



MINUTES

ORDINARY MEETING OF COUNCIL

16 JUNE 2020

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FOR
ORDINARY MEETING OF
COUNCIL
HELD ON 16 JUNE 2020**

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SHIRE OF GINGIN

MINUTES OF THE ORDINARY MEETING OF THE SHIRE OF GINGIN HELD IN THE COUNCIL CHAMBER ON TUESDAY, 16 JUNE 2020 AT 3.00 PM

DISCLAIMER

Members of the Public are advised that decisions arising from this Council Meeting can be subject to alteration.

Applicants and other interested parties should refrain from taking any action until such time as written advice is received confirming Council's decision with respect to any particular issue.

ORDER OF BUSINESS

1. DECLARATION OF OPENING

The Shire President declared the meeting open at 3.15pm and welcomed those in attendance.

2. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

2.1 ATTENDANCE

Councillors – C W Fewster (Shire President), J K Rule (Deputy Shire President), L Balcombe, F J Johnson, J C Lobb (via Zoom), F J Peczka, J E Morton.

Staff – A Cook (Chief Executive Officer), L Crichton (Executive Manager Corporate and Community Services), A Butcher (Executive Manager Operations), R Kelly (Executive Manager Regulatory and Development Services), J Bayliss (Acting Manager Statutory Planning), M Tallon (Statutory Planning Officer), M Wallace (Communications/Marketing Officer), G Koorasingh (Governance Support Officer), and L Burt (Minute Officer).

Gallery – There were five members of the public present in the Gallery.

2.2 APOLOGIES

Councillor J Court
Councillor A Vis

2.3 LEAVE OF ABSENCE

Nil

3. DISCLOSURES OF INTEREST

3.1 James Bayliss – Acting Manager Statutory Planning Item 11.3.4 Proposed Permanent Closure Of An Unconstructed Road Reserve York Street Adjoining Lot 44 Cockram Road, Gingin

The Acting Manager Statutory Planning disclosed an Impartiality interest in relation to this matter as a member of the Gingin Football Club and former member of the Gingin Recreation Group.

3.2 Councillor Kim Rule Item 11.3.4 Proposed Permanent Closure Of An Unconstructed Road Reserve York Street Adjoining Lot 44 Cockram Road, Gingin

Councillor Rule disclosed a Proximity interest in relation to this matter as the owner of the property directly opposite.

4. PUBLIC QUESTION TIME

4.1 RESPONSES TO PUBLIC QUESTIONS PREVIOUSLY TAKEN ON NOTICE

Nil

4.2 PUBLIC QUESTIONS

Nil

5. PETITIONS, DEPUTATIONS AND PRESENTATIONS

5.1 PETITIONS

Nil

5.2 DEPUTATIONS

5.2.1 Item 11.3.6 Application for Development Approval – Proposed Single House on Lot 12 (29) Cunliffe Street, Lancelin.

Speaker/s: Gavan Prunster.

5.2.2 Item 11.4.1 Topfun Aviation – Request to Enter Into an Agreement to Use Beermullah Airstrip, Lot 7 Brand Highway, Boonanarring

Speaker/s: Jack Donsen, Michael Byrne

5.2.3 Item 11.3.1 Application for Retrospective Development Approval – Agriculture Intensive (Annual Horticulture) on Lot 404 (5297) Brand Highway Beermullah

A written deputation from Len Kosova (LK Advisory) was circulated to all Councillors prior to the meeting.

5.3 PRESENTATIONS

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

An Application for Leave of Absence was submitted by Councillor Vis for the Ordinary Council Meeting on 16 June 2020.

COUNCIL RESOLUTION

MOVED: Councillor Johnson

SECONDED: Councillor Balcome

Than Council approve Councillor Vis Application for Leave Of Absence for the Ordinary Council Meeting on 16 June 2020

CARRIED UNANIMOUSLY

7. CONFIRMATION OF MINUTES

COUNCIL RESOLUTION

MOVED: Councillor Rule

SECONDED: Councillor Johnson

That the Minutes of the Ordinary Council meeting held on 19 May 2020 be confirmed as a true and accurate record.

CARRIED UNANIMOUSLY

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER

Nil

9. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

Nil

10. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

11. REPORTS**11.1. OFFICE OF THE CEO****11.1.1 CARAVAN PARKS AND CAMPING GROUNDS ACT 1995 - APPOINTMENT OF AUTHORISED PERSONS**

File:	GOV/15	
Author:	Olivia Edwards – Governance Support Officer	
Reporting Officer:	Aaron Cook – Chief Executive Officer	
Report Date:	16 May 2020	
Refer:	21 May 2019	Item 11.1.1
	15 April 2014	Item 11.1.10
	15 July 2014	Item 11.1.1
Appendices:	Nil	

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider the appointment of certain classes of officer as an Authorised Person under the *Caravan Parks and Camping Grounds Act 1995*.

BACKGROUND

The *Caravan Parks and Camping Grounds Act 1995* (the Act) makes provision for local governments to appoint a person/s or a class of persons as “authorised persons” for the purposes of the relevant legislation. The Act contains no provision for the local government to delegate the power of appointing authorised persons and therefore any appointments must be made by resolution of Council.

In order to avoid the necessity of seeking a separate decision of Council every time a new appointment is required, Council has previously resolved to appoint certain classes of officer as “authorised persons” under the Act. However following a series of organisational restructures that have resulted in changes to position titles, a review of Council’s appointments is deemed to be necessary.

COMMENT

In accordance with previous resolutions of Council, the following positions are currently appointed as “authorised persons” under the *Caravan Parks and Camping Grounds Act 1995*:

- Executive Manager Regulatory and Development Services;
- Manager Building Services;
- Manager Ranger and Fire Services;
- Rangers; and
- Environmental Health Technical Officer.

Following recent Organisational Structure reviews, position titles have been amended. It is therefore necessary that the following position titles be amended in the appointment of authorised persons under the *Caravan Parks and Camping Grounds Act 1995*:

- Manager Building Services be amended to Building Surveyor (Technician);
- Manager Ranger and Fire Services be amended to Coordinator Ranger Services (and thereafter Manager Ranger Services); and
- Environmental Health Technical Officer be amended to Principal Environmental Health Officer.

In accordance with section 23(11) of the Act, such appointments do not include the power to extend or withdraw infringements. The Act specifically prohibits a single person from being authorised both to issue and withdraw infringements, and at its meeting on 21 January 2014 Council resolved to appoint the position of Chief Executive Officer as an Authorised Officer for the purpose of extending or withdrawing infringements issued under this legislation.

STATUTORY/LOCAL LAW IMPLICATIONS

Caravan Parks and Camping Grounds Act 1995
Part 3 – Powers of entry and inspection
Section 17 – Appointment of authorised person

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Governance</i>
Objective	<i>5. To demonstrate effective leadership, governance and advocacy on behalf of community.</i>
Outcome	<i>5.1 Values Our Organisational/Business Values are demonstrated in all that we do</i>
Key Service Areas	N/A
Priorities	N/A

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson

SECONDED: Councillor Morton

That Council declare the following positions to be an Authorised Person (excluding the power to extend or withdraw infringements) for the purposes of the *Caravan Parks and Camping Grounds Act 1995*:

- a. Executive Manager Regulatory and Development Services**
- b. Building Surveyor (Technician);**
- c. Coordinator Ranger Services (and thereafter Manager Ranger Services);**
- d. Rangers; and**
- e. Principal Environmental Health Officer.**

CARRIED UNANIMOUSLY

11.1.2 2020 ANNUAL REVIEW OF DELEGATED AUTHORITY REGISTER

File:	GOV/15
Author:	Lee-Anne Burt – Governance Officer
Reporting Officer:	Aaron Cook – Chief Executive Officer
Report Date:	16 June 2020
Refer:	Nil
Appendices:	<ol style="list-style-type: none">1. Delegation 1.7 Conferences, Seminars, Training Courses – Expenses of Councillors2. Delegation 1.10 Serving of Notices Requiring Certain Things to be Done by Owner or Occupier of Land3. Delegation 1.11 Additional Powers When Giving a Notice Under s.3.25 of the <i>Local Government Act 1995</i>4. Delegation 1.13 Enter Land in an Emergency Without Notice or Consent5. Delegation 1.19 Powers of Entry6. Delegation 1.18 Approving or Rejecting Applications for Funding Under the Mid-Year Community Grant Scheme7. Delegation 2.1 Payment of Creditors8. Delegation 2.15 Payments from the Municipal or Trust Funds9. Delegation 2.2 Waive or Grant Concessions on Money Owed to the Shire10. Delegations Reviewed Without Amendment

DISCLOSURES OF INTEREST

Nil

PURPOSE

To undertake an annual review of the Shire of Gingin Delegated Authority Register in accordance with the requirements of s.5.46 of the *Local Government Act 1995* (the Act).

BACKGROUND

Under s.5.46(1) of the Act, the Chief Executive Officer is required to keep a register of all delegations made to the Chief Executive Officer and to other employees.

At least once every financial year, delegations are to be reviewed by the delegator. The last review of the Shire of Gingin Delegated Authority Register was undertaken by Council at its meeting on 20 June 2019.

COMMENT

In accordance with usual practice, Administration has undertaken a review of the Delegated Authority Register. The following amendments are put forward for Council's consideration:

1. Delegation 1.7 Conferences, Seminars, Training Courses – Expenses of Councillors
(Appendix 1)

Delegation 1.7 delegates power to the CEO to reimburse Councillors for expenses incurred whilst attending authorised conferences, seminar and training courses, and during other absences from the district on any business deemed necessary by the CEO. Reimbursable expenses may include accommodation, meals, refreshments, travel and other appropriate out-of-pocket expenses.

Council's Policy 1.29 Councillors' Entitlements sets out Council's position with respect to the reimbursement of expenses to elected members. Delegation 1.7 in essence duplicates a portion of Council's policy, and is therefore unnecessary.

It is recommended that Delegation 1.7 **(Appendix 1)** be repealed.

2. Delegation 1.10 Serving of Notices Requiring Certain Things to be Done by Owner or Occupier of Land **(Appendix 2)**

Delegation 1.10 empowers the CEO to issue a notice requiring an owner or occupier of land to do any of the things specified in Schedule 3.1 of the *Local Government Act 1995*.

Currently, the express power delegated by Delegation 1.10 is s.3.25 Notices requiring certain things to be done by owner or occupier of land. It is considered that the function described in the delegation should make it clear that the power delegated relates to both divisions of Schedule 3.1.

The delegation should also be extended to include s.3.26 Additional powers when notices given, which provides local governments with the ability, where the recipient of a notice issued under s.3.25 fails to comply with it, to take action to achieve the purpose of the notice and to recover the cost from the notice recipient. Currently these powers are the subject of a separate delegation (Delegation 1.11).

A version of Delegation 1.10 showing the proposed amendments is included as **Appendix 2** for Council's consideration.

3. Delegation 1.11 Additional Powers When Giving a Notice Under s.3.25 of the *Local Government Act 1995* **(Appendix 3)**

Delegation 1.11 follows on from Delegation 1.10 (above), and empowers the CEO to take any action required to achieve the purpose for which a notice is issued under s. 3.25, and to recover the cost of taking any such action.

The powers described in s.3.26 are considered to be incidental to the primary function contained within s.3.25, and therefore in the interests of clarity both functions should be incorporated into a single delegation.

It is recommended that Delegation 1.11 be repealed.

4. Delegation 1.13 Enter Land in an Emergency Without Notice or Consent (**Appendix 4**).

Delegation 1.13 empowers the CEO to determine that the Shire will enter any land, premises or thing immediately and without notice and perform any of a local government's functions considered appropriate to deal with an emergency.

The following deficiencies with respect to Delegation 1.13 have been identified:

- a. The delegation does not address the other powers of entry provided for by the Act, which are not necessarily related to entry during an emergency.
- b. Council's current prohibition on subdelegation by the CEO may be problematic in emergency situations, where it may not always be possible or practical to obtain a decision from the CEO before acting.

It is recommended that Delegation 1.13 be repealed and replaced with a new Delegation 1.19 Powers of Entry (**Appendix 5**).

5. Delegation 1.18 Approving or Rejecting Applications for Funding Under the Mid-Year Community Grant Scheme (**Appendix 6**)

Delegation 1.18 empowers the CEO to approve or reject applications for funding under Council's Mid-Year Community Grant Scheme.

The Mid-Year Community Grant Scheme ended with the 2019/20 funding round, and all grant applications are now required to be submitted in the first half of the calendar year so that funding may be considered for inclusion in the next financial year's budget.

It is recommended that Delegation 1.18 be repealed.

6. Delegation 2.1 Payment of Creditors (**Appendix 7**)

Delegation 2.1 currently empowers the CEO to:

1. *Make payments from the Municipal Fund, Trust Fund or Reserve Fund.*
2. *Approve and sign Electronic Fund Transfers between Council's Municipal, Reserve, Trust and Interest Bearing Deposit Accounts.*
3. *Approve and sign cheques/electronic fund transfers, subject to the disbursement of payments being authorised in accordance with Council's Budget as "Authorised Expenditure".*

The deficiencies identified with respect to the delegation in its current form are as follows:

- a. The express power of delegation referenced for Delegation 2.1 is Regulation 12(1) of the *Local Government (Financial Management) Regulations 1996*. However, Regulation 12 only deals with payments from the Municipal Fund or Trust Fund. There is no reference to payments from reserve funds, and therefore this component is not a power that is capable of being delegated.

All reference to the Reserve Fund should therefore be deleted from Part 1 of the Express power or duty delegated.

- b. The approval and signing of electronic fund transfers and cheques is an action that is required in order to exercise the delegated power of making payments from the Municipal Fund and/or the Trust Fund and therefore forms part of the CEO's responsibility for managing the day to day operations of the local government.

A delegation of power for these actions is not required or appropriate and therefore Parts 2 and 3 of the Express Power or Duty Delegated should be deleted.

- c. Condition 1 of Council's delegation to the CEO requires that:

1. *Each payment from the Municipal Fund, Trust Fund or Reserve Fund is to be noted on a list compiled for each month showing*
 - a) *The payee's name*
 - b) *The amount of the payment*
 - c) *The date of the payment*
 - d) *Sufficient information to identify the transaction.*

This condition duplicates the requirements of the *Local Government (Financial Management) Regulations 1999* Reg. 13 Payments from municipal fund or trust fund by CEO, CEO's duties as to etc and is therefore unnecessary, particularly as it makes no reference to the other requirements of Reg. 13.

Condition 1 of Council's delegation to the CEO should be deleted.

- d. Condition 2 of Council's delegation to the CEO states that:

2. *Any disbursement of payments must be authorised in accordance with Council's Budget as "Authorised Expenditure".*

For the purposes of clarity, it is suggested that this condition be reworded as follows:

Authority to make payments is subject to annual budget limitations.

It is recommended that Delegation 2.1 be repealed and replaced with a new Delegation 2.15 Payments from the Municipal or Trust Funds (**Appendix 8**).

7. Delegation 2.2 Waive or Grant Concessions on Money Owed to the Shire (**Appendix 9**)

Under Delegation 2.2, Council has delegated power to the CEO to waive or grant concessions on, or write off, any amount of money owing to the Shire up to a maximum of \$1,000, and to determine any conditions that may be applicable to a concession granted under the delegation of power.

Part 1 of the delegation currently reads as follows:

1. *Waive or grant concessions in relation to any amount of money (with the exception of money relating to rates and service charges), or write off any amount of money which is owed to the Shire;*

S.6.12(2) of the *Local Government Act 1995* does not allow money owed to the Shire in respect of rates and service charges to be waived, or for a concession in relation to such money to be granted.

In order to clarify this legislative situation, it is recommended that the words “(with the exception of money relating to rates and services charges)” be deleted from Part 1 of the delegation, and that an additional condition be added as follows:

3. *This delegation does not apply to the writing off, waiving of or granting of concessions to rates or service charges.*

A version of Delegation 2.2 showing the proposed amendments is included as **Appendix 9** for Council’s consideration.

The remainder of Council’s delegations have also been reviewed, with no amendments being proposed at this point in time (**Appendix 10**).

STATUTORY/LOCAL LAW IMPLICATIONS

Local Government Act 1995

Part 5 - Administration

Division 2 – Council meetings, committees and their meetings and electors’ meetings

Section 5.16 – Delegation of some powers and duties to certain committees

Section 5.18 – Register of delegations to committees

Division 4 – Local government employees

Section 5.42 – Delegation of some powers and duties to CEO

Section 5.46 – Register of, and records relevant to, delegations to CEO and employees

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Governance</i>
Objective	<i>5. To demonstrate effective leadership, governance and advocacy on behalf of community.</i>
Outcome	<i>5.1 Values Our Organisational/Business Values are demonstrated in all that we do.</i>
Key Service Areas	<i>N/A</i>
Priorities	<i>N/A</i>

VOTING REQUIREMENTS – ABSOLUTE MAJORITY**COUNCIL RESOLUTION****MOVED: Councillor Rule****SECONDED: Councillor Johnson**

1. Repeal Delegation 1.7 Conferences, Seminars, Training Courses – Expenses of Councillors as shown at Appendix 1.
2. Adopt amended Delegation 1.10 Serving of Notices Requiring Certain Things to be Done by Owner or Occupier of Land as shown at Appendix 2.
3. Repeal Delegation 1.11 Additional Powers when Giving a Notice Under s.3.25 of the *Local Government Act 1995* as shown at Appendix 3.
4. Repeal Delegation 1.13 Enter Land in an Emergency Without Notice or Consent as shown at Appendix 4.
5. Adopt Delegation 1.19 Powers of Entry as shown at Appendix 5.
6. Repeal Delegation 1.18 Approving or Rejecting Applications for Funding Under the Mid-Year Community Grant Scheme as shown at Appendix 6.
7. Repeal Delegation 2.1 Payment of Creditors as shown at Appendix 7.
8. Adopt Delegation 2.15 Payments from the Municipal or Trust Funds as shown at Appendix 8.
9. Adopt amended Delegation 2.2 Waive or Grant Concessions on Money Owed to the Shire as shown at Appendix 9.
10. Adopt without amendment the reviewed delegations as shown at Appendix 10.

CARRIED BY ABSOLUTE MAJORITY

APPENDIX 1



Delegation of authority

Delegation	1.7 Conferences, Seminars, Training Courses - Expenses of Councillors
Category	Administration
Delegator	Council
Express power or duty delegated	To reimburse all reasonable expenses to Councillors incurred whilst attending authorised conferences, seminars and training courses and during other absences from the district on any business deemed necessary by the Chief Executive Officer. Such expenses may include accommodation, meals, refreshments, travel and other appropriate out-of-pocket expenses.
Delegates	CEO
Conditions	Reimbursements are subject to: 1. Compliance with Council Policy No. 1.29 – Councillors' Entitlements; and 2. Funds being available in the Shire's adopted Budget.
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i> Power exercised or duty delegated: <i>Local Government (Administration) Regulations 1996 - Reg. 32</i>
Policy	Policy 1.29 - Councillors' Entitlements
Date adopted	7 December 1999
Adoption references	Minute Item 10.7
Last reviewed	20 June 2019

Amendments			
Approved	Type	Amendment	References
17 Jun 2014	---	Amended to include reference to Council Policy 1.29 - Councillor Entitlements in Conditions and Exceptions.	Minute Item 11.1.1

APPENDIX 2



Delegation of authority

Delegation	1.10 Serving of Notices Requiring Certain Things to be Done by Owner or Occupier of Land (DRAFT)
Category	Administration
Delegator	Council
Express power to delegate	<p><i>Local Government Act 1995:</i></p> <ul style="list-style-type: none"> • s.5.42 Delegation of some powers or duties to the CEO • s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	<p><i>Local Government Act 1995:</i></p> <ul style="list-style-type: none"> • s.3.25 Notices requiring certain things to be done by owner or occupier of land • <u>s.3.26 Additional powers when notices given</u>
Function	<p>To give a person who is the owner or, unless Schedule 3.1 indicates otherwise, the occupier of land a notice requiring them to take any action specified in Schedule 3.1 of the Local Government Act 1995.</p> <p><u>1. To issue notices requiring the owner or, unless indicated otherwise by Schedule 3.1, the occupier of land to do anything:</u></p> <ul style="list-style-type: none"> • <u>specified in Schedule 3.1, Division 1; or</u> • <u>that is for the purpose of remedying or mitigating the effects of any offence against a provision prescribed in Schedule 3.1, Division 1.</u> <p><u>2. If the notice recipient fails to comply with the notice, to do anything that is considered necessary to achieve, so far as is practicable, the purpose for which the notice was given.</u></p> <p><u>3. To recover the cost of anything done under 2. above from the person who fails to comply with the notice.</u></p>
Delegates	CEO
Conditions	Nil
Express power to sub delegate	<p><i>Local Government Act 1995:</i></p> <ul style="list-style-type: none"> • s.5.44 CEO may delegate some powers and duties to other employees
Statutory framework	<p><i>Local Government Act 1995:</i></p> <p>Sch. 3.1 Powers under notices to owners or occupiers of land</p>
Policy	Nil
Record keeping	Each exercise of delegation is to be captured in the Shire's records management system.

APPENDIX 3



Delegation of authority

Delegation	1.11 Additional Powers When Giving a Notice Under S. 3.25 of the Local Government Act 1995
Category	Administration
Delegator	Council
Express power or duty delegated	In the event that a party issued with a notice under section 3.25 of the Act fails to comply with that notice: 1. To do anything that the CEO considers necessary to achieve, so far as is practicable, the purpose for which the notice was given; and 2. To recover the cost of any action taken in this regard as a debt due from the party who failed to comply with the notice.
Delegates	CEO
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i> Power exercised or duty delegated: <i>Local Government Act 1995 - s. 3.25</i>
Policy	Nil
Date adopted	06/05/2008
Adoption references	Minute Item 11.2.2

APPENDIX 4



Delegation of authority

Delegation	1.13 Enter Land in an Emergency Without Notice or Consent
Category	Administration
Delegator	Council
Express power or duty delegated	To determine that the Shire will enter any land, premises or thing immediately and without notice and perform any of a local government's functions considered appropriate to deal with an emergency.
Delegates	CEO
Conditions	The power to further subdelegate has been prohibited in this instance.
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i> Power exercised or duty delegated: <i>Local Government Act 1995 - s. 3.34</i>
Policy	Nil
Date adopted	6 May 2008
Adoption references	Minute Item 11.2.2
Last reviewed	20 June 2019

APPENDIX 5



Delegation of authority

Delegation	1.19 Powers of Entry (DRAFT)
Category	Administration
Delegator	Council
Express power to delegate	<i>Local Government Act 1995:</i> <ul style="list-style-type: none"> • s.5.42 Delegation of some powers or duties to the CEO • s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	<i>Local Government Act 1995:</i> <ul style="list-style-type: none"> • s.3.28 When this Subdivision applies • s.3.32 Notice of entry • s.3.33 Entry under warrant • s.3.34 Entry in an emergency • s.3.36 Opening fences
Function	<ol style="list-style-type: none"> 1. Authority to exercise powers of entry to enter onto land to perform any of the local government's functions under the <i>Local Government Act 1995</i>, other than entry under a local law [s.3.28]. 2. Authority to give notice of entry [s.3.32]. 3. Authority to seek and execute an entry under warrant [s.3.33]. 4. Authority to execute entry in an emergency, using such force as is reasonable [s.3.34(1) and (3)]. 5. Authority to give notice and effect entry by opening a fence [s.3.36].
Delegates	CEO
Conditions	Nil
Express power to subdelegate	<i>Local Government Act 1995:</i> <ul style="list-style-type: none"> • s.5.44 CEO may delegate some powers and duties to other employees
Statutory framework	<i>Local Government Act 1995:</i> s.9.10 Appointment of authorised persons - refer also s.3.32(2) Part 3, Division 3 - prescribes statutory processes for Powers of Entry
Policy	Nil
Record keeping	Each exercise of delegation is to be captured in the Shire's records management system.

APPENDIX 6



Delegation of authority

Delegation	1.18 Approving or Rejecting Applications for Funding Under the Mid-Year Community Grant Scheme
Category	Administration
Delegator	Council
Express power or duty delegated	To approve or reject applications for funding under the Mid-Year Community Grant Scheme.
Delegates	CEO
Conditions	Approval or rejection must be in accordance with recommendations made by the Mid-Year Grant Scheme Application Assessment Panel.
Statutory framework	Legislative Authority to Delegate: <i>Local Government Act 1995 - s. 5.42</i> Power Exercised or Duty Delegated: N/A
Policy	N/A
Date adopted	16 December 2014
Adoption references	Item 11.1.5
Last reviewed	20 June 2019

APPENDIX 7



Delegation of authority

Delegation	2.1 Payment of Creditors
Category	Finance
Delegator	Council
Express power or duty delegated	<p>To:</p> <ol style="list-style-type: none"> 1. Make payments from the Municipal Fund, Trust Fund or Reserve Fund. 2. Approve and sign Electronic Fund Transfers between Council's Municipal, Reserve, Trust and Interest Bearing Deposit Accounts. 3. Approve and sign cheques/electronic fund transfers, subject to the disbursement of payments being authorised in accordance with Council's Budget as "Authorised Expenditure".
Delegates	CEO
Conditions	<ol style="list-style-type: none"> 1. Each payment from the Municipal Fund, Trust Fund or Reserve Fund is to be noted on a list Compiled for each month showing: <ol style="list-style-type: none"> a) The payee's name b) The amount of the payment c) The date of the payment d) Sufficient information to identify the transaction. 2. Any disbursement of payments must be authorised in accordance with Council's Budget as "Authorised Expenditure".
Statutory framework	<p>Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i></p> <p>Power exercised or duty delegated: <i>Local Government (Financial Management) Regulations 1996 - Reg. 12(1)</i></p>
Policy	Nil
Date adopted	21/08/1997
Adoption references	Minute Item 5.1.3

APPENDIX 8



Delegation of authority

Delegation	2.15 Payments from the Municipal or Trust Funds (DRAFT)
Category	Finance
Delegator	Council
Express power to delegate	<i>Local Government Act 1995:</i> <ul style="list-style-type: none"> • s.5.42 Delegation of some powers and duties to CEO • s.5.43 Limits on delegations to CEO
Express power or duty delegated	<i>Local Government (Financial Management) Regulations 1996:</i> <ul style="list-style-type: none"> • r.12(1) Payments from municipal fund or trust fund, restrictions on making
Function	to make payments from the Municipal Fund or Trust Fund.
Delegates	CEO
Conditions	Authority to make payments is subject to annual budget limitations.
Express power to subdelegate	<i>Local Government Act 1995:</i> <ul style="list-style-type: none"> • s.5.44 CEO may delegate powers and to other employees.
Statutory framework	<i>Local Government Act 1995</i> <i>Local Government (Financial Management) Regulations 1996</i> - refer specifically r.13 Payments from municipal fund or trust fund by CEO, CEO's duties as to etc. <i>Local Government (Audit) Regulations 1996</i> Department of Local Government, Sport and Cultural Industries' Operational Guideline No. 11 - Use of Corporate Credit Cards Department of Local Government, Sport and Cultural Industries' Accounting Manual
Policy	Council Policy 3.2 Investments Council Policy 3.9 Purchasing and Ordering of Goods Council Policy 3.10 Purchasing
Record keeping	Each exercise of delegation is to be recorded in the Shire's records management system.

APPENDIX 9



Delegation of authority

Delegation	2.2 Waive or Grant Concessions on Money Owed to the Shire (DRAFT)
Category	Finance
Delegator	Council
Express power to delegate	<p><i>Local Government Act 1995:</i></p> <ul style="list-style-type: none"> • s.5.42 Delegation of some powers and duties to CEO • s.5.43 Limits on delegations to CEO
Express power or duty delegated	<p><i>Local Government Act 1995:</i></p> <ul style="list-style-type: none"> • s.6.12(10)(b) & (c) Power to defer, grant discounts, waive or write off debts
Function	<p>To:</p> <ol style="list-style-type: none"> 1. Waive or grant concessions in relation to any amount of money (with the exception of money relating to rates and service charges), or write off any amount of money which is owed to the Shire; and 2. Determine any conditions that may be applicable to the granting of a concession under subsection 6.12(1)(b). 3. <u>This delegation does not apply to the writing off, waiving of, or granting of concessions in relation to rates or service charges.</u>
Delegates	CEO
Conditions	<ol style="list-style-type: none"> 1. The maximum amount to be written off under this delegation is \$1,000.00. 2. This delegation extends only to monies owed to the Shire under the provisions of the <i>Local Government Act 1995</i>. 3. Fees levied under the <i>Planning and Development Act 2005</i> and the <i>Building Act 2011</i> are addressed by Council's Policy 3.19 - Fees Relating to Planning and Building Matters. 4. This delegation does not apply to the writing off or waiving of rates of service charges in accordance with s.6.12(2) of the <i>Local Government Act 1995</i>.
Express power to sub delegate	<p><i>Local Government Act 1995:</i></p> <ul style="list-style-type: none"> • s.5.44 CEO may delegate powers to other employees
Statutory framework	Nil
Policy	Council Policy 3.19 - Fees Relating to Planning and Building Matters
Record keeping	Each exercise of delegation must be recorded in the Shire's Records Management System.

APPENDIX 10

Shire of Gingin

Delegation	1.1 Variations and Extensions to Tenders and Contracts
Category	Administration
Delegator	Council
Express power or duty delegated	<ol style="list-style-type: none">1. To determine whether a variation is minor in accordance with Local Government (Functions and General) Regulations – Reg. 20(3).2. To approve:<ol style="list-style-type: none">a. minor variations to accepted tenders prior to a contract being entered into; andb. variations and/or extensions to existing contracts entered into by the Shire.
Delegates	CEO
Conditions	<ol style="list-style-type: none">1. Funds required to meet the cost of any variation must be contained within the amount set aside in the adopted Budget.2. An option to extend must be specified in the original tender and contract documents.3. Any extension must be on the same terms and conditions as the last year of the original term (allowing for price increases in line with the contract provision for price, if any).
Statutory framework	<p>Legislative Authority to Delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i></p> <p>Power exercised or duty delegated: <i>Local Government Act 1995 - s. 3.18</i> <i>Local Government (Functions and General) Regulations 1996 - Reg. 20</i></p>
Policy	Policy 3.10 - Purchasing
Date adopted	7 January 2020
Adoption references	NM16428

Shire of Gingin

Delegation	1.2 Donations
Category	Administration
Delegator	Council
Express power or duty delegated	<p>To determine requests for donation of monies up to the value of \$1,000 where a group or individual can demonstrate:</p> <ol style="list-style-type: none">1. Significant direct benefit to the local community;2. That the group is a community group or not for profit organisation, or is running a not for profit activity;3. That the group's financial status is such as to justify a donation from the Shire;4. That special circumstances or needs exist in the opinion of the Chief Executive Officer to warrant a donation (eg support of needy groups and individuals who bring credit to the municipality by achieving State or national representation or awards, which sees them requiring financial assistance for travelling, accommodation or other incidental expenses); and5. That available funding exists in the Shire's adopted budget.
Delegates	CEO
Conditions	Nil
Statutory framework	<p>Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i></p> <p>Power exercised or duty delegated: <i>Local Government Act 1995 - s. 6.7(2)</i></p>
Policy	Policy 3.3 - Donations
Date adopted	21 August 1997
Adoption references	Minute Item 5.1.3
Last reviewed	20 June 2019

Shire of Gingin

Delegation	1.9 Collection of Vegetation, Seeds and Firewood on Land Under the Control of the Shire of Gingin
Category	Administration
Delegator	Council
Express power or duty delegated	To determine all applications for the picking of wildflowers or other plants and collection of wildflower or other seed or firewood on any land owned, controlled or managed by the Shire of Gingin.
Delegates	CEO
Conditions	Delegation does not apply to land located within townsites.
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i> Power exercised or duty delegated: <i>Local Government Act 1995 - s. 3.54</i>
Policy	Policy 7.3 - Removal of Flora, Firewood etc
Date adopted	17 December 1999
Adoption references	Minute Item 10.7
Last reviewed	20 June 2019

Delegation	1.12 Doing Any of the Things Prescribed in Schedule 3.2 on Land That is Not Shire Property
Category	Administration
Delegator	Council
Express power or duty delegated	To do any of the things prescribed in Schedule 3.2 even though the land on which the thing is to be done is not Shire property and the Shire does not have consent to do it.
Delegates	CEO
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i> Power exercised or duty delegated: <i>Local Government Act 1995 - s. 3.26</i>
Policy	Nil
Date adopted	6 May 2008
Adoption	Minute Item 11.2.2
Last reviewed	20 June 2019

Shire of Gingin

Delegation	1.14 Administering the Shire's Local Laws
Category	Administration
Delegator	Council
Express power to delegate	<i>Local Government Act 1995</i> s. 5.42 Delegation of some powers and duties to the CEO
Express power or duty delegated	<i>Local Government Act 1995</i> s. 3.18 Performing executive functions
Function	To exercise all the powers and discharge all the duties of the Shire of Gingin so as to administer the Local Laws made by the Shire.
Delegates	CEO
Conditions	Nil
Express power to subdelegate	<i>Local Government Act 1995</i> s. 5.44 CEO may delegate powers and duties to other employees
Statutory framework	Shire of Gingin Local Laws <ul style="list-style-type: none"> • Activities in Thoroughfares and Public Places and Trading Local Law 2004 • Bee Keeping Local Law 2004 • Bush Fire Brigades Local Law 2004 • Cemeteries Local Law 2014 • Dogs Local Law 2004 • Extractive Industries Local Law 2004 • Fencing Local Law 2016 • Health Local Law 2017 • Keeping and Control of Cats Local Law 2016 • Local Government Property Local Law 2004 • Meeting Procedures Local Law 2014 • Parking and Parking Facilities Local Law 2004 • Pest Plants Local Law 2015 • By-laws Relating to Signs and Bill Posting 1982 • Waste Local Law 2016

Shire of Gingin

Policy	Nil
Record keeping	<p>Records of the exercise of all delegations are to be kept in accordance with:</p> <p><i>Local Government Act 1995</i> s. 5.46 Register of, and records relevant to, delegations to CEO and employees</p> <p><i>Local Government (Administration) Regulations 1996</i> Reg. 19 Delegates to keep certain records (Act s. 5.46(3))</p>
Date adopted	19 December 2019
Adoption references	No amendments made. Delegation reformatted only.

Shire of Gingin

Delegation	1.16 Appointment of Acting Chief Executive Officer (For Periods of 35 Days or Less)
Category	Administration
Delegator	Council
Express power or duty delegated	To make appointments to the position of Acting Chief Executive Officer.
Delegates	CEO
Conditions	<p>1. The position of Acting Chief Executive Officer can only be conferred on an employee of the Shire of Gingin who holds the position of Executive Manager and is designated as a "Senior Employee" in accordance with Section 5.37 of the Local Government Act 1995.</p> <p>2. Delegated authority is only granted for appointments to the position of Acting Chief Executive Officer covering a period of 35 days or less. In instances where an appointment is required for a period exceeding 35 days, then that proposed appointment must be presented to Council for determination prior to the appointment taking effect.</p> <p>3. The Chief Executive Officer must advise Councillors of any appointments to the position of Acting Chief Executive Officer made under delegated authority, prior to the appointment taking effect. In instances where it is necessary for an appointment to be made at short notice, then Councillors are to be advised of that appointment as soon as possible.</p>
Statutory framework	<p>Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42</i></p> <p>Power exercised or duty delegated: <i>Local Government Act 1995 - s. 5.36(1)(a)</i></p>
Policy	Nil
Date adopted	21 January 2014
Adoption references	Minute Item 11.1.4
Last reviewed	20 June 2019

Shire of Gingin

Delegation	2.3 Transfer Money Held in the Trust Fund for More Than 10 Years
Category	Finance
Delegator	Council
Express power or duty delegated	To determine whether money held in the Trust Fund for more than 10 years will be transferred to the Municipal Fund.
Delegates	CEO
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i> Power exercised or duty delegated: <i>Local Government Act 1995 - s. 6.9(4)</i>
Policy	Nil
Date adopted	7 January 2020
Adoption references	NM16428

Shire of Gingin

Delegation	2.4 Investing Money Not Required for the Time Being
Category	Finance
Delegator	Council
Express power or duty delegated	<p>To determine whether money held in the Municipal, Reserve or Trust Funds, that is not required for the time being will be invested.</p> <p>The authority to establish and document internal control procedures to be followed by employees to ensure control over investments, enabling the identification of the nature and location of all investments and the transactions related to each investment.</p>
Delegates	CEO
Conditions	Investment is to be in accordance with Council Investment Policy 3.2.
Statutory framework	<p>Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i></p> <p>Power exercised or duty delegated: <i>Local Government Act 1995 - s. 6.14(1)</i> <i>Local Government (Financial Management) Regulations 1996 - Reg. 19</i></p>
Policy	Policy 3.2 - Investments
Date adopted	7 January 2020
Adoption references	NM16428

Shire of Gingin

Delegation	2.6 Rate Book
Category	Finance
Delegator	Council
Express power or duty delegated	<p>To undertake the performance of the following functions of the Council:</p> <ul style="list-style-type: none"> a. The discharge of the obligations specified in s.6.39(2) of the Local Government Act 1995. b. To determine the time allowed for the payment of a rate before it is deemed to be in arrears, in accordance with s.6.50(1) of the Local Government Act 1995. c. The powers conferred in s.6.40 of the Local Government Act 1995. d. The exercise of discretion in regard to granting of any extension of time for service of objections to the Rate Book in accordance with s.6.76(4) of the Local Government Act 1995. e. To consider any objection and either disallow it or allow it, wholly or in part, in accordance with s.6.76(5) of the Local Government Act 1995. f. After making a decision on an objection, to promptly serve upon the person by whom the objection was made written notice of the decision on the objection and a statement of the reason/s for that decision in accordance with s.6.76(6) of the Local Government Act 1995. f. The recovery of rates by complaint or action pursuant to the provisions of s.6.56(1) of the Local Government Act 1995. g. Entering into an agreement in accordance with s.6.49 of the Local Government Act 1995. h. Requiring a lessee to pay rent to the Council in satisfaction of rates or service charges due and payable in accordance with s.6.60(2) of the Local Government Act 1995.
Delegates	CEO
Conditions	Nil
Statutory framework	<p>Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i></p> <p>Power exercised or duty delegated: <i>Local Government Act 1995 - s. 6.39(2), 6.40, 6.49, 6.50(2), 6.56(1), 6.60(2) and 6.76(4)</i></p>
Policy	Nil
Date adopted	7 January 2020
Adoption references	NM16428

Shire of Gingin

Delegation	2.7 Inviting Tenders
Category	Finance
Delegator	Council
Express power or duty delegated	To publicly invite tenders for the supply of goods and services as identified in the adopted Annual Budget, or as separately approved by Council.
Delegates	CEO
Conditions	The calling of tenders is to be undertaken in accordance with Council's Policy 3.10 (Purchasing) and any other relevant policies. In calling for tenders, the Chief Executive Officer shall have regard to Part 4 of the Local Government (Functions and General) Regulations 1996. Acceptance of the most advantageous tender is subject to the Regulations and Council's Delegation 2.9 (Accepting or Rejecting Tenders/Quotations).
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42</i> Power exercised or duty delegated: <i>Local Government Act 1995 - s. 3.57</i> <i>Local Government (Functions and General) Regulations 1996 - Reg. 11</i>
Policy	Policy 3.10 - Purchasing
Date adopted	7 December 1999
Adoption references	Minute Item 10.7
Last reviewed	20 June 2019

Shire of Gingin

Delegation	2.8 Developing Tender Documentation
Category	Finance
Delegator	Council
Express power or duty delegated	To determine: (a) The criteria for deciding which tender should be accepted before tenders are invited; (b) The information that should be disclosed to those interested in submitting a tender; (c) Whether or not the Shire will be submitting a tender; and (d) Any variation to the information supplied to tenderers after the notice has been given in compliance with Regulation (5) of the Local Government (Functions and General) Regulations.
Delegates	CEO
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44\</i> Power exercised or duty delegated: <i>Local Government (Functions and General) Regulations 1996 - Reg. 14(2a), 14(4a)</i>
Policy	Nil
Date adopted	7 January 2020
Adoption references	NM16428

Shire of Gingin

Delegation	2.9 Accepting or Rejecting Tenders
Category	Finance
Delegator	Council
Express power or duty delegated	To accept or reject tenders with a value not exceeding \$250,000.
Delegates	CEO
Conditions	Tenders with a value greater than \$250,000 must be referred to Council for determination. This delegation applies only to expenditure which is identified in Council's adopted Annual Budget.
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42</i> Power exercised or duty delegated: <i>Local Government Act 1995 - s. 3.57</i> <i>Local Government (Functions and General) Regulations 1996 - Reg. 18</i>
Policy	Policy 3.9 - Purchasing and Ordering of Goods Policy 3.10 - Purchasing
Date adopted	21 August 1997
Adoption references	Minute Item 5.1.3
Last reviewed	20 June 2019

Shire of Gingin

Delegation	2.11 Selecting the Next Most Appropriate Tender
Category	Finance
Delegator	Council
Express power or duty delegated	To select the next most appropriate tender if: 1. The chosen tenderer is unable or unwilling to enter into a contract to supply the varied requirement; or 2. Agreement cannot be reached between the Shire and the chosen tenderer on any other variation to be included in the contract as a result of the varied requirement.
Delegates	CEO
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i> Power exercised or duty delegated: <i>Local Government (Functions and General) Regulations 1996 - Reg. 20(2)</i>
Policy	Nil
Date adopted	5 June 2008
Adoption references	Minute Item 11.2.2
Last reviewed	20 June 2019

Shire of Gingin

Delegation	2.14 Disposition of Assets Other Than Land
Category	Finance
Delegator	Council
Express power or duty delegated	To dispose of any Shire-owned asset (other than land) with a value not exceeding \$50,000.
Delegates	CEO
Conditions	<p>Assets with a value not exceeding \$20,000 can be disposed of regardless of whether such disposal has been identified in Council's adopted Budget.</p> <p>Assets with a value of between \$20,001 and \$50,000 cannot be disposed of unless such disposal has been identified in Council's adopted Budget.</p> <p>Disposal of assets to be undertaken in accordance with Policy 3.18 (Disposition of Assets).</p>
Statutory framework	<p>Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i></p> <p>Power exercised or duty delegated: <i>Local Government Act 1995 - s. 3.58</i> <i>Local Government (Functions and General) Regulations 1996 - Reg. 30</i></p>
Policy	Policy 3.18 - Disposition of Assets
Date adopted	20 August 2013
Adoption references	Minute Item 11.1.2
Last reviewed	20 June 2019

Shire of Gingin

Delegation	3.1 Bush Fires Act 1954 - Variation of Prohibited and Restricted Burning Times
Category	Law, Order and Public Safety
Delegator	Council
Express power or duty delegated	To jointly exercise the Shire's powers and duties under Section 17(7), 17(8) and Section 18(5) of the Bush Fires Act 1954 in respect to varying prohibited and restricted burning times.
Delegates	Community Emergency Services Manager/Chief Bush Fire Control Officer President
Conditions	The Shire President and Chief Bush Fire Control Officer are to consult with the Regional Manager of the Department of Parks and Wildlife before exercising this delegated authority.
Statutory framework	Legislative authority to delegate: <i>Bush Fires Act 1954 - s. 17(1)</i> Power exercised or duty delegated: <i>Bush Fires Act 1954 - s. 17(7), 17(8) and 18(5)</i>
Policy	Nil
Date adopted	17 December 1999
Adoption references	Minute Item 10.7
Last reviewed	20 June 2019

Shire of Gingin

Delegation	3.2 Bush Fires Act 1954 - Prosecution of Offences
Category	Law, Order and Public Safety
Delegator	Council
Express power or duty delegated	To consider offences alleged to have been committed against the Bush Fires Act 1954 within the district, and if the delegate thinks fit, to institute and carry out proceedings in the name of the Shire against any person alleged to have committed any of those offences.
Delegates	CEO Community Emergency Services Manager/Chief Bush Fire Control Officer Coordinator Ranger Services Executive Manager Regulatory and Development Services
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Bush Fires Act 1954 - s. 59(3)</i> Power exercised or duty delegated: <i>Bush Fires Act 1954 - s. 59(3)</i>
Policy	Nil
Date adopted	21 August 1997
Adoption references	Minute Item 5.1.3
Last reviewed	20 June 2019

Shire of Gingin

Delegation	3.3 Bush Fires Act 1954 - Issuing Infringement Notices
Category	Law, Order and Public Safety
Delegator	Council
Express power or duty delegated	To issue infringement notices for offences against the Bush Fires Act 1954 as prescribed for the purposes of s.59A.
Delegates	Community Emergency Services Manager/Chief Bush Fire Control Officer Ranger Senior Ranger
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Bush Fires Act 1954 - s. 59(3)</i> Power exercised or duty delegated: <i>Bush Fires Act 1954 - s. 59(3) and 59A(2)</i>
Policy	Nil
Date adopted	20 May 2008
Adoption references	Adoption date unknown (some time between 21/08/1997 and 20/05/2008).
Last reviewed	20 June 2019

Shire of Gingin

Delegation	3.4A Bush Fires Act 1954 - Appointment of Bush Fire Control Officers
Category	Law, Order and Public Safety
Delegator	Council
Express power to delegate	<i>Bush Fires Act 1954</i> S. 48 Delegation by local governments
Express power or duty delegated	<i>Bush Fires Act 1954</i> s. 38 Local government may appoint bush fire control officer
Function	To appoint Bush Fire Control Officers, including the Chief Bush Fire Control Officer, Deputy Chief Bush Fire Control Officer/s and Fire Weather Officer.
Delegates	CEO
Conditions	<p>1. Chief Bush Fire Control Officer is to be the Shire's Community Emergency Services Manager (or equivalent position). Any other proposed appointment must be presented to Council for consideration.</p> <p>2. Appointments to the position of Deputy Chief Bush Fire Control Officer must result from a recommendation of the Shire's Bush Fire Advisory Committee.</p> <p>3. Appointments to the position of Bush Fire Control Office must result from a recommendation of the Shire's Bush Fire Advisory Committee.</p> <p>Condition 3 does not apply to the appointment of Shire Rangers as Bush Fire Control Officers for the Shire in its entirety.</p>
Express power to subdelegate	<i>Bush Fires Act 1954</i> s. 48 Delegation by local governments Specifies that Council may delegate any of its functions under the Act to the CEO. S. 48(3) specifically excludes any power of subdelegation by the CEO.
Statutory framework	<i>Shire of Gingin Bush Fire Brigades Local Law 2004</i>
Policy	Policy 4.2 - Bush Fire Control
Record keeping	<p>Records of bush fire control officers and bush fire brigade officers appointed by or holding office under the local government to be maintained in accordance with:</p> <p><i>Bush Fires Act 1954</i> s. 50 Records to be maintained by local government</p> <p>In addition, records of the exercise of all delegations are to be kept in accordance with:</p> <p><i>Local Government Act 1995</i> s. 5.46 Register of, and records relevant to, delegations to CEO and employees</p> <p><i>Local Government (Administration) Regulations 1996</i> Reg. 19 Delegates to keep certain records (Act s. 5.46(3))</p>
Date adopted	15 July 2014

Shire of Gingin

Adoption references	Minute Item 11.1.2
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Shire of Gingin

Delegation	3.4B Bush Fires Act 1954 - Approval and Issue of Firebreak Order
Category	Law, Order and Public Safety
Delegator	Council
Express power or duty delegated	To approve the format and content, and authorise the issue, of the annual Shire of Gingin Firebreak Order.
Delegates	CEO
Conditions	The draft Firebreak Order shall be submitted to the Shire's Bush Fire Advisory Committee for consideration prior to submission to the Chief Executive Officer for approval.
Statutory framework	Legislative Authority to Delegate: <i>Bush Fires Act 1954</i> - s. 48 Power Exercised or Duty Delegated: <i>Bush Fires Act 1954</i> - s. 33(1)
Policy	N/A
Date adopted	19 July 2016
Adoption references	Item 11.1.2
Last reviewed	20 June 2019

Shire of Gingin

Delegation	3.11 Declaring an Impounded Vehicle to be an Abandoned Wreck
Category	Law, Order and Public Safety
Delegator	Council
Express power or duty delegated	To declare a vehicle to be an abandoned vehicle wreck if – (a) After 7 days from the removal of the vehicle under Section 3.40A(1) of the Local Government Act 1995, the owner of the vehicle has not been identified; or (b) After 7 days from being given notice under Section 3.40A(2) of the Local Government Act 1995, the owner of the vehicle has not collected it.
Delegates	CEO
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i> Power exercised or duty delegated: <i>Local Government Act 1995 - s. 3.40A(4)</i>
Policy	Nil
Date adopted	6 May 2008
Adoption references	Minute Item 11.2.2
Last reviewed	20 June 2019

Shire of Gingin

Delegation	3.12 Sale of Impounded/Seized/Confiscated Vehicles, Animals or Goods
Category	Law, Order and Public Safety
Delegator	Council
Express power or duty delegated	To dispose of any vehicles, animals or goods that have been impounded/seized/confiscated under the provisions of Section 3.47 of the Local Government Act 1995.
Delegates	CEO
Conditions	The Chief Executive Officer may dispose of the above only after calling public tenders in accordance with Part 4 of the Local Government (Functions and General) Regulations. The Chief Executive Officer is authorised pursuant to Section 5.43 (b) of the Local Government Act 1995, to accept any tender up to the value of \$5,000. Tenders for amounts exceeding \$5,000 shall be referred to the Council for consideration.
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i> Power exercised or duty delegated: <i>Local Government Act 1995 - s. 3.47</i>
Policy	Nil
Date adopted	7 December 1999
Adoption references	Minute Item 10.7
Last reviewed	20 June 2019

Shire of Gingin

Delegation	3.12A Destruction and Disposal of Sick or Injured Impounded Animals
Category	Law, Order and Public Safety
Delegator	Council
Express power or duty delegated	To determine that any impounded animal that is ill or injured to such an extent that treating it is not practicable shall be humanely destroyed and the carcass disposed of.
Delegates	CEO
Conditions	Destruction and disposal of impounded animals will only be carried out by the Rangers. In disposing of animal carcasses, Officers will have regard to any requirements of clause 5.2.6 of the Shire of Gingin Health Local Law 2004.
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i> Power exercised or duty delegated: <i>Local Government Act 1995 - s. 3.47A</i>
Policy	Nil
Date adopted	30 July 2019
Adoption references	2019 CEO's review of delegations to other officer (NM15482)

Shire of Gingin

Delegation	3.15A Cat Act 2011
Category	Law, Order and Public Safety
Delegator	Council
Express power or duty delegated	To fulfil, carry out, undertake or enforce any power or duty of the local government under the Cat Act 2011 and its subsidiary legislation.
Delegates	CEO
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Cat Act 2011 - s. 44</i> Power exercised or duty delegated: <i>All powers and duties of the local government under the Cat Act 2011 and subsidiary legislation</i>
Policy	Nil
Date adopted	17/06/2014 Item 11.1.1

Delegation	3.16 Dog Act 1976
Category	Law, Order and Public Safety
Delegator	Council
Express power or duty delegated	To fulfil, carry out, undertake or enforce any power or duty of the local government under the Dog Act 1976 and its subsidiary legislation. The Chief Executive Officer is expressly authorised by Council to further delegate the power or duty. (s.10AA(3))
Delegates	CEO
Conditions	Nil.
Statutory framework	Legislative authority to delegate: <i>Dog Act 1976 - s. 10AA(1)</i> Power exercised or duty delegated: <i>All powers and duties of the local government under the Dog Act 1976 and subsidiary</i>
Policy	Nil
Date adopted	17/06/2014
Adoption	Item 11.1.1
Last reviewed	20 June 2019

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Delegation	3.17 Appointment of Authorised Persons
Category	Law, Order and Public Safety
Delegator	Council
Express power to delegate	<p><i>Local Government Act 1995:</i></p> <ul style="list-style-type: none"> • s.5.42 Delegation of some powers or duties to the CEO • s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	<p><i>Local Government Act 1995:</i></p> <ul style="list-style-type: none"> • s.3.24 Authorising persons under this subdivision [Part 3, Division 3, Subdivision 2 - Certain provisions about land] • s.9.10 Appointment of authorised persons
Function	<p>1. Authority to appoint persons or classes of persons as authorised persons for the purpose of fulfilling prescribed functions within the <i>Local Government Act 1995</i> and its subsidiary legislation, including <i>Local Government Act Regulations</i>, the <i>Local Government (Miscellaneous Provisions) Act 1960</i> and local laws made under the <i>Local Government Act</i> [s.3.24 and s.9.10].</p> <p>2. Authority to appoint "authorised persons" for the purposes of s.9.16 of the <i>Local Government Act 1995</i> as a pre-condition for appointment as authorised officers in accordance with r.70(2) of the <i>Building Regulations 2012</i> and s.6(b) of the <i>Criminal Procedures Act 2004</i>.</p> <p>3. Authority to appoint authorised persons for the purposes of s.15 of the <i>Graffiti Vandalism Act 2016</i>, which prescribes Part 9 of the <i>Local Government Act 1995</i> as the enabling power.</p>
Delegates	CEO
Conditions	<p>1. A register of Authorised Persons is to be maintained as a local government record.</p> <p>2. Only persons who are appropriately qualified and trained may be appointed as Authorised Persons.</p>
Express power to subdelegate	<p><i>Local Government Act 1995:</i></p> <p>s.5.44 CEO may delegate some powers and duties to other employees</p>
Policy	Nil
Record keeping	<p>A record of each exercise of delegation is to be captured in the Shire's records management system.</p> <p>Copies of instruments or certificates of authorisation are to be retained on the Authorised Person's personnel file.</p> <p>A record of each authorisation is to be retained in the register of Authorised Persons.</p>
Date adopted	21 April 2020
Adoption references	Minute Item 11.1.2

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Delegation	4.3 Food Act 2008 - Appointment of Authorised Officers
Category	Health
Delegator	Council
Express power or duty delegated	To appoint officers as Authorised Officers in accordance with section 122 of the Food Act 2008.
Delegates	CEO
Conditions	A list of authorised officers must be prepared and maintained in accordance with s.122(3) of the Food Act 2008.
Statutory framework	Legislative authority to delegate: <i>Food Act 2008 - s. 118(2)</i> Power exercised or duty delegated: <i>Food Act 2008 - s. 122(1)</i>
Policy	Nil
Date adopted	18 June 2013
Adoption references	Minute Item 11.1.3
Last reviewed	20 June 2019

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Delegation	4.4 Food Act 2008 - Appointment of Designated Officers
Category	Health
Delegator	Council
Express power or duty delegated	To appoint Authorised Officers as Designated Officers to issue, extend or withdraw infringements for offences against the Food Act 2008.
Delegates	CEO
Conditions	<p>1. A person who is a designated officer for the purposes of issuing infringements cannot be a designated officer for the purposes of extending or withdrawing infringements.</p> <p>2. A list of designated officers must be prepared and maintained in accordance with s.122(3) of the Food Act 2008.</p>
Statutory framework	<p>Legislative power to delegate: <i>Food Act 2008 - s. 118(2)</i></p> <p>Power exercised or duty delegated: <i>Food Act 2008 - s. 126(13)</i></p>
Policy	Nil
Date adopted	17 June 2014
Adoption references	Minute Item 11.1.1
Last reviewed	20 June 2019

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Delegation	4.5 Food Act 2008 - Prohibition Orders
Category	Health
Delegator	Council
Express power or duty delegated	1. To serve a prohibition order on the proprietor of a food business in accordance with Part 6 of the Food Act 2008. 2. To give a certificate of clearance with respect to a prohibition order served in accordance with Part 6 of the Food Act 2008. 3. To give written notification to the proprietor of a food business on whom a prohibition order has been served of any decision not to give a certificate of clearance after an inspection under s.66 or 67.
Delegates	Executive Manager Regulatory and Development Services Principal Environmental Health Officer
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Food Act 2008 - s. 118(2)</i> Power exercised or duty delegated: <i>Food Act 2008 - s. 65, 66 and 67(4)</i>
Policy	Nil
Date adopted	17 June 2014
Adoption references	Minute Item 11.1.1
Last reviewed	20 June 2019

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Delegation	4.6 Food Act 2008 - Registration of Food Businesses
Category	Health
Delegator	Council
Express power or duty delegated	To grant, apply conditions to, refuse, vary or cancel registration of a food business.
Delegates	Executive Manager Regulatory and Development Services Principal Environmental Health Officer
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Food Act 2008 - s. 118(2)</i> Power exercised or duty delegated: <i>Food Act 2008 - s. 110 and 112</i>
Policy	Nil
Date adopted	17 June 2014
Adoption references	Minute Item 11.1.1
Last reviewed	20 June 2019

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Delegation	4.7 Public Health Act 2016 - Designation of Authorised Officers
Category	Health
Delegator	Council
Express power or duty delegated	<ol style="list-style-type: none"> 1. To designate a person or a class of persons as authorised officers for the purposes of: <ol style="list-style-type: none"> a. the Public Health Act 2016 or another specified act; or b. the specified provisions of the Public Health Act 2016 or another specified act; or c. the provisions of the Public Health Act 2016 or another specified act other than the specified provisions of that act. 2. To designate, under s. 24(1): <ol style="list-style-type: none"> a. an environmental health officer or environmental health officers as a class; or b. a person who is not an environmental health officer or a class of persons who are not environmental health officers; or c. a mixture of the two. 3. To act jointly with other local governments in the designation of persons or classes of persons as authorised officers.
Delegates	CEO
Conditions	The <i>Health Act 2016</i> does not contain a power of further delegation.
Statutory framework	<p>Legislative Authority to Delegate: <i>Public Health Act 2016</i> s. 21</p> <p>Power Exercised or Duty Delegated: <i>Public Health Act 2016</i> s. 24(1), (3) and (4)</p>
Policy	Nil
Date adopted	21 February 2017
Adoption references	Item 11.1.1
Last reviewed	20 June 2019

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Delegation	4.8 Public Health Act 2016 - Certificates of Authority
Category	Health
Delegator	Council
Express power or duty delegated	To sign Certificates of Authority issued to authorised officers appointed under the <i>Public Health Act 2016</i> .
Delegates	CEO
Conditions	The <i>Public Health Act 2016</i> does not contain a power of further delegation.
Statutory framework	Legislative Authority to Delegate: <i>Public Health Act 2016</i> s. 21 Power Exercised or Duty Delegated: <i>Public Health Act 2016</i> s. 30
Policy	Nil
Date adopted	21 February 2017
Adoption references	Item 11.1.1
Last reviewed	20 June 2019

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Delegation	4.9 Food Act 2008 - Determine Compensation
Category	Health
Delegator	Council
Express power or duty delegated	In respect to applications for compensation under s. 70, to determine: 1. whether there were insufficient grounds for making a prohibition order; and 2. where compensation is to be paid, the compensation to the application that is just and reasonable.
Delegates	CEO
Conditions	The level of compensation to be paid in respect of any single claim is not to exceed a maximum of \$5,000.
Statutory framework	Legislative Authority to Delegate: <i>Food Act 2008</i> - s. 118(2)(b) Power Exercised or Duty Delegated: <i>Food Act 2008</i> - s. 70(2) and 70(3)
Policy	Nil
Date adopted	20 June 2017
Adoption references	Minute Item 11.1.1
Last reviewed	20 June 2019

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Delegation	4.10 Health (Asbestos) Regulations 1992 - Appointment of Authorised and Approved Officers
Category	Health
Delegator	Council
Express power or duty delegated	Appoint persons or classes of persons to be authorised officers or approved officers for the purposes of the <i>Criminal Procedure Act 2004</i> Part 2.
Delegates	CEO
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Health (Asbestos) Regulations 1992</i> - r. 15D(7) Power exercised or duty delegated: <i>Health (Asbestos) Regulations 1992</i> - r. 15D(5)
Policy	Nil
Date adopted	16 October 2018
Adoption references	Item 11.1.2
Last reviewed	20 June 2019

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Delegation	5.1 Applications for Operation of "B" Doubles and Road Trains
Category	Engineering
Delegator	Council
Express power or duty delegated	<p>The Chief Executive Officer is authorised to approve applications to use RAV Network 2, 3 and 4 combinations on all local roads considered suitable for usage by that combination, provided that such usage is for the purpose of servicing an established enterprise operating from within the Municipality.</p> <p>Any roads, other than those approved by Main Roads in consultation with Council, which will be related to direct farm or business activity access, will be dealt with on their merits and will include road conditions if appropriate.</p>
Delegates	CEO
Conditions	The Chief Executive Officer in exercising this delegation shall have regard to Council Policy 7.6.
Statutory framework	<p>Legislative authority to delegate: <i>Local Government Act 1995- s. 5.42 and 5.44</i></p> <p>Power exercised or duty delegated: To approve the use of local roads deemed as suitable by the Chief Executive Officer for the operation of "B" double road trains and pocket road trains (Restricted Access Vehicle (RAV) Network 2, 3 and 4 combinations).</p>
Policy	Policy 7.6 - Road Transport - Restricted Access Vehicles (RAV)
Date adopted	21 August 1997
Adoption references	Minute Item 5.1.3
Last reviewed	20 June 2019

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Delegation	5.2 Registered Gates
Category	Engineering
Delegator	Council
Express power or duty delegated	To approve applications for permits to erect gates across road reserves subject to the <i>Local Government Act 1995</i> .
Delegates	CEO
Conditions	a. That the road be of a minor nature with a low traffic density. b. That the gate be a heavy duty swing type. c. That the gate be unlocked at all times. d. That all landowners adjoining the road or using the road for access to supply written approval of the proposal.
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995</i> - s. 5.42 and 5.44 Power exercised or duty delegated: <i>Local Government (Uniform Local Provisions) Regulations 1996</i> - Reg. 9 and 10
Policy	Nil
Date adopted	21 August 1995
Adoption references	Minute Item 5.1.3
Last reviewed	20 June 2019

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Delegation	5.4 Temporary Closure of Thoroughfares
Category	Engineering
Delegator	Council
Express power or duty delegated	To approve the temporary closure, either wholly or partially, of any thoroughfare managed by the Shire of Gingin.
Delegates	CEO
Conditions	<p>1. Delegation only relates to circumstances where there is an alternative route available to traffic which might otherwise use the section of road to be closed, or the closure is intended to be of such short duration that no great inconvenience will be suffered.</p> <p>2. Elected Members to be advised of any road closure likely to be in effect for more than five working days.</p>
Statutory framework	<p>Legislative authority to delegate: <i>Local Government Act 1995</i> - s. 5.42 and 5.44</p> <p>Power exercised or duty delegated: <i>Local Government Act 1995</i> - s. 3.50</p>
Policy	Nil
Date adopted	21 August 1997
Adoption references	Minute Item 5.1.3
Last reviewed	20 June 2019

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Delegation	5.5 Partial Closure of Thoroughfares for Repairs or Maintenance
Category	Engineering
Delegator	Council
Express power or duty delegated	To partially and temporarily close a thoroughfare without giving local public notice, if the closure – (a) is for the purpose of carrying out repairs or maintenance; and (b) is unlikely to have a significant adverse effect on users of the thoroughfare.
Delegates	CEO
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i> Power exercised or duty delegated: <i>Local Government Act 1995 - s. 3.50A</i>
Policy	Nil
Date adopted	21 August 1997
Adoption references	Minute Item 5.1.3
Last reviewed	20 June 2019

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Delegation	5.6 Revocation of Road Closure Order
Category	Engineering
Delegator	Council
Express power or duty delegated	To revoke an order to temporarily close a thoroughfare under the management of the Shire of Gingin.
Delegates	CEO
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42 and 5.44</i> Power exercised or duty delegated: <i>Local Government Act 1995 - s. 3.50(6)</i>
Policy	Nil
Date adopted	17 June 2014
Adoption references	Minute Item 11.1.1
Last reviewed	20 June 2019

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Delegation	5.7 Temporary Closure of Thoroughfares - Events
Category	Engineering
Delegator	Council
Express power or duty delegated	To determine applications for the temporary closure of roads for the purpose of conducting events in accordance with the Road Traffic (Events on Roads) Regulations 1991.
Delegates	CEO
Conditions	The Chief Executive Officer shall have regard to s.3.50 of the Local Government Act 1995.
Statutory framework	Legislative authority to delegate: <i>Local Government Act 1995 - s. 5.42</i> Power exercised or duty delegated: <i>Local Government Act 1995 - s. 3.50</i>
Policy	Nil
Date adopted	21 August 1996
Adoption references	Minute Item 5.1.3
Last reviewed	20 June 2019

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Delegation	6.1 Approve or Refuse a Building Permit
Category	Building
Delegator	Council
Express power or duty delegated	<ol style="list-style-type: none"> 1. To approve or refuse to approve an application for the grant of a building permit. 2. To impose any conditions on the grant of a building permit in addition to those provided for in the Building Act 2011 and Building Regulations 2012. 3. To add, vary or revoke conditions imposed before the building work is complete.
Delegates	CEO
Conditions	<p>Consideration of an application for the grant of a building permit must have regard for the following adopted policies of Council:</p> <ul style="list-style-type: none"> • 8.1 (Building Control Disclaimer); • 8.3 (Building Licence – Deposit for Footpaths/ Cycleway); • 8.4 (Sign Applications); • 8.5 (Amalgamation of Lots for Building Sites); • 8.6 (Roof Drainage); • 8.7 (Roof Guttering on Outbuildings); • 8.8 (Temporary Accommodation); • 8.9 (Retaining Walls); <p>Retaining Walls</p> <ul style="list-style-type: none"> • 8.10 (Retaining Walls – Cut and Fill of Lots); and • 8.11 (Oversized Outbuildings). <p>This delegation applies to retaining walls between 1 metre and 1.8 metres in height. Plans showing height, length and location and accompanied by certification of structural adequacy prepared by a Professional (Structural) Engineer* must be submitted.</p> <p>*Professional Engineer as defined in the Building Code of Australia.</p> <p>Plans submitted for retaining walls with a height exceeding 1.8 metres must be referred to Council for determination.</p> <p>The CEO is to exercise discretion in issuing a building licence for earthworks and retaining walls, prior to issuing a building licence for a dwelling on the subject lot.</p>
Statutory framework	<p>Legislative authority to delegate: <i>Building Act 2011 - s. 127</i></p> <p>Power exercised or duty delegated: <i>Building Act 2011 - s. 20, 22 and 27</i></p>

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Policy	Policy 8.1 (Building Control Disclaimer) Policy 8.3 (Building Licence - Deposit for Footpaths/Cycleways) Policy 8.4 (Sign Applications) Policy 8.5 (Amalgamation of Lots for Building Sites) Policy 8.6 (Roof Drainage) Policy 8.7 (Roof Guttering on Outbuildings) Policy 8.8 (Temporary Accommodation) Policy 8.9 (Retaining Walls) Policy 8.10 (Retaining Walls - Cut and Fill of Lots) Policy 8.11 (Oversized Outbuildings)
Date adopted	20 March 2012
Adoption references	Minute Item 11.4.1
Last reviewed	20 June 2019

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Delegation	6.3 Issue an Occupancy Permit and a Building Approval Certificate
Category	Building
Delegator	Council
Express power or duty delegated	To issue an occupancy permit and a building approval certificate in accordance with section 58 of the Building Act 2011.
Delegates	CEO
Conditions	<u>Conditions and Exceptions to Sub-Delegation</u> 1. Decisions under this delegated authority should be either undertaken or informed by a person qualified in accordance with r. 5 of the <i>Building Regulations 2012</i> .
Statutory framework	Legislative authority to delegate: <i>Building Act 2011</i> - s. 127 Power exercised or duty delegated: <i>Building Act 2011</i> - s. 58
Policy	Nil
Date adopted	20 March 2012
Adoption references	Minute Item 11.4.1
Last reviewed	20 June 2019

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Delegation	6.5 Extension of Occupancy Permit or Building Approval Certificate
Category	Building
Delegator	Council
Express power or duty delegated	To extend the period of duration of an Occupancy Permit or a Building Approval Certificate in accordance with section 65 of the Building Act 2011.
Delegates	CEO
Conditions	<u>Conditions and Exceptions to Sub-Delegation</u> 1. Decisions under this delegated authority should be either undertaken or informed by a person qualified in accordance with r. 5 of the <i>Building Regulations 2012</i> .
Statutory framework	Legislative authority to delegate: <i>Building Act 2011 - s. 127</i> Power exercised or duty delegated: <i>Building Act 2011 - s. 65</i>
Policy	Nil
Date adopted	20 March 2012
Adoption references	Minute Item 11.4.1
Last reviewed	20 June 2019

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Delegation	6.6 Issue Building Orders
Category	Building
Delegator	Council
Express power or duty delegated	To issue Building Orders in accordance with section 110 of the Building Act 2011.
Delegates	CEO
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Building Act 2011 - s. 127</i> Power exercised or duty delegated: <i>Building Act 2011 - s. 110</i>
Policy	Nil
Date adopted	20 March 2012
Adoption references	Minute Item 11.4.1
Last reviewed	20 June 2019

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Delegation	6.7 Revoke Building Orders
Category	Building
Delegator	Council
Express power or duty delegated	To revoke Building Orders in accordance with section 117 of the Building Act 2011.
Delegates	CEO
Conditions	Nil
Statutory framework	Legislative authority to delegate: <i>Building Act 2011 - s. 127</i> Power exercised or duty delegated: <i>Building Act 2011 - s. 117</i>
Policy	Nil
Date adopted	20 March 2012
Adoption references	Minute Item 11.4.1
Last reviewed	20 June 2019

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Delegation	6.8 Approve or Refuse a Demolition Permit
Category	Building
Delegator	Council
Express power or duty delegated	To approve or refuse a demolition licence to take down a building or part of a building. Licence may be subject to such conditions as are considered necessary for the safe and proper execution of the work.
Delegates	CEO
Conditions	<u>Conditions and Exceptions to Sub-Delegation</u> 1. Decisions under this delegated authority should be either undertaken or informed by a person qualified in accordance with r. 5 of the <i>Building Regulations 2012</i> .
Statutory framework	Legislative authority to delegate: <i>Building Act 2011</i> - s. 127 Power exercised or duty delegated: <i>Building Act 2011</i> - s. 21
Policy	Nil
Date adopted	20 March 2012
Adoption references	Minute Item 11.4.1
Last reviewed	20 June 2019

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Delegation	6.9 Building Act 2011 - Appointment of Authorised Persons
Category	Building
Delegator	Council
Express power to delegate	<i>Building Act 2011</i> s.127 Delegation: special permit authorities and local governments
Express power or duty delegated	<i>Building Act 2011</i> <ul style="list-style-type: none"> • s.96(3) Authorised persons • s. 99(3) Limitations on powers to authorise person
Function	1. Authority to designate an employee as an authorised person [s.96(3)]. 2. Authority to revoke or vary a condition of designation as an authorised person or give written notice to an authorised person limiting powers that may be exercised by that person [s.99(3)].
Delegates	CEO
Conditions	Decisions under this delegated authority should be in accordance with r.5 of the Building Regulations 2012.
Express power to subdelegate	<i>Building Act 2011</i> <ul style="list-style-type: none"> • s.127(6A) Delegation: special permit authorities and local governments (powers of sub- delegation limited to CEO)
Statutory framework	<i>Building Act 2011</i> <ul style="list-style-type: none"> • s.97 requires each person designated as an authorised person must have an identity card. • r.5A Authorised persons (s.3) – definition
Policy	Nil
Record keeping	Record of exercise of delegation to be retained in the Shire's records management system.
Date adopted	21 April 2020
Adoption references	Minute Item 11.1.2

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Delegation	6.10 Building Act 2011 - Appointment of Approved Officers and Authorised Officers
Category	Building
Delegator	Council
Express power to delegate	<i>Building Act 2011</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	<i>Building Regulations 2012</i> r.70 Approved officers and authorised officers
Function	<p>1. Authority to appoint an approved officer for the purposes of s.6(a) of the <i>Criminal Procedure Act 2004</i>, in accordance with r.70(1) and 70(1A). <i>Note: Only employees delegated under s.5.44(1) of the Local Government Act 1995 with power under s.9.19 or 9.20 of that Act may be appointed as "approved officers".</i></p> <p>2. Authority to appoint an authorised officer for the purposes of s.6(b) of the <i>Criminal Procedure Act 2004</i>, in accordance with r.70(2). <i>Note: Only employees appointed under s.9.10 of the Local Government Act 1995 and authorized for the purpose of performing functions under s.9.16 of that Act may be appointed as "authorised officers".</i></p>
Delegates	CEO
Express power to subdelegate	<i>Building Act 2011</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Statutory framework	<i>Building Regulations 2012</i> r.70(3) each authorised officer must be issued a certificate of appointment
Record keeping	Each exercise of delegation to be recorded in the Shire's records management system.
Date adopted	21 April 2020
Adoption references	Minute Item 11.1.2

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Delegation	7.1 Town Planning Powers
Category	Planning
Delegator	Council
Express power or duty delegated	<p>Subdivision/Amalgamation</p> <p>To provide advice on and grant clearance for the following subdivisions and amalgamations of land referred to Council by the Western Australian Planning Commission:</p> <p>(a) All subdivisions for 50 lots or less that conform with Council's Local Planning Scheme No 9 (as amended).</p> <p><i>NOTE: Subdivisions for more than 50 lots must be referred to Council for determination.</i></p> <p>(b) All subdivisions/amalgamations that comply with the subdivision detail depicted on a Structure Plan/Detailed Area Plan or Outline Development Plan adopted by Council.</p> <p>Permitted Uses</p> <p>To:</p> <p>(a) Approve all applications for planning approval where the proposed use is a 'P' use in the zoning table of Local Planning Scheme No. 9.</p> <p>(b) Approve all applications for planning approval where the proposed use is incidental under the Local Planning Scheme No. 9, subject to:</p> <p>(i) Application of standard tests of dominance and subservience, in accordance with appropriate and accepted town planning practice;</p> <p>(ii) Compliance with any requirements of Council established by earlier relevant Council decisions in respect of such uses, which are considered relevant to the application.</p> <p>Residential Development - Residential Design Codes of Western Australia (as amended)</p> <p>To approve all development applications for a single house (including outbuildings) and grouped or multiple dwelling development to a maximum of six (6) dwelling units where:</p> <p>(a) The permissibility is designated a 'P', 'D' or 'A' use in Table 1: Zoning Table of the Shire of Gingin Local Planning Scheme No. 9 (as amended);</p> <p>(b) No objection or concern has been raised by an adjoining landowner or residents (if required to be advertised); and</p> <p>(c) The application complies with Scheme provisions and any relevant Local Planning Policy standards and requirements except for the extent of variation.</p> <p><i>NOTE: Notwithstanding the above, any application may be referred to Council for consideration where, in the opinion of the delegated officer, it is considered appropriate.</i></p> <p>Other Use and Development</p> <p>To:</p> <p>(a) Approve all development applications for the discretionary use class under designated zones subject to no objection received during advertising in accordance with the details below:</p>

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- **Land Use Development: Aquaculture**
Delegated Zones: General Rural/Rural Living/General Industry/Rural Industry
Specific Delegation Criteria: N/A
- **Land Use Development: Ancillary Accommodation**
Delegated Zones: Residential/Rural Industry/Rural Living
Specific Delegation Criteria: Approval for applications that comply with Scheme requirements; Residential Design Codes and relevant Local Planning Policy.
- **Land Use Development: Bed and Breakfast**
Delegated Zones: Rural Living
Specific Delegation Criteria: Approval for:
 - Applications that comply with Scheme requirements; and
 - Applications where no adverse public submissions have been received.
- **Land Use Development: Caretaker's Dwelling**
Delegated Zones: Mixed Business/Rural Industry/General Rural/Tourism/Conservation
Specific Delegation Criteria: Subject to compliance with Clause 5.10.9 of LPS No. 9.
- **Land Use Development: Child Care Premises**
Delegated Zones: Rural Living
Specific Delegation Criteria: Approval for:
 - Applications that comply with Scheme requirements; and
 - Applications where no adverse public submissions have been received.
- **Land Use Development: Home Occupation**
Delegated Zones: Residential/Tourism/General Rural/Rural Industry/Rural Living
Specific Delegation Criteria: Approval for:
 - Applications that comply with Scheme requirements; and
 - Applications where no adverse public submissions have been received.
- **Land Use Development: Agriculture Intensive - Irrigated Horticulture**
Delegated Zones: General Rural
Specific Delegation Criteria: Approval for:
 - Proposals greater than 300m from any sensitive land use (ie single dwelling);
 - Proposals that are able to comply with the standard approval conditions relative to Agriculture – Intensive; and
 - Minor Development Incidental to Agriculture Intensive (eg storage sheds, silos, water tanks, bushfire mitigation infrastructure and solar panels).
- **Land Use Development: Industry - Light**
Delegated Zones: Rural Industry
Specific Delegation Criteria: N/A
- **Land Use Development: Market**
Delegated Zones: Tourism/Town Centre/General Industry/General Rural
Specific Delegation Criteria: Approval for applications that comply with Scheme provisions.
- **Land Use Development - Restaurant**
Delegated Zones: Tourism/Town Centre
Specific Delegation Criteria: N/A
- **Land Use Development: Industry - Rural**
Delegated Zones: General Industry/Rural Industry
Specific Delegation Criteria: N/A
- **Land Use Development: Industry - Service**
Delegated Zones: Town Centre/Mixed Business/Rural Industry

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	<ul style="list-style-type: none"> • Specific Delegation Criteria: N/A • Land Use Development: Shop Delegated Zones: Tourism Specific Delegation Criteria: N/A • Land Use Development: Trade Display Delegated Zones: Town Centre/General Industry/Rural Industry Specific Delegation Criteria: N/A • Land Use Development: Transportable Dwellings Delegated Zones: All zones Specific Delegation Criteria: Approval for applications that: <ul style="list-style-type: none"> ◦ Comply with Council's Policy Statement 1.7 - Transportable Dwellings; and ◦ Are designated 'P' or 'D' in the Policy Statement Table. • Land Use Development: Vehicle Repairs Delegated Zones: Rural Industry Specific Delegation Criteria: N/A • Land Use Development: Vehicle Sales and Hire Delegated Zones: Town Centre Specific Delegation Criteria: N/A • Land Use Development - Warehouse Delegated Zones: Mixed Business/Rural Industry Specific Delegation Criteria: N/A <p>(b) Approve an amendment or relocation of designated building envelopes on "Rural Living" and "General Rural" zoned properties where no objection is raised from adjoining landowners and the proposal will not result in removal of significant vegetation. <i>NOTE: Notwithstanding the above, any application may be referred to Council for consideration where, in the opinion of the delegated officer, it is considered appropriate.</i></p> <p>(c) Approve all development applications for Use Not Listed - Signs, subject to no objection being received during advertising, in accordance with the following criteria:</p> <ul style="list-style-type: none"> • Land Use Development - Advertisement Delegated Zones: All Zones Specific Delegation Criteria: Approval for applications that fully comply with the Shire's local law/s relating to signage.
Delegates	CEO

Shire of Gingin

Conditions	<p>1. The delegations given to the Chief Executive Officer hereunder only permit that Officer to approve applications. Applications that the Chief Executive Officer is not prepared to approve shall be referred to Council for determination.</p> <p>2. The Chief Executive Officer, when exercising a power delegated by Council in this section, shall only make such decisions after ensuring that the approval complies with the provisions of the Local Planning Scheme and is consistent with other decisions of Council in respect of such uses.</p> <p>3. All subdivision proposals in the "General Rural" zone intended to accommodate service infrastructure. Council's support for such proposals to include the following condition:</p> <p style="padding-left: 40px;">A Restrictive Covenant being placed on the land, at the subdivider's cost, under a legal agreement that ensures:</p> <p style="padding-left: 80px;">i) Use of the subdivided portion of land shall be limited to service infrastructure; and</p> <p style="padding-left: 80px;">ii) If the infrastructure is no longer required, the subdivided portion of land could not be sold, but would be amalgamated with the adjoining land.</p>
Statutory framework	<p>Legislative authority to delegate: <i>Planning and Development (Local Planning Schemes) Regulations 2015 - Reg. 82</i></p> <p>Power exercised or duty delegated: In accordance with Details of Delegated Powers or Duties</p>
Policy	Shire of Gingin By-Laws Relating to Signs and Bill Posting
Date adopted	5 August 2003
Adoption references	Minute Item 10.1.2
Last reviewed	20 June 2019

Shire of Gingin

Delegation	7.2 Restrictive Covenants
Category	Planning
Delegator	Council
Express power or duty delegated	To deal with all future applications pertaining to the placing of Restrictive Covenants on freehold land within the Shire of Gingin under s.129BA of the Transfer of Land Act 1893.
Delegates	CEO
Conditions	Nil
Statutory framework	<p>Legislative authority to delegate: Shire of Gingin Local Planning Scheme No. 9 (as amended) - Cl. 11.3</p> <p>Power exercised or duty delegated: <i>Transfer of Land Act 1893 - s. 129A</i></p>
Policy	Nil
Date adopted	4 June 2002
Adoption references	Minute Item 10.3
Last reviewed	20 June 2019

Shire of Gingin

Delegation	7.3 Advertising
Category	Planning
Delegator	Council
Express power or duty delegated	To initiate advertising of an application for a 'P', 'D' or 'A' use in Table 1: Zoning Table pursuant to the provisions under Clause 64 of the "deemed provisions" within the Planning and Development (Local Planning Schemes) Regulations 2015 and in accordance with Local Planning Policy.
Delegates	CEO
Conditions	Nil
Statutory framework	Legislative authority to delegate: Planning and Development (Local Planning Schemes) Regulations 2015 "Deemed Provisions" - Reg. 83 Power exercised or duty delegated: <i>Planning and Development (Local Planning Schemes) Regulations 2015 "Deemed provisions" - cl. 64</i>
Policy	Nil
Date adopted	15 March 2011
Adoption references	Minute Item 11.1.4
Last reviewed	20 June 2019

Shire of Gingin

Delegation	7.4 Non-Statutory Delegations
Category	Planning
Delegator	Council
Express power or duty delegated	To respond to requests, applications or referrals received by the Shire on the following matters: <ul style="list-style-type: none">• Sale or lease of land by State or Federal Government departments;• Land clearing applications from State or Commonwealth agencies; and• Mining Tenement and Exploration Licence referrals from Department of Mines, Industry Regulation and Safety
Delegates	CEO
Conditions	Nil
Statutory framework	Legislative authority to delegate: Shire of Gingin Local Planning Scheme No. 9 (as amended) - Cl. 11.3
Policy	Nil
Date adopted	26 June 2019
Adoption references	CEO - NM15482

Shire of Gingin

Delegation	7.5 Miscellaneous
Category	Planning
Delegator	Council
Express power or duty delegated	<p>To:</p> <p>a) Address all matters which arise out of the imposition of conditions on a development approval and provide clarification where required;</p> <p>b) Determine Council's position in consultation with the Shire President (or Deputy Shire President in the absence of the Shire President) with respect to any mediation process resulting from an appeal lodged with the State Administrative Tribunal;</p> <p>c) Serve notices on property owners who are deemed to be in breach of the Shire's Local Planning Scheme No. 9 (as amended). This may relate to unlawful land use or development, non-compliance with a condition/s of development approval or contravention of a direction set by the Scheme or a Local Planning Policy;</p> <p>d) Obtain legal advice in relation to a planning matter within the designated budget allocation;</p> <p>e) Entertain initial discussions and provide direction to applicants on development proposals in line with state planning policy and current planning instruments including strategy documents endorsed/adopted by Council; and</p> <p>f) To engage an independent planning consulting service at the State Administrative Tribunal should Council's Resolution differ from Shire Officer's Recommendation resulting in the Review of an Application for Planning Approval</p>
Delegates	CEO
Conditions	<ul style="list-style-type: none"> • All development applications or subdivision referrals where the Chief Executive Officer or other delegated officers recommend refusal/objection of the application shall be presented to Council for consideration and a decision; and • The instigation of legal action in relation to a breach of development approval or an offence committed against one or more of the provisions of the Shire's Local Planning Scheme No. 9 (as amended) shall be subject to a resolution of Council.
Statutory framework	Legislative authority to delegate: <i>Planning and Development (Local Planning Schemes) Regulations 2015 - cl. 82</i>
Policy	Nil
Date adopted	26 June 2019
Adoption references	CEO - NM15482

Shire of Gingin

Delegation	7.7 Sea Containers
Category	Planning
Delegator	Council
Express power or duty delegated	To process and approve Planning Applications for Sea Containers
Delegates	CEO
Conditions	Subject to full compliance with Local Planning Policy 1.9 – Sea Containers.
Statutory framework	<p>Legislative authority to delegate: Planning and Development (Local Planning Schemes) Regulations 2015 - Reg. 82 Delegations by local government</p> <p>Power exercised or duty delegated: Shire of Gingin Local Planning Scheme No. 9 - cl. 4.4.2 (applicable to sea containers only)</p>
Policy	Local Planning Policy 1.9 - Sea Containers
Date adopted	26 June 2019
Adoption references	CEO - NM15482

Shire of Gingin

Delegation	7.8 Planning and Development Act 2005 - Enforcement and Legal Proceedings for Unauthorised Use or Built Development
Category	Planning
Delegator	Council
Express power or duty delegated	The power to issue Direction Notices and prosecute under Part 13 of the <i>Planning and Development Act 2005</i> with respect to unauthorised use or built development which contravenes the Shire's Local Planning Scheme.
Delegates	CEO
Conditions	<ol style="list-style-type: none"> 1. Where the matter relates to an unauthorised use, a Direction Notice may be given to the owner or alleged offender seeking the cessation of the use within a specified time period. The specified time period will depend on the nature of the offence and its effect on the public interest. 2. Where the matter relates to an unauthorised built development, a Direction Notice may be given to the owner or alleged offender seeking them to remove, pull down, take up, or alter the development, and restore the land as nearly as practicable to its condition immediately before the development started. 3. Where a Direction Notice has been issued for unauthorised built development, a minimum of 60 days from the date of the issue of the Direction Notice will be allowed for the owner or alleged offender to comply.
Statutory framework	<p>Legislative Authority to Delegate: <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> - cl. 82</p> <p>Legislative authority to sub-delegate: <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> - cl. 83</p> <p>Power exercised or duty delegated: <i>Planning and Development Act 2005</i> - Part 13 Enforcement and Legal Proceedings</p>
Policy	Nil
Date adopted	19 December 2017
Adoption references	Item 11.3.3
Last reviewed	20 June 2019

11.1.3 POLICY 1.38 ATTENDANCE AT EVENTS (COUNCILLORS AND CEO)

File:	COR/20-1
Author:	Lee-Anne Burt – Governance Officer
Reporting Officer:	Aaron Cook – Chief Executive Officer
Report Date:	16 June 2020
Refer:	Nil
Appendices:	1. Policy 1.38 Attendance at Events (Councillors and CEO)

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider adopting Policy 1.38 Attendance at Events (Councillors and CEO).

BACKGROUND

As Councillors would be aware, a raft of amendments were made to the *Local Government Act 1995* (the Act) in July 2019, including amendments to the gift disclosure requirements for Councillors and the Chief Executive Officer, and the introduction of a new s.5.90A Policy for attendance at events.

Section 5.57 of the Act gives the following meaning to the term “gift”:

- (a) *a conferral of a financial benefit (including a disposition of property) made by 1 person in favour of another person unless adequate consideration in money or money's worth passes from the person in whose favour the conferral is made to the person who makes the conferral; or*

Under this interpretation, free tickets or an invitation to attend, free of charge, an event that members of the public must pay to attend, are considered to be a “gift”.

Sections 5.87A and 5.87B of the *Local Government Act 1995* prescribe that Councillors and the CEO must disclose any gift with a value of more than \$300 which is received in the person's capacity as either a council member or CEO. As a result of such a disclosure, the gift giver becomes a *closely associated person* and the council member or the CEO is required to disclose an interest (either financial, indirect financial or proximity, as appropriate) in instances where:

1. A matter involving the closely associated person comes before Council; and
2. It is reasonable to expect that the matter will, if dealt with by the Council in a particular way, result in a financial gain, loss, benefit or detriment to either the closely associated person or the council member or CEO.

In such instances, Councillors may not participate in any part of the meeting dealing with the matter unless approval is granted by Council or the Minister in accordance with the provisions of the Act. The CEO may not provide advice to Council or prepare reports for Council on the matter, either directly or indirectly.

Section 5.62(1B) of the Act specifies that a gift is excluded from the conflict of interest provisions of the Act if:

1. It is a ticket to, or otherwise relates to the relevant person's attendance at, an event that is defined in s.5.90A; and
2. The local government approves, in accordance with a policy formed under s.5.90A, attendance by the council member or CEO at the event.

Section 5.90A therefore requires that a local government prepare and adopt an Attendance at Events policy in order to enable Councillors to attend events as a representative of Council without restricting their ability to participate in Council meetings, and to prevent undue restrictions on the CEO's ability to provide advice to Council. It is not intended to be used as a mechanism to avoid conflict of interest provisions where significant matters are likely to come before Council from the provider of the invitation.

S.5.90A requires an Attendance at Events policy to address matters such as:

1. The provision of tickets to events;
2. Payments in respect of attendance;
3. Approval of attendance by the local government; and
4. Any matters that may be prescribed in legislation.

Draft Policy 1.38 has been prepared in response to this requirement.

COMMENT

All Councillors were previously provided with a copy of the draft policy for review so that any questions, suggestions or concerns could be addressed by this report. No responses had been received at the time of compiling the Agenda, and therefore it is assumed that Councillors are satisfied with the draft Policy in its current form.

However, a Council determination is required with respect to the maximum number of Councillors for whom approval to attend an event can be granted by the Shire President (Policy cl.3bi).

STATUTORY/LOCAL LAW IMPLICATIONS

Local Government Act 1995

Part 5 – Administration

Division 6A – Attendance at events

S.5.90A – Policy for attendance at events

POLICY IMPLICATIONS

In the event that Council resolves to adopt Policy 1.38, then it will be included in the Council Policy Manual and made available to the public on the Shire's website as required under s.5.90A.

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Governance</i>
Objective	<i>5. To demonstrate effective leadership, governance and advocacy on behalf of community.</i>
Outcome	<i>5.1 Values Our Organisational/Business Values are demonstrated in all that we do.</i>
Key Service Areas	<i>Nil</i>
Priorities	<i>Nil</i>

VOTING REQUIREMENTS – ABSOLUTE MAJORITY**COUNCIL RESOLUTION/OFFICER RECOMMENDATION**

MOVED: Councillor Morton

SECONDED: Councillor Johnson

That Council:

- 1. Agree that the Shire President may grant approval for up to three Councillors to attend events that are not covered by Policy 1.38 cl.2 Pre-Approved Events; and**
- 2. Adopt Policy 1.38 Attendance at Events (Councillors and CEO), noting that cl.3bi will be amended to include the limit on approvals referenced in 1. above.**

**CARRIED BY ABSOLUTE MAJORITY
7-0**

APPENDIX 1



POLICY MANUAL

POLICY 1.38 (DRAFT) **ATTENDANCE AT EVENTS (COUNCILLORS AND CEO)**

OBJECTIVE

1. To provide a framework for the acceptance by Councillors and the CEO of invitations to various events, and to clarify who will pay for tickets or the equivalent value of the invitation.
2. To enable Councillors and the CEO to attend events as a representative of the Shire of Gingin without restricting their ability to participate in Council meetings (for Councillors), or to provide advice to Council or prepare reports for Council's consideration (for the CEO).

EXPLANATORY NOTES

Sections 5.87A and 5.87B of the *Local Government Act 1995* prescribe that Councillors and the CEO must disclose any gift with a value of more than \$300 which is received in the person's capacity as either a council member or CEO. As a result of such a disclosure, the gift giver becomes a *closely associated person* and the council member or the CEO is required to disclose an interest (either financial, indirect financial or proximity, as appropriate) in instances where:

1. A matter involving the closely associated person comes before Council; and
2. It is reasonable to expect that the matter will, if dealt with by the Council in a particular way, result in a financial gain, loss, benefit or detriment to either the closely associated person or the council member or CEO.

In such instances, Councillors may not participate in any part of the meeting dealing with the matter unless approval is granted by Council or the Minister in accordance with the provisions of the Act. The CEO may not provide advice to Council or prepare reports for Council on the matter, either directly or indirectly.

Section 5.62(1B) of the Act specifies that a gift is excluded from the conflict of interest provisions of the Act if:

1. It is a ticket to, or otherwise relates to the relevant person's attendance at, an event that is defined in s.5.90A; and
2. The local government approves, in accordance with a policy formed under s.5.90A, attendance by the council member or CEO at the event.

Section 5.90A of the *Local Government Act 1995* (the Act) therefore requires that a local government prepare and adopt an Attendance at Events policy in order to ensure that the Council actively considers the purpose of, and benefits to, the community from attendance at events by Councillors and the CEO.

POLICY

1. Provision of Tickets to Events

- a. All invitations or offers of tickets for a council member or CEO to attend an event should be in writing and addressed to the Shire of Gingin.
- b. Any invitation or offer of tickets not addressed to the Shire of Gingin is not captured by this policy and must be disclosed in accordance with the gift and interest provisions in the Act.
- c. A list of events for which attendance is pre-approved by the Shire of Gingin is provided in cl.2.

2. Pre-Approved Events

The Shire of Gingin has approved attendance by Councillors and the CEO at the following events:

- a. Advocacy lobbying or Ministerial briefings;
- b. Awards functions specifically related to local government;
- c. Shire-hosted ceremonies and functions;
- d. Shire-run tournaments or events;
- f. Community cultural events/festivals/art exhibitions;
- g. Events hosted by clubs or not for profit organisations within the Shire to which the Councillor or CEO is officially invited;
- h. Events run by educational establishments within the Shire;
- i. Free Shire events;
- j. Industry and economic briefings specifically related to the function of government;
- k. Meetings of community clubs or organisations (in accordance with Policy 1.14 Attendance at Community/Progress Association Meetings);
- l. Meetings or conferences of major professional bodies associated with government at a local, state or federal level;
- m. Opening or launch of an event within the Shire; and
- n. Events where the attendance of the Shire President or the CEO has been formally requested.

3. Approval for Attendance at Other Events

- a. Approval by decision of Council

The following matters will be taken into consideration in making a decision on attendance at an event that is not captured under cl.4 of this Policy:

- i. who is providing the invitation or ticket to the event;

- ii. the location of the event in relation to the Shire of Gingin (within the district or out of the district);
- iii. the role of the council member or CEO when attending the event (participant, observer, presenter) and the value of their contribution;
- iv. whether the event is sponsored by the Shire of Gingin;
- v. the benefit of local government representation at the event;
- vi. the number of invitations/tickets received; and
- vii. the cost to attend the event, including the cost of the ticket (or estimated value of the event per invitation) and any other expenses such as travel and accommodation.

b. Approval by the Shire President or Deputy Shire President

- i. The Shire President is authorised by Council to approve event attendances by Councillors and the CEO not referenced in cl.2, provided that the matters identified by cl.3a are taken into consideration and:
 - the donor is not currently seeking a determination from the Shire of Gingin;
 - attendance at the event will not necessitate interstate or international travel;
 - there are sufficient budgeted funds available; and
 - with respect to attendance by Councillors, there are no more than Councillors already attending the event;
- ii. The Deputy Shire President is authorised by Council to approve event attendances by the Shire President not referenced in cl.2, subject to the criteria listed in cl.3bi.

4. Payments in Respect of Attendance

- a. In instances where attendance at an event is approved in accordance with this Policy, the Shire of Gingin may pay for, or contribute to, the cost of attendance by the Shire's representative and reasonable expenses such as travel and accommodation associated with that attendance.
- b. Where partners of an authorised Shire of Gingin representative attend an event, the Shire will not be responsible for any costs associated with that attendance. In instances where, for the purposes of expediency (such as when making travel arrangements), the Shire incurs a cost relating to the partner of a representative, then the representative will be required to reimburse the Shire in full for such costs.

5. Excluded Events

The following events are not addressed by this Policy, and attendance as a Shire representative will not be approved:

- a. Political party events and fundraisers;
- b. Social events; and

- c. Entertainment events with no link to the Shire of Gingin.

In the event that invitations or tickets are accepted to events of this nature, then the gift disclosure and conflict of interest disclosure requirements of the Act will apply.

GOVERNANCE REFERENCES

Statutory Compliance	Local Government Act 1995 s.5.90A Policy for attendance at events
Industry Compliance	Department of Local Government, Sport & Cultural Industries Guideline – Attendance at Events Policy
Organisational Compliance	Council Policy 1.14 – Attendance at Community/Progress Association Meetings Council Policy 1.29 – Councillors' Entitlements

POLICY ADMINISTRATION

Review Cycle	2 years	Next Review	2022
Department	Office of the CEO		

Version	Decision Reference	Synopsis
1.		

11.1.4 REVIEW OF LOCAL EMERGENCY MANAGEMENT COMMITTEE TERMS OF REFERENCE

File:	EMS/21
Author:	Karen Okely – PA to Chief Executive Officer
Reporting Officer:	Aaron Cook – Chief Executive Officer
Report Date:	16 June 2020
Refer:	23 October 2013 Item 11.1.2 16 September 2014 Item 14.1 20 January 2015 Item 11.1.1 21 March 2017 Item 11.1.2
Appendices:	1. Amended Terms of Reference

DISCLOSURES OF INTEREST

Nil

PURPOSE

To review the existing Terms of Reference (TOR) for the Shire of Gingin Local Emergency Management Committee (LEMC) by adding the Shire's Principal Environmental Health Officer to the Committee as a non-voting member.

BACKGROUND

Section 38(1) of the *Emergency Management Act 2005* specifies that each local government in Western Australia must establish a LEMC for their district.

The current LEMC TOR specifies the following membership:

Voting Members

Shire of Gingin

Shire President (Chairperson)

Community Emergency Services Manager/Chief Bush Fire Control Officer (Executive Officer)

Coordinator Community Services (Local Recovery Coordinator)

WA Police

OIC Gingin (Local Emergency Coordinator)

OIC Lancelin (Local Emergency Coordinator)

Department of Fire and Emergency Services

Department for Child Protection and Family Support

Red Cross

St John Ambulance Chittering/Gingin Sub-Centre

St John Ambulance Lancelin and Coastal Districts Sub-Centre\

State Emergency Management Committee

Department of Agriculture, Water and the Environment

Department of Health – WA Country Health Service

Non-Voting Members

WA Police

Inspector Wheatbelt District

Department of Biodiversity, Conservation and Attractions

Western Power

Main Roads WA

Empire Oil Company (WA) Limited

Royal Australian Air Force Base Pearce

Lancelin Volunteer Marine Rescue Group Inc

Department of Education

Gingin District High School

Lancelin Primary School

Silver Chain

Tronox

COMMENT

At the recent meeting of the LEMC on 13 May 2020 a question was raised as to whether or not the Shire's Principal Environmental Health Officer should be a member of the LEMC. This was primarily due to the health aspects of the COVID-19 pandemic, but was also identified through the major review of the Local Emergency Management Arrangements (LEMA) that was just completed. Within the LEMA there are provisions for the formation of sub-committees that call for Senior Officers to fill major roles and the inclusion of the Principal Environmental Health Officer on the Committee will add additional expertise and knowledge as required.

As a result of these discussions, the LEMC resolved to recommend as follows:

...That Council review the Terms of Reference and add the Shire of Gingin's Principal Health Officer to the Local Emergency Management Committee as a non-voting member....

In addition, Council has previously resolved to include a representative of Empire Oil as a non-voting LEMC member. Empire Oil no longer operates within the Shire of Gingin, and has been replaced by Image Resources. It is therefore recommended by Administration that Empire Oil be removed as a non-voting LEMC member and replaced by Image Resources.

A revised TOR reflecting the above is provided for Council's consideration as **Appendix 1**.

STATUTORY ENVIRONMENT

Emergency Management Act 2005

Part 3 – Local arrangements

Division 1 – Local emergency authorities

Section 38 – Local emergency management committees

Local Government Act 1995

Part 5 – Administration

Division 2 – Council meetings, committees and their meetings and electors' meetings

Subdivision 2 – Committees and their meetings.

Shire of Gingin Meeting Procedures Local Law 2014

POLICY IMPLICATIONS

State Emergency Management Policy 2.5 – Emergency Management for Local Government

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Community Wellbeing</i>
Objective	<i>1. To support the Shire of Gingin to be inclusive, vibrant, healthy and safe through the Shire's service delivery</i>
Outcome	<i>1.3 Healthy & Safe Our community has access to quality health and community safety programs, services and initiatives that promote resilience</i>
Key Service Areas	<i>Local Emergency Services Environmental Health</i>
Priorities	<i>Nil</i>

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson

SECONDED: Councillor Rule

That Council adopt the amended Terms of Reference for the Shire of Gingin Local Emergency Management Committee as depicted in Appendix 1.

CARRIED UNANIMOUSLY

APPENDIX 1



TERMS OF REFERENCE

LOCAL EMERGENCY MANAGEMENT COMMITTEE

Name:	Local Emergency Management Committee
Role/Purpose:	To advise and assist Council in the development, review and testing of the Shire of Gingin Local Emergency Management Arrangements.
Aims & Functions:	<ol style="list-style-type: none"> 1. To advise and assist Council in establishing local emergency management arrangements for the district; 2. To liaise with public authorities and other persons in the development, review and testing of the local emergency management arrangements; and 3. To carry out other emergency management activities as directed by the State Emergency Management Committee or prescribed by regulations.
Membership:	<ol style="list-style-type: none"> 1. The Committee shall consist of the following representation: <ul style="list-style-type: none"> <u>Voting Members</u> Shire of Gingin <ul style="list-style-type: none"> Shire President (Chairperson) Community Emergency Services Manager/Chief Bush Fire Control Officer (Executive Officer) Coordinator Community Services (Local Recovery Coordinator) WA Police <ul style="list-style-type: none"> OIC Gingin (Local Emergency Coordinator) OIC Lancelin (Local Emergency Coordinator) Department of Fire and Emergency Services Department for Child Protection and Family Support Red Cross St John Ambulance Chittering/Gingin Sub-Centre St John Ambulance Lancelin and Coastal Districts Sub-Centre <u>Non-Voting Members</u> Shire of Gingin <ul style="list-style-type: none"> Principal Environmental Health Officer WA Police <ul style="list-style-type: none"> Inspector Wheatbelt District Department of Biodiversity, Conservation and Attractions Western Power Main Roads WA Image Resources <ul style="list-style-type: none"> Royal Australian Air Force Base Pearce Lancelin Volunteer Marine Rescue Group Inc Department of Education

	<p>Gingin District High School Lancelin Primary School Yanchep District High School Two Rocks Primary School Silver Chain Tronox State Emergency Management Committee Department of Agriculture, Water and the Environment Department of Health – WA Country Health Service</p> <p>2. A nominated deputy member may attend in place of the endorsed representative member.</p> <p>3. The Shire's Chief Executive Officer will act as deputy member for the Shire President.</p> <p>4. Membership shall be for a period of up to two years terminating on the day of the next ordinary Council elections, with retiring members eligible to re-nominate.</p> <p>5. Committee membership shall be appointed or removed by the Council.</p> <p>6. Members must comply with the Shire's Code of Conduct.</p> <p>7. The Committee has authority to second individuals from outside of the Committee, on a voluntary basis, for their expert advice.</p>
Operating procedures:	<p>1. Presiding Member:</p> <p>a) The Shire President shall fill the position of Presiding Member at all meetings.</p> <p>b) In the absence of the Shire President, the Chief Executive Officer, as Council's appointed deputy member, will attend and assume the Chair as Presiding Member for the duration of that meeting.</p> <p>c) In the event that neither the Shire President or the Chief Executive Officer are present, the Community Emergency Services Manager/Chief Bush Fire Control Officer will assume the Chair as Presiding Member for the duration of that meeting.</p> <p>d) The Presiding Member is responsible for the proper conduct of the Committee.</p> <p>2. Meetings:</p> <p>a) The Committee shall meet as required, but must hold a minimum of one meeting every three months (February, May, August and November).</p> <p>b) Additional meetings can be scheduled by decision of the Council or the Committee, or at the discretion of the Committee's Presiding Member.</p> <p>c) A Notice of Meeting, including an agenda, will be circulated to the Committee members (including deputy members) at least 72 hours prior to each meeting where possible.</p>

	<p>d) The Presiding Member shall ensure that detailed minutes of all meetings are kept and shall provide the Committee members (including deputy members) with a copy of such minutes.</p> <p>e) All Committee meetings will be conducted in accordance with the Shire of Gingin Meeting Procedures Local Law 2014.</p> <p>3. Quorum:</p> <p>The quorum for a meeting shall be at least 50% of the number of voting¹ members.</p> <p>4. Reporting:</p> <p>a) The Minutes of every Committee meeting will be circulated for the information of all Councillors.</p> <p>b) Any Committee resolution requiring action on the part of the Council or requiring a Council commitment will be listed as a separate report on the Agenda for the next ordinary Council meeting.</p>
Appointing Legislation:	The Committee is established under section 38 of the <i>Emergency Management Act 2005</i> .
Delegated Authority:	The Committee has no delegated power and has no authority to implement its recommendations without approval of Council.

Version	Decision Reference	Synopsis
1.	22/10/2013 - Item 10.7	Terms of Reference adopted.
2.	16/12/2014 – Item 11.1.10	Amendments to membership and who shall chair meeting in absence of Shire President.
3.	18/08/2015 – Item 11.1.6	Terms of Reference reviewed. Reference to Standing Orders Local Law deleted from Operating Procedure 2b and replaced with Meeting Procedures Local Law 2014. Reference to provision of Committee Minutes via Information Bulletin deleted from Operating Procedure 4a.
4.	21/03/2017 – Item 11.1.1	Amendments to membership and who shall chair meeting in absence of Shire President.
5.	18/7/2017 – Item 11.1.3	Amendment to months for meetings to be held – now February, May, August and November
6.	16/6/2020 – Item 11.1.1	Addition of Principal Environmental Health Officer as a non-voting member, removal of Empire Oil Company (WA) Limited and replacing with Image Resources

11.1.5 RENEWAL OF SECTION 91 LICENCE - SEABIRD SEAWALL

Location:	Portion Of Seabird Foreshore Crown Land Between Edwards Street, Seabird And The Southern Boundary Of The Seabird Townsite	
File:	ENV/17; A6266	
Author:	Lee-Anne Burt – Governance Officer	
Reporting Officer:	Aaron Cook – Chief Executive Officer	
Report Date:	16 June 2020	
Refer:	18 July 2017	Item 11.1.1
Appendices:	1. Licence No. 0186/1965	

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider entering into a new Section 91 licence agreement with respect to the area of the foreshore accommodating the Seabird seawall.

BACKGROUND

As Councillors would be aware, in 2015 the Shire of Gingin received a grant of \$2 million from the State Government for the purpose of constructing a seawall on the Seabird foreshore. The grant was administered by the Department of Regional Development under a Financial Assistance Agreement, which required the Shire to apply for a Licence to Occupy Crown Land under Section 91 of the *Land Administration Act 1997* to enable access to the site.

The original licence expired in July 2017, at which point the actual construction of the wall had been completed. However, access to the site was still required in order to conduct rehabilitation work in partnership with the Northern Agricultural Catchment Council and the Seabird Progress Association.

At its meeting on 18 July 2017, Council resolved to enter into a new Section 91 licence agreement for a three year term expiring in July 2020.

COMMENT

Although construction and rehabilitation works have now been completed, it is still necessary for the Shire to have access to the area for the purpose of inspection and maintenance if required.

The other option put forward at the time by the then Department of Lands (the Department) was the creation of a foreshore reserve over the subject land with a Management Order issued to the Shire. However, this option was put forward on the basis that the South West Native Title Settlement would be resolved prior to the Management Order process being commenced; this proved not to be the case, and therefore the Department recommended a new Section 91 licence agreement.

The Department has recently advised that the South West Native Title Settlement has still not been finalised. Therefore, in order for the Shire to maintain access rights to the area, the Department recommends a new Section 91 licence for a period of two years, expiring in July 2022.

The Department has prepared a new Deed of Licence for execution by the Shire of Gingin (**Appendix 1**). The new Deed is identical in content to the previous licence arrangement, with the exception that it covers a two year period rather than three years.

STATUTORY/LOCAL LAW IMPLICATIONS

Land Administration Act 1997

Part 6 – Sales, leases, licenses, etc of Crown land

Section 91 – Licences and profits à prendre over Crown land, grant of

Native Title Act 1993 (Cth)

Part 2 – Native Title

Division 3 – Future acts etc. and native title

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

<i>Focus Area</i>	<i>Governance</i>
<i>Objective</i>	<i>5. To demonstrate effective leadership, governance and advocacy on behalf of community.</i>
<i>Outcome</i>	<i>5.1 Values Our Organisational/Business Values are demonstrated in all that we do.</i>
<i>Key Service Areas</i>	<i>Nil</i>
<i>Priorities</i>	<i>Nil</i>

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION

MOVED: Councillor Johnson

SECONDED: Councillor Morton

That Council:

- 1. Agree to enter into a new Licence to Occupy Crown Land under s.91 of the *Land Administration Act 1997* with respect to that portion of Seabird foreshore Crown land located between the southern boundary of Tulley View, Seabird and the southern boundary of the Seabird townsite for a period of two years, terminating on 8 July 2022.**
- 2. Authorise the Shire President and Chief Executive Officer to execute the Deed as shown at Appendix 1, including affixing of the Common Seal of the Shire of Gingin.**

CARRIED UNANIMOUSLY

APPENDIX 1

2020

THE STATE OF WESTERN AUSTRALIA
ACTING THROUGH
THE MINISTER FOR LANDS

AND

SHIRE OF GINGIN

Licence to Occupy Crown Land

Section 91 of the *Land Administration Act (WA)*

DEPARTMENT OF PLANNING, LANDS AND HERITAGE

140 William Street
Perth Western Australia 6000

Licence Number

Lic 01826/1965 – A10941679

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THIS DEED OF LICENCE is made on the day of 2020

BETWEEN

THE STATE OF WESTERN AUSTRALIA ACTING THROUGH THE MINISTER FOR LANDS, a body corporate under the *Land Administration Act 1997*, care of the Department of Planning, Lands and Heritage, 140 William Street, Perth Western Australia 6000 (**Licensor**)

AND

SHIRE OF GINGIN 7 Brockman Street Gingin Western Australia 6503 (**Licensee**)

BACKGROUND

- A. The Licence Area is a portion of Crown land. Crown land is administered by the Minister through the Department on behalf of the State of Western Australia.
- B. The Licensee wishes to have access to the Licence Area for the Permitted Use.
- C. The Minister on behalf of the State of Western Australia is authorised by section 91 of the LAA to grant a licence of Crown land for any purpose.
- D. The Licensor has agreed to grant to the Licensee the Licence in respect of the Licence Area on the terms and conditions and for the Permitted Use set out in this Licence.

OPERATIVE PART

The Parties covenant and agree on the matters set out above and as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS

In this Licence the following terms shall have the following meaning:

Approved Determination of Native Title has the same meaning as in the NTA.

Beach Nourishment means the supply of sand to the shore to increase the recreational value and/or to secure the beach against shore erosion by feeding sand on the beach.

Contamination is the state of being contaminated as that term is defined in the CSA.

CSA means the *Contaminated Sites Act 2003*.

Date of Commencement means the date of commencement specified in item 2(b) of the Schedule.

Date of Expiry means the date of expiry specified in item 2(c) of the Schedule.

Department means the department principally assisting the Minister in the administration of the LAA.

Environment has the meaning given by section 3 of the *Environmental Protection Act 1986*.

Environmental Harm has the same meaning as that term is defined in the *Environmental Protection Act 1986*.

Environmental Law means all planning, environmental, contamination or pollution laws and any regulations, orders, directions, ordinances or all requirements, permission, permits or licences issued thereunder.

Environmental Notice means any notice, direction, order, demand or other requirement to take any action or refrain from taking any action from any Governmental Agency, whether written or oral and in connection with any Environmental Law.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Improvements means structures, fixtures, fittings, objects and materials placed, effected, constructed, erected or undertaken on the Land during the Term and includes any alterations, additions, replacements, renewal or restorations made to those improvements including coastal concrete mattress, Beach Nourishment, geomesh or the like; a sandbag or rock seawall; groins; and/or installation of offshore reef modules.

LAA means the *Land Administration Act 1997*.

Law includes any requirement of any statute, regulation, proclamation, ordinance or by-law present or future whether State, Federal or otherwise.

Licence means this deed including the contractual rights granted to the Licensee under clause 2 and the rights granted under this Licence necessary for the exercise of the rights granted under clause 2.

Licence Area means the licence area specified in item 1 of the Schedule.

Licence Fee means the licence fee specified in item 3(a) of the Schedule.

Licensee's Agent includes the employees, agents, contractors, consultants, invitees and any other person acting with the authority or permission of the Licensee.

Licensee's Property means all plant, equipment, materials including Improvements, and other property brought or placed on the Licence Area by, on behalf of or with the authority of the Licensee.

Minister means the Minister for Lands, a body corporate under section 7(1) of the LAA.

Parties mean the Licensor and the Licensee.

Party means the Licensor or the Licensee, as the case may be.

Permitted Use has the meaning given to that term in clause 2.1.

Pollution means any thing that is Pollution within the meaning of the *Environmental Protection Act 1986*, which is not authorised under any Law.

Schedule means the Schedule to this Licence.

Services includes water, gas and electricity supply, sewerage, waste disposal, drainage and telecommunications and all facilities pipes, cables, fixtures and fittings associated with those services.

Surrounding Area means any land or water adjacent to or in the vicinity of the Licence Area and the air generally above the Licence Area, and includes an affected site within the meaning of that term as defined in the CSA.

Term means the term specified in item 2(a) of the Schedule.

1.2 INTERPRETATION

In this Licence:

- (a) clause headings are for convenient reference only and shall have no effect in limiting or extending the language of the provisions to which they refer;
- (b) a reference to a clause, schedule or annexure is a reference to a clause of or schedule or annexure to the document in which the reference appears;
- (c) a reference to any Law includes consolidations, amendments, re-enactments or replacements of it;
- (d) the singular includes the plural, the plural includes the singular and any gender includes each other gender;
- (e) if a period of time is specified and runs from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (f) the word 'person' includes a reference to the person's personal representatives, executors, administrators, successors and assigns and a reference to a corporation includes a reference to the corporations successors and assigns;
- (g) covenants in this Licence by two or more persons shall be deemed joint and several;
- (h) a reference to the word "including" is deemed to be followed by the words "but not limited to".

2. GRANT OF LICENCE

2.1 GRANT OF LICENCE

In consideration of the matters set out in this Licence, the Licensor hereby GRANTS to the Licensee a non-exclusive right for the Term to enter upon and remain on and use the Licence Area, in accordance with the terms and conditions set out in this Licence, with such vehicles, machinery, plant or equipment as is reasonably necessary for:

- (a) excavation or clearing that is reasonably necessary for the protection of public health or public safety; or
- (b) foreshore reclamation, regeneration or environmental assessment or protection activities including sand nourishment, building of a seawall by

placing 'sand bags' to create a barrier to mitigate the immediate foreshore erosion; and

- (c) the continual care, control and management of such improvements effected on the Licence Area for the purposes of (a) and (b) above.

(Permitted Use)

2.2 NO ESTATE OR INTEREST IN LAND

The Licensee acknowledges and agrees that:

- (a) The rights conferred by this Licence rest in contract only and do not create in or confer upon the Licensee any tenancy or any estate or interest in or over the Licence Area and the rights of the Licensee will be those of a licensee only.
- (b) This Licence confers no right of exclusive occupation of the Licence Area upon the Licensee and the Licensor may at any time and at all times from time to time exercise all the Licensor's rights as licensor including (but without in any way limiting the generality of this provision) the Licensor's rights to use possess and enjoy the whole or any part of the same save only in so far as such rights shall not unreasonably:
 - (i) prevent the operation of the rights granted to the Licensee under this Licence; or
 - (ii) be inconsistent with the express provisions of this Licence.
- (c) The rights granted to the Licensee under this Licence are only exercisable during the Term.

3. TERM AND LICENCE FEE

3.1 TERM

The Term shall commence on the Date of Commencement and shall expire at the Date of Expiry.

3.2 FURTHER TERM

Any application for a Further Term or extension of the rights granted to the Licensee under this Licence must be made to the Licensor, in writing no less than 30 days prior to the expiration of this Licence and may be granted or refused at the Licensor's absolute discretion.

3.3 LICENCE FEE

The Licensee has been waived by the Department, as specified in item 3 of the Schedule.

4. LICENSEE'S COVENANTS

4.1 COVENANTS WITH LICENSOR

The Licensee covenants with the Licensor that the Licensee and the Licensee's Agents:

- (a) must not cause or permit any damage to the Licence Area or to the Surrounding Area;
- (b) must not cause or permit any Contamination, Pollution or Environmental Harm to occur in, on or under the Licence Area or to the Surrounding Area, and if any Contamination, Pollution or Environmental Harm is caused by the Licensee or the Licensee's Agents, the Licensee must give notice of it to the Licensor and must minimise and remediate any resultant damage and harm to the reasonable satisfaction of the Licensor;
- (c) must keep the Licence Area in good and safe repair and condition, and must take all steps necessary to keep it safe and free from hazard to any property or person on or using the Licence Area or the Surrounding Area, and where required must keep secure the Licence Area;
- (d) must ensure that traffic on all adjoining and surrounding roads is not unduly disrupted due to vehicles entering or leaving the Licence Area;
- (e) must, while using the Licence Area:
 - (i) ensure the safe movement of pedestrians using the Licence Area or adjoining areas, including erecting signs to warn persons likely to be endangered by the Licensee's use of the Licence Area, and
 - (ii) ensure that pedestrians using the Licence Area or adjoining areas are not unduly disrupted;
- (f) must not dispose and not store on the Licence Area any rubbish or any poisonous, toxic or hazardous substance;
- (g) must pay all outgoings payable in respect of the Licence Area;
- (h) must punctually comply with and observe:
 - (i) all Laws; and
 - (ii) all notices received either by the Licensor or the Licensee from, and the requirements of, any relevant Governmental Agency;
- (i) must obtain, keep current and comply with all consents, approvals, permits, licences or other requirements under any Law, if any, to use the Licence Area for the purposes permitted under this Licence;
- (j) must repair or remedy any damage caused or permitted by the Licensee or the Licensee's Agents, to the Licence Area or the Surrounding Area or Services in, on, under or over the Licence Area, including remediating any Contamination, Pollution, Environmental Harm, and erosion or other form of degradation; and

- (k) must reinstate the Licence Area on the expiration of the Term or other termination of this Licence, in accordance with clause 7.

5. INDEMNITY, RELEASE AND INSURANCE

5.1 INDEMNITY AND RELEASE

- (a) The Licensee hereby releases and indemnifies and agrees to keep released and indemnified the Licensor, the State, the Crown, all Ministers of the Crown, and all officers, servants, agents, contractors, invitees and licensees of any of them (the **Indemnified Parties**) from and against all claims, demands, actions, suits, proceedings, judgments, damages, costs, charges, expenses (including legal costs of defending or settling any action, claim or proceeding) and losses of any nature whatsoever whether based in contract, tort or statute or any combination thereof which the Indemnified Parties (or any of them) may suffer or incur or which may at any time be brought maintained or made against them (or any of them) in respect of or in connection with:
- (i) in respect of any destruction, loss (including loss of use), injury or damage of any nature or kind of or to property of any person whether or not on the Licence Area and including the property of:
 - (A) any of the Indemnified Parties; or
 - (B) the Licensee or the Licensee's Agents; and
 - (ii) in respect of any death of, or injury or illness sustained by, any person and including:
 - (A) the Indemnified Parties; or
 - (B) the Licensee or the Licensee's Agents,directly or indirectly caused by arising out of or in connection with:
 - (iii) the Licensee's or Licensee's Agents use or enjoyment of the Licence Area or any part of the Licence Area pursuant to the terms of this Licence;
 - (iv) any works carried out by or on behalf of the Licensee under this Licence;
 - (v) the exercise or enjoyment of any rights conferred upon the Licensee under this Licence;
 - (vi) any Contamination, Pollution or Environmental Harm of the Licence Area or the Surrounding Area caused or contributed to by the Licensee's or the Licensee's Agents use of the Licence Area;
 - (vii) any remediation required to be carried out by the Licensee under this Licence in respect of the Licence Area or the Surrounding Area or otherwise having to comply with any Environmental Notice or any other notice received from any Governmental Agency;

- (viii) any default by the Licensee in the due and punctual performance, observance and compliance with any of the Licensee's covenants or obligations under this Licence; or
- (ix) any other act, neglect, default or omission by the Licensee or the Licensee's Agents,

except to the extent caused by:

- (A) a negligent act or omission of the Licensor or the Indemnified Parties; or
 - (B) a natural or physical process of shoreline accretion, erosion, climate change or sea level rising.
- (b) The obligations of the Licensee under this clause:
- (i) are unaffected by the obligation of the Licensee to take out insurance and the obligations of the Licensee to indemnify are paramount; and
 - (ii) continue after the expiration or earlier determination of this Licence for a period of two (2) years after the removal of the Licensee's Property from the Licence Area.

5.2 INSURANCE

- (a) The Licensee must during the Term and for the period noted in clause 5.1(b)(ii) above, maintain and keep current with an insurer of good repute, a public liability insurance policy for the amount specified in item 6 of the Schedule for any one claim (or any other amount reasonably required by the Licensor from time to time consistent with usual prudent commercial practice) and which policy includes, but is not limited to, coverage in respect of:
- (i) any injury to, illness of, or death of, any person;
 - (ii) any loss, damage or destruction to any property including to the property of any of the Indemnified Parties;
 - (iii) the loss of use of any property, including the property of any of the Indemnified Parties; and
 - (iv) liability arising out of any Contamination Pollution or Environmental Harm of the Licence Area or the Surrounding Area caused or contributed to by the Licensee's or the Licensee's Agents use of the Licence Area,

and such insurance shall include the interests of the Licensor under this Licence.

- (b) The Licensee

- (i) must give to the Licensor a copy of the certificate of currency of the policy of insurance referred to in subclause (a) at the Date of Commencement; and

- (ii) must submit evidence to the Licensor on each anniversary of the Date of Commencement during the Term, or as otherwise requested by the Licensor, which shows that the insurance policy referred to is still current.
- (c) The Licensee shall effect and maintain all insurance required to be effected by it by law. Without limiting the generality hereof, the Licensee shall have all necessary insurance with respect to its employees under the relevant Laws and shall, if required by the Licensor, produce evidence of such insurance at any time.
- (d) The Licensee will not do or omit to do any act or thing or bring onto or keep anything on the Licence Area which might render the insurance on the Licence Area void or voidable.

6. TERMINATION OF LICENCE

6.1 APPROVED DETERMINATION OF NATIVE TITLE

Notwithstanding any other provision in this Licence providing for the determination, expiration or termination of this Licence, the Licensor and Licensee agree that:

- (a) this Licence shall determine on the date of an Approved Determination of Native Title made in relation to any land or waters included in the Licence Area by any court or tribunal, if the determination is that native title exists, notwithstanding that neither party to this Licence has given or received notice of such Approved Determination of Native Title;
- (b) the Licensee shall yield and deliver up possession of the Licence Area to the Licensor as soon as is reasonably practicable after it becomes aware of an Approved Determination of Native Title;
- (c) such determination of this Licence shall not give the Licensee any right to damages or compensation; and
- (d) such determination of this Licence shall not affect any rights or obligations that are expressed in this Licence to survive determination, expiration or early termination of this Licence and is without prejudice to the rights of the Licensor in respect of any antecedent breach of the terms, covenants and conditions, contained or implied in this Licence, by the Licensee.

6.2 DEFAULT

- (a) This Licence and the rights granted to the Licensee pursuant to it, may be terminated by the Licensor by notice in writing to the Licensee:
 - (i) if the Licensee breaches or fails to observe any of the covenants, conditions or terms on the Licensee's part expressed or implied in this Licence, other than the obligation referred to in subclause (i) and the breach has not been remedied by the Licensee within 14 days after service of a notice from the Licensor requiring the Licensee to remedy the breach or non observance;

- (ii) if the Licensee:
 - (A) becomes bankrupt or enters into any form of arrangement (formal or informal) with any of its creditors, or an administrator or a receiver or a receiver and manager is appointed to any of its assets;
 - (B) being a company or other body corporate, an order is made or a resolution is passed for its winding up except for the purpose of reconstruction or amalgamation;
 - (C) being a company, or other body corporate ceases or threatens to cease to carry on business or goes into liquidation, whether voluntary or otherwise, or is wound up or if a liquidator or receiver (in both cases whether provisional or otherwise) is appointed; or
 - (D) being a company, is placed under official management under the *Corporations Act 2001* or enters into a composition or scheme of arrangement,and without limiting the foregoing but for the avoidance of doubt, this subclause (a)(iii) applies to any such event that may occur in relation to the Licensee if it is an Aboriginal and Torres Strait Islander corporation under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006 Cth*; or
- (iii) if the Licensee is an Aboriginal and Torres Strait Islander corporation under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006 Cth* and a determination is made by the Registrar under that Act that the Licensee is to be under special administration; or
- (iv) if the Licensee abandons or vacates the Licence Area;
and this Licence and rights granted pursuant to it will terminate on expiry of the notice period specified in the notice.
- (b) No compensation or money is payable to, or recoverable by, the Licensee from the Licensor for termination of the Licence under this clause.
- (c) Any termination of the Licence under this clause:
 - (i) does not affect any rights and obligations that are expressed in this Licence to survive expiry or earlier termination of this Licence; and
 - (ii) is without prejudice to the rights of the Licensor in respect of any antecedent breach of the terms, covenants or conditions contained or implied in this Licence by the Licensee.

6.3 LICENSOR'S RIGHT TO ENTER AND TO REMEDY

- (a) If the Licensee has breached or failed to observe any of the terms of this Licence on its part contained or implied in this Licence, and that breach or non-performance has continued for at least 14 days after the service of a written notice on the Licensee requiring it to remedy the same, without

affecting its other rights under this Licence, the Licensor may (but is not obliged to) remedy the breach, including the payment of monies.

- (b) For this purpose, the Licensee acknowledges and agrees that:
 - (i) the Licensor, its servants, agents and contractors may enter the Licence Area at any time with all necessary materials and equipment to execute all or any required works as the Licensor thinks fit; and
 - (ii) all debts costs and expenses incurred by the Licensor, including legal costs and expenses, in remedying a default is a debt due to the Licensor, and must be paid by the Licensee to the Licensor on demand.

7. REMOVAL OF PROPERTY ON EXPIRY OR TERMINATION

7.1 OBLIGATION TO REMOVE PROPERTY AND RESTORE

- (a) The Licensee must upon the expiration of the Term or earlier termination of this Licence yield and deliver up possession of the Licence Area to the Licensor and in doing so must by the end of the Term or within 21 days after the earlier termination of this Licence:
 - (i) remove all of the Licensee's Property from the Licence Area, to the Licensor's absolute satisfaction;
 - (ii) promptly make good to the satisfaction of the Licensor any damage caused by the removal of the Licensee's Property referred to in subclause (a)(i), including filling in, consolidating and levelling off any holes or trenches on the Licence Area; and
 - (iii) remediate any Contamination, Pollution or Environmental Harm to the Licence Area or the Surrounding Area caused by the Licensee or the Licensee's Agents or arising out of the Permitted Use.
- (b) The Licensee's obligations under subclause (a) will survive the expiration of the Term or other termination of this Licence.

7.2 PROPERTY IN PLANT, EQUIPMENT, MATERIALS AND IMPROVEMENTS

All of the Licensee's Property that is:

- (a) brought on to or installed in, on or under the surface of the Licence Area by the Licensee or the Licensee's Agent; or
 - (b) affixed to or within the Licence Area,
- shall be and remain the property of the Licensee upon the expiration of the Term or earlier termination of this Licence.

8. NO ASSIGNMENT

- (a) The rights granted by this Licence are for the benefit of the party named as "Licensee" in this Licence.

- (b) The Licensee must not:
 - (i) assign or transfer its rights under this Licence, or grant any sublicense or part with the possession, of the Licence Area, to any person; or
 - (ii) mortgage, charge or encumber its rights under this Licence.
- (c) To the extent that sections 80 and 82 of the *Property Law Act 1969* may be applicable, they are expressly excluded.
- (d) For the purposes of subclause (b), where the Licensee is a corporation (not being a corporation where shares are listed on any Stock Exchange in Australia) any intended change in the beneficial ownership or control of the Licensee which will have the consequence of altering the effective control of the Licensee is deemed to be an assignment of the Licensee's rights under this Licence.

9. GENERAL PROVISIONS

9.1 DUTY

The Licensee will pay duty (if any) payable under the *Duties Act 2008* in respect of any dutiable transaction arising under or in respect of this Licence.

9.2 FEES AND CHARGES

The Licensee will pay all statutory and other fees and charges (if any) relating to this Licence within 30 days of the due date.

9.3 NOTICES

- (a) Any notice that must or may be served under or pursuant to this Licence:
 - (i) must be signed by the Party giving the notice or by any solicitor or duly appointed representative of the Party giving the notice; and
 - (ii) will be sufficiently served on:
 - (A) the Licensor, if addressed to the Licensor and left at, or sent by prepaid post to the Minister for Lands c/o Director General of the Department at the address set out at item 4 of the Schedule or such other address as is notified by the Licensor to the Licensee; and
 - (B) the Licensee, if addressed to the Licensee and left at, or sent by prepaid post to the address set out at item 5 of the Schedule or such other address as is notified by the Licensee to the Licensor;
- (b) A notice sent by post will be deemed to be given at the time when it ought to be delivered in the ordinary course of a post whether the contrary is shown or not.
- (c) A notice given by facsimile transmission will be deemed to have been given on the date on which the facsimile transmission report of the

machine from which it was sent, shows that it was successfully transmitted in its entirety.

9.4 EFFECT OF WAIVER

No consent or waiver express or implied by the Licensor or its officers, servants, agents, contractors or any of them, to or of any breach of any covenants conditions or stipulations of the Licensee will be construed as a consent or waiver to or of any other breach of the same or any other covenants conditions or stipulations contained or implied in this Licence.

9.5 GOVERNING LAW

- (a) This Licence shall be construed and interpreted in accordance with the laws in force in the State of Western Australia.
- (b) The Parties submit to the non-exclusive jurisdiction of the Courts of Western Australia.

9.6 VARIATION

This Licence cannot be altered or varied by the Parties except by deed.

10. GOODS AND SERVICES TAX

10.1 DEFINITIONS

In this clause 10 the following terms have the following meanings:

- (a) **GST Act** means A New Tax System (Goods and Services Tax) Act 1999 (Cth) and any legislation substituted for or amending that Act;
- (b) The terms **GST**, **GST law**, **Tax Invoice** and **Taxable Supply** have the meaning given in section 195-1 of the GST Act.

10.2 LICENCE FEE EXCLUSIVE OF GST

The Licence Fee and any other amounts payable by the Licensee to the Licensor, under this Licence, are exclusive of GST.

10.3 LICENSEE TO PAY GST

The Licensee must pay additional to the Licence Fee and any other amounts payable by the Licensee, any GST payable by the Licensor in respect of a Taxable Supply made under this Licence.

10.4 VARIATION OF GST

Where GST is payable, the amount payable will be the amount specified in the Schedule to this Licence, until varied from time to time consequent upon each review of Licence Fee in accordance with this Licence.

10.5 TAX INVOICE

Where GST is payable, the Licensor will provide to the Licensee, a Tax Invoice in the format and form required as set out in the GST law.

10.6 NOTIFICATION IS CONCLUSIVE

A written notification given to the Licensee by the Licensor of the amount of GST that the Licensor is liable to pay on a Taxable Supply made or to be made under this Licence is conclusive between the Parties except in the case of an obvious error.

10.7 TIME FOR PAYMENT

The Licensee must pay to the Licensor the amount of the GST that the Licensee is liable to pay under this Licence:

- (a) at the same time; and
- (b) in the same manner,

as the Licensee is obliged to pay for the Taxable Supply.

10.8 APPORTIONMENT OF GST

Where a Taxable Supply is not separately supplied to the Licensee, the liability of the Licensee for any amount for GST, in relation to that Taxable Supply, is determined on the same basis as the Licensee's proportion of that Taxable Supply is determined.

SCHEDULE

ITEM	TERM	DEFINITION
1.	Licence Area	Portion of unallocated Crown land known as Seabird foreshore and more specifically identified as the area bordered in red on the plan attached and marked "A".
2.	(a) Term	Two (2) years.
	(b) Date of Commencement	9 July 2020
	(c) Date of Expiry	8 July 2022
3.	(a) Licence Fee	\$1.00
	(b) GST Amount	\$0.10
	(c) Payment Date	Not Applicable
4.	Licensor's Address for Service of Notices	Minister for Lands C/- Department of Planning, Lands and Heritage 140 William Street Perth WA 6000 Attention: Manager Goldfields Esperance and Wheatbelt Facsimile No: (08) 6552 4417
5.	Licensee's Address for Service of Notices	Shire of Gingin 7 Brockman Street Gingin Western Australia 6503 Attention: Mr Aaron Cook Chief Executive Officer Telephone: 9575 2211 Facsimile No: 9575 2121
6.	Insurance Amount	\$ 20 million

EXECUTED AS A DEED on the date set out on page 1 of this Licence.

SIGNED FOR AND ON BEHALF OF THE)
STATE OF WESTERN AUSTRALIA by)
an authorised officer for and on behalf of the)
Minister for Lands by delegation under)
section 9 of the *Land Administration Act 1997*)
in the presence of:)

.....
Department's Officer

.....
Name of Witness

.....
Address of Witness

.....
Occupation of Witness

THE COMMON SEAL of the Shire of Gingin)
was hereunto affixed by authority of a)
resolution of the Council in the presence of:)

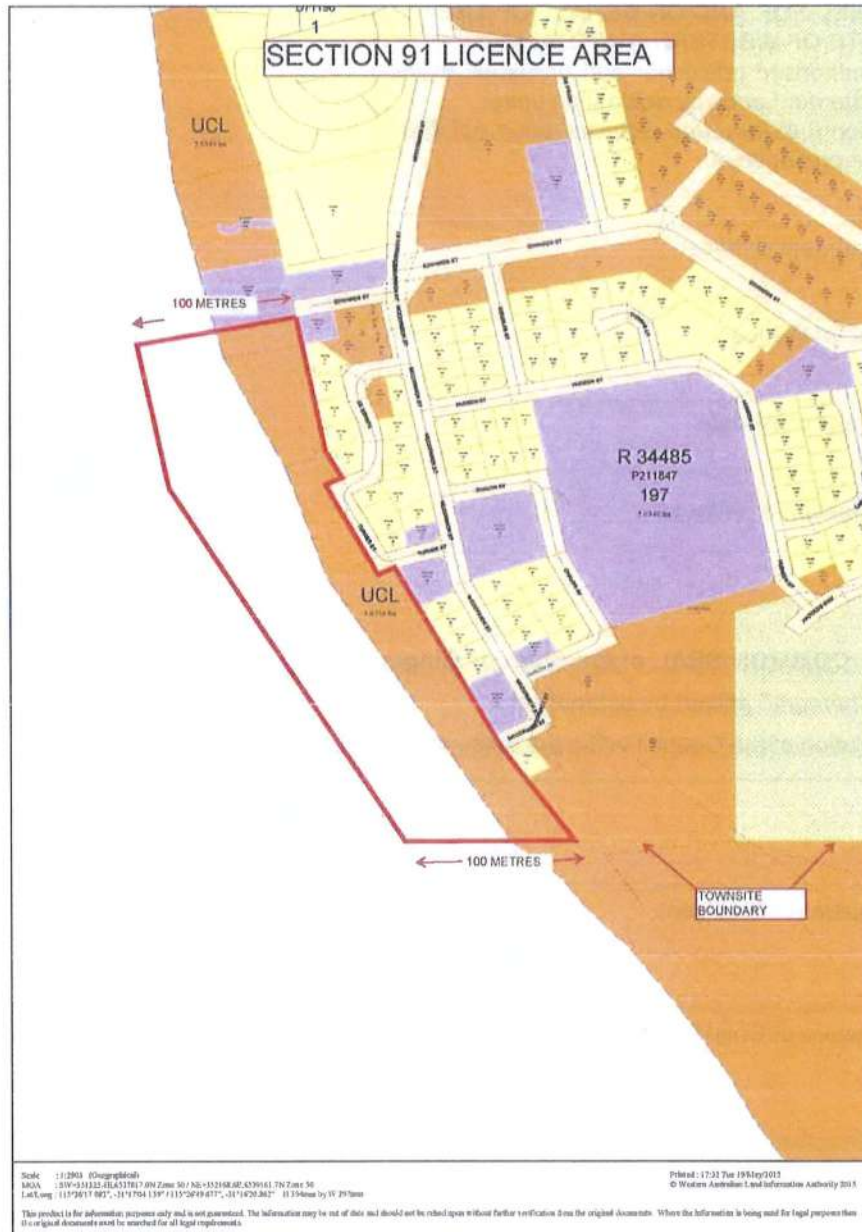
Signature of President

Name of President (print)

Signature of Chief Executive Officer

Name of Chief Executive Officer (print)

Attachment "A"
Plan of Licence Area



11.2. CORPORATE AND COMMUNITY SERVICES**11.2.1 MONTHLY FINANCIAL STATEMENT FOR THE PERIOD ENDING 31 MAY 2020**

File:	FIN/25
Author:	Ziggy Edwards – Manager Corporate Services
Reporting Officer:	Les Crichton – Executive Manager Corporate and Community Services
Report Date:	16 June 2020
Refer:	Nil
Appendices:	1. Statement of Financial Activity for the period ending 31 May 2020 2. Term Investments

DISCLOSURES OF INTEREST

Nil

PURPOSE

To present for Council endorsement the Monthly Statement of Financial Activity for the period ending 31 May 2020.

BACKGROUND

The financial statements are presented to Council in accordance with the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996*.

COMMENT

The Financial Statements for the month ending 31 May 2020 present the financial performance of the Shire for the first seven months of the 2019-20 financial year, and compare year to date expenditure and revenue against the corresponding year-to-date budget. With the mid-year budget review yet to be completed, the year-to-date budget does not reflect any amendments other than those already approved by Council.

As detailed below the \$6,331,759 variance is made up of:

Under budget

Operating Expenditure	\$1,540,591
Investing Activities – Revenue	(\$3,553,345)
Investing Activities – Expenditure	\$8,679,436
Financing Activities – Revenue	(\$1,673,148)
Financing Activities – Expenditure	\$104,823

Over budget

Opening Fund Surplus/Deficit	\$0
Operating Revenue	\$6,331,759

A detailed explanation of the cause of the variations within each area is contained within **Appendix 1**.

Investments

As required by Council Policy 3.2 Investments, details of Council's investments are provided within **Appendix 2**.

100% of investments are currently held with Bendigo Bank, with an S & P Short Term Rating of A-2 which is within the policy requirement.

STATUTORY/LOCAL LAW IMPLICATIONS

Local Government Act 1995

Part 6 – Financial Management

Division 3 – Reporting on activities and finance

Section 6.4 – Financial Report

Local Government (Financial Management) Regulations 1996

Part 4 – Financial reports

Reg 34 – Financial activity statement required each month

Shire of Gingin Delegation Register – Delegation 2.4 Investing Money Not Required for the Time Being

POLICY IMPLICATIONS

Shire of Gingin Policy 3.2 – Investments

A monthly report will be provided to Council detailing the investment portfolio in terms of performance, percentage exposure, maturity date, and changes in market value,

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Governance</i>
Objective	<i>5. To demonstrate effective leadership, governance and advocacy on behalf of the community</i>
Outcome	<i>5.1 Values Our Organisational and Business values are demonstrated in all that we do</i>
Key Service Areas	<i>Financial Management</i>
Priorities	<i>N/A</i>

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson

SECONDED: Councillor Balcombe

That Council endorse the Statement of Financial Activity for the period ending 31 May 2020.

CARRIED UNANIMOUSLY

APPENDIX 1



MONTHLY FINANCIAL REPORT

(Containing the Statement of Financial Activity)

FOR THE PERIOD OF 1 JULY 2019 TO 31 MAY 2020

LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATION 1996

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Shire of Gingin Statement of Financial Activity
1 July 2019 to 31 May 2020

Key Information

Report Purpose:

This report is prepared to meet the requirements of Local Government (Financial Management) Regulations 1996, Regulation 34.

Items of Significance:

The material variance adopted by the Shire of Gingin for the 2019/20 year is \$10,000 or 10% whichever is the greater. The following selected items have been highlighted due to the amount of the variance to the budget or due to the nature of the revenue/expenditure.

Note: The Statements are prepared based on all transactions recorded at the time of preparation and may vary due to transactions being processed for the reporting period after the date of preparation.

Prepared by: Karina Leonhardt
Reviewed by: Les Crichton
Date Prepared: 10/05/2020



Shire of Gingin Statement of Financial Activity
1 July 2019 to 31 May 2020

Statement of Financial Activity by Program

	Current Annual Budget	Current YTD Budget	YTD Actual	Var. \$	Var. %	Comments
OPENING FUNDING SURPLUS (DEFICIT)	2,797,062	2,797,062	2,797,062	0	0	As per Budget Review
REVENUE FROM OPERATING ACTIVITIES						
GENERAL PURPOSE FUNDING	1,315,717	1,206,074	2,074,732	868,658	72.02%	Higher than expected pre-paid rates; 20/21 Prepaid Financial Assistance Grants received;
GENERAL PURPOSE FUNDING - RATES	8,360,854	8,360,854	8,354,320	(6,534)	(0.08%)	
GOVERNANCE	2,050	1,879	0	(1,879)	(100.00%)	Timing of legal Expenses recovered;
LAW ORDER PUBLIC SAFETY	642,496	588,955	815,460	226,506	38.46%	Higher fines & penalty income; additional grants received.
EDUCATION & WELFARE	150,300	137,775	88,258	(49,517)	(35.94%)	Lower than expected community bus hire; timing of sale of community bus
HEALTH	364,944	334,532	359,462	24,930	7.45%	Patient fee income increased April & May and includes a PIP payment received in May.
HOUSING	21,940	20,112	22,118	2,007	9.98%	
COMMUNITY AMENITIES	1,793,524	1,644,064	1,721,230	77,166	4.69%	Waste Management Fee , Refuse Removal charges and Voluntary Coastal Erosion Levy billed with rates; higher than budgeted Coastal Erosion Levy levied; Final payment of Better Bins Recycling Project received; Higher than expected planning fees;
RECREATION & CULTURE	250,200	229,350	159,717	(69,633)	(30.36%)	Timing of operating grants;
TRANSPORT	420,565	385,518	235,338	(150,180)	(38.96%)	Timing of sale of plant;
ECONOMIC SERVICES	1,321,411	1,211,293	1,189,237	(22,057)	(1.82%)	Timing of Lancelin Caravan Park Lease income;
OTHER PROPERTY & SERVICES	239,881	219,891	379,213	159,322	72.45%	LGIS member funding rebate; higher than expected reimbursements income.
TOTAL REVENUE	14,883,882	14,340,296	15,399,085	1,058,789	7.38%	

Shire of Gingin Statement of Financial Activity
1 July 2019 to 31 May 2020

	Current Annual Budget	Current YTD Budget	YTD Actual	Var. \$	Var. %	Comments
EXPENDITURE FROM OPERATING ACTIVITIES						
GENERAL PURPOSE FUNDING	(694,694)	(636,803)	(439,617)	197,186	30.97%	Timing of GRV Revaluation; timing of legal costs for debt collection;
GOVERNANCE	(1,173,255)	(1,075,484)	(1,146,914)	(71,430)	(6.64%)	Timing of Councillor allowance payments; Reduced Governance activities /events; timing of Shire website development expenditure; Timing of NGA payment; Timing of audit fees.
LAW ORDER PUBLIC SAFETY	(1,847,564)	(1,693,600)	(1,864,672)	(171,072)	(10.10%)	MAF Mitigation works; overspend on protective clothing and equipment; Adjusted CESM vehicle operating costs; Recovery of some non-fire vehicles require journaling.
EDUCATION & WELFARE	(263,535)	(241,574)	(236,581)	4,993	2.07%	
HEALTH	(1,116,837)	(1,023,767)	(1,007,807)	15,961	1.56%	Timing of health allocation to waste and fly control.
HOUSING	(48,008)	(44,007)	(56,735)	(12,727)	(28.92%)	Wages associated with maintenance at 37a Lefroy Street, Gingin and timing of works.
COMMUNITY AMENITIES	(3,107,612)	(2,848,644)	(2,306,509)	542,135	19.03%	Timing of Health allocation to Waste, timing of Waste Site Loan Contribution – Fernview; timing of Coastal Inundation Study; timing of sand nourishment; timing of town planning scheme review; timing of payment to LA CRC – tourism outcomes grant; timing of environmental group contributions; Lower than budgeted expenditure on public conveniences.
RECREATION & CULTURE	(3,961,069)	(3,630,980)	(3,434,081)	196,899	5.42%	Timing of loan repayments; timing of halls maintenance; timing of Shire event expenditure; timing of contribution to town led events; timing of expenditure on Guilderton Foreshore Boardwalk; timing of expenditure relating to LORVA.
TRANSPORT	(4,565,201)	(4,184,768)	(2,527,448)	1,657,320	39.60%	Timing of road and bridge maintenance; year-end depreciation process for roads and bridges; timing of sale of assets
ECONOMIC SERVICES	(1,426,368)	(1,307,504)	(1,008,606)	298,898	22.86%	Timing of noxious/pest weed spraying; timing of Guilderton Caravan Park Management payments; timing of community grant payments; timing of Modelling Cost Benefit Analysis for Guilderton Caravan Park; Event change to Lancelin Ocean Classic; timing of transfer of wages to waste; awaiting finalisation of swimming pool inspections; BEN signs project currently with Dept of Fisheries;
OTHER PROPERTY & SERVICES	(754,884)	(691,977)	(143,854)	548,123	79.21%	Long service leave paid; increase in sick leave taken; timing of IT expenses; timing of financial services/consulting expenditure; variance in administration costs allocated to other programs.
TOTAL EXPENSES	(18,959,027)	(17,379,108)	(14,172,823)	3,206,285	18.45%	
OPENING ACTIVITIES EXCLUDED FROM BUDGET						
ADJUST (PROFIT)/LOSS ON ASSET DISPOSALS	(109,800)	(100,650)	73,963	174,613	(173.49%)	Timing of asset sales

Shire of Gingin Statement of Financial Activity
1 July 2019 to 31 May 2020

	Current Annual Budget	Current YTD Budget	YTD Actual	Var. \$	Var. %	Comments
ADD BACK DEPRECIATION	4,869,205	4,463,438	2,797,744	(1,665,694)	(37.32%)	Roads & bridges depreciation, an end of year process.
AMOUNT ATTRIBUTABLE TO OPERATING ACTIVITIES	684,262	1,323,976	4,097,969	2,773,993	209.52%	
INVESTING ACTIVITIES						
NON-OPERATING GRANTS, SUBSIDIES AND CONTRIBUTIONS	9,760,048	8,946,711	5,396,200	(3,550,511)	(39.69%)	Timing of grants and contributions including ESL Capital Grants;
PURCHASE OF LAND & BUILDINGS	(3,166,639)	(2,902,752)	(306,928)	2,595,825	89.43%	Timing of capital purchases
PURCHASE INFRASTRUCTURE ASSETS - ROADS	(6,983,509)	(6,401,550)	(3,021,308)	3,380,242	52.80%	Timing of capital purchases
PURCHASE INFRASTRUCTURE ASSETS - PARKS	(969,636)	(888,833)	(79,327)	809,506	91.08%	Timing of capital purchases
PURCHASE OTHER INFRASTRUCTURE	(40,000)	(36,667)	(6,709)	29,958	81.70%	Timing of capital purchases
PURCHASE FOOTPATHS	(105,063)	(96,308)	(8,806)	87,501	90.86%	Timing of capital purchases
PURCHASE INFRASTRUCTURE SEWERAGE	(400,000)	(366,667)	0	366,667	100.00%	Timing – loan not established yet
PURCHASE PLANT AND EQUIPMENT	(2,040,215)	(1,870,197)	(502,241)	1,367,956	73.15%	Timing of capital purchases
PURCHASE FURNITURE AND EQUIPMENT	(45,580)	(41,782)	0	41,782	100.00%	Timing of capital purchases
PROCEEDS FROM DISPOSAL OF ASSETS	332,001	304,334	301,500	(2,834)	(0.93%)	Variations/timing of trade ins
AMOUNT ATTRIBUTABLE TO INVESTING ACTIVITIES	(3,658,593)	(3,353,710)	1,772,381	5,126,091	(152.85%)	
FINANCING ACTIVITIES						
PROCEEDS FROM NEW DEBENTURES	662,840	607,603	0	(607,603)	(100.00%)	Loans not yet established – Lancelin Seawall, Guilderton Waste Water, Cuncliffe Street Car Park and Gingin Horseman's Club Campdraft Facility
PROCEEDS FROM NEW SELF-SUPPORTING LOANS	(12,840)	(11,770)	0	11,770	(100.00%)	Gingin Horseman's Club Campdraft Facility S/S Funding of Loan – Loan not established.
TRANSFERS TO RESERVES (RESTRICTED ASSETS)	(405,924)	(372,097)	(272,264)	99,833	26.83%	End of year process
TRANSFERS FROM RESERVES (RESTRICTED ASSETS)	388,271	355,915	37,879	(318,036)	(89.36%)	End of year process
REPAYMENT OF DEBENTURES	(213,371)	(195,590)	(190,600)	4,990	2.55%	

Shire of Gingin Statement of Financial Activity
1 July 2019 to 31 May 2020

	Current Annual Budget	Current YTD Budget	YTD Actual	Var. \$	Var. %	Comments
SELF-SUPPORTING LOAN PRICIPAL INCOME	26,659	24,437	13,813	(10,624)	(43.47%)	Timing of loan repayment.
RESTRICTED CASH	(224,822)	(206,087)	(954,742)	(748,655)	(363.27%)	Timing of restricted cash movements
AMOUNT ATTRIBUTABLE TO FINANCING ACTIVITIES	220,813	202,412	(1,365,913)	(1,568,325)	(774.82%)	
CLOSING FUNDING SURPLUS(DEFICIT)	43,544	969,740	7,301,499	6,331,759	652.93%	



Shire of Gingin Statement of Financial Activity
1 July to 31 May 2020

Statement of Financial Activity by Nature & Type

	Current Budget	Current YTD Budget	YTD Actuals	Var \$	Var %
OPENING FUNDING SURPLUS (DEFICIT)	2,797,062	2,797,062	2,797,062	0	0.00
REVENUE FROM OPERATING ACTIVITIES					
RATES	8,360,854	8,360,854	8,353,295	(7,559)	(0.09%)
GRANTS & SUBSIDIES (OPERATING)	1,910,756	1,751,526	2,924,949	1,173,423	66.99%
FEES & CHARGES	3,871,670	3,549,031	3,597,136	48,105	1.36%
INTEREST EARNINGS	277,400	254,283	247,924	(6,360)	(2.50%)
OTHER REVENUE	297,858	273,037	266,235	(6,802)	(2.49%)
PROFIT ON SALE OF ASSETS	165,344	151,565	9,796	(141,769)	(93.54%)
TOTAL REVENUE	14,883,882	14,340,296	15,399,335	1,059,039	7.39%
EXPENDITURE FROM OPERATING ACTIVITIES					
EMPLOYEE COSTS	(6,306,815)	(5,781,247)	(5,466,631)	(314,616)	(5.44%)
MATERIALS & CONTRACTS	(5,883,103)	(5,392,844)	(4,446,757)	(946,087)	(17.54%)
UTILITIES (GAS WATER ETC)	(430,911)	(395,002)	(385,316)	(9,686)	(2.45%)
INSURANCES	(508,986)	(466,571)	(483,190)	16,620	3.56%
DEPRECIATION OF ASSETS	(4,869,205)	(4,463,438)	(2,797,744)	(1,665,694)	(37.32%)
INTEREST EXPENSES	(120,885)	(110,811)	(78,834)	(31,977)	(28.86%)
OTHER EXPENDITURE	(783,578)	(718,280)	(430,841)	(287,438)	(40.02%)
LOSS ON SALE OF ASSETS	(55,544)	(50,915)	(83,759)	32,844	64.51%
TOTAL EXPENSES	(18,959,027)	(17,379,108)	(14,173,073)	3,206,035	(18.45%)
OPERATING ACTIVITIES EXCLUDED FROM BUDGET					
ADJUST BACK DEPRECIATION	4,869,205	4,463,438	2,797,744	(1,665,694)	(37.32%)
ADJUST (PROFIT)/LOSS ON ASSET DISPOSALS	(109,800)	(100,650)	73,963	174,613	(173.49%)
AMOUNT ATTRIBUTABLE TO OPERATING ACTIVITIES	684,262	1,323,976	4,097,969	2,773,993	209.52%
INVESTING ACTIVITIES					
NON-OPERATING GRANTS, SUBSIDIES AND CONTRIBUTIONS	9,760,048	8,946,711	5,396,200	(3,550,511)	(39.69%)
PROCEEDS FROM DISPOSAL OF ASSETS	332,001	304,334	301,500	(2,834)	(0.93%)
PURCHASE LAND AND BUILDINGS	(3,166,639)	(2,902,752)	(306,928)	(2,595,825)	(89.43%)
PURCHASE INFRASTRUCTURE ASSETS - ROADS	(6,983,509)	(6,401,550)	(3,021,308)	(3,380,242)	(52.80%)
PURCHASE INFRASTRUCTURE ASSETS - PARKS	(969,636)	(888,833)	(79,327)	(809,506)	(91.08%)
PURCHASE PLANT AND EQUIPMENT	(2,040,215)	(1,870,197)	(502,242)	(1,367,955)	(73.14%)
PURCHASE FURNITURE AND EQUIPMENT	(45,580)	(41,782)	0	(41,782)	(100.00%)
PURCHASE FOOTPATHS	(105,063)	(96,308)	(8,806)	(87,501)	(90.86%)
PURCHASE OTHER INFRASTRUCTURE	(40,000)	(36,667)	(6,709)	(29,958)	(81.70%)
PURCHASE INFRASTRUCTURE SEWERAGE	(400,000)	(366,667)	0	(366,667)	(100.00%)
AMOUNT ATTRIBUTABLE TO INVESTING ACTIVITIES	(3,658,593)	(3,353,710)	1,772,380	5,126,090	(152.85%)



Shire of Gingin Statement of Financial Activity
1 July to 31 May 2020

Statement of Financial Activity by Nature & Type

FINANCING ACTIVITIES

PROCEEDS FROM NEW DEBENTURES	662,840	607,603	0	(607,603)	(100.00%)
PROCEEDS FROM SELF-SUPPORTING LOANS	(12,840)	(11,770)	0	(11,770)	(100.00%)
TRANSFERS TO RESERVES (RESTRICTED ASSETS)	(405,924)	(372,097)	(272,264)	(99,833)	(26.83%)
TRANSFERS FROM RESERVES (RESTRICTED ASSETS)	388,271	355,915	37,879	(318,036)	(89.36%)
REPAYMENT OF DEBENTURES	(213,371)	(195,590)	(190,600)	(4,990)	(2.55%)
SELF-SUPPORTING LOANS RAISED	26,659	24,437	13,813	(10,624)	(43.47%)
RESTRICTED CASH	(224,822)	(206,087)	(954,742)	748,655	363.27%
AMOUNT ATTRIBUTABLE TO FINANCING ACTIVITIES	220,813	202,412	(1,365,913)	(1,568,325)	(774.82%)
CLOSING FUNDING SURPLUS(DEFICIT)	43,544	969,740	7,301,499	6,331,758	652.93%



Shire of Gingin Financial Statement of Activity
1 July 2019 to 31 May 2020

Acquisition of Assets & Other Non-Capital Expenditure

By Program

	Capital Expenditure Actual 19/20	Capital Expenditure Annual Budget 19/20
GENERAL PURPOSE FUNDING	114,081	404,912
GOVERNANCE	0	3,000
LAW ORDER PUBLIC SAFETY	308,344	3,440,000
EDUCATION & WELFARE	0	125,000
HEALTH	48,681	47,817
COMMUNITY AMENITIES	37,954	616,954
RECREATION & CULTURE	170,991	1,357,238
TRANSPORT	3,334,600	8,223,072
ECONOMIC SERVICES	81,670	543,733
OTHER PROPERTY & SERVICES	311,983	243,425
TOTAL	4,408,302	15,005,151

By Nature & Type

	Capital Expenditure Actual 19/20	Capital Expenditure Annual Budget 19/20
ACCRUED LONG SERVICE LEAVE	20,119	0
LOAN LIABILITY - SHIRE	190,600	226,210
FIXED ASSETS-LAND	0	19,030
FIXED ASSETS-BUILDINGS	306,928	3,163,779
FIXED ASSETS-FURNITURE\FITTING	0	48,000
FIXED ASSETS-PLANT & EQUIPMENT	502,241	2,083,500
INFRASTRUCTURE ASSETS - ROADS	3,021,308	6,983,509
INFRASTRUCTURE ASSETS - PARKS	79,327	980,136
INFRASTRUCTURE OTHER	4,700	590,000
INFRASTRUCTURE - FOOTPATHS	8,806	105,063
INFRASTRUCTURE OTHER 2	2,009	0
INFRASTRUCTURE - SEWERAGE	0	400,000
ACCUMULATED SURPLUS	272,264	405,924
TOTAL	4,408,302	15,005,151



Shire of Gingin Statement of Financial Activity
1 July 2019 to 31 May 2020

Disposal of Assets

Disposal of Assets	Annual Budget	Actuals
05 LAW ORDER PUBLIC SAFETY		
140 SALE OF ASSETS		
05318025 Sale Of Rangers Utility 4wd GG070	22,727	22,727
Total 140 SALE OF ASSETS	22,727	22,727
141 PROFIT ON SALE OF ASSETS		
05317500 Profit On Sale Of Assets-053	7,475	3,737
Total 141 PROFIT ON SALE OF ASSETS	7,475	3,737
290 LOSS ON SALE OF ASSETS		
05107400 Loss On Sale Of Assets-051	-4,990	0
Total 290 LOSS ON SALE OF ASSETS	-4,990	0
Total 05 LAW ORDER PUBLIC SAFETY	25,212	26,465
06 EDUCATION & WELFARE		
141 PROFIT ON SALE OF ASSETS		
06217500 Profit On Sale Of Assets-062	41,300	0
Total 141 PROFIT ON SALE OF ASSETS	41,300	0
Total 06 EDUCATION & WELFARE	41,300	0
07 HEALTH		
140 SALE OF ASSETS		
06215060 Sale of Assets - Gingin Bus GG007	15,000	0
Total 140 SALE OF ASSETS	15,000	0
290 LOSS ON SALE OF ASSETS		
07707400 Loss On Sale Of Assets-077	-4,334	-4,334
Total 290 LOSS ON SALE OF ASSETS	-4,334	-4,334
Total 07 HEALTH	10,666	-4,334
11 RECREATION & CULTURE		
290 LOSS ON SALE OF ASSETS		
11307400 Loss On Sale Of Assets-113	0	-590
Total 290 LOSS ON SALE OF ASSETS	0	-590
Total 11 RECREATION & CULTURE	0	-590
12 TRANSPORT		
140 SALE OF ASSETS		
12318902 Sale of Utility GG009	20,000	0
12318921 Sale Works Utility GG020	12,000	0
12318924 Sale of John Deere Grader GG004	115,000	0
12318927 Sale of Pacific Road Broom GG042	4,000	0
12318946 Sale GG11866 Hyundai i30 Tourer Wagon	7,364	7,364
12318959 Sale of Bomag Roller GG029	50,500	50,500
12318965 Sale of Isuzu D-Max Utility GG068	15,000	0
12318975 Sale of Utility 5GG	22,727	22,727
12318979 Sale of GG039 Tipping Trailer GG Town Maintenance	4,500	0
12318980 Sale of GG6905 Water Trailer	500	0
Total 140 SALE OF ASSETS	251,591	80,591
141 PROFIT ON SALE OF ASSETS		
12317500 Profit On Sale Of Assets-123	116,569	6,059
Total 141 PROFIT ON SALE OF ASSETS	116,569	6,059
290 LOSS ON SALE OF ASSETS		
12307400 Loss On Sale Of Assets-123	-33,402	-21,066
Total 290 LOSS ON SALE OF ASSETS	-33,402	-21,066



Shire of Gingin Statement of Financial Activity
1 July 2019 to 31 May 2020

Disposal of Assets	Annual Budget	Actuals
Total 12 TRANSPORT	334,758	65,584
13 ECONOMIC SERVICES		
13318010 Sale Of Vehicle - 3GG	19,091	19,091
Total 140 SALE OF ASSETS	19,091	19,091
290 LOSS ON SALE OF ASSETS		
13307400 Loss On Sale Of Assets-133	-1,909	-1,909
Total 290 LOSS ON SALE OF ASSETS	-1,909	-1,909
Total 13 ECONOMIC SERVICES	17,182	17,182
14 OTHER PROPERTY & SERVICES		
140 SALE OF ASSETS		
14218120 Sale Of Vehicle 2GG Manager Financial Services-142	19,092	19,091
14718133 Sale Of Lot 402 (22) Brockman Street; Gingin	0	160,000
Total 140 SALE OF ASSETS	19,092	179,091
290 LOSS ON SALE OF ASSETS		
14207400 Loss On Sale Of Assets-142	-10,909	-10,909
14707400 Loss On Sale Of Assets-147	0	-44,951
Total 290 LOSS ON SALE OF ASSETS	-10,909	-55,860
Total 14 OTHER PROPERTY & SERVICES	8,183	123,231
TOTAL	437,301	227,537
TOTAL SALE OF ASSETS	327,501	301,500
TOTAL PROFIT ON SALE OF ASSETS	165,344	9,796
TOTAL LOSS ON SALE OF ASSETS	-55,544	-83,759
TOTAL PROFIT/LOSS ON SALE OF ASSETS	109,800	-73,963



Shire of Gingin Statement of Financial Activity
1 July 2019 to 31 May 2020

Information on Borrowings

Loan	Loan Term (Yrs)	Start date	Remaining Term (Yrs)	Opening Balance	New Loan	Principal (Actuals)	Principal (Budget)	Principal Outstanding (Actual)	Principal Outstanding (Budget)	Interest (Actuals)	Interest (Budget)
100 GG Medical Centre	20	30/01/2004	4	159,074	0	27,817	27,817	131,257	131,257	9,910	9,910
111 Wannamal West Road	20	15/08/2006	6.5	452,768	0	17,657	17,657	435,111	435,111	29,103	29,103
114 Guilderton Country Club (Hall) Extensions	20	20/05/2008	8	403,489	0	33,313	33,313	370,176	370,176	28,225	28,225
120 Regional Hardcourt Facility	20	19/06/2009	9.5	285,176	0	10,251	10,091	274,925	275,085	9,525	9,353
123 Lot 44 Weld St	20	16/04/2008	8	185,023	0	15,395	15,395	169,628	169,628	12,614	12,614
124A Regional Hardcourt Facility	16	4/06/2014	10.5	274,651	0	9,989	9,988	264,662	264,663	5,672	5,568
126 Gingin Aquatic Centre Tiling	10	3/02/2016	6	109,738	0	14,267	14,267	95,471	95,471	3,292	3,292
127 Seabird Seawall Extension	10	27/07/2016	6.5	165,316	0	20,297	20,297	145,019	145,019	4,023	4,023
128 Lancelin Caravan Park Assets	5	16/08/2017	2.5	142,607	0	39,478	39,477	103,129	103,130	3,346	3,347
130 Ledge Point Country Club Cool Room	10	22/05/2019	9	23,571		2,136	2,136	21,435	21,435	498	498
129 Gingin Horseman's Club Campdraft Facility Power Supply	Proposed			0	30,740	0	0		30,740	0	0
131 Guilderton Caravan Park Waste Water	Proposed			0	400,000	0	0		400,000	0	0
TOTAL				2,201,413	430,740	190,600	190,438	2,010,813	2,441,715	106,208	105,933



Shire of Gingin Statement of Financial Activity
1 July 2019 to 31 May 2020

Cash-Backed Reserves

Reserve	Opening Balance	Amended Budget Interest Earned	Actual Interest Earned	Amended Budget Transfers-In (+)	Actual Transfers-In (+)	Amended Budget Transfers-Out (-)	Actual Transfers-Out (-)	Amended Budget Closing Balance	Actual YTD Closing Balance
01 LSL; Annual; Sick Leave and Staff Contingency	423,650	10,015	2,984	8,262	0	0	0	441,927	426,634
02 Office Equipment Reserve	2,903	341	20.1	51	0	0	0	3,295	2,923
03 Plant and Equipment Reserve	1,285,433	2,989	8,740	11,252	0	23,591	23,500	1,276,083	1,270,673
04 Lancelin Lookout Reserve	0	0	0	0	0	0	0	0	0
05 Land and Buildings Reserve	711,861	17,851	4,938	233,090	158,183	4,492	0	958,310	874,982
06 Guilderton Caravan Park Reserve	35,187	1,198	249.42	621	0	20,000	0	17,006	35,436
07 Shire Recreation Development Reserve	74,092	3,989	512.81	1,308	0	80,000	0	-611	74,605
08 Redfield Park Reserve	31,032	581	214.84	548	0	0	0	32,161	31,247
09 Ocean Farm Recreation Reserve	30,728	714	212.74	542	0	0	0	31,984	30,941
10 Tip Rationalisation Reserve	1,090,292	13,608	7,524	43,886	0	0	0	1,147,786	1,097,816
11 Lancelin Community Sport and Recreation Reserve	60,768	0	419.82	1,014	0	0	0	61,782	61,188
12 Old Junction Hotel Reserve	0	0	0	0	0	0	0	0	0
13 Community Infrastructure	2,096	1,707	19	37	0	0	0	3,840	2,115
14 Staff Housing Reserve	33,093	620	229	584	0	0	0	34,297	33,322
15 Future Infrastructure Reserve	501,828	10,375	3474	104,624	84,484	215,000	14378.84	401,827	575,408
16 Guilderton Country Club Reserve	9,000	0	59	105	0	0	0	9,105	9,059
TOTAL	4,291,963	63,988	29,597	405,924	242,667	343,083	37,879	4,418,792	4,526,348



Shire of Gingin Statement of Financial Activity
1 July 2019 to 31 May 2020

Net Current Assets

M01: Current Assets	Actual YTD (19/20)	Balance Forwarded
CURRENT ASSETS		
Cash - Unrestricted	2,741,377	1,245,867
Cash - Restricted Reserves	4,526,348	4,291,963
Cash - Restricted General	812,643	1,711,285
Rates - Current	1,590,392	1,486,049
Sundry Debtors	3,833,802	425,875
Inventories	22,088	37,516
Total Current Assets:	13,526,651	9,198,554
LESS: CURRENT LIABILITIES		
Payables	(309,262)	(709,552)
Employee Provisions	(869,600)	(889,719)
Accrued Interest on Loans	0	(27,374)
Long Term Borrowings (Current)	(33,628)	(224,228)
Bonds and Deposits	(519,942)	(482,884)
Total Current Liabilities:	(1,732,432)	(2,333,757)
Total	11,794,219	6,864,797
Less: Cash - Restricted Reserves	(4,526,348)	(4,291,963)
Add: Current Portion of Debentures	33,628	224,228
NET CURRENT ASSET POSITION	7,301,499	2,797,062



Shire of Gingin Statement of Financial Activity
1 July 2019 to 31 May 2020

Rating Information

Rating Information	Rates - Property Count	Rateable Value	General Rate	Minimum Rate	Interim Rate	Ex Gratia Rates	Other	TOTAL
03010005 Grv - Townsites	8.7511		2,281,448					2,281,448
03010006 Grv - Other	8.7511		1,280,492					1,280,492
03010010 Uv - Rural	0.5073		1,341,352					1,341,352
03010015 Uv - Other	0.5073		9,334					9,334
03010018 Uv - Intensive	0.9396		633,507					633,507
03010025 Grv - Townsites @ \$1110				1,212,120				1,212,120
03010026 Grv - Other @ \$1110				869,130				869,130
03010030 Uv - Rural @ \$1400				522,200				522,200
03010035 Uv - Other @ \$1400				36,400				36,400
03010038 Uv - Intensive @ \$2548				262,444				262,444
03010045 Interim Rates					36,651			36,651
03010046 Interims - Back Rates					2,648			2,648
03010060 Uv - Ex Gratia Rates						4,927		4,927
03010078 Concession - Intensive							-139,357	-139,357
TOTAL			5,546,133	2,902,294	39,298	4,927	-139,357	8,353,295

Shire of Gingin Statement of Financial Activity
1 July 2019 to 31 May 2020*Trust Funds*

Trust Type	Opening Balance	Amount Received	Amount Paid	Closing Balance
BOND	6,867		(800)	6,067
COMMUNITY GROUPS TRUST	1,569			1,569
COUNCILLOR NOMINATION BONDS		640	(640)	
DOROTHY WEDGE TRUST	6,405			6,405
LANDSCAPING BOND	13,113			13,113
OTHER BONDS/TRUSTS	4,546	246	(246)	4,546
PUBLIC OPEN SPACE	46,218			46,218
TOTAL	78,718	886	(1,686)	77,918

APPENDIX 2



Investments

Shire of Gingin Statement of Financial Activity
1 July 2019 to 31 May 2020

FUND	% OF TOTAL	DEAL DATE	DATE TO MATURE	BANK	ANNUAL YIELD	\$ PERIOD START	\$ CHANGE IN VALUE	\$ PERIOD END	BANK REF #
Reserve	100%	30/01/2020	23/06/2020	Bendigo	1.55%	\$ 3,018,401.83	\$ 18,585.91	\$ 3,036,987.74	3263289
						\$ 3,018,401.83	\$ 18,585.91	\$ 3,036,987.74	
Municipal	100%	16/04/2020	15/06/2020	Bendigo	0.80%	\$1,209,668.95	\$1,590.80	\$1,211,259.75	3337806
Municipal	100%	20/04/2020	19/06/2020	Bendigo	0.70%	\$500,000.00	\$575.34	\$500,575.34	3340033
						\$ 1,709,668.95	\$ 2,166.14	\$1,711,835.09	

11.2.2 LIST OF PAID ACCOUNTS FOR THE PERIOD ENDING 31 MAY 2020

File:	FIN/25
Author:	Connie Walker – Accounts Payable Officer
Reporting Officer:	Les Crichton – Executive Manager Corporate and Community Services
Report Date:	16 June 2020
Refer:	Nil
Appendices:	Nil

DISCLOSURES OF INTEREST

Nil

PURPOSE

For Council to note the payments made in May 2020.

BACKGROUND

Council had delegated to the Chief Executive Officer (CEO) the exercise of its power to make payments from the Municipal Fund. The CEO is required to present a list to Council of those payments made since the last list was submitted.

COMMENT

Accounts totalling \$2,637,713.37 were paid during the month of May 2020.

A detailed payment schedule has been provided to Councillors and can be made available to the public for viewing at the Shire's Gingin Administration Centre and Lancelin Office upon request. The schedule covers:

• Municipal Fund electronic funds transfers (EFT)	\$2,097,998.74
• Municipal Fund cheques	\$40,082.76
• Municipal Fund direct debits	\$146,991.13
	\$2,285,072.63

Bank Statement

• Bank fees and charges	\$1,944.45
• Wages & salaries	\$294,273.11
• Police licensing	\$55,779.80
• Office rent	\$643.38
	\$352,640.74

Trust Fund **\$0**

Total Expenditure **\$2,637,713.37**

All invoices have been verified, and all payments have been duly authorised in accordance with Council's procedures.

STATUTORY/LOCAL LAW IMPLICATIONS

Local Government Act 1995
s.6.4 – Financial Report

Local Government (Financial Management) Regulations 1996
Reg. 13 – Payments from municipal fund or trust by CEO

Shire of Gingin Delegation Register – Delegation 2.1 Payment of Creditors

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Governance</i>
Objective	<i>5. To demonstrate effective leadership, governance and advocacy on behalf of the community</i>
Outcome	<i>5.1 Values Our Organisational and Business Values are demonstrated in all that we do</i>
Key Service Areas	<i>Financial Management</i>
Priorities	<i>N/A</i>

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION

MOVED: Councillor Balcombe

SECONDED: Councillor Morton

That Council note all payments made by the Chief Executive Officer under Delegation 2.1 for May 2020 totalling \$2,637,713.37, as detailed in the schedule provided to Councillors comprising:

- | | |
|---|-----------------------|
| • Municipal Fund electronic funds transfers (EFT) | \$2,097,998.74 |
| • Municipal Fund cheques | \$40,082.76 |
| • Municipal Fund direct debits | \$146,991.13 |

Bank Statement

- | | |
|-------------------------|---------------------|
| • Bank fees and charges | \$1,944.45 |
| • Wages & salaries | \$294,273.11 |
| • Police licensing | \$55,779.80 |
| • Office rent | \$643.38 |

Trust Fund	\$0
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CARRIED UNANIMOUSLY

11.2.3 IMPLEMENTATION OF COVID-19 FINANCIAL HARDSHIP POLICY AND OTHER PANDEMIC-RELATED MATTERS

File:	COR/28-1
Author:	Kailee Williams – Personal Assistant to Executive Manager Corporate and Community Services
Reporting Officer:	Les Crichton – Executive Manager Corporate and Community Services
Report Date:	16 June 2020
Refer:	Nil
Appendices:	1. COVID-19 Financial Hardship Policy

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider adopting a policy with respect to providing financial relief to ratepayers and local business owners who experience financial hardship due to the effects of Coronavirus (COVID-19).

BACKGROUND

The Shire of Gingin acknowledges that the recent COVID-19 pandemic has had a significant impact on the community by the closures and social distancing restrictions put in place. The virus has affected the ability of many community members to keep up with financial commitments and maintain their business operations.

At its Special Meeting held on 7 April 2020, Council resolved:

That Council, in recognising and responding to the implications of the Coronavirus (Covid-19) on all members of the community, agree to:

- 1. Budget for a zero rate increase for the 2020/21 Financial Year, recognising that this will result in a reduction of revenue of \$215,000.*
- 2. Make provision in the 2020/21 Budget for a reduced instalment interest rate of 2%, instalment charge of \$0, for the 2020-21 rates, and reduced penalty interest of 5.5% on outstanding rates.*
- 3. Budget for a zero increase to Fees and Charges for the 2020/21 Financial Year recognising that this will result in a reduction of revenue of \$5,000.*
- 4. Reduce rental payments by 50% to commercial tenants of Council properties detailed in Confidential Appendix 1 for a three month period (April, May and June 2020), recognising that the estimated loss of revenue during this period would be \$24,000 for the three months. The reduction in rental payments by commercial properties will be reviewed by Council during the period and may be terminated earlier than 30 June 2020 if changes occur to current travel restrictions and/or social distancing requirements.*

5. *Grant retrospective approval to close the Shire's Gingin Administration Centre and Lancelin Office to the public for an initial period of three months whilst maintaining services to the community via alternative means.*
6. *Remove the foliage and roof the front entry to the Gingin Administration Centre at an estimated cost of \$6,000.*
7. *Hood-off the parking meters at the Guilderton foreshore car park and remove the requirement to pay parking fees, recognising that this will result in an estimated loss (under normal conditions) of \$52,000 if hooded until December 2020.*
8. *Require the Chief Executive Officer to present a further report to Council at its Ordinary meeting on 21 July 2020, providing an update on the arrangements made to address Covid-19 implications, including any proposed extension or lifting of items 4, 5, and 7.*

In the *Local Government (Covid-19 Response) Order 2020* issued 8 May 2020, the Minister for Local Government; Heritage; Culture and the Arts has also initiated a number of measures to assist ratepayers adversely impacted by this pandemic. However, with some of these measures, the extent of assistance or concession provided by a local government is governed on whether it has a Financial Hardship Policy in place or not.

An example is, under the Order, local governments with a policy are able to charge instalment interest on 5.5%pa on those ratepayers taking the option to pay by instalment where as a local government without a policy can only charge 3.0%. It should be noted however that if a ratepayer is assessed by a local government to be suffering financial hardship as a consequence of the pandemic, no instalment interest can be charged regardless of whether the local government has a policy or not.

A summary of changes created by the Order is provided below:

1. Annual Electors' Meeting(s.5.27)

2019-20 Annual Electors' Meeting to be held within 56 days of date the state of emergency declaration ceases, rather than 56 days after local government accepts the annual report for the previous financial year.

2. Special Electors' Meeting (s5.28)

Special Electors' Meeting to be held within 35 days of date the state of emergency declaration ceases rather than 35 days after local government receives eligible request from electors.

3. Inspection of local information by public (s.5.94)

Local government is to provide access to information listed in 5.94 via website, mail or email where doors are closed.

4. Annual Budget (s.6.2)

Local government is to have regard to the consequences of the pandemic rather than the plan for the future.

5. Interest on money owed [other than rates, service charges] (s.6.13)

Local governments to charge a maximum of 8%pa on overdue amounts rather than 11%. Persons assessed by a local government to be suffering financial hardship as a consequence of the pandemic are not to be charged interest.

6. Differential Rates (s.6.33)

Local governments will not be required to seek Ministerial approval if one category is more than twice the lowest differential rate imposed in another category if local governments resolve to freeze their rate in the dollar at or below those used last year if they obtained approval last year. This also applies to the minimum payment requirements.

7. Limit of rate revenue (s.6.34)

Local governments can set their rates at a level to cover between 80% and 110% of the estimated budget deficiency rather than between 90% and 110%.

8. Notice of Certain Rates (s.6.36)

Advertising of differential rates is not required where the rate in the dollar is frozen or lower than last year.

9. Instalment Option interest (s.6.45)

Local governments may charge a current maximum of 5.5% pa interest on those taking up instalment payment options only where a Financial Hardship Policy is in place. If the local government has no policy it can only charge 3.0%pa¹. Ratepayers assessed by a local government to be suffering financial hardship as a consequence of the pandemic are not to be charged Instalment Option interest.

(¹Council 7 April 2020 Special Meeting set at 2%pa)

10. Interest on overdue rates or service charges (s.6.51)

Local governments may charge a maximum of 8%pa² interest on overdue rates and service charges, down from the previous cap of 11%pa. Ratepayers assessed by a local government to be suffering financial hardship as a consequence of the pandemic are not to be charged interest on overdue rates/service charges for the 2020/21 year.

(²Council 7 April 2020 Special Meeting set at 5.5%pa)

11. Giving documents to local governments (s.6.9.51)

Documents given to local governments under s. 9.51 may be provided electronically where previously provision was required in person or by mail.

Currently the Shire has no Financial Hardship Policy in place. However, given the Minister's Order and on the understanding that the Shire has and will continue to receive a number of financial relief requests, the need for a more standardised approach to deal with these situations through policy has been identified.

COMMENT

A COVID-19 Financial Hardship Policy has been drafted (**Appendix 1**) to guide Council, Administration and the community on how the Shire of Gingin proposes to address financial hardship experienced by property owners and recipients of Council's services. This will ensure that Council is offering fair, equitable, consistent and dignified support to ratepayers and other relevant stakeholders suffering hardship.

The policy outlines the criteria for proving financial hardship, as well as the scope of the relief assistance that is available.

It should be noted that the draft policy sets interest rates applied to instalment and outstanding rates/services charges which differ from those adopted by Council at its 7 April 2020 Special Meeting. This is to align these rates with those outlined within the Minister's Order of 8 May 2020. Specifically, if the Financial Hardship Policy is adopted:

- Instalment interest will be set at 5.5%. If Financial Hardship Criteria is met, no interest can be charged. Council's 7 April 2020 resolution set the interest rate at 2% without a Financial Hardship Policy which is capped at 3.0%.
- Penalty interest on outstanding rates/service charges will be set at 8.0%, a reduction from the previous cap of 11.0%. If Financial Hardship Criteria is met, no interest can be charged. Council's resolution set the interest rate at 5.5%

While the alternative is to retain the two elements as adopted by Council at its 7 April 2020 Special Meeting, this may cause some confusion for the community (and administration) as it differs from the Minister's 8 May 2020 Order.

Other arrangements

On 10 May 2020, the Premier announced an easing of some restrictions (effective 18 May) including allowing libraries, certain other community facilities, cafes and restaurants to reopen subject to the retention of social distancing requirements (limit of 1 person per 4m², 1.5m distancing, etc.) and a maximum number of 20 patrons. This was increased to 100 patrons per single undivided space/300 per venue with a limit of 1 person per 2m² from 6 June 2020.

The other notable easing related to the lifting of border restrictions between the South West, Metropolitan and Wheatbelt regions on 18 May 2020. This was further expanded to include the Mid-West, and Gascoyne on 29 May 2020 and the Kimberley (excluding indigenous communities) on 6 June 2020.

Administration Office/Libraries

Council approved the closure to the public of the Shire's Gingin and Lancelin offices for a period of three months (terminating in July) at its meeting on 7 April 2020.

Following the Premier's 10 May announcement, it was agreed that Council's administration offices and libraries in Gingin and Lancelin would reopen to the public (together with the Granville Civic Centre) on 18 May 2020.

Parking meters

At its meeting on 7 April 2020, Council resolved to hood the parking meters at the Guilderton foreshore car park and remove the requirement for payment of parking fees. As recognised in the officer's report presented to that meeting, the intention was that the meters would remain hooded for the duration of intrastate travel restrictions (although this was not specified in Council's resolution).

With the lifting of the intrastate border restrictions and opening up of hospitality venues detailed above, and following discussion at the 19 May 2020 Council Briefing Session, it was agreed the paid parking at the Guilderton foreshore be reinstated and the hoods removed following the WA Day long weekend.

Commercial Leases

Council granted a 50% rental relief to commercial tenants of its properties for the months of April, May and June 2020 primarily in recognition that these businesses may be directly impacted by forced closures and travel restrictions. With these restrictions largely removed, it is proposed the rental relief cease and rental arrangements return to normal from 1 July 2020.

STATUTORY/LOCAL LAW IMPLICATIONS

Local Government Act 1995

Part 6 – Financial Management

Division 4 – General financial provisions

Section 6.12 - Power to defer, grant discounts, waive or write off debts

Under s.6.12, a local government may waive or grant concessions in relation to any amount of money (with the exception of rates and service charges) that is owed to it.

Division 5 – Financing local government activities**Section 6.16 – Imposition of fees and charges**

Under s.6.16 a local government may impose and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.

Division 6 – Rates and service charges**Section 6.51 - Accrual of interest on overdue rates or service charges**

Under s.6.51 a local government may, at the time of imposing a rate or service charge, resolve to impose interest (at the rate set in its annual budget) on a rate or service charge or any instalment of a rate or service charge, and on any costs of proceedings to recover any such charge that remain unpaid after becoming due and payable.

POLICY IMPLICATIONS

Support for the Officer's recommendation will result in the implementation of a COVID-19 Financial Hardship Policy and incorporation of this policy into Council's publicly available Policy Manual.

BUDGET IMPLICATIONS

Financial hardship generated by Covid-19 will impact the capacity of ratepayers and residents to pay.

As detailed in the 7 April 2020 report to Council, the financial impact of Council's response to the Covid-19 pandemic has been and will continue be significant.

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Governance</i>
Objective	<i>5. To demonstrate effective leadership, governance and advocacy on behalf of community</i>
Outcome	<i>5.1 Values Our Organisational and Business Values are demonstrated in all that we do</i>
Key Service Areas	<i>Financial Management</i>
Priorities	<i>N/A</i>

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Rule

SECONDED: Councillor Morton

- 1. That Council Adopt Policy 1.39 COVID-19 Financial Hardship as shown in Appendix 1;**
- 2. Endorse the re-opening of the Shire's Gingin and Lancelin Administration Offices and Libraries on 18 May 2020;**
- 3. Endorse the reinstatement of paid parking at the Guilderton foreshore car park from 3 June 2020; and**
- 4. Cease the rental relief to commercial tenants of Shire properties of 50% granted by resolution of Council on 7 April 2020 (Item 11.1.1) and recommence normal rental payment arrangements from 1 July 2020 in recognition of the lift in travel restrictions and/or social distancing requirements imposed by the COVID-19 pandemic response.**

CARRIED UNANIMOUSLY

APPENDIX 1



POLICY MANUAL

POLICY X.X COVID-19 FINANCIAL HARDSHIP

OBJECTIVE

To give effect to our commitment to support the whole community to meet the unprecedented challenges arising from the COVID-19 pandemic, the Shire of Gingin recognises that these challenges will result in financial hardship for our ratepayers and residents.

This Policy is intended to ensure that we offer fair, equitable, consistent and dignified support to ratepayers suffering hardship, while treating all members of the community with respect and understanding at this difficult time. This policy is intended to apply to all ratepayers experiencing financial hardship regardless of their status, be they a property owner, tenant, business owner etc.

POLICY

Scope

This policy applies to:

1. Outstanding rates and service charges as at the date of adoption of this policy;
2. Rates and service charges levied for the 2020/21 financial year; and
3. Commercial tenants and other identified services.

It is a reasonable community expectation, as we deal with the effects of the pandemic that those with the capacity to pay rates will continue to do so. For this reason the Policy is not intended to provide rate relief to ratepayers who are not able to evidence financial hardship and the statutory provisions of the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996* will apply.

Statement

1. Payment difficulties, hardship and vulnerability

Payment difficulties, or short term financial hardship, occur where a change in a person's circumstances result in an inability to pay a rates or service charge debt.

Financial hardship occurs where a person is unable to pay rates and service charges without affecting their ability to meet their basic living needs, or the basic living needs of their dependants. The Shire of Gingin recognises the likelihood that COVID-19 will increase the occurrence of payment difficulties, financial hardship and vulnerability in our community. This policy is intended to apply to all ratepayers experiencing financial hardship regardless of their status, be they a property owner, tenant, business owner etc.

Policy X.X

2. Financial Hardship Criteria

While evidence of hardship will be required, the Shire recognises that not all circumstances are alike. A flexible approach will be undertaken to a range of individual circumstances including, but not limited to, the following situations:

- Recent unemployment or under-employment
- Sickness or recovery from sickness
- Low income or loss of income
- Unanticipated circumstances such as caring for and supporting extended family

Ratepayers are encouraged to provide any information about their individual circumstances that may be relevant for assessment. This will include demonstrating a capacity to make some payment and where possible, entering into a payment proposal. We will consider all circumstances, applying the principles of fairness, integrity and confidentiality whilst complying with our statutory responsibilities.

3. Rates and Service Charges

A zero rate increase has been budgeted for the 2020/21 financial year.

Instalment Charges

Instalment options provided by Council in its 2020/21 Budget will incur an instalment interest charge of 5.5% and no administration charge. A ratepayer who meets the Financial Hardship Criteria will incur no instalment interest charge.

Other Payment Arrangements

Payment arrangements facilitated in accordance with Section 6.49 of the Act are of an agreed frequency and amount. These arrangements will consider the following:

- That a ratepayer has made genuine effort to meet rate and service charge obligations in the past;
- The payment arrangement will establish a known end date that is realistic and achievable; and
- The ratepayer will be responsible for informing the Shire of Gingin of any change in circumstance that jeopardises the agreed payment schedule.

In the case where the Financial Hardship Criteria is met, no instalment interest will be charged (excluding the late payment interest applicable to the Emergency Services Levy).

Interest Charges

Penalty interest will be capped at 8.0%. A ratepayer who meets the Financial Hardship Criteria will not attract interest or penalty charges of rates/service charge debt in 2020/21, subject to the period of time that the Local Government (COVID-19 Response) Ministerial Order 2020 remains effective (SL 2020/67 - Gazetted 8 May 2020).

Deferment of Rates

Deferment of rates may apply for ratepayers who have a Pensioner Card or State Concession Card, or a Seniors Card and Commonwealth Seniors Health Care Card registered on their property. The deferred rates balance:

- remains as a debt on the property until paid;
- becomes payable in full upon the passing of the pensioner or if the property is sold or if the pensioner ceases to reside in the property;

Policy X.X

- may be paid at any time, BUT the concession will not apply when the rates debt is subsequently paid (deferral forfeits the right to any concession entitlement); and
- does not incur penalty interest charges.

4. Fees and Charges Schedule 2020/21

A zero increase to Council Fees and Charges will be budgeted for the 2020/21 financial year.

5. State Government Levies

State Government relief will be passed on, as determined by the State Government.

6. Debt Recovery

In order to maintain equity for all residents and ratepayers, action must be taken to recover debts owed to the Shire of Gingin. The following debt recovery measures will apply except where evidence of COVID-19 hardship is provided. Pre-existing debt collection arrangements will remain outstanding, however, where COVID-19 hardship occurs further interest accrual to the end of the declared emergency plus three months, will be suspended.

a. Rates Debt Recovery

Except where a ratepayer is entitled to defer the payment of their rates, Council will actively pursue the recovery of any rate arrears (including legal action and the issue of a Goods and Land Warrant).

b. General Debtors

If a general debtor does not respond to a formal demand letter issued, then legal action may be commenced. The Chief Executive is authorised to deny a debtor access to Council's services and facilities.

c. Infringement Debt Recovery

Any unpaid infringement will be referred to the Fines Enforcement Registry.

GOVERNANCE REFERENCES

Statutory Compliance	Local Government Act 1995 Local Government (Financial Management) Regulations 1996
Industry Compliance	N/A
Organisational Compliance	N/A

POLICY ADMINISTRATION

Review Cycle	TBC	Next Review	21 July 2020
Department	Financial Services		

Version	Decision Reference	Synopsis
1.		Policy adopted

Policy X.X

11.3. REGULATORY AND DEVELOPMENT SERVICES**11.3.1 APPLICATION FOR RETROSPECTIVE DEVELOPMENT APPROVAL - AGRICULTURE INTENSIVE (ANNUAL HORTICULTURE) ON LOT 404 (5297) BRAND HIGHWAY, BEERMULLAH**

File:	BLD/7104
Applicant:	Len Kosova (LK Advisory)
Location:	Lot 404 (5297) Brand Highway, Beermullah
Owner:	J.A.M Holdings WA Pty Ltd
Zoning:	General Rural
WAPC No:	N/A
Author:	James Bayliss - Acting Manager Statutory Planning
Reporting Officer:	Bob Kelly –Executive Manager Regulatory and Development Services
Report Date:	16 June 2020
Refer:	Nil
Appendices	<ol style="list-style-type: none">1. Applicant's Proposal2. Location Plan and Aerial Photograph3. Main Roads Western Australia (MRWA) comments4. Applicants Response to MRWA Submissions

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Retrospective Development Approval for an existing Agriculture Intensive (Annual Horticulture) use operating on Lot 404 (5297) Brand Highway, Beermullah.

BACKGROUND

The subject lot is 252 hectares in area and currently contains three irrigation pivots, a holding dam, various storage sheds and a single house. The irrigation pivots are approximately 11.3 hectares in area and are set back more than 20 metres from the lot boundaries, with the exception of the central pivot which encroaches to within 8 metres of the western lot boundary during irrigation.

The applicant has provided a comprehensive report which outlines the operation of the existing development. The officer does not seek to duplicate this information which is attached as **Appendix 1** for Council's consideration.

A location plan and aerial image is attached as **Appendix 2**.

COMMENT

Stakeholder Consultation

The application was advertised to surrounding landowners for a period of 14 days in accordance with clause 64 of the *Planning and Development (Local Planning Scheme) Regulations 2015*. The Shire received no comments during the consultation period.

The application was referred to Main Roads Western Australia (MRWA) for a period of 42 days in accordance with clause 66 of the *Planning and Development (Local Planning Scheme) Regulations 2015*. A copy of advice received from MRWA is provided as **Appendix 3**.

PLANNING FRAMEWORK

Local Planning Scheme No 9 (LPS 9)

The subject lot is zoned 'General Rural' under LPS 9, the objectives of which are to:

- a) *Manage land use changes so that the specific local rural character of the zone is maintained or enhanced;*
- b) *Encourage and protect broad acre agricultural activities such as grazing and more intensive agricultural activities such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use;*
- c) *Maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage; and*
- d) *Provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the General Rural zone.*

Agriculture Intensive is identified as a "D" – Discretionary land use within the general rural coding. Intensive Agriculture is considered to be a primary use within the zone and as such should be encouraged as per the objectives outlined above.

The land use 'Agriculture Intensive' is defined as follows:

"Agriculture – Intensive means, premises used for trade or commercial purposes, including outbuildings and earthworks, associated with the following:

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

d) *Aquaculture*".

Local Planning Scheme No 9 Setbacks

The development area is required to be set back a minimum of 20m from the lot boundaries in accordance with Table 2 – Site Requirements of LPS 9, unless a greater setback is required (i.e. buffer/separation distances to sensitive land uses or wetlands). The existing setbacks are greater than 20 metres from the lot boundaries, with the exception of the central pivot which encroaches to within 8 metres of the western lot boundary during irrigation.

The abutting land to the west consists of a tree plantation and as such the 12 metre setback variation has a negligible impact on this site, particularly given the encroachment is momentary while irrigation is in process. As such, the variation is supported by the officer.

Local Planning Policy 1.6 – Agriculture Intensive (LPP 1.6)

LPP 1.6 defines 'Annual Horticulture' as follows

"Annual Horticulture refers to the commercial market gardening of all varieties of shallow rooted vegetables and flowers that can be sown and harvested within a twelve month period. The essential character of this use is that the soil is cultivated mechanically at least once a year, fertilised regularly and re-used on a continual basis".

The proposal is defined as Annual Horticulture as per LPP 1.6. The 'General Standards' outlined within LPP 1.6 are outlined below with officer comments provided:

3.1.2 *Council will process development applications for Irrigated Horticulture purely on land use planning grounds, without regard for viability considerations, such as Water Licensing. All Planning Approvals will be copied to the Department of Water for its records in dealing with Water Licensing.*

Officer Comment:

Noted. The application includes the landowner's current water licence which outlines the authorised activities that are consistent with development forming this application.

3.1.3 *Where it is intended to clear "remnant vegetation" as defined under the Soil and Land Conservation Act, for the proposed development, the application should be accompanied by a letter of non-objection to the clearing (a clearing permit) from the Commissioner for Soil and Land Conservation.*

Officer Comment:

The irrigation pivots are existing and no clearing is proposed.

3.1.4 *All applicants shall clearly indicate areas of vegetation, wetlands and any other physical characteristics on the plans accompanying an application.*

Officer Comment:

Noted.

- 3.1.5 *Waste material generated from the horticultural activity shall not be stored on the property in a manner that facilitates fly breeding or odour emissions, but shall be either buried, treated or removed off-site to Council's satisfaction.*

Officer Comment:

The submission includes a farm management section which outlines that the crop is destructively harvested with the resultant waste being tilled back into the soil. This process is consistent with the Biosecurity and Agriculture Management (Stable Fly) Management Plan 2019 which is administered by the Department of Primary Industries and Regional Development (DPIRD).

- 3.1.6 *Horticultural waste to be trashed for soil improvement shall be turned into soil within two days of the removal of the crop or portion of the crop to Council's satisfaction.*

Officer Comment:

Refer to comment above.

- 3.1.7 *Clearing of riparian vegetation is prohibited. In the case that a foreshore area adjacent to an intensive horticulture activity has been cleared, it should be revegetated with species endemic to the area.*

Officer Comment:

Not applicable.

- 3.1.8 *Proposals for Irrigated Horticulture located within 500 metres of an identified existing or future Residential or Rural Residential area shall only be considered where it can be demonstrated that effective vegetation buffers and other measures will satisfactorily minimise or avoid potential land use conflict.*

Officer Comment:

There are no existing residential or rural residential/rural living developments/lots within the recommended 500 metres of the development area on the subject site.

- 3.1.9 *All horticulture activity (excluding tree farms) shall have a minimum distance of 200 metres, or a distance satisfactory to Council, from any Conservation Category Wetland, as defined and identified in the Water and Rivers Commission's Geomorphic Wetland Database, or defined through other means acceptable to Council. Included within this minimum distance there shall be a dense native vegetation buffer of not less than 20 metres in width, to be established prior to the commencement of development and maintained for the duration of the development.*

Officer Comment:

The nearest Conservation Category Wetland is approximately 700 metres south-west of the irrigation area which satisfies the above-mentioned setback distance.

- 3.1.10 *Where a lesser setback to waterways (as specified in this Policy Statement) is proposed, a Drainage, Nutrient and Irrigation Management Plan shall be prepared and be to the satisfaction of the Water and Rivers Commission and Council.*

Officer Comment:

Not applicable.

- 3.1.11 *All irrigated horticulture activity shall be set back 500 metres from any Rural Living, Residential, Tourist, Commercial or Urban Development zones. Applications for reduced setbacks shall be accompanied by comprehensive data and evidence that supports the proposed reduction.*

Officer Comment:

Noted, refer to comments made under clause 3.1.8.

Environmental Impact/Separation from Sensitive Land Uses

The following external guidelines provide guidance in relation to buffer/separation distances for local government when considering applications for irrigated horticulture and sensitive uses (i.e. dwellings).

- State Planning Policy 2.5 - Rural Planning;
- Department of Health (DOH) – Guidelines for Separation of Agricultural and Residential Land Uses (August 2012) (DOH Guidelines); and
- Environmental Protection Authority – Guidance for the Assessment of Environmental Factors; Separation Distances between Industrial and Sensitive Land Uses (June 2005).

The proposal falls under the definition of ‘annual horticulture’ for the purpose of calculating the recommended buffer distance using the abovementioned policies. The recommended buffer distance is 500m from the nearest sensitive land use (i.e. single house). The distance outlined is not intended to be an absolute distance, rather a guide to avoid conflicts between land uses (namely spray drift).

The closest sensitive land use is located approximately 315 metres east of the northern irrigation pivot, located on Lot 501 Brand Highway, Beermullah. It should be noted that Brand Highway is located between the dwelling and the irrigation pivot, and the existing road reserve contains significant vegetation which acts as a vegetative buffer. As such, given the circumstances no further screening provisions are suggested to be imposed on the subject land.

Access and Egress

The property gains access/egress from Brand Highway, which is under the care and control of MRWA. The existing crossover is constructed to a compacted gravel standard.

The applicant advises that daily traffic into and out of the property involves two employees and occasional visitors and deliveries. It is advised that the farm experiences no more than 8 vehicle movements per day outside of harvest periods.

Harvesting of produce occurs over a two week period twice per year. Up to 6 truck movements occur daily during the harvest period, with heavy vehicles up to 27.5 metres in length (Semi-trailers and B-Doubles) using the existing crossover onto Brand Highway between midnight and 6:00am.

As previously outlined, Brand Highway is under the care and control of MRWA which provided no objections to the development subject to the imposition of the following conditions:

- *Crossover & driveway shall be upgraded with a seal. The extent of the seal shall include the RAV 4 turning movement (detail of which can be obtained from the Main Roads Website Driveway Policy) and be 50m in length from the Brand Hwy.*
- *The landowner will need to submit an Application to Undertake Works within Road Reserve (Low Complexity) to Main Roads and shall require approval by the Regional Manager prior to development commencing. The application shall address matters including:
 - a) *Description and location of the proposed works occurring within the road reserve*
 - b) *Crossover design details.*
 - c) *Traffic Management Plans for the works.**
- *All maintenance of the crossover shall be the responsibility of the landowner.*
- *No Additional access to the Brand shall be permitted.*

The recommended conditions were provided to the applicant to review. The applicant's response is attached at **Appendix 4**.

It is evident that the landowners are aggrieved by the MRWA comments and oppose conditions that require remedial works to the existing crossover. The applicant has also provided a suggested condition that would be accepted by the landowners which is stated below:

"Suggested Condition:

"The unsealed rural-standard crossover and driveway from Lot 404 onto Brand Highway shall at all times be maintained to the satisfaction and specification of the Shire of Gingin to ensure vehicle movements to and from the property do not adversely affect the safety and efficiency of the Highway and other road users."

Suggested Advice Note:

“Relative to Condition ..., in considering whether the crossover and driveway onto Brand Highway is being satisfactorily maintained, the Shire may seek and have regard to the advice of Main Roads Western Australia.”

The officer notes the concerns raised by the applicant and recognises that the existing crossover has been in operation for a period of time. The officer does not intend to respond to each point raised with respect to the validity of the suggested MRWA conditions.

It should be noted that Brand Highway is a State managed road with care and control of the road asset and road reserve being the responsibility of MRWA. While the local government is the decision maker, it would set an undesirable precedent in the relationship with MRWA should the Shire simply ignore the request to impose remedial works over land under MRWA's jurisdiction.

As such, the officer will support the position of MRWA and recommend the imposition of the suggested conditions, albeit with slightly modified wording. The officer is also of the view that the suggested MRWA condition refers to a timeframe of 'prior to development commencing', however the development is operational. The officer is of the view that 4 months is adequate to have the remedial works completed which will expire prior to the next harvest period anticipated in November/December.

Stable Fly

Stable Fly is a declared pest under the *Biosecurity and Agriculture Management Act 2007* and is managed by the *Biosecurity and Agriculture Management (Stable Fly) Management Plan 2019*. It is generally inappropriate to impose a planning condition for a regulatory aspect that is already covered under another Act of Parliament. Instead, an advice note has been added to the Development Approval with respect to Stable Fly.

This notwithstanding, the Shire is still required to be satisfied that the horticulture activity manages waste appropriately on the site. In the event Council approves the application, a condition of the planning approval will require the proposal to comply with the submitted Farm Management Statements lodged as part of the submission. In this instance the management statements in relation to waste disposal which thereby appeases stable fly breeding are deemed to be acceptable.

Bushfire Planning

State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7) provides a foundation for land use planning to address bushfire risk management. The subject lot is partially designated as being bushfire prone. Given the nature of the proposal (annual horticulture) consisting of irrigation across the site, the application is exempt from the need to submit a Bushfire Management Plan (BMP).

Conclusion

In considering the above assessment, Administration is of the view that the site is capable of accommodating the Agriculture Intensive (Annual Horticulture) use subject to the development being undertaken in accordance with the recommended conditions of development approval.

STATUTORY ENVIRONMENT

Local Planning Scheme No 9

Part 3 – Zones and the Use of Land

3.2 Objectives of the Zones

Part 4 – General Development Requirements

4.7 General Development Standards

4.8.6 General Rural Zones

Local Planning Policy 1.6 Agriculture Intensive

State Planning Policy 2.5 Rural Planning

Department of Health (DOH) Guidelines for Separation of Agriculture and Residential Land Uses (August 2012) (DOH Guidelines)

Environmental Protection Authority Guidance for the Assessment of Environmental Factors; Separation Distances between Industrial and Sensitive Land Uses (June 2005).

POLICY IMPLICATIONS

Nil.

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Economic Development</i>
Objective	<i>4 – To support economic development through the Shire's service delivery</i>
Outcome	<i>4.2 Food Bowl A strategically significant agricultural hub to the Perth Metropolitan Area</i>
Key Service Areas	N/A
Priorities	N/A

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Rule

SECONDED: Councillor Peczka

That Council grant Development Approval for an Agriculture Intensive (Annual Horticulture) use on Lot 404 (5297) Brand Highway, Beermullah subject to the following conditions:

- 1. The land use and development shall be undertaken in accordance with the approved plans and specifications (including any amendments marked in RED) unless otherwise conditioned by this approval;**
- 2. This approval is for an Agriculture Intensive (Annual Horticulture) use only as outlined on the approved plan;**
- 3. The development area subject to this approval shall be limited to a maximum of 35 hectares at any one time;**
- 4. The approved use shall at all times comply with the submitted Farm Management Practices outlined in Section 3.2 of the submission prepared by LK Advisory date stamp March 2020 (as amended) to the satisfaction of the Shire of Gingin;**
- 5. The area shall immediately be rehabilitated to pasture cover at the cessation of the approved use;**
- 6. In the event dust and/or spray drift is disseminating beyond the property boundary as a result of agricultural activity being undertaken, the offending activity shall cease forthwith until such time as favourable weather conditions enable the activity to recommence, to the satisfaction of the Shire of Gingin;**
- 7. The existing crossover and driveway shall be upgraded to a sealed standard to the design and specifications detailed in Main Roads Western Australia (MRWA) Driveway Policy and shall include RAV 4 turning movements to cater for heavy vehicle access/egress to the property.**
- 8. The remedial works required to the existing crossover and driveway are to be completed within 4 months from the determination date to the satisfaction of the Shire of Gingin and on advice from Main Roads Western Australia;**
- 9. The landowner/operator shall be responsible for all costs related to the crossover and driveway upgrades and any associated works;**
- 10. The landowner/operator shall be responsible for the ongoing maintenance of the upgraded crossover and driveway in a good condition to the satisfaction of the Shire of Gingin and on advice from Main Roads Western Australia; and**
- 11. Heavy vehicles associated with the approved use are prohibited from accessing or using Douglas Road.**

Advice Notes

- Note 1:** If you are aggrieved with the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision, under Part 14 of the *Planning and Development Act 2005*;
- Note 2:** In relation to the crossover/driveway remedial works, the landowner/applicant is required to submit an *Application to Undertake Works within the Road Reserve (Low Complexity)* to Main Roads Western Australia for approval by the Regional Manager. The application is to include:
- a. Description and location of the proposed works occurring within the road reserve.
 - b. Crossover design details.
 - c. Traffic Management Plans for the works.
- Note 3:** It is advised that the proposal should at all times comply with the *Biosecurity and Agriculture Management (Stable Fly) Management Plan 2019* in order to minimise the effects of stable flies on the community;
- Note 4:** All noise from the operation and associated equipment is required to comply with the *Environmental Protection (Noise) Regulations 1997*;
- Note 5:** The development may trigger the need to amend the existing water licence details. It will be necessary to contact the Department of Water and Environmental Regulation (DWER) in obtaining the necessary approvals;
- Note 6:** Please be advised that the property will attract Differential Rating for Intensive Agriculture in accordance with Council Policy 3.16 Rates Concession for Split Use Differential UV Intensive/UV General Properties. Differential Rating may be applied retrospectively;
- Note 7:** It is the landowner's responsibility to implement and maintain bushfire protection and mitigation measures on their property.

CARRIED UNANIMOUSLY

APPENDIX 1



DEVELOPMENT APPLICATION
Shire of Gingin – Local Planning Scheme No. 9

Agriculture – Intensive (Irrigated Horticulture)
Lot 404 (No. 5297) Brand Highway, Beermullah

March 2020

Prepared for:
J.A.M Holdings WA Pty Ltd

L K A D V I S O R Y

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Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

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Attachment 1 – Development Application Form

Attachment 2 – Copy of Current Water Licence

Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

1 INTRODUCTION

This application seeks retrospective development approval from the Shire of Gingin for the existing horticultural operations on Lot 404 (No. 5297) Brand Highway, Beermullah ('Blue Lakes' Farm), pursuant to Section 164 of the *Planning & Development Act 2005* and Schedule 2, Part 8, Clause 65 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The duly completed development application form is included as **Attachment – 1** to this report.

J.A.M Holdings WA Pty Ltd is the registered owner of Lot 404 and has successfully conducted its horticultural operations on the property (growing sweet corn and green beans, under irrigation) after purchasing the property in September 2016.

Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

2 PROPERTY DETAILS

2.1 Land Description

The subject land is described as Lot 404 (No. 5297) Brand Highway, Beermullah, on Deposited Plan 71187, Certificate of Title Volume No. 2773, Folio No. 766.

J.A.M Holdings WA Pty Ltd became the registered proprietor of Lot 404 on 6 September 2016, upon settlement of the sale of the property from the previous owner.

2.2 Location & Context

Lot 404 is 252.7177 ha in area and is located approximately 23 km north-northwest of the Gingin townsite.

Lot 404 is bordered to the west by Lot 403 Douglas Road (comprising a *Casuarina* tree plantation); to the south by Lot 11 (No. 116) Drew Road, Beermullah; to the east by Brand Highway (a frontage of approximately 2.8 km); and to the north by Douglas Road (a frontage of approximately 1.6 km).

A poultry farm is situated opposite Lot 404, north of Douglas Road, on Lot 32 (No. 120) Douglas Road, Beermullah.

A powerline easement traverses the northwestern corner of Lot 404, while the Dampier – Bunbury Natural Gas Pipeline Corridor is situated to the east of the property, on the opposite side of Brand Highway.

See Fig. 1 – Location Plan and Fig. 3 – Development Application Plan.

Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

Fig. 1 – Location Plan (source: Shire of Gingin District Map)



Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

2.3 Site Characteristics

Lot 404 was historically used for broadacre farming and grazing and, as a result, has been almost entirely cleared of native vegetation.

Prior to purchase by J.A.M Holdings WA Pty Ltd, Lot 404 was operated as an irrigated commercial Paulownia tree farm. Aerial imagery and other available information indicate that use commenced on site in 2003/2004 and concluded in 2015 upon final tree harvesting and clearing of the land.

Numerous farm buildings and irrigation infrastructure exist on the property, associated with the previous farming activities conducted on the land. This includes a lined dam measuring approximately 98.5m x 87m, located immediately northwest of the northern-most radially irrigated agricultural crop.

Lot 404 slopes gently downwards from Brand Highway towards the eastern property boundary – from a high point of 115m AHD in the northeastern corner of the property to 65m AHD along much the eastern property boundary, over a distance of approximately 1.5 km.

See Fig. 2 – Historical Aerial Image and Fig. 3 – Development Application Plan.

Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

Fig. 2 – Historical Aerial Image (Data Source: Nearmap. Capture Date: 13 April 2014)



Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

3 APPLICATION DETAILS

3.1 Intensive Agricultural Use

This application seeks retrospective development approval from the Shire of Gingin under Local Planning Scheme No. 9, for three irrigated agricultural crops on Lot 404 Brand Highway, Beermullah.

Each intensive agricultural crop is circular in shape, approximately 11.3 ha in area, and reticulated by a 190m long irrigation pivot; producing an overall irrigation diameter of 380m per crop.

All three intensive agricultural crops are setback 25m from the eastern property boundary (Brand Highway), with the travel path of each irrigation pivot passing no closer than approximately 23m from that boundary.

The northernmost intensive cropping area is setback approximately 755m from the northern boundary of Lot 404 and 480m from the nearest western boundary. The irrigation pivot for this northern cornfield passes no closer than approximately 753m and 478m respectively from the northern boundary and nearest western boundary.

The central cropping area is setback 10m from the western property boundary, with the travel path of its irrigation pivot passing no closer than approximately 8m to that boundary.

The southernmost cropping area is setback approximately 847m from the southern property boundary and 158m from the western boundary. The irrigation pivot for this southern crop passes no closer than approximately 845m and 156m to the southern and western property boundaries, respectively.

See Fig. 3 – Development Application Plan and Fig. 4 – Site Plan.



 N	<p>Scale: 1:10,000 Date: March 2020 Client: J.A.M Holdings WA Pty Ltd Data Source: Landgate (Aerial Capture Date – December 2017)</p>	<p>FIG. 3 – DEVELOPMENT APPLICATION PLAN Agriculture – Intensive (Irrigated Horticulture) Lot 404 (No. 5297) Brand Highway, Beermullah</p>	<p>L K A D V I S O R Y</p>
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Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

Fig. 4 – Site Plan (Data Source: Landgate)



Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

3.2 Farm Management

Each year, sweet corn and beans are produced on Lot 404 for local, national and international markets, as part of the Trandos Farms Group, under the commercial label – West Australian Corn Growers.

The Trandos Family owns and operates the Trandos Farms Group, with members of the Family being the sole directors of J.A.M Holdings WA Pty Ltd.

The Trandos Family has a long and successful history in horticulture in Western Australia, having first established Trandos Farms in 1939. Trandos Farms has continued to grow since then to now become the largest grower of sweet corn and beans in the State.

Key Farm Management practices employed in the intensive agricultural operations on Lot 404 are summarised below:

- (a) 'Blue Lakes' farm is managed under a GLOBALG.A.P. international certification for good agricultural practices (for more information see here – https://www.globalgap.org/uk_en/). This ensures adherence to the strictest global standards for:

- > Soil and plant health;
- > Environmental and water management;
- > Pest and disease control;
- > Agricultural product quality;
- > Food safety and handling; and
- > Occupational health and safety.

- (b) Sweet corn takes around 75 – 105 days from seeding to reach full maturity for harvesting. Planting usually occurs in September – December. On occasion, favourable growing conditions can produce a longer growing season, allowing up to two crops to be planted annually. Cover crops such as legumes are grown on rotation between corn crops to aid soil health, prevent the persistence of spread of crop-specific plant disease, and minimise application of fertilisers, pesticides and herbicides.

When harvesting corn, the ears of corn are 'destructively' harvested, with the corn stover (the residual plant material post-harvest) shredded and then tilled back into the soil at least four times prior to replanting of new crops.

Corn stover is naturally high in nutrients such as Nitrogen, Phosphorous and Potassium (N, P & K). When ploughed into the soil and combined with crop rotation, corn stover can reduce demand for additional fertiliser applications in future crops.

- (c) The crops grown on Lot 404 do not attract stable fly and do not produce agricultural conditions that are susceptible to harbouring stable fly.

- (d) 'Blue Lakes' farm is managed by one farm manager who lives on site. Traffic into and out of the property comprises daily vehicle movements of up to two employees and occasional visitors and deliveries. In total, it is estimated that 'Blue Lakes' farm experiences (on average) no more than around 8 vehicle movements per day outside of harvest periods.

Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

- (e) Crop harvesting occurs twice each year, around March/April and November/December for a duration of approximately two weeks on each occasion (i.e. total harvest period of four weeks in a calendar year). During this period, harvested produce is transported from the farm via Semi-Trailer and B-Double trucks (both not exceeding 27.5m in length). Truck movements typically occur between midnight and 6:00am with up to 4 – 6 laden trucks exiting the farm in that duration. All truck access to and egress from the property occurs via the existing driveway onto Brand Highway.
- (f) The preservation of high-quality agricultural soils; prevention of soil erosion; and effective dust management are all key focus areas of farm management for 'Blue Lakes'. Cover crops are grown on any exposed areas and areas not in production. Irrigation is used to promote crop growth and for dust suppression in limited circumstances, when required.
- (g) Spraying is effectively managed on Lot 404 by a combination of:
 - > Separation distances and treed buffer zones around the three cropping pivots;
 - > Targeted and controlled (not broadacre) spraying, precisely dispensed through the cropping pivots;
 - > Spraying only occurs in favourable weather conditions to prevent spray drift and adhere to withholding periods, in strict accordance with manufacturer specifications and the farm's GLOBALG.A.P. certification;
 - > All spraying activity is recorded in a spray record log.
- (h) When required, conventional horticultural granular fertiliser is distributed over the crop with a spreader, or liquid fertiliser is applied through the farm's irrigation system.
- (i) All water usage on Lot 404 is closely monitored by a Hydrogeologist to ensure irrigation practices are efficient, effective and fully compliant. Static water levels and metre readings from production bores are reported to the Department of Water and Environmental Regulation on a monthly basis.

A copy of the current water licence for Lot 404 is included as **Attachment – 2**. See also **Fig. 5 – 8 – 'Blue Lakes' corn crops**.

Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

Fig. 5 – 'Blue Lakes' corn crop germination



Fig. 6 – 'Blue Lakes' corn crop under irrigation



Fig. 7 – 'Blue Lakes' corn crop harvesting



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Fig. 8 – 'Blue Lakes' corn crop harvesting



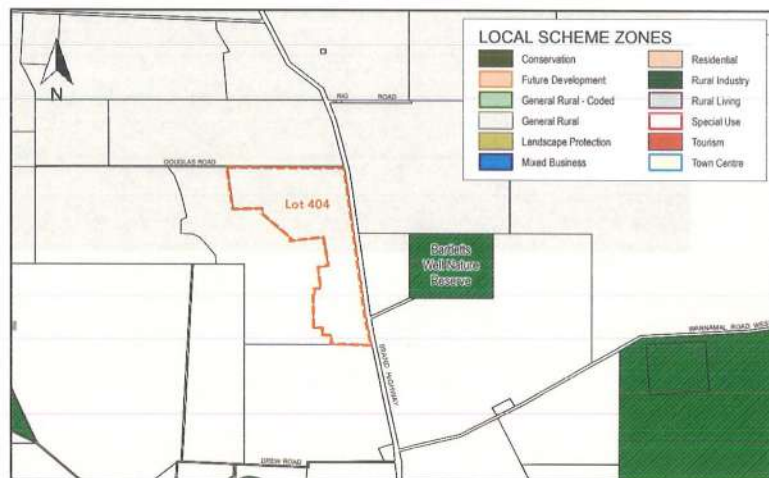
Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

4 PLANNING CONTEXT

4.1 Local Planning Scheme No. 9

Lot 404 is zoned "General Rural" under the Shire of Gingin's Local Planning Scheme No. 9 (LPS 9). See Fig. 9 – LPS 9 Scheme Map Extract.

Fig. 9 – LPS 9 Scheme Map Extract



Irrigated horticulture (as conducted on Lot 404) is classified as "Agriculture – Intensive" under LPS 9, which is a discretionary ('D') use in the General Rural zone. This use:

- > Fulfills one of the Aims of LPS 9, as stated in Clause 1.6(h) to "Facilitate more intensive and diversified use of rural land for higher value products, including horticulture ..."; and
- > Satisfies one of the Objectives of the General Rural zone, in clause 3.2.7 b) to – "encourage and protect ... more intensive agricultural activities such as horticulture as primary uses ...".

Under Table 2 of the Scheme, development in the General Rural zone should be setback 20m from all property boundaries. Typically, this setback would relate more to permanent physical structures than to agricultural crops, as most (if not all) crops in the General Rural zone in the vicinity of Lot 404 were observed to be setback only a few metres from property boundaries – generally only the width of a firebreak.

As outlined in Section 3.1 of this report, the three horticultural crops on Lot 404 are all setback more than 20m from the lot boundaries, with the exception of the western setback to the central crop, which is situated 10m from the western property boundary. The travel path of the irrigation pivot for this central crop passes no closer than approximately 8m to that boundary. These setbacks are considered entirely acceptable on the basis that:

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- (a) With the exception of the three irrigation pivots, no structures or physical development are proposed as part of this application;
- (b) The 10m setback of the central horticultural crop from the western property boundary is greater than the equivalent setback of other crops grown in the area;
- (c) No fixed, physical structures are proposed within the setback area;
- (d) The intrusion of the irrigation pivot into the standard 20m setback area is only momentary and only occurs whilst the crop is being irrigated;
- (e) Lot 403 to the west of Lot 404, which the central horticultural crop is nearest to, comprises a *Casuarina* tree plantation. The reduced western setback of the horticultural crop on Lot 404 to Lot 403 will have no impact whatsoever on that adjacent land use; and
- (f) When combined with the width of the firebreak on Lot 403 to the west, the total distance between the horticultural crop grown on Lot 404 and the nearby plantation trees on Lot 403, is approximately 23m.

Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

4.2 Local Planning Policy No. 1.6

The Shire of Gingin's Local Planning Policy No. 1.6 – Intensive Agriculture (LPP 1.6) applies to the horticultural activities conducted on Lot 404 and is addressed in the table below.

Policy Standards	Comment
3.1 <u>General Standards</u>	The horticultural use subject of this application complies with the standards of LPP 1.6.
3.1.1 Applicants shall demonstrate compliance or intended compliance with the standards set out in this policy at application stage.	
3.1.2 Council will process development applications for Irrigated Horticulture purely on land use planning grounds, without regard for viability considerations, such as Water Licensing. All Planning Approvals will be copied to the Department of Water for its records in dealing with Water Licensing.	Noted. As stated in Section 3.2(h) of this report, the horticultural use on Lot 404 has already received and is operated in accordance with a current water licence from the Department of Water and Environmental Regulation.
3.1.3 Where it is intended to clear "remnant vegetation" as defined under the Soil and Land Conservation Act, for the proposed development, the application should be accompanied by a letter of non-objection to the clearing (a clearing permit) from the Commissioner for Soil and Land Conservation.	Lot 404 is largely denuded as a result of past broadacre farming and grazing, prior to purchase by J.A.M Holdings WA Pty Ltd. No remnant vegetation was or is intended to be cleared on Lot 404 in association with the horticultural activity subject of this application.
3.1.4 All applicants shall clearly indicate areas of vegetation, wetlands and any other physical characteristics on the plans accompanying an application.	The physical characteristics of Lot 404 are depicted in Fig. 3 – Development Application Plan and Fig. 4 – Site Plan.
3.1.5 Waste material generated from the horticultural activity shall not be stored on the property in a manner that facilitates fly breeding or odour emissions, but shall be either buried, treated or removed off-site to Council's satisfaction.	As outlined in Section 3.2 of this report, the sweetcorn is destructively harvested and the resultant waste (stover) is shredded and tilled back into the soil. This practice improves soil health, is not conducive to fly breeding, and produces no notable odours.

Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

Policy Standards	Comment
3.1.6 Horticultural waste to be trashed for soil improvement shall be turned into soil within two days of the removal of the crop or portion of the crop to Council's satisfaction.	See response to Policy Standard 3.1.5.
3.1.7 Clearing of riparian vegetation is prohibited. In the case that a foreshore area adjacent to an intensive horticulture activity has been cleared, it should be revegetated with species endemic to the area.	See response to Policy Standard 3.1.3. No riparian vegetation was or is intended to be cleared on Lot 404 in association with the horticultural activity subject of this application.
3.1.8 Proposals for Irrigated Horticulture located within 500 metres of an identified existing or future Residential or Rural Residential area shall only be considered where it can be demonstrated that effective vegetation buffers and other measures will satisfactorily minimise or avoid potential land use conflict.	The irrigated horticultural areas on Lot 404 are not located within 500m of any known existing or future Residential or Rural Residential area.
3.1.9 All horticulture activity (excluding tree farms) shall have a minimum distance of 200 metres, or a distance satisfactory to Council, from any Conservation Category Wetland, as defined and identified in the Water and Rivers Commission's Geomorphic Wetland Database, or defined through other means acceptable to Council. Included within this minimum distance there shall be a dense native vegetation buffer of not less than 20 metres in width, to be established prior to the commencement of development and maintained for the duration of the development.	The nearest designated Conservation Category Wetland is situated 700m south-southwest of the southern-most irrigated horticultural area on Lot 404, as depicted on Fig. 3 – Development Application Plan.
3.1.10 Where a lesser setback to waterways (as specified in this Policy Statement) is proposed, a Drainage, Nutrient and Irrigation Management Plan shall be prepared and be to the satisfaction of the Water and Rivers Commission and Council.	The southern-most irrigated horticultural area on Lot 404 is setback more than 275m from a minor surface drainage route on the property, located farther to the south. See Fig. 3 – Development Application Plan.

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Policy Standards	Comment
3.1.11 All irrigated horticulture activity shall be set back 500 metres from any Rural Living, Residential, Tourist, Commercial or Urban Development zones. Applications for reduced set backs shall be accompanied by comprehensive data and evidence that supports the proposed reduction.	The irrigated horticultural areas on Lot 404 are not located within 500m of any Rural Living, Residential, Tourist, Commercial or Urban Development zones.
3.1.12 All Planning Approvals for Irrigated Horticulture will incorporate the following Advice Notes to the Applicant: a) The Applicant is reminded that this Planning Approval is not to be interpreted as approval to extract and utilise groundwater supplies, nor does it imply that the Shire of Gingin has knowledge in relation to availability of groundwater supplies. b) The Applicant is reminded of the need to seek and obtain a suitable groundwater licence from the relevant licensing authority prior to utilising the land for Irrigated Horticulture.	Noted.

Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

Policy Standards	Comment
<p><u>3.2 Specific Standards</u></p> <p>3.2.1 Annual Horticulture (Market Gardens & Floriculture):</p> <p>“Annual Horticulture” refers to the commercial market gardening of all varieties of shallow rooted vegetables and flowers that can be sown and harvested within a twelve month period. The essential character of this use is that the soil is cultivated mechanically at least once a year, fertilised regularly and re-used on a continual basis.</p> <p>Applicable Standards:</p> <p>All annual horticulture activities shall have a minimum distance of 200 metres from the highest known level of a waterway (riverine environment).</p>	<p>Noted. See response to Policy Standard 3.1.10.</p>

It is evident from the preceding table that the irrigated horticultural operation on Lot 404 complies with all relevant standards of LPP 1.6 and should therefore be approved.

Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

4.3 State Planning Policies

State Planning Policy 2.5 – Rural Planning

The intensive agricultural use subject of this application accords with State Planning Policy 2.5 (SPP 2.5) and specifically clause 5.8 of the Policy, which is reproduced below:

"5.8 Intensive agriculture

Intensive agricultural products are important contributors to the State's economy and are sold to domestic and export markets. Several localities in Western Australia produce much of the State's produce, including Carabooda, Gingin Brook, Perth Hills, Nowergup, Myalup, Manjimup, Donnybrook, Margaret River, Carnarvon, and Ord River. In addition, there are other dedicated sites that may produce a high percentage of a particular commodity in the context of State supply.

In order to operate effectively, producers may require areas of high agricultural productivity, water availability, suitable climatic conditions and ready access to markets and freight networks.

WAPC policy in regard to intensive agriculture is:

- (a) intensive agriculture is generally supported and encouraged on rural land provided rural amenity and environmental impacts can be effectively managed;*
- (b) intensive agriculture sites of State significance should be protected from encroachment;*
- (c) in considering buffer distances between intensive agriculture and sensitive land uses, the requirements of clause 5.12 should be observed, and the following matters may also affect the buffer –*
 - (i) types of chemicals used and their method of application;*
 - (ii) the characteristics of the site/s, including vegetation, topography and prevailing winds;*
 - (iii) potential mitigation approaches, including fencing, vegetation buffers, open space, road reserves and other compatible uses; and*
 - (iv) potential staging and/or expansion intention of the intensive agriculture operator; and*
- (d) where an intensive agriculture proposal may affect the nutrient load of a river, estuary or associated tributary and the system and/or its receiving water body has no further capacity to assimilate nutrients without an adverse impact on ecosystem health, a reduction in nutrient export is to be demonstrated."*

The intensive agricultural operation on Lot 404 adheres to global best practice farm management principles; does not adversely affect rural amenity or cause adverse environmental impacts; is not in proximity to any sensitive land uses; and does not present an environmental risk to water bodies, riverine systems or catchment health. The agricultural operation on Lot 404 therefore complies with State Planning Policy 2.5.

Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

We assert that State Planning Policy 3.7 (SPP 3.7) ought not to apply to the intensive agricultural use subject of this application on the following grounds:

- > SPP 3.7 principally relates to physical development/construction in bushfire prone areas, where such development will increase the exposure of people or property to the threat of bushfire attack. However, such circumstances do not arise in the case of this application.
- > Whilst Lot 404 is designated by the Fire and Emergency Services Commissioner as being within a bushfire prone area, the intensive agricultural use now occurring on the land is less susceptible to attack from bushfire, and represents a significantly diminished fuel source compared to the previous Paulownia tree plantation and the broadacre cropping and grazing that was historically conducted on site.
- > The intensive agricultural use occurring on Lot 404 is serviced by an on-site dam, generous water licence allocation, and irrigation pivots which can be used to wet-down the crops if required in the event of a bushfire emergency.
- > Ironically, it is the use of water, not the absence of water in this instance that has triggered the need for development approval, in turn obliging the Shire to have due regard to SPP 3.7.
- > The only physical development for which approval is now sought, is the installation of three irrigation pivots to enable the annual sowing and harvesting of horticultural food crops.
- > The intensive agricultural use on Lot 404 does not result in an intensification of farming activities on the property (compared to past land uses), nor does it contribute to an elevated bushfire risk, nor does it expose vulnerable persons or property to the risk of bushfire attack.
- > Lot 404 enjoys dual road frontage to both Brand Highway and Douglas Road, thus providing ample opportunities for access/egress in the event of an emergency.

For these reasons, the intensive agricultural use now occurring on Lot 404 satisfies the Intent and Objectives of SPP 3.7, as stated in clauses 1 and 5 of the Policy, respectively.

Development Application (Intensive Agriculture) – Lot 404 (No. 5297) Brand Hwy, Beermullah

5 CONCLUSION

The Irrigated Horticulture (Agriculture – Intensive) use being conducted on Lot 404 (No. 5297) Brand Highway, Beermullah is a bona fide farming activity capable of being approved in the General Rural zone under the Shire of Gingin's Local Planning Scheme No. 9.

This use fulfils one of the aims of the Scheme – to facilitate more intensive use of rural land for higher value products, including horticulture; and supports a key objective of the General Rural zone – to encourage more intensive agricultural activities such as horticulture as primary uses of rural land.

The only physical development/construction for which approval is sought as part of this application, is the installation of three 190m long irrigation pivots to reticulate horticultural food crops, namely sweet corn and beans.

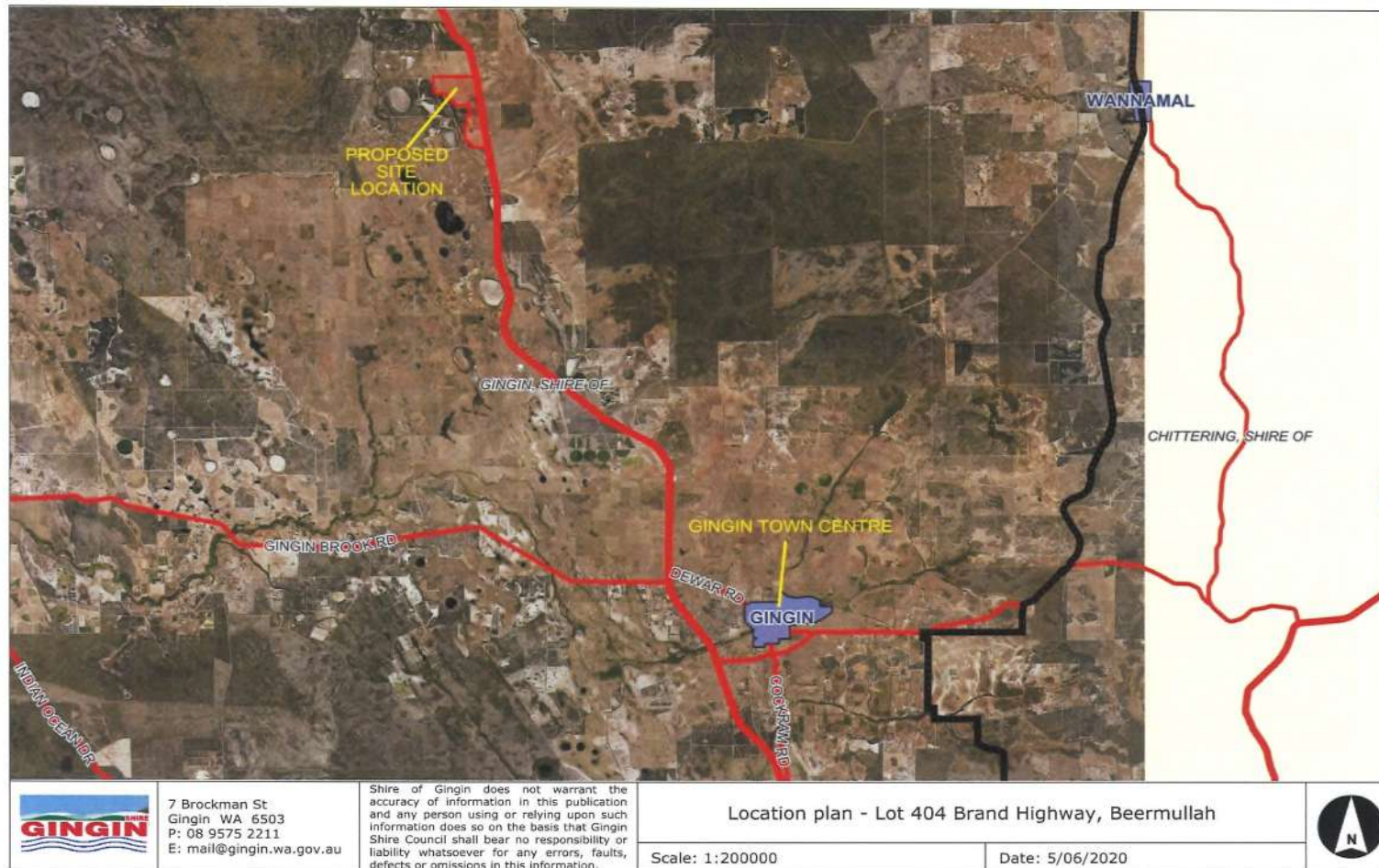
The location of the three irrigated horticultural crops on Lot 404 exceeds all required setbacks and separation distances specified in the Shire's Scheme and LPP 1.6 – Intensive Agriculture, except for the western boundary setback of the central crop. The justification for that reduced setback is provided in section 4.1 of this report.

Horticultural operations on Lot 404 are internationally certified and conducted in accordance with strict standards for farm management, environmental protection, food quality, and health, safety and risk management. Compliance with these standards will ensure the land use on Lot 404 does not have any adverse impact on rural amenity, environmental quality, or sensitive land uses in the locality. Consequently, the intensive agricultural use of the property complies with SPP 2.5 – Rural Planning.

Further, the intensive agricultural use of Lot 404 will not contribute to an increased bushfire risk in the area and will not increase the exposure of people or property to the threat of bushfire attack. Rather, the concentration of food crops under irrigation, in the centre of the property, is expected to reduce the likelihood and impact of bushfire attack when compared to the previous tree farming and broadacre farming of the land. Therefore, the irrigated horticultural use of Lot 404 is considered to satisfy the intent and objectives of SPP 3.7 – Planning in Bushfire Prone Areas.

For the reasons outlined above and detailed earlier in this report, it is respectfully requested that the Shire of Gingin grant retrospective development approval under LPS 9 for the irrigated horticultural use of Lot 404 (No. 5297) Brand Highway, Beermullah.

APPENDIX 2



APPENDIX 3



Enquiries: Mark Willson 99561234
Our Ref: 002-066, D20#361316
Your Ref: BLD/7014 P1963

4 May 2020

Manager Statutory Planning
Shire of Gingin

By email: msp@gingin.wa.gov.au, mail@gingin.wa.gov.au

ATTENTION: James Bayliss

Dear James,

**Retrospective Development Approval – Intensive Horticulture
Lot 404 (5297) Brand Highway, Beermullah**

Thank you for consulting Main Roads on the proposed use and development for intensive agriculture on Lot 404 Brand Highway, Beermullah.

The submission indicates that the proposal would generate a low number of vehicle turning movements in and out of the site onto Brand Highway from an existing access onto the Brand Highway. It is therefore considered that the proposal would have limited detrimental impact on the safety, amenity and operation of the Main Roads network and its users.

Based on the above, Main Roads has no objections to the proposed development and use subject to the imposition of the following conditions:

- Crossover & driveway shall be upgraded with a seal. The extent of the seal shall include the the RAV 4 turning movement (detail of which can be obtained from the Main Roads website Driveway Policy) and be 50m in length from the Brand Hwy.
- The landowner will need to submit an *Application to Undertake Works within Road Reserve (Low Complexity)* to Main Roads and shall require approval by the Regional Manager prior to development commencing. The application shall address matters including:
 - a) Description and location of the proposed works occurring within the road reserve
 - b) Crossover design details
 - c) Traffic Management Plans for the works.
- All maintenance of the crossover shall be the responsibility of the landowner.
- No Additional access to the Brand shall be permitted.

If you would like any further information, please contact Mark Willson on 08 9956 1234

Yours sincerely

for Bernie Miller
Regional Manager
Mid West-Gascoyne Region

Main Roads Western Australia
Mid-West Gascoyne
Geraldton Office, Eastward Road, PO Box 165, Geraldton WA 6531
Carnarvon Office, 470 Robinson Street, PO Box 480, Carnarvon WA 6701

mainroads.wa.gov.au
enquiries@mainroads.wa.gov.au
138 138

APPENDIX 4

L K A D V I S O R Y

Urban & Regional Planning | Strategy | Policy | Governance | Performance

21 May 2020

Mr James Bayliss
Acting Manager Statutory Planning
Shire of Gingin
PO Box 510
GINGIN WA 6503

By email: mail@gingin.wa.gov.au ; msp@gingin.wa.gov.au

Dear Mr Bayliss,

INTENSIVE AGRICULTURE DEVELOPMENT (IRRIGATED HORTICULTURE) – LOT 404 (5297) BRAND HIGHWAY, BEERMULLAH

Thank you for your email of Friday 8 May 2020 and your time on the telephone on 12 May 2020.

I have obtained clarification on Main Roads WA's (MRWA's) requirements from the assessing officer, Mr Mark Willson and have discussed the same with my client. We are of the view that MRWA's requirement for a 50m long sealed driveway and construction of a minimum 11m wide engineered crossover within the Brand Highway road reserve, plus associated traffic management, is excessive and unnecessary under the circumstances. Our reasons for this view are summarised below:

1. According to Section 3.2.1 of MRWA's Driveways Guideline (available [here](#)), existing driveways which do not meet the requirements of the Guidelines may be retained, but shall be reassessed in the event of a "redevelopment of the site". The Guideline does not define the terms "redevelopment" or "site" and therefore their ordinary and common meanings will apply. Accordingly, in the context of Lot 404 "redevelopment of the site" would mean the reconstruction and replacement of previously existing development on the subject lot. We contend, however, that this application does not constitute redevelopment of the site for the purpose of MRWA's Guideline, because:
 - (a) The application relates to the installation of removable irrigation infrastructure and planting of horticultural crops over an area of only 13% of the total lot area;
 - (b) The horticultural crops have been planted in place of a previous commercial tree farm that covered almost the entirety of Lot 404;
 - (c) The land use subject of this application covers a significantly smaller footprint than the preceding tree farming operation;
 - (d) Planning approval is *only* required in this instance due to the species of agricultural food crops planted on Lot 404 and the irrigation of those crops, not because the land use constitutes anything other than a bona fide agricultural operation. It is only these factors which led to the making of this application; its referral by the Shire to MRWA; and MRWA's subsequent request for an engineered crossover, driveway and applied traffic management. However, MRWA has not demonstrated that these factors alone (the type and extent of plant species and the irrigation of those plants) significantly or even materially differ from any other as-of-right farming operation to justify being treated as "redevelopment of the site" and to warrant such an unnecessary impost;

Website: lkadvisory.com.au Postal: PO Box 244, Applecross, WA 6953

- (e) The land use subject of this application will not result in an increase or intensification of vehicular traffic compared to surrounding agricultural properties and those likely associated with the previous uses of Lot 404 for cropping, grazing and commercial tree farming;
- (f) Truck access/egress associated with the horticultural activities on Lot 404 will be seasonal and, as stated in Section 3.2 (e) of the Application Report, will be concentrated around the two harvest periods of March/April and November/December each year. Each harvest period lasts for no more than two weeks, with 4 – 6 unladen trucks entering the property and the same number of laden trucks exiting the property each day (usually between midnight and 6:00am when Brand Highway traffic is expected to be at its lowest). This equates to around 8 (and no more than 12) truck movements per day for up to two weeks, twice each year; amounting to a total of:
- From 112 up to 168 (average of 140) total truck movements per two-week harvest period, comprising 56 up to a maximum of 84 (average of 70) unladen inbound trucks and the same number of laden outbound trucks;
 - From 224 up to 336 (average of 280) total truck movements per annum, comprising 112 up to a maximum of 168 (average of 140) unladen inbound trucks and the same number of laden outbound trucks each year; and
 - An annual average of 0.6 up to a maximum of 0.9 truck movements per day. Even if a substantial contingency factor of 15% were added to these figures, annual average truck movements would still only amount to 0.7 – 1 truck movement per day. This is insignificant when considering that, for the purpose of this application, one vehicle movement (or trip) equates to a single vehicle entering or exiting the property. Hence, a truck entering the property and then leaving the property is regarded as two vehicle movements. On this basis, the truck movements associated with this application would need to be more than double the highest stated annual truck movements to even equate to a single truck entering and then leaving the property each day. This clearly demonstrates that the level of truck traffic generated by the farming operation on Lot 404 does not in and of itself give rise to the need for the substantial works which MRWA has requested.
2. This application seeks retrospective planning approval of an existing agricultural use that has been conducted on the property for approximately three years now. If any notable deterioration, damage or dust impact was going to occur to Brand Highway as a direct result of this farming operation then we contend such damage would already be apparent. However, no such impact on Brand Highway is evident or has even been claimed in this instance, thus casting doubt on the actual, physical need for the crossover and driveway upgrade.
3. There are many rural activities occurring within the Shire of Gingin with direct or indirect access (via unsealed local roads) to Brand Highway, which likely involve a greater number and nature of truck movements than those associated with the horticultural operation on Lot 404. To this end, we consider that MRWA has requested an engineered crossover and 50m sealed driveway in this instance, purely to progressively reduce the number of existing rural-standard driveways onto Brand Highway, and not because the farming operation on Lot 404 generates the need for those works.
4. The commercial vehicles associated with the horticultural activities on Lot 404 are less than 27.5m in length and are as-of-right vehicles that cannot be prevented from using local or State roads.
5. Construction of a (minimum) 11m wide engineered crossover with associated traffic management adjacent to Brand Highway, together with a 50m long sealed driveway would represent an unfair and unnecessary cost burden to my client's horticultural operation, which consumes a nominal portion of the overall site.

6. We contend that imposition of MRWA's requirement as a condition of planning approval in this instance would not pass the 'Newbury Test' (*Newbury DC v Secretary of State for the Environment* (1981) AC578) for a valid planning condition, which requires the condition to – be imposed for a planning purpose; fairly and reasonably relate to the development for which permission is given; and be reasonable under the circumstances of the development proposed. These three principles are discussed below in the context of this application:

- (a) Planning purpose – In order for this condition to have a planning purpose two criteria must be met:

Firstly, the condition must bear a relationship to planning theory and policy. In this regard, the Shire's Local Planning Policy (LPP) 1.6 – Agriculture Intensive (LPP 1.6) under which this application is assessed, does not contemplate or require an engineered crossover and sealed driveway for horticultural operations. It therefore cannot be said that imposition of such condition bears a relationship to planning theory or policy.

This view is supported when contrasting the requirements of LPP 1.6 against those of LPP 8.1. On the one hand, LPP 8.1 expressly contemplates and requires a sealed crossover (onto a sealed road) for commercial vehicle parking in "Rural Living" zones, whereas no such requirement applies to intensive agricultural operations under LPP 1.6.

Secondly, the condition must be necessary in the particular circumstances for the orderly and proper planning of the locality.

In considering whether the condition is necessary, the question should be asked as to whether the application should be refused if that condition were not imposed. If it would not (be refused), then the condition would need special and precise justification to be imposed, which we assert has not been provided in MRWA's referral response.

Furthermore, MRWA has not confined its requirement to only an engineered crossover within its road reserve but has extended this to include a 50m sealed driveway – the vast majority of which would be constructed within Lot 404. This seems unjustifiable in the context of MRWA's Driveway Guideline which exists "to ensure access to roads managed by Main Roads will be controlled for the safety and efficiency of the network and all road users".

It is our view that approval of this application and retention of the existing crossover and driveway will not compromise the "safety and efficiency of the network and all road users".

Having regard to the above, we believe this application could and should be approved even if MRWA's requested condition is not imposed, as doing so would not impact the orderly and proper planning of the locality.

- (b) Relevance – In order for this condition to be relevant it must fairly and reasonably relate to the application and be justified by the nature of the land use and the effect of that land use on its surroundings. In this regard, we contend the condition has been requested by MRWA not because the nature of the land use justifies it, but because the planning application referral process has provided an opportunity for MRWA to attempt to progressively reduce or upgrade the number of farm crossovers and driveways onto Brand Highway. The 'need and nexus' test would not be met by this condition, as the upgrading works are not required for or generated by the horticultural operation on Lot 404.
- (c) Reasonableness – In order for this condition to be valid, it must be reasonable, or not be found to be unreasonable when considering the circumstances of the particular application and the advantages or disadvantages to the proponent of imposing the condition.

We contend that the nature and extent of works requested by MRWA is excessive and unreasonable for the scale and intensity of the farming operation on Lot 404.

The irrigated horticultural crops on Lot 404 account for less than 34ha of a 252ha site and do not, in themselves, generate the need for or warrant the degree of driveway and crossover construction requested by MRWA.

Preliminary cost estimates to satisfy MRWA's requirements are in the tens of thousands of dollars. This is an unreasonable impost and an unfair expense to my client – all for a two week harvest period twice each year.

Having regard to the above, we respectfully request that this application be referred to Council for determination rather than being determined under delegated authority if Shire staff are of a mind to impose the condition requested by MRWA.

Alternatively, if Shire staff are open to considering a compromise position, then my client would have no objection to the following approval condition and advice note being imposed under delegated authority, which is derived from the Policy Statement wording contained in MRWA's Driveways Guideline:

Suggested Condition:

"The unsealed rural-standard crossover and driveway from Lot 404 onto Brand Highway shall at all times be maintained to the satisfaction and specification of the Shire of Gingin to ensure vehicle movements to and from the property do not adversely affect the safety and efficiency of the Highway and other road users."

Suggested Advice Note:

"Relative to Condition ..., in considering whether the crossover and driveway onto Brand Highway is being satisfactorily maintained, the Shire may seek and have regard to the advice of Main Roads Western Australia."

We trust this approach will provide sufficient comfort and control for the Shire and MRWA, to ensure the rural crossover and driveway to Lot 404 is always adequately maintained, commensurate with the nature and scale of farming operations on the property.

Should you wish to discuss this matter further then please do not hesitate to contact me at any time on 0439 044 967 or len@lkadvisory.com.au.

Yours sincerely



LEN KOSOVA
Managing Director

11.3.2 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED EXPANSION TO EXISTING AGRICULTURE INTENSIVE (ANNUAL HORTICULTURE) AT LOT 200 (81) BOONANARRING ROAD, BOONANARRING

File:	BLD/6884
Applicant:	Willgrow Farming Pty Ltd
Location:	Lot 200 (81) Boonanarring Road, Boonanarring
Owner:	Willgrow Farming Pty Ltd
Zoning:	General Rural
WAPC No:	N/A
Author:	Matthew Tallon - Statutory Planning Officer
Reporting Officer:	Bob Kelly –Executive Manager Regulatory and Development Services
Report Date:	16 June 2020
Refer:	Nil
Appendices	<ol style="list-style-type: none">1. Location Plan and Applicant's Proposal2. Schedule of Submissions and Recommended Responses

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for a proposed expansion to the existing Agriculture Intensive (Annual Horticulture) use operating on Lot 200 (81) Boonanarring Road, Boonanarring.

BACKGROUND

The subject lot consists of a total area of 89.7 hectares with much of the lot accommodating irrigated pasture via two 20ha pivots.

This proposal seeks to clear 4 hectares of native vegetation to expand the operation, with a smaller pivot covering that exact area to a lesser setback of 10m from the north and east lot boundaries in lieu of 20m. The pivot will consist of lucerne consistent with the two existing pivots.

A location plan, the applicant's proposal and aerial image are provided as **Appendix 1**.

COMMENTCommunity Consultation

The application was advertised to one landowner adjoining the northern and eastern boundary for a period of 14 days in accordance with clause 64 of the *Planning and Development (Local Planning Scheme) Regulations 2015*. The Shire received no comments or queries during the consultation timeframe.

The adjoining landowner operates their farm in conjunction with the applicant; as such, they provided support for the proposed pivot setback 10m in lieu of the required 20m. There were no other landowners/residents within proximity requiring notification of the proposal.

The Schedule of Submissions and Recommended Responses is attached as **Appendix 2**.

PLANNING FRAMEWORK

Local Planning Scheme No 9 (LPS 9)

The subject lot is zoned General Rural under LPS 9, the objectives of which are to:

- a) *Manage land use changes so that the specific local rural character of the zone is maintained or enhanced;*
- b) *Encourage and protect broad acre agricultural activities such as grazing and more intensive agricultural activities such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use;*
- c) *Maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage; and*
- d) *Provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the General Rural zone.*

Agriculture Intensive is identified as a “D” – Discretionary land use within the general rural coding. Agriculture Intensive is considered to be a primary use in the zone and as such should be encouraged as per the objectives above.

The land use ‘Agriculture Intensive’ is defined as follows:

“Agriculture – Intensive means, premises used for trade or commercial purposes, including outbuildings and earthworks, associated with the following:

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

Local Planning Scheme No 9 Setbacks

The planting area is required to be set back a minimum of 20m from the lot boundaries, unless a greater setback is required (i.e. buffer/separation distances to sensitive land uses or wetlands). The submitted plans indicate a 10 metre setback from the northern and eastern boundaries, therefore the application seeks two variations of 10 metres.

The adjoining lot is the parent lot of this subdivided rural lot. In terms of overall farm management, both lots operate in unison albeit under separate business names. The growing of lucerne does not create much horticultural waste and involves minimal spraying. Given the above and there being no sensitive land uses or public infrastructure in proximity to the proposed pivot, the setback variation is acceptable.

Local Planning Policy 1.6 – Agriculture Intensive (LPP 1.6)

LPP 1.6 defines 'Annual Horticulture' as follows

Annual Horticulture refers to the commercial market gardening of all varieties of shallow rooted vegetables and flowers that can be sown and harvested within a twelve month period. The essential character of this use is that the soil is cultivated mechanically at least once a year, fertilised regularly and re-used on a continual basis.

The proposal is defined as Annual Horticulture as per LPP 1.6. The 'General Standards' outlined within LPP 1.6 are outlined below with officer comments provided:

- 3.1.2 *Council will process development applications for Irrigated Horticulture purely on land use planning grounds, without regard for viability considerations, such as Water Licensing. All Planning Approvals will be copied to the Department of Water for its records in dealing with Water Licensing.*

Officer Comment:

Noted. An appropriate advice note will reflect the potential need to obtain the relevant water licensing modifications. DWER will be notified of the land use approval on the lot for their records.

- 3.1.3 *Where it is intended to clear "remnant vegetation" as defined under the Soil and Land Conservation Act, for the proposed development, the application should be accompanied by a letter of non-objection to the clearing (a clearing permit) from the Commissioner for Soil and Land Conservation.*

Officer Comment:

The applicant has sought a clearing permit from DWER for the clearing of native vegetation. This application is on hold pending the Shire's determination of the development application.

The vegetation is not listed as a threatened ecological community. The clearing is not of an unreasonable or unnecessary scale and it seeks to establish an anticipated use. This aspect is therefore supported at officer level.

Should the applicant fail to receive a clearing permit for the proposed portion, then this will either require an amendment to the approval or simply mean that the approval cannot be implemented.

- 3.1.4 *All applicants shall clearly indicate areas of vegetation, wetlands and any other physical characteristics on the plans accompanying an application.*

Officer Comment:

The applicant has noted the presence of native vegetation onsite and as noted is seeking a clearing permit from DWER. There are no wetlands on the subject site.

- 3.1.5 *Waste material generated from the horticultural activity shall not be stored on the property in a manner that facilitates fly breeding or odour emissions, but shall be either buried, treated or removed off-site to Council's satisfaction.*

Officer Comment:

The applicant submitted a farm management plan with comments attributed to waste and stable fly management as follows:

"All the hay is raked and baled and therefore is no waste. The paddocks are kept clean making sure that no leftover hay is left behind, which will contaminate the next cut. Any damaged hay is fed to the sheep." [sic]

Lucerne hay does not commonly influence stable fly breeding and as such the above comments are accepted and deemed sufficient to the extent of this development standard.

- 3.1.6 *Horticultural waste to be trashed for soil improvement shall be turned into soil within two days of the removal of the crop or portion of the crop to Council's satisfaction.*

Officer Comment:

Refer to comment above.

- 3.1.7 *Clearing of riparian vegetation is prohibited. In the case that a foreshore area adjacent to an intensive horticulture activity has been cleared, it should be revegetated with species endemic to the area.*

Officer Comment:

Not applicable.

- 3.1.8 *Proposals for Irrigated Horticulture located within 500 metres of an identified existing or future Residential or Rural Residential area shall only be considered where it can be demonstrated that effective vegetation buffers and other measures will satisfactorily minimise or avoid potential land use conflict.*

Officer Comment:

There are no existing residential or rural residential/rural living developments/lots within the recommended 500 metres of the development area on the subject site.

- 3.1.9 *All horticulture activity (excluding tree farms) shall have a minimum distance of 200 metres, or a distance satisfactory to Council, from any Conservation Category Wetland, as defined and identified in the Water and Rivers Commission's Geomorphic Wetland Database, or defined through other means acceptable to Council. Included within this minimum distance there shall be a dense native vegetation buffer of not less than 20 metres in width, to be established prior to the commencement of development and maintained for the duration of the development.*

Officer Comment:

Not applicable.

- 3.1.10 *Where a lesser setback to waterways (as specified in this Policy Statement) is proposed, a Drainage, Nutrient and Irrigation Management Plan shall be prepared and be to the satisfaction of the Water and Rivers Commission and Council.*

Officer Comment:

Not applicable.

- 3.1.11 *All irrigated horticulture activity shall be set back 500 metres from any Rural Living, Residential, Tourist, Commercial or Urban Development zones. Applications for reduced setbacks shall be accompanied by comprehensive data and evidence that supports the proposed reduction.*

Officer Comment:

Noted, refer to comments made under clause 3.1.8.

Environmental Impact/Separation from Sensitive Land Uses

The following external guidelines provide guidance in relation to buffer/separation distances for local government when considering applications for irrigated horticulture and sensitive uses (i.e. dwellings).

- State Planning Policy 2.5 - Rural Planning;
- Department of Health (DOH) – Guidelines for Separation of Agricultural and Residential Land Uses (August 2012) (DOH Guidelines); and
- Environmental Protection Authority – Guidance for the Assessment of Environmental Factors; Separation Distances between Industrial and Sensitive Land Uses (June 2005).

The proposal falls under the definition of 'annual horticulture' for the purpose of calculating the recommended buffer distance using the abovementioned policies. The recommended buffer distance is 500m from the nearest sensitive land use (i.e. single house). The distance outlined is not intended to be an absolute distance, rather a guide to avoid conflicts between land uses (namely spray drift).

The closest sensitive land use is located approximately 1km north-east of the development area on Lot 201 Boonanarring Road, Boonanarring. There are no other sensitive land uses in proximity and on the basis of the adjoining lot having an existing single house and the planning framework limiting residential development to one single house per rural lot, there is no anticipated land use conflict to this boundary.

There is a substantial amount of vegetative screening of the existing cultivated area to both Boonanarring Road and Highlands Road as seen on the site plan. For future consolidation however, it is recommended that the 10m lot boundary variation be paired with a line of screening between the irrigation area and the firebreak.

Access and Egress

The property has access/egress from Boonanarring Road, which is currently sealed adjacent to the subject lot. Upon a site visit to the development site, it was noted that the crossover was of a sufficient standard. This expansion to the horticultural operation is of a minor scale, effectively increasing the cultivated area by 10%.

Car Parking

All loading/unloading of vehicles is able to be accommodated within the subject property.

Stable Fly

Stable Fly is a declared pest under the *Biosecurity and Agriculture Management Act 2007* and is managed by the *Biosecurity and Agriculture Management (Stable Fly) Management Plan 2016*. It is generally inappropriate to impose a planning condition for a regulatory aspect that is already covered under another Act of Parliament. Instead, an advice note has been added to the Development Approval with respect to Stable Fly.

However, the Shire is still required to be satisfied that the horticulture activity manages waste appropriately on the site. In the event Council approves the application, a condition of the planning approval will require the proposal to comply with the submitted Farm Management statements. In this instance the management statements in relation to stable fly are acceptable.

Bushfire Planning

State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7) provides a foundation for land use planning to address bushfire risk management. The subject lot is partially designated as being bushfire prone. Given the nature of the proposal (annual horticulture) consisting of irrigation across the site, the application is exempt from the need to submit a Bushfire Attack Level (BAL) report.

Conclusion

In considering the above assessment, Administration is of the view that the site is capable of accommodating the proposed expansion of Agriculture Intensive (Annual Horticulture) subject to the development being undertaken in accordance with appropriate conditions of development approval.

STATUTORY ENVIRONMENT

Local Planning Scheme No 9

Part 3 – Zones and the Use of Land

3.2 Objectives of the Zones

Part 4 – General Development Requirements

4.7 General Development Standards

4.8.6 General Rural Zones

Local Planning Policy 1.6 Agriculture Intensive

State Planning Policy 2.5 Rural Planning

Department of Health (DOH) Guidelines for Separation of Agriculture and Residential Land Uses (August 2012) (DOH Guidelines)

Environmental Protection Authority Guidance for the Assessment of Environmental Factors; Separation Distances between Industrial and Sensitive Land Uses (June 2005).

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Economic Development</i>
Objective	<i>4 – To support economic development through the Shire's service delivery</i>
Outcome	<i>4.2 Food Bowl A strategically significant agricultural hub to the Perth Metropolitan Area</i>
Key Service Areas	N/A
Priorities	N/A

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Rule

SECONDED: Councillor Johnson

That Council grant Development Approval for an Agriculture Intensive (Annual Horticulture) use on Lot 200 (81) Boonanarring Road, Boonanarring subject to the following conditions:

- 1. The land use and development shall be undertaken in accordance with the approved plans and specifications (including any amendments marked in RED) unless otherwise conditioned by this approval;**
- 2. This approval is for an Agriculture Intensive (Annual Horticulture) use only as indicated on the approved plan;**
- 3. The development area subject to this approval shall be limited to a maximum of 4 hectares;**
- 4. The approved use shall at all times comply with the submitted Farm Management Statement lodged as part of the submission as stamped as part of this approval (including any amendments marked in RED), to the satisfaction of the Shire of Gingin;**
- 5. The area shall immediately be rehabilitated to pasture cover at the cessation of the approved use; and**
- 6. In the event dust and/or spray drift is disseminating beyond the property boundary as a result of agricultural activity being undertaken, the activity shall cease forthwith until such time as favourable weather conditions enable the activity to recommence, to the satisfaction of the Shire of Gingin.**

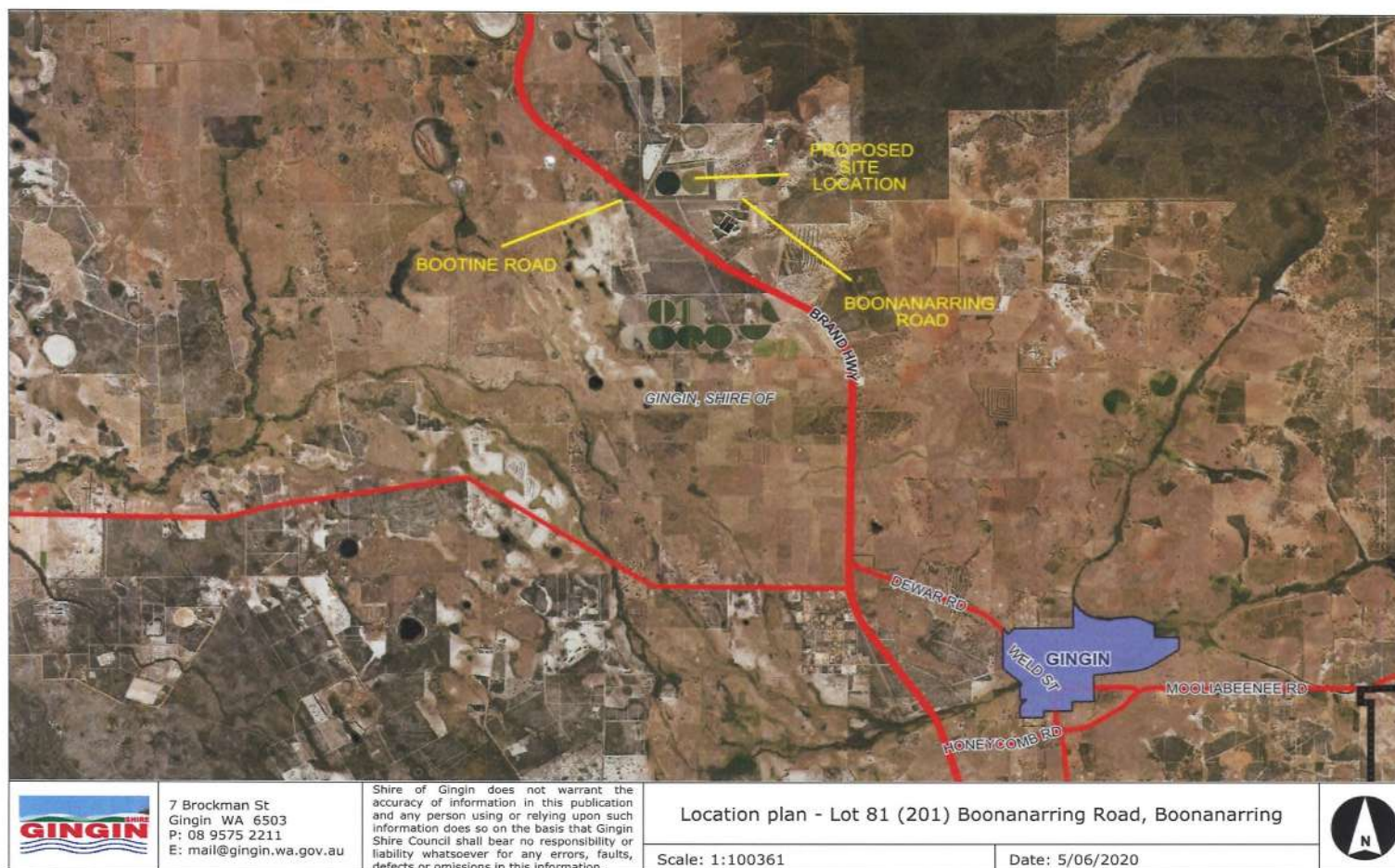
Advice Notes

- Note 1: If you are aggrieved with the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision, under Part 14 of the *Planning and Development Act 2005*.**
- Note 2: If the development subject to this approval is not substantially commenced within a period of two years, the approval shall lapse and have no further effect.**
- Note 3: Where an approval has so lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.**
- Note 4: It is recommended that cadastral lot boundaries be established by a suitably qualified land surveyor to ensure that all development is carried out within the subject allotment.**

- Note 5:** It is advised that the proposal should at all times comply with the *Biosecurity and Agriculture Management (Stable Fly) Management Plan 2013* in order to minimise the effects of stable flies on the community.
- Note 6:** All noise from the operation and associated equipment is required to comply with the *Environmental Protection (Noise) Regulations 1997*.
- Note 7:** Where any native vegetation clearing is proposed, it will be necessary to contact the Department of Water and Environmental Regulation (DWER) in obtaining the necessary approvals.
- Note 8:** The development may trigger the need to amend the existing water licence details. It will be necessary to contact the Department of Water and Environmental Regulation (DWER) in obtaining the necessary approvals.
- Note 9:** Please be advised that the property will attract Differential Rating for Intensive Agriculture in accordance with Council Policy 3.16 Rates Concession for Split Use Differential UV Intensive/UV General Properties.

CARRIED UNANIMOUSLY

APPENDIX 1



Willgrow Farming Pty Ltd

ABN 63898813644

Willgrow Farming wishes to expand its current irrigated area by 4ha(10 acres). This area will be irrigated using a centre pivot in the North East corner of the property.

My request is therefore, to make the offset 10metres from the boundaries. This is not a road boundary.

The proposed area will be used to expand current farming practises and not bring any changes to the current farming practises. This area will be used for the production of irrigated fodder crops, mainly Lucerne.

Waste and stable fly management plan

All the hay is raked and baled and therefore is no waste. The paddocks are kept clean making sure that no leftover hay is left behind, which will contaminate the next cut. Any damaged hay is fed to the sheep.

Spray management plan

As standard practice, there is only one annual chemical spray for weeds and 2 to 3 sprays for insects. All spraying is done at very low wind speed to maximise the impact of the chemical used and minimise the financial loss due to wasted chemical. Weeds sprays are done using a boom spray and insect sprays are applied through both the irrigation system and boom spray.

A granular fertilizer is applied using a super spreader and some fertilizer is applied in liquid form through the irrigation system.

The fertilizer mix is made up of phosphorus, potassium, calcium and a range of trace elements including boron, zinc, copper, magnesium, manganese and cobalt.

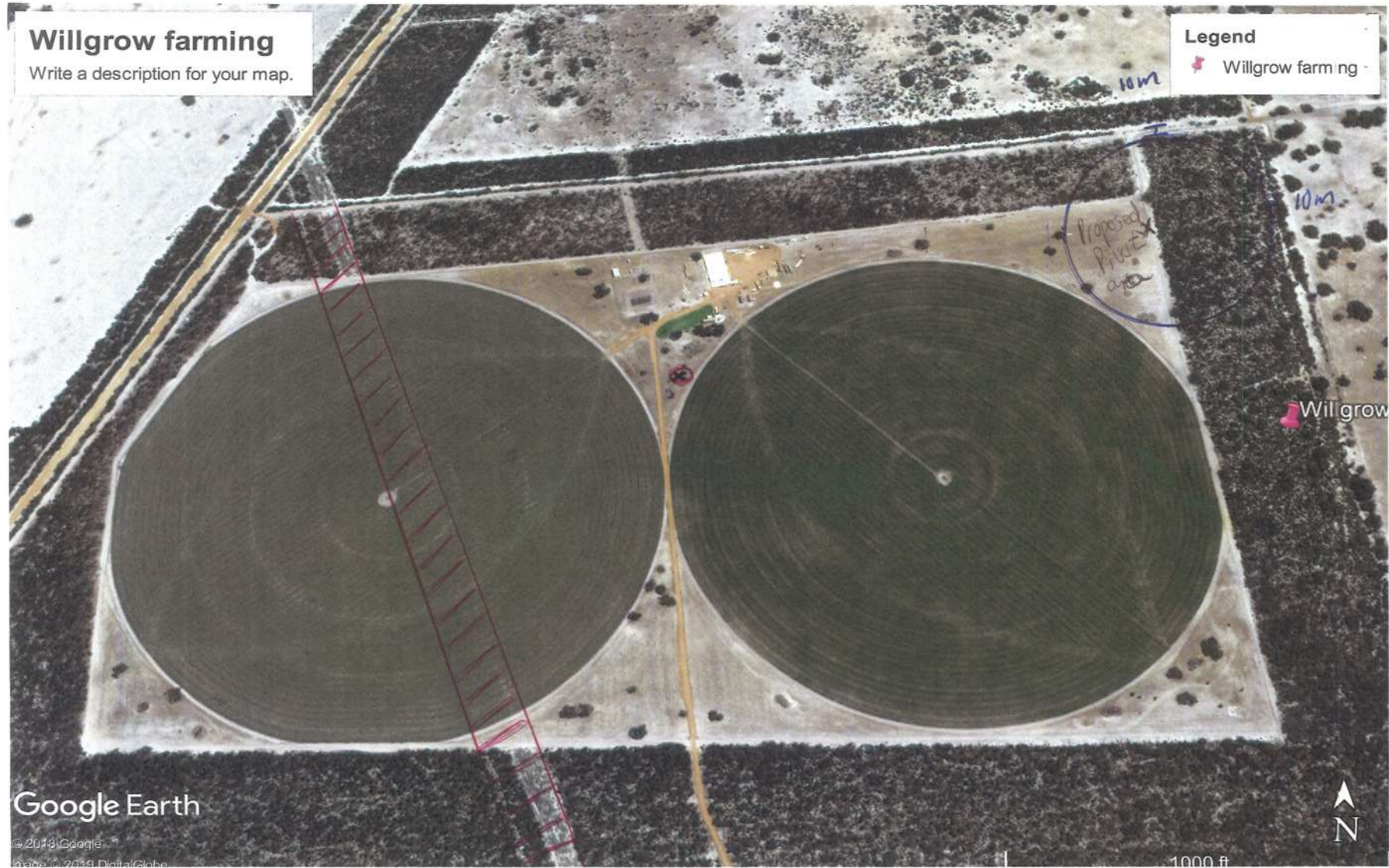
Annual soil samples and 6 weekly leaf samples ensure that the correct fertilizer is applied.

Willgrow Farming is also planning on installing a chaff cutter in the existing shed. This will be used to process a part of the product on farm.

Please contact Valken De Villiers in regards to this matter

0427194602

de.villiers@bigpond.com



APPENDIX 2

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

DEVELOPMENT APPLICATION: EXPANSION TO AGRICULTURE INTENSIVE USE AT LOT 81 (201) BOONANARRING ROAD, BOONANARRING

No.	Submitter	Submission Detail	Recommended Response
1.	Ratepayer	The submitter supports the application and provides the following comment: "Agreed"	Noted.

11.3.3 APPLICATION FOR AMENDED DEVELOPMENT APPROVAL - PROPOSED OFFICE / STORAGE BUILDING ON LOT 163 (7) BROCKMAN STREET, GINGIN (RESERVE 2581)

File:	BLD/7097
Applicant:	Shire of Gingin
Location:	Lot 163 (7) Brockman Street, Gingin
Owner:	Shire of Gingin
Zoning:	Public Use
WAPC No:	N/A
Author:	James Bayliss – Acting Manager Statutory Planning
Reporting Officer:	Bob Kelly – Executive Manager Regulatory and Development Services
Report Date:	16 June 2020
Refer:	21 January 2020 Item 11.3.6
Appendices	1. Location and Development Plans

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Amended Development Approval for a proposed storage building on Lot 163 (7) Brockman Street, Gingin (Reserve 2581).

This form of public work is generally exempt from development approval under the *Planning and Development Act 2005*; however, as the proposal relates to the Shire's administration building Council's consideration was considered appropriate in this respect. Public works still require consideration of the applicable planning framework, which has been undertaken in the previous Council item and in this report. Accordingly, the amendments to the previous decision requires further Council consideration.

BACKGROUND

At its meeting on 21 January 2020, Council considered a development application for an extension to the Shire's administrative building for the purpose of archive records storage.

The proposed storage building is 14.5 metres in length and 9.9 metres in width, which equates to an area of 144.3m². The wall height is 3.1 metres tapering to a ridge height of 4.91 metres. The structure is set back 15.2 metres from the nearest (western) property boundary.

Council resolved the following:

That Council grant Development Approval for a proposed storage building on Lot 163 (7) Brockman Street, Gingin (Reserve 2581) subject to the following conditions:

1. *The land use and development shall be undertaken generally in accordance with the approved plans and specifications, including the directions written in red ink by the Shire, unless otherwise conditioned in this Approval;*
2. *This approval is for a storage building only as indicated on the approved plans;*
3. *Stormwater from all roofed, paved and hardstand areas shall be collected and contained onsite to the satisfaction of the Shire's Planning Department.*
4. *The external surface of the storage building shall be finished to a professional standard, to the satisfaction of the Shire's Planning Department.*
5. *The land use and development shall be undertaken generally in accordance with the approved plans and specifications, including the directions written in red ink by the Shire, unless otherwise conditioned in this Approval;*
6. *This approval is for a storage building only as indicated on the approved plans;*
7. *Stormwater from all roofed, paved and hardstand areas shall be collected and contained onsite to the satisfaction of the Shire's Planning Department.*
8. *The external surface of the storage building shall be finished to a professional standard, to the satisfaction of the Shire's Planning Department.*

Advice Notes

- Note 1: If you are aggrieved by the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision, under Part 14 of the Planning and Development Act 2005;*
- Note 2: If the development subject to this approval is not substantially commenced within a period of 2 years, the approval shall lapse and have no further effect;*
- Note 3: Where an approval has so lapsed, no development may be carried out without further approval of the local government having first been sought and obtained;*
- Note 4: Further to this Approval, the Applicant will be required to submit working drawings and specification to comply with the requirements of the Building Act 2011 and Building Regulations 2012 and the Public Health Act 2016, which are to be approved by the Shire of Gingin.*
- Note 5: It is recommended that cadastral lot boundaries be established by a suitably qualified land surveyor to ensure that all development is carried out within the subject allotments. Should the development encroach into Lot 300 Deposited Plan 67609, the applicant / landowner of Lot 10 North Street, Lancelin will be held responsible for remedial works to satisfy development conditions.*
- Note 6: This planning approval shall not be construed as an approval or support of any kind for any other planning related application (including clearing of natural vegetation) on the subject land.*

Since commencing works, various changes have been proposed to the design and use of the building, as follows:

- Raise the floor level by 300mm;
- Alter the internal layout to create a lunch room and office/meeting area; and
- Include various windows.

A copy of the Location Plan and Amended Development Plans are attached as **Appendix 1**.

COMMENT

Community Consultation

The development of reserved land does not require public consultation under Local Planning Scheme No. 9 (LPS 9). Furthermore, in this instance there are no parties identified as being potentially affected landowners/stakeholders.

PLANNING ASSESSMENT

Planning and Development (Local Planning Scheme) Regulations 2015 (the Regs)

Schedule 2, Part 10 A, clause 77(1) (b) of the Regs enables local government to consider amending or deleting conditions of development approval. The relevant clause is outlined below:

“77. Amending or cancelling development approval

- (1) *An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following –*
 - (a) *to amend the approval so as to extend the period within which any development approved must be substantially commenced;*
 - (b) *to amend or delete any condition to which the approval is subject;*
 - (c) *to amend an aspect of the development approved which, if amended, would not substantially change the development approved;*
 - (d) *to cancel the approval.”*

The changes to the application entail a change of use from storage to office/storage. The archive capacity is reduced with the ability for future use and flexibility with office space and a lunch room if needed. The external face has also been altered with the inclusion of various windows.

All in all the proposed building is much the same as was previously approved. The external cladding will remain the same, blending in with the current built form on the lot.

State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7)

The subject lot is indicated as being bushfire prone on the Department of Fire and Emergency Services online mapping, however the development area is not within the potentially impacted area. Accordingly a BAL assessment is not required.

Conclusion

The proposed amendments are relatively consistent with the previous approval and the anticipated use of the 'Public Use' Reserve, in that it relates to the ongoing daily operational activities of the Shire's administrative building. The proposal is also consistent with the local planning framework, and therefore it is recommended that the application be supported subject to conditions.

STATUTORY ENVIRONMENT

Planning and Development (Local Planning Scheme) Regulations 2015
Schedule 2 – Deemed Provisions for Local Planning Schemes

Local Planning Scheme No. 9

State Planning Policy 3.7 – Planning for development in Bushfire Prone Areas.

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Infrastructure and Development</i>
Objective	<i>3. To effectively manage growth and provide for community through the delivery of community infrastructure in a financially responsible manner</i>
Outcome	<i>3.1 Development New and existing developments meet the Shire's Strategic Objectives and Outcomes</i>
Key Service Areas	<i>Building And Planning Permits</i>
Priorities	<i>N/A</i>

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Rule

SECONDED: Councillor Johnson

That Council grant Development Approval for a proposed storage building on Lot 163 (7) Brockman Street, Gingin (Reserve 2581) subject to the following conditions:

- 1. The land use and development shall be undertaken generally in accordance with the approved plans and specifications, including the directions written in red ink by the Shire, unless otherwise conditioned in this Approval;**
- 2. This approval is for an office/storage building only as indicated on the approved plans;**
- 3. Stormwater from all roofed, paved and hardstand areas shall be collected and contained onsite to the satisfaction of the Shire's Planning Department.**
- 4. The external surface of the office/storage building shall be finished to a professional standard, to the satisfaction of the Shire's Planning Department.**
- 5. The land use and development shall be undertaken generally in accordance with the approved plans and specifications, including the directions written in red ink by the Shire, unless otherwise conditioned in this Approval;**
- 6. This approval is for a office/storage building only as indicated on the approved plans;**
- 7. Stormwater from all roofed, paved and hardstand areas shall be collected and contained onsite to the satisfaction of the Shire's Planning Department.**
- 8. The external surface of the office/storage building shall be finished to a professional standard, to the satisfaction of the Shire's Planning Department.**

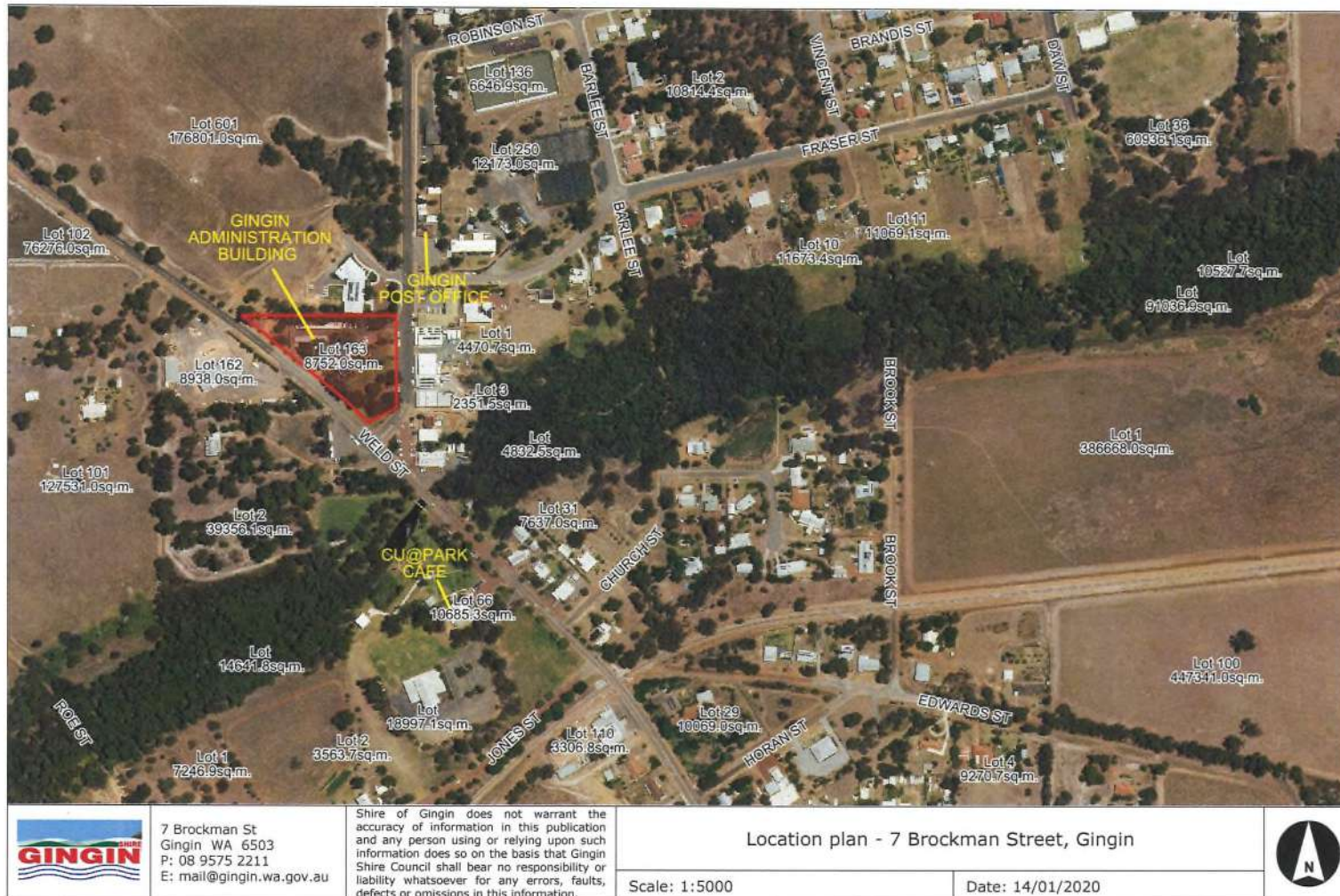
Advice Notes

- Note 1: If you are aggrieved by the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision, under Part 14 of the *Planning and Development Act 2005*;**
- Note 2: If the development subject to this approval is not substantially commenced within a period of 2 years, the approval shall lapse and have no further effect;**
- Note 3: Where an approval has so lapsed, no development may be carried out without further approval of the local government having first been sought and obtained;**

- Note 4:** Further to this Approval, the Applicant will be required to submit working drawings and specification to comply with the requirements of the *Building Act 2011* and *Building Regulations 2012* and the *Public Health Act 2016*, which are to be approved by the Shire of Gingin.
- Note 5:** It is recommended that cadastral lot boundaries be established by a suitably qualified land surveyor to ensure that all development is carried out within the subject allotments.
- Note 6:** This planning approval shall not be construed as an approval or support of any kind for any other planning related application (including clearing of natural vegetation) on the subject land.

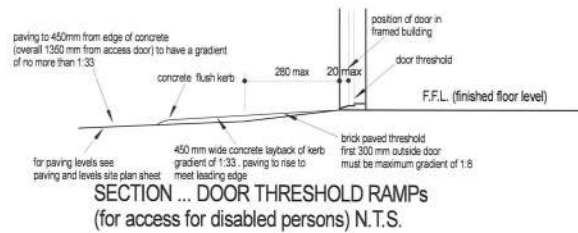
CARRIED UNANIMOUSLY

APPENDIX 1







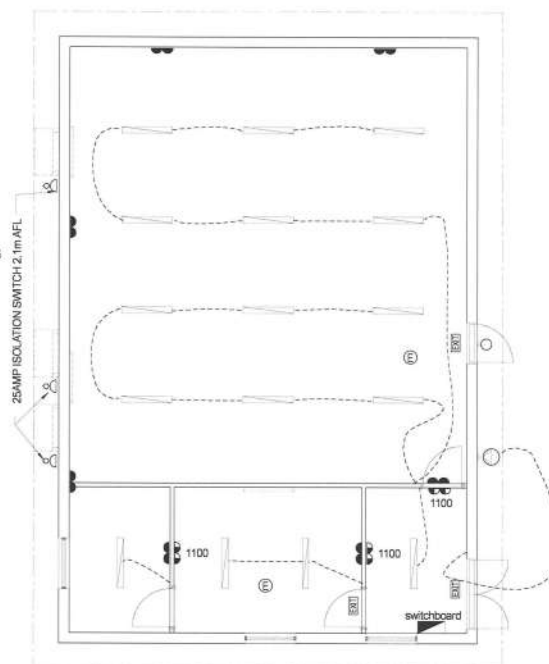
**ELECTRICAL NOTES**

1. All Electrical Work to be carried out by Licensed Electrical Installers in accordance with the S.A.A. Wiring Rules and to the requirements and approval of the State Energy Commission.

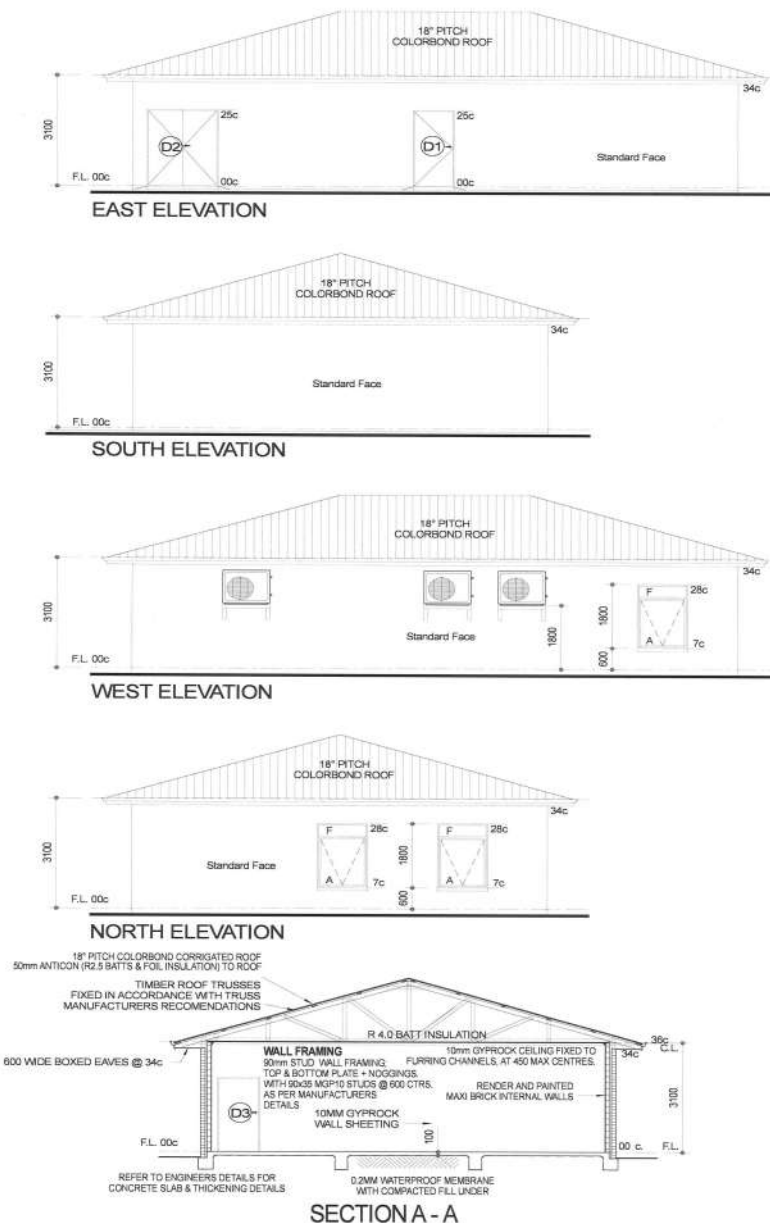
ELECTRICAL LEGEND

	MOTION SENSOR WALL LIGHT
	SECURITY WALL LIGHT (INFRASCAN)
	45W WP LED BATTEN LIGHT 1200MM
	EMERGENCY LIGHT
	EXIT SIGN (Illuminated with emergency battery back up)
	SINGLE GPO @ 250 AFL
	DOUBLE GPO @ 250 AFL
	SINGLE GPO @ HEIGHT NOTED
	DOUBLE GPO @ HEIGHT NOTED
	WATERPROOF SINGLE GPO & HEIGHT NOTED
	WATERPROOF DOUBLE GPO & HEIGHT NOTED
	25 amp ISOLATION SWITCH @ HEIGHT NOTED
	SWITCHBOARD
ALL DIMENSIONS ARE TO CENTRES	
LIGHT SWITCHES TO BE @ 1100 AFL MAX	

AIR CONDITIONING:
ELECTRICIAN TO PROVIDE ISOLATED CIRCUIT USING
4mm² POWER SUPPLY CABLE WITH A 25amp RCD
BREAKER TO EACH SPLIT AIR CONDITIONER.



<div>JOONDALUP DESIGNS</div> <div>Address 845 Muchea South Rd, Muchea, Post office Box 97, Muchea, 6501. Email joondalupdesigns@bigpond.com Phone 08 9571 4361 Mobile 0411 513 771</div> <div>© Copyright</div>	<div></div> <div>Joondalup DESIGNS</div>	<div>CLIENT NAME: SHIRE OF GINGIN</div> <div>SITE ADDRESS: Lot 162 WELD & BROCKMAN STREETS, GINGIN</div> <div>SHIRE: SHIRE OF GINGIN</div>	Rev No: 0 1	Revision: FOR APPROVAL REVISED FOR CONSTRUCTION	Date Dwn: 22.01.20 03.06.20	By: LA LA	Building Job No: ARCHIVE BUILDING
			DRAWING NAME: ELECTRICAL PLAN			Sheet No: 3 OF 4	Revision: 1
			Scale: 1 : 100			Date Drawn: DEC 2019	



ELEVATIONS AND SECTION

JOONDALUP DESIGNS Address 845 Muchea South Rd, Muchea, Post office Box 97, Muchea, 6501. Email joondalupdesigns@bigpond.com Phone 08 9571 4361 Mobile 0411 513 771		CLIENT NAME: SHIRE OF GINGIN SITE ADDRESS: Lot 162 WELD & BROCKMAN STREETS, GINGIN SHIRE: SHIRE OF GINGIN	Revision: 1 Description: 10MM GYPROCK WALL AND CEILING SHEETING REVISED FOR CONSTRUCTION Date: 02.01.20 By: L.A. DRAWING NAME: ELEVATIONS & SECTION Scale: 1 : 100 Date Drawn: DEC 2019	Building Job No: ARCHIVE BUILDING Sheet No: 2 OF 4 Revision: 1 FILE NAME: E:\Documents\20219 JD\GinginActive\Sheet 2.dwg
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11.3.4 PROPOSED PERMANENT CLOSURE OF AN UNCONSTRUCTED ROAD RESERVE YORK STREET ADJOINING LOT 44 COCKRAM ROAD, GINGIN

File:	RDS/12
Applicant:	Shire of Gingin / Department of Fire and Emergency Services
Location:	Lot 44 Cockram Road, Gingin / York Street Road Reserve
Owner:	Department of Planning, Lands and Heritage
Zoning:	Road Reserve
Wapc No:	N/A
Author:	Matthew Tallon – Statutory Planning Officer
Reporting Officer:	Bob Kelly –Executive Manager Regulatory and Development
Report Date:	16 June 2020
Refer:	18 June 2019 Item 11.1.9
Appendices	<ol style="list-style-type: none">1. Location Plan and Road Closure Plan2. Schedule of Submissions and Recommended Responses3. 'Emergency Services' reserve plan4. Private Land valuation

DISCLOSURES OF INTEREST

J Bayliss, Acting Manager Statutory Planning disclosed an Impartiality interest in relation to this matter as a member of the Gingin Football Club and former member of the Gingin Recreation Group.

Councillor Rule disclosed a Proximity interest in relation to this matter as the owner of the property directly opposite. Councillor Rule left the Council Chambers at 4:02pm.

PURPOSE

To consider the proposed permanent closure of an unconstructed road reserve (York Street) which adjoins Lot 44 Cockram Road, Gingin.

BACKGROUND

The proposed road closure will create a portion of land that will be amalgamated with an existing 'Parks and Recreation' reserve (Reserve No. 21432) which adjoins the subject land. The intended purpose of the site is to accommodate a Department of Fire and Emergency Services (DFES) Level 3 Incident Control Centre (the development).

Council at its Ordinary Meeting on 20 June 2019 resolved to:

1. *Accept Lot 44 York Street, Gingin and portion of the York Street road reserve as the preferred site for the construction of a Co-location Level 3 Incident Control Centre Facility for the Gingin South Bush Fire Brigade and Gingin Volunteer Fire Rescue Service, in accordance with the location plan provided at Appendix 1;*
2. *Agree to advertise the proposal for public submissions for a period of 14 days. In the event that adverse submissions are received, then the matter will be referred back to Council for further consideration;*
3. *In the event that no adverse submissions are received, authorise the Chief Executive Officer to undertake public advertising of the proposed road closure for a period of 35 days in accordance with the requirements of the Land Administration Act 1997; and*
4. *Note the request by the Gingin Recreation Group with respect to potential rezoning of the remaining portions of Lot 44 York Street, Gingin and the York Street road reserve as Parks and Recreation, and renegotiation of the lease between the Shire of Gingin and the Gingin Recreation Group to include this area, for future discussion.*

No adverse comments were received during public advertising of the preferred site for the development which led to the selection of the site by Council. Administration undertook further public advertising for the proposed road closure as required under section 58 of the *Land Administration Act 1997*.

The previous Council resolution did not, however, take into account the financial implications of purchasing the closed road reserve for amalgamation with Lot 44 Cockram Road to enable the development of the Incident Control Centre, and this should now be addressed.

To progress the road closure the Shire shall submit a request to the Minister of Lands which includes all information required under Regulation 9 of the *Land Administration Regulations 1998*, which is to include a resolution of Council.

A location plan and a copy of a road closure plan are provided as **Appendix 1**.

COMMENT

Community Consultation

The proposal was given public notice for a period of 35 days in accordance with the *Land Administration Act 1997*, including written notification to the adjoining landowners and a notification placed in the West Australian newspaper (7 November 2019).

Furthermore, the proposal was referred to the following public service utility providers and the relevant state agencies:

- Telstra;
- Western Power; and
- Water Corporation.

The Shire received no objections during the consultation process however received one comment in support. One comment was received from service providers (Water Corporation). The Schedule of Submissions and Recommended Responses is provided as **Appendix 2**.

Road Closure

When considering an application for a permanent road closure, it is pertinent for Council to take the following into account:

- Whether the road is, indeed, unused and whether future planning for the area may necessitate the retention of the road;
- The views of adjoining owners and whether or not they support the proposal and any other submissions made on the proposal during the 35 day consultation period;
- Whether adjoining owner(s) are prepared to purchase the land and can it be disposed of in its entirety; and
- The concerns of various service authorities who may have infrastructure contained within the road reserve.

York Street status

York Street is an unconstructed road reserve adjacent to Shire-owned Lot 44 Cockram Road, Gingin. The road reserve effectively separates the Gingin parks and recreation reserve No. 41432 from the Honeycomb Estate. It is notable that there is no current requirement for the construction of the road reserve nor any future planning to formalize it.

Should York Street ever be constructed it would connect Cockram Road to Roe Street. Roe Street is currently accessible from Cockram Road approximately 250m south of York Street via Beleura Avenue, therefore there is no perceived need for the construction of York Street for this purpose.

Adjoining landowners

During the consultation period adjoining landowners were consulted via direct mail out. As previously noted, the Shire received no comments against the proposal however received one comment in support of the application.

Future tenure of the road reserve

Lot 44 Cockram Road is to be amalgamated with the road reserve to create a Shire Reserve for *Emergency Services*. The future tenure of the road reserve and Lot 44 was not addressed in the previous Council decision and it is therefore assumed that the intention was for the Shire to purchase the closed road reserve at its unimproved market value. A land valuation was sought privately in which a value of \$25,000 was attributed to the unconstructed road reserve. It is therefore understood that, should the Shire wish to purchase the lot for this value it will also be burdened with the cost of the following:

- costs of negotiating and compensating native title parties and other existing land holders;
- applying for and approval of other statutory requirements;
- easement or licence fees;
- survey and plan preparation costs;
- advertising and gazettal costs;
- registration and document preparation fees; and
- GST on any of the above.

However there are various avenues that can be pursued for the creation of the Emergency Services reserve, with some taking far less time than others.

The creation of the reserve can be undertaken via one of the following two ways:

1. The Shire concedes Lot 44 to the State Government to be amalgamated with the closed road reserve (Shire to cover costs of surveying). Following this, the Department of Planning, Lands and Heritage (DPLH) will dedicate an '*Emergency Services Reserve*' over the newly created lot. The remainder of the land not included in the Emergency Services reserve can be vested in the Shire for inclusion in the Shire's recreation reserve/precinct.
2. The Shire purchases the closed road reserve from DPLH for its unimproved market value. Following this, the Shire undertakes the process of amalgamation and subdivision with the Western Australian Planning Commission (WAPC) to amalgamate Lot 44 with the closed road reserve while subdividing the future emergency services reserve.

Upon formalisation of the new lot on the Deposited Plan, an amendment to Local Planning Scheme No. 9 is commenced to rezone the newly created lot from '*General Rural*' to '*Local Reserve – Emergency Services*'.

The Shire could then potentially consider a land swap for the remainder of the new lot (lot 44 and amalgamated closed road reserve) with a Crown reserve to maintain a freehold title of similar value within the district.

Option 1 above is an expedited method, however the Shire will ultimately relinquish a freehold lot. The land being reserved and vested in the Shire effectively achieves the same outcome without the additional cost and time of purchasing the road reserve, amalgamating the reserve with Lot 44 and amending the Scheme. This option has been outlined to provide Council with an alternative should it wish to expedite the process and write off the asset.

Option 2 retains the asset but involves further additional costs in order to formalize the final lot arrangement as discussed above. Council is therefore in a position to weigh up the loss of an asset purchased by the Shire for \$300,000 or investing approximately \$25,000 and additional costs to retain the asset. This forms the officer's recommendation in relation to the future tenure options as it is envisaged that Council may not wish to relinquish a freehold lot to the State.

The plan roughly indicating the area to be formalized as an '*Emergency Services*' reserve is attached as **Appendix 3**.

Infrastructure provider comments

During consultation with the relevant service providers it was acknowledged that there is an existing water mains pipe intersecting the road reserve which may need to be registered as an easement upon amalgamation.

No other infrastructure was noted in the road reserve.

Conclusion

Council endorsed the process of permanently closing York Street road reserve under section 58 of the *Land Administration Act 1997* and regulation 8 of the *Land Administration Regulations 1998* at its ordinary meeting of 20 June 2019. With no adverse comments raised during the advertisement period and no major infrastructure identified for removal/relocation it is recommended that Council direct Administration to prepare a request to the Minister for Lands to formally close the York Street road reserve.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Land Administration Act 1997
Section 58 - Closing roads

Land Administration Regulations 1998
Regulation 9 - Local government request to close road permanently (Act s. 58(2)), requirements for

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

In the event that Council wishes to purchase the subject land, then the purchase (\$25,000) and associated costs (estimated at \$10,000) will be sourced from the Land and Buildings Reserve.

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>Infrastructure and Development</i>
Objective	<i>3. To effectively manage growth and provide for community through the delivery of community infrastructure in a financially responsible manner</i>
Outcome	<i>3.1 Development of new and existing developments meet the Shire's Strategic Objectives and Outcomes</i>
Key Service Areas	<i>Building And Planning Permits</i>
Priorities	<i>N/A</i>

VOTING REQUIREMENTS – ABSOLUTE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

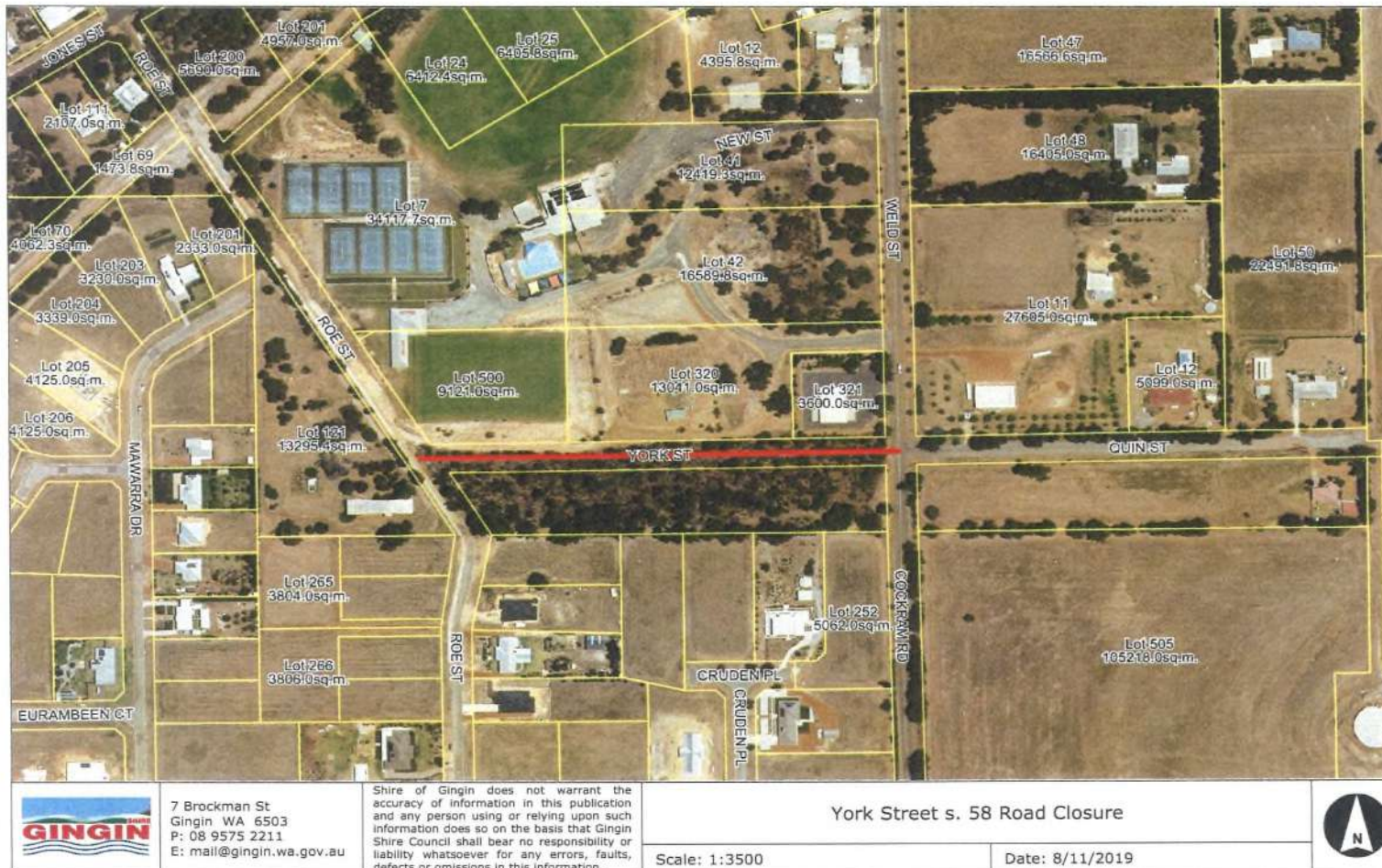
That Council:

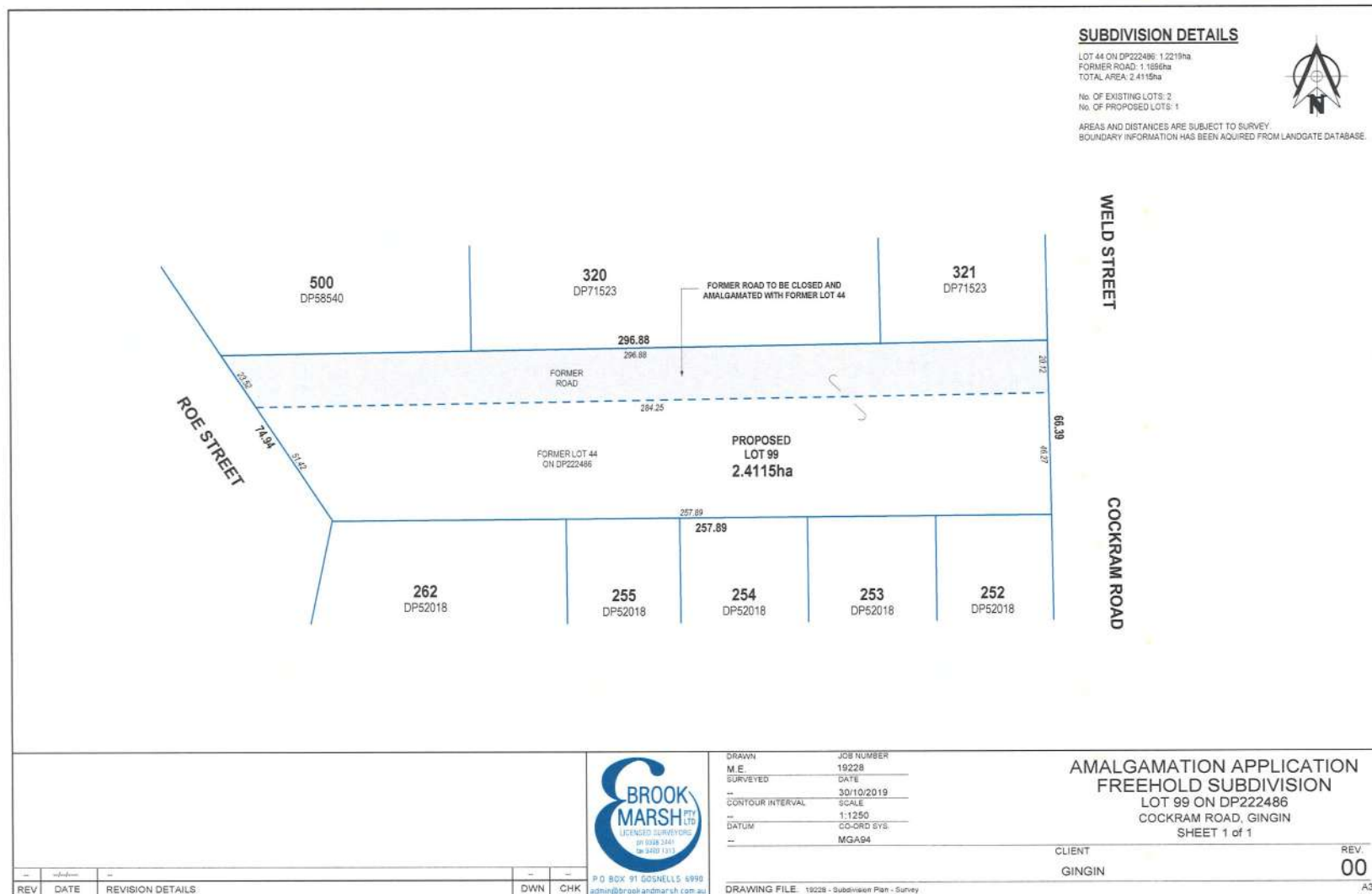
1. Pursuant to Section 58 of the *Land Administration Act 1997* and Regulation 9 of the *Land Administration Regulations 1998*, authorise the CEO to make a request to the Minister for Lands to permanently close the unconstructed York Street Road Reserve adjoining Lot 44 Cockram Road, Gingin; and
3. Agree to purchase the closed road reserve from the State for an amount of \$25,000 (plus GST) plus \$10,000 for associated costs, to be funded from the Land and Buildings Reserve in the 2020/21 Budget.

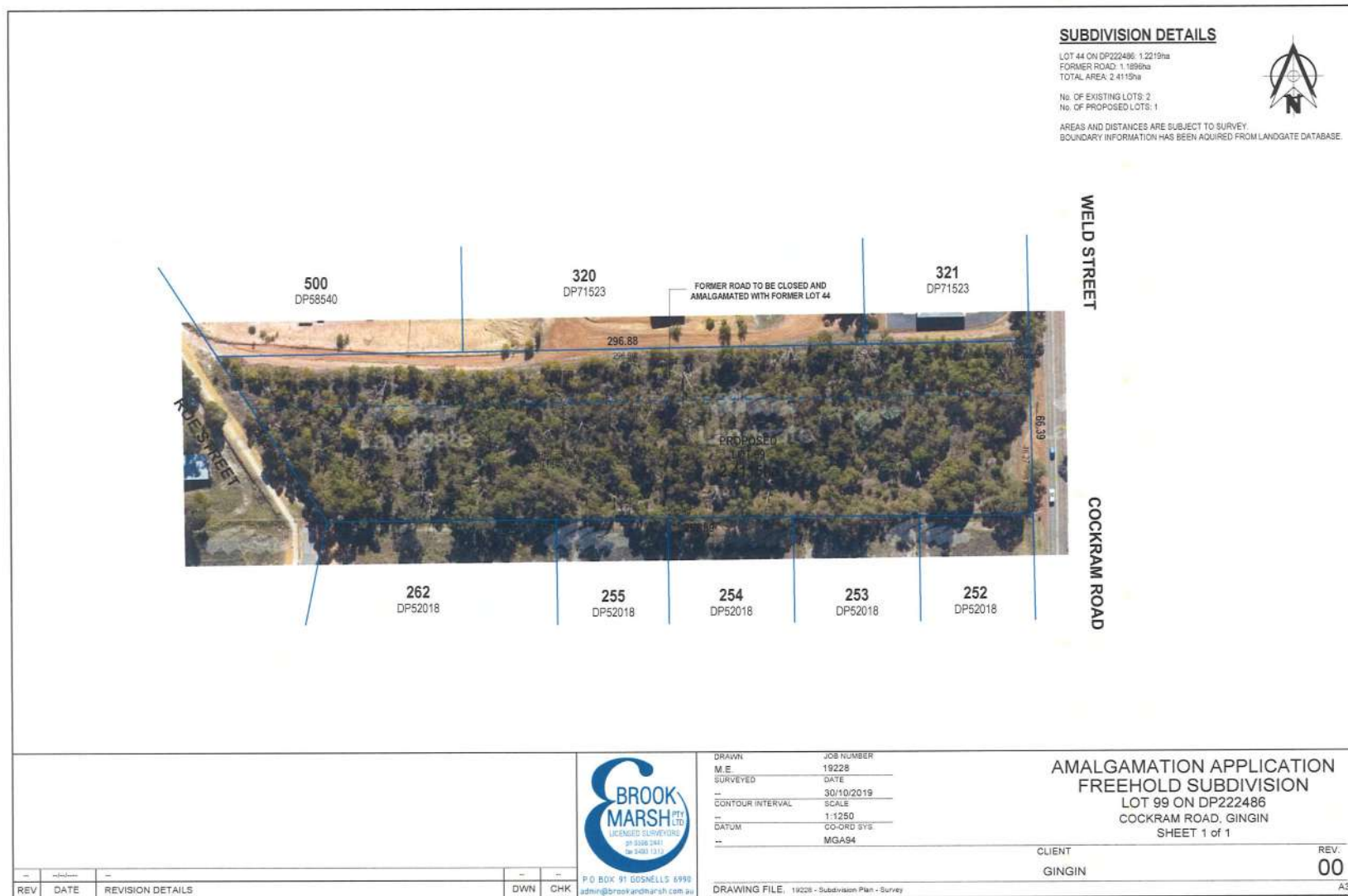
CARRIED BY ABSOLUTE MAJORITY

Councillor Rule returned to the Council Chambers at 4:06pm. The Shire President advised Councillor Rule of Council's decision.

APPENDIX 1







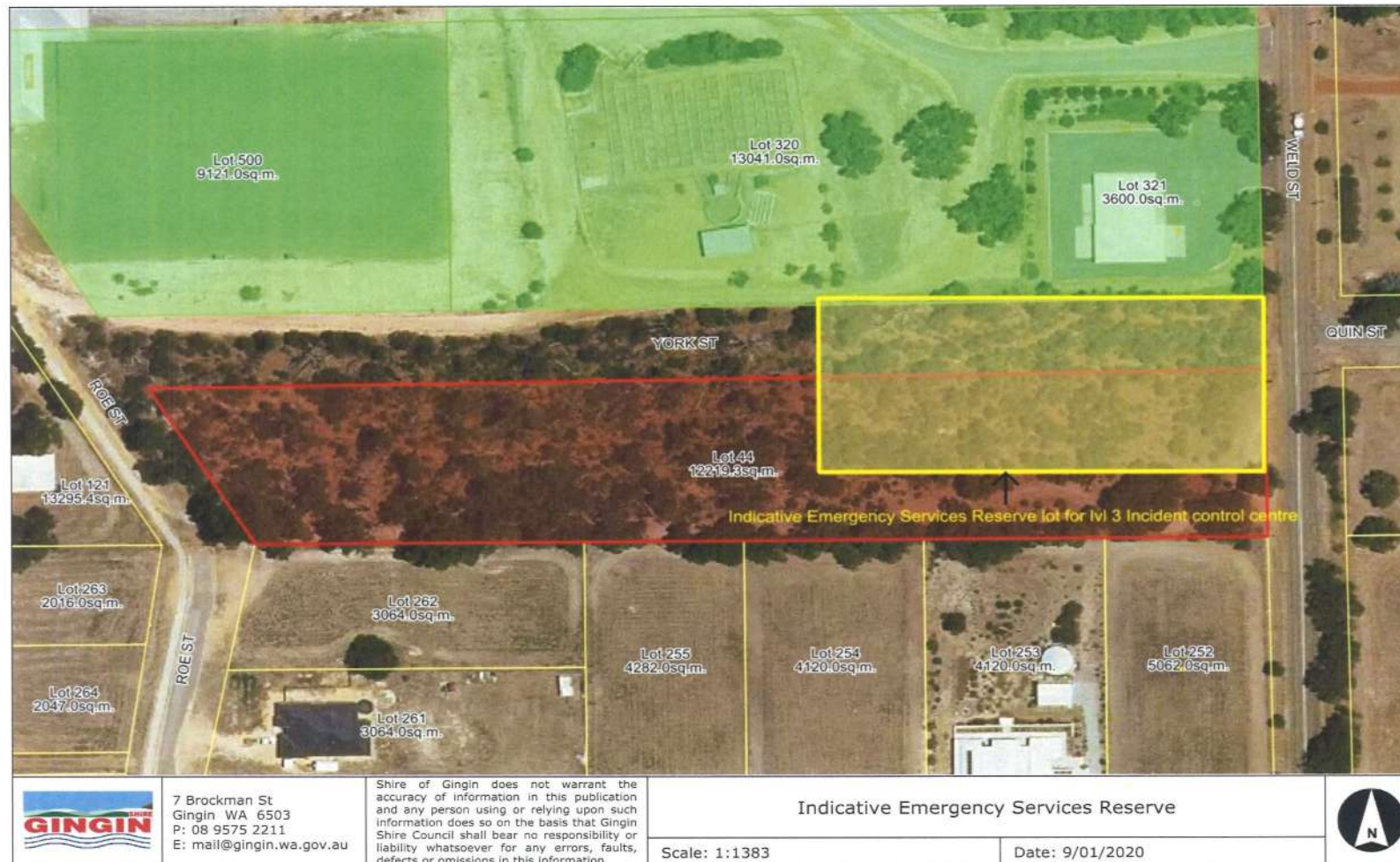
APPENDIX 2

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

PROPOSED PERMANENT CLOSURE OF AN UNCONSTRUCTED ROAD RESERVE YORK STREET ADJOINING LOT 44 COCKRAM ROAD, GINGIN

No.	Submitter	Submission Detail	Recommended Response
1.	Water Corporation	<p>The Submitter makes the following general comment:</p> <p><i>"Thank you for providing the Water Corporation an opportunity to comment on the proposed Road Closure of York St in Gingin.</i></p> <p><i>As outlined in the attachment, specifically with the red bubble around it, there may be a requirement to cut back the water main and relocate the depicted water service and meter. The depicted service and meter may be indicative so I would need to be advised as to its onsite location for confirmation, but going by our records, this could be a requirement.</i></p> <p><i>I trust this information assists, but please feel free to contact me if there are any more queries."</i></p>	<p>Noted.</p> <p>The infrastructure can be investigated further during amalgamation for either registration of an easement or have the costs of relocation covered through the DFES project budget.</p>
2.	Ratepayer	<p>The Submitter supports the proposal and makes the following general comment:</p> <p><i>"I support the closing of York Street and its amalgamation to/with former Lot 44 (proposed Lot 99)."</i></p>	<p>Noted.</p>

APPENDIX 3



APPENDIX 4



2nd June 2020

Phil Barrett
Community Emergency Services Manager
Shire of Gingin
PO Box 510
GINGIN WA 6503

Dear Phil

RE: York Street Road Reserve, Gingin.

In accordance with your instructions dated 18th May 2020 please find attached a copy of my Valuation Report for a market valuation of the gazetted but un-formed road reserve of York Street Gingin for closure and amalgamation into Lot 44 Weld Street, Gingin.

Thank you for providing Urban & Rural Valuations with the opportunity to provide you with professional, independent property advice. We would appreciate the opportunity to be of service to you again.

Please do not hesitate to contact us for further information or advice.

Kind regards,

Ron Sawyer
Certified Practising Valuer (No. 64838)
W.A. Licensed Valuer (No: 41648)

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PO Box 601 Mount Hawthorn WA 6016

Rural Valuations W.A. Pty Ltd (ACN 610 385 521) ATFT Sawyer Trading Trust (ABN 72 297 343 934) TA Urban & Rural Valuations
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Valuation Report

York Street Road Reserve, GINGIN W.A. 6503

as at 21st May 2020

Prepared for: Phil Barrett

Community Emergency Services Manager

Shire of Gingin

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Email: rvn@rvwa.com.au
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York Street Road Reserve, Gingin W.A. 6503.

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York Street Road Reserve, Gingin W.A. 6503.

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Executive Summary

<i>Instructing Party</i>	Phil Barrett, Community Emergency Services Manager, Shire of Gingin.
<i>Purpose of Valuation</i>	Added Value of the gazetted but un-formed road reserve of York Street for closure and amalgamation into Lot 44 Weld Street, Gingin to facilitate the construction of a proposed new Emergency Services Facility.
<i>Property Address(s)</i>	1. Gazetted but un-formed York Street road reserve. 2. 52 Weld Street, Gingin W.A. 6503.
<i>Certificate(s) of Title</i>	1. Gazetted but un-formed York Street road reserve: Not applicable (Crown Land). 2. 52 Weld Street, Gingin W.A. 6503: Volume 1104 Folio 579
<i>Lot Details</i>	1. Gazetted but un-formed York Street road reserve: Not applicable. 2. 52 Weld Street, Gingin W.A. 6503: Lot 44 on Deposited Plan 222486
<i>Registered Proprietor(s)</i>	1. Gazetted but un-formed York Street road reserve: Crown Land. 2. 52 Weld Street, Gingin W.A. 6503: Shire of Gingin of 7 Brockman Street, Gingin. (T K580713) Registered 30/4/2008.
<i>Encumbrance(s)</i>	1. Gazetted but un-formed York Street road reserve: Potential underground Telstra cabling. 2. 52 Weld Street, Gingin W.A. 6503: Nil registered on the Certificate of Title.
<i>Sales within last 3 years</i>	Not applicable.
<i>Current Contract of Sale</i>	Not applicable.
<i>Zoning(s)</i>	1. Gazetted but un-formed York Street road reserve: No Zone under the Shire of Gingin Local Planning Scheme No.9. 2. 52 Weld Street, Gingin W.A. 6503: Rural under the Shire of Gingin Local Planning Scheme No.9.
<i>Property Description</i>	The gazetted but un-formed York Street road reserve and Lot 44 Weld Street comprise bushland.
<i>Date of Inspection</i>	21 st May 2020
<i>Date of Valuation</i>	21 st May 2020
<i>Valuation</i>	The ' Added Value ' of the gazetted but un-formed York Street Road reserve to Lot 44 Weld Street, Gingin as at the 21st May 2020 is considered to be Twenty Five Thousand Dollars (\$25,000) Exclusive of GST , subject to the conditions as detailed in this report.
<i>Key Assumptions</i>	The instructions and subsequent information supplied contain a full disclosure of all information that is relevant.

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York Street Road Reserve, Gingin W.A. 6503.

Page 3

I hereby certify that I personally inspected the gazetted but unformed York Street Road reserve, Gingin and Lot 44 Weld Street Gingin on the 21st May 2020 and have carried out the assessment above as at that date. I confirm that I do not have any interest, being direct, indirect or financial in relation to this property.



Ron Sawyer

Certified Practising Valuer (No. 64838)

W.A. Licenced Valuer (No. 41648)

2nd June 2020

Important

This Executive Summary must be read in conjunction with the remainder of this report. The Executive Summary is only a synopsis designed to provide a brief overview and must not be acted upon in isolation to the contents of the valuation report.

Third Party Disclaimer

This report has been prepared for the private and confidential use of our client, for the specified purpose. It should not be reproduced in whole or part without the express written authority Urban & Rural Valuations or relied upon by any other party for any purpose and the valuer shall not have any liability to any party who does so. Our warning is registered here, that any party, other than those specifically named in this paragraph should obtain their own valuation before acting in any way in respect of the subject property.

Digital Copies of Reports

Where a report has been provided in digital copy and has not been received directly via our firm, the report contents, especially the valuations and critical assumptions, should be verified by contacting the issuing office to ensure the contents are bona fide. In particular if the reader of this report has suspicions that the report appears to be tampered or altered then we recommend the reader contact the issuing office.

Reliance on Whole Report

This valuation should be read in its entirety, inclusive of any summary and annexures. The valuer does not accept any responsibility where part of this report has been relied upon without reference to the full context of the valuation report.

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York Street Road Reserve, Gingin W.A. 6503.

Page 4

VALUATION REPORT

Instructions

Urban & Rural Valuations has been instructed by Phil Barrett Community Emergency Services Manager of the Shire of Gingin to undertake a valuation of the gazetted but un-formed road reserve of York Street for closure and amalgamation into the adjoining Lot 44 Weld Street, Gingin to facilitate the construction of a proposed new Emergency Services Facility .

Letter of Instruction dated 18th May 2020 is attached as Appendix 2 to the rear of this report.

Property Address(s)

Gazetted but un-formed York Street road reserve.

52 Weld Street, Gingin W.A. 6503.

Legal Description(s)

Gazetted but unformed York Street road reserve: Not applicable (Crown Land).

52 Weld Street, Gingin W.A. 6503: The subject property is legally described as being Lot 44 on Deposited Plan 222486 as contained with Certificate of Title Volume 1104 Folio 579.

A copy of the Certificate of Title is attached as Appendix 1. If legal advice as to the effect of encumbrances or any other matter contained therein is at variance with the facts or opinions set out in this report and may materially affect the value we reserve the right to reconsider the valuation.

Registered Proprietor(s)

Gazetted but unformed York Street road reserve: Crown Land.

52 Weld Street, Gingin W.A. 6503: Shire of Gingin of 7 Brockman Street, Gingin (T K580713)

Registered 30//2008

Encumbrances(s)

Gazetted but unformed York Street road reserve: Potential underground Telstra cabling..

52 Weld Street, Gingin W.A. 6503: There are nil registered encumbrances contained in Certificate of Title Volume 1104 Folio 579.

Date of Inspection

21st May 2020

Date of Valuation

21st May 2020

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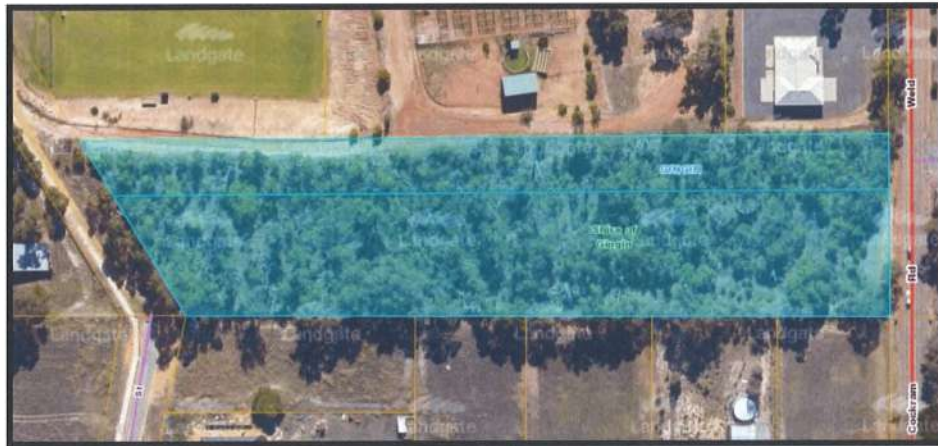
York Street Road Reserve, Gingin W.A. 6503.

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Site Area

The gazetted but unformed York Street road reserve comprises a long narrow allotment having an area of 5803.2 square metres, it has bituminised frontage to Weld Street.

Lot 44 (No. 52) similarly comprising a long narrow (less so) allotment. It has a larger area of 1.22193 hectares, also with bituminised frontage to Weld Street.



Source: Landgate Map Viewer Plus.

Identification

Cadastral Plan and physical inspection.

Zoning/Authority

Gazetted but unformed York Street road reserve: No Zone under the Shire of Gingin Local Planning Scheme No.9.

52 Weld Street, Gingin W.A. 6503: Zoned Rural under the Shire of Gingin Local Planning Scheme No.9.



Source: W.A.P.C.

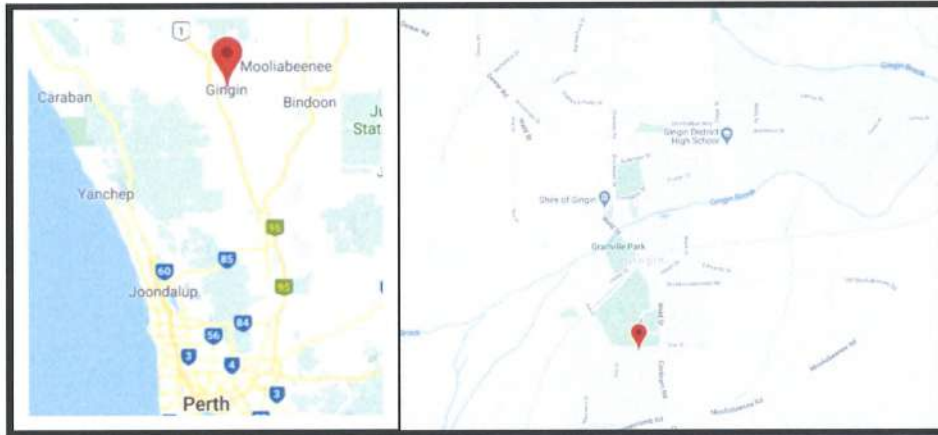
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Location

The subject gazetted but unformed York Street road reserve and Lot 44 Weld Street are located in the township of Gingin, being within the Shire of Gingin. The town is located some 85 kilometres north of the Perth CBD by road with primary services and facilities available within the township.

The local economy is principally agricultural comprising horticulture, cropping and grazing, additionally there is mining and also the service business's that support those local and regional agricultural and mining enterprises.



Source: Google maps

Services

The properties have availability to electricity and scheme water (blue line).



Source: Water Corporation

Improvements

The gazetted but unformed York Street road reserve and Lot 44 Weld Street comprises predominately of bushland, however at its western end, there is some borderline encroachment by a gravel road abutting the sports recreation field.

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York Street Road Reserve, Gingin W.A. 6503.

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Photographs

View of unformed road reserve from north west corner.



View of unformed road reserve from north west corner.



View of Lot 44 Weld Street, from north west corner.



View of Lot 44 Weld Street, from north west corner.



View of Lot 44 Weld Street, from north east corner.



View of Lot 44 Weld Street, from north east corner.

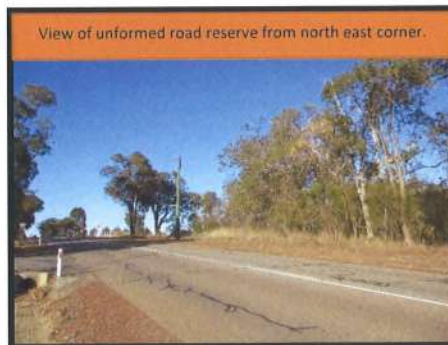
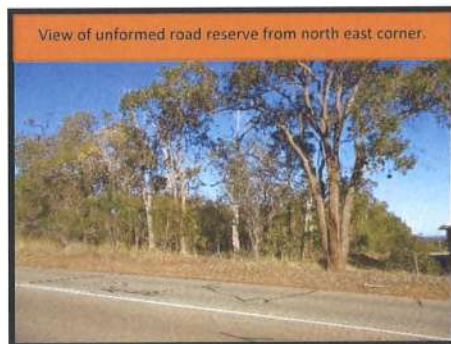


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York Street Road Reserve, Gingin W.A. 6503.

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Contamination

A visual inspection has not revealed any obvious pollution or contamination on the unformed York Street road reserve.

Cultural and Heritage Issues

This valuation is on the assumption that the subject property is not affected or is not likely to be affected by the provisions of current Commonwealth and State Legislation dealing with Cultural and Heritage issues.

Should subsequent investigations show that the site has Cultural or Heritage issues then we reserve the right to reassess the current market value of the subject property.

Highest and Best Use

The highest and best use of the gazetted but unformed York Street road reserve is amalgamation into the adjoining Lot 44 Weld Street Gingin.

General Comments

The subject gazetted but unformed York Street road reserve is located on a main street leading towards Gingin Town Centre. It adjoins the St John Ambulance depot and Livestock sale yards on the north and Lot 44 Weld Street Gingin on the south. It is proposed to amalgamate the unformed York Street road reserve into Lot 44 Weld Street Gingin for the purpose of facilitating the construction of a proposed new Emergency Services Facility.

Basis of Valuation

There are theoretically 2 ways in which to determine the value of the subject land, that is, the unmade York Street.

These are,

1. As a stand alone lot: Arguably this method is not favoured as it 'creates' a lot with anomalous characteristic, that is, a very narrow lot of approximately 20 metres and a depth of nearly 300 metres.
2. Another method is to value the subject land as added value to Lot 44 as rural, that is, a before and after 1.2 hectare parcel versus a 1.8 hectares parcel.

The Department of Planning Heritage and Lands, have historically generally not favoured 'stand alone' values other than in unique and exceptional situations, but commonly proceed with added value scenarios with which the surplus land is to be amalgamated with. Given this, only item 2 applies.

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Consequently, as per Item 2 above, the following valuation methodology has been adopted

Lot 44 Weld Street, as it currently stands has an area of 1.22193 hectares and at this size is typical of rural lifestyle lot sizes in the immediate locale; with the addition of the proposed 5803.2 square metre 'road closure' its size increases to 1.80225 hectares.

The subject proposed road closure cannot, due to its dimensions and location, be created and developed as an individual lot and it has been assumed that as a condition of disposal, as per section 87 of the Land Administration Act it will be amalgamated with adjoining land being Lot 44. The basis of valuation has therefore been determined as the added value the subject land ascribes to the adjoining Lot 44. This is calculated by quantifying the difference in the value of the adjoining property, by first valuing Lot 44 as it currently exists, the before value; and then valuing the Lot 44 after the amalgamation of the subject land, the difference in the two figures is the demonstrated added value.

The unformed road reserve comprises a No Zoned parcel located within the Gingin townsite boundary. A fundamental premise is that every allotment can be developed with at least a residence. In a residential environment doubling land area does not double land value; principally each 'residential site has a core area and a core value. For example a 2000sqm residential lot is not worth double a 1000sqm lot. Each square metre of land over and above this 'core' area has a residual or diminishing value.

Market Evidence

In forming our opinion of value we have had regard to the following sale transactions.

Address	Sale Date	Sale Price
1. 3 Brandis Street, GINGIN	2-August 2019	\$212,000 ex GST
Brief Description	A residential property of 1166 sqm with a 1967 built 3 bedroom 1 bathroom fibro and tile dwelling. Added value of improvements considered to be \$100,000. Suggests a land value of \$112,000. .	
Comparison to Subject	Residential allotment.	
2. 80 Robinson Street, GINGIN	19-Jan 2019	\$190,000 ex GST
Brief Description	A vacant 1.2393 hectare R2 zoned property that backs onto the Moore River. Attractive lifestyle property with good vista to the south. Shows a land value of \$190,000 or \$15.33 per sqm.	
Comparison to Subject	Comparable size to Lot 44, smaller in size to quantum proposed amalgamated lot. Superior location. On balance considered to represent slightly more than proposed amalgamated lot.	

York Street Road Reserve, Gingin W.A. 6503.

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3. Lot 1 Cheriton Road, GINGIN LISTING

Brief Description A residential allotment of 1006 listed at \$95-105,000. Listing suggests in the order of \$95,000 for a residential allotment of 1000 sqm.

Comparison to Subject Residential allotment. **LISTING**

Valuation Rationale

Analysis of single residential land sales (listing) and larger rural lifestyle properties discloses that lots achieve only small incremental increases in sale price as their size increases. For example, within the Gingin townsite, a 1000 sqm lot may achieve in the order of \$100,000 or \$100 per square metre, with a 18000 sqm lot achieving no more than \$175,000 or \$75,000 extra. As can be seen the additional 17000 square metres only adds \$4.40 per square metre

In respect to the subject land, the gazetted but unformed York Street road reserve, analysis of residential sites of varying areas within Gingin townsite indicates a residual rate of approximately \$4.40/sqm. The larger the residual area, generally the lower the rate.

I have adopted \$4.40/sqm as the added value of the gazetted but unformed York Street road reserve to Lot 44 Weld Street.

Value of Land Added 5803.2 @ \$4.40/sqm \$ 25,535

ADOPT \$ 25,000

Added Value

The 'Added Value' of the gazetted but unformed York Street road reserve to Lot 44 Weld Street, Gingin as at the **21st May 2020** is considered to be;

\$ 25,000 Excl GST (Twenty Five Thousand Dollars Exclusive of GST)



Ron Sawyer

Certified Practising Valuer (No. 64838)

W.A. Licenced Valuer (No. 41648)

2nd June 2020

Important

This valuation is subject to the definitions, qualifications and disclaimers and other comments contained within this report.

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Appendices

1. Assumptions, Conditions and Limitations

**Condition/Structural
Disclaimer**

This report is not a condition or structural survey and no advice is given in any way relating to condition or structural matters. Any opinion given as to the condition of the structure or improvements on the property is not given in the capacity as an expert. A condition or structural report on the building and/or its plant and equipment has not been sighted, and nor have we inspected unexposed or inaccessible portions of the premises. Therefore we cannot comment on the structural integrity, any defects, rot or infestation (or damage from pest infestation) of the improvements, any use of asbestos or other materials now considered hazardous or areas of non-compliance with the Building Code of Australia, other than matters which are obvious and which are noted within this report. This valuation assumes the building is structurally sound; that building services are adequate and appropriately maintained; the building complies with applicable Council, building, fire, health and/or safety regulations, laws, rules, licences, permits, rulings and/or bylaws; and is free of asbestos or other defects, unless specified otherwise. Should an expert's report establish that there are any defects of this kind then we reserve the right to review this valuation.

Digital Copies of Reports

Where a report has been provided in digital copy and has not been received directly via Urban & Rural Valuations, the report contents, especially the valuations and critical assumptions, should be verified by contacting Urban & Rural Valuations to ensure the contents are bona fide. In particular if the reader of this report has suspicions that the report appears to be tampered or altered then we recommend the reader contact Urban & Rural Valuations.

Environmental Disclaimer

This report is not an environmental audit and no advice is given in any way relating to environmental matters. Any comment given as to environmental factors in relation to the property are not given in the capacity as an expert. This assessment of value (unless specified otherwise) is made on the basis that the property is free of contamination or environmental issues affecting the property not made known to the valuer. In the event the property is found to contain contamination the matter should be referred to this office for comment. Given contamination issues can have a significant impact on the Market Value of the property, we reserve the right to review and if necessary vary our valuation if any contamination or other environmental hazard is found to exist.

Full Disclosure Disclaimer

Whilst we have attempted to confirm the veracity of information supplied, the scope of work did not extend to verification of all information supplied or due diligence. Our valuation and report has been prepared on the assumption the instructions and information supplied has been provided in good faith, is not in any way misleading or deceptive, contains a full disclosure of all information that is relevant, and that there are no undisclosed agreements in place that affect the property. The valuer and valuation firm does not accept any responsibility or liability whatsoever in the event the valuer has been provided with insufficient, false or misleading information.

Future Value

Any comments are made in relation to future values are based on general knowledge and information currently available. These comments should not be construed as a prediction of future value levels or a warranty of future performance as the property market is susceptible to potential rapid and unexpected change caused by multiple factors. Ultimately current expectations as to trends in property values may not prove to be accurate.

Due to possible changes in the property market, economic conditions, occupancy status and property specific factors, we recommend the value of the property be reassessed at regular intervals.

**Mortgage/Finance
Purposes**

This format does not meet Practice Standards for valuations for mortgage/finance purposes and is specifically not suitable for this purpose. No valuation report provided by Urban & Rural Valuations can be used in any form whatsoever for the purpose of obtaining finance or for mortgage security purposes.

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York Street Road Reserve, Gingin W.A. 6503.

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Goods & Services Tax.	<p><i>A Goods and Services Tax (GST) became effective in Australia on 1 July 2000. The supplier (more commonly known as 'vendor' in the case of real estate transactions) of a good or service is required to pay the GST liability.</i></p> <p><i>The assessment of a supplier's GST is based on one of the three (3) following methods:</i></p> <ul style="list-style-type: none"><i>• General Tax Rule (standard or normal method) being 1/11th of the GST Inclusive sale price;</i><i>• Margin Scheme being 1/11th of the value margin between the current GST Inclusive sale price & the value at 1 July 2000 or the original purchase date, whichever is the most recent and subject to additional criteria; or</i><i>• Going Concern being a GST-Free supply if certain criteria are met including the supplier & the recipient both being registered for GST & having agreed in writing that the supply is of a going concern.</i> <p><i>The application of these methods, as determined by a taxation professional, will vary dependent upon the circumstances of the vendor and the sale conditions.</i></p> <p><i>Sales of commercial "Going Concerns" do not attract GST and are usually sold on a GST Exclusive basis. Other commercial property transactions are usually transferred Inclusive of GST, but this may vary dependent upon other conditions. The basis of GST payment on sold property needs to be established to allow proper market comparison.</i></p> <p><i>Sales of established residential properties do not attract a GST and are sometimes termed "Inclusive of nil GST" whether GST is payable or not. Where a property sale is GST exempt, the net return to the vendor is the GST Inclusive value or gross selling price.</i></p> <p><i>Established rural properties are generally exempt from GST and are often determined as a GST Free Supply. In these instances, values are generally shown as "Inclusive of Nil GST".</i></p> <p><i>For consistency and comparison purposes, all analyses and valuation assessments are made on the same basis and, for the purposes of this valuation, are shown as "inclusive of Nil GST" unless stated otherwise</i></p>
Determination of G.S.T. amount.	<p><i>The relevant amount of GST should be determined by a taxation professional. We advise that we are not taxation or legal experts and we recommend competent and qualified advice be obtained. Should this advice vary from our interpretation of the legislation and Australian Taxation Office rulings current as at the date of this valuation, we reserve the right to review and amend our valuation accordingly.</i></p>
Geotechnical Assumption	<p><i>We have not sighted a geotechnical engineers' survey of the property. We are not experts in the field of civil or geotechnical engineering and we are therefore unable to comment as to the geotechnical integrity of the ground and soil conditions. It is specifically assumed that there are no adverse geotechnical conditions that compromise the utility of the property for the current or highest and best use. In the event there is found to be adverse ground conditions we recommend the matter be referred to this Company for comment.</i></p>
Heritage Disclaimer	<p><i>Our valuation has been assessed having regard to the nature of any buildings on the property and any known heritage listings. However we have not obtained formal confirmation of heritage listings beyond what is available in the public domain and identified in this report. Our valuation assumes, unless otherwise specified, that any heritage issues (including Aboriginal) do not impact on the continued and/or highest and best use of the property. If there is doubt in relation to such issues we recommend written application be made to the relevant authorities.</i></p>
Inconsistencies in Assumptions	<p><i>If there is found to be any variance, inconsistency or contradiction in any of the above assumptions then there may be a variation in the valuation assessed.</i></p>

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Information Availability (Market Evidence)	<i>In preparing this valuation we have undertaken those investigations reasonably expected of a professional valuer having regard to normal industry practice so as to obtain the most relevant, available, comparable market evidence. Whilst we believe the market evidence information and any other information provided to be accurate, not all details can and have been formally verified. Due to privacy laws, confidentiality agreements and other circumstances beyond our control, the valuer may not have had access to: personal details of parties involved in transactions (including the relationship of the parties); information on recent transactions that are yet to become public knowledge; and copies of leases or contracts to confirm rents or prices and to ascertain whether or not rents or prices are inclusive or exclusive of GST.</i>
Land and Building Area Disclaimer	<i>In the event actual surveyed areas of the property are different to the areas adopted in this valuation the survey should be referred to the valuer for comment on any valuation implications. We reserve the right to amend our valuation in the event that a formal survey of areas differs from those detailed in this report.</i>
Market Change Disclaimer	<i>This valuation is current as at the date of valuation only. The value assessed herein may change significantly and unexpectedly over a relatively short period (including as a result of general market movements or factors specific to the particular property). We do not accept liability for losses arising from such subsequent changes in value. Without limiting the generality of the above comment, we do not assume any responsibility or accept any liability where this valuation is relied upon after the expiration of 3 months from the date of the valuation, or such earlier date if you become aware of any factors that have any effect on the valuation.</i>
Market Value	<i>Market value is "the estimated amount for which an asset or liability should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently, and without compulsion".</i>
Native Title Assumption	<i>We are not experts in native title or the property rights derived there from and have not been supplied with appropriate expert advice or reports. Therefore, this valuation is made assuming there are no actual or potential native title interests affecting the value or marketability of the property.</i>
Planning Disclaimer	<i>Town planning and zoning information was informally obtained from the relevant local and State Government authorities and is assumed to be correct. This information does not constitute a formal zoning certificate. Should the addressee require formal confirmation of planning issues then we recommend written application be made to the relevant authorities to obtain appropriate current zoning certificates.</i>
Professional Standards	<i>Our valuation has been assessed in accordance with applicable International Valuation Applications and Technical Information Papers of the International Valuation Standards Committee and the Australian Property Institute Practice Standards and Guidance Notes.</i>
Publication of Report	<i>The publication of the valuation or report in whole or any part, or any reference thereto, or the names and professional affiliations of the valuers is prohibited without the prior written approval of the valuer as to the form and context in which it is to appear.</i>
Reliance on Whole Report	<i>This valuation should be read in its entirety, inclusive of any summary and annexures. The valuer and valuation firm does not accept any responsibility where part of this report has been relied upon without reference to the full context of the valuation report.</i>

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Scope of Work Undertaken	<p><i>The scope of work undertaken by the valuer in completing the valuation has included:</i></p> <ul style="list-style-type: none"> • <i>Collation of information from relevant parties regarding the subject property;</i> • <i>Undertaking our own research regarding the subject property;</i> • <i>An inspection of the property and measurement of buildings where required;</i> • <i>Undertaking market research in terms of values and/or costs of similar properties;</i> • <i>Preparation of valuation calculations; and</i> • <i>Preparation of this report.</i>
Site Survey Disclaimer	<p><i>This report is not a site survey and no advice is given in any way relating to survey matters. Any comments given in relation to the property are not given in the capacity as an expert, however, are based on our inspection of the property and review of the Certificate of Title plans. Should the addressee require absolute certainty in relation to site area, dimensions or possible encroachments we recommend that a surveyor be engaged to provide appropriate advice and a survey of the property if considered necessary. In the event there are any fundamental inconsistencies between any site survey undertaken and site detail adopted in this valuation, the survey should be referred to the valuer for comment on any valuation implications (including amendment of our valuation if considered necessary).</i></p>
Third Party Disclaimer	<p><i>This report has been prepared for the private and confidential use of our client, for the specified purposes. It should not be reproduced in whole or part; or any reference thereto; or to the valuation figures contained herein without the express written authority of Urban & Rural Valuations or relied upon by any other party for any purpose and the valuer shall not have any liability to any party who does so. Our warning is registered here, that any party, other than those specifically named in this paragraph should obtain their own valuation before acting in any way in respect of the subject property.</i></p>
Title Assumption	<p><i>Our valuation assumes the property would be offered for sale subject to encumbrances noted on the Title but otherwise unencumbered by mortgages, caveats, or priority notices etc which would prevent transfer of the property.</i></p>
Unregistered Instruments	<p><i>If there are any encumbrances, encroachments, restrictions, leases or covenants which are not noted in this report, they may affect the assessment of value. If any such matters are known or discovered, we should be advised and asked as to whether they affect our assessment of value.</i></p>

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2. Letter of Instruction



ABN 85 679 704 946
7 Brockman Street (PO Box 510) Gingin WA 6503
T: 08 9575 2211 F: 08 9575 2121
E: mail@gingin.wa.gov.au
W: www.gingin.wa.gov.au

18 May 2020

Rural Valuations WA Pty Ltd
PO Box 601
MOUNT HAWTHORN WA 6915

via email: ron@rvwa.com.au

Dear Ron

MARKET VALUATION – YORK STREET ROAD RESERVE GINGIN

Please take the attached purchase order as your authority to proceed with a market valuation of the un-formed road reserve of York Street Gingin for closure and amalgamation into Lot 44.

This is to facilitate the construction of a proposed new Emergency Services Facility to service The Metropolitan North Coastal Regions Emergency Response Capability.
If you have any questions please contact myself on 9575 5100.

Yours sincerely

Phil Barrett
Community Emergency Services Manager
Chief Bush Fire Control Officer

PB:ko
File: A69

K Phil Collocation Building RVWA Valuation York Street



Shire of Gingin
History. Beauty. Prosperity.





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3. Certificate of Title

WESTERN		AUSTRALIA	<table border="1" style="margin: auto;"><tr><td colspan="2">REGISTER NUMBER</td></tr><tr><td colspan="2">44/DP222486</td></tr><tr><td>DUPLICATE EDITION</td><td>DATE OF ISSUE</td></tr><tr><td style="text-align: center;">2</td><td style="text-align: center;">15/12/2008</td></tr></table>	REGISTER NUMBER		44/DP222486		DUPLICATE EDITION	DATE OF ISSUE	2	15/12/2008
REGISTER NUMBER											
44/DP222486											
DUPLICATE EDITION	DATE OF ISSUE										
2	15/12/2008										
RECORD OF CERTIFICATE OF TITLE			<small>VOLUME 1104 LOT 579</small>								
<small>UNDER THE TRANSFER OF LAND ACT 1893</small>											
<small>The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.</small>											
											
REGISTRAR OF TITLES											
LAND DESCRIPTION:											
LOT 44 ON DEPOSITED PLAN 222486											
REGISTERED PROPRIETOR: (FIRST SCHEDULE)											
SHIRE OF GINGIN OF 7 BROCKMAN STREET, GINGIN											
(T K580713) REGISTERED 30 4 2008											
LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS: (SECOND SCHEDULE)											
<small>Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required. * Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title. Lot as described in the land description may be a lot or location.</small>											
-----END OF CERTIFICATE OF TITLE-----											
STATEMENTS:											
<small>The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.</small>											
SKETCH OF LAND:	1104-579 (44 DP222486)										
PREVIOUS TITLE:	22-394										
PROPERTY STREET ADDRESS:	NO STREET ADDRESS INFORMATION AVAILABLE										
LOCAL GOVERNMENT AUTHORITY:	SHIRE OF GINGIN										
NOTE 1:	A000001A LAND PARCEL IDENTIFIER OF GINGIN TOWN LOT LOT 44 (OR THE PART THEREOF) ON SUPERSEDED PAPER CERTIFICATE OF TITLE CHANGED TO LOT 44 ON DEPOSITED PLAN 222486 ON 05-JUL-04 TO ENABLE ISSUE OF A DIGITAL CERTIFICATE OF TITLE										
NOTE 2:	THE ABOVE NOTE MAY NOT BE SHOWN ON THE SUPERSEDED PAPER CERTIFICATE OF TITLE OR ON THE CURRENT EDITION OF DUPLICATE CERTIFICATE OF TITLE.										
<small>LANDGATE COPY OF ORIGINAL NOT TO SCALE 01/06/2020 11:54 AM Request number: 60833463</small>											
			 <small>www.landgate.wa.gov.au</small>								

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4. York Street Road Reserve Drawing



11.3.5 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED SINGLE HOUSE ON LOT 140 (23) CUNLIFFE STREET, LANCELIN

File:	BLD/7107
Applicant:	Brian Burke Homes
Location:	Lot 140 (23) Cunliffe Street, Lancelin
Owner:	Alesha Pemberton
Zoning:	Residential 12.5 / 20
WAPC No:	N/A
Author:	James Bayliss – Acting Manager Statutory Planning Matthew Tallon – Statutory Planning Officer
Reporting Officer:	Bob Kelly –Executive Manager Regulatory and Development Services
Report Date:	16 June 2020
Refer:	N/A
Appendices	<ol style="list-style-type: none">1. Location Plan and Applicant's Proposal2. Schedule of Submissions and Recommended Responses3. Department of Planning, Lands and Heritage advice

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an Application for Development Approval for a proposed single house on Lot 140 (23) Cunliffe Street, Lancelin.

BACKGROUND

The Shire is in receipt of an Application for Development Approval for a proposed Single House on the subject lot, which is 1011.7m² in area. The property currently contains an existing single house and outbuilding which are to be removed to facilitate the proposed development.

The subject land is identified within the Shire's Coastal Hazard Risk Management and Adaption Plan (CHRMAP) as being impacted by coastal processes within the planning timeframe (i.e. prior to 2110).

The proposed development seeks the following variations to State Planning Policy 7.3 - Residential Design Codes Volume 1 (R-Codes):

- Clause 5.1.3 Lot Boundary Setback;
- Clause 5.3.7 Site Works;
- Clause 5.3.8 Retaining Walls; and
- Clause 5.4.1 Visual Privacy.

A location plan and a copy of the applicant's proposal are provided as **Appendix 1**.

Council consideration is required due to adverse submissions being received during the consultation process. Furthermore, the officer is of the view that Council consideration is required due to the anticipated impacts of coastal hazards within the planning timeframe on the proposed development.

COMMENT

Stakeholder Consultation

The application was advertised to surrounding landowners for a period of 14 days in accordance with clause 64 of the *Planning and Development (Local Planning Scheme) Regulations 2015*.

Given advice received from the Department of Planning, Lands and Heritage (DPLH) Coastal Section on a similar development affected by coastal hazards, the advice is considered to be relevant to this proposal.

In summary, DPLH provided a list of suggested conditions should the Shire wish to approve the proposed development.

A copy of the Schedule of Submissions and Recommended Responses is provided as **Appendix 2**.

A copy of the comments received by the DPLH is provided as **Appendix 3**.

PLANNING FRAMEWORK

Local Planning Scheme No. 9 (LPS 9) Planning Assessment

The subject lot is zoned 'Residential 12.5 / 20' under Local Planning Scheme No. 9, the objectives of which are to:

- a) *Provide for a range of housing types and encourage a high standard of residential development;*
- b) *Maintain and enhance the residential character and amenity of the zone;*
- c) *Limit non-residential activities to those of which the predominant function is to service the local residential neighbourhood and for self-employment or creative activities, provided such activities have no detrimental effect on the residential amenity; and*
- d) *Ensure that the density of development takes cognisance of the availability of reticulated sewerage, the effluent disposal characteristics of the land and other environmental factors.*

The use class 'Single House' is not defined under LPS 9 and accordingly the definition is taken from State Planning Policy 7.3 – Residential Design Codes Volume 1 as follows:

“A dwelling standing wholly on its own green title or survey strata lot, together with any easement over adjoining land for support of a wall or for access or services and excludes dwellings on titles with areas held in common property.”

Clause 5.2.2 states:

“Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform to the provision of those codes.”

The officer's assessment against the R-Codes is provided in the report below.

‘Clause 4.7.4 – Coastal Development’ of LPS 9 is applicable in this instance and states:

“4.7.4.1 - All coastal development is to comply with the provisions of State Planning Policy 2.6 – Coastal Planning Policy’.

4.7.4.2 - In accordance with section 77 (1) (b) of the Planning and Development Act 2005, the provisions of State Planning Policy 2.6 – State Coastal Planning shall apply as if they were part of this scheme.”

State Planning Policy No. 2.6 – State Coastal Planning Policy (SPP 2.6)

As outlined within the DPLH's comments to the Shire, a key objective of SPP 2.6 is to ensure that development takes into account coastal processes and coastal hazards. This is implemented by the preparation of a CHRMAP to provide a long term view of the potential coastal processes (erosion and storm surge inundation) for affected areas and recommend measures to reduce risk.

The subject property constitutes infill development under section 5.6 of SPP 2.6, which recommends two measures which are outlined below:

‘Clause 5.6 - Infill Development’

- (i) New development should be located on the least vulnerable portion of the development site.*

Officer Comment:

The proposed development covers a large extent of the subject land and is generally viewed as being situated on a logical portion of the property. The development could potentially be moved further to the rear of the site, however given the circumstances of the property location, a repositioning to this effect will have minimal benefit in terms of addressing coastal processes.

- (ii) Where development is likely to be subject to coastal hazards over the planning timeframe, coastal hazard risk management and adaptation planning measures (Section 5.5) should be implemented to reduce the risk from coastal hazards over the full planning time frame to an acceptable level.*

Officer Comment:

Given the site is anticipated to experience coastal processes within the planning timeframe, 'accommodation measures' by way of modification to the building design to facilitate future relocation of the building is desirable and is outlined with the Shire's CHRMAP. It is noted that the development is clearly a permanent single house which is not designed to be transportable or removable. Accordingly, upon coastal trigger points being reached, the development would need to be demolished rather than relocated.

Shire of Gingin's Coastal Hazard Risk Management and Adaption Plan 2019

Council adopted the CHRMAP at the Ordinary Meeting held on 16 April 2019. The CHRMAP identifies the site as being located within 'LA2 - Lancelin Township South', with a key outcome concluding:

- *"Residential properties have high vulnerability ratings by 2070 and very high vulnerability ratings by 2110."*

As such, a time period of 50 years is anticipated to lapse before coastal hazards affect the site. The long term pathway identified within the CHRMAP for 'LA 2' is to avoid the risk, accommodate the risk until the risk is no longer viable, then move to a managed retreat.

The CHRMAP outlines various management responses and planning controls that may be applied to development on land identified as being affected by coastal processes in the planning timeframe. The controls that may be applied in this instance are outlined below with officer comments:

Avoid: Means prohibiting development from taking place in locations identified as being at potential risk from coastal hazards.

Officer comments:

The subject site is identified as being at risk from coastal hazards within the planning timeframe. Avoiding development is an option for Council to consider.

Accommodate: Accommodation options recognise that there is a hazard, but do not prohibit development. Instead, depending on the nature of the hazard and the timeframe within which it is expected to occur, development may be permitted within defined parameters.

This section of the CHRMAP goes on to state:

"A scenario could be to acknowledge that the land might be subject to erosion in the future, but that the planning horizon is sufficiently far off that temporary development could be acceptable until such time as the threat of erosion becomes imminent. In such a situation certain types of construction might be acceptable (e.g.: transportable or easily dismountable)."

Officer comments:

As previously outlined, the development is clearly a permanent single house, which is not designed to be transportable or removable. Accordingly, upon coastal trigger points being reached, the development would need to be demolished rather than relocated.

It should be noted that the Shire does not have the local statutory planning framework (whether through scheme provisions or a local planning policy) in place to specifically restrict development in coastal hazard areas to a design that is transportable/removable in nature. However, this recommendation is clearly evident within the CHRMAP document.

Managed Retreat - Existing development would be permitted to remain for as long as it remains unaffected by coastal hazards, but new development or expansion of existing development would not be permitted as intensification of development would mean more assets at risk. Approval of any development would be time limited, based on the forecast hazard timeframe.

Officer comments:

The option of time limiting approval goes hand in hand with the 'accommodate' approach to ensure that upon expiration of the approval, the development is of a design capable of relocation. As outlined above, this development is not relocatable and will therefore require the asset to be demolished once the coastal trigger point is reached.

The CHRMAP outlines two possible types of approval conditions that can be imposed on coastal development. These are to place a notification on the title of the land and to place a time limit on the approval so that the approval will expire after a defined period. The CHRMAP states:

"Notifications on Title are intended to alert owners and potential purchasers of something that applies to the land but which may not be apparent from inspection of the land. The threat of future coastal hazards is a matter that would not be apparent on land unless it had already been eroded."

"Notification on the Certificate of Title will ensure that existing and any future landowners (Successors in Title) are made aware of the risk of possible impacts on the land from coastal processes. Owners and potential purchasers would then be able to make an informed decision about the level of risk they are prepared to take on. The notification would also inform them that some form of adaptation or management is likely to be required."

"A time limit can be applied to a development approval. For example, if a development is proposed on land that is forecast to be affected by coastal processes in 30 years, an approval might be limited to within that timeframe. An application for a new approval could be sought at the end of that period and it would be assessed based on the information on risk available at that time. The condition may also identify an 'event trigger' to further limit an approval in case the hazard occurs sooner than predicted."

Section H4.1, Appendix H of the CHRMAP outlines various recommendations such as the following:

“Any new development approved should have a time limit placed upon it, after which time the development should be removed by the landowner unless a subsequent new approval is applied for and granted for a further period. The length of the approval should be related to the forecast hazard lines”

“No development should be permitted on any vacant land between 2030 and 2110 hazard lines that is not:

- a) Capable of accommodating short term inundation that may result from storm surges; and*
- b) Capable of being relocated if necessary”*

The former may involve elevated finished floor levels with ‘stilt’ construction that will allow water to flow under and around the structure with minimal disturbance. The latter may involve ‘lightweight’ construction that could readily be disassembled and relocated if necessary”.

Officer comments:

The officer is of the view that the proposed development is not designed to accommodate short term inundation or capable of being relocated if necessary. On this basis the proposed development does not satisfy the recommendations of the CHRMAP.

Notwithstanding the above, the challenge facing the Shire is to be pragmatic in applying discretion to proposed development within coastal areas and not regulate development in such a way that prematurely prevents development on otherwise suitable land from being used in the interim period. At the same time, the local government must not create a future legal or financial liability by permitting development that is likely to become vulnerable to damage from erosion or inundation.

On this basis, the officer is of the view that if the landowner is prepared to make an informed decision to not implement design measures to accommodate the coastal risk, then it may be supported in its current design subject to specific time and event limited conditions and advice notes.

Planning and Development (Local Planning Scheme) Regulations 2015 (the Regulations)

The regulations is subsidiary legislation created under the *Planning and Development 2005* that include ‘deemed provisions’ which apply to every local planning scheme throughout the State.

In accordance with Schedule 2, Part 9, Clause 67 of the Deemed Provisions, the local government is to have due regard to a range of matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application. In this instance, the following matter is considered to be relevant:

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

Officer comment:

The local government must consider the effects of coastal erosion and inundation on proposed development as per the above. The officer has provided comprehensive commentary on the coastal hazards anticipated to affect the property above and determined that the land is suitable to accommodate the proposed development subject to a specific set of conditions being imposed.

‘Clause 72 - Temporary Development Approval’ of the deemed provisions states:

“The local government may impose conditions limiting the period of time for which development approval is granted.

Note: A temporary development approval is where the local government grants approval for a limited period. It does not have any effect on the period within which the development must commence.”

Officer comment:

The recommended conditions include time limiting the development as provided for under clause 72. This demonstrates that the CHRMAP recommendations are consistent with the overarching planning framework.

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

The subject site is indicated as being bushfire prone as per the Department of Fire and Emergency Services (DFES) online mapping.

This notwithstanding, SPP 3.7 only applies to the development of a single house on land that exceeds 1,100m² in area. Given the subject lot is less than 1,100m², a BAL assessment is not required as part of the planning process.

State Planning Policy 7.3 – Residential Design Codes Volume 1 (R-Codes)

The R-Codes provide a comprehensive basis for the control of residential development throughout Western Australia. When a development proposal does not comply with the deemed-to-comply provisions, the application is assessed against the associated design principles to determine whether the variation is acceptable.

Clause 5.1.3 Lot Boundary Setback

In relation to lot boundary setbacks the proposal seeks a variation to the northern lot boundary of 1.5m in lieu of 2m and to the southern lot boundary of 2.2m in lieu of 2.3m.

Clause 5.3.7 Site Works

The applicant seeks to undertake site works to raise the level of the lot by 400mm in parts, and excavation altering the levels by up to 1100mm;

Clause 5.3.8 Retaining Walls

As noted under clause 5.3.7 this includes new retaining walls on the south and north lot boundaries, with much being developed above the prescribed 500mm height. The site works and retaining walls are proposed as follows:

- North lot boundary: 400mm to 780mm of fill; and
- South lot boundary: approx. 1100mm of cut.

Clause 5.4.1 Visual Privacy

The proposal includes overlooking variations from the south and north facing balconies.

The officer comments are outlined against the relevant design principles in the table below:

Design Principles	Officer Comments
<p>5.1.3 – Lot boundary setbacks</p> <p>P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</p> <ul style="list-style-type: none">• reduce impacts of building bulk on adjoining properties;• provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and• minimise the extent of overlooking and resultant loss of privacy on adjoining properties. <p>P3.2 Buildings built up to boundaries (other than the street boundary) where this:</p> <ul style="list-style-type: none">• makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;• does not compromise the design principle contained in clause 5.1.3 P3.1;• does not have any adverse impact on the amenity of the adjoining property;	<p>The overall setback variation does not impose any building bulk on the adjoining properties that would not be anticipated for the R-Code density rating of the lots.</p> <p>The setbacks do not accompany a variation to building heights and overshadowing. The varied setback increases the setback to a maximum of 25%. With the above in mind this is seen to be negligible.</p> <p>Overlooking does eventuate but is not due to setback variations. It can be attenuated via screening.</p> <p>N/A</p>

<p>5.3.7 Site Works</p> <p>P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.</p> <p>P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.</p>	<p>The proposed site levels are not seen to be excessive in relation to the existing site levels on the subject site and adjoining lots.</p> <p>Site works that are seen to be generally impactful are fill and retaining and raising the level of the lot. The fill and retaining proposed seeks a variation of 280mm to the deemed-to-comply 500mm on the lot boundary.</p> <p>Excavation and fill is seen to be necessary for the build and design.</p>
<p>5.3.8 Retaining Walls</p> <p>P8 Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 and 5.4.1.</p>	<p>There are existing retaining walls on site displaying levels no less than what is proposed as part of this application. Retaining along the boundary is stepped in relation to the fall in levels from the street frontage to the rear boundary.</p> <p>The retaining walls are not seen to be excessive nor do they introduce overlooking that is not already attenuated by the design.</p>
<p>5.4.1 Visual Privacy</p> <p>P1.1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:</p> <ul style="list-style-type: none"> • building layout and location; • design of major openings; • landscape screening of outdoor active habitable spaces; and/or • location of screening devices. <p>P1.2 Maximum visual privacy to side and rear boundaries through measures such as:</p>	<p>The location, size and orientation of the balcony results in excessive overlooking to the north and south side boundaries. The most excessive variation is to the south.</p> <p>It is therefore recommended that screening be imposed to both sides of the balcony to prevent any overlooking to the existing/future neighbours.</p>

<ul style="list-style-type: none">• offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;• building to the boundary where appropriate;• setting back the first floor from the side boundary;• providing higher or opaque and fixed windows; and/or• screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).	
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Summary

The proposed design of the development does not enable relocation of the asset once the coastal threat is imminent. The consequences of this design must to be accepted by the applicant/landowner.

As noted in the assessment above, the officer is of the view that the Shire should be pragmatic in considering development within areas forecast to be affected by coastal hazards within the planning timeframe. It is therefore considered that the use of coastal areas should not be prematurely restricted via the refusal of development applications when considering site specific circumstances.

The recommended conditions relate to time and event limited triggers that enable the development to occur in the interim period until the triggers are reached. It is paramount that these conditions be imposed.

When exercising reasonable care having regard to coastal hazards as predicted in the CHRMAP and the relevant policy provision in SPP 2.6 and the associated Guidelines, a time and event limited approval for development that would foreseeably be affected by coastal erosion in the planning timeframe is a suitable and reasonable approach.

STATUTORY/LOCAL LAW IMPLICATIONS

Local Planning Scheme No. 9
Clause 4.7.4 – Coastal Development

State Planning Policy 7.3 – Residential Design Codes

State Planning Policy No. 2.6 – State Coastal Planning Policy

Shire of Gingin Coastal Hazard Risk Management and Adaption Plan 2019

Planning and Development (Local Planning Scheme) Regulations 2015 (Deemed Provisions)

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

POLICY IMPLICATIONS

Nil

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019 – 2029

Focus Area	<i>Infrastructure and Development</i>
Objective	<i>3. To effectively manage growth and provide for community through the delivery of community infrastructure in a financially responsible manner</i>
Outcome	<i>3.1 Development New and existing developments meet the Shire's Strategic Objectives and Outcomes</i>
Key Service Areas	<i>Building And Planning Permits</i>
Priorities	<i>N/A</i>

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson

SECONDED: Councillor Balcombe

That Council grant Development Approval for a Single House on Lot 140 (23) Cunliffe Street, Lancelin subject to the following conditions:

- 1. All development shall be undertaken in accordance with the approved plans and specifications (including any modifications marked in RED) unless conditioned otherwise in this approval;**
- 2. This development approval is for a Single House only as illustrated on the approved plans;**
- 3. This development approval is granted for a limited period and shall expire upon the earliest occurrence of any one of the following events:**
 - a. the expiration of a period of 50 years from the date of approval; or**
 - b. the most landward part of the Horizontal Shoreline Datum being within 11 metres of the most seaward part of the lot boundary; or**

- c. a public road no longer being available or able to provide legal access to the lot; or
 - d. when water, sewerage or electricity to the lot is no longer available as they have been removed/decommissioned by the relevant authority due to coastal hazards.
4. Upon the expiration of the development approval in accordance with condition 3, the owner shall at the owner's cost:
 - a. remove the development; and
 - b. rehabilitate the land to its pre-development condition, to the specifications and satisfaction of the Shire of Gingin.
5. A notification pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the Certificate of Title of the proposed development lot advising of the existence of a hazard. The notification is to state as follows:

“VULNERABLE COASTAL AREA – This lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years and is subject to conditions of development approval which require removal and/or rehabilitation of development to pre-development conditions.”
6. Stormwater from all roofed and paved areas shall be collected and contained onsite to the satisfaction of the Shire of Gingin;
7. Prior to occupation of the development, the driveway shall be serviced by a new crossover from Cunliffe Street which is to be designed and constructed to the satisfaction of the Shire of Gingin at the landowner's cost;
8. Prior to the occupation of the development, the first floor balcony shall be provided with a permanent privacy screen along the northern and southern facing boundaries as depicted in red ink on the approved plans to the satisfaction of the Shire of Gingin; and
9. The approved retaining wall and footings abutting the lot boundaries are to be constructed wholly within the subject allotment. The external surfaces of the retaining walls shall be finished to a professional standard, to the satisfaction of the Shire of Gingin.

Advice Notes:

- Note 1.** If you are aggrieved by the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision, under Part 14 of the *Planning and Development Act 2005*.
- Note 2.** If the development subject to this approval is not substantially commenced within a period of 2 years, the approval shall lapse and have no further effect.

- Note 3.** Where an approval has so lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.
- Note 4.** Further to this approval, the applicant is required to submit working drawings and specifications to comply with the requirements of the Building Act 2011 and Health Act 2016, which are to be approved by the Shire of Gingin.
- Note 5.** In relation to Condition 3(a), the applicant may apply to extend the term of the approval so as to permit the development to remain until such time as a triggering event as referred to in Conditions 3(b)-(d) occurs at which time the development will be required to be removed in accordance with Condition 3.
- Note 6.** The applicant is advised that the Horizontal Shoreline Datum means the active limit of the shoreline under storm activity, as defined in State Planning Policy 2.6 – State Coastal Planning Policy (2013).
- Note 7.** The applicant is advised that the 11 metre distance between the Horizontal Shoreline Datum and the most seaward part of the lot boundary is the S1 value for this location which is obtained from the MP Rogers (2016) Shire of Gingin and Dandaragan Coastal Erosion Hazard Assessment Ledge Point, Lancelin and Cervantes (R721 Rev 0) prepared for the Shires of Gingin and Dandaragan. S1 is the allowance for absorbing the current risk of storm erosion, as defined in State Planning Policy 2.6 – State Coastal Planning Policy (2013).
- Note 8.** Should the development be affected by Coastal Hazards in the future the applicant will be responsible for relocating/removing the development and all costs associated. The local government is under no obligation to assist or protect structures from coastal erosion/inundation threats and accepts no liability and will pay no costs associated with any protection from or damages caused by coastal processes.
- Note 9.** In relation to condition 4 (b), upon removal of the development the site is to be rehabilitated to pre-development condition which comprises of a bare earth lot, free of any buildings, demolition rubble or remnants of the approved development.
- Note 10.** In relation to the requirement to install privacy screening on the first floor balcony, the privacy screen is to be either obscure glazing, timber screens, window hoods and shutters at least 1.6m in height from finished floor level, at least 75% obscure, permanently fixed and made of durable material (as per Clause 5.4.1, subclause C1.2 of the Residential Design Codes Volume 1);

Note 11. It is recommended that cadastral lot boundaries be established by a suitably qualified land surveyor to ensure that all development is carried out within the subject allotment.

Note 12. In relation to condition 7, a crossover application form is to be made to the Operations Department which can be found on the Shire's website at the following link: <https://www.gingn.wa.gov.au/services/operations.aspx>.

AMENDMENT

Moved: Councillor Peczka

SECONDED: Councillor Rule

That Conditions 3 and 4 be deleted.

LOST
1-6

For: Councillor Peczka

Against: Councillors Morton, Lobb, Balcombe, Rule, Fewster and Johnson

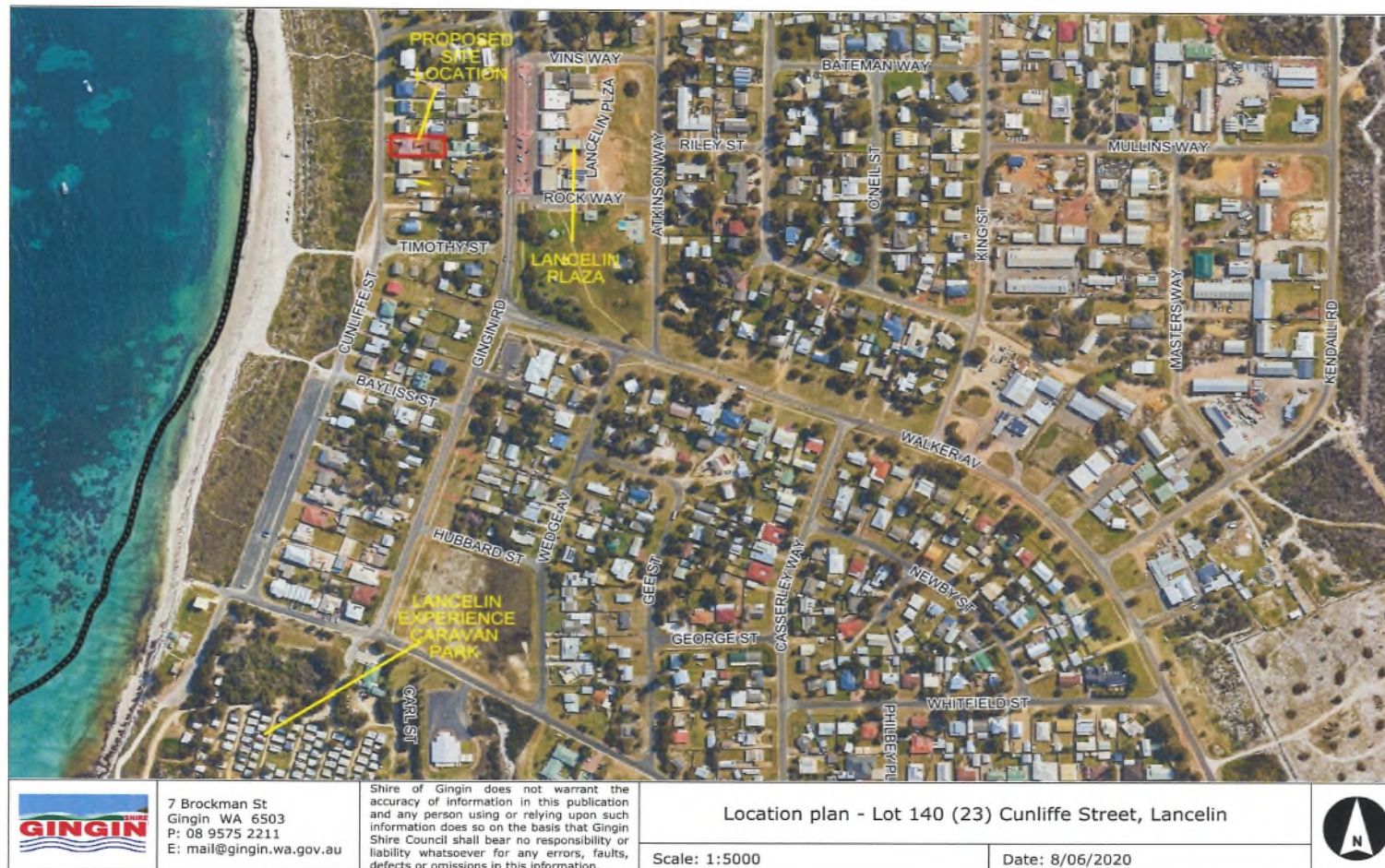
The substantive motion was put to the meeting.

**CARRIED
6-1**

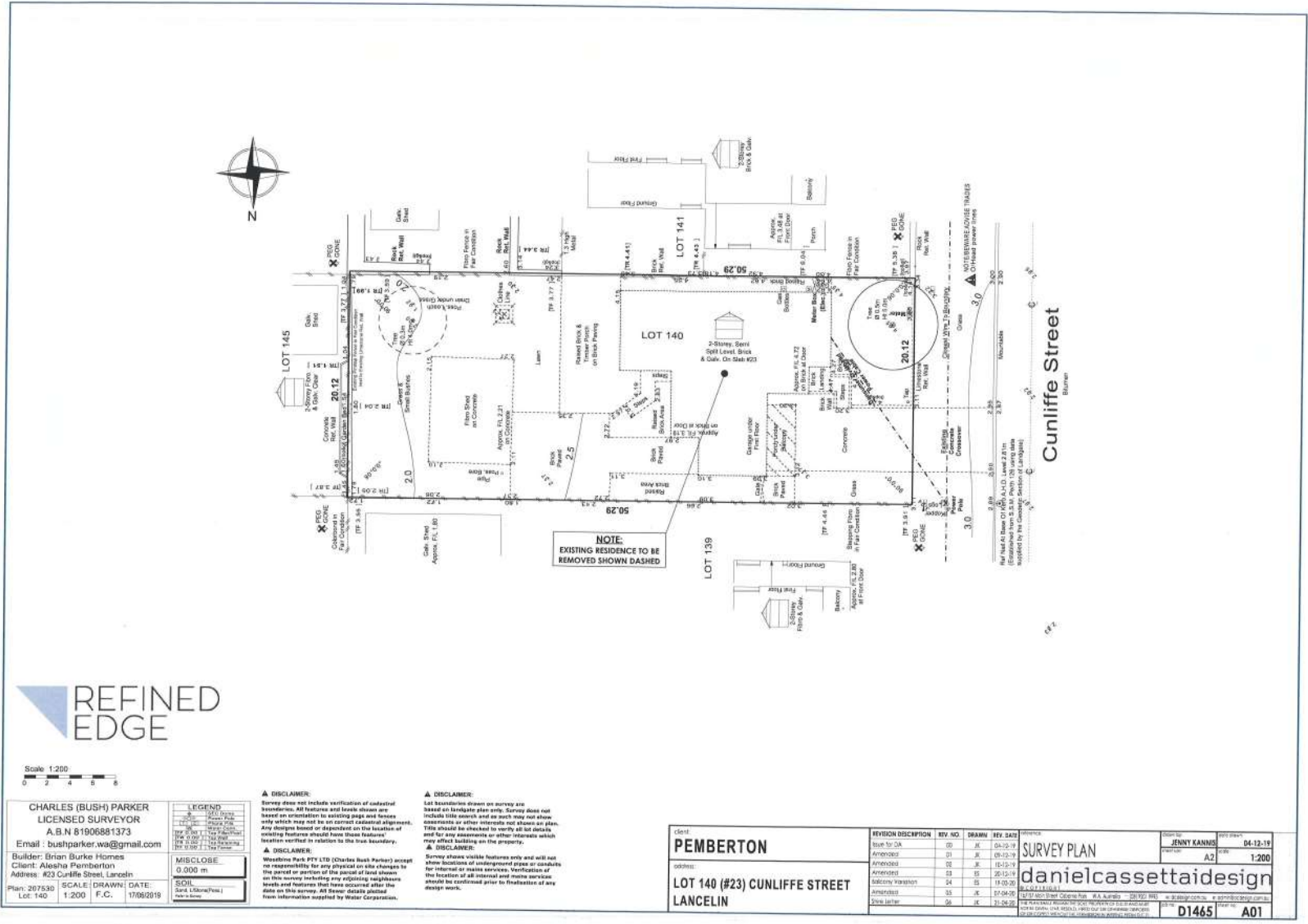
For: Councillors Morton, Lobb, Balcombe, Rule, Fewster, Johnson

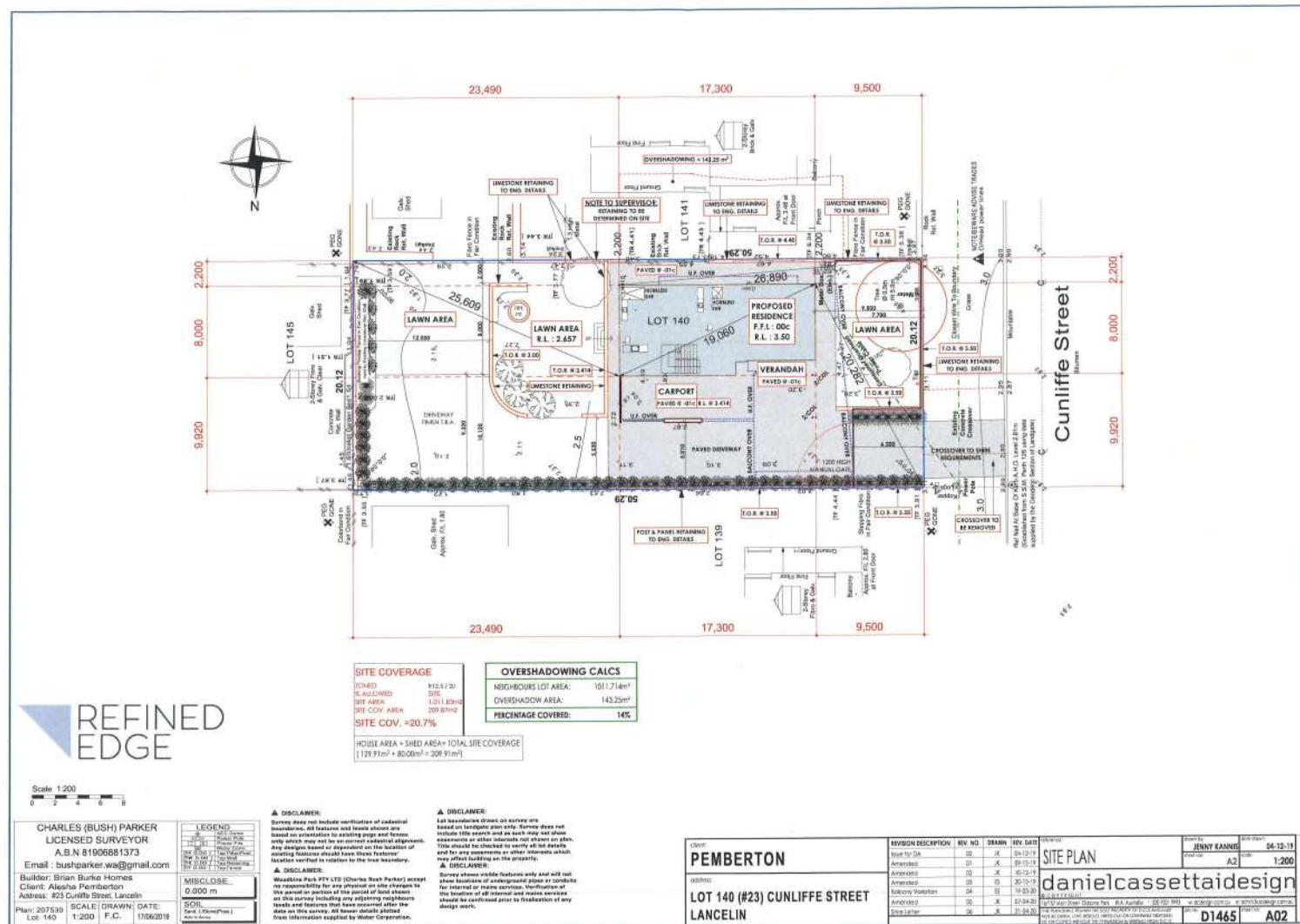
Against: Councillor Peczka

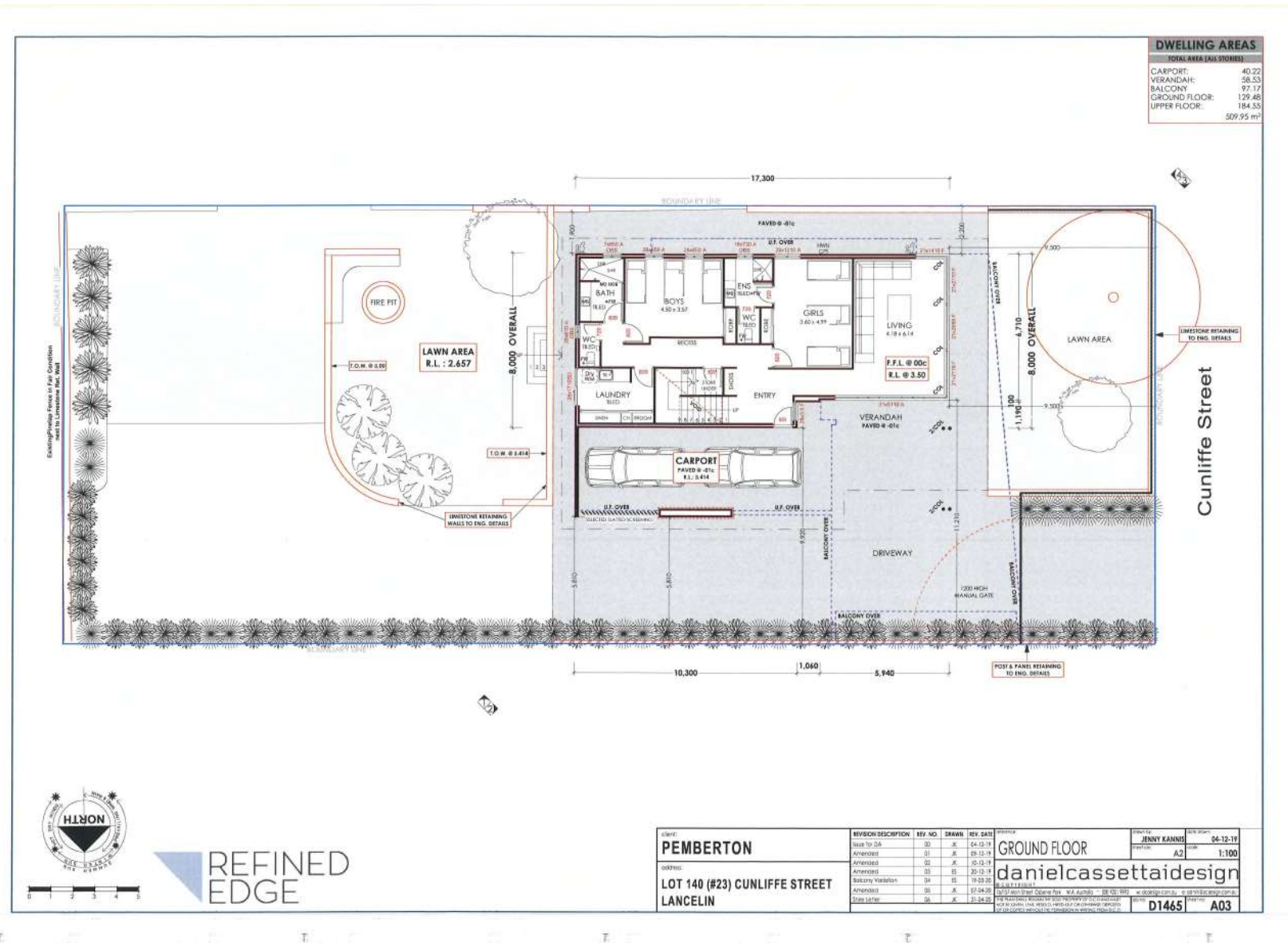
APPENDIX 1

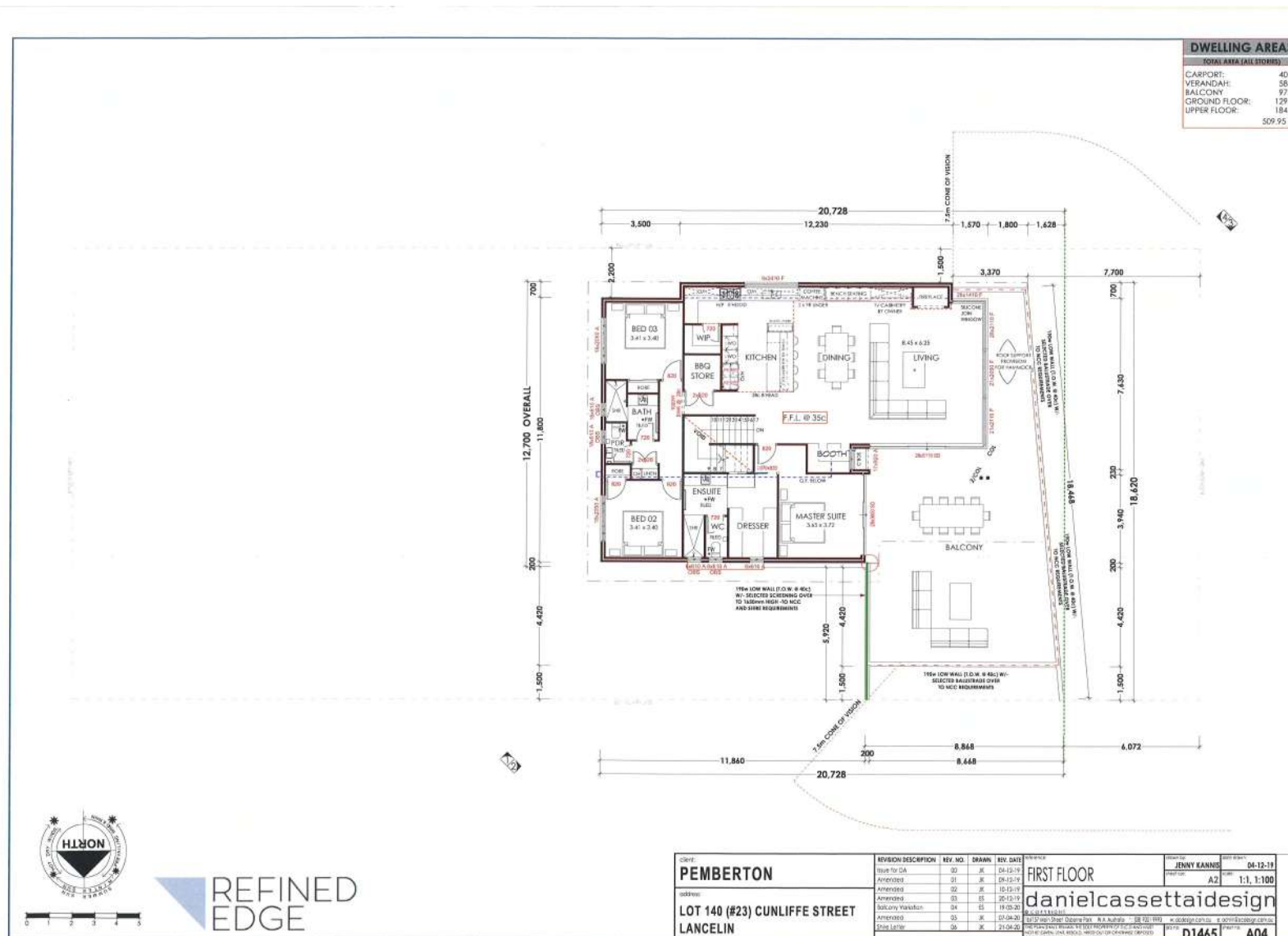


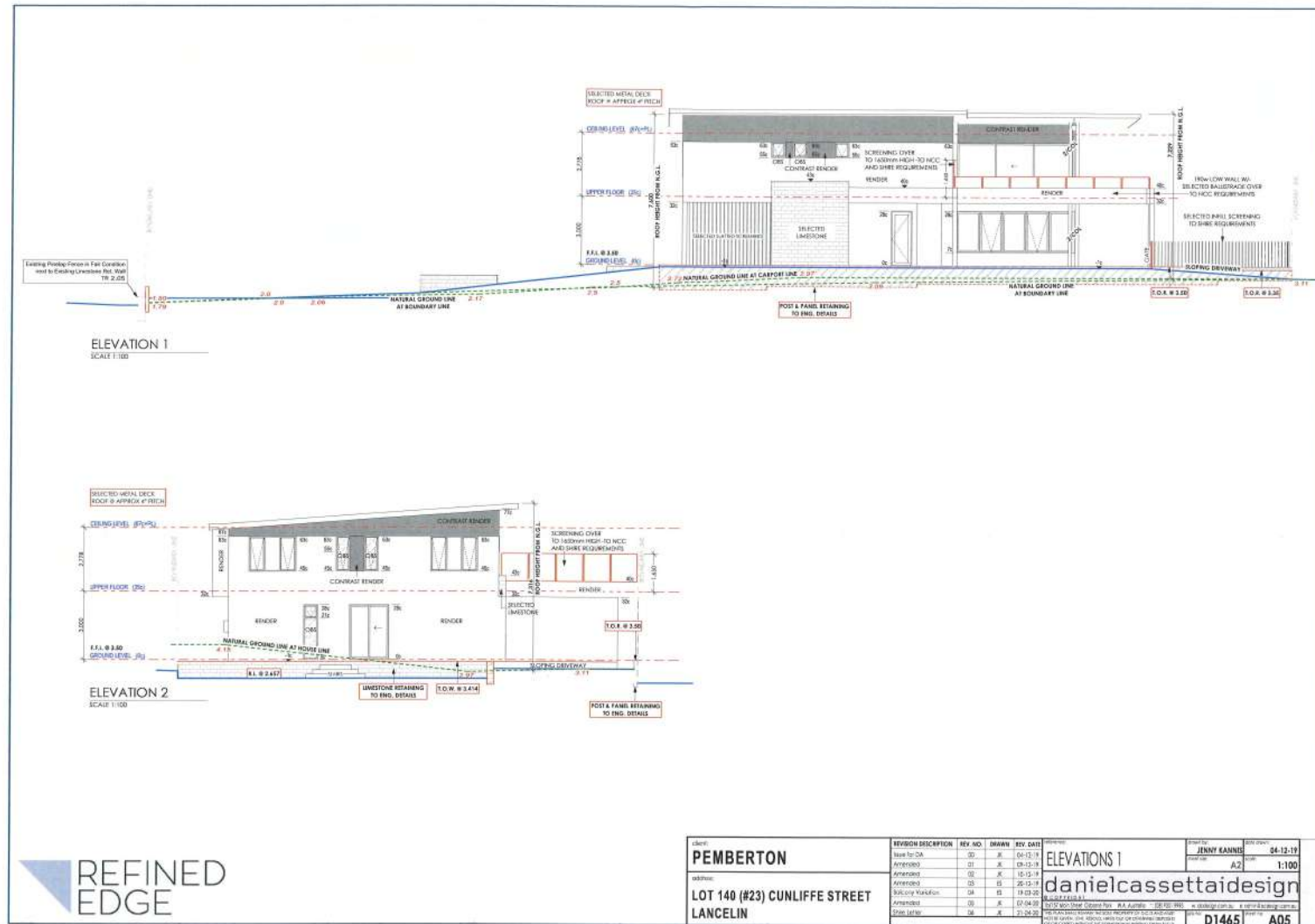




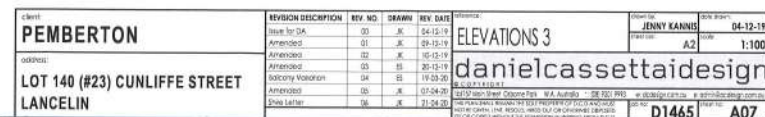














**REFINED
EDGE**

Client PEMBERTON		Revision Description	Rev. No.	Drawn	Rev. Date	3D RENDER	Drawn By JENNY KANNIS	Rev. Date 04-12-19
Address LOT 140 (#23) CUNLIFFE STREET LANCELIN		Issue for DA	01	JK	04-12-19		Project No. A2	Drawn By A2
		Amended	01	JK	09-10-19			
		Amended	02	JK	10-12-19			
		Amended	03	JK	20-12-19			
		Architectural Workshop	04	JK	19-03-20			
		Amended	05	JK	07-04-20			
		Shade Layout	06	JK	21-04-20			
		Scale: 1:100 (Site Plan), 1:50 (Floor Plan), 1:20 (Section)			Project No. D1465			
		Drawn By danielcassettadesign			Rev. Date A08			



**REFINED
EDGE**

Client:	PEMBERTON				Revision:	3D RENDER				Drawn by:	JENNY KAHNIS	Date issued:	04-12-19
Address:	LOT 140 (#23) CUNLIFFE STREET LANCELIN				Revision:	danielcassettaidesign				Drawn by:	A2	Date issued:	A09
		REVISION DESCRIPTION	REV. NO.	DRAWN	REV. DATE								
		Issue for 3d	01	JK	24-12-19								
		Amended	01	JK	25-12-19								
		Amended	02	JK	10-12-19								
		Amended	03	JK	20-12-19								
		Amended	04	JK	19-12-20								
		Amended	05	JK	07-04-20								
		Issue Letter	06	JK	21-04-20								

APPENDIX 2

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

DEVELOPMENT APPLICATION: SINGLE HOUSE AT LOT 140 (23) CUNLIFFE STREET, LANCELIN

No.	Submitter	Submission Detail	Recommended Response
1.	Ratepayer x 2	<p>The submitter does not support the application and makes the following comments:</p> <p><i>"Thank you for sending the proposed plans Lot 140 (23) Cunliffe Street, Lancelin.</i></p> <p><i>As the immediate south neighbour I have a number of serious concerns in regard to the scale and footprint of the development and its impact and amenity to the enjoyment of my home. Building R-codes have been developed for very sound reasons.</i></p> <p><i>The specific concerns are:</i></p> <ul style="list-style-type: none"> <i>• The southern boundary set back is effectively 1.5m from my boundary which is 800mm less than required in the R-codes. This is because the upstairs eaves incorporate an overhang which is 1.5m from the boundary. The plans signify an overall raising of the site to a level 500mm above the natural height. My home is at natural ground level.</i> <i>• There is no need for the site to be raised other than improving the sea views of the new house. The proposed development is north of my house and hence any increase in overall building height combined with a reduction in boundary setbacks will cause significant shadowing issues for my property.</i> <i>• I ask for the shire to request that the proposed development be modified to comply with R-code guidelines."</i> 	<p>Not support.</p> <ul style="list-style-type: none"> - The site works on average do not exceed the deemed-to-comply level of 500mm up to the lot boundary. The proposal effectively proposes more cut than fill with the cut up to 1000mm and fill being below 500mm. - The overshadowing has been illustrated and calculated on the proposed plans, the overshadowing meets the deemed-to-comply criteria of the R-Codes. - Compliance with the R-Codes would result in the proposal being exempt from development approval and the proposal undergoing a drastic redesign. The variations are not seen to be excessive in a manner that brings detriment to the built form and visual amenity of the locality and neighbouring properties. As noted in the report the variations fall within the scope of the relevant design principles making refusal to this extent unjustified.

2.	Ratepayer	<p>The submitter does not support the application and makes the following comments:</p> <p><i>"Thank you for sending the proposed plans Lot 140 (23) Cunliffe Street, Lancelin.</i></p> <p><i>As the immediate neighbour to the east, I have significant concerns regarding the scale of the proposed development and question the need for the property to be raised above the natural lay of the land other than to increase ocean views which are already at a premium.</i></p> <p><i>The current block is approximately 500mm above the level of my property at present and is retained by a limestone wall. Raising an additional 500mm could cause problems for me with water runoff and drainage.</i></p> <p><i>I also have concerns regarding the need to take the overhanging balcony to 1.5m from the northern boundary rather than the prescribed 2m as per R-code guidelines. Surely the proposed balcony could be reduced by 500mm to comply with the designated R-code envelope for the building.</i></p> <p><i>I strongly urge the Shire to request that the proposed development be modified to comply with R-code guidelines."</i></p>	<p>Not support.</p> <p>See response to submission No. 1.</p>
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3.	Ratepayer	<p>The submitter does not support the application and makes the following comments:</p> <p><i>"We oppose on the ground that they do not comply and they affect my amenity in my home."</i></p>	<p>Not support.</p> <p>Submission lacks detail, therefore please refer to the officer's report and relevant R-Code design principle assessment.</p>
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APPENDIX 3



Department of Planning,
Lands and Heritage

Enquiries: Tim Reed 6551 9452

Chief Executive Officer
Shire of Gingin
7 Brockman Street
Gingin WA 6503

Transmitted via email only to mail@gingin.wa.gov.au

Dear Sir

PROPOSED SINGLE HOUSE AND OUTBUILDING AT LOT 12 (29) CUNLIFFE STREET, LANCELIN

Thankyou for your referral in relation to the proposed development of a Single House and Outbuilding at Lot 12 (29) Cunliffe Street (the site). As requested, this response addresses the Department of Planning, Lands and Heritage position on the sites coastal vulnerability as well as recommended conditions.

A key objective of *State Planning Policy 2.6 – State Coastal Planning Policy* (SPP 2.6) is to ensure that development takes into account coastal processes and coastal hazards. The Policy requires the preparation of a Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) to provide a long term view of the potential coastal processes (erosion and storm surge inundation) for the site and recommends measures to reduce risk.

The site constitutes infill development under section 5.6 of SPP 2.6 and recommends two key measures. These measures require development to be located on the least vulnerable portion of the site, as well as recommendations of the CHRMAP being implemented.

As you'd be aware, the Shire adopted its CHRMAP in 2019. The CHRMAP identifies the site as being highly vulnerable to coastal processes by 2070 and very high vulnerability by 2110. The long term pathway identified within the CHRMAP for the site is to accommodate risk until the risk is no longer viable, then moving to managed retreat.

Should the Shire be of a mind to approve the application it is recommended that a notification is placed on title to advise current and/or future landowners of the coastal hazard risk. Additionally, the approval should be time limited to reflect the vulnerability of the site as identified through the CHRMAP, and not exceed an initial period of 50 years.

A list of suggested conditions and advice notes are provided at Attachment 1.

Postal address: Locked Bag 2506 Perth WA 6001 Street address: 140 William Street Perth WA 6000
Tel: (08) 6551 8002 info@dph.wa.gov.au www.dph.wa.gov.au
ABN 68 565 723 484
wa.gov.au

I trust this information is of assistance. However, if you should have any questions, please don't hesitate to contact Tim Reed on (08) 6551 9452.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark Johnston', written in a cursive style.

Mark Johnston
A/Planning Manager
Regional South

24/03/2020

Attachment 1

1. A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate of title of the proposed development lot advising of the existence of a hazard. The notification is to state as follows:

"VULNERABLE COASTAL AREA – This lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years and may be subject to conditions of development approval which require removal and/or rehabilitation to pre-development conditions."
2. Development approval shall be limited to a period of not more than 50 years from the date of approval, at which point the approval will lapse and:
 - i) The development shall be removed; and
 - ii) The land shall be rehabilitated to its pre-development condition, to the specifications and satisfaction of the Local Government, at the landowners cost.
3. Any development approval granted in respect of the Condition 2 shall cease to have effect and:
 - i) The development shall be removed; and
 - ii) The land shall be rehabilitated to its pre-development condition, to the specifications and satisfaction of the Local Government, at the landowners cost when the most landward part of the Horizontal Shoreline Datum is within 11 metres of the most seaward part of the lot boundary.
4. Any development approval granted in respect of the Condition 2 shall cease to have effect and:
 - i) The development shall be removed; and
 - ii) The land shall be rehabilitated to its pre-development condition, to the specifications and satisfaction of the Local Government, at the landowners cost where a public road is no longer available or able to provide legal access to the property.
5. Any development approval granted in respect of the Condition 2 shall cease to have effect and:
 - i) The development shall be removed; and
 - ii) The land shall be rehabilitated to its pre-development condition, to the specifications and satisfaction of the Local Government, at the landowners cost when water, sewerage or electricity to the lot is no longer available as they have been removed/decommissioned by the relevant authority due to coastal hazards.

Advice Notes:

1. In relation to Conditions 2, there is no limit to the number of extensions that the Shire may grant, allowing the development to remain until such time condition 3, 4 or 5 occur at which time the development will be required to be removed in accordance with condition 3, 4 or 5.

2. The applicant is advised that the Horizontal Shoreline Datum means the active limit of the shoreline under storm activity, as defined in State Planning Policy 2.6 – State Coastal Planning Policy (2013).
3. The applicant is advised that the 11 metre distance between the Horizontal Shoreline Datum and the most seaward part of the lot boundary is the S1 value for this location which is obtained from the MP Rogers (2016) Shire of Gingin and Dandaragan Coastal Erosion Hazard Assessment Ledge Point, Lancelin and Cervantes (R721 Rev 0) prepared for the Shires of Gingin and Dandaragan. S1 is the allowance for absorbing the current risk of storm erosion, as defined in State Planning Policy 2.6 – State Coastal Planning Policy (2013).

**11.3.6 APPLICATION FOR DEVELOPMENT APPROVAL - PROPOSED SINGLE HOUSE
ON LOT 12 (29) CUNLIFFE STREET, LANCELIN**

File:	BLD/7107
Applicant:	Claudio Marino
Location:	Lot 12 (29) Cunliffe Street, Lancelin
Owner:	Janelle Prunster
Zoning:	Residential 12.5 / 20
WAPC No:	N/A
Author:	James Bayliss – Acting Manager Statutory Planning Matthew Tallon – Statutory Planning Officer
Reporting Officer:	Bob Kelly –Executive Manager Regulatory and Development Services
Report Date:	16 June 2020
Refer:	N/A
Appendices	1. Location Plan and Applicant's Proposal 2. Schedule of Submissions and Recommended Responses 3. Department of Planning, Lands and Heritage advice

DISCLOSURES OF INTEREST

Nil

PURPOSE

To consider an application for Development Approval for a proposed single house on Lot 12 (29) Cunliffe Street, Lancelin.

BACKGROUND

The Shire is in receipt of an Application for Development Approval for a proposed Single House on the subject lot, which is 1011.7m² in area. The property is currently vacant.

The subject land is identified within the Shire's Coastal Hazard Risk Management and Adaption Plan (CHRMAP) as being impacted by coastal processes within the planning timeframe (i.e. prior to 2110).

The proposed development seeks the following variations to State Planning Policy 7.3 - Residential Design Codes Volume 1 (R-Codes):

- Clause 5.1.3 Lot Boundary Setback;
- Clause 5.3.7 Site Works; and
- Clause 5.3.8 Retaining Walls.

A location plan and a copy of the applicant's proposal are provided as **Appendix 1**.

Council consideration is required due to adverse submissions being received during the consultation process. Furthermore, the officer is of the view that Council consideration is required due to the anticipated impacts of coastal hazards within the planning timeframe on the proposed development.

COMMENT

Stakeholder Consultation

The application was advertised to surrounding landowners for a period of 14 days in accordance with clause 64 of the *Planning and Development (Local Planning Scheme) Regulations 2015*. The Shire received one written comment providing consent/support for the development.

Given the site is projected to be impacted by coastal processes within the planning timeframe, the application was referred to the Department of Planning, Lands and Heritage (DPLH) Coastal Section for comment. In summary, DPLH provided a list of suggested conditions should the Shire wish to approve the proposed development.

A copy of the Schedule of Submissions and Recommended Responses is provided as **Appendix 2**.

A copy of the comments received by the DPLH is provided as **Appendix 3**.

PLANNING FRAMEWORK

Local Planning Scheme No. 9 (LPS 9) Planning Assessment

The subject land is zoned Residential 12.5 / 20 under LPS 9, the objectives of which are to:

- a) *Provide for a range of housing types and encourage a high standard of residential development;*
- b) *Maintain and enhance the residential character and amenity of the zone;*
- c) *Limit non-residential activities to those of which the predominant function is to service the local residential neighbourhood and for self-employment or creative activities, provided such activities have no detrimental effect on the residential amenity; and*
- d) *Ensure that the density of development takes cognisance of the availability of reticulated sewerage, the effluent disposal characteristics of the land and other environmental factors.*

The use class 'Single House', is not defined under LPS 9 and accordingly the definition is taken from State Planning Policy 7.3 – Residential Design Codes Volume 1 as follows:

"A dwelling standing wholly on its own green title or survey strata lot, together with any easement over adjoining land for support of a wall or for access or services and excludes dwellings on titles with areas held in common property."

Clause 5.2.2 states:

“Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform to the provision of those codes.”

The officer’s assessment against the R-Codes is provided in the report below.

Coastal Development

‘Clause 4.7.4 – Coastal Development’ of LPS 9 is applicable in this instance and states:

“4.7.4.1 - All coastal development is to comply with the provisions of State Planning Policy 2.6 – Coastal Planning Policy’.

4.7.4.2 - In accordance with section 77 (1) (b) of the Planning and Development Act 2005, the provisions of State Planning Policy 2.6 – State Coastal Planning shall apply as if they were part of this scheme.”

State Planning Policy No. 2.6 – State Coastal Planning Policy

As outlined within the DPLH’s comments to the Shire, a key objective of SPP 2.6 is to ensure that development takes into account coastal processes and coastal hazards. This is implemented by the preparation of a CHRMAP to provide a long term view of the potential coastal processes (erosion and storm surge inundation) for affected areas and recommend measures to reduce risk.

The subject property constitutes infill development under section 5.6 of SPP 2.6, which recommends two measures which are outlined below:

‘Clause 5.6 - Infill Development’

(iii) New development should be located on the least vulnerable portion of the development site.

Officer Comment:

The proposed development covers a large extent of the subject land and is generally viewed as being situated on a logical portion of the property. The development could potentially be moved further to the rear of the site, however given the circumstances of the property location, a repositioning to this effect will have minimal benefit in terms of addressing coastal processes.

(iv) Where development is likely to be subject to coastal hazards over the planning timeframe, coastal hazard risk management and adaptation planning measures (Section 5.5) should be implemented to reduce the risk from coastal hazards over the full planning time frame to an acceptable level.

Officer Comment:

Given the site is anticipated to experience coastal processes within the planning timeframe, 'accommodation measures' by way of modification to the building design to facilitate future relocation of the building is desirable and is outlined with the Shire's CHRMAP. It is noted that the development is clearly a permanent single house which is not designed to be transportable or removable. Accordingly, upon coastal trigger points being reached, the development would need to be demolished rather than relocated.

Shire of Gingin Coastal Hazard Risk Management and Adaption Plan 2019

Council adopted the CHRMAP at the Ordinary Meeting held on 16 April 2019. The CHRMAP identifies the site as being located within 'LA2 - Lancelin Township South', with a key outcome concluding:

- *"Residential properties have high vulnerability ratings by 2070 and very high vulnerability ratings by 2110."*

As such, a time period of 50 years is anticipated to lapse before coastal hazards affect the site. The long term pathway identified within the CHRMAP for 'LA 2' is to avoid the risk, accommodate the risk until the risk is no longer viable, then move to a managed retreat.

The CHRMAP outlines various management responses and planning controls that may be applied to development on land identified as being affected by coastal processes in the planning timeframe. The controls that may be applied in this instance are outlined below with officer comments:

Avoid: Means prohibiting development from taking place in locations identified as being at potential risk from coastal hazards.

Officer comments:

The subject site is identified as being at risk from coastal hazards within the planning timeframe. Avoiding development is an option for Council to consider.

Accommodate: Accommodation options recognise that there is a hazard, but do not prohibit development. Instead, depending on the nature of the hazard and the timeframe within which it is expected to occur, development may be permitted within defined parameters.

This section of the CHRMAP goes on to state:

"A scenario could be to acknowledge that the land might be subject to erosion in the future, but that the planning horizon is sufficiently far off that temporary development could be acceptable until such time as the threat of erosion becomes imminent. In such a situation certain types of construction might be acceptable (e.g.: transportable or easily dismantable)."

Officer comments:

As previously outlined, the development is clearly a permanent single house, which is not designed to be transportable or removable. Accordingly, upon coastal trigger points being reached, the development would need to be demolished rather than relocated.

It should be noted that the Shire does not have the local statutory planning framework (whether through scheme provisions or a local planning policy) in place to specifically restrict development in coastal hazard areas to a design that is transportable/removable in nature.

Managed Retreat - Existing development would be permitted to remain for as long as it remains unaffected by coastal hazards, but new development or expansion of existing development would not be permitted as intensification of development would mean more assets at risk. Approval of any development would be time limited, based on the forecast hazard timeframe.

Officer comments:

The option of time limiting approval goes hand in hand with the 'accommodate' approach to ensure that upon expiration of the approval, the development is of a design capable of relocation. As outlined above, this development is not relocatable and will therefore require the asset to be demolished once the coastal trigger point is reached.

The CHRMAP outlines two possible types of approval conditions that can be imposed on coastal development. These are to place a notification on the title of the land and to place a time limit on the approval so that the approval will expire after a defined period. The CHRMAP states:

"Notifications on Title are intended to alert owners and potential purchasers of something that applies to the land but which may not be apparent from inspection of the land. The threat of future coastal hazards is a matter that would not be apparent on land unless it had already been eroded."

"Notification on the Certificate of Title will ensure that existing and any future landowners (Successors in Title) are made aware of the risk of possible impacts on the land from coastal processes. Owners and potential purchasers would then be able to make an informed decision about the level of risk they are prepared to take on. The notification would also inform them that some form of adaptation or management is likely to be required."

"A time limit can be applied to a development approval. For example, if a development is proposed on land that is forecast to be affected by coastal processes in 30 years, an approval might be limited to within that timeframe. An application for a new approval could be sought at the end of that period and it would be assessed based on the information on risk available at that time. The condition may also identify an 'event trigger' to further limit an approval in case the hazard occurs sooner than predicted."

Section H4.1, Appendix H of the CHRMAP states:

“Any new development approved should have a time limit placed upon it, after which time the development should be removed by the landowner unless a subsequent new approval is applied for and granted for a further period. The length of the approval should be related to the forecast hazard lines”

“No development should be permitted on any vacant land between 2030 and 2110 hazard lines that is not:

- c) Capable of accommodating short term inundation that may result from storm surges; and*
- d) Capable of being relocated if necessary.*

The former may involve elevated finished floor levels with ‘stilt’ construction that will allow water to flow under and around the structure with minimal disturbance. The latter may involve ‘lightweight’ construction that could readily be disassembled and relocated if necessary”.

Officer comments:

The officer is of the view that the proposed development is not designed to accommodate short term inundation or capable of being relocated if necessary. On this basis the proposed development does not satisfy the recommendations of the CHRMAP.

Notwithstanding the above, the challenge facing the Shire is to be pragmatic in applying discretion to proposed development within coastal areas and not regulate development in such a way that prematurely prevents development on otherwise suitable land from being used in the interim period. At the same time, the local government must not create a future legal or financial liability by permitting development that is likely to become vulnerable to damage from erosion or inundation.

On this basis, the officer is of the view that if the landowner is prepared to make an informed decision to not implement design measures to accommodate the coastal risk, then it may be supported in its current design subject to specific time and event limited conditions and advice notes.

Planning and Development (Local Planning Scheme) Regulations 2015 (the Regulations)

The regulations is subsidiary legislation created under the *Planning and Development 2005* that include ‘deemed provisions’ which apply to every local planning scheme throughout the State.

In accordance with Schedule 2, Part 9, Clause 67 of the Deemed Provisions, the local government is to have due regard to a range of matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application. In this instance, the following matter is considered to be relevant:

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

Officer comment:

The local government must consider the effects of coastal erosion and inundation on proposed development as per the above. The officer has provided comprehensive commentary on the coastal hazards anticipated to affect the property above and determined that the land is suitable to accommodate the proposed development subject to a specific set of conditions being imposed.

‘Clause 72 - Temporary Development Approval’ of the deemed provisions states:

“The local government may impose conditions limiting the period of time for which development approval is granted.

Note: A temporary development approval is where the local government grants approval for a limited period. It does not have any effect on the period within which the development must commence.”

Officer comment:

The recommended conditions include time limiting the development as provided for under clause 72. This demonstrates that the CHRMAP recommendations are consistent with the overarching planning framework.

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

The subject site is indicated as being bushfire prone as per the Department of Fire and Emergency Services (DFES) online mapping.

This notwithstanding, SPP 3.7 only applies to the development of a single house on land that exceeds 1,100m² in area. Given the subject lot is less than 1,100m², a BAL assessment is not required as part of the planning process.

State Planning Policy 7.3 – Residential Design Codes Volume 1 (R-Codes)

The R-Codes provide a comprehensive basis for the control of residential development throughout Western Australia. When a development proposal does not comply with the deemed-to-comply provisions, the application is assessed against the associated design principles to determine whether the variation is acceptable.

Clause 5.1.3 Lot Boundary Setback

In relation to lot boundary setbacks, the proposal seeks the southern wall to be set back 15m in lieu of 1.8m, which can be viewed as minor.

The outbuilding is proposed at a nil setback from the northern lot boundary in lieu of 1.7m.

Site works/retaining walls above 500mm in height are proposed at a nil setback on the north and east lot boundaries in lieu of 1.5m.

Clause 5.3.7 Site Works

The site works raise the floor level of the single house by approximately 900mm and a raised NGL of the lot effectively benching the levels with the level at the front lot boundary.

Clause 5.3.8 Retaining Walls

As noted under clause 5.3.7 there are excessive amounts of site works, which results in the requirement for retaining walls on the rear and side lot boundaries in excess of the deemed-to-comply height of 500mm to quadruple that figure (2100mm) at the highest point.

The officer comments are outlined against the relevant design principles in the table below:

Design Principles	Officer Comments
<p>5.1.3 – Lot boundary setbacks</p> <p>P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</p> <ul style="list-style-type: none">• reduce impacts of building bulk on adjoining properties;• provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and• minimise the extent of overlooking and resultant loss of privacy on adjoining properties. <p>P3.2 Buildings built up to boundaries (other than the street boundary) where this:</p> <ul style="list-style-type: none">• makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;• does not compromise the design principle contained in clause 5.1.3 P3.1;• does not have any adverse impact on the amenity of the adjoining property;	<p>P3.1 The single house imposes a 300mm deemed to comply setback variation. This does not pair with excessive building heights nor does it involve any overshadowing not anticipated for the density rating to the adjoining lot.</p> <p>It is noted that there are substantial site works proposed for the lot in which exceed 500mm within the lot boundary setbacks. The site works to the rear of the lot are excessive and unnecessary.</p> <p>P3.2 The outbuilding is proposed to be built on the lot boundary, however when paired with the site works and retaining walls on the boundary this is seen to be excessive displaying a wall height of 4.53m above NGL.</p> <p>The combination of the nil boundary setback, excessive site works and an excessive wall height all attribute to an unacceptable display of building bulk and scale.</p>

<p>5.3.7 Site Works</p> <p>P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.</p> <p>P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.</p>	<p>P7.1 The proposed single house is being developed on a raised 1100mm pad for the front portion, this does not attribute to excessive building heights (as per Table 3 of the R-Codes) as measured from NGL.</p> <p>Additional to that, site works are proposed to raise the level of the lot between 400mm and 1328mm with a small dipped portion at the rear being filled with a maximum height of 1800mm.</p> <p>The overall fill can be viewed as acceptable, however it is noted that the portion to the rear could be viewed as excessive and Council may prefer a terraced approach.</p> <p>P7.2 The topography of the lot does not force excessive cut/fill in order to facilitate development. The single house is proposed on a raised pad however complies with the building heights as taken from NGL.</p> <p>For the most part the site works are suitable. Fill may be seen as necessary to protect the development from inundation during/following storm surge events. The rear adjoining landowner has also not submitted any concerns during the advertisement period.</p>
<p>5.3.8 Retaining Walls</p> <p>P8 Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 and 5.4.1.</p>	<p>Retaining walls are proposed for the majority of the site running along both side boundaries and along the rear boundary.</p> <p>As noted under clause 5.3.7 the site works/retaining is viewed as being on the cusp of excessive.</p> <p>As noted under clause 5.3.7, given that the site may be subject to coastal inundation from storm surge events the site works are viewed as acceptable in this instance.</p>

Summary

The proposed design of the development does not enable relocation of the asset once the coastal threat is imminent. The consequences of this design must to be accepted by the applicant/landowner.

As noted in the assessment above, the officer is of the view that the Shire should be pragmatic in considering development within areas forecast to be affected by coastal hazards within the planning timeframe. It is therefore considered that the use of coastal areas should not be prematurely restricted via the refusal of development applications when considering site specific circumstances.

The recommended conditions relate to time and event limited triggers that enable the development to occur in the interim period until the triggers are reached. It is paramount that these conditions be imposed.

When exercising reasonable care having regard to coastal hazards as predicted in the CHRMAP and the relevant policy provision in SPP 2.6 and the associated Guidelines, a time and event limited approval for development that would foreseeably be affected by coastal erosion in the planning timeframe is a suitable and reasonable approach.

STATUTORY/LOCAL LAW IMPLICATIONS

Local Planning Scheme No. 9
Clause 4.7.4 – Coastal Development

State Planning Policy 7.3 – Residential Design Codes

State Planning Policy No. 2.6 – State Coastal Planning Policy

Shire of Gingin Coastal Hazard Risk Management and Adaption Plan 2019

Planning and Development (Local Planning Scheme) Regulations 2015 (Deemed Provisions)

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

POLICY IMPLICATIONS

Nil.

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019 – 2029

Focus Area	<i>Infrastructure and Development</i>
Objective	<i>3. To effectively manage growth and provide for community through the delivery of community infrastructure in a financially responsible manner</i>
Outcome	<i>3.1 Development New and existing developments meet the Shire's Strategic Objectives and Outcomes</i>
Key Service Areas	<i>Building And Planning Permits</i>
Priorities	<i>N/A</i>

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Johnson

SECONDED: Councillor Morton

That Council grant Development Approval for a Single House on Lot 12 (29) Cunliffe Street, Lancelin subject to the following conditions:

- 1. All development shall be undertaken in accordance with the approved plans and specifications (including any modifications marked in RED) unless conditioned otherwise in this approval;**
- 2. This development approval is for a Single House only as illustrated on the approved plans;**
- 3. This development approval is granted for a limited period and shall expire upon the earliest occurrence of any one of the following events:**
 - a. the expiration of a period of 50 years from the date of approval; or**
 - b. the most landward part of the Horizontal Shoreline Datum being within 11 metres of the most seaward part of the lot boundary; or**
 - c. a public road no longer being available or able to provide legal access to the lot; or**
 - d. when water, sewerage or electricity to the lot is no longer available as they have been removed/decommissioned by the relevant authority due to coastal hazards.**

4. Upon the expiration of the development approval in accordance with condition 3, the owner shall at the owner's cost:
 - a. remove the development; and
 - b. rehabilitate the land to its pre-development condition, to the specifications and satisfaction of the Shire of Gingin.
5. A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the Certificate of Title of the proposed development lot advising of the existence of a hazard. The notification is to state as follows:

“VULNERABLE COASTAL AREA – This lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years and is subject to conditions of development approval which require removal and/or rehabilitation of development to pre-development conditions.”
6. Stormwater from all roofed and paved areas shall be collected and contained onsite to the satisfaction of the Shire of Gingin;
7. Prior to occupation of the development, the driveway shall be serviced by a new crossover from Cunliffe Street which is to be designed and constructed to the satisfaction of the Shire of Gingin at the landowner's cost;
8. The approved retaining wall and footings abutting the lot boundaries are to be constructed wholly within the subject allotment. The external surfaces of the retaining walls shall be finished to a professional standard, to the satisfaction of the Shire of Gingin.

Advice Notes:

- Note 1. If you are aggrieved by the conditions of this approval you have the right to request that the State Administrative Tribunal (SAT) review the decision, under Part 14 of the *Planning and Development Act 2005*.
- Note 2. If the development subject to this approval is not substantially commenced within a period of 2 years, the approval shall lapse and have no further effect.
- Note 3. Where an approval has so lapsed, no development may be carried out without further approval of the local government having first been sought and obtained.
- Note 4. Further to this approval, the applicant is required to submit working drawings and specifications to comply with the requirements of the Building Act 2011 and Health Act 2016, which are to be approved by the Shire of Gingin.

- Note 5.** In relation to Condition 3(a), the applicant may apply to extend the term of the approval so as to permit the development to remain until such time as a triggering event as referred to in Conditions 3(b)-(d) occurs at which time the development will be required to be removed in accordance with Condition 3.
- Note 6.** The applicant is advised that the Horizontal Shoreline Datum means the active limit of the shoreline under storm activity, as defined in State Planning Policy 2.6 – State Coastal Planning Policy (2013).
- Note 7.** The applicant is advised that the 11 metre distance between the Horizontal Shoreline Datum and the most seaward part of the lot boundary is the S1 value for this location which is obtained from the MP Rogers (2016) Shire of Gingin and Dandaragan Coastal Erosion Hazard Assessment Ledge Point, Lancelin and Cervantes (R721 Rev 0) prepared for the Shires of Gingin and Dandaragan. S1 is the allowance for absorbing the current risk of storm erosion, as defined in State Planning Policy 2.6 – State Coastal Planning Policy (2013).
- Note 8.** Should the development be affected by Coastal Hazards in the future the applicant will be responsible for relocating/removing the development and all costs associated. The local government is under no obligation to assist or protect structures from coastal erosion/inundation threats and accepts no liability and will pay no costs associated with any protection from or damages caused by coastal processes.
- Note 9.** In relation to condition 4 (b), upon removal of the development the site is to be rehabilitated to pre-development condition which comprises of a bare earth lot, free of any buildings, demolition rubble or remnants of the approved development.
- Note 10.** It is recommended that cadastral lot boundaries be established by a suitably qualified land surveyor to ensure that all development is carried out within the subject allotment.
- Note 11.** In relation to condition 7, a crossover application form is to be made to the Operations Department which can be found on the Shire's website at the following link: <https://www.gingn.wa.gov.au/services/operations.aspx>.

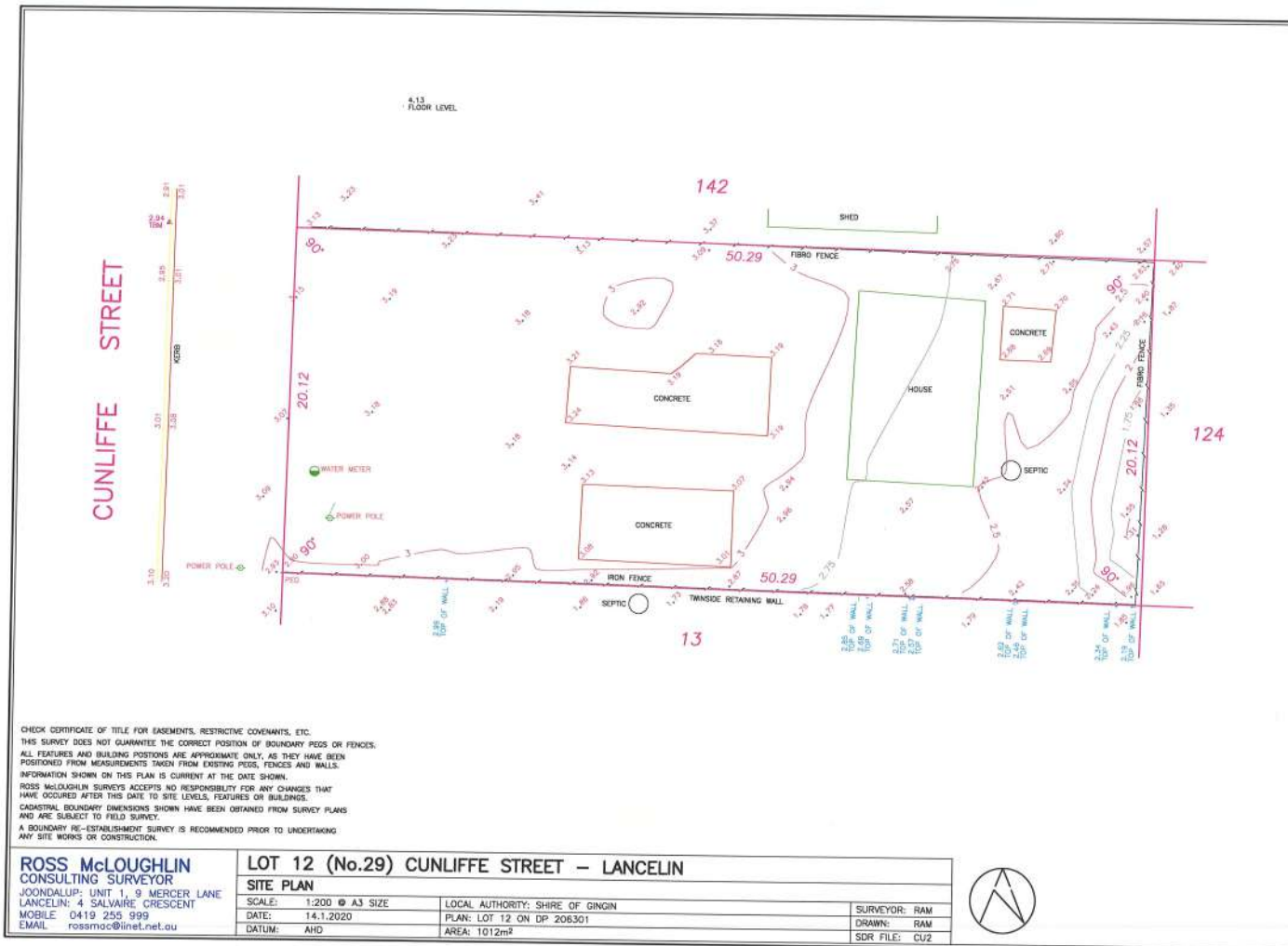
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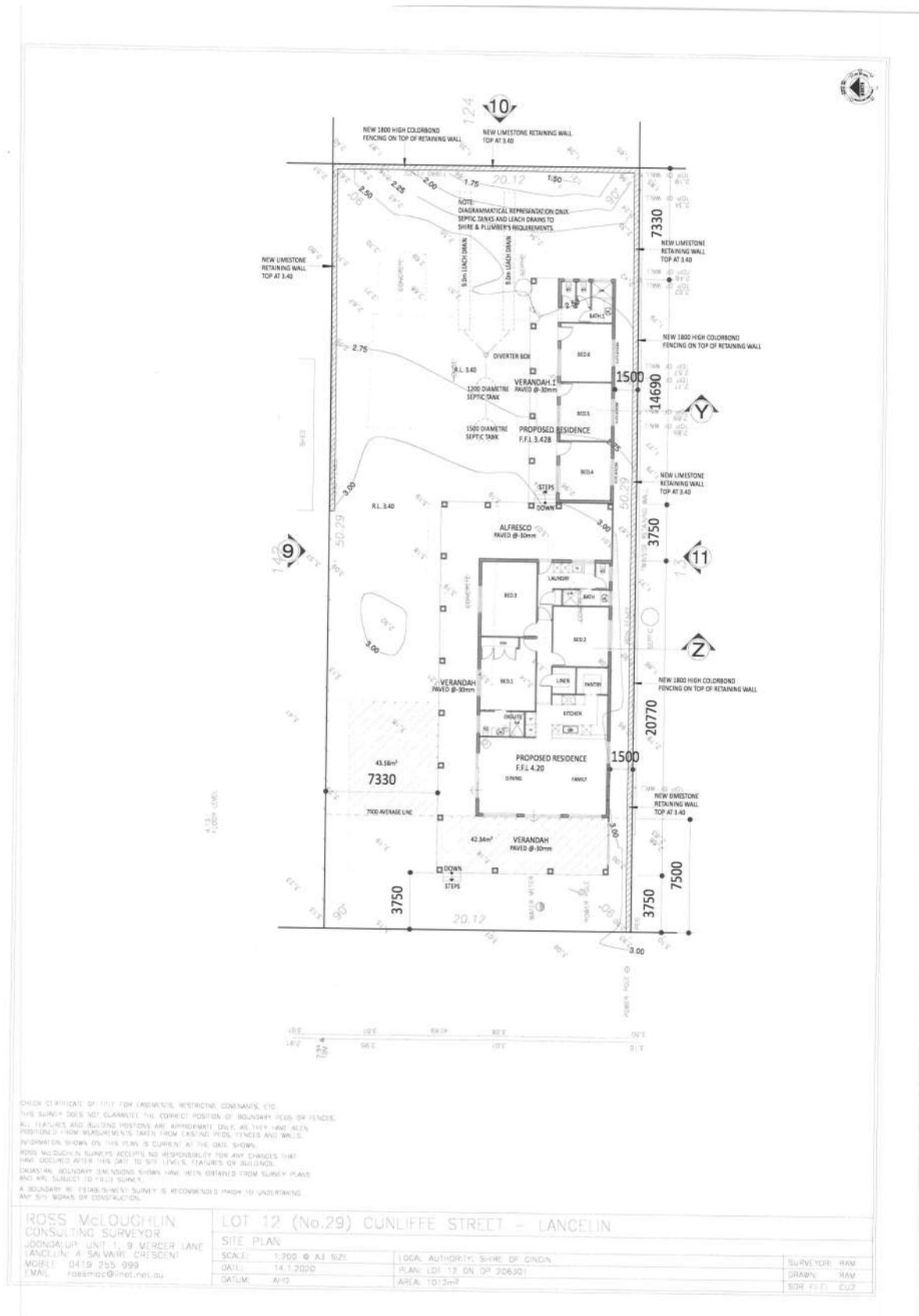
For: Councillors Morton, Lobb, Balcombe, Rule, Fewster and Johnson
Against: Councillor Peczka

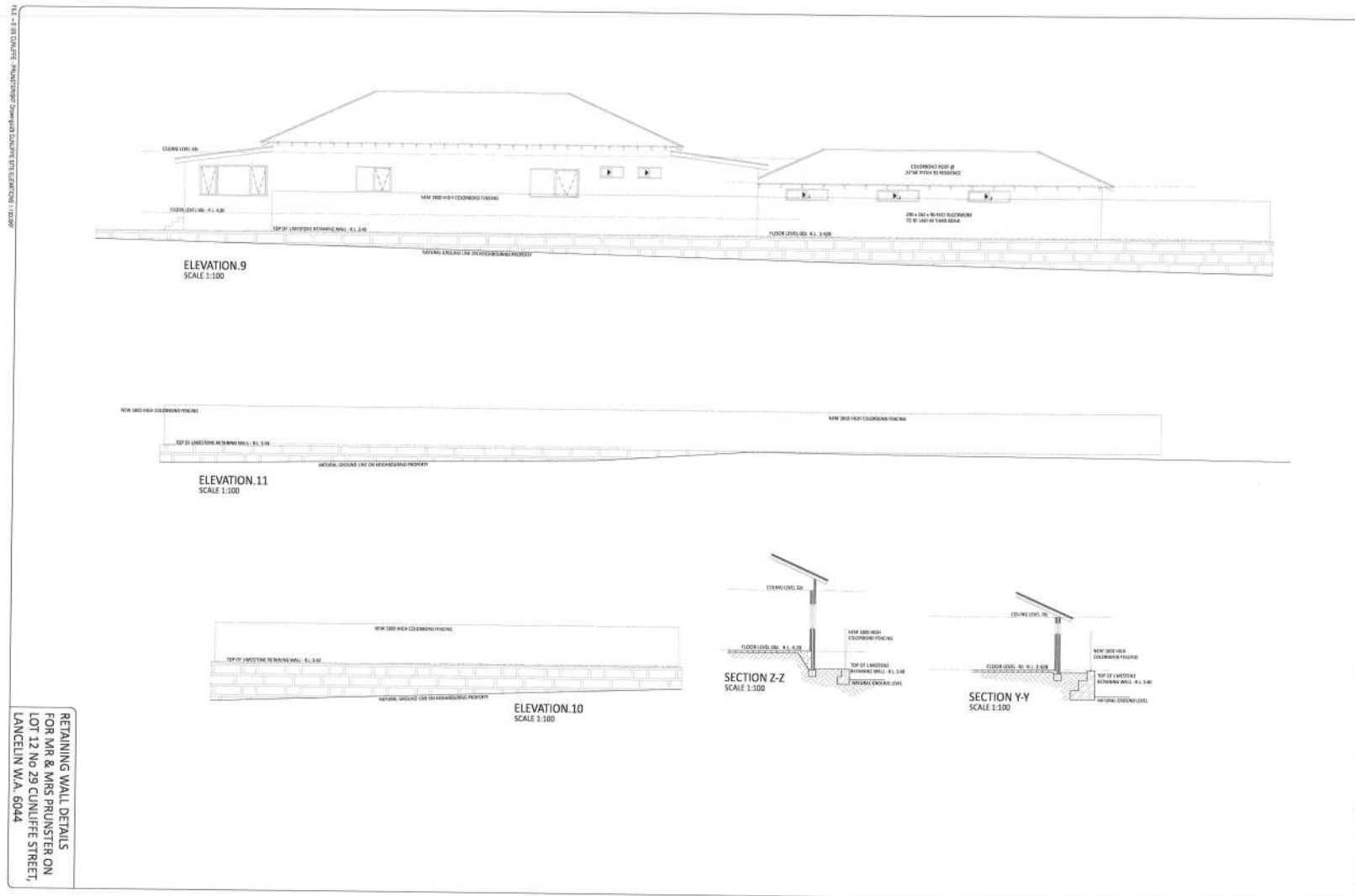
APPENDIX 1



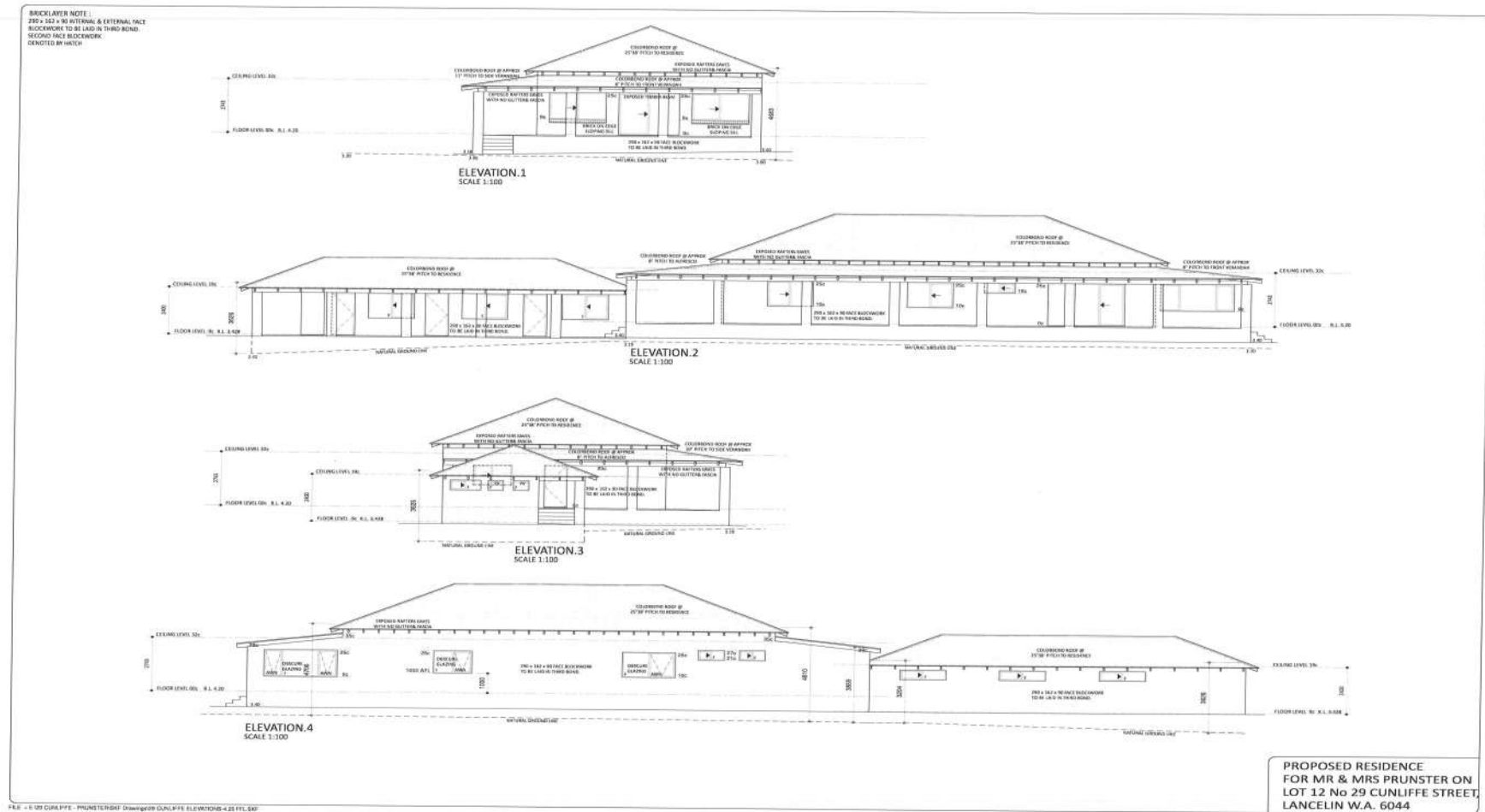












APPENDIX 2

SCHEDULE OF SUBMISSIONS AND RECOMMENDED RESPONSES

APPLICATION FOR DEVELOPMENT APPROVAL PROPOSED SINGLE HOUSE AT LOT 12 (29) CUNLIFFE STREET, LANCELIN

No	Submitter	Submission Detail	Recommended Response
1.	Ratepayer	<p>The submitter does not support the proposal and makes the following comment:</p> <p><i>"Further to the above application to build on LOT 12 (29) Cunliffe Street;</i></p> <ul style="list-style-type: none"> <i>I do not approve of the block being raised (by 400mm) above the current retained height.</i> <p><i>The retaining wall on the south side of the property (adjoining my property at 31 Cunliffe Street) failed 2 years ago in a significant storm and was replaced with a new retaining wall and Stratco fence at considerable cost.</i></p> <p><i>Being on the low side, I do not want any risk to the existing structure or to be exposed to additional risk associated with increased retaining.</i></p> <p><i>I do not object to the minor reduction in setback from 1.8m to 1.5m on the south lot boundary if this meets with council approval and again will not in any way jeopardise the existing retaining and the safety & security of my dwelling.</i></p> <p><i>Please call or Email me directly should you require any further information."</i></p>	<p>Noted.</p> <p>The site works are notably extensive however retaining for fill is deemed-to-comply on a lot boundary to 500mm. it is noted however that this is exceeded to the east (rear) portion of the lot however is justified in relation to scale and bulk.</p> <p>The structural integrity of the wall will remain at the discretion of the building department and the relevant engineering requirements for all retaining walls.</p> <p>The remaining boundary issues remain civil.</p>

APPENDIX 3



Department of Planning,
Lands and Heritage

Enquiries: Tim Reed 6551 9452

Chief Executive Officer
Shire of Gingin
7 Brockman Street
Gingin WA 6503

Transmitted via email only to mail@gingin.wa.gov.au

Dear Sir

PROPOSED SINGLE HOUSE AND OUTBUILDING AT LOT 12 (29) CUNLIFFE STREET, LANCELIN

Thankyou for your referral in relation to the proposed development of a Single House and Outbuilding at Lot 12 (29) Cunliffe Street (the site). As requested, this response addresses the Department of Planning, Lands and Heritage position on the sites coastal vulnerability as well as recommended conditions.

A key objective of *State Planning Policy 2.6 – State Coastal Planning Policy* (SPP 2.6) is to ensure that development takes into account coastal processes and coastal hazards. The Policy requires the preparation of a Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) to provide a long term view of the potential coastal processes (erosion and storm surge inundation) for the site and recommends measures to reduce risk.

The site constitutes infill development under section 5.6 of SPP 2.6 and recommends two key measures. These measures require development to be located on the least vulnerable portion of the site, as well as recommendations of the CHRMAP being implemented.

As you'd be aware, the Shire adopted its CHRMAP in 2019. The CHRMAP identifies the site as being highly vulnerable to coastal processes by 2070 and very high vulnerability by 2110. The long term pathway identified within the CHRMAP for the site is to accommodate risk until the risk is no longer viable, then moving to managed retreat.

Should the Shire be of a mind to approve the application it is recommended that a notification is placed on title to advise current and/or future landowners of the coastal hazard risk. Additionally, the approval should be time limited to reflect the vulnerability of the site as identified through the CHRMAP, and not exceed an initial period of 50 years.

A list of suggested conditions and advice notes are provided at Attachment 1.

Postal address: Locked Bag 2506 Perth WA 6001 Street address: 140 William Street Perth WA 6000
Tel: (08) 6551 8002 info@dph.wa.gov.au www.dph.wa.gov.au
ABN 68 565 723 484
wa.gov.au

I trust this information is of assistance. However, if you should have any questions, please don't hesitate to contact Tim Reed on (08) 6551 9452.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark Johnston', written in a cursive style.

Mark Johnston
A/Planning Manager
Regional South

24/03/2020

Attachment 1

1. A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate of title of the proposed development lot advising of the existence of a hazard. The notification is to state as follows:

"VULNERABLE COASTAL AREA – This lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years and may be subject to conditions of development approval which require removal and/or rehabilitation to pre-development conditions."
2. Development approval shall be limited to a period of not more than 50 years from the date of approval, at which point the approval will lapse and:
 - i) The development shall be removed; and
 - ii) The land shall be rehabilitated to its pre-development condition, to the specifications and satisfaction of the Local Government, at the landowners cost.
3. Any development approval granted in respect of the Condition 2 shall cease to have effect and:
 - i) The development shall be removed; and
 - ii) The land shall be rehabilitated to its pre-development condition, to the specifications and satisfaction of the Local Government, at the landowners cost when the most landward part of the Horizontal Shoreline Datum is within 11 metres of the most seaward part of the lot boundary.
4. Any development approval granted in respect of the Condition 2 shall cease to have effect and:
 - i) The development shall be removed; and
 - ii) The land shall be rehabilitated to its pre-development condition, to the specifications and satisfaction of the Local Government, at the landowners cost where a public road is no longer available or able to provide legal access to the property.
5. Any development approval granted in respect of the Condition 2 shall cease to have effect and:
 - i) The development shall be removed; and
 - ii) The land shall be rehabilitated to its pre-development condition, to the specifications and satisfaction of the Local Government, at the landowners cost when water, sewerage or electricity to the lot is no longer available as they have been removed/decommissioned by the relevant authority due to coastal hazards.

Advice Notes:

1. In relation to Conditions 2, there is no limit to the number of extensions that the Shire may grant, allowing the development to remain until such time condition 3, 4 or 5 occur at which time the development will be required to be removed in accordance with condition 3, 4 or 5.

2. The applicant is advised that the Horizontal Shoreline Datum means the active limit of the shoreline under storm activity, as defined in State Planning Policy 2.6 – State Coastal Planning Policy (2013).
3. The applicant is advised that the 11 metre distance between the Horizontal Shoreline Datum and the most seaward part of the lot boundary is the S1 value for this location which is obtained from the MP Rogers (2016) Shire of Gingin and Dandaragan Coastal Erosion Hazard Assessment Ledge Point, Lancelin and Cervantes (R721 Rev 0) prepared for the Shires of Gingin and Dandaragan. S1 is the allowance for absorbing the current risk of storm erosion, as defined in State Planning Policy 2.6 – State Coastal Planning Policy (2013).

11.4. OPERATIONS**11.4.1 TOPFUN AVIATION - REQUEST TO ENTER INTO AN AGREEMENT TO USE BEERMULLAH AIRSTRIP, LOT 7 BRAND HIGHWAY, BOONANARRING**

Location:	Lot 7 Brand Highway, Boonanarring
Applicant:	Topfun Aviation
File:	A5631
Reporting Officer:	Allister Butcher – Executive Manager Operations
Report Date:	16 June 2020
Refer:	17 March 2020 Item 11.4.1
Appendices:	1. Location Plan and Applicant's Proposal

DISCLOSURES OF INTEREST

Nil

PURPOSE

For Council to consider entering into an agreement with Topfun Aviation for the usage of the Beermullah Airstrip located on Lot 7 Brand Highway, Boonanarring for pilot training purposes.

BACKGROUND

Lot 7 Brand Highway, Beermullah is owned in freehold title by the Shire of Gingin. The Beermullah Airstrip was built in January 1944 as an additional air strip as part of the World War 2 effort and has been previously used by the Rotocraft Club. This usage ended in 2009.

The airstrip runs parallel to the Brand Highway and is offset approximately 100m from the highway surface. The length of the airstrip is approximately 1500m, with a width of approximately 40m.

The Shire received a request from Topfun Aviation dated 7 October 2019 to use the Beermullah Airstrip, Lot 7 Brand Highway, Boonanarring for pilot training purposes. This request was presented to Council at its Ordinary Meeting on 17 March 2020, and Council resolved:

That the matter be deferred pending research by staff into practicality of the proposal and implications in relation to maintenance and insurance, to be returned to Council for further consideration.

Administration subsequently contacted insurers LGIS to conduct a risk assessment on the site and these concerns have been addressed throughout the report.

A Location Plan and a copy of the applicant's proposal are attached as **Appendix 1**.

Topfun Aviation has used airstrips in other local Shires and The Royal Australian Air Force (RAAF) Pearce locations for a number of years and are seeking to enter into a similar agreement with the Shire of Gingin. Topfun Aviation has informed the Shire that it has

recently entered into an agreement with the Shire of Moora, a copy of which has been provided to the Shire.

Topfun Aviation is seeking permission to use the airstrip on weekends and public holidays to provide flying training to recreational pilots who operate light sport aircraft which need very little runway length to take off and land.

The Dampier to Bunbury Natural Gas Pipeline (DBNGP) crosses the mid-section of the airstrip where it is covered with gravel and bitumen; the pipeline is marked with signage that is located past the edge of the runway. The Department of Planning, Lands and Heritage has advised that aircraft should not commence take-off, touch-down or “park” within the DBNGP corridor due to the presence of a high pressure gas pipeline in the ground.

RAAF Pearce has been contacted for comment, and has requested the following conditions be included if Council is supportive of entering into an agreement with Topfun Aviation:

- Topfun Aviation is not permitted to operate in Military Restricted Airspace when active. (Airspace must be checked by reading NOTAM's via NAIPS).
- Topfun Aviation is to liaise with Civil Aviation Safety Authority (CASA) to investigate ultralight symbology be placed on charts including VNC's.

COMMENT

The current standard of the airstrip surface (sealed surface, approximately 35m wide) is in fair condition with vegetation encroaching right up to the edge of the airstrip. The airstrip is unable to be utilised as a commercial airstrip (i.e. receive income from the operation) as the encroaching vegetation (on the sides and ends of the airstrip) do not meet CASA requirements for clear zones. If Council is supportive of Topfun using the strip for training, then it may be advisable not to charge a usage fee; this will negate the need to adhere to the CASA requirements.

As the owner of the facility, if Council is supportive of the request then it should be mindful that there is an expectation that the airstrip will be maintained to a certain standard by the Shire and that there is some risk associated with allowing outside use of the strip. At this point in time the Shire does not maintain the airstrip apart from undertaking inspections to ensure that vandals have not accessed the site and caused damage.

Council may consider allowing Topfun to use the airstrip entirely at its own risk, knowing that the Shire will not be maintaining or undertaking regular inspections of the facility to ensure its usability. The Officer is of the view that the easiest way to negate the associated risk of allowing external users to use the airstrip is to not allow it in the first instance.

As requested by Council at its 17 March 2020 meeting, the Shire's insurer LGIS was contacted to provide advice pertaining to potential liability risk associated with private use of the Beermullah Airstrip. LGIS conducted a site visit on 4 May 2020 and provided the Shire with their findings.

Theoretically, as it is there are minimal liability issues for the Shire with regard to the airstrip. The airstrip is a legacy from World War 2, so the Shire is not obligated to maintain or operate the airstrip for the benefit of any agency, including the RAAF.

However, in the event that a person is injured or killed whilst driving on the Brand Highway as a result of being distracted by aircraft landing, there may in some instances be a corresponding liability risk to the Shire.

LGIS have noted that there is no notable upside to the Shire in formally allowing the use of the airstrip but there is some liability exposure to should an incident occur at the site, even with an agreement in place. It is therefore recommended that Council refuse the request to enter into an agreement with Topfun Aviation to allow private use of the Beermullah Airstrip.

STATUTORY/LOCAL LAW IMPLICATIONS

Civil Aviation Act 1988

Civil Aviation Regulations

Regulation 92(1) – use of aerodromes

POLICY IMPLICATIONS

CASA Advisory Publication No: 92-1(1) Guidelines for Aeroplane Landing Areas

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2019-2029

Focus Area	<i>3. Infrastructure and Development</i>
Objective	<i>To effectively manage growth and provide for community through the delivery of community infrastructure in a financially responsible manner</i>
Outcome	<i>3.2 Community Infrastructure</i>
Key Service Areas	<i>Community Infrastructure</i>
Priorities	<i>Develop and plan community infrastructure to improve use and financial sustainability</i>

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Balcombe

SECONDED: Councillor Johnson

That Council refuse to enter into an agreement with Topfun Aviation to use the Beermullah Airstrip located on Lot 7 Brand Highway Boonanarring and advise the applicant accordingly.

PROCEDURAL MOTION

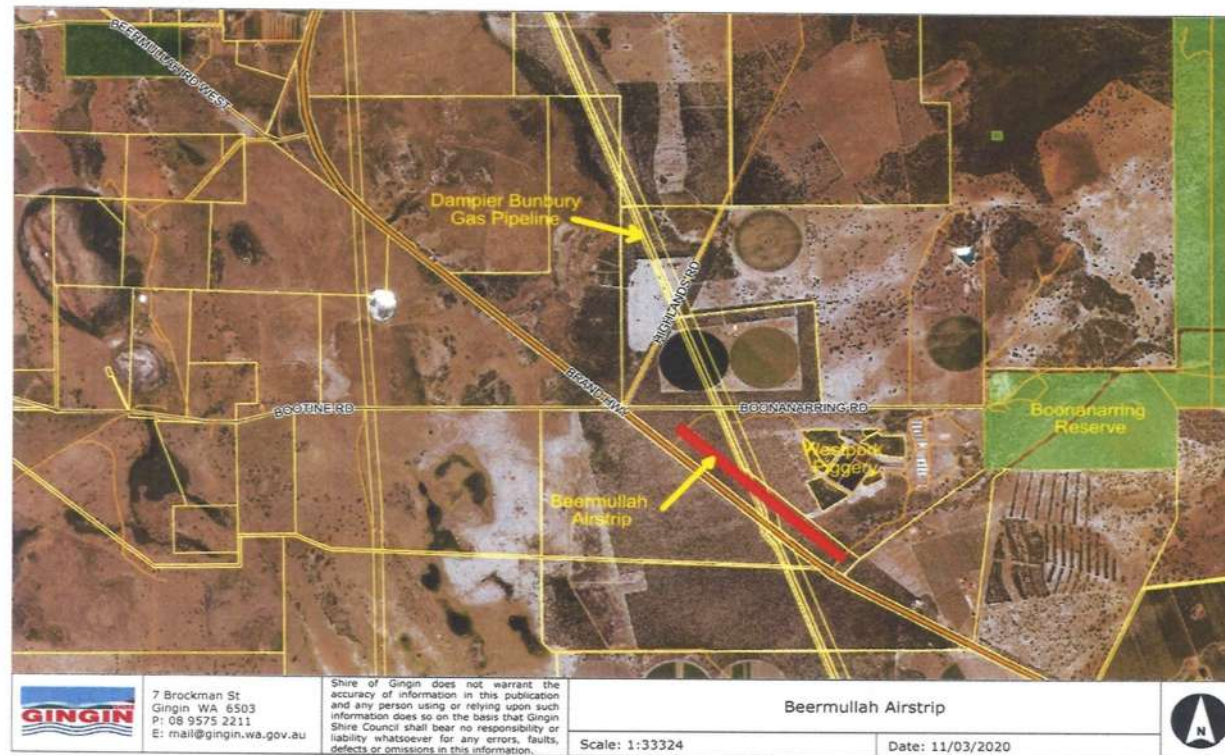
MOVED: Councillor Peczka

SECONDED: Councillor Rule

That the matter be referred to a future Council Meeting in order for Staff to obtain further information for Council's consideration.

CARRIED UNANIMOUSLY

APPENDIX 1





Mr Aaron Cook
CEO - Gingin Shire
7 Brockman St
Gingin WA 6503

7 October 2019

Beermullah Airstrip – Risk and Liability

Dear Sir,

I am the owner and Chief Flying Instructor of Topfun Aviation, a Recreational Aviation Australia accredited Flying Training School, providing flying training to recreational pilots. See www.topfun.net.au for info.

I am writing to seek permission to use Beermullah Airstrip which is located within the Gingin Shire, and I understand is under the management of the Shire.

We understand that this airstrip is not registered as an active airfield, and if we were given permission to use it, the risk and liability of its use would be with our pilots and aircraft.

The aircraft we operate are Light Sport Aircraft (max 600Kg) and need very little runway length to take off and land. I have been to the strip and am able to confirm the airstrip meets CAAP92-1 (copy attached, refer to Fig 2A, section 5.5) guidance rules for airstrip dimensions etc, it being approximately 38m wide, when the CAAP's require only 30m width for our aircraft type.

We already have an agreement in place with Moora Shire to use the Moora airstrip on the understanding that we maintain \$10,000,000 third party liability insurance and fly in accordance with CASA and RAAus rules. I am happy to offer the same commitment to the Gingin Shire.

As Recreational Aviation Australia pilots, we have \$10,000,000 third party liability insurance cover as standard and will accept all responsibility if we are permitted to use the airstrip. I have attached a copy of the insurance certificate of currency which will be renewed on 31 October 2019.

Our operations are weekends and public holidays only as RAAF Pearce use the airspace mid-week and this fact prevents our use of the airspace when the RAAF are active. Our use of Beermullah airstrip could easily be described as occasional or sporadic.

Hoping you find our request to be acceptable to the Shire, and should you have any further questions, please do not hesitate to contact me for clarification.

I look forward to your response.

Yours sincerely,



Jack Donsen
CFI
Topfun Aviation

Topfun Aviation. PO Box 63, Bindoon WA 6502
ABN: 92 592 574 557

12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

13. COUNCILLORS' OFFICIAL REPORTS**13.1 WALGA WEBINAR ATTENDANCE- 9 JUNE 2020**

File:	GOV/20-1
Councillor:	Johnson
Report Date:	16 June 2020

Councillor Johnson reported on a Webinar which he participated in, on Wednesday, 9th, June, 2020, which was part of the WA Local Government Webinar Series. The topic concerned 'Emerging Climate Change Risks, and how Councils can take a strategic approach to the impact of climate change on all aspects of their business.

13.2 GINGIN DISTRICT HIGH SCHOOL COUNCIL MEETING – 12 JUNE 2020

File:	GOV/20-1
Councillor:	Rule
Report Date:	16 June 2020

Councillor Rule reported on a meeting of the Gingin District High School Council on Friday 12 June 2020 in relation to the proposal for the school to become an independent public school. Councillor Rule and the Principal will be making a presentation on Friday 19 June 2020 in relation to this matter.

14. NEW BUSINESS OF AN URGENT NATURE

Nil

15. MATTERS FOR WHICH MEETING IS TO BE CLOSED TO THE PUBLIC

COUNCIL RESOLUTION

MOVED: Councillor Balcombe

SECONDED: Councillor Lobb

That Council move into a Confidential Session to discuss Items 15.1 to 15.3.

CARRIED UNANIMOUSLY

The meeting was closed to the public and all the members of the public present in the gallery left Council Chambers at 4.30pm.

15.1 RENEWAL OF LEASE TO TELSTRA CORPORATION LIMITED - MAST SITE ON PORTION OF LOTS 7269 AND 11386 (RESERVE 28303) OLD LEDGE POINT ROAD, LANCELIN

Location:	Portion Of Lots 7269 And 11386 (Reserve 28303) Old Ledge Point Road, Lancelin
File:	RES/7; A4296
Author:	Lee-Anne Burt – Governance Officer
Reporting Officer:	Aaron Cook – Chief Executive Officer
Report Date:	16 June 2020
Refer:	Nil
Appendices:	1. Location Plans

Reason for Confidentiality

This report is Confidential in accordance with Section 5.23 (2) of the *Local Government Act 1995* and Regulation 4A of the *Local Government (Administration) Regulations 1996*, which permits the meeting to be closed to the public for business relating to the following:

- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
- (e) *a matter that if disclosed, would reveal —*
 - (ii) *information that has a commercial value to a person; or*

DISCLOSURES OF INTEREST

Nil

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Rule

SECONDED: Councillor Morton

That Council:

1. **Agree to enter into a lease agreement with Telstra Corporation Limited with respect to the existing Telstra mast site located on portion of Lots 7269 and 11386 (Reserve 28303) Old Ledge Point Road, Lancelin as depicted at Appendix 1, subject to:**
 - a. **The agreed market rental valuation of \$11,500 being accepted by Telstra;**
 - b. **Telstra agreeing to meet any advertising and legal costs incurred by the Shire of Gingin in relation to progression and finalisation of the lease agreement; and**
 - c. **No public submissions being received as a result of the proposed disposition of property being subjected to a public notice period in accordance with the requirements of s.3.58(3) of the *Local Government Act 1995*.**
2. **Require, in the event that public submissions in relation to the proposed disposition of property are received, the Chief Executive Officer to provide a further report to Council so that those submissions can be considered and a final decision made.**
3. **Authorise, in the event that no public submissions are received, the Chief Executive Officer to negotiate an appropriate lease agreement with Telstra Corporation Limited, subject to endorsement by the Minister for Lands, on the following basis:**

Commencing rent: \$11,500 (plus GST)

Rent Reviews:

- a. **3% on each anniversary of the commencement date, other than the date for market review specified in b.**
- b. **A market rent review to be undertaken at the 10th anniversary of the Commencement Date, prior to the Further Term.**

Commencement date: 1 December 2021

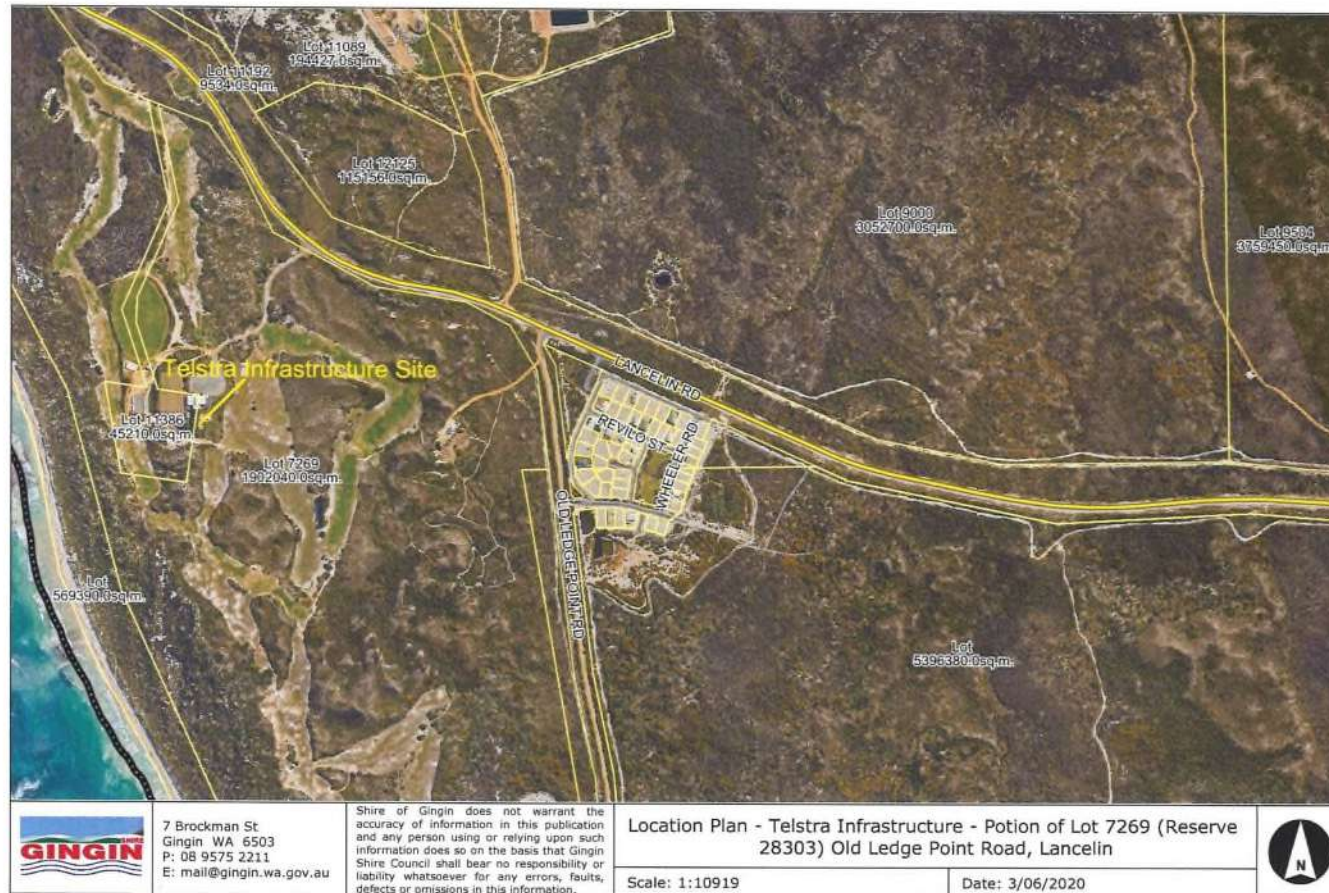
Term: 10 years

Further Term: 1 further term of 10 years

- 4. Authorise the Shire President and Chief Executive Officer to execute the resulting lease document, including affixing of the Common Seal of the Shire of Gingin.**

CARRIED UNANIMOUSLY

APPENDIX 1





15.2 APPLICATION OF THE COMMON SEAL FOR LEASE OF PORTION OF LOT 255 (107) GINGIN ROAD, LANCELIN

File:	A1039
Author:	Kailee Williams – Personal Assistant to Executive Manager Corporate and Community Services
Reporting Officer:	Les Crichton – Executive Manager Corporate and Community Services
Report Date:	16 June 2020
Refer:	Nil
Appendices:	1. Lease Agreement between Lewis John Hughes and Hilda Hughes and the Shire of Gingin

Reason for Confidentiality

This report is Confidential in accordance with Section 5.23 (2) of the *Local Government Act 1995* which permits the meeting to be closed to the public for business relating to the following:

(e) a matter that if disclosed, would reveal –

(iii) information about the business, professional, commercial or financial affairs of a person,

where the trade secret of information is held by, or is about, a person other than the local government.

DISCLOSURES OF INTEREST

Nil

VOTING REQUIREMENTS – SIMPLE MAJORITY**COUNCIL RESOLUTION/OFFICER RECOMMENDATION**

MOVED: Councillor Rule

SECONDED: Councillor Balcombe

That Council:

- 1. Agree to enter into a lease agreement with Lewis John Hughes and Hilda Hughes with respect to the Shire of Gingin's Lancelin Office located on portion of Lot 255 (107) Gingin Road, Lancelin in accordance with the lease agreement as depicted at Appendix 1; and**
- 2. Authorise the Shire President and Chief Executive Officer to execute the resulting lease document, including affixing of the Common Seal of the Shire of Gingin.**

CARRIED UNANIMOUSLY

15.3 ECO LIFESTYLE VILLAGE ON LOT 11 (25) OLD MOOLIABEENEE ROAD, GINGIN

File:	BLD/6903
Applicant:	H & H Development Enterprises Pty Ltd
Location:	Lot 11 (25) Old Mooliabeenee Road, Gingin
Owner:	Sanvidel Pty Ltd as Trustee for Gingin Eco Lifestyle Village
Zoning:	General Rural
WAPC No:	N/A
Author:	James Bayliss – Acting Manager Statutory Planning
Reporting Officer:	Bob Kelly – Executive Manager Regulatory and Development Services
Report Date:	16 June 2020
Refer:	1 August 2017 Item 15.1
Appendices	<ol style="list-style-type: none">1. Contract of Sale2. H & H Development Enterprises correspondence3. Location Plan4. Development Approval issued on 4 July 2018

Reason for Confidentiality

This report is Confidential in accordance with Section 5.23 (2) of the *Local Government Act 1995* which permits the meeting to be closed to the public for business relating to the following:

- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
- (e) *a matter that if disclosed, would reveal –*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *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

DISCLOSURES OF INTEREST

Nil

VOTING REQUIREMENTS – SIMPLE MAJORITY

COUNCIL RESOLUTION/OFFICER RECOMMENDATION

MOVED: Councillor Rule

SECONDED: Councillor Peczka

That Council advise the applicant that the option to re-purchase Lot 11 (25) Old Mooliabeenee Road, Gingin under clause 16 of the Contract of Sale will not be actioned at this point in time, and that Council will review its position at the expiration of the development approval in July 2022.

CARRIED UNANIMOUSLY

COUNCIL RESOLUTION

MOVED: Councillor Johnson

SECONDED: Councillor Rule

That the meeting be re-opened to the public.

CARRIED UNANIMOUSLY

The meeting was reopened to the public at 4.34pm. No members of the public returned to the gallery.

16. CLOSURE

There being no further business, the Shire President declared the Meeting closed at 4:34pm.

The next Ordinary Meeting of Council will be held in Council Chambers at the Shire of Gingin Administration Centre, 7 Brockman Street, Gingin on Tuesday, 21 July 2020 commencing at 3.00 pm.

These Minutes are confirmed as the official record of the Ordinary Meeting of the Gingin Shire Council held on 16 June 2020.



Councillor F Johnson
Presiding Member
21 July 2020