesting approval to complete a Diploma of Local Government with the Western Australia Local Government Association (WALGA) funded by the Shire. Councillor Krispyn has previously completed WALGA units which will form part of the Diploma program and can be credited towards the Diploma.

It is recommended that Council supports Councillor Dakota Krispyn's progression towards obtaining the Diploma of Local Government.

### Background

In addition to mandatory training, Councillors are encouraged to continue their learning by identify their professional development needs and addressing skill gaps as required. Council already supports the training and professional development activities of Councillors to be able to attend:

- The annual WALGA Local Government Week Convention
- Up to three separate training events including training courses, seminars, or workshops with a cumulative total of up to three days per financial year.

Councillor Krispyn has completed the mandatory training and Council has previously approved Councillor Krispyn's training request for the following additional units through WALGA:

- Planning Practices – The Essential (Completed)
- Planning Practices – Advanced (Completed)
- Effective Community Leadership (Completed).

These units were approved by Council with the condition that any other training or conferences Councillor Krispyn wishes to attend would require separate approval by Council.

To complete the Diploma of Local Government Councillor Krispyn will be required to complete the following:

- Dealing with Conflict Day 1
- Dealing with Conflict Day 2
- Strategic Decision Making (Integrated Planning and Reporting)

- Strategic Policy Development
- Oversee Local Government Asset Management.

## Comment

Under Council's Policy 1.2.7 – Councillor Training and Professional Development, a Councillor is entitled to attend WALGA, Local Government Professionals, Planning Institution of Australia, and other training without requiring a Council decision. Councillor Krispyn has however has undertaken additional units under a previous decision of Council which stipulated a condition for Council to approve any further training or conferences.

It is recommended that Council supports Councillor Dakota Krispyn's progression towards obtaining the Diploma of Local Government.

## Statutory/Policy Environment

*Local Government Act 1995*

*"5.128 Policy for Continuing Professional Development*

*(1) A local government must prepare and adopt* a policy in relation to the continuing professional development of council members.*

** Absolute Majority Required"*

Policy 1.2.7 – Councillor Training and Professional Development

## 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.

### 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*** if the Councillor does not complete the training. The risk is mitigated by the Administration adhering to the Council Policy for Councillor Training, resulting in a ***Low*** risk being present.

## Budget Implications

The Shire will provide sufficient funds in the Annual Budget for Councillors to comply with their mandatory training requirements as elected members.

Councillors are entitled to a training and professional development allocation, and the Shire will provide sufficient funds in the annual Budget for this purpose.

Funding will include actual costs, including registration, accommodation, meal, travel and incidentals which have been incurred. Councillors may elect to utilise training funding for Professional Membership, equating to one workshop allocation. Membership must relate to their role as a Councillor in local government and be approved by the CEO.

The Shire of Harvey's Councillor Training and Professional Development Policy states that professional memberships are to be paid in a year that a Councillor's term of office is not a full financial year, payment will be on a pro-rata basis.

The course fee, including previous credit applied for completed training, amounts to $ 8,950. As of 13 February 2023, the Councillor training budget includes $16,858.

## Authority/Discretion

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

## Voting Requirements

Simple Majority

## Officer's Recommendation

That Council support Councillor Dakota Krispyn's progression towards obtaining the Diploma of Local Government through the Western Australian Local Government Association.

| | |
|---|---|
| **Item No.** | **5.1.2.** |
| **Subject:** | **Council Action Register January 2022 - December 2022** |
| **Proponent:** | **Shire of Harvey** |
| **Location:** | **Shire of Harvey** |
| **Reporting Officer:** | **Manager Governance and Strategy** |
| **Authorising Officer:** | **Chief Executive Officer** |
| **File No.:** | **CC/C/0126** |
| **Attachments:** | 1. Action Register January-December 2022 [**5.1.2.1** - 28 pages]<br>2. Action Register Prior 2022 [**5.1.2.2** - 8 pages] |

## Summary

This report provides the action status of Council resolutions for the period January – December 2022 and allows Councillors to track the progress of those item. A previous report was provided to Council with comments on the progress of actions until June 2022. This report provides an update on all actions for the 2022 period.

## Background

Council is required to responsibly govern the local government's affairs under the *Local Government Act 1995* and does so by making well informed and considered decisions at Ordinary Council Meetings and any Special Council Meetings that are held.

As actions occur, updates on the progress of Council decisions are made to the Council Decision Action Register and then tabled at Council on a regular basis. In total, there were 196 Council Decisions requiring action in the 2022 calendar year (refer ***Attachment 1***). Included separately are Council Actions from resolutions in previous years which have not yet been reported as complete or are still ongoing (refer ***Attachment 2***).

## Comment

A Council Decision Action Register has been developed to ensure that Council resolutions are implemented in a timely manner. The action status against resolutions and recommendations are updated regularly by Officers so that progress can be tracked and reported back to Council during the year if necessary. It is encouraged that Council review the Action Register and consider any further Council resolution which may direct the Administration in the delivery of and prioritisation of previous resolutions.

A snapshot of the progress of previous Council resolutions is highlighted in the below table:

| Council Resolutions | Number of Items | Action Status |
|---|---|---|
| **Council Action Register 2022** | **196** | **152** completed<br>**43** in progress<br>**1** not commenced |
| **Outstanding Actions Prior 2022** | **50** | **9** completed<br>**39** in progress<br>**2** not commenced |

## Statutory/Policy Environment

*Local Government Act 1995* – Section 5.20.

## 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.* |
| *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.

### 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 ***Compliance*** if due process is not followed in terms of 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

Nil.

## Authority/Discretion

*Information Purposes:* Includes items provided to Council for information purposes only, that do not require a decision of Council (I.e. - for 'noting').

## Voting Requirements

Simple Majority

## Officer's Recommendation

That Council notes the resolutions and actions of its Ordinary and Special Council Meetings, as outlined in ***Attachment 1*** and ***Attachment 2.***

## 5.2. Infrastructure Services

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|---|---|
| **Item No.** | **5.2.1.** |
| **Subject:** | **Permanent Road Closure – Bernbrooke Place, Wellesley** |
| **Proponent:** | **Harley Dykstra (on behalf of Development WA)** |
| **Location:** | **Kemerton Industrial Area** |
| **Reporting Officer:** | **Director Infrastructure Services** |
| **Authorising Officer:** | **Chief Executive Officer** |
| **File No.:** | **C/192/00002** |
| | 1. Bernbrooke Road Closure [**5.2.1.1** - 2 pages] |

### Summary

The Shire has received a request from Harley Dykstra Planning Survey Solutions (Harley Dykstra) on behalf of Development WA, the landowner of Lot 94 (No. 48) Bernbrooke Place, Wellesley to initiate the closing of the entire Bernbrooke Place road reserve.

Bernbrooke Place to be permanently closed is shown in ***Attachment 1***.

In order to initiate a road closure (through the Department of Planning, Lands and Heritage) the Shire is required to advertise the proposal to service providers, government agencies and adjacent landowners for a period of 35 days.

Following the advertising period, the matter is to be brought back to Council for consideration.

### Background

Bernbrooke Place is located within the Kemerton Strategic Industrial Area as designated on various Planning Instruments including the Greater Bunbury Region Scheme, the Shire of Harvey's Local Planning Scheme No. 1 and the Kemerton Strategic Industrial Area Structure Plan.

**Justification of Road Closure**

The Applicant has advised that the proposed road closure is a logical progression, and is justified on the following grounds:

- The road is no longer required as a public road or access.
- The land is zoned Kemerton Ancillary Industry and no longer used for residential purposes.
- The land is going through the process to be identified as an Environmental Offset Lot.

The *Land Administration Act 1997* sets out the procedure for requesting the closure of road reserves.

### Comment

The Shire has been advised that Bernbrooke Place is no longer required in terms of access to Lot 94 or any other lot. Although Lot 94 will be utilised for conservation purposes, access if required, is available from Wellesley Road North. As Bernbrooke Place is a cul-de-sac and a no through road, the closure will not impact other roads in the area in terms of increased traffic or connection to other roads.

The closure of Bernbrooke Place will no longer burden the Shire of Harvey with regards to maintenance requirements.

## Statutory/Policy Environment

*Land Administration Act 1997* – Closing of roads is dealt with in accordance with Section 58 of the Act.

*Local Government Act 1995,* Section 3.50 Provides a framework under which Council is to proceed with the continuing closure of a thoroughfare. Requirements include advertising to the public of the proposal for a reasonable time to allow submissions, and for these submissions to be considered by Council, giving written notice to prescribed persons of the proposal, in this case all service providers, emergency services and adjoining land holders and if approved by Council, providing the Commissioner of Main Roads WA details of the closure.

## 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

*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 Consequence could be ***Financial***, ***Reputational*** or ***Compliance*** if incorrect procedures are followed for acquiring land under the *Land Administration Act 1997*. The risk is mitigated by the engagement of an appropriately qualified consultant to guide the road closure and gazettal process, resulting in ***Low*** risk being present.

## Budget Implications

All advertising and survey costs are to be borne by the Proponent.

## 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. Advertises the proposal to close the Bernbrooke Place, road reserve, as shown on ***Attachment 1***, for a period of 35 days seeking public comment.

2. Requests comments from Service Providers, the Department of Fire and Emergency Services and Government Departments.

3. Advises Harley Dykstra Planning Survey Solutions of its decision.

4. Receives a further report on this matter at the close of advertising period.

| | |
|---|---|
| **Item No.** | **5.2.2.** |
| **Subject:** | **Proposed Paris Road Bore/Pump Replacement** |
| **Proponent:** | **Shire of Harvey** |
| **Location:** | **Australind** |
| **Reporting Officer:** | **Director Infrastructure Services**<br>**Manager Parks Services** |
| **Authorising Officer:** | **Chief Executive Officer** |
| **File No.:** | **C327/000012** |
| **Attachments:** | 1. Paris Road Bore location [**5.2.2.1** - 1 page]<br>2. LLC Bore Compound - Mainline Connection [**5.2.2.2** - 1 page] |

## Summary

As part of the 2022–2023 Budget process, Council adopted a five-Year Irrigation Program and in 2022, as part of that program, investigative works were undertaken on two of the Shire's Yarragadee bores, namely the Treendale and Paris Road bores.

The Shire's Yarragadee bores were considered a high priority due to their strategic importance and as steel bore casings, which are prone to severe deterioration over time, were used in their construction.

The adopted Irrigation Program implementation will help avoid challenges such as the recent Galway Green bore replacement where there was a catastrophic failure of the bore. The program allows for forward planning and resource allocation to be considered in managing the Shire's irrigation infrastructure.

Prior planning will also help manage ratepayer dissatisfaction if there is a catastrophic failure with the extended timeframes and poor outcomes for landscaping without water being available over an extended period of time.

This report is targeted at the condition report and recommendations for the Paris Road bore, including listing an amount of $450,000 for consideration in the 2023–2024 Draft Budget.

## Background

The existing 215m deep Paris Road bore, located within Lot 4977 Paris Road (refer ***Attachment 1***) was constructed (drilled) in 1961 and utilised by the then La Porte Industries, as part of their mining operations. At the completion of their operations, some years ago, La Porte Industries gifted the bore and its associated infrastructure to the Shire of Harvey.

It is understood that the bore was re-sleaved with a steel casing in the early 1980's due to deterioration of the original steel casing.

The Paris Road bore draw's water from the Yarragadee Aquifer. It is used to water Oval 1 and Oval 2 at the Leschenault Recreation Park (LRP), including a portion of grassed road verge on Paris Road and the newly planted (2021) garden area between the Treendale entrance roundabout and Australind Police Station (which comprises part of the Treendale Landscape Refurbishment program adopted by Council in 2021).

## Comment

### Assessment of the Paris Road bore

In October 2022, a camera was used to visually inspect the condition of the Paris Road bore. The following is a breakdown of the findings of the camera run that identifies specific bore condition at the

detailed depths:

- 0 – 1.6 metres – the bore reduces from 20.3 centimetres wide to 15.24 centimetres wide.
- 1.6 – 96.6 metres – the steel casing has heavy white calcium build up with heavy rust scale and pitting.
- 96.6 – 143 metres – the steel casing is a screwed casing with vertical slots. The vertical slots are between 300-400mm in length and are heavily corroded with rust build up. Approximately 50% of the slots have corroded with age where they are now letting gravel packing and stones enter the bore casing.
- 142 – 147 metres – there is a piece of casing missing due to corrosion.
- 192 metres – the casing reduces in diameter significantly to 11.5 – 12 cm due to heavy calcium growth within the bore casing. There is also a hole in the casing at this level that is allowing rocks and gravel packing to enter the bore casing.
- 192 – 215.3 metres – there is heavy calcium growth that has stopped water flowing into the casing, the water at this level is stagnate. There is also a piece of drawn down tubbing laying in the bottom of the bore that should not be there.

The comments received from the contractor who undertook the camera run and investigation stated that, in their experience, the bore is in poor condition, it is also their opinion that given the size of the casing and level of corrosion, the bore is not repairable.

Officers were also advised that the bore should be treated very carefully due to its poor condition to prevent a catastrophic failure and that the bore should be replaced within the next two years.

**Investigations for a replacement bore**

It has been determined that sections of missing casing and gravel packing entering the bore casing may contribute to a casing failure or catastrophic failure of the pump. Given the potential for a catastrophic failure of the bore, the Shire's Parks Services Officers have been undertaking investigations on the potential cost and locations for a new bore.

As mentioned above, the current location of the Paris Road bore is within Lot 4977 Paris Road (refer ***Attachment 1***). Officers have investigated replacement options in consultation with other stakeholders and consider that the relocation of the bore to the LRP Grounds, as shown in ***Attachment 2***, provides the best long-term option for the placement of a new bore. This proposed location is close to the current irrigation mainline and potential electrical supply point.

The current bore location has restrictions if it is to be considered as a location for a new bore. In accordance with Department of Water and Environmental Regulation (DWER) Guidelines, a new bore shall not be constructed within a minimum of 20m from an existing bore. This would require a potential location outside the current reserve area and, as some of the adjoining land is in a floodplain and comprises road reserve, it would not be a suitable location (access/maintenance/servicing).

In addition, as the existing Paris Road bore provides ongoing support to the other two existing bores located at the LRP, there is an operational requirement to have the third bore provide irrigation supply to the LRP at a sufficient level to maintain the current active sport field surfaces.

Previous master planning has determined that there will be a requirement to develop two additional ovals at LRP to cater for the ongoing sport and recreation needs. The replacement of the Paris Road bore and moving it to the preferred location allows an opportunity to size the bore and pump to be

able to cater for current and the future sport field requirements.

A catastrophic failure of the Paris Road bore would likely require a reduction in turf watering/maintenance standards to allow the two existing LRP bores to be able to continue to supply water to Ovals 1 and 2.

**Proposed way forward**

It is recommended that Council list for consideration, funding in the 2023–2024 draft Budget to allow for a new bore to be drilled and positioned as shown in ***Attachment 2***.

As part of the proposed works, the existing bore would need to be abandoned, injected with grout and capped to DWER requirements. A new bore would need to be drilled to a depth of 305m to ensure a supply from the Yarragadee Aquafer. There will also be a requirement for a new pump, column, bore head and electrical cabinet to replace all the existing equipment which has passed its used by date.

Estimates for drilling a new bore indicate that the cost for this component of the work alone could be in the order of $350,000 and with the other equipment required, could total $450,000. In addition, there are a limited number of drilling companies in Western Australia licenced to drill the type of bore hole required, therefore there is the desire to progress the matter and look to secure a contractor through a tender process.

The new bore casing would be constructed from Fibreglass Reinforced Plastic (FPR), in lieu of either steel or stainless steel, as this is now the industry standard. The advantage of using FPR is that:

- The material is corrosion resistant and perfect for hyper saline or aggressive water.
- It is strong and is suitable for very deep bores.
- It is lightweight and easy to handle and is temperature tolerant up to 100 degrees Celsius.

A Request for Tender (RFT) would be developed for the replacement of the bore. This will be advertised following Council supporting the works through the annual Budget process.

## Statutory/Policy Environment

The sport fields at the Leschenault Leisure Centre are maintained by the Shire of Harvey and are irrigated from the Yarragadee Aquifer under licence from DWER.

## Strategic Framework

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

| | |
|---|---|
| *Goal 3:* | *A natural environment that is highly valued, protected and enjoyed.* |
| *Objective 3.2* | *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 ***Financial, Reputational*** or ***Compliance*** if due process is not followed in progressing with the recommended infrastructure improvements for the Paris Road Bore. The Risk is considered ***High*** and the likelihood ***Likely***, there is a current bore licence in place. This results in a ***High*** risk being present.

## Budget Implications

Shire Officers have been investigating options for undertaking the drilling of a new bore to replace the existing Paris Road bore and the indicative cost will be in the order of $450,000. This pricing is preliminary in nature and the actual cost will not be realised until the completion of the RFT process.

## 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. Notes the existing location of the Paris Road bore, as shown in ***Attachment 1*** and the proposed location of the replacement bore, as shown in ***Attachment 2***.

2. Lists an amount of $450,000 for consideration in the 2023–2024 Draft Budget for Irrigation Infrastructure Improvements at the Leschenault Recreation Park to be funded from the Asset Replacement – Plant and Equipment Reserve.

3. Notes that a Request for Tender for a new Irrigation Production Bore and associated Infrastructure will be advertised following the adoption of the 2023–2024 Budget.

4. Receives a further report on the matter following the close of tender.

| | |
|---|---|
| **Item No.** | **5.2.3.** |
| **Subject:** | **Permanent Closure of a portion of Victoria Road, Australind** |
| **Proponent:** | **Harley Dykstra** |
| **Location:** | **Australind** |
| **Reporting Officer:** | **Manager Engineering Services** |
| **Authorising Officer:** | **Director Infrastructure Services** |
| **File No.:** | **ES/R/0831** |
| **Attachments:** | 1. Victoria Street closure and amalgamation [**5.2.3.1** - 1 page]<br>2. Victoria Street Structure Plan [**5.2.3.2** - 1 page] |

## Summary

The Shire has received a request from Harley Dykstra Planning Survey Solutions (Harley Dykstra) on behalf of the landowner of Lot 564 Paris Road, Australind seeking Council approval to close this section of road reserve in accordance with Drawing DP420974 and its amalgamation with Lot 564.

The portion of Victoria Road to be permanently closed is shown in ***Attachment 1*** and is not required as it does not provide access to any other landowners in the area.

In order to initiate a road closure through the Department of Planning, Lands and Heritage (DPLH), the Shire is required to advertise the proposal to service providers and government agencies for a period of 35 days.

Following the advertising period, the matter is to be brought back to Council for consideration.

## Background

Council previously approved the closure and amalgamation of the 3,124m$^2$ portion of Victoria Road (shaded in green in ***Attachment 1***). Recently the landowners of Lot 564 Paris Road have signed a sales contract with DPLH and a Deposited Plan has been lodged with Landgate to facilitate the closure of the approved portion of road and amalgamation with Lot 564.

An existing unconstructed road reserve, known as Victoria Road, partly transverses Lot 564 near the north-eastern corner. This proposal seeks to have an additional portion of the unconstructed road reserve closed (shaded in red in (refer ***Attachment 1***)).

## Comment

The additional portion of road reserve to be closed and amalgamated with the adjoining lot is 92m$^2$. The boundary of the additional proposed road closure follows the boundary of the north-eastern corner of the Residential zone on the Structure Plan as shown in (refer ***Attachment 2***). This will allow for future residential lots to be created.

The additional portion of road reserve to be closed does not contain any major infrastructure or services and is completely cleared of vegetation.

## Statutory/Policy Environment

*Land Administration Act 1997*

- Closing of roads is dealt with in accordance with Section 58 of the Act.

*Local Government Act 1995* – Section 3.50

- Provides a framework under which Council is to proceed with the continuing closure of a thoroughfare. Requirements include advertising to the public of the proposal for a reasonable time to allow submissions, and for these submissions to be considered by Council, giving written notice to prescribed persons of the proposal, in this case all service providers, emergency services and adjoining land holders and if approved by Council, providing the Commissioner of Main Roads details of the closure.

## Strategic Framework

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

| | |
|---|---|
| *Goal 5:* | *A representative leadership that is future thinking, transparent and accountable.* |
| *Objective 5.1* | *Effective communication and engagement with the community.* |
| *Objective 5.5* | *Integrated strategic planning and reporting to drive continuous improvement.* |

## 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 Consequence could be ***Financial***, ***Reputational*** or ***Compliance*** if incorrect procedures are followed for acquiring land under the *Land Administration Act 1997*. The risk is mitigated by the engagement of an appropriately qualified consultant to guide the road closure and gazettal process, resulting in ***Low*** risk being present.

## Budget Implications

All advertising and survey costs are to be borne by the Proponent.

## 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. Advertises the proposal to close a portion of Victoria Road, road reserve, as shown on ***Attachment 1***, for a period of 35 days seeking public comment.

2. Requests comments from Service Providers, the Department of Fire and Emergency Services and Government Departments.

3. Receives a further report on this matter at the close of advertising period.

### 5.3. Sustainable Development

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|---|---|
| **Item No.** | **5.3.1.** |
| **Subject:** | **Harvey Liquid Waste Facility Update on Management Activities** |
| **Proponent:** | **Shire of Harvey** |
| **Location:** | **Lot 3001 South Western Highway, Harvey (R44819)** |
| **Reporting Officer:** | **Acting Manager Environmental Health Services** |
| **Authorising Officer:** | **Acting Director Sustainable Development** |
| **File No.:** | **A009706** |
| **Attachments:** | 1. Harvey Waste Facility [**5.3.1.1** - 1 page]<br>2. Harvey Council Septage Management Review [**5.3.1.2** - 34 pages]<br>3. Harvey Liquid Waste Facility Warawarrup Feature Survey [**5.3.1.3** - 2 pages] |

## Summary

This report provides an update on the ongoing safety and management activities associated with the Harvey Liquid Waste Facility.

It is recommended that Council receives the Septage Management Options Report and notes the staged implementation of ongoing activities required within the Safety and Management Report.

## Background

The Harvey Liquid Waste Facility is situated at Lot 3001 South Western Highway, within the Commonage Reserve (R44819) approximately 5km north from the Harvey townsite (refer ***Attachment 1***).

The Facility is operated under Department of Water and Environmental Regulation (DWER) Licence L7223/1997/10 as a prescribed Category 61 premises. It is licenced to process 3,000 tonnes or 3 million litres of liquid waste per year.

In December 2021, the Facility was closed for scheduled maintenance. As part of the maintenance works, contractors using heavy plant were required to transfer sludge from the existing four trenches to a drying area. During the operation, this method of transfer was assessed as being of considerable risk to the operators of the hired heavy plant used at the site. In response to safety and long-term operational expectations, at it Ordinary Council Meeting held in March 2022, Council, resolved:

*"That Council:*

1. *Approves the over expenditure of account 103104 Sullage Tip Maintenance by $30,000 to be funded from the Sullage Pit Maintenance Reserve account, for obtaining technical engineering advice regarding future operational management of the Harvey Liquid Waste Facility at Lot 3001 South Western Highway, Warawarrup, including safer options for the transfer of liquid waste to the drying area; and*

2. *Notes that consideration of future upgrades to the Harvey Liquid Waste Facility will be included in the Shire of Harvey Forward Capital Works Plan and incorporated into subsequent annual Budget processes."*

A copy of the Septage Management Options is contained within ***Attachment 2***.

## Comment

Officers acknowledge the recommendations within the Septage Management Options Report, however remained concerned as to the viability of the recommendations and to this effect, are still reviewing design options. Notwithstanding, it is recognised that upgrades will be required within the 2023–2024 financial year and that the proposed works will be included in the Shire of Harvey Forward Capital Works Plan and incorporated into subsequent annual Budget processes.

Following receipt of the Septage Management Options Report, Officers have undertaken a comprehensive safety audit of the facility and detailed site survey. A copy of the site survey is contained within ***Attachment 3*** and recommendations associated with the immediate implementation of safety and management activities is nearing completion and is currently undertaking a final review.

## Statutory/Policy Environment

The Harvey Liquid Waste Facility is operated under the provisions and conditions imposed within a Licence issued by the Department of Water and Environmental Regulation. The Licence is issued pursuant to the *Environmental Protection Act 1986*.

The Shire is responsible for the safety of its staff and workers, including contractors doing work at the site and in maintaining safe systems of work as required by the *Workplace Health and Safety Act* 2020.

## Strategic Framework

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

| | |
|---|---|
| *Goal 3:* | *A natural environment that is highly valued, protected and enjoyed.* |
| *Objective 3.3* | *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 **Failure to Fulfil Compliance Requirements**. The Consequence could be ***Environmental, Financial, Reputational*** or ***Compliance*** for a worker or shire Officer at the facility. The Risk is considered ***Moderate*** and the likelihood ***Unlikely*** given the risk has been investigated and the report proposes mitigation measures be implemented to ensure safer work practices. This results in a ***Low*** risk being present.

## Budget Implications

The Sullage Pit Major Maintenance Reserve account has a balance of approximately $298,000 and was established for the purpose of major maintenance, capital acquisitions and rehabilitation work to the Shire of Harvey Sullage Pit.

## Authority/Discretion

*Information Purposes:* Includes items provided to Council for information purposes only, that do not require a decision of Council (i.e. - for 'noting').

## Voting Requirements

Simple Majority

## Officer's Recommendation

That Council:

1. Receives the Septage Management Options Report contained within ***Attachment 2***.

2. Notes that consideration of future upgrades to the Harvey Liquid Waste Facility will be included in the Shire of Harvey Forward Capital Works Plan and incorporated into the subsequent annual Budget processes.

| | |
|---|---|
| **Item No.** | **5.3.2.** |
| **Subject:** | **Application for Saturday Night Fever Fortnightly Events** |
| **Proponent:** | **Rotary Club of Harvey** |
| **Location:** | **McQuade Park and Uduc Road (Becher Street to Young Street)** |
| **Reporting Officer:** | **Acting Manager Environmental Health Services** |
| **Authorising Officer:** | **Acting Director Sustainable Development** |
| **File No.:** | **C132/00007** |
| **Attachments:** | 1. Saturday Night Fever [**5.3.2.1** - 1 page]<br>2. EVENT APPLICATION PACKAGE - Harvey Rotary - Saturday night fever [**5.3.2.2** - 10 pages] |

## Summary

An application has been received seeking approval to conduct fortnightly food van events at McQuade Park, a Public Transport Authority Reserve leased to the Shire of Harvey on Harper Street and Uduc Road between Becher Street and Young Street, Harvey (refer ***Attachment 1***).

The Shire has, in the past under delegated authority, granted approval to the Applicant for similar events such as the Gala Night held on Uduc Road in Harvey. This application however is a considerable escalation to the frequency of trading on up to eight days for the period between March 2023 to June 2023. A previous frequent event from Barefoot Entertainment and Events was rejected by Council siting the negative impact on local businesses.

It is recommended that Council approves the subject application given the different intent of the Event and the support provided by the community and local businesses.

## Background

An application was previously received from Barefoot Entertainment and Events to conduct the Dinner at Dusk event involving food van/stalls licensed anywhere in Western Australia on a monthly basis from October 2022 to April 2023, at Snell's Park. This was refused by Council subsequent to community and local business concerns.

### Proposal

The Applicant, due to the number of local businesses not opening in the evening with some having closed permanently within the Harvey townsite, and in an attempt to support local businesses including bringing the community together, communicated with Shire Officers their desire to hold fortnightly alternating events at McQuade Park and Uduc Road.

Each event will consist of approximately twelve food stalls/vans and a variety of local singers for entertainment, on a Saturday from 5.00pm to 9.00pm on the following dates:

| McQuade Park | Uduc Road |
|---|---|
| 11 March 2023 | 25 March 2023 |
| 15 April 2023 | 29 April 2023 |
| 13 May 2023 | 27 May 2023 |
| 10 June 2023 | 24 June 2023 |

The application also requests:

- Fees to be waived.
- Portion of Uduc Road to be closed.
- Public toilets at Snell's Park and Young Street to be made available.

## Comment

As with previous food van/stall events, the organisers have completed the events package and have shown to be committed to the provision of successful events as before (refer ***Attachment 2***).

This is the first such proposal to hold an event at McQuade Park, which is adjacent to Snell Park (separated by the fenced railway lines) where the Harvey Harvest Festival and Dinner at Dusk have been held before (refer ***Attachment 1)***.

Following an advertised survey and meetings held with Harvey businesses who had raised concerns of the impact of frequent events at Snell Park by external agencies, Council at its Ordinary Meeting on 23 August 2022, refused the event application received from Barefoot Entertainment and Events (Dinner at Dusk) at Snell's Park, siting that local and pre-existing businesses are supported by the community and that it is important that they are not adversely affected by external businesses.

The local businesses held a meeting with Shire Officers with a proposal to hold the Saturday Night Fever event operated by Shire owned businesses only. This will benefit the local businesses as well as the community. It will also create economic and social benefits by attracting visitors to the Harvey Region.

There is a public car park next to McQuade Park for public parking, and it is proposed food vans/stalls will be located at the grassed area of McQuade Park, south of the car park. The proposed road closure will only be required for the Uduc Road events as events at McQuade Park do not impact the road.

It is requested the Snell Park and Young Street toilets be available for use during the events. The cleaning of these facilities is in line with the routine duties of the Shire Cleaners and there is no extra cost involved.

There are budget implications with respect to potential income to the Shire for the approval of the applications, for Trading in Public Places for Food Vendors. The current trading fee is $26 per day per trader and $110 for an application determined by Council.

Potential conditions relevant to the subject application include:

- A list of food business registrations pursuant to the Food Regulation 2009 will be provided to the Shire's Health Department.
- All food businesses as required, will provide copies of their Shire of Harvey Registration Certificates and a Public Liability Insurance to a minimum of $20,000,000.
- The Rotary Club of Harvey stipulates that all food vendors are registered with the Shire of Harvey and ensure that every applicant provides the necessary registration certificates approved by the Shire Health Department.

Officers consider that the previous Council decision relating to Dinner at Dusk is not a precedent given the subject application is supported by the local community and businesses and will only cater for local businesses. It is therefore recommended that the application be approved, subject to

appropriate conditions.

## Statutory/Policy Environment

The applicable legislation for the consideration of food trading is the *Food Act 2008* and the Food Regulations 2009.

Shire of Harvey, "Activities in Thoroughfares and Public Places and Trading Local Law 2017" requires a trader's/stallholder's permit to be approved for trading.

## 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.* |
| *Goal 5:* | *A representative leadership that is future thinking, transparent and accountable.* |
| *Objective 5.4* | *Sound governance, including financial, asset and risk management.* |
| *Objective 5.6* | *A customer centred approach to everything we do.* |

## 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 **Ineffective Management of Facilities/Venue/Events** and **Business and Community Disruption**. The Consequence could be ***Financial***, ***Reputational*** or ***Compliance*** if an incorrect approval is given or community/local business concerns are not considered. 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, resulting in ***Low*** risk being present.

## Budget Implications

The approval of applications for Trading in Public Places for Food Vendors includes a trading fee of $26 per day per trader and $110 for an application determined by Council.

There will be costs to the Shire in relation to:

- The provision of extra rubbish bins and removal. This has previously been undertaken as a community support function by the Shire.

- There will be an indicative cost for a Traffic Management Plan/road closure of $4,460 for the four Saturdays from March to June 2023, along Uduc Road.

## 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 (eg 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 Event Application received from Rotary Club of Harvey for "Saturday Night Fever" to conduct food stalls/vans, subject to the following conditions:

   a) The Event shall be restricted to operate from 5.00pm to 9.00pm, excluding set up and removal time, on the following alternating Saturdays:

| McQuade Park | Uduc Road between (Becher and Young Streets) |
|---|---|
| 11 March 2023 | 25 March 2023 |
| 15 April 2023 | 29 April 2023 |
| 13 May 2023 | 27 May 2023 |
| 10 June 2023 | 24 June 2023 |

   b) The Event shall comply with the Shire of Harvey Local Laws:

      i. Activities in Thoroughfares and Public Places and Trading Local Law 2017.

      ii. Local Law Relating to Signs and other Advertising Devices 2007 to the satisfaction of the Shire.

   c) The Event shall operate within the approved area as designated on the approved layout plans for both sites and maintain the area, clean and free of rubbish.

   d) The Applicant shall obtain current registration certificates for all food vans/stalls approved by the Shire's Environment Health Department as per the *Food Act 2008* and forward on all such information as part of the event package.

   e) Food Vendors are required to pay a trading fee of $26 per day per trader to the Shire of Harvey as per the adopted Fees and Charges.

2. Funds the cost of Traffic management plan/road closure of $4,460 for the four Uduc Road events from March to June 2023 from account 132143 – Events Support.

| | |
|---|---|
| **Item No.** | **5.3.3.** |
| **Subject:** | **Application for Over Height Outbuilding - Lot 59 (No. 7) Barnes Avenue, Australind** |
| **Proponent:** | **B Vink** |
| **Location:** | **Lot 59 (No. 7) Barnes Avenue, Australind** |
| **Reporting Officer:** | **Planning Officer Graduate** |
| **Authorising Officer:** | **Acting Director Sustainable Development** |
| **File No.:** | **C291/00028** |
| **Attachments:** | 1. Proposal Plans [**5.3.3.1** - 6 pages]<br>2. Site Plan Aerial Image [**5.3.3.2** - 1 page] |

## Summary

An Application for Development Approval has been received for an "Over Height Outbuilding" on Lot 59 (No. 7) Barnes Avenue, Australind (refer ***Attachment 1***). The application is referred to Council as Officers do not have delegation to make a determination on an outbuilding that has a height in excess of that contemplated by Policy. It is recommended that the application be approved, subject to appropriate conditions.

## Background

### Site Description

Lot 59 (No. 7) Barnes Avenue, Australind is zoned "Residential" under the Shire's District Planning Scheme No. 1 (the Scheme). The site is of regular shape with an area of 2,081m$^2$ (refer ***Attachment 2***). The property currently contains an existing dwelling and associated carport.

### Site History

- Application for Day Care was refused in 2014.
- The existing dwelling was approved in 2018.
- The existing carport was approved in 2021.
- The Department of Planning, Lands and Heritage has received an application to subdivide the property into two lots, no determination has been made at present.

### Proposal

The application proposes the construction of a new outbuilding with an area of 77.3m$^2$. The proposed outbuilding will have a skillion roof design with a 3.949m wall height and 4.378m ridge height (refer ***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 adjoining neighbours for a period of 14 days concluding on 24 January 2023. A total of one submission was received, which was in support of the proposal.

## Comment

### Proposal

The proposed wall height which is inconsistent with Part 1 – Residential Zone cl 1. of the Shire of Harvey Local Planning Policy (LPP) 4.2.6 – Variation to R Codes (Outbuildings), which stipulates a maximum wall height of 3m and a maximum ridge height of 4.5m, unless otherwise approved by the Shire.

The Shire's current Local Planning Policy (LPP) 4.2.6 – Variation to R Codes (Outbuildings) (the Policy) permits a maximum floor area of 120m$^2$, with a maximum wall height of 3m and a maximum ridge height of 4.5m for outbuildings located on land zoned 'Residential'.

Clause 2 of the Policy provides for an increase in the wall and ridge heights to a maximum of 3.6m and 5.1m respectively where the Applicant can demonstrate that:

a) The increase in height is warranted based on a specific and demonstrated need.

b) The increase in height will not impact on the residential amenity of the adjacent properties or cause undue overshadowing.

c) The applicant has consulted with the adjoining landowners and no reasonable objections have been received.

The Applicant has indicated that the request for the increase in wall height is to accommodate their intentions to store their caravan.

## Conclusion

It is considered by Officers that the proposed over height outbuilding is capable of being approved for the following reasons:

- The Applicant has demonstrated a specific need associated with the personal use of the property to justify the increase in the wall height.

- Officers consider that the increase in the wall height will not impact the amenity of adjacent residential properties or cause undue overshadowing.

- No objections were received from adjoining landowners.

It is therefore recommended that Council approves the application, subject to appropriate conditions.

## Statutory/Policy Environment

*Planning and Development Act 2005*

Planning and Development (Local Planning Schemes) Regulations 2015

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

Shire of Harvey District Planning Scheme No.1

- 5.1 Residential Development Requirements

Shire of Harvey Policies

- Local Planning Policy 4.2.6 - Variation to R Codes – Outbuildings

## 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.* |

## 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 (eg 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 Application for Development Approval for an 'Over Height Outbuilding' on Lot 59 (No. 7) Barnes Avenue, Australind, subject to the following conditions:

a) The development and/or use shall be in accordance with the attached approved plans, subject to modifications required as a consequence of any condition(s) of this approval. The approved plans shall not be modified or altered without first obtaining approval from the Shire.

b) This approval is valid for a period of two years. If the development is not substantially commenced within this period, a new approval must be obtained before commencing or continuing development.

c) The proposed outbuilding is to maintain a minimum 1.2m setback to any septic tank and a 1.8m setback to any leach drain or soak well.

d) All stormwater shall be contained on-site at a volume of $1m^3$ per $100m^2$ of impervious area (this includes both roofed, paved and driveway areas) to the satisfaction of the Director of Infrastructure Services.

e) The approved outbuilding shall not be used for habitable and/or commercial purposes, unless otherwise approved by the Shire.

2. Advises the Applicant of the following additional requirements that are not included as conditions of the approval:

a) In accordance with the *Building Act 2011*, a Building Permit is required to be obtained prior to the commencement of any works on the site.

| | |
|---|---|
| **Item No.** | **5.3.4.** |
| **Subject:** | **Application for Over Height Outbuilding and Cut/Fill Exceeding 1.5m - Lot 7 (No. 7) Templetonia Place, Myalup** |
| **Proponent:** | **J Roberts** |
| **Location:** | **Lot 7 (No. 7) Templetonia Place, Myalup** |
| **Reporting Officer:** | **Planning Officer Graduate** |
| **Authorising Officer:** | **Acting Director Sustainable Development** |
| **File No.:** | **C291/00024** |
| **Attachments:** | 1. Proposal Plans [**5.3.4.1** - 3 pages]<br>2. Site Plan Aerial Image [**5.3.4.2** - 1 page] |

## Summary

An Application for Development Approval has been received for an "Over Height Outbuilding and Retaining Walls" exceeding fill of 1.5m on Lot 7 (No. 7) Templetonia Place, Myalup (refer ***Attachment 1***). The application is referred to Council as Officers do not have delegation to make a determination on an outbuilding that has a height in excess of that contemplated by Policy. Despite Officers having delegation to approve the subject retaining walls, delegations cannot be utilised for a component of an application. It is recommended that the application be approved, subject to appropriate conditions.

## Background

### Site Description

Lot 7 (No. 7) Templetonia Place, Myalup is zoned "Residential" under the Shire's District Planning Scheme No. 1 (the Scheme). The site is of irregular shape with an area of 1,050m$^2$ and includes minimal existing vegetation (refer ***Attachment 2***).

### Proposal

The application proposes the construction of a new outbuilding, with an area of 108m$^2$. The proposed outbuilding will have a gabled roof design with a 3.976m wall height and 6.121m ridge height.

The application also proposes the construction of new retaining walls with heights ranging from 0.3m to 1.8m, which exceed the maximum excavation and filling height of 1.5m. The retaining walls will be constructed along the north, east and south lot boundaries (refer ***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 adjoining neighbours for a period of 14 days concluding on 30 January 2023. One submission was received, which was supportive of the proposal.

## Comment

### Proposal

The proposed outbuilding is inconsistent with Part 1 – Residential Zone cl 1. of the Shire of Harvey Local Planning Policy 4.2.6 – Variation to R Codes (Outbuildings), which stipulates a maximum wall height of 3m and a maximum ridge height of 4.5m, unless otherwise approved by the Shire.

The Shire's current Local Planning Policy 4.2.6 – Variation to R-Codes (Outbuildings) (the Policy) permits a maximum floor area of 120m$^2$, with a maximum wall height of 3m and a maximum ridge

height of 4.5m for outbuildings located on land zone 'Residential'.

Part 1 "Residential" Zone cl. 2 of the Policy also provides for an increase in the wall and ridge heights to a maximum of 3.6m and 5.1m respectively where the Applicant can demonstrate, to the satisfaction of the Shire, that:

a) The increase in height is warranted on the basis of a specific and demonstrated need.

b) The increase in height will not impact on the residential amenity of the adjacent properties or cause undue overshadowing.

c) The applicant has consulted with the adjoining landowners and no reasonable (in the opinion of the Shire) objections have been received.

The Applicant has indicated that the request for the increase in wall and ridge height is to accommodate their intentions to store their caravan and boat.

The proposed retaining wall is inconsistent with Clause 8.8 – Excavation and Filling of Land of the District Planning Scheme No.1 (the Scheme), which stipulates that the ground level of any portion of a lot shall not be altered by a height exceeding 1.5m, unless otherwise approved by the Shire.

Clause 8.8 – Excavation and Filling of Land of the Scheme requires the Shire to have regard to:

a) It's likely impact on the amenity or appearance of the land immediately surrounding the proposed retention.

b) The suitability of the method of retention proposed.

c) The materials, shape, height or proximity of the retention to, and its likely effect on the outlook from, surrounding land.

d) The effect on the usability of the land on which the retention is proposed.

e) Any flood plain studies and management strategies applicable to the area.

## Conclusion

It is considered by officers that the proposed over height outbuilding and retaining wall are capable of being approved for the following reasons:

- The Applicant has demonstrated a specific need associated with the personal use of the property to justify the increase in wall height.
- Officers consider that the increase in the wall height will not impact the amenity of adjacent residential properties or cause undue overshadowing.
- No objections were received from adjoining landowners.
- Officers consider that the retaining wall will have minimal impact on the amenity and appearance of the land surrounding the site.
- Officers consider that the method of retention is suitable.
- Officers consider that the proposed materials, shape, height and proximity to, is unlikely to affect the outlook from, surrounding land.

- Officers consider that the usability of the land will not be adversely affected by the proposed retaining wall.

## Statutory/Policy Environment

*Planning and Development Act 2005*

Planning and Development (Local Planning Schemes) Regulations 2015

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

Shire of Harvey District Planning Scheme No.1

- 5.1 Residential Development Requirements
- 8.8 Excavation and Filling of Land

Shire of Harvey Policies

- Local Planning Policy 4.2.6 – Variation to R Codes Outbuildings

Shire of Harvey Delegations Register

- Delegation 9.1.2(1)

## 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.* |

## 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 (eg 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 Application for Development Approval for an 'Over Height Outbuilding' and 'Cut/Fill Exceeding 1.5m' on Lot 7 (No. 7) Templetonia Place, Myalup, subject to the following conditions:

    a) The development and/or use shall be in accordance with the attached approved plans, subject to modifications required as a consequence of any condition(s) of this approval. The approved plans shall not be modified or altered without first obtaining approval from the Shire.

    b) This approval is valid for a period of two years. If the development is not substantially commenced within this period, a new approval must be obtained before commencing or continuing development.

    c) All stormwater shall be contained on-site at the volume of $1m^3$ per $100m^2$ of impervious area (this includes both roofed, paved and driveway areas) to the satisfaction of the Director of Infrastructure Services.

    d) The approved outbuilding shall not be used for habitable and/or commercial purposes, unless otherwise approved by the Shire.

2. Advises the Applicant of the following additional requirements that are not included as conditions of the approval:

    a) In accordance with the *Building Act 2011*, a Building Permit is required to be obtained prior to the commencement of any works on the site.

| | |
|---|---|
| **Item No.** | **5.3.5.** |
| **Subject:** | **Proposed (Standard) Scheme Amendment No.128 - Lot 39 (No. 9) Uduc Road, Harvey** |
| **Proponent:** | **CDP Town Planning & Urban Design** |
| **Location:** | **Lot 39 (No. 9) Uduc Road, Harvey** |
| **Reporting Officer:** | **Planning Officer** |
| **Authorising Officer:** | **Acting Director Sustainable Development** |
| **File No.:** | **P001128** |
| **Attachments:** | 1. Location Plan [**5.3.6.1** - 1 page]<br>2. Scheme Amendment No.128 [**5.3.6.2** - 30 pages]<br>3. Indicative Concept Plan [**5.3.6.3** - 1 page] |

## Summary

At its Ordinary Council Meeting held on 26 April 2022, Council resolved to initiate Amendment No. 128 to amend District Planning Scheme No. 1 (the Scheme). The Amendment proposes to amend the Scheme maps to include Lot 39 (No. 9) Uduc Road, Harvey (refer ***Attachment 1***) as Additional Use No.18 and to amend Schedule 7 – Schedule of Additional Uses of the text by including A18.

The Amendment is referred to Council following closure of the advertising period. It is recommended that Council support Amendment No. 128 for final approval, with modification as detailed below.

## Background

### Proposal

The Scheme Amendment report provides a detailed outline of the proposal (refer ***Attachment 2***).

The Scheme Amendment proposes to include Additional uses that introduce the ability for Council to consider permanent (residential) and short stay accommodation, and for the site to be redeveloped, generally in accordance with the attached 'Indicative Concept Plan' (refer Figures 3 and 4 within ***Attachment 2*** and ***Attachment 3***). The Scheme Amendment (as advertised) proposed to include the following additional uses within Schedule 7:

| | | Street Locality | Particulars of Land | Only uses Permitted |
|---|---|---|---|---|
| A18 | 9 | Uduc Road, Harvey | Lot 39 on Plan 12443 | Development of the following land uses in accordance with the provisions that relate to R40 density code in the R-Codes:<br>• Single Dwelling<br>• Grouped Dwelling<br>• Multiple Dwelling<br>• Bed and Breakfast<br>• Short Stay Accommodation |

### Advertising

Pursuant to Clause 47 of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Deemed Provisions), the proposed Amendment was advertised directly to nearby landowners and the public (by way of the local newspapers and Shire website) for a period of 43 days between 10 August 2022 and 22 September 2022.

Only one submission was received in support of the proposed amendment, with no comments provided – refer table below:

| Submitter | Submission | Shire Comments |
|---|---|---|
| Nearby Landowner (22/15638) | No comment provided. | Noted |

**Section 48A Referral to the Environmental Protection Authority**

The Environmental Protection Authority determined that the proposed Scheme Amendment should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986.*

**Comment**

The proposed amendment increases the redevelopment opportunities available for the subject site, proposing to include a combination of tourist and permanent accommodation (residential) opportunities. The proposed amendment includes an indicative concept plan which proposed the retention of the existing motel units and the partial redevelopment of the southern portion of the site, being the restaurant, for permanent and/or short stay accommodation. It is understood the restaurant facility is commercially unviable and has not operated as its intended function for many years.

Redevelopment to allow for permanent and/or short stay accommodation will assist with the current housing shortage and lack of tourist accommodation within the Harvey townsite.

**Modification 1**

Following a detailed assessment by Officers and discussions with several members of the public through the advertising period (not submitted as formal submissions), concerns were raised as to the potential loss of this site for tourism purposes by way of the introduction of permanent (residential) dwellings as permitted uses within the 'Tourist' zone. As a result, Officers liaised with the Applicant, and it was agreed that a modification to Additional Uses No.18 - Only Use Permitted be proposed to include the additional uses as discretionary 'SA' uses.

An 'SA' use under the Scheme means "*that the local government may, at its discretion, permit the use after notice of application has been given in accordance with Clause 64 of the Deemed Provisions*."

Officers consider that the inclusion of the discretionary 'SA' use for the proposed additional uses, in addition to the subject site being zoned 'Tourist' under the Scheme, will provide sufficient guidance and control regarding the protection of the tourism potential for this site and the broader Harvey needs to the satisfaction of the Shire.

The following modification is therefore proposed for 'Additional Use No.18':

| | | Street Locality | Particulars of Land | Only Uses Permitted |
|---|---|---|---|---|
| A18 | 9 | Uduc Road, Harvey | Lot 39 on Plan 12443 | The following land use classes are listed as discretionary 'SA' uses:<br>• Single Dwelling (R40)<br>• Grouped Dwelling (R40)<br>• Multiple Dwelling<br>• Bed and Breakfast<br>• Short Stay Accommodation |

The Scheme Amendment seeks to introduce additional accommodation uses that may be considered compatible with the tourist zoning of the site. The proposed modification to include these additional uses as discretionary 'SA' uses will provide the Shire the ability to assess any future applications for

the site at its discretion with regards to the balance between permanent accommodation and tourist potential.

It is therefore recommended that Council adopts Scheme Amendment No.128 for final approval with modifications.

## Statutory/Policy Environment

Planning and Development (Local Planning Schemes) Regulations 2015

- Clause 47 – Advertisement of standard amendment.
- Clause 50 – Consideration of submissions on standard amendments.
- Clause 53 – Information on standard amendment to be provided to the Commission.
- Clause 45 – Commission to submit standard amendment and recommendations to Minister.

## 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 1.3* | *Sustainable urban, rural and industrial development* |
| *Goal 4:* | *A liveable, sustainable and well-designed built environment that is accessible to all.* |
| *Objective 4.3* | *Shopping precincts and residential areas are well presented and accessible, with development enhancing their character.* |

## 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 **Failure to Fulfil Compliance Requirements**. The Consequence could be ***Financial, Reputational*** or ***Compliance*** if the Scheme is not updated to reflect the changes. 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

All costs incurred are recouped from the Applicant.

## 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 (eg 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. In accordance with Clause 50(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, notes the submission received during the public advertising period for Amendment No. 128 to District Planning Scheme No. 1 as contained within the report.

2. In accordance with Clause 50(3) of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to support Amendment No. 128 to District Planning Scheme No. 1 for final approval to:

   a) Amend the Scheme Maps to identify Lot 39 on Plan 12443 as Additional Uses No.18.

   b) Amend Schedule 7 – Schedule of Additional Uses of the Scheme text by including A18 with the following modifications:

| No. | Modification | Reason |
|---|---|---|
| 1. | Amend the Only Use Permitted section of the A18 table to include:<br><br>The following land use classes are listed as discretionary 'SA' uses:<br>• Single Dwelling (R40)<br>• Grouped Dwelling (R40)<br>• Multiple Dwelling<br>• Bed and Breakfast<br>• Short Stay Accommodation | Identifying the additional uses as discretionary 'SA' uses, will provide the Shire the ability to utilise discretion on future proposals with regards to their impact on the site as a tourist site. |

3. In accordance with Clause 53 of the Planning and Development (Local Planning Schemes) Regulations 2015, refers Scheme Amendment No. 128 to the Western Australian Planning Commission recommending final approval be granted pursuant to Clause 55 of the Planning and Development (Local Planning Schemes) Regulations 2015, with modification.

| | |
|---|---|
| **Item No.** | **5.3.6.** |
| **Subject:** | **Application for a "Use Not Listed" (Tourist Development) - Lot 17 (No. 174) Norah Brook Road, Benger** |
| **Proponent:** | **M and S Haines** |
| **Location:** | **Lot 17 (No. 174) Norah Brook Road, Benger** |
| **Reporting Officer:** | **Planning Officer** |
| **Authorising Officer:** | **Acting Director Sustainable Development** |
| **File No.:** | **A004949** |
| **Attachments:** | 1. Location Plan [**5.3.7.1** - 1 page]<br>2. Development Application [**5.3.7.2** - 19 pages]<br>3. Lot 50 Property Boundary [**5.3.7.3** - 1 page] |

## Summary

An application for Development Approval has been received for a 'Use Not Listed' (Tourist Development) on Lot 17 (No. 174) Norah Brook Road, Benger (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, upon receipt of additional information, 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(6).

## Background

### Site Description

Lot 17 (No. 174) Norah Brook Road, Benger is zoned "Intensive Farming" under the Shire's District Planning Scheme No. 1 (the Scheme). The site is of regular shape with an area of 50.76ha and is bound by similarly zoned "Intensive Farming" and "General Farming" zoned land. The site is predominantly cleared of vegetation, with several clusters found in the central northern and southern portions, no clearing of vegetation is proposed as part of this Application. The property currently contains a dwelling and ancillary structures associated with the dwelling (water tank and pool) and machinery and storage sheds for farming purposes (refer ***Attachment 2***).

### Site History

There are no current or historical land use approvals on record for this property. At present, the property currently operates Benger Beef, which is commercially run using offsite local abattoirs and butchers for the retail sale of grass-fed beef.

### Proposal

The application proposes to establish four short stay accommodation units, a communal activity room, swimming pool and tours of the farm for people staying at the property (refer ***Attachment 1***).

The proposed accommodation units are to be located in the southeast corner of the property approximately 100m from Norah Brook Road, which adjoins the southern boundary of the property.

The Applicants are proposing a sustainable development, where possible, by utilising recycled materials in the build, as well as installing bio septic tanks and solar panels for the accommodation units to reduce the impact on the land. They are also proposing to repurpose one of the existing sheds into a 'communal activity space' for patrons to use and enjoy in addition to the swimming pool.

The farm tours will include feeding and viewing the existing Black Angus breeding herd and additional animals which may include sheep, goats, and alpacas. The tours will aim to educate people about where their food comes from and proper animal husbandry.

***Location and Access***

Access to the proposed development is by way of the existing property driveway in the south-eastern corner of the property and straddles the eastern property boundary providing access to the residential house.

A secondary driveway spur is proposed off this main driveway to service the accommodation units.

***Bushfire Attack Level Assessment***

The Applicant engaged *Bushfire Works* in September 2022 to undertake a Bushfire Attack Level (BAL) Assessment Report for the determination of the BAL for the proposed development, which is included as ***Attachment 1***.

The Site Assessment Plan of the BAL Report included as ***Attachment 1*** identifies that the proposed short stay accommodation units are located approximately 100m from classified vegetation (Class B – Woodland), meaning the development is categorised as a BAL-LOW for the purposes of this Application and no mitigation works are required to maintain this classification.

## Comment

**Land Use**

The proposed use of "Tourist Development" is not currently defined in the Scheme, however it is defined by the Model Scheme text as:

> *"means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide -*
>
> *a) Short-term accommodation for guests;*
>
> *b) Onsite facilities for the use of guests; and*
>
> *c) Facilities for the management of the development."*

The development proposal is considered consistent with the definition of "Tourist Development" as it includes four short term accommodation units for guests, onsite facilities for the use of guests by way of the swimming pool, communal activity room and farm tours and will be managed by the owners of the property who live on site.

As "Tourist Development" is neither defined by the Scheme or listed in the Zoning and Development tables of the Scheme, it is therefore considered a "Use Not Listed" under Clause 4.2.5(b) of the Scheme.

Clause 4.2.5(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".* Tables 25 and 26 (Intensive Farming) provides the following Policy Statement; "*Local government has identified by zoning and intends to protect from inappropriate use of the valuable irrigated farmland in the Scheme area*."

The proposed “Tourist Development” land use is considered to be small scale in relation to the size of the property, is clustered close to the access to the property and the residential dwelling which minimises the area potentially sterilised for farming use. The landowners, as part of their application, have expressed their interest in continuing with their grass-fed beef operation, which is unlikely to be impacted by the proposed development. For these reasons, Officers consider the proposed development may be considered incidental to the primary agricultural use of the property and therefore consistent with the objectives and purposes of the zone.

**Location and Access**

As mentioned above, access to the property is in the south-eastern corner of the subject land. The driveway then veers to the east which crosses into an adjoining parcel of land (Lot 50, see ***Attachment 3***), which is not owned by the Applicant.

The current development plan does not identify internal access tracks to the proposed development; however, the Applicant has advised that it is intended that access will be created from this existing internal driveway. The use of the adjoining land for access to the proposed development is not permissible without the approval of the landowner, which has not yet been received.

Discussions between Officers and the Applicant have occurred as part of the preliminary assessment process, which resulted in Officers advising the Applicant that written approval will be required to be sought from the owner of this parcel of land, being Lot 50 or the driveway will need to be relocated to within the subject lot being Lot 17 (No. 174) Norah Brook Road, Benger for the purpose of this development.

The Applicant has advised that they have been unsuccessful in contacting the owners of Lot 50 and were not aware it was in a separate title. It is proposed that an amended plan, which relocates the access driveway to within their property, will need to be lodged with the Shire in support of the Application.

**Additional Information Required**

Due to the current driveway being located in an adjoining parcel of land under different ownership, the Applicant will need to provide an amended Development Plan prior to advertising of the proposal, in addition to the relocated driveway, additional details have been requested which include:

- Internal access roads within the property boundary;
- Visitor/Accommodation parking;
- Location of septic systems and setback to water sources; and
- Farm paddock locations and pedestrian access tracks.

**Advertising**

If Council determines that the proposed “Use Not Listed” (Tourist Development) is a use that 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 relevant authorities for comments and recommendations.

If no objections are received during the advertising period, Officers have delegation to approve the application as per Delegation 9.1.2(6).

## Conclusion

It is considered that the proposed "Use Not Listed" (Tourist Development) may be consistent with the objectives and purpose of the "Intensive Farming" zone. Additional information is required to be submitted prior to advertising of the proposal. Officers therefore recommend that Council determine the proposed "Use Not Listed" may be consistent with the objectives and purpose of the zone and require the additional information to be submitted prior to advertising commencing.

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(6).

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

Shire of Harvey District Planning Scheme No.1

- Clause 4.2.4 – Zoning and Development Tables
- Tables 25 and 26 – Zoning and Development Standards (Intensive Farming):

Shire of Harvey Delegations Register

- Delegation No. 9.1.1 Advertising of Applications
- Delegation No. 9.1.2(6) Development Applications – Approve Use Not Listed

## 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.* |
| *Goal 3:* | *A natural environment that is highly valued, protected and enjoyed.* |
| *Objective 3.1* | *Adopt and encourage sustainable development practices.* |
| *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 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 or 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 17 (No. 174) Norah Brook Road, Benger can be considered as a "Tourist Development" 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:

1. Requests the Applicant to provide an amended Development Plan for the proposed 'Use Not Listed' (Tourist Development) detailed in the Application for Development Approval for Lot 17 (No. 174) Norah Brook Road, Benger that addresses the following:

a) Vehicle access to be located within the property boundaries.

b) Internal access roads within the property.

c) Visitor/accommodation parking.

d) Location of septic systems and setback to water sources.

e) Farm paddock locations and pedestrian access tracks.

2. Upon receipt of an acceptable amended Development Plan, pursuant to Clause 4.2.4(b) of the Shire of Harvey's District Planning Scheme No. 1, advertise for public comment the proposed 'Use Not Listed' (Tourist Development) detailed in the Application for Development Approval for Lot 17 (No. 174) Norah Brook Road, Benger in accordance with Section 64(3)(a) of the Planning and Development (Local Planning Schemes) Regulations 2015.

3. Notes that Officers can determine the Development Application pursuant to Delegation 9.1.2(6), if no objections are received during the advertising period.

| | |
|---|---|
| **Item No.** | **5.3.7.** |
| **Subject:** | **Review of Local Planning Policy - Outbuildings** |
| **Proponent:** | **Shire of Harvey** |
| **Location:** | **Shire of Harvey** |
| **Reporting Officer:** | **Acting Director Sustainable Development** |
| **Authorising Officer:** | **Acting Chief Executive Officer** |
| **File No.:** | **PS/P/003** |
| **Attachments:** | 1. Policy 4.1.18 Outbuildings [**5.3.8.1** - 5 pages] |

## Summary

In April 2022, Officers reviewed the Shire's Local Planning Policies (LPPs) and at the Ordinary Council Meeting of 26 April 2022, Council resolved (Resolution 22/040) to advertise a number of amended LPPs pursuant to Part 2, Division 2 clause 5(1) of the Planning and Development (Local Planning Schemes) Regulations 2015.

At this time, Local Planning Policy 4.2.6 Variation to R Codes – Outbuildings was not supported in its proposed format and was referred to the September 2022 Concept Forum to be workshopped by Council and Officers. As a result of this workshop, Officers prepared an amended LPP and returned a report to Council to adopt the draft LPP for the purpose of advertising (Resolution 22/228) as provided at ***Attachment 1***.

The draft LPP was advertised for a period of 21 days, and no submissions were received during this period.

It is recommended that Council supports the final adoption of the proposed amended LPP.

## Background

At the Ordinary Council Meeting of 26 April 2022, Council resolved in part:

*"That Council:*

5. *Refers the proposed amendments to Local Planning Policy 4.2.6 Variation to R Codes – Outbuildings to the May 2022 Concept Forum to be workshopped by Council and Officers.*

6. *Receives a further report on the proposed amends to Local Planning Policy 4.2.6 Variation to R Codes – Outbuildings."*

Local Planning Policies are used to guide decision-making and to assist the local government (and others) to understand how a particular discretion is likely to be exercised. Concern has been raised regarding the potential impact oversized outbuildings may have on adjoining neighbours in residential areas based on the current assessment criteria.

At the 8 September 2022 Concept Forum, it was considered that a percentage-based approach within residential areas may be the preferred criteria with respect to the maximum aggregate floor area of outbuildings for all zones except "Residential" and "Residential Development".

At the 20 December 2022 Ordinary Council meeting, the updated draft LPP was adopted for the purpose of advertising and the requirement for a further report to Council, post-advertising, was noted.

It is recommended that Council adopt Local Planning Policy 4.1.18 (formerly 4.2.6) without modification.

## Comment

The advertised amendments in the draft LPP included:

- Increase in maximum outbuilding area for land zoned 'Special Residential', 'Special Rural' and 'Special Rural & Landscape Protection'.
- Clarification of assessment criteria and advertising requirements.
- Change of Policy name and number to "Outbuildings".

***Public Advertising***

The draft LP was advertised for a period of 21 days concluding on 3 February 2023. No submissions were received during this period.

## Statutory/Policy Environment

Planning and Development (Local Planning Schemes) Regulations 2015

- Schedule 2 – Deemed Provisions, Part 2 – Local planning framework, Division 2 – Local Planning Policies:

  Clause 3 – Local planning policies.

  Clause 4 – Procedure for making local planning policy.

  Clause 5 – Procedure for amending local planning policy.

## Strategic Framework

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

| | |
|---|---|
| *Goal 5:* | *A representative leadership that is future thinking, transparent and accountable.* |
| *Objective 5.4* | *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 **Failure to Fulfil Compliance Requirements**. The Consequence could be ***Compliance*** or ***Reputation*** if the Local Planning Policies are not reviewed against current statutory documents. The risk is considered ***Minor*** and the likelihood ***Unlikely***, given the report and Local Planning Policy review has been thoroughly researched, peer reviewed and provided by a qualified Shire Officer, resulting in ***Low*** risk being present.

## Budget Implications

Advertising costs associated with printing the Notice of Adoption in the local newspaper.

## 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:

1. Pursuant to Schedule 2, Part 2, Division 2, Clause 4(3) of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to adopt the amended Local Planning Policy 4.1.18 – Outbuildings, without modification as presented in ***Attachment 1***.

2. Publishes a notice of the adopted Local Planning Policy in accordance with Schedule 2, Part 12, clause 87 of the Planning and Development (Local Planning Schemes) Regulations 2015.

## 5.4. Corporate Services

| | |
|---|---|
| **Item No.** | **5.4.1.** |
| **Subject:** | **Financial Statements as at 31 January 2023** |
| **Proponent:** | **Shire of Harvey** |
| **Location:** | **Shire of Harvey** |
| **Reporting Officer:** | **Manager Finance** |
| **Authorising Officer:** | **Director Corporate Services** |
| **File No.:** | **FM/S/006** |
| **Attachments:** | 1. Financial Statements as at 31 Jan.23 [**5.4.1.1** - 12 pages] |

### Summary

The Financial Statements as of 31 January 2023 are provided at ***Attachment 1***.

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

| | ACTUAL 31 January 2023 | BUDGET 2022–2023 | VARIANCE |
|---|---|---|---|
| **Statement of Financial Performance** | | | |
| Ordinary Revenue | $36,519,493 | $44,453,800 | $7,934,307 |
| Ordinary Expenditure | $26,603,783 | $53,281,007 | $26,677,224 |
| Capital Revenue | $3,135,704 | $45,670,557 | $42,534,853 |
| Capital Expenditure | $4,789,185 | $46,851,464 | $42,062,279 |
| End of Period Profit / (Loss) | $14,238,145 | | |
| | | | |
| **Statement of Financial Position** | | | |
| Current Assets | $48,971,458 | | |
| Net Assets | $569,583,740 | | |

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 $24.7 million and rubbish rates of $4.37 million were raised in August 2022. The due date for rates payment was 30 September 2022. Approximately 81% of the rates were collected by 31 January 2023.

#### Cash Flow and Interest Earnings

The Shire holds by way of cash and term deposit $13.56 million in Municipal Funds and $29.40 million in restricted Trust and Reserve Funds. The average interest rate on these funds is 3.65%. New term deposits are attracting an interest rate for 90 days of approximately 4%.

**Operating Grants and Subsidies**

As of 31 January 2023 86% of the 2022–2023 Financial Assistance Grants have been received.

**Employee Costs**

Although these accounts reflect the first seven months of the financial year, it is anticipated employee costs will remain in line with the Workforce Plan and Budget 2022–2023.

**Materials, Contracts, Utilities and Other Expenses**

Although these accounts reflect the first seven months of the financial year, it is anticipated the Shire will operate within its means and in line with the Shire's adopted budget for the 2022–2023 financial year.

**Capital Expenditure**

The Shire budgeted to spend $46.85 million on capital projects throughout the Shire in 2022–2023. Expenditure totalling $4,789,185 on capital works has been reported at the end of January 2023. 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 Nature & Type.
- Statement of Financial Position.
- Notes to the Statement of Financial Performance.
- 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.
- Statement of Investments.

The Notes to the Statement of Financial Performance, include additional information reported on by Nature and Type basis identifying reasons for variances between budgets and actuals.

It should be noted that in the Financial Statements for January 2023, actual figures reported for the 2021–2022 financial year do not include the final figures and end of year adjustments for the year ended 30 June 2022. The final position for the 2021–2022 financial year will be reported in the 2021–2022 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 of 31 January 2023 at ***Attachment 1***.

| | |
|---|---|
| **Item No.** | **5.4.2.** |
| **Subject:** | **List of Accounts Paid - January 2023** |
| **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 January 2023 v 2 [**5.4.2.1** - 14 pages] |

## Summary

A listing of payments for goods and services for January 2023 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 the Chief Executive Officer), 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 January 2023 is presented as ***Attachment 1***, as summarised below.

| Voucher | | Amount |
|---|---|---|
| Schedule of Accounts | | |
| Municipal | EFT 63996 – EFT 64415 | $2,982,297.78 |
| | 117457 – 117461 | $1,476.79 |
| | DD24943.1 – DD24998.24 | $161,485.34 |
| CBA Credit Cards | | $11,072.08 |
| Electronic Funds Submitted | | $890,989.04 |
| **Total** | | **$4,047,321.03** |

## 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 2022–2023 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 January 2023 totalling $4,047,321.03.

### 5.5. Community and Lifestyle

Nil.

## 6. Notice of Motion for Following Meeting

## 7. Matters Behind Closed Doors

### 7.1. Executive Services

7.1.1. Tender T112022 Forward Works for Construction of Brunswick River Cottages, Stage 3

Reason for Confidentiality as per *Local Government Act 1995*:

s.5.23(2)(c): *"a contract entered into, or which may be entered into, by the local government and which related to a matter to be discussed at the meeting*

s.5.23(2)(e)(iii): *"a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government.*

| | |
|---|---|
| **Item No.** | **7.1.1** |
| **Subject:** | **Tender T112022 Forward Works for Construction of Brunswick River Cottages, Stage 3** |
| **Proponent:** | **Shire of Harvey** |
| **Location:** | **Lot 151 Clifton Road, Brunswick Junction** |
| **Reporting Officer:** | **Manager Special Projects** |
| **Authorising Officer:** | **Director Community and Lifestyle** |
| **File No.:** | **F000254** |
| **Attachments:** | **Confidential Attachment 1** |

### Summary

Tender T112022 Forward Works for Construction of Brunswick River Cottages, Stage 3 closed on Tuesday, 14 February 2023. At the close of tender, one compliant submission was received.

Following a detailed assessment of the tender submission, the evaluation panel considered that the submission meets the prescribed criteria of the tender and represents value for money for the Shire's operations.

It is recommended that Council award Tender T112022 Forwards Works for Construction of Brunswick River Cottages, Stage 3 as per the Officers Recommendation in the Confidential Agenda.

### Voting Requirements

Simple Majority

## 8. Closure of Meeting